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[DRAFT] Fibre Input Methodologies (IM Review) Amendment Determination 2026

[2026] NZCC [xx]

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Date of decision: [xx]

Dated at Wellington this [ ] day of [ ] 2026

COMMERCE COMMISSION

Wellington, New Zealand

Determination history		
Determination date	**Decision number**	**Determination name**
13 October 2020	[2020] NZCC 21	Fibre Input Methodologies Determination 2020
3 November 2020	[2020] NZCC 24	Fibre Input Methodologies (initial value of financial loss asset) Amendment Determination 2020
29 September 2021	[2021] NZCC 17	Fibre Input Methodologies (base capex and connection capex baseline allowance determination dates) Amendment Determination 2021
29 November 2021	[2021] NZCC 25	Fibre Input Methodologies Amendment Determination (No.2) 2021
28 June 2023	[2023] NZCC 13	Fibre Input Methodologies Amendment Determination 2023
28 May 2024	[2024] NZCC 11	Fibre Input Methodologies (tax-adjusted market risk premium) Amendment Determination 2024
21 November 2024	[2024] NZCC 29	Fibre Input Methodologies (Crown Financing and Individual Capex Design proposal) Amendment Determination 2024
[xx]	2026 NZCC [XX]	Fibre Services Input Methodologies (TAMRP methodology) Amendment Determination 2026
[xx]	[2026] NZCC [XX]	Fibre Input Methodologies (IM Review) Amendment Determination 2026

[Drafting notes:

- This amendment determination amends the Fibre Input Methodologies Determination 2020, as amended on 29 November 2021, ('principal determination').
- The included amendments are made under s 181 of the Telecommunications Act 2001.
- Amendments to the body of the principal determination are marked as track changes in red.]

Fibre Input Methodologies (IM Review) Amendment Determination 2026

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5. PRINCIPAL DETERMINATION AMENDMENTS

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

1. TITLE

1.1. This determination is the Fibre Input Methodologies (IM Review) Amendment Determination 2026.

2. DETERMINATION AMENDED

2.1. This determination amends the Fibre Input Methodologies Determination 2020 [2020] NZCC 21 (the **principal determination)**.

3. COMMENCEMENT AND APPLICATION

3.1. This determination comes into force on [xx].

4. PRINCIPAL DETERMINATION AMENDMENTS

4.1. Replace the contents page of the principal determination with the contents page in Attachment A.

4.2. The amendments to the body of the principal determination are the deletions, substitutions and additions to the attached copy of the principal determination that are tracked in red in Attachment B.

Attachment A

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ATTACHMENT B:

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 Schedules, Parts, Subparts and Sections are to named and numbered schedules, parts, subparts and sections of the determination;~~

~~(c) unless stated otherwise, references to clauses are to clauses of the main determination (not Schedule A or B);~~

~~(d)~~(a) unless the context otherwise requires, a word which denotes the singular also denotes the plural and vice versa;

~~(e)~~(b) 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**;

~~(f)~~(c) unless stated otherwise, any reference to "includes" means "includes, but is not limited to";

~~(g)~~(d) examples in this determination are for guidance purposes only and do not form part of the determination; and

~~(h)~~(e) 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:

#

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 3.5.5(2); (d) Part 3, the 50th percentile estimate of vanilla **WACC**, determined in accordance with clause 3.5.5(1);

A

ABAA	means the accounting-based allocation approach of using **cost allocators** to allocate **operating costs**, or **asset allocators** to allocate **asset values**, as provided: (a) for the purpose of determining the **financial losses**, in clauses B1.1.6(1)(b) and B1.1.6(2)(c) of Schedule B; (b) for the purpose of Part 2, in clauses 2.1.1(5)-(6) and 2.1.2(5)-(6); and (c) for the purpose of Part 3, in clauses 3.2.1(7)-(8);
access seeker	has the meaning set out in paragraph (d) of the definition of "access seeker" in s 5 of the **Act**;
Act	means the Telecommunications Act 2001;
actual allowable revenue	has the meaning specified in clause 3.1.1(11);

additional FFLAS class	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: (a) **ID FFLAS**; (b) **PQ FFLAS**; or (c) **ID-only FFLAS**;
additional RAB	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: (a) **ID RAB**; (b) **PQ RAB**; or (c) **ID-only RAB**;
adjusted tax value	has the same meaning as in the **tax rules**;
allocator type	(a) for the purpose of determining the **financial losses**, 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**; *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**, 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.*

approved timeframes means the proposed timeframe set out in the **individual capex design proposal** in accordance with clause 3.7.23(2)(d); and approved by the **Commission** in accordance with clause 3.7.24(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 3.8.6(1);

asset allocator means a ratio used to allocate **asset values** whose quantum is-

(a) based on a **causal relationship**; or

(b) equal to a **proxy asset allocator**;

asset life has the meaning specified in clause 2.2.10(1);

asset value means:

(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 Schedule B;

auditor means a person who-

(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**; and

(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(2);

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**;

base capex allowance means the amount determined by the **Commission** in accordance with clause 3.7.12(1);

base capex information request	means the request made by the **Commission** to **Chorus** in accordance with clause 3.7.8(9);
base capex proposal	means a written application submitted by **Chorus** to the **Commission** for approval of expenditure ~~in relation to one or more **base capex sub-categories**~~ in accordance with the requirements set out in clauses 3.7.8-3.7.11;
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 3.7.8(3) or (4);
base year	means a **disclosure year** determined by the **Commission**;
brownfield	means existing dwellings or premises;
building blocks revenue	means the amount of revenue the **Commission** specifies for the purpose of determining the **forecast allowable revenue** for a **regulatory year**, being the application of any relevant building blocks components (which may have positive or negative values);
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: (a) **base capex allowance**; (b) **connection capex allowance**; and (c) **individual capex allowance**;
capex category	means a category specified in clause 3.7.1(1);
capex proposal	means a **base capex proposal**, a **connection capex baseline proposal**, or an **individual capex proposal**;
capital contribution	means: (a) 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:

(i) an **access seeker**;
(ii) an **end-user**; or
(iii) any other party; and

(b) includes the $20 million fund established by **Chorus** for **financial loss year** 2013 in respect of non-standard installations; but

(c) does not include any **Crown financing**;

capital expenditure ~~**(capex)**~~(or **capex**)

means costs that-

(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

(b) are eligible, or would be eligible, to be included in the **value of commissioned asset**;

capital expenditure objective

has the meaning in clause 3.8.5(2);

catastrophic event

has the meaning in clause 3.9.3(1);

causal relationship

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

(b) in all other instances, means, in relation to-

(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** 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** 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** 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 3.7.3 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 3.9.4(1);

Chorus means Chorus Limited or any subsidiary of, or successor to, that company;

closing RAB value means the value-

(a) determined, in respect of a **core fibre asset** for the purpose of Part 2, in accordance with clause 2.2.5(4);

	(b) determined, in respect of the **financial loss asset** for the purpose of Part 2, in accordance with clause 2.2.6(2); (c) determined, in respect of a **core fibre asset** for the purpose of Part 3, in accordance with clause 3.3.1(2) and 3.3.1(7); and (d) determined, in respect of the **financial loss asset** for the purpose of Part 3, in accordance with clause 3.3.1(2) and 3.3.1(7);
closing RAB value before deregulation impact	has the meaning specified in clause 2.2.6(12);
Commission	has the same meaning as defined in s 5 of the **Act**;
commissioned	means **employed** by the **regulated provider** in providing a service (whether or not the asset is also **employed** in providing other services), and **commission** has a corresponding meaning;
commissioned for FFLAS	means **employed** by the **regulated provider** in providing **regulated FFLAS** (whether or not the **fibre asset** is also **employed** in providing other services), and **commission for FFLAS** has a corresponding meaning;
commissioning date	means the date that an 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;
compensatory entitlement	(a) ~~(a)~~ means money or the monetary value of other consideration relating to an event that is received or receivable from **end-users** or other parties for any of the following purposes:

(i) ~~(i)~~ restoring damaged assets to the operating condition and location that they were in before the event;

(ii) relocating assets if required; and

(iii) compensation for damaged or destroyed assets; and

(b) ~~(b)~~ excludes any **insurance entitlement** or **capital contribution**;

connection means:

(a) for the purpose of Part 2, an instance of **ID FFLAS** being provided by a **regulated provider** to a **UNI**; and

(b) for the purpose of Part 3, an instance of **PQ FFLAS** being provided by a **regulated provider** to a **UNI**;

connection capex 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:

(a) connecting new **end-user** premises, building or other access points where the **communal fibre network** already exists or will exist at the time of connection, and includes:

(i) **UFB initiative brownfield** connection expenditure;

(ii) **UFB initiative greenfield** and **infill** connection expenditure; and

(iii) **Chorus** initiated migration from **copper fixed line access services** to **PQ FFLAS**; and

(b) for premises, buildings, or other access points that are already connected, modifying or replacing equipment to enable better provision of **PQ FFLAS** (but only if the modification or replacement is

initiated by a request from an **end-user** for the better provision of **PQ FFLAS**);

connection capex allowance	means the amount determined by the **Commission** in accordance with clause 3.7.13;
connection capex annual report	means a written statement made by **Chorus** under clause 3.7.18;
connection capex baseline allowance	means the amount determined by the **Commission** in accordance with clause 3.7.20(1);
connection capex baseline proposal	means a written application submitted by **Chorus** to the **Commission** in accordance with the requirements set out in clauses 3.7.14(1)-(2);
connection capex information request	means the information required by the **Commission** from **Chorus** in accordance with clause 3.7.14(7);
connection capex unit cost	means a per **end-user** connection cost by **connection type** for: (a) **variable connection costs**; and (b) **non-linear connection costs**;
connection capex variable adjustment	means the amount determined by the **Commission** in accordance with clause 3.7.21;
connection type	means a category or class of **end-user** connections specified by the **Commission** for **connection capex** that are similar in characteristics and cost;
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- (a) the **financial loss asset**; (b) intangible assets, unless they are- (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 ratio used to allocate **operating costs** whose quantum is-

(a) based on a **causal relationship**; or

(b) equal to a **proxy cost allocator**;

cost of debt means:

(a) for the purpose of clause 2.3.1(7)-(9), clause 2.4.10(1) and 2.4.11(1), the amount specified for r_d in clause 2.4.1(3);

(b) for the purpose of determining the **financial losses**, has the meaning specified in Schedule B; and

(c) for the purpose of Part 3, the amount specified for r_d in clause 3.5.1(3);

cost of equity means:

(a) for the purpose of Part 2, the amount specified for r_e in clause 2.4.1(3);

(b) for the purpose of determining the **financial losses**, has the meaning specified in Schedule B; and

(c) for the purpose of Part 3, the amount specified for r_e in clause 3.5.1(3);

CPI means:

(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 2.2.6(7);
customer service	means: (a) 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 (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 determining the **financial losses**, has the meaning specified in accordance with Schedule B; and (b) for all other purposes, has the meaning specified in clause 2.4.4(4);
debt premium reference year	means a 12-month period ending on 31 August; *Example:* *'**debt premium reference year** 2022' means the 12-month period ending 31 August 2022;*
dedicated asset	means a **core fibre asset** operated solely 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 to account for the diminution in a **fibre asset's** remaining service life potential in the **disclosure year** in question with respect to its **opening RAB value** and 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**, in accordance with clause 2.2.7(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**, in accordance with clause 2.2.8(3); and

(ii) determined, in respect of **fibre assets** in the **ID-only RAB** that are **employed** in the provision of **ID-only FFLAS**, in accordance with clause 2.2.8(6); and

(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(8);

deregulated asset value has the meaning specified in clause 2.2.6(9);

deregulated shared asset has the meaning specified in clause 2.2.6(10);

deregulated shared asset value	has the meaning specified in clause 2.2.6(11);
deregulation adjustment	means the amount determined in accordance with clause 2.2.6(3);
directly attributable	means- (a) in relation to **operating costs**, where a cost is wholly and solely incurred in the provision of a particular service; and (b) in relation to **asset values**, where an asset is wholly and solely **employed** by a **regulated provider** in the provision of a particular service;
director	means, in the case of a **regulated provider** that is- (a) a company (as 'company' is defined in s 2 of the Companies Act 1993), an individual occupying the position of 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 example, "**disclosure year** 2019" means the 12-month period ending on 31 December 2019); and

(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**, has the meaning specified in Schedule B; and

(b) in all other instances, means a **fibre asset** that, in the **disclosure 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, for a **connection**, the sum of **planned downtime** and **unplanned downtime** with respect to **ID FFLAS**; and

(b) for the purpose of Part 3, for a **connection**, the sum of **planned downtime** and **unplanned downtime** with respect to **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 of the **land** thereafter;

employ

means available for use,

and **employed** and **employment** have a corresponding meaning;

Enable

means Enable Networks Limited or any subsidiary of, or successor to, that company;

end-user

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

error event has the meaning in clause 3.9.6(1);

F

fault means:

(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**; and

(b) for the purpose of Part 3:

(i) an **unplanned outage in PQ FFLAS**; or

(ii) a reduction in th**e performance** of **PQ FFLAS** below any levels specified in a **PQ determination**;

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 commissioning date	means the date that a **fibre asset** is first **commissioned for FFLAS**;
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 the **financial losses** in accordance with clause 2.2.4, 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 example, "**financial loss year** 2013" means the 12-month period ending on 30 June 2013), and: (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";

financial losses	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 B1.1.2(2) of Schedule B;
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;
forecast allowable revenue	has the meaning specified in clause 3.1.1(2);
forecast total FFLAS revenue	means all revenue forecast to be derived by a **regulated provider** from providing **PQ FFLAS**: (a) in nominal terms~~, excluding **GST**; and~~ (b) calculated at the time or times, and in accordance with the methodology, specified in a **PQ determination**; and (c) excluding any- (i) **GST**; (ii) ~~subtracting~~ discounts and rebates forecast to be taken up by customers, adjusted in accordance with **GAAP**~~,~~; (iii) **insurance entitlement** or **compensatory entitlement** that has been applied to reduce the forecast **value of commissioned asset** under clause 2.2.13; and ~~(i)~~ **insurance entitlement**, **compensatory entitlement**, or **third-party liability entitlement** that has been netted off in calculating forecast **operating costs**; ~~(ii) and is:~~ ~~(iii)~~(iv) ~~calculated at the time or times and in accordance with the~~

	~~methodology specified in a **PQ determination;**~~
forecast wash-up accrual	has the meaning specified in clause 3.1.1(9);
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 interval;
frame loss ratio	means the portion of frames that are lost between the ingress interface and the egress interface of 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 3.9.5(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	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**;
ID-only FFLAS	means, in respect of a **regulated provider**, all **FFLAS** provided by that **regulated provider** that: (a) is subject to information disclosure regulation in regulations made under s 226 of the **Act**; and (b) is not subject to price-quality regulation in regulations made under s 226 of the **Act**;
ID-only RAB	means, in respect of a **regulated provider**, all **fibre assets** that are **employed** by that **regulated provider** in the provision of **ID-only FFLAS**;
ID RAB	means, in respect of a **regulated provider**, all **fibre assets** that are **employed** by that **regulated provider** in the provision of **ID FFLAS**;
impairment losses	has the same meaning as under **GAAP**;
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);
individual capex allowance	means the amount determined by the **Commission** in accordance with clause 3.7.28(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;
individual capex programme	means a **programme** that is the subject of an **individual capex proposal** specified in clause 3.7.22(3)(c);
individual capex project	means a **project** that is the subject of an **individual capex proposal** specified in clause 3.7.22(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 3.7.25;
infill	means the establishment of new dwellings or premises within an existing suburb or developed area;
initial RAB	has the meaning specified in clause 2.2.2;
initial RAB value	means the value- (a) in respect of a **core fibre asset** in an **initial RAB**, determined in accordance with clause 2.2.3(2); (b) in respect of the **financial loss asset** in an **initial RAB**, determined in accordance with clause 2.2.4(1);
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;
insurance entitlement	(a) ~~(a)~~ means money or the monetary value of other consideration that is received or receivable from a licensed insurer (as that term is defined in the Insurance (Prudential Supervision) Act 2010) in respect of a contract of insurance that insures against damage to assets, destruction of assets, or **operating costs** arising from damaged or destroyed assets; and (b) ~~(b)~~ excludes any- (i) money or monetary value of other consideration that is received or receivable for business interruption; or (ii) **third-party liability entitlement**;
integrated fibre plan	means a collection of documents as set out in clause 3.7.7, that provides the **Commission** with an overview of **Chorus's capital expenditure** related to the management of its **fibre network** and the provision of **PQ FFLAS**;

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**;
layer 1 service	has the same meaning as defined in s 155ZS of the **Act**;
layer 2 service	has the same meaning as defined in s 155ZS of the **Act**;
leverage	means the ratio of debt capital to total capital and is 29%;
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 3.9.7(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 3.5.1(1); or (ii) post-tax **WACC** as estimated in accordance with clause 3.5.1(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 expansion capex	(a) means **capex** to expand the **FFLAS** network to a geographic area in which **Chorus** does not provide **FFLAS** and to connect **end-users** in the area; but (b) excludes **capex** in relation to: (i) **infill** development in geographic areas in which **Chorus** already provides **FFLAS**; or (ii) development in geographic areas that are adjacent to the existing **communal fibre network**;
network operator	has the meaning as defined in s 5 of the **Act**;
network spare	(a) for the purpose of determining the **financial losses**, has the meaning specified in Schedule B; and (b) in all other instances, means an asset that is held by a **regulated provider** to replace any other **core fibre asset** it holds should that other **core fibre asset** be withdrawn from use owing to failure or damage;
non-linear connection cost	means a cost that is directly driven by the demand for new **end-user** connections but does not vary in a linear way with the number of new **end-user** connections;
non-linear connection cost function	means the relationship between the number of **end-user** connections and **non-linear connection cost** for a **connection type** that is:

