

Independent Panel questions to the AER

Date of correspondence: 22 June 2018

Correspondence between: Natalia Southern (Chair of Panel) and Tanja Warre (Director – Rate of Return – AER)

*Please note the Panel's requests/comments are in **black** text and the AER's responses in **blue**.*

The Independent Panel (**Panel**) wrote to the AER regarding the following:

1. Timing of the delivery of the Panel's report

- The AER requested that the Panel's report be prepared within 8 weeks rather than the 10 weeks originally proposed.
- The Panel advised that it will endeavour to complete its review report within 8 weeks if possible, but is unable to confirm this until it receives and conducts an initial review of draft rate of return guideline (**guideline**).

The AER confirmed that the timing of the report could be further discussed once the Panel has been provided with the guideline.

2. Query about stakeholder engagement by the Panel

- The Panel noted that it had directly received a query from a stakeholder enquiring about whether there were any agreed protocols about whether the Panel will, or is able to, meet with stakeholders to discuss the review.
- The Panel suggested that the AER prepare a fact sheet (or similar document) to stakeholders at the time the draft guideline is released which clarifies this and any other relevant queries and points that may emerge.

The AER advised that the role of the Panel is not to engage with stakeholders and that it would release a fact sheet on the role of the Panel when the AER releases the guideline.

3. Relevant documents that may assist the Panel in interpreting issues of "sound reasoning" and "available information"

- The Panel asked the AER to direct them to any relevant cases either from the Tribunal or from Australian courts describing a legal duty to a regulatory body's requirement to consider evidence and explain its decisions and any administrative law statute that addresses these issues.

The AER committed to provide relevant information to the Panel as soon as possible.

4. Outline of the guideline

- The Panel requested a table of contents that will give an indication of how the AER will be structure the draft guideline.

The AER provided a copy of the high level table of contents.

5. Anticipated timing of the draft guideline and accompanying documents

- The Panel noted the AER's advice that the draft guideline is now expected to be provided to the Panel in the week commencing 9 July, and advised that it would use this date as the basis for planning its own timetable for the review and analysis of the Draft guideline, and drafting of its report.