

FINAL

Consumer Engagement Framework

Consumer Reference Group

30 September 2020

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1 Introduction

The AER has appointed the Consumer Reference Group to help it implement “an effective consumer consultation process for the Inflation Review and proposed Rate of Return Instrument 2022”.¹ The AER has further set out the CRG’s role to include:

- Advising the AER on consumer engagement
- Actively engaging with consumers
- Providing the AER with consumer insights

Adapting the International Association for Public Participation (IAP2) definition of “community engagement”, “consumer engagement” is a planned process whereby the sponsoring organisations, for this purpose the CRG and the AER, use appropriate methods to exchange information with consumers, and consider their views to inform actions.² Importantly, consultation is only one form of engagement along the IAP2 Spectrum of Public Participation.³ Hence while the CRG will help the AER implement an effective consultation process it considers this in the broader context of consumer engagement.

In June 2020, the CRG established an Engagement Subgroup to provide strategic direction and focus in relation to the CRG’s role. The Engagement Subgroup has prepared this engagement framework document in accordance with best practice public participation principles in line with the IAP2 *Quality Assurance Standard*⁴ to guide:

- Development of CRG strategic goals
- The CRG’s consumer engagement activities
- The CRG’s advice, submissions and recommendations to the AER
- The CRG’s evaluation of engagement evidence of consumer preferences provided by other stakeholders including the AER, advocates, network service providers and investors

The CRG also acknowledges the AER’s *Revised Stakeholder Engagement Framework*⁵ in preparing this *Consumer Engagement Framework* and recognises its considerable synergy with IAP2 standards.

This paper also sets out the CRG’s process for implementing and reviewing consumer engagement activities and the evidence generated from them

¹ <https://www.aer.gov.au/about-us/stakeholder-engagement/consumer-reference-group>

² International Association for Public Participation, November 2014, *Certificate in Engagement, Engagement Design*, p.9.

³ International Association for Public Participation, 2018, *IAP2 Spectrum of Public Participation*, https://iap2.org.au/wp-content/uploads/2020/01/2018_IAP2_Spectrum.pdf

⁴ International Association for Public Participation, May 2015, *Quality Assurance Standard*. https://iap2.org.au/wp-content/uploads/2019/07/IAP2_Quality_Assurance_Standard_2015.pdf

⁵ Australian Energy Regulator, 2017, *Revised Stakeholder Engagement Framework* <https://www.aer.gov.au/system/files/AER%20%20Stakeholder%20Engagement%20Framework.pdf>

2 CRG Context for consumer engagement

The national electricity and gas laws (NEL and NGL) set out consultation requirements imposed on the Australian Energy Regulator (AER) for making a Rate of Return (RoR) instrument⁶. Among other provisions, the AER must establish a Consumer Reference Group (CRG) to help it implement an effective consumer consultation process for making the proposed instrument and consider advice, recommendations or submissions given by the CRG. National energy laws provide that the CRG is to carry out its activities, including giving advice or recommendations to the AER in the way it considers appropriate and the CRG may consult with consumers; facilitate consumer engagement in the process for making the instrument; and make written submissions to the AER about the content of the instrument and the process for making it.

In June 2020, the AER established CRG as an advisory board under s.24 of the *Public Governance, Performance and Accountability Act 2013* to provide input and challenge the AER on key consumer issues associated with the AER's Inflation Review 2020 and Rate of Return Instrument 2022⁷.

In addition, the AER has asked the CRG to provide input on key consumer issues during its Inflation Review 2020. The CRG is also expected to facilitate consideration of consumer perspectives to help the AER achieve a balanced perspective of all views.

Importantly, and in line with IAP2 notions of “negotiables” and “non-negotiables”, the CRG recognises that the engagement is limited to the extent consumers are able to influence the treatment of inflation in the AER's Regulatory Framework and the development of the 2022 Rate of Return instrument. Those aspects of the inflation methodology and rate of return instrument that consumers can potentially, and reasonably influence are the “negotiables”. Rules currently applying to the way in which the AER operates but which are open to change without amending laws are also negotiables. Some factors, including the laws binding AER processes which can only be changed through legislative amendments, and the NEL and NGL specification of the long-term interests of consumers are constraints. They are therefore considered to be “non-negotiables”. Other factors such as the limited ways the CRG can engage with consumers during the COVID-19 pandemic also are also obvious constraints. The context for this framework is therefore limited by those aspects of the inflation methodology and Rate of Return instrument that consumers can potentially influence and current practical constraints. A further material constraint on CRG to perform its role is the allocation of budget which allows for limited research, consumer surveys and consultancy services.

