Consultation Paper
Draft Revised
Stakeholder
Engagement Framework

June 2017

AUSTRALIAN
ENERGY
REGULATOR

Contents

1 Introduction

The AER recognises that the decisions we make and the actions we take in performing our regulatory roles and other activities affect a wide range of individuals, businesses and organisations. Effective and meaningful engagement with stakeholders across all our functions is essential to fulfilling our role, and it provides stakeholders with an opportunity to inform and influence what we do. It helps us to make better decisions, enhances the transparency and predictability of our regulatory activities and processes and builds stakeholders' trust and confidence in the regulatory regime.

We introduced a Stakeholder Engagement Framework in 2013. It aims to improve the quality of our engagement, embed a consistency around how we communicate and engage with stakeholders, and enable flexibility to tailor our approach to the circumstances.

The results of our latest stakeholder survey indicate much greater stakeholder satisfaction with our consultation and engagement since the Framework was put in place, and positive feedback about recent initiatives to improve our engagement and communication materials.

We are committed to continually improving the quality of our engagement. As part of this commitment, we are reviewing the Framework to make sure it remains relevant and effective. Extensive informal engagement with stakeholders since October last year has helped us to produce a new draft version of the Framework, on which we are now consulting, as well as providing valuable wider input on how we engage. The new draft Framework is set out in Chapter 5.

This paper explains our thinking behind the new draft Framework, including how stakeholder input has informed our proposals. It also sets out some proposed changes, based on stakeholder feedback, to the way we apply the principles in the Framework to help improve the effectiveness of our engagement.

The Framework plays an important part in determining when, how and with whom we engage. Having access to diverse stakeholder views and insights, and being challenged by them, will strengthen our decisions. Of course our approach needs to work well not just for the AER but for stakeholders too. The Framework should provide stakeholders with clarity about the AER's processes and how best they can put their ideas and views to us, so that they can influence what we decide, which in turn advances the long-term interests of consumers. A strong Framework is essential to a robust decision-making progress and so we encourage feedback on our draft. Details of how to have your say, either on paper or in another way that suits you better, are set out in Chapter 8.

2 Why are we reviewing our Framework?

We commenced our review in the latter part of 2016, in line with the commitment we made when we released the Framework in October 2013 to review it after three years of operation.

We are also committed to continually improving the quality of our engagement and a key element of this is evaluating our performance under the Framework. This includes an assessment of the Framework and the way we have implemented it.

One measure of our performance is the improved stakeholder satisfaction results in our 2016 Stakeholder Survey. This survey, conducted by an independent research agency, helps us identify what we do well and where we should focus our efforts to improve the way we operate.

Overall, our 2016 survey results showed significant improvement, with 77 per cent of stakeholders satisfied with how effectively we perform our functions as a regulator (compared with 52 per cent in 2014). The results also showed significant improvement in perceptions of our consultation and engagement, with 70 per cent satisfied overall (up from 56 per cent in 2014). Stakeholders generally perceived their interactions with the AER favourably, with 85 per cent indicating a positive working relationship between their organisation and the AER. Perceptions of our communication were also generally favourable, with 81 per cent satisfied overall.

These improved results reflect the changes and improvements we have made to our consultation processes through the introduction of our retail functions, our Better Regulation reforms in 2013 and our strengthened focus on meeting stakeholders' needs. As well as the Framework itself, we expanded our engagement tools, including the establishment of the Consumer Challenge Panel (CCP), which assists the AER to make better regulatory determinations by providing input on issues of importance to consumers. We have published easy-to-read fact sheets and overviews summarising the important points in our draft and final network revenue decisions, so that stakeholders can see the main points without having to read lengthy full decisions.

Our stakeholder survey also identified some specific areas where we can do better in terms of engaging with our stakeholders. These centre around:

- leading debate on priority issues
- ensuring we give stakeholders clear and realistic timeframes to provide input into the decisions that matter to them
- tailoring our consultations more effectively to meet the needs of different stakeholders
- being clearer about how stakeholder input informs our decision-making.

We have asked stakeholders about their views on these issues during the course of this review.

3 The current AER Stakeholder Engagement Framework

The current Framework provides a structure to allow stakeholders' needs and interests to be consistently, transparently and meaningfully considered in our activities, including those processes through which we reach decisions.

It sets out:

- why stakeholder engagement is important to us

- the principles that will underpin our engagement activities

- the different levels of engagement and the mechanisms we will use to engage with our stakeholders, recognising that tools and strategies must be tailored to suit particular decisions, activities and processes.

It also contains information about what the AER does, who we will engage with and the kinds of issues we will engage with stakeholders on.

The Framework is principles-based to allow flexibility to tailor engagement to the needs of our different roles and functions. There are four principles, each of which seeks to clarify the purpose of the AER's engagement with stakeholders and guide how that engagement occurs:

Principle 1 – clear, accurate and timely communication This is critical to good engagement and refers to using plain language and providing communication in a way that will help stakeholders understand the issues and enable them to make informed contributions within a reasonable time.

Principle 2 – accessible and inclusive This recognises that some stakeholder groups need assistance to understand the issues and their impact, and to participate in our processes.

Principle 3 – transparent This is about making sure that people know where they stand in our processes, being clear about what opportunities they have to input, and how their input has informed our decisions.

