AUSTRALIAN ENERGY REGULATOR

AER joint review of ring-fencing (electricity distribution) and shared asset guidelines

I wish to acknowledge the Traditional Custodians of the lands on which we meet today.

I pay our respects to Elders past, present and into the future. We acknowledge their continuing connection to the land, sea and community.

I acknowledge and welcome any Aboriginal and Torres Strait Islander people who are attending today’s event.

Today’s discussion will include …

Introduction (15 mins)

- Opening remarks (AER Board member)
- About the review, including:
  - Focus and scope of the review
  - Review timeline, including key milestones
  - Service classification, ring-fencing and shared assets

Discussion and feedback (1 hour 45 minutes)

- Discuss issues proposed in scope of review, including:
  - Related electricity service providers (RESPs)
  - Functional separation and affiliated entities
  - Ring-fencing waivers
  - Shared assets, materiality and benefit sharing
  - Compliance, monitoring and reporting
- Provide feedback on what is working, what is not working and what should change

Feedback provided during the workshops will be documented and considered alongside submissions to the call for input and other evidence gathered through the review. This feedback will inform the AER’s policy development process, including the development of the draft decisions and final decisions.

Opening remarks

AER Board member

5 minutes

Introduction

10 minutes

About the review

We are reviewing the Ring-fencing Guideline (electricity distribution)(v5) and the Shared Asset Guideline (v2)

What do the guidelines do?

- **Ring-fencing Guideline (electricity distribution)**
  Requires DNSPs to separate direct control services from other services they or their affiliates provide, through legal, accounting and functional separation.
- **Shared Asset Guideline**
  Ensures consumers receive an appropriate share of benefits where assets funded through regulated revenues are used to provide other services.

What will the review consider?

The review will consider whether the guidelines appropriately manage the risks of cross-subsidisation, discrimination and unfair competitive advantage, while ensuring consumers receive appropriate benefits where regulated assets are used for other purposes.

Why are we reviewing the guidelines now?

- The AER has received extensive stakeholder feedback on the need to review the guidelines, including through the 2024/25 limited scope review of the Ring-fencing guideline (electricity distribution) and 2025 review of the Shared Asset Guideline.
- Rapid changes in distribution networks, including growth in consumer energy resources (CER), new technologies and business models, and increasing interaction between regulated network functions and contestable markets.
- The guidelines were designed to meet the challenges and concerns at the time they were developed. Although both guidelines have been amended incrementally over time, they have not been holistically reviewed since their introduction.

Scope of the review

In scope

Ring-fencing

- The effectiveness of the ring-fencing guideline's functional separation clauses
- The role of DNSPs in the delivery of negotiated distribution services and unregulated distribution services.
- The purpose and benefits of part of a business that is a RESP, but functionally separate
- Whether the decision-making framework for assessing ring-fencing waiver applications allows the AER to consider the benefits and risks of granting or denying a waiver.
- Opportunities to make the guidelines clearer and more succinct
- Whether the current reporting requirements under the guidelines should be adjusted.

Shared assets

- The treatment of multi-use assets, including how costs and revenues should be attributed where assets funded through regulated revenues are used to provide other services.
- Whether current shared asset benefit-sharing arrangements, including materiality thresholds and sharing ratios, remain appropriate.
- How the Shared Asset Guideline applies to emerging technologies and services, including assets with dynamic or evolving uses.
- Opportunities to make the guidelines clearer and more succinct

Out of scope

- Service classification and what services DNSPs should be able to provide. For example, whether owning and operating EV charging infrastructure or grid-connected batteries are direct control services and if DNSPs should be allowed to offer these services.
- Changes to the Ring-fencing guideline (electricity transmission)
- Changes to rules or legislation e.g. ring-fencing or shared asset obligations in the NER

Review timeline

We will take a dynamic approach to stakeholder engagement to reduce the burden on stakeholders, where possible, as we are aware of the number of concurrent consultations and reform processes across the sector.

We will also ensure the review is conducted efficiently, while not compromising on our ability to engage with stakeholders and the issues under consideration.

Call for Input
25 June

→

Stakeholder workshops
July 2026

→

Information notices to DNSPs & affiliates
Late July 2026

→

Call for input closes
6 August 2026

↓

Draft decision
September/October 2026

→

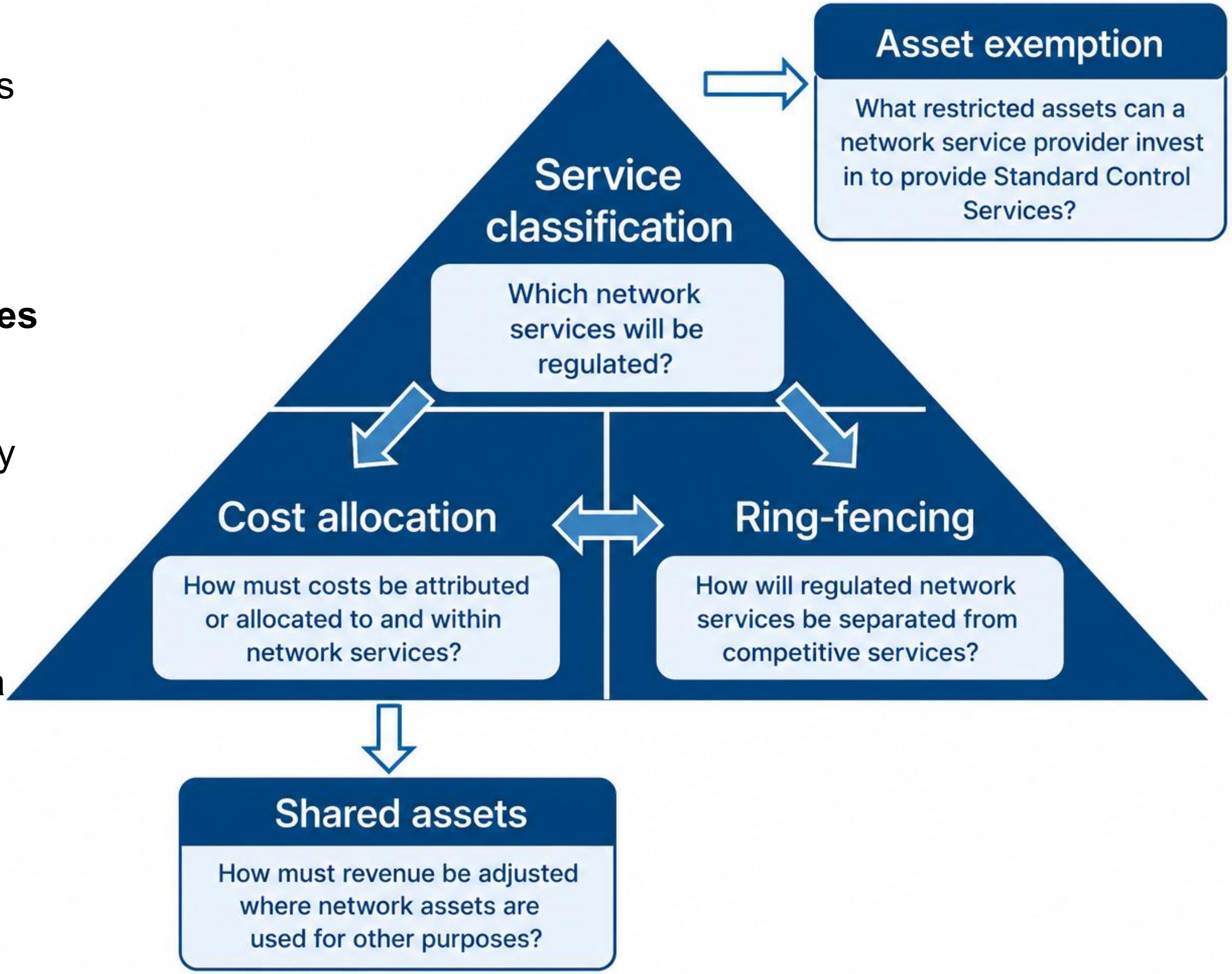
Draft decision consultation
October – November 2026

