

Draft decision

**Jemena Gas Networks (NSW) access
arrangement 2025 to 2030
(1 July 2025 to 30 June 2030)**

Attachment 7 – Corporate income tax

November 2024

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Inquiries about this publication should be addressed to:

Australian Energy Regulator
 GPO Box 3131
 Canberra ACT 2601
 Email: aer inquiry@aer.gov.au
 Tel: 1300 585 165

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List of attachments

This attachment forms part of our draft decision on the access arrangement that will apply to Jemena Gas Networks (NSW) for the 2025–30 access arrangement period. It should be read with all other parts of this draft decision.

The draft decision includes the following documents:

Overview

Attachment 1 – Services covered by the access arrangement (no attachment - covered in the Overview)

Attachment 2 – Capital base

Attachment 3 – Rate of return

Attachment 4 – Regulatory depreciation

Attachment 5 – Capital expenditure

Attachment 6 – Operating expenditure

Attachment 7 – Corporate income tax

Attachment 8 – Efficiency carryover mechanism

Attachment 9 – Reference tariff setting

Attachment 10 – Reference tariff variation mechanism

Attachment 11 – Non-tariff components

Attachment 12 – Demand

Attachment 13 – Capital expenditure sharing scheme

Contents

List of attachments	iii
7 Corporate income tax	1
7.1 Draft decision.....	1
7.2 JGN's proposal	2
7.3 Assessment approach	3
7.4 Reasons for draft decision	9
7.5 Revisions	14
Glossary	15

7 Corporate income tax

Our determination of the total revenue for Jemena Gas Networks' (JGN) distribution network in NSW includes the estimated cost of corporate income tax for the 2025–30 access arrangement period (period).¹ Under the post-tax framework, a corporate income tax amount is calculated as part of the building blocks assessment using our post-tax revenue model (PTRM). This amount allows JGN to recover the estimated cost of corporate income tax for the 2025–30 period.

This attachment presents our assessment of JGN's proposed corporate income tax amount for the 2025–30 period. It also presents our assessment of the proposed opening tax asset base (TAB), and the standard tax asset lives used to estimate tax depreciation for the purpose of calculating tax expenses.

7.1 Draft decision

We determine an estimated cost of corporate income tax amount of \$68.9 million (\$ nominal) for JGN over the 2025–30 period. This amount is \$11.7 million (14.5%) lower than JGN's proposed cost of corporate income tax amount of \$80.6 million. This decrease is mainly due to our draft decision on a lower regulatory depreciation amount (Attachment 4).² This decrease is partially offset by our draft decision on a higher return on equity amount³ and a lower tax depreciation amount.⁴

Table 7.1 sets out our draft decision on the estimated cost of corporate income tax for JGN over the 2025–30 period.

Table 7.1 AER's draft decision on JGN's cost of corporate income tax for the 2025–30 period (\$ million, nominal)

	2025–26	2026–27	2027–28	2028–29	2029–30	Total
Tax payable	26.6	28.8	31.3	34.7	38.9	160.2
Less: value of imputation credits	15.1	16.4	17.8	19.8	22.2	91.3
Net cost of corporate income tax	11.4	12.4	13.5	14.9	16.7	68.9

Source: AER Analysis.

¹ NGR, r. 76(c).

² The lower regulatory depreciation is mainly driven by our draft decision to reduce the proposed accelerated depreciation from \$300 million to \$156 million (\$2024–25). See Attachment 4 for further details. All else being equal, a lower regulatory depreciation decreases the cost of corporate income tax as it is a component of revenue for tax purposes.

³ The higher return on equity amount is driven by a higher rate of return on equity determined in our draft decision compared to JGN's proposal. All else being equal, a higher return on equity amount increases the cost of corporate income tax as it is a component of revenue for tax purposes.

⁴ The lower tax depreciation amount is driven by a lower forecast capex determined in our draft decision compared to JGN's proposal. All else being equal, a lower tax depreciation increases the cost of corporate income tax as it is a component of tax expense.