Principle 4 – measurable This captures that we need to be able to evaluate and review our engagement activities so that we can improve on them.

The Framework also includes illustrations of how we might apply each principle in our engagement activities.

The current Framework uses a Stakeholder Engagement Spectrum based on the International Association for Public Participation's (IAP2) public participation spectrum (www.iap2.org.au) to indicate the different levels of engagement we may use. This spectrum has five levels: 'Inform', 'Consult,' 'Involve', 'Collaborate' and "Empower'. Each level of engagement involves a promise made to our stakeholders and includes examples of engagement methods that could be used at each level.

4 How we have engaged stakeholders in this review

We [commenced](#) the review in October 2016 by inviting preliminary views from stakeholders on the Framework and how we could better meet stakeholders' expectations.

Summaries of the input and submissions we received are available on our [website.](#)

In February we held a half-day workshop to inform our review of the Framework. The workshop was held via video conference in Adelaide, Brisbane, Canberra, Hobart, Melbourne, Perth and Sydney, and involved representatives from regulated businesses, consumer groups, government and energy industry consultants. Participants were provided with some better practice case studies as pre-reading and were invited to discuss their engagement expectations with reference to these, as well as their past experiences engaging with the AER and other organisations. They were also asked for their preferences for a revised Framework.

Materials from the workshop are also available on our [website.](#)

5 The new draft Framework

Feedback from our stakeholders has helped us to develop a new proposed version of the Framework which is more targeted and easier-to-read. We have aimed to retain all of the important elements of the current Framework and add some new features which we and/or our stakeholders considered would be useful.

Background information about what the AER does and who our stakeholders are has been replaced with a description of our purpose and why we consider stakeholder engagement important. A diagram has been added to show the part stakeholder engagement plays in all our work.

The principles-based approach has been retained in the new draft, along with the four key principles (clear, accurate and timely communication; engagement which is accessible and inclusive; transparent; and measurable). The activities that we will undertake to implement each principle have been refined and reflect the main issues that stakeholders have told us are important.

To address issues raised by stakeholders, the five-level engagement spectrum has been replaced with a diagram which shows four different approaches we may use depending on the particular project or activity. These four engagement approaches are to:

- provide information to build understanding and keep stakeholders informed

- seek stakeholder views and provide feedback on how stakeholder input informed our decision

- work with stakeholders to reflect their views in the options, solutions and approaches developed and provide feedback on how this influenced our decision

- partner with stakeholders for advice and innovation in developing solutions and recommendations and incorporate this into the decision.

Examples of the different methods of engagement that may accompany each approach have been retained and refined.

A third diagram has been added to explain how we will engage with stakeholders during different stages of our work.

The proposed new version of the Framework also reiterates our commitments to improve the effectiveness of our engagement over time and to review the Framework document periodically.

The full text of our proposed revised Framework is set out below.

Draft AER stakeholder engagement framework

Our purpose: we work to make Australians better off, now and in the future, through independent, effective regulation and monitoring of energy markets and networks.

The decisions we make and the actions we take affect a wide range of individuals, businesses and organisations. Engaging with those affected by our work helps us make better decisions, provides greater transparency and predictability, and builds trust and confidence in the regulatory regime.

Stakeholder engagement helps us:

- Sharpen our purpose

- Shape our strategic priorities, so we focus in the right areas

- Identify emerging issues in the market

- Improve our insight into businesses' and consumers' behaviour and needs

- Develop, refine and implement our interventions, so that they deliver the best outcomes for consumers

- Make best use of our resources

- Embrace the spirit of better regulation, including evaluating our own performance

- Learn from others' experiences

- Communicate effectively with both consumers and regulated businesses

How stakeholder engagement fits in:

Stakeholder engagement forms a vital part of a wider regulatory approach involving reporting and monitoring, consumer insight and engagement, and formal consultation and decision-making processes as depicted in Figure below.

