

Proposed amendment to input methodologies for Fibre ahead of the price-quality path for Chorus' second regulatory period (2025 – 2028): update to the tax- adjusted market risk premium

Draft decision - reasons paper

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Associated documents

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Commerce Commission
Wellington, New Zealand

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Glossary

Acronyms	Definition
the Act	Telecommunications Act 2001
BBM	Building Blocks Model
FCM	Financial Capital Maintenance
FFLAS	Fibre Fixed Line Access Services
GPBs	Gas Pipeline Businesses
ID	Information disclosure
IMs	Input Methodologies Determination
LFC	Local fibre company
MRP	Market Risk Premium
PQ	Price-quality
PQP1	Chorus' first price-quality path (from 1 January 2022 to 31 December 2024)
PQP2	Chorus' second price-quality path (from 1 January 2025 to 31 December 2028)
SBL-CAPM	Simplified Brennan Lally-Capital Asset Pricing Model
TAMRP	Tax-adjusted market risk premium
UFB	Ultra-fast broadband
WACC	Weighted average cost of capital

Chapter 1 Introduction

Purpose of this paper

- 1.1 This paper outlines our draft decision to update the estimate for the tax-adjusted market risk premium (“TAMRP”) in the *Fibre Input Methodologies Determination 2020 [2020] NZCC 21* (“Fibre IMs”), ahead of our determination of the price-quality path for Chorus Limited’s (“Chorus”) second regulatory period 2025-2028 and to calculate the information disclosure weighted average cost of capital (“WACC”) for all Local Fibre Companies (“LFCs”).
- 1.2 We seek submissions from stakeholders in response to this draft decision.

Structure of this paper

- 1.3 This paper forms part of a package of decision papers on price-quality (“PQ”) matters and amendments to the Fibre IMs ahead of setting the PQ path for Chorus’ second regulatory period, including:
 - 1.3.1 draft IM amendment determinations – to give effect to the amendment discussed in this paper, we have published a draft IM amendment determination;¹ and
 - 1.3.2 expenditure-related PQ decisions and determinations, as well as quality and revenue-related PQ decisions and determinations.
- 1.4 The chapters are set out as follows:
 - 1.4.1 Chapter 1 is an introduction to the scope and approach for this work and the potential amendment to the Fibre IMs to update the TAMRP in the WACC calculation;
 - 1.4.2 Chapter 2 summarises the statutory context and key aspects of the decision-making framework we have applied in proposing the specific Fibre IM amendment set out in this paper;² and

¹ <https://comcom.govt.nz/regulated-industries/input-methodologies/input-methodologies-for-fibre/projects/amendments-to-the-fibre-input-methodologies-for-the-2025-2028-fibre-price-quality-path>

² Our decision-making framework is set out in full at paras B7 to B25 of Attachment B of our [Fibre price-quality regulation proposed process and approach for the 2025-2028 regulatory period](#) and substantially reflects the framework we applied for our most recent fibre IM amendments, [Amendments to Fibre Input Methodologies: final decision \(28 June 2023\)](#).

- 1.4.3 Chapter 3 sets out the amendment to the Fibre IMs proposed, and our reasons for proposing it in terms of the framework summarised in Chapter 2.

Our role

- 1.5 The Commerce Commission (“Commission”) regulates services provided over fibre networks in New Zealand. These networks are critical to social and economic life in New Zealand.
- 1.6 Since 1 January 2022, price-quality (“PQ”) and information disclosure (“ID”) regulation has applied to providers of fibre fixed line access services (“FFLAS”) that are regulated under Part 6 of the Telecommunications Act 2001 (“Act”):
- 1.6.1 PQ regulation applies to certain fibre services provided by Chorus;³ and
- 1.6.2 information disclosure regulation applies to all providers of fibre services regulated under Part 6: Chorus, Enable Networks, Northpower Fibre and Tuatahi First Fibre.⁴
- 1.7 PQ paths are intended to create incentives for Chorus to act in ways that are consistent with the long-term benefit of end-users, such as creating incentives to invest in its network, to innovate and improve efficiency, and to deliver services at a level that meet end-user demands.⁵ The Commission sets PQ paths to limit the total revenue that Chorus can recover from providing regulated fibre services, and regulate the quality at which those services are provided.
- 1.8 We also require providers of FFLAS in New Zealand to disclose information detailing their performance. This includes data on pricing, current and future expenditure, quality performance and financial statements.
- 1.9 This regime for fibre services works alongside our work to ensure fixed line (broadband) and mobile markets are competitive through regulation of wholesale telecommunication services and our monitoring of how the retail telecommunications market.