For our draft decision on JGN’s estimated cost of corporate income tax:

- We determined an opening TAB as at 1 July 2025 of \$1,248.9 million, consistent with JGN’s proposal. We note that the opening TAB as at 1 July 2025 will be updated as part of the final decision to reflect actual capex for 2023–24 and any revised capex estimates for 2024–25.
- We accept JGN’s proposed zero immediately expensed capex for the 2025–30 period. The zero value reflects the cessation of Australian Taxation Office’s (ATO) temporary full expensing scheme.⁵
- We accept forecast capex allocated to the buildings, leasehold improvements and in-house software asset classes will be exempted from the diminishing value tax depreciation method. This maintains the approach approved in the 2020–25 access arrangement of applying the straight-line tax depreciation method for these assets (section 7.4.3).
- We accept JGN’s proposal to continue using the year-by-year depreciation tracking method as set out in our depreciation module in the RFM to calculate the forecast tax depreciation of its existing assets (section 7.4.4). This maintains the approach approved in the 2020–25 access arrangement.
- We accept JGN’s proposed standard tax asset lives for its existing asset classes for the 2025–30 period. The proposed standard tax asset lives are broadly consistent with the tax asset lives prescribed by the Commissioner of Taxation in ATO Taxation Ruling 2022/1 and/or are the same as the approved standard tax asset lives for the 2020–25 period (section 7.4.5).⁶ However, we removed JGN’s proposed tax standard asset life of 5 years for the new asset class ‘Future of Gas MP Services’ in the PTRM as no tax depreciation will be applied to this asset class.

Our adjustments to the return on capital (Attachments 2, 3 and 5) and the regulatory depreciation (Attachment 4) building blocks affect revenues, which in turn impacts the calculation of the cost of corporate income tax for this draft decision. The changes affecting revenues are discussed in the Overview.

7.2 JGN’s proposal

JGN proposed an estimated cost of corporate income tax of \$80.6 million (\$ nominal) for the 2025–30 period using our PTRM,⁷ and with the following inputs:⁸

- an opening TAB value as at 1 July 2025 of \$1,248.9 million (\$ nominal)
- an expected statutory income tax rate of 30% per year

⁵ ATO, [About temporary full expensing](#), accessed on 22 October 2024.

⁶ ATO, *Taxation Ruling TR2022/1 – Income tax: effective life of depreciating assets (applicable from 1 July 2022)*, June 2022.

⁷ Our published gas PTRM uses the diminishing value tax depreciation approach for all new assets with the exception of in-house software, buildings (capital works) and equity raising costs. The PTRM also allows for the immediate expensing of certain capex for tax purposes.

⁸ JGN, *JGN proposal, JGN - Att 7.6.2M - PTRM - Step 2 - 20240628 - Public*, June 2024.

- a value of imputation credits (gamma) of 0.57
- a zero amount of forecast immediately expensed capex
- tax depreciation of the opening TAB as at 1 July 2025 for each asset class applying the year-by-year tracking approach calculated in the depreciation module of the RFM
- the same standard tax asset lives for tax depreciation of new capex for its existing asset classes in the 2025–30 period as approved for the 2020–25 period.

Table 7.2 sets out JGN's proposed estimated cost of corporate income tax for the 2025–30 period.

Table 7.2 JGN's proposed cost of corporate income tax for the 2025–30 period (\$ million, nominal)

	2025–26	2026–27	2027–28	2028–29	2029–30	Total
Tax payable	33.5	35.3	36.5	38.9	43.1	187.4
Less: value of imputation credits	19.1	20.1	20.8	22.2	24.6	106.8
Net cost of corporate income tax	14.4	15.2	15.7	16.7	18.6	80.6

Source: JGN, *JGN - Att 7.6.2M - PTRM - Step 2 - 20240628 - Public*, June 2024.

7.3 Assessment approach

We make an estimate of taxable income for each regulatory year of the access arrangement period in accordance with the formula in the National Gas Rules (NGR) as part of our determination of the total revenue requirement for the 2025–30 period for JGN.⁹ Our estimate is the taxable income a benchmark efficient entity would earn for providing reference services if it operated JGN's business and is determined in accordance with the PTRM.

In April 2020, we published our first versions of the RFM and PTRM for gas pipeline service providers under the NGR.¹⁰ The gas models have been developed using our published electricity distribution and transmission regulatory models, which incorporate relevant findings from our final report on the tax review.¹¹ They also incorporate several amendments to account for gas specific requirements. Gas pipeline service providers are required to use the gas models for the purposes of their access arrangement proposals.¹²

⁹ NGR, r. 87A.

¹⁰ NGR, r. 75A.

¹¹ AER, *Final report: Review of regulatory tax approach*, December 2018, p. 76. The PTRM specifies the manner in which the estimated cost of corporate income tax is to be calculated. The RFM calculates the gas pipeline service provider's tax asset base which is an input to the PTRM for the calculation of the tax building block.