Figure How stakeholder engagement fits in
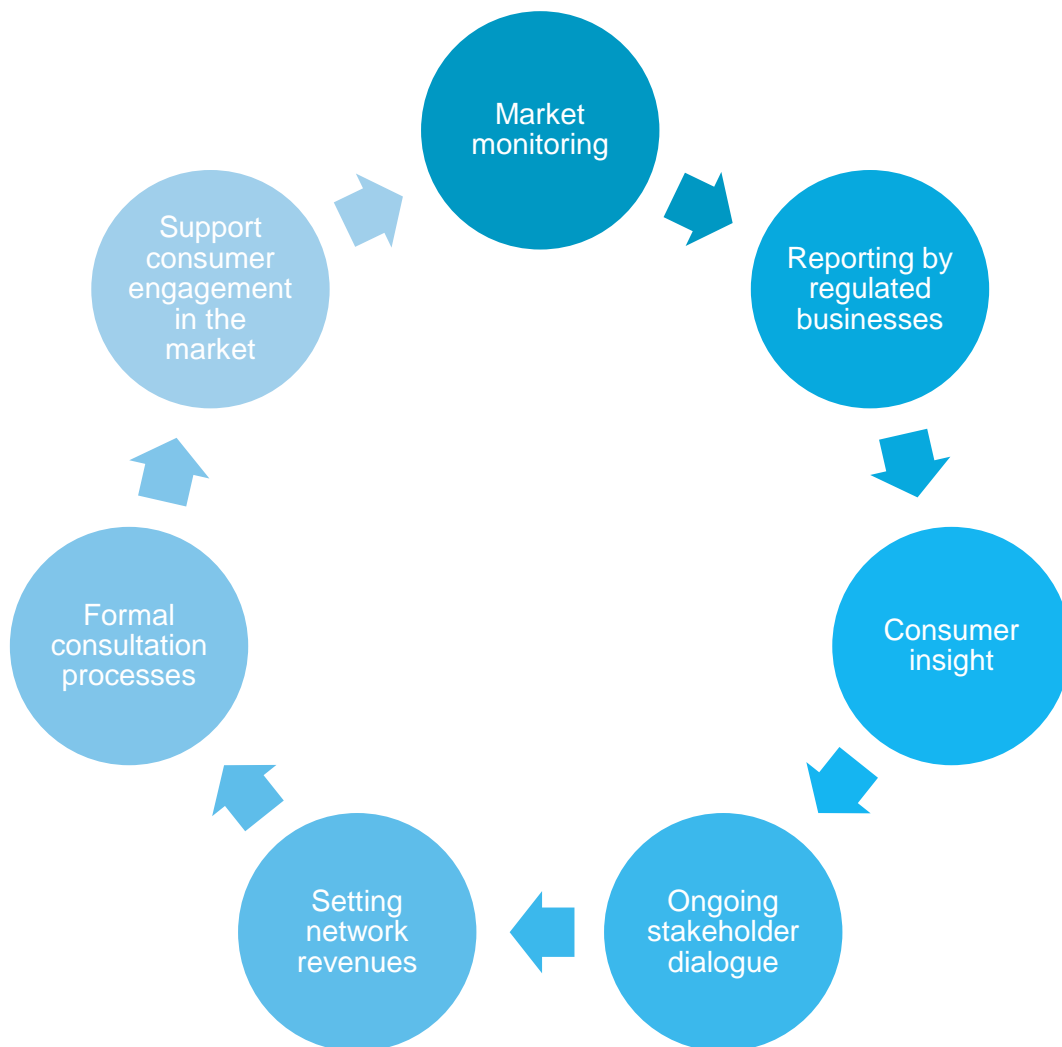
This Framework helps us consistently, transparently and meaningfully consider stakeholder input across our work.

Our principles-based approach:

- To communicate in a clear, accurate and timely way, we will:
    - o   Use plain language to assist stakeholders to understand issues and make informed contributions
    - o   Have clear and realistic timeframes for input
    - o   Engage through the whole lifecycle, from planning to consultation and closure, including seeking views as early as possible.

- To be accessible and inclusive, we will:
    - o   Be flexible and tailor our engagement and communication to meet different stakeholder needs and our various decisions, activities and processes
    - o   Take steps where needed to build knowledge and capacity to help stakeholders to engage.

- Consider the time and resources needed by stakeholders to engage effectively, and where possible:
  - hold meetings at mutually convenient times and locations and coordinate engagement activities
  - allow at least 4 weeks for stakeholders to provide submissions
  - accept submissions in a range of formats, including written submissions, oral or emailed comments etc.

- To be transparent, we will:
  - Explain the purpose of our engagement, our objectives, and where it fits in our approach
  - Report on how stakeholder input was considered and how it informed our decision or process
  - Report on our engagement activities, and their effectiveness, on our website and in our annual report.

- To ensure the effectiveness of our engagement is measurable, we will:
  - Seek feedback on our engagement activities, using a range of methods, to evaluate their effectiveness and use this information to improve continuously
  - Monitor our progress through our stakeholder survey.

Our engagement approach: shows the different types of engagement we may use depending on the particular project or decision, and the different methods that may accompany each approach.

The engagement approach will be determined by our role and responsibilities, the issue or decision being considered, and what we are trying to achieve.

Each engagement approach involves a clear objective and promise to our stakeholders. Figure sets out our commitments, with some illustrations of how we will apply these.

Figure Engagement approach

Figure Engagement approach

- Fact sheets
- Email alerts, newsletters
- Media releases
- Project web pages
- Reports, submissions
- Corporate documents (State of the Energy Market, annual report, Statement of Intent)

We will **provide information** to build understanding and keep you informed

- Consultation documents
- Forums, meetings
- Public analysis and advice
- Surveys
- Focus groups
- Webinars, other online forums

We will **seek your views and provide feedback** on how your input informed our decision

Engagement approach

We will **work with you** to reflect your views in the options, solutions and approaches developed and provide feedback on how this influenced our decision

We will **partner with you** for advice and innovation in developing solutions and recommendations and incorporate this into the decision

- Workshops
- Consumer Consultative Group
- Consumer Challenge Panel
- Other advisory committees or groups (e.g. Consumer Reference Group)

- Partnerships e.g. developing the AER's sustainable payment plans framework
- Build capacity to facilitate enhanced participation

How we will engage:

Stakeholder engagement can make a positive contribution at every stage of what we do, from strategic planning to how we support individual consumers. While much of it will often be project-based, we aim to have an ongoing dialogue with our stakeholders too. Figure illustrates some key points for engagement. We recognise that not every stakeholder may want or will be able to input at each point.

