



Australian Government

Department of the Prime Minister and Cabinet

**OBPR**  
The Office of Best  
Practice Regulation

# Commonwealth-State Regulation Impact Statement status, 2021-22

The Office of Best Practice Regulation (OBPR) publishes Regulation Impact Statements (RIS) and the OBPR's assessment of each RIS on its website as soon as practicable after a regulatory announcement is made, in consultation with the relevant Ministerial Meeting or national standard-setting body (NSSB).

Between 1 July 2021 and 30 June 2022, 14 Commonwealth-State Decision RISs were finalised, assessed as compliant by the OBPR and published. In this period 12 Commonwealth-State consultation RISs were assessed by the OBPR and published. Please note this report covers RISs that were prepared over the course of 2021-22, which includes a transition between Governments.

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# Compliance with the Commonwealth-State RIS requirements 2016-17 to 2021-22

Figure 1. Compliance with the Commonwealth-State RIS requirements

Stage	2016-17 Ratio	%	2017-18 Ratio	%	2018-19 Ratio	%	2019-20 Ratio	%	2020-21 Ratio	%	2021-22 Ratio	%
Consultation stage <sup>a</sup>	10/11	90	6/6	100	15/15	100	24/25	96	19/20	95	14/14	100
Decision stage	10/11	90	6/6	100	15/15	100	23/25	92	14/15	93	14/14	100

<sup>a</sup> The consultation stage figures relate to those decisions at the consultation stage for which a corresponding decision RIS at the decision-making stage has been announced.

# Detailed information on RISs prepared for decision in 2021-22

## Australian Building Codes Board

### Lead in plumbing products

Figure 2. Lead in plumbing products

Decision Date	Compliant at consultation	Compliant at decision	Final RIS published
15 July 2021	Yes	Yes	19 July 2021

In 2019-20, the ABCB commenced a regulatory impact analysis to determine whether the permissible lead content in plumbing products in contact with drinking water should be reduced. This followed a number of highly publicised instances of lead leaching from copper alloy plumbing products in contact with drinking water in excess of the levels permitted by AS/NZS 4020 'Testing of products for use in contact with drinking water'.

The final Decision RIS recommends in favour of Option 2, that all copper alloy plumbing products in contact with drinking water comply with NSF/ANSI/CAN 372 'Drinking Water System Components - Lead Content' in addition to the requirements of AS/NZS 4020.

### Bushfire protection requirements for certain Class 9 buildings

Figure 3. Bushfire protection requirements for certain Class 9 buildings

Decision Date	Compliant at consultation	Compliant at decision	Final RIS published
March 2022	Yes	Yes	28 March 2022

In March 2022, the Australian Building Codes Board agreed to implement new bushfire provisions for certain Class 9 buildings under the National Construction Code. The new provisions will apply to;

- Class 9a health-care buildings;
- Class 9b early childhood centres, primary and secondary schools;
- Class 9c residential care buildings.

The provisions are designed to provide nationally consistent bushfire protection solutions for buildings accommodating vulnerable occupants of hospitals, aged care buildings, schools, and child care, where they are proposed to be built in a bushfire-prone area.

## Australian Energy Market Commission

### National Electricity Amendment (Connection to Dedicated Connection Assets) Rule 2021

Figure 4. National Electricity Amendment (Connection to Dedicated Connection Assets) Rule 2021

Compliant at consultation	Compliant at consultation	Compliant at decision	Final RIS published
8 July 2021	Yes	Yes	9 July 2021

The AEMC made a rule seeking to support the more effective management of power system security and better facilitate the sharing of parts of the transmission system funded by connecting parties, while maintaining incentives to invest.

### Fast frequency response market ancillary service

Figure 5. Fast frequency response to market ancillary service

Compliant at consultation	Compliant at consultation	Compliant at decision	Final RIS published
15 July 2021	Yes	Yes	19 July 2021

Amendments to the National Electricity Rules to introduce two new market ancillary services in the National Electricity Market to help keep the future power system secure and foster innovation in faster responding technologies that will help lower costs for consumers. The new market ancillary services will allow for fast frequency response to be procured to help control power system frequency following sudden and unplanned generation or power system outages, known as contingency events.

