



ISBN 978-1-869458-34-8

Decision Series

Project no. 16531

Public version

**[~~Draft~~ Further consultation – initial value of financial loss
asset] Fibre Input Methodologies Determination 2020**

[2020] NZCC [XX]

The Commission: [Tristan Gilbertson](#)~~Dr Stephen Gale~~
Elisabeth Welson
John Crawford
Sue Begg

Date of decision: [day] [month] 2020

[signature]

[name], Commissioner

Dated at Wellington this [day] of [month] 2020

COMMERCE COMMISSION

Wellington, New Zealand

Determination history		
Determination date	Decision number	Determination name
[day] [month] 2020	[2020] NZCC [XX]	Fibre Input Methodologies Determination 2020

FIBRE INPUT METHODOLOGIES DETERMINATION 2020

PART 1	GENERAL PROVISIONS.....	5
PART 2	INPUT METHODOLOGIES FOR INFORMATION DISCLOSURE	53
SUBPART 1	Cost allocation	53
SUBPART 2	Asset valuation	58
SUBPART 3	Taxation.....	78
SUBPART 4	Cost of capital	83
SUBPART 5	Quality dimensions.....	96
PART 3	INPUT METHODOLOGIES FOR PRICE-QUALITY PATHS	99
SUBPART 1	Specification of Price and Revenues	99
SUBPART 2	Cost allocation	100
SUBPART 3	Asset valuation	103
SUBPART 4	Taxation.....	107
SUBPART 5	Cost of capital	108
SUBPART 6	Quality dimensions.....	117
SUBPART 7	Capital expenditure	118
SECTION 1	General rules and processes for capital expenditure proposals.....	118
SECTION 2	Base capex	123
SECTION 3	Connection capex	127
SECTION 4	Individual capex proposals.....	132
SUBPART 8	Capital expenditure evaluation by the Commission	138
SECTION 1	General rules for Commission determination processes.....	138
SECTION 2	Evaluation criteria – expenditure objective and assessment factors	140
SUBPART 9	Reconsideration of a price-quality path	142
SECTION 1	When Commission can reconsider and amend PQ determination.....	142
SECTION 2	Events that may be reopener events.....	143
SECTION 3	Commission consideration of whether and how to amend PQ determination.....	147
SCHEDULE A	Minimum levels of specificity to describe assets in RAB	152
SCHEDULE B	Methodology for determining the financial loss asset.....	154

Under Part 6 of the Telecommunications Act 2001, the Commerce Commission makes the following determination:

PART 1 GENERAL PROVISIONS

1.1.1 Title

- (1) This determination is the Fibre Input Methodologies Determination 2020.

1.1.2 Application

- (1) The **input methodologies** in this determination apply to **regulated FFLAS**.
- (2) The **input methodologies** in-
- (a) Part 2 of this determination apply to information disclosure regulation under Part 6 Subpart 4 of the **Act**; and
 - (b) Part 3 of this determination apply to price-quality regulation under Part 6 Subpart 5 of the **Act**.

1.1.3 Commencement

- (1) This determination comes into force on the day after the date on which **public notice** of it is given under s 180 of the **Act**.

1.1.4 Interpretation

- (1) In this determination-
- (a) unless stated otherwise, references to-
 - (i) 'Sections' are to sections within the same subpart in which the reference is made; and
 - (ii) 'Subparts' are to Subparts within the same part in which the reference is made;
 - (b) unless stated otherwise, references to Parts, Subparts and Sections are to named and numbered parts, subparts and sections of the determination;
 - (c) unless the context otherwise requires, a word which denotes the singular also denotes the plural and vice versa;
 - (d) unless stated otherwise, any reference to an allowance, amount, cost, sum or value is a reference to an allowance, amount, cost, value or sum calculated or determined in relation to a **regulated provider** in respect of a **disclosure year**;
 - (e) unless stated otherwise, any reference to "includes" means "includes, but is not limited to"; ~~and~~
 - (f) examples in this determination are for guidance purposes only and do not form part of the determination; and
 - (f)(g) materials incorporated by reference into this determination, including standards promulgated by other bodies, are incorporated in accordance with section 223 of the **Act** and Schedule 5 of the Commerce Act 1986.

- (2) In this determination, including in the schedules, words or phrases in bold type bear the following meanings:

#

30 June 2012 WACC	has the meaning specified in clause 2.4.10(2);
30 June 2013 WACC	has the meaning specified in clause 2.4.10(2);
30 June 2014 WACC	has the meaning specified in clause 2.4.10(2);
30 June 2015 WACC	has the meaning specified in clause 2.4.10(2);
30 June 2016 WACC	has the meaning specified in clause 2.4.10(2);
30 June 2017 WACC	has the meaning specified in clause 2.4.10(2);
30 June 2018 WACC	has the meaning specified in clause 2.4.10(2);
30 June 2019 WACC	has the meaning specified in clause 2.4.10(2);
30 June 2020 WACC	has the meaning specified in clause 2.4.10(2);
30 June 2021 WACC	has the meaning specified in clause 2.4.10(2);
30 November 2011 WACC	has the meaning specified in clause 2.4.10(2);
50th percentile estimate of WACC	means, for the purpose of- (a) Part 2, the 50th percentile estimate of post-tax WACC , determined in accordance with clause 2.4.5(1); (b) Part 2, the 50th percentile estimate of vanilla WACC , determined in accordance with clause 2.4.5(1); (c) Part 3, the 50th percentile estimate of post-tax WACC , determined in accordance with clause 3.45.5(2); (d) Part 3, the 50th percentile estimate of vanilla WACC , determined in accordance with clause 3.45.5(1);

A

ABAA	means: accounting-based allocation approach, as described in, in the case of- (a) <u>for the purpose of Part 2, accounting-based allocation approach, as described</u>
-------------	--

	<p>in clause 2.1.2 operating costs, clause 2.1.2(1); and</p> <p>(b) for the purposes of Part 3, accounting-based allocation approach, as described in clauses 3.2.1(8)-(9) asset values, clause 2.1.2(2);</p>
access seeker	has the same meaning as defined in s 5(d) of the Act ;
accumulated unrecovered returns	has the same meaning as defined in s 177(6) of the Act and is calculated in accordance with clause 2.2.3(3);
Act	means the Telecommunications Act 2001;
<u>additional FFLAS class</u>	<p>means any class of FFLAS provided by a regulated provider as the Commission may from time to time specify for the purposes of Part 6 of the Act, where that class of FFLAS is a subset of and does not encompass all:</p> <p>(a) <u>ID FFLAS</u>;</p> <p>(b) <u>PQ FFLAS</u>; or</p> <p>(c) <u>ID-only FFLAS</u>;</p>
<u>additional RAB</u>	<p>any collection of fibre assets that are employed in the provision of a FFLAS class as the Commission may from time to time specify for the purposes of Part 6 of the Act, where that collection of fibre assets is a subset of and does not encompass all fibre assets in the:</p> <p>(a) <u>ID RAB</u>; or</p> <p>(b) <u>PQ RAB</u>;</p>
adjusted tax value	has the same meaning as in the tax rules ;
adjusted UFB asset initial values	has the meaning specified in clause 2.3.4(3);
allocator metric	means the value in units for each cost allocator or asset allocator used to calculate the proportion of operating costs or asset values to be allocated to regulated FFLAS, services that are not regulated FFLAS,

allocator type

~~services that are not UFB FFLAS, or UFB FFLAS;~~

- (a) ~~means for the purpose of determining the financial losses-asset, has the meaning specified in Schedule B; and~~
(b) ~~in all other instances, means the basis for the attribution or allocation of an operating cost or asset value to regulated FFLAS and, services that are not regulated FFLAS, services that are not UFB FFLAS, and UFB FFLAS;~~

*Example: if the **allocator type** for central office costs is 'floor area', and 30 square meters of the floor area of a 120-square metre central office is used for **regulated FFLAS**, then the 'asset allocator' is 1/4 (ie, 30/120).*

allocator value

- (a) ~~for the purpose of determining the financial losses-asset, has the meaning specified in Schedule B; and~~
(b) ~~in all other instances, means a value in units for each **cost allocator** or **asset allocator** that is used to calculate the ratio of operating costs or asset values to be allocated to regulated FFLAS or services that are not regulated FFLAS;~~

*Example: if the **allocator type** for a central office's **asset value** is 'floor area', and 30 square metres of the floor area of a 120-square metre central office is used for **regulated FFLAS**, then the 'allocator values' used to calculate the **asset allocator** (used for attributing **asset values** to **regulated FFLAS**) would be a numerator of 30 and a denominator of 120.*

allowable revenue

has the meaning specified in clause 3.1.1(2);

approved capex

means **capital expenditure** that is part of a **capex allowance**;

approved timeframes	means the proposed timeframe set out in the individual capex design proposal in accordance with clause 3.76.232(2)(d) and approved by the Commission in accordance with clause 3.76.243(1)(a) or (b);
arm's-length transaction	means a transaction conducted on such terms and conditions as between a willing buyer and a willing seller who are unrelated and who are acting independently of each other and pursuing their own best interests;
assessment factors	means the component or elements of information that need to be considered when evaluating whether capex meets the capital expenditure objective as set out in clause 3.87.6(1);
asset allocator	means a ratio proportion of a quantifiable measure used to allocate asset values whose quantum is- <ul style="list-style-type: none"> (a) based on a causal relationship; or (b) equal to a proxy asset allocator;
asset life	has the meaning specified in clause 2.2.109(1);
asset value	means: <ul style="list-style-type: none"> (a) in respect of a core fibre asset, the unallocated opening RAB value; and (b) in respect of a UFB asset, the value determined in accordance with under Schedule B clause 2.1.4(2)(a);
auditor	means a person who- <ul style="list-style-type: none"> (a) is qualified for appointment as auditor of a company under the Companies Act 1993; (b) is independent; (c) is not an independent verifier of the capex proposal; (d) has not assisted with the compilation of the information in the capex proposal; (e) has not provided opinions or advice (other than in relation to audit reports)

- on the methodologies or processes used or to be used in compiling the information in that proposal; and
- (f) is neither professionally associated with nor directed by any person who has provided such assistance, opinions or advice;

availability

means:

- (a) for the purpose of Part 2, the extent to which **ID FFLAS** is not subject to **downtime** a fibre network is available, including the extent to which an **access seeker** or an **end-user** can use **regulated FFLAS**; and
- ~~(a)~~(b) for the purpose of Part 3, the extent to which **PQ FFLAS** is not subject to **downtime**;

average debt premium

has the meaning specified in, and is the amount determined in accordance with-

- (a) Part 2, clause 2.4.4(2); and
- (b) Part 3, clause 3.5.4.4(2);

~~**avoided financing cost building block**~~

has the meaning specified in clause 2.2.3(25);

B

base capex

means **capital expenditure** approved by the **Commission** as part of the **base capex allowance** and incurred by **Chorus** in relation to one or more **base capex sub-categories**~~means **capital expenditure** by **Chorus** that is incurred in relation to one or more **base capex sub-categories**, but excludes **connection capex** or **individual capex**;~~

base capex allowance

means the amount determined by the **Commission** in accordance with clause 3.6.7.121(1);

base capex information request	means the request made by the Commission to Chorus in accordance with clause 3.67.87(910);
base capex proposal	means a written application submitted by Chorus to the Commission for approval of <u>expenditure in relation to one or more base capex sub-categories</u> a base capex project or base capex programme in accordance with the requirements set out in clauses 3.67.87-3.76.110;
base capex sub-category	means an expenditure category identified and agreed between the Commission and Chorus for the base capex proposal in accordance with clause 3.76.87(34)(a) or (45);
base year	means a disclosure year determined by the Commission ;
brownfield	means existing dwellings or premises;
building blocks revenue	means the sum of building blocks components (which may have positive or negative values) as determined by the Commission for a regulatory year , and, for the avoidance of doubt, includes a component or components that give effect to the smoothing of revenue under s 197 of the Act ;
business day	means any day on which statistics relating to trading in New Zealand government bonds are published by a financial information service such as Bloomberg or Reuters;
C	
capex allowance	means one or more of the following: <ul style="list-style-type: none"> (a) base capex allowance; (b) connection capex allowance; and (c) individual capex allowance;
capex category	means a category specified in clause 3.76.1(1);

capex proposal	means a base capex proposal , a connection capex baseline proposal , or an individual capex proposal ;
capital contribution	<p><u>means:</u></p> <p>(a) means money or the monetary value of other considerations charged to or received in relation to the construction, acquisition or enhancement of a core fibre asset or UFB asset by a regulated provider from 1 or more of the following:</p> <ul style="list-style-type: none"> (i) an access seeker; (ii) an end-user; or (iii) any other party; andbut <p>(b) <u>includes the \$20 million fund established by Chorus for financial loss year 2013 in respect of non-standard installations, and consequently this fund is treated as if it is revenue under GAAP; but</u></p> <p>(b)(c) does not include any Crown financing;</p>
capital expenditure (capex)	<p>means costs that-</p> <p>(a) have been, or are intended to be, incurred in the acquisition or development of a core fibre asset or UFB asset that is, or is intended to be, commissioned; and</p> <p>(b) are eligible, or would be eligible, to be included in the value of commissioned asset;</p>
capital expenditure objective	has the meaning in clause 3.87.5(2);
catastrophic event	has the meaning in clause 3.9.34(1);
causal relationship	<p>(a) <u>for the purpose of determining the financial losses-asset, has the meaning specified in Schedule B; and</u></p> <p>(e)(b)<u>in all other instances,</u> means, in relation to-</p> <ul style="list-style-type: none"> (i) operating costs, a circumstance in which a cost driver leads to an

- operating cost** being incurred during the 12-month period terminating on the last day of the **disclosure year** ~~or financial loss year~~ in respect of which the cost allocation is carried out; and
- (ii) **asset values**, a circumstance in which a factor influences the **employment** of an asset:
- A. for information disclosure purposes, during the **disclosure year** ~~or financial loss year~~ in respect of which the asset allocation is carried out; and
- B. for price-quality regulation purposes, in each **regulatory year** in respect of the next **regulatory period** of which the asset allocation is forecast to be carried out,

which in each case is:

- (iii) consistent with similar circumstances, both within a **disclosure year** ~~or financial loss year~~ and from year to year; and
- (iv) objectively justifiable and demonstrably reasonable;

CEO	means the Chief Executive Officer of a company or equivalent comparable senior executive;
certification	means the process specified in clause 3.76.3 and in accordance with any specific certification requirements for the relevant capex category related to a capex proposal ;
change event	has the meaning in clause 3.9.42(1);
Chorus	means Chorus Limited or any subsidiary of, or successor to, that company;

Formatted: Font: Bold

closing balance of unrecovered returns on investment for notional deductible interest	has the meaning specified in clause 2.3.4(5);
closing RAB value	<p>means the value-</p> <p>(a) determined, in respect of a core fibre asset for the purpose of Part 2, in accordance with clause 2.2.54(4);</p> <p>(b) determined, in respect of a partly deregulated asset for the purpose of Part 2, in accordance with clause 2.2.4(5);</p> <p>(c)(b) determined, in respect of the financial loss asset for the purpose of Part 2, in accordance with clause 2.2.65(2);</p> <p>(d)(c) <u>subject to paragraph (d), determined, in respect of a core fibre asset for the purpose of Part 3, in accordance with clause 3.32.1(23); and</u></p> <p>(d) <u>determined, in respect of a core fibre asset for the purposes of "D" in clause 3.5.10(1)(d), in accordance with clause 2.2.5(4);</u></p> <p>(e) <u>subject to paragraph (f), determined, in respect of the financial loss asset for the purpose of Part 3, in accordance with clause 3.32.1(23); and</u></p> <p>(f)(f) <u>determined, in respect of the financial loss asset for the purposes of "D" in clause 3.5.10(1)(d), in accordance with clause 2.2.6(2);</u></p>
<u>closing RAB value before deregulation impact</u>	<u>has the meaning specified in clause 2.2.6(13);</u>
closing UFB asset base value	has the meanings specified in clause 2.2.3(27);
Commission	has the same meaning as defined in s 5 of the Act ;
commissioned	<p>means:</p> <p>(a) for the purpose of determining the financial losses-asset unrecovered returns on investment under clause</p>

2.2.43, has the meaning specified in Schedule B employed by a **regulated provider** in providing **UFB FFLAS** (whether or not the **UFB asset** is also employed in providing other services); and

- (b) in all other instances, **employed by thea regulated provider** in providing **regulated FFLAS** (whether or not the **fibre asset** is also **employed** in providing other services),

Formatted: Font: Bold

Formatted: Font: Bold

and **commission** has a corresponding meaning;

commissioning date

means the date that a **UFB asset** or a **fibre asset** is first **commissioned**;

communal fibre network

means a **fibre network** that is independent of any **end-user** specific infrastructure and that is not located on **end-user** premises;

~~compounded unrecovered return for financial loss year 2012~~

has the meaning specified in clause 2.2.3(4);

~~compounded unrecovered return for financial loss year 2013~~

has the meaning specified in clause 2.2.3(5);

~~compounded unrecovered return for financial loss year 2014~~

has the meaning specified in clause 2.2.3(6);

~~compounded unrecovered return for financial loss year 2015~~

has the meaning specified in clause 2.2.3(7);

~~compounded unrecovered return for financial loss year 2016~~

has the meaning specified in clause 2.2.3(8);

~~compounded unrecovered return for financial loss year 2017~~

has the meaning specified in clause 2.2.3(9);

compounded unrecovered return for financial loss year 2018	has the meaning specified in clause 2.2.3(10);
compounded unrecovered return for financial loss year 2019	has the meaning specified in clause 2.2.3(11);
compounded unrecovered return for financial loss year 2020	has the meaning specified in clause 2.2.3(12);
compounded unrecovered return for financial loss year 2021	has the meaning specified in clause 2.2.3(13);
compounding factor for financial loss year 2012	has the meaning specified in clause 2.2.3(14);
compounding factor for financial loss year 2013	has the meaning specified in clause 2.2.3(15);
compounding factor for financial loss year 2014	has the meaning specified in clause 2.2.3(16);
compounding factor for financial loss year 2015	has the meaning specified in clause 2.2.3(17);
compounding factor for financial loss year 2016	has the meaning specified in clause 2.2.3(18);
compounding factor for financial loss year 2017	has the meaning specified in clause 2.2.3(19);
compounding factor for financial loss year 2018	has the meaning specified in clause 2.2.3(20);
compounding factor for financial loss year 2019	has the meaning specified in clause 2.2.3(21);
compounding factor for financial loss year 2020	has the meaning specified in clause 2.2.3(22);
compounding factor for financial loss year 2021	has the meaning specified in clause 2.2.3(23);

~~compounding factor for financial loss year 2022~~

connection capex

~~has the meaning specified in clause 2.2.3(24);~~

means **capital expenditure** approved by the Commission as part of the connection capex baseline allowance or the connection capex variable adjustment and directly incurred by **Chorus** in relation to connecting new **end-user** premises, building or other access point where the **communal fibre network** already exists or will exist at the time of connection, ~~by Chorus that is incurred in relation to connecting new end-user premises where the communal fibre network already exists or will exist at the time of connection, and is made up of a connection capex baseline component and a connection capex variable component,~~ and includes:

- (a) **UFB initiative brownfield** connection expenditure;
- (b) **UFB initiative greenfield** and **infill connection** expenditure; and
- (c) **Chorus** initiated migration from **copper fixed line access services** to **PQregulated FFLAS**;

connection capex allowance

means the amount determined by the **Commission** in accordance with clause 3.7.6.132;

connection capex annual report

means a written statement made by **Chorus** under clause 3.7.6.187;

connection capex baseline allowance

means the amount determined by the **Commission** in accordance with clause 3.7.6.2019(1);

connection capex baseline proposal

means a written application submitted by **Chorus** to the **Commission** in accordance with the requirements set out in clauses 3.6.7.143(1)-(2)-3.6.16;

connection capex information request

means the information required by the **Commission** from **Chorus** in accordance with clause 3.7.6.143(78);

<u>connection capex unit cost</u>	<u>means a per end-user connection average cost for a connection type;</u>
connection capex variable adjustment	means the amount determined by the Commission in accordance with clause 3.76.210;
connection type	means a category or class of end-user connections that are similar in characteristics and cost;
<u>connection unit rate</u>	<u>means a per end-user connection average cost for a connection type;</u>
copper fixed line access services	has the same meaning as defined in s 5 of the Act ;
core fibre asset	means a fibre asset that is employed in the provision of regulated FFLAS (whether or not the asset is also employed in the provision of other services), and excludes- <ul style="list-style-type: none"> (a) the financial loss asset; (b) intangible assets, unless they are- <ul style="list-style-type: none"> (i) finance leases; or (ii) identifiable non-monetary assets whose costs do not include (wholly or partly) pass-through costs; and (c) works under construction;
corporate tax rate	means the rate of income taxation applying to companies as specified in the tax rules ;
cost allocator	means a <u>ratio</u> proportion of a quantifiable measure used to allocate operating costs whose quantum is- <ul style="list-style-type: none"> (a) based on a causal relationship; or (b) equal to a proxy cost allocator;
<u>cost of capital</u>	<u>has the meaning specified in clause 2.4.10(5);</u>
cost of debt	means:

Formatted: Font: Bold

Formatted: Font: Bold

	<p>(a) for the purpose of clause 2.3.1(7)(b) and <u>2.4.11(1)</u>, the amount specified for r_d in clause 2.4.1(3);</p> <p>(b) for the purpose of determining <u>the financial losses-asset accumulated unrecovered returns</u>, has the meaning the amount specified for r_e in clause <u>Schedule B2.4.10(3)</u>; and</p> <p>(c) for the purpose of Part 3, the amount specified for r_d in clause 3.54.1(3);</p>
<u>cost of equity</u>	<u>means, the amount specified for r_e in clause 2.4.1(3);</u>
CPI	means- <ul style="list-style-type: none"> (a) subject to paragraph (b), the consumer price index stipulated for each quarter in the 'All Groups Index SE9A' as published by Statistics New Zealand; and (b) in respect of quarters prior to any quarter in which the rate of GST is amended after this determination comes into force, the same index as described in paragraph (a), multiplied by the Reserve Bank of New Zealand's forecast change in that index (expressed as a decimal) arising from the amendment;
Crown financing	has the same meaning as defined in s 164(1) of the Act ;
current value of initial core fibre asset base	has the meaning specified in clause 2.2.65(7);
customer premises equipment	means the items necessary to allow regulated FFLAS to function in an end-user's physical location and includes the ONT or modem;
customer service	means: <ul style="list-style-type: none"> (a) <u>for the purpose of Part 2, the way a regulated provider interacts with access seekers and end-users in relation to the supply of ID FFLAS; and</u>

~~(a)~~(b) for the purpose of Part 3, the way a regulated provider interacts with access seekers and end-users in relation to the supply of PQ FFLAS;

D

debt issuance costs	means costs associated with the issuance of debt by a regulated provider ;
debt premium	(a) for the purpose of <u>determining the financial losses-asset</u> estimating the WACC for accumulated unrecovered returns , has the meaning specified in, and is the amount determined in accordance with, clause Schedule B2.4.13(2) ; (b) for all other purposes, has the meaning specified in, and is the amount determined in accordance with, clause 2.4.4(4);
debt premium reference year	means a 12-month period ending on 31 August; <i>For instance, 'debt premium reference year 2022' means the 12-month period ending 31 August 2022;</i>
dedicated asset	means a core fibre asset operated <u>solely</u> for the benefit of a particular customer under a fixed term agreement for the provision of regulated FFLAS between the regulated provider in question and customer, and which is not expected to be employed by the regulated provider to provide regulated FFLAS beyond the term of the fixed term agreement;
depreciation	means an allowance in the disclosure year in question to account for the diminution in <u>a fibre asset's remaining service life potential</u> the remaining asset life of a fibre asset in the disclosure year in question with respect to its

Formatted: Font: Bold

opening RAB value ~~and, where~~ the amount of such allowance is,-

- (a) for **regulated providers** subject only to information disclosure regulation in regulations made under s 226 of the **Act**, determined in respect of a **fibre asset in the ID RAB**~~for the purpose of Part 2~~, in accordance with clause 2.2.76(3); and
- (b) for **regulated fibre service providers** subject to both information disclosure regulation and price-quality regulation in regulations made under s 226 of the **Act**,-
 - (i) ~~determined, subject to paragraph (b)(ii),~~ in respect of **fibre assets in the ID RAB**~~for the purpose of Part 2~~, in accordance with clause 2.2.87(3); and
 - (ii) ~~determined, in respect of fibre assets in the ID RAB that are employed in the provision of ID-only FFLAS, in accordance with clause 2.2.8(6); and~~
~~determined, in respect of fibre assets for the purpose of Part 3, in accordance with clause 3.2.2(3);~~
- (c) for **regulated providers** subject to price-quality regulation in regulations made under s 226 of the **Act**, determined in respect of **fibre assets in the PQ RAB**, in accordance with clause 3.3.2(3);

deregulated asset

has the meaning specified in clause 2.2.6(9); means:

- (d) ~~for the purpose of Part 2, a **core fibre asset** with an **asset value** that is **directly attributable** to the provision of **regulated FFLAS**, where that service, or the circumstances in which that service is supplied, has been removed from~~

	information disclosure regulation under s 226 of the Act; and
	for the purpose of Part 3, a core fibre asset with an asset value that is directly attributable to the provision of regulated FFLAS , where that service, or the circumstances in which that service is supplied, has been removed from price-quality regulation under s 226 of the Act;
deregulated asset value	has the meaning specified in clause 2.2.6(10) means, in respect of a deregulated asset , the value of a core fibre asset that is directly attributable to the provision of regulated FFLAS immediately prior to that asset becoming a deregulated asset ;
deregulated shared asset	has the meaning specified in clause 2.2.6(11);
deregulated shared asset value	has the meaning specified in clause 2.2.6(12);
deregulation adjustment	means the amount determined in accordance with clause 2.2.65(3);
directly attributable	means- <ul style="list-style-type: none"> (a) in relation to a service, operating costs, where a cost is wholly and solely incurred by a regulated provider in the provision of a particular service regulated FFLAS or services that are not regulated FFLAS; and (b) in relation to an asset, asset values, where an asset is wholly and solely related to an asset employed by a regulated provider in the provision of a particular service regulated FFLAS or services that are not regulated FFLAS;
director	means, in the case of a regulated provider that is- <ul style="list-style-type: none"> (a) a company (as 'company' is defined in s 2 of the Companies Act 1993), an individual occupying the position of

Formatted: Font: Bold

- director of the **regulated provider**, by whatever name that position is called;
- (b) a partnership (other than a special partnership), a partner;
 - (c) a special partnership, a general partner; and
 - (d) any other body corporate or unincorporated body, an individual occupying a position in the body that is comparable with that of director of a company;

disclosure year

means:

- (a) for the purposes of specifying the price-quality path for the first regulatory period, a 12-month period ending on 31 December, where if the term “disclosure year” is combined with a year, the 12-month period ending on 31 December of that year (for instance, “**disclosure year 201922**” means the 12-month period ending on 31 December 201922); and
- ~~(a)~~(b) in all other instances, a 12-month period ending on the date specified in an ID determination;

disposed asset

- (a) for the purpose of determining the financial losses-asset, has the meaning specified in Schedule B; and
- ~~(a)~~(b) in all other instances, means a **fibre asset** or **UFB asset** that, in the **disclosure year** or **financial loss year** in question, has been sold or transferred, or has been irrecoverably removed from the **regulated provider’s** possession without consent;

downtime

means:

- (a) for the purpose of Part 2, the length of time an **access seeker** or **end-user** experiences a planned outage or

unplanned outage to their ~~regulated ID~~
~~FFLAS~~; and
~~(a)~~(b) for the purpose of Part 3, the length of
time an access seeker or end-user
experiences a planned outage or
unplanned outage to their PQ FFLAS;

E

easement means a right to use but not possess **land** belonging to another person or a right to prevent certain uses of another person's **land**;

easement land means **land** acquired with the intention of-

- (a) creating an **easement** in respect of it; and
- (b) disposing~~ed~~ of the **land** thereafter;

employ means available for use,

and employed and employment have a corresponding meaning;

end-user has the same meaning as defined in s 5 of the **Act**;

error event has the meaning in clause 3.9.64(1);

F

~~false or misleading information~~ has the meaning in clause 3.9.6(3);

fault means an ~~outage~~ to an ~~access seeker's~~ or ~~end-user's regulated FFLAS~~ caused by a ~~fibre network~~ failure or system failure, and excludes:

(a) for the purpose of Part 2:

(i) an unplanned outage in ID FFLAS;

or

(ii) a reduction in the performance of ID FFLAS below any levels specified in an ID determination service outages initiated by that ~~end-user~~ or an ~~access seeker~~; and

- (b) for the purpose of Part 3:
- (i) an **unplanned outage in PQ FFLAS**; or
- ~~(ii)~~ (ii) a reduction in the **performance of PQ FFLAS** below any levels specified in a **PQ determination end-user or access seeker-owned customer premises equipment outages**;

FFLAS

has the same meaning as ‘fibre fixed line access service’ defined in s 5 of the **Act**;

FFLAS class

means a class of **FFLAS** that is subject to regulations under s 226 of the **Act**, and includes:

- (a) **ID FFLAS**;
(b) **PQ FFLAS**;
(c) **ID-only FFLAS**; and
(d) any **additional FFLAS class**;

*Example 1: Where a **regulated provider** is subject to information disclosure regulation in respect of “all **FFLAS**” and price-quality regulation in respect of “certain **FFLAS**” in regulations made under s 226 of the **Act**:*

- **FFLAS** provided by that **regulated provider** is “**ID FFLAS**”; and
- “certain **FFLAS**” provided by that **regulated provider** is “**PQ FFLAS**”.

*Example 2: Where a **regulated provider** is subject to information disclosure regulation and price-quality regulation in respect of “all **FFLAS**” in regulations made under s 226 of the **Act**, **FFLAS** provided by that **regulated provider** is both “**ID FFLAS**” and “**PQ FFLAS**”.*

FFLAS product families

means a group of **regulated FFLAS** products that differ in configuration but bear essentially the same costs;

fibre asset

has the same meaning as defined in s 177(6) of the **Act**, and is either-

	(a) a core fibre asset ; or (b) the financial loss asset ;
fibre network	has the same meaning as defined in s 5 of the Act ;
fibre network operator	means a network operator of a fibre network ;
finance lease	has the same meaning as under GAAP ;
financial loss asset	means the fibre asset each regulated provider is treated as owning under s 177(2) of the Act ;
financial loss period	means the period starting on 1 December 2011 and ending on the close of the day immediately before the implementation date ;
financial loss year	means, for the purpose of determining <u>the financial losses-asset accumulated unrecovered returns</u> in accordance with clause 2.2.43, a period of 12 months beginning on 1 July in any year within the financial loss period and ending on 30 June in the following year, where if the term “financial loss year” is combined with a year, the 12-month period ending on 30 June of that year (for instance, “ financial loss year 2013 ” means the 12-month period ending on 30 June 2013), and: <ul style="list-style-type: none"> (a) the period from 1 December 2011 to 30 June 2012 is considered “financial loss year 2012”; and (b) the period from 1 July 2021 to the close of the day immediately before the implementation date is considered “financial loss year 2022”;
<u>financial losses</u>	<u>means the losses incurred by a regulated provider in providing FFLAS under the UFB initiative for the financial loss period as specified in accordance with clause 1.1.2(2) of Schedule B;</u>

first regulatory period	means the regulatory period that starts on the implementation date and lasts for a period of 3 years;
fixed life easement	means an easement that- (a) is of a fixed duration; or (b) is of an indefinite duration but is to be held for a fixed period;
frame delay	means the time taken for a data frame to transit a fibre network between points of ingress and egress;
frame delay variation	means the variation in frame delay over a time <u>interval</u> ;
frame loss <u>ratio</u>	means the <u>portion number</u> of frames that are lost between <u>points of the</u> ingress <u>interface</u> and <u>the egress interface</u> over the fibre network , expressed as a percentage;

G

GAAP	means generally accepted accounting practice in New Zealand, save that, where the cost of an asset is being determined in accordance with this determination, only the cost model of recognition is applied insofar as an election may be made between the cost model of recognition and the fair value model of recognition;
GAAP change	has the meaning in clause 3.9. <u>53</u> (1);
good telecommunications industry practice	means the exercise of a degree of skill, diligence, prudence, foresight and economic management, that would reasonably be expected from a skilled and experienced asset owner engaged in the management of a fibre network under comparable conditions. A decision on good telecommunications industry practice should take into account domestic and international best practice, including international standards and factors such as the relative size, age and technology of the

	relevant fibre network and domestic regulatory and market conditions, including applicable law;
greenfield	means the establishment of new dwellings or premises on previously undeveloped land;
GST	has the same meaning as defined in s YA 1 of the Income Tax Act 2007;
	I
ID determination	means an information disclosure determination in relation to a regulated provider made under s 170 of the Act ;
identifiable non-monetary asset	has the same meaning as under GAAP (which, for the avoidance of doubt, includes right-of-use assets) except that it excludes goodwill;
ID FFLAS	<u>means, in respect of a regulated provider, all FFLAS provided by that regulated provider that is subject to information disclosure regulation in regulations made under s 226 of the Act;</u>
ID-only FFLAS	<u>means, in respect of a regulated provider, all FFLAS provided by a regulated provider that:</u> <u>(a) is subject to information disclosure regulation in regulations made under s 226 of the Act; and</u> <u>(b) is not subject to price-quality regulation in regulations made under s 226 of the Act;</u>
ID RAB	<u>means, in respect of a regulated provider, all fibre assets that are employed by that regulated provider in the provision of ID FFLAS;</u>
impairment losses	<u>has the same meaning as under GAAP;</u>
implementation date	has the same meaning as defined in s 5 of the Act ;
independent	means a person having neither a relationship with, nor an interest in, the regulated

	provider in question that is likely to involve them or it in a conflict of interest between their or its duties to the regulated provider and their or its duties to the Commission ;
independent verification report	means a report prepared by an independent verifier to verify the information provided with a capex proposal according to the verification requirements for that capex category ;
independent verifier	means a person who – (a) is independent ; and (b) has been engaged to verify part or all of Chorus’s capex proposal ;
individual capex	means capital expenditure approved by the Commission as part of the individual capex allowance in accordance with clause 3.7.28(1)(a) or (b) and (2)(a), and incurred by Chorus in relation to a project or programme required for an individual capex proposal under clause 3.7.22(3) by Chorus that is incurred in relation to a project or programme where the capital expenditure for regulated FFLAS on that project or programme amounts to at least \$5 million ;
individual capex allowance	means the amount determined by the Commission in accordance with clause 3.7.28 3.7.27(1)(a) or (b);
individual capex design proposal	means a written notification submitted by Chorus to the Commission in accordance with clause 3.7.23 3.7.22;
individual capex programme	means a programme that is the subject of an individual capex proposal specified in clause 3.7.24 3.7.23(3)(c);
individual capex project	means a project that is the subject of an individual capex proposal specified in clause 3.7.24 3.7.23(3)(c);
individual capex proposal	means a written application submitted by Chorus to the Commission for approval of an

	individual capex project or individual capex programme	in accordance with the requirements in clauses 3.7.6.254-3.6.26;
infill		means the establishment of new dwellings or premises within an existing suburb or developed area;
initial RAB		has the meaning specified in clause 2.2.24;
initial RAB value		means the value- <ul style="list-style-type: none"> (a) in respect of a core fibre asset in <u>anthe initial RAB</u>, determined in accordance with clause 2.2.32(2); (b) in respect of the financial loss asset in <u>anthe initial RAB</u>, determined in accordance with clause 2.2.43(1);
initial value of core fibre asset base		has the meaning specified in clause 2.2.65(8);
input methodology		has the same meaning, as the case may require, as defined in s 164 of the Act or s 52C of the Commerce Act 1986;
integrated fibre plan		means a collection of documents <u>as set out in clause 3.7.6.76, provided annually to the Commission, that will that provides the Commission with</u> an overview of Chorus's capital expenditure related to the management of its fibre network and the provision of PQ FFLAS the related capital expenditure requirements;
investment grade credit rated		means endorsed with a credit rating by an established credit rating agency (such as Standard and Poor's) of "investment grade" on that agency's credit rating scale applicable to long-term investments;
	L	
land		excludes easements ;
leverage		means the ratio of debt capital to total capital and is 31%;

LFC has the same meaning as defined in s 156AB of the Act;

LFC fibre network has the same meaning as defined in s 156AB of the Act;

local authority has the same meaning as defined in s 5(1) of the Local Government Act 2002;

M

major transaction has the meaning in clause 3.9.75(1);

maximum revenues has the meaning specified in clause 3.1.1(1);

mid-point estimate of WACC means, for the purpose of-

- (a) Part 2, the mid-point estimate of-
 - (i) vanilla **WACC** as estimated in accordance with clause 2.4.1(1);
or
 - (ii) post-tax **WACC** as estimated in accordance with clause 2.4.1(2), as the case may be;
- (b) Part 3, the mid-point estimate of-
 - (i) vanilla **WACC** as estimated in accordance with clause 3.54.1(1);
or
 - (ii) post-tax **WACC** as estimated in accordance with clause 3.54.1(2), as the case may be;

multi-rate PIE has the same meaning as defined in s YA 1 of the Income Tax Act 2007;