Figure Key points of engagement
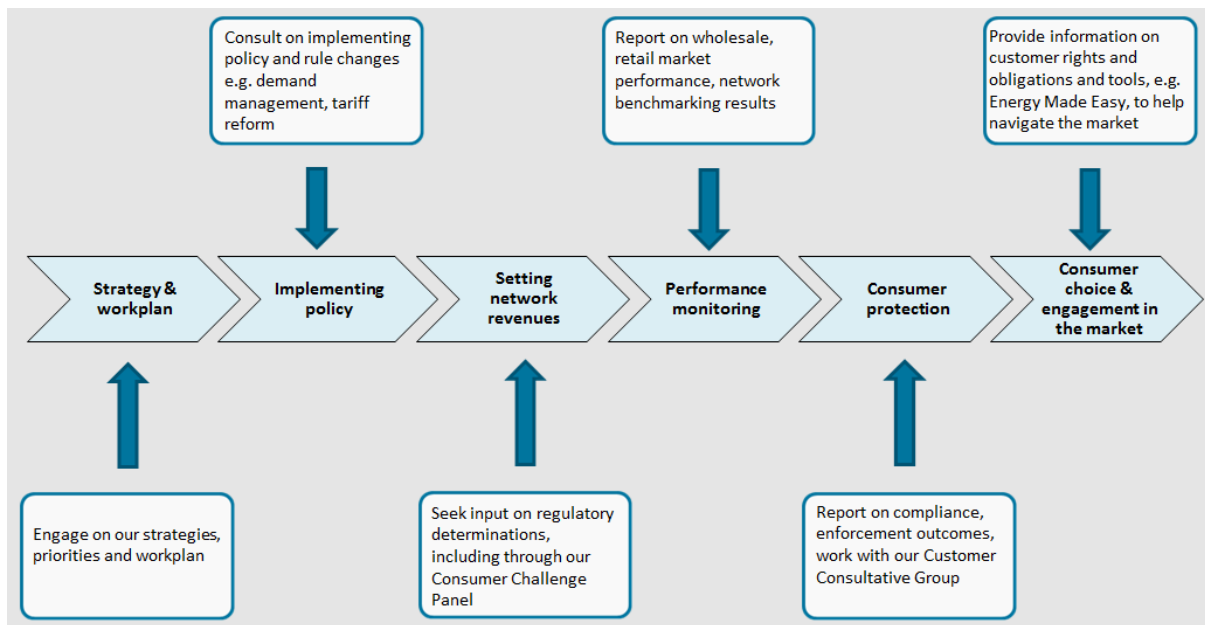
Improving and learning

We are committed to improving the effectiveness of our engagement with stakeholders over time and will monitor and measure our progress. We will periodically review this Framework, and we will always welcome input about how we can engage better and lessons we can learn from other bodies.

6 How feedback from stakeholders has informed our proposals about the draft revised Framework

The changes that we are proposing to make to the Framework document are based on stakeholder feedback, which is discussed below. These are set out under three headings: format and structure; principles; and engagement approaches.

6.1 Format and structure

Stakeholders agreed that the Framework should retain simple, consistent information and its plain language approach. There were mixed views about whether the Framework document should be shorter. Some liked this idea while others suggested we should have a summary version alongside a more detailed Framework document with more definitions and information about the engagement process such as who we will engage with, what we will engage about, why we want to engage, when we need to engage and how we will engage.

We think there is scope to take some information out of the existing Framework document that is not necessary or important to explain how we engage. This will result in a more succinct document, which would not require a summary version.

Based on the feedback from our stakeholders, we have developed a more targeted document which sets out a broad overarching approach to our stakeholder engagement and the reasons why we do it. We have focused the new draft more on the commitments we are making to our stakeholders, with less background information about what the AER does and who our stakeholders are. We have done this by replacing the 'Introduction', 'About the AER' and 'Scope' sections with a short description of our purpose and providing more information about why we consider stakeholder engagement important. As one of our stakeholders suggested, we have included the reasons why we want to engage with our stakeholders. We have also added diagrams to make it easier for stakeholders to see how engagement fits in with the rest of our work and the key points at which we will typically engage.

We have retained the key elements of the current Framework such as the purpose, the principles-based approach and descriptions of our engagement approaches. We have also repeated our commitments to improving the effectiveness of our engagement over time and to reviewing the Framework periodically.

6.2 Principles

The majority of stakeholders considered that a principles-based approach is still appropriate to support effective engagement, allowing the AER sufficient flexibility to use different approaches for different projects and processes. They agreed that the four engagement principles (clear, accurate and timely communication and being accessible and inclusive, transparent and measurable) are still relevant and appropriate.

There were some suggestions that we should expand the principles to include others such as 'no surprises', 'consistency', 'trust', 'honesty', 'respect' and 'integrity'. One stakeholder also suggested including 'proactive consumer engagement' as a principle to address concerns that consumer advocates and community welfare organisations generally have

limited capacity to engage in complex consultation processes and would benefit from proactive information in order to provide meaningful and constructive feedback.