### Access, pricing and incentive arrangements for distributed energy resources

Figure 6. Access, pricing and incentive arrangements for distributed energy resources

Compliant at consultation	Compliant at consultation	Compliant at decision	Final RIS published
12 Aug 2021	Yes	Yes	19 Aug 2021

The AEMC Amended the National Electricity and National Energy Retail rules to make it clear that allowing customers to export energy to the grid is a core service of distribution network operators, while allowing two-way pricing to incentivise customers to export power in ways that benefit the grid. Detailed information about the rule changes is available on the AEMC website.

## Integrating Energy Storage Systems into the National Electricity Market

Figure 7. Integrating Energy Storage Systems into the National Electricity Market

Compliant at consultation	Compliant at consultation	Compliant at decision	Final RIS published
2 Dec 2021	Yes	Yes	17 Dec 2021

The AEMC amended the National Electricity Rules to introduce a new participant category, the Integrated Resource Provider (IRP), to accommodate storage and hybrid facilities in a flexible and technology-neutral way. The final rule makes changes to the recovery of the non-energy costs framework that recognise many participants now have two-way energy flows, and will better reflect how participants use and benefit from the non-energy services the Australian Energy Market Operator procures to operate the power system in a safe, secure and reliable manner.

## Compensation for Market Participants

Figure 8. Compensation for Market Participants

Compliant at consultation	Compliant at consultation	Compliant at decision	Final RIS published
2 Dec 2021	Yes	Yes	16 Dec 2021

Amend the National Electricity Rules to revise the framework for compensating market participants if they are worse off due to an intervention.

## AEMC - Enhancing resilience in relation to indistinct events

Figure 9. Enhancing resilience in relation to indistinct events

Compliant at consultation	Compliant at consultation	Compliant at decision	Final RIS published
3 Mar 2022	Yes	Yes	4 Mar 2022

The Australian Energy Market Commission's (AEMC) final rule incorporates indistinct events under the existing contingent event framework and refines reporting requirements. This rule is expected to provide the Australian Energy Market Operator (AEMO) with the ability to better manage system security while avoiding the cost and potential complexity of introducing a new, parallel framework solely for indistinct events. The AEMC sought stakeholder views on the draft determination and received positive feedback regarding the

proposed rule change. Specifically, consultation confirmed that implementation of the rule using existing contingency frameworks is consistent with stakeholder expectations, and is predicted to reduce overall costs.

## Energy Ministers Meeting

### Gas Pipeline Regulation

Figure 10. Gas Pipeline Regulation

Compliant at consultation	Compliant at consultation	Compliant at decision	Final RIS published
3 May 2021	Yes	Yes	27 July 2021

Energy Ministers agreed reforms to deliver a simpler regulatory framework that will continue to support the safe, reliable and efficient use of, and investment in, gas pipelines. The reforms are expected to provide:

- more effective constraints on market power by pipeline operators;
- better access to pipelines that would not otherwise provide such access;
- streamlined governance arrangements; and
- better support for commercial negotiations between shippers and service providers, through more transparency (including greater price transparency), and improvements to the negotiation framework and dispute resolution mechanisms.

## Gene Technology Ministers Meeting

### Modernising and Future Proofing the National Gene Technology Scheme

Figure 11. Modernising and Future Proofing the National Gene Technology Scheme

Compliant at consultation	Compliant at consultation	Compliant at decision	Final RIS published
20 July 2021	Yes	Yes	3 Sept 2021

Reforms to address key recommendations of the Third Review of the National Gene Technology Scheme. The level of risk oversight for genetically modified organisms (GMO) will be determined entirely by the level of indicative risk, taking into account matters such as the characteristics of the GMO, the type of dealings and whether effective risk management measures are known.



## Infrastructure and Transport Ministers Meeting

### Reforms for the Disability Standards for Accessible Public Transport 2002

Figure 12. Reforms for the Disability Standards for Accessible Public Transport 2002

Compliant at consultation	Compliant at consultation	Compliant at decision	Final RIS published
11 Feb 2022	Yes	Yes	17 Feb 2022

On 11 February 2022, the Infrastructure and Transport Ministers' Meeting confirmed a number of reforms related to accessibility of public transport for the disability community.

16 areas of reform were identified throughout the reform process and different policy options for each of these areas were explored in a Decision Regulation Impact Statement.

The Department of Infrastructure, Transport, Regional Development and Communications prepared the decision-making RIS that was provided to the Ministers' Meeting to inform their discussion.

## National Transport Commission

### Developing Technology Neutral Road Rules for Driver Distraction

Figure 13. Developing Neutral Road Rules for Driver Distraction

Compliant at consultation	Compliant at consultation	Compliant at decision	Final RIS published
20 Nov 2020	Yes	Yes	16 July 2021

The endorsed recommendations seek to address all sources of distraction while driving and provide a technology-neutral approach to regulate interactions with technology in the ARR.

The recommendations also amend the ARR to adopt a hybrid policy approach (using both prescriptive and performance-based rules) to clarify what the public can and cannot do safety when interacting with technology while driving.

### Barriers to the safe use of innovative vehicles and motorised mobility devices

Figure 14. Barriers to the safe use of innovative vehicles and motorised mobility devices

Compliant at consultation	Compliant at consultation	Compliant at decision	Final RIS published
20 Nov 2020	Yes	Yes	16 July 2021

Reforms to personal mobility devised to access road and path infrastructure, and three speed approaches. The analysis conducted by the NTC includes an assessment of safety risks, access and amenity impacts, broader economic impacts, as well as compliance and enforcement challenges.

## The regulatory framework for automated vehicles in Australia

Figure 15. The regulatory framework for automated vehicles in Australia

Compliant at consultation	Compliant at consultation	Compliant at decision	Final RIS published
May 2021	Yes	Yes	4 April 2022

In June 2020, the National Transport Commission (NTC) drafted a decision Regulation Impact Statement (RIS) on the in-service safety framework for automated vehicles, which resulted in decisions made by infrastructure and transport ministers on the key elements of the framework including the establishment of a new national law (the Automated Vehicle Safety Law (AVSL)) and regulator. The AVSL will regulate Automated Driving System Entities (ADSEs) who have a responsibility to ensure the safe operation of their automated driving systems for their entire lifecycle.

Further consultation on the detailed content of the law and differences in potential legislative implementation approaches resulted in a range of proposals noted by infrastructure and transport ministers in May 2021. A subsequent round of targeted consultation focused on how the AVSL framework would interact with existing state, territory and Commonwealth transport laws and new frameworks for automated vehicles previously agreed by ministers. The RIS was updated with respect to the recommendations arising out of this consultation.

Ministers agreed in February 2022 to a Commonwealth law approach to the AVSL, recommended as option 3 by the NTC in the RIS. This option has the highest net benefits of the four options originally considered.

## Appendix A - RISs prepared for consultation in 2021-22

The following consultation RISs have been published for consultation in 2021-22.

### Decision-making body: Australian Building Codes Board

#### National Construction Code 2022 – Residential Energy Efficiency

Closing date: 7 November 2021

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The RIS sets out market failures that complicate energy efficiency decisions and result in over consumption of energy and underinvestment in energy efficiency and provides options to address these issues.

## **Decision-making body: Australian Energy Market Commission**

### **Integrating Energy Storage Systems into the National Electricity Market**

Closing date: 16 September 2021

The RIS amendments to the NER to introduce a new participant category, the Integrated Resource Provider (IRP), that will accommodate storage and hybrid facilities in a flexible and technology-neutral way. The proposal makes changes to the recovery of the non-energy costs framework that recognise many participants now have two-way energy flows, and will better reflect how participants use and benefit from the non-energy services the Australian Energy Market Operator procures to operate the power system in a safe, secure and reliable manner.

### **Primary Frequency Response Incentive Arrangements**

Closing date: 28 October 2021

To amend the National Electricity Rules to support system security and deliver reduced costs for frequency control over the long term, as compared with the continuation of the current arrangements. The rule would confirm the Mandatory primary frequency response arrangements put in place through a change to the national electricity rules in March 2020 as permanent and enduring.

### **Enhancing operational resilience in relation to indistinct events**

Closing date: 6 January 2022

A draft rule that incorporates indistinct events under the existing contingent event framework and refines reporting requirements. This rule is expected to provide the Australian Energy Market Operator (AEMO) with the ability to better manage system security while avoiding the cost and potential complexity of introducing a new, parallel framework solely for indistinct events.