³ Regulation 6 of the Telecommunications (Regulated Service Providers) Regulations 2019 (“the Regulations”) provides that Chorus is subject to PQ regulation in respect of all fibre fixed line access services, except to the extent that a service is provided in a geographical area where a regulated fibre service provider (other than Chorus Limited) has installed a fibre network as part of the UFB initiative, available at: <https://legislation.govt.nz/regulation/public/2019/0275/latest/LMS185122.html>.

⁴ Regulation 5 of the Regulations.

⁵ See section 162 for the purpose of Part 6 under the Telecommunications Act 2001 (“the Act”).

Our process

- 1.10 We are currently in the process of setting Chorus' second PQ path that runs from 1 January 2025 to 31 December 2028 ("PQP2").
- 1.11 Alongside our consideration of the PQ path for Chorus', we intend to assess discrete potential Fibre IM amendments in three different tranches:
- 1.11.1 tranche 1a: related to the TAMRP for the weighted average cost of capital;
 - 1.11.2 tranche 1b: relating to expenditure proposals; and
 - 1.11.3 tranche 2: relating to revenue and quality proposals.
- 1.12 Our consideration of potential proposals will be aligned to our decision-making framework, and that we consider are:
- 1.12.1 necessary to make now in advance of the second PQ path for Chorus; and
 - 1.12.2 address discrete issues that are appropriate to resolve now, rather than waiting for the statutory IM review (scheduled for 2027).;
- 1.13 Table 1 sets out the process and timeline for our proposed TAMRP amendment in more detail.

Table 1: Proposed timeframes for potential Fibre IM amendment

Process	Indicative timeframe
Publish Notice of Intention Notice of intention to begin work on potential amendment to the tax-adjusted market risk premium published	18 January 2024
Draft decision by the Commission Draft decision on potential amendment to the tax-adjusted marked risk premium published	12 March 2024
Submissions due from interested persons on potential amendment to the tax-adjusted marked risk premium	10 April 2024
Cross-submissions due from interested persons on potential amendment to the tax-adjusted marked risk premium	2 May 2024
Final decision by the Commission Final decision on potential amendment to the tax-adjusted marked risk premium	Q2 2024

Further updates on process dates will be provided as they are available.

Matters in scope

- 1.14 In this paper, we are proposing a specific amendment to the TAMRP estimate in the Fibre IMs for the purposes of estimating the WACC for PQ regulation and ID regulation.

Matter out-of-scope

- 1.15 The following matter is out out-of-scope for this paper:

1.15.1 the methodology for estimating the TAMRP.⁶

How you can provide your views

Scope of submissions

- 1.16 We are interested in your views on the proposed IM amendment to update the TAMRP in the Fibre IMs, ahead of setting the PQ path for Chorus' second regulatory period.

Process and timeline for making submissions

- 1.17 You are invited to provide your written views on this paper no later than **10 April 2024 at 5pm.**

1.17.1 Cross-submissions are due no later than **2 May 2024 at 5pm.**

- 1.18 You should address your responses to:

Keston Ruxton, Manager of Fibre PQ Regulation
c/o infrastructure.regulation@comcom.govt.nz

- 1.19 Please include the following in the subject line: "proposed TAMRP amendment to the Fibre IMs". We prefer responses to be provided in a file format suitable for word processing in addition to PDF file format.

Confidentiality

- 1.20 Please note that we intend to publish all submissions on this paper.

⁶ We consider examining the methodology for estimating the TAMRP is better suited to the statutory IM review for the Fibre IMs where we must review every IM policy decision at intervals of no more than seven years.