(a) specified by the **Commission**;
(b) expressed as a mathematical formula, in tabular form, or by some other description; and
(c) used to determine the **connection capex unit costs** for **non-linear connection costs**;

Northpower Fibre means Northpower Fibre Limited or any subsidiary of, or successor to, that company;

notional deductible interest means:
(a) in respect of **Northpower Fibre** and **Tuatahi** for **disclosure year** 2022, the value determined in accordance with clause 2.3.1(8);
(b) in respect of **Enable** for **disclosure year** 2022, the value determined in accordance with clause 2.3.1(9); and
(c) in all other instances, the value determined in accordance with clause 2.3.1(7);

notional tax asset value
(a) for the purpose of a **fibre asset**, has the meaning in clause 2.3.2(3); and
(b) for the purpose of a **UFB asset**, has the meaning in Schedule B;

NZ IAS 24 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;

O

opening RAB value means the value-
(a) determined, in respect of a **core fibre asset** for the purpose of Part 2, in accordance with clause 2.2.5(3);

(b) determined, in respect of the **financial loss asset** for the purpose of Part 2, in accordance with clause 2.2.6(1);

(c) subject to paragraph (d), determined, in respect of a **core fibre asset** for the purpose of Part 3, in accordance with clause 3.3.1(2) and 3.3.1(7);

(d) determined, in respect of a **core fibre asset** for the purposes of:

(i) "*c*" in clause 3.5.7(3); and

(ii) 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 3.3.1(2) and 3.3.1(7); and

(f) determined, in respect of the **financial loss asset** for the purposes of:

(i) "*c*" in clause 3.5.7(3); and

(ii) clause 3.9.7(1),

in accordance with clause 2.2.6(1);

operating cost

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

(b) in all other instances, means 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

~~and~~ excludes-

(iv) any **insurance entitlement**, **self-insurance entitlement**, **compensatory entitlement**, or **third-party liability entitlement** for that cost, up to the amount of that

cost, that the **regulated provider** chooses to net off in calculating that cost;

~~(iv)~~(v) a cost that is treated as a cost of an asset by **GAAP**;

~~(v)~~(vi) amounts that are depreciation, tax, subvention payments, revaluations or an interest expense, in accordance with their meanings under **GAAP**;

~~(vi)~~(vii) **debt issuance costs**;

~~(vii)~~(viii) **pecuniary penalties**;

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

~~(ix)~~(x) **pass-through costs**;

operating expenditure (or **opex**)

means:

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

opex sub-category

means a category of **operating expenditure** identified or agreed between the **Commission** and **Chorus** in accordance with clause 3.10.1;

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**, including how the request is accepted or rejected; and

(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 PQ FFLAS** connection from one **access seeker** to another **access seeker**, and disconnect **PQ FFLAS**, including how the request is accepted or rejected;

outage means:

(a) for the purpose of Part 2, a cessation in the supply of **ID FFLAS**; and

(b) for the purpose of Part 3, a cessation in the supply of **PQ FFLAS**;

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**;

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) for the purpose of Part 2, the technical functioning of **ID FFLAS**, including the extent to which this affects the experience of an **access seeker** or **end-user**; and

(b) 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**;

planned downtime means:

(a) for the purpose of Part 2, the length of time a **connection** has a **planned**

	outage to **ID FFLAS** for that **connection**; and (b) for the purpose of Part 3, the length of time a **connection** has a **planned outage** to **PQ FFLAS** for that **connection**;
planned outage	means a scheduled **outage** that a **regulated provider** has notified to **access seekers:** (a) in advance; and (b) in accordance with relevant procedures as: (i) agreed between the **regulated provider** and **access seeker**; (ii) prescribed in regulations made under Part 6 of the **Act**; or (iii) prescribed in a determination made under s 170 of the **Act**;
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**;
PQ FFLAS	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**;
PQ RAB	means, in respect of a **regulated provider**, all **fibre assets** that are **employed** by that **regulated provider** in the provision of **PQ FFLAS**;
prescribed investor rate	has the same meaning as defined in the Income Tax Act 2007;
priority	means: (a) in relation to a **base capex sub-category**, a **base capex sub-category** that meets the criteria agreed or specified under clause 3.7.8(3); or

(b) in relation to an **opex sub-category**, an **opex sub-category** that meets the criteria agreed or specified under clause 3.10.1;

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

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:

(a) for the purpose of Part 2, the process by which a **regulated provider** installs, activates, changes (including bulk migrations from one type of **ID FFLAS** to another) and disconnects **ID FFLAS**; and

(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**;

proxy asset allocator

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

(b) in all other instances, means a ratio-

(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** 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** and from year to year; and

(iv) is objectively justifiable and demonstrably reasonable;

proxy cost allocator

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

(b) in all other instances, means a ratio-

(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** 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** and from year to year; and

(iv) is objectively justifiable and demonstrably reasonable;

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 3.5.8(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 3.5.8(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**;

(c) **ID-only RAB**; and

(d) any **additional RAB**;

regulated FFLAS	means any and all **FFLAS classes** as the case may be and context requires; *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 I**D 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 of the **Act** 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 of the **Act** 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: (a) Part 2, the meaning specified in clause 2.3.1(5); and (b) Part 3, the meaning specified in clause 3.4.1(4);
regulatory tax asset value	(a) for the purpose of a **fibre asset**, has the meaning in clause 2.3.2(1); and (b) for the purpose of a **UFB asset**, has the meaning in Schedule B;
regulatory taxable income	has the meaning in clause 2.3.1(3);
regulatory template	means tables of information requirements regarding **Chorus's** proposed **base capex** and proposed **connection capex** as agreed under clauses 3.7.8(3) and 3.7.14(3) or as specified under clauses 3.7.8(4) and 3.7.14(4);
regulatory year	means a 12-month period ending on 31 December, where if the term "regulatory year" is combined with a year, the 12-month period ending on 31 December of that year (for example, "**regulatory year** 2022" means the 12-month period ending on 31 December 2022);
related party	(a) for the purpose of determining the **financial losses**, has the meaning specified in Schedule B; and (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**;

related party transaction	(a) for the purpose of determining the **financial losses**, has the meaning specified in Schedule B; and (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 (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**;
remaining asset life	means the term remaining of the **fibre asset's asset life**;
reopener event	has the meaning specified in clause 3.9.1(2);
restore	means: (a) for the purpose of Part 2, when **ID FFLAS** functions again following a **fault**; and (b) for the purpose of Part 3, when **PQ FFLAS** functions again following a **fault**;
result of asset allocation ratio	(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 Schedule B;
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(2); and (b) determined, for the purpose of Part 3, in accordance with clause 3.3.1(2) and 3.3.1(7);
revaluation rate	means:

(a) subject to paragraphs (b)-(c), the amount specified in clause 2.2.11(4);
(b) for **Northpower Fibre** and **Tuatahi**, in respect of **disclosure year** 2022, the amount specified in clause 2.2.11(5); and
(c) for **Enable**, in respect of **disclosure year** 2022, the amount specified in clause 2.2.11(6);

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(4);

sale adjustment value has the meaning specified in clause 2.2.6(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**;

self-insurance entitlement means an amount that is—

(a) ~~(a)~~ the value of any **operating costs** or **capex** that arise from damaged or destroyed assets (excluding the costs of remediation or replacement that are not on a like-for-like basis) and that is not -recoverable as an **insurance entitlement, compensatory entitlement**, or **third-party liability entitlement**; and

(b) ~~(b)~~ if the assets are insured, capped at an amount that is equal to-

(i) the deductibles limit for the assets under the contract of insurance;

(ii) less the costs of remediation or replacement that are not on a like-for-like basis;

services that are not regulated FFLAS	means- (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;
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;
switching	means: (a) for the purpose of Part 2, the process by which a **regulated provider** changes an **end-user's ID FFLAS** connection from one **access seeker** to another **access seeker**; and (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 (b) for the purpose of a **UFB asset**, has the meaning in Schedule B;
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 (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: (a) for the purpose of determining the **financial losses** for a **financial loss year**, the rules applicable for that **financial loss year** to a **regulated provider** for determining income tax payable under the Income Tax Act 2007; and (b) in all other instances, 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**;
term credit spread difference	means the amount determined: (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 3.5.9(1);
term credit spread differential	means the amount determined: (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 3.5.10(1);
term credit spread differential allowance	for the purpose of- (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 3.5.7(2); and

(c) Part 3, in respect of the **second regulatory period** and subsequent **regulatory periods**, means the amount determined in accordance with clause 3.5.7(3);

third-party liability entitlement means money or the monetary value of other consideration that is received or receivable from a licensed insurer (as that term is defined in the Insurance (Prudential Supervision) Act 2010) in respect of a contract of insurance that insures against third-party liability;

total FFLAS revenue means all revenue derived by a **regulated provider** from providing **PQ FFLAS**~~:~~ -

(a) in nominal terms~~, excluding **GST**; and~~

(b) calculated in accordance with the methodology specified by the **Commission**; and

(c) excluding any-

(i) ~~(i)~~ **GST**;

(ii) ~~(ii)~~ ~~subtracting~~ discounts and rebates taken up by customers, adjusted in accordance with **GAAP**~~,~~;

(iii) ~~(iii)~~ **insurance entitlement** or **compensatory entitlement** that has been applied to reduce the **value of commissioned asset** under clause 2.2.13; and

insurance entitlement, **compensatory entitlement**, or **third-party liability entitlement** that has been netted off in calculating an **operating cost**;

~~(i) and is~~

~~(ii)~~(iv) ~~calculated in accordance with the methodology specified by the Commission;~~

Tuatahi means Tuatahi First Fibre Limited or any subsidiary of, or successor to, that company;

U

UFB asset	has the meaning specified in Schedule B;
UFB FFLAS	has the meaning specified in Schedule B;
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**;
unallocated closing RAB value	means the value determined in respect of a **core fibre asset**, in accordance with clause 2.2.5(2);
unallocated depreciation	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**: (a) for **regulated providers** subject only to information disclosure regulation in regulations made under s 226 of the **Act**, in accordance with clause 2.2.7(2); (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) subject to paragraph (b)(ii), in accordance with clause 2.2.8(2); and (ii) in respect of **fibre assets** in the **ID-only RAB** that are **employed** in the provision of **ID-only FFLAS**, in accordance with clause 2.2.8(5); and (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(2);

unallocated initial RAB value	means the value of a **core fibre asset** in an **initial RAB** determined in accordance with clause 2.2.3(1);
unallocated opening RAB value	means the value determined in respect of a **core fibre asset**, in accordance with clause 2.2.5(1);
unallocated revaluation	means the amount determined in accordance with clause 2.2.11(1);
UNI	means: (a) for the purpose of Part 2, a user-network interface in relation to **ID FFLAS** provided by a **regulated provider**; and (b) for the purpose of Part 3, a user-network interface in relation to **PQ FFLAS** provided by a **regulated provider**;
unplanned downtime	means: (a) for the purpose of Part 2, the length of time a **connection** has a **fault** to **ID FFLAS** for that **connection**; and (b) for the purpose of Part 3, the length of time a **connection** has a **fault** to **PQ FFLAS** for that **connection**;
unplanned outage	means an **outage** that is not a **planned outage**;
utilised tax losses	means the amount determined in accordance with clause 2.3.3(1);

V

value of commissioned asset	(a) for the purpose of determining the **financial losses**, has the meaning specified in Schedule B; (b) 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 2.2.13(1);

(c) 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

(d) means the value determined, for the purpose of Part 3, in accordance with clause 3.3.1(2) and 3.3.1(7);

valuer means an individual who-

(a) is registered as a valuer under the Valuers Act 1948;

(b) holds a current practising certificate issued by-

(i) the Property Institute of New Zealand; or

(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;

variable connection cost means a cost that is directly driven by the demand for new **end-user** connections and that varies with each new **end-user** connection;

vested asset

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

(b) in all other instances, means a **core fibre asset** received by a **regulated provider**-

(i) without provision of consideration; or

(ii) with provision of nominal consideration;

W

WACC	means weighted average cost of capital;
wash-up account balance	(a) for the purpose of **regulatory year** 2021, has the meaning specified in clause 3.1.1(6); and (b) for the purpose of **regulatory year** 2022 onwards, has the meaning specified in clause 3.1.1(7);
wash-up accrual	has the meaning specified in clause 3.1.1(8);
wash-up amount	means the wash-up amount the **Commission** specifies in a **PQ determination** for a **regulatory year**, including amounts in relation to the wash-up mechanism referred to in s 196(2) of the **Act**;
wash-up draw down amount	has the meaning specified in clause 3.1.1(5);
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 of FFLAS for regulated fibre service providers subject to both information disclosure regulation and price-quality regulation

(1) This clause applies 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**.

(2) **Operating costs** or **asset values** that are **directly attributable** to the provision of-

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

(b) **ID-only FFLAS** must be allocated to I**D-only FFLAS**; and

(c) any **additional FFLAS class** specified by the **Commission** must be allocated to that **additional FFLAS class**.

(3) The following must not be allocated to **PQ FFLAS**, **ID-only FFLAS**, or any **additional FFLAS class** specified by the **Commission**:

(a) any **operating cost** that is **directly attributable** to the provision of **services that are not regulated FFLAS**;

(b) any **asset value** that is **directly attributable** to the provision of **services that are not regulated FFLAS**; or

(c) any other cost that is recovered in respect of a **Part 4 regulated service**.

(4) **ABAA** must be applied in accordance with subclause (5) and (6) when any of the following are allocated:

(a) **operating costs** that are not **directly attributable** to the provision of **PQ FFLAS**, **ID-only FFLAS**, or **services that are not regulated FFLAS**; and

(b) **asset values** that are not **directly attributable** to the provision of **PQ FFLAS**, **ID-only FFLAS**, or **services that are not regulated FFLAS**.

(5) In respect of **operating costs** that are not **directly attributable** to the provision of **PQ FFLAS**, **ID-only FFLAS**, or **services that are not regulated FFLAS**, **cost allocators** must be used to proportionally allocate those **operating costs** between:

(a) **PQ FFLAS**;

(b) **ID-only FFLAS**; and

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

(6) In respect of **asset values** that are not **directly attributable** to the provision of **PQ FFLAS**, **ID-only FFLAS**, or **services that are not regulated FFLAS**, **asset allocators** must be used to proportionally allocate those **asset values** between:

(a) **PQ FFLAS**;
(b) **ID-only FFLAS**; and
(c) **services that are not regulated FFLAS**.

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

(8) If the **Commission** specifies an **additional FFLAS class**, any **operating costs** or **asset values** that are not **directly attributable** to that **additional FFLAS class** must be allocated using an approach that:

(a) is specified by the **Commission** when it specifies the **additional FFLAS class**; and
(b) results in a total amount of **operating costs** or **asset values** allocated to each **FFLAS class** that does not exceed the total **operating costs** or total **asset values** attributable to **PQ FFLAS** and **ID-only FFLAS** combined.

(9) For the purpose of subclauses (2), (5)-(6), and (8), where the **Commission** specifies an **additional FFLAS class**, any **operating costs** or **asset values** may be simultaneously allocated to both:

(a) that particular **additional FFLAS class** or any other **additional FFLAS class** specified by the **Commission** (where applicable); and
(b) either **PQ FFLAS** or **ID-only FFLAS** (whichever is applicable).

2.1.2 <u>Allocation of FFLAS for regulated providers subject only to information disclosure regulation</u>

(1) This clause applies if a **regulated provider** is subject only to information disclosure regulation in regulations made under s 226 of the **Act**.

(2) **Operating costs** or **asset values** that are **directly attributable** to the provision of-

(a) **ID FFLAS** must be allocated to **ID FFLAS**; and
(b) any **additional FFLAS class** specified by the **Commission** must be allocated to that **additional FFLAS class**.

(3) The following must not be allocated to **ID FFLAS**, or any **additional FFLAS class** specified by the **Commission**:

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

(4) **ABAA** must be applied in accordance with subclause (5) and (6) when any of the following are allocated:

(a) **operating costs** that are not **directly attributable** to the provision of **ID FFLAS** or **services that are not regulated FFLAS**; and
(b) **asset values** that are not **directly attributable** to the provision of **ID FFLAS** or **services that are not regulated FFLAS**.

(5) **Cost allocators** must be used to proportionally allocate between **ID FFLAS** and **services that are not regulated FFLAS** any **operating costs** that are not **directly attributable** to the provision of **ID FFLAS** or **services that are not regulated FFLAS**.

(6) **Asset allocators** must be used to proportionally allocate between **ID FFLAS** and **services that are not regulated FFLAS** any **asset values** that are not **directly attributable** to the provision of **ID FFLAS** or **services that are not regulated FFLAS**.

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

(8) If the **Commission** specifies an **additional FFLAS class**, any **operating costs** or **asset values** that are not **directly attributable** to that **additional FFLAS class** must be allocated using an approach that:

(a) is specified by the **Commission** when it specifies the **additional FFLAS class**; and
(b) results in a total amount of **operating costs** or **asset values** allocated to each **FFLAS class** that does not exceed the total **operating costs** or total **asset values** attributable to **ID FFLAS**.

