



Intending TNSP application for a revenue determination

Submission to the Australian Energy Regulator

31 March 2023

A stylized map of Australia at night, with a network of glowing white lines representing power lines. The lines are most dense in the eastern and southern coastal regions. A prominent line runs from the south coast of Australia towards the island of Tasmania, ending in a dashed pattern. The background is a dark blue gradient with a subtle map texture.

Responsibilities

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1 Introduction and background

1.1 Purpose

Marinus Link Pty Ltd (**MLPL**) is lodging this Application for a revenue determination for Marinus Link in accordance with clause 6A.9.2 of the National Electricity Rules (**the Rules**). This Application is the first step in the revenue determination process to be conducted by the Australian Energy Regulator (**AER**) for newly formed transmission companies that intend to be regulated under the Rules (**Intending TNSPs**). As an Intending TNSP, MLPL requests that the AER:¹

- (1) commences the process for making a transmission determination relating to proposed prescribed transmission services provided by MLPL; and
- (2) determines the process to apply when making the transmission determination.

In accordance with the Rules², MLPL is proposing a two stage revenue determination process. A two stage revenue determination process arises where all the decisions that ordinarily comprise a revenue determination are not made in the first stage. The key aspects of each stage are summarised below:

- Stage 1 will have two parts, Part A (Early works) and Part B (Construction costs) to provide for more accurate expenditure forecasts and an extended consultation process. Stage 1 will culminate with an AER revenue determination that establishes an expenditure allowance for the costs of planning and commissioning the project and a mechanism for setting MLPL's regulatory asset base. It will also establish the first regulatory period, which would apply for 3 years commencing on 1 July 2025.

MLPL will not recover any revenue from electricity consumers during this regulatory period, as transmission services are not expected to commence until January 2029. In addition, Stage 1 will not determine some 'building block' components, such as MLPL's operating expenditure allowance, which are required to calculate MLPL's annual revenue requirements. Despite the limited scope of Stage 1, our Revenue Proposal for Part B (Construction costs) will provide a high-level indication of the price impact on consumers if Marinus Link proceeds. We consider it important to provide this information to stakeholders, although it will only be indicative at this stage.

- Stage 2 will be a standard revenue determination which will establish the maximum allowed revenue that MLPL is able to earn when services commence in 2029. As such, it will determine all of the

¹ Clause 6A.9.2(a).

² Clause 6A.9.3(c).

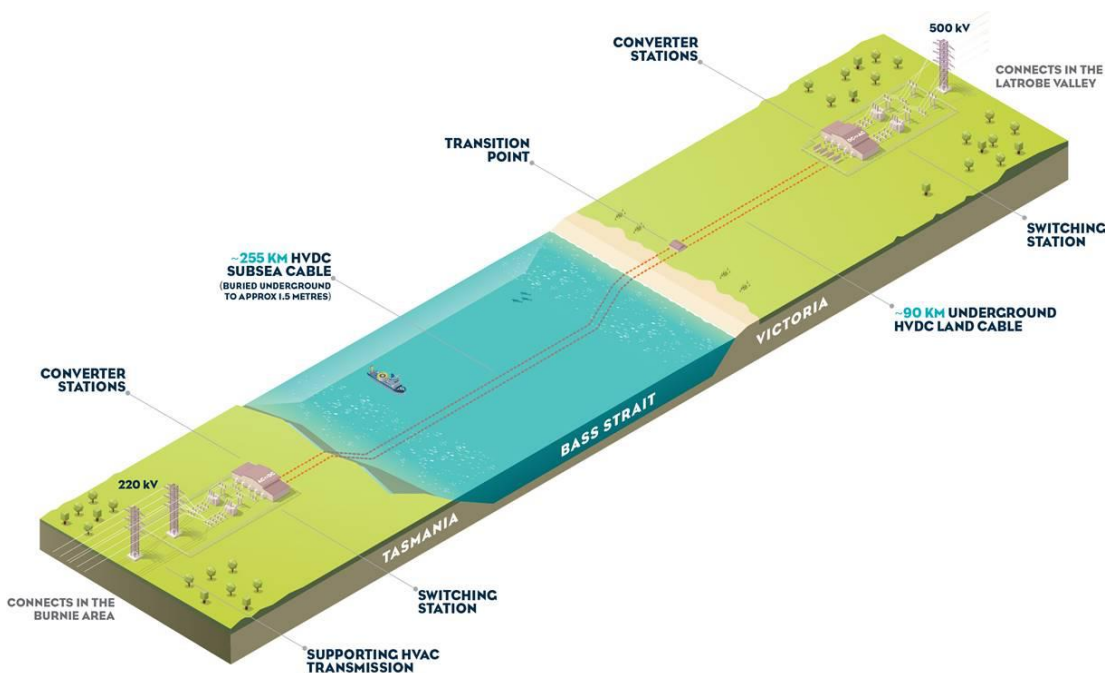
components that comprise the 'building block' approach to revenue setting. At this point, we will be able to provide further updated information on the price impacts of Marinius Link on electricity consumers. The regulatory period will commence on 1 July 2028 and apply for 5 years. As already noted, prior to this period MLPL will not be recovering any revenue from electricity consumers.

If this Application is accepted by the AER, it will publish a Commencement and Process paper which will confirm how the AER intends to conduct the revenue determination process for MLPL. While MLPL's approach to stakeholder engagement is outside the scope of this Application, it is a key aspect of the project. Further information on our approach to consumer engagement will be provided following the publication of the AER's Commencement and Process paper.

1.2 What is Marinius Link?

Marinius Link involves approximately 255 kilometres of undersea High Voltage Direct Current (HVDC) cable and approximately 90 kilometres of underground HVDC cable in Victoria. It also includes converter stations in Tasmania and Victoria, as shown in Figure 1. The total interconnection capacity will be 1500 MW, provided through two 750 MW cables.

Figure 1: Marinius Link overview



As coal-fired generation plant retires, Australia needs access to affordable, 'on-demand' electricity and the ability to store energy for long periods. Marinius Link can help to deliver this for National Electricity Market (NEM) customers. Tasmania's existing hydro capacity, along with wind resources and energy storage capability, will provide a reliable source of low-cost, on-demand, clean energy to the NEM.

Marinus Link is part of a larger project, which is referred to as Project Marinus, which will be developed and owned by different entities:

- Marinus Link will be owned and operated by MLPL, which is currently a wholly owned subsidiary of Tasmanian Networks Pty Ltd (TasNetworks). In October 2022, the Australian, Tasmanian and Victorian Governments entered an historic agreement to move to joint ownership of MLPL.
- The North West Transmission Development component of Project Marinus will be owned and operated by TasNetworks.