- 1.21 The protection of confidential information is an area the Commission takes seriously. The process requires you to provide (if necessary) both a confidential and non-confidential/public version of your submission and to clearly identify which versions are “confidential” and “non-confidential/public” versions.
- 1.22 When including commercially sensitive or confidential information in your submission:
 - 1.22.1 provide clearly labelled “confidential” and “public” versions. We intend to publish all public versions on the Commission’s website;
 - 1.22.2 the responsibility for ensuring that confidential information is not included in a public version of a submission rests entirely with the party making the submission. Where a confidential version of your submission is provided, please clearly identify and highlight all information you consider to be confidential;
 - 1.22.3 note that all submissions we receive, including any parts that we do not publish, can be requested under the Official Information Act 1982. This means we would be required to release material that we do not publish unless good reason existed under the Official Information Act 1982 to withhold it. We would normally consult with the party that provided the information before any disclosure is made.

Chapter 2 Regulatory framework

Purpose and structure

- 2.1 This chapter summarises the statutory context and key aspects of our decision-making framework for considering amendments to the Fibre IMs.⁷
- 2.2 It summarises:
 - 2.2.1 the background on the decision-making framework;
 - 2.2.2 the statutory context and powers to amend the Fibre IMs; and
 - 2.2.3 the decision-making framework we have applied in making these draft Fibre IM amendments.

Background

- 2.3 Before the end of the current regulatory period, the Commission must make a determination under section 170 of the Act specifying how PQ regulation applies to Chorus during the following regulatory period.
- 2.4 A relevant input methodology relating to the supply of FFLAS must be applied by each relevant regulated fibre service provider in accordance with the relevant section 170 determination.⁸
- 2.5 Additionally, a relevant IM must be applied by the Commission in recommending, deciding or determining how regulation under Part 6 of the Act should apply to FFLAS, or the prices or quality standards applying to FFLAS.⁹
- 2.6 The Commission is setting the PQ path this year for the second regulatory period for Chorus.

⁷ As noted above, our decision-making framework is set out in full at paras B7 to B25 of Attachment B of our [Fibre price-quality regulation proposed process and approach for the 2025-2028 regulatory period](#) and substantially reflects the framework we applied for our most recent fibre IM amendments, [Amendments to Fibre Input Methodologies: final decision \(28 June 2023\)](#).

⁸ Section 175 of the Act.

⁹ Section 175 of the Act.

- 2.7 We included the decision-making framework for the Fibre IMs in our *Proposed process and approach for the 2025-2028 regulatory period* paper.¹⁰ We considered it may be necessary for us to consider amendments to the Fibre IMs as part of our process to set Chorus' PQ path for PQP2.
- 2.8 On 18 January 2024, we published a notice of intention that the Commission would begin work to consider an amendment to the TAMRP in the Fibre IMs.¹¹
- 2.9 This section describes the (limited) circumstances in which we are considering an amendment, and the framework we are applying to the proposed IM amendment.

Summary of regulatory framework

Statutory context

- 2.10 The purpose of the input methodologies under section 174 of the Act is to promote certainty for regulated fibre service providers, access seekers and end-users in relation to the rules, requirements, and processes applying to the regulation, or proposed regulation, of fibre fixed line access services under Part 6 of the Telecommunications Act 2001 ("the Act").¹²
- 2.11 We are cautious about making amendments to the Fibre IMs outside of the periodic statutory IM review process given the importance of certainty and predictability in the regime. However, as recognised in sections 181 and 182, these rules, processes and requirements may change. We must follow the process under section 179 – including publishing a notice of intention with our proposed time frames.¹³
- 2.12 We recognise that there may be a tension between making changes to improve the regime and promoting the purpose of sections 162 (the Part 6 purpose) and 166 and promoting certainty under section 174.

¹⁰ Commerce Commission, "*Fibre Price-Quality Process and Approach Paper for the 2025 – 2028 regulatory period*", 31 August 2023, https://comcom.govt.nz/_data/assets/pdf_file/0017/327014/Fibre-price-quality-regulation-Process-and-approach-paper-for-the-2025-2028-regulatory-period.pdf

¹¹ Commerce Commission, 'Notice of Intention: Potential amendment to Input Methodologies for Fibre Fixed Line Access Services', 18 January 2024, available at: https://comcom.govt.nz/_data/assets/pdf_file/0021/340743/Notice-of-Intention-Fibre-IM-Amendments-18-Jan-2024.pdf.

¹² See section 174 of the Act.

¹³ [Notice of Intention – 18 January 2024 - Potential amendment to input methodologies for Fibre Fixed Line Access Services](#).

- 2.13 While we have regard to the section 174 purpose, and other indications of the importance of promoting certainty, ultimately, under section 166(2), we must make recommendations, determinations and decisions that we consider best give, or is likely to best give effect to:
- 2.13.1 the Part 6 purpose in section 162 of the Act,¹⁴ as set out in section 166(2)(a); and
 - 2.13.2 to the extent that we (or the Minister) consider it relevant, the promotion of workable competition in telecommunications markets for the long-term benefit of end-users of telecommunications services, as set out in section 166(2)(b).
- 2.14 Section 166(2) governs our decision-making process for all recommendations, determinations and decisions under Part 6 of the Act. The other purpose statements within Part 6 are relevant matters, but they should be applied consistently with section 166(2).¹⁵

Amendments outside the IM review cycle

- 2.15 All Fibre IMs must be reviewed at least once every seven years, as mandated by section 182.
- 2.16 Given the certainty purpose of the Fibre IMs and the scheme set out in the Act to promote this purpose, we must carefully assess what amendments are appropriate to consider outside the Fibre IM review cycle. Additionally, the predictability the IMs provide are key to promoting the section 162 purpose (as required under section 166(2)(a)) and, in particular, incentives to invest.

¹⁴ Section 162 provides that the purpose of Part 6 of the Act is to promote the long-term benefit of end-users in markets for FFLAS by promoting outcomes that are consistent with outcomes produced in workably competitive markets so that regulated fibre service providers:

- (a) have incentives to innovate and to invest, including in replacement, upgraded, and new assets; and
- (b) have incentives to improve efficiency and supply FFLAS of a quality that reflects end-user demands; and
- (c) allow end-users to share benefits of efficiency gains in the supply of FFLAS, including through lower prices; and
- (d) are limited in their ability to extract excessive profits.

¹⁵ We note that the High Court in *Wellington International Airport Ltd & Ors v Commerce Commission* considered that the purpose of IMs, set out in section 52R of the Commerce Act, is “conceptually subordinate to the purpose of Part 4 as set out in section 52A. See *Wellington International Airport Ltd v Commerce Commission* [2013] NZHC 3289, at [165].

- 2.17 It will not generally be appropriate to consider changes to ‘fundamental IMs’ outside of the periodic Fibre IM review cycle, which takes place every seven years. Fundamental IMs are generally those that define the fundamental building blocks used to set PQ paths under section 176(1)(a) and that are central to defining the balance of risk and benefits between regulated providers and end-users.
- 2.18 This distinction is not absolute. We can, and have, reconsidered fundamental IMs outside the IM review in the past. However, there needs to be an especially compelling and urgent rationale for doing so.

Chapter 3 Proposed amendment to the TAMRP in Fibre IMs

Purpose and structure

- 3.1 This chapter sets out our draft decision to amend the TAMRP in the Fibre IMs for the purposes of estimating the WACC for PQ regulation and ID regulation.
- 3.2 It covers:
- 3.2.1 a summary of the proposed amendment to the TAMRP in the Fibre IMs;
 - 3.2.2 the context for proposing an amendment to the TAMRP in the Fibre IMs; and
 - 3.2.3 the rationale to update the TAMRP in the Fibre IMs.

Summary of proposed amendment

- 3.3 Our draft decision is to update the economy-wide parameter, the TAMRP estimate, in the Fibre IMs from 7.5% to 7.0% to align with the most up-to-date information from the final decision on the TAMRP estimate in the Part 4 Input Methodologies Review Cost of capital topic paper in December 2023.¹⁶
- 3.4 If we decide to finalise the proposed IM amendment, the commencement dates for the relevant changes to the Fibre IMs would be as follows:
- 3.4.1 for the purpose of determining an ID WACC estimate for disclosure year¹⁷ 2026, the change to clause 2.4.2(7) of the Fibre IMs would come into effect on 3 March 2025; and

¹⁶ Commerce Commission, “Cost of capital topic paper: Part 4 Input Methodologies Review 2023 – Final decision” (13 December 2023), at [173]. We note that Dr Lally’s advice on the TAMRP estimate was provided to the Commission on 10 April 2023.

¹⁷ “Disclosure year’ means (a) for Chorus, the 12 month period ending on 31 December of the year the disclosure relates to or, if the term ‘disclosure year’ is combined with a year (for example ‘disclosure year 2022’), the 12-month period ending on 31 December of that year; (b) for Enable, the 12-month period ending on 30 June of the year the disclosure relates to or, if the term ‘disclosure year’ is combined with a year (for example ‘disclosure year 2022’), the 12 month period ending on 30 June of that year; and (c) for Tuatahi and Northpower Fibre, the 12-month period ending on 31 March of the year the disclosure relates to or, if the term ‘disclosure year’ is combined with a year (for example disclosure year 2022’), the 12-month period ending on 31 March of that year; see “Fibre Information Disclosure Determination 2021” at: https://comcom.govt.nz/_data/assets/pdf_file/0029/288722/Fibre-Information-Disclosure-Determination-2021-Consolidated-Version-30-January-2024.pdf

- 3.4.2 for the purpose of determining the WACC for Chorus’s PQP2, the change to clause 3.5.2(7) of the Fibre IMs would come into force immediately following our final decision on the proposed amendment.

Context for proposed amendment

Background

Tax-adjusted Market Risk Premium

- 3.5 The Market Risk Premium (“MRP”) measures the additional expected return over and above the risk-free rate required to compensate for holding the market portfolio.
- 3.6 The MRP represents the premium investors can expect to earn for bearing systematic (market) risk. The form of the MRP that is consistent with the Simplified Brennan Lally-Capital Asset Pricing Model (“SBL-CAPM”) is the TAMRP.¹⁸
- 3.7 TAMRP is one of the parameters in the Cost of Capital Fibre IMs that is used when we determine the WACC for regulated FFLAS.¹⁹
- 3.8 The current TAMRP in the Fibre IMs is 7.5%.

Recent update to the TAMRP

- 3.9 The Commission’s final decision on the Part 4 IM Review published on 13 December 2023, was to use a TAMRP of 7.0% for regulated businesses under Part 4 of the Commerce Act.²⁰ We published our analysis and consulted extensively on that decision as part of that process.
- 3.10 The Commission received submissions on the TAMRP from Chorus in response to the Part 4 IM Review.²¹

¹⁸ Commerce Commission, “Fibre input methodologies: Main final decisions – reasons paper” (October 2020), at [6.36].

¹⁹ *Fibre Input Methodologies Determination 2020*, as amended on 28 June 2023, Part 2 and Part 3.

²⁰ Commerce Commission, ‘Cost of capital topic paper: Part 4 Input Methodologies Review 2023 - Final Decision’, 13 December 2023, https://comcom.govt.nz/data/assets/pdf_file/0022/337612/Part-4-IM-Review-2023-Final-decision-Cost-of-capital-topic-paper-13-December-2023.pdf

²¹ Chorus (and Incenta, on behalf of Chorus) submitted on the Part 4 input methodologies review, see Chorus, ‘Submission on Part 4 input methodologies review’ 11 July 2022: https://comcom.govt.nz/data/assets/pdf_file/0036/287991/Chorus-Submission-on-IM-Review-Process-and-Issues-paper-and-draft-Framework-paper-11-July-2022.pdf; Chorus, ‘Submission on Part 4 input methodologies review – draft decisions’, 19 July 2023: https://comcom.govt.nz/data/assets/pdf_file/0012/323112/Chorus-Submission-on-IM-Review-2023-Draft-Decisions-19-July-2023.pdf; Incenta Economic Consulting (on behalf of Chorus), ‘Measures to

- 3.11 We also considered determining TAMRP estimates for both four- and five-year regulatory periods. We found that the TAMRP estimate does not vary between these two potential terms, concluding that a single rate for TAMRP is appropriate for all regulatory periods.²²

Rationale for updating the TAMRP in Fibre IMs

- 3.12 The cost of capital is an estimate of the expected financial return investors require from an investment given its risk. The WACC estimates are used in conjunction with regulatory asset values to determine the return on capital for each supplier that is subject to PQ path regulation. The return on capital is one component of the building blocks allowable revenue for each regulated supplier. The TAMRP is one of the parameters in the WACC calculation.
- 3.13 When setting the Fibre IMs in 2020, we considered that the most relevant outcomes of the section 162 purpose of Part 6 for the Cost of Capital IMs are section 162(a) and (d), being to promote the long-term benefit of end-users in markets for FFLAS by promoting outcomes consistent with outcomes produced in workably competitive markets so that regulated fibre service providers:²³
- 3.13.1 (a) have incentives to innovate and to invest, including in replacement, upgraded, and new assets; and
- 3.13.2 (d) are limited in their ability to extract excessive profits.
- 3.14 We consider that updating the TAMRP estimate to align with the most recent estimate will better promote the outcomes in section 162(a) and (d) primarily, because:
- 3.14.1 the best estimate of the TAMRP should result in a high enough expected rate of return which ensures that a supplier(s) of regulated FFLAS has incentives to innovate and invest, but also it is a sufficiently reasonable rate to ensure the supplier(s) are limited in their ability to extract excessive profits; and

improve the stability in WACC estimates', July 2022, https://comcom.govt.nz/_data/assets/pdf_file/0042/287988/Chorus-Measures-to-improve-the-stability-in-WACC-estimates-11-July-2022.pdf; Chorus, 'Cross-submission on Part 4 input methodologies review – draft decisions', 9 August 2023: https://comcom.govt.nz/_data/assets/pdf_file/0016/326104/Chorus-Cross-submission-on-IM-Review-2023-Draft-Decisions-9-August-2023.pdf

²² Commerce Commission, 'Cost of capital topic paper: Part 4 Input Methodologies Review 2023 - Final Decision' (13 December 2023), at [4.358].

²³ Commerce Commission, "Fibre input methodologies: Main final decisions – reasons paper" (October 2020), at [6.48].

- 3.14.2 leaving the current TAMRP estimate unchanged (at 7.5%) will provide the regulated FFLAS with a higher than reasonable expected return which may lead the regulated FFLAS to earn excessive profits.
- 3.15 Updating the TAMRP to align with the most recent estimate will likely best give effect to the promotion of workable competition in telecommunications markets for the long-term benefit of end-users of telecommunications services under section 166(2)(b). The best estimate of the cost of capital, including the TAMRP estimate, provides an expectation of a return which can attract investment necessary to compete for both the regulated providers and their potential competitors, at least cost to end-users.
- 3.16 The estimate of the cost of capital is also used to assess the profitability of regulated FFLAS for all LFCs, in line with the ID purpose under section 186 of the Act.²⁴ Therefore, updating the TAMRP estimate for the ID WACC to align with the most recent estimate:
- 3.16.1 will ensure that we have the best cost of capital estimate for the purpose of assessing profitability; and
- 3.16.2 reflects that the TAMRP is neither a regulated provider-specific parameter nor an industry-specific parameter, but rather it is common to all assets in the economy – so it is preferable to apply the same TAMRP for the ID WACC and the PQ WACC.

Urgent and compelling reasons to amend the TAMRP outside the statutory IM review

- 3.17 As outlined in Chapter 2, we generally will not make changes to fundamental IMs outside the periodic IM review process given the importance of certainty and predictability in the regime. However, we can and have reconsidered fundamental IMs in the past where there was an urgent and compelling rationale for doing so.
- 3.18 We consider the proposed amendment to the TAMRP in the Fibre IMs for PQ purposes is sufficiently urgent and compelling. This is for the reason that, if we maintained the status quo, we would expect that providers of regulated FFLAS would earn excessive profits from a WACC estimate that would be higher than our best estimate of the cost of capital. This would effectively undermine the promotion of section 162(d) of the Act – that is, limiting the ability to extract excessive profits for the long-term benefit of end-users.

²⁴ Under s 186 of the Act, the purpose of information disclosure regulation is to ensure that sufficient information is readily available to interested persons to assess whether the purpose (s 162) of Part 6 is being met.

- 3.19 For providers of regulated FFLAS that are subject to ID regulation, the potential amendment is sufficiently urgent and compelling because it would ensure that our best estimate of the cost of capital is used for assessing profitability, in line with the section 186 purpose of ID regulation - to ensure that sufficient information is readily available to interested persons to assess whether the purpose of Part 6 is being met.
- 3.20 As outlined above, the TAMRP is neither a regulated provider-specific parameter nor an industry-specific parameter, but rather it is common to all assets in the economy. Having regard to this, we increased the TAMRP estimate for Gas Pipeline Businesses (“GPBs”) from 7.0% to 7.5% as part of the Gas Default Price-Quality Path (DPP3), outside the statutory IM review process, to reflect the then most recent decision in 2020 Fibre IMs.²⁵
- 3.21 The most recent evidence supports a lower estimate of TAMRP than set out in the current Fibre IMs.
- 3.22 We therefore propose to amend the Fibre IMs to decrease the TAMRP from 7.5% to 7.0% to promote the section 162 purpose of the Act more effectively than the current IMs, as using the latest estimate of this parameter better promotes the outcomes in section 162 (a) and (d).

Alternative option considered

- 3.23 An alternative option is maintaining the status quo: the TAMRP remains unchanged at 7.5% in the Fibre IMs.
- 3.24 This option is not preferred because:
- 3.24.1 it would result in a different approach being taken when the TAMRP is a market-wide parameter and should be the same across all sectors as it is common to all assets. The final decision for the 2023 Part 4 IM Review was to use a TAMRP of 7.0% for regulated businesses under Part 4 of the Commerce Act. It is therefore appropriate to update the Fibre IMs’ TAMRP to align with that most recent estimate; and
- 3.24.2 the most recent evidence supports the TAMRP estimate of 7.0%. If we adopted the status quo, it would consequently mean less up-to-date information for the TAMRP is being used.

²⁵ Commerce Commission, “Amendments to input methodologies for gas pipeline businesses related to the 2022 default price-quality paths weighted average cost of capital reasons paper” (25 March 2022), at [3.4].

- 3.25 For the reasons set out in paragraphs 3.14-3.22, we consider that changing the TAMRP to 7.0% better gives effect to the purpose in section 162 and to the promotion of workable competition in telecommunications markets for the long-term benefit of end-users of telecommunications services.

Commencement and application

- 3.26 If we decide to finalise the proposed IM amendment, the commencement dates for the relevant clauses to the Fibre IMs would be as follows:
- 3.26.1 for the purpose of determining an ID WACC estimate for disclosure year 2026, the change to clause 2.4.2(7) of the Fibre IMs would come into effect on 3 March 2025; and
- 3.26.2 for the purpose of determining the WACC for Chorus' PQP2, the change to clause 3.5.2(7) of the Fibre IMs would come into force immediately following the final decision on the proposed amendment.

Alternative options considered

- 3.27 The proposed commencement date for the amendment to clause 2.4.2(7), in effect, means that the same TAMRP would be applied across all of the Local Fibre Companies ("LFCs") from disclosure year 2026.
- 3.28 If the change to clause 2.4.2(7) came into effect immediately, this would mean the most recent estimate of TAMRP - representative of the current market conditions - is reflected in the ID determinations earlier. However, different TAMRP estimates would apply to different LFCs' ID WACC determinations for disclosure year 2025.
- 3.29 Our preferred option is therefore for the commencement date to apply to all LFCs from disclosure year 2026.