→

Final decision
December 2026

Service classification, ring-fencing & shared assets

- **Service classification** determines how a network service provider's distribution service is regulated, including its **regulatory treatment, cost-recovery approach and ring-fencing requirements.**
- **Ring-fencing** separates **direct control services** from other services provided by a network service provider or its affiliates. The guideline sets the **conditions and obligations** that apply to maintain this separation.
- **Shared assets** are used to provide both **regulated electricity services and unregulated services**. The AER may reduce a service provider's revenue allowance to reflect costs attributable to **unregulated generated from shared assets.**



Discussion

1 hour 45 minutes

Discussion topic 1:

Related electricity service provider (RESP)

20 minutes

Related Electricity Service Provider (RESP)

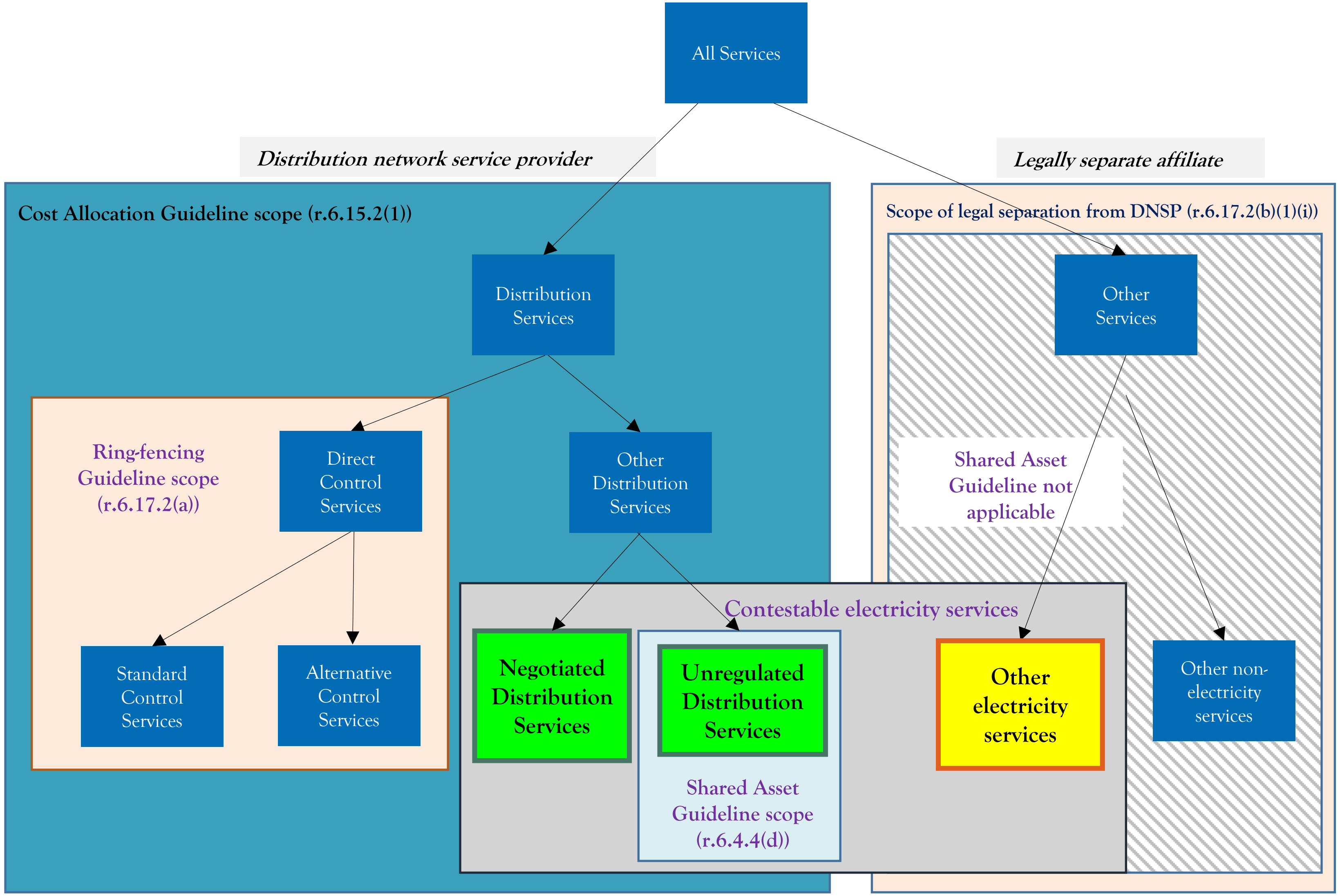
- **Related electricity service provider**, in relation to a **DNSP**, includes:

  a) an **affiliated entity** of the **DNSP**; and;

  a) the part of the **DNSP**

  that provides **contestable electricity services** but excludes a part of an **affiliated entity** that provides **direct control services**.

