

3 September 2023

Ms Clare Savage
Chair
Australian Energy Regulator
7/2 Lonsdale Street
Melbourne VIC 3000

Electronic Submission – RITguidelines@aer.gov.au

AER Consultation Paper – Review of the cost benefit analysis guidelines and RIT application guidelines

Dear Ms Savage,

Energy Networks Australia (ENA) welcomes the opportunity to respond to the Australian Energy Regulator's (AER's) proposed draft amendments to its Cost Benefit Analysis (CBA) Guidelines and Regulatory Investment Test (RIT) for Transmission (RIT-T) and Distribution (RIT-D) Application Guidelines.

ENA is the national industry body representing Australia's electricity transmission and distribution and gas distribution networks. Our members provide over 16 million electricity and gas connections to almost every home and business across Australia.

It is important that the operation of the Material Change in Circumstance (MCC) provisions and increased guidance on cost estimation are fit for purpose and result in outcomes that benefit consumers. Overall, ENA supports the AER's approach in the draft amendments of providing principles rather than prescription, whilst focusing on increasing transparency for consumers. As the AER recognises, the appropriate approach to both defining MCC reopening triggers and to cost estimation will vary depending on the specific nature of the RIT application, and it is important to maintain flexibility for the Network Service Provider (NSP) to adopt the most fitting approach. This will avoid unnecessary delays in the planning and evaluation process and increased costs for consumers in delivering the network infrastructure that is key to the energy transition.

In finalising the changes to the guidelines, ENA highlights the following points for the AER's consideration:

- » ENA supports the principles proposed by the AER to guide the identification of reopening triggers, and the non-prescriptive nature of this guidance.
- » ENA suggests refocusing some of the examples of reopening triggers, to set clearer expectations on what stakeholders could expect to see proposed as triggers in a RIT application.
- » ENA also suggests expanding the list of examples relating to actions that an NSP may take in response to an MCC event.
 - Re-applying the RIT in full (i.e., both the RIT analysis and the full RIT consultation process) is expected to only be required as a last resort. ENA

has provided some examples of more proportionate and timely actions that could be proposed in response to an MCC event.

- » ENA supports the introduction of a threshold for when the use of AACE cost classification must be considered by the NSP, but encourages the AER to clarify the precise definition and operation of this threshold:
 - Specifically, ENA considers the threshold should be where the estimated capital cost of the preferred option in the RIT exceeds \$100 million, in line with the threshold for the specification of reopening triggers, and that it is updated over time in line with the reopening trigger threshold;
 - ENA also considers that where the threshold is met, the NSP should retain the flexibility to consider applying the AACE classification system to each option in that RIT, rather than needing to apply the AACE classification across all options. Applying the AACE classification to all options will not always be proportionate or practical, particularly during the earlier stages of the RIT-T process and for options that initial analysis indicates are unlikely to be highly ranked.
 - The AER has also not addressed how the requirement to provide estimates to an AACE classification standard could be imposed on proponents of non-network options. Further, the AACE classification system does not extend to cost components such as land and biodiversity offset costs; and
 - ENA suggests that the threshold not apply to programs of works, but only single projects, so that it does not capture RIT-Ds applied to programs covering many small investments (which typically have a greater degree of cost certainty around individual cost components).
- » ENA supports the AER's guidance on sensitivity analysis being more broadly on those inputs/assumptions that may be material to the outcome of a particular RIT, instead of on one specific variable (e.g., costs).
- » ENA supports increased transparency around the assumptions and methodology adopted in deriving cost estimates. However, it is important that this provides meaningful information to consumers, is proportionate to the value of the proposed investment, and does not reveal commercially sensitive information or compromise outcomes in competitive tender markets.
 - ENA suggests that an appropriate level of cost disaggregation would be to the same level as the key asset and cost components identified in the NSP's regulatory proposals.
 - ENA also considers that references in the proposed guideline amendments to 'maximising' the accuracy and transparency of cost estimates would more appropriately be ensuring 'appropriate' accuracy and transparency, which can be expected to differ depending on the size of the RIT project.
 - ENA supports the AER's amended guidance being non-prescriptive on the inclusion of contingency allowances (as for many projects, cost estimates at the RIT stage do not generally include contingencies for specific risks)

- » ENA does not agree that ‘once the RIT is satisfied, there is little practical purpose to distinguishing early works from other activities’, and considers that such guidance would be helpful for early works contingent project applications. Further, ENA would be concerned if the AER were to disallow cost recovery for early works activities on the basis that those activities are already funded through regulatory allowances, whilst at the same time not allowing NSPs to seek cost pass through for a material increase in preparatory activities.

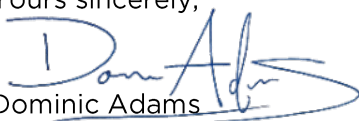
The above points are expanded on in the attachment.

Finally, ENA has consistently expressed reservations regarding the inclusion of binding obligations in RIT Application Guidelines. Given the likely binding nature of some of the AER’s amended guidance, it is important that the wording of the guidelines is sufficiently clear and precise. ENA has identified areas of the AER’s draft amendments where the wording could be improved and has provided a marked-up version of the AER’s draft amendments to the RIT-T Application Guidelines to illustrate these changes (noting that similar changes would also be appropriate for the other guidelines). We also suggest that the AER includes in the RIT-T and RIT-D Application Guidelines a list of the binding elements of the guidelines, similar to that currently included in Appendix A to the CBA Guidelines, to assist all parties in monitoring compliance.

ENA would be happy to meet with the AER if this would be beneficial in the next week or two. ENA and its members would also welcome the opportunity to review a near final set of draft guidelines prior to the final decision to ensure they are practical.

Should you have any queries on this response please feel free to contact Verity Watson, vwatson@energynetworks.com.au.

Yours sincerely,



Dominic Adams

General Manager - Networks

Attachment

RIT reopening triggers

ENA agrees with the AER that guidance in relation to the development of reopening triggers should not be prescriptive. A change in circumstances may be material to the outcome of one RIT application but not another, and the impacts of any given change in circumstances are likely to vary across options within a RIT application.

ENA supports the principles proposed by the AER to guide the development of reopening triggers, including that the triggers should identify circumstances that would have a real, rather than a potential, impact on the RIT outcome, and that they should be objective and capable of being verified. ENA also supports the triggers being identified where possible in light of the boundary values identified in the RIT application that could change the ranking of the preferred option (or result in it having negative net market benefits).

ENA has identified a small number of issues in relation to the proposed wording of the amended guidance. In particular, the draft amendments incorrectly refer to the \$100 million threshold for the RIT reopening trigger applying to the capital cost of a **credible option**, rather than the estimated capital cost of the **preferred option**.¹

ENA suggests this guidance is amended as follows:

“In addition to complying with the definition of a RIT reopening trigger, ~~for a credible~~ where the estimated capital cost of the preferred option ~~that~~ exceeds \$100 million (as varied in accordance with a cost threshold determination) and where AEMO is not the sole RIT-T proponent, a RIT-T proponent must propose one or more relevant RIT reopening triggers.”²

There are two further statements in the section of the draft amended guidelines relating to reopening triggers that ENA considers are currently unclear. ENA has provided alternative wording to improve clarity in an attached marked-up version of the AER’s draft amendments to the RIT-T Application Guidelines.

Examples – reopening triggers

ENA notes that all of the AER’s proposed examples relating to reopening triggers refer to changes from the Project Assessment Draft Report (PADR) (in the case of the RIT-T), or the Draft Project Assessment Report (DPAR) (in the case of the RIT-D).

Although the NSP will be consulting on the reopening triggers at the PADR/DPAR stage, the reopening triggers apply to the final RIT outcome. ENA therefore considers that the references in the examples should instead be to the Project Assessment

¹ The NER requirement is that the estimated capital cost of the proposed *preferred option* is greater than \$100 million. See NER clauses 5.16.4(k)(10), 5.16A.4(d)(9) and 5.17.4(j)(13).

² AER RIT-T Application Guidelines – draft amendments, section 4.5.1. The AER has proposed similarly worded amendments for the other guidelines.

Conclusions Report (PACR) (in the case of the RIT-T) or the Final Project Assessment Report (in the case of the RIT-D).

More generally, ENA considers that the examples could be improved to be more specific and to more clearly meet the principles set out by the AER. ENA understands that the examples are not prescriptive. However, they are likely to influence stakeholder expectations, including feedback on the draft triggers proposed at the PADR/DPAR stage, and so it is desirable for the examples to be as realistic as possible.

The examples relating to increases in the costs of the preferred option and decreases in the cost of alternative credible options are helpful. They could however be strengthened (and more clearly linked to the AER's proposed principles) by including a clearer link between the proposed cost metric (e.g., PV real cost increase of 10%) and the outcome of boundary testing in the relevant RIT analysis. For example, the first bullet point in Example 36 (for the amended RIT-T Application Guideline) could be amended to read:

Preferred option present value (PV) real cost increase of 10% or more (consistent with the boundary test analysis) compared to that applied in the relevant project assessment ~~draft~~ conclusion report.

Similarly, the percentage changes in the example relating to a demand shock could also be explicitly linked back to sensitivity analysis and/or boundary testing on different demand levels in that RIT application.

In relation to the other three examples proposed by the AER – a change in government policy, an 'Act of God' event and a technological change – in many cases these events would impact the RIT outcome through their impact on the costs of the preferred option (or an alternative option), and/or their impact on demand. As a consequence, these are circumstances which could give rise to the cost and/or demand triggers set out in the AER's earlier examples, rather than being circumstances which by themselves constitute a reopening trigger.

- » For example, the introduction of a specific government policy may increase the costs of the preferred option, but not by an amount which is sufficient to change the ranking of the preferred option. In this case it would not be appropriate for that government policy to be identified in itself as a reopening trigger.

ENA suggests that factors such as a specific government policy change or the emergence of a credible option that utilises a new technology may be better incorporated in the description of the factors that could lead to a cost change or demand shock as part of the examples of those trigger events, rather than being separately identified as examples of reopening triggers.

If the AER decides to keep these current examples, ENA suggests that:

- » The pre-amble and the example itself may be better reversed for the change in government policy, 'Act of God' and technological change examples, as currently the examples presented are very general (and likely not appropriate as a

reopening trigger) whereas the preceding description in each case is more specific.

- » The example relating to technological change should avoid the use of words such as 'likely' and 'promising', which are not consistent with the example being focused on new technology which is a new 'credible option', and therefore which needs to be technically and commercially feasible.
 - ENA agrees with the AER that any new technology needs to represent a credible option, so that the reopening trigger is consistent with an event which would have a real (rather than a possible or potential) impact on the RIT outcome, and investment is not delayed by a requirement to consider new technologies which are not yet proven.
- » Including an example covering an 'Act of God' is unlikely to be helpful in practice because such events are often unforeseen and so are difficult to specify in advance in a meaningful way in a reopening trigger. Further, any Act of God which did have a material impact on costs and/or demand would either be picked up via those reopening triggers or could be considered as an MCC event even in the absence of a specific reopening trigger.

Examples – actions the NSP may take in response to an MCC

ENA notes that there is a continued emphasis in the AER's Explanatory Statement and in the proposed guideline amendments on 'reapplication of the RIT' in response to an MCC.³

The AEMC's final decision on the MCC Rule change made clear that reapplication of the RIT is expected to be a 'last resort',⁴ and that it is open to the NSP to propose other more appropriate courses of action that are less likely to delay investment. ENA suggests the examples provided on actions the NSP may take in response to a MCC could be expanded in the AER guidelines to better reflect this intent.

The RIT process encompasses both the NPV analysis to identify the preferred option, and the consultation process around both identifying potential options and the outcome of the NPV analysis.

Overall, application of the RIT is costly and time intensive. ENA believes it is in the interest of all parties if, where there is an MCC, the RIT is unwound to the minimum extent necessary to confirm that the appropriate investment option is being pursued. In many cases this is likely to only require updating the NPV analysis component of the RIT, and engaging with stakeholders on the findings, rather than unwinding the RIT process right back to the initial consultation report.

³ See for example the AER Explanatory Statement p.5, p.9 and p.14.

⁴ See AEMC, National Electricity Amendment (Material Change in Network Infrastructure Project Costs), Rule Determination, October 2022, p.iii, p. 5)

ENA has provided three examples below, to supplement those in the AER's draft guideline amendments.

ENA also notes that the example provided in the CBA Guidelines does not include reference to:

- » 'if the change in circumstance is complex (particularly where more than one key input or assumption is affected), reapplying the RIT-T'

Whereas this reference is included in the example in the amended RIT-T Application Guidelines, with an equivalent provision in the amended RIT-D guidelines.

Example 1: The proponent continues with the original preferred option, despite the MCC leading to another option becoming more highly ranked

A reopening trigger event occurs, leading to the following sequence of actions:

1. The proponent updates the RIT NPV analysis and finds that the second-ranked credible option would now be the preferred option, although only by a slim margin.
2. Substantial costs have already been sunk on the originally preferred option. Taking this into consideration, the proponent concludes that the original option should continue to be pursued.
3. The proponent presents the results of the updated NPV assessment and its decision to proceed with the original option to its customer reference group.
4. The proponent informs the AER (in line with the NER):
 - that an MCC has occurred;
 - the feedback received from its customer reference group; and
 - that it intends to continue with investment in the previously preferred option.

Example 2: Updated NPV analysis shows the second ranked option is now

preferred by a substantial margin, and the proponent decides to proceed with this option instead

A reopening trigger event occurs, leading to the following sequence of actions:

1. The proponent updates the RIT NPV analysis and finds that the previously second-ranked credible option is now the preferred option, by a substantial margin.
2. The proponent publishes the updated NPV analysis and its decision to now proceed with an alternative option, and seeks feedback from consumers. Since the second option has already been consulted on as part of the RIT process, and is now preferred by a substantial margin, a second detailed consultation process is not considered required.
3. The proponent informs the AER (in line with the guidelines) that:
 - o that an MCC has occurred;
 - o that it has updated the NPV analysis and sought feedback from consumers, who support pursuing the alternative option; and
 - o that it intends to re-issue the PACR/FPAR and pursue the previously second-ranked option.

Example 3: A new credible option is introduced as a result of the MCC – the proponent decides to re-issue the PADR/DPAR to allow for further stakeholder input

A reopening trigger event occurs, leading to the following sequence of actions:

1. The proponent identifies a new credible option as a consequence of the MCC event (e.g., use of a new technology).
2. The proponent updates the RIT NPV analysis and finds the new credible option to be top-ranked.
3. The proponent briefs its customer reference group and concludes it would be appropriate to re-issue the PADR/DPAR to allow for further consumer consultation, given the change in the nature of the preferred option.
4. The proponent informs the AER (in line with the guidelines):
 - o that an MCC has occurred;
 - o that it proposes to re-issue the PADR/DPAR; and
 - o the feedback it has received from its consumer representative group on this course of action.
5. Following AER approval of this course of action, the proponent reissues the PADR/DPAR with updated analysis and undertakes consultation in line with the usual PADR/DPAR process.

Cost estimation: use of the AACE cost estimation classification system

The AER's draft guideline amendments state that where the estimated costs of a credible option exceed \$100 million, a RIT proponent must:

- » in a RIT application, outline the process it has put in place, or intends to apply, to maximise the accuracy of all estimated costs;
- » consider use of the AACE cost estimate classification system; and
- » if a RIT proponent does not apply the AACE classification system, provide reasons to explain why.

Application to RIT-Ts

Consistent with our earlier submission, ENA is generally supportive of the adoption of a standard cost estimate classification system for RIT-T applications for projects over \$100 million, to provide greater transparency to consumers on the nature of the cost estimates. ENA therefore supports the intent of the AER's draft guidance for RIT-Ts, and the inclusion of a materiality threshold on when this guidance is binding.

ENA also supports the AER's approach of not mandating the level of accuracy that an NSP is required to apply within the AACE classification system. The AER has stated that it expects proponents to specify the level of accuracy of costs and explain why a cost estimate falls within the specified class.⁵ ENA notes that this guidance is not currently reflected in the draft amendments to the guidelines and suggests it could be added to ensure clarity on this point.

Given that this may be a binding element of the guidelines, it is important that the amended guidelines be clear in specifying both the cost threshold above which the guidance applies, and the consequence of meeting this threshold.

ENA therefore encourages the AER to clarify in its final guidelines:

- » that references to 'costs' above \$100 million is intended to be 'capital costs' above \$100 million (in line with the application of the \$100 million threshold for reopening triggers);
- » how the threshold will be updated over time:
 - ENA suggests the guidelines could explicitly link the threshold to the threshold applying in the Rules for RIT reopening triggers,⁶ to ensure it is

⁵ AER Explanatory Statement, p. 17.

⁶ As specified in NER clauses 5.16.4(k)(10), 5.16A.4(d)(9) and 5.17.4(j)(13).

updated over time in line with the AER's review of that cost threshold (which is a requirement under the Rules);

- » whether the threshold applies to the cost of the **preferred option** (which would be in line with the application of the \$100 million threshold for reopening triggers), or to **any credible option** evaluated in the RIT;⁷ and
- » whether, if the threshold is met, the NSP needs to apply the AACE classification system to the cost estimates for **all options** included in that RIT, including any that fall below \$100 million.

ENA highlighted in its earlier submission that mandating the use of the AACE classification system for all options in a RIT-T will not always be practical and is likely to increase the costs and timeframes for undertaking RIT-T assessments:

- » It is not clear how a requirement to provide estimates to an AACE classification standard could be imposed on third party non-network option (NNO) proponents. The AER has provided no response to this point in its Explanatory Statement.
- » Further, AACE classification does not extend to cost components such as land and biodiversity offset costs, which may be material for some projects.
- » In addition, there may be some options in a RIT-T which initial analysis shows are not expected to be top-ranked, and so the costs and extended timeframe associated with obtaining AACE class estimates are not likely to provide any benefits.

Further, it may be appropriate for the AACE classification adopted to vary across the course of a RIT assessment.

ENA therefore suggests that the AER retain flexibility in its guidance and that the consequence of meeting the threshold for considering AACE classification is not that a TNSP then needs to adopt the same AACE classification for all options included in that RIT-T. Rather, it would be appropriate for the NSP to retain the flexibility to consider the application of the AACE classification system separately for each of the options in a RIT for which the threshold is met, and to provide reasons where it decides not to apply the AACE classification (or to apply a different AACE classification) for any particular option. ENA has suggested the following wording in the attached mark-up to address this point:⁸

The AACE classification adopted may appropriately vary both across credible options within the same RIT-T, and at different stages of the RIT-T process, provided that in

⁷ Currently the AER Explanatory Statement and the draft guideline amendments contain conflicting statements on this point. For example, the AER Explanatory Statement refers to the threshold in the context of both 'projects over \$100 million' (p. 17) and 'the estimated cost of the preferred option is over \$100 million' (p. 25).

⁸ AER mark-up of RIT-T Application Guidelines section 3.5A.1. The same guidance should also be reflected in the other guidelines.

each case the cost estimates provide an appropriate basis for ranking the credible options under the RIT-T.

ENA also has concerns with the AER's proposed wording in the amended guidance of the obligation for the RIT proponent to:

'In a RIT-T application, outline the process it has put in place, or intends to put in place, to maximise the accuracy of all estimated costs.'⁹ (emphasis added)

The use of the word 'maximise' in this context is problematic, as it would always be possible to do more to improve the accuracy of the cost estimates, but with a consequential impact on timing and costs. Further, the proposed wording of this obligation could be interpreted as running counter to the AER's intent that the RIT proponent is able to determine the level of accuracy of the cost estimates appropriate and achievable at the RIT stage.

ENA suggests at a minimum that the obligation above be reworded along the following lines:

'In a RIT-T application, outline the process it has put in place, or intends to put in place, to ~~maximise~~ ensure the appropriate accuracy of all estimated costs.'

Similarly, the proposed reference to 'maximise' in the later part of that section of the guidelines (relating to projects below \$100 million) should also be amended:

"We also encourage all RIT-T proponents, where the estimated costs of a credible option is less than \$100 million, to consider outlining the process it intends to apply to ~~maximise~~ ensure the appropriate accuracy of all cost estimates."

However, ENA suggests that both of these elements of the guidance would be better removed, as they are already covered by the obligations in the following section of the guidelines¹⁰ on the transparency of the cost estimates (where reasons have to be given on why methodologies and processes have been adopted).

Application to RIT-Ds

ENA's earlier submission highlighted that it does not support mandating the adoption of a consistent cost estimate classification system for RIT-D applications, as this would impose additional costs and increase planning timeframes without any material offsetting benefits for consumers.

⁹ AER mark-up of RIT-T Application Guidelines section 3.5A.1. The AER has proposed similarly worded guidance for the other guidelines.

¹⁰ i.e., section 3.5A.2 of the RIT-Application Guidelines. The AER has proposed similarly worded guidance for the other guidelines.

ENA welcomes the AER's proposal to introduce a \$100 million threshold¹¹ for when a DNSP needs to consider adopting the AACE classification system for cost estimates. The majority of distribution projects fall below this threshold, and so will not be affected by this obligation.

There may however be programs of work for which DNSPs apply the RIT-D and which are above the \$100 million threshold. ENA understands from discussion at the AER public forum that the intent of the guidance is to provide greater transparency around the cost estimates used for large projects, rather than multiple smaller projects that make up a program. ENA therefore encourages the AER to consider amending the proposed threshold to explicitly exclude RITs where the credible options represent a program of works rather than an individual project.

ENA also notes that no DNSP currently adopts the AACE cost estimate classification system, and that adopting this system would incur substantial implementation costs. ENA recognises that the draft guidance provides flexibility for a DNSP to explain why it has not adopted the AACE cost estimate (in the case of major projects when the guidance applies). However, ENA still considers it would be preferable to remove this guidance from the RIT-D guidelines altogether.

Sensitivity analysis

The draft amended guidelines require RIT proponents to undertake sensitivity analysis where the cost of a credible option is over \$100 million, by varying one or more inputs and/or assumptions.

ENA supports the AER's revised focus for the guidance on sensitivity analysis from being on a specific variable (in particular 'costs'), to being more broadly on those inputs/assumptions that may be material to the outcome of a particular RIT. ENA agrees that the appropriate sensitivity tests will vary across RITs.

ENA supports the AER's inclusion of a materiality threshold for this requirement, whilst noting that sensitivity analysis is routinely undertaken for RIT-T and RIT-D assessments.

As in the case of the threshold for considering AACE classification, the cost threshold needs to be clearly specified in the guidelines, including:

- » that the reference to 'costs' above \$100 million is intended to be 'capital costs' above \$100 million;
- » how the threshold will be updated over time; and

¹¹ There is a need to clarify this threshold in the case of RIT-D projects, consistent with the discussion in the prior section for RIT-T projects.

- » whether the threshold applies to the cost of the **preferred option** (which would be in line with the application of the \$100 million threshold for reopening triggers), or to **any credible option** evaluated in the RIT.

Improved cost estimation transparency

The AER proposes to include a binding requirement in the guidelines for the RIT proponent to specify, for each credible option:

- » all key inputs and assumptions used to derive cost estimates;
- » a breakdown of the main components of the cost estimates;
- » the methodologies and processes applied in deriving the cost estimates;
- » the reasons in support of the key inputs and assumptions adopted and the methodologies and processes applied; and
- » where the NSP has included a contingency allowance, the level of that allowance and rationale for inclusion.

This obligation is proposed to apply to all RIT-Ts and RIT-Ds, and not only for options with a cost above \$100 million.

ENA supports the AER's focus on transparency around the approach and assumptions underpinning cost estimates, rather than being prescriptive on the cost estimation approach itself, which may appropriately vary across NSPs and across different types and sizes of projects. ENA also supports the AER's draft amendments being non-prescriptive on the inclusion of contingency allowances (as for many projects cost estimates at the RIT stage do not generally include contingencies for specific risks).

ENA is generally supportive of greater transparency relating to the cost estimates presented as part of RITs. However, as noted in our earlier submission, it is important that the information provided can be tailored to the particular investment and circumstances, so that consumers are provided with meaningful information. ENA therefore suggests that the amended guidelines avoid words such as 'maximising' the transparency of how cost estimates are derived, and are instead framed around 'greater' transparency (which is consistent with the AER's discussion in its Explanatory Statement¹²).

It is also important that the information provided does not reveal commercially sensitive information, or information that may indirectly impact the cost of future projects by affecting tender outcomes. In this regard, information on land values and unit rates for routine project works may be particularly sensitive.

¹² AER Explanatory Statement, p, 2.

In relation to providing a breakdown of the major components of the cost estimate, ENA considers that alignment with the asset and cost classes included in regulatory proposals is likely to represent an appropriate level of detail in most cases.

The AER recognises in its Explanatory Statement that there may be issues of confidentiality with providing detailed cost information.¹³ ENA suggests that confidentiality concerns are explicitly recognised in the wording of the guidelines:¹⁴

“Maximising Increasing the transparency of how a cost estimate of a credible option is arrived at is important. This includes, to the extent possible (and considering confidentiality concerns), identifying and disclosing the component parts or breakdown of that cost estimate.

Further, the draft amendments to the RIT-T and RIT-D Application Guidelines that, for each credible option, a proponent *must specify* various aspects of the cost estimation are not consistent with:

- » the AER’s expectation that costs be broken down *to the extent possible*¹⁵; or
- » Rules obligations for proponents for RIT-Ts for non-actionable Integrated System Plan (ISP) projects, and RIT-D projects, to provide total indicative capital and operating and maintenance costs *to the extent practicable*, for credible options.¹⁶

To address this issue, ENA’s marked-up edits to the RIT-T Application Guidelines add ‘to the extent practicable’ to the end of the text the leads into the list of elements of cost estimates that the AER suggests proponents specify for credible options. Although the Rules do not limit the extent to which costs for credible options for actionable ISP projects are to be quantified¹⁷, ENA considers the amendments we propose in the RIT-T Application Guidelines are also appropriate for section 4.3.4A of the CBA Guidelines.

Further, ENA has proposed also adding the words ‘and in a manner which is fit for purpose for that stage of the RIT-T’ to the end of this sentence in the amended guidelines. This more clearly allows the NSP to provide the required transparency in a way which is tailored to the nature of the project (e.g., a \$7 million Business As Usual project vs a \$100 million major project) and to the stage of the RIT-T assessment.

In terms of the proposed wording of the guidance on contingency allowances, ENA suggests amending the wording of the guidelines to recognise the AER’s intent that

¹³ AER Explanatory Statement, p. 16.

¹⁴ AER RIT-T Application Guidelines – draft amendments, section 3.5A.2. The AER has proposed similarly worded guidance for the other guidelines.

¹⁵ Ibid.

¹⁶ NER clauses 5.16.4(b)(6)(v) and 5.17.4(e)(6) (emphasis added).

¹⁷ NER clause 5.16A.4(d)(4).

the transparency requirements apply where the NSP has included a *material* contingency allowance.

ENA also suggests the following sentence in the guidelines (which imposes a binding requirement on the NSP) is removed, as it is not compatible with the role of cost estimates at the RIT stage, and will typically become relevant only at the time of a Contingent Project Application (CPA):

‘the methodologies and processes in place to minimise the likelihood of spending the contingency allowance.’¹⁸

Early works

ENA notes the AER’s draft decision not to provide additional guidance on the activities that may fall within the definition of ‘early works’ at this stage, but to instead wait for the expected Rule change that may allow early works to proceed ahead of RIT completion.

ENA does not agree with the AER’s conclusion that ‘once the RIT is satisfied, there is little practical purpose to distinguishing early works from other activities.’¹⁹ Under the existing Rules, following completion of the RIT-T for actionable ISP projects, TNSPs may lodge an initial CPA covering early works activities. As highlighted in ENA’s earlier submission, the provision of additional guidance on the types of activities that may be accepted by the AER as part of an early works CPA may provide greater certainty for both TNSPs and consumers, even under the current Rules.

Further, the AER highlights in its Explanatory Statement that even where activities fall within the AEMC’s description of ‘early works’, the AER may not consider additional cost recovery for those activities to be appropriate, including because they should fall within ‘preparatory activities’ which are covered by the TNSP’s revenue allowance.²⁰ ENA has previously highlighted the cost recovery uncertainty for unforeseen preparatory activities,²¹ and would be concerned if the AER were to disallow cost recovery for early works activities on the basis that those activities are already funded through regulatory allowances, whilst at the same time not allowing NSPs to seek cost pass through for a material increase in preparatory activities.

¹⁸ AER RIT-T Application Guidelines – draft amendments, section 3.9.4. The AER has proposed similarly worded guidance for the other guidelines.

¹⁹ AER Explanatory Statement, p. 21.

²⁰ AER Explanatory Statement, p. 21.

²¹ ENA submission to AEMC Transmission Planning and Investment Review, Stage 2 Draft Report, 14 July 2022, p.5 and p.8.

Other issues

In addition to the matters discussed above, ENA has also identified areas of the AER's draft guideline amendments where the wording could be improved or clarified. Given the likely binding nature of some of the AER's amended guidance, it is important that the wording of the guidelines is sufficiently clear and precise.

ENA has provided a marked-up version of the AER's proposed amendments to the RIT-T Application Guidelines alongside this submission to illustrate these changes, noting that similar changes would be appropriate for the other guidelines. The marked-up version also suggests improved or clarified wording in some cases.

ENA also notes that the exact wording of the amendments proposed across the three guidelines is not always consistent, even where the substance of the proposed guidance is the same. It would be preferable if the wording adopted was consistent, as far as possible, to avoid confusion.

Finally, ENA suggests the AER include in the RIT-T and RIT-D Application Guidelines a list of the binding elements of the respective guidelines, similar to that currently included in Appendix A of the CBA Guidelines. This would assist all parties in being able to readily monitor compliance. We also note that Appendix A in the CBA Guidelines will need to be updated to reflect the new areas of guidance provided by the AER.