

# Review of consumer protections for future energy services

Options for reform of the National Energy Customer Framework

Stakeholder workshop 16 November



# Acknowledgement of country



# Introduction and purpose of today's workshop

# Agenda for today

Time	Allocation	Activity	Presenter
10:10am	5 mins	Welcome and introduction to the workshop	Mark
10:15am	10 mins	Background and review timeline	George
10:25am	20 mins	Risk analysis process	Isabel and Tammie
10:45am	30 mins	Overview of the 3 models	Fiona
11:15am	10 mins	Tea break	
11:25pm	5 mins	Introduction to group activity	Isabel
11:30	1 hour	Breakout groups	All
12:30pm	20 mins	Summary of discussions from breakout groups	All
12:55	5 mins	Conclusion and next steps	Mark

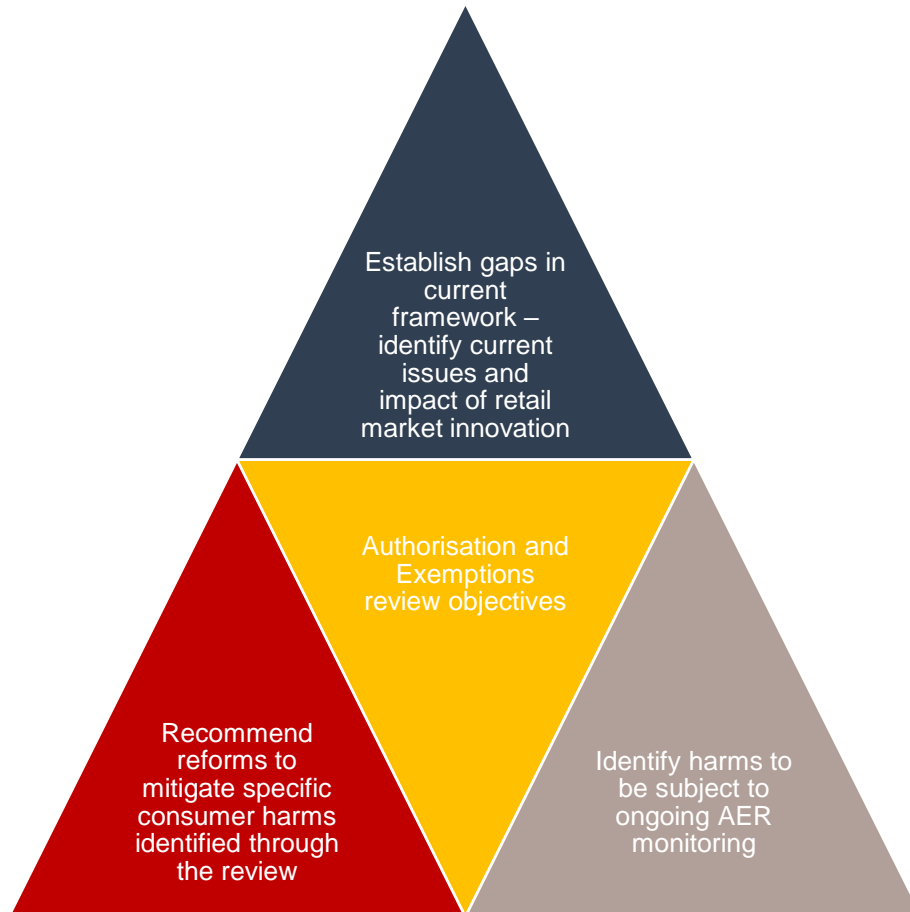
The background of the slide is a close-up, slightly blurred photograph of a calendar page. Several colorful pushpins (red, green, blue, purple, orange) are pinned to the calendar, marking specific dates. The numbers 15, 22, and 28 are visible on the calendar grid. The overall tone is professional and organized.

# Background & timeline of the review

# 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. The current scope of the NECF is limited to the activity of selling energy to customers at premises.
- 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 authorisation and exemption frameworks as an immediate next step for consumer protections in their July final 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 these new business models.
- The review forms part of Horizon 1 of the ESB’s CER implementation plan

# Review scope and objectives

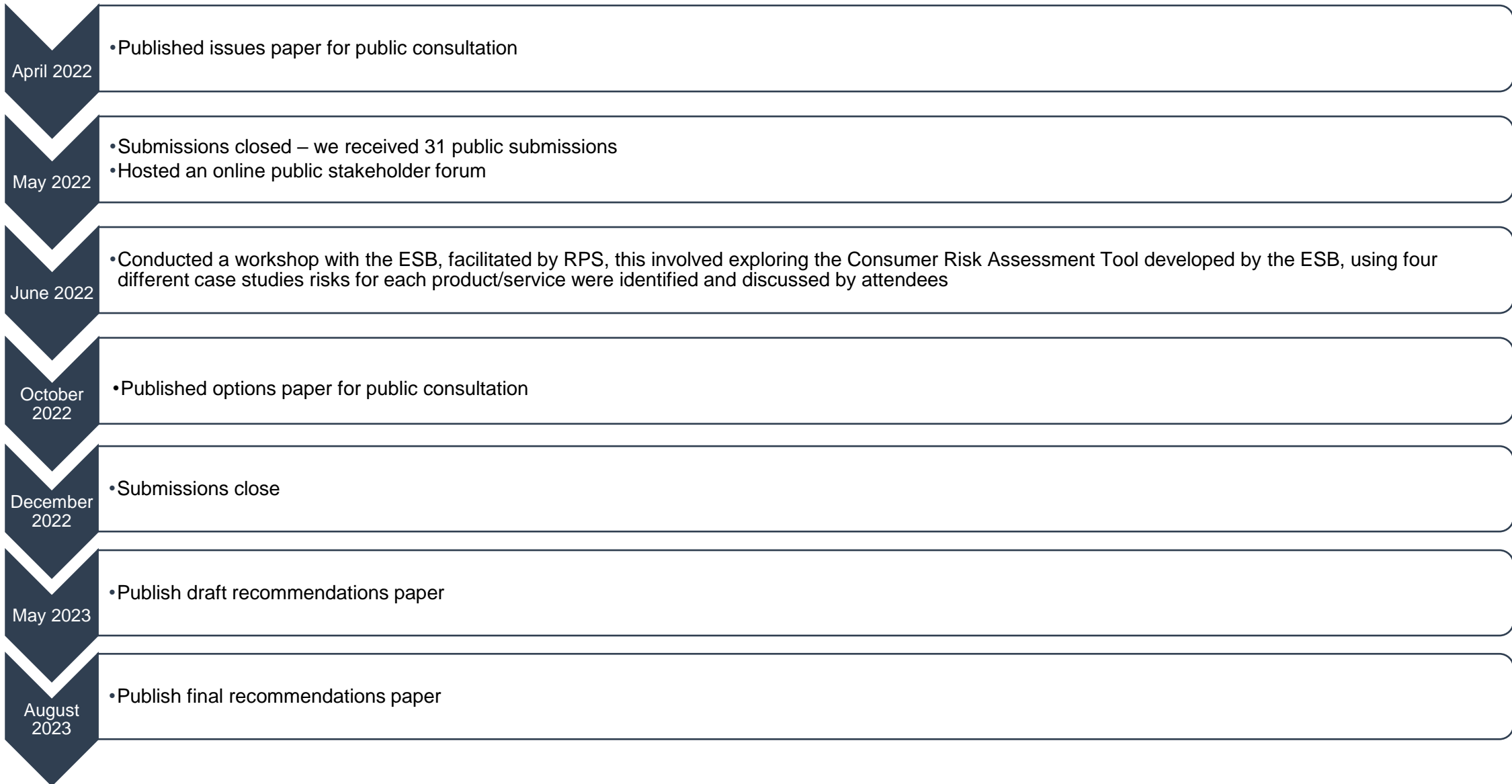


## Review deliverables

Recommendations for:

- addressing identified harms and risks associated with new energy services and products - NECF changes/ develop new regulatory framework.
- closing existing gaps in the A&E framework
- identifying potential harms and risks to be monitored

# Review timeline





# Risk analysis update

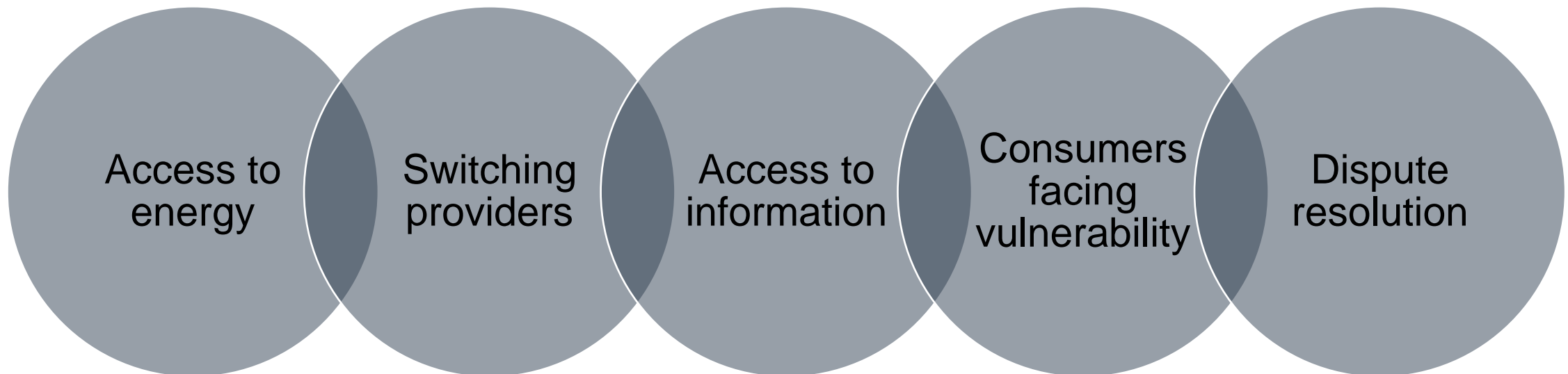


# Assessment to date

A key component of this review is to understand the risks that new energy products and services may pose to consumers, and whether consumers require energy specific regulation to mitigate the potential harms.

The aim of this work is to understand if there are 'residual risks' that aren't mitigated by the current consumer protections framework.

We have been using by the Consumer Risk Assessment Tool, and extensive stakeholder engagement, to identify risks from emerging products and services.



# Identifying risks

- We have identified a range of risks across the different use cases being used
- Risk assessment has also evolved to take into account stakeholder feedback and work of ESB customer insights study
- This allowed us to identify risk themes that occur across a range of emerging products and services

Risk theme	Description
Access	Are there barriers to consumers accessing certain products/services (for example financial, infrastructure, understandability)?
Appropriate technical standards	Are there technical standards in place to ensure technology works the way it should and is interoperable with other technologies?
Bundling	Are bundled products and services appropriate for the consumer's circumstances? Are they explained properly to reduce complexity? What happens if one component of the bundle stops working?
Contracts	Can the consumer understand the contract terms and conditions and whether they are fit for purpose for their circumstances? Consumers need to be made aware of the financial commitment and any lock-in terms.
Control of assets	What are the implications for consumers if a product or service in their household is being remotely controlled by a provider? Are there checks and balances in place to ensure decisions about managing the product or service are to the consumer's benefit?
Data	How is the consumer's data being used and shared with third parties?
Dispute resolution	Do consumers have a clear pathway to dispute resolution when something goes wrong?
Hardship/change in circumstance	Are there processes in place to support consumers if their circumstances change and/or they can no longer pay their bills?
Information provision	Are consumers being provided with key information at the point of sale so they understand the value, costs, fit/appropriateness and complexity of the product or service?
Poor conduct	Are energy providers meeting sufficiently high standards of conduct to ensure consumers have trust in the sector and are not experiencing detriment resulting from poor conduct?
Reliability	Does the product or service work in the intended way?
Supplier failure	What are the implications for customers if a provider goes out of business?

# Customer journey mapping

- We have developed customer journey maps for the various use cases to understand at which stage in a customer's engagement with a product/service the risks are likely to arise
- This will help us to understand the types of protections that may be needed to minimise points of friction across the customer journey

# Preliminary position

More recently, we have been working with stakeholders to:

- understand the probability of risks arising and their materiality on a customer if they do eventuate
- understand how existing consumer protections (e.g. ACL, NETCC) could mitigate identified risks
- What are the residual risks and do they require energy-specific regulation

Based on our work thus far and the range and potential significance of some of the risks identified, the AER's preliminary position, is that there is a strong case for extending energy specific consumer protections to these new products and services.

# How the risk analysis feeds into the chosen reform model

- Each model takes the approach of broadening the scope of the energy consumer protections framework to capture new products and services that do not involve a ‘sale of energy’
- We are yet to determine which products are ‘in’ and which are ‘out’, or the type of protections that should apply to those that are ‘in’
- The outcomes of the risk assessment will support us to determine what type of regulatory interventions, such as the introduction of new energy consumer protections or continued monitoring, are required to mitigate harms to consumers



Questions?

# Reform model options

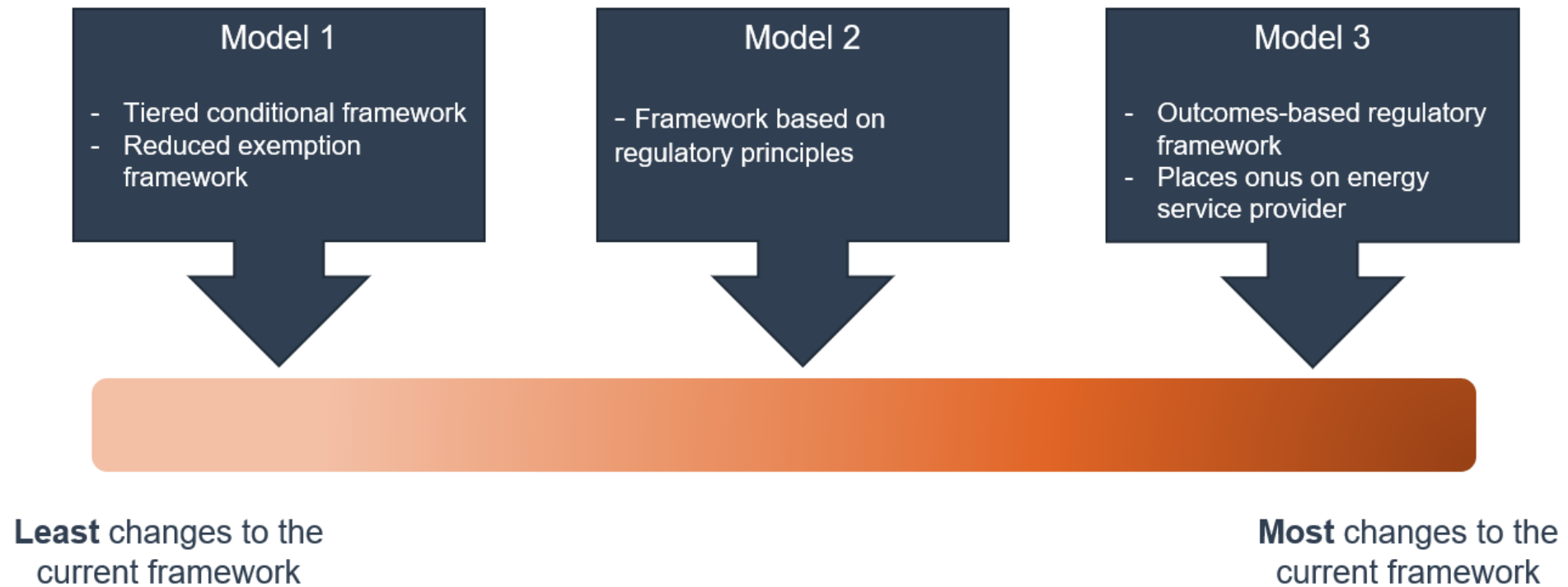




# Options paper

- On 28 October, the AER released an options paper seeking stakeholder views on 3 potential reform options to update the energy consumer protection framework to ensure it will be fit for purpose for future energy services
- The 3 reform models take varying approaches to the key questions this review is tackling:
  - What protections do consumers need to effectively engage with the future energy market?
  - Who should be regulated in the future energy market?
  - How and when are energy providers regulated?
- Each model presents challenges in both development and implementation that need to be carefully considered and they are intended to stimulate discussion and consultation
- Elements of each model can be ‘mixed and matched’, and we are open to discussing suggested changes and ‘hybrid options’
- Submissions to the options paper are due by COB **16 December 2022**

# Proposed reform model options



# Option 1: tiered conditional authorisation framework, with reduced exemption framework

- Tiered authorisation framework operating alongside a reduced exemption framework
- The requirement to be authorised will be extended to include energy service providers that meet certain principles
- Authorisation tiers would be based on the type of energy selling/service/product and the type of customers
- Each authorisation tier will have different (but overlapping) entry requirements and obligations and authorisations may be subject to ongoing conditions

Authorisation tier	Entry requirements	Customer protections
Tier 1) Traditional 'grid' connected energy seller	Similar to current NECF authorisation criteria	Similar to current NECF customer protections
Tier 2) Entities seeking to sell energy within a proposed residential retrofitted embedded network	Similar to current NECF authorisation criteria with additional requirements to address potential loss of customer access to competition	Similar to current NECF customer protections
Tier 3) Entities selling energy to residential embedded network customers	Simplified authorisation criteria	Similar to current NECF customer protections with ability to seek derogation from certain obligations
Tier 4) Entities selling energy to small business embedded network customers	Light handed authorisation process similar to NECF exemption registration process	Based on NECF protections deemed essential to protect small business customers from harm
Tier 5) Entities that provide energy services to residential and/or small customers that fall within the principles/characteristics added to the NECF 'sale of energy' definition	Will be based on risk assessment of new energy products and services	Will be based on risk assessment of new energy products and services

## Option 2: conditional authorisation framework based on regulatory principles

- A conditional tiered authorisation and exemption framework based on certain principles that set out the types of energy services and products that must apply for authorisation to enter the energy retail market
- Consumer protection principles set out at high level the obligations that authorised or exempt businesses must meet.
  - Consumer protections which protect against very high impact risks would be more prescriptive
- The principles will be based on key risk factors for customer harm (it will be broad enough to cover new and future energy services and products)
- Authorisations may be subject to ongoing conditions
- Exemption framework for very small or low-risk sellers
- The AER could be empowered to create guidelines setting out how these principles should be interpreted. Where necessary, the guidelines could be amended to reflect the changing market

## Option 3: outcomes-based regulatory framework

- This model focuses on the characteristics of the end-customer and takes a ‘outcomes-based’ approach with its primary focus to achieve the following objective: “*A service provider must act in the best interest of the customer*”
- The model sets primary principles, requiring the service provider to ‘act’ in the following ways, but providing advice *proactively, conscientiously, reasonably, and demonstrably*.
- Legislation would set regulatory objectives and primary principles to be met and place the onus on the service provider to develop a compliance plan for regulatory approval as to how they will achieve the objective(s), comply with the primary principles and the obligations which depending on type of customer and stage of customer journey.
- Based on outcomes-based frameworks recently introduced by ASIC and ‘consumer’ duty created by the UK Financial Conduct Authority, and underlying policy position that onus should be on service provider to assist customers navigate the market and ensure beneficial outcomes.



Questions?



# Tea break

# Breakout groups

Overarching questions for discussion:

1. Reflecting on the risk analysis undertaken by the AER thus far, do you have views on what new products/services should be captured by the future framework? What are some of the protections consumers might need for those products/services?
2. What are your initial reactions to the model?
3. Can you think of any pros or cons for the model beyond those identified by the AER?
4. What are the potential competitive neutrality implications if this model were implemented? Would this be an acceptable or appropriate outcome?
5. How would this model benefit consumers? What would this model mean for retailers, energy service providers and the AER?



An illustration on a dark blue background featuring a large glowing yellow lightbulb at the top. Below it is a stack of several books. Several stylized human figures are shown working on the books and the lightbulb. One person is on a ladder reaching for the lightbulb, another is on a ladder reaching for a book, and others are standing or sitting around the books. The scene is set against a backdrop of stylized clouds and radiating lines around the lightbulb.

# Conclusion and next steps