N

Nelson-Siegel-Svensson approach means a method for modelling yield curves and term structures of interest rates which establishes a relationship between terms to maturity and the **debt premium**, where a curve is generated by changing the parameters of a yield curve's functional form to minimise the squared deviation between estimated and observed values;

network operator	has the meaning as defined in s 5 of the Act;
network spare	<p><u>(a) for the purpose of determining the financial losses-asset, has the meaning specified in Schedule B; and</u></p> <p>(a)<u>(b) in all other instances, means an asset that is held by a regulated provider to replace any other core fibre asset or UFB asset it holds should that other core fibre asset or UFB asset be withdrawn from use owing to failure or damage;</u></p>
non-linear connection costs	<u>means costs for each connection type that are directly driven by the demand for new end-user connections but do not vary in a linear way with the number of new end-user connections;</u>
notional deductible interest	has the meaning in clause 2.3.1(7);
notional tax asset value	<p><u>(a) for the purpose of a fibre asset, has the meaning in clause 2.3.2(3); and</u></p> <p>(a)<u>(b) for the purpose of a UFB asset, has the meaning in Schedule B;</u></p>
NZ IAS 24	<u>means New Zealand Equivalent to International Accounting Standard 24, Related Party Disclosures (NZ IAS 24), issued by the New Zealand Accounting Standards Board of the External Reporting Board in November 2009, incorporating amendments to 31 December 2015, under s 24(1)(a) of the Financial Reporting Act 1993, as incorporated by reference into this determination;</u>
O	
ONT	<u>means optical network terminal;</u>
opening balance of unrecovered returns on investment for notional deductible interest	<u>has the meaning specified in clause 2.3.4(4);</u>
opening RAB value	means the value-

Formatted: Font: Not Bold

- (a) determined, in respect of a **core fibre asset** for the purpose of Part 2, in accordance with clause 2.2.54(3);
 - (b) determined, in respect of the **financial loss asset** for the purpose of Part 2, in accordance with clause 2.2.65(1);
 - (c) subject to paragraph (d), determined, in respect of a **core fibre asset** for the purpose of Part 3, in accordance with clause 3.32.1(23); ~~and~~
 - (d) determined, in respect of a **core fibre asset** for the purposes of:
 - (i) "c" in clauses 3.5.7(2) and 3.5.7(3);
 - (ii) "D" in clause 3.5.10(1)(d); and
 - (iii) clause 3.9.7(1),in accordance with clause 2.2.5(3);
 - (e) subject to paragraph (f), determined, in respect of the **financial loss asset** for the purpose of Part 3, in accordance with clause 3.32.1(23); ~~and~~
 - (f) determined, in respect of the **financial loss asset** for the purposes of:
 - (i) "c" in clauses 3.5.7(2) and 3.5.7(3);
 - (ii) "D" in clause 3.5.10(1)(d); and
 - (iii) clause 3.9.7(1),in accordance with clause 2.2.6(1);
- ~~(d) for the purpose of calculating **accumulated unrecovered returns** under clause 2.2.3(3), has the meanings specified in clause 2.2.3(27); and~~
- ~~(e) for the purpose of determining the **regulatory tax asset value**, has the meaning specified in clause 2.3.2(6);~~
- means:
- (a) for the purpose of ~~clause determining the **financial losses asset**~~ 2.1.4 and 2.2.3(27), has the meaning specified in

~~opening UFB asset base value~~

~~operating cost~~

Schedule Ba cost incurred by a **regulated provider** in the provision of

- ~~(i) UFB FFLAS alone;~~
- ~~(ii) services that are not UFB FFLAS alone; or~~
- ~~(iii) UFB FFLAS and one or more services that are not UFB FFLAS,~~

and excludes-

- ~~(iv) a cost that is treated as a cost of an asset by GAAP;~~
- ~~(v) amounts that are tax, subvention payments, revaluations or an interest expense, in accordance with their meanings under GAAP;~~
- ~~(vi) debt issuance costs;~~
- ~~(vii) pass through costs;~~
- ~~pecuniary penalties; and the legal costs of any appeals against input methodology determinations under Part 6 of the; and~~

(b) in all other instances, a cost incurred by a **regulated provider** in the provision of-

- (i) **regulated FFLAS** alone;
- (ii) **services that are not regulated FFLAS** alone; or
- (iii) **regulated FFLAS** and one or more **services that are not regulated FFLAS**,

and excludes-

- (iv) a cost that is treated as a cost of an asset by **GAAP**;
- (v) amounts that are depreciation, tax, subvention payments, revaluations or an interest expense, in accordance with their meanings under **GAAP**;
- (vi) **debt issuance costs**;
- ~~(vii) pass through costs;~~

~~(viii)~~(vii) pecuniary penalties;
and
~~(ix)~~(viii) the legal costs of any
appeals against input
methodology determinations
under Part 6 of the Act;

Formatted: Font: Bold

operating expenditure

means: for the purpose of-

- (a) in respect of subparts 7 and 8 of Part 3,
means the value of **operating costs**
attributable to **PQ FFLAS** supplied by
Chorus which are incurred in a
regulatory period; and
- (b) in all other instances, means the value
of **operating costs** attributable to **PQ**
FFLAS supplied by a **regulated provider**
which are incurred in a **regulatory**
period;

Part 2, has the meaning specified in clause
2.2.3(27); and

Subparts 6 and 7 of Part 3, means the value of
operating costs attributable to **regulated**
FFLAS supplied by **Chorus** which are incurred
in a **regulatory period**;

ordering

means:

- (a) for the purpose of Part 2, processing and
management of a request from an
access seeker to provide **ID FFLAS**,
change **ID FFLAS**, change an **end-user's**
ID FFLAS connection from one **access**
seeker to another **access seeker**, and
disconnect **ID FFLAS**; the process by
which a **regulated provider** manages a
request from an **access seeker** to
connect an **end-user** to the **fibre**
network, including how the request is
accepted or rejected; and

- ~~(a)~~(b) for the purpose of Part 3, processing and
management of a request from an
access seeker to provide **PQ FFLAS**,
change **PQ FFLAS**, change an **end-user's**

	<u>PQ FFLAS connection from one access seeker to another access seeker, and disconnect PQ FFLAS, including how the request is accepted or rejected;</u>
outage	means: <ul style="list-style-type: none"> (a) <u>for the purpose of Part 2, a cessation in the supply of ID FFLAS; and an instance in which an access seeker or an end-user is unable to use regulated FFLAS;</u> (a)(b) <u>for the purpose of Part 3, a cessation in the supply of PQ FFLAS;</u>
	P
Part 4 regulated service	means a service that is subject to regulation under Part 4 of the Commerce Act 1986;
Part 4 regulated supplier	means a supplier of regulated goods or services ;
partly deregulated asset	means- <ul style="list-style-type: none"> (a) for the purpose of Part 2, a core fibre asset with an asset value that is not directly attributable to the provision of regulated FFLAS, where that service or the circumstances in which that service is supplied, has been removed from information disclosure regulation under s 226 of the Act; and (b) for the purpose of Part 3, a core fibre asset with an asset value that is not directly attributable to the provision of regulated FFLAS, where that service or the circumstances in which that service is supplied, has been removed from price quality regulation under s 226 of the Act;
partly deregulated asset value	means the value of a core fibre asset that is not directly attributable to regulated FFLAS which has been removed from information disclosure regulation under s 226 of the Act ;

pass-through cost	has the meaning specified in clause 3.1.2;
pecuniary penalties	means fines or penalties imposed- (a) by a court; or (b) by any other body with a statutory power to impose such fines or penalties;
performance	means: (a) <u>for the purpose of Part 2, the technical functioning performance of ID FFLAS a fibre network</u> , including the extent to which this affects the <u>regulated FFLAS</u> experienced <u>of by an access seeker or an end-user</u> ; and (a) (b) <u>for the purpose of Part 3, the technical functioning of PQ FFLAS, including the extent to which this affects the experience of an access seeker or end-user</u> ;
<u>planned outage</u>	<u>means a scheduled outage that a regulated provider has notified to access seekers:</u> (a) <u>in advance; and</u> (b) <u>in accordance with relevant procedures as:</u> (i) <u>agreed between the regulated provider and access seeker;</u> (ii) <u>prescribed in regulations made under Part 6 of the Act; or</u> (iii) <u>prescribed in a determination made under s 170 of the Act;</u>
port utilisation	means the amount of traffic on a fibre network port relative to the port's capacity over time;
PQ determination	means a price-quality determination made under s 170 of the Act in respect of a regulatory period ;
<u>PQ FFLAS</u>	<u>means, in respect of a regulated provider, all FFLAS provided by that regulated provider that is subject to price-quality regulation in regulations made under s 226 of the Act;</u>

<u>PQ RAB</u>	<u>means, in respect of a regulated provider, all fibre assets that are employed by that regulated provider in the provision of PQ FFLAS;</u>
prescribed investor rate	has the same meaning as defined in the Income Tax Act 2007;
programme	means a group of related projects with a common purpose;
project	means a temporary endeavour requiring concerted effort, undertaken to create a defined outcome;
proposed capex	means capital expenditure that is part of a capex proposal ;
provisioning	means: <ul style="list-style-type: none"> <u>(a) for the purpose of Part 2, the process by which a regulated provider connects an end-user or access-seeker to the fibre network and includes installing, activating, or changes (including bulk migrations from one type of modifying a regulated ID FFLAS connection to another) and disconnects ID FFLAS; and</u> <u>(b) for the purpose of Part 3, the process by which a regulated provider installs, activates, changes (including bulk migrations from one type of PQ FFLAS to another) and disconnects PQ FFLAS;</u>
proxy asset allocator	<ul style="list-style-type: none"> <u>(a) for the purpose of determining the financial losses-asset, has the meaning specified in Schedule B; and</u> <u>(b) in all other instances, means a ratio proportion of a quantifiable measure-</u> <ul style="list-style-type: none"> (i) used to allocate asset values for which a causal relationship cannot be established; and (ii) whose quantum is based on factors in existence during the 12-

month period terminating on the last day of the most recent **disclosure year** or **financial loss year** in respect of which the proxy allocation is carried out,

which in each case-

- (iii) is consistent with similar measures, both within a **disclosure year** or **financial loss year** and from year to year; and
- (iv) is objectively justifiable and demonstrably reasonable;

proxy cost allocator

means

(a) for the purpose of determining the **financial losses-asset**, has the meaning specified in Schedule B;

~~(a)~~(b) in all other instances, means a ratio proportion of a quantifiable measure-

- (i) used to allocate **operating costs** for which a **causal relationship** cannot be established; and
- (ii) whose quantum is based on factors in existence during the 12-month period terminating on the last day of the most recent **disclosure year** or **financial loss year** in respect of which the cost allocation is carried out,

which in each case-

- (iii) is consistent with similar measures, both within a **disclosure year** or **financial loss year** and from year to year; and
- (iv) is objectively justifiable and demonstrably reasonable;

and, includes the following default allocators:

~~(c) — number of customers, end-users, or premises (intact, connected or passed);~~

~~(d) number of ports;~~
~~(e) revenue;~~
~~(f) central office space;~~
~~(g) peak traffic; and~~
~~average traffic;~~

public notice

has the same meaning as defined in s 6 of the Act;

Q

qualifying debt

has, for the purpose of:

- (a) Part 2, the meaning specified in clause 2.4.6(1); and
- (b) Part 3, the meaning specified in clause 3.54.8(1);

qualifying issuer

means a New Zealand resident limited liability company that-

- (a) undertakes the majority of its business activities in Australia and New Zealand; or
- (b) is part of a corporate group that undertakes the majority of its business activities in Australia and New Zealand; and-
- (c) does not operate predominantly in the banking or finance industries; or
- (d) is part of a corporate group that does not operate predominantly in the banking or finance industries; and
- (e) that issues **vanilla NZ\$ denominated bonds** that are publicly traded;

qualifying provider

has, for the purpose of:

- (a) Part 2, the meaning specified in clause 2.4.6(2); and
- (b) Part 3, the meaning specified in clause 3.45.8(2);

qualifying rating

means-

- (a) a Standard and Poor's long-term credit rating of the specified grade; or

(b) an equivalent long-term credit rating of another internationally recognised rating agency;

quality dimensions has the same meaning as defined in s 164(1) of the Act;

R

RAB means, in respect of a **regulated provider**:

- (a) **ID RAB**;
- (b) **PQ RAB**; and
- (c) any **additional RAB**;

regulated FFLAS means any and all **FFLAS classes** as the case may be and context requires all **FFLAS** provided by a **regulated provider** over a **fibre network** that is subject to regulations under section 226 of the Act;

*Example: Where a **regulated provider** is subject to information disclosure regulation and price-quality regulation in respect of “all **FFLAS**” in regulations made under s 226 of the Act and that **regulated provider** constructs or acquires an asset and employs that asset in the provision of any **FFLAS**, that asset will be a “**fibre asset**”.*

*That asset is **employed** in the provision of “**regulated FFLAS**” because it is **employed** in the provision of **ID FFLAS** and **PQ FFLAS**.*

That asset:

- *will be in the **ID RAB** and **PQ RAB**; and*
- *may also be in an **additional RAB** (as the **Commission** may from time to time specify for the purposes of Part 6 of the Act).*

regulated fibre service provider has the same meaning as ‘regulated fibre service provider’ as defined in s 5 of the Act;

regulated goods or services has the same meaning as defined in s 52C of the Commerce Act 1986;

regulated provider (a) for the purpose of Part 2, means a person who is prescribed in regulations

	made under s 226 as being subject to information disclosure regulation; and
	(b) for the purpose of Part 3, means a person who is prescribed in regulations made under s 226 as being subject to price-quality regulation;
regulatory net taxable income	has the meaning in clause 2.3.1(2);
regulatory period	means the relevant regulatory period for price-quality regulation applicable to a regulated provider as notified in a PQ determination ;
regulatory period term	means a period of time in years that matches the length of the current regulatory period , but which may commence at a different time to the current regulatory period ;
regulatory profit / (loss) before tax	has, for the purpose of: <ul style="list-style-type: none"> (a) Part 2, the meaning specified in clause 2.3.1(5); and (b) Part 3, the meaning specified in clause 3.43.1(4);
regulatory tax asset value	<u>(a) for the purpose of a fibre asset, has the meaning in clause 2.3.2(1); and</u> (b) <u>for the purpose of a UFB asset, has the meaning in Schedule B;</u>
regulatory taxable income	has the meaning in clause 2.3.1(3);
regulatory template	means tables of information requirements regarding Chorus' proposed base capex and proposed connection capex as agreed under clauses 3.76.87(34) and 3.76.143(34) or as specified under clauses 3.76.87(45) and 3.76.143(45);
regulatory year	means a 12-month period ending on 31 December, <u>where if the term "regulatory year" is combined with a year, the 12-month period ending on 31 December of that year (for instance, "regulatory year 2022" means</u>

related party

the 12-month period ending on 31 December 2022);

(a) for the purpose of determining the financial losses-asset, has the meaning specified in Schedule B; and
~~(a)(b)~~ in all other instances, means-

- (i) a person that is related to the **regulated provider**, where the **regulated provider** would be considered as the 'reporting entity' as specified in the definition of 'related party' in **NZ IAS 24**; or
- (ii) any part of the **regulated provider** that does not provide **regulated FFLAS** ~~or UFB FFLAS~~;

related party transaction

(a) for the purpose of determining the financial losses-asset, has the meaning specified in Schedule B; and
~~(a)(b)~~ in all other instances, means-

- (i) the procurement of a **core fibre asset** or good or service from a **related party** by the part of the **regulated provider** that provides **regulated FFLAS**; or

~~(c) the procurement of a **UFB asset** or good or service from a **related party** by the part of the **regulated provider** that provides **UFB FFLAS**;~~

- ~~(i)(ii) the sale or supply of a **core fibre asset** or good or service to a **related party** by the part of the **regulated provider** that provides **regulated FFLAS**; or~~

~~the sale or supply of a **UFB asset** or good or service to a **related party** by the part of the~~

	regulated provider that provides UFB FFLAS ;
remaining asset life	means the term remaining of the fibre asset's asset life at the commencement of the disclosure year in question;
<u>reopener event</u>	<u>has the meaning specified in clause 3.9.1(2);</u>
restore	means: (a) for the purpose of Part 2, when an end-user's regulated ID FFLAS functions again following a fault ; and (a) <u>(b)</u> <u>for the purpose of Part 3, when PQ FFLAS</u> functions again following a fault ;
result of asset allocation ratio	means- (a) where regulatory tax asset value is determined at implementation date or thereafter, has the meaning in clause 2.3.2(4); and (b) where regulatory tax asset value is determined in the financial loss period , has the meaning in <u>Schedule Clause 2.3.2(5)</u> ;
revaluation	means the amount, which may be a negative number- (a) determined, for the purpose of Part 2, in accordance with clause 2.2.11 0 (2); and (b) determined, for the purpose of Part 3, in accordance with clause 3.3 2 .1(2 3);
revaluation rate	means the amount specified in clause 2.2.11 0 (4);
right-of-use asset	has the same meaning as under GAAP except that it excludes any part of the cost of that asset that is a pass-through cost ;
	S
sale adjustment	has the meaning specified in clause 2.2.6 5 (4);
sale adjustment value	has the meaning specified in clause 2.2.6 5 (6);

second regulatory period	means the regulatory period that starts on 1 January 2025, where the duration of this regulatory period must be determined by the Commission ;
services that are not regulated FFLAS	means <ul style="list-style-type: none"> (a) telecommunications services that are not regulated FFLAS; (b) any Part 4 regulated service; or (c) any service that is not regulated under Part 6 of the Act or Part 4 of the Commerce Act 1986;
services that are not UFB FFLAS	means <ul style="list-style-type: none"> (d) telecommunications services that are not UFB FFLAS; (e) any Part 4 regulated service; or (f) any service that is not regulated under Part 6 of the Act or Part 4 of the Commerce Act 1986;
sold asset	means a UFB-related core fibre asset that, in the disclosure year in question, has been sold;
standard error	means estimated standard deviation;
sum of disposed assets	<ul style="list-style-type: none"> (a) in respect of financial loss year 2012, has the meaning specified in clause 2.2.3(27)(g); and (b) in respect of financial loss year 2013 and a financial loss year thereafter, has the meaning specified in clause 2.2.3(27)(h);
sum of value of commissioned assets	<ul style="list-style-type: none"> (a) in respect of financial loss year 2012, has the meaning specified in clause 2.2.3(27)(e); and in respect of financial loss year 2013 and a financial loss year thereafter, has the meaning specified in clause 2.2.3(27)(f);
switching	means: <ul style="list-style-type: none"> (a) <u>for the purpose of Part 2</u>, the process by which a regulated provider changes an

end-user's regulated FFLAS
 connection from one **access seeker** to another **access seeker** and includes disconnections; and
~~(a)~~(b) for the purpose of Part 3, the process by which a **regulated provider** changes an **end-user's PQ FFLAS** connection from one **access seeker** to another **access seeker**;

T

tax asset value

(a) for the purpose of a **fibre asset**, has the meaning in clause 2.3.2(2); and
~~(a)~~(b) for the purpose of a **UFB asset**, has the meaning in Schedule B;

tax costs

has the meaning in clause 2.3.4(1);

tax depreciation rules

means:
 (a) in respect of a **fibre asset**, the **tax rules** that relate to the determination of **depreciation** allowances for tax purposes; and
~~(a)~~(b) in respect of a **UFB asset**, the **tax rules** that relate to the determination of **depreciation** allowances for tax purposes, where 'depreciation' has the meaning specified in Schedule B;

tax effect

means the product of multiplication by the **corporate tax rate**;

tax rules

means the rules applicable to a **regulated provider** for determining income tax payable under the Income Tax Act 2007;

telecommunications service

has the same meaning as defined in s 5 of the **Act**;

telecommunications service provider

means an entity where a majority of its business relates to providing telecommunications services;

telecommunications services that are not regulated FFLAS	means any telecommunications service provided by a regulated provider that is not regulated FFLAS ;
telecommunications services that are not UFB FFLAS	means any telecommunications service provided by a regulated provider that is not UFB FFLAS;
term credit spread difference	means the amount determined: <ul style="list-style-type: none"> (a) for the purpose of Part 2, in accordance with clause 2.4.7(1); and (b) for the purpose of Part 3, in accordance with clause 3.54.9(1);
term credit spread differential	means the amount determined: <ul style="list-style-type: none"> (a) for the purpose of Part 2, in accordance with clause 2.4.8(3); (b) for the purpose of Part 3, in accordance with clause 3.54.10(1);
term credit spread differential allowance	for the purpose of- <ul style="list-style-type: none"> (a) Part 2, means the sum of term credit spread differentials; (b) Part 3, in respect of the first regulatory period, means the amount determined in accordance with clause 3.54.7(2); and (c) Part 3, in respect of the second regulatory period and subsequent regulatory periods, means the amount determined in accordance with clause 3.54.7(3);
total FFLAS revenue	means all revenue derived by <u>a regulated provider</u> Chorus from: <ul style="list-style-type: none"> (a) <u>the provisioning of regulated PQ FFLAS</u>; (b) <u>in nominal terms, excluding</u> sive of GST, and must (c) <u>including</u> discounts and rebates taken up by customers, <u>adjusted in accordance with GAAP</u>;

U

UFB asset	<p>has the meaning specified in Schedule B; means an asset that is:</p> <p>(a) — constructed or acquired by a regulated provider; and</p> <p>(b) — employed in the provision of UFB FFLAS (whether or not the asset is also employed in the provision of other services), and excludes-</p> <p style="padding-left: 40px;">(i) — intangible assets, unless they are-</p> <p style="padding-left: 80px;">A. finance leases; or</p> <p style="padding-left: 80px;">B. identifiable non-monetary assets whose costs do not include (wholly or partly) pass-through costs; and works under construction;</p>
UFB asset initial value	<p>means, in respect of a UFB asset, the value allocated to the provision of UFB FFLAS as a result of:</p> <p>(a) — adopting the UFB asset's unallocated UFB asset initial value; and</p> <p>(b) — applying clause 2.2.3(27)(b) to the unallocated UFB asset initial value;</p>
UFB costs	has the meaning specified in clause 2.2.3(25);
UFB FFLAS	<p>has the meaning specified in Schedule B; means any FFLAS provided by a regulated provider over a fibre network under the UFB initiative in accordance with s 177(2) of the Act, and for the avoidance of doubt, excludes any FFLAS that is regulated FFLAS;</p>
UFB initiative	has the same meaning as defined in s 5 of the Act ;
UFB-related core fibre asset	means core fibre assets that were UFB assets prior to the implementation date ;
UFB revenues	has the meaning specified in clause 2.2.3(25);

unallocated closing RAB value	means the value determined in respect of a core fibre asset , in accordance with clause 2.2.54(2);
unallocated depreciation	<p>means an allowance to account for the diminution in a fibre asset's remaining service life potential in the disclosure year in question with respect to its unallocated opening RAB value and the amount of such allowance is determined in respect of a fibre asset:</p> <p>(a) for regulated providers subject only to information disclosure regulation in regulations made under s 226 of the Act, in accordance with clause 2.2.76(2); and</p> <p><u>(b) for regulated fibre service providers subject to both information disclosure regulation and price-quality regulation in regulations made under s 226 of the Act, in accordance with:</u></p> <p style="padding-left: 20px;"><u>(i) subject to paragraph (b)(ii), in accordance with clause 2.2.87(2); and</u></p> <p style="padding-left: 20px;"><u>(ii) in respect of fibre assets in the ID RAB that are employed in the provision of ID-only FFLAS, in accordance with clause 2.2.8(5); and</u></p> <p>(b)(c) <u>for regulated providers subject to price-quality regulation in regulations made under s 226 of the Act, determined in respect of fibre assets in the PQ RAB, in accordance with clause 3.3.2(2);</u></p>
unallocated initial RAB value	means the value of a core fibre asset in an <u>the</u> initial RAB determined in accordance with clause 2.2.32(1);
unallocated opening RAB value	means the value determined in respect of a core fibre asset , in accordance with clause 2.2.45(1);

unallocated revaluation	means the amount determined in accordance with clause 2.2.11 0 (1);
unallocated UFB asset initial value	means, in respect of a UFB asset, the value calculated for a UFB asset under clause 2.2.3(27)(a);
<u>unplanned outage</u>	<u>means an outage that is not a planned outage;</u>
<u>unrecovered returns on investment</u>	<u>has the meaning specified in clause 2.2.3(25);</u>
utilised tax losses	means the amount determined in accordance with clause 2.3.3(1);

V

value of commissioned asset	<p>means the value:</p> <p>(a) <u>for the purpose of determining the financial losses-asset, has the meaning specified in Schedule B;</u></p> <p>(b) <u>means the value determined, for the purpose of Part 2, in respect of core fibre assets commissioned prior to the implementation date, in accordance with clause 2.2.132(1);</u></p> <p>(c) <u>means the value determined, for the purpose of Part 2, in respect of core fibre assets commissioned on or after the implementation date, in accordance with clause 2.2.13(2); and</u></p> <p>(d) <u>means the value determined, for the purpose of Part 3, in accordance with clause 3.32.1(23);</u></p>
valuer	<p>means an individual who-</p> <p>(a) is registered as a valuer under the Valuers Act 1948;</p> <p>(b) holds a current practising certificate issued by-</p> <p>(i) the Property Institute of New Zealand; or</p>

	(ii) the New Zealand Institute of Valuers;
	(c) has been engaged to act in their professional capacity as a valuer; and
	(d) is independent ;
vanilla NZ\$ denominated bonds	means senior unsecured nominal debt obligations denominated in New Zealand dollars without callable, puttable, conversion, profit participation, credit enhancement or collateral features;
<u>variable connection costs</u>	<u>means costs for each connection type that are directly driven by the demand for new end-user connections and that vary with each new end-user connection;</u>
vested asset	(a) <u>for the purpose of determining the financial losses-asset, has the meaning specified in Schedule B; and</u> (b) <u>in all other instances, means a core fibre asset or UFB asset associated with the provision of regulated FFLAS or UFB FFLAS, received by a regulated provider-</u> <ul style="list-style-type: none"> (i) without provision of consideration; or (ii) with provision of nominal consideration;
W	
WACC	means weighted average cost of capital;
wash-up amount	means the amount determined by the Commission as specified in a PQ determination for a regulatory year in relation to the wash-up mechanism referred to in s 196(2) of the Act ;
working day	has the same meaning as defined in s 5 of the Act ; and
works under construction	means an asset, or a collection of assets that-

- (a) has been, is being or is forecast to be constructed by, or on behalf of, a **regulated provider**;
- (b) has not been **commissioned**; and
- (c) the **regulated provider** intends to **commission**.

PART 2 INPUT METHODOLOGIES FOR INFORMATION DISCLOSURE

SUBPART 1 Cost allocation

2.1.1 Allocation between regulated FFLAS and services that are not regulated FFLAS

- (1) Any-
- (a) **operating costs**; and
 - (b) **asset values**,
- that are **directly attributable** to the provision of **regulated FFLAS** by the **regulated provider** must be allocated to **regulated FFLAS**.
- (2) The following must not be allocated to **regulated FFLAS**:
- (a) any **operating cost** that is **directly attributable** to the provision of **services that are not regulated FFLAS**; ~~or~~
 - (b) any **asset value** that is **directly attributable** to the provision of **services that are not regulated FFLAS**; or
 - ~~(b)(c) any other cost that is recovered in respect of a **Part 4 regulated service**.~~
- (3) **ABAA** must be applied in accordance with clause 2.1.2 when any of the following are allocated:
- (a) **operating costs** that are not **directly attributable** to **regulated FFLAS** or **services that are not regulated FFLAS**; and
 - (b) **asset values** that are not **directly attributable** to **regulated FFLAS** or **services that are not regulated FFLAS**.

2.1.2 Accounting-based allocation approach (ABAA)

- (1) **Cost allocators** must be used to allocate **operating costs** not **directly attributable** to either-
- (a) **regulated FFLAS**; or
 - (b) **services that are not regulated FFLAS**.
- (2) **Asset allocators** must be used to allocate **asset values** not **directly attributable** to either-
- (a) **regulated FFLAS**; or
 - (b) **services that are not regulated FFLAS**.

~~(3) — Where a **regulated provider** uses a **proxy cost allocator** for the purposes of subclause (1) or a **proxy asset allocator** for the purposes of subclause (2), the **regulated provider** must, in accordance with the requirements in the relevant **ID determination**, explain—~~

- (a) why a **causal relationship** cannot be established; and
- (b) the rationale for the quantifiable measure used for the **proxy cost allocator** or **proxy asset allocator**.

(4) A **regulated provider** must:

- (a) update the **allocator metrics** it uses to apply **ABAA** no less than once every 12 months; and
- (b) review its choice of **allocator types** for **cost allocators**, **proxy cost allocators**, **asset allocators** and **proxy asset allocators** no less than once every 18 months.

(5) Any allocation performed under this clause must comply with the constraints set out in clause 2.1.3.

2.1.3 Allocation between FFLAS classes for regulated fibre service providers subject to both information disclosure regulation and price-quality regulation

(1) If in respect of a **regulated fibre service provider** subject to both information disclosure regulation and price-quality regulation in regulations made under s 226 of the Act, **operating costs** or **asset values** are allocated to **regulated FFLAS**, the **operating costs** or **asset values** must be further allocated as follows:

- (a) **operating costs** or **asset values** that are **directly attributable** to the provision of:
 - (i) **PQ FFLAS** must be allocated to **PQ FFLAS**; and
 - (ii) **ID-only FFLAS** must be allocated to **ID-only FFLAS**;
- (b) in respect of **operating costs** that are not **directly attributable** to the provision of **PQ FFLAS** or **ID-only FFLAS**, **cost allocators** must be used to allocate those **operating costs** to either:
 - (i) **PQ FFLAS**; or
 - (ii) **ID-only FFLAS**; and
- (c) in respect of **asset values** that are not **directly attributable** to the provision of **PQ FFLAS** or **ID-only FFLAS**, **asset allocators** must be used to allocate those **asset values** to either:
 - (i) **PQ FFLAS**; or
 - (ii) **ID-only FFLAS**.

(2) For the purpose of subclause (1), the **financial loss asset** must be treated as being **directly attributable** to **PQ FFLAS**.

(3) If the **Commission** specifies an **additional FFLAS class**-

- (a) any **operating costs** or **asset values** allocated to **PQ FFLAS** that are-

- (i) directly attributable to that additional FFLAS class must be further allocated to that additional FFLAS class; and
- (ii) not directly attributable to that additional FFLAS class must be further allocated using:
 - (A) cost allocators to allocate operating costs; and
 - (B) asset allocators to allocate asset values; and
- (b) any operating costs or asset values allocated to ID-only FFLAS that are-
 - (i) directly attributable to that additional FFLAS class must be further allocated to that additional FFLAS class; and
 - (ii) not directly attributable to the additional FFLAS class must be further allocated using-
 - (A) cost allocators to allocate operating costs; and
 - (B) asset allocators to allocate asset values.

2.1.4 Allocation between FFLAS classes for regulated providers subject only to information disclosure regulation

- (1) If in respect of a regulated provider subject only to information disclosure regulation in regulations made under s 226 of the Act, operating costs or asset values are allocated to regulated FFLAS, the operating costs or asset values must be further allocated as follows:
 - (a) if the Commission specifies an additional FFLAS class-
 - (i) any operating costs or asset values allocated to regulated FFLAS that are directly attributable to that additional FFLAS class must be allocated to that additional FFLAS class; and
 - (ii) any operating costs or asset values allocated to regulated FFLAS that are not directly attributable to that additional FFLAS class must be allocated using-
 - (A) cost allocators to allocate operating costs; and
 - (B) asset allocators to allocate asset values; and
 - (b) for the purpose of paragraph (a), the financial loss asset must be treated as being directly attributable to regulated FFLAS.

2.1.32.1.5 Allocation requirements/constraints for ABAA

- (1) A regulated provider must:
 - (a) update the allocator values it uses to apply ABAA in accordance with clause 2.1.2 no less than once every 12 months; and
 - (b) review its choice of allocator types for cost allocators, proxy cost allocators, asset allocators and proxy asset allocators no less than once every 18 months.

(2) A regulated provider or regulated fibre service provider (whichever the case may be) must update the allocator values it uses to apply cost allocators and asset allocators in accordance with clause 2.1.3 or 2.1.4 (whichever the case may require) no less than once every 12 months.

(3) Where a regulated provider or regulated fibre service provider (whichever the case may be) uses a proxy cost allocator for the purposes of clause 2.1.2(1), 2.1.3(1)(b), 2.1.3(3)(a)(ii), 2.1.3(3)(b)(ii), or 2.1.4(1)(a)(ii) or a proxy asset allocator for the purposes of clause 2.1.2(2), 2.1.3(1)(c), 2.1.3(3)(a)(ii), 2.1.3(3)(b)(ii), or 2.1.4(1)(a)(ii), it must, in accordance with the requirements in the relevant ID determination, explain-

- (a) why a causal relationship cannot be established; and
- (b) the rationale used for the proxy cost allocator or proxy asset allocator.

~~(1)~~(4) For the purposes of establishing an initial RAB, a regulated provider must apply the same allocator types as those used to determine the financial losses-asset in accordance with clause Schedule B 2.1.4.

~~(2)~~ Any operating costs or asset values that are directly attributable to and recovered under Part 4 regulated services must not be allocated to regulated FFLAS.

~~(3)~~(5) A regulated fibre service provider subject to both information disclosure regulation and price-quality regulation in regulations made under s 226 of the Act must apply the same cost allocation approach as used in Subpart 21 of Part 3 when the actual expenditure is reported, unless-

- (a) there is a demonstrably justifiable reason to use an alternative allocator type, where the requirements of satisfying that alternative approach are specified in an ID determination; or
- (b) it uses an allocator type that is comparable, in all material respects, to the allocator type used in Subpart 21 of Part 3.

~~(6)~~ Subject to subclause (7), when a regulated provider allocates either an asset value or an operating cost that is not directly attributable common costs to regulated FFLAS, the total asset values or operating costs allocated to regulated FFLAS must not be more higher than the total unavoidable-asset values or total operating costs that the regulated provider would be incurred could not have avoided if it the regulated provider were to ceased supplying services that are not regulated FFLAS.

~~(4)~~(7) Subclause (6) only applies to an allocation or allocations of an asset value or an operating cost that would have a material effect on the total asset values or total operating costs allocated to regulated FFLAS.

Formatted: Font: Bold

Allocation methodology for determining financial loss asset

For the purposes of allocating 'operating expenditure' to the provision of **UFB FFLAS** under clause 2.2.3(27) for a **financial loss year** in the **financial loss period**

- (a) — the 'operating expenditure' in question shall be considered '**operating costs** incurred under the **UFB initiative**';
- any '**operating cost** incurred under the **UFB initiative**', as specified in subclause (1)(a), that is solely incurred during the **financial loss period** in the provision of **UFB FFLAS** must be allocated to **UFB FFLAS**;
- any '**operating cost** incurred under the **UFB initiative**', as specified in subclause (1)(a), that is not solely incurred in the provision of **UFB FFLAS** must be allocated to **UFB FFLAS** by applying **ABAA**, where:
- (i) — references to "**regulated FFLAS**" are modified to read "**UFB FFLAS**";
 - and
 - (ii) — references to "**services that are not regulated FFLAS**" are modified to read "**services that are not UFB FFLAS**";
- (b) — the **allocator types** available to be applied to allocate **operating costs** not solely incurred in the provision of **UFB FFLAS** include the following:
- (i) — number of customers, **end users**, or premises (intact, connected or passed);
 - (ii) — number of ports;
 - (iii) — revenue;
 - (iv) — central office space;
 - (v) — peak traffic; and
 - average traffic.

For the purposes of allocating an 'unallocated UFB asset initial value' to the provision of **UFB FFLAS** under clause 2.2.3(27) for a **financial loss year** in the **financial loss period**

- the 'unallocated UFB asset initial value' in question, less all depreciation under **GAAP** in prior **financial loss years** of the **financial loss period** relating to that **UFB asset**, shall be considered an 'asset value'; and
- the **allocator types** available to be applied using **ABAA**, include the following:
- (c) — number of customers, **end users**, or premises (intact, connected or passed);
 - (d) — number of ports;
 - (e) — revenue;
 - (f) — central office space;
 - (i) — peak traffic; and
 - average traffic;

where references to “~~regulated FFLAS~~” are modified to read “**UFB FFLAS**”; and references to “~~services that are not regulated FFLAS~~” are modified to read “**services that are not UFB FFLAS**”.

The **allocator types** specified in subclauses (1)(d) and 2(b) must be applied using **allocator metrics** that are updated for each **financial loss year** (or part **financial loss year**) of the **financial loss period**.

2.1.42.1.6 Costs or values in respect of regulated FFLAS

- (1) Subject to subclause (2), a **regulated provider** must, in accordance with the requirements in the relevant **ID determination**, identify-
 - (a) **operating costs** that are **directly attributable** to **regulated FFLAS**;
 - (b) **asset values** that are **directly attributable** to **regulated FFLAS**;
 - (c) **operating costs** which are not **directly attributable** to **regulated FFLAS**, but are incurred in the provision of such **regulated FFLAS**; and
 - (d) **asset values** which are not **directly attributable** to **regulated FFLAS** but relate to **fibre assets** that are **employed** in the provision of such **regulated FFLAS**.
- (2) As required under an **ID determination**, a **regulated provider** must specify the **operating costs** and **asset values** in subclause (1) in terms of one or more of:
 - (a) **FFLAS product families**;
 - (b) geographic coverage; or
 - (c) level of **fibre network** functionality or other functionality.