Our instinct is that it would generally be better to have a small number of principles, which are capable of being recalled and applied easily, rather than creating a long list - though we do not have a strong view about precisely how many there should be. None of the suggested additions are in themselves objectionable, but we are not convinced they add much to the current list: the intent of these additional suggestions is arguably already captured in the existing principles. For example:

- If our engagement meets all four existing principles, it is highly likely that it also demonstrates trust, honesty, respect and integrity. In addition, we have kept the language from the objectives in our current Framework that engaging with those affected by our work builds trust and confidence in our processes and wider activities.

- By being accessible, inclusive and transparent we will also deliver 'no surprises' and 'consistency' in our approach.

- The commitments we have kept in the draft revised Framework under the principle of 'being accessible and inclusive' enable us to provide proactive consumer engagement. This includes being flexible and tailoring our engagement and communication to meet different stakeholder needs, taking steps where needed to build knowledge and capacity to help stakeholders engage, and considering the time and resources needed by stakeholders to engage effectively.

  We will continue to make this a significant priority, and look to where we can supplement mechanisms already in place to flag upcoming consultation with consumer representatives and provide them with information to enable considered input. These currently include our issues/consultation papers, stakeholder forums/ workshops and plain language fact sheets and overviews which summarise key points in our draft and final network revenue decision documents. We have our Customer Consultative Group which keeps us informed of issues important to consumers, as well as our Consumer Challenge Panel which we have set up to seek input and engagement into our network determinations. Where appropriate, we also establish working reference groups for specific projects or programs such as our recently announced consumer reference group on the regulatory treatment of inflation. In addition, we have recently begun publishing a [newsletter](#) which will further assist to keep our stakeholders informed about upcoming processes, consultations and events.

We would however welcome further views on whether any of these additional principles, or any others not listed here, are essential additions which are not covered by the existing four principles.

Each of the four engagement principles contains a description of activities we will undertake to implement it. These lists of activities take into account issues that stakeholders have told us are particularly important, but they are not intended to be exhaustive, and we will remain open to additional suggestions.

There were also suggestions we should include some more prescriptive language about how we will implement each of the principles. These include 'all stakeholders are offered the same range of methods and mediums to communicate', 'report publicly the number of

engagements with each stakeholder, dates and method/medium' and 'clear objectives for each of the measureable criteria are to be set along with actions to be taken in case the objectives are not met'.

We consider that including these more prescriptive elements would move away from the principles-based approach we adopted when the Framework was developed in 2013, and which most stakeholders have told us in our discussions to date that they still support. Changing this would reduce our ability to tailor engagement approaches to meet the needs of individual projects and specific stakeholders, which we regard as important given the range of work we undertake.

We recognise that more detail will be appropriate when we are setting our proposed approach to engagement for each new piece of work.

6.3 Our engagement approaches and objectives

The current Framework uses a Stakeholder Engagement Spectrum based on the International Association for Public Participation's (IAP2) public participation spectrum (www.iap2.org.au) to indicate the different levels of engagement we may use. This spectrum has five levels: 'Inform', 'Consult', 'Involve', 'Collaborate' and 'Empower'.

Stakeholders generally supported the use of the IAP2 spectrum as a basis to explain and guide our engagement. But some raised questions about the relevance of the 'Collaborate' and 'Empower' levels given that we often operate within a relatively rigid regulatory framework which does not allow us to share or delegate decision-making.

The current Framework notes that, given the nature of our role as a regulatory decision-maker, we expected the majority of our engagement to occur at the 'Inform', 'Consult' and 'Involve' levels. We included 'Collaborate' and 'Empower' because we felt there might conceivably be some limited occasions when engaging at these levels would help us achieve our objectives. But stakeholders have queried whether these levels are in fact likely to be relevant to us, while noting the potential for confusion given that the definition of these terms in the framework is quite different from their common usage in the context of regulated markets. For example, we aim to 'empower' consumers to make effective energy choices, but we are generally not able to hand over our regulatory decision-making role, which is the definition of 'empower' in the spectrum.

Like stakeholders, we value much of the current spectrum and we also want to be clear about the potential engagement options open to us for most of our work. We have therefore reworked the spectrum used in the current Framework, retaining the most important and relevant content, and we propose descriptions of four approaches to engagement we may use depending on our role and responsibilities, the issue or decision being considered and what we are trying to achieve. These approaches are to:

- provide information to build understanding and keep stakeholders informed

- seek stakeholder views and provide feedback on how stakeholder input informed our decision

- work with stakeholders to reflect their views in the options, solutions and approaches developed and provide feedback on how this influenced our decision

- partner with stakeholders for advice and innovation in developing solutions and recommendations and incorporate this into the decision.

We have also retained and refined the examples showing different methods of engagement that may accompany each approach. We would welcome views on whether this new model retains the best of the current spectrum while more closely reflecting our role.

7 How we will use feedback from stakeholders to improve the effectiveness of our engagement

As well as developing a shorter and sharper Framework, we are proposing some changes to the way we apply it, drawing on stakeholder feedback. These changes, which should help improve the effectiveness of our engagement, are discussed below.

7.1 Principle 1 - Communicating in a clear, accurate and timely way

Stakeholders' suggestions for how we might communicate in a clear, accurate and timely way included more use of plain language, providing realistic times for input, and engaging throughout the whole consultation lifecycle.