(9) For the purpose of subclauses (2), (5)-(6), and (8), where the **Commission** specifies an **additional FFLAS class**, any **operating costs** or **asset values** may be simultaneously allocated to both:

(a) that particular **additional FFLAS class** or any other **additional FFLAS class** specified by the **Commission** (where applicable); and
(b) **ID FFLAS**.

2.1.3 Allocation requirements for ABAA

(1) A **regulated provider** or **regulated fibre service provider** (whichever the case may be) must:

(a) update the **allocator values** it uses to apply **cost allocators** and **asset allocators** in accordance with clause 2.1.1 or 2.1.2 (whichever the case may require) no less than once every 12 months;
(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; and
(c) when using **ABAA** to allocate an **operating cost** or an **asset value** to different **FFLAS classes**, use the same **cost allocator** or **asset allocator** (or

combination of the same **cost allocators** or **asset allocators**) to allocate to **PQ FFLAS**, **ID-only FFLAS**, and any **additional FFLAS class**.

(2) Where a **regulated provider** or **regulated fibre service provider** (whichever the case may be) uses a **proxy cost allocator** for the purposes of clause 2.1.1(5), 2.1.1(8), 2.1.2(5) or 2.1.2(8) or a **proxy asset allocator** for the purposes of clause 2.1.1(6), 2.1.1(8) 2.1.2(6) or 2.1.2(8), 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**.

(3) 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** in accordance with Schedule B.

(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 same cost allocation approach as used in Subpart 2 of Part 3 when the actual expenditure is reported, unless-

(a) the **regulated fibre service provider** can show that it is objectively justifiable and demonstrably reasonable 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 2 of Part 3.

(5) Subject to subclause (6), when a **regulated provider** allocates either an **asset value** or an **operating cost** that is not **directly attributable** to **PQ FFLAS, ID-only FFLAS**, **services that are not regulated FFLAS** or **ID FFLAS** (whichever is applicable), the total **asset values** or **operating costs** allocated to **PQ FFLAS** and **ID-only FFLAS** combined, or **ID FFLAS** (whichever is applicable) must not be more than the total **asset values** or total **operating costs** that the **regulated provider** could not have avoided if it ceased supplying **services that are not regulated FFLAS**.

(6) Subclause (5) 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 **PQ FFLAS** and **ID-only FFLAS** combined, or **ID FFLAS** (whichever is applicable), and for which some of the **asset value** or **operating cost** was allocated to **services that are not regulated FFLAS**.

2.1.4 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 **PQ FFLAS, ID-only FFLAS**, or **ID FFLAS** (whichever is applicable);

(b) **asset values** that are **directly attributable** to **PQ FFLAS, ID-only FFLAS**, or **ID FFLAS** (whichever is applicable);

(c) **operating costs** which are not **directly attributable** to **PQ FFLAS, ID-only FFLAS**, or **ID FFLAS** (whichever is applicable), but are incurred in the provision of such **PQ FFLAS, ID-only FFLAS**, or **ID FFLAS** (whichever is applicable); and

(d) **asset values** which are not **directly attributable** to **PQ FFLAS, ID-only FFLAS**, or **ID FFLAS** (whichever is applicable) but relate to **fibre assets** that are **employed** in the provision of such **PQ FFLAS, ID-only FFLAS**, or **ID FFLAS** (whichever is applicable).

(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) **product groups**;

(b) geographic coverage; or

(c) level of **fibre network** functionality or other functionality.

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 the **ID-only RAB** and any **additional RAB**.

2.2.2 Composition of an initial RAB

(1) 'Initial RAB', in respect of a **regulated provider**, means the collection of **fibre assets** in a given **RAB** as at:

(a) in respect of the **ID RAB**, the **implementation date**;

(b) in respect of the **PQ RAB**, the **implementation date**;

(c) in respect of the **ID-only RAB**, the **implementation date**;

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

2.2.3 Initial RAB values of core fibre assets

(1) The 'unallocated initial RAB value' of a **core fibre asset** as at the **implementation date** is its **value of commissioned asset** as calculated in accordance with clause 2.2.13(1).

(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 clause 2.1.1 or 2.1.2 (whichever the case may require) to it.

(3) If an asset is both a **UFB asset** and a **core fibre asset**, it ceases to be a **UFB asset** at **implementation date**.

2.2.4 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** determined by the **Commission** in respect of the **financial loss period** in accordance with s 177(2) of the **Act** and clause B1.1.2(1) of Schedule B and clause B1.1.2(2) of Schedule B.

2.2.5 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 **FFLAS 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, either clause 2.1.1 or 2.1.2 (whichever the case may require) to the **core fibre asset**; and

(ii) in respect of forecast values, clause 3.2.1.

2.2.6 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**; and

(b) a **disclosure year** thereafter, is the **financial loss asset's closing RAB value** in the preceding **disclosure year** multiplied by (1 - **deregulation adjustment** for the preceding **disclosure year** - **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-

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

(3) 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**;

(c) is in respect of the **ID RAB**, 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 **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**.

(4) The 'sale adjustment' in subclause (1) must be calculated 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**.

(5) For the purpose of subclause (4), where the purchaser is a **regulated provider** or **Part 4 regulated supplier**, it may add to its regulatory asset base an amount equal to the value of the **financial loss asset** removed from the seller's **RAB**.

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

(7) 'Current value of initial core fibre asset base' means the sum of all **closing RAB values** for all **UFB-related core fibre assets** for the **disclosure year**.

(8) '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**.

(9) '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**.

(10) '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**.

(11) '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:

$$deregulated\ shared\ asset\ value = a - b$$

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**.

(12) '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**.

2.2.7 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**.

(2) For the purpose of subclause (1), and subject to clause 2.2.9, 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** in accordance with an **ID determination**, and use:

(a) a depreciation method consistent with **GAAP**; or

(b) any other 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**, and use:

(a) a depreciation method consistent with **GAAP**; or

(b) any other 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**.

2.2.8 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 3.3.2(5); or

(b) a different depreciation method is applied for some or all **fibre assets** in accordance with clause 3.3.2(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 3.3.2(5); or

(b) a different depreciation method is applied for some or all **fibre assets** in accordance with clause 3.3.2(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.

(7) For the purposes of subclauses (2), (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 when disclosing information in accordance with an **ID determination**:

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

2.2.9 Unallocated depreciation constraint

(1) For the purposes of clause 2.2.7(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 an **initial RAB**, the **fibre asset's unallocated initial RAB value**; or

(ii) not in an **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**.

2.2.10 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

(e) all other **fibre assets**, the asset life adopted by the **regulated provider** under **GAAP**.

2.2.11 Revaluation

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

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

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

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

(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.

(4) Subject to subclauses (5)-(6), 'revaluation rate' means, in respect of a **disclosure year**, the amount determined in accordance with the formula-

$$\left(\frac{CPI_t}{CPI_{t-1}}\right) - 1$$

where-

CPI_t means **CPI** for the quarter that coincides with the end of the **disclosure year**; and

CPI_{t-1} means **CPI** for the quarter that coincides with the end of the preceding **disclosure year**.

(5) 'Revaluation rate' means, for **Northpower Fibre** and **Tuatahi**, in respect of **disclosure year** 2022, the amount determined in accordance with the formula-

$$\left(\frac{CPI_t}{CPI_{t-1}}\right) - 1$$

where-

CPI_t means **CPI** for the quarter that coincides with 31 March 2022; and

CPI_{t-1} means **CPI** for the quarter that coincides with 31 December 2021.

(6) 'Revaluation rate' means, for **Enable**, in respect of **disclosure year** 2022, the amount determined in accordance with the formula-

$$\left(\frac{CPI_t}{CPI_{t-1}}\right) - 1$$

where-

CPI_t means **CPI** for the quarter that coincides with 30 June 2022; and

CPI_{t-1} means **CPI** for the quarter that coincides with 31 December 2021.

2.2.12 Revaluation treated as revenue

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

2.2.13 Value of commissioned assets

(1) Subject to subclause (3) and (4), 'value of commissioned asset', in relation to a **core fibre asset** with a **commissioning date** prior to 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 **implementation date**, under **GAAP**.

(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 **FFLAS commissioning date**, under **GAAP**.

(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 **FFLAS 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 **core fibre asset** under **GAAP**, is nil;

(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;

(f) a **core fibre 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 fibre asset** in relation to those **Part 4 regulated services** as on the day before the **FFLAS**

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 2.2.15; ~~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**.

(i) an asset for which an **insurance entitlement** or **compensatory entitlement** was received, is receivable, or has arisen, the **regulated provider** chooses not to recognise the entitlement as revenue, and the entitlement does not, under **GAAP**, reduce the cost of the asset, is its cost under **GAAP** reduced by the amount of the entitlement; and

~~(h)~~(j) an asset for which a **self-insurance entitlement** has arisen is its cost under **GAAP** reduced by the amount of the entitlement.

(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**.

(5) For the purposes of subclause (4)(b), the 'weighted average of borrowing costs' is calculated for a **disclosure 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**;

(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** must not exceed the amount of borrowing costs incurred during the **disclosure 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**.

(6) In the case of an asset to which subclause (3)(i) applies because an **insurance entitlement** was received or is receivable in respect of the asset, any subsequent adjustment to the **insurance entitlement** to reflect the final settlement of the insurance claim must be recognised as expenditure (or negative expenditure) relating to a separate asset (or negative asset), adjusted by an amount equal to-

(a) the present value of the amount of the expenditure (or negative expenditure) as at the date that it is recognised (calculated by using the nominal amount described in paragraph (b) and applying, for each **disclosure year**, the **WACC** that is applied by the **Commission** in setting a price-quality path);

~~(i)~~(b) less the nominal amount of the expenditure (or negative expenditure) as at the date the **insurance entitlement** was first applied to reduce the cost of the asset.

~~(6)~~(7) 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** is **commissioned for FFLAS**, a **regulated provider** incurs expenditure on the **core fibre asset** that forms part of the

cost of that **core fibre asset** under **GAAP**, such expenditure is treated as relating to a separate asset.

2.2.14 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 **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**;

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

2.2.15 Related party transactions

(1) For the purposes of clause 2.2.13(3)(g), 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.

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) Subject to subclauses (8)-(9), 'notional deductible interest' means the value determined in accordance with the following formula:

$$(\textit{sum of all } \textbf{\textit{opening RAB values}} - \textit{Crown financing outstanding}) \times \textbf{\textit{leverage}} \times \textbf{\textit{cost of debt}}$$

where:

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

(8) In respect of **Northpower Fibre** and **Tuatahi** for **disclosure year** 2022, 'notional deductible interest' means the value determined in accordance with the following formula:

$$(\textit{sum of all } \textbf{\textit{opening RAB values}} - \textit{Crown financing outstanding}) \text{ x } \textbf{\textit{leverage}} \; x\left(\frac{\textbf{cost of debt}}{4}\right)$$

where:

Crown financing outstanding is the amount of **Crown financing** outstanding as of the **implementation date**.

(9) In respect of **Enable** for **disclosure year** 2022, 'notional deductible interest' means the value determined in accordance with the following formula:

$$(\textit{sum of all } \textbf{\textit{opening RAB values}} - \textit{Crown financing outstanding}) \text{ x } \textbf{\textit{leverage}} \; x\left(\frac{\textbf{cost of debt}}{2}\right)$$

where:

Crown financing outstanding is the amount of **Crown financing** outstanding as of the **implementation date**.

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-

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

(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 **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 **initial RAB**;

(ii) a **fibre asset** acquired from a **regulated provider** who used it to provide **regulated FFLAS**;

(iii) a **fibre asset** acquired from a **Part 4 regulated supplier** who used it to supply **Part 4 regulated services**;

(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

(ii) sum of the **adjusted tax values** of all **fibre assets** in an **initial RAB**;

(b) for the purpose of subclause (2)(a)(ii), 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;

(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

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

(i) consistent with the **tax rules**; and

(ii) limited to its **value of commissioned asset**-

(A) plus the sum of any **insurance entitlement**, **self-insurance entitlement**, or **compensatory entitlement** applied to reduce its **value of commissioned asset** under clause 2.2.13(3)(i), (3)(j), or (6); and

~~(A)~~(B) ~~or, if relevant~~ plus any taxed **capital contributions** applicable to the **core fibre asset** that are treated as income 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-

$$\frac{\textbf{opening RAB value} \text{ or sum of } \textbf{opening RAB values}}{\textbf{unallocated opening RAB value} \text{ or sum of } \textbf{unallocated opening RAB values}},$$

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 1 to apply to the **core fibre asset** or group of **fibre assets**; and

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

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) for **disclosure year** 2022, means:

(i) in respect of **Chorus**, a value as determined by the **Commission**;

(ii) in respect of **Enable**, a value as determined by the **Commission**;

(iii) in respect of **Northpower Fibre**, a value as determined by the **Commission**; and

(iv) in respect of **Tuatahi**, a value as determined by the **Commission**; and

(b) for a **disclosure year** that commenced after **disclosure year** 2022, are closing tax losses for the preceding **disclosure year**.

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

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

(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**.

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) subject to paragraph (c), within 1 month of the start of the **disclosure year** in question for regulated providers other than regulated providers whose disclosure year starts on 1 January, and in respect of regulated providers whose disclosure year starts on 1 January, within 2 months of the start of the disclosure year in question;
(c) in respect of **Enable**, **Northpower Fibre** and **Tuatahi** for **disclosure year** 2022, within 1 month of the **implementation date**; 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** for each **disclosure year**-

(a) in respect of the **regulatory period term** commencing on the first day of the **disclosure year** in question;
(b) subject to paragraph (c), within 1 month of the start of the **disclosure year** in question for regulated providers other than regulated providers whose disclosure year starts on 1 January, and in respect of regulated providers whose disclosure year starts on 1 January, within 2 months of the start of the disclosure year in question;
(c) in respect of **Enable**, **Northpower Fibre** and **Tuatahi** for **disclosure year** 2022, within 1 month of the **implementation date**; 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 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 29%.

(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.

(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**.

(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.

(5) The 'Equity beta' is 0.70.

(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%.

(7) 'Tax-adjusted market risk premium' is 7.0%.

2.4.3 Methodology for estimating risk-free rate

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

(a) for each **disclosure year**;

(b) subject to paragraph (c), within 1 month of the start of the **disclosure year** in question for regulated providers other than regulated providers whose disclosure year starts on 1 January, and in respect of regulated providers whose disclosure year starts on 1 January, within 2 months of the start of the disclosure year in question; and

(c) in respect of **Enable**, **Northpower Fibre** and **Tuatahi** for **disclosure year** 2022, within 1 month of the **implementation date**,

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 months preceding the start of the **disclosure year**;

(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.

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**;

(b) subject to paragraph (c), within 1 month of each **disclosure year** for regulated providers other than regulated providers whose disclosure year starts on 1 January, and in respect of regulated providers whose disclosure year starts on 1 January, within 2 months of the start of the disclosure year in question; and

(c) in respect of **Enable**, **Northpower Fibre** and **Tuatahi** for **disclosure year** 2022, within 1 month of the **implementation date**.

(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**;

(b) subject to paragraph (c), within 1 month of the start of the **disclosure year** in question for regulated providers other than regulated providers whose disclosure year starts on 1 January, and in respect of regulated providers whose disclosure year starts on 1 January, within 2 months of the start of the disclosure year in question; and

(c) in respect of **Enable**, **Northpower Fibre** and **Tuatahi** for **disclosure year** 2022, within 1 month of the **implementation date**.

(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 0.0131.

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) $0.00075 \times (\textit{original tenor of the } \textbf{\textit{qualifying debt}} - 5)$; 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)-

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

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.

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 the sum of the amounts calculated for each day of the **disclosure year** in accordance with the following formula-

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

where-

(a) A is the amount determined in accordance with the following formula:

$$[(\textit{proportion of 'B' that is senior debt} \times \textbf{\textit{cost of debt}} \textit{ for that } \textbf{\textit{disclosure year}}) + (\textit{proportion of 'B' that is subordinated debt} \times (\textbf{\textit{cost of debt}} \textit{ for that } \textbf{\textit{disclosure year}} + \textit{0.41\%}))] \times E;$$

(b) B is the amount of **Crown financing** outstanding in respect of the **regulated provider** (or related party as referred to in section 164 of the **Act**) at the start of the day that is debt (whether senior or subordinated);

(c) C is the amount determined in accordance with the following formula:

$$[(0.75 \times \textbf{cost of equity} \text{ for that } \textbf{disclosure year}) + (0.25 \times \textbf{cost of debt} \text{ for that } \textbf{disclosure year})] \times E;$$

(d) D is the amount of **Crown financing** outstanding in respect of the **regulated provider** (or related party as referred to in section 164 of the **Act**) at the start of the day that is equity; and

(e) E is determined in accordance with the following formula:

$$1 \div \text{number of days in the } \textbf{disclosure year}.$$

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

(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 the sum of the amounts calculated for each day of the **disclosure year** in accordance with the following formula:

$$A \times B$$

where:

(a) A is:

(i) where **Crown financing** is provided, in substance, by way of a combination of debt and equity, the amount calculated in accordance with the following formula:

$$[(C \times D) + ((1 - C) \times E)] \times F$$

where:

C is the proportion of **Crown financing** outstanding at the start of the day which, in substance, is debt;

D is the **cost of debt** for that **disclosure year**;

E is the **cost of equity** for that **disclosure year**; and

F is determined in accordance with the following formula:

$$1 \div \text{number of days in the } \textbf{disclosure year};$$

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

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

(b) B is the amount of **Crown financing** outstanding in respect of the **regulated provider** (or related party as referred to in section 164 of the **Act**) at the start of the day.