Formatted: Font: Bold

SUBPART 2 Asset valuation

2.2.1 RAB

- (1) The relevant **ID determination** must require the disclosure of information for the **ID RAB** and **PQ RAB**.
- (2) The relevant **ID determination** may require the disclosure of information for any **additional RAB**.

2.2.12.2.2 Composition of an initial RAB

- (1) ‘Initial RAB’, in respect of a **regulated provider**, means the collection of **fibre assets** in a given **RAB** for a **regulated provider** means the total number of **fibre assets** as at:
 - (a) in respect of the **ID RAB**, the **implementation date**;
 - (b) in respect of the **PQ RAB**, the **implementation date**;

~~(a)~~(c) in respect of an **additional RAB**, the date specified by the **Commission** as the date when that **additional RAB** is first determined.

2.2.22.2.3 Initial RAB values of core fibre assets

- (1) The 'unallocated initial RAB value' of a **core fibre asset** as at the **implementation date** is calculated in accordance with s 177(1) of the **Act**.
- (2) The 'initial RAB value' of a **core fibre asset** as at the **implementation date** is the **unallocated initial RAB value** allocated to **regulated FFLAS** as a result of-
 - (a) adopting its **unallocated initial RAB value**; and
 - (b) applying:
 - (i) in respect of actual values, clause 2.1.1 and either 2.1.3 or 2.1.4 (whichever the case may require) to it; and
 - (ii) in respect of forecast values, clause 3.2.1.
- (3) Where an asset is both a **UFB asset** and a **core fibre asset**, it ceases to be a **UFB asset** at **implementation date**.

2.2.32.2.4 Initial RAB value of financial loss asset

- (1) The 'initial RAB value' of the **financial loss asset** for a **regulated provider** is equal to the ~~financial losses accumulated unrecovered returns~~ determined by the **Commission** in respect of the **financial loss period** in accordance with s 177(2) ~~and (3)~~ of the **Act** and clause 1.1.2(2) of Schedule B.

Formatted: Font: Bold

~~For the purposes of subclause (1), financial losses for a **regulated provider** are calculated in accordance with Schedule B.~~

- (2) ~~For the purpose of subclause (1), where the **accumulated unrecovered returns** in the **financial loss period** for a **regulated provider** are nil, the **initial RAB value** of the **financial loss asset** for a **regulated provider** will be determined by the **Commission** as nil.~~

- (3) ~~'Accumulated unrecovered returns' are calculated in accordance with the formula:~~

~~**compounded unrecovered return for financial loss year 2012**
+ **compounded unrecovered return for financial loss year 2013**
+ **compounded unrecovered return for financial loss year 2014**
+ **compounded unrecovered return for financial loss year 2015**
+ **compounded unrecovered return for financial loss year 2016**
+ **compounded unrecovered return for financial loss year 2017**
+ **compounded unrecovered return for financial loss year 2018**
+ **compounded unrecovered return for financial loss year 2019**~~

~~+ compounded unrecovered return for financial loss year 2020~~

~~+ compounded unrecovered return for financial loss year 2021~~

~~+ unrecovered returns on investment for financial loss year 2022~~

- (4) ~~‘Compounded unrecovered return for financial loss year 2012’ means the **compounding factor for financial loss year 2012** multiplied by the **unrecovered returns on investment for financial loss year 2012**.~~
- (5) ~~‘Compounded unrecovered return for financial loss year 2013’ means the **compounding factor for financial loss year 2013** multiplied by the **unrecovered returns on investment for financial loss year 2013**.~~
- (6) ~~‘Compounded unrecovered return for financial loss year 2014’ means the **compounding factor for financial loss year 2014** multiplied by the **unrecovered returns on investment for financial loss year 2014**.~~
- (7) ~~‘Compounded unrecovered return for financial loss year 2015’ means the **compounding factor for financial loss year 2015** multiplied by the **unrecovered returns on investment for financial loss year 2015**.~~
- (8) ~~‘Compounded unrecovered return for financial loss year 2016’ means the **compounding factor for financial loss year 2016** multiplied by the **unrecovered returns on investment for financial loss year 2016**.~~
- (9) ~~‘Compounded unrecovered return for financial loss year 2017’ means the **compounding factor for financial loss year 2017** multiplied by the **unrecovered returns on investment for financial loss year 2017**.~~
- (10) ~~‘Compounded unrecovered return for financial loss year 2018’ means the **compounding factor for financial loss year 2018** multiplied by the **unrecovered returns on investment for financial loss year 2018**.~~
- (11) ~~‘Compounded unrecovered return for financial loss year 2019’ means the **compounding factor for financial loss year 2019** multiplied by the **unrecovered returns on investment for financial loss year 2019**.~~
- (12) ~~‘Compounded unrecovered return for financial loss year 2020’ means the **compounding factor for financial loss year 2020** multiplied by the **unrecovered returns on investment for financial loss year 2020**.~~
- (13) ~~‘Compounded unrecovered return for financial loss year 2021’ means the **compounding factor for financial loss year 2021** multiplied by the **unrecovered returns on investment for financial loss year 2021**.~~
- (14) ~~‘Compounding factor for financial loss year 2012’ means **compounding factor for financial loss year 2013 X 30 June 2012 WACC**.~~

- (15) — ‘Compounding factor for financial loss year 2013’ means ~~compounding factor for financial loss year 2014 X 30 June 2013 WACC.~~
- (16) — ‘Compounding factor for financial loss year 2014’ means ~~compounding factor for financial loss year 2015 X 30 June 2014 WACC.~~
- (17) — ‘Compounding factor for financial loss year 2015’ means ~~compounding factor for financial loss year 2016 X 30 June 2015 WACC.~~
- (18) — ‘Compounding factor for financial loss year 2016’ means ~~compounding factor for financial loss year 2017 X 30 June 2016 WACC.~~
- (19) — ‘Compounding factor for financial loss year 2017’ means ~~compounding factor for financial loss year 2018 X 30 June 2017 WACC.~~
- (20) — ‘Compounding factor for financial loss year 2018’ means ~~compounding factor for financial loss year 2019 X 30 June 2018 WACC.~~
- (21) — ‘Compounding factor for financial loss year 2019’ means ~~compounding factor for financial loss year 2020 X 30 June 2019 WACC.~~
- (22) — ‘Compounding factor for financial loss year 2020’ means ~~compounding factor for financial loss year 2021 X 30 June 2020 WACC.~~
- (23) — ‘Compounding factor for financial loss year 2021’ means ~~compounding factor for financial loss year 2022 X 30 June 2021 WACC.~~
- (24) — ‘Compounding factor for financial loss year 2022’ means 1.
- (25) — For the purposes of subclauses (4)–(13), ‘unrecovered returns on investment’ for each **financial loss year** (or part **financial loss year**) are determined in accordance with the formula—

$$\text{UFB revenues} \times \text{TF}_{\text{rev}} - \text{UFB costs} + \text{avoided financing cost building block}$$

where—

‘UFB revenues’ means revenues derived by a **regulated provider** from **UFB FFLAS** for the **financial loss year** in question, excluding any **capital contributions**;

‘TF_{rev}’ is determined in accordance with the formula—

$$(1 + \text{cost of capital})^{148/365}$$

‘UFB costs’ means a **regulated provider’s** costs under the **UFB initiative** for the **financial loss year** in question and is determined in accordance with subclause (27), where certain inputs used to calculate these costs must be multiplied by the cash flow timing assumptions specified in accordance with subclause (26); and

‘Avoided financing cost building block’ means the avoided financing cost on the concessionary Crown financing for the **financial loss year** in question: calculated, where **Crown financing** is provided by way of debt, in accordance with the formula—

$$Cf \times dr$$

where—

Cf —means the **Crown financing** amount; and

dr —means the avoided cost debt rate that takes into account the actual **qualifying rating** of the **regulated provider**, as determined by the **Commission**;

calculated, where **Crown financing** is provided by way of equity, in accordance with the formula—

$$Cf \times er$$

where—

Cf —means the **Crown financing** amount; and

er —means the avoided cost equity rate, as determined by the **Commission**;

calculated, where **Crown financing** is provided by way of a combination of debt and equity, as the sum of the amounts in paragraph (a) and (b), as determined by the **Commission**,

where the nature of the **Crown financing** (whether paragraph (a), (b), or (c) applies) is a matter for the **Commission** to determine.

(26) For the purpose of determining a **regulated provider's** 'UFB costs', for each **financial loss year** (or part **financial loss year**), the following inputs must be multiplied by the following cash flow timing assumptions:

- (a) in respect of the **sum of value of commissioned assets**, multiplied by $(TF_{VCA} - 1)$
- (b) in respect of **operating expenditure**, multiplied by (TF) ; and
- (c) in respect of **tax costs**, multiplied by (TF) ;

where:

- (d) 'TF' is determined in accordance with the formula—
 $(1 + \text{cost of capital})^{382/365}$
- (e) 'TF_{vca}' is determined in accordance with the formula—
 $PV_{vca} \times (1 + \text{cost of capital}) \div \text{sum of value of commissioned assets}$; and
- (f) 'PV_{vca}' means the sum of the present value of **closing UFB asset values** for **commissioned** assets, where each present value is determined by discounting each **closing UFB asset value** by the **cost of capital** from the relevant **commissioning date** to the commencement of the relevant **financial loss year**.

(27) For the purposes of subclause (25), a **regulated provider's** 'UFB costs' are determined for each **financial loss year** (or part **financial loss year**) in accordance with the formula—

~~$(\text{opening UFB asset base value} \times \text{cost of capital}) + \text{operating expenditure} + \text{tax costs} + \text{depreciation}$~~

where-

~~opening UFB asset base value means, as of 1 December 2011, the sum of the UFB asset initial values of all UFB assets employed to provide UFB FFLAS for the financial loss year, where-~~

- ~~(a) the 'unallocated UFB asset initial value' of a UFB asset is calculated by-~~
- ~~(i) taking the cost incurred by a regulated provider in constructing or acquiring the UFB asset, net of capital contributions; or~~
 - ~~(ii) if the UFB asset was owned by Chorus before 1 December 2011, taking the cost recorded by Chorus for the UFB asset in its published general purpose financial statements as of 1 December 2011; and~~
 - ~~(iii) adjusting that cost for accumulated depreciation and impairment losses (if any) recognised by the regulated provider (ignoring any adjustment for Crown financing), as at the first day of the financial loss year, under GAAP;~~
- ~~(b) each 'unallocated UFB asset initial value' is allocated to the provision of FFLAS under the UFB initiative by applying clause 2.1.4(2);~~

~~opening UFB asset base value means, in respect of financial loss year 2013 and a financial loss year thereafter, the closing UFB asset base value in the preceding financial loss year, where each 'unallocated UFB asset initial value' is allocated to the provision of FFLAS under the UFB initiative by applying clause 2.1.4(2);~~

~~closing UFB asset base value means, in respect of financial loss year 2012, the amount calculated in accordance with the following formula:~~

~~opening UFB asset base value as of 1 December 2011~~
~~+ the sum of value of commissioned assets~~
~~- sum of disposed assets~~
~~+ depreciation;~~

~~closing UFB asset base value means, in respect of financial loss year 2013 and a financial loss year thereafter, the amount calculated in accordance with the following formula:~~

~~opening UFB asset base value for the financial loss year~~
~~+ the sum of value of commissioned assets~~
~~- sum of disposed assets~~

~~+~~ *depreciation*;

depreciation means:

- (a) in respect of ~~financial loss year 2012~~, depreciation and impairment losses recognised by the ~~regulated provider~~ (ignoring any accounting adjustment for ~~Crown financing~~) under ~~GAAP~~ for the period from 1 December 2011 and ending on the close of the day immediately before the start of ~~financial loss year 2013~~; and
- (b) in respect of ~~financial loss year 2013~~ and a ~~financial loss year~~ thereafter, depreciation and impairment losses recognised by the ~~regulated provider~~ (ignoring any accounting adjustment for ~~Crown financing~~) under ~~GAAP~~ during the ~~financial loss year~~;

operating expenditure means ~~operating costs~~ incurred under the ~~UFB initiative~~ for the ~~financial loss year~~, allocated to the provision of ~~UFB FFLAS~~ by applying clause 2.1.4(1); and

sum of value of commissioned assets means:

- (a) in respect of ~~financial loss year 2012~~, the sum of the ~~value of commissioned assets~~ which were ~~commissioned~~ for the period from 1 December 2011 and ending on the close of the day immediately before the start of ~~financial loss year 2013~~; and
- (b) in respect of ~~financial loss year 2013~~ and a ~~financial loss year~~ thereafter, the sum of the ~~value of commissioned assets~~ which were ~~commissioned~~ during the ~~financial loss year~~;

sum of disposed assets means:

- (a) in respect of ~~financial loss year 2012~~, in relation to ~~disposed assets~~, the sum of the value of all ~~UFB assets~~ that were sold, transferred, or irrecoverably removed from the ~~regulated provider's~~ possession without consent for the period from 1 December 2011 and ending on the close of the day immediately before the start of ~~financial loss year 2013~~; and

in respect of ~~financial loss year 2013~~ and a ~~financial loss year~~ thereafter, in relation to ~~disposed assets~~, the sum of the value of all ~~UFB assets~~ that were sold, transferred, or irrecoverably removed from the ~~regulated provider's~~ possession without consent during the ~~financial loss year~~.

2.2.42.2.5 RAB roll forward of core fibre assets

- (1) 'Unallocated opening RAB value' in respect of a **core fibre asset** in relation to
 - (a) the **disclosure year 2022**, is the **core fibre asset's unallocated initial RAB value**; and

- (b) a **disclosure year** thereafter, is the **core fibre asset's unallocated closing RAB value** in the preceding **disclosure year**.
- (2) 'Unallocated closing RAB value' in respect of a **core fibre asset** means, in the case of-
- (a) a **disposed asset**, nil;
 - (b) a **core fibre asset** with a **commissioning date** in the **disclosure year** in question, its **value of commissioned asset**; and
 - (c) any other **core fibre asset** with an **unallocated opening RAB value**, the value determined in accordance with the formula-

$$\textit{unallocated opening RAB value} - \textit{unallocated depreciation} + \textit{unallocated revaluation}.$$
- (3) 'Opening RAB value' in respect of a **core fibre asset** in relation to-
- (a) the **disclosure year 2022**, is the **core fibre asset's initial RAB value**; and
 - (b) a **disclosure year** thereafter, is the **core fibre asset's closing RAB value** in the preceding **disclosure year**.
- (4) 'Closing RAB value', in respect of a **core fibre asset**, is the value allocated to **regulated FFLAS** as a result of-
- (a) adopting the **core fibre asset's unallocated closing RAB value**; and
 - (b) applying:
 - (i) in respect of actual values, clause 2.1.1 and either 2.1.3 or 2.1.4 (whichever the case may require) to the core fibre asset; and
 - ~~(ii) in respect of forecast values, clause 3.2.1.~~
- ~~(5) 'Closing RAB value', in respect of a **partly deregulated asset**, is the value specified in subclause (4).~~

2.2.52.2.6 RAB roll forward of financial loss asset

- (1) 'Opening RAB value' in respect of the **financial loss asset** in relation to-
- (a) the **disclosure year 2022**, is the initial RAB value of the financial loss asset's initial RAB value; and
 - (b) a **disclosure year** thereafter, is the **financial loss asset's closing RAB value** in the preceding **disclosure year** multiplied by less the values resulting from the (1 - deregulation adjustment for the preceding disclosure year - and the sale adjustment for the preceding disclosure year).
- (2) 'Closing RAB value' in respect of the **financial loss asset** means the value determined in accordance with the formula-

$$\textit{opening RAB value} - \textit{depreciation} + \textit{revaluation}$$

~~(3)~~ For the purposes of subclause (1), the value of the **financial loss asset** must be adjusted commensurate with the value of a 'deregulation adjustment', where a The 'deregulation adjustment' in subclause (1):

- (a) is in respect of the **ID RAB**, nil, where no service has been deregulated from information disclosure regulation in regulations made under s 226 of the **Act** in a **disclosure year**;
- (b) is in respect of the **PQ RAB**, nil where no service has been deregulated from price-quality regulation in regulations made under s 226 of the **Act** in a **disclosure year**;
- ~~(a)~~(c) is in respect of the **ID RAB**, must be calculated in accordance with the following formula where a service has been deregulated from information disclosure regulation in regulations made under s 226 of the **Act** in a **disclosure year**-

$$\frac{DAVsum}{CVICFAB}$$

where:

- DAVsum* is the sum of all **deregulated asset values** and **partly deregulated shared asset values** for the **disclosure year**, as determined by the **Commission** following deregulation of a service from information disclosure regulation in regulations made under s 226 of the Act; and
- CVICFAB* is the **current value of initial core fibre asset base**; and-

- (d) is in respect of the **PQ RAB**, calculated in accordance with the following formula where a service has been deregulated from price-quality regulation in regulations made under s 226 of the **Act** in a **disclosure year**-

$$\frac{DAVsum}{CVICFAB}$$

where:

- DAVsum* is the sum of all **deregulated asset values** and **deregulated shared asset values** for the **disclosure year**, as determined by the **Commission** following deregulation of a service from price-quality regulation in regulations made under s 226 of the **Act**; and
- CVICFAB* is the **current value of initial core fibre asset base**.

~~(3)~~(4) For the purposes of subclause (1), the value of the **financial loss asset** must be adjusted commensurate with the value of a 'sale adjustment', where a The 'sale

adjustment' in subclause (1) must be calculated in respect of a financial loss asset for a disclosure year in accordance with the formula-

$$\frac{SAVsum}{CVICFAB}$$

where:

SAVsum is the sum of all sale adjustment values for the disclosure year for sold assets; and

CVICFAB is the current value of initial core fibre asset base.

~~(4)~~(5) For the purpose of subclause (4), where the purchaser is a regulated provider or Part 4 regulated supplier, it may adjust the value of its regulatory asset base commensurate with the adjustment made to the seller's financial loss asset.

~~(5)~~(6) 'Sale adjustment value' means the opening RAB value for the asset in the disclosure year in which the asset was sold.

~~(6)~~(7) 'Current value of initial core fibre asset base' means the amount determined in accordance with the formula:

initial value of core fibre asset base

– the sum of depreciation for all current UFB-related core fibre assets since the implementation date

+ the sum of revaluations for all current UFB-related core fibre assets since the implementation date

– the sum of the value for all disposed assets that were UFB-related core fibre assets since the implementation date

– the sum of all deregulated asset values and partly-deregulated shared asset values since the implementation date.

(8) 'Initial value of core fibre asset base' means the sum of the initial RAB values for each UFB-related core fibre asset in the initial RAB.

(9) 'Deregulated asset' means:

(a) for the purposes of the ID RAB, an asset, being an asset that:

(i) immediately prior to regulations made under s 226 of the Act was a core fibre asset employed in the provision of ID FFLAS; and

(ii) immediately after those regulations ceased to be a core fibre asset employed in the provision of ID FFLAS; and

(b) for the purposes of the PQ RAB, an asset, being an asset that:

(i) immediately prior to regulations made under s 226 of the Act was a core fibre asset employed in the provision of PQ FFLAS; and

(ii) immediately after those regulations ceased to be a core fibre asset employed in the provision of PQ FFLAS.

(10) 'Deregulated asset value' means, in respect of a **deregulated asset** that was a **UFB-related core fibre asset**, the value of that asset immediately prior to it becoming a **deregulated asset**.

(11) 'Deregulated shared asset' means:

- (a) for the purposes of the **ID RAB**, a **core fibre asset** with an **asset value** that is not **directly attributable** to the provision of **regulated FFLAS**, where either:

 - (i) a service for which that **core fibre asset** is **employed** is no longer subject to information disclosure regulation in regulations made under s 226 of the **Act**; or
 - (ii) the circumstances in which a service which that **core fibre asset** has been **employed** in supplying is no longer subject to information disclosure regulation in regulations made under s 226 of the **Act**; and

- (b) for the purposes of the **PQ RAB**, a **core fibre asset** with an **asset value** that is not **directly attributable** to the provision of **regulated FFLAS**, where either:

 - (i) a service for which that **core fibre asset** is **employed** is no longer subject to price-quality regulation in regulations made under s 226 of the **Act**; or
 - (ii) the circumstances in which a service which that **core fibre asset** has been **employed** in supplying is no longer subject to price-quality regulation in regulations made under s 226 of the **Act**.

(12) 'Deregulated shared asset value' means in respect of a **deregulated shared asset** that is a **UFB-related core fibre asset**, the value of that asset calculated in accordance with the following formula:

$$\text{deregulated shared asset value} = a - b$$

where:

a = the **closing RAB value before deregulation impact** of that asset for the most recent **disclosure year**;

b = the **closing RAB value** of that asset for the most recent **disclosure year** in which any of the following occurred:

- (a) a service for which that asset is **employed** is no longer subject to information disclosure regulation in regulations made under s 226 of the **Act**;
- (b) the circumstances in which a service which that asset has been **employed** in supplying is no longer subject to information disclosure regulation in regulations made under s 226 of the **Act**;

- (c) a service for which that asset is **employed** is no longer subject to price-quality regulation in regulations made under s 226 of the **Act**; or
- (d) the circumstances in which a service which that asset has been **employed** in supplying is no longer subject to price-quality regulation in regulations made under s 226 of the **Act**.

(13) 'Closing RAB value before deregulation impact' means:

- (a) for the purposes of the **ID RAB**, in respect of a **deregulated shared asset** that is a **UFB-related core fibre asset**, its **closing RAB value** for the most recent **disclosure year** as if no service had been deregulated from information disclosure regulation in regulations made under s 226 of the **Act** in that **disclosure year**; and
- (b) for the purposes of the **PQ RAB**, in respect of a **deregulated shared asset** that is a **UFB-related core fibre asset**, its **closing RAB value** for the most recent **disclosure year** as if no service had been deregulated from price-quality regulation in regulations made under s 226 of the **Act** in that **disclosure year**.

2.2.62.2.7 Depreciation for regulated providers subject only to information disclosure regulation

- (1) **Regulated providers** subject only to information disclosure regulation in regulations made under s 226 of the **Act** must apply a depreciation method consistent with the expected time profile of revenue recovery it applies for the disclosure year at the time of a disclosure.
- (2) For the purpose of subclause (1), and subject to clause 2.2.98, in the case of a **fibre asset** with an **unallocated opening RAB value**, 'unallocated depreciation' must be determined consistently with the expected time profile of revenue recovery that the **regulated provider** applies for the disclosure year at the time of a disclosure in accordance with an **ID determination**, which may be either and use:
 - (a) a depreciation method consistent with **GAAP**; or
 - (b) any other alternative method.
- (3) For the purpose of subclause (1), in the case of a **fibre asset** with an **opening RAB value**, 'depreciation' must be determined consistently with the expected time profile of revenue recovery that the **regulated provider** applies for the disclosure year at the time of a disclosure, which may be either and use:
 - (a) a depreciation method consistent with **GAAP**; or
 - (b) any other alternative method.
- (4) For the purposes of subclauses (2) and (3)-
 - (a) 'unallocated depreciation' and 'depreciation' are nil in the case of-

- (i) **land**; and
- (ii) an **easement** other than a **fixed life easement**; and
- (b) in all other cases, where the **fibre asset's remaining asset life** at the end of the **disclosure year** is nil-
 - (i) 'unallocated depreciation' is the **fibre asset's unallocated opening RAB value**; and
 - (ii) 'depreciation' is the **fibre asset's opening RAB value**.

2.2.72.2.8 Depreciation for regulated fibre service providers subject to both information disclosure regulation and price-quality regulation

- (1) Subject to subclause (4), in respect of regulated fibre service providers subject to both information disclosure regulation and price-quality regulation in regulations made under s 226 of the **Act**, 'unallocated depreciation' and 'depreciation' are determined in accordance with subclauses (2)-(3).
- (2) For the purpose of subclause (1), in the case of a **fibre asset** with an **unallocated opening RAB value**, a **regulated fibre service provider** must determine 'unallocated depreciation' using a depreciation method consistent with **GAAP**, unless:
 - (a) an alternative depreciation method is applied for some or all **fibre assets** in accordance with clause 3.23.2(5); or
 - (b) a different depreciation method is applied for some or all **fibre assets** in accordance with clause 3.32.2(6).
- (3) For the purpose of subclause (1), in the case of a **fibre asset** with an **opening RAB value**, a **regulated fibre service provider** must determine 'depreciation' using a depreciation method consistent with **GAAP**, unless:
 - (a) an alternative depreciation method is applied for some or all **fibre assets** in accordance with clause 3.32.2(5); or
 - (b) a different depreciation method is applied for some or all **fibre assets** in accordance with clause 3.32.2(6).
- (4) Where a regulated fibre service provider subject to both information disclosure regulation and price-quality regulation in regulations made under s 226 of the Act provides ID-only FFLAS, it must apply a depreciation method for that ID-only FFLAS consistent with the expected time profile of revenue recovery it applies for the disclosure year.
- (5) For the purpose of subclause (4), and subject to clause 2.2.9, in respect of fibre assets that are employed in the provision of ID-only FFLAS, where one of those fibre assets has an unallocated opening RAB value, 'unallocated depreciation' in respect of that ID-only FFLAS must be determined consistently with the expected time profile of revenue recovery that the regulated provider applies for the disclosure year in accordance with an ID determination, and use:

- (a) a depreciation method consistent with GAAP; or
- (b) any other method.

(6) For the purpose of subclause (4), and subject to clause 2.2.9, in respect of **fibre assets** that are **employed** in the provision of **ID-only FFLAS**, where one of those **fibre assets** has an **opening RAB value**, 'depreciation' in respect of that **ID-only FFLAS** must be determined consistently with the expected time profile of revenue recovery that the **regulated provider** applies for the **disclosure year** in accordance with an **ID determination**, and use:

- (a) a depreciation method consistent with GAAP; or
- (b) any other method.

~~(4)~~(7) For the purposes of subclauses (2), ~~and (3)~~, ~~(5)~~, and ~~(6)~~-

- (a) 'unallocated depreciation' and 'depreciation' are nil in the case of-
 - (i) **land**; and
 - (ii) an **easement** other than a **fixed life easement**; and
- (b) in all other cases, where the **fibre asset's remaining asset life** at the end of the **disclosure year** is nil-
 - (i) 'unallocated depreciation' is the **fibre asset's unallocated opening RAB value**; and
 - (ii) 'depreciation' is the **fibre asset's opening RAB value**.

(8) Subject to clause (4), a **regulated fibre service provider** subject to both information disclosure regulation and price-quality regulation in regulations made under s 226 of the **Act** must apply the following depreciation methods applicable for the current regulatory period in a PQ determination when disclosing information in accordance with an **ID determination**; ~~for that regulatory period.~~

- (a) for the final disclosure year in a regulatory period, the depreciation method applicable for that regulatory period under a PQ determination;
and
- ~~(c)~~(b) for any other disclosure year in a regulatory period, the depreciation method applicable to the corresponding regulatory period under a PQ determination.

2.2.82.2.9 Unallocated depreciation constraint

- (1) For the purposes of clause 2.2.~~76~~(1) and 2.2.8(4), the sum of **unallocated depreciation** calculated for a **fibre asset** over its **asset life** must not exceed the sum of-
 - (a) all **unallocated revaluations** applying to that asset in all **disclosure years**;
and

- (b) in the case of a **fibre asset**-
 - (i) in anthe **initial RAB**, the **fibre asset's unallocated initial RAB value**;
or
 - (ii) not in anthe **initial RAB**, the **fibre asset's value of commissioned asset**,

less-

- (c) the **fibre asset's unallocated opening RAB value** in the **disclosure year** in which it becomes a **deregulated asset**.

2.2.92.2.10 Asset life

- (1) 'Asset life' means, in the case of-
 - (a) a **fixed life easement**, the fixed duration or fixed period (as the case may be) referred to in the definition of **fixed life easement**;
 - (b) a **dedicated asset**, the duration of the fixed term agreement for the provision of **regulated FFLAS** between the **regulated provider** and customer;
 - (c) a **right-of-use asset**, its asset life determined under **GAAP**;
 - (d) the financial loss asset, either:
 - (i) the period equivalent to the weighted average life of the UFB-related core fibre assets in an initial RAB as at the implementation date, where the weights used are the initial RAB values of those UFB-related core fibre assets; or
 - (ii) a period adopted by the regulated provider under an alternative method; and
 - ~~(d)~~(e) all other **fibre assets**, the asset life adopted by the **regulated provider** under **GAAP**.

2.2.102.2.11 Revaluation

- (1) Subject to subclause (3), 'unallocated revaluation' in respect of a **fibre asset** is the amount determined in accordance with the formula-

$$\text{unallocated opening RAB value} \times \text{revaluation rate}$$

- (2) Subject to subclause (3), 'revaluation' in respect of a **fibre asset** is the amount determined in accordance with the formula-

$$\text{opening RAB value} \times \text{revaluation rate}$$

(3) For the purposes of subclauses (1) and (2), **unallocated revaluation** and **revaluation** for that **fibre asset** are nil if a fibre asset's asset life at the end of the disclosure year is nil.-

(a) ~~a fibre asset's asset life at the end of the disclosure year is nil; or~~

(b) ~~a core fibre asset is a~~

(i) ~~disposed asset; or~~

(ii) ~~deregulated asset.~~

(4) 'Revaluation rate' means, in respect of a **disclosure year**, the amount determined in accordance with the formula-

$$\left(\frac{CPI_{t4}}{CPI_{t-14}^{-4}} \right) - 1$$

where-

CPI_{t4} means **CPI** for the quarter that coincides with the end of the **disclosure year**; and

CPI_{t-14}^{-4} means **CPI** for the quarter that coincides with the end of the preceding **disclosure year**.

2.2.112.2.12 Revaluation treated as income

(1) For the purposes of determining profitability, **revaluation** must be treated as income.

2.2.122.2.13 Value of commissioned assets

(1) Subject to subclause (32) and (43), 'value of commissioned asset', in relation to a **core fibre asset** ~~or UFB asset~~ with a commissioning date prior to the implementation date (including a **core fibre asset** ~~or UFB asset~~ in respect of which **capital contributions** were received, or a **vested asset**), means-

(a) the cost as of the commissioning date-

(i) incurred by a **regulated provider** under **GAAP** in constructing or acquiring the **core fibre asset** ~~or UFB asset~~, net of **capital contributions**; or

(ii) if **Chorus** owned the **core fibre asset** ~~or UFB asset~~ before 1 December 2011, recorded by **Chorus** for the **core fibre asset** ~~or UFB asset~~ in its published general purpose financial statements as of 1 December 2011; and

(b) adjusting that cost for accumulated depreciation and **impairment losses** (if any) recognised by the **regulated provider** (ignoring any accounting adjustment for **Crown financing**), as at the implementation~~commissioning~~ date, under **GAAP**.

Formatted: Font: Bold

(2) Subject to subclause (3) and (4), 'value of commissioned asset', in relation to a **core fibre asset** with a **commissioning date** on or after the **implementation date** (including a **core fibre asset** in respect of which **capital contributions** were received, or a **vested asset**), means-

- (a) the cost as of the **commissioning date**-
 - (i) incurred by a **regulated provider** under **GAAP** in constructing or acquiring the **core fibre asset**, net of **capital contributions**; or
 - (ii) if **Chorus** owned the **core fibre asset** before 1 December 2011, recorded by **Chorus** for the **core fibre asset** in its published general purpose financial statements as of 1 December 2011; and
- (b) adjusting that cost for accumulated depreciation and **impairment losses** (if any) recognised by the **regulated provider** (ignoring any accounting adjustment for **Crown financing**), as at the **commissioning date**, under **GAAP**.

~~(2)~~(3) For the purposes of subclauses ~~(1)~~-(2), the **value of commissioned asset** of-

- (a) an **easement**, is limited to its market value as on its **commissioning date** as determined by a **valuer**;
- (b) **easement land** is nil;
- (c) a **network spare** is nil, where it is not held in accordance with **good telecommunications industry practice**:
 - (i) — which is not required, in light of the historical reliability and number of the **core fibre assets** or **UFB assets** the **network spare** is held to replace, is nil;
- ~~(c)~~(d) a **network spare** whose cost is not treated wholly as or part of the cost of a **core fibre asset** or **UFB asset** under **GAAP**, is nil;
- ~~(d)~~(e) a **core fibre asset** acquired from another **regulated provider** and **employed** by that **regulated provider** in the provision of **regulated FFLAS**, is limited to the **unallocated closing RAB value** of the **core fibre asset** that would have applied for the other **regulated provider** in the **disclosure year** when the **core fibre asset** was transferred;
- ~~(e)~~ a **UFB asset** acquired from another **regulated provider** and employed by that **regulated provider** in the provision of **UFB FFLAS**, is limited to the **unallocated UFB asset initial value** of the **UFB asset** that would have applied for the other **regulated provider** in the **financial loss year** when the **UFB asset** was transferred;
- (f) a **core fibre asset** or **UFB asset** that was previously **employed** by a **regulated provider** or another entity in the supply of **Part 4 regulated services**, is limited to the 'unallocated opening RAB value' of the **core**

Formatted: Font: Bold

Formatted: Font: Bold

fibre asset or **UFB asset** in relation to those **Part 4 regulated services** as on the day before the **commissioning date** (as 'unallocated opening RAB value' is defined in the **input methodologies** as applying to the supply of **Part 4 regulated services** supplied by the **regulated provider** or other entity);

- (g) a **core fibre asset** or a component of a **core fibre asset** acquired in a **related party transaction**, is the cost specified in clause 2.2.154; and
- ~~(h) a **UFB asset** or a component of a **UFB asset** acquired in a **related party transaction**, is the cost specified in clause 2.2.14; and~~
- ~~(h)~~ a **vested asset**, in respect of which the **vested asset's** fair value is treated as its cost under **GAAP**, must exclude any amount of the fair value of the **vested asset** determined under **GAAP** that exceeds the amount of consideration provided by the **regulated provider**.

~~(3)~~(4) When applying **GAAP** for the purposes of subclauses ~~(1)~~-(2), the cost of financing is-

- (a) applicable only in respect of the period commencing on the date an asset becomes a **works under construction** and terminating on its **commissioning date**; and
- (b) for each applicable disclosure year, calculated using a rate not greater than the **regulated provider's** weighted average of borrowing costs for each applicable **disclosure year** ~~and financial loss year~~.

~~(4)~~(5) For the purposes of subclause ~~(4)~~(b), the 'weighted average of borrowing costs' is calculated for a **disclosure year** ~~and financial loss year~~ using principles set out in **GAAP**, where:

- (a) the cost of financing rate is the weighted average of the costs applicable to borrowings in respect of **capital expenditure** that are outstanding during the **disclosure year** ~~or financial loss year~~;
- (b) the total costs applicable to borrowings outstanding, as used in calculating the weighted average, must include costs of borrowings made specifically for the purpose of any particular **capital expenditure projects** or **capital expenditure programmes**;
- (c) the amount of borrowing costs capitalised during the **disclosure year** ~~or financial loss year~~ must not exceed the amount of borrowing costs incurred during the **disclosure year** ~~or financial loss year~~;
- (d) if a **regulated provider** receives a **capital contribution**, the relevant asset becomes **works under construction** for the purposes of calculating the cost of financing;
- (e) subject to paragraph (i), a **capital contribution** will reduce the cost of **works under construction** for the purpose of the calculation of the

- finance cost, even if the resulting value of **works under construction** is negative;
- (f) subject to paragraph (g), if the value of **works under construction** is negative in accordance with paragraph (e), the cost of financing for the period ending on the **commissioning date** will be negative;
 - (g) if the cost of financing an asset which is **works under construction** is negative under paragraph (f), the value of the relevant asset or assets will reduce by that negative amount if such a reduction is not otherwise made under **GAAP**;
 - (h) for the purpose of paragraph (d), **works under construction** includes assets that are forecast to be enhanced or acquired; and
 - (i) if the cost of financing is derived as income in relation to **works under construction** and is both negative and included in regulatory income under an **ID determination**, the value of the relevant asset or assets will not reduce if such a reduction is not otherwise made under **GAAP**.

~~(5)~~(6) For the avoidance of doubt-

- (a) revenue derived in relation to **works under construction** that is not included in regulatory income under an **ID determination** or preceding regulatory information disclosure requirements reduces the cost of an asset by the amount of the revenue if such a reduction is not otherwise made under **GAAP**; and
- (b) if, after a **core fibre asset** ~~or UFB asset~~ is commissioned, a **regulated provider** incurs expenditure on the **core fibre asset** ~~or UFB asset~~ that forms part of the cost of that **core fibre asset** ~~or UFB asset~~ under **GAAP**, such expenditure is treated as relating to a separate asset.

~~2.2.13~~ 2.14 Minimum levels of specificity required to describe assets in RAB

(1) A **regulated provider** must ensure it maintains adequate records, recording the regulatory characteristics of assets that make up the **fibre assets** in ~~an~~the **initial RAB** and any subsequent **closing RAB value** and **opening RAB value**, to satisfy the following minimum levels of specificity-

- (a) in respect of the financial loss period:
 - (i) the level of specificity required under GAAP; and
 - (ii) with such additional records as are necessary to satisfy the minimum level of asset specificity consistent with good telecommunications industry practice;

~~(a)~~(b) on or after the implementation date, as set out in Table A.1 of Schedule A.

2.2.142.2.15 Related party transactions

- (1) For the purposes of clause 2.2.132(32)(gh), the cost of a **core fibre asset**, or a component of a **core fibre asset**, acquired in a **related party transaction**, must be determined on the basis that—
 - (a) it must be given a value not greater than if that transaction had the terms of an **arm's-length transaction**;
 - (b) an objective and independent measure must be used in determining the terms of an **arm's-length transaction**; and
 - (c) the value that qualifies for recognition as the cost of the **core fibre asset** or the component of a **core fibre asset** must not exceed the actual amount charged to the **regulated provider** by the **related party**.
- (2) For the purpose of subclause (1)(a), a **related party transaction** will be treated as if it had the terms of an **arm's-length transaction** if the **core fibre asset**, or component of the **core fibre asset**, acquired from a **related party** is valued at the cost incurred by the **related party**, provided that this is—
 - (a) fair and reasonable to the **regulated provider**; and
 - (b) substantially the same as the cost that has been incurred or would be incurred by the **related party** in providing the same type of **core fibre asset** to third parties.
- ~~(3) For the purposes of clause 2.2.12(2)(i), the cost of a **UFB asset**, or a component of a **UFB asset**, acquired in a **related party transaction**, must be determined on the basis that—~~
 - ~~(a) it must be given a value not greater than if that transaction had the terms of an **arm's-length transaction**;~~
 - ~~(b) an objective and independent measure must be used in determining the terms of an **arm's-length transaction**; and~~
 - ~~(c) the value that qualifies for recognition as the cost of the **UFB asset** or the component of a **UFB asset** must not exceed the actual amount charged to the **regulated provider** by the **related party**.~~
- ~~(4) For the purpose of subclause (3)(a), a **related party transaction** will be treated as if it had the terms of an **arm's-length transaction** if the **UFB asset**, or component of the **UFB asset**, acquired from a **related party** is valued at the cost incurred by the **related party**, provided that this is—~~
 - ~~(a) fair and reasonable to the **regulated provider**; and~~
 - ~~(b) substantially the same as the cost that has been incurred or would be incurred by the **related party** in providing the same type of **UFB asset** to third parties.~~

SUBPART 3 Taxation

2.3.1 Regulatory tax allowance

- (1) Regulatory tax allowance is, where **regulatory net taxable income** is-
 - (a) nil or a positive number, the **tax effect** of **regulatory net taxable income**;
and
 - (b) a negative number, nil.
- (2) 'Regulatory net taxable income' is **regulatory taxable income** less **utilised tax losses**.
- (3) Subject to subclause (4), 'regulatory taxable income' is the amount determined after applying the **tax rules**, excluding the **tax rules** that apply to the effect of any tax losses, to **regulatory profit / (loss) before tax**.
- (4) For the purposes of determining **regulatory taxable income**, if the **tax rules** allow for a choice of methods in calculating taxable income, the same method as that elected to be used by the **regulated provider** must also be used to determine the **regulatory taxable income**.
- (5) 'Regulatory profit / (loss) before tax' means the amount of regulatory profit / (loss) before tax as determined in accordance with an **ID determination**.
- (6) For the purpose of subclause (3), in applying the **tax rules** in respect of particular items of income and expenses included in **regulatory profit / (loss) before tax**-
 - (a) in respect of fibre assets, any tax deduction for interest incurred in relation to debt must be substituted with a tax deduction for **notional deductible interest**;
 - (b) any tax deduction for depreciation is only available in respect of a **fibre asset or UFB asset** and must be calculated by applying the **tax depreciation rules** to the **regulatory tax asset value** of the **fibre asset or UFB asset** in question; and
 - (c) the following must be ignored:
 - (i) any **revaluation** included in **regulatory profit / (loss) before tax**;
and
 - (ii) the effect of any tax losses (other than those produced from the provision of **regulated FFLAS in respect of fibre assets and the provision of UFB FFLAS in respect of UFB assets**) made by a **regulated provider**.
- (7) 'Notional deductible interest' means the value determined in accordance with the following formula:

$$\frac{\text{sum of all opening RAB values} - \text{Crown financing outstanding}}{\text{leverage} \times \text{cost of debt}}$$

where:

“Crown financing outstanding” is the amount of **Crown financing** outstanding as of the last day of the preceding disclosure year.-

for the purpose of clause 2.3.4(1), the product of multiplying the ~~adjusted UFB asset initial values~~ by both ~~leverage~~ and the ~~cost of debt~~, minus the ~~avoided financing cost building block~~; and

~~(d)~~ in all other instances, the product of multiplying the sum of all ~~opening RAB values~~ by both ~~leverage~~ and the ~~cost of debt~~, minus the ~~avoided financing cost building block~~.

2.3.2 Regulatory tax asset value

- (1) ‘Regulatory tax asset value’, in relation to a **fibre asset**, means the value determined in accordance with the formula-

$$\text{tax asset value} \times \text{result of asset allocation ratio}$$

- (2) ‘Tax asset value’ means-

- (a) in respect of the following **fibre assets**, the value of the **fibre asset** determined by applying the **tax depreciation rules** to its **notional tax asset value**:
- (i) a **fibre asset** in ~~an~~the **initial RAB** where, as of the date when the ‘regulatory tax asset value’ is determined at **implementation date**, the sum of **unallocated initial RAB values** is less than the sum of the **adjusted tax values** of all **fibre assets** in ~~an~~the **initial RAB**;
 - ~~(ii)~~ a **fibre asset** in the **initial RAB** where, as of the date when the ‘regulatory tax asset value’ is determined in the **financial loss period**, the **opening UFB asset base value** is less than the sum of the **adjusted tax values** of all **UFB assets** as of that date;
 - ~~(iii)~~(ii) a **fibre asset** acquired from a **regulated provider** who used it to provide **regulated FFLAS**;
 - ~~(iv)~~(iii) a **fibre asset** acquired from a **Part 4 regulated supplier** who used it to supply **Part 4 regulated services**;
 - ~~(v)~~(iv) a **core fibre asset** acquired or transferred from a **related party**; and
- (b) in respect of any other **fibre asset**, its **adjusted tax value**.

- (3) ‘Notional tax asset value’ means-

- (a) for the purpose of subclause (2)(a)(i), **adjusted tax value** of the **fibre asset** as of the **implementation date** adjusted to account proportionately for the difference between:

- (i) the sum of the **unallocated initial RAB values** for all **core fibre assets** and the **opening RAB value** of the **financial loss asset**; and
- (ii) sum of the **adjusted tax values** of all **fibre assets** in ~~an~~ **the initial RAB**;

~~(b)~~ for the purpose of subclause (2)(a)(ii), **adjusted tax value** of the **UFB asset** as of the date when the 'regulatory tax asset value' is determined, adjusted to account proportionately for the difference between the **opening UFB asset base value** as of that date and the sum of the **adjusted tax values** of all **UFB assets** in the **opening UFB asset base value** as of that date;

~~(c)~~(b) for the purpose of subclause (2)(a)(iii), value after applying the **tax depreciation rules** to the 'tax asset value' in respect of the **regulated provider** from which the **fibre asset** was acquired in respect of the **disclosure year** in which the **fibre asset** was acquired;

~~(d)~~(c) for the purpose of subclause (2)(a)(iii), value after applying the **tax depreciation rules** to the tax asset value (as 'tax asset value' is defined in the **input methodologies** applying to the **Part 4 regulated service** in question) in respect of the **disclosure year** in which the **fibre asset** was acquired; and

~~(e)~~(d) for the purpose of subclause (2)(a)(iv), value in respect of the **disclosure year** in which the **core fibre asset** was acquired or transferred that is-

- (i) consistent with the **tax rules**; and
- (ii) limited to its **value of commissioned asset** or, if relevant **capital contributions** are treated for tax purposes in accordance with section CG 8 of the Income Tax Act 2007 (or subsequent equivalent provisions), limited to the **value of commissioned asset** plus any taxed **capital contributions** applicable to the **core fibre asset** and does not include any **Crown financing**.

(4) Where 'regulatory tax asset value' is determined at **implementation date** or thereafter, 'result of asset allocation ratio' means-

- (a) where a **core fibre asset** or group of **core fibre assets** maintained under the **tax rules** has a matching **core fibre asset** or group of **core fibre assets** maintained for the purposes of an **ID determination**, the value obtained in accordance with the formula-

$$\frac{\textit{opening RAB value or sum of opening RAB values}}{\textit{unallocated opening RAB value or sum of unallocated opening RAB values}}$$

applying the formula in respect of the **core fibre asset** or smallest group of **core fibre assets** maintained for the purposes of an **ID determination**

that has a matching core fibre asset or group of core fibre assets maintained under the tax rules; and

(b) where a core fibre asset or group of core fibre assets maintained under the tax rules does not have a matching core fibre asset or group of core fibre assets maintained for the purposes of an ID determination, the value of the core fibre asset allocated to the provision of regulated FFLAS were Subpart 12 to apply to the core fibre asset or group of fibre assets; and

~~(b)(c)~~ in respect of the financial loss asset, nil.

(5) Where 'regulatory tax asset value' is determined in the financial loss period, 'result of asset allocation ratio' means-

(a) where a UFB asset or group of UFB assets maintained under the tax rules has a matching UFB asset or group of UFB assets maintained for the purposes of an ID determination, the value obtained in accordance with the formula-

$$\frac{\text{UFB asset initial value or sum of UFB asset initial values}}{\text{unallocated UFB asset initial value or sum of unallocated UFB asset initial values}}$$

applying the formula in respect of the UFB asset or smallest group of UFB assets maintained for the purposes of an ID determination that has a matching UFB asset or group of UFB assets maintained under the tax rules; and

(b) where a UFB asset or group of UFB assets maintained under the tax rules does not have a matching UFB asset or group of UFB assets maintained for the purposes of an ID determination, the value of the UFB asset allocated to the provision of UFB FFLAS were Subpart 2 to apply to the UFB asset or group of UFB assets.

(6) 'Opening UFB asset base value' means the sum of the initial value of all UFB assets employed to provide UFB FFLAS for the financial loss year to date, where the initial value of a UFB asset is calculated by taking the cost-

(a) incurred by a regulated provider in constructing or acquiring the UFB asset, net of capital contributions; or

(b) if the UFB asset was owned by Chorus before 1 December 2011, recorded by Chorus for the UFB asset in its published general purpose financial statements as of 1 December 2011.

2.3.3 Tax losses

(1) 'Utilised tax losses' means opening tax losses, subject to subclause (2).

(2) For the purpose of subclause (1), utilised tax losses may not exceed **regulatory taxable income**.

(3) In this clause, 'opening tax losses'-

~~(a) — on 1 December 2011, are nil;~~

~~(b)(a)~~ for **disclosure year 2012**, are UFB closing tax losses as determined under clause 1.1.9(3)(c) of Schedule B on the last day of **financial loss disclosure year 2012**; and

~~(c)(b)~~ for a **disclosure year** that commenced after **disclosure year 2012**, are closing tax losses for the preceding **disclosure year**.

(4) For the purpose of subclauses (3)(~~ab~~)-(be), 'closing tax losses' means the amount determined in accordance with the following formula, in which each term is an absolute value:

$$\text{opening tax losses} + \text{current period tax losses} - \text{utilised tax losses}$$

(5) For the purpose of subclause (4), 'current period tax losses' is, where **regulatory taxable income** is-

(a) nil or a positive number, nil; and

(b) a negative number, **regulatory taxable income**.

2.3.4—Tax costs for determining the unrecovered returns on investment

~~(1) — Subject to subclause (2), 'tax costs' means, for a **financial loss year** (or part **financial loss year**), the amount determined after applying the **tax rules** regarding the determination of taxable income, excluding the **tax rules** that apply to the effect of any tax losses, to **UFB revenues**, minus depreciation under **GAAP**, **operating expenditure** and **notional deductible interest**.~~

~~(2) — For the purposes of determining the 'tax costs', if the **tax rules** allow for a choice of methods in calculating taxable income, the same methods used by the **regulated provider** must be used to determine the 'tax costs'.~~

~~(3) — 'Adjusted UFB asset initial values' means:~~

~~(a) — for **financial loss year 2012**, nil;~~

~~for a **financial loss year** (or **part financial loss year**) thereafter, the amount calculated in accordance with the following formula:~~

~~**opening UFB asset base value** calculated for that **financial loss year** in accordance with clause 2.2.3(27)~~

~~**-opening balance of unrecovered returns on investment for notional deductible interest.**~~

~~(4) — 'Opening balance of unrecovered returns on investment for notional deductible interest' means:~~

- ~~(a) for financial loss year 2012, nil;~~
- ~~(b) for financial loss year 2013, unrecovered returns on investment for financial loss year 2012;~~
- ~~(c) for a financial loss year thereafter, the closing balance of unrecovered returns on investment for notional deductible interest for the previous financial loss year.~~

~~(5) 'Closing balance of unrecovered returns on investment for notional deductible interest' means the amount calculated in accordance with the following formula:~~

~~opening balance of unrecovered returns on investment for notional deductible interest for the financial loss year
 + an adjustment for the accumulated depreciation and impairment losses (if any) that would be recognised by the regulated provider (ignoring any Crown financing) as at the first day of the financial loss year) under GAAP, were the "opening balance of unrecovered returns on investment for notional deductible interest" value recognised under GAAP
 + unrecovered returns on investment for the financial loss year.~~

SUBPART 4 Cost of capital

2.4.1 Methodology for estimating the weighted average cost of capital

- (1) The **Commission** will determine a mid-point estimate of vanilla **WACC** for each **disclosure year**-
- (a) in respect of the **regulatory period term** commencing on the first day of the **disclosure year** in question;
 - (b) within 1 month of the start of the **disclosure year** in question; and
 - (c) in accordance with the formula-

$$r_d L + r_e(1 - L).$$

- (2) The **Commission** will determine a mid-point estimate of post-tax **WACC** for each **disclosure year**-
- (a) in respect of the **regulatory period term** commencing on the first day of the **disclosure year** in question;
 - (b) within 1 month of the start of the **disclosure year** in question; and
 - (c) in accordance with the formula-

$$r_d (1 - T_c)L + r_e (1 - L).$$

- (3) In this clause-

L is leverage;

r_d is the cost of debt and is estimated in accordance with the formula:

Formatted: Font: Not Bold

$r_f + p + d$;

r_e is the cost of equity and is estimated in accordance with the formula:

$r_f(1 - T_i) + \beta_e TAMRP$;

T_c is the average corporate tax rate;

r_f is the risk-free rate;

p is the **average debt premium**;

d is the debt issuance costs;

T_i is the average investor tax rate;

β_e is the equity beta; and

$TAMRP$ is the tax-adjusted market risk premium.

(4) For the purpose of this clause-

- (a) the average investor tax rate, the equity beta, the debt issuance costs, the leverage, the average **corporate tax rate** and the tax-adjusted market risk premium are the amounts specified in or determined in accordance with clause 2.4.2; and
- (b) the risk-free rate must be estimated in accordance with clause 2.4.3.

2.4.2 Fixed WACC parameters

(1) 'Leverage' means the ratio of debt capital to total capital and is 31%.

(1)(2) 'Average investor tax rate' is the average of the investor tax rates that, as at the date that the estimation is made, will apply to each of the **disclosure years** in the **regulatory period term** commencing on the first day of the **disclosure year** in question.

(2)(3) For the purpose of subclause (2), 'investor tax rate' is, for each **disclosure year**, the maximum **prescribed investor rate** applicable at the start of that **disclosure year** to an individual who is-

- (a) a resident in New Zealand; and
- (b) an investor in a **multi-rate PIE**.

(3)(4) The 'average corporate tax rate' is the average of the **corporate tax rates** that, as at the date that the estimation is made, will apply during the **regulatory period term** commencing on the first day of the **disclosure year** in question.

(4)(5) The 'Equity beta' is 0.71.

(5)(6) 'Debt issuance costs' are costs associated with the issuance of debt by a regulated provider and are determined by the term of the **regulatory period**, where-

- (a) for a five year **regulatory period**, this is 0.2%;
- (b) for a four year **regulatory period**, this is 0.25%; and

Formatted: Font: Not Bold

Formatted: Font: Not Bold

- (c) for a three year **regulatory period**, this is 0.33%.

~~(6)~~(7) 'Tax-adjusted market risk premium' is 7.5%.

2.4.3 Methodology for estimating risk-free rate

- (1) The **Commission** will estimate a risk-free rate-
 - (a) for each **disclosure year**; and
 - (b) within 1 month of the start of the **disclosure year** in question,by-
 - (c) obtaining, for notional benchmark New Zealand government New Zealand dollar denominated nominal bonds, the wholesale market linearly-interpolated bid yield to maturity for a residual period to maturity equal to the **regulatory period term** on each **business day** in the 3 months preceding the start of the **disclosure year**;
 - (d) calculating the annualised interpolated bid yield to maturity for each **business day**; and
 - (e) calculating the unweighted arithmetic average of the daily annualised interpolated bid yields to maturity.

2.4.4 Methodology for estimating average debt premium

- (1) The **Commission** will determine an estimate of an amount for the **average debt premium**-
 - (a) for each **disclosure year**; and
 - (b) within 1 month of each **disclosure year**.
- (2) For the purpose of subclause (1), 'average debt premium' means the unweighted arithmetic average of the five **debt premium** values estimated in accordance with subclauses (4) and (5) for:
 - (a) the current **debt premium reference year**; and
 - (b) the four previous **debt premium reference years**.
- (3) For the purpose of subclause (2)(a), 'current debt premium reference year' refers to the **debt premium reference year** that contains the start of the **disclosure year**.
- (4) 'Debt premium' means the spread between-
 - (a) the bid yield to maturity on **vanilla NZ\$ denominated bonds** that-
 - (i) are issued by a **regulated fibre service provider**;
 - (ii) are publicly traded;
 - (iii) have a **qualifying rating** of grade BBB+; and
 - (iv) have a remaining term to maturity of 5 years; and

- (b) the contemporaneous interpolated bid yield to maturity of notional benchmark New Zealand government New Zealand dollar denominated nominal bonds having a remaining term to maturity of 5 years.
- (5) For the purpose of subclause (2), the amount of the **debt premium** will be estimated by-
- (a) identifying publicly traded **vanilla NZ\$ denominated bonds** issued by a **qualifying issuer** that are-
 - (i) **investment grade credit rated**; and
 - (ii) of a type described in the paragraphs of subclause (6);
 - (b) for each **business day** in the 12 months preceding the start of the **debt premium reference year**, in respect of each bond identified in accordance with paragraph (a)-
 - (i) obtaining its wholesale market annualised bid yield to maturity;
 - (ii) calculating by linear interpolation with respect to maturity, the contemporaneous wholesale market annualised bid yield to maturity for a notional benchmark New Zealand government New Zealand dollar denominated nominal bond with the same remaining term to maturity; and
 - (iii) calculating its contemporaneous interpolated bid to bid spread over notional benchmark New Zealand government New Zealand dollar denominated nominal bonds with the same remaining term to maturity, by deducting the yield calculated in accordance with sub-paragraph (ii) from the yield obtained in accordance with sub-paragraph (i).
 - (c) calculating, for each bond identified in accordance with paragraph (a), the un-weighted arithmetic average of the daily spreads identified in accordance with paragraph (b)(iii); and
 - (d) subject to subclause (6), estimating, by taking account of the average spreads identified in accordance with paragraph (c) and having regard to the debt premium estimated from applying the **Nelson-Siegel-Svensson approach**, the average spread that would reasonably be expected to apply to a **vanilla NZ\$ denominated bond** that-
 - (i) is issued by a **regulated fibre service provider** that is not 100% owned by:
 - (A) the Crown; or
 - (B) a **local authority**;
 - (ii) is publicly traded;
 - (iii) has a **qualifying rating** of grade BBB+; and

- (iv) has a remaining term to maturity of 5 years.
- (6) For the purpose of subclauses (5)(a) and (5)(d), the **Commission** will have regard, subject to subclause (7), to the spreads observed on the following types of **vanilla NZ\$ denominated bonds** issued by a **qualifying issuer**:
- (a) those that-
 - (i) have a **qualifying rating** of grade BBB+; and
 - (ii) are issued by a **regulated fibre service provider** that is not 100% owned by:
 - (A) the Crown; or
 - (B) a **local authority**;
 - (b) those that-
 - (i) have a **qualifying rating** of grade BBB+; and
 - (ii) are issued by a **telecommunications service provider** other than a **regulated fibre service provider** that is not 100% owned by:
 - (A) the Crown; or
 - (B) a **local authority**;
 - (c) those that-
 - (i) have a **qualifying rating** of grade BBB+; and
 - (ii) are issued by an entity other than a **regulated fibre service provider** or **telecommunications service provider** that is not 100% owned by:
 - (A) the Crown; or
 - (B) a **local authority**;
 - (d) those that-
 - (i) have a **qualifying rating** of a grade different to BBB+; and
 - (ii) are issued by a **regulated fibre service provider** that is not 100% owned by:
 - (A) the Crown; or
 - (B) a **local authority**;
 - (e) those that-
 - (i) have a **qualifying rating** of a grade different to BBB+; and
 - (ii) are issued by an entity other than a **regulated fibre service provider** that is not 100% owned by:
 - (A) the Crown; or
 - (B) a **local authority**; and
 - (f) those that are-

- (i) **investment grade credit rated**; and
- (ii) issued by an entity that is 100% owned by:
 - (A) the Crown; or
 - (B) a **local authority**.

(7) For the purpose of subclause (6)-

- (a) progressively lesser regard will ordinarily be given to the spreads observed on the bond types described in accordance with the order in which the bond types are described in subclause (6);
- (b) the spread on any bond of the type described in subclause (6) that has a remaining term to maturity of less than 5 years will ordinarily be considered to be the minimum spread that would reasonably be expected to apply on an equivalently credit-rated bond issued by the same entity with a remaining term to maturity of 5 years; and
- (c) the **Commission** will adjust spreads observed on bonds described under subclauses (6)(b) to (6)(f) to approximate the spread that is likely to have been observed had the bonds in question been of the type described in subclause (6)(a).

2.4.5 Methodology for estimating the 50th percentile of WACC

- (1) The **Commission** will determine a WACC for each **mid-point estimate of WACC**-
 - (a) for each **disclosure year**; and
 - (b) within 1 month of the start of the **disclosure year** in question.
- (2) For the purpose of subclause (1), the **mid-point estimate of WACC** must be treated as the 50th percentile, where the **standard error** of the relevant **mid-point estimate of WACC** is 0.0124.

2.4.6 Interpretation of terms relating to term credit spread differential

- (1) 'Qualifying debt' means a line of debt-
 - (a) with an original tenor greater than 5 years; and
 - (b) issued by a **qualifying provider**.
- (2) 'Qualifying provider' means a **regulated provider** whose debt portfolio, as at the date of that provider's most recently published audited financial statements, has a weighted average original tenor greater than 5 years.

2.4.7 Term credit spread difference

- (1) 'Term credit spread difference' is determined in accordance with the formula-

$$T \times U,$$

where-

- (a) 'T' is whichever is the lesser of the amount determined in accordance with the formula-
 - (i) $0.00075 \times (\text{original tenor of the } \mathbf{qualifying\ debt} - 5)$; or
 - (ii) 0.00075×5 ;
 - (b) 'U' is the book value in New Zealand dollars of the **qualifying debt** at its date of issue.
- (2) For the purpose of this clause, if the **qualifying debt** is issued to a **related party**, 'original tenor of the **qualifying debt**' means whichever is the shorter of the-
- (a) tenor of the **qualifying debt**; or
 - (b) period from the **qualifying debt**'s date of issue to the earliest date on which its repayment is or may be required.

2.4.8 Methodology for estimating term credit spread differential

- (1) This clause applies to the determination of the amount of any **term credit spread differential** in respect of a **qualifying debt** for the purpose of disclosure under an **ID determination** of a-
- (a) **term credit spread differential allowance**; or
 - (b) **term credit spread differential**.
- (2) Disclosure to which this clause applies may only be made by a **qualifying provider**.
- (3) 'Term credit spread differential' is the amount determined in accordance with the formula-
- $$(A \div B) \times C \times D,$$
- where-
- (a) 'A' is the sum of the **term credit spread difference** and debt issuance cost re-adjustment;
 - (b) 'B' is the book value of the **qualifying provider's** total interest-bearing debt as at the balance date of the provider's financial statements audited and published in the **disclosure year** in question;
 - (c) 'C' is **leverage**; and
 - (d) 'D' is, in relation to the **qualifying provider**, the average of-
 - (i) the sum of **opening RAB values** for all **core fibre assets** and the **opening RAB value** for the **financial loss asset**; and
 - (ii) the sum of **closing RAB values** for all **core fibre assets** and the **closing RAB value** for the **financial loss asset**.
- (4) For the purpose of subclause (3)(a), 'debt issuance cost re-adjustment' is the amount determined in accordance with the formula (which, for the avoidance of doubt, will be a negative number)-

$(0.01 \div \text{original tenor of the qualifying debt} - 0.002) \times \text{book value in New Zealand dollars of the qualifying debt at its date of issue.}$

2.4.9 Publication of estimates

- (1) The **Commission** will publish all determinations and estimates that it is required to make under clauses 2.4.1-2.4.8-
 - (a) on the **Commission's** website; and
 - (b) no later than 1 month after having made them.

Methodology for estimating the weighted average cost of capital for accumulated unrecovered returns

Before the **implementation date**, the **Commission** will determine estimates of vanilla **WACCs** for the purposes of clause 2.2.3 in respect of the **financial loss period**, where the estimates of **30 November 2011 WACC, 30 June 2012 WACC, 30 June 2013 WACC, 30 June 2014 WACC, 30 June 2015 WACC, 30 June 2016 WACC, 30 June 2017 WACC, 30 June 2018 WACC, 30 June 2019 WACC, 30 June 2020 WACC** and **30 June 2021 WACC** are determined in accordance with the formulas specified in subclause (2).

For the purpose of subclause (1), "**30 November 2011 WACC**", "**30 June 2012 WACC**", "**30 June 2013 WACC**", "**30 June 2014 WACC**", "**30 June 2015 WACC**", "**30 June 2016 WACC**", "**30 June 2017 WACC**", "**30 June 2018 WACC**", "**30 June 2019 WACC**", "**30 June 2020 WACC**" and "**30 June 2021 WACC**" are determined in accordance with the formula:

$$r_d \cdot L + r_e(1-L).$$

In this clause-

(2) L is leverage;

r_d is the cost of debt and is estimated in accordance with the formula:

$$r_f + p + d;$$

r_e is the cost of equity and is estimated in accordance with the formula:

$$r_f(1 - T_i) + \beta_e T \text{AMRP};$$

r_f is the risk-free rate;

p is the **debt premium**;

d is the debt issuance costs;

T_i is the investor tax rate;

β_e is the equity beta; and

$T \text{AMRP}$ is the tax-adjusted market risk premium.

For the purpose of this clause-

~~the investor tax rate, the equity beta, the debt issuance costs and the tax-adjusted market risk premium are the amounts specified in or determined in accordance with clause 2.4.11; and
the risk free rate must be estimated in accordance with clause 2.4.12.~~

(3) ~~'Cost of capital' means the value determined under subclauses (1) (4) for the financial loss year, which-~~

- ~~(a) for the financial loss year 2012 is 30 November 2011 WACC;~~
- ~~(b) for the financial loss year 2013 is 30 June 2012 WACC;~~
- ~~(c) for the financial loss year 2014 is 30 June 2013 WACC;~~
- ~~(d) for the financial loss year 2015 is 30 June 2014 WACC;~~
- ~~(e) for the financial loss year 2016 is 30 June 2015 WACC;~~
- ~~(f) for the financial loss year 2017 is 30 June 2016 WACC;~~
- ~~(g) for the financial loss year 2018 is 30 June 2017 WACC;~~
- ~~(h) for the financial loss year 2019 is 30 June 2018 WACC;~~
- ~~(i) for the financial loss year 2020 is 30 June 2019 WACC;~~
- ~~(j) for the financial loss year 2021 is 30 June 2020 WACC; and~~

~~for the financial loss year 2022 is 30 June 2021 WACC.~~

Fixed WACC parameters for accumulated unrecovered returns

~~For the purpose of clause 2.4.10, 'investor tax rate' is, for each financial loss year (or part financial loss year) in the financial loss period, the maximum prescribed investor rate applicable at the start of that financial loss year to an individual who is-~~

- ~~(k) a resident in New Zealand; and~~
- ~~(l) an investor in a multi-rate PIE.~~

~~For the purpose of clause 2.4.10, the 'Equity beta' is 0.71.~~

~~For the purpose of clause 2.4.10, 'debt issuance costs' are 0.2%.~~

~~For the purpose of clause 2.4.10, 'tax-adjusted market risk premium' is:~~

- ~~(m) in respect of the period starting on 1 December 2011 and ending on the last day before the commencement date of this determination as specified in clause 1.1.3, 7.0%; and~~
- ~~in respect of the period starting on the commencement date of this determination as specified in clause 1.1.3 and ending on the close of the day immediately before implementation date, 7.5%.~~

Methodology for estimating risk-free rate for accumulated unrecovered returns

~~For the purpose of clause 2.4.10, the Commission will estimate risk-free rates-~~

that apply to each **financial loss year** of the **financial loss period**; which establish a term of the risk free rate, where:

- (i) — for the ~~30 November 2011 WACC~~, this is 10.1 years;
- (ii) — for the ~~30 June 2012 WACC~~, this is 9.5 years;
- (iii) — for the ~~30 June 2013 WACC~~, this is 8.5 years;
- (iv) — for the ~~30 June 2014 WACC~~, this is 7.5 years;
- (v) — for the ~~30 June 2015 WACC~~, this is 6.5 years;
- (vi) — for the ~~30 June 2016 WACC~~, this is 5.5 years;
- (vii) — for the ~~30 June 2017 WACC~~, this is 4.5 years;
- (viii) — for the ~~30 June 2018 WACC~~, this is 3.5 years;
- (ix) — for the ~~30 June 2019 WACC~~, this is 2.5 years;
- (x) — for the ~~30 June 2020 WACC~~, this is 1.5 years; and
- (xi) — for the ~~30 June 2021 WACC~~, this is 0.5 years;

by obtaining, for notional benchmark New Zealand government New Zealand dollar denominated nominal bonds, the wholesale market linearly-interpolated bid yield to maturity for a residual period to maturity equal to the term specified in paragraph (b) on each **business day** in the 3 months preceding

- (xii) — the start of the **financial loss year**;

by calculating the annualised interpolated bid yield to maturity for each **business day**; and

by calculating the unweighted arithmetic average of the daily annualised interpolated bid yields to maturity.

Methodology for estimating the debt premium for accumulated unrecovered returns

For the purpose of clause 2.4.10, the **Commission** will determine an estimate of an amount for the **debt premium** that applies to the **financial loss period** by-

using the debt risk premium prevailing at the beginning of the year in the **financial loss period** which the median loss occurred; and
establishing a term for the debt risk premium that is the number of years remaining in the **financial loss period**.

‘Debt premium’ means the spread between-

the bid yield to maturity on ~~vanilla NZ\$ denominated bonds~~ that-

- are issued by a **regulated fibre service provider**;
- (xiii) — are publicly traded;
- have a **qualifying rating** of grade BBB+; and
- have a remaining term to maturity of a duration equal to the term calculated in subclause (1)(b); and

the contemporaneous interpolated bid yield to maturity of notional benchmark New Zealand government New Zealand dollar denominated nominal bonds having a remaining term to maturity of a duration equal to the term calculated in subclause (1)(b).

(4) For the purpose of subclause (1), the amount of the debt premium will be estimated by-

(5) identifying publicly traded **vanilla NZ\$ denominated bonds** issued by a **qualifying issuer** that are-

(6) **investment grade credit rated**; and

(7) of a type described in the paragraphs of subclause (4);

(8) in respect of each bond identified in accordance with paragraph (a) obtaining its wholesale market annualised bid yield to maturity;

calculating, by linear interpolation with respect to maturity, the contemporaneous wholesale market annualised bid yield to maturity for a notional benchmark New Zealand government New Zealand dollar denominated nominal bond with the same remaining term to maturity; and

calculating its contemporaneous interpolated bid to bid spread over notional benchmark New Zealand government New Zealand dollar denominated nominal bonds with the same remaining term to maturity, by deducting the yield calculated in accordance with sub-paragraph (ii) from the yield obtained in accordance with sub-paragraph (i),

for each **business day** in the month preceding the start of the year in the **financial loss period** which the median loss occurred;

(a) calculating, for each bond identified in accordance with paragraph (a), the un-weighted arithmetic average of the daily spreads identified in accordance with paragraph (b)(iii); and

(b) subject to subclause (4), estimating, by taking account of the average spreads identified in accordance with paragraph (c) and having regard to the **debt premium** estimated from applying the **Nelson Siegel Svensson approach**, the average spread that would reasonably be expected to apply to a **vanilla NZ\$ denominated bond** that-

(i) is issued by a **regulated fibre service provider** that is not 100% owned by:

(A) the Crown; or

(B) a **local authority**;

(ii) is publicly traded;

(iii) has a **qualifying rating** of grade BBB+; and

has a remaining term to maturity of a duration equal to the term calculated in subclause (1)(b).

(9) For the purpose of subclauses (3)(a) and (3)(d), the **Commission** will have regard, subject to subclause (5), to the spreads observed on the following types of **vanilla NZ\$ denominated bonds** issued by a **qualifying issuer**:

(a) those that

- (i) have a **qualifying rating** of grade BBB+; and
- (ii) are issued by a **regulated fibre service provider** that is not 100% owned by:
 - (A) the Crown; or
 - (B) a **local authority**;

(b) those that

- (i) have a **qualifying rating** of grade BBB+; and
- (ii) are issued by a **telecommunications service provider** other than a **regulated fibre service provider** that is not 100% owned by:
 - (A) the Crown; or
 - (B) a **local authority**;

(c) those that

- (i) have a **qualifying rating** of grade BBB+; and
- (ii) are issued by an entity other than a **regulated fibre service provider** or **telecommunications service provider** that is not 100% owned by:
 - (A) the Crown; or
 - (B) a **local authority**;

(d) those that

- (i) have a **qualifying rating** of a grade different to BBB+; and
- (ii) are issued by a **regulated fibre service provider** that is not 100% owned by:
 - (A) the Crown; or
 - (B) a **local authority**;

(e) those that

- (i) have a **qualifying rating** of a grade different to BBB+; and
- (ii) are issued by an entity other than a **regulated fibre service provider** that is not 100% owned by:
 - (A) the Crown; or
 - (B) a **local authority**; and

- (f) — those that are-
 - (i) — ~~investment grade credit rated~~; and
 - (ii) — issued by an entity that is 100% owned by:
 - (A) — the Crown; or
 - (B) — ~~a local authority~~.

(10) — For the purpose of subclause (4) —

- (a) — progressively lesser regard will ordinarily be given to the spreads observed on the bond types described in accordance with the order in which the bond types are described in subclause (4);
- (b) — the spread on any bond of the type described in subclause (4) that has a remaining term to maturity of less than a duration equal to the term calculated in subclause (1)(b) will ordinarily be considered to be the minimum spread that would reasonably be expected to apply on an equivalently credit-rated bond issued by the same entity with a remaining term to maturity of a duration equal to the term calculated in subclause (1)(b); and

~~the Commission will adjust spreads observed on bonds described under subclauses (4)(b) to (4)(e) to approximate the spread that is likely to have been observed had the bonds in question been of the type described in subclause (4)(a).~~

2.4.10 Annual benefit of Crown financing building block for regulated fibre service providers subject to both information disclosure regulation and price-quality regulation

(1) In respect of **regulated fibre service providers** subject to both information disclosure regulation and price-quality regulation in regulations made under s 226 of the Act, 'annual benefit of Crown financing building block' for a **disclosure year** is calculated in accordance with the following formula:

$$A \times B$$

where:

'A' — subject to subclause (2), is the mid-point estimate of vanilla **WACC** for that **disclosure year**, determined in accordance with clause 2.4.1(1) less 0.0025; and

'B' — is the amount of **Crown financing** outstanding as of the last day of that **disclosure year**.

(2) For the purpose of subclause (1), where the **Commission** has determined a different value for 'A' under clause 3.5.11(2) for a **regulatory period**, 'A' is:

- (a) for the final **disclosure year** in a **regulatory period**, the value applicable for 'A' for that **regulatory period** under a **PQ determination**; and

(b) for any other disclosure year in a regulatory period, the value applicable for 'A' for the corresponding regulatory period under a PQ determination.

2.4.11 Annual benefit of Crown financing building block for regulated providers subject only to information disclosure regulation

(1) In respect of regulated providers subject only to information disclosure regulation in regulations made under s 226 of the Act, 'annual benefit of Crown financing building block' for a disclosure year is calculated in accordance with the following formula:

$A \times B$

where:

'A' _____ is:

(a) where Crown financing is provided by way of a combination of debt and equity, the mid-point estimate of vanilla WACC for that disclosure year, determined in accordance with clause 2.4.1(1);

(b) where Crown financing is provided by way of debt, the cost of debt for that disclosure year; and

(c) where Crown financing is provided by way of equity, the cost of equity for that disclosure year; and

'B' _____ is the amount of Crown financing outstanding as of the last day of that disclosure year.

SUBPART 5 Quality dimensions

2.5.1 Mandatory quality dimensions

(1) In setting information relating to quality that a regulated provider is required to disclose in an ID determination, the Commission must specify quality performance measures and statistics for ~~one or more of~~ the following quality dimensions:

(a) **availability**, which may include:

- (i) maximum **downtime**;
- (ii) average **downtime**; and
- (iii) notification to **access seekers of outages**; ~~and~~

(b) **performance**, which may include:

- (i) **frame delay**;
- (ii) **frame loss ratio**;
- (iii) **frame delay variation**; ~~and~~
- (iv) **port utilisation**;

(c) **faults**, which may include:

- (i) incidence of faults, where “incidence of faults” is defined in an **ID determination**; and
- (ii) time to **restore ID FFLAS**; and
- (d) customer service, which may include:
 - (i) end-user connection satisfaction, where “end-user connection satisfaction” is defined in an **ID determination**;
 - (ii) missed appointments, where “missed appointments” is defined in an **ID determination**; and
 - ~~(iv)~~(iii) the time to establish an **access seeker**, where “time to establish an **access seeker**” is defined in an **ID determination**.

2.5.2 Optional quality dimensions

- (1) The **Commission** may also specify quality performance measures and statistics for one or more of the following **quality dimensions**:
- (a) **ordering**, which may include the time to accept or reject a request;
 - (b) **provisioning**, which may include:
 - (i) the time to provision **regulated ID FFLAS**; and
 - ~~(i)~~(ii) the time to disconnect from one type of **ID FFLAS** and connect to another; and
 - ~~(b)~~(c) **switching**, which may include the time to disconnect **ID FFLAS** from a losing **access seeker** and connect to a gaining **access seeker**:-
 - (i) ~~the time to disconnect **regulated FFLAS** from a losing **access seeker** and connect to a gaining **access seeker**; and~~
 - (ii) ~~the time to disconnect from one type of **regulated FFLAS** and connect to another;~~
 - ~~(c)~~ **faults**, which may include:
 - (i) ~~incidence of faults, where “incidence of faults” is defined in an **ID determination**; and~~
 - (ii) ~~time to **restore regulated FFLAS**; and~~
 - ~~(d)~~ **customer service**, which may include:
 - (i) ~~end user connection satisfaction, where “end user connection satisfaction” is defined in an **ID determination**;~~
 - (ii) ~~missed appointments, where “missed appointments” is defined in an **ID determination**; and~~
 - (iii) ~~the time to establish an **access seeker**, where “time to establish an **access seeker**” is defined in an **ID determination**.~~

2.5.3 Quality performance measures and statistics reporting requirements

(1) In specifying information relating to quality that a ~~regulated provider~~ is required to disclose in an ~~ID determination~~, the ~~Commission~~ may set different requirements for different ~~regulated providers~~.

~~(2)~~(1) An ~~ID determination~~ may include requirements to disclose information on quality performance measures and statistics that are differentiated by ~~The Commission~~ may also set different quality reporting requirements with reference to:

(a) ~~regulated providers~~;

~~(a)~~(b) geography;

~~(b)~~(c) fibre network architecture;

~~(c)~~(d) ~~regulated-ID FFLAS~~, such as layer 1 and layer 2; and

~~(d)~~(e) classes of ~~end-users~~, such as rural, urban, business or residential.

PART 3 INPUT METHODOLOGIES FOR PRICE-QUALITY PATHS

SUBPART 1 Specification of Price and Revenues

3.1.1 Price and revenues

(1) For the purpose of s 194(2)(b) and s 195 of the **Act**, the 'maximum revenues' that may be recovered by a **regulated provider** for a **regulatory year** in a **regulatory period** will be specified in a **PQ determination** as a revenue cap, whereby the **total FFLAS revenue** derived by a **regulated provider** must not exceed **allowable revenue** specified in the **PQ determination** for that **regulatory year**.

~~(1)~~(2) For the purpose of this subpart, 'allowable revenue' means the sum of—

- (a) **building blocks revenue**;
- (b) **pass-through costs** for that **regulatory year**; and
- (c) the **wash-up amount** available for that **regulatory year**.

~~(2)~~(3) For the avoidance of doubt, the components listed in subclause (2) can be positive or negative amounts.

3.1.2 Pass-through costs

(1) ~~Subject to subclause (2), a~~ 'pass-through cost' is an **operating cost-levy** payable by a **regulated provider** on or after the **implementation date**, being:

- (a) an amount levied by regulations made under sections 11 or 12 of the **Act**;
~~and~~
- (b) the telecommunications development levy, as determined by the **Commission** under sections 87 and 88 of the **Act**;
- (c) rates on **fibre assets** paid or payable by a **regulated provider** to a **local authority** under the Local Government (Rating) Act 2002; and
- (d) a fixed membership fee relating to, or a fixed amount payable as a member of:
 - (i) Utilities Disputes Limited's dispute resolution scheme;
 - (ii) the Telecommunications Dispute Resolution Scheme; and
 - (iii) any other dispute resolution scheme specified in a **PQ determination**.

(2) If the **operating cost** under subclause (1) relates to both **regulated FFLAS** and **services that are not regulated FFLAS** supplied by the **regulated provider**, only the proportion of the **operating cost** allocated to **regulated FFLAS** and **PQ FFLAS** (where applicable) according to the following requirements is a 'pass-through cost':

- (a) if the cost is an actual **operating cost**, it must be allocated according to clauses 2.1.1 and 2.1.3 (where applicable); and

Formatted: Font: Not Bold

- (b) if the cost is a forecast **operating cost**, it must be allocated according to clause 3.2.1(1), (2) (where applicable), and (4).

SUBPART 2 **Cost allocation**

3.2.1 Calculation of price-quality path ~~PQ~~ forecast values

- ~~(a)~~ For the purposes of specifying a price-quality path, clauses 2.1.1(1)-(2) apply.

- (1) For the purposes of specifying a price-quality path any:

- (a) **operating costs**; and
- (b) **asset values**,

that are forecast as **directly attributable** to the provision of **regulated FFLAS** by the **regulated provider** must be allocated to **regulated FFLAS**.

- (2) Subject to subclauses (6) and (7), for the purposes of specifying a price-quality path, any **operating cost** and **asset value** must be, where applicable,;

- (a) determined by applying subclauses (10)(a), (11)(a), (12), (13)(a) and (14)(a); and
- (b) calculated by applying forecasts.

- (3) The following must not be allocated to **regulated FFLAS**:

- (a) any **operating cost** that is forecast as **directly attributable** to the provision of **services that are not regulated FFLAS**;
- (b) any **asset value** that is forecast as **directly attributable** to the provision of **services that are not regulated FFLAS**; or
- (c) any other cost that is forecast to be recovered in respect of a **Part 4 regulated service**.

- ~~(2)~~(4) Subject to subclauses (1)-(2), for the purposes of specifying a price-quality path, any **operating cost** must be:

- (a) determined by applying, ~~as required~~:
 - (i) **cost allocators** in accordance with subclause ~~(87)~~, and, where applicable:
 - A. subclause (10)(b); and
 - B. subclause (13)(b); or
 - ~~(i)~~(ii) **proxy cost allocators** (whichever the case may require); and
- (b) calculated by applying forecasts, subject to subclauses ~~(64)~~ and ~~(75)~~.

- ~~(3)~~(5) Subject to subclauses (1)-(2), for the purposes of specifying a price-quality path, any **asset value** must be:

(a) determined by applying, as required:

(i) **asset allocators** in accordance with subclause (98), and, where applicable:

A. subclause (11)(b); and

B. subclause (14)(b); or

(ii) **proxy asset allocators** (whichever the case may require); and

(b) calculated by applying forecasts, subject to subclauses (64) and (75).

(4)(6) For the purpose of subclauses (1), (2), (42) and (53), all forecasts must be:

(a) based on relevant and demonstrably reasonable assumptions, data, methods and judgements; or

(b) if the **Commission** has approved the forecast values in accordance with an **input methodology** or other process relating to an **ID determination** or **PQ determination**, consistent with those forecast values.

(5)(7) For the avoidance of doubt, subclause (64) relates to, but is not limited to, forecasts of **operating costs, capital expenditure, revenue, or any of the allocator types and allocator values metrics** that may be used in forecasting an **asset allocator** or **cost allocator**.

For the purposes of subclauses (2) and (3), any reference to 'requirements in the relevant **ID determination**' in Subpart 1 of Part 2 means 'any requirement specified by the **Commission**'.

(6)(8) For the purpose of subclause (42), **cost allocators** must be used to allocate **operating costs** forecast as not **directly attributable** to either-

(a) **regulated FFLAS**; or

(b) **services that are not regulated FFLAS**.

(7)(9) For the purpose of subclause (53), **asset allocators** must be used to allocate **asset values** forecast as not **directly attributable** to either-

(a) **regulated FFLAS**; or

(b) **services that are not regulated FFLAS**.

(10) For the purpose of subclauses (1), (2) and (4), if a **regulated fibre service provider** is subject to both information disclosure regulation and price-quality regulation in regulations made under s 226 of the **Act**, any **operating costs** that are allocated to **regulated FFLAS** must be further allocated as follows:

(a) **operating costs** that are forecast as **directly attributable** to the provision of-

(i) **PQ FFLAS** must be allocated to **PQ FFLAS**;

(ii) **ID-only FFLAS** must be allocated to **ID-only FFLAS**; and

(b) in respect of **operating costs** that are forecast as not **directly attributable** to the provision of **PQ FFLAS** or **ID-only FFLAS**, **cost allocators** must be used to allocate those **operating costs** to either-

- (i) **PQ FFLAS**; or
- (ii) **ID-only FFLAS**.

(11) For the purpose of subclauses (1), (2) and (5), if a **regulated fibre service provider** is subject to both information disclosure regulation and price-quality regulation in regulations made under s 226 of the **Act**, any **asset values** that are allocated to **regulated FFLAS** must be further allocated as follows:

(a) **asset values** that are forecast as **directly attributable** to the provision of-

- (i) **PQ FFLAS** must be allocated to **PQ FFLAS**;
- (ii) **ID-only FFLAS** must be allocated to **ID-only FFLAS**; and

(b) in respect of **asset values** that are forecast as not **directly attributable** to the provision of **PQ FFLAS** or **ID-only FFLAS**, **asset allocators** must be used to allocate those **asset values** to either-

- (i) **PQ FFLAS**; or
- (ii) **ID-only FFLAS**.

(12) For the purpose of subclause (11), if a **regulated fibre service provider** is subject to both information disclosure regulation and price-quality regulation in regulations made under s 226 of the **Act**, the **financial loss asset** must be treated as being **directly attributable** to **PQ FFLAS**.

(13) For the purpose of subclause (10), if a **regulated fibre service provider** is subject to both information disclosure regulation and price-quality regulation in regulations made under s 226 of the **Act** and the **Commission** specifies an **additional FFLAS class**, any **operating costs** that are allocated to **regulated FFLAS** must be further allocated as follows:

(a) **operating costs** that are forecast as **directly attributable** to the provision of that **additional FFLAS class** must be allocated to that **additional FFLAS class**; and

(b) **operating costs** that are forecast as not **directly attributable** to the provision of that **additional FFLAS class** must be allocated using **cost allocators**.

(14) For the purpose of subclause (11), if a **regulated fibre service provider** is subject to both information disclosure regulation and price-quality regulation in regulations made under s 226 of the **Act** and the **Commission** specifies an **additional FFLAS class**, any **asset values** that are allocated to **regulated FFLAS** must be further allocated as follows:

- (a) asset values that are forecast as directly attributable to the provision of that additional FFLAS class must be allocated to that additional FFLAS class; and
- (b) asset values that are forecast as not directly attributable to the provision of that additional FFLAS class must be allocated using asset allocators.

(15) Subject to subclause (16), when either a forecast asset value or a forecast operating cost that is not directly attributable to regulated FFLAS is allocated to regulated FFLAS, the total forecast asset values or forecast operating costs allocated to regulated FFLAS must not be more than the total forecast asset values or total forecast operating costs that the regulated provider could not have avoided if it ceased supplying services that are not regulated FFLAS.

(16) Subclause (15) only applies to an allocation or allocations of a forecast asset value or a forecast operating cost that would have a material effect on the total forecast asset values or total forecast operating costs allocated to regulated FFLAS.

SUBPART 3 Asset valuation

3.3.1 Calculation of price-quality path forecast values

(1) For the purposes of specifying a price-quality path, any of the following values specified in subclause (2) must be determined in accordance with the **input methodologies** specified in Subpart 2 of Part 2 and determined in accordance with subclause (2):

~~(2)~~ The values referred to in subclause (1) are:

- (a) **opening RAB value;**
- (b) **value of commissioned asset;**
- (c) **disposed asset;**
- (d) **revaluation;**
- (e) **closing RAB value; and**
- (f) any other allowance, amount, cost or sum referred to in Subpart 2 of Part 2.

~~(2)~~ Subject to subclause (6), the values referred to in subclause (1) must be determined by:

- (a) subject to clauses 3.3.2-3.3.4, adopting any relevant value calculated under Subpart 2 of Part 2 for the PQ RAB in respect of the base year of a regulated provider-
 - (i) in respect of a disclosure made by a **regulated provider** for that **base year** under an **ID determination**; or

(ii) if disclosure under an **ID determination** has not been required or made by the **regulated provider**, ~~obtained by~~ provided to the **Commission** ~~under s 98 of the Commerce Act 1986 or s 221 of the Act~~; and

(b) subject to subclauses ~~(34)~~, ~~and (45)~~ and (5), applying forecasts of all values required to determine the values referred to in paragraphs (a) to (f) of subclause ~~(12)~~ by applying the **input methodologies** specified in Subpart 2 of Part 2.

~~(4)~~(3) For the purpose of subclause (1), all forecasts, subject to subclause ~~(45)~~, must be:

- (a) based on relevant and demonstrably reasonable assumptions, data, methods and judgements; or
- (b) if the **Commission** has approved the forecast values in accordance with an **input methodology** or other process relating to an **ID determination** or **PQ determination**, consistent with those forecast values.

~~(5)~~(4) For the purpose of subclause ~~(23)~~, where **CPI** is required to be forecast, it must be determined as follows:

- (a) for a quarter prior to the quarter for which the vanilla **WACC** applicable to the relevant **regulatory period** was determined, **CPI** as per paragraph (a) of the **CPI** definition and excluding any adjustments made under paragraph (b) of the **CPI** definition arising as a result of an event that occurs after the issue of the Monetary Policy Statement referred to in paragraph (b) below;
- (b) for each subsequent quarter for which a forecast of the change in headline **CPI** is included in the Monetary Policy Statement last issued by the Reserve Bank of New Zealand prior to the date for which the vanilla **WACC** applicable to the relevant **regulatory period** was determined, the **CPI** last applying under paragraph (a) extended by the forecast change; and
- ~~(c)~~ in respect of subsequent quarters, the forecast last applying under paragraph (b) adjusted such that an equal increment or decrement made to that forecast for each of the following three years results in the forecast for the last of those years being equal to the target midpoint for the change in headline **CPI** set out in the Monetary Policy Statement referred to in paragraph (b).

(5) For the purposes of subclause (2)(b), a **regulated provider** is not required to maintain the minimum levels of specificity prescribed in clause 2.2.14 for any forecasts of the values referred to in paragraphs (a)-(f) of subclause (1).

(6) For the purposes of specifying the price-quality path for the **first regulatory period**, the values referred to in subclause (1) must be determined by:

- (a) subject to clauses 3.3.2-3.3.4, adopting any relevant value calculated under Subpart 2 of Part 2 for the **PQ RAB** in respect of the **base year of a regulated provider** and obtained by the **Commission**;
- (b) subject to subclauses (3), (4) and (5), applying forecasts of all values required to determine the values referred to in paragraphs (a) to (f) of subclause (1) by applying the **input methodologies** specified in Subpart 2 of Part 2,

where

- (c) for the purposes of **fibre asset** values adopted under paragraphs (a)-(b):
 - (i) any references to “the **implementation date**” in clauses 2.2.2 and 2.2.3(1)-(2), mean “1 January 2019”;
 - (ii) any references to “the **disclosure year 2022**” in clauses 2.2.5(1), 2.2.5(3) and 2.2.6(1)(a) mean “**regulatory year 2019**”; and
- (d) the “opening RAB value” of the **financial loss asset** adopted under paragraphs (a)-(b) is determined in accordance with Schedule B; and
- (e) for the purposes of values adopted under paragraphs (a)-(b) for the **PQ RAB** in respect of the **base year of a regulated provider**, in respect of that **regulated provider**, all **FFLAS** provided by that **regulated provider**, except to the extent that a service is provided in a geographical area where a **regulated fibre service provider** (other than **Chorus**) has installed a **fibre network** as part of the **UFB initiative**, is treated for **regulatory year 2019** as if it were subject to price-quality regulation in regulations made under s 226 of the **Act**.

3.3.2 Depreciation

- (1) ‘Unallocated depreciation’ and ‘depreciation’ are determined in accordance with subclauses (2)-(3).
- (2) For the purpose of subclause (1), subject to subclause (7), in the case of a **fibre asset** with an **unallocated opening RAB value**, ‘unallocated depreciation’ must be determined using a depreciation method consistent with **GAAP**, unless:
 - (a) an alternative depreciation method is applied for some or all **fibre assets** in accordance with subclause (5); or
 - (b) a different depreciation method is applied for some or all **fibre assets** in accordance with subclause (6).

- (3) For the purpose of subclause (1), subject to subclause (7), in the case of a **fibre asset** with an **opening RAB value**, 'depreciation' must be determined using a depreciation method consistent with **GAAP**, unless:
- (a) an alternative depreciation method is applied for some or all **fibre assets** in accordance with subclause (5); or
 - (b) a different depreciation method is applied for some or all **fibre assets** in accordance with subclause (6).
- (4) For the purposes of subclauses (2) and (3)-
- (a) 'unallocated depreciation' and 'depreciation' are nil in the case of-
 - (i) **land**; and
 - (ii) an **easement** other than a **fixed life easement**; and
 - (b) in all other cases, where the **fibre asset's remaining asset life** at the end of the **regulatory year** is nil-
 - (i) 'unallocated depreciation' is the **fibre asset's unallocated opening RAB value**; and
 - (ii) 'depreciation' is the **fibre asset's opening RAB value**.
- (5) For the purposes of subclauses (2)-(3), an alternative depreciation method may be applied for some or all **fibre assets** if the **Commission** is satisfied that the result of applying the alternative method-
- (a) better promotes the purpose of Part 6 of the **Act**;
 - (b) where relevant, best gives, or is likely to best give, effect to s 166(2)(b) of the **Act**; and
 - (c) where relevant, is consistent with the **Commission's** smoothing of prices or revenue under s 197 of the **Act**.
- (6) After the **first regulatory period**, a different depreciation method may be applied for a **regulatory period** to that applied in the previous **regulatory period** if the **Commission** is satisfied, for the purposes of a price-quality path, that the new depreciation method-
- (a) better promotes the purpose of Part 6 of the **Act**;
 - (b) where relevant, best gives, or is likely to best give, effect to s 166(2)(b) of the **Act**; and
 - (c) where relevant, is consistent with the **Commission's** smoothing of prices or revenue under s 197 of the **Act**.
- (7) Where an alternative depreciation method has been applied under subclause (5), a different depreciation method has been adopted under subclause (6), or the **Commission** has altered depreciation under clause 3.32.3, 'unallocated depreciation'

and 'depreciation' must be applied using that method for subsequent **regulatory periods** unless:

- (a) the **Commission** is satisfied that a different depreciation method may be applied for that **regulatory period** in accordance with subclause (6); or
- (b) the **Commission** alters depreciation for that **regulatory period** in accordance with clause 3.32.3.

3.3.3 Altering depreciation to smooth revenues and prices

- (1) For the purposes of clause 3.32.2, **unallocated depreciation** and **depreciation** calculated for any **core fibre asset** or the **financial loss asset** for any **regulatory period** may instead be calculated by the **Commission** in a manner it thinks fit under s 197 of the **Act**.

3.3.4 Revaluation treated as income

- (1) For the purposes of specifying a price-quality path, **revaluation** must be treated as income.

3.3.5 Ex-ante allowance for asset stranding

- (1) This clause applies to the determination of the amount of the annual ex-ante allowance for asset stranding for the purpose of specifying a price-quality path.
- (2) The annual ex-ante allowance for asset stranding is the amount determined in accordance with the formula-

$A \times B$

where –

- (a) 'A' is 0.001; and
- (b) 'B' is the average of –
 - (i) the sum of **opening RAB values** for each regulatory year of the regulatory period for all **core fibre assets** and the **opening RAB value** for the **financial loss asset**; and
 - (ii) the sum of **closing RAB values** for each regulatory year of the regulatory period for all **core fibre assets** and the **closing RAB value** for the **financial loss asset**.

SUBPART 4 **Taxation**

3.4.1 Regulatory tax allowance

- (1) For the purposes of specifying a price-quality path, any value of regulatory tax allowance for any **regulatory year** within a **regulatory period** must be determined in accordance with the **input methodologies** specified in Subpart 3 of Part 2, and

determined, subject to subclauses (2) and (3), by applying forecasts in respect of PQ FFLAS for all regulatory disclosure years after the **base year** of-

- (a) **notional deductible interest;**
 - (b) tax deductions for depreciation using **tax depreciation rules;** and
 - (c) any other amount, determined after applying the **tax rules**, where the following must be ignored:
 - (i) any **revaluation** included in **regulatory profit / loss before tax;** and
 - (ii) the effect of any tax losses (other than those incurred in the provision of **regulated FFLAS**) made by a **regulated provider.**
- (2) For the purposes of determining ‘regulatory tax allowance’, if the **tax rules** allow for a choice of methods in calculating taxable income, the same methods used by the **regulated provider** must be used to determine the ‘regulatory tax allowance’.
- (3) For the purposes of subclause (1), all forecasts must be:
- (a) based on relevant and demonstrably reasonable:
 - (i) assumptions;
 - (ii) data;
 - (iii) methods; and
 - (iv) judgements; or
 - (b) if the **Commission** has approved the forecast values in accordance with an **input methodology** or other process relating to an **ID determination** or **PQ determination**, consistent with those forecast values.
- (4) For the purposes of subclause (1), ‘regulatory profit / loss before tax’ means ‘regulatory profit / loss before tax’ as determined by the **Commission** when specifying a price-quality path.

SUBPART 5 **Cost of capital**

3.5.1 Methodology for estimating the weighted average cost of capital

- (1) The **Commission** will determine a mid-point estimate of vanilla **WACC**-
- (a) as of the first **business day** of the month 7 months prior to the start of each **regulatory period;**
 - (b) in respect of the **regulatory period;**
 - (c) no later than 6 months prior to the start of each **regulatory period;** and
 - (d) in accordance with the formula-

$$r_d L + r_e(1 - L).$$

- (2) The **Commission** will determine a mid-point estimate of post-tax **WACC**-

- (a) as of the first **business day** of the month 7 months prior to the start of each **regulatory period**;
- (b) in respect of the **regulatory period**;
- (c) no later than 6 months prior to the start of each **regulatory period**; and
- (d) in accordance with the formula-

$$r_d (1 - T_c)L + r_e (1 - L).$$

(3) In this clause-

L is leverage;

r_d is the cost of debt and is estimated in accordance with the formula:

$$r_f + p + d;$$

r_e is the cost of equity and is estimated in accordance with the formula:

$$r_f(1 - T_i) + \beta_e TAMRP;$$

T_c is the average corporate tax rate;

r_f is the risk-free rate;

p is the **average debt premium**;

d is the debt issuance costs;

T_i is the average investor tax rate;

β_e is the equity beta; and

$TAMRP$ is the tax-adjusted market risk premium.

(4) For the purpose of this clause-

- (a) the average investor tax rate, the average corporate tax rate, the equity beta, the debt issuance costs, the leverage and the tax-adjusted market risk premium are the amounts specified in or determined in accordance with clause 3.54.2; and
- (b) the risk-free rate must be estimated in accordance with clause 3.54.3.

3.5.2 Fixed WACC parameters

(1) 'Leverage' means the ratio of debt capital to total capital and is 31%.

(1)(2) 'Average investor tax rate' is the average of the investor tax rates that, as at the date that the estimation is made, will apply to each of the **regulatory years** in the **regulatory period** commencing on the first day of the **regulatory period** in question.

(2)(3) For the purpose of subclause (2), 'investor tax rate' is, for each **regulatory year**, the maximum **prescribed investor rate** applicable at the start of the **regulatory period** to an individual who is-

- (a) resident in New Zealand; and

Formatted: Font: Not Bold

- (b) an investor in a **multi-rate PIE**.

~~(3)~~(4) The 'average corporate tax rate' is the average of the **corporate tax rates** that, as at the date that the estimation is made, will apply during the **regulatory period term** commencing on the first day of the **regulatory period**.

~~(4)~~(5) 'Equity beta' is 0.71.

~~(5)~~(6) 'Debt issuance costs' are costs associated with the issuance of debt by a regulated provider and are determined by the term of the **regulatory period**, where-

- (a) for a five year **regulatory period**, this is 0.2%;
- (b) For a four year **regulatory period**, this is 0.25%; and
- (c) For a three year **regulatory period**, this is 0.33%.

~~(6)~~(7) 'Tax-adjusted market risk premium' is 7.5%.

3.5.3 Methodology for estimating risk-free rate

(1) The **Commission** will estimate a risk-free rate-

- (a) as of the first **business day** of the month 7 months prior to the start of each **regulatory period**;
- (b) in respect of a period equal to the **regulatory period**; and
- (c) no later than 6 months prior to the start of each **regulatory period**,

by-

- (d) obtaining, for notional benchmark New Zealand government New Zealand dollar denominated nominal bonds, the wholesale market linearly interpolated bid yield to maturity for a residual period to maturity equal to the **regulatory period term** on each **business day** in the 3-month period of 8 to 10 months prior to the start of the **regulatory period**;
- (e) calculating the annualised interpolated bid yield to maturity for each **business day**; and
- (f) calculating the unweighted arithmetic average of the daily annualised interpolated bid yields to maturity.

3.5.4 Methodology for estimating average debt premium

(1) The **Commission** will determine an estimate of an amount for the **average debt premium**-

- (a) for each **regulatory period**; and
- (b) no later than 6 months prior to the start of each **regulatory period**.

(2) For the purpose of subclause (1), 'average debt premium' means the unweighted arithmetic average of the five **debt premium** values estimated in accordance with subclauses (4) and (5) for:

- (a) the current **debt premium reference year**; and
 - (b) the four previous **debt premium reference years**.
- (3) For the purpose of subclause (2)(a), 'current debt premium reference year' refers to the **debt premium reference year** that contains the start of the **regulatory year**.
- (4) Debt premium means the spread between-
- (a) the bid yield to maturity on **vanilla NZ\$ denominated bonds** that-
 - (i) are issued by a **regulated fibre service provider**;
 - (ii) are publicly traded;
 - (iii) have a **qualifying rating** of grade BBB+; and
 - (iv) have a remaining term to maturity of 5 years; and
 - (b) the contemporaneous interpolated bid yield to maturity of notional benchmark New Zealand government New Zealand dollar denominated nominal bonds having a remaining term to maturity of 5 years.
- (5) For the purpose of subclause (2), the amount of the debt premium will be estimated by-
- (a) identifying publicly traded **vanilla NZ\$ denominated bonds** issued by a **qualifying issuer** that are-
 - (i) **investment grade credit rated**; and
 - (ii) of a type described in the paragraphs of subclause (6);
 - (b) for each **business day** in the 12 months preceding the start of the **debt premium reference year**, in respect of each bond identified in accordance with paragraph (a)-
 - (i) obtaining its wholesale market annualised bid yield to maturity;
 - (ii) calculating by linear interpolation with respect to maturity, the contemporaneous wholesale market annualised bid yield to maturity for a notional benchmark New Zealand government New Zealand dollar denominated nominal bond with the same remaining term to maturity; and
 - (iii) calculating its contemporaneous interpolated bid to bid spread over notional benchmark New Zealand government New Zealand dollar denominated nominal bonds with the same remaining term to maturity, by deducting the yield calculated in accordance with sub-paragraph (ii) from the yield obtained in accordance with sub-paragraph (i);
 - (c) calculating, for each bond identified in accordance with paragraph (a), the un-weighted arithmetic average of the daily spreads identified in accordance with paragraph (b)(iii); and

- (d) subject to subclause (6), estimating, by taking account of the average spreads identified in accordance with paragraph (c) and having regard to the debt premium estimated from applying the **Nelson-Siegel-Svensson approach**, the average spread that would reasonably be expected to apply to a **vanilla NZ\$ denominated bond** that-
 - (i) is issued by a **regulated fibre service provider** that is not 100% owned by:
 - (A) the Crown; or
 - (B) a **local authority**;
 - (ii) is publicly traded;
 - (iii) has a **qualifying rating** of grade BBB+; and
 - (iv) has a remaining term to maturity of 5 years.
- (6) For the purpose of subclauses (5)(a) and (5)(d), the **Commission** will have regard, subject to subclause (7), to the spreads observed on the following types of **vanilla NZ\$ denominated bonds** issued by a **qualifying issuer**:
- (a) those that-
 - (i) have a **qualifying rating** of grade BBB+; and
 - (ii) are issued by a **regulated fibre service provider** that is not 100% owned by:
 - (A) the Crown; or
 - (B) a **local authority**;
 - (b) those that-
 - (i) have a **qualifying rating** of grade BBB+; and
 - (ii) are issued by a **telecommunications service provider** other than a **regulated fibre service provider** that is not 100% owned by:
 - (A) the Crown; or
 - (B) a **local authority**;
 - (c) those that-
 - (i) have a **qualifying rating** of grade BBB+; and
 - (ii) are issued by an entity other than a **regulated fibre service provider** or **telecommunications service provider** that is not 100% owned by:
 - (A) the Crown; or
 - (B) a **local authority**;
 - (d) those that-
 - (i) have a **qualifying rating** of a grade different to BBB+; and

- (ii) are issued by a **regulated fibre service provider** that is not 100% owned by:
 - (A) the Crown; or
 - (B) a **local authority**;
 - (e) those that-
 - (i) have a **qualifying rating** of a grade different to BBB+; and
 - (ii) are issued by an entity other than a **regulated fibre service provider** that is not 100% owned by:
 - (A) the Crown; or
 - (B) a **local authority**; and
 - (f) those that are-
 - (i) **investment grade credit rated**; and
 - (ii) issued by an entity that is 100% owned by:
 - (A) the Crown; or
 - (B) a **local authority**.
- (7) For the purpose of subclause (6)-
- (a) progressively lesser regard will ordinarily be given to the spreads observed on the bond types described in accordance with the order in which the bond types are described in subclause (6);
 - (b) the spread on any bond of the type described in subclause (6) that has a remaining term to maturity of less than 5 years will ordinarily be considered to be the minimum spread that would reasonably be expected to apply on an equivalently credit-rated bond issued by the same entity with a remaining term to maturity of 5 years; and
 - (c) the **Commission** will adjust spreads observed on bonds described under subclauses (6)(b) to (6)(f) to approximate the spread that is likely to have been observed had the bonds in question been of the type described in subclause (6)(a).

3.5.5 Methodology for estimating the 50th percentile estimate of WACC

- (1) The **Commission** will determine a 50th percentile estimate of vanilla **WACC**-
 - (a) for each **regulatory period**; and
 - (b) no later than 6 months prior to the start of each **regulatory period**.
- (2) The **Commission** will determine a 50th percentile estimate of post-tax **WACC**-
 - (a) for each **regulatory period**; and
 - (b) no later than 6 months prior to the start of each **regulatory period**.

- (3) For the purposes of subclause (1) or (2), the **mid-point estimate of WACC** must be treated as the 50th percentile, where the **standard error of the mid-point estimate of WACC** is 0.0124.

3.5.6 Publication of estimates

- (1) The **Commission** will publish all determinations and estimates that it is required to make by this subpart-
- (a) on its website; and
 - (b) no later than 1 month after having made them.

3.5.7 Application of cost of capital methodology

- (1) Where the **Commission** takes into account the cost of capital in making a **PQ determination**, the **Commission** will use the **50th percentile estimate of WACC** determined in accordance with clause 3.54.5(1) and most recently published in accordance with clause 3.54.6.
- (2) 'Term credit spread differential allowance' for a **regulatory year** in respect of the **first regulatory period** and a **regulated provider** is the maximum of nil and the amount determined in accordance with the formula-

$$a \times b \div c,$$

where-

a means the sum of the **term credit spread differentials** calculated in accordance with clause 3.54.10(~~13~~) for the **base year**;

b means:

- (a) the sum of forecast **opening RAB values** for all **core fibre assets** and the forecast **opening RAB value** for the **financial loss asset** for the **regulatory year** in question; and
- (b) the sum of forecast **value of commissioned assets** for all **core fibre assets** for the **regulatory year** in question;

c means the sum of the **opening RAB values** for **core fibre assets** and the **opening RAB value** for the **financial loss asset** for the **base year**.

- (3) 'Term credit spread differential allowance' for a **regulatory year** in respect of the **second regulatory period** and subsequent **regulatory periods** and a **regulated provider** is the maximum of nil and the amount determined in accordance with the formula-

$$a \times b \div c,$$

where-

a means the 'term credit spread differential allowance' calculated in accordance with Part 2 for the **base year**;

b means:

- (a) the sum of forecast **opening RAB values** for all **core fibre assets** and the forecast **opening RAB value** for the **financial loss asset** for the **regulatory year** in question; and
- (b) the sum of forecast **value of commissioned assets** for all **core fibre assets** for the **regulatory year** in question;

c means the sum of the **opening RAB values** for **core fibre assets** and the **opening RAB value** for the **financial loss asset** for the **base year**.

- (4) Where a **qualifying provider** discloses a **term credit spread differential allowance** under an **ID determination**, the **Commission**, for the purpose of assessing the **qualifying provider's** profitability, will treat such an allowance as an expense in the **disclosure year** in respect of which that allowance was disclosed.

3.5.8 Interpretation of terms relating to term credit spread differential

- (1) 'Qualifying debt' means a line of debt-
 - (a) with an original tenor greater than 5 years; and
 - (b) issued by a **qualifying provider**.
- (2) 'Qualifying provider' means a **regulated provider** whose debt portfolio, as at the date of that provider's most recently published audited financial statements, has a weighted average original tenor greater than 5 years.

3.5.9 Term credit spread difference

- (1) 'Term credit spread difference' is determined in accordance with the formula-

$$T \times U,$$

where-

- (a) 'T' is whichever is the lesser of the amount determined in accordance with the formula-
 - (i) $0.00075 \times (\text{original tenor of the } \mathbf{qualifying\ debt} - 5)$; or
 - (ii) 0.00075×5 ;
- (b) 'U' is the book value in New Zealand dollars of the **qualifying debt** at its date of issue.

- (2) For the purpose of this clause, if the **qualifying debt** is issued to a **related party**, 'original tenor of the **qualifying debt**' means whichever is the shorter of the-
- (a) tenor of the **qualifying debt**; or
 - (b) period from the **qualifying debt**'s date of issue to the earliest date on which its repayment is or may be required.

3.5.10 Methodology for estimating term credit spread differential

- (1) 'Term credit spread differential' is the amount determined in accordance with the formula-

$$(A \div B) \times C \times D,$$

where-

- (a) 'A' is the sum of the **term credit spread difference** and debt issuance cost re-adjustment;
 - (b) 'B' is the book value of the **qualifying provider's** total interest-bearing debt as at the balance date of the provider's financial statements audited and published in the year in question;
 - (c) 'C' is **leverage**; and
 - (d) 'D' is, in relation to the **qualifying provider**, the average of-
 - (i) the sum of **opening RAB values** for all **core fibre assets** and the **opening RAB value** for the **financial loss asset**; and
 - (ii) the sum of **closing RAB values** for all **core fibre assets** and the **closing RAB value** for the **financial loss asset**.
- (2) For the purpose of subclause (13)(a), 'debt issuance cost re-adjustment' is the amount determined in accordance with the formula (which, for the avoidance of doubt, will be a negative number)-

$$(0.01 \div \textit{original tenor of the qualifying debt} - 0.002) \times \textit{book value in New Zealand dollars of the qualifying debt at its date of issue}.$$

3.5.11 Annual benefit of Crown financing building block

- (1) For the purposes of specifying a price-quality path, "annual benefit of Crown financing building block" for a **regulatory year** in a **regulatory period** is determined in accordance with the following formula:

$$\frac{A \times B}{C}$$

where:

'A' subject to subclauses (2) and (4), is the mid-point estimate of vanilla WACC for that **regulatory period**, determined in accordance with clause 3.5.1(1) less 0.0025; and

'B' is the forecast amount of **Crown financing** outstanding for that **regulatory year** reflecting the repayment schedule agreed between the **regulated provider** and the Crown.

- (2) For the purpose of subclause (1), the **Commission** may determine a different value for 'A' in a **PQ determination** which applies for each **regulatory year** in that **regulatory period** where the **Commission** is satisfied that a different value for 'A' should apply, after having regard to the matters specified in subclause (3).
- (3) In deciding under subclause (2) whether to determine a different value for 'A' for a **regulatory period**, the **Commission** must have regard to the extent to which the **regulatory provider** has changed or is expected to change the structure of the **Crown financing** outstanding.
- (4) Where the **Commission** has determined a different value for 'A' under subclause (2), the value for 'A' determined under subclause (2) must be applied for subsequent **regulatory periods** unless the **Commission** is satisfied that a different value for 'A' should apply for that **regulatory period** in accordance with subclause (2).

SUBPART 6 **Quality dimensions**

3.6.1 **Mandatory quality dimensions**

- (1) In specifying quality standards for a **PQ determination**, the **Commission** must specify quality standards for the following **quality dimensions**:
 - (a) **availability**, which may include:
 - (i) maximum **downtime**;
 - (ii) average **downtime**; and
 - (iii) notification to **access seekers** of **outages**; and
 - (b) **performance**, which may include:
 - (i) **frame delay**;
 - (ii) **frame loss ratio**;
 - (iii) **frame delay variation**; and
 - (iv) **port utilisation**.

3.6.2 **Optional quality dimensions**

- (1) The **Commission** may also specify quality standards for one or more of the following **quality dimensions**:
 - (a) **ordering**, which may include the time to accept or reject a request;
 - (b) **provisioning**, which may include:
 - (i) the time to provision **regulated PQ FFLAS**; and

~~(i)~~(ii) the time to disconnect from one type of PQ FFLAS and connect to another;

~~(b)~~(c) **switching**, which may include the time to disconnect PQ FFLAS from a losing access seeker and connect to a gaining access seeker;

(i) ~~the time to disconnect regulated FFLAS from a losing access seeker and connect to a gaining access seeker;~~ and

(ii) ~~the time to disconnect from one type of regulated FFLAS and connect to another;~~

~~(e)~~(d) **faults**, which may include:

(i) incidence of faults, where “incidence of faults” is defined in an ID or PQ determination; and

(ii) time to restore ~~regulated~~PQ FFLAS; and

~~(d)~~(e) **customer service**, which may include:

(i) **end-user** connection satisfaction, where “end-user connection satisfaction” is defined in a PQ determination;

(ii) missed appointments, where “missed appointments” is defined in a PQ determination; and

(iii) the time to establish an **access seeker**, where “time to establish an access seeker” is defined in a PQ determination.

3.6.3 Quality standards~~requirements~~

~~(1)~~ In specifying the quality standards that a **regulated provider** must meet in a **PQ determination**, the **Commission** may set different requirements for different **regulated providers**.

~~(2)~~(1) When specifying quality standards in a **PQ determination**, the **Commission** may include quality standards that are differentiated by ~~The Commission may also set different quality standards with reference to:~~

(a) regulated providers;

~~(a)~~(b) geography;

~~(b)~~(c) fibre network architecture;

~~(c)~~(d) regulated PQ FFLAS, such as layer 1 and layer 2; and

~~(d)~~(e) classes of end-users, such as rural, urban, business or residential.

SUBPART 7 **Capital expenditure**

SECTION 1 **General rules and processes for capital expenditure proposals**

3.7.1 Overview of capex

~~Note: This clause is only a guide to the general scheme and effect of this subpart.~~

- (1) The **Commission** ~~must~~will determine a **capex allowance**, after **Chorus** submits a **capex proposal** that relates to one of the following **capital expenditure** categories:
 - (a) a **base capex proposal** meeting the specific requirements set out in section 2;
 - (b) a **connection capex baseline proposal** meeting the specific requirements set out in section 3; and
 - (c) an **individual capex proposal** meeting the specific requirements set out in section 4.
- (2) **Chorus** will submit one or more **capex proposals** to the **Commission** as follows:
 - (a) **Chorus** ~~will~~must submit a **base capex proposal** and a **connection capex baseline proposal** for a **regulatory period** before the start of that **regulatory period**; and
 - (b) **Chorus** may submit one or more **individual capex proposals** ~~for a regulatory period at any time before or~~ during ~~that~~ **regulatory period**.
- (3) After receiving a **capex proposal**, the **Commission** ~~will~~must determine the **capex allowance** for each ~~disclosure~~regulatory year of a **regulatory period** in accordance with the general evaluation requirements in Subpart ~~87~~ and any specific requirements set out for each category of **capex proposal** in sections 2, 3 and 4.
- (4) When the **Commission** determines a **capex allowance** or a **connection capex variable adjustment** in respect of a **regulatory period**:
 - (a) any **capex allowances** determined ~~by the Commission~~ before that **regulatory period** commences will be used to calculate the **building blocks revenue** for that **regulatory period**; and
 - (b) any **capex allowance** determined after that **regulatory period** commences, or any **connection capex variable adjustment** in respect of that **regulatory period**, will be used to calculate a **wash-up amount**.

3.7.2 General rule for capital contributions

- (1) All **proposed capex** and capex allowances must be net of **capital contributions**.

3.7.3 General certification requirements for capex proposals

- (1) If a **director** or **CEO** of **Chorus** is required to provide **certification** in relation to a **capex proposal** or other document, the **director** or **CEO** must ~~each~~ certify in writing, that having made all reasonable enquiries, it is their belief that:
 - (a) the proposal or document being certified ~~was~~is derived from and accurately represents, in all material respects, the operations of **Chorus**; and
 - ~~(b) the information provided is true and correct; and~~
 - ~~(c)~~(b) the **capex proposal** being certified complies, in all material respects, with the requirements set out in this ~~sub~~part.

Formatted: Font: Not Italic

- (2) A **director** or **CEO** of **Chorus** must notify the **Commission** as soon as reasonably practicable where:
- (a) the **director** or **CEO** ~~provided~~~~has made~~ a **certification** involving confirmation of a matter in accordance with subclause (1); and
 - (b) their belief, as certified ~~in accordance with subclause (1)~~, has changed before the **Commission's** ~~determination~~~~decision~~ in relation to the **capex proposal** in question.

3.7.4 General audit requirements for capex proposals

- (1) If an audit is required for a **capex proposal**, it must include a report by an **auditor** that states whether:
- (a) the historical financial information used in the preparation of the **capex proposal** has been:
 - (i) audited in accordance with applicable auditing standards issued by the External Reporting Board in accordance with its functions under the Financial Reporting Act 2013 or any equivalent standards that replace these standards; or
 - (ii) properly extracted from **Chorus'** financial records sourced from its financial systems;
 - (b) the historical non-financial information used in the preparation of the **capex proposal** has been properly compiled on the basis of relevant underlying source information;
 - (c) the forecast financial information provided in the **capex proposal** has been:
 - (i) properly compiled on the basis of relevant and reasonable disclosed assumptions; and
 - (ii) examined in accordance with applicable assurance engagement standards issued by the External Reporting Board in accordance with its functions under the Financial Reporting Act 2013 or any equivalent standards that replace these standards or other appropriate assurance standards; and
 - (d) the forecast non-financial information provided in the **capex proposal** has been properly compiled on the basis of relevant and reasonable disclosed assumptions.
 - ~~(a) the financial and quantitative information provided in the **capex proposal** being audited has been developed from the underlying systems that were used to develop the forecasts in the **capex proposal**;~~
 - ~~(b) appropriate accounting standards have been used in preparing the **capex proposal**; and~~
 - ~~(c) all specific audit requirements for the relevant **capex category** of **capex proposal** or **auditor** report have been met.~~

3.7.5 General rule for information required for more than one purpose

(1) Where **Chorus** must provide information under this subpart, related to ~~capex proposals, base capex information requests or connection capex information requests, regulatory templates, integrated fibre plans, connection capex annual reports, independent verification reports, auditor reports or certification documents,~~ and the information requirement may be met by **Chorus** providing a reference to information in another document, provided that:

- (a) where the information is required to be certified, audited or independently verified, the information is covered by a relevant certification, audit report, or independent verification;
- ~~(a)~~(b) the reference provides the required information without the need for additional analysis, explanation or interpretation;
- ~~(b)~~(c) the referenced information is provided under this subpart and available to the **Commission** when the information is required; and
- ~~(c)~~(d) in respect of each reference relied on, **Chorus** provides an index specifying:
 - (i) the relevant requirement being met; and
 - (ii) the precise location of the referenced information within the document relied on.

3.7.6 General rule for information claimed to be confidential

(1) Where **Chorus** considers that it has a right to confidentiality in any information it provides the **Commission** in relation to this subpart and it does not waive the right, it must:

- (a) include that information in an appendix; and
- (b) clearly mark the information as confidential.

(2) For the avoidance of doubt:

- (a) nothing in subclause (1) prevents the **Commission** publishing such information if it considers **Chorus** has no right to confidentiality; and
- (b) nothing in paragraph (a) affects **Chorus**' rights or remedies for breach of any right to confidentiality.

~~3.7.6.3.7.7~~ Information requirements for integrated fibre plan

(1) At the same time as **Chorus** provides its **base capex proposal**, **Chorus** must provide an **integrated fibre plan** that includes the following component reports:

- (a) An overview of the **integrated fibre plan**: a summary and commentary on forecast expenditure for the **five regulatory years after the start of the regulatory period** (commencing with the **regulatory year that starts on the same day as the regulatory period**), including past expenditure and

linkages with **PQ FFLAS** quality outcomes, **operating costs** and delivery performance.

- (b) Quality report: a report on the forecast PQ FFLAS quality outcomes and the linkages between forecast expenditure for the regulatory period and PQ FFLAS quality outcomes for the five regulatory years after the start of the regulatory period (commencing with the regulatory year that starts on the same day as the regulatory period), including sensitivity of forecast PQ FFLAS quality outcomes to varying levels of forecast expenditure and the demonstration of past performance~~past delivery performance and linkages to expenditure.~~
- (c) Governance report: a report describing **Chorus'** organisational governance, risk management and high-level asset management approach.
- (d) Demand report: a report describing anticipated ~~regulated~~**PQ FFLAS** demand for the five regulatory years after the start of the regulatory period (commencing with the regulatory year that starts on the same day as the regulatory period), including linkages between ~~regulated~~**PQ FFLAS** uptake, data growth, and types of ~~regulated~~**PQ FFLAS**, including by reference to historic demand and past trends.
- (e) Investment report: a report on investment plans and forecast capital expenditure for the five regulatory years after the start of the regulatory period (commencing with the regulatory year that starts on the same day as the regulatory period), including categories of investment and **capex** set out in the **regulatory templates** and ~~the asset portfolios~~, the investment approach to each ~~asset class~~, and investment plans for the next five **regulatory years**, including risks and linkages to the forecast expenditure for the **regulatory period**.
- (f) Delivery report: a report on anticipated and actual past delivery of capital expenditure, including capex projects and programmes. The report must include delivery and any linkages with **operating costs** and network~~delivery~~ performance (such as **fault** rates).
- (g) Engagement plan: a report outlining the engagement and consultation on capital expenditure undertaken and planned by Chorus. This includes consultation and engagement prior to submitting the base capex proposal and connection capex baseline proposal and planned consultation on any aspect of capex for the regulatory period relevant to the capex proposal or subsequent regulatory periods. The report is to identify consultation objectives, processes, stakeholders consulted, and any other aspect of engagement that is relevant to proposed capex and PQ FFLAS quality outcomes~~Chorus' proposed consultation on any aspects of their integrated fibre plan and proposed capex for the regulatory period.~~

(2) The **integrated fibre plan** may be one or more documents if the component reports are separate reports and clearly identified.

- (3) The **integrated fibre plan** must include following detail for the relevant reports:
- (a) in relation to subclauses (1)(a)-(b), (1)(d)-(e) and (1)(f), the assumptions relied on for the forecasts and uncertainties associated with the forecasts;
 - (b) in relation to subclause (1)(e), a description of synergies between **projects and programmes and capital expenditure and operating expenditure trade-offs**; and
 - (c) in relation to subclauses (1)(a), (1)(d) and (1)(e), activity volumes and trends as relevant to each report.

~~(2)~~(4) For the **second regulatory period** and subsequent **regulatory periods**, the **integrated fibre plan** component reports must include updates and changes from the **integrated fibre plan component reports** for the previous **regulatory period**.

SECTION 2 Base capex

~~3.7.73.7.8~~ Base capex proposal process and timeframes

- (1) **Chorus** must submit a **base capex proposal** to the **Commission**:
- (a) for the **first regulatory period**, as soon as reasonably practicable but no later than **31 December 2020** at least 14 months before the start of the **regulatory period**; and
 - ~~(a)~~(b) for the **second regulatory period** and subsequent **regulatory periods**, at least 14 months before the start of the **regulatory period**.
- (2) The **base capex proposal** must:
- (a) state any **proposed base capex** that **Chorus** considers should be included in the **base capex allowance** for each **regulatory year of the regulatory period**;
 - (b) provide enough information to enable the **Commission** to evaluate the **base capex proposal** in accordance with Subpart ~~87~~, including:
 - (i) **regulatory templates** agreed under subclause ~~(34)~~ or specified under subclause ~~(45)~~; and
 - (ii) information required by the **Commission's base capex information request**; and
 - (c) be accompanied by the required assurance reports, including an **independent verification report, certification**, and **auditor** report in accordance with clauses ~~3.76.109-3.76.110~~.

~~(3) Where **Chorus** considers information provided as part of the **base capex proposal** is confidential, it must include the proposed confidential information separately to the other information in the **base capex proposal** and clearly mark it as confidential.~~

~~(4)~~(3) The **Commission** and **Chorus** must use reasonable endeavours to agree, in respect of the information **required** in the **regulatory templates** for the relevant **regulatory period**, including;

- (a) a list of **base capex sub-categories** and a description of each; and

(b) the form and content of the **regulatory templates**.

~~(5)~~(4) If no agreement is reached on one or more of the matters in subclause (34)(a)-(b), subject to subclause (67), the **Commission** must specify those matters and notify **Chorus**.

~~(6)~~(5) The **regulatory templates** must be agreed in accordance with subclause (34) or specified in accordance with subclause (45):

- (a) for the **first regulatory period**, ~~as soon as it is reasonably practicable before the first working day in August which is at least 17 months before the start of the regulatory period~~; and
- (b) for the **second regulatory period** and subsequent **regulatory periods**; before the first **working day** in March which is at least 22 months before the start of the **regulatory period**.

~~(7)~~(6) The **Commission** must have regard to the views **Chorus** expressed during discussion on the **regulatory templates** when specifying the matters in subclause (45).

~~(8)~~(7) For each **base capex sub-category** identified in the **regulatory template** as requiring geographic information, **Chorus** must provide a breakdown of its **capital expenditure** for the **base capex sub-category** by ~~one or more~~ the following geographical locations including:

- (a) ~~Chorus UFB initiative~~ urban areas;
- (b) ~~non-UFB initiative areas (such as rural areas)~~; and
- (c) ~~any further or other geographical breakdown set out in the regulatory templates~~ areas where **LFCs** other than **Chorus** have an **LFC fibre network**.

~~(9)~~(8) For **capital expenditure** identified in the **regulatory templates** as relating to both ~~regulated~~ **PQ FFLAS** and **services that are not regulated FFLAS**, **Chorus** must provide information specified in the **base capex information request** on the ~~asset~~ **east allocator** used and on **regulated FFLAS and services that are not regulated FFLAS** to enable the **Commission** to assess the expenditure proposal as a whole.

~~(10)~~(9) The **Commission** must issue a **base capex information request** to **Chorus** related to the **base capex proposal** in accordance with information requirements set out in clause 3.76.98:

- (a) for the first **regulatory period**, ~~as soon as it is reasonably practicable~~ at least 16 months before the start of the **regulatory period**; and
- (b) for the **second regulatory period** and subsequent **regulatory periods**, at least 22 months before the start of the **regulatory period**.

3.7.83.7.9 Base capex information request - information requirements

(1) ~~To the extent the Commission considers it relevant, the~~ **base capex information request** may, ~~without limitation, require~~ include information relating to any or all of the following areas:

- (a) governance relating to proposed **capital expenditure**, including evidence that appropriate policies and processes have been applied;
- (b) historic **capital expenditure** and consideration of historic rates of investment;
- (c) approach to forecasting **capital expenditure**, including models used to develop the **capital expenditure** forecasts;
- ~~(d)~~ procurement, resourcing and deliverability;
- ~~(d)~~ the extent of the uncertainty related to:
 - (i) the need for the proposed **base capex**;
 - (ii) the economic case justifying the proposed **base capex**;
 - (iii) the timing of the proposed **base capex**;
- (e) the extent that a risk-based approach has been applied to the proposed **base capex**;
- ~~(e)~~(f) relevant financial information including evidence of efficiency improvements in proposed **capital expenditure**;
- ~~(g)~~ quantitative or economic analysis related to the proposed **capital expenditure**, including sensitivity analysis and impact analysis undertaken;
- ~~(h)~~ consideration and analysis of alternatives to the proposed **capital expenditure**, including the impact of the alternatives on **PQ FFLAS** quality outcomes;
- ~~(f)~~(i) **fibre asset** and **fibre network** information;
- ~~(e)~~(i) competition effects, including specific information for **base capex sub-categories** that have potential impacts on competition in **regulated PQ FFLAS** and other telecommunications markets;
- (k) the impact that the proposed **capital expenditure** has on layer 1 **PQ FFLAS**;
- ~~(h)~~(l) common costs and benefits with **services that are not regulated FFLAS** and **regulated FFLAS**;
- ~~(j)~~(m) the linkages between **proposed capex** and quality, including the impact the **capital expenditure** would have on **PQ FFLAS** quality outcomes; and
- (n) the extent of consultation by **Chorus** with its **access seekers** and **end-users**, how input from consultation is incorporated into the forecast **capital expenditure** and what impact it has had on the **base capex proposal**; and
- ~~(j)~~(o) procurement, resourcing and deliverability of the proposed **capex**.

Formatted: Font: Bold

3.7.93.7.10 Base capex independent verification

- (1) For the **second regulatory period** and subsequent **regulatory periods**, the **base capex proposal** must be verified by an **independent verifier** approved by the **Commission**.
- (2) The intended independent verifier, scope and the terms and conditions proposed by **Chorus** for the **independent verification report** must be submitted to the **Commission** for approval prior to the start of the verification process.
- (3) The verification information submitted to the **Commission** in accordance with subclause (2) must include enough information for the **Commission** to be satisfied that:
 - (a) the verifier is **independent** and capable of undertaking the verification; and
 - (b) the terms and conditions of engagement and the scope of the **independent verification report** will provide the appropriate assurance needed to assess the **base capex proposal**.

3.7.103.7.11 Other assurance for base capex: certification and audit

- (1) At least 2 **directors** of **Chorus** must provide **certification** in relation to the **base capex proposal** in accordance with clause 3.76.3.
- (2) The **base capex proposal** must include a report by an **auditor** in accordance with clause 3.76.4.

3.7.113.7.12 Commission processes and rules for base capex allowance

- (1) After the **Commission** evaluates a **base capex proposal** in accordance with Subpart ~~87~~, the **Commission** must determine a **base capex allowance** for each regulatory disclosure year of that **regulatory period**:
 - (a) for the first regulatory period, no later than 36 months before the start of that **regulatory period**; and
 - ~~(a)~~(b) for the second regulatory period and subsequent regulatory periods, no later than 6 months before the start of that **regulatory period**.
- (2) **Chorus** does not exceed the total **base capex allowance** for the **regulatory period** simply because the actual **capital expenditure** varies between **base capex sub-categories** or between **regulatory years** from the forecast **capital expenditure** set out in the **base capex proposal** for the **regulatory period**.
- (3) The **Commission** may determine that proposed capital expenditure proposed within a base capex proposal must be excluded from the base capex allowance should be proposed within an individual capex proposal if the Commission is satisfied that the proposed capex should not be part of the base capex allowance after having regard to at least the following matters:
 - (a) the size and complexity of the **project or programme**;
 - (b) the extent of the uncertainty related to the:
 - (i) need for the **proposed capex**;
 - (ii) economic case justifying the **proposed capex**; and

Formatted: Font: Bold

- (iii) timing of the **proposing capex**; and
- (c) whether **capital expenditure** for the **project** or **programme** should be:
 - (i) approved only for the **project** or **programme** to which the **proposed capex** relates; and
 - (ii) reported separately from the **base capex** to assist the **Commission** in its evaluation of the **capital expenditure**.
- ~~(3) if the **Commission** considers the proposed **capital expenditure**:~~
 - ~~(a) is uncertain at the time **Chorus** submits the **base capex proposal**; and~~
 - ~~(b) is the type of **capital expenditure** that should be restricted to a particular **project** or **programme** rather than being substitutable between **base capex sub-categories**.~~
- (4) If the **Commission** makes a determination in accordance with subclause (3), **Chorus** may submit an **individual capex proposal** for that **capital expenditure** in accordance with the staged application process specified in clause 3.~~76.224~~-3.~~76.276~~.

SECTION 3 Connection capex

~~3.7.123~~3.7.13 General rules for connection capex allowances

- (1) The **Commission** will determine two components for the **connection capex allowance** ~~as follows~~:
 - (a) a **connection capex baseline allowance** prior to the **regulatory period** in accordance with clause 3.~~76.2019~~; and
 - (b) a **connection capex variable adjustment** after the final **connection capex annual report** of the **regulatory period** in accordance with clause 3.~~76.210~~.
- (2) The **capital expenditure** determined for the **connection capex allowance** must be additional to the **base capex allowance** and any **individual capex allowance**.
- ~~(2)~~(3) The **capital expenditure** determined for the **connection capex allowance** is not substitutable for **capital expenditure** determined for the **base capex allowance** or any **individual capex allowance** for a **regulatory year** or between **regulatory years** for the **regulatory period**.

~~3.7.133~~3.7.14 Connection capex baseline proposal process and timeframes

- (1) **Chorus** must submit a **connection capex baseline proposal** to the **Commission** for a **regulatory period** at the same time that it submits the **base capex proposal** for that **regulatory period** ~~at least 14 months before the start of the **regulatory period**~~.
- (2) A **connection capex baseline proposal** must:
 - (a) state any **connection capex** that **Chorus** considers should be included in the **connection capex baseline allowance** for each **regulatory year** of the **regulatory period**;

(b) only propose connection capex additional to the base capex allowance proposed for each regulatory year of the regulatory period;

~~(b)(c)~~ provide enough information to enable the **Commission** to evaluate the **connection capex baseline proposal** in accordance with Subpart 87, including:

- (i) **regulatory template** agreed under subclause (34) or specified under subclause (45); and
- (ii) information required by the **Commission's connection capex information request**; and

~~(c)(d)~~ be accompanied by the required assurance reports, including an **independent verification report, certification**, and an **auditor** report in accordance with clauses 3.76.165-3.76.176.

~~(3)~~ Where **Chorus** considers information provided as part of the **connection capex baseline proposal** is confidential, it must include the proposed confidential information separately to the other information in the **connection capex baseline proposal** and clearly mark it as confidential.

~~(4)(3)~~ The **Commission** and **Chorus** must use reasonable endeavours to agree, in respect of the information required in the **regulatory templates** for the relevant **regulatory period**, including:

- (a) the form and content of the **regulatory templates**;
- (b) the **connection types** relevant to the forecast expenditure and a description of each;
- (c) forecast initial connection capex unit costs/rates by connection type made up of the following components that must not overlap and must be identified separately:
 - (i) variable connection costs; and
 - ~~(i)(ii)~~ non-linear connection costs; and
- ~~(c)(d)~~ forecast connection volumes by **connection type**.

~~(5)(4)~~ If no agreement is reached on one or more of the matters in subclause (34)(a)-(d), subject to subclause (67), the **Commission** must specify those matters and notify **Chorus**.

~~(6)(5)~~ The **regulatory templates** must be agreed in accordance with subclause (34) or specified in accordance with subclause (45):

- (a) for the **first regulatory period**, as soon as it is reasonably practicable before the first working day in August which is at least 17 months before the start of the regulatory period; and
- (b) for the **second regulatory period** and subsequent **regulatory periods**, before the first **working day** in March which is at least 22 months before the start of the **regulatory period**.

~~(7)~~(6) The **Commission** must have regard to the views **Chorus** expressed during discussion on the **regulatory templates** when specifying the matters in subclause ~~(45)~~.

~~(8)~~(7) The **Commission** must issue a **connection capex information request** to **Chorus** related to the **connection capex baseline proposal** in accordance with information requirements set out in clause ~~3.76.154~~:

- (a) for the **first regulatory period**, ~~as soon as it is reasonably practicable at least 16 months before the start of the regulatory period~~; and
- (b) for the **second regulatory period** and subsequent **regulatory periods**, at least 22 months before the start of the **regulatory period**.

~~3.7.143.7.15~~ **3.7.15** Connection capex information request - information requirements

(1) ~~To the extent the Commission considers it relevant, t~~**The connection capex information request** may ~~include, without limitation, require~~ information relating to any or all of the following areas:

- (a) governance relating to proposed **capital expenditure**, ~~including evidence that appropriate policies and processes have been applied~~;
- (b) historic **capital expenditure** ~~and consideration of historic rates of investment~~;
- (c) approach to forecasting **capital expenditure**, ~~including models used to develop the capital expenditure forecasts~~;
- (d) procurement, resourcing, ~~and deliverability of the proposed capital expenditure~~;
- (e) relevant financial information including evidence of efficiency improvements in proposed **capital expenditure**;
- (f) ~~quantitative or economic analysis related to the proposed capital expenditure, including sensitivity analysis and impact analysis undertaken~~;
- ~~(f)~~(g) **fibre asset** and **fibre network** information;
- ~~(g)~~(h) competition effects, including specific information for **capital expenditure** that may have potential impacts on competition in ~~regulated~~**PQ FFLAS** and other telecommunications markets;
- ~~(h)~~ common costs and benefits with ~~services that are not regulated FFLAS~~;
- (i) ~~the linkages between the proposed capital expenditure and quality, including the impact the capital expenditure would have on PQ FFLAS quality outcomes; and~~
- (j) ~~consideration and analysis of alternatives to the proposed capital expenditure, including the impact of the alternatives on PQ FFLAS quality outcomes~~;
- (k) ~~the extent of consultation by Chorus with its access seekers and end-users, how input from consultation is incorporated into the forecast~~

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: Font: Bold

capital expenditure and what impact it has had on the connection capex baseline proposal; and

- ~~(1)~~ forecast costs for each connection type that make up the connection capex unit cost including specification of variable connection costs and non-linear connection costs, where variable connection costs and non-linear connection costs must not overlap and must be identified separately.

3.7.153.7.16 Connection capex baseline independent verification

- (1) For the **second regulatory period** and ~~all~~ subsequent **regulatory periods**, the **connection capex baseline proposal** must be verified by an **independent verifier** approved by the **Commission**.
- (2) The intended independent verifier, scope and terms and conditions proposed by **Chorus** for the **independent verification report** must be submitted to the **Commission** for approval before the start of the verification process.
- (3) The verification information submitted to the **Commission** in accordance with subclause (2) must include enough information for the **Commission** to be satisfied that:
 - (a) the verifier is **independent** and capability of undertaking the verification; and
 - (b) the ~~scope and~~ terms and conditions of engagement and the scope of the independent verification report will provide the appropriate assurance needed to assess the **connection capex baseline proposal**.
- (4) The **independent verification report** must be submitted with the **connection capex baseline proposal**.

3.7.163.7.17 Other connection capex assurance: certification and audit

- (1) At least two **directors** of **Chorus** must provide **certification** in relation to the **connection capex baseline proposal**, in accordance with clause 3.67.3.
- (2) The **connection capex baseline proposal** must include a report by an **auditor** in accordance with clause 3.76.4.

3.7.173.7.18 Connection capex annual report

- (1) **Chorus** must provide a **connection capex annual report** for each **regulatory year** of a **regulatory period** to the **Commission** no later than 3 months after the end of each **regulatory year** of the **regulatory period**.
- (2) The **connection capex annual report** must include the following information:
 - (a) ~~actual~~ the connection capex unit costs by **connection type** for the **regulatory year** which is the subject of the annual report, including separate identification of the non-linear connection costs;
 - (b) actual connection volumes by **connection type** for the **regulatory year** which is the subject of the annual report;

- (c) ~~any updates to the forecast connection capex unit costs as agreed in clause 3.6.13(4)(c) or specified in clause 3.6.13(5) and the forecast connection volumes by connection type as agreed in clause 3.6.13(4)(d) or specified in clause 3.6.13(5)~~ for the remaining **regulatory years** of the **regulatory period**.

- (3) The **connection capex annual report** must be accompanied by the required assurance, including the **certification** in accordance with clause 3.7.19(1) and an **auditor report** in accordance with clause 3.7.19(2).

- ~~(4) Where Chorus considers information provided as part of the connection capex annual report is confidential, it must include the proposed confidential information separately to the other information provided for the connection capex annual report and clearly mark it as confidential.~~

~~3.7.19~~ 3.7.19 Connection capex annual report assurance processes

- (1) ~~At least 2 directors~~The **CEO** of **Chorus** must provide a **certification** for the **connection capex annual report**.
- (2) The **connection capex annual report** must be audited in accordance with clause 3.7.4.

~~3.7.19~~ 3.7.20 Commission processes and timeframes for determining connection capex baseline allowance

- (1) After the **Commission** evaluates a **connection capex baseline proposal** in accordance with Subpart 87, the **Commission** must determine a **connection capex baseline allowance**:
- (a) ~~for the first regulatory period, no later than 3 months before the start of that regulatory period; and~~
 - ~~(a)~~(b) ~~for the second regulatory period and subsequent regulatory periods, no later than 6 months before the start of that regulatory period.~~
- (2) For the purposes of subclause (1), the **connection capex baseline** determination must include:
- (a) the **connection capex baseline allowance** by **connection type** for each ~~disclosure~~**regulatory year** of the **regulatory period**;
 - (b) the **connection capex unit costs**~~rates~~, by **connection type**, used to calculate the **connection capex baseline allowance** for each ~~disclosure~~**regulatory year** of the **regulatory period**; and
 - (c) the forecast volumes, by **connection type**, used to calculate the **connection capex baseline allowance** for each ~~disclosure~~**regulatory year** of the **regulatory period**.

~~3.7.20~~ 3.7.21 The connection capex variable adjustment

- (1) A **connection capex variable adjustment** will be determined at the end of the **regulatory period** after the **Commission** receives the **connection capex annual report** for the last **regulatory year** of the **regulatory period**.

- (2) The **connection capex variable adjustment** will be the difference between:
- (a) the **connection capex baseline allowance** for the **regulatory period** which is based on forecast connection volumes; and
 - (b) a **capital expenditure** amount that is based on actual connection volumes by **connection type** for the **regulatory period** multiplied by the **connection capex unit costs** used in determining the **connection capex baseline allowance** for that **connection type**.

SECTION 4 Individual capex proposals

3.7.21 3.7.22 Overview of individual capex proposal process and timeframes

- (1) **Chorus** may apply to the **Commission** to determine an additional **capex allowance** for ~~a regulatory period at any time before or~~ during ~~that~~ **regulatory period** by submitting an **individual capex proposal** in accordance with the staged application process specified in subclause (64).
- (2) An **individual capex proposal** must, in relation to a **regulatory period**, state any **individual capex** that **Chorus** considers should be included in the **individual capex allowance** for each regulatory year of that **regulatory period**.
- (3) The **individual capex proposal** must meet the following requirements:
- (a) the ~~proposed capex~~ **proposed capital expenditure** must be additional to any base capex allowance and connection capex baseline allowance for the regulatory years of each regulatory period relevant to the individual capex proposal;
 - ~~(a)~~(b) the proposed capex must relate to one or more **base capex sub-categories** included in the **base capex proposal** for the ~~first~~ **regulatory period** relevant to the individual capex proposal;
 - (c) the proposed **individual capex** must relate to a **project** or **programme**, where the forecast **capital expenditure** for ~~regulated PQ~~ **FFLAS** on that **project** or **programme** ~~amounts to~~ is at least \$5 million over the life of the project or programme; and
 - ~~(b)~~(d) the proposed capex has the characteristics specified in either or both subclause (4) or (5).
- (4) ~~the individual capex proposal is needed because~~ For the purposes of subclause (3)(d), at the time when the base capex proposal for the ~~at first~~ **regulatory period** relevant to the individual capex proposal was ~~is~~ submitted to the **Commission**, it is unreasonable to accurately forecast the capital expenditure for that project or programme due to the uncertainty in one or more of the following:
- (a) the need for the project or programme;
 - (b) the economic case justifying the capital expenditure for the project or programme; or
 - (c) the timing of the project or programme. ~~either:~~

Formatted: Font: Bold

- (i) ~~it would have been unreasonable to expect **Chorus** to accurately forecast the **capital expenditure**, or timing of, that **project or programme**; or~~
- (ii) ~~the **Commission** determined that **capital expenditure** proposed within the **base capex proposal** should instead be proposed within an **individual capex proposal** in accordance with clause 3.6.11(3); and~~
- (d) ~~the proposed **individual capex** must be additional to the **base capex allowance** and must only be used for the **individual capex project or individual capex programme** to which that **individual capex proposal** relates.~~

(5) For the purposes of subclause (3)(d), the **Commission** is satisfied that the **capital expenditure** for the **project or programme** should be:

- (a) approved only for the **project or programme** to which the **proposed capex** relates; and
- (b) reported separately from the **base capex** to assist the **Commission** in its evaluation of the **capital expenditure**.

~~(4)~~(6) Where **Chorus** intends to submit an **individual capex proposal** to the **Commission**, the following staged application process will occur:

- (a) a notification stage, where **Chorus** must notify the **Commission** of its intention to submit an **individual capex proposal** and provide an **individual capex design proposal** to the **Commission** for approval in accordance with clause 3.76.232; and
- (b) if the **Commission** approves **Chorus' individual capex design proposal**, a final proposal stage, where **Chorus** must submit to the **Commission** an **individual capex proposal** in accordance with clause 3.76.25-3.7.274 that is consistent with the **individual capex design proposal**.

3.7.223.7.23 Notification stage - individual capex design proposal

- (1) **Chorus** must notify the **Commission** in writing that it intends to submit an **individual capex proposal** to the **Commission** and must include an **individual capex design proposal** with the notice.
- (2) The **individual capex design proposal** must include a description of:
 - (a) key parameters of the **individual capex project or individual capex programme** that the proposed **capital expenditure** relates to in accordance with subclause (3);
 - (b) the proposed information to be provided to the **Commission** in the final **individual capex proposal** based on the **individual capex** information requirements in clause 3.76.265;
 - (c) the assurance processes to be undertaken, based on the **individual capex** requirements in clause 3.76.276; and

- (d) the proposed timeframe for **Chorus** to submit the final proposal.
- (3) For the purposes of subclause (2)(a), the key parameters in the **individual capex design proposal** must include:
- (a) the need for investment and the timing of the **individual capex project or individual capex programme** and the extent of any related ~~uncertainty~~ **capital expenditure**;
 - (b) the assumed technical parameters for the **individual capex project or individual capex programme**;
 - (c) any relevant technology development plans;
 - ~~(d)~~ identification of alternatives ~~considered~~ options and any impact on;
 - ~~(e)~~ impact of the proposed **individual capex** on **PQ FFLAS** quality outcomes;
and
 - ~~(d)~~~~(f)~~ any impact of the proposed **individual capex** on previously determined or forecast **base capex allowance** and **operating expenditure**;
 - ~~(g)~~ the possible expected costs, benefits and risks associated with the **individual capex project or individual capex programme**;
 - ~~(e)~~~~(h)~~ a proposed any previous or planned consultation undertaken ~~plan~~ and the reasons that the consultation is commensurate with the scale and complexity of the proposed **capital expenditure** on the **individual capex project or individual capex programme** explanation of the degree of consultation required; and
 - ~~(i)~~ if **Chorus** considers the **capital expenditure** related to the proposed **individual capex project or individual capex programme** should be substitutable with other **capital expenditure** within the **base capex allowance**, sufficient information and reasons to assist the **Commission** in deciding whether a waiver is justified in accordance with clause 3.7.28(3); and
 - ~~(j)~~ a proposal for independent verification that is commensurate with the size and complexity of the **individual capex proposal**, including:
 - ~~(i)~~ details of the intended independent verifier and enough information to demonstrate that verifier is **independent** and capable of undertaking the intended **independent verification report**;
 - ~~(i)~~~~(ii)~~ the proposed terms and conditions of the verifier's engagement and the scope of the **proposal for independent verification independent verification report**, including enough information to demonstrate the scope and terms of engagement for the intended **independent verification report** is appropriate for the size and complexity of the **individual capex project or individual capex programme**; and

(iii) if **Chorus** considers there is no need for an **independent verification report**, sufficient information and reasons to assist the **Commission** in deciding whether a waiver is justified in accordance with clause 3.7.24(2).

(ii) enough information to demonstrate that the verifier is **independent** and capable; and

(iii) enough justification that the scope and terms of the intended **independent verification report** will be commensurate to the size and complexity of the **individual capex project** or **individual capex programme**.

3.7.233.7.24 Commission approval of the individual capex design proposal

(1) Within one month of the **Commission** receiving the **individual capex design proposal** from **Chorus**, the **Commission** must do one of the following:

- (a) approve the **individual capex design proposal**;
- (b) approve the **individual capex design proposal** with conditions; or
- (c) decline the **individual capex design proposal**.

(2) Subject to subclause (3), the **Commission** may approve the **individual capex design proposal** and waive the requirement for an **independent verification report**, if satisfied that the information and reasons provided in the **individual capex design proposal** in accordance with clause 3.7.23(3)(j)(iii) justifies the waiver.

(3) For the purposes of subclause (2), when considering the waiver, the **Commission** will have regard to:

- (a) the size and complexity of the proposed **capital expenditure** and related **project** or **programme**; and
- (b) the extent to which an **independent verification report** might assist the **Commission** in its determination of the **individual capex allowance**.

~~(2)~~(4) If the **individual capex design proposal** is not approved, or approved with conditions not acceptable to **Chorus**, **Chorus** may resubmit a revised **individual capex design proposal** at a later date.

3.7.243.7.25 The final individual capex proposal

(1) Where the **Commission** approves or approves with conditions an **individual capex design proposal** in whole or in part, **Chorus** must provide an **individual capex proposal** in accordance with the **approved timeframes** specified in the **approved individual capex design proposal**.

(2) The **individual capex proposal** must be consistent with the key parameters, information requirements, assurance processes and any conditions approved by the **Commission** in relation to the **individual capex design proposal**.

The proposed **individual capex** must be net of any determined **base capex allowance**.

3.7.253.7.26 Individual capex minimum information requirements

- (1) The **Commission** may require additional information in relation to ~~included in the individual capex design proposal and must be based on the information approved for the individual capex design proposal~~ including information relating to ~~and may include~~ the following:
- (a) governance relating to proposed **capital expenditure**, including evidence that appropriate policies and processes have been applied;
 - (b) historic **capital expenditure** and consideration of historic rates of investment;
 - (c) approach to forecasting **capital expenditure**, including models used to develop the **capital expenditure** forecasts;
 - (d) relevant financial information including evidence of efficiency improvements in proposed **capital expenditure**;
 - (e) quantitative or economic analysis undertaken to justify the **individual capex project** or **individual capex programme**;
 - (f) the linkages between the proposed **capex expenditure** and quality, including the impact the **capital expenditure** would have on **PQ FFLAS** quality outcomes and forecast **PQ FFLAS** quality outcomes and where applicable an assessment of the updated forecast **PQ FFLAS** quality outcomes against the quality standards within the **PQ determination**;
 - (g) consideration and analysis of alternatives to the proposed **capital expenditure**, including the impact of the alternatives on **PQ FFLAS** quality outcomes;
 - (h) competition effects, including specific information for the **individual capex project** or **individual capex programme**, that may have potential impacts on competition in **PQ FFLAS** and other telecommunications markets;
 - (i) the extent of the uncertainty related to the proposed **individual capex project** or **individual capex programme**;
 - (j) the impact that the proposed **capital expenditure** has on layer 1 **PQ FFLAS**;
 - (k) common costs and benefits with **services that are not regulated FFLAS** and **regulated FFLAS**;
 - (a) ~~enough information for the **Commission** to assess the **individual capex proposal** against the **capital expenditure objective**, having regard to the **assessment factors**;~~
 - (b) ~~evidence that appropriate internal governance including application of related policies and processes has been applied;~~
 - (c) ~~economic analysis undertaken to justify the **individual capex project** or **individual capex programme**;~~

~~(d)~~(l) any technical information and standards relied upon in the development of the **capital expenditure proposal** application;

Formatted: Font: Bold

~~(e)~~(m) the extent of ~~evidence of any~~ consultation by **Chorus** on the **individual capex project or individual capex programme**, how input from consultation is incorporated into the forecast capital expenditure and what impact it has had on the individual capex proposal;

(n) procurement, resourcing, and deliverability of the proposed capital expenditure;

~~(f)~~ information to demonstrate the fulfilment of any **independent verification, certification**, audit, and consultation requirements;

~~(g)~~(o) an explanation of the impact the **capital expenditure** would ~~have~~ have on ~~quality and~~ any previously determined **base capex allowance** ~~and~~ **operating expenditure** or forecast base capex allowance and forecast operating expenditure; and

Formatted: Font: Bold

~~(h)~~(p) any expert reports or advice that contributed to the **individual capex proposal**.

~~3.7.26~~3.7.27 Individual capex assurance requirements: independent verification

(1) Subject to clause 3.7.24(2), the **individual capex proposal** must be verified by an **independent verifier** identified in the individual capex design proposal and approved by the Commission in accordance with clause 3.7.24(1)(a) or (b) providing an independent verification report as approved in the individual capex design proposal.

(2) If an **independent verification report** is required, the scope and the terms and conditions of the report must be consistent with the approved **individual capex design proposal**.

(3) The verification information submitted to the **Commission** in accordance with subclause (2) must include enough information for the **Commission** to be satisfied that:

(a) the verifier is **independent** and capable of undertaking the verification; and

~~(a)~~(b) the terms and conditions of engagement and the scope of the **independent verification report** will provide the appropriate assurance needed to assess the **individual capex proposal**.

~~(2)~~(4) An **individual capex proposal** must be certified by the **CEO of Chorus** in accordance with clause 3.76.3.

~~(3)~~(5) An **individual capex proposal** must be audited in accordance with clause 3.76.4 and must include a statement from the **auditor**:

(a) that the **individual capex proposal** complies, in all material respects, with the ~~agreed~~ information requirements, ~~and~~ key parameters and conditions in the approved individual capex design proposal; and

- (b) on whether the proposed **individual capex** is additional to and not a substitute for the determined **base capex allowance**.

3.7.273.7.28 Commission processes for final individual capex proposal

- (1) The **Commission** must evaluate the final **individual capex proposal** in accordance with Subpart 87 and do one of the following:
 - (a) determine the **individual capex allowance**;
 - (b) determine the **individual capex allowance**, with conditions; or
 - (c) decline the **individual capex proposal**.
- (2) If the **Commission** determines an **individual capex allowance** ~~for a regulatory period~~, the determination must include:
 - (a) the **individual capex allowance** for that **regulatory period** and any subsequent regulatory periods;
 - (b) any reporting requirements; and
 - (c) any other conditions of the **Commission's** determination of that **individual capex allowance**.
- (2) Subject to subclause (4), an **individual capex allowance** determined by the **Commission** must be restricted to the **project** or **programme** to which that **individual capex allowance** relates.
- (3) Subject to subclause (5), the **Commission** may waive the requirement that the **individual capex allowance** must be restricted to the **project** or **programme** to which that **individual capex allowance** relates, if satisfied that the information and reasons provided in the **individual capex proposal** justifies the waiver.
- (4) For the purposes of subclause (4), when considering the waiver, the **Commission** must have regard to at least the following matters:
 - (a) the size and complexity of the **proposed capex** and related **project** or **programme**; and
 - (b) whether **proposed capex** for the **project** or **programme** should be:
 - (i) approved only for the **project** or **programme** to which the **proposed capex** relates; and
 - (ii) reported separately from **base capex** to assist the **Commission** in its evaluation of the **proposed capex**.

~~The **Commission** may consult on the **individual capex proposal** if satisfied that the consultation is for the long-term benefit of **end users**.~~

SUBPART 8 **Capital expenditure evaluation by the Commission**

SECTION 1 **General rules for Commission determination processes**

3.8.1 Commission determination of capex proposals

(1) After receiving a **capex proposal**, the **Commission** must determine the **capex allowance** in relation to each **capex proposal** in accordance with the general evaluation criteria in section 12 of Subpart 7 and any specific requirements set out for each category of **capex proposal** in sections 2, 3 and 4 of Subpart 76.

(2) A determined **capex allowance** must be net of **capital contributions**.

3.8.2 Consequences of evaluation and other process timeframes not being met by Commission

(1) None of the **Commission's** functions or decisions described in this determination are invalidated on account of the **Commission's** failure to meet any timeframes applying to the **Commission** specified in this determination.

(2) Notwithstanding subclause (1), the **Commission** will, as soon as reasonably practicable after it believes that a timeframe applying to the **Commission** is not likely to be met or has not been adhered to, notify **Chorus** and, where relevant, interested persons, of the new timeframe that applies.

3.8.3 Publication of determinations

(1) The **Commission** will publish all determinations that it is required to make under section 2-4 of Subpart 76:

- (a) on the **Commission's** website; and
- (b) no later than 1 month after having made them.

3.8.4 Commission consultation

(1) After receiving a **base capex proposal** or a **connection capex baseline proposal**, the **Commission** must, for each **capex proposal**:

- (a) if deemed necessary by the **Commission**, seek the views of any person the **Commission** considers has expertise on a relevant matter;
- (b) publish the relevant **capex proposal** ~~or application~~, subject to withholding any information the **Commission** considers commercially sensitive or otherwise confidential;
- (c) make and publish a draft determination or determinations; and
- (d) ~~consult with~~ seek the written views of interested persons, ~~on anything so published; and~~
- ~~(e) seek the written views of interested persons on others' submissions.~~

(2) Subject to subclause (3), aAfter receiving an **individual capex proposal**, the **Commission** may take any of the actions referred to in subclauses (1)(a)-(d).

(3) When determining whether to consult under subclause (2), the Commission must have regard to at least the following matters:

- (a) the size and complexity of the proposed capex and related project or programme;

(b) any consultation already undertaken by Chorus related to the capital expenditure (for example, when consulting on the base capex proposal);

(c) the extent to which the consultation might assist the Commission when determining the individual capex allowance;

(d) the commercial sensitivity of the proposed project or programme and whether consultation might adversely impact competition; and

(e) the impact of the capital expenditure on PQ FFLAS quality outcomes for access seekers and end-users.

~~(3)~~(4) Where the Commission takes any of the actions referred to in subclauses (1)(a)-(de) or (2), the Commission may do so in accordance with such timeframes and processes as it considers appropriate.

SECTION 2 Evaluation criteria – expenditure objective and assessment factors

3.8.5 Commission evaluation

(1) The Commission must evaluate a capex proposal by:

(a) considering whether the ~~proposed capex~~**proposed capital expenditure** meets the **capital expenditure objective** and reflects **good telecommunications industry practice**; and

(b) having regard to the **assessment factors** in clause 3.78.6 when considering whether a **capex proposal** has met the **capital expenditure objective**.

(2) A **capex proposal** meets the **capital expenditure objective** if the expenditure reflects the efficient costs that a prudent **fibre network operator** would incur to deliver ~~regulated PQ~~**regulated PQ** FFLAS of appropriate quality, during the relevant **regulatory period** and over the longer term.

3.8.6 Assessment factors

(1) ~~To the extent the Commission considers it relevant, the Commission must have regard to at least the following~~**The Commission must have regard to at least the following** ~~consider the following~~ **'assessment factors'** when evaluating a **capex proposal**:

(a) whether the **proposed capex** complies with all applicable legal and regulatory obligations associated with the provision of ~~regulated PQ~~**regulated PQ** FFLAS;

(b) governance relating to proposed capex, including evidence that appropriate policies and processes have been applied;

(c) historic capital expenditure and consideration of historic rates of investment;

(d) quantitative or economic analysis related to the proposed capex, including sensitivity analysis and impact analysis undertaken;

(e) approach to forecasting capital expenditure, including models used to develop the capital expenditure forecasts;

Formatted: Font: Bold

Formatted: Font: Not Bold

- (f) relevant financial information including evidence of efficiency improvements in **proposed capex**;
- (g) competition effects, including specific information for **capital expenditure** that have potential impacts on competition in **PQ FFLAS** and other telecommunications markets;
- ~~(b)~~ the potential impact of the proposed **capital expenditure** on actual or potential competition in any telecommunications market;
- ~~(e)~~(h) the linkages/relationship between the **proposed capex** and quality, including the impact the **capital expenditure** would have on **PQ FFLAS** quality outcomes;
- (i) consideration and analysis of alternatives to the **proposed capex**, including the impact of the alternatives on **PQ FFLAS** quality outcomes;
- (j) the extent and effectiveness of consultation and engagement with stakeholders and the extent that feedback received has been incorporated into the **capex proposal**;
- (k) procurement, resourcing, deliverability of the **proposed capex**;
- (l) common costs and benefits with **services that are not regulated FFLAS** and **regulated FFLAS**;
- ~~(e)~~(m) **fibre asset** and **fibre network** information;
- ~~(e)~~ the deliverability of the **proposed capex** and the feasibility of implementation;
- ~~(f)~~(n) mechanisms for controlling actual **capital expenditure** with respect to the **proposed capex** and achieving the **PQ FFLAS** quality outcomes;
- (o) the extent/degree of the uncertainty related to/within the:
 - (i) need for the **proposed capex**;
 - (ii) economic case justifying the **proposed capex**; and
 - ~~(i)~~(iii) timing of the **proposed capex**;
- ~~(e)~~(p) the extent that a risk-based approach has been applied;
- ~~(h)~~(q) the impact that the **proposed capex** has on layer 1 **regulated PQ FFLAS**;
- ~~(i)~~(r) the dependency and trade-off between the **proposed capex** and related **operating expenditure** to ensure least whole-of-life cost for managing assets and cost-efficient solutions;
- ~~(j)~~(s) the accuracy and reliability of data; and
- ~~(k)~~(t) the reasonableness of the **key assumptions, methodologies, planning and technical standards** relied upon.:
 - (i) key assumptions relied upon;
 - (ii) methodologies and information used;
 - (iii) planning and technical standards relied upon;

Formatted: Font: Bold

- ~~(iv) — models used to develop the **capital expenditure** forecasts; and~~
- ~~(v) — proposed approach to procurement of goods and services;~~
- ~~(f) — the extent of:~~
 - ~~(i) — options, alternatives, sensitivity analysis and impact analysis undertaken investigated and assessed; and~~
 - ~~(ii) — consideration of historic rates of investment; and~~
 - ~~(m) — any other factors the **Commission** considers relevant.~~

SUBPART 9 **Reconsideration of a price-quality path**

SECTION 1 When Commission can reconsider and amend PQ determination

3.9.1 When a price-quality path may be reconsidered and amended

- (1) The **Commission** may reconsider and amend a **regulated provider's PQ determination** if the **Commission** is satisfied that-
- (a) a **reopener event** has occurred;
 - (b) the **PQ determination** should be amended, after having regard to at least the matters under clause 3.9.8(1); and
 - (c) the proposed amendment to the **PQ determination** would be consistent with the applicable requirements of clause 3.9.9 and s 166(2) of the **Act**.
- (2) A 'reopener event' is an event, or a series of related events, described in clauses 3.9.3 to 3.9.7 that-
- (a) the **Commission** identifies or a **regulated provider** notifies the **Commission** of; and
 - (b) occur within six months of or during the **regulatory period** of the **PQ determination** that may be reconsidered.

3.9.2 Procedural, notification and information requirements for the reconsideration process

- (1) A **regulated provider** that identifies a **reopener event** and requests that the **Commission** reconsider and amend the **PQ determination** must provide enough information to the **Commission** to enable it to assess:
- (a) whether a **reopener event** has occurred;
 - (b) having regard to relevant matters under clause 3.9.8(1), whether and how the **PQ determination** should be amended; and
 - (c) whether the proposed amendment to the **PQ determination** is consistent with the applicable requirements of clause 3.9.9 and the **Act**.
- (2) The **Commission** must publish notice on its website when the **Commission-**
- (a) identifies a potential **reopener event**;

- (b) receives a request to assess whether a **reopener event** has occurred and to reconsider and amend the **PQ determination**;
- (c) decides whether the **Commission**:
 - (i) is satisfied that a **reopener event** has occurred;
 - (ii) proposes to reconsider the **PQ determination**; and
 - (iii) will amend the relevant **PQ determination**.

(3) The **Commission** may publish notice under subclause (2) separately or in combination as it considers appropriate.

SECTION 2 Events that may be reopener events

3.9.3 Catastrophic event

- (1) 'Catastrophic event' means an event, or the credible threat of an event, that:
- (a) is beyond the reasonable control of the **regulated provider** affected or likely to be affected by the event or the credible threat of an event;
 - (b) the **regulated provider** could not reasonably have foreseen when the **base capex proposal** and **connection capex baseline proposal** were made for the **regulatory period**; and
 - (c) does at least one of the following:
 - (i) imposes a cost on the **regulated provider** (whether **capital expenditure** or **operating costs**) for responding to, mitigating, or preventing the adverse consequences of the event or credible threat of the event on **core fibre assets** or **maximum revenues** that, net of any insurance or compensatory entitlements, exceeds an amount equivalent to 1% of the **maximum revenues** for the first **regulatory year** of the **PQ determination**; or
 - (ii) results in a **regulated provider** failing to meet its quality standards under the **PQ determination**.

Examples of an event that, provided it meets the above requirements, is a catastrophic event:

- *an act of God, fire, earthquake, tsunami, storm, cyclone, or flood;*
- *an explosion, or collision; or*
- *a civil disturbance, insurrection, epidemic, pandemic, national emergency (whether in fact or law), cyber security incident, act of war (whether declared or not), or an act of terrorism.*

- (2) The following events, or credible threats of these events, are not **catastrophic events**:
- (a) a loss of supply of any **PQ FFLAS** caused by the **regulated provider's** action or neglect; or

(b) a situation that the **regulated provider** could have prevented or overcome by exercising reasonable diligence at reasonable cost.

~~(1) 'Catastrophic event' means an event (including a credible and specific threat)~~

- ~~(a) beyond the reasonable control of a **regulated provider**;~~
- ~~(b) in relation to which expenditure is not explicitly or implicitly provided for in the **PQ determination**;~~
- ~~(c) that could not have been reasonably foreseen at the time the **PQ determination** was made; and~~
- ~~(d) in respect of which~~
 - ~~(i) action required to respond to, mitigate or prevent the event's adverse consequences cannot be delayed until a future **regulatory period** without quality standards being breached;~~
 - ~~(ii) this action requires or required either or both of **capital expenditure** or **operating costs** during the **regulatory period**;~~
 - ~~(iii) the full costs of this action are not provided for in the **PQ determination**; and~~
 - ~~(iv) the cost of response net of any insurance or compensatory entitlements has had or will have an impact on the price path over the **regulatory years** of the **PQ determination** remaining on and after the first date at which a remediation cost is proposed to be or has been incurred, by an amount at least equivalent to 1% of the aggregated **maximum revenues** for the **regulatory years** of the **PQ determination** in which the cost was or will be incurred.~~

3.9.4 Change event

(1) 'Change event' means an event that:

- (a) is a change in a regulatory requirement that applies to a **regulated provider** arising from:
 - (i) new or amended legislation; or
 - (ii) judicial clarification of the interpretation of legislation; and
- (b) has at least one of the following effects:
 - (i) increases the costs (whether **capital expenditure** or **operating costs**) the **regulated provider** needs to incur in providing **PQ FFLAS** of at least 1% of the **maximum revenues** for the first **regulatory year** of the **PQ determination**;
 - (ii) reduces the costs the **regulated provider** needs to incur in providing **PQ FFLAS** of at least 1% of the **maximum revenues** for the first **regulatory year** of the **PQ determination**; or
 - (iii) results in a **regulated provider** failing to meet its quality standards under the **PQ determination**.

~~(1) 'Change event' means-~~

- (a) ~~a change in a; or~~
- (b) ~~a new,~~

~~legislative or regulatory requirement applying to a **regulated provider**, the effect of which-~~

- (c) ~~must take place during the current **regulatory period**;~~
- (d) ~~is not explicitly or implicitly provided for in the **PQ determination**; and~~
- (e) ~~where at least one of the following applies to the legislative or regulatory requirement-it results in an increase in the costs the **regulated provider** needs to incur in providing **regulated FFLAS** of at least 1% of the aggregate amount of the **maximum revenues** for the **regulatory years** in which the costs are or will be incurred;~~
- (f) ~~it results in a reduction in the costs the **regulated provider** needs to incur in providing **regulated FFLAS** of at least 1% of the aggregate amount of the **maximum revenues** for the **regulatory years** in which the costs would have been incurred; or~~
- (g) ~~it causes an **input methodology** to become incapable of being applied as originally intended.~~

3.9.5 GAAP change

(1) 'GAAP change' means an event that amounts to a change-

(a) in a requirement that applies to a **regulated provider** under **GAAP** and results in a change in the recognition or measurement (including timing) of:

- (i) **operating expenditure**;
- (ii) **capital expenditure**;
- (iii) **fibre assets**;
- (iv) liabilities; or
- (v) **total FFLAS revenue**; and

(b) that, if the change was in effect at the time the price path was determined, the aggregate amount of the **maximum revenues** for all **regulatory years** of the **PQ determination** would have differed by at least 1% as a result of a difference in the forecast amounts or values relied on in setting the price path.

~~'GAAP change' means-~~

- ~~(a) a change in a; or~~
- ~~(b) a new,~~

~~requirement applying to a **regulated provider** under **GAAP** the effect of which-~~

- ~~(c) must take place during the current **regulatory period**;~~

~~(d) results in a change in the recognition or measurement (including timing) of:~~

- ~~(i) operating costs;~~
- ~~(ii) capital expenditure;~~
- ~~(iii) fibre assets;~~
- ~~(iv) liabilities; or~~
- ~~(v) revenue;~~

~~(e) is not explicitly or implicitly contemplated by the **PQ determination**; and either-~~

~~(f) if the change or new requirement were explicitly or implicitly contemplated by the **PQ determination** at the time the price path was determined, would have produced a difference in:~~

- ~~(i) the forecast amounts or values relied on in setting the price path for the **regulatory years** of the **regulatory period** in which the change or new requirement applies; or~~
- ~~(ii) the assumptions relied on in setting that price path or **PQ determination**,~~

~~such that the aggregate amount of the **maximum revenues** for the **regulatory years** would have differed by at least 1%; or~~

~~(g) causes an **input methodology** to become incapable of being applied as originally intended.~~

3.9.6 Error event

(1) ~~Subject to subclause (2), 'Error event' means, subject to subclause (2), a clearly unintended circumstance identified by the Commission where in which the **PQ determination** was ~~made~~determined or amended based on an error, including where:~~

- ~~(a) incorrect, false, or misleading data information was used in setting the price path or a quality standard; or~~
- ~~(b) data was incorrectly applied in setting the price path or a quality standard.~~

~~(2) For the purposes of subclause (1):~~

~~(a) an error relating to a quality standard specified in the **PQ determination** will not constitute an **error event** unless it is an error in the value of a quality standard, including any value used to prescribe a target, band or formula; and~~

~~(b) a discrepancy between forecast values and actual values will not constitute an error event unless a material aspect of the forecast values was false or the forecast was misleading.~~

3.9.7 Major transaction

- (1) 'Major transaction' means a transaction, whether contingent or not, that has or is likely to ~~result in~~have:
- (a) ~~the regulated provider acquiring or agreeing~~resulted in the acquisition of, or an agreement to acquire, a fibre assets with a value which is equivalent to more than 10% of the sum of ~~that a regulated provider's~~that regulated provider's opening RAB values in the PQ RAB in the disclosure regulatory year of acquisition;
 - (b) ~~the regulated provider disposing of, or agreeing~~resulted in the disposal of, or an agreement to dispose of, a fibre assets of a regulated provider with a value of more than 10% of the sum of ~~that regulated~~that regulated provider's the opening RAB values in the PQ RAB in the regulatory disclosure year of disposal;
 - (c) ~~the effect of a regulated provider~~acquiring rights or interests in a fibre asset with a value which is equivalent to more than 10% of the sum of ~~that regulated provider's the opening RAB values~~that regulated provider's the opening RAB values in the PQ RAB in the disclosure regulatory year of acquisition; or
 - (d) ~~the effect of a regulated provider~~incurring obligations or liabilities related to a fibre asset or contingent liabilities, excluding loans or borrowing costs in respect of ~~the fibre assets~~the fibre assets, with a value which is equivalent to more than 10% of the sum of ~~that regulated provider's the opening RAB values~~that regulated provider's the opening RAB values in the PQ RAB in the regulatory disclosure year of incurring the obligation or liabilities.
- (2) ~~To avoid doubt, f~~For the purpose of subclause (1), a transaction includes an amalgamation under Part 13 of the Companies Act 1993.

SECTION 3 Commission consideration of whether and how to amend PQ determination

3.9.8 Commission consideration of whether to amend the price-quality path

- (1) If, under clause 3.9.1(1)(a), the Commission is satisfied that a reopener event has occurred, in deciding under clause 3.9.1(1)(b) whether to amend the relevant PQ determination, the Commission must have regard to at least the following matters:
- (a) the impact of the reopener event given all the relevant circumstances, including both positive and negative effects, on costs, revenues, and PQ FFLAS quality outcomes;
 - (b) whether the relevant regulated provider has satisfied the Commission that the action required to respond to the reopener event's adverse consequences cannot be delayed until a future regulatory period without the relevant regulated provider failing to meet its quality standards or other legal or regulatory obligations;

- (c) the extent to which the relevant **PQ determination** provides explicitly or implicitly for the **reopener event**;
- (d) whether the relevant **regulated provider** has demonstrated it has reviewed its planned **capital expenditure** and **operating expenditure** for the remainder of the **regulatory period** and reprioritised its expenditure to the extent possible without adversely affecting:
 - (i) the **regulated provider's** ability to meet the quality standards under the relevant **PQ determination**; and
 - (ii) **PQ FFLAS** quality outcomes for **access seekers** and **end-users**; and
- (e) to the extent relevant:
 - (i) whether the proposed **capital expenditure** complies with all applicable legal and regulatory obligations associated with the provision of **PQ FFLAS**;
 - (ii) governance relating to proposed **capital expenditure**, including evidence that appropriate policies and processes have been applied;
 - (iii) historic **capital expenditure** and consideration of historic rates of investment;
 - (iv) quantitative or economic analysis related to the proposed **capex**, including sensitivity analysis and impact analysis undertaken;
 - (v) approach to forecasting **capital expenditure**, including models used to develop the **capital expenditure** forecasts;
 - (vi) relevant financial information including evidence of efficiency improvements in proposed **capital expenditure**;
 - (vii) competition effects, including specific information for **capital expenditure** that have potential impacts on competition in **PQ FFLAS** and other telecommunications markets;
 - (viii) the linkages between the proposed **capital expenditure** and quality, including the impact the **capital expenditure** would have on **PQ FFLAS** quality outcomes;
 - (ix) consideration and analysis of alternatives to the proposed **capital expenditure**, including the impact of the alternatives on **PQ FFLAS** quality outcomes;
 - (x) the extent and effectiveness of consultation and engagement with stakeholders and the extent that feedback received has been incorporated into the proposed **capital expenditure**;
 - (xi) procurement, resourcing, deliverability of the proposed **capex**;
 - (xii) common costs and benefits with **services that are not regulated FFLAS** and **regulated FFLAS**;
 - (xiii) **fibre asset** and **fibre network** information;

- (xiv) mechanisms for controlling actual **capital expenditure** with respect to the proposed **capital expenditure** and achieving the **PQ FFLAS** quality outcomes;
- (xv) the extent of the uncertainty related to the:
 - A. need for the proposed **capital expenditure**;
 - B. economic case justifying the proposed **capital expenditure**; and
 - C. timing of the proposed **capital expenditure**;
- (xvi) the extent that a risk-based approach has been applied;
- (xvii) the impact that the proposed **capex** has on layer 1 **PQ FFLAS**;
- (xviii) the dependency and trade-off between the proposed **capital expenditure** and related **operating expenditure** to ensure least whole-of-life cost for managing assets and cost-efficient solutions;
- (xix) the accuracy and reliability of data; and
- (xx) the reasonableness of the key assumptions, methodologies, planning and technical standards relied upon.

3.9.8 When price-quality paths may be reconsidered

~~(1) — A regulated provider's **PQ determination** may be reconsidered by the **Commission** if~~

- ~~(a) — the **Commission** considers, or the **regulated provider** applies to the **Commission** and satisfies the **Commission**, that~~
 - ~~(i) — subject to subclause (2), a **catastrophic event** has occurred or is anticipated;~~
 - ~~(ii) — there has been an **error event**;~~
 - ~~(iii) — a **GAAP change** has occurred;~~
 - ~~(iv) — a **change event** has occurred;~~
 - ~~(v) — a **major transaction** has occurred; or~~
 - ~~(vi) — **false or misleading information** has been provided.~~

~~(2) — For the purpose of subclause (1)(a)(vi), 'false or misleading information' means~~

- ~~(a) — false or misleading information relating to the making or amending of the **PQ determination** has been knowingly~~
 - ~~(i) — provided by a **regulated provider** or any of its agents to the **Commission**; or~~
 - ~~(ii) — disclosed under an **ID determination**; and~~
- ~~(b) — the **Commission** relied on that information in making or amending the **PQ determination**.~~

3.9.9 Amending the price-quality path after consideration

(1) Subject to subclause (2), if the **Commission** decides that a **reopener event** has occurred and the **PQ determination** should be amended, the **Commission** may amend the price path and the quality standards to take account of part or all of the

net effects of the reopener event on costs, revenues, and PQ FFLAS quality outcomes.

(2) In amending the price path and the quality standards under subclause (1), the Commission must not amend the price path or quality standards more than is reasonably necessary to:

(a) take account of the change in costs, net of any insurance or compensatory entitlements, resulting from the relevant event or transaction where the PQ determination is amended because of a reopener event caused by:

- (i) a catastrophic event;
- (ii) a change event; or
- (iii) a major transaction; and

(b) address the relevant differences in values specified in the PQ determination where the PQ determination is amended because of a reopener event caused by:

- (i) an error event; or
- (ii) a GAAP change.

(3) Where the PQ determination is amended under this clause, the Commission will determine which of the capital expenditure requirements in Subparts 7 and 8, if any, apply.

3.9.9 Amending price quality path after reconsideration

(1) Where, after reconsidering a PQ determination, the Commission determines that the PQ determination should be amended, the Commission may amend either or both of the price path and the quality standards, subject to subclauses (2) to (5).

(2) Where the PQ determination is amended due to:

- (a) a catastrophic event;
- (b) a change event; or
- (c) a major transaction,

the Commission must not amend the price path or quality standards more than is reasonably necessary to take account of the change in costs net of any insurance or compensatory entitlements resulting from the relevant event or transaction.

(3) Where the PQ determination is amended due to:

- (a) an error event;
- (b) a GAAP change; or
- (c) the provision of false or misleading information,

the ~~Commission~~ must not amend the price path or quality standards more than is reasonably necessary to address the relevant differences in values specified in the ~~PQ determination~~.

- (4) Where the ~~Commission's~~ reconsideration of the ~~PQ determination~~ was triggered by a ~~catastrophic event~~, in determining the extent of the amendment required, the ~~Commission~~ will consider the extent to which the relevant ~~regulated provider~~ has demonstrated that it has reviewed its ~~capital expenditure~~ and ~~operating costs~~ plans for the remainder of the ~~regulatory period~~ and made such substitutions as are possible without adversely affecting its ability to meet quality standards.
- (5) Where the ~~PQ determination~~ is amended under this clause, the requirements under Subparts 7 and 8 will only apply as determined by the ~~Commission~~.

**SCHEDULE A MINIMUM LEVELS OF SPECIFICITY TO DESCRIBE
ASSETS IN RAB**

Table A.1: Minimum levels of specificity to describe assets in RAB

Category of asset	Minimum levels of specificity to describe assets
Network layer	<u>Whether a core fibre asset or collection of core fibre assets corresponds to layers 1 or layer 2</u>
Asset class	<u>To reflect GAAP depreciation categories, includes feeder fibre, distribution fibre, roadside cabinet, customer premises, and equipment</u>
Geographic location	<p><u>Location, as recorded in the regulated provider's asset management or geographical information systems, that allows identification of the physical location or the geographic area in which the fibre asset is installed</u></p> <p><i>Example: the location of fibre assets, such as cables, that naturally span a large physical area, must be identifiable to a level of detail that would allow the general location of the fibre asset to be identified. Address, building, area</i></p>
Shared with other parties	<p><u>Information that is sufficient to permit an objectively justifiable and demonstrably reasonable assessment of the:</u></p> <p><u>(a) factors influencing the use of the fibre asset by the regulated provider, another regulated provider, a Part 4 regulated supplier or non-regulated party (who shall be treated as one group for the purposes of identifying such factors); or</u></p> <p><u>(b) the circumstances when a cost driver leads to an operating cost being incurred in respect of the use of the fibre asset by the regulated provider, the regulated provider, another regulated provider, a Part 4 regulated supplier or non-regulated party (who shall be treated as one group for the purposes of identifying such factors),</u></p> <p><u>where</u></p>

	<p>information must be kept current, such that any asset allocators, cost allocators, proxy asset allocators or proxy cost allocators that rely on it can be reviewed and, where relevant, updated at least once every 12 months; and</p> <p>any fibre asset shared with another regulated provider, Part 4 regulated supplier or any non-regulated party is a right-of-use asset, the information held for GAAP purposes on that right-of-use asset provides sufficient specificity Shared with entity #</p>
<p>Shared with other services that are not regulated FFLAS or FFLAS not regulated under Part 6 of the Act</p>	<p>Information that is sufficient to permit an objectively justifiable and demonstrably reasonable assessment of the:</p> <p>(a) factors influencing the use of the core fibre asset; or</p> <p>(b) the circumstances when a cost driver leads to an operating cost being incurred, where</p> <p>information must be kept current, such that any asset allocators, cost allocators, proxy asset allocators or proxy cost allocators that rely on it can be reviewed and, where relevant, updated at least once every 12 months Shared with power lines, copper telco cables/assets</p>
<p>Special assets</p>	<p>Assets supporting unbundling, assets relating to a point of interconnection</p>
<p>Related to additional RABs Non-UFB initiative assets</p>	<p>Information that is sufficient to permit an objectively justifiable and demonstrably reasonable assessment of any of the following fibre assets specified by the Commission:</p> <p>(a) fibre assets in any additional RAB;</p> <p>(b) a subset of fibre assets relating to any additional RAB, where the Commission may from time to time specify subsets of core fibre assets for the purposes of Part 6 of the Act; or</p> <p>(c) fibre assets that were not part of the UFB initiative Core fibre assets not employed in the provision of UFB FFLAS</p>

SCHEDULE B Methodology for determining the financial losses

asset

SECTION 1 General provisions

1.1.1 Interpretation

(1) In this schedule, words or phrases in bold type bear the following meanings:

#

<u>1 December 2011 WACC</u>	<u>has the meaning specified in clause 1.1.10(2) of Schedule B;</u>
<u>30 September 2021 WACC</u>	<u>has the meaning specified in clause 1.1.10(2) of Schedule B;</u>
<u>31 December 2012 WACC</u>	<u>has the meaning specified in clause 1.1.10(2) of Schedule B;</u>
<u>31 December 2013 WACC</u>	<u>has the meaning specified in clause 1.1.10(2) of Schedule B;</u>
<u>31 December 2014 WACC</u>	<u>has the meaning specified in clause 1.1.10(2) of Schedule B;</u>
<u>31 December 2015 WACC</u>	<u>has the meaning specified in clause 1.1.10(2) of Schedule B;</u>
<u>31 December 2016 WACC</u>	<u>has the meaning specified in clause 1.1.10(2) of Schedule B;</u>
<u>31 December 2017 WACC</u>	<u>has the meaning specified in clause 1.1.10(2) of Schedule B;</u>
<u>31 December 2018 WACC</u>	<u>has the meaning specified in clause 1.1.10(2) of Schedule B;</u>
<u>31 December 2019 WACC</u>	<u>has the meaning specified in clause 1.1.10(2) of Schedule B;</u>
<u>31 December 2020 WACC</u>	<u>has the meaning specified in clause 1.1.10(2) of Schedule B;</u>
<u>31 March 2012 WACC</u>	<u>has the meaning specified in clause 1.1.10(2) of Schedule B;</u>

A

allocator type

for the purpose of determining the **financial losses**, means the basis for the attribution or allocation of an **operating cost** or **asset value** to **UFB FFLAS** and **services that are not UFB FFLAS**;

*Example: if the **allocator type** for central office costs is 'floor area', and 30 square meters of the floor area of a 120-square metre central office is used for **UFB FFLAS**, then the 'asset allocator' is 1/4 (ie, 30/120).*

allocator value

for the purpose of determining the **financial losses**, means a value in units for each **cost allocator** or **asset allocator** that is used to calculate the ratio of **operating costs** or **asset values** to be allocated to **UFB FFLAS** or **services that are not UFB FFLAS**;

*Example: if the **allocator type** for a central office's **asset value** is 'floor area', and 30 square metres of the floor area of a 120-square metre central office is used for **UFB FFLAS**, then the 'allocator values' used to calculate the **asset allocator** (used for attributing **asset values** to **UFB FFLAS**) would be a numerator of 30 and a denominator of 120.*

asset value

means in respect of a **UFB asset**, the value determined in accordance with clause 1.1.6(2) of Schedule B;

C

causal relationship

for the purpose of determining the **financial losses**, means, in relation to-

- (a) **operating costs**, a circumstance in which a cost driver leads to an **operating cost** being incurred during the **financial loss year** in respect of which the cost allocation is carried out; and
- (b) **asset values**, a circumstance in which a factor influences the **employment** of an asset during the **financial loss year** in

