

Regulatory Observability, Consumer-Risk Visibility and Adaptive Governance in Flexible Trading and Embedded Network Reform

Submission to the Australian Energy Regulator

Exemption Guidelines Review Consultation Paper, May 2026

Authors

Dr Alireza Ganjovi
Associate Professor Saman A. Gorji
Centre for Smart Power & Energy Research (CSPER)
School of Engineering, Deakin University

Submission Context

This submission responds to the Australian Energy Regulator's consultation on proposed amendments to the Network Exemptions Guideline and Retail Exempt Selling Guideline. It is prepared within CSPER's broader research focus on inverter-dominated electricity systems, consumer energy resources, distributed energy coordination, regulatory observability, adaptive governance, and consumer-risk visibility. The submission does not oppose the AER's objective of reducing unnecessary regulatory burden or supporting flexible trading reforms. Its focus is narrower: ensuring that streamlined exemption processes remain observable, auditable, consumer-protective, and robust as secondary settlement points, embedded networks, VPPs, batteries, EV charging, and commercial energy precincts expand across the NEM.

Executive Summary

CSPER broadly supports the AER's proposed amendments to the Network Exemptions Guideline and Retail Exempt Selling Guideline. The proposed reforms provide a practical pathway for implementing flexible trading and reducing unnecessary administrative burden for commercial embedded network retrofits. However, regulatory simplification should not reduce regulatory visibility.

As secondary settlement points, CER, DER, batteries, EVs, VPPs, and energy-service providers become more prominent, regulatory frameworks need to make visible:

- who controls flexible energy resources;
- how secondary settlement points are used;
- how consumer protections are maintained;
- how consent is obtained and demonstrated;
- how benefits and risks are allocated;
- how emerging service models evolve over time.

Therefore, we support the reforms subject to stronger attention to regulatory observability, consumer-risk visibility, self-certification auditability, standardised disclosure, and adaptive governance. Table 1 summarises the main recommendations.

Table 1. Summary of main recommendations

Theme	Recommendation
Flexible trading reforms	Proceed with the proposed amendments supporting flexible trading arrangements.
Regulatory observability	Maintain visibility of secondary settlement point uptake, participation models, and emerging market developments.
Large-customer arrangements	Clarify disclosure expectations for non-authorised FRMPs operating under the R5 exemption class.
Future service models	Retain reviewability for future small-customer flexible trading arrangements involving non-traditional providers.
Commercial retrofits	Introduce a new registrable retail exemption class for commercial embedded network retrofits.
Consumer protection	Preserve consumer protections through disclosure, consent, and complaint-management requirements.
Self-certification	Support self-certification where supported by auditability, record retention, and compliance oversight.
Standardised communications	Develop standardised marketing and consent materials to improve transparency and comparability.
Consumer-risk visibility	Clearly disclose asset control, benefit allocation, obligations, and dispute pathways.
Adaptive governance	Introduce review triggers linked to market evolution and consumer outcomes.

The central recommendation is that exemption reform should reduce unnecessary administrative burden while preserving transparency, accountability, and confidence in emerging energy-service arrangements.

1. Introduction and Scope

This submission responds to the AER's consultation on proposed amendments to the Network Exemptions Guideline and Retail Exempt Selling Guideline, including changes associated with flexible trading reforms and embedded-network exemption arrangements. The consultation occurs during a broader transition toward electricity systems that rely increasingly on CER, DER, battery storage, EVs, flexible demand, VPPs, and distributed flexibility services. The AEMC's flexible trading reforms form part of this transition and are intended to support more efficient CER participation through secondary settlement points and new service models [1].

Internationally, regulators and system operators are placing greater emphasis on the governance, visibility, coordination, and interoperability of distributed flexibility resources. The IEA identifies DER as both a major system opportunity and a governance challenge requiring new approaches to coordination, consumer participation, market integration, and operational visibility [2]. Similar themes are evident in Great Britain, where Ofgem, Elexon, and flexibility-market stakeholders have highlighted distributed asset visibility, flexibility-market transparency, asset registration, interoperability, consumer protection, and coordination between local and national flexibility services [3-5]. These issues are becoming more important as inverter-based resources and flexible demand support renewable integration, congestion management, system balancing, and network utilisation [6, 7]. Against this background, the submission focuses on four cross-cutting principles:

1. Regulatory observability;
2. Consumer-risk visibility;
3. Lifecycle transparency; and
4. Adaptive governance.

These principles are relevant since flexible trading, secondary settlement points, embedded networks, CER aggregation, battery services, EV charging, demand-side flexibility, apartment energy systems, and commercial precincts create operational and commercial relationships that may not be fully visible through traditional regulatory frameworks.

The submission does not revisit the policy intent of the AEMC's flexible trading reforms. It considers how the AER's exemption framework can remain transparent, observable, auditable, and adaptive as distributed flexibility participation grows across the NEM.

Figure 1. Relationship between flexible trading reforms, emerging distributed-energy participation models, and the governance requirements addressed in this submission. As secondary settlement points enable new forms of CER participation and energy-service delivery, maintaining regulatory observability, consumer-risk visibility, and adaptive governance becomes increasingly important.

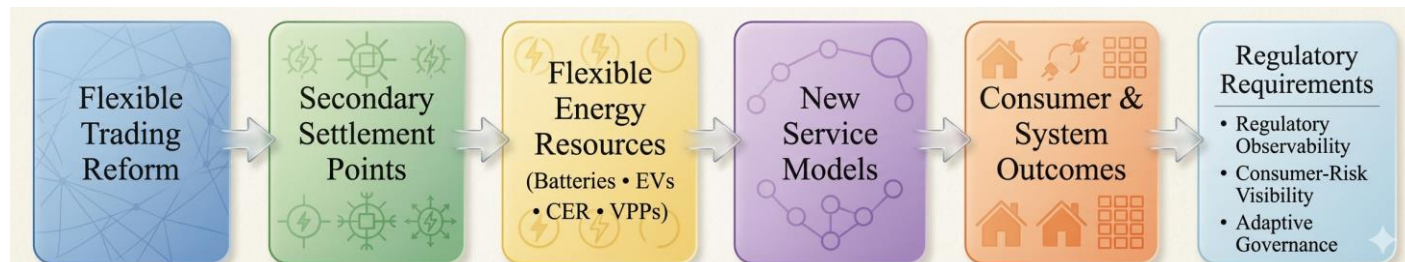


Figure 1. Flexible trading reforms may enable new service models based on secondary settlement points and flexible energy resources. Effective implementation requires regulatory observability, consumer-risk visibility, and adaptive governance.

The remainder of this submission examines these governance requirements in the context of the AER's proposed exemption-guideline amendments and associated flexible trading reforms.

2. CSPER's Relevant Background

CSPER's previous work and submissions have consistently emphasised that future energy-system value depends not only on installed assets or nominal capacity, but on whether energy, flexibility, and system services are observable, deliverable, controllable, and fairly governed. Relevant themes include planning observability, deliverable-energy assessment, inverter-dominated system behaviour, system-strength uncertainty, DER/CER coordination, consumer-risk visibility, lifecycle reporting, apartment and shared-energy access, and demand-side flexibility.

This background is directly relevant since secondary settlement points and commercial embedded network reform will create new coordination relationships between consumers, aggregators, retailers, exempt sellers, network operators, batteries, EV loads, and flexible demand.

3. Overall Position

We broadly support the proposed amendments. The revised guidelines should preserve visibility of flexible trading uptake, secondary settlement point arrangements, CER control, consumer protections, self-certification auditability, commercial retrofit outcomes, and future business-model evolution.

Key principle: Regulatory simplification should reduce unnecessary administrative burden, not visibility of system behaviour, consumer outcomes, or risk allocation.

4. Response to Consultation Question 1: Network Guideline amendments and flexible trading reforms

AER question: *Are there any aspects of the proposed Network Guideline amendments, to reflect the flexible trading rule changes, that raise concerns for stakeholders? If so, please provide details, including any additional changes required?*

Our response: We support the proposed amendments to clarify that secondary settlement point arrangements, excluded metering installations, and single-user networks should not automatically require network exemptions.

This approach is consistent with the AEMC's flexible trading reforms, which seek to enable efficient CER participation through secondary settlement points and new service models without relying unnecessarily on embedded-network structures [1, 8]. Moreover, the proposal aligns with Australian initiatives supporting CER participation, distributed flexibility, batteries, EVs, and VPPs [9, 10]. However, reduced exemption requirements should not reduce visibility of emerging flexible trading arrangements. Secondary settlement points may increasingly support batteries, EV charging, flexible demand, VPPs, and CER aggregation. These arrangements may sit outside the traditional exemption framework, but still influence consumer outcomes, operational control, and market development. International reforms similarly emphasise asset visibility, aggregation transparency, and monitoring of distributed flexibility participation [11-14].

We recommend that the AER complement the proposed amendments with a light-touch observability framework. The objective should not be additional approvals, but sufficient visibility to understand how flexible trading evolves and whether future regulatory adjustments become necessary. Potential indicators include:

- number and type of secondary settlement point arrangements;
- CER technologies involved;
- large-customer and small-customer uptake;
- aggregator participation;
- operational control arrangements;
- complaints, disputes, and consumer-confusion issues;
- interaction with embedded-network arrangements;
- evidence of emerging consumer-protection risks.

Key principle: Regulatory simplification should not reduce regulatory visibility.

5. Response to Consultation Question 2: Existing R5 exemption class for non-authorised FRMPs serving large customers

AER question: *Do stakeholders agree that non-authorised FRMPs selling energy at secondary settlement points within the premises of large customers can be adequately captured by the existing registrable retail exemption class R5, including conditions? If not, what conditions should apply in these scenarios?*

Our response: We generally agree that the existing R5 exemption class is an appropriate mechanism for non-authorised FRMPs selling metered energy to large customers through secondary settlement points. The current retail exemption framework already applies R5 to metered energy sales to large customers [15]. This approach is also consistent with the AEMC's flexible trading reforms, which allow large customers to engage multiple energy service providers and manage flexible CER through secondary settlement points [8]. However, large-customer status should not be treated as a substitute for transparency. Secondary settlement point arrangements may involve aggregation services, battery optimisation, flexible-load control, market participation, data sharing, and complex settlement arrangements.

International frameworks similarly emphasise clear allocation of roles, responsibilities, data access, settlement arrangements, and customer protections within flexibility markets [14, 16]. We support use of the R5 class, provided the AER clarifies minimum disclosure expectations through guidance or standardised disclosure rather than a new approval process. At a minimum, arrangements should disclose:

- the identity and role of the FRMP;
- whether the FRMP is authorised or exempt;
- operational control of CER, batteries, EV charging, or flexible loads;
- settlement and billing arrangements;
- sharing of market revenues or flexibility benefits;
- data access and data-sharing arrangements;
- customer exit rights;
- dispute-resolution pathways;
- responsibilities during abnormal operating conditions;
- interaction with retailers, embedded networks, and other service providers.

Key principle: Exemption classes should simplify regulatory treatment without obscuring control, benefits, or risk allocation.

6. Response to Consultation Question 3: Future small-customer arrangements involving non-authorised FRMPs

AER question: *Do stakeholders foresee any scenarios where a non-authorised FRMP would engage a small customer via a secondary settlement point arrangement (for example, non-traditional service offerings)? If so, please provide examples.*

Our response: We agree that small-customer secondary settlement point arrangements are likely to remain retailer-led under current market conditions. However, the rapid growth of CER, batteries, EVs, VPPs, and distributed flexibility services is creating participation models that may not fit traditional retailer-customer relationships.

International developments increasingly recognise the role of aggregators, flexibility providers, EV-service operators, and energy-management companies in customer-facing energy services [13, 14, 17]. While these developments do not currently justify a new exemption class, they suggest that future arrangements may emerge in which non-traditional providers interact directly with small customers through secondary settlement point structures. Potential examples include:

- third-party EV charging services;
- residential battery optimisation services;
- VPP operators controlling household batteries or flexible loads;
- hot-water, HVAC, or appliance aggregation services;
- apartment energy-sharing arrangements;
- bundled solar, battery, EV, and home-energy-management services;
- community-energy or local-flexibility platforms.

We recommend that the AER retain flexibility within the Retail Guideline to assess future business models while maintaining existing small-customer protections. A future review trigger should apply if evidence emerges of non-retailer service models, direct non-authorised FRMP participation, new DER aggregation services, or recurring consumer-protection issues.

Key principle: Regulatory frameworks should accommodate innovation without assuming that future service models will resemble those of today.

7. Response to Consultation Question 4: New registrable retail exemption class for commercial retrofits

AER question: *Do stakeholders support removing the existing retrofit application requirement and developing a new registrable retail exemption class for commercial retrofits?*

Our response: We support a new registrable retail exemption class for commercial embedded network retrofits, provided that the streamlined pathway preserves consumer protection, auditability, and outcome visibility.

The current AER framework recognises explicit informed consent and additional approval requirements for commercial retrofits where full tenant consent is not obtained [18]. A registrable class may reduce unnecessary delay and cost for lower-risk commercial sites. This matters because commercial buildings and precincts are increasingly relevant to electrification, renewable integration, batteries, EV charging, and flexible demand [19-21].

However, registration should not become a substitute for transparency. Embedded networks can involve complex relationships between site owners, exempt sellers, tenants, metering providers, retailers, and energy-service providers. The AER's future energy services work recognises similar risks where roles, benefits, obligations, and dispute pathways are unclear [22]. The AER should ensure that streamlined registration does not weaken visibility of tenant consent, pricing outcomes, retail-choice implications, benefit allocation, complaint patterns, renewable-energy utilisation, flexible-load participation, or long-term tenant outcomes.

We recommend that the new class require sufficient record keeping to support later compliance checks, including consent materials, pricing information, tenant communications, complaint records, and evidence supporting claimed energy or cost benefits.

Key principle: Commercial retrofit reform should reduce unnecessary administrative burden, not accountability.

8. Response to Consultation Question 5: Conditions attached to the proposed retrofit exemption class

AER question: *Do stakeholders consider the conditions the AER proposes to attach to a retrofit exemption class appropriate?*

Our response: We broadly support the proposed conditions, particularly offer matching for non-consenting tenants and rectification of duplicated network charges. These conditions are important because embedded-network customers may face reduced practical access to retail competition or difficulty identifying duplicated charges [23, 24]. The AER should supplement the conditions with guidance that improves transparency, consent quality, and post-registration accountability. This is consistent with the AER's future-energy-services review, which identifies risks where consumers do not clearly understand roles, obligations, benefits, or dispute pathways [22].

We recommend guidance covering:

- expected tenant benefits;
- tariff structure and comparison basis;
- retail-choice implications;
- identity of the exempt seller, embedded network operator, metering provider, and complaint contact;
- how solar, batteries, EV charging, or flexible loads affect tenant costs and benefits;
- complaint and dispute-resolution pathways;
- record retention for consent materials and tenant communications;
- periodic reporting of complaints and pricing issues.

These additions would not recreate the individual-exemption process. They would help ensure tenants receive information that is understandable, comparable, and decision-useful before consenting. The approach is also consistent with the AER's position that exempt customers should receive comparable consumer protections where practicable [18, 25].

Key principle: Consent should be informed, comparable, and supported by auditable records.

9. Response to Consultation Question 6: Replacing AER approval with self-certification and registration

AER question: *Do stakeholders support removing the requirement for prospective exempt network service providers to obtain AER approval for commercial retrofits and replacing it with a self-certification and registration option?*

Our response: We support replacing routine pre-approval with self-certification for commercial retrofits, provided the revised process includes clear eligibility criteria, auditable records, and effective compliance oversight. This approach is consistent with risk-based regulation. OECD guidance supports proportionate compliance activity, provided monitoring and enforcement remain effective [26, 27]. The AER's compliance framework also supports this balance, including monitoring, investigation, enforcement, reporting, and self-reporting arrangements [28, 29].

Self-certification can reduce delay and administrative cost, but may create risks if consent, eligibility claims, marketing materials, or pricing representations are not later verifiable. Hence, we recommend:

- mandatory record retention;
- random audit rights;
- clear eligibility declarations;
- minimum evidence requirements;
- post-registration compliance review;
- complaint-based review triggers;
- review triggers for low-quality consent or material changes;
- public register transparency.

Key principle: Self-certification should replace routine pre-approval only where post-registration accountability remains strong.

10. Response to Consultation Question 7: Standardised marketing and consent campaign materials

AER question: Do stakeholders support AER-developed marketing and consent campaign materials with minimum standardised statements?

Our response: We strongly support standardised marketing and consent materials for commercial embedded network retrofits. Standardisation can improve transparency, comparability, and consent quality where energy services involve multiple parties, complex pricing, shared infrastructure, or distributed energy resources. The AER's future-energy-services review identifies information asymmetry, consumer understanding, and transparency of roles and responsibilities as important consumer-protection issues [22]. Internationally, regulators also emphasise clear disclosure and informed consumer decision-making in complex service markets [30, 31]. The materials should be written in plain English and structured around practical tenant questions:

1. What is changing?
2. Who will sell electricity?
3. Who will operate the embedded network?
4. What happens to retail choice?
5. How will prices be calculated?
6. What benefits are expected?
7. What risks or limitations exist?
8. What happens if a tenant does not consent?
9. How will complaints be handled?
10. How can tenants exit or seek alternative supply where available?
11. Are solar, batteries, EV charging, or flexible loads involved?
12. Who controls flexible energy assets?
13. Who receives market, flexibility, or energy-sharing benefits?
14. What data will be collected, used, and shared?

In addition, we recommend a dedicated "Who controls what?" section covering asset ownership, operational control, billing responsibility, data access, benefit allocation, consumer obligations, and dispute pathways.

Key principle: Standardised materials should facilitate informed consent, not merely document consent.

11. Cross-Cutting Recommendation 1: Regulatory observability for flexible trading

We recommend that the AER develop a light-touch observability framework for flexible trading arrangements. The objective should not be new approval processes or material compliance burden. It should be enough visibility to understand how flexible trading evolves and whether emerging consumer-protection, market-development, or governance issues require attention.

International experience supports this approach. IEA, Ofgem, ACER, ENTSO-E, and FERC have all emphasised visibility, transparency, aggregation arrangements, data exchange, and market-role clarity as distributed flexibility becomes more significant [4, 8, 13, 14]. Suggested indicators include secondary settlement point numbers, customer class, technology type, aggregator involvement, complaints, dispute categories, exit requests, consumer-confusion issues, and emerging small-customer service models.

Key principle: Regulatory simplification should not reduce regulatory visibility.

Figure 2 illustrates a practical observability framework for flexible trading arrangements. The framework highlights three complementary dimensions of regulatory visibility: operational visibility, which focuses on asset control, settlement, and data access; consumer visibility, which focuses on consent, complaints, disputes, and customer outcomes; and market visibility, which focuses on participation models, aggregators, service evolution, and secondary settlement point uptake. Together, these dimensions support proportionate oversight of emerging flexible trading arrangements without creating unnecessary regulatory burden.

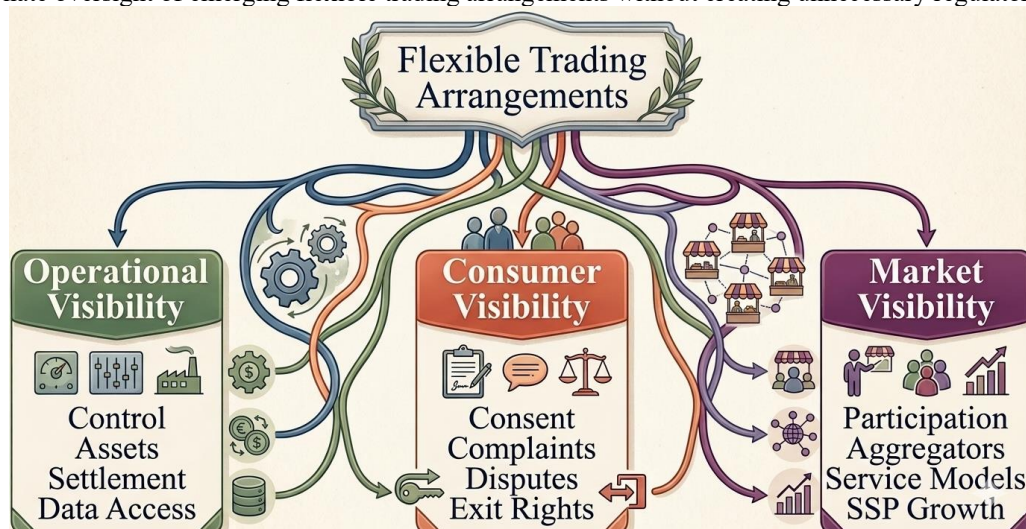


Figure 2. Illustrative visibility framework for flexible trading arrangements, highlighting operational, consumer, and market dimensions of regulatory observability.

12. Cross-Cutting Recommendation 2: Consumer-risk visibility

We recommend that the revised guidelines explicitly support consumer-risk visibility in flexible trading and embedded network arrangements. As energy-service models become more sophisticated, ownership, operational control, financial benefits, and risk exposure may be distributed across multiple parties. The AER's future-energy-services review, OECD consumer-policy guidance, and ACER demand-response framework all highlight the importance of clear roles, disclosure, and consumer understanding in complex service arrangements [13, 22, 30]. Consumers should be able to understand who controls energy assets, who receives benefits, who bears operational or financial risk, what rights remain available, what obligations are accepted, and what happens during disputes or service failure.

Key principle: Consumers should understand not only what a service provides, but how responsibilities, benefits, and risks are allocated.

13. Cross-Cutting Recommendation 3: Adaptive governance and review triggers

We recommend that the AER incorporate review triggers into the revised exemption framework. Flexible trading, secondary settlement points, CER aggregation, and energy-service models are still developing. International regulatory practice increasingly recognises the need to review regulatory settings where technology, markets, and consumer behaviour are changing [1, 11, 31]. Review triggers could include rapid growth in secondary settlement points, evidence of consumer confusion, growth in small-customer flexible trading, increasing complaints, repeated self-certification issues, new bundled CER service models, material changes to AEMO or AEMC arrangements, or evidence that existing protections are no longer adequate.

Table 2 provides illustrative examples of review triggers and potential regulatory responses. The purpose is not to prescribe automatic intervention, but to demonstrate how a structured review framework could support adaptive governance as flexible trading arrangements and distributed-energy participation continue to evolve.

Table 2. Illustrative review triggers and potential regulatory responses for adaptive governance of flexible trading and exemption arrangements.

Trigger	Possible Review Response
Rapid SSP growth	Framework review
Growth of non-authorised FRMPs	Assessment of exemption suitability
Increase in complaints	Consumer-protection review
New DER aggregation models	Guideline update
Repeated self-certification issues	Compliance review
Material AEMC/AEMO changes	Regulatory reassessment

Key principle: Regulatory frameworks should be stable enough to support innovation, but adaptable enough to respond when market conditions materially change.

14. Concluding Statement

We support the AER's proposed reform direction. The amendments can help implement flexible trading, reduce unnecessary regulatory burden, and support more efficient integration of CER, batteries, EV charging, flexible demand, and commercial energy-system modernisation. However, streamlined exemption pathways should remain observable, auditable, and consumer-protective. As flexible trading and embedded network arrangements become more diverse, the AER will need visibility of how these arrangements operate, who controls flexible energy assets, how benefits and risks are allocated, and whether consumers remain adequately informed and protected. The central issue is not only whether exemption processes become more efficient. It is whether the revised framework can remain transparent, accountable, and adaptive as distributed energy participation evolves. We recommend targeted refinements to strengthen regulatory observability, consumer-risk visibility, self-certification auditability, standardised disclosure, and review triggers within the revised exemption guidelines.

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