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 the following **quality dimensions**:

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

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

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

(i) **frame delay**;
(ii) **frame loss ratio**;
(iii) **frame delay variation**;
(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
(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 **ID FFLAS**; and

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

(c) **switching**, which may include the time to disconnect **ID FFLAS** from a losing **access seeker** and connect to a gaining **access seeker**.

2.5.3 Quality performance measures and statistics

(1) An **ID determination** may include requirements to disclose information on quality performance measures and statistics that are differentiated by:

(a) **regulated providers**;
(b) geography;
(c) **fibre network** architecture;
(d) **ID FFLAS**, such as a **layer 1 service** or **layer 2 service**; and
(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 **forecast total FFLAS revenue** must not exceed **forecast allowable revenue** specified in the **PQ determination** for that **regulatory year**.

(2) 'Forecast allowable revenue' means the sum of the following for a **regulatory year**:

(a) forecast **building blocks revenue**;

(b) forecast **pass-through costs**; and

(c) the **wash-up amount**,

and is calculated as specified in a **PQ determination**.

(3) For the purpose of this clause, subclauses (2)(b) and (c) can be positive or negative amounts.

(4) For the purpose of subclause (2), the 'wash-up amount' for each **regulatory year** of the **second regulatory period** onwards comprises amounts (which may be positive or negative) determined by the **Commission** and the sum of those amounts:

(a) in present value terms as of the final day of the preceding **regulatory period**; equals

(b) the **wash-up draw down amount** for the preceding **regulatory period**.

(5) 'Wash-up draw down amount' for a **regulatory period** means a positive or negative amount as determined by the **Commission**, where such amount must be:

(a) more than or equal to zero and less than the sum in present value terms as of the final day of the **regulatory period** of:

(i) the **wash-up account balance** for the final completed **regulatory year** of the **regulatory period**; and

(ii) a **forecast wash-up accrual** for the final **regulatory year** of the **regulatory period**,

where the sum of sub-paragraphs (i) and (ii) is positive or zero;

(b) less than or equal to zero and greater than the sum in present value terms as of the final day of the **regulatory period** of:

(i) the **wash-up account balance** for the final completed **regulatory year** of the **regulatory period**; and

(ii) a **forecast wash-up accrual** for the final **regulatory year** of the **regulatory period**,

where the sum of sub-paragraphs (i) and (ii) is negative;

(c) deemed to accrue on the final day of the **regulatory period**;

(d) determined by the **Commission** in the final **regulatory year** of a **regulatory period**; and

(e) not determined by the **Commission** prior to the **first regulatory period**.

(6) 'Wash-up account balance' for **regulatory year** 2021 is nil.

(7) 'Wash-up account balance' for **regulatory year** 2022 onwards means an amount determined by the **Commission** for a **regulatory year** and that is the present value as at the final day of that **regulatory year** of:

(a) the **wash-up accrual** for that **regulatory year**; plus

(b) the **wash-up account balance** for the preceding **regulatory year**; less

(c) for the final **regulatory year** of a **regulatory period**, the **wash-up draw down amount** for that **regulatory period**.

(8) 'Wash-up accrual' means an amount for a **regulatory year**, being the difference between the **actual allowable revenue** and actual **total FFLAS revenue** for that **regulatory year**, and is deemed to accrue 148 days prior to the final day of that **regulatory year**.

(9) 'Forecast wash-up accrual' means an amount for a **regulatory year**, being the forecast difference between the **actual allowable revenue** and actual **total FFLAS revenue** for that **regulatory year**, and:

(a) is determined by the **Commission** in the final **regulatory year** of a **regulatory period**;

(b) is deemed to accrue 148 days prior to the final day of that **regulatory year**;

(c) includes a forecast of the **connection capex variable adjustment** for the final **regulatory year** of that **regulatory period** as specified in subclause (11)(g) and its associated modelled impacts; and

(d) is not determined by the **Commission** for any **regulatory year** prior to the **first regulatory period**.

(10) For the purposes of subclauses (4)-(9), the discount rate for all present value calculations is the mid-point estimate of post-tax **WACC** determined under clause 3.5.1(2) for the relevant **regulatory period**.

(11) 'Actual allowable revenue', for a **regulatory year**, means the sum of forecast **building blocks revenue**, forecast **pass-through costs** and the **wash-up amount**, adjusted, as specified by the **Commission** for the purposes of calculating a **wash-up accrual** or **forecast wash-up accrual**, to include the modelled impacts on **forecast allowable revenue** (for a **wash-up accrual**) or forecast of modelled impacts on **forecast**

allowable revenue (for a **forecast wash-up accrual**) (whichever is applicable) for that **regulatory year** of:

(a) the difference between:

(i) the sum of forecast **opening RAB values** of all **fibre assets** for the **PQ RAB** for the first **regulatory year** of the **regulatory period**; and

(ii) the sum of actual **opening RAB values** in respect of all **fibre assets** in the **PQ RAB** for the **disclosure year** that corresponds with that **regulatory year**, as determined in accordance with clauses 2.2.5(3) and 2.2.6(1);

(b) the difference between:

(i) the 'annual benefit of Crown financing building block' for that **regulatory year**, as determined under clause 3.5.11(1); and

(ii) the 'updated annual benefit of Crown financing building block' for the **disclosure year** that corresponds with that **regulatory year**, as determined under ~~clause 2.4.10~~clause 3.5.11(2);

(c) the difference between:

(i) forecast **operating costs** and forecast **asset values** allocated to **PQ FFLAS** for that **regulatory year** by applying forecast **allocator values**; and

(ii) forecast **operating costs** and forecast **asset values** allocated to **PQ FFLAS** for that **regulatory year** by applying actual **allocator values** determined under clause 2.1.1 for the **disclosure year** that corresponds with that **regulatory year**;

(d) any **individual capex allowance** determined in respect of the **regulatory period** that corresponds with that **regulatory year** that was determined after that **regulatory period** commenced;

(e) the difference between:

(i) the forecast **pass-through costs** for that **regulatory year**; and

(ii) the actual **pass-through costs** for that **regulatory year**;

(f) the difference between:

(i) any forecast **CPI** values referred to in a **PQ determination** for the purposes of calculating **forecast allowable revenue** under subclause (2) for that **regulatory year**; and

(ii) the corresponding actual **CPI** values for that **regulatory year**;

(g) the **connection capex variable adjustment** for the **regulatory** ~~**period**~~ **year** as determined under ~~clause 3.7.21(1), where the modelled impacts~~

~~take account of the respective differences specified in~~ clause 3.7.21(2) ~~for each **regulatory year** of that **regulatory period**~~; and

(h) the difference between:

(i) the sum of forecast **regulatory tax asset values** in respect of **PQ FFLAS** at the start of the first **regulatory year** of the **regulatory period**; and

(ii) the sum of **regulatory tax asset values** in respect of **PQ FFLAS** at the start of the **disclosure year** that corresponds with that **regulatory year** as determined under clause 2.3.2(1); and

(i) the difference between:

(i) forecast **opening tax losses** in respect of **PQ FFLAS** for the first **regulatory year** of the **regulatory period**; and

(ii) **opening tax losses** in respect of **PQ FFLAS** for the **disclosure year** that corresponds with that **regulatory year** as determined under clause 2.3.3(3).

3.1.2 Pass-through costs

(1) Subject to subclause (2), a 'pass-through cost' is a cost 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**;

(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 cost under subclause (1) relates to **PQ FFLAS** and other services supplied by the **regulated provider**, only the proportion of the cost allocated to **PQ FFLAS** (where applicable) according to the following requirements is a 'pass-through cost':

(a) if the cost is an actual cost, it must be allocated according to clause 2.1.1 as if it was an actual 'operating cost'; and

(b) if the cost is a forecast cost, it must be allocated according to clause 3.2.1(1), (2), and (3) as if it was a forecast 'operating cost'.

SUBPART 2 **Cost allocation**

3.2.1 Calculation of price-quality path forecast values

(1) For the purposes of specifying a price-quality path any **operating costs** or **asset values** that are forecast as **directly attributable** to the provision of-

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

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

(c) any **additional FFLAS class** specified by the **Commission** must be allocated to that **additional FFLAS class**.

(2) The following must not be allocated to **PQ FFLAS**, **ID-only FFLAS**, or any **additional FFLAS class** specified by the **Commission**:

(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**.

(3) 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 (7), and, where applicable, subclause (9); or

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

(b) calculated by applying forecasts, subject to subclauses (5) and (6).

(4) Subject to subclauses (1)-(2), for the purposes of specifying a price-quality path, any 'closing RAB value' must be:

(a) determined by applying in respect of an **asset value**, as required:

(i) **asset allocators** in accordance with subclause (8), and, where applicable, subclause (9); or

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

(b) calculated by applying forecasts, subject to subclauses (5) and (6).

(5) For the purpose of subclauses (1), (2), (7), (8) and (9), 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.

(6) Subclause (5) relates to, but is not limited to, forecasts of **operating costs**, **capital expenditure**, revenue, or any of the **allocator types** and **allocator values** that may be used in forecasting an **asset allocator** or **cost allocator**.

(7) For the purpose of subclause (3), in respect of **operating costs** that are forecast as not **directly attributable** to the provision of **PQ FFLAS**, **ID-only FFLAS**, or **services that are not regulated FFLAS**, **cost allocators** must be used to proportionally allocate those **operating costs** between:

(a) **PQ FFLAS**;
(b) **ID-only FFLAS**; and
(c) **services that are not regulated FFLAS**.

(8) For the purpose of subclause (4), in respect of **asset values** that are forecast as not **directly attributable** to the provision of **PQ FFLAS**, **ID-only FFLAS**, or **services that are not regulated FFLAS**, **asset allocators** must be used to proportionally allocate those **asset values** between:

(a) **PQ FFLAS**;
(b) **ID-only FFLAS**; and
(c) **services that are not regulated FFLAS**.

(9) If the **Commission** specifies an **additional FFLAS class**, any **operating costs** or **asset values** that are forecast as not **directly attributable** to that **additional FFLAS class** must be allocated using an approach that is specified by the **Commission** when it specifies the **additional FFLAS class**.

(10) For the purpose of subclause (1), 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**.

(11) Subject to subclause (12), when either a forecast **asset value** or a forecast **operating cost** that is not **directly attributable** to **PQ FFLAS**, **ID-only FFLAS** or **services that are not regulated FFLAS** is allocated between **PQ FFLAS**, **ID-only FFLAS** and **services that are not regulated FFLAS**, the total forecast **asset values** or forecast **operating costs** allocated to **PQ FFLAS** and **ID-only FFLAS** combined 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**.

(12) Subclause (11) 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 **PQ FFLAS** and **ID-only FFLAS**

combined, and for which some of the **asset value** or **operating cost** is forecast to be allocated to **services that are not regulated FFLAS**.

(13) For the purpose of subclauses (1) and (7)-(9), where the **Commission** specifies an **additional FFLAS class**, any forecast **operating costs** or forecast **asset values** may be simultaneously allocated to both:

(a) that particular **additional FFLAS class** or any other **additional FFLAS class** specified by the **Commission** (where applicable); and

(b) either **PQ FFLAS** or **ID-only FFLAS** (whichever is applicable).

SUBPART 3 **Asset valuation**

3.3.1 Calculation of price-quality path forecast values

(1) Subject to subclauses (6)-(8), for the purposes of specifying a price-quality path, any of the following values must be determined in accordance with the **input methodologies** specified in Subpart 2 of Part 2 and determined in accordance with subclause (2):

(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) 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 the **Commission**; and

(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.

(3) For the purpose of subclauses (1) and (7)(b), all forecasts, subject to subclause (4), 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.

(4) For the purpose of subclauses (2) and (7)(b), 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 mid-point for the change in headline **CPI** set out in the Monetary Policy Statement referred to in paragraph (b).

(5) For the purposes of subclauses (2)(b) and (6), 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:

(a) in paragraphs (a)-(f) of subclause (1); and

(b) in paragraphs (a)-(f) of subclause (6).

(6) For the purposes of specifying the price-quality path for the **first regulatory period**, any of the following values must be determined in accordance with subclause (7):

(a) **opening RAB value**;

(b) **value of commissioned asset**;

(c) **disposed asset**;

(d) **revaluation**;

(e) **closing RAB value**; and

(f) any other relevant allowance, amount, cost or sum referred to in Subpart 2 of Part 2.

(7) The values referred to in subclause (6) must be determined by:

(a) adopting the unallocated values of all **core fibre assets** for the **PQ RAB** as of the **implementation date** in accordance with subclauses (8)(a)-(c) contributing to the "opening RAB value" of all **core fibre assets** for the **PQ RAB** as of the **implementation date** under subclause (8);

(b) adopting the "opening RAB value" of the **financial loss asset** for the **PQ RAB** as of the **implementation date** in accordance with subclause (9); and

(c) subject to subclauses (3), (4) and (5), applying forecasts of all values required to determine those values for each **regulatory year** in the **first regulatory period** by:

(i) subject to paragraph (c)(ii), applying the **input methodologies** specified in Subpart 2 of Part 2 for the **PQ RAB**,

where:

(A) the unallocated value of a **core fibre asset** adopted in accordance with subclauses (8)(a)-(c) is treated as if it is a "unallocated closing RAB value" for the purposes of:

a. forecasting the value of that asset for each **regulatory year** in the **first regulatory period**; and

b. allocating a forecast 'asset value' to **regulated FFLAS** under clause 2.2.5(4); and

(B) the "opening RAB value" of the **financial loss asset** adopted in accordance with subclause (9) is treated as if it is the "initial RAB value" for **disclosure year** 2022 for the purposes of forecasting the value of that asset for each **regulatory year** in the **first regulatory period** under clause 2.2.6; and

(ii) in respect of 'depreciation' and 'revaluation', applying clauses 3.3.2-3.3.4.

(8) For the purpose of subclause (7)(a) and clause 3.1.1(11)(a)(i), the "opening RAB values" of all **core fibre assets** for the **PQ RAB** as of the **implementation date** will be estimates and must be determined by:

(a) adopting any relevant historic values prepared in accordance with **GAAP** and obtained from a **regulated provider** by the **Commission** prior to the **implementation date**, provided those **GAAP** values are applied in

accordance with s 177 of the **Act** relating to the "initial value of a fibre asset"; and

(b) where relevant historic values are not available in respect of any **disclosure year** (or part thereof) prior to the **implementation date**, applying forecasts of all values required to determine the "opening RAB values" as of the **implementation date** using **GAAP** values obtained under paragraph (a) to inform or support those forecast values,

where:

(c) all historic values adopted under paragraph (a) and forecasts applied under paragraph (b) must be:

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

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

and

(d) all historic values adopted under paragraph (a) and forecasts applied under paragraph (b) must be:

(i) treated as 'asset values'; and

(ii) allocated to **PQ FFLAS** as of the **implementation date** by applying clause 3.2.1.

(9) For the purpose of subclause (7)(b) and clause 3.1.1(11)(a)(i), the "opening RAB value" of the **financial loss asset** for the **PQ RAB** as of the **implementation date** must be determined by:

(a) adopting any relevant historic values prepared in accordance with **GAAP** and obtained from a **regulated provider** by the **Commission** prior to the **implementation date**, provided those **GAAP** values are applied in accordance with s 177 of the **Act** relating to the "initial value of a fibre asset"; and

(b) where relevant historic values are not available in respect of any **disclosure year** (or part thereof) prior to the **implementation date**, applying forecasts of all values required to determine the "opening RAB value" as of the **implementation date** using **GAAP** values obtained under paragraph (a) to inform or support those forecast values,

where:

(c) all historic values adopted under paragraph (a) and forecasts applied under paragraph (b) must be:

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

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

and

(d) the relevant historic values contributing to the "opening RAB value" of the **financial loss asset**, as adopted under paragraph (a), are determined in accordance with clause B1.1.5(1)(a) of Schedule B;

(e) the relevant forecast values contributing to the "opening RAB value" of the **financial loss asset**, as applied under paragraph (b), are determined in accordance with clause B1.1.5(1)(b) of Schedule B; and

(f) the value resulting from the determination under clause B1.1.5(1) of Schedule B is treated as:

(i) an 'asset value'; and

(ii) being **directly attributable** to **PQ FFLAS**.

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** or in the case of the **financial loss asset**, clause 2.2.10(1)(d)(i), 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** or in the case of the **financial loss asset**, clause 2.2.10(1)(d)(i), 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 3.3.3, '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 3.3.3.

3.3.3 <u>Altering depreciation to smooth revenues and prices</u>

(1) For the purposes of clause 3.3.2, **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 revenue

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

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 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 3.5.2; and

(b) the risk-free rate must be estimated in accordance with clause 3.5.3.

3.5.2 Fixed WACC parameters

(1) 'Leverage' means the ratio of debt capital to total capital and is 29%.

(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.

(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

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

(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**.

(5) 'Equity beta' is 0.70.

(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%.

(7) 'Tax-adjusted market risk premium' is 7.0%.

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 0.0131.