	<p><u>respect of which the asset allocation is carried out,</u></p> <p>which in each case is:</p> <p>(c) <u>consistent with similar circumstances, both within a financial loss year and from financial loss year to financial loss year; and</u></p> <p>(d) <u>objectively justifiable and demonstrably reasonable;</u></p>
<u>commencement date</u>	means 14 October 2020;
<u>commissioned</u>	for the purpose of determining the financial losses , means employed by the regulated provider in providing UFB FFLAS (whether or not the UFB asset is also employed in providing other services); and commission has a corresponding meaning;
<u>compounding factor</u>	has the meaning specified in clause 1.1.2(5) of Schedule B;
<u>cost of debt</u>	for the purpose of determining the financial losses , means the amount specified for r_d in clause 1.1.10(3) of Schedule B;
	<u>D</u>
<u>debt premium</u>	for the purpose of estimating the WACC for a financial loss year , has the meaning specified in clause 1.1.13(2) of Schedule B;
<u>disposed asset</u>	for the purpose of determining the financial losses , means a UFB asset that, in the financial loss year in question, has been sold or transferred, or has been irrecoverably removed from the regulated provider's possession without consent;
	<u>N</u>
<u>net drawdowns</u>	for the purpose of determining the financial losses , has the meaning specified in clause 1.1.2(4) of Schedule B;

network spare

for the purpose of determining the **financial losses**, means an asset that is held by a **regulated provider** to replace any other **UFB asset** it holds should that other **UFB asset** be withdrawn from use owing to failure or damage;

Q

operating cost

for the purpose of clause 1.1.2(2) of Schedule B and 1.1.6(1) of Schedule B, means a cost incurred by a **regulated provider** in the provision of-

- (a) **UFB FFLAS** alone;
- (b) **services that are not UFB FFLAS** alone;
- or
- (c) **UFB FFLAS** and one or more **services that are not UFB FFLAS**,

and excludes-

- (d) a cost that is treated as a cost of an asset by **GAAP**;
- (e) amounts that are tax, subvention payments, revaluations or an interest expense, in accordance with their meanings under **GAAP**;
- (f) **debt issuance costs**;
- (g) **pecuniary penalties**; and
- (h) the legal costs of any appeals against input methodology determinations under Part 6 of the **Act**;

P

present value benefit of Crown financing

has the meaning specified in clause 1.1.2(2) of Schedule B;

present value of total net cash flows

has the meaning specified in clause 1.1.2(2) of Schedule B;

proxy asset allocator

for the purpose of determining the **financial losses**, means a ratio-

- (a) used to allocate **asset values** for which a **causal relationship** cannot be established; and

proxy cost allocator

(b) whose quantum is based on factors in existence during the 12-month period terminating on the last day of the most recent financial loss year in respect of which the proxy allocation is carried out,
which in each case-

- (c) is consistent with similar measures, both within a financial loss year and from financial loss year to financial loss year;
and
- (d) is objectively justifiable and demonstrably reasonable;

for the purpose of determining the **financial losses**, means a ratio-

- (a) used to allocate operating costs for which a causal relationship cannot be established; and
- (b) whose quantum is based on factors in existence during the 12-month period terminating on the last day of the most recent financial loss year in respect of which the cost allocation is carried out,
which in each case-
- (c) is consistent with similar measures, both within a financial loss year and from financial loss year to financial loss year;
and
- (d) is objectively justifiable and demonstrably reasonable,
and, includes the default allocators set out in clause 1.1.6(1) of Schedule B;

R

related party

for the purpose of determining the **financial losses**, means-

- (a) a person that is related to the regulated provider, where the regulated provider would be considered as the 'reporting

	<p><u>entity' as specified in the definition of 'related party' in NZ IAS 24; or</u></p> <p>(b) <u>any part of the regulated provider that does not provide UFB FFLAS;</u></p>
<u>related party transaction</u>	<p>for the purpose of determining the financial losses, means-</p> <p>(a) <u>the procurement of a UFB asset or good or service from a related party by the part of the regulated provider that provides UFB FFLAS; or</u></p> <p>(b) <u>the sale or supply of a UFB asset or good or service to a related party by the part of the regulated provider that provides UFB FFLAS;</u></p>
	<u>S</u>
<u>services that are not UFB FFLAS</u>	<p>means:</p> <p>(a) <u>telecommunications services that are not UFB FFLAS;</u></p> <p>(b) <u>any Part 4 regulated service; or</u></p> <p>(c) <u>any service that is not regulated under Part 6 of the Act or Part 4 of the Commerce Act 1986;</u></p>
	<u>T</u>
<u>tax costs</u>	<p>has the meaning in clause 1.1.7(1) of Schedule B;</p>
<u>telecommunications services that are not UFB FFLAS</u>	<p>means any telecommunications service provided by a regulated provider that is not UFB FFLAS;</p>
	<u>U</u>
<u>UFB asset</u>	<p>means an asset that is:</p> <p>(a) <u>constructed or acquired by a regulated provider; and</u></p> <p>(b) <u>employed in the provision of UFB FFLAS (whether or not the asset is also</u></p>

employed in the provision of other services), and excludes-

(i) intangible assets, unless they are-

A. finance leases; or

B. identifiable non-monetary assets whose costs do not include (wholly or partly) pass-through costs; and

(ii) works under construction;

<u>UFB asset base</u>	means, in respect of a regulated provider , all UFB assets that are employed by that regulated provider in the provision of UFB FFLAS ;
<u>UFB asset base closing value at implementation date</u>	has the meaning specified in clause 1.1.2(2) of Schedule B;
<u>UFB closing asset value</u>	has the meaning specified in clause 1.1.2(6) of Schedule B;
<u>UFB cost allocation adjustment cash flow</u>	has the meaning specified in clause 1.1.2(2) of Schedule B;
<u>UFB costs cash flow</u>	has the meaning specified in clause 1.1.2(2) of Schedule B;
<u>UFB FFLAS</u>	means any FFLAS provided by a regulated provider under the UFB initiative for the financial loss period , and for the avoidance of doubt, excludes any FFLAS that is regulated FFLAS ;
<u>UFB opening asset value</u>	has the meanings specified in clause 1.1.2(6) of Schedule B;
<u>UFB operating expenditure cash flow</u>	has the meaning specified in clause 1.1.2(2) of Schedule B;
<u>UFB regulatory net taxable income</u>	has the meaning specified in clause 1.1.7(2) of Schedule B;
<u>UFB revenues cash flow</u>	has the meaning specified in clause 1.1.2(2) of Schedule B;

<u>UFB tax costs cash flow</u>	has the meaning specified in clause 1.1.2(2) of Schedule B;
<u>UFB taxable income</u>	has the meaning specified in clause 1.1.7(3) of Schedule B;
<u>UFB unallocated closing asset value</u>	has the meaning specified in clause 1.1.2(6) of Schedule B;
<u>UFB unallocated opening asset value</u>	has the meaning specified in clause 1.1.2(6) of Schedule B;
<u>UFB utilised tax losses</u>	has the meaning specified in clause 1.1.9(1) of Schedule B;
<u>UFB value of net commissioned assets cash flow</u>	has the meaning specified in clause 1.1.2(2) of Schedule B;

V

<u>value of commissioned asset</u>	for the purpose of determining the financial losses , means the value determined in respect of UFB assets commissioned prior to implementation date , in accordance with clause 1.1.3(1) of Schedule B;
<u>vested asset</u>	for the purpose of determining the financial losses , means a UFB asset associated with the provision of UFB FFLAS , received by a regulated provider - (a) without provision of consideration; or (b) with provision of nominal consideration;

SECTION 2 Asset valuation

1.1.2 Initial RAB value of financial loss asset

(1) For the purposes of clause 2.2.4, in the case where the value of the 'financial losses' is:

- (a) negative, the **initial RAB value** of the **financial loss asset** for a **regulated provider** will be determined by the **Commission** as the absolute value of the financial losses; and
- (b) positive or nil, the **initial RAB value** of the **financial loss asset** for a **regulated provider** will be determined by the **Commission** as nil.

(2) For the purposes of clause 2.2.4, 'financial losses' for a **regulated provider** are calculated in accordance with the formula:

present value of total net cash flows + UFB asset base closing value at implementation date + present value benefit of Crown financing

where-

'**present value of total net cash flows**' means the sum of the 'present value of annual net cash flows' for each **financial loss year**, where in summing the relevant values any positive values arising for **financial loss years** are offset against negative values for other **financial loss years**;

'**present value of annual net cash flows**' means the value for a **financial loss year** determined in accordance with the formula-

present value of UFB revenues cash flows – present value of UFB costs cash flows

where-

'UFB revenues cash flow' means revenues derived by a **regulated provider** from the provision of **UFB FFLAS** for the **financial loss year** in question, including any **capital contributions** to the extent they were accounted for as revenue under **GAAP**; and

'UFB costs cash flow' are the costs incurred by a **regulated provider** under the **UFB initiative** for the **financial loss year** in question and are the sum of the following amounts:

- (a) **UFB value of net commissioned assets cash flow**;
- (b) **UFB cost allocation adjustment cash flow**;
- (c) **UFB operating expenditure cash flow**;
- (d) **UFB tax costs cash flow**; and

the present value of a **UFB revenues cash flow** or a **UFB costs cash flow** is determined as its value at the **implementation date**, and is calculated by multiplying that cash flow amount by a **compounding factor**, where, in respect of-

- (e) **UFB revenues cash flows** arising in a **financial loss year**, the **compounding factor** is the relevant 'revenue date compounding factor';
- (f) the component of the 'UFB value of net commissioned assets cash flow' arising for **financial loss year 2012** that is the sum of **UFB opening asset values** as of 1 December 2011, the **compounding factor** is the 'start date compounding factor'; and
- (g) **UFB costs cash flows** arising in a **financial loss year**, the **compounding factor** is the relevant 'mid-year compounding factor';

'UFB asset base closing value at implementation date' means the sum of **UFB closing asset values** in respect of **financial loss year 2022**;

'present value benefit of Crown financing' means the present value benefit of the avoided cost of **Crown financing** drawn down during the **financial loss period** calculated in accordance with subclause (4);

'UFB cost allocation adjustment cash flow' means the amount calculated in accordance with subclause (3);

'UFB operating expenditure cash flow' means **operating costs** incurred under the **UFB initiative** for a **financial loss year**, allocated to the provision of **UFB FFLAS** by applying clause 1.1.6(1) of Schedule B;

'UFB tax costs cash flow' means the **tax costs** calculated for a **financial loss year** under clause 1.1.7 of Schedule B; and

'UFB value of net commissioned assets cash flow' means:

(h) in respect of **financial loss year 2012**, the amount calculated in accordance with the following formula-
sum of value of commissioned assets – sum of value of disposed assets
+ sum of UFB opening asset values as of 1 December 2011

where-

'sum of value of commissioned assets' means the sum of **value of commissioned asset** for each **UFB asset** with a **commissioning date** in the **financial loss year** in question after applying clause 1.1.6(2) of Schedule B to allocate each **value of commissioned asset** to the provision of **UFB FFLAS**; and

'sum of value of disposed assets' means the sum of **UFB opening asset values** for each **disposed asset** for the **financial loss year** in question.

(i) in all other cases, the amount calculated in accordance with the following formula-

sum of value of commissioned assets – sum of value of disposed assets

where-

'sum of value of commissioned assets' means the sum of **value of commissioned asset** for each **UFB asset** with a **commissioning date** in the **financial loss year** in question after applying clause 1.1.6(2) of Schedule B to allocate each **value of commissioned asset** to the provision of **UFB FFLAS**; and

'sum of value of disposed assets' means the sum of **UFB opening asset values** for each **disposed asset** for the **financial loss year** in question.

(3) For the purpose of subclause (2), 'UFB cost allocation adjustment cash flow' means the sum of all amounts for **UFB assets** with a **UFB closing asset value** for a **financial loss year** calculated in accordance with the following formula-

$$\text{UFB unallocated closing asset value} \times (\text{closing cost allocator value} - \text{opening cost allocator value})$$

where-

'closing cost allocator value' is calculated in accordance with the following formula-

$$\text{UFB closing asset value} \div \text{UFB unallocated closing asset value}; \text{ and}$$

'opening cost allocator value' is calculated in accordance with the following formula-

$$\text{UFB opening asset value} \div \text{UFB unallocated opening asset value}.$$

(4) For the purpose of subclause (2), 'present value benefit of Crown financing' in respect of a **regulated provider** for all **financial loss years** is calculated in accordance with the formula-

$$\text{sum of present value of net drawdowns} - \text{sum of net drawdowns}$$

where-

'net drawdowns' means, in respect of a **financial loss year**, the amount of **Crown financing** advanced to the **regulated provider** (or related party as referred to in section 164 of the Act) in that **financial loss year** less the amount of **Crown financing** repaid by the **regulated provider** (or related party as referred to in section 164 of the Act); and

the present value of the net drawdowns for a **financial loss year** is calculated by multiplying 'net drawdowns' by a **compounding factor**, where the applicable **compounding factor** is the relevant 'mid-year compounding factor'; and

(5) For the purpose of subclause (2), a 'compounding factor' is the value calculated in accordance with the following formula-

$$(1 + \text{WACC})^{\text{days to implementation date}/365.25}$$

where-

'WACC' means:

- (a) in respect of 1 December 2011, **1 December 2011 WACC**;
- (b) in respect of **financial loss year 2012**, **31 March 2012 WACC**;
- (c) in respect of **financial loss year 2013**, **31 December 2012 WACC**;
- (d) in respect of **financial loss year 2014**, **31 December 2013 WACC**;
- (e) in respect of **financial loss year 2015**, **31 December 2014 WACC**;

- (f) in respect of financial loss year 2016, 31 December 2015 WACC;
- (g) in respect of financial loss year 2017, 31 December 2016 WACC;
- (h) in respect of financial loss year 2018, 31 December 2017 WACC;
- (i) in respect of financial loss year 2019, 31 December 2018 WACC;
- (j) in respect of financial loss year 2020, 31 December 2019 WACC;
- (k) in respect of financial loss year 2021, 31 December 2020 WACC;
- (l) in respect of financial loss year 2022, 30 September 2021 WACC;

'Days to implementation date' means, in determining-

- (m) a 'revenue date compounding factor', the number of days between:
 - (i) the 20th day of the month following the month in which the day that is the midpoint of the financial loss year falls; and
 - (ii) the implementation date;
- (n) a 'start date compounding factor', the number of days between 1 December 2011 and the implementation date; and
- (o) a 'mid-year compounding factor', the number of days between the day that is the midpoint of the financial loss year and the implementation date.

(6) In calculating the 'UFB value of net commissioned assets cash flow' and the 'UFB cost allocation adjustment cash flow', relevant values for a regulated provider are determined as follows-

'depreciation' means depreciation and **impairment losses** recognised by the **regulated provider** (ignoring any accounting adjustment for **Crown financing**) under **GAAP** during the **financial loss year**;

'UFB closing asset value' means, in respect of a **UFB asset**, the value allocated to the provision of **FFLAS** under the **UFB initiative** as a result of-

- (a) adopting the **UFB unallocated closing asset value** for the **financial loss year**; and
- (b) applying clause 1.1.6(2) of Schedule B to the **UFB asset**;

'UFB opening asset value' means, in respect of a **UFB asset** in relation to:

- (c) **financial loss year 2012**, the value allocated to the provision of **FFLAS** under the **UFB initiative** as a result of:
 - (i) adopting the **UFB unallocated opening asset value**; and
 - (ii) applying clause 1.1.6(2) of Schedule B to the **UFB asset**; and
- (d) a **financial loss year** thereafter, its **UFB closing asset value** in the preceding **financial loss year**;

'UFB unallocated closing asset value' in respect of a **UFB asset** and a **financial loss year**, means, in respect of:

- (e) a **disposed asset**, nil; and
- (f) any other **UFB asset** with a **UFB unallocated asset opening value**, the value for the **financial loss year** in question, the value determined in accordance with the formula-

UFB unallocated opening asset value – depreciation;

'UFB unallocated opening asset value' in respect of a **UFB asset** and a **financial loss year**, means, in respect of:

- (g) a **UFB asset**, for the **financial loss year 2012**, owned by **Chorus** before 1 December 2011, its **value of commissioned asset;**
- (h) a **UFB asset** with a **commissioning date** in the **financial loss year** in question, its **value of commissioned asset;** and
- (i) any other **UFB asset**, its **UFB unallocated closing asset value** in the preceding **financial loss year.**

1.1.3 Value of commissioned assets for UFB assets

(1) Subject to subclause (2) and (3), 'value of commissioned asset', in relation to a **UFB asset** with a **commissioning date** prior to 1 December 2011 or in the **financial loss period** (including a **UFB asset** in respect of which **capital contributions** were received, or a **vested asset**), means:

- (a) the cost:
 - (i) incurred by a **regulated provider** under **GAAP** in constructing or acquiring the **UFB asset**, net of **capital contributions** to the extent they were deducted from asset values under **GAAP**; and
 - (ii) if **Chorus** owned the **UFB asset** before 1 December 2011, recorded by **Chorus** for the **UFB asset** in its published general purpose financial statements as of 1 December 2011; and
- (b) adjusting:
 - (i) in respect of a **UFB asset commissioned** prior to 1 December 2011, that cost for accumulated depreciation and **impairment losses** (if any) recognised by the **regulated provider** (ignoring any accounting adjustment for **Crown financing**), as at 1 December 2011, under **GAAP**; or
 - (ii) in respect of a **UFB asset commissioned** in the **financial loss period**, that cost for accumulated depreciation and **impairment losses** (if any) recognised by the **regulated provider** (ignoring any accounting

adjustment for Crown financing), as at the commissioning date, under GAAP.

(2) For the purposes of subclause (1), the value of commissioned asset of-

- (a) an easement, is limited to its market value as on its commissioning date as determined by a valuer;
- (b) easement land is nil;
- (c) a network spare is nil, where it is not held in accordance with good telecommunications industry practice;
- (d) a network spare whose cost is not treated wholly as or part of the cost of a UFB asset under GAAP, is nil;
- (e) a UFB asset acquired from another regulated provider and employed by that regulated provider in the provision of UFB FFLAS, is limited to the UFB unallocated closing asset value of the UFB asset that would have applied for the other regulated provider in the financial loss year when the UFB asset was transferred;
- (f) a UFB asset that was previously employed by a regulated provider or another entity in the supply of Part 4 regulated services, is limited to the 'unallocated opening RAB value' of the UFB asset in relation to those Part 4 regulated services as on the day before the commissioning date (as 'unallocated opening RAB value' is defined in the input methodologies as applying to the supply of Part 4 regulated services supplied by the regulated provider or other entity);
- (g) a UFB asset or a component of a UFB asset acquired in a related party transaction, is the cost specified in clause 1.1.4 of Schedule B; and
- (h) a vested asset, in respect of which the vested asset's fair value is treated as its cost under GAAP, must exclude any amount of the fair value of the vested asset determined under GAAP that exceeds the amount of consideration provided by the regulated provider.

(3) When applying GAAP for the purposes of subclause (1), the cost of financing is for each applicable financial loss year, the regulated provider's costs under GAAP.

(4) For the avoidance of doubt-

- (a) revenue derived in relation to works under construction that is not included in regulatory income under an ID determination or preceding regulatory information disclosure requirements reduces the cost of an asset by the amount of the revenue if such a reduction is not otherwise made under GAAP; and
- (b) if, after a UFB asset is commissioned, a regulated provider incurs expenditure on the UFB asset that forms part of the cost of that UFB

asset under GAAP, such expenditure is treated as relating to a separate asset.

1.1.4 Related party transactions for UFB assets

- (1) For the purposes of clause 1.1.3(2)(g) of Schedule B, the cost of a UFB asset, or a component of a UFB asset, acquired in a related party transaction, must be determined on the basis that—
- (a) it must be given a value not greater than if that transaction had the terms of an arm’s-length transaction;
 - (b) an objective and independent measure must be used in determining the terms of an arm’s-length transaction; and
 - (c) the value that qualifies for recognition as the cost of the UFB asset or the component of a UFB asset must not exceed the actual amount charged to the regulated provider by the related party.
- (2) For the purpose of subclause (1)(a), a related party transaction will be treated as if it had the terms of an arm’s-length transaction if the UFB asset, or component of the UFB asset, acquired from a related party is valued at the cost incurred by the related party, provided that this is-
- (a) fair and reasonable to the regulated provider; and
 - (b) substantially the same as the cost that has been incurred or would be incurred by the related party in providing the same type of UFB asset to third parties.

1.1.5 Calculation of price-quality path forecast values for financial loss asset

- (1) For the purpose of clause 3.3.1(6)(d), the “opening RAB value” of the financial loss asset adopted under clause 3.3.1(6)(a)-(b) is determined by:
- (a) adopting actual values for calculations under clause 1.1.2(2)-(6) of Schedule B in respect of financial loss year 2012, financial loss year 2013, financial loss year 2014, financial loss year 2015, financial loss year 2016, financial loss year 2017, financial loss year 2018 and financial loss year 2019; and
 - (b) applying forecasts for calculations under clause 1.1.2(2)-(6) of Schedule B in respect of financial loss year 2020, financial loss year 2021 and financial loss year 2022.

SECTION 3 Cost allocation

1.1.6 Allocation methodology for determining financial losses

- (1) For the purposes of allocating operating costs incurred under the UFB initiative to the provision of UFB FFLAS for a financial loss year-

- (a) any operating cost that is solely incurred during the financial loss period in the provision of UFB FFLAS must be allocated to UFB FFLAS;
- (b) any operating cost that is not solely incurred in the provision of UFB FFLAS must be allocated to UFB FFLAS by applying ABAA in accordance with clause 2.1.2, where:
 - (i) references to “regulated FFLAS” are modified to read “UFB FFLAS”;
 - and
 - (ii) references to “services that are not regulated FFLAS” are modified to read “services that are not UFB FFLAS”;
- (c) the allocator types available to be applied to allocate operating costs not solely incurred in the provision of UFB FFLAS are:
 - (i) number of customers, end-users, or premises (intact, connected or passed);
 - (ii) number of ports;
 - (iii) revenue;
 - (iv) central office space;
 - (v) peak traffic;
 - (vi) average traffic;
 - (vii) used length of linear assets;
 - (viii) power usage;
 - (ix) number of events; and
 - (x) any other allocator type as approved by the Commission.

(2) For the purposes of allocating a UFB unallocated closing asset value or value of commissioned asset to the provision of UFB FFLAS under clause 1.1.2(6) of Schedule B for a financial loss year-

- (a) the ‘UFB unallocated closing asset value’ and ‘value of commissioned asset’ in question shall be considered an ‘asset value’; and
- (b) the allocator types available to be applied using ABAA, in accordance with clause 2.1.2, are:
 - (i) number of customers, end-users, or premises (intact, connected or passed);
 - (ii) number of ports;
 - (iii) revenue;
 - (iv) central office space;
 - (v) peak traffic;
 - (vi) average traffic;
 - (vii) used length of linear assets;
 - (viii) power usage;

(ix) number of events; and

(x) any other **allocator type** as approved by the **Commission**.

where references to “**regulated FFLAS**” are modified to read “**UFB FFLAS**” and references to “**services that are not regulated FFLAS**” are modified to read “**services that are not UFB FFLAS**”.

(3) The **allocator types** specified in subclauses (1)(c) and (2)(b) must be applied using **allocator values** that are updated in respect of each **financial loss year**.

SECTION 4 Taxation

1.1.7 Tax costs for determining the financial losses

(1) ‘Tax costs’ is, where **UFB taxable income** is-

(a) nil or a positive number, the **tax effect of UFB regulatory net taxable income**; and

(b) a negative number, nil.

(2) ‘UFB regulatory net taxable income’ is **UFB taxable income** less **UFB utilised tax losses**.

(3) Subject to subclause (4), ‘UFB taxable income’ means, for a **financial loss year**, the amount determined after applying the **tax rules** regarding the determination of taxable income to **UFB revenues cash flows**, minus depreciation under **GAAP** in respect of **UFB assets** and **UFB operating expenditure cash flow**.

(4) For the purposes of subclause (3):

(a) if the **tax rules** allow for a choice of methods in calculating taxable income, the same method as that elected to be used by the **regulated provider** must be used to determine **UFB taxable income**; and

(b) in applying the **tax rules** in respect of particular items of cash flows and depreciation included in **UFB taxable income**-

(i) any tax deduction for depreciation is only available in respect of a **UFB asset** and must be calculated by applying the **tax depreciation rules** to the **regulatory tax asset value** of the **UFB asset** in question; and

(ii) the effect of any tax losses (other than those produced from the provision of **UFB FFLAS**) made by a **regulated provider** must be ignored.

1.1.8 Regulatory tax asset value for UFB assets

(1) ‘Regulatory tax asset value’, in relation to a **UFB asset**, means the value determined in accordance with the formula-

tax asset value × result of asset allocation ratio

(2) ‘Tax asset value’ means-

(a) in respect of the following UFB assets, the value of the UFB asset determined by applying the tax depreciation rules to its notional tax asset value:

(i) a UFB asset in the UFB asset base where, as of the date when the 'regulatory tax asset value' is determined in the financial loss period, the sum of UFB unallocated opening asset values is less than the sum of the adjusted tax values of all UFB assets as of that date; and

(b) in respect of any other UFB asset, its adjusted tax value.

(3) 'Notional tax asset value' means for the purpose of subclause (2)(a)(ii), adjusted tax value of the UFB asset as of the date when the 'regulatory tax asset value' is determined, adjusted to account proportionately for the difference between the sum of the UFB unallocated opening asset values as of that date and the sum of the adjusted tax values of all UFB assets as of that date.

(4) Where 'regulatory tax asset value' is determined in the financial loss period, 'result of asset allocation ratio' means-

(a) where an asset or group of assets maintained under the tax rules has a matching UFB asset or group of UFB assets, the value obtained in accordance with the formula-
$$\frac{\text{UFB opening asset value or sum of UFB opening asset values}}{\text{UFB unallocated opening asset value or sum of UFB unallocated opening asset values}}$$

applying the formula in respect of the UFB asset or smallest group of UFB assets that has a matching asset or group of assets maintained under the tax rules; and

(b) where an asset or group of assets maintained under the tax rules does not have a matching UFB asset or group of UFB assets, the value of the asset allocated to the provision of UFB FFLAS were clause 1.1.6 of Schedule B to apply to the asset or group of assets.

1.1.9 Tax losses

(1) 'UFB utilised tax losses' means UFB opening tax losses, subject to subclause (2).

(2) For the purpose of subclause (1), UFB utilised tax losses may not exceed UFB taxable income.

(3) In this clause, 'UFB opening tax losses'-

(a) on 1 December 2011, are nil; and

(b) for a financial loss year that commenced after financial loss year 2012, are UFB closing tax losses for the preceding financial loss year.

(4) For the purpose of subclauses (3)(b)-(c), 'UFB closing tax losses' means the amount determined in accordance with the following formula, in which each term is an absolute value:

$$\frac{\text{UFB opening tax losses} + \text{UFB current period tax losses}}{\text{UFB utilised tax losses}}$$

(5) For the purpose of subclause (4), 'UFB current period tax losses' is, where UFB taxable income is-

- (a) nil or a positive number, nil; and
- (b) a negative number, UFB taxable income.

SECTION 5 Cost of capital

1.1.10 Methodology for estimating the weighted average cost of capital for the financial losses

(1) Before the implementation date, the Commission will determine estimates of post-tax WACCs for the purposes of clause 1.1.2(5) of Schedule B in respect of the financial loss period, where the estimates of 1 December 2011 WACC, 31 March 2012 WACC, 31 December 2012 WACC, 31 December 2013 WACC, 31 December 2014 WACC, 31 December 2015 WACC, 31 December 2016 WACC, 31 December 2017 WACC, 31 December 2018 WACC, 31 December 2019 WACC, 31 December 2020 WACC, and 30 September 2021 WACC are determined in accordance with the formulas specified in subclause (2).

(2) For the purpose of subclause (1), "1 December 2011 WACC", "31 March 2012 WACC", "31 December 2012 WACC", "31 December 2013 WACC", "31 December 2014 WACC", "31 December 2015 WACC", "31 December 2016 WACC", "31 December 2017 WACC", "31 December 2018 WACC", "31 December 2019 WACC", "31 December 2020 WACC", and "30 September 2021 WACC" are determined in accordance with the formula:

$$r_d(1 - T_c)L + r_e(1 - L).$$

(3) In this clause-

L is leverage;

r_d is the cost of debt and is estimated in accordance with the formula:

$$r_f + p + d;$$

r_e is the cost of equity and is estimated in accordance with the formula:

$$r_f(1 - T_f) + \beta_e TAMRP;$$

T_c is the average corporate tax rate

r_f is the risk-free rate;

p is the **debt premium**;

d is the debt issuance costs;

T_i is the investor tax rate;

β_e is the equity beta; and

TAMRP is the tax-adjusted market risk premium.

(4) For the purpose of this clause-

- (a) the average corporate tax rate, investor tax rate, the equity beta, the debt issuance costs and the tax-adjusted market risk premium are the amounts specified in or determined in accordance with clause 1.1.11 of Schedule B;
- (b) the risk-free rate must be estimated in accordance with clause 1.1.12 of Schedule B; and
- (c) subject to subclause (5), leverage is the amount determined in accordance with clause 1.1.11 of Schedule B.

(5) For the purpose of applying the 'mid-year compounding factor' in the calculation of the 'present value benefit of Crown financing' in clause 1.1.2(4) of Schedule B, in respect of a **regulated provider** other than **Chorus** that has **Crown financing** outstanding for the **financial loss year** that is, in substance:

- (a) provided by way of debt, leverage means the ratio of debt capital to total capital and is 100%; and
- (b) provided by way of equity, leverage means the ratio of debt capital to total capital and is 0%.

1.1.11 Fixed WACC parameters for financial losses

- (1) For the purpose of clause 1.1.10 of Schedule B, 'leverage' means the ratio of debt capital to total capital and is 31%.
- (2) For the purpose of clause 1.1.10 of Schedule B, 'average corporate tax rate' is the average of the corporate tax rates that, as at the date that the estimation is made, will apply during the **financial loss year**.
- (3) For the purpose of clause 1.1.10 of Schedule B, 'investor tax rate' is, for each **financial loss year**, the maximum **prescribed investor rate** applicable at the start of that **financial loss year** to an individual who is-
 - (a) a resident in New Zealand; and
 - (b) an investor in a **multi-rate PIE**.
- (4) For the purpose of clause 1.1.10 of Schedule B, the 'Equity beta' is 0.71.

- (5) For the purpose of clause 1.1.10 of Schedule B, 'debt issuance costs' are costs associated with the issuance of debt by a **regulated provider** and are 0.2%.
- (6) For the purpose of clause 1.1.10 of Schedule B, 'tax-adjusted market risk premium' is:
- (a) in respect of the period starting on 1 December 2011 and ending on the last day before the **commencement date**, 7.0%;
 - (b) subject to (c), in respect of the period starting on the **commencement date** and ending on the close of the day immediately before **implementation date**, 7.5%; and
 - (c) in respect of **financial loss year 2021**, a weighted average of 7.0% and 7.5% where the weights for 7.0% are the months prior to the **commencement date** and the weights for 7.5% are the months subsequent to the **commencement date** within that **financial loss year**.

1.1.12 Methodology for estimating risk-free rate for financial losses

- (1) For the purpose of clause 1.1.10 of Schedule B, the **Commission** will estimate risk-free rates-
- (a) that apply to each **financial loss year**;
 - (b) with a fixed term of the risk-free rate of 5 years;
 - (c) by obtaining, for notional benchmark New Zealand government New Zealand dollar denominated nominal bonds, the wholesale market linearly-interpolated bid yield to maturity for a residual period to maturity equal to the term specified in paragraph (b) on each **business day** in the 3 months preceding:
 - (i) in respect of the **1 December 2011 WACC**, 1 December 2011;
 - (ii) in respect of the **31 March 2012 WACC**, 31 March 2012;
 - (iii) in respect of the **31 December 2012 WACC**, 31 December 2012;
 - (iv) in respect of the **31 December 2013 WACC**, 31 December 2013;
 - (v) in respect of the **31 December 2014 WACC**, 31 December 2014;
 - (vi) in respect of the **31 December 2015 WACC**, 31 December 2015;
 - (vii) in respect of the **31 December 2016 WACC**, 31 December 2016;
 - (viii) in respect of the **31 December 2017 WACC**, 31 December 2017;
 - (ix) in respect of the **31 December 2018 WACC**, 31 December 2018;
 - (x) in respect of the **31 December 2019 WACC**, 31 December 2019;
 - (xi) in respect of the **31 December 2020 WACC**, 31 December 2020;
 - (xii) in respect of the **30 September 2021 WACC**, 30 September 2021;
 - (d) by calculating the annualised interpolated bid yield to maturity for each **business day**; and
 - (e) by calculating the unweighted arithmetic average of the daily annualised interpolated bid yields to maturity.

1.1.13 Methodology for estimating the debt premium for financial losses

- (1) For the purpose of clause 1.1.10 of Schedule B, the Commission will determine an estimate of an amount for the debt premium that applies to the financial loss period by-
- (a) using the debt risk premium prevailing at the beginning of the financial loss year in which the median loss occurred; and
 - (b) using a term for the debt risk premium of 5 years.
- (2) 'Debt premium' means the spread between-
- (a) the bid yield to maturity on vanilla NZ\$ denominated bonds that-
 - (i) are issued by a regulated fibre service provider;
 - (ii) are publicly traded;
 - (iii) have a qualifying rating of grade BBB+; and
 - (iv) have a remaining term to maturity of a duration equal to 5 years;and
 - (b) the contemporaneous interpolated bid yield to maturity of notional benchmark New Zealand government New Zealand dollar denominated nominal bonds having a remaining term to maturity of a duration equal to 5 years.
- (3) For the purpose of subclause (1), the amount of the debt premium will be estimated by-
- (a) identifying publicly traded vanilla NZ\$ denominated bonds issued by a qualifying issuer that are-
 - (i) investment grade credit rated; and
 - (ii) of a type described in the paragraphs of subclause (4);
 - (b) in respect of each bond identified in accordance with paragraph (a)-
 - (i) obtaining its wholesale market annualised bid yield to maturity;
 - (ii) determining by linear interpolation with respect to maturity, the contemporaneous wholesale market annualised bid yield to maturity for a notional benchmark New Zealand government New Zealand dollar denominated nominal bond with the same remaining term to maturity; and
 - (iii) determining its contemporaneous interpolated bid to bid spread over notional benchmark New Zealand government New Zealand dollar denominated nominal bonds with the same remaining term to maturity, by deducting the yield determined in accordance with sub-paragraph (ii) from the yield obtained in accordance with sub-paragraph (i).

for each **business day** in the month preceding the start of the **financial loss year** in which the median loss occurred;

- (c) calculating, for each bond identified in accordance with paragraph (a), the un-weighted arithmetic average of the daily spreads identified in accordance with paragraph (b)(iii); and
- (d) subject to subclause (4), estimating, by taking account of the average spreads identified in accordance with paragraph (c) and having regard to the **debt premium** estimated from applying the **Nelson-Siegel-Svensson approach**, the average spread that would reasonably be expected to apply to a **vanilla NZ\$ denominated bond** that-
 - (i) is issued by a **regulated fibre service provider** that is not **100%** owned by:
 - (A) the Crown; or
 - (B) a **local authority**;
 - (ii) is publicly traded;
 - (iii) has a **qualifying rating** of grade BBB+; and
 - (iv) has a remaining term to maturity of a duration equal to 5 years.

(4) For the purpose of subclauses (3)(a) and (3)(d), the **Commission** will have regard, subject to subclause (5), to the spreads observed on the following types of **vanilla NZ\$ denominated bonds** issued by a **qualifying issuer**:

- (a) those that-
 - (i) have a **qualifying rating** of grade BBB+; and
 - (ii) are issued by a **regulated fibre service provider** that is not 100% owned by:
 - (A) the Crown; or
 - (B) a **local authority**;
- (b) those that-
 - (i) have a **qualifying rating** of grade BBB+; and
 - (ii) are issued by a **telecommunications service provider** other than a **regulated fibre service provider** that is not 100% owned by:
 - (A) the Crown; or
 - (B) a **local authority**;
- (c) those that-
 - (i) have a **qualifying rating** of grade BBB+; and
 - (ii) are issued by an entity other than a **regulated fibre service provider** or **telecommunications service provider** that is not 100% owned by:

- (A) the Crown; or
- (B) a local authority;

(d) those that-

- (i) have a **qualifying rating** of a grade different to BBB+; and
- (ii) are issued by a **regulated fibre service provider** that is not 100% owned by:
 - (A) the Crown; or
 - (B) a local authority;

(e) those that-

- (i) have a **qualifying rating** of a grade different to BBB+; and
- (ii) are issued by an entity other than a **regulated fibre service provider** that is not 100% owned by:
 - (A) the Crown; or
 - (B) a local authority; and

(f) those that are-

- (i) **investment grade credit rated**; and
- (ii) issued by an entity that is 100% owned by:
 - (A) the Crown; or
 - (B) a local authority.

(5) For the purpose of subclause (4)-

- (a) progressively lesser regard will ordinarily be given to the spreads observed on the bond types described in accordance with the order in which the bond types are described in subclause (4);
- (b) the spread on any bond of the type described in subclause (4) that has a remaining term to maturity of less than a duration equal to 5 years will ordinarily be considered to be the minimum spread that would reasonably be expected to apply on an equivalently credit-rated bond issued by the same entity with a remaining term to maturity of a duration equal to 5 years; and
- (c) the **Commission** will adjust spreads observed on bonds described under subclauses (4)(b) to (4)(f) to approximate the spread that is likely to have been observed had the bonds in question been of the type described in subclause (4)(a).

| XXX