AEMO estimates that Project Marinus is expected to deliver net market benefits on a scenario-weighted basis of \$4.5 billion to the NEM over the life of the investment.³ Australia's energy ministers have recognised that Project Marinus is a transmission project of national significance.

Project Marinus is currently progressing through its design and approvals stage, which will culminate in a final investment decision in relation to the project. The current timeframes for Marinus Link indicate that the first cable will be operational in January 2029 and the second cable in January 2031.

1.3 Why are we making this Application?

A revenue determination by the AER for Marinus Link is a key input to MLPL making an investment decision to proceed with the construction of Marinus Link. From a commercial perspective, investors in MLPL will want to know how Marinus Link will earn revenue and whether that revenue is likely to be sufficient to provide a reasonable return on their investment. A revenue determination will provide that information.

In December 2022, the Australian Energy Market Commission (**AEMC**) amended Chapter 6A of the Rules to enable MLPL (and other Intending TNSPs) to lodge an Application to the AER for a revenue determination. This Rule determination was made in response to a Rule change request submitted by MLPL, which explained that Chapter 6A of the Rules allowed the AER to make revenue determinations for existing TNSPs, but not for Intending TNSPs such as MLPL.

The AEMC's Rule change addressed this gap by setting out specific arrangements for how the AER should conduct a revenue determination for Intending TNSPs. The first step in the process is the submission of an Application by the Intending TNSP to the AER. Clause 6A.9.2(e) of the Rules requires the AER to determine whether to commence the process for making a transmission determination having regard to any matters it considers appropriate, including:

³ AEMO, 2022 Integrated System Plan, June 2022, page 73.

- (1) whether the Intending TNSP intends to deliver an actionable ISP project or a project that is not an actionable ISP project but has been subject to the regulatory investment test for transmission;
- (2) the likelihood of the Intending TNSP delivering that project; and
- (3) in the case of a converting transmission system, the Intending TNSP's application to the AER to determine the service to be a prescribed transmission service.

This Application addresses these matters in addition to the other information requirements specified in clause 6A.9.2 of the Rules.

1.4 Confidentiality

Clause 6A.9.2(c) of the Rules requires that an Application must identify any parts of the request the Intending TNSP claims to be confidential. In accordance with that clause, MLPL confirms that no part of this Application is confidential.

1.5 Stakeholder Engagement

MLPL welcomes any feedback or questions on this Application, which should be directed to:

Ben Wagner
Acting Executive Manager – Customer and Revenue
Marinus Link
PO Box 606 Moonah
Tasmania 7009
Email: team@marinuslink.com.au

1.6 Structure of this application

The remainder of this Application is structured as follows:

- Section 2 explains why the AER should commence the revenue determination process for MLPL, having regard to the matters set out in clause 6A.9.2(e) of the Rules;
- Section 3 explains that MLPL is proposing a staged approach to the revenue determination process, including the proposed commencement date and duration of each regulatory period. We also set out which decisions listed in clause 6A.14 of the Rules the AER would make in each stage, and for Part A (Early works) and Part B (Construction costs) that together form Stage 1;

- Section 4 sets out MLPL's proposed approach to establishing the opening regulatory asset base for Marinius Link;
- Section 5 sets out MLPL's proposed application of the AER's incentive schemes for the proposed regulatory period;
- Section 6 sets out MLPL's concluding comments and proposed next steps; and
- The attachment provides a compliance checklist to demonstrate that this Application addresses the Rules requirements.

2 The case for commencing a revenue determination for Marinus Link

The purpose of this section is to explain why the AER should commence a revenue determination process for MLPL in accordance with clause 6A.9.2(b) of the Rules. As already noted, in making its decision the AER may have regard to any matters it considers appropriate, including:

- (1) whether the Intending TNSP intends to deliver an actionable ISP project or a project that is not an actionable ISP project but has been subject to the regulatory investment test for transmission;
- (2) the likelihood of the Intending TNSP delivering that project; and
- (3) in the case of a converting transmission system, the Intending TNSP's application to the AER to determine the service to be a prescribed transmission service.

MLPL notes that Marinus Link is not a converting transmission system and, therefore, (3) does not apply. The remainder of this section explains that:

- Marinus Link⁴ is an actionable ISP project;
- The case for Marinus Link has been the subject of extensive investment analysis, including the completion of the Regulatory Investment Test for Transmission (**RIT-T**);
- The Tasmanian, Victorian and Federal Governments have expressed their confidence in the project, including through funding commitments; and
- MLPL has registered as an Intending TNSP with AEMO.

For completeness, we also explain the types of prescribed transmission services that MLPL expects to provide.

⁴ Strictly speaking, as defined in this Application, 'Project Marinus' is the actionable ISP project rather than Marinus Link. As a major component of Project Marinus, however, it is reasonable to describe Marinus Link as an actionable ISP project.

2.1 Marinus Link is an actionable ISP project

AEMO is required to publish an Integrated System Plan (**ISP**) every two years. The ISP sets out an optimal development path (**ODP**) which identifies investments that meet the future needs of the NEM, including actionable and future ISP projects (transmission projects or non-network options). The 2022 ISP explained that Marinus Link is an actionable ISP project:⁵

“Marinus Link is a single actionable ISP project, without staging between the first and second cables. The optimal delivery in Step Change is 2029-30 for cable 1, and 2031-32 for cable 2. Any delay reduces net market benefits in all scenarios but the unlikely Slow Change.

The project’s two cables are estimated to cost \$2.38 billion \pm 30% (cable 1) and \$1.40 billion \pm 30% (cable 2). At the higher end of this cost range, the project may no longer be optimally timed for delivery as soon as possible, but the regret of having invested too early is small. Its status as an actionable ISP project is not affected by materially higher discount rates, materially lower gas prices, or any other variations in inputs tested through sensitivity analysis.”

In relation to actionable ISP projects more generally, AEMO highlighted their urgent need in the following terms:⁶

“The schedule of actionable projects lists the earliest practical delivery time AEMO has been advised by the project proponents. Earlier delivery would either be more optimal to deliver benefits to consumers or would provide valuable insurance and guard against other potential delays. All actionable projects should therefore progress as urgently as possible, and state and Commonwealth mechanisms which support earlier progression of projects could deliver earlier benefits or cost savings.”

AEMO’s classification of Marinus Link as an actionable ISP project, which is required urgently, provides strong evidence that the project is likely to proceed.

2.2 Extensive investment analysis

Project Marinus commenced in 2017 with \$20 million in funding from the Tasmanian Government through TasNetworks and the Australian Government through the Australian Renewable Energy Agency (**ARENA**).

⁵ AEMO, 2022 Integrated System Plan June 2022, page 73. It should be noted that AEMO’s references to Marinus Link are references to Project Marinus, as defined in this Application.

⁶ AEMO, 2022 Integrated System Plan June 2022, page 18.

The feasibility and business case assessment phase concluded with the release of the Business Case Assessment Report in December 2019.

In parallel with the feasibility and business case assessment, TasNetworks commenced the RIT-T process. The RIT-T is the public economic cost benefit test that must be undertaken for large transmission projects. The purpose of the RIT-T is to identify the transmission investment option that maximises net economic benefits to all who produce, consume and transport electricity in the national electricity market.

The RIT-T process for Project Marinus comprised the following documents:

- Project Specification Consultation Report, July 2018;
- Draft Project Assessment Report, December 2019;
- Supplementary Analysis Report, November 2020; and
- Project Assessment Conclusions Report, July 2021.

The completion of the RIT-T process with the publication of the Project Assessment Conclusions Report provides further evidence that Project Marinus (and therefore Marinus Link) is likely to proceed and MLPL will provide prescribed transmission services through Marinus Link.

2.3 Government support

On 19 October 2022, the Tasmanian and Federal Governments signed a letter of intent to support Marinus Link and related projects, which includes:⁷

- Access to a concessional loan from Rewiring the Nation, through the Clean Energy Finance Corporation for approximately 80 per cent of the project costs of Marinus Link, with the additional 20 per cent to be an equity investment shared equally between the Commonwealth, Victoria and Tasmania.
- Up to \$1 billion of low-cost debt from Rewiring the Nation for Tasmania's Battery of the Nation projects, including Tarraleah Power Station redevelopment and Lake Cethana Pumped Hydro.
- Access for TasNetworks to low-cost debt for the North West Transmission Development, which will link Cressy, Burnie, Sheffield, Staverton and Hampshire in Tasmania.

The AEMC's Transmission Planning and Investment Review (Stage 3) recommended changes to the Rules to ensure that the benefits of concessional finance are passed on to electricity consumers. While outside the

⁷ <https://www.pm.gov.au/media/rewiring-nation-plugs-marinus-link-and-tasmanian-jobs>

scope of this Application, it is worth noting that any future Revenue Proposal lodged by MLPL will apply the relevant Rules provisions relating to concessional finance. For the purpose of this Application, MLPL notes that the Tasmanian, Victorian and Federal Governments' support for Project Marinus provides further assurance that Marinus Link is likely to proceed and MLPL will provide prescribed transmission services.

2.4 Registration as an Intending TNSP

MLPL has registered as an Intending TNSP with AEMO, having satisfied AEMO that it intends to carry out an activity in respect of a TNSP in accordance with clause 2.7(a) of the Rules. AEMO's decision to accept MLPL as an Intending TNSP is further evidence that the project is likely to proceed and MLPL will provide prescribed transmission services.

2.5 Provision of prescribed transmission services

As Marinus Link's purpose is to provide interconnection between Victoria and Tasmania. At this early stage of the project, MLPL currently expects to provide:

- prescribed common transmission services;
- prescribed transmission use of system services; and
- prescribed connection services.

These services relate to the provision of services to TNSPs in interconnected regions, where:

- common transmission services provide benefits to TNSPs in interconnected regions without any differentiation based on location;
- prescribed transmission use of system services provide benefits to TNSPs in interconnected regions that can be differentiated by location; and
- connection services are provided by MLPL to other TNSPs to connect their networks.

Given MLPL's intention to provide prescribed transmission services and the significant work undertaken to progress Marinus Link described earlier, we consider that there is a compelling case for the AER to commence the revenue determination process.

3 Proposed project and regulatory timeframes

The purpose of this section is to explain the project timeframes for Marinius Link, which indicate that a two stage revenue determination process is appropriate for MLPL, where Stage 1 has two parts – Part A (Early works) and Part B (Construction costs). We set out the proposed commencement date and duration for each regulatory period and the decisions listed in clause 6A.14 that the AER would make for each stage, as required by clause 6A.9.3(c)(1).

3.1 Project timeframes

The delivery timeframes for major infrastructure projects, such as Marinius Link, are inherently uncertain because of the unavoidable complexities in the planning, procurement and construction processes. At this stage, the first cable is expected to be commissioned in January 2029 and the second cable in January 2031.

MLPL is currently engaged in the ‘design and approvals’ phase of the project, which includes the following activities:

- Engage with landowners and the community to gather feedback on the proposed route and to help inform the planning and assessment process.
- Acquire access to land and easements.
- Conduct a range of field work including cultural heritage, ecological and geotechnical surveys.
- Undertake environmental impact assessments and obtain the necessary planning and environmental approvals.
- Develop conceptual technical designs and specifications.
- Develop tender specifications for equipment manufacturing, construction and commissioning.
- Confirm and implement commercial arrangements, based on the revenue and service provision model.
- Develop plans to show how the existing transmission networks and future transmission routes will increase network capacity and ensure the power system can accommodate future energy developments proposed for the region.
- Finalise and implement contracting, procurement and insurance strategies.

- Complete the detailed estimate for the total project cost and the manufacturing, construction and commissioning schedule.
- Finalise the financing and revenue arrangements, including engaging with the AER, customers and other stakeholders.

From a regulatory perspective, the design and approvals phase is defined as ‘early works’, as the activities will improve the accuracy of cost estimates for the construction of Marinus Link and ensure that the project can be delivered within the proposed timeframes. Construction will only commence after a final investment decision has been made, which is scheduled for December 2024.

3.2 Overview of MLPL’s proposed approach

In contrast to an existing TNSP, MLPL will incur significant expenditure before it starts to provide prescribed transmission services in January 2029. The AEMC has made it clear that customers should not pay for Marinus Link until services commence:⁸

“The Intending TNSP would not be able to recover any costs through transmission charges to customers until it starts providing prescribed transmission services. That is, the costs of major transmission projects delivered by Intending TNSPs will not be reflected in consumer bills until the project is delivered and the Intending TNSP is providing prescribed transmission services.”

In addition, we recognise that Marinus Link is a major infrastructure project that requires comprehensive review by the AER and extensive engagement with electricity consumers. Specifically, consumers will want to understand the basis for the capital expenditure forecasts, as well as the price implications if the project proceeds.

These observations have led MLPL to the conclusion that it is appropriate for the AER to make two regulatory determinations for MLPL under the Intending TNSP Rule provisions, as follows:

- First regulatory period from 1 July 2025 to 30 June 2028 (Stage 1); and
- Second regulatory period from 1 July 2028 to 30 June 2033 (Stage 2).