7.1.1 Using plain language

Stakeholders commented that we could be clearer about what issues or areas could be influenced through consultation and engagement processes and what could not. In support of this, it was suggested the AER could provide a greater sense of the importance of each issue, to help stakeholders make an informed decision about whether to lodge a submission and how to best add value.

This may be of most concern to stakeholders participating in network reset processes. While we are always open to hearing stakeholders' views, there are sometimes formal restrictions on when we are able to take them into account in our decision-making. For example, stakeholders have the ability to influence our decisions regarding control mechanisms (e.g. revenue cap or price cap) when we are developing our Framework and Approach for an electricity network revenue determination. Once that Framework and Approach is finalised, our decision on the control mechanism is binding and we are not permitted to change it through the determination process. The rules also prescribe how we must calculate certain factors or inputs in our network revenue determinations, such as aspects of the rate of return, and stakeholder input on these issues will not have any impact on individual decisions.

We agree with stakeholders that we can provide more clarity about which areas of our network reset processes are able to be influenced through consultation. To facilitate this, we will be including more information in the early stages of each relevant consultation. For example, our issues papers will indicate where submissions would be most useful and where we are particularly looking for stakeholder views to guide our decisions.

Stakeholders noted that it is important to invest in communications like fact sheets and plain language overview papers. We will continue to look for opportunities to expand our suite of plain language communications which already include fact sheets and overviews for our draft and final reset decision documents as well as information about the retail market for residential consumers.

Stakeholders also noted the need to ensure clarity on our website and there was also a suggestion that we create a section on our website with links to our 'top five' reports. We upgraded our website in late 2015 to provide more interactive functionality and a more comprehensive navigation menu and search engine. Feedback from this review, as well as our stakeholder survey, has suggested further opportunities for improvement and we will be considering more changes to our website to improve clarity and make it easier to find information.

7.1.2 Having clear and realistic timeframes for input

Workloads were a concern for many stakeholders, with some suggesting that better planning could ensure that stakeholders were aware of the timing for consultations, particularly when timeframes are necessarily tight. Others said that longer timeframes for providing submissions would not tackle the underlying problem that many stakeholders have multiple and competing requests for their input.

In our proposed draft Framework we are committing to allowing at least 4 weeks for stakeholders to provide submissions whenever possible. Statutory timeframes may mean we are not always able to offer this much time, but we will do our best, and we will provide even longer consultation periods when we can.

We agree there is more we can do to help make stakeholders aware of the timing for consultations across all our processes. Currently open projects are listed on the home page of our website, with icons to indicate which ones are accepting submissions and have upcoming forums. We also publish a [7 year regulatory determinations calendar](#) which shows the key milestones and associated dates for each upcoming electricity and gas regulatory reset. We plan to have a timetable of the key milestones on each project summary page and to keep this updated. We see value in [Energy Consumers Australia's (ECA's) Advocates Calendar](#) as a means of bringing together information about policy reviews, regulatory processes and inquiries and our aim is to provide ECA with information about our processes on an ongoing basis to assist with populating the calendar. We have also begun publishing a stakeholder newsletter with information about upcoming consultations planned by us and the other market bodies.

7.1.3 Engaging through the whole lifecycle

Stakeholders commented that it is important that the AER engages through the whole lifecycle of a decision, process or activity, from planning to consultation and closure. They supported approaches, such as for this review, where preliminary stakeholder views are sought prior to the publication of any documentation by the AER. They felt that this is more likely to focus on key stakeholder concerns, and lead to a more fulsome consideration of relevant issues than might otherwise be achieved.

Many stakeholders also thought greater engagement in the planning phase could allow for input into 'designing' the consultation process. They suggested this could avoid duplication of effort (although some raised concerns that it might actually increase timeframes and the amount of consultation), improve the coordination of different consultations to minimise burden, help stakeholders focus on the most important issues, and develop approaches that are appropriate and timeframes for responding that are more realistic.

The Framework and Approach stage of our electricity network determinations is an example of a process where we ask for feedback from stakeholders on issues such as our key milestones and how people want to hear from us. We will continue to look for other opportunities where it may be possible to seek early input from stakeholders, including on the design of our consultation processes. We will also be open at any stage to having stakeholders identify instances where additional support or capacity building may be required, noting that the earlier this can be done, the more successful it is likely to be.

Some network businesses stressed the importance of having continued engagement through the entire process, including at the end, to allow them the opportunity to understand and properly respond to the AER's decisions. One business noted that it found staff-level engagement constructive and suggested AER senior managers should encourage more such meetings. It was also suggested that we make our issues papers more focused and informative, to set out our reflections on the robustness/comprehensiveness of network service providers' proposals and identify areas where we are seeking more detailed analysis and evidence or that raise particular concerns. It was felt that this could avoid contentious new issues being raised late in the process when there might be little time or opportunity to provide relevant material that would usefully inform our final decision.

We recognise that decisions on businesses' revenue proposals can have a major impact on the way they operate their networks. Inevitably we tend to engage with individual network service providers more than any other stakeholders as part of our revenue determinations, so we fully understand their proposals. We offer opportunities for the business to meet with the AER Board to present their initial and revised proposals and draw attention to particular issues. We also use meetings and written information requests to clarify with the business issues that have been raised in submissions.