Source: AER, *Ring-fencing Guideline (Electricity Distribution)* (Version 4, February 2025), clause 1.4 (Definitions – "related electricity service provider").



Part of a business that is a RESP

Part of the DNSP that is a RESP

Operates within the DNSP

- Subject to functional separation obligations
- Includes non-discrimination, staff and office separation, branding and information controls
- Does not require a separate legal entity

RESP as affiliated entity (external)

Operates through an affiliated, legally separate entity

- Subject to functional separation obligations
- Also subject to legal separation
- Also subject to accounting separation

‘Contestable services’ delivered by part of the DNSP that is a RESP

Negotiated distribution service

1 What is it?

- Classified by the AER through each DNSP’s F&A process as part of the reset determination.
- Negotiated transmission service via dual function asset (small number of cases).

2 What it means in practice?

- Used where a distribution service is provided to an applicant on negotiated terms.
- The framework requires good-faith negotiation and information exchange; dispute resolution process determined under the NER.

3 How it has been used

- There have not been many negotiated distribution services since 2016.
- In the Victorian 2026–31 determinations, third-party EVCI asset rental was classified as negotiated.

Unregulated distribution service

1 What is it?

- A distribution service not classified as a direct control or negotiated distribution service.
- Where economic regulation is not warranted, the service remains unregulated.

2 AER's role

- The AER does not classify services as “unregulated”.
- It may identify them on a non-exhaustive basis in classification materials for clarity and transparency.

3 Examples

- Distribution asset rental — office space, poles and ducts, and EV-charger space.
- Contestable metering support services (depending on jurisdiction)

Feedback and observations: RESP

Staff observations, interactions with DNSPs and feedback from stakeholders

1 Access-related activities appear common

Access-related activities appear to be one of the more common categories of unregulated distribution service associated with part of the DNSP that is a RESP, in addition to delivery of jurisdictional schemes.

2 Negotiated distribution services may not fit neatly

Negotiated distribution services may not be well suited to functional separation obligations, given the nature of those services and how they are commonly delivered.

3 Limited visibility of unregulated services

It is not always clear which unregulated distribution services are being provided through part of a DNSP business that is a RESP, making the scope of those activities harder to identify.

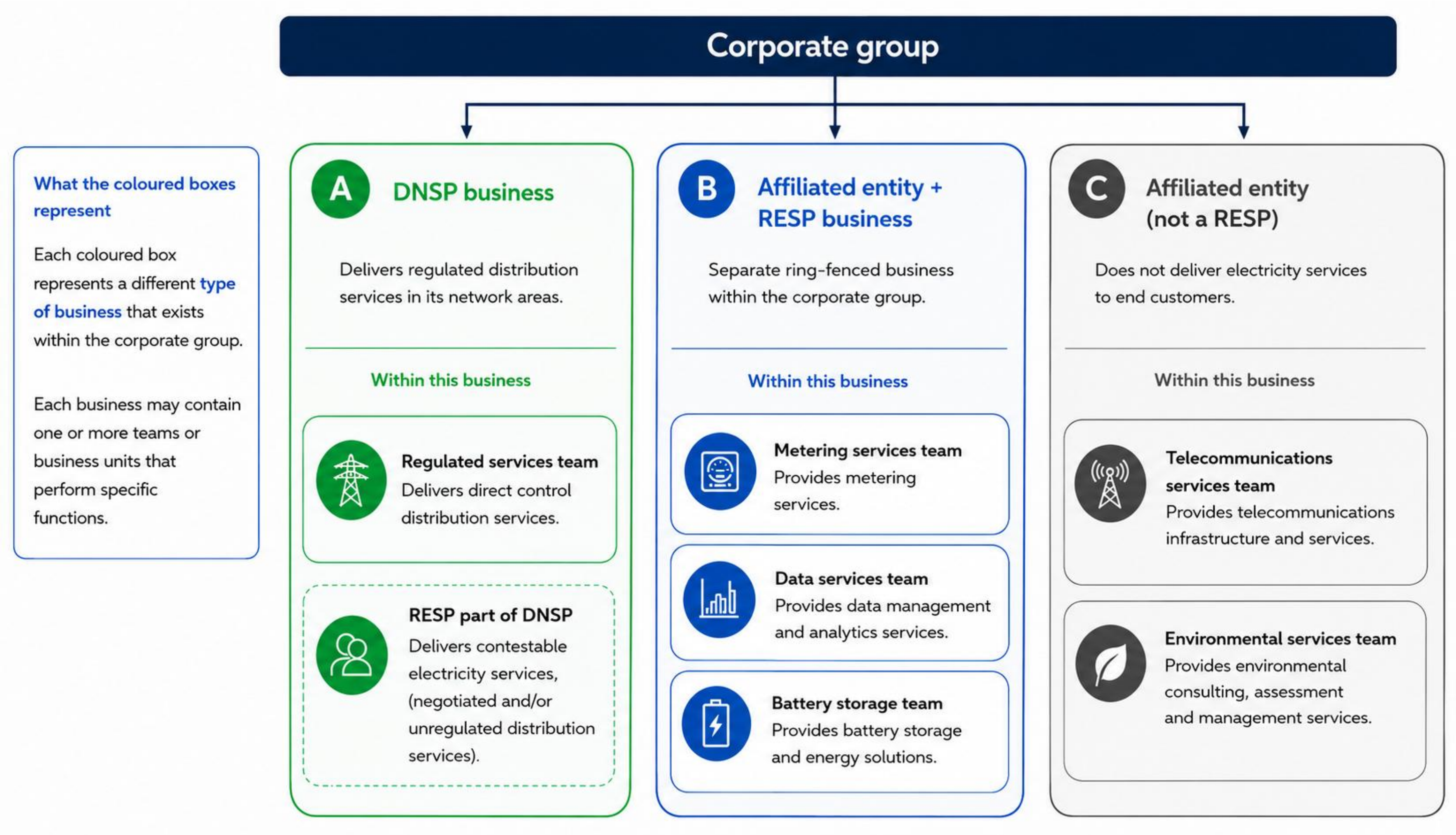
4 Functional separation may be difficult to demonstrate and enforce

Embedding RESP activities within the DNSP business creates practical risks across shared staff, systems, incentives, information flows and decision-making. The corporate services carve-out may amplify these risks where shared support functions have visibility across, or influence over, both DNSP and RESP activities.

5 RESP models may not be used consistently

Not all DNSPs may have established a part of a business that is a RESP, or provide unregulated or negotiated distribution services. Practice appears to vary across businesses.

Scenario 1: Part of a business that is a RESP



Questions: Part of a business that is a RESP

Functional separation requirements apply to provision of unregulated and negotiated distribution services by the part of the DNSP that is a RESP.

1. What are the costs and benefits of requiring a DNSP to comply with functional separation requirements to deliver negotiated distribution services?

2. What unregulated distribution services do DNSPs provide? Can you provide examples of types of services?

3. What are the costs and benefits of requiring a DNSP to comply with functional separation requirements to deliver unregulated distribution services?

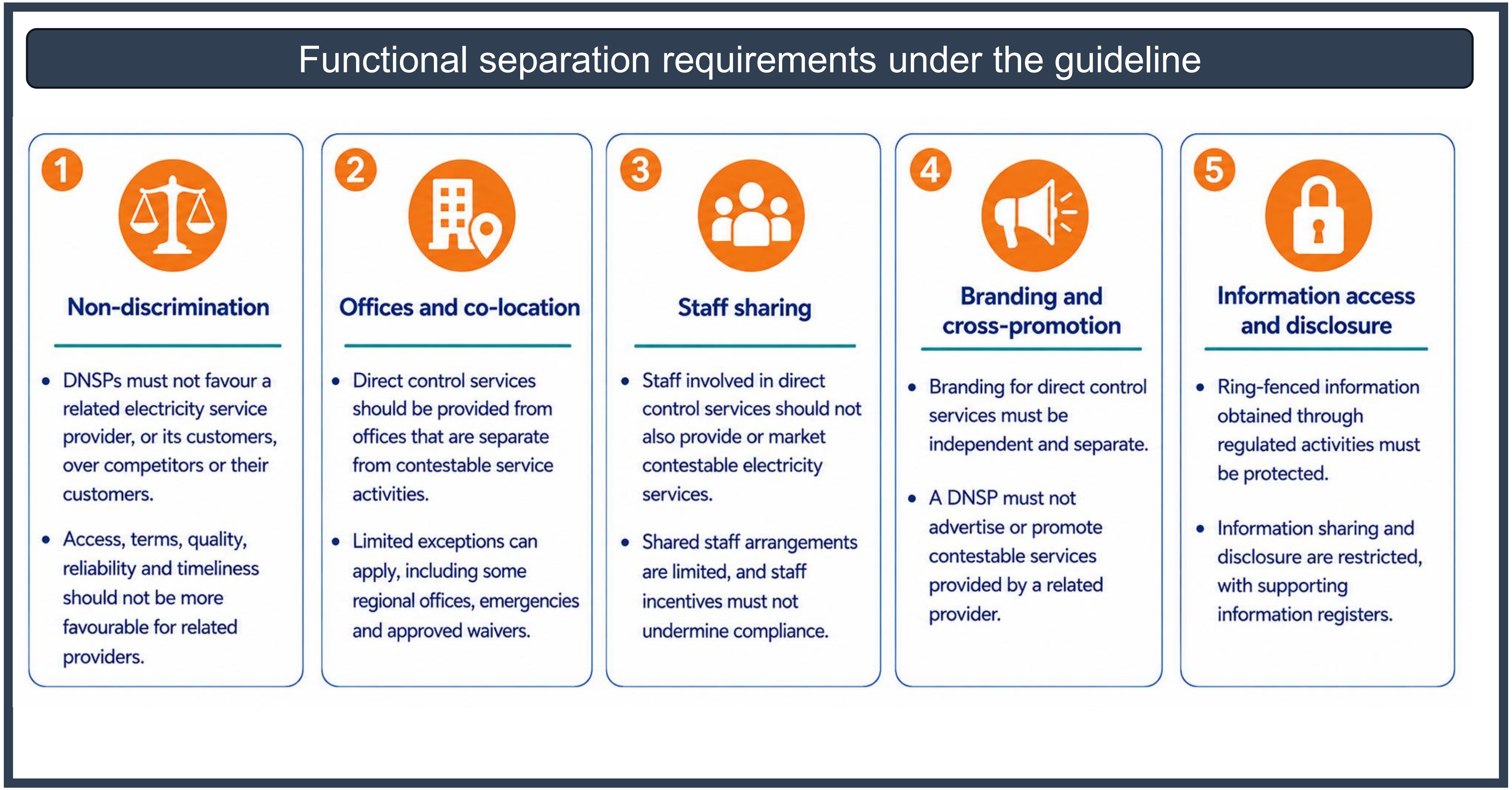
Discussion topic 2:

Functional separation and RESPs

20 minutes

Functional separation & RESPs

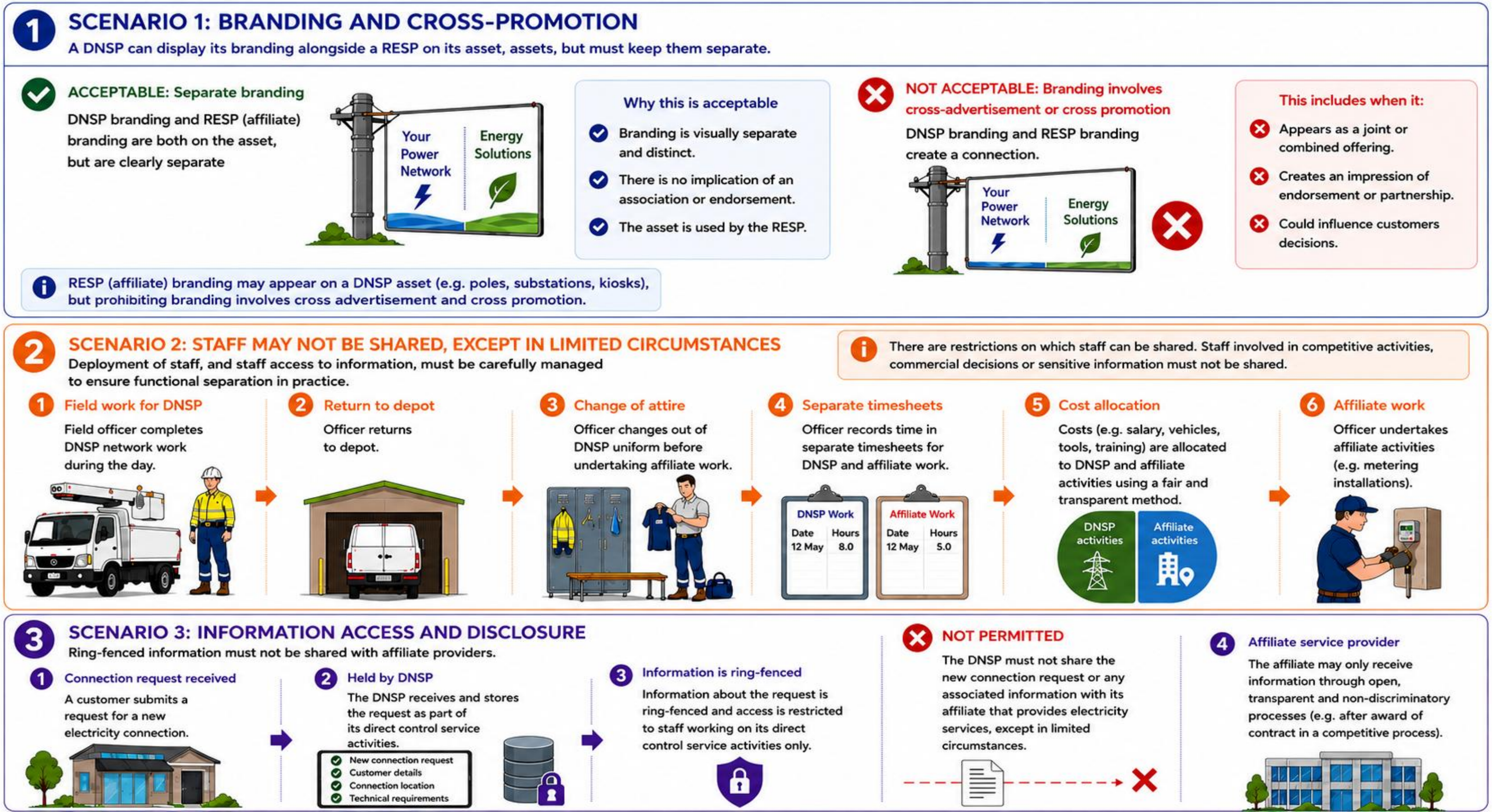
- Functional separation aims to reduce the risk of discrimination by preventing a DNSP from using its regulated position to favour a part of a business that is a RESP or an affiliated entity RESP, over third-party providers.
- The guideline separates a DNSP’s direct control services from contestable electricity services that are provided by a RESP part of the DNSP, or by affiliated entities that are RESPs.
- Functional separation obligations apply where contestable electricity services are provided by part of a DNSP, or by an affiliated entity.



What we have heard: functional separation & RESPs

Obligation to not discriminate	• Some stakeholders noted the provision applies broadly across affiliated entities, competitors and potential competitors, and suggested it may benefit from clearer focus in practice. • Some also suggested further consideration of how discrimination risks may arise in connection processes.
Physical separation / co-location	• Some stakeholders questioned how practical it is in certain situations to prevent staff from accessing electricity information.
Staff sharing	• Stakeholders noted that staff-sharing arrangements may benefit from clearer boundaries, particularly where affiliated entities draw on DNSP staff or resources. • Some questioned whether existing exceptions remain appropriate and whether registers provide enough visibility into how shared staff arrangements operate in practice.
Branding and cross-promotion	• Some stakeholders suggested the current provisions may not always provide a clear boundary between DNSP branding and affiliated entity branding. • Stakeholders noted that cross-promotion risks may warrant further clarification to ensure consistent application across a range of circumstances.
Office and staff registers	• Some stakeholders questioned whether the current reporting approach strikes the right balance between transparency and regulatory burden. • Some noted that registers are not always sufficiently detailed or up to date to provide strong visibility of arrangements.

Scenario 2: Functional separation & RESPs



Discussion questions: Functional separation & RESPs

1. Do you agree with current intent of the functional separation requirements?

2. Are the functional separation requirements operating as intended?

3. If not, what changes are needed?

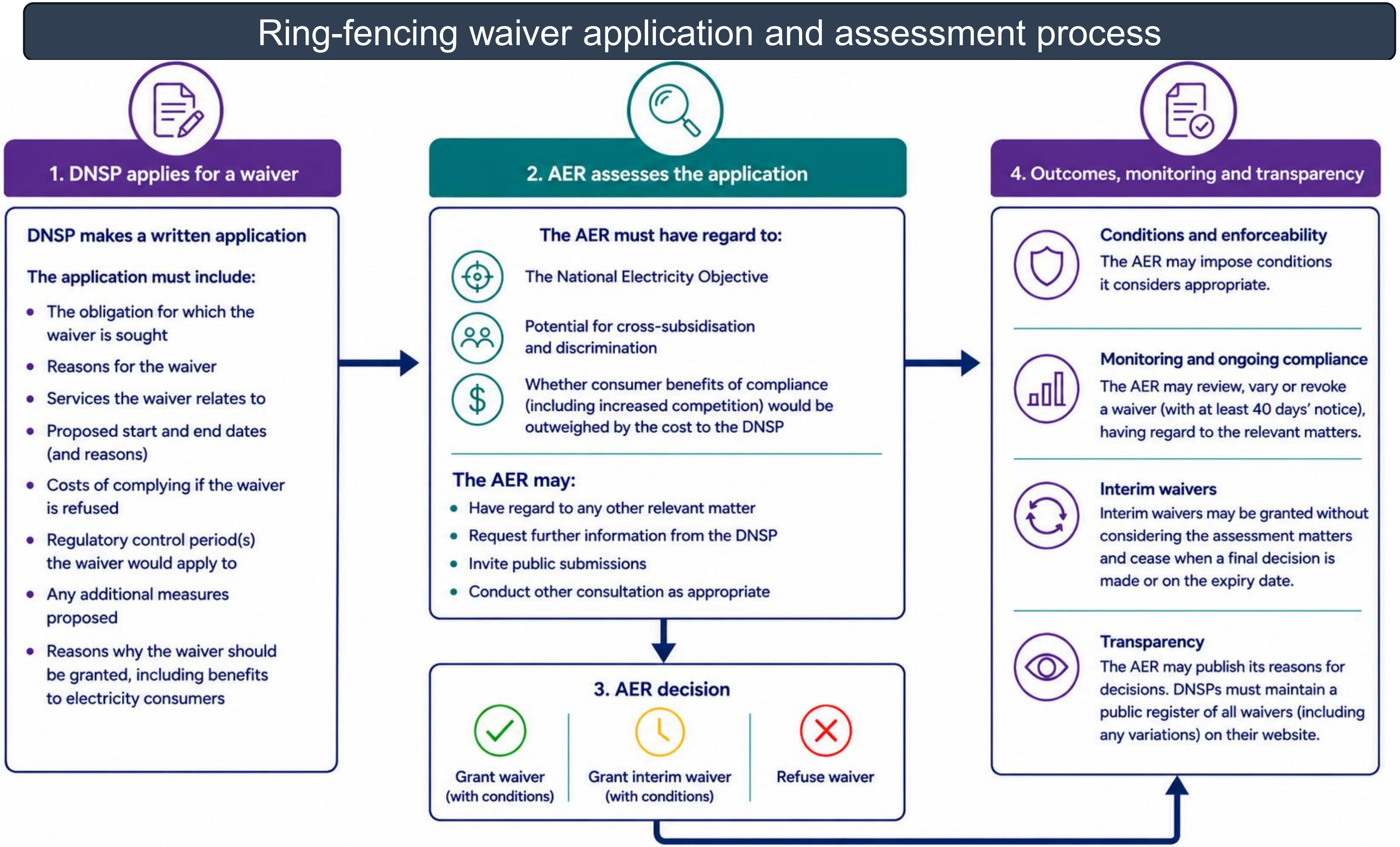
Discussion topic 3:

Ring-fencing waivers

20 minutes

Ring-fencing waiver framework

- Ring-fencing waivers allow the AER to exempt a DNSP from certain obligations where strict compliance is not beneficial. They are intended to be exceptional, not business as usual.
- Waivers may be given for legal separation, staff and premises separation, and branding requirements, but not for core protections such as cost allocation, non-discrimination, registers and treatment of confidential information.
- DNSPs are expected to demonstrate why a waiver is justified, and must otherwise comply with the guideline.



What we have heard: Ring-fencing waiver framework

Access and availability	• Some stakeholders suggest exemptions can be difficult to access and are rarely refused. • There are views that SAPS exemptions may no longer be well aligned with current market conditions. • Some stakeholders consider class waivers may be granted too readily, which could reduce scrutiny.
Waiver criteria and assessment	• Some stakeholders suggest waiver tests place more emphasis on compliance costs than on potential benefits to consumers. • There are views that tests for market failure, consumer benefit and 'no harm' are not applied consistently. • Some stakeholders consider assessments could place more emphasis on efficiency and competition outcomes.
Duration of waivers	• Some stakeholders suggest removing maximum term limits could lead to waivers becoming the norm. • There are views that waivers should remain exceptional and subject to clear time limits. • Some stakeholders consider longer periods could reduce opportunities for regular review.
Transparency and monitoring	• Some stakeholders suggest there is limited information available on how waivers are used and their outcomes. • There are views that registers are often outdated or lack detail and may limit transparency. • Some stakeholders consider that information registers are sometimes blank or do not disclose key information.
Guideline not keeping pace	• Some stakeholders suggest the guideline may not be well suited to emerging services and technologies. • There are views that current rules and processes can act as barriers to innovation and new energy solutions. • Some stakeholders consider the guideline places a high administrative burden on DNSPs and the AER.

Discussion questions: Ring-fencing waiver framework

1. Do you agree with current intent of the ring-fencing waiver framework?

2. Is the ring-fencing waiver framework operating as intended?

3. If not, what changes are needed to the waiver framework?

Discussion topic 4:

Shared assets, materiality and benefit sharing

20 minutes

Shared assets, materiality and benefit sharing

What are shared assets?

Assets used to provide both regulated distribution services and unregulated services.

In distribution networks, this usually means assets funded through regulated revenues for standard control services.

The same asset may also be used to provide another service that is not regulated by the AER.

Why it matters

DNSPs may earn unregulated revenue from assets that regulated consumers have helped fund.

Without a shared asset mechanism, consumers may continue paying for costs that are also being recovered elsewhere.

The framework is intended to ensure consumers receive an appropriate benefit from that additional use.

How the guideline works

The Shared Asset Guideline sets out when regulated revenue may be adjusted.

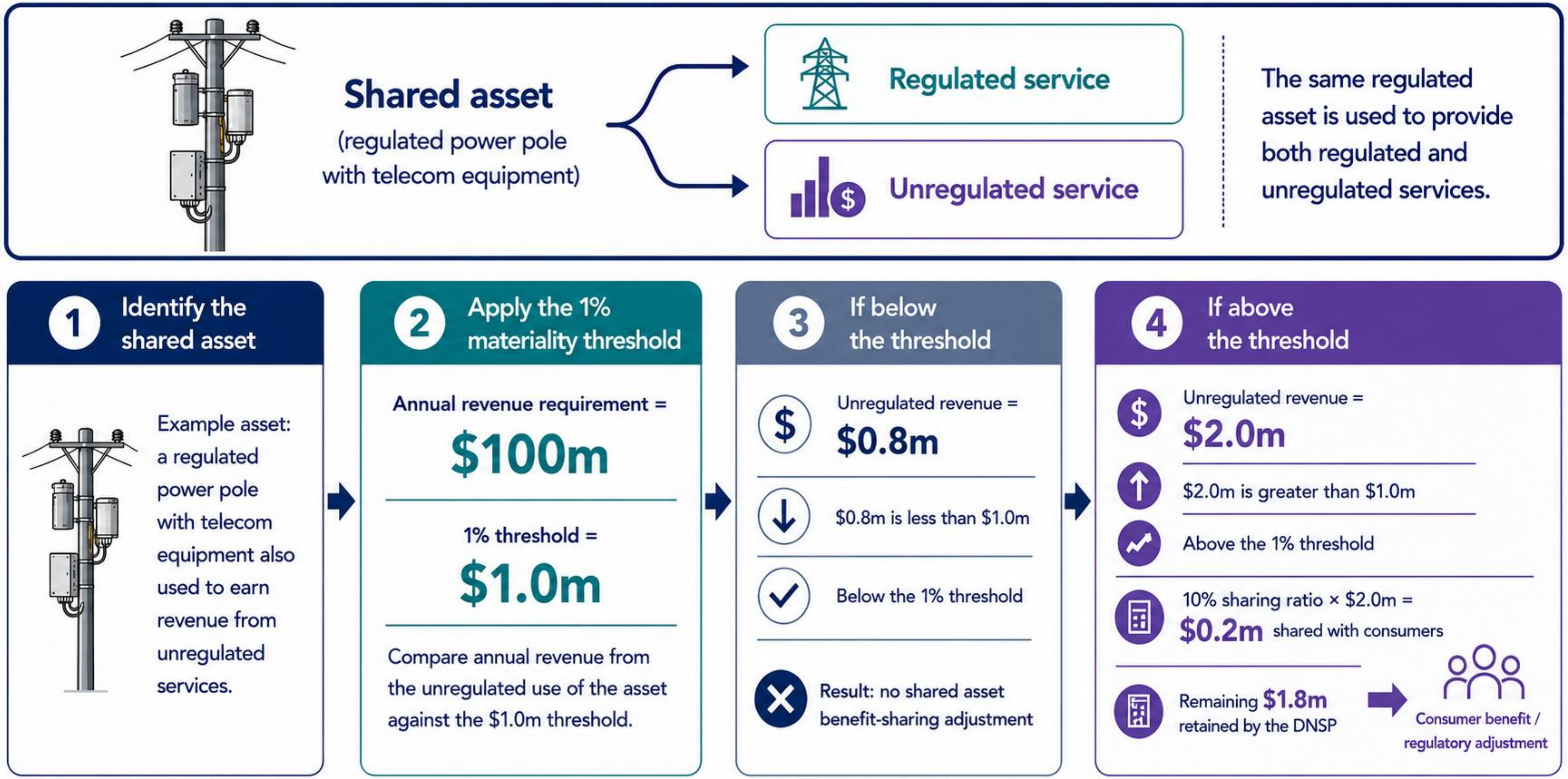
A materiality threshold applies first to determine whether unregulated revenue is significant enough to consider an adjustment.

If the threshold is met, a benefit-sharing adjustment may apply. This allows part of the unregulated revenue to be shared with consumers through lower regulated revenue.

What we have heard: Shared assets

Consumer outcomes, benefit sharing and incentive alignment	• Concerns about whether benefits from unregulated use of regulated assets are appropriately shared with consumers. • Questions about whether current thresholds and sharing ratios deliver sufficient benefit to consumers.
Incentives for efficient asset utilisation	• Uncertainty about whether current settings sufficiently incentivise DNSPs to increase shared asset use and maximise value for consumers. • Thresholds and arrangements may limit benefit sharing, especially where revenues are variable or emerging.
Clarity and workability of the framework	• Difficulties applying the guideline in practice, including what constitutes a 'shared' asset and how materiality thresholds apply. • Need for greater clarity on how the framework interacts with ring-fencing, cost allocation and service classification.
Application to emerging technologies and services	• New technologies (e.g. batteries, EV charging) involve more dynamic and multi-dimensional use than originally contemplated. • Questions about whether the framework remains adaptable to evolving asset use, value stacking and new service models.
Interaction with broader regulatory objectives	• Shared asset framework intersects with efficient investment, non-network solutions and consumer outcomes. • Need to balance incentives for innovation and asset utilisation with ensuring consumers receive a fair share of benefits.

Scenario 4: Shared assets, materiality and benefit sharing



Questions: Shared assets, materiality and benefit sharing

1. Are the shared asset arrangements achieving their intended purpose?

2. Do consumers receive an appropriate share of the benefits generated from assets they have funded?

3. Is the aggregate 1 per cent materiality threshold and 10 per cent benefit-sharing proportion appropriate?

Discussion topic 5:

Compliance, monitoring and reporting

20 minutes

Compliance, monitoring and reporting

1 RING-FENCING GUIDELINE

REPORTING REQUIREMENTS

- DNSPs must submit an annual compliance report to the AER.
- The report must include compliance with each provision, any material breaches, corrective actions, details of waivers relied upon and other information requested.
- Reports must be certified by an officer of the DNSP.

INFORMATION REGISTERS
DNSPs must maintain information registers of relevant arrangements and waivers and keep them up to date.

MONITORING BY THE AER

- The AER reviews the annual compliance report and other information, including:
  - Independent assessments (where required)
  - Information from third parties
  - Information registers
  - Previous compliance history
  - Other relevant information

- The AER may request further information or clarification where required.

COMPLIANCE ACTION

If the AER identifies a breach or concern, it may:

- Require rectification actions
- Seek undertakings
- Issue directions
- Refer matters for enforcement action (if necessary)

Material breaches may result in enforcement action.

2 SHARED ASSET GUIDELINE

REPORTING REQUIREMENTS

- DNSPs must provide information to the AER as part of regulatory proposals or in response to AER information requests.
- This includes:
  - Services expected to use shared assets
  - Description of shared assets
  - Forecast (forward-looking) unregulated revenue
  - Current period regulated SAPS settled revenue
  - Contract information (e.g. revenue, term, renewal and termination)

MONITORING BY THE AER

- The AER assesses submissions to determine the shared asset revenue reduction to apply in the next regulatory period.
- Monitoring includes:
  - Review of regulatory proposals and information
  - Analysis of forecasts
  - Ongoing engagement with DNSPs as needed

IMPORTANT POINT

EX ANTE (FORWARD-LOOKING) ONLY
Information is provided on a forward-looking (ex ante) basis.

NO EX POST ADJUSTMENT OR REVIEW
There is no ex post adjustment or review of actual revenue against the forecast figure.

What we have heard: Compliance, monitoring and reporting

Data sharing and information access	• Registers and reporting may not always capture access to customer or network information. • Some stakeholders would like greater clarity on how information is shared with related entities and for what purpose.
Financial transactions and revenue transparency	• Current reporting may provide limited visibility of transactions and revenue flows between the DNSP and related entities. • More information may be needed to better understand consumer benefits and potential cost-shifting risks.
Assurance and independence	• Some stakeholders have raised questions about the independence and credibility of current assurance arrangements. • It is not yet clear whether current assurance processes provide sufficient confidence in compliance reporting.
Breach reporting and detection	• Reliance on self-reporting and complaints may limit the ability to identify issues early. • Some stakeholders would like clearer breach reporting processes and more consistent follow-up.
Public reporting and transparency	• Some stakeholders feel current public reporting does not always provide enough visibility of compliance outcomes or enforcement activity. • More regular and detailed reporting may help build confidence and understanding.
Reporting burden and proportionality	• Some reporting and register requirements may be experienced as administratively burdensome or duplicative. • Some stakeholders would like reporting obligations to be clearer, more targeted and proportionate to the value of the information collected.

Questions: Compliance, monitoring and reporting

1. Does current reporting provide the information needed to assess whether the guidelines are operating effectively?

2. Do any requirements create unnecessary burden or duplication?

3. What reporting should be retained, removed, clarified or added?

Additional comments and feedback on the guidelines

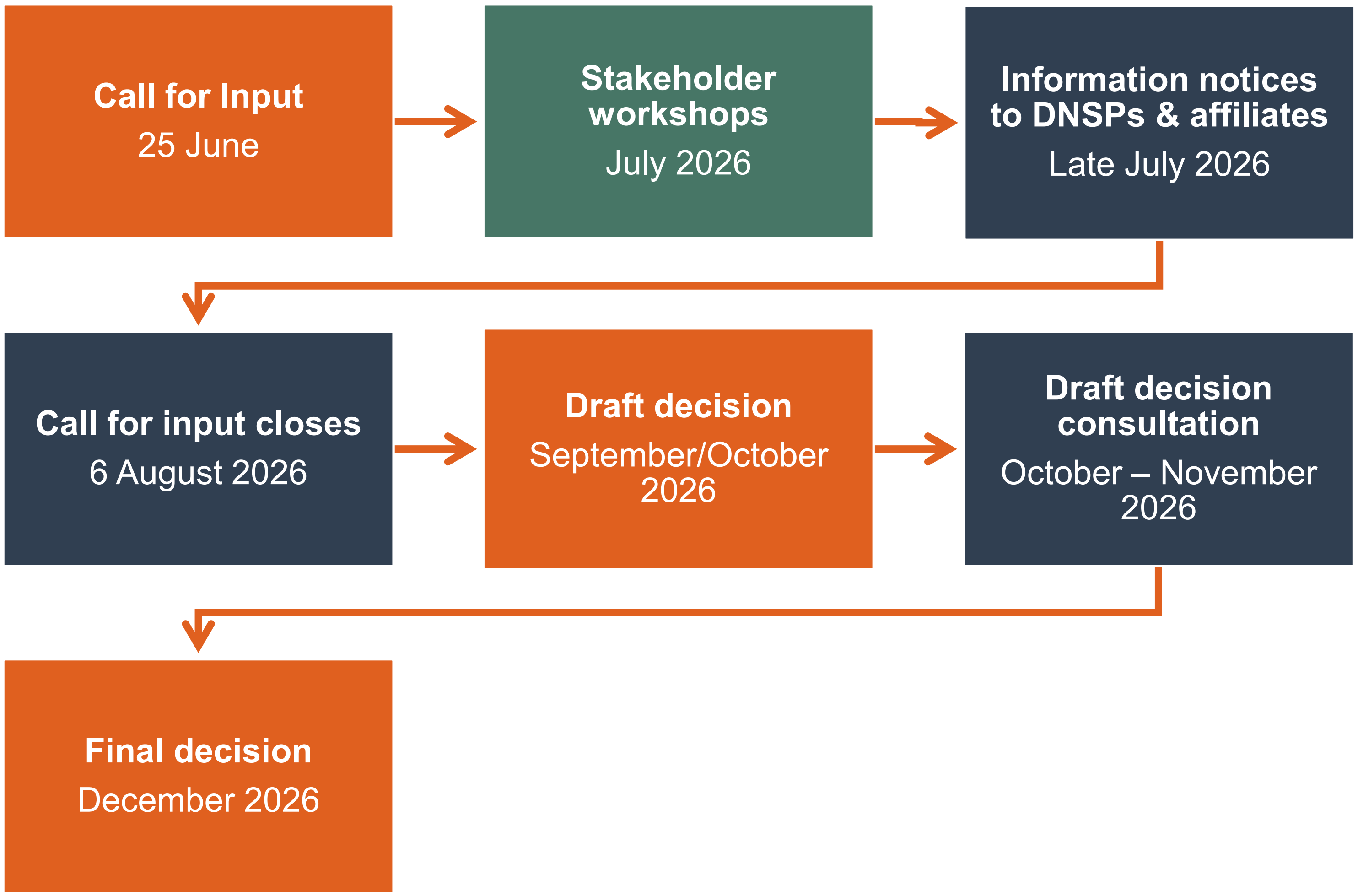
1. Do you have any further comments on feedback on other areas of the guidelines that we have not covered?

Wrap up and next steps

5 minutes

Wrap up and next steps

- Workshop feedback will be considered alongside call for input submissions, internal analysis and other evidence gathered throughout the review.
- Feedback will help test key issues, identify practical impacts and inform options for any proposed changes to the guidelines.
- For further questions or queries, please email AERringfencing@aer.gov.au



Closing remarks

AER Board member