We note that the AER is only required to specify the commencement date of the first regulatory period in its Commencement and Process Paper (**CPP**). The proposed duration of the first regulatory period (3 years) – and therefore the commencement date for the second regulatory period – are therefore indicative at this stage.

⁸ AEMC, Draft Rule Determination National Electricity Amendment (Establishing Revenue Determinations For Intending TNSP) Rule, August 2022, page 18. We have referred to the Draft Rule Determination because this commentary is not repeated in the Final Determination.

Nevertheless, it is helpful to stakeholders to explain the rationale for our proposed staging, which we do so below.

The first regulatory period would cover the pre-commissioning phase of the project, when MLPL would not be providing prescribed transmission services and, therefore, would not be recovering revenues from customers. The second regulatory period would cover the post-commissioning phase of the project, although it would commence approximately 6 months before the first cable is expected to be commissioned.

This timing provides confidence that the first regulatory period ends prior to the commencement of services, which means that the first determination would not include an approved transmission pricing methodology (as no revenue would be recovered). Stage 1 will be completed in two parts:

- Part A (Early works) will provide a regulatory allowance for the costs of early works; and
- Part B (Construction costs) will provide a regulatory allowance for the costs of constructing Marinus Link.

This approach ensures that an appropriate level of regulatory review and stakeholder engagement is applied to each stage, recognising that the early works expenditure is a relatively small component of the total project costs. While MLPL will not recover any revenue from electricity consumers during the first regulatory period, it will be important for MLPL to explain the likely price impacts and the benefits to consumers if the project proceeds.

Stage 2 would be a standard determination process, as we propose that the AER would make a decision on each element of Clause 6A.14. In contrast to existing TNSPs, however, MLPL will not be providing transmission services at the time of the AER's determination. Two issues arise from this observation:

- MLPL's operating expenditure allowance for the 2028-2033 regulatory period will need to be estimated without the benefit of historical expenditure data.
- If a service performance incentive scheme is to apply to MLPL, the application of that scheme cannot be based on historical service performance data.

To summarise, while the second stage will be a standard determination process in terms of the coverage of the AER's decisions under clause 6A.14, there will be a number of issues to resolve that will be specific to MLPL's particular circumstances.

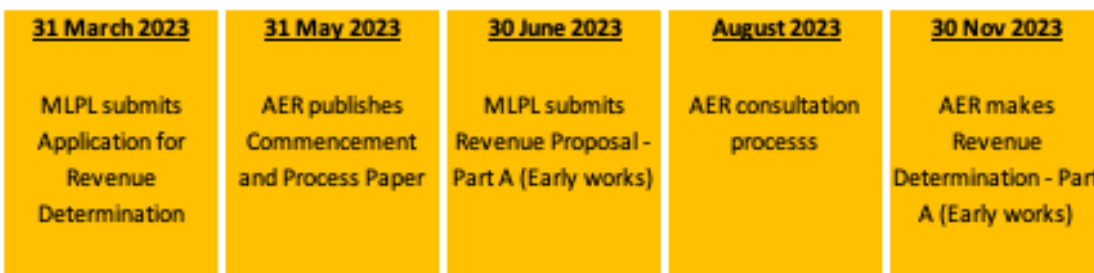
3.3 Stage 1 determination process

As already noted, MLPL proposes that Stage 1 of the revenue determination process would be conducted in two parts, Part A (Early works) and Part B (Construction costs). For Stage 1 of the revenue determination process, we propose that the AER modifies the standard revenue setting process as follows:

- MLPL would not submit an expenditure forecasting methodology, which is ordinarily required by clause 6A.10.1B of the Rules. MLPL’s view is that there is very limited value in providing this information to the AER in advance of submitting the Revenue Proposals for Part A and Part B, which will explain the forecasting methodology.
- The AER would not publish a Framework and Approach paper, noting that the AEMC’s determination states that the AER may elect to address the matters usually addressed in the Framework and Approach paper in its CPP or Issues Paper.⁹
- The Revenue Proposals for Part A (Early works) and Part B (Construction costs) would not be accompanied by a pricing methodology, which is ordinarily required by clause 6A.10.1(a). While MLPL will indicate the price implications of the proposed project for electricity consumers¹⁰, no revenue will be recovered during the first regulatory period. Accordingly, there is no purpose in submitting a pricing methodology for AER approval as the methodology will not be applied.
- An Overview Paper, which is ordinarily required by clause 6A.10.1(g), should not be provided for Stage 1. The relatively narrow scope of the Stage 1 determination means that an Overview Paper is not warranted.

Figure 2 provides an overview of our proposed timetable and process for Part A (Early works) of Stage 1. MLPL will conduct stakeholder consultation prior to and during this revenue determination process. We will be discussing the scope of this consultation with our Consumer Advisory Panel and the AER.

Figure 2: Key milestones for Part A (Early works)



⁹ AEMC, Rule Determination - National Electricity Amendment (Establishing Revenue Determinations For Intending TNSP) Rule, 22 December 2022, section 4.3.2, pages 30 and 31.

¹⁰ It should be noted that the price implications may only be estimated at this point, as numerous elements of MLPL’s revenue, including MLPL’s operating expenditure, will not be addressed in Stage 1.

We are proposing a shortened period for the Part A (Early works) determination, with the proposal submitted by 30 June 2023 and the Final Decision published by 30 November 2023. Our proposed process does not provide for a Draft Decision or a Revised Revenue Proposal. In accordance with the AEMC’s final determination, in our view applying a full determination process to early works alone would place a disproportionate administrative burden on the AER.¹¹

Figure 3 below provides an overview of our proposed timetable and process for Part B (Construction costs). For completeness, we have included indicative timelines for the AER’s consultation process, noting that the AER’s preferred approach to consultation will be specified in its Commencement and Process Paper.

Figure 3: Key milestones for Part B (Construction costs)



In Part B, the AER’s primary task is to review the proposed construction costs and determine the arrangements for setting Marinus Link’s regulatory asset base. In contrast to a standard revenue setting process, therefore, the AER would not make a determination on the following matters that form part of a standard process:

- MLPL’s future operating expenditure requirements;
- MLPL’s asset lives and depreciation allowance;
- Corporate tax allowance;

¹¹ Ibid, section 4.3.1, page 27

- X factors;
- Incentive schemes, including the Efficiency Benefit Sharing Scheme and the Service Target Performance Incentive Scheme; and
- MLPL's pricing methodology.

Given the narrower scope of the determination process, and also the significant expenditure involved in constructing Maribus Link, we consider that 9 months is an appropriate timeframe for the period between the submission of MLPL's Revenue Proposal and the AER's Final Decision. MLPL notes that this timeframe is considerably longer than a Contingent Project Application (**CPA**), which is an alternative process for determining MLPL's allowed construction costs, and also provides for an AER Draft Decision. As a result, the proposed process provides for more extensive stakeholder consultation than a CPA process.

While MLPL proposes that its construction costs are determined by a revenue determination rather than a CPA process, it should be noted that a feedback loop will nevertheless be completed between January and February 2024. The feedback loop was introduced as part of the actionable ISP reforms and is designed as a safeguard for consumers. It refers to the requirement for a TNSP to obtain written confirmation from AEMO on the following matters before lodging a CPA to the AER:

- the preferred option addresses the relevant identified need specified in the most recent ISP and aligns with the optimal development path; and
- the cost of the preferred option does not change its status as an actionable ISP project.

Given the value of the feedback loop, MLPL together with TasNetworks intend to submit a feedback loop request to AEMO in relation to Project Maribus (which comprises Maribus Link and North West Transmission Development).

3.4 Stage 2 determination process

Stage 2 of the determination process would culminate in a maximum annual revenue allowance for each year of the second regulatory period, which would commence on 1 July 2028. In contrast to Stage 1, MLPL envisages that it would be a standard revenue determination process.

As already noted, some aspects of MLPL's Revenue Proposal and the AER's Final Decision will need to reflect MLPL's particular circumstances which are different from existing TNSPs. For example, MLPL will not have an operating history prior to the commencement of the second regulatory period. This means that MLPL's operating expenditure allowance and its future service performance requirements cannot be determined with reference to historical data. It is expected that these matters can be addressed during the determination process itself, rather than requiring a modification to that process or timeframes.

The second determination will also need to clarify the likely timing of when prescribed transmission services will commence and the arrangements for managing any residual uncertainty regarding the actual commencement date. These are matters that are best addressed in the Revenue Proposal and AER determination for Stage 2 of the determination process.

Figure 4 below provides an overview of our indicative timetable for Stage 2 of the revenue determination for MLPL in accordance with the AEMC’s Rule determination. As already noted, MLPL’s expectation is that the duration of the second regulatory period would be 5 years from 1 July 2028 to 30 June 2033. As shown in the figure below, the commencement of the second regulatory period is immediately prior to the expected commencement of prescribed transmission services from Marinus Link in January 2029.

Figure 4: Key milestones for Stage 2

<u>End January 2027</u>	<u>End April 2028</u>	<u>1 July 2028</u>	<u>January 2029</u>
MLPL submits Revenue Proposal for second regulatory period	AER makes Revenue Determination for second regulatory period	Second regulatory period commences	Marinus Link is commissioned and services commence

3.5 Regulatory decisions for each stage

Clause 6A.9.3(c)(1) states that where the AER decides to complete the initial transmission determination for a proposed transmission system in more than one stage (i.e., staged determinations), its Commencement and Process Paper must specify which of the matters in rule 6A.14 the AER will determine in each stage (i.e., each determination). Further clarification is provided by clause 6A.9.4(b)(3), which states that:

“...if no prescribed transmission services are expected to be provided at any time during that regulatory control period, exclude from the transmission determination some of the decisions that would otherwise be made by the AER under rule 6A.14.”

The table below addresses this requirement, noting that our expectation is that for Stage 2 (i.e., the second determination) a standard process will apply and, therefore, include each matter in clause 6A.14. The table also shows that the AER’s revenue determinations for Part A (Early works) and Part B (Construction costs) of Stage 1 would have the same coverage in relation to clause 6A.14.

Table 1: Proposed staging of the AER’s decisions in accordance with clause 6A.14

Clause 6A.14.1 - Contents of decisions	Stage 1		Stage 2
	Part A	Part B	
A draft decision under rule 6A.12 or a final decision under rule 6A.13 is a decision by the AER:			
(1) on the Transmission Network Service Provider's current Revenue Proposal in which the AER either approves or refuses to approve;			
(i) the total revenue cap for the provider for the regulatory control period;	✗	✗	✓
(ii) the maximum allowed revenue for the provider for each regulatory year of the regulatory control period;	✗	✗	✓
(iii) the values that are to be attributed to the performance incentive scheme parameters for any service target performance incentive scheme that is to apply to the provider in respect of the regulatory control period;	✗	✗	✓
(iv) the values that are to be attributed to the efficiency benefit sharing scheme parameters for any efficiency benefit sharing scheme that is to apply to the provider in respect of the regulatory control period; and	✗	✗	✓
(v) the commencement and length of the regulatory control period that has been proposed by the provider, as set out in the Revenue Proposal, setting out the reasons for the decision;	✓	✓	✓
(2) in which the AER either:			
(i) acting in accordance with clause 6A.6.7(c), accepts the total of the forecast capital expenditure for the regulatory control period that is included in the current Revenue Proposal;	✓	✓	✓
(ii) acting in accordance with clause 6A.6.7(d), does not accept the total of the forecast capital expenditure for the regulatory control period that is included in the current Revenue Proposal, in which case the AER must set out its reasons for that decision and an estimate of the total of the Transmission Network Service Provider's required capital expenditure for the regulatory control period that the AER is satisfied reasonably reflects the capital expenditure criteria, taking into account the capital expenditure factors;	✓	✓	✓

Clause 6A.14.1 - Contents of decisions	Stage 1		Stage 2
	Part A	Part B	
(3) in which the AER either: <ul style="list-style-type: none"> (i) acting in accordance with clause 6A.6.6(c) or clause 6A.6.6(c1), accepts the total of the forecast operating expenditure for the regulatory control period that is included in the current Revenue Proposal; (ii) acting in accordance with clause 6A.6.6(d), does not accept the total of the forecast operating expenditure for the regulatory control period that is included in the current Revenue Proposal, in which case the AER must set out its reasons for that decision and an estimate of the total of the Transmission Network Service Provider's required operating expenditure for the regulatory control period that the AER is satisfied reasonably reflects the operating expenditure criteria, taking into account the operating expenditure factors; 	✗	✗	✓
(4) in which the AER determines: <ul style="list-style-type: none"> (i) whether each of the proposed contingent projects (if any) described in the current Revenue Proposal are contingent projects for the purposes of the revenue determination in which case the decision must clearly identify each of those contingent projects; (ii) the capital expenditure that it is satisfied reasonably reflects the capital expenditure criteria, taking into account the capital expenditure factors, in the context of each contingent project as described in the current Revenue Proposal; (iii) the trigger events in relation to each contingent project (in which case the decision must clearly specify those trigger events); and (iv) if the AER determines that such a proposed contingent project is not a contingent project for the purposes of the revenue determination, its reasons for that conclusion, having regard to the requirements of clause 6A.8.1(b). 	✗	✗	✓
(5) [Deleted]	N/A	N/A	N/A
(5A) in which the AER determines how any applicable capital expenditure sharing scheme, small-scale incentive scheme or demand management innovation allowance mechanism is to apply to the Transmission Network Service Provider;	✓	✓	✓
(5B) on the allowed rate of return for each regulatory year of the regulatory control period;	✓	✓	✓
(5C) on the allowed imputation credits for each regulatory year of the regulatory control period;	✓	✓	✓
(5D) on the regulatory asset base as at the commencement of the regulatory control period in accordance with clause 6A.6.1 and Schedule 6A.2;	✓	✓	✓

Clause 6A.14.1 - Contents of decisions	Stage 1		Stage 2
	Part A	Part B	
(5E) on whether depreciation for establishing the regulatory asset base as at the commencement of the following regulatory control period is to be based on actual or forecast capital expenditure; Note: See clause S6A.2.2B.	✗	✗	✓
(6) [Deleted]	N/A	N/A	N/A
(7) [Deleted]	N/A	N/A	N/A
(8) on the Transmission Network Service Provider's current proposed pricing methodology, in which the AER either approves or refuses to approve that methodology and sets out reasons for its decision	✗	✗	✓
(9) on the additional pass through events that are to apply for the regulatory control period in accordance with clause 6A.6.9.	✓	✓	✓

3.6 Changes to obligations to provide information to the AER

Clause 6A.9.3(c)(2) of the Rules recognises that consequential changes in the Intending TNSP's obligations to provide information to the AER may follow from the limited scope of the AER's decisions described in the previous section. As explained in the previous section, our expectation is that the standard process would apply in relation to Stage 2, although these details do not need to be settled at this early stage. Table 2 below, therefore, only shows the consequential changes that arise in relation to Stage 1, which covers both Part A (Early works) and Part B (Construction costs).

Table 2: Proposed changes to MLPL's obligations to provide information to the AER for the first stage determination Part A (Early works) and Part B (Construction costs)

Clause	Information requirements	Nature of proposed change and rationale
6A.4.1(b)(1)	A Revenue Proposal must be prepared using the post-tax revenue model referred to in rule 6A.5.	This provision may not apply, as clause 6A.9.4(a) states that: "A revenue determination for a proposed transmission system may, despite anything to the contrary in this Chapter, provide for capitalisation of a return on capital (calculated using the allowed rate of return) in respect of any period in a regulatory control period prior to the date on which prescribed transmission services are first provided." As such, the Revenue Proposal may not be prepared using the post-tax revenue model (PTRM).

Clause	Information requirements	Nature of proposed change and rationale
6A.6.3	Depreciation must be calculated for each regulatory year in accordance with the requirements specified in this clause.	This requirement is not applicable in Stage 1 as the regulatory asset base will not be depreciated until services commence.
6A.6.6	A Revenue Proposal must include the total forecast operating expenditure for the relevant regulatory control period in order to achieve the operating expenditure objectives.	This requirement is not applicable, as operating expenditure is not expected to be incurred during the first regulatory period. Our expectation is that all early works and construction expenditure will be capitalised.
6A.6.8	The X factor for each regulatory year must meet specified requirements in this clause.	This provision is not applicable as there is no maximum allowed revenue during the first regulatory period and, therefore, no X factors.
6A.10.1(a)	A proposed pricing methodology must be submitted to the AER.	This requirement should not apply in relation to Stage 1, as MLPL will not be recovering revenue from customers during this period and therefore no pricing methodology will apply.
6A.10.1(g)(4)	Overview paper – a comparison of the proposed total revenue cap with the total revenue cap for the current period.	This provision cannot be met because there is no proposed or current revenue cap. More broadly, an overview paper is not warranted given the limited scope of the Stage 1 determination.
6A.19	It is a requirement to comply with the approved cost allocation methodology.	MLPL does not currently have an approved cost allocation methodology. MLPL considers it premature to submit a cost allocation methodology for approval by the AER for Stage 1, as the project construction and commissioning will not be completed until the second regulatory period.
S6A.1.1	Information and matters relating to capital expenditure.	A number of the matters in this provision are not relevant, such as forecasts of load growth and historical capital expenditure. Consequently, S6A.1.1 should not apply for Stage 1.
S6A.1.2	Information and matters relating to operating expenditure.	As MLPL expects all early works and construction expenditure to be capitalised, this information requirement is not expected to be relevant for Stage 1.
S6A.1.3	Additional information and matters	The following clauses are not expected to be relevant for Stage 1: <ul style="list-style-type: none"> (1) interactions between capital and operating expenditure; (2) parameter values for the STPIS; (3) values attributable to the EBSS and other incentive schemes in (3A); (3B) and (3C); (4) the calculation of and information relating to the total revenue cap; (5) the calculation of the regulatory asset base; (6) [Deleted]

Clause	Information requirements	Nature of proposed change and rationale
		(7) depreciation schedules; (8) X factors
S6A.2	Regulatory Asset Base	These provisions should apply subject to any modifications proposed by MLPL. As noted earlier, clause 6A.9.4(a) provides that a revenue determination for a proposed transmission system may provide for capitalisation of a return on capital (calculated using the allowed rate of return).

In summary, the information provisions in Chapter 6A will need to be modified in the following respects:

- In relation to revenue setting, forecasting and pricing where these matters are not relevant to MLPL’s expected circumstances during Stage 1;
- In relation to the regulatory asset base, which is discussed in further detail in section 4; and
- In relation to incentive mechanisms, which is discussed in further detail in section 5.

3.7 Price impact on electricity consumers

As explained in section 2.1, Marinus Link is an actionable ISP project because it is expected to provide substantial net benefits, which means that electricity consumers will be better off if Marinus Link proceeds. Nevertheless, electricity consumers will want to understand the price impact of Marinus Link.

Part A (Early works) of Stage 1 will focus on MLPL’s early works costs and the arrangements for capturing these costs so that they form part of MLPL’s regulatory asset base. A key purpose of early works expenditure is to enable the project proponent to improve the accuracy of its forecast expenditure, particularly given the significant uncertainties and risks associated with constructing large infrastructure projects. In MLPL’s case, the updated project cost forecasts will be important as it works towards making a Final Investment Decision towards the end of 2024.