### **DWGM Distribution Connected Facilities, draft rule determination**

Closing date: 19 May 2022

On 8 September 2021, the Australian Energy Market Commission (AEMC) received a rule change request from the Victorian Minister for Energy, Environment and Climate Change to include distribution connected gas facilities in the Victorian Declared Wholesale Gas Market (DWGM). The request seeks to change Part 19 of the National Gas Rules (NGR) in order to allow the market participation of such facilities. By changing relevant definitions within the National Gas Rules (NGR) the Victorian Government can implement the participation of distribution connected facilities in the DWGM whilst maintaining the fundamentals of the

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current market design. The rule change request also aims to develop the regulatory changes required to support some decarbonisation initiatives by the Victorian Government to reach net zero emissions by 2050.

### **AEMC – Enhancing Information on Generator Availability in MT PASA**

Closing date: 7 July 2022

The ongoing transition of the power system has contributed to a lack of detailed information on generator availability, which is becoming an increasing issue as older generators approach the end of their technical life. As a result, the operators may shift to cyclical operating regimes where they only generate energy for certain periods of the year. This causes uncertainty amongst participants and stakeholders on why and for how long particular generators are unavailable and the challenge of operating the power system to deliver reliable, secure supply is expected to grow. Without comprehensive, standardised and public information to provide a more nuanced view of future unit availability, AEMO, participants and other stakeholders will likely face increasing time and resource costs.

### **Decision-making body: Food Standards Australia New Zealand**

#### **Primary Production and Processing Requirements for Horticulture (Berries, Leafy Vegetables and Melons)**

Closing date: 16 February 2022

The RIS considers options to further improve the safety of the production and consumption of fresh horticultural produce to reduce foodborne illness.

### **Decision-making body: Health Minister’s Meeting**

#### **Medical practitioners’ use of the title surgeon under the National Law**

Closing date: 1 April 2022

The RIS examines concerns around use of the title “surgeon”, including “cosmetic surgeon”, which may be confusing for members of the public, who may not have knowledge of medical practitioner qualifications and training.

### **Decision-making body: Consumer Affairs Ministers**

#### **Australian Consumer Law product safety changes**

Closing date: 21 January 2022

The RIS considers amendments to the ACL to allow for the easier use of trusted overseas product standards and to potentially allow for the automatic update of mandatory standards. The objectives of these proposed amendments are to: make it easier for suppliers and importers to comply with product safety requirements

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set under the ACL; reduce compliance costs for business and barriers to trade by removing duplicative testing and compliance measures where a product has been manufactured overseas to the requirements of an equivalent overseas standard; and provide benefits for Australian consumers and for the Australian market by increasing product availability and consumer choice.

### **Improving the effectiveness of the consumer guarantee and supplier indemnification provisions under the Australian Consumer Law**

Closing date: 11 February 2022

The RIS considers options to ensure businesses comply with the consumer guarantees and consumers can access the remedies to which they are entitled, and options to prohibit manufacturers from failing to indemnify suppliers.

### **Decision-making body: Australia and New Zealand Food Regulation Ministerial Council**

#### **Proposal P1053 – Food Safety Management tools**

Closing date: 11 April 2022

FSANZ has prepared a Consultation Regulation Impact Statement (RIS) to explain the current regulatory framework and the potential issues that may be arising from it. The Consultation RIS also proposes potential reform options which may help to address these issues. These options include:

- maintaining the status quo such that the current regulatory environment would continue;
- self-regulation, which would involve food businesses putting their own systems that are not subject to regulatory oversight in place to improve food safety; and
- regulated food safety management tools, which would involve amending the Australia New Zealand Food Standards Code to require a food safety supervisor, food handler training, and evidence to substantiate food safety management, for some but not all business types.

### **Decision-making body: Department of Infrastructure, Transport, Regional Development and Communications**

#### **Disability Standards for Accessible Public Transport 2002 (Transport Standards): Stage 2 Reforms**

Closing date: 9 August 2022

In August 2019, Transport Ministers agreed to reform the Transport Standards. This consultation Regulation Impact Statement covers the reforms outlined under stage 2 of the reform process, with the consultation and decision RIS for the stage 1 reforms available under the OBPR's published impact analyses.

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These reforms aim to eliminate discrimination, as far as possible, against people with disability and provide greater certainty to operators and providers regarding their responsibilities under the Transport Standards.