Towards the end of a regulatory process, we may have fewer meetings and workshops with a network business because we are focused on drafting our decision documents and so we may exercise our discretion not to consider late material after submissions on our draft decisions close. This is to ensure that we have sufficient time to give appropriate consideration to the material that is already before us. It also ensures that our processes are open and transparent and that other stakeholders have had a chance to respond. At the final stage, the network business is briefed on the key points of our decision the day before it is released.

Information about how we engage with network businesses and other key stakeholders during network resets was published in our [Network revenue determination protocol](). We are planning to reconsider how this fits in with the new Framework

7.2 Principle 2 - Being accessible and inclusive

Stakeholders also provided a number of suggestions about how we could be more flexible, tailored and inclusive in our engagement.

7.2.1 Being flexible

Some stakeholders felt that it was difficult to engage with us in certain areas as the AER seemed to have a developed view, for example on rate of return issues.

There may be some areas where we have less flexibility, for example when we are applying a consistent approach across a number of similar reset processes. Where this is this case, we will give our stakeholders an indication of how much these areas can be influenced through consultation.

For specific issues on rate of return, we have issued a guideline which sets out how we determine the return that electricity and gas network businesses can earn on their investments. The current guideline was released in 2013 following extensive consultation with stakeholders. The rules require us to review this guideline every three years; however, the AEMC has recently made a rule change to extend the time for review. We are expecting to commence public consultation to review our rate of return guideline in the second half of 2017. In preparation for this, we are currently consulting with stakeholders on the treatment of inflation in our determination of revenue and prices for electricity and gas network services.

Some felt that our enforcement activities need to strike a balance between consistency and the sensible need for discretion and flexibility within the spirit of the rules. We apply a risk-based approach to enforcement and there will be limits on the type of consultation and how much we can disclose around matters under investigation. We publish a statement of our approach to compliance and enforcement which aims for consistency across the industry. Ideally, most compliance issues are resolved without the exercise of statutory enforcement powers or financial penalties. When targeted and timely enforcement action is necessary and appropriate, we will issue a media release which sets out the issues of concern, the actions we have taken and the reasons for those actions.

There was also a suggestion that we make our guidelines less prescriptive. The current law and rules require us to publish guidelines providing guidance to industry on how to comply with the rules and how we will carry out our roles and functions. This necessitates a degree of prescription, though we regularly review and consult on the guidelines' clarity and consistency and we will continue to explore opportunities to make them more streamlined where possible.

7.2.2 Tailoring our engagement

Stakeholders agreed that while sometimes there are benefits to having everyone in the same room, there may be times when a more tailored approach is appropriate.

Many welcomed the opportunity for more informal engagement with the AER during network resets. Given that statutory timeframes can make it harder to engage in these processes, they thought that such engagement might help to flag potential issues or changes in approach, as well as to resolve issues and avoid surprises at the final decision stage.

The AER has begun to accommodate more requests for ad-hoc meetings, and this was acknowledged by our stakeholders. We are open to providing additional opportunities for

engagement, particularly at the beginning of a network revenue determination process. However, we recognise that this engagement needs to be transparent and that, in many cases, it will be appropriate to have all the relevant parties (including businesses and consumer representatives) together to discuss issues at the same time. The number of additional opportunities that we are able to offer may also vary depending on the internal resources available and the nature of different projects.

We also see benefit in businesses and consumer groups talking to each other to debate and potentially resolve some issues directly and we will encourage this where appropriate.

Many supported having more open discussions with us and other stakeholders on broader strategic issues such as what is meant by the 'long term interests of consumers'. There was also interest in agreeing what the 'important 'issues are that the AER and stakeholders should focus on. We agree that consultation does not always need to occur in the context of particular processes or projects and will look for opportunities to facilitate and participate in these types of discussions.

Some stakeholders had found Board-to-Board activity between organisations and the AER particularly effective and suggested they would like more of this. We will continue to look for appropriate opportunities for such dialogue.

Suggestions were made for trialling other approaches such as citizen juries, open days, surgeries, 'hot tubbing' (where experts give their evidence concurrently) and convening joint industry/consumer groups. We continuously strive to improve our engagement and are open to experimenting with new tools and approaches that are useful and appropriate. We have recently trialled new approaches in some of our processes, for example:

1. we hosted an interactive workshop on demand management to discuss key issues identified by stakeholders in a survey

2. we offered some network regulation training for consumer representatives during the recent Victorian electricity distribution reset processes. The feedback was very positive and this is something that we would consider doing again.

However, there will always be trade-offs in terms of resources and time in what and how much we can do. Our aim will be to use the tool or approach which will provide the best way for our stakeholders to provide input in all the circumstances.

7.2.3 Targeted communication

One area identified for improvement in our 2016 stakeholder survey was the need for greater tailoring of communications for some audiences. Feedback suggested that when developing our decision documents, we could better take into account how stakeholders will use our information. For example, when making similar decisions, we could provide a single document which shows how they compare, instead of requiring stakeholders to read several documents and spot differences. It was also acknowledged this is not solely the AER's responsibility and that it will at times be up to particular interest groups and organisations to write more tailored information when required.

We will consider whether we can tailor some of our decision documents more effectively, particularly in the Networks area, to take into account how stakeholders will use them. We

will also continue our focus on providing plain language fact sheets and overviews for our final and draft revenue determination decisions and to assist customers in navigating the retail market.