At the conclusion of Part A (Early works) of Stage 1, the AER will set an allowance for early works expenditure but the updated project cost forecasts will not be available until we submit our Revenue Proposal for Part B (Construction costs), in February 2024. Other components of the building blocks that are required to calculate MLPL’s annual revenue, such as MLPL’s operating expenditure allowance, will not be considered until Stage 2 of the determination process. Nevertheless, we consider it important to provide electricity consumers with a high-level indication of the price impact if Marinus Link proceeds.

We therefore propose to provide consumer price impact information in our Revenue Proposal for Part B (Construction costs) of Stage 1. Further updated information on the consumer price impact will be provided in

our Revenue Proposal for Stage 2. At this point, more complete information will be available regarding MLPL's annual revenue requirements. For Part A (Early works) of Stage 1, we consider that it would be premature to provide information on the consumer price impact of the project. In making this observation, we note that a primary purpose of early works expenditure is to improve the accuracy of the project expenditure. Furthermore, a decision to allow expenditure in relation to early works will not have any impact on consumer prices unless the project proceeds.

4 Opening regulatory asset base

The regulatory asset base is usually a key input in determining a TNSP's maximum revenue as it drives the return on investment and the return of investment or depreciation. For existing TNSPs, the opening regulatory asset base at the start of a regulatory period is calculated using the AER's Roll Forward Model (**RFM**). The RFM commences with the opening asset value at the start of the previous regulatory control period, which is rolled forward by:

- adding actual or forecast capital expenditure (where actual data is not available) for each year of the previous regulatory control period, net of asset disposals;
- deducting depreciation on a straight line basis; and
- adjusting for actual and forecast inflation.

In contrast to existing TNSPs, however, MLPL will not have an opening asset value for the regulatory period prior to the commencement of the first regulatory period. Nevertheless, the early works and construction expenditure incurred before the commencement of the first regulatory period will need to be capitalised and ultimately recognised in MLPL's opening regulatory asset base (**RAB**) as at 1 July 2025. We will explain our proposed approach in our Revenue Proposal – Part A (Early works) and will work closely with the AER to ensure that it complies with the Rules requirements.

A key element in the opening RAB calculation as at 1 July 2025 will be the allowed rate of return that is applied to expenditure in prior years. We note that clause 6A.9.4(a) of the Rules provides for capitalisation of a return on capital (calculated using the allowed rate of return) in respect of any period in a regulatory control period prior to the date on which prescribed transmission services are first provided. The AEMC explained the rationale for this provision in the following terms:¹²

“Our final rule clarifies that an ITNSP can recover a return on capital to reflect capital financing costs incurred prior to the provision of prescribed transmission services. This provides ITNSPs with a reasonable opportunity to recover its efficient costs, in accordance with the NEL revenue and pricing principles.”

We note that the capitalisation of expenditure in years prior to the commencement of services is a matter to be addressed in our Revenue Proposal, at this stage it is worth noting that:

¹² AEMC, Rule Determination National Electricity Amendment (Establishing Revenue Determinations For Intending TNSPs) Rule, 22 December 2022, page 16.

- A final investment decision on whether to proceed with Marinus Link will not be made until December 2024; and
- MLPL is currently a wholly owned subsidiary of TasNetworks.

In these circumstances, it is arguable that TasNetworks' allowed rate of return should apply for the purposes of determining MLPL's opening RAB as at 1 July 2025, as expenditure prior to this date is essentially underwritten by TasNetworks. We also note that this approach would minimise the AER's workload by applying the allowed rate of return updated annually for TasNetworks.

In our view, it would be prudent for the AER's Commencement and Process Paper to leave open the option of applying TasNetworks' allowed rate of return for the purposes of determining MLPL's opening RAB. This approach would allow the AER additional time to consider this issue during the revenue determination process for Part A (Early works).

As an aside, we note that the AER must also determine the allowed rate of return for MLPL for the first regulatory period, which commences on 1 July 2025. While it may be appropriate to apply TasNetworks' allowed rate of return for the purposes of determining MLPL's opening RAB, the AER's 2022 Rate of Return Instrument should apply to MLPL from 1 July 2025 onwards. As this date marks the commencement of MLPL's first regulatory period, it is reasonable to regard the financing of the project as having transitioned from TasNetworks to MLPL.

As noted in section 2.3, the AEMC is currently considering Rules to ensure that the benefits of concessional finance are passed on to customers. While the details and timing of MLPL's financing arrangements are not yet settled, the weighted average cost of capital that is applied to determine the opening RAB will reflect the Rules provisions, including those relating to the treatment of concessional finance.

5 Incentive mechanisms

The AER is able to apply a range of incentive schemes to TNSPs as part of its revenue determination:

- service target performance incentive scheme (**STPIS**);
- efficiency benefit sharing scheme (**EBSS**);
- capital expenditure sharing scheme (**CESS**);
- small-scale incentive scheme (**SSIS**), although the SSIS has not yet been applied to TNSPs; and
- demand management innovation allowance mechanism (**DMIAM**).

As MLPL will not provide prescribed transmission services during the first regulatory control period, there is no purpose in applying the STPIS or the DMIAM. Similarly, the EBSS cannot be applied during the first regulatory control period as MLPL will not incur operating and maintenance expenditure until it starts providing prescribed transmission services.

In relation to CESS, in principle it is possible to apply this scheme to an actionable ISP project such as Marinus Link. However, it is important to consider whether it is appropriate to apply the CESS given the potential scope for forecasting error, which may lead to windfall gains or losses if the CESS were applied. MLPL will consider this issue further as part of our Revenue Proposals for Part A (Early works) and Part B (Construction costs), following consultation with our Consumer Advisory Panel.

6 Concluding comments and next steps

This Application explains why MLPL is requesting that the AER conducts a two stage determination process in accordance with the Rules provisions relating to the regulation of Intending TNSPs, with the following indicative duration for the first and second regulatory periods:

- First regulatory period from 1 July 2025 to 30 June 2028; and
- Second regulatory period from 1 July 2028 to 30 June 2033.

During the first regulatory period, MLPL will not provide prescribed transmission services. For that reason, the scope of the Revenue Proposal (and AER determination) for the first regulatory period will be considerably narrower than a standard process. In particular:

- The primary focus of the AER's review for Stage 1 will be MLPL's early works (Part A) and construction expenditure (Part B), and the arrangements for establishing MLPL's regulatory asset base;
- The AER's determinations for Stage 1 will not need to address numerous matters that ordinarily form part of a revenue determination, most notably: MLPL's future operating expenditure requirements, asset lives and depreciation allowance; and the operation of several incentive schemes; and
- MLPL will not recover transmission revenues and, therefore, will not submit a pricing methodology.

The narrower scope of Stage 1 allows the AER's timeframes for Part A (Early works) and Part B (Construction costs) to be aligned with project milestones, without any negative impact on consumers. Furthermore, MLPL considers that the AER's acceptance of this Application will promote the interests of consumers in accordance with the National Electricity Objective by enabling MLPL to make a final investment decision by December 2024. This timeframe is consistent with AEMO's 2022 ISP, which explains that Marinus Link should be delivered as soon as possible.

Attachment: Compliance checklist

To assist the AER and other stakeholders, we have included commentary in this Application on some matters that are not strictly required by the Rules. For that reason, the completed compliance checklist in the table below includes cross-references for some provisions that apply to the AER rather than MLPL.

Table 3: Compliance with Intending TNSP Rule – Part D

Clause	Information requirements	Application reference
6A.9.2 Request to commence and determine the process and AER decisions		
6A.9.2(a)	An Intending TNSP may request the AER to: <ol style="list-style-type: none"> (1) commence the process for making a transmission determination relating to its proposed prescribed transmission services; and (2) determine the process to apply when making the transmission determination. 	Section 1.1
6A.9.2(b)	In addition to addressing the matters referred to in paragraph (e) applicable to the Intending TNSP, a request submitted under paragraph (a) must include: <ol style="list-style-type: none"> (1) the Intending TNSP’s proposed timetable for the matters to be determined by the AER in accordance with clause 6A.9.3 and supporting information; and (2) any other information required by the AER in accordance with any guidance it may publish for this purpose. 	See clause 6A.9.3 in this table N/A
6A.9.2(c)	A request submitted under paragraph (a) must identify any parts of the request the Intending TNSP claims to be confidential and wants suppressed from publication on that ground in accordance with the Transmission Confidentiality Guidelines.	Section 1.4
6A.9.3 Commencement and process paper		
6A.9.3(a)	This clause applies if the AER decides to commence a transmission determination process for proposed prescribed transmission services.	Noted
6A.9.3(b)	A commencement and process paper must: <ol style="list-style-type: none"> (1) specify the commencement date for the first regulatory year of the regulatory control period to which the transmission determination will apply, which must coincide with the start of a financial year; (2) specify the date, or the manner in which the date is to be determined, by which the Intending TNSP must submit: <ol style="list-style-type: none"> (i) its initial Revenue Proposal under clause 6A.10.1; and (ii) where applicable, its initial proposed pricing methodology and other matters required under clause 6A.10.1; (3) where applicable, specify the modifications to the process for making transmission determinations under this Chapter determined by the AER for the proposed prescribed transmission services; and 	Section 3.3 Section 3.3 Section 3.3 Sections 3.3, 3.4 and 3.5

Clause	Information requirements	Application reference
	(4) for a proposed transmission system, specify the arrangements to apply, or methodologies to be used or how those methodologies are to be determined, to give effect to the matters provided for in clause 6A.9.4(a).	Section 4
6A.9.3(c)	<p>Where the AER decides to complete the transmission determination for a proposed transmission system in more than one stage, a commencement and process paper must specify:</p> <p>(1) which of the matters in rule 6A.14 the AER will determine in each stage; and</p> <p>(2) any related changes to the obligations of the Intending TNSP to provide information to the AER under this Chapter.</p>	<p>Section 3.5</p> <p>Section 3.6</p>
6A.9.3(d)	<p>Without limitation, the modifications to the process for making transmission determinations under this Chapter determined by the AER and set out in a commencement and process paper may:</p> <p>(1) omit or defer the steps provided for in clause 6A.10.1A or 6A.10.1B, where the AER is satisfied the matters will be addressed, or information provided, in another way;</p> <p>(2) change the timetable or process for making draft decisions or final decisions in Part E, which may include, with the consent of the Intending TNSP, omitting a draft decision stage or shortening consultation periods if the AER is reasonably satisfied that:</p> <p>(i) in the circumstances, the timetable or process would otherwise place a disproportionate administrative burden on the AER or the Intending TNSP; and</p> <p>(ii) there will be no material adverse impact on other stakeholders or the decision-making framework in Part E;</p> <p>(3) allow the Intending TNSP, prior to the commencement of the first regulatory control period, to apply to the AER to include in the revenue determination amounts determined in accordance with clause 6A.8.2;</p> <p>(4) for a converting transmission system:</p> <p>(i) allow the conversion application process and the transmission determination process to be run concurrently; and</p> <p>(ii) enable information or decisions made for one process to be used, or adopted, for the other.</p>	<p>Section 3.3</p> <p>Sections 3.3 and 3.4</p> <p>Noted</p> <p>N/A</p>
6A.9.3(e)	<p>In connection with the initial transmission determination for proposed prescribed transmission services and where applicable, any other transmission determination that includes a period before the date on which prescribed transmission services are first provided, this Chapter [6A] applies to an Intending TNSP and the AER subject to:</p> <p>(1) any modifications specified in the applicable commencement and process paper; and</p> <p>(2) clause 6A.9.4.</p>	Our proposed modifications to the Chapter 6A provisions are described in sections 3.3, 3.4, 3.5 and 3.6
6A.9.3(f)	The AER may, on the application of the relevant Intending TNSP, amend a commencement and process paper if the AER is satisfied that circumstances have arisen such that the amendment is reasonably necessary.	Noted

Clause	Information requirements	Application reference
6A.9.3(g)	The AER must promptly publish any amended commencement and process paper made under paragraph (f).	Noted
6A.9.4 Transmission determinations for proposed transmission systems of Intending TNSPs		
6A.9.4(a)	A revenue determination for a proposed transmission system may, despite anything to the contrary in this Chapter, provide for capitalisation of a return on capital (calculated using the allowed rate of return) in respect of any period in a regulatory control period prior to the date on which prescribed transmission services are first provided.	Noted
6A.9.4(b)	<p>A transmission determination for a proposed transmission system may:</p> <ol style="list-style-type: none"> (1) despite clause 6A.4.2(c), specify a regulatory control period of less than 5 regulatory years; (2) include amounts determined in accordance with clause 6A.8.2 if, for an actionable ISP project, the trigger event under clause 5.16A.5 has occurred; or (3) if no prescribed transmission services are expected to be provided at any time during that regulatory control period, exclude from the transmission determination some of the decisions that would otherwise be made by the AER under rule 6A.14. 	<p>Noted</p> <p>Noted</p> <p>Section 3.5</p>
6A.9.4(c)	A transmission determination for a proposed transmission system or a converting transmission system must specify the date from which prescribed transmission services will commence or the manner in which the date is to be determined.	Noted. To be addressed in Stage 2.