¹² NGR, r. 75A.

In April 2021, we published a new version 2 of our gas distribution PTRM that applied the same regulatory tax approach as version 1, and implemented the changes set out in our final position paper on the treatment of inflation under the regulatory framework.¹³

How the estimated cost of corporate income tax is calculated in the PTRM

Our approach for calculating a gas pipeline service provider's estimated cost of corporate income tax is set out in our PTRM¹⁴ and involves the following steps:¹⁵

1. We estimate the annual assessable income (taxable revenue) that would be earned by a benchmark efficient entity operating the gas pipeline service provider's business. This is the approved forecast revenues for the gas pipeline service provider that we determined using the building block approach.¹⁶
2. We then estimate the benchmark tax expenses such as operating expenditure (opex), interest expense and tax depreciation in the following ways:
 - operating expense is set equal to the opex building block¹⁷
 - interest expense is a function of the size of the capital base, the benchmark gearing assumption (60%) and the regulated cost of debt
 - tax depreciation expense is calculated using a TAB that is separate to the capital base, and standard and/or remaining tax asset lives for taxation purposes. JGN's 2020–25 access arrangement applied the diminishing value method for calculating tax depreciation for most of its assets except assets associated with in-house software, buildings (capital works) and equity raising costs.¹⁸ JGN proposed to continue using this approach for the 2025–30 period which is consistent with the findings of our 2018 tax review¹⁹ and our gas PTRM.²⁰ The PTRM also accounts for the value of certain forecast capex to be immediately expensed when estimating the benchmark tax expense. The value of immediately expensed capex is deducted from the net capex being depreciated for tax purposes for the year in which it is forecast to be incurred.²¹ The immediately expensed amount is then included in the total tax depreciation amount for the relevant year.

There may be other revenue adjustments, but the assessment of whether they should give rise to a corporate tax amount occurs on a case-by-case basis.

¹³ AER, *Final position: Regulatory treatment of inflation*, December 2020, pp. 6–8.

¹⁴ AER, *Gas Distribution PTRM*, April 2021.

¹⁵ The PTRM must specify the manner in which the estimated cost of corporate income tax is to be calculated: NGR, r. 75B(2)(e).

¹⁶ The total revenue for tax purposes is the sum of the building blocks including return on capital, return of capital, operating expenditure and cost of corporate taxation (and any capital contributions if applicable). It may also include other revenue adjustments, but the assessment of whether they should give rise to a cost of corporate tax will occur on a case-by-case basis.

¹⁷ Our assessment approach for the opex building block is discussed in Attachment 6 of the draft decision.

¹⁸ The expenditure for these assets is to be depreciated using the straight-line method under Australian tax law.

¹⁹ AER, *Final report, Review of regulatory tax approach*, December 2018.

²⁰ AER, *Gas distribution service provider: Post-tax revenue model (version 2)*, April 2021.

²¹ That is, the net capex to be added to the TAB for tax depreciation purposes is the amount of gross capex, less disposals, less the immediately expensed capex.

3. We estimate the annual taxable income that would be earned by a benchmark efficient entity operating the gas pipeline service provider's business by subtracting the benchmark estimates of tax expenses (step 2) from the approved forecast revenues for the service provider (step 1).
4. We apply the statutory income tax rate to the estimated annual taxable income (after adjustment for any tax loss carried forward) to arrive at a notional amount of tax payable.
5. We deduct the expected value for the utilisation of imputation credits (gamma) by investors from the notional amount of tax payable. The tax payable net of the expected value of imputation credits represents the corporate income tax amount and is included as a separate building block in determining the gas pipeline service provider's total revenue requirement.

How we assess the tax inputs to the PTRM

The estimated cost of corporate income tax is an output of the PTRM. We therefore assess the gas pipeline service provider's proposed cost of corporate income tax by analysing the proposed inputs to the PTRM for calculating that cost. Our assessment approach for each of the tax inputs required in the PTRM are discussed in turn below:

- **The opening TAB value as at the commencement of the 2025–30 period:** We consider that the roll forward of the opening TAB should be based on the approved opening TAB as at 1 July 2020 and JGN's actual/estimated capex incurred during the 2020–25 period, and the actual capex incurred in the final year (2019–20) of the previous access arrangement period.²² The roll forward of the opening TAB for the 2020–25 period is calculated in our RFM, which relies on the depreciation module.

The opening TAB value as at 1 July 2025 is used to estimate forecast tax depreciation for the 2025–30 period, including new assets to be added to the TAB over this period. Consistent with the 2020–25 access arrangement, we will continue to apply the diminishing value method of tax depreciation for the opening TAB value (with some exceptions discussed further below).

- **The form of customer contributions:** On 21 October 2020, the Full Federal Court of Australia published a judgment dealing with the tax treatment of capital contributions.²³ The determination:

- Confirmed an earlier Court ruling that cash contributions were ordinary income and should be treated as assessable income for tax purposes.
- Overturned an earlier Court ruling and determined that while a gifted asset was a 'non-cash business benefit' there was effectively nil income for tax purposes.

We consider the Court's ruling on gifted assets requires us to exclude the cost of construction of these assets from the gross capex and capital contributions inputs to the PTRM. Consequently, this excludes gifted assets from the calculation of the estimated cost of corporate income tax building block. Capital contributions in the form of cash

²² The tax depreciation is therefore recalculated based on actual capex. The same tax depreciation approach of using actual capex applies to the roll forward of the TAB at the next review.

²³ Federal Court of Australia, *Victoria Power Networks Pty Ltd v Commissioner of Taxation* [2020] FCAFC 169, 21 October 2020.

continue to be included in the calculation of the estimated cost of corporate income tax building block.

- **The standard tax asset life for each asset class:** Our assessment of a gas pipeline service provider's proposed standard tax asset lives is generally guided by the effective life for depreciating assets determined by the Commissioner of Taxation. The ATO sets a statutory life cap of 20 years on certain classes of gas transmission and distribution assets.²⁴ We consider that the standard tax asset lives for JGN should be consistent with the ATO taxation ruling 2022/1 regarding the effective life of depreciating assets where possible.²⁵

As discussed above, the PTRM applies the diminishing value tax depreciation method for all new assets except for in-house software, buildings (capital works), and equity raising costs. It provides for these assets to be depreciated using the straight-line method for tax purposes.²⁶ The tax effective lives for in-house software, buildings (capital works), and equity raising costs are not covered under the ATO taxation ruling 2022/1. Therefore, our assessment of the standard tax asset lives for these asset classes are guided by the *Income Tax Assessment Act 1997* (ITAA). Specifically, we consider that the standard tax asset life should be:

- 40 years for buildings. This is consistent with the number of years required to completely depreciate capital works assets such as buildings for tax purposes when applying sections 43.15, 43.140 and 43.210 of the ITAA.
 - 5 years for in-house software. This is consistent with section 40.95(7) of the ITAA.
 - 5 years for equity raising costs. This is consistent with section 40.880 of the ITAA and the ATO's taxation ruling 2011/6.²⁷
- **Income tax rate:** The statutory income tax rate is 30% per annum for businesses of the size we regulate, which was adopted in JGN's proposal.
 - **Value of gamma:** The gamma input for JGN is 0.57 for this draft decision. This is consistent with the 2022 *Rate of Return Instrument*, which set a gamma value of 0.57, and was adopted in JGN's proposal.²⁸ This is discussed further in Attachment 3 of this draft decision.
 - **Size and treatment of any tax losses as at 1 July 2025:** Where a business has tax losses under our benchmark approach, we require the provision of this value to determine the appropriate estimated taxable income for an access arrangement period. Any tax losses accumulated at the end of the current 2020–25 access arrangement are to be carried over to the start of the 2025–30 access arrangement, which will offset any

²⁴ ATO, *Taxation Ruling TR2022/1 – Income tax: effective life of depreciating assets (applicable from 1 July 2021)*, p. 179. For transmission assets: compressor station assets, gas pipeline LNG station assets, pipelines–transmission, spur or lateral, regulators and underground gas storage asset. For distribution assets: low pressure gas storage holders, pipelines (high, medium and low-pressure trunks, primary or secondary mains or services) and regulators.

²⁵ ATO, *Taxation Ruling TR2022/1 – Income tax: effective life of depreciating assets (applicable from 1 July 2022)*, p. 179.

²⁶ Our assessment approach on new assets to be exempted from the diminishing value method is discussed in detail below.

²⁷ ATO, *Taxation Ruling 2011/6*, July 2016.

²⁸ AER, *Rate of return instrument*, February 2023, p. 19.

forecast taxable income for that period. JGN does not have any accumulated tax losses as at the start of the 2025–30 period, which is consistent with our final determination for the 2020–25 period.²⁹

- **Forecast immediately expensed capex:** The PTRM requires a forecast for immediately deductible capex to be provided for each regulatory year of the 2025–30 period. Our assessment of forecast immediately expensed capex is guided by the gas pipeline service provider's actual immediately expensed capex from the previous access arrangement period.³⁰ We will collect actual data relating to this expenditure in our annual reporting Regulatory Information Notices (RINs) to further inform our decision on the amount of forecast immediately expensed capex in future access arrangements.
- **Diminishing value multiplier:** The PTRM applies the diminishing value method of tax depreciation and provides an input section for the 'diminishing value multiplier' to be recorded for each year of the access arrangement period. We note that currently the diminishing value multiplier is set at 200% by the ATO.
- **New assets to be exempted from the diminishing value method:** The PTRM applies the diminishing value method for tax depreciation purposes to all new depreciable assets except for certain assets. It provides for the PTRM asset classes 47 to 50 to be depreciated using the straight-line method for tax purposes rather than the diminishing value method. These asset classes are to contain new assets associated with in-house software, buildings (capital works) and equity raising costs.

We consider that the benchmark equity raising costs should not be depreciated using the diminishing value method. Section 40.880 of the ITAA and the ATO's taxation ruling 2011/6³¹ require that businesses claim deductions on equity raising costs in equal proportions over a five-year period. Therefore, in the PTRM, we apply the straight-line method for calculating the tax depreciation for equity raising costs, consistent with the ITAA and ATO's requirements.³² Further, the gas pipeline service provider may propose capex associated with buildings and in-house software to be exempted from the diminishing value method of tax depreciation in the PTRM if the proposal satisfies the following requirements:

- **Buildings:** We consider that capex for buildings may be exempted from the diminishing value method in the PTRM, consistent with sections 43.15, 43.140 and 43.210 of the ITAA. However, such capex must be consistent with the definition of a capital work under section 43.20 of the ITAA and in ATO taxation ruling 97/25.³³ This includes new buildings and structural improvements to existing buildings.³⁴ However, capex on separate assets within a building such as air-conditioning units, transformers and converters are not consistent with the definition of a capital work,

²⁹ AER, *Final decision – JGN access arrangement 2020–25 – Attachment 7 Corporate income tax*, June 2020, p. 5; Positive tax amounts were forecast in that determination.

³⁰ In the tax review final report, we labelled our approach to determining the amount of capex that is to be immediately expensed as an 'actuals informed approach'. AER, *Final report, Review of regulatory tax approach*, December 2018, p. 66.

³¹ ATO, *Taxation Ruling 2011/6*, July 2016.

³² The benchmark amount for equity raising costs is determined within the PTRM.

³³ ATO, *Taxation Ruling 97/25*, July 2017.

³⁴ ITAA, section 43.20.

and therefore are required to be depreciated using the diminishing value method in the PTRM.

- **In-house software:** We consider that capex for in-house software may be exempted from the diminishing value method in the PTRM, consistent with section 40.72 of the ITAA. However, such capex must be consistent with the definition of in-house software under section 995.1 of the ITAA and in ATO taxation ruling 2016/3.³⁵ This includes computer software, or the right to use computer software that the gas pipeline service provider acquires, develops or has someone else develop for the gas pipeline service provider's business use.³⁶ However, capex associated with other IT assets such as computer hardware is not consistent with the definition of in-house software, and therefore is required to be depreciated using the diminishing value method in the PTRM.

In assessing JGN's proposal, we have had regard to the National Gas Objective (NGO) and the revenue and pricing principles.³⁷ The NGR also require that any forecast must be arrived at on a reasonable basis and must represent the best forecast or estimate possible in the circumstances.³⁸

7.3.1 Interrelationships

The cost of corporate income tax building block feeds directly into the total revenue requirement. This amount is determined by five factors:

- pre-tax revenues
- tax expenses (including tax depreciation)
- the corporate tax rate
- any tax losses carried forward
- gamma—the expected proportion of company tax that is returned to investors through the utilisation of imputation credits—which is offset against the corporate income tax payable.

Of these five factors, the corporate tax rate is set externally by the Australian Government. The higher the tax rate, the higher the required cost of corporate tax.

The pre-tax revenues depend on all the building block components. Any factor that affects revenue will therefore affect pre-tax revenues. Higher pre-tax revenues can increase the tax

³⁵ ATO, *Taxation Ruling 2016/3*, October 2018.

³⁶ ITAA, section 995.1.

³⁷ National Gas Law (NGL), s. 28; NGR, r. 100(1). The NGO is set out in NGL, s. 23. The revenue and pricing principles are set out in NGL, s. 24.

³⁸ NGR, r. 74(2).

payable.³⁹ Depending on the source of the revenue increase, the tax increase may be equal to or less than proportional to the company tax rate.⁴⁰

The tax expenses (or deductions) depend on various building block components and their size. Some components give rise to tax expenses, such as opex, interest payments and tax depreciation of assets. However, others do not, such as increases in return on equity. Higher tax expenses offset revenues as deductions in the tax calculation and therefore reduce the cost of corporate income tax (all things being equal). Tax expenses include:

- Interest on debt – Interest is a tax offset. The size of this offset depends on the ratio of debt to equity and therefore the proportion of the capital base funded through debt. It also depends on the allowed return on debt and the size of the capital base.
- General expenses – These expenses generally will match the opex forecast including any revenue adjustments, but the assessment of whether they should be treated as a tax expense occurs on a case-by-case basis.
- Tax depreciation – A TAB that is separate to the capital base is maintained for the service provider reflecting tax rules. This TAB is affected by many of the same factors as the capital base, such as capex, although unlike the capital base value it is maintained at its historical cost with no indexation. The TAB is also affected by the depreciation rate/method and asset lives assigned for tax depreciation purposes.

A business that has tax expenses which are greater than its taxable revenue in a period would not be subject to pay tax and instead will generate a tax loss. A tax loss from the previous period(s) can be carried forward to offset against tax payable in the upcoming period.

7.4 Reasons for draft decision

We determine the estimated cost of corporate income tax is \$68.9 million (\$ nominal) for JGN over the 2025–30 period. This represents a decrease of \$11.7 million from JGN's proposal of \$80.6 million. The following sections discuss the reasons for our draft decision on:

- the opening TAB value as at 1 July 2025
- the forecast immediately expensed capex
- assets to be exempted from the diminishing value method for tax depreciation
- the year-by-year tracking approach for tax depreciation
- the standard tax asset lives for depreciating forecast capex over the 2025–30 period.

³⁹ In fact, there is an iterative relationship between tax and revenues. That is, revenues lead to tax, being applied, which increases revenues and leads to slightly more tax and so on. The PTRM is therefore set up to run an iterative process until the revenue and corporate tax amounts become stable.

⁴⁰ For example, although increased opex adds to revenue requirement, these expenses are also offset against the revenues as deductions in determining tax, so there is no net impact in this case. A higher return on equity, in contrast, gives rise to no offsetting tax expenses and therefore increases the corporate tax amount in proportion to the company tax rate.

Our draft decision on JGN’s proposed return on capital (Attachments 2, 3 and 5) and the regulatory depreciation (Attachment 4) building blocks affect revenues, and therefore also impact the forecast corporate income tax amount.

7.4.1 Opening tax asset base as at 1 July 2025

We accept JGN’s proposed method to establish the opening TAB value as at 1 July 2025. This is because JGN’s proposed approach is based on our RFM and consistent with that previously approved for the 2020–25 period. Based on the proposed approach, we determine JGN’s opening TAB value as at 1 July 2025 to be \$1,248.9 million (\$ nominal) for the draft decision, consistent with JGN’s proposal.

We have reviewed the inputs to the TAB roll forward. We found all inputs were correct and reconciled with relevant data sources, such as the annual reporting RINs and the 2020–25 decision models.⁴¹ As such, we are satisfied with the 2020–23 capex used to roll forward the TAB for the purposes of this draft decision. We note that the opening TAB as at 1 July 2025 may be updated as part of the final decision to reflect actual capex for 2023–24 and any revised 2024–25 capex estimates.

We also note that while we have applied some accelerated depreciation for the capital base due to the uncertainty of demand on JGN’s gas network, we accept JGN’s proposal not to apply a similar accelerated depreciation to the TAB. JGN’s TAB has been depreciated faster than its capital base because of the shorter tax asset lives applied for pipeline assets, the diminishing value tax depreciation method and the non-indexation of the TAB. As such, the accelerated depreciation applied to the capital base due to demand uncertainty is unlikely to be required for the TAB.

Table 7.3 sets out our draft decision on the roll forward of JGN’s TAB values over the 2020–25 period.

Table 7.3 AER’s draft decision on JGN’s TAB roll forward for 2020–25 period (\$ million, nominal)

	2020–21	2021–22	2022–23	2023–24 ^a	2024–25 ^a
Opening TAB	1,184.6	1,191.1	1,168.0	1,146.2	1,182.0
Capex ^b	158.8	143.4	172.1	157.2	194.5
Less: tax depreciation	152.4	166.5	193.9	121.3	127.7
Closing TAB	1,191.1	1,168.0	1,146.2	1,182.0	1,248.9

Source: AER analysis.

- (a) Based on estimated capex. We expect to update the TAB roll forward with actual capex for 2023–24 and a revised capex estimate for 2024–25 in the final decision.
- (b) Net of disposals.

⁴¹ We removed an immaterial amount (less than 1 cent) for the 2022–23 capex from the ‘Existing pigging and inspection cost’ asst class in the RFM and set it to zero to be consistent with the 2022–23 annual reporting RIN. Similar change is also made for the roll forward of JGN’s capital base as discussed in Attachment 2.

7.4.2 Forecast immediately expensed capex

JGN proposed a zero amount of immediately expensed capex for the 2025–30 period. We note that JGN incurred some immediately expensed capex over 2020–21 to 2022–23. The actual immediately expensed capex amounts incurred in these years reflect the ATO’s temporary full expensing scheme which operated from 6 October 2020 to 30 June 2023.⁴² From 2023–24 onwards the immediately expensed capex is forecast to be zero due to the cessation of this scheme as at 30 June 2023.

For this reason, we consider JGN’s proposed zero forecast immediately expensed capex for the 2025–30 period to be reasonable. We will continue to collect actual data relating to this expenditure in our annual reporting RINs to inform our decision on the amount of forecast immediately expensed capex in the next access arrangement for JGN.

7.4.3 Assets exempt from the diminishing value method

The PTRM for gas pipeline service providers applies the diminishing value method as the regulatory benchmark for tax depreciation to all new capex. However, as discussed above, there are some exceptions to this approach under the tax law such as assets relating to in-house software, buildings (capital works) and equity raising costs.⁴³ In the PTRM, the benchmark equity raising costs is determined within the model and depreciated using the straight-line tax depreciation method as the default.

In addition to equity raising costs, JGN proposed forecast capex associated with buildings (capital works) and in-house software for the 2025–30 period to be exempted from the diminishing value tax depreciation method. This applies to 3 asset classes: ‘Leasehold Improvements (SL)’, ‘Buildings (SL)’ and ‘Software–Inhouse (SL)’.

We consider the forecast capex allocated to:

- the ‘Leasehold Improvements (SL)’ and ‘Buildings (SL)’ asset classes satisfies the relevant definition under the tax law for a capital work.⁴⁴
- the ‘Software–Inhouse (SL)’ asset class satisfies the relevant definition under the tax law for in-house software.⁴⁵

Therefore, we accept JGN’s proposal that these assets will be depreciated using the straight-line method for tax purposes. This is consistent with the approach applied for the 2020–25 period.

7.4.4 Year-by-year tracking approach

We accept JGN’s proposal to use the ‘year-by-year’ tracking method as set out in our depreciation module in the RFM for calculating the tax depreciation of its existing assets as

⁴² ATO, [About temporary full expensing](#), accessed on 22 October 2024.

⁴³ Asset classes 47, 48, 49 and 50 in the PTRM provide for this.

⁴⁴ ATO, *Taxation Ruling 97/25*, July 2017; ITAA, section 43.20.

⁴⁵ ATO, *Taxation Ruling 2016/3*, October 2018; ITAA, section 995.1.

at 1 July 2025.⁴⁶ The proposed method represents a continuation of the approach approved in the 2020–25 access arrangement.⁴⁷

We are satisfied that the application of the year-by-year tracking method provides an appropriate estimate of the tax depreciation amount for a benchmark efficient service provider as required by the NGR.⁴⁸

In its proposed depreciation tracking module to the RFM, JGN has overwritten a formula in the AER's standard template. The formula was amended to ensure the opening TAB as at 1 July 2020 of \$1.2 million for the 'Existing pigging and inspection costs' asset class is fully depreciated by 2024–25 consistent with the tax depreciation schedule approved in the 2020–25 final decision PTRM. We agree with JGN that this amount should be fully depreciated by 2024–25 for tax purposes. However, we note that clause 75A(2) of the NGR requires a gas pipeline service provider to use our regulatory models. We consider this includes using our regulatory models without any amendments to the default formula in those models. To resolve this issue, we have made a few input changes and created a temporary asset class for the required calculations in the depreciation module. Our approach has achieved the same tax depreciation outcome as JGN's proposal without amending the default formula in our depreciation module. JGN has agreed with the changes we made in the depreciation module in its response to our information request.⁴⁹

7.4.5 Standard tax asset lives

We accept JGN's proposed standard tax asset lives assigned to its existing asset classes for the 2025–30 period, because they are:

- broadly consistent with the tax asset lives prescribed by the Commissioner of Taxation in ATO Taxation Ruling 2022/1, including the statutory cap on the effective life of 20 years for gas pipeline assets⁵⁰
- for non-pipeline asset classes—consistent with the approved standard tax asset lives for the 2020–25 period.

We removed JGN's proposed tax standard life input of 5 years for the new asset class 'Future of Gas MP Services' in the PTRM. The new 'Future of Gas MP Services' asset class is for accelerated depreciation of existing assets for its opening capital base only and does not apply to the opening TAB as discussed in section 7.4.1. Therefore, no tax asset life is required for this asset class.

Our draft decision on JGN's standard tax asset lives for each of its asset classes is set out in Table 7.4. We are satisfied that the standard tax asset lives are appropriate for application

⁴⁶ Under this approach, the capex for each year of an access arrangement period is depreciated individually for tax purposes. It will result in each tax asset class having an expanding list of sub-assets to reflect the regulatory year in which capital expenditures on those assets occurred.

⁴⁷ AER, *Draft decision – Jemena Gas Networks (NSW) Ltd Access Arrangement 2020–25, Attachment 7*, p. 18, November 2019.

⁴⁸ NGR, r. 87A.

⁴⁹ JGN, *Response to AER information request #003*, dated 20 August 2024, p. 8.

⁵⁰ ATO, *Taxation Ruling TR2022/1 – Income tax: effective life of depreciating assets (applicable from 1 July 2022)*, p. 179.

over the 2025–30 period. We are also satisfied that the standard tax asset lives provide an estimate of the tax depreciation amount that would be consistent with the tax expenses used to estimate the annual taxable income for a benchmark efficient service provider.⁵¹

Table 7.4 AER’s draft decision on JGN’s standard tax asset lives (years)

Asset class	Standard tax asset life
Trunk Wilton-Sydney	20.0
Trunk Sydney-Newcastle	20.0
Trunk Wilton-Wollongong	20.0
Contract Meters	15.0
Fixed Plant - Distribution	20.0
HP Mains	20.0
HP Services	20.0
MP Mains	20.0
MP Services	20.0
Meter Reading Devices	15.0
Country POTS	20.0
Tariff Meters	15.0
Computers - IT Infrastructure	4.0
Fixed Plant	10.8
Furniture	10.8
Land	n/a
Low value assets	6.5
Mobile Plant	6.5
Vehicles	7.5
Future of Gas MP Services	n/a
Leasehold Improvements (SL) ^a	40.0
Buildings (SL) ^a	40.0
Software - Inhouse (SL) ^a	5.0
Equity raising costs ^a	5.0 ^b

Source: AER analysis.

⁵¹ NGR, r. 87A.

- n/a Not applicable. We have not assigned a standard tax asset life to the ‘Land’ asset class because the assets allocated to this asset class are non-depreciating assets. We assigned a tax standard asset life of ‘n/a’ for the ‘Future of Gas MP Services’ asset class as this asset class is for the purpose of accelerated depreciation of the opening capital base only.
- (a) Straight-line method is applied to these asset classes for tax depreciation. Diminishing value method is applied to all the other asset classes.
- (b) For this draft decision, the forecast capex determined for JGN does not meet a level to trigger any benchmark equity raising costs

7.5 Revisions

We require the following revisions to make the access arrangement proposal acceptable as set out in Table 7.5.

Table 7.5 JGN’s corporate income tax revisions

Revision	Amendment
Revision 7.1	Make all necessary amendments to reflect this draft decision on the proposed cost of corporate income tax for the 2025–30 access arrangement period.

Glossary

Term	Definition
AER	Australian Energy Regulator
JGN	Jemena Gas Networks
ATO	Australian Tax Office
capex	Capital expenditure
ITAA	Income Tax Assessment Act 1997
NGL	National Gas Law
NGO	National Gas Objective
NGR	National Gas Rules
opex	Operating expenditure
PTRM	Post-tax revenue model
RFM	Roll forward model
RIN	Regulatory Information Notice
TAB	Tax asset base