Accordingly, the CRG will need to:

- Encourage and challenge all stakeholders invest in quality consumer engagement
- Be clear about its context and focus for consumer engagement
- Set and agree on the engagement purpose
- Define consumer engagement and best practice consumer engagement

⁶ [https://legislation.sa.gov.au/LZ/C/A/NATIONAL%20ELECTRICITY%20\(SOUTH%20AUSTRALIA\)%20ACT%201996/CURRENT/1996.44.AUTH.PDF](https://legislation.sa.gov.au/LZ/C/A/NATIONAL%20ELECTRICITY%20(SOUTH%20AUSTRALIA)%20ACT%201996/CURRENT/1996.44.AUTH.PDF)
[Subdivision 3-Consultation requirements](#)

⁷ Australian Energy Regulator, *Draft Appointment Agreement for the AER's Consumer Reference Group (CRG)*.

- Agree on and work with a shared and acceptable definition of “consumers” as a basis for understanding and identifying the people to be engaged
- Determine how consumer engagement can influence outcomes
- Have an agreed process for operationalising consumer engagement activities

The CRG has prepared this document in accordance with the International Association for Public Participation Quality Assurance Standard for Community and Stakeholder Engagement.

3 CRG purpose of consumer engagement

In the context of the inflation methodology review and the making of the rate of return instrument, the CRG considers the **purpose of consumer engagement** is as follows:

- To genuinely understand consumers' views in AER decisions
- To ensure the CRG effectively presents energy consumers' opinions and preferences to the AER
- To encourage the AER to consider these views as evidence to influence its decision-making to adequately consider the long-term interests of consumers
- To provide a pathway through which consumers can be heard in regulatory decision making, and thus they can reasonably feel involved in the AER's regulatory processes
- To help the AER make better decisions, provide greater transparency and predictability, and build trust and confidence in the regulatory regime

4 Who are energy consumers?

The AER defines consumers in its *Consumer Engagement Guideline for Network Service Providers*, as follows:

“For this explanatory statement, we use the term ‘consumer’. This term is consistent with the National Electricity and National Gas Objectives. It is also reflected in the National Electricity Rules, which refer to ‘electricity consumers’ consumers’. We acknowledge ‘consumer’ and ‘customer’ have distinct meanings, and it is valid to make the distinction in some cases. We also acknowledge these terms are used interchangeably.”⁸

Specifically, the Australian Energy Market Commission (AEMC) considers consumers as follows:

“Consumers ... [who] normally engage with an electricity or gas retailer who in turn arranges for the delivery of electricity or gas and then bills them for the supply.”⁹

We also searched for definitions of “consumer” among various peak bodies. We could not locate any Energy Networks Australia definition of “consumer”. In contrast, Energy Consumers Australia (ECA) and Major Energy Users (MEU) offer contrasting definitions reflecting the different energy user groups their organisations represent.

The Constitution of Energy Consumers Australia Limited defines consumers as “end users of energy”¹⁰ in particular retail customers such as “residential and small business energy consumers”.¹¹ In contrast the MEU notes:

“The Major Energy Users represents only the interests of energy consumers, and its membership is limited to only those who are consumers of energy ... While the focus of the work we do is for large energy consumers, the Major Energy Users recognises that almost all the advocacy work on energy issues we do provides a benefit for all consumers of energy.”¹²

Ultimately, we conclude the breadth of AEMC’s definition of “consumer”, requiring as it does, engagement with an electricity or gas retailer is inadequate. To represent the interests and aspirations of all consumers, we prefer a definition of consumer which goes beyond a contractual relationship and which embraces both current and future end users of gas and electricity. The CRG therefore includes residential consumers, small businesses, and large and major energy users in its definition. The CRG will also seek the views of energy retailers where appropriate.

For consumer engagement processes to be effective, they need to identify and involve the whole class of affected consumers. In accordance with the IAP2 *Quality Assurance Standard*¹³, this means identifying consumers who:

⁸ Australian Energy Regulator, *Better Regulation Explanatory Statement, Consumer Engagement Guideline for Network Service Providers*, November 2013, page 5.

⁹ Ibid.

¹⁰ Energy Consumers Australia, *Constitution of Energy Consumers Australia Limited* p. 3, <https://energyconsumersaustralia.com.au/wp-content/uploads/Constitution-Energy-Consumers-Australia-Limited.pdf>

¹¹ <https://energyconsumersaustralia.com.au>

¹² <http://meu.asn.au/index.html>

¹³ International Association for Public Participation,

- Are directly affected by AER processes and determinations related to the inflation methodology review and the making of the rate of return instrument
- Are likely to be affected by AER decisions related to the inflation methodology review and the making of the rate of return instrument
- Need and should have a voice in the process including future end users of energy

In line with the above, the CRG assumes:

- All consumers may be affected, but the extent they are affected varies
- Future, consumers may be affected by decisions made in the current regulatory processes
- Not all consumers [feel a] need or desire to have a voice in the process
- The weighting assigned to the views of segments of energy consumers is somewhat dependent on the materiality of their concerns - issues which may affect a few consumers and in minor ways may not have the same weighting as things which affect larger numbers with a greater impact

The CRG recognises consumers are diverse with differing characteristics, energy needs, expectations, and perspectives as well as diverse interests in the subject matter and the extent they may benefit or be disadvantaged by the decisions. Consumers can be segmented into different categories using statistical methods, sector definitions or conceptually¹⁴ based on a range of variables. Segmenting energy consumers into meaningful groups is useful both for designing appropriate consumer engagement activities and ensuring a diversity of consumer perspectives are captured and considered.

In the context of its broad role and consumer engagement purpose, the CRG has reviewed a range of segmentation approaches and how they might apply to its purpose. For example, in 2016 the Australian Energy Market Commission (AEMC) commissioned Newgate Research¹⁵ to understand consumers' vulnerability in the energy market, with the aim of identifying the needs of the most vulnerable consumers. Seven segments were identified based on a selection of behavioural and attitudinal measures of a sample of residential consumers using multivariate statistical methods. In contrast in 2017, Energy Consumers Australia funded a project¹⁶ to understand the changing needs of residential energy consumers to facilitate energy education. In that project the segmentation was informed by a literature review and subsequent analysis of qualitative data to create six household segments defined by household goals, decision-making

¹⁴ Acil Allen Consulting, November 2018, *Supporting Households to Manage their Energy Bills, A Strategic Framework. Report to Energy Consumers Australia*. <https://energyconsumersaustralia.com.au/wp-content/uploads/Supporting-Households-to-Manage-Their-Energy-Bills-a-Strategic-Framework.pdf>

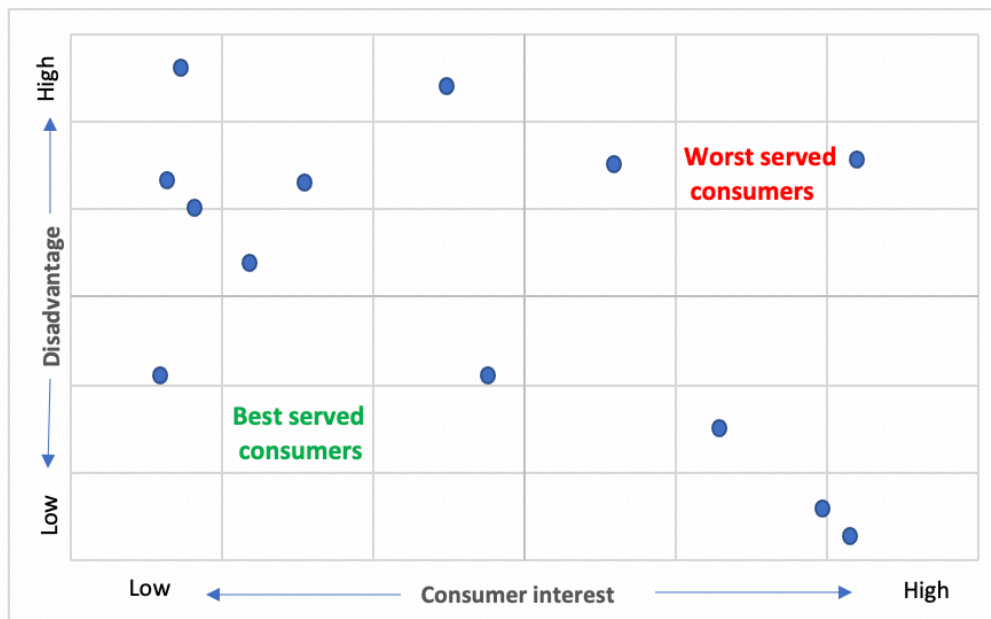
¹⁵ Newgate Research, 2016, *AEMC Retail Competition Review: Understanding Vulnerable Customer Experiences and Needs*, Consumer Research Report. <https://www.aemc.gov.au/sites/default/files/content/feb45d05-2b12-4d0c-b66f-3ca1c4dc2347/Consultant-Report-2-Newgate-Vulnerable-customer-research-FINAL-for-publication-%28pdf%29.PDF>

¹⁶ Russell-Bennett, R., Mulcahy, R., McAndrew, R., Letheren, K., Swinton, T., Ossington, R., & Horrocks, N. (2017). Taking advantage of electricity pricing signals in the digital age: Householders have their say. A summary report. Brisbane: Queensland University of Technology. https://energyconsumersaustralia.worldsecuresystems.com/grants/821/Segmentation-model-for-engaging-consumers-digitally_final-report.pdf

structure and attitude to time of use electricity pricing. The segmentation was validated through an online consumer survey. Neither example represents a correct or incorrect segmentation of energy consumers. In each example, the purpose of the segmentation determined the population that was being segmented and the choice of variables for classifying energy consumers. Notably, both segmentations were developed for residential consumers only, and it would be unwise to infer they could be generalised to include business consumers such as major energy users without any empirical evidence.

Given the limitations of the above statistical models, the CRG also considered and has adapted the Public Interest Advocacy Centre’s (PIAC) conceptual two-dimensional model of consumer engagement as a tool for segmenting consumers. As shown below the two dimensions are “consumer interest” and “consumer disadvantage”. Any energy consumer, resident or business, will have their own set of coordinates on the chart, according to the impact of the issue (disadvantage) and their interest in the issue.

Figure 4-1: Conceptual model of consumer engagement with the energy market and energy use



This basis of segmentation has meaning in the context of the inflation methodology review and the making of the rate of return instrument. For both topics, individual residential and business consumers will be impacted differently, and some will have high interest levels in the subject matter while others will have limited interest.

5 Engagement challenges

The CRG recognises a number of challenges in achieving the engagement objectives

1. Establishing a definition of the “long-term interests” of consumers that is both functional and readily understood by consumers.
2. Consumers’ lack of familiarity, and even interest, in the framework for network regulation, including limited understanding among many consumers about the source of their energy (i.e. energy generation and distribution).
3. The complexity of the elements arising in cost of debt, future inflation expectations and the cluster of issues comprising the rate of return instrument. Underlying these already complex matters is the need to apply the overriding standard of long-term interests of consumers and the consequential materiality of these to consumers.
4. The COVID-19 pandemic which:
 - Is expected to impact how consumers will consider their long-term interests, especially when many are contending with significant and unexpected short-term financial and other challenges
 - Which limits the ways the CRG can effectively engage with consumers (i.e. face-to-face meetings, deliberative forums and surveys are not an option in the foreseeable future)
5. Limited resources for consumer engagement

In relation to the first two challenges and for the purposes of CRG engagement activities, the CRG proposes to adopt the ECA’s operationalised view of the long-term interests of consumers, that is “the long-term interests of consumers are efficiently served”¹⁷ such that “current and future consumers pay no more than they need to for the quality of service they require.”¹⁸

In relation to challenge 3, the CRG is cognisant of KPMG’s comments about Network Service Providers’ (NSP) engagement activities in its 2019 review of the AER’s Consumer Challenge Panel (CCP).¹⁹ In that review, KPMG noted a divergence in NSPs’ ability to undertake robust and transparent consumer engagement and reflect consumer preferences into their proposals. Further, while most network service providers have continuously improved and included consumer engagement into their business-as-usual activities, this is not consistent across the National Energy Market. While the CRG’s mandate does not extend to the evaluation of the quality of engagement presented in NSP submissions, the CRG expects it can reasonably comment on whether the AER’s *Stakeholder Engagement Framework* actively encourages (or requires) NSPs to undertake robust and transparent consumer engagement to reflect consumer preferences in their

¹⁷ Energy Consumers Australia, October 2018, *Operationalising the Long-Term Interests of Consumers*, p.9, <https://energyconsumersaustralia.com.au/wp-content/uploads/Operationalising-the-Long-Term-Interests-of-Consumers.pdf>

¹⁸ Energy Consumers Australia, October 2017, *Electricity Network Transformation Roadmap Interim Report Launch*, <https://energyconsumersaustralia.com.au/wp-content/uploads/Energy-Queensland-Energex-and-Ergon-Energy-Our-Draft-Plans-2020-25-Submission.pdf>

¹⁹See <https://www.aer.gov.au/about-us/stakeholder-engagement/consumer-challenge-panel/independent-reviews>

regulatory proposals, as well as a public and open assessment of their consumer and stakeholder engagement activities. The current focus of network engagement programs is on their capex and opex and sometimes depreciation. Networks have not sought to undertake engagement with respect to inflation and rate of return.

In relation to challenge 4, the CRG has developed a process for evaluating evidence (see Section 8).

In planning its engagement activities, the CRG will naturally consider challenges 5 and 6 to ensure its engagement activities are safe, ethical and represent prudent use of available resources.

6 Level of engagement

Consumer engagement can occur at different levels, and with the broad purpose of consumer engagement the CRG has identified the IAP2's Public Participation Spectrum²⁰ as a valuable tool for contextualising different levels of consumer engagement for specific purposes within its remit. The following table has been adapted from the IAP2 Spectrum. The CRG expect its engagement activities, and any evidence of engagement it reviews to be focused on informing, consulting and involving. The technical nature of the reviews, the stakeholder groups and the legislative context limit the opportunity for energy consumers to be the final decision makers in the inflation methodology review and the making of the rate of return instrument.

Table 6-1: Application of IAP2 Spectrum to CRG consumer engagement

Consumer engagement goal	Purpose of engagement
Inform consumers	To provide energy consumers with meaningful, relevant and objective information about the inflation methodology review and the rate of return instrument to assist them in understanding the reviews so they can form an opinion as to their preferences
Consult with consumers	To obtain meaningful insights and feedback on energy consumers' interests and preferences on the inflation methodology review and the rate of return instrument
Involve consumers	To work directly with energy consumers to ensure energy consumers' concerns and expectations are consistently understood and considered.
Collaborate	To partner with energy consumers in each aspect of the inflation methodology review and the rate of return instrument development, including the development of alternative approaches and the solution that best balances consumers preferences against other stakeholders
Empower	To place the final decision with energy consumers

²⁰ International Association for Public Participation, *Quality Assurance Standard*, page 18.

6 Reaching consumers

As previously mentioned, a key challenge with the Inflation Methodology Review and the making of the Rate of Return Instrument is the topics are highly technical. The AER's 2017 and 2018 Rate of Return Instrument reviews highlighted challenges in directly engaging advocates on these topics, let alone consumers themselves. Only three consumer organisations made submissions to the 2017 inflation review process, as well as direct input from the Consumer Challenge Panel.²¹ Although the AER's received more than ten submissions from consumer organisations, this was largely associated with having members on the AER's Consumer Reference Group. Through their CRG membership, consumer organisations were exposed to the technical concepts of these reviews to the extent they could prepare a meaningful submission on behalf of consumers.²²

Nevertheless, the CRG clearly has a responsibility, and the AER expects the CRG, to broadly engage with consumers. The CRG also believes it should explore and where resources permit, test different approaches to engaging with a wide diversity of consumers on these matters. This also includes consumer advocates and other consumer-oriented organisations.

To assist, the CRG has prepared a list of examples (see Appendix A) of consumer cohorts that may be engaged during the review processes. The list is not intended to be exhaustive and the CRG recognises the challenges inherent in attempting to capture the full range of organisations who could have an interest in the current processes.

²¹ Australian Energy Regulator, *Review of Expected Inflation 2017: Submissions, 18 April 2018 to 29 June 2017*.

²² Australian Energy Regulator, *Rate of Return Instrument: Submissions – Consultation Paper, 31 July 2017 to 28 August 2017*.
<https://www.aer.gov.au/networks-pipelines/guidelines-schemes-models-reviews/rate-of-return-instrument-2018/initiation#step-57844>

7 Operationalising this framework

Operationalisation of this framework is based on the application of best practice engagement principles which could also draw on international examples to extend the scope of engagement activities.

7.1 Initiating and undertaking consumer engagement activities

This section sets out the CRG's processes for initiating and undertaking consumer engagement activities

1. Define the individual engagement **project purpose** as it relates to specific aspects of the inflation methodology review and the making of the rate of return instrument
 - a. What is the issue?
 - b. What sort of evidence are we seeking – ranging from qualitative insights to statistically based evidence?
 - c. What level of engagement is required?
2. Determine **the specific questions** that need to be asked to address the engagement issue and in the context of the engagement level
3. Establish the **relevant consumer groups for the engagement**
 - a. Consumers (and consumer segments)
 - b. Advocates
 - c. Both
4. Determine **how to best reach** these consumer groups, taking into account the engagement purpose and level of engagement documenting the scale, e.g.
 - a. Inform: flyers, social media, emails to advocates etc.
 - b. Consult: interviews with consumers and advocates, consumer surveys
 - c. Involve: workshops, deep-dives and forums
5. Determine the scale of engagement in line with the purpose as well as specific questions, time, budget and other resource requirements
 - a. Sample design and sample size
 - b. Practical considerations including ability to reach consumer groups, their willingness to engage (such as expected survey response rates), at
6. Determine who will manage, deliver and report on the engagement
 - a. Is the engagement best conducted by the AER, networks, CRG, a combination or other?
 - b. What are the processes for the CRG to input into data collection instruments, methodology and reporting?

7. Need to consider evidence of consumer engagement carried out by other parties (e.g. NSP's)
8. Determine how to assess the quality of evidence obtained from the engagement
 - a. Primary evidence from consumers (their experiences and perceptions)
 - b. Primary evidence from advocates (e.g. those with direct contact with consumers)
 - c. Secondary evidence from advocates (how have they formed their views?)

7.2 Evaluating consumer engagement activities

1. What was the individual **project purpose** as it relates to specific aspects of the inflation methodology review and the making of the rate of return instrument?
2. Who were the **relevant consumer groups for the engagement?** (Consumers, advocates, both?)
3. Is the sample representative in line with the engagement purpose?
4. What were **the specific questions** to address the engagement issue and in the context of the engagement level?
 - a. Were the questions meaningful and relevant?
 - b. Could they be readily answered by consumers/advocates
5. What was the intended engagement level?
6. How were consumers engaged?
7. What were the findings?
 - a. Are the analysis methods appropriate in relation to the conclusions?
 - b. Have they or could they be independently verified?
8. What were the limitations of the engagement
9. Determine the overall quality of evidence obtained from the engagement
 - a. Primary evidence from consumers (their experiences and perceptions)
 - b. Primary evidence from advocates (e.g. those with direct contact with consumers)
 - c. Secondary evidence from advocates (how have they formed their views?)

Appendix: Example consumer cohorts and advocates

Consumer cohort	Advocate examples	Consumer examples
Large energy users	Major Energy Users (MEU) Energy Users Association of Australia (EUAA) comprising about 60 member organisations (some are also MEU members)	Large manufacturers (steel, cement, chemical, resource and automotive industries)
Commercial and industrial users	Australian Industry Group (AIG)	Wesfarmers, Woolworths, BlueScope, Sydney Water, Visy, Harvey Norman, Crown
Other “energy critical” organisations	State Farmers’ Federations United Dairy Farmers, Irrigators	Local government Hospitals Farm businesses (e.g. dairy farms highly sensitive to momentary outages)
	Master Builders Association	Building industry
Other organisations	Chambers of Commerce Employers’ Associations Australian Industry Group Municipal Associations	State and Commonwealth Government departments and agencies Local government (e.g. street lighting interests) Commercial enterprises Schools, universities
Residential and small business energy users	Energy Consumers Australia Ombudsman	Retailers Cafes and restaurants Service providers
Urban residential customers	Energy Consumers Australia Ombudsman	Urban residents – owners and tenants
Rural and regional residential customers	Energy Consumers Australia Ombudsman Regional Development Victoria	Small town customers Rural residents End of SWER line customers
At risk and vulnerable residential customers	Council on the Aging	Older Australians
	People with Disability Australia	People with disabilities
	Sydney Alliance (example) Ethnic Communities Council	People from non-English speaking backgrounds

Consumer cohort	Advocate examples	Consumer examples
	Indigenous Consumer Advocacy Network, Dubbo (example)	Aboriginal and Torres Strait Islanders
	Dialysis and Transplant Association of Victoria	Life support
	Financial Counselling Australia	Low income (financially vulnerable)
	Tenants Associations	Tenants
	Various not for profit organisations (Vinnies etc) Ombudsman Council of Social Services Public Interest Advocacy Centre	General Other minority/special needs groups
Solar/renewable energy customers	Renew Various local solar and renewable energy community groups Australian Energy Council Clean Energy Council Solar citizens	Residents Business and commercial customers
Environmentalists	Conservation Councils	
Retailers	Australian Energy Council Energy Retailers Association of Australia	
Future customers	Urban and Regional Futures (ACT) Regional Development Victoria Renew	Planners?