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 3.5.5(1) and most recently published in accordance with clause 3.5.6.

(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 3.5.10(1) for **disclosure year** 2020;

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; and

c means the sum of:

(c) the relevant historic values for **disclosure year** 2020, as determined in accordance with clause 3.3.1(8)(a), clause 3.3.1(8)(c) and clause 3.3.1(8)(d); and

(d) the relevant historic values as of 1 January 2021 contributing to the "opening RAB value" of the **financial loss asset**, as determined in accordance with clause 3.3.1(9)(c) and clause 3.3.1(9)(d).

(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; and

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) $0.00075 \times (\text{original tenor of the } \textbf{qualifying debt} - 5)$; or

(ii) 0.00075×5; and

(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:

A. the relevant historic values for **disclosure year** 2019, as determined in accordance with clause 3.3.1(8)(a), clause 3.3.1(8)(c) and clause 3.3.1(8)(d); and

B. the relevant historic values as of 1 January 2020 contributing to the "opening RAB value" of the **financial loss asset**, as determined in accordance with clause 3.3.1(9)(c) and clause 3.3.1(9)(d); and

(ii) the sum of:

A. the relevant historic values for **disclosure year** 2020, as determined in accordance with clause 3.3.1(8)(a), clause 3.3.1(8)(c) and clause 3.3.1(8)(d); and

B. the relevant historic values as of 1 January 2021 contributing to the "opening RAB value" of the **financial loss asset**, as determined in accordance with clause 3.3.1(9)(c) and clause 3.3.1(9)(d).

(2) For the purpose of subclause (1)(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)-

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

3.5.11 <u>Annual benefit of Crown financing building block</u>

(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 the sum of the amounts determined for each day of the **regulatory year** in accordance with the following formula-

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

where-

(a) A is the amount determined in accordance with the following formula:

$$[(\textit{proportion of 'B' that is forecast to be senior debt} \times \textbf{\textit{cost of debt}} \textit{ for that } \textbf{\textit{regulatory period}}) + (\textit{proportion of 'B' that is forecast to be}$$

subordinated debt × (***cost of debt*** *for that* ***regulatory period*** + *0.41%*))] × *E;*

(b) *B* is the forecast amount of **Crown financing** outstanding in respect of the **regulated provider** (or related party as referred to in section 164 of the **Act**) on the start of the day that is debt (whether senior or subordinated);

(c) *C* is the amount determined in accordance with the following formula:

[(*0.75* × ***cost of equity*** *for that* ***regulatory period***) + (*0.25* × ***cost of debt*** *for that* ***regulatory period***)] × *E*;

(d) *D* is the forecast amount of **Crown financing** outstanding in respect of the **regulated provider** (or related party as referred to in section 164 of the **Act**) at the start of the day that is equity; and

(e) *E* is determined in accordance with the following formula:

1 ÷ number of days in the ***regulatory year***.

(2) For the purposes of clause 3.1.1(11)(b)(ii), "updated annual benefit of Crown financing building block" for a **disclosure year** in a **regulatory period** is the sum of the amounts determined for each day of the **disclosure year** in accordance with the following formula-

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

where-

(a) *A* is the amount determined in accordance with the following formula:

[(*proportion of 'B' that is senior debt* × ***cost of debt*** *for that* ***regulatory period***) + (*proportion of 'B' that is subordinated debt* × (***cost of debt*** *for that* ***regulatory period*** + *0.41%*))] × *E;*

(b) *B* is the amount of **Crown financing** outstanding in respect of the **regulated provider** (or related party as referred to in section 164 of the **Act**) on the start of the day that is debt (whether senior or subordinated);

(c) *C* is the amount determined in accordance with the following formula:

[(*0.75* × ***cost of equity*** *for that* ***regulatory period***) + (*0.25* × ***cost of debt*** *for that* ***regulatory period***)] × *E;*

(d) *D* is the amount of **Crown financing** outstanding in respect of the **regulated provider** (or related party as referred to in section 164 of the **Act**) at the start of the day that is equity; and

(e) *E* is determined in accordance with the following formula:

1 ÷ number of days in the ***disclosure year***.

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

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

(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

(1) When specifying quality standards in a **PQ determination**, the **Commission** may include quality standards that are differentiated by:

(a) **regulated providers**;
(b) geography;
(c) **fibre network** architecture;
(d) **PQ FFLAS**, such as a **layer 1 service** or **layer 2 service**; and
(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

(1) The **Commission** 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 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** before or during a **regulatory period**.

(3) After receiving a **capex proposal**, the **Commission** will determine the **capex allowance** for each **regulatory year** of a **regulatory period** in accordance with the general evaluation requirements in Subpart 8 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 allowance** determined 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**.

3.7.2A Deed for capex proposals

(1) Before an **independent verification report** is prepared for a **capex proposal**, **Chorus** must facilitate the execution of a deed by the **independent verifier,** the **Commission**, and **Chorus**.

(2) The deed must-

(a) set out terms of reference for the verifier;

(b) impose an overriding duty on the verifier to assist the **Commission** as an independent expert on relevant matters within the verifier's area of technical expertise;

(c) require the verifier to be available to answer any questions posed by the **Commission** on the verification report, in person, by telephone conference or video link, or in writing, as reasonably required by the **Commission**;

(d) include a communication protocol that must, as a minimum,—

(i) require the verifier to keep records of any communication between the verifier and **Chorus** that includes substantive information relied on by the verifier in the verification report; and

(ii) detail the communication arrangements between the **Commission**, **Chorus**, and the verifier that will keep the **Commission** informed of progress on the preparation of the verification report;

(e) require **Chorus** to provide to the verifier all the information that is relevant to the proposal promptly, in order to enable the verifier to conduct the verification in a timely manner; and

(f) require the verifier to provide to the **Commission** a certificate certifying that—

(i) the **capex proposal** has been verified; and

(ii) the **independent verification report** has been prepared in accordance with the deed.

(3) The deed may contain any other term that the parties agree is necessary for business efficacy and that is not inconsistent with this determination.

3.7.3 General certification requirements for capex proposals and other documents

(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 certify in writing, that having made all reasonable enquiries, it is their belief that:

(a) the **capex proposal** or document being certified is derived from and accurately represents, in all material respects, the operations of **Chorus**; and

(b) the **capex proposal** or document being certified complies, in all material respects, with the requirements set out in Part 3.

(2) During the period between **Chorus** providing a **capex proposal** or other document to the **Commission** and the **Commission** making a determination relating to the **capex proposal** or documents, **Chorus** must notify the **Commission**:

(a) where the information that was the basis of the **capex proposal** or document being certified under subclause (1) has materially changed; and

(b) where notice is provided under paragraph (a), by providing information that identifies and explains the changes referred to in paragraph (a).

(3) The notice and information required under subclause (2) must be provided to the **Commission** as soon as practicable.

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) compiled, in all material respects, in accordance with the requirements set out in Part 3;

(ii) properly extracted from **Chorus's** financial records sourced from its financial systems; and

(iii) 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;

(b) the historical non-financial information used in the preparation of the **capex proposal** has been:

(i) compiled, in all material respects, in accordance with the requirements set out in Part 3;

(ii) properly compiled on the basis of the relevant underlying source information; and

(iii) examined in accordance with applicable assurance standards;

(c) the forecast financial information provided in the **capex proposal** has been:

(i) compiled, in all material respects, in accordance with the requirements set out in Part 3;

(ii) properly compiled on the basis of disclosed assumptions and relevant underlying source information; and

(iii) examined in accordance with applicable assurance standards; and

(d) the forecast non-financial information provided in the **capex proposal** has been:

(i) compiled in all material respects in accordance with the requirements set out in Part 3;

(ii) properly compiled on the basis of disclosed assumptions and relevant underlying source information; and

(iii) examined in accordance with applicable assurance standards.

3.7.5 General rule for information required for more than one purpose

(1) Where **Chorus** must provide information under this subpart, an 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;

(b) the reference provides the required information without the need for additional analysis, explanation or interpretation;

(c) the referenced information is provided under this subpart and available to the **Commission** when the information is required; and

(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's** rights or remedies for breach of any right to confidentiality.

3.7.7 Information requirements for integrated fibre plan

(1) At the same time as **Chorus** provides its **base capex proposal** and **connection capex baseline 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 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.

(c) Governance report: a report describing **Chorus'** organisational governance, risk management and high-level asset management approach.

(d) Demand report: a report describing anticipated **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 **PQ FFLAS** uptake, data growth, and types of **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 investment approach to each.

(f) Delivery report: a report on anticipated and actual past delivery of **capital expenditure**, including **capex projects** and **programmes**. The report must include any linkages with **operating costs** and network 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.

(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 the following detail for the relevant reports:

(a) in relation to subclauses (1)(a)-(b), (1)(d)-(e) and (1)(f), the key 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)-(b), and (1)(d)-(f), activity volumes and trends as relevant to each report.

(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** for the previous **regulatory period**.

SECTION 2 Base capex

3.7.8 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 practicable but no later than 31 December 2020; and

(b) for the **second regulatory period** and subsequent **regulatory periods**, at least ~~14~~ 16 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 8, including:

(i) **regulatory templates** agreed under subclause (3) or specified under subclause (4); ~~and~~

(ii) information required by the **Commission's base capex information request**; and

~~(ii)~~(iii) if clause 3.8.7 applies to the **base capex proposal**, the information specified in clause C5 of Schedule C; and

(c) be accompanied by the required assurance reports, including an **independent verification report**, **certification**, and **auditor** report in accordance with clauses 3.7.10-3.7.11.

(3) The **Commission** and **Chorus** must use reasonable endeavours to agree the form of the **regulatory templates** and the content of the **regulatory templates** to be provided in the **base capex proposal** for the relevant **regulatory period**, including a list of **base capex sub-categories** and a description of each sub-category, and the criteria to be used to determine which **base capex sub-categories** are **priority** sub-categories.

(4) If no agreement is reached on the matters in subclause (3), then, subject to subclause (6), the **Commission** must specify those matters and notify **Chorus**.

(5) The **regulatory templates** must be agreed in accordance with subclause (3) or specified in accordance with subclause (4):

(a) for the **first regulatory period**, as soon as it is practicable; and

(b) for the **second regulatory period** and subsequent **regulatory periods**; ~~before the first **working day** in March which is~~ at least ~~22~~ 24 months before the start of the **regulatory period**.

(6) When specifying the matters in subclause (4), the **Commission** must have regard to the views **Chorus** expressed during discussion on the **regulatory templates**.

(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 geographical locations including:

(a) urban areas;

(b) rural areas; and

(c) any further or other geographical breakdown set out in the **regulatory templates**.

(8) For **capital expenditure** identified in the **regulatory templates** as relating to both **PQ FFLAS** and **services that are not regulated FFLAS**, **Chorus** must provide information specified in the **base capex information request** on the **asset 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.

(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 3.7.9:

(a) for the first **regulatory period**, as soon as it is practicable; and

(b) for the **second regulatory period** and subsequent **regulatory periods**, at least ~~22~~ 24 months before the start of the **regulatory period**.

3.7.9 Base capex information request - information requirements

(1) ~~The~~ For a **base capex sub-category** that is a **priority** sub-category, the **base capex information request** may 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) 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**;

(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;

(i) **fibre asset** and **fibre network** information;

(j) competition effects, including specific information for **base capex sub-categories** that have potential impacts on competition in **PQ FFLAS** and other telecommunications markets;

(k) the impact that the proposed **capital expenditure** has on a **layer 1 service** in respect of **PQ FFLAS**;

(l) common costs and benefits between **PQ FFLAS**, **ID-only FFLAS** and **services that are not regulated FFLAS**;

(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**;

(o) any **non-linear connection costs** proposed for **base capex**, (and such costs must not include any **non-linear connection costs** proposed for **connection capex**); and

(p) procurement, resourcing and deliverability of the proposed **capex**.

(2) For a **base capex sub-category** that is not a **priority** sub-category, the **base capex information request** may include information relating to any of the matters specified in subclause (1)(a), (b), (c), (e), (m) and (o).

(3) This clause does not limit or affect any power of the **Commission**, including any power to request or obtain information under the **Act**.

3.7.10 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 a draft deed for the purpose of clause 3.7.2A and 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**.

3.7.11 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 3.7.3.

(2) The **base capex proposal** must include a report by an **auditor** in accordance with clause 3.7.4.

3.7.12 Commission processes and rules for base capex allowance

(1) After the **Commission** evaluates a **base capex proposal** in accordance with Subpart 8, the **Commission** must determine a **base capex allowance** for each **regulatory year** of that **regulatory period**:

(a) for the **first regulatory period**, as soon as practicable, but no later than before the start of that **regulatory period**; and

(b) for the **second regulatory period** and subsequent **regulatory periods**, no later than ~~6~~ 4 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 capex** in a **base capex proposal** must be excluded from the **base capex allowance** 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

(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**.

(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 3.7.22-3.7.27.

SECTION 3 Connection capex

3.7.13 General rules for connection capex allowances

(1) The **Commission** will determine two components for the **connection capex allowance**:

(a) a **connection capex baseline allowance** prior to the **regulatory period** in accordance with clause 3.7.20; and

(b) a **connection capex variable adjustment** after the final **connection capex annual report** of the **regulatory period** in accordance with clause 3.7.21.

(2) The **capital expenditure** determined for the **connection capex allowance** must be additional to the **base capex allowance** and any **individual capex allowance**.

(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** of the **regulatory period**.

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**.

(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**;

(c) provide enough information to enable the **Commission** to evaluate the **connection capex baseline proposal** in accordance with Subpart 8, including:

(i) **regulatory template** agreed under subclause (3) or specified under subclause (4); ~~and~~

(ii) information required by the **Commission's connection capex information request**; and

~~(ii)~~(iii) if clause 3.8.7 applies to the **connection capex baseline capex proposal**, the information specified in clause C5 of Schedule C; and

(d) be accompanied by the required assurance reports, including an **independent verification report**, **certification**, and an **auditor** report in accordance with clauses 3.7.16-3.7.17.

(3) The **Commission** and **Chorus** must use reasonable endeavours to agree the form of the **regulatory templates** and the content of the **regulatory templates** to be provided in the **connection capex baseline proposal** for the relevant **regulatory period**.

(4) If no agreement is reached on the matters in subclause (3), then, subject to subclause (6), the **Commission** must specify those matters and notify **Chorus**.

(5) The **regulatory templates** must be agreed in accordance with subclause (3) or specified in accordance with subclause (4):

(a) for the **first regulatory period**, as soon as it is practicable; and

(b) for the **second regulatory period** and subsequent **regulatory periods**, ~~before the first **working day** in March which is~~ at least ~~22~~ 24 months before the start of the **regulatory period**.

(6) When specifying the matters in subclause (4), the **Commission** must have regard to the views **Chorus** expressed during discussion on the **regulatory templates**.

(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 3.7.15:

(a) for the **first regulatory period**, as soon as it is practicable; and

(b) for the **second regulatory period** and subsequent **regulatory periods**, at least ~~22~~ 24 months before the start of the **regulatory period**.

3.7.15 Connection capex information request - information requirements

(1) The **connection capex information request** may 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 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;

(g) **fibre asset** and **fibre network** information;

(h) competition effects, including specific information for **capital expenditure** that may have potential impacts on competition in **PQ FFLAS** and other telecommunications markets;

(i) the linkages between the proposed **capital expenditure** and quality, including the impact the **capital expenditure** would have on **PQ FFLAS** quality outcomes;

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

(l) forecast **variable connection costs** by proposed **connection type** and the related **connection capex unit costs**; and

(m) any **non-linear connection costs** proposed as **connection capex** by proposed **connection type** and the related **non-linear connection cost functions** and **connection capex unit costs**.

3.7.16 Connection capex baseline independent verification

(1) For the **second regulatory period** and 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 a draft deed for the purpose of clause 3.7.2A and 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 **connection capex baseline proposal**.

(4) The **independent verification report** must be submitted with the **connection capex baseline proposal**.

3.7.17 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 3.7.3.

(2) The **connection capex baseline proposal** must include a report by an **auditor** in accordance with clause 3.7.4.

3.7.18 Connection capex annual report

(1) **Chorus** must provide a **connection capex annual report** to the **Commission** for each **regulatory year** of a **regulatory period** no later than 3 months after the end of the relevant **regulatory year**.

(2) The **connection capex annual report** must include the following **connection capex** information for the **regulatory year** which is the subject of the annual report:

~~(a) actual **variable connection costs** by **connection type** and related **connection capex unit costs;**~~

~~(b) actual **non-linear connection costs** by **connection type** and the related **non-linear connection cost functions** and related **connection capex unit costs;**~~

~~(c)~~(a) actual connection volumes by **connection type**;

~~(d)~~(b) updated forecasts for the information in paragraph~~s~~ (a)~~ (c) by **connection type**~~ for any 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).

3.7.19 Connection capex annual report assurance processes

(1) At least 2 **directors** of **Chorus** must provide a **certification** for the **connection capex annual report**.

(2) ~~The~~A **connection capex annual report** for a **regulatory year** that is one of the last 2 **regulatory years** of a **regulatory period** must be audited in accordance with clause 3.7.4.

~~(2)~~(3) The **auditor report** of the **connection capex annual report** for the second-to-last **regulatory year** of the **regulatory period** must include an audit of the information specified in clause 3.7.18(2) in the **connection capex annual reports** provided by **Chorus** for each of the preceding **regulatory years** in the **regulatory period**.

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 8, the **Commission** must determine a **connection capex baseline allowance**:

(a) for the **first regulatory period**, as soon as practicable, but no later than before the start of that **regulatory period**; and

(b) for the **second regulatory period** and subsequent **regulatory periods**, no later than ~~6~~ 4 months before the start of that **regulatory period**.

(2) For the purposes of subclause (1), the **connection capex baseline allowance** determination must include:

(a) the **connection capex baseline allowance** by **connection type** for each **regulatory year** of the **regulatory period**;

(b) the **connection capex unit costs** and any **non-linear connection cost functions**, used to calculate the **connection capex baseline allowance** for each **regulatory year** of the **regulatory period**; and

(c) the forecast volumes, by **connection type**, used to calculate the **connection capex baseline allowance** for each **regulatory year** of the **regulatory period**.

3.7.21 The connection capex variable adjustment

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

(2) The **connection capex variable adjustment** ~~will be~~ for a **regulatory year** is the difference between:

(a) the **connection capex baseline allowance** for the **regulatory** ~~**period**~~ **year** which is based on forecast connection volumes; and

(b) subject to subclause (3), a **capital expenditure** amount that is the sum of:

(i) **connection capex unit costs** for **variable connection costs** multiplied by actual connection volumes by **connection type**; and

(ii) **connection capex unit costs** for **non-linear connection costs** applied to actual connection volumes by **connection type**, in accordance with the relevant **non-linear connection cost functions**.

(3) For the purpose of subclause (2)(b), the **connection capex unit costs** and **non-linear connection cost functions** used when calculating the **capital expenditure** amount must be the same as those used in the **connection capex baseline allowance** for that **connection type** for ~~each~~ the **regulatory year** ~~of the **regulatory period**~~.

SECTION 4 Individual capex proposals

3.7.22 Overview of individual capex proposal process and timeframes

(1) **Chorus** may apply to the **Commission** to determine an additional **capex allowance** before or during a **regulatory period** by submitting an **individual capex proposal** in accordance with the staged application process specified in subclause (6).

(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** 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**;

(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 **PQ FFLAS** on that **project** or **programme** is at least ~~$5~~ $30 million over the life of the **project** or **programme**; and

(d) the **proposed capex** has the characteristics specified in either or both subclause (4) or (5).

(4) For the purposes of subclause (3)(d), at the time when the **base capex proposal** for the first **regulatory period** relevant to the **individual capex proposal** 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**.

(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**.

(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 3.7.23; and

(b) if the **Commission** approves **Chorus's individual capex design proposal**, a final proposal stage, where **Chorus** must submit to the **Commission** an **individual capex proposal** in accordance with clause 3.7.25-3.7.27 that is consistent with the **individual capex design proposal**.

3.7.23 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 3.7.26;~~ that must:

(i) be based on the **individual capex** information requirements in clause 3.7.26; and

~~(i)~~(ii) if clause 3.8.7 applies to the **individual capex proposal**, include the information specified in clause C5 of Schedule C;

~~(b)~~(c) the assurance processes to be undertaken, based on the **individual capex** requirements in clause 3.7.27; and

~~(c)~~(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;

~~(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;~~

~~(e) impact of the proposed **individual capex** on **PQ FFLAS** quality outcomes;~~

~~(f) any impact of the proposed **individual capex** on previously determined or forecast **base capex** and **operating expenditure**;~~

~~(g)~~(b) the ~~possible~~ expected costs, benefits and risks associated with the **individual capex project** or **individual capex programme**;

~~(h)~~(c) any previous or planned consultation undertaken ~~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**~~; 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**;~~

~~(ii) the proposed terms and conditions of the verifier's engagement and the scope of the proposal for independent verification, 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~~

(d) ~~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).~~a summary of the independent verification proposed by **Chorus** (if any) and how the proposed independent verification (or absence of it) is commensurate with the size and complexity of the proposal.

(4) The **individual capex design proposal** must include any other information that Chorus considers is relevant to the proposal.

(5) If the **individual capex proposal** relates to **proposed capex** that the **Commission** excluded from the **base capex allowance** in accordance with clause 3.7.12(3),-

(a) subclause (6) applies to the **individual capex design proposal** in place of subclauses (2)(a) and (3); and

(b) the information provided in connection with the **proposed capex** in the **base capex proposal** must be treated as part of the **individual capex design proposal** for the purposes of clauses 3.7.25 to 3.7.27.

(6) The **individual capex design proposal** must include, in relation to the **individual capex project** or **individual capex programme** to which the **proposed capex** relates,-

(a) the estimated value of **proposed capex** for the **project** or **programme**;

(b) a brief description of the need for investment and the timing of the **project** or **programme**;

~~(k)~~(c) if any other information provided in connection with the **proposed capex** in the **base capex proposal** is no longer accurate or applicable, a description of that information and a summary of the accurate or applicable information.

3.7.24 Commission approval of the individual capex design proposal

(1) Within two months 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**.

(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.

3.7.25 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**.

(3) If clause 3.8.7 applies to the individual capex proposal, the **individual capex proposal** must include the information specified in clause C5 of Schedule C.

(4) Despite subclause (2), the **Commission** may waive or amend the requirement that the **individual capex proposal** must be consistent with a condition that it approved in relation to the **individual capex design proposal** if the **Commission** is satisfied that the information and reasons provided by **Chorus** justifies the waiver or amendment.

3.7.26 Individual capex information requirements

(1) The **Commission** may require additional information in relation to the **individual capex design proposal** and **individual capex proposal** including information relating to 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 a **layer 1 service** in respect of **PQ FFLAS**;

(k) common costs and benefits between **PQ FFLAS**, **ID-only FFLAS** and **services that are not regulated FFLAS**;

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

(m) the extent of 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**;

(o) the impact the **capital expenditure** would have on any previously determined **base capex allowance** and **operating expenditure** or forecast **base capex allowance** and forecast **operating expenditure**; and

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

3.7.27 <u>Individual capex assurance requirements</u>

(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).

(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 a draft deed for the purpose of clause 3.7.2A and 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 **individual capex proposal**.

(4) An **individual capex proposal** must be certified by the **CEO** of **Chorus** in accordance with clause 3.7.3.

(5) An **individual capex proposal** must be audited in accordance with clause 3.7.4 and must include a statement from the **auditor**:

(a) that the **individual capex proposal** complies, in all material respects, with the information requirements, 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**.

3.7.28 Commission processes for final individual capex proposal

(1) The **Commission** must evaluate the final **individual capex proposal** in accordance with Subpart 8 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**, 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**.

(3) 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.

(4) 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.

(5) 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**.

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 1 of Subpart 7 and any specific requirements set out for each category of **capex proposal** in sections 2, 3 and 4 of Subpart 7.

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

(3) For the purpose of subclause (1), as appropriate, the **Commission** may consider further information provided to it when determining the **capex allowance** for that **capex proposal**.

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 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 7:

(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**, 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 interested persons.

(2) Subject to subclause (3), after 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**.

(4) Where the **Commission** takes any of the actions referred to in subclauses (1)(a)-(d) 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** meets the **capital expenditure objective** and reflects **good telecommunications industry practice**; and

(b) having regard to the **assessment factors** in clause 3.8.6 when considering whether a **capex proposal** has met the **capital expenditure objective**.

(2) A **capex proposal** or proposed **capital expenditure** meets the 'capital expenditure objective' if the expenditure reflects the efficient costs that a prudent **fibre network**

operator would incur to deliver **PQ FFLAS** of appropriate quality, during the relevant **regulatory period** and over the longer term.

3.8.6 Assessment factors

(1) The **Commission** must have regard to as many of the following 'assessment factors' as are relevant when evaluating a **capex proposal**:

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

(f) relevant financial information including evidence of efficiency improvements in **proposed capex;**

(g) competition effects, including specific information for sub-categories of **capital expenditure** that have potential impacts on competition in **PQ FFLAS** and other telecommunications markets;

(h) the linkages 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, and deliverability of the **proposed capex**;

(l) common costs and benefits between **PQ FFLAS**, **ID-only FFLAS** and **services that are not regulated FFLAS**;

(m) **fibre asset** and **fibre network** information;

(n) mechanisms for controlling actual **capital expenditure** with respect to the **proposed capex** and achieving the **PQ FFLAS** quality outcomes;

(o) the extent of the uncertainty related to the:

(i) need for the **proposed capex**;

(ii) economic case justifying the **proposed capex**; and

(iii) timing of the **proposed capex**;

(p) the extent that a risk-based approach has been applied;

(q) the impact that the **proposed capex** has on a **layer 1 service** in respect of **PQ FFLAS**;

(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;

(s) the accuracy and reliability of data; and

(t) the reasonableness of the key assumptions, methodologies, planning and technical standards relied upon.

3.8.7 Investment test for network expansion capex

(1) This clause applies to a **capex proposal** that contains proposed **network expansion capex** that is described in subclause (2).

(2) The **network expansion capex**:

(a) is included in a **base capex proposal**, a **connection capex baseline proposal**, or partly in a **base capex proposal** and partly in a **connection capex baseline proposal**, and exceeds $5 million; or

(b) is, or is included in, an **individual capex proposal**, and exceeds $30 million.

(3) When evaluating the proposed **network expansion capex** in the **capex proposal**, the **Commission** must have regard to the outcome of the investment test in clause C2(1) of Schedule C.

~~(1)~~(4) This clause does not limit clauses 3.8.5 and 3.8.6.

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 under clause 3.9.2(5);

(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, specified in subclause (3), that occurs within six months before or during the **regulatory period** of the **PQ determination** that may be reconsidered.

(3) For the purpose of subclause (2), the following events are an 'event':

(a) a **catastrophic event**;
(b) a **change event**;
(c) a **GAAP change**;
(d) an **error event**; and
(e) a **major transaction**.

3.9.2 Procedural requirements for the reconsideration process

(1) A **reopener event** can be nominated by:

(a) the **Commission**; or
(b) a **regulated provider**, by notifying the **Commission**.

(2) A **regulated provider** that nominates 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**.

(3) The **Commission** must publish notice on its website as soon as practicable after:

(a) a **reopener event** is nominated in accordance with subclause (1)(b); and
(b) the **Commission** decides whether:

(i) it is satisfied a **reopener event** has occurred;
(ii) to reconsider the **PQ determination**; and
(iii) to amend the relevant **PQ determination**.

(4) The **Commission** may publish one or more of the notices under subclause (3)(b) separately or in combination with each other as it considers appropriate.

(5) If a **regulated provider** or the **Commission** nominates a **reopener event**, the **Commission** must decide whether it is satisfied that a **reopener event** has occurred.

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 **forecast allowable revenues** that, ~~net of any insurance or compensatory entitlements~~before the recognition of any **insurance entitlements**, **compensatory entitlements**, or **third-party liability entitlements**, is at least 1% of the **forecast allowable 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.*

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** by at least 1% of the **forecast allowable revenues** for the first **regulatory year** of the **PQ determination**;

(ii) reduces the costs the **regulated provider** needs to incur in providing **PQ FFLAS** by at least 1% of the **forecast allowable 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**.

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) **forecast 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 **forecast allowable 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.

3.9.6 Error event

(1) Subject to subclause (2), 'error event' means, a circumstance in which the **PQ determination** was made or amended based on an error, including where:

(a) incorrect, false, or misleading information was used in setting the price path or a quality standard; or
(b) information was incorrectly used 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.

3.9.7 Major transaction

(1) 'Major transaction' means a transaction, whether contingent or not, that has or is likely to result in:

(a) the **regulated provider** acquiring or agreeing to acquire, a **fibre asset** with a value of more than 10% of the sum of that **regulated provider's opening RAB values** in the **PQ RAB** in the **disclosure year** of acquisition;
(b) the **regulated provider** disposing of, or agreeing to dispose of, a **fibre asset** of **a regulated provider** with a value of more than 10% of the sum of that **regulated provider's opening RAB values** in the **PQ RAB** in the **disclosure year** of disposal;

(c) a **regulated provider** acquiring rights or interests in a **fibre asset** with a value of more than 10% of the sum of that **regulated provider's opening RAB values** in the **PQ RAB** in the **disclosure year** of acquisition; or

(d) a **regulated provider** incurring obligations or liabilities related to a **fibre asset**, excluding loans or borrowing costs in respect of the **fibre asset**, with a value of more than 10% of the sum of that **regulated provider's opening RAB values** in the **PQ RAB** in the **disclosure year** of incurring the obligation or liabilities.

(2) 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 the **Commission** is satisfied under clause 3.9.2(5) that a **reopener event** has occurred, then the **Commission** must have regard to at least the following matters when deciding whether to amend the relevant **PQ determination**:

(a) the impact of the **reopener event** given the relevant circumstances, including both positive and negative effects, on the **regulated provider's** costs, revenues, and **PQ FFLAS** quality outcomes;

(b) the extent to which the relevant **PQ determination** provides explicitly or implicitly for the **reopener event**; and

(c) if a **regulated provider** nominates a **reopener event** under clause 3.9.2(1)(b):

(i) whether the action required to respond to the **reopener event's** adverse consequences can be delayed until a future **regulatory period** without the relevant **regulated provider** failing to meet its quality standards under the relevant **PQ determination** or its other legal or regulatory obligations;

(ii) the extent to which the **regulated provider**:

(A) contributed to the adverse consequences of the **reopener event** by its action or omission; and

(B) could have prevented or overcome the adverse consequences of the **reopener event** by exercising reasonable diligence at reasonable cost; and

(iii) whether the **regulated provider's** planned **capital expenditure** and **operating expenditure** for the remainder of the **regulatory period** has been reviewed and reprioritised to the extent possible without

adversely affecting the **regulated provider's** ability to meet the quality standards under the relevant **PQ determination**.

3.9.9 Amending the price-quality path after consideration

(1) Subject to subclause (2), if the **Commission** decides that 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) When amending the **PQ determination** under subclause (1), the **Commission** must not amend-

(a) the price path more than is reasonably necessary to:

(i) take account of the change in costs, net of any insurance or compensatory entitlements, resulting from the relevant **reopener event**; and

(ii) address the relevant differences in values that contribute to the price path resulting from the relevant **reopener event**; and

(b) quality standards more than is reasonably necessary to address the effect of the relevant **reopener event**.

(3) If the **Commission** considers that **capital expenditure** may be required to respond to, mitigate, or prevent adverse consequences relating to the **reopener event**, the **Commission**:

(a) if a **regulated provider** nominates a **reopener event** under clause 3.9.2(1)(b), must evaluate whether the proposed **capital expenditure** meets the **capital expenditure objective** and reflects **good telecommunications industry practice** in accordance with clause 3.8.5(1)(a) of Subpart 8 as if the proposed **capital expenditure** was a **capex proposal**; and

(b) may apply any other requirements in Subparts 7 and 8 that the **Commission** considers should be applied to the proposed **capital expenditure**.

SUBPART 10 **Information requirements for opex proposal**

3.10.1 Opex sub-categories and criteria for priority opex sub-categories

(1) The **Commission** and **Chorus** must use reasonable endeavours to agree, for a **regulatory period**:

(a) **opex sub-categories**; and

(b) the criteria to be used to determine which **opex sub-categories** are **priority** sub-categories.

(2) If no agreement is reached on the **opex sub-categories** or the criteria, the **Commission** must, having regard to any views that **Chorus** has expressed, specify the **opex sub-categories** or the criteria and notify **Chorus**.

(3) The **opex sub-categories** and the criteria must be agreed under subclause (1) or specified under subclause (2) before the first working day in January that is at least 24 months before the start of the **regulatory period**.

3.10.2 Opex information request – information requirements

(1) An information request by the **Commission** in relation to an **opex** proposal will be made in accordance with this clause.

(2) For an **opex sub-category** that is a **priority** sub-category, the information request may include information relating to any of the following:

(a) governance relating to proposed **opex**, including evidence that appropriate policies and processes have been applied;

(b) historic **opex** and consideration of historic rates of investment;

(c) approach to forecasting **opex**, including models used to develop the **opex** forecasts;

(d) the extent of the uncertainty related to:

(i) the need for the proposed **opex**;

(ii) the economic case justifying the proposed **opex**;

(iii) the timing of the proposed **opex**;

(e) the extent that a risk-based approach has been applied to the proposed **opex**;

(f) relevant financial information including evidence of efficiency improvements in proposed **opex**;

(g) quantitative or economic analysis related to the proposed **opex**, including sensitivity analysis and impact analysis undertaken;

(h) consideration and analysis of alternatives to the proposed **opex**, including the impact of the alternatives on **PQ FFLAS** quality outcomes;

(i) **fibre asset** and **fibre network** information;

(j) competition effects, including specific information for **opex sub-categories** that have potential impacts on competition in **PQ FFLAS** and other telecommunications markets;

(k) the impact that the proposed **opex** has on a **layer 1 service** in respect of **PQ FFLAS**;

(l) common costs and benefits between **PQ FFLAS**, **ID-only FFLAS** and **services that are not regulated FFLAS**;

(m) the linkages between proposed **opex** and quality, including the impact the **opex** would have on **PQ FFLAS** quality outcomes;

(n) the extent of consultation by **Chorus** with its **access seekers** and **end-users**, how input from consultation is incorporated into the forecast **opex** and what impact it has had on the opex proposal; and

(o) procurement, resourcing and deliverability of the proposed **opex**.

(3) For an **opex sub-category** that is not a **priority** sub-category, the information request may include information relating to any of the matters specified in subclause (2)(a), (b), (c), (e), and (m).

(4) This clause does not limit or affect any power of the **Commission**, including any power to request or obtain information under the **Act**.

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	Whether a **core fibre asset** or collection of **core fibre assets** corresponds to a **layer 1 service** or **layer 2 service**
Asset class	To reflect **GAAP** depreciation categories
Geographic location	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 *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.*
Shared with other parties	Information that is sufficient to permit an objectively justifiable and demonstrably reasonable assessment of the: (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 (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), where- 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 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 **services that are not regulated FFLAS** or **FFLAS** not regulated under Part 6 of the **Act**	Information that is sufficient to permit an objectively justifiable and demonstrably reasonable assessment of the: (a) factors influencing the use of the **core fibre asset**; or (b) the circumstances when a cost driver leads to an **operating cost** being incurred, where 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
Related to **additional RABs**	Information that is sufficient to permit an objectively justifiable and demonstrably reasonable assessment of any of the following **fibre assets** specified by the **Commission**: (a) **fibre assets** in any **additional RAB**; (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 (c) **fibre assets** that were not part of the **UFB initiative**

SCHEDULE B METHODOLOGY FOR DETERMINING THE FINANCIAL LOSSES

SECTION 1 General provisions

B1.1.1 Interpretation

(1) In this schedule, unless stated otherwise, words or phrases in bold type and not defined in subclause (2):

(a) have the meaning as defined for those words or phrases in clause 1.1.4(2); and

(b) where words or phrases in clause 1.1.4(2) have multiple meanings in respect of different parts, in this schedule those words or phrases have the meaning given to "Part 2".

(2) In this schedule, words or phrases in bold type bear the following meanings:

#

1 December 2011 WACC	has the meaning specified in clause B1.1.10(2) of Schedule B;
30 September 2021 WACC	has the meaning specified in clause B1.1.10(2) of Schedule B;
31 December 2012 WACC	has the meaning specified in clause B1.1.10(2) of Schedule B;
31 December 2013 WACC	has the meaning specified in clause B1.1.10(2) of Schedule B;
31 December 2014 WACC	has the meaning specified in clause B1.1.10(2) of Schedule B;
31 December 2015 WACC	has the meaning specified in clause B1.1.10(2) of Schedule B;
31 December 2016 WACC	has the meaning specified in clause B1.1.10(2) of Schedule B;
31 December 2017 WACC	has the meaning specified in clause B1.1.10(2) of Schedule B;
31 December 2018 WACC	has the meaning specified in clause B1.1.10(2) of Schedule B;

31 December 2019 WACC	has the meaning specified in clause B1.1.10(2) of Schedule B;
31 December 2020 WACC	has the meaning specified in clause B1.1.10(2) of Schedule B;
31 March 2012 WACC	has the meaning specified in clause B1.1.10(2) of Schedule B;

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 class	has the meaning as specified in the row "asset class" in Table A.1 of Schedule A;
asset value	means in respect of a **UFB asset**, the value determined in accordance with clause B1.1.6(2) of Schedule B;

B

benefit of Crown financing compounding factor	(a) for **regulated providers** subject to both information disclosure regulation and price-quality regulation in regulations made under s 226 of the **Act**, has the meaning specified in clause B1.1.2(5)(g) of Schedule B; and (b) for **regulated providers** subject only to information disclosure regulation in regulations made under s 226 of the **Act**, has the meaning specified in clause B1.1.2(6)(c) 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 respect of which the asset allocation is carried out, which in each case is: (c) consistent with similar circumstances, both within a **financial loss year** and from **financial loss year** to **financial loss year**; and (d) objectively justifiable and demonstrably reasonable;
commencement date	means 13 October 2020;
commissioned for UFB FFLAS	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 for UFB FFLAS** has a corresponding meaning;

cost of debt for the purpose of determining the **financial losses**, means the amount specified for r_d in clause B1.1.10(3) of Schedule B;

cost of equity for the purpose of determining the **financial losses**, means the amount specified for r_e in clause B1.1.10(3) of Schedule B;

D

debt premium for the purpose of estimating the **WACC** for a **financial loss year**, has the meaning specified in clause B1.1.13(2) of Schedule B;

disposed asset 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;

F

financial loss year WACC has the meaning specified in clause B1.1.2(8) of Schedule B;

M

mid-year compounding factor has the meaning specified in clause B1.1.2(7) of Schedule B;

N

net drawdowns

(a) for **regulated providers** subject to both information disclosure regulation and price-quality regulation in regulations made under s 226 of the **Act**, has the meaning specified in clause B1.1.2(5)(h) of Schedule B; and

(b) for **regulated providers** subject only to information disclosure regulation in regulations made under s 226 of the **Act**,

has the meaning specified in clause B1.1.2(6)(d) 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;

notional tax asset value — for the purpose of a **UFB asset**, has the meaning specified in clause B1.1.8(3) of Schedule B;

O

operating cost — for the purpose of clause B1.1.2(4)(b) of Schedule B and clause B1.1.6(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**;
(h) the legal costs of any appeals against input methodology determinations under Part 6 of the **Act**; and
(i) **pass-through costs**;

P

present value benefit of Crown financing — has the meaning specified in clause B1.1.2(2) of Schedule B;

present value of total net cash flows	has the meaning specified in clause B1.1.2(2) of Schedule B;
present value of UFB costs cash flows	has the meaning specified in clause B1.1.2(2) of Schedule B;
present value of UFB revenues cash flows	has the meaning specified in clause B1.1.2(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 (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;
proxy cost allocator	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 B1.1.6(1) of Schedule B;

R

regulatory tax asset value for the purpose of a **UFB asset**, has the meaning specified in clause B1.1.8(1) of Schedule B;

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 entity' as specified in the definition of 'related party' in **NZ IAS 24**; or

(b) any part of the **regulated provider** that does not provide **UFB FFLAS**;

related party transaction for the purpose of determining the **financial losses**, means-

(a) 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

(b) 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**;

result of asset allocation ratio where **regulatory tax asset value** is determined in the **financial loss period**, has the meaning in clause B1.1.8(4) of Schedule B;

revenue date compounding factor has the meaning specified in clause B1.1.2(7) of Schedule B;

S

services that are not UFB FFLAS means:

(a) **telecommunications services that are not UFB 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;

start date compounding factor has the meaning specified in clause B1.1.2(7) of Schedule B;

T

tax asset value for the purpose of a **UFB asset**, has the meaning in clause B1.1.8(2) of Schedule B;

tax costs has the meaning in clause B1.1.7(1) of Schedule B;

telecommunications services that are not UFB FFLAS means any **telecommunications service** provided by a **regulated provider** that is not **UFB FFLAS**;

U

UFB asset means an asset that is:

(a) constructed or acquired by a **regulated provider**; and

(b) **employed** in the provision of **UFB FFLAS** (whether or not the asset is also **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**;

UFB asset base means, in respect of a r**egulated provider**, all **UFB assets** that are **employed** by that **regulated provider** in the provision of **UFB FFLAS**;

UFB asset base closing value at implementation date	has the meaning specified in clause B1.1.2(2) of Schedule B;
UFB closing asset value	has the meaning specified in clause B1.1.2(9) of Schedule B;
UFB cost allocation adjustment cash flow	has the meaning specified in clause B1.1.2(4)(a) of Schedule B;
UFB costs cash flow	has the meaning specified in clause B1.1.2(3)(a) of Schedule B;
UFB FFLAS	means any **FFLAS** provided by a **regulated provider** under the **UFB initiative** during the **financial loss period**;
UFB FFLAS commissioning date	means the date that a **UFB asset** is first **commissioned for UFB FFLAS**;
UFB opening asset value	has the meaning specified in clause B1.1.2(9) of Schedule B;
UFB operating expenditure cash flow	has the meaning specified in clause B1.1.2(4)(b) of Schedule B;
UFB regulatory net taxable income	has the meaning specified in clause B1.1.7(2) of Schedule B;
UFB revenues cash flow	has the meaning specified in clause B1.1.2(3)(b) of Schedule B;
UFB tax costs cash flow	has the meaning specified in clause B1.1.2(4)(c) of Schedule B;
UFB taxable income	has the meaning specified in clause B1.1.7(3) of Schedule B;
UFB unallocated closing asset value	has the meaning specified in clause B1.1.2(9) of Schedule B;
UFB unallocated opening asset value	has the meaning specified in clause B1.1.2(9) of Schedule B;
UFB utilised tax losses	has the meaning specified in clause B1.1.9(1) of Schedule B;
UFB value of net commissioned assets cash flow	has the meaning specified in clause B1.1.2(4)(d) of Schedule B;

V

value of commissioned asset	for the purpose of determining the **financial losses**, means the value determined in respect of **UFB assets commissioned** prior to the **implementation date**, in accordance with clause B1.1.3(1) of Schedule B; and
vested asset	for the purpose of determining the **financial losses**, means a **UFB asset** received by a **regulated provider**- (a) without provision of consideration; or (b) with provision of nominal consideration.

SECTION 2 Asset valuation

B1.1.2 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** to be 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** to be 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 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 subclauses (5) and (6);

'*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 that **financial loss year** determined in accordance with the formula-

present value of UFB revenues cash flows – present value of UFB costs cash flows

where-

'present value of UFB costs cash flows' means the value of **UFB costs cash flows** at the **implementation date**, and is:

(a) subject to paragraph (b), in respect of **UFB costs cash flows** arising in a **financial loss year**, calculated by multiplying that cash flow amount by the relevant **mid-year compounding factor**; and

(b) in respect of the "sum of UFB opening asset values as of 1 December 2011" component of the 'UFB value of net commissioned assets cash flow' arising for **financial loss year** 2012 referred to in subclause (4)(d)(i), calculated by multiplying that cash flow amount by the **start date compounding factor**; and

'present value of UFB revenues cash flows' means the value of **UFB revenues cash flows** at the **implementation date**, and is calculated by multiplying that cash flow amount by the relevant **revenue date compounding factor**; and

'*UFB asset base closing value at implementation date*' means the sum of **UFB closing asset values** in respect of **financial loss year** 2022;

(3) For the purpose of subclause (2):

(a) 'UFB costs cash flow' means 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:

(i) **UFB cost allocation adjustment cash flow**;

(ii) **UFB operating expenditure cash flow**;

(iii) **UFB tax costs cash flow**;

(iv) **UFB value of net commissioned assets cash flow**; and

(b) 'UFB revenues cash flow' means revenues derived by a **regulated provider** from the provision of **UFB FFLAS** for the **financial loss year** in question, excluding any **capital contributions** to the extent they were accounted for as revenue under **GAAP**.

(4) For the purpose of subclause (3):

(a) 'UFB cost allocation adjustment cash flow' means the sum of all amounts for **UFB assets** with a **UFB closing asset value** for an **asset class** for a **financial loss year** calculated in accordance with the following formula-

sum of ***UFB unallocated closing asset values*** *for that* ***asset class*** *× (closing cost allocator value – opening cost allocator value)*

where-

'*closing cost allocator value*' is calculated in accordance with the following formula-

*sum of **UFB closing asset values** for that **asset class** ÷ sum of **UFB unallocated closing asset values** for that **asset class***;

'*opening cost allocator value*' is calculated in accordance with the following formula-

*(sum of **UFB opening asset values** for that **asset class** + sum of value of commissioned assets – depreciation) ÷ sum of **UFB unallocated closing asset values** for that **asset class***; and

'sum of value of commissioned assets' means the sum of **value of commissioned asset** for each **UFB asset** for that **asset class** with a **UFB FFLAS commissioning date** in the **financial loss year** in question after applying clause B1.1.6(2) of Schedule B to allocate each **value of commissioned asset** for that **asset class** to the provision of **UFB FFLAS**;

(b) '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 B1.1.6(1) of Schedule B;

(c) 'UFB tax costs cash flow' means the **tax costs** calculated for a **financial loss year** under clause B1.1.7 of Schedule B; and

(d) 'UFB value of net commissioned assets cash flow' means:

(i) 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 UFB opening asset values as of 1 December 2011' means the sum of **UFB opening asset values** calculated in accordance with subclause (9)(c);

'sum of value of commissioned assets' means the sum of **value of commissioned asset** for each **UFB asset** with a **UFB FFLAS commissioning date** in the **financial loss year** in question after applying clause B1.1.6(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; and

(ii) 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 **UFB FFLAS commissioning date** in the **financial loss year** in question after applying clause B1.1.6(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.

(5) For the purposes of subclause (2), 'present value benefit of Crown financing' in respect of a **regulated provider** subject to both information disclosure regulation and price-quality regulation in regulations made under s 226 of the **Act**, means the sum of the 'present value of annual benefits' for each **financial loss year**, where the 'present value of annual benefits' for a **financial loss year** is calculated in accordance with the following formula-

$((A_1 \times B_1) + (A_2 \times B_2) + (C \times D)) \times$ ***benefit of Crown financing compounding factor*** *for the* ***financial loss year*** *in question*

where-

(a) A_1 is the **net drawdowns** in the **financial loss year** that is senior debt;

(b) A_2 is the **net drawdowns** in the **financial loss year** that is subordinated debt;

(c) B_1 is the **cost of debt** for that **financial loss year**;

(d) B_2 is the **cost of debt** for that **financial loss year** + 0.41%;

(e) C is the amount determined in accordance with the following formula:

$(0.75 \times$ ***cost of equity*** *for that* ***financial loss year***$) + (0.25 \times$ ***cost of debt*** *for that* ***financial loss year***$)$;

(f) D is the **net drawdowns** in the **financial loss year** that is equity;

(g) '*benefit of Crown financing compounding factor*' is the amount determined in accordance with the following formula:

$$\frac{(((1 + \boldsymbol{financial\ loss\ year\ WACC})^{Y}) - 1)}{\boldsymbol{financial\ loss\ year\ WACC}}$$

where *Y* is the amount determined in accordance with the following formula:

$$\frac{\text{the number of days between the day that is the mid} - \text{point of the financial loss year and the implementation date}}{365.25}$$

(h) '*net drawdowns*' means the amount of **Crown financing** that a **regulated provider** (or related party as referred to in section 164 of the **Act**) draws down in that **financial loss year** less the amount of **Crown financing** repaid in that **financial loss year** by the **regulated provider** (or related party as referred to in section 164 of the **Act**).

(6) For the purposes of subclause (2), 'present value benefit of Crown financing' in respect of a **regulated provider** subject only to information disclosure regulation in regulations made under s 226 of the **Act**, means the sum of the 'present value of annual benefits' for each **financial loss year**, where the 'present value of annual benefits' for a **financial loss year** is calculated in accordance with the following formula-

$$A \times B \times \textbf{\textit{benefit of Crown financing compounding factor}} \textit{ for the } \textbf{\textit{financial loss year}} \textit{ in question}$$

where:

(a) *A* is:

(i) where **net drawdowns** in the **financial loss year** is, in substance, a combination of debt and equity, the amount calculated in accordance with the following formula:

$$(C \times D) + ((1 - C) \times E)$$

where:

C is the proportion of **net drawdowns** in the **financial loss year** which, in substance, is debt;

D is the **cost of debt** for that **financial loss year**; and

E is the **cost of equity** for that **financial loss year**;

(ii) where **net drawdowns** in the **financial loss year** is, in substance, debt, the **cost of debt** for that **financial loss year**;

(iii) where **net drawdowns** in the **financial loss year** is, in substance, equity, the ***cost of equity*** *for that* ***financial loss year***;

(b) *B* is:

(i) For **financial loss year** 2012

$$\left(\text{opening balance for Crown financing at 1 December 2011 } x \frac{(\text{start date compounding factor})}{\text{mid} - \text{year compounding factor for financial loss year 2012}}\right)$$

$$+ \text{ net Crown financing drawn down in financial loss year 2012}$$

(ii) For each **financial loss year** other than **financial loss year** 2012, the **net drawdowns** in the **financial loss year**;

(c) '*benefit of Crown financing compounding factor*' is the amount determined in accordance with the following formula:

$$\frac{(((1 + \boldsymbol{financial\ loss\ year\ WACC})^{Y}) - 1)}{\boldsymbol{financial\ loss\ year\ WACC}}$$

where *Y* is the amount determined in accordance with the following formula:

$$\frac{the\ number\ of\ days\ between\ the\ day\ that\ is\ the\ mid-point\ of\ the\ financial\ loss\ year\ and\ the\ implementation\ date}{365.25}$$

(d) '*net drawdowns*' means the amount of **Crown financing** that a **regulated provider** (or related party as referred to in section 164 of the **Act**) draws down in that **financial loss year** less the amount of **Crown financing** repaid in that **financial loss year** by the **regulated provider** (or related party as referred to in section 164 of the **Act**).

(7) For the purpose of subclause (2), a 'mid-year compounding factor', 'revenue date compounding factor' and 'start date compounding factor' are the values calculated in accordance with the following formula-

$$(1 + \boldsymbol{financial\ loss\ year\ WACC})^{\text{days to implementation date}/365.25}$$

where-

'*days to implementation date*' means-

(a) for the purposes of determining a 'mid-year compounding factor', the number of days between the day that is the mid-point of the **financial loss year** and the **implementation date**;

(b) for the purposes of determining a 'revenue date compounding factor':

(i) for **financial loss year** 2012, is 3543;
(ii) for **financial loss year** 2013, is 3254;
(iii) for **financial loss year** 2014, is 2889;
(iv) for **financial loss year** 2015, is 2524;
(v) for **financial loss year** 2016, is 2159;
(vi) for **financial loss year** 2017, is 1793;
(vii) for **financial loss year** 2018, is 1428;
(viii) for **financial loss year** 2019, is 1063;
(ix) for **financial loss year** 2020, is 698;
(x) for **financial loss year** 2021, is 332; and
(xi) for **financial loss year** 2022, is 58; and

(c) for the purposes of determining a 'start date compounding factor', the number of days between 1 December 2011 and the **implementation date**.

(8) For the purpose of subclauses (5)-(7), 'financial loss year 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**; and
(l) in respect of **financial loss year** 2022, **30 September 2021 WACC**.

(9) 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 **UFB FFLAS** as a result of-

(a) adopting the **UFB unallocated closing asset value** for the **financial loss year**; and

(b) applying clause B1.1.6(2) of Schedule B to the **UFB asset**;

'*UFB opening asset value*' means:

(c) for the purposes of subclause (4)(d)(i), in respect of a **UFB asset** owned by a **regulated provider** before 1 December 2011, the value as of 1 December 2011 allocated to the provision of **UFB FFLAS** as a result of:

(i) adopting the **UFB unallocated opening asset value** under paragraph (h); and
(ii) applying clause B1.1.6(2) of Schedule B to the **UFB asset**;

(d) in respect of a **UFB asset** with a **UFB FFLAS commissioning date** in **financial loss year** 2012, the value allocated to the provision of **UFB FFLAS** as a result of:

(i) adopting the **UFB unallocated opening asset value** under paragraph (i); and

(ii) applying clause B1.1.6(2) of Schedule B to the **UFB asset**; and

(e) in respect of a **UFB asset** in relation to 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:

(f) a **disposed asset**, nil; and

(g) any other **UFB asset** with a **UFB unallocated asset opening value**, the value for the **financial loss year** in question, 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:

(h) a **UFB asset** for the purposes of paragraph (c), its **value of commissioned asset**;

(i) a **UFB asset** with a **UFB FFLAS commissioning date** in the **financial loss year** in question, its **value of commissioned asset**; and

(j) any other **UFB asset**, its **UFB unallocated closing asset value** in the preceding **financial loss year**.

B1.1.3 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 as of the **commissioning date**:

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

(ii) in respect of a **UFB asset commissioned** in the **financial loss period**, 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 **UFB FFLAS 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 **UFB FFLAS 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 **UFB FFLAS 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 B1.1.4 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 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 for UFB FFLAS**, 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.

B1.1.4 Related party transactions for UFB assets

(1) For the purposes of clause B1.1.3(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.

B1.1.5 Calculation of price-quality path forecast values for financial loss asset

(1) For the purpose of clauses 3.3.1(9)(d)-(e), the "opening RAB value" of the **financial loss asset** adopted under clauses 3.3.1(9)(a)-(b) is determined by:

(a) adopting estimates of historic values for calculations under clauses B1.1.2(2)-(9) 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, **financial loss year** 2019, and **financial loss year** 2020; and

(b) applying forecasts for calculations under clauses B1.1.2(2)-(9) of Schedule B in respect of **financial loss year** 2021 and **financial loss year** 2022,

where

(c) any relevant unallocated values adopted under clause 3.3.1(9)(a) must be consistent with any equivalent unallocated values adopted under paragraph (a);

(d) any relevant unallocated forecasts applied under clause 3.3.1(9)(b) must be consistent with any equivalent unallocated forecasts applied under paragraph (b); and

(e) in the case where the sum of the adopted values under paragraph (a)-(b) is:

(i) negative, the "opening RAB value" of the **financial loss asset** for a **regulated provider** will be determined by the **Commission** to be the absolute value of the financial losses; and

(ii) positive or nil, the "opening RAB value" of the **financial loss asset** for a **regulated provider** will be determined by the **Commission** to be nil.

SECTION 3 Cost allocation

B1.1.6 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** during the **financial loss period** that is **directly attributable** to the provision of **UFB FFLAS** must be allocated to **UFB FFLAS**;

(b) any **operating cost** during the **financial loss period** that is not **directly attributable** to the provision of **UFB FFLAS** must be allocated to **UFB FFLAS** by applying **ABAA**, where **cost allocators** must be used to proportionally allocate those **operating costs** between-

(i) **UFB FFLAS**; and

(ii) **services that are not UFB FFLAS**; and

(c) the **allocator types** available to be applied to allocate **operating costs** not **directly attributable** to 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 determined by the **Commission**, provided that:

(A) where the quantum of the applicable **cost allocator** is:

a. based on a circumstance, that circumstance has a **causal relationship** which leads to an **operating cost** being incurred; or

b. equal to a ratio, that ratio is equal to a **proxy cost allocator**; and

(B) the decision is consistent with s 166(2) of the **Act**.

(2) For the purposes of allocating a **UFB unallocated closing asset value**, **UFB unallocated opening asset value**, or **value of commissioned asset** to the provision of **UFB FFLAS** under clause B1.1.2(9) of Schedule B for a **financial loss year**-

(a) the 'UFB unallocated closing asset value', 'UFB unallocated opening asset value', and 'value of commissioned asset' in question shall be considered an 'asset value';

(b) any 'asset value' that is **directly attributable** to the provision of **UFB FFLAS**, must be allocated to **UFB FFLAS**;

(c) any 'asset value' that is not **directly attributable** to the provision of **UFB FFLAS**, must be allocated to **UFB FFLAS** by applying **ABAA**, where **asset allocators** must be used to proportionally allocate those 'asset values' between:

(i) **UFB FFLAS**; and

(ii) **services that are not UFB FFLAS**; and

(d) the **allocator types** available to be applied using **ABAA** 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 determined by the **Commission**, provided that:

(A) where the quantum of the applicable **asset allocator** is:

a. based on a circumstance, that circumstance has a **causal relationship** which influences the **employment** of an asset; or
b. equal to a ratio, that ratio is equal to a **proxy asset allocator**; and

(B) the decision is consistent with s 166(2) of the **Act**.

(3) The **allocator types** specified in subclauses (1)(c) and (2)(d) must be applied using **allocator values** that are reviewed and updated in respect of each **financial loss year**.

(4) Subject to subclause (5), when a **regulated provider** allocates either an **asset value** or an **operating cost** that is not **directly attributable** to **UFB FFLAS** or **services that are not UFB FFLAS**, the total **asset values** or **operating costs** allocated to **UFB FFLAS** must not be more than the total **asset values** or total **operating costs** that the **regulated provider** could not have avoided if it ceased supplying **services that are not UFB FFLAS**.

(5) Subclause (4) 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 **UFB FFLAS**.

SECTION 4 Taxation

B1.1.7 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.

B1.1.8 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-

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

(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), **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-

$$\frac{\boldsymbol{UFB\ opening\ asset\ value}\ or\ sum\ of\ \boldsymbol{UFB\ opening\ asset\ values}}{\boldsymbol{UFB\ unallocated\ opening\ asset\ value}\ or\ sum\ of\ \boldsymbol{UFB\ unallocated\ opening\ asset\ values}}$$

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 B1.1.6 of Schedule B to apply to the asset or group of assets.

B1.1.9 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) For the purpose of subclause (1), '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 subclause (3)(b), 'UFB closing tax losses' means the amount determined in accordance with the following formula, in which each term is an absolute value:

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

(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

B1.1.10 Methodology for estimating the weighted average cost of capital for the financial losses

(1) Before the **implementation date**, the **Commission** will determine estimates of vanilla **WACCs** for the purposes of clause B1.1.2(8) 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:

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

(3) For the purpose of subclause (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:

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

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 subclause (3)-

(a) the leverage, 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 B1.1.11 of Schedule B; and

(b) the risk-free rate must be estimated in accordance with clause B1.1.12 of Schedule B.

B1.1.11 Fixed WACC parameters for financial losses

(1) For the purpose of clause B1.1.10 of Schedule B, 'leverage' means the ratio of debt capital to total capital and is 29%.

(2) For the purpose of clause B1.1.10 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**.

(3) For the purpose of clause B1.1.10 of Schedule B, the 'Equity beta' is 0.70.

(4) For the purpose of clause B1.1.10 of Schedule B, 'debt issuance costs' are costs associated with the issuance of debt by a **regulated provider** and are 0.14%.

(5) For the purpose of clause B1.1.10 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 the **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**.

B1.1.12 Methodology for estimating risk-free rate for financial losses

(1) For the purpose of clause B1.1.10 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 month 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.

B1.1.13 Methodology for estimating the debt premium for financial losses

(1) For the purpose of clause B1.1.10 of Schedule B, the **Commission** will determine an estimate of an amount for the **debt premium** for each **financial loss year**.

(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 7 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 7 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 applicable date specified in subclause (6);

(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 (where

applicable) 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 7 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 7 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 7 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 subclause (4)(a).

(6) For the purpose of subclause (3), the applicable date is:

(a) in respect of the **1 December 2011 WACC**, 1 December 2011;
(b) in respect of the **31 March 2012 WACC**, 31 March 2012;
(c) in respect of the **31 December 2012 WACC**, 31 December 2012;
(d) in respect of the **31 December 2013 WACC**, 31 December 2013;
(e) in respect of the **31 December 2014 WACC**, 31 December 2014;
(f) in respect of the **31 December 2015 WACC**, 31 December 2015;
(g) in respect of the **31 December 2016 WACC**, 31 December 2016;
(h) in respect of the **31 December 2017 WACC**, 31 December 2017;
(i) in respect of the **31 December 2018 WACC**, 31 December 2018;
(j) in respect of the **31 December 2019 WACC**, 31 December 2019;

(k) in respect of the **31 December 2020 WACC**, 31 December 2020; and
(l) in respect of the **30 September 2021 WACC**, 30 September 2021.

SECTION 6 Alternative methodologies for determining financial losses

B1.1.14 Alternative methodologies for determining financial losses

(1) A **regulated provider** may:

(a) propose that the **Commission** apply an alternative methodology to that specified for any or all of:

(i) asset valuation in Section 2 of Schedule B;
(ii) cost allocation in Section 3 of Schedule B; and
(iii) taxation in Section 4 of Schedule B; or

(b) in the production of information to the **Commission**, supply of information to the **Commission**, or preparation of information to the **Commission**, apply an alternative methodology to that specified for any or all of:

(i) asset valuation in Section 2 of Schedule B;
(ii) cost allocation in Section 3 of Schedule B; and
(iii) taxation in Section 4 of Schedule B.

(2) Subject to subclause (3), the **Commission** may apply the alternative methodology proposed or applied by a **regulated provider** under subclause (1) in:

(a) determining the 'financial losses' for a **regulated provider** under clause B1.1.2(2) of Schedule B; and
(b) determining the "opening RAB value" of the **financial loss asset** for the **PQ RAB** as of the **implementation date** under clause 3.3.1(9).

(3) The **Commission** may only apply the alternative methodology proposed or applied by a **regulated provider** under subclause (1) if it is satisfied that the result of that alternative methodology:

(a) either:

(i) produces an equivalent effect to the methodology that would otherwise apply; or
(ii) produces substantially the same effect to the methodology that would otherwise apply; and,

(b) relative to the methodology that would otherwise apply, does not detract from:

(i) promoting the purpose of Part 6 of the **Act**; and

(ii) where relevant, the promotion of workable competition in telecommunications markets for the long-term benefit of **end-users** of **telecommunications services**.

SCHEDULE C INVESTMENT TEST FOR NETWORK EXPANSION CAPEX

C1 Interpretation

(1) In this schedule, words or phrases in bold type and not defined in subclause (2) have the same meaning that they have in Part 3.

(2) In this schedule,—

competition effect	(a) means the value of the expected change in economic surplus (being the sum of producer surplus plus consumer surplus) due to a change in competition among participants in the telecommunication markets as a result of the proposed **network expansion capex**; but (b) excludes-— (i) the value of any expected change in economic surplus (being the sum of producer surplus plus consumer surplus) due to a change in a benefit listed in clause C3 or cost listed in C4: (ii) for the purpose of clause C4(1)(c), any negative competition effect that arises from calculating the **end-user** benefit in accordance with clause C3(1)(a) (that is, by using **end-users'** willingness to pay to calculate the **end-user** benefit rather than geographically consistent pricing);
cost to connect to the premises	means the cost of connecting from the communal **FFLAS** infrastructure to each premises;
cost per premises passed	means the cost of building the communal infrastructure of the **FFLAS** network to the boundary of each premises;
FFLAS market net effect	means, in respect of proposed **network expansion capex** in a **capex proposal**, the net present value of the aggregated quantum of the benefits and costs of the investment to the market for **FFLAS**;
payback period	means the period of time it takes for **Chorus** to recoup the value of its investment;

portfolio mix	means the proportion of different **FFLAS** connection plans that **Chorus** forecasts **end-users** will request
uptake rate	means the proportion of **end-users** expected to take up a **FFLAS** over time as a result of the proposed **network expansion capex**.

C2 Investment test

(1) Proposed **network expansion capex** meets the investment test if the Commission is satisfied that:

(a) the proposed **capex** has a positive **FFLAS market net effect**; and

(b) the positive **FFLAS market net effect** is significantly robust under sensitivity analysis.

C3 Benefits that must be reflected in FFLAS market net effect

(1) The following benefits must be reflected in the **FFLAS market net effect** to the extent that they are material benefits:

(a) the **end-user** benefit, being any incremental notional revenue that **Chorus** will receive from **end-users** for undertaking the investment, calculated using the **end-users'** willingness to pay;

(b) positive **competition effects**;

(c) any efficiency benefit, being any benefit to **Chorus** or to **end-users** from greater scale and utilisation of its network;

(d) any subsidies or other benefits (including capital contributions) relating to any cost listed in clause C4(1); and

(e) any other benefit (qualitative or quantitative) the inclusion of which the **Commission** considers is consistent with section 166(2) of the **Act**.

C4 Costs that must be reflected in FFLAS market net effect

(1) The following costs must be reflected in the **FFLAS market net effect** to the extent that they are material costs:

(a) any cost to deploy the proposed network expansion;

(b) any maintenance and whole of life cost, being any cost of maintenance, refurbishment and replacement over the calculation period of the investment test;

(c) negative **competition effects**; and

(d) any other cost (qualitative or quantitative) the inclusion of which the **Commission** considers is consistent with section 166(2) of the **Act**.

C5 Information requirements

(1) **Chorus** must provide the following information in a **capex proposal** in relation to the **network expansion capex**:

(a) whether the proposed **network expansion capex** meets the investment test in clause C2;

(b) the **FFLAS market net effect**, whether it is positive, and a summary of how **Chorus** has calculated it;

(c) for each category of benefits specified in paragraphs (a) to (e) of clause C3 and each category of costs specified in paragraphs (a) to (d) of clause C4,—

(i) the subtotal for the category; and

(ii) sufficient evidence to support the subtotals for that category;

(d) sensitivity analysis (to the extent that such analysis is reasonably practicable and reasonably necessary) that analyses the effect on quantum of variations on variables used in calculating the **FFLAS market net effect**, including, at the minimum, the following variables:

(i) the real discount rate;

(ii) the **uptake rate**;

(iii) the **end-user** willingness to pay; and

(iv) the **portfolio mix**;

(e) a description of the methodology used to determine **end-users'** willingness to pay;

(f) evidence that **Chorus** considers demonstrates the methodology used to determine **end-users'** willingness to pay is robust;

(g) if **Chorus** uses a real discount rate other than 5%,-

(i) an explanation of why the alternative real discount rate is more appropriate than 5%; and

(ii) evidence to support the use of the alternative real discount rate;

(h) any evidence supporting the forecast **uptake rate** assumptions;

(i) the forecast **payback period**, the reasons why **Chorus** considers that the forecast **payback period** is reasonable, and any risks and uncertainty that may affect the proposed **payback period**;

(j) the **portfolio mix** assumed in the forecast **uptake rate** and evidence supporting the assumed **portfolio mix**;

(k) information about the **cost to connect to the premises** and the **cost per premises passed** based on the proposed **network expansion capex**; and

pricing implications of the proposed **network expansion capex** for existing **end-users** and for future **end-users**.

Explanatory note

This note is not part of the determination but is intended to indicate its general effect.

This determination, which comes into force on [date], amends the Fibre Input Methodologies Determination 2020 [2020] NZCC 21 (the **principal determination**).

The principal determination sets out the rules, requirements, and processes (the **input methodologies**) that the Commerce Commission has determined for regulated fibre fixed line access services under Part 6 of the Telecommunications Act 2001.

The Act requires the Commerce Commission to review the input methodologies every 7 years. The amendments contained in this determination arise from the first review of the input methodologies since they were first determined in 2020.

The Commerce Commission published a final reasons paper with this determination. The paper provides further information about the amendments contained in this determination and is available on the Commission's website.

This is secondary legislation issued under the authority of the Legislation Act 2019.	
Title	Fibre Input Methodologies (IM Review) Amendment Determination 2026
Principal or amendment	Amendment
Consolidated version	No
Empowering Act and provisions	Telecommunications Act, s 181
Replacement empowering Act and provisions	Not applicable
Maker name	Commerce Commission
Administering agency	Commerce Commission
Date made	[date]
Publication date	[date]
Notification date	[date]

Commencement date	[date]
End date (when applicable)	Not applicable
Consolidation as at date	Not applicable
Related instruments	Not applicable