7.2.4 Building knowledge and capacity where needed

Stakeholders have suggested that some capacity building and education at the beginning of a process can aid later engagement.

Stakeholders have also suggested that we consider providing links on our website to background material which could assist in understanding energy market issues and network regulation.

We agree that capacity building and education can help with engagement and have retained a commitment in our revised draft Framework to take steps to build knowledge and capacity where needed. While we may identify these needs ourselves, we will also welcome stakeholders bringing them to our attention. We will be giving further consideration to the best way to deliver this in each case, including exploring possibilities for offering training courses and making material available on-line.

Businesses are interested in our views on their consumer engagement and have suggested our regulatory determinations could include more information about this to assist them in improving stakeholder engagement with their own customers. We endeavour to provide constructive feedback on businesses' consumer engagement in our decisions. This builds on our Consumer engagement guideline for network service providers. This guideline, which was published in 2013, provides a principles-based framework for the network businesses to adopt and strive for continuous improvement.

7.2.5 Considering the time and resources needed by stakeholders to engage effectively

Stakeholders made several other suggestions about how we could improve the effectiveness of our engagement including:

- ensuring that we talk to a broad range of stakeholders, particularly those in agricultural and regional areas

- making time to have a local presence in each jurisdiction including at the Board level

- helping stakeholders understand which staff they should be engaging with during network resets and having all of those involved at relevant meetings

- looking at ways to avoid overlapping engagement opportunities – for example by coordinating with the timetables of the AEMC and other stakeholders (noting the Advocates calendar recently developed by the ECA).

- exploring new approaches for engaging around Regulatory Information Notices (RINs)

- providing embargoed copies of reports to stakeholders who may wish to provide commentary once those reports have been published

- making engagement more accessible to consumers and whether opportunities to collaborate across more stakeholders may help with this. For example, some stakeholders asked us to consider whether we and our Consumer Challenge Panel should become involved in businesses' customer engagement activities

- recognising the value of all forms of consultation input including, for example, oral contributions at forums and not just written submissions.

We recognise the importance of making time to meet with key stakeholders, including in their local jurisdiction where possible. We meet with a broad spectrum of stakeholders including energy consumers, advocates and representative bodies, governments and other regulatory agencies, energy businesses, investors in energy businesses to ensure that we receive a wide range of perspectives.

We endeavour to reach out to our stakeholders in a variety of ways, including through presentations, workshops, forums and individual/small group meetings with staff and/or members of our Board. To help make our stakeholders aware of formal opportunities for engagement, we publish information about all our processes on our website – this includes all of our issues and consultation papers, as well as details of our public forums and workshops. We also accommodate requests for additional opportunities for engagement when appropriate. Meetings can be organised in our offices in NSW, Victoria, SA, Queensland and the ACT, or for stakeholders in places where we have no local presence, we may travel to them or offer alternate options for engagement such as by via video and teleconferences.

To ensure that we receive consumer perspectives we have established specific consultative groups including:

- our Customer Consultative Group, which helps us understand consumer and small business concerns on retail energy issues

- our Consumer Challenge Panel, which advises us on issues of importance to consumers during network revenue determinations.

We also publish plain language fact sheets and overviews which summarise the key information in draft and final network revenue determinations. We recognise that there may be more we can do to engage consumers. We welcome suggestions for other ways in which can broaden our approach to engaging with consumers and gathering consumer and market insight.

Stakeholders have indicated that it is sometimes difficult to know which of our staff they should be engaging with in relation to particular issues arising during network revenue determinations. This is an area we have also identified for improvement. We have begun to ensure that there is a General Manager contact available on our webpages for each process. A Coordination Director is in charge of each reset process and available to respond to queries from stakeholders about who to talk to about a particular issue. Coordination Directors will also aim to ensure that the appropriate AER staff are available for relevant meetings, noting that it may not always be possible to meet all requests.

We also agree with our stakeholders that we may be able to coordinate engagement activities better. When a number of consultations are on at the same time, we understand

that this creates a workflow burden, particularly for consumer groups. We will look at ways we could make this easier. We have recently trialled combining with other organisations for consultations, for example in November last year we hosted a joint stakeholder forum with the ENA and AEC to develop an agreed life support registration process. We will continue to look for opportunities to coordinate with other organisations for some consultations including through joint forums, workshops, information papers and/or submission processes. We will also be aiming to stagger the due dates for our own consultations wherever possible, noting that for processes with statutory deadlines such as resets our ability to do this may be limited.

We recognise that the engagement around our RINs can always be improved. We now routinely issue a pre-draft RIN (before commencing the formal process required under the National Electricity or Gas Rules) in order to allow for earlier comment and engagement on the proposed information requirements. Our consultation processes also provide the opportunity for businesses to highlight the difficulties and costs associated with collecting the information. We try to be pragmatic in responding to these concerns, weighing up the costs and the importance of the information to our decision making processes. We are open to reviewing our approach to developing RINS and will act on the suggestion that we look at the approach taken by US regulators such as Federal Energy Regulatory Commission (FERC) to information gathering, noting that we are required to work within the information gathering arrangements contained in the national energy legislation.

A suggestion was made that we consider providing embargoed copies of reports such as our State of the Energy Market or Retail Market Performance and Affