

# Review of consumer protections for future energy services

Final advice

Stakeholder forum 22 January



# Acknowledgement of country

Mark Feather, General Manager, AER Policy branch



# Welcome

Lynne Gallagher, AER Board member



# Agenda for today



Microsoft Teams Q&A

Allocation	Activity	Presenter
5 mins	Background context for the review	Mark
30 mins	Briefing on the final advice	Mark
5 mins	National CER Roadmap	DCCEEW
40 mins	Q&A session	All
3 mins	Concluding remarks	Mark



# Background context for the review

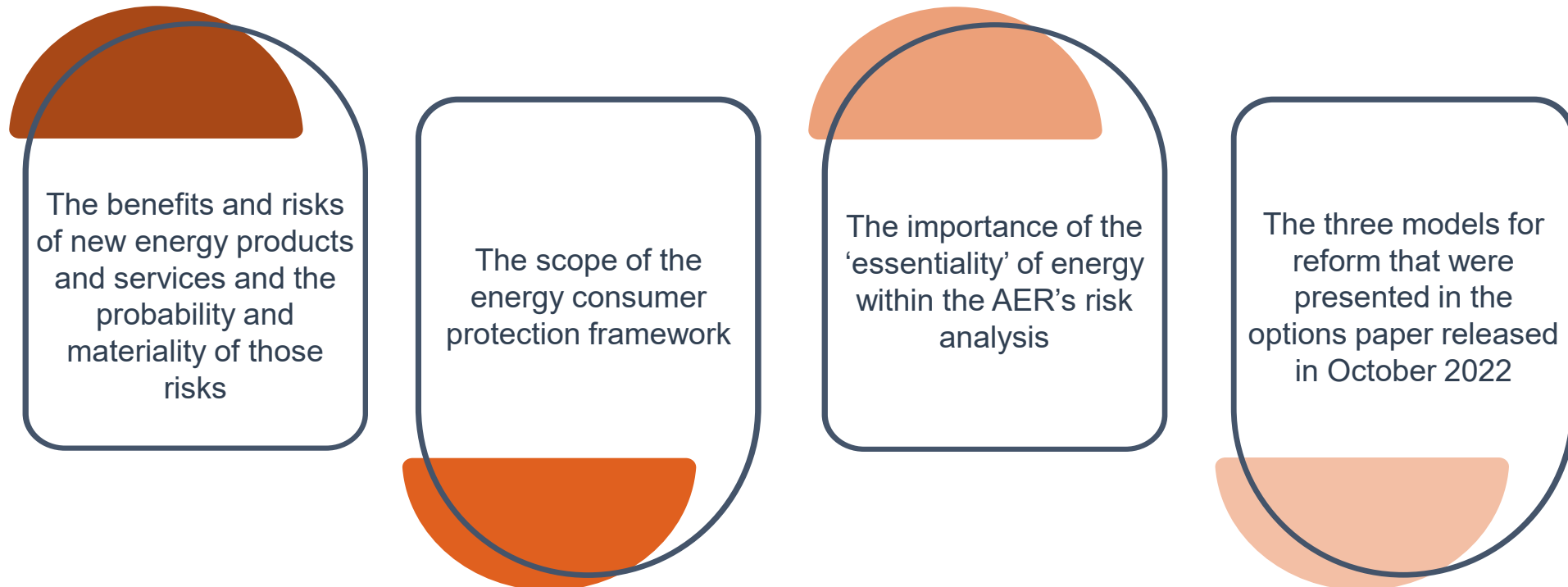
- The National Energy Customer Framework (NECF) was enacted to supplement the ACL, founded on the principle that consumers have a right to access energy (as an essential service) on fair and reasonable terms.
- Since the NECF was enacted, the market has evolved with new energy products and services now emerging. This review aims to determine whether the current consumer protections framework will remain fit for purpose for the future energy market.
- The ESB recommended a review of the consumer protections framework in their July 2021 final NEM 2025 advice, highlighting the importance of the review in ‘striking the right balance between consumer protections and encouraging innovation in the market.’
  - AER to lead the review, with support from ESB, AEMC and AEMO.
  - The review should use the ESB’s consumer risk assessment tool to understand potential risks and harms to customers from new energy business models.
  - National Cabinet accepted the ESB’s recommendation for the review to occur.



# Stakeholder engagement

The analysis in this review has drawn on extensive stakeholder input and feedback.

Through open forums, targeted workshops and written submissions, stakeholders provided input on:



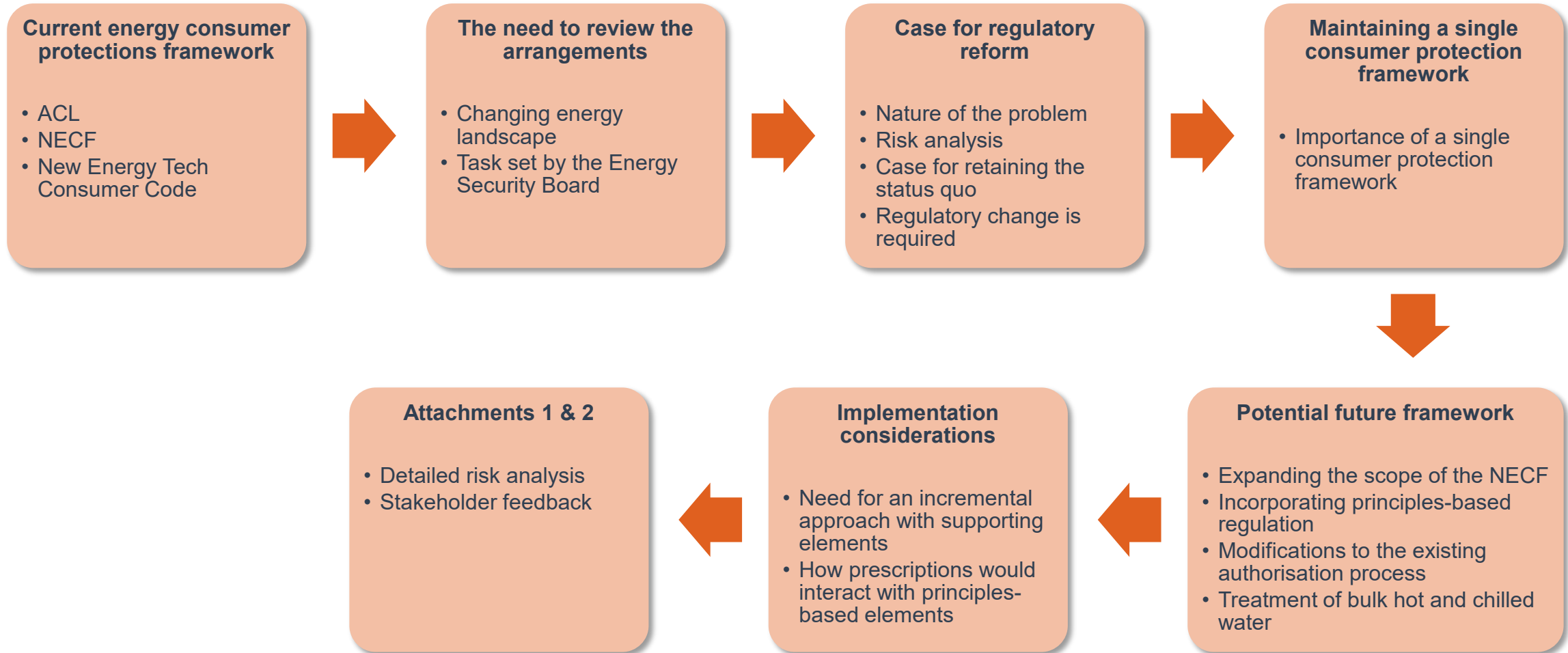


# Energy Ministers meeting – November 2023

- AER provided the final advice to Energy Ministers prior to the meeting (24 November 2023).
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- During the meeting, Energy Ministers agreed to develop a National Consumer Energy Resources (CER) Roadmap.
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- Jurisdictions are preparing a work plan for Ministers under the proposed CER Roadmap.
    - AER would like to see work on updating the consumer protection arrangements reflected in this work plan.
    - Help build consumer trust and confidence and build on the innovation that is occurring in the market.
    - Critical to integration of CER and lower costs to consumers.



# Structure of the final advice





# Changing energy landscape – the need to review the arrangements

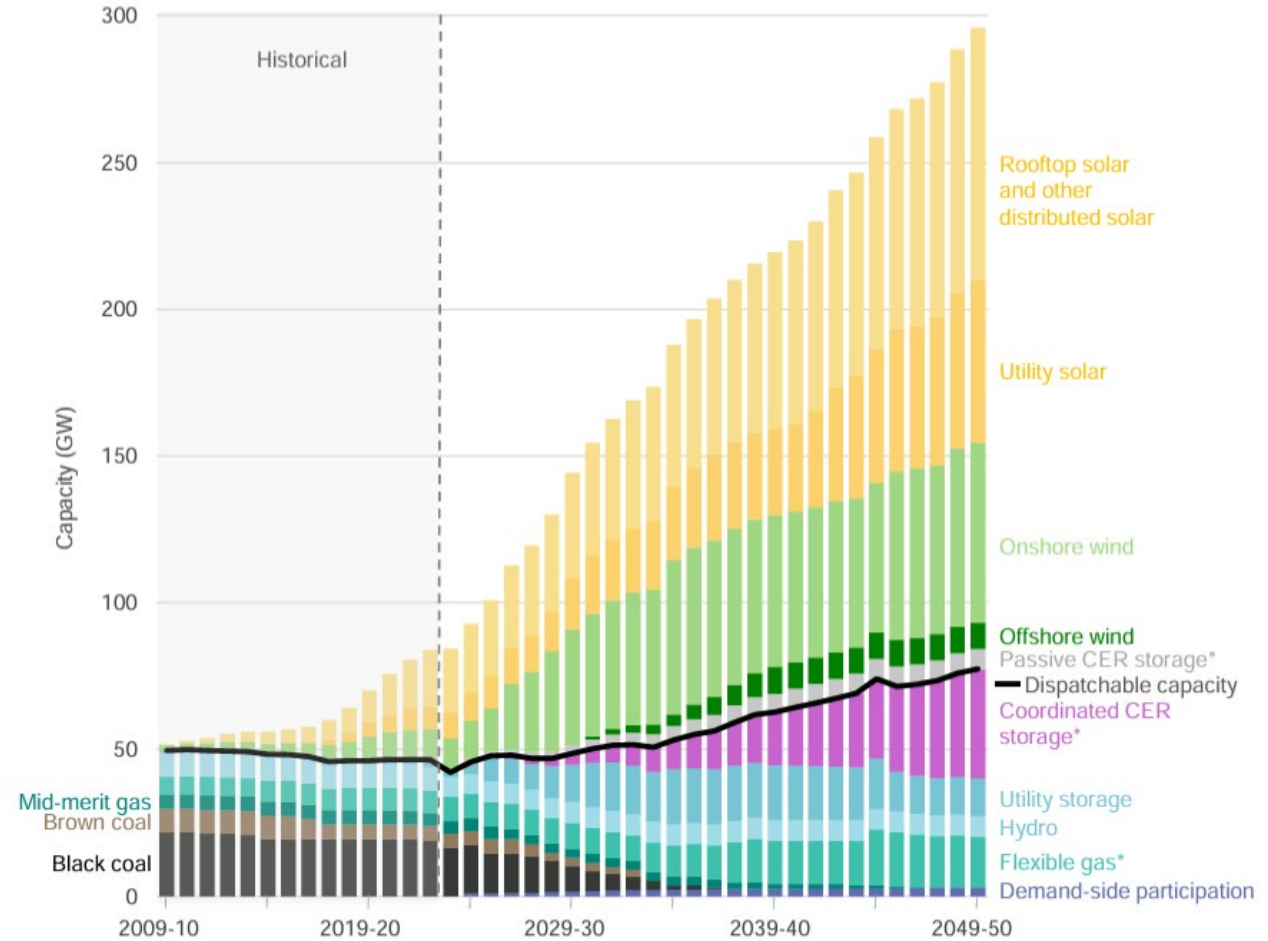


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Energy landscape is vastly different:

- Increasingly **two-way interaction** between consumers and suppliers
- Consumers are now confronted with **multiple decisions/choices** in the energy market
- New services are **complex** and can come with **increased risk** for consumers

**Willingness of consumers to embrace the new array of energy services, along with further innovations will be pivotal to realising benefits of CER in the energy transition**



Source: AEMO, Draft 2024 ISP report and overview.

# Changing energy landscape – nature of the problem



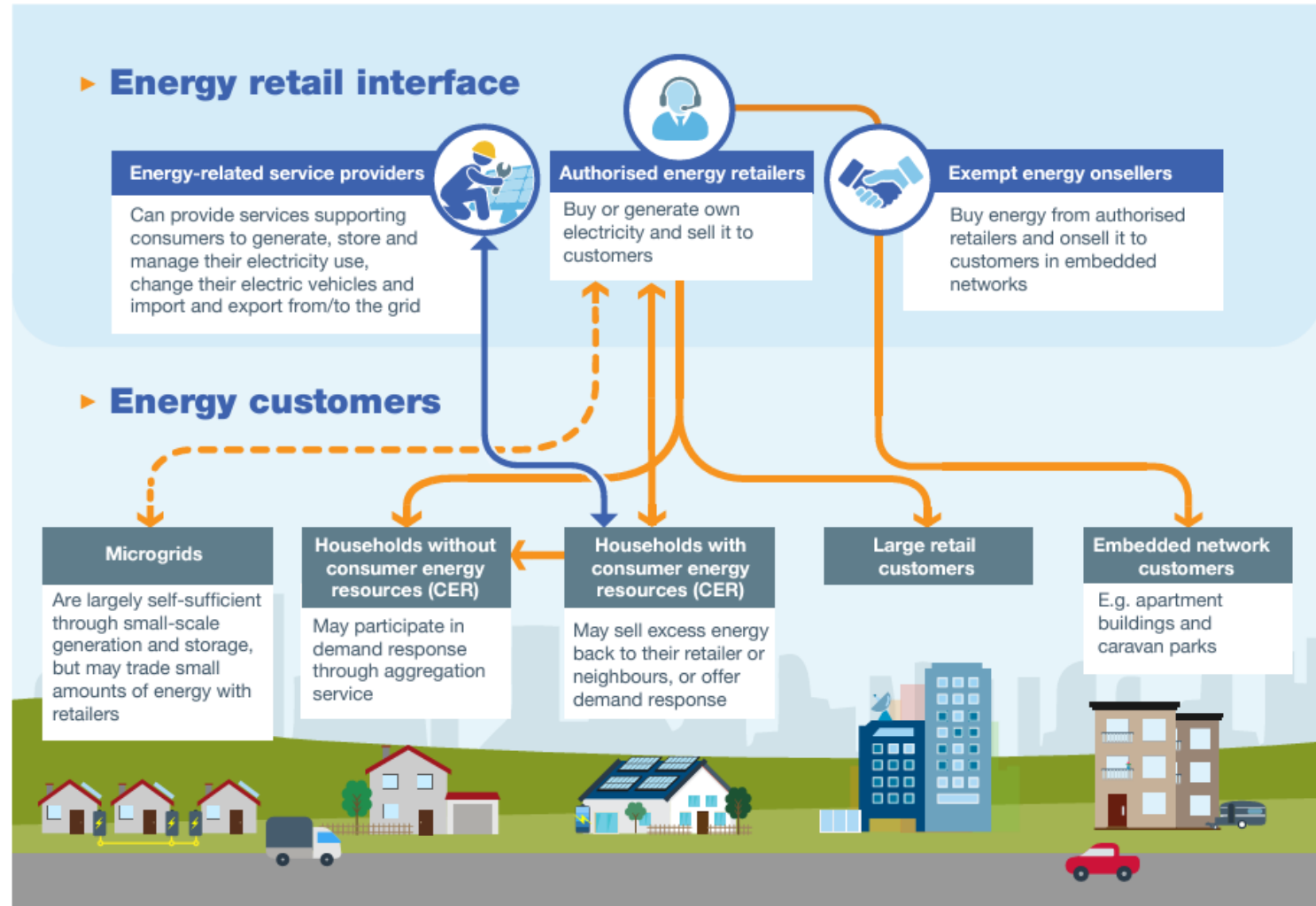
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NECF only **applies to the sale of energy to a person’s premises** and **does not cover two-way interactions** between consumers and providers

NECF **does not capture many of the new services** that are critical in the evolving energy market, such as aggregation and energy management services

**Broad consumer protections of the ACL are insufficient** in mitigating the consumer risks arising from new energy services



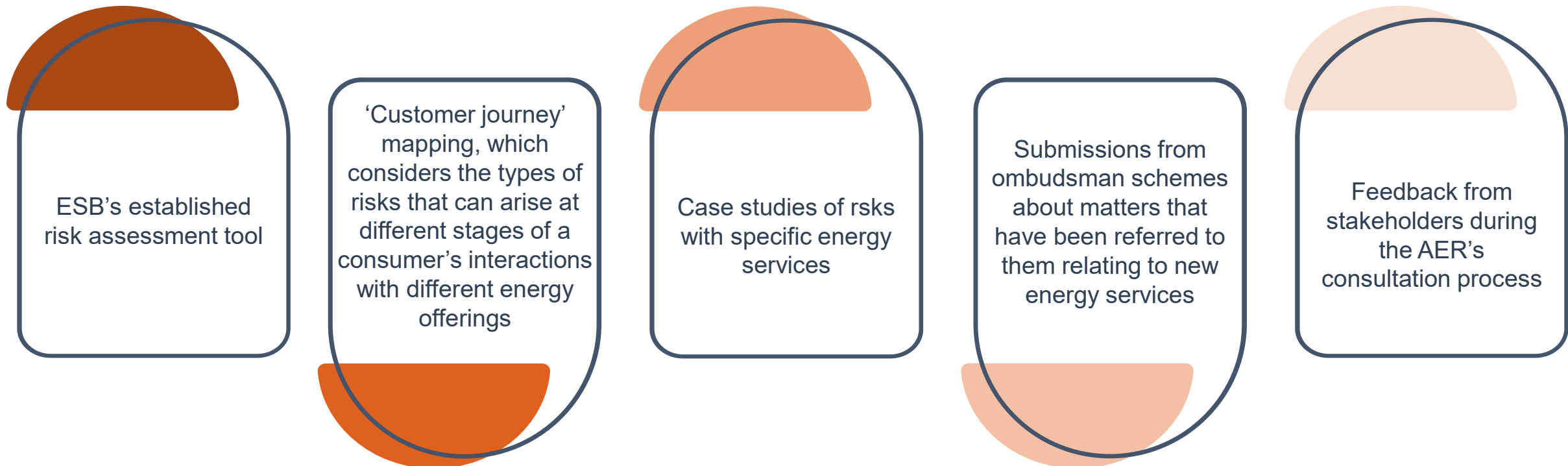
Source: AER, State of the energy market 2023 report, page 217.



# Risk analysis

AER has undertaken an extensive analysis of the potential risks to consumers arising from the new energy services that are now available

The risk analysis draws upon:





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# Key risk themes



Contracts



Information



Performance of services



Control of assets



Payment difficulty



Dispute resolution



Fair provider conduct

# Case for retaining the status quo vs Case for regulatory reform



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## Retaining the status quo

- ✓ Premature to introduce a new model while the **energy market** is still **undergoing transformation**
- ✓ Potentially **create** unnecessarily **high regulatory burden**, further **hindering innovation**
- ✓ **Costs** incurred due to complying with new regulatory requirements could be **passed onto consumers**
- ✓ ACL is sufficient

## Regulatory reform

### ACL

- ✓ **ACL protections** are **not tailored** specifically to energy services, which are likely to have a high degree of complexity
- ✓ While the ACL provides some obligations, they **do not go as far** as the positive obligations included in the NECF

### Essentiality

- ✓ **New energy offerings** may not be considered essential, but they are becoming **increasingly connected with essentiality**
- ✓ **New energy services** being **bundled into traditional retail services** – the boundary is being blurred
- ✓ **New energy management services** have the potential to **control, constrain, prevent or impact the supply of energy** to consumers' premises

### Support from others

- ✓ AER's **case for regulatory reform** also **supported by the Energy Security Board**
- ✓ **Western Australia** is **updating its regulatory licensing and exemptions framework** to provide adequate protections for consumers of alternative electricity business models and services





# Data from Ombudsman schemes

EWON, EWOSA and EWOQ note increasing complaints related to:



Rooftop solar



Residential batteries



Power purchase agreements



Virtual power plants



Bundled retail contracts

Nature of the complaints range from:



Marketing and sales

Installation



Billing

Control of customer assets



System performance

EWOV published a report highlighting the potential kinds of out-of-jurisdiction complaints generated by new energy offerings, including:

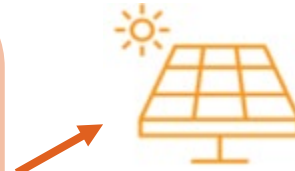
- Problematic leasing agreements
- Unfair contract terms
- Failed grid connection
- High-pressure sales
- Technical product faults and quality issues
- Functional issues from interface with home energy management services
- Virtual power plants or microgrids
- Customer privacy concerns about data security risks
- Unsuccessful integration with home appliances



# Case study provided by EWON, EWOSA and EWOQ

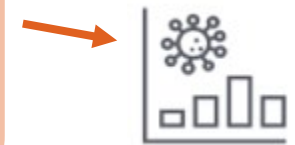
**Bundled service – rooftop solar and battery, solar power purchase agreement, and retail energy services**

- Customer had signed a solar power purchase agreement contract with his authorised energy retailer nine months ago.
- Solar and battery system was installed at his home by a subcontracted solar installer



## Rooftop solar and battery system

- The incorrect inverter was installed, and six solar panels were not working
- The design of the rooftop solar system was not what was promised and did not face north



## Solar power purchase agreement

- The system was only producing 55kWh per day and not the 92 kWh per day that his household required



## Control of the customer assets

- The programming that controlled the system was focused on exporting the electricity generated by the system to the grid, rather than charging his battery



## Electricity bills

- The customer asked for his electricity bills to be reviewed and adjusted to compensate him for the missed benefits of the Solar power purchase agreement over nine months
- Ombudsman may not be able to address an underlying cause of the high bill such as the failure to deliver a behind the meter service, or the billing of a CER contract like a power purchase agreement



# Maintaining a single consumer protection framework

Make it **easier for consumers to understand their rights** and promote trust and confidence in the energy market



Help to **reduce regulatory burden**



**Innovation and uncertainty** around future energy services **creates challenges in designing multiple frameworks**



**Lessons from the operation of embedded networks** note there are clear challenges in implementing tiered regulatory frameworks





# Potential future framework

Principles based approach applies in other jurisdictions and sectors:

- ✓ Ofgem
- ✓ UK Financial Conduct Authority
- ✓ Corporations Law / ASIC

Overarching duty covering new services:

- ✓ Flexible to innovation / change
- ✓ Has benefits in emerging markets involving:
  - Complexity
  - Imbalance in power
  - Material risk

## Three elements

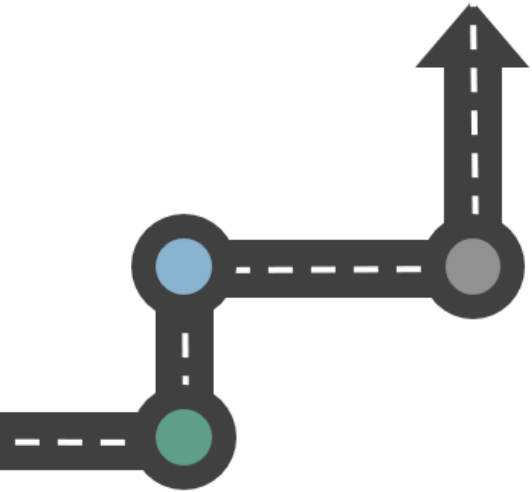
Expanding the scope of the NECF to capture new energy services

Incorporating principles-based regulation including an overarching consumer duty and supported by consumer outcomes

Adjustments to the existing authorisation process



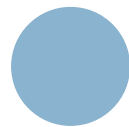
# Implementation considerations & Next steps



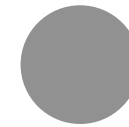
Broadening the scope of the NECF and the introduction of an overarching consumer duty requires an incremental approach, including:



Retaining the existing prescription-based approach for traditional energy retail services



Market entry process to maintain regulatory oversight over new entrants into the market



Develop an appropriate compliance and enforcement framework



Consultation with industry participants to develop the framework – this is important given that any move to a principles and outcomes-based framework will be new and may create some uncertainty



Continue engaging with DCCEEW – Energy Ministers have agreed to develop a National Consumer Energy Resources Roadmap



# National CER Roadmap

Department of Climate Change, Energy, the  
Environment and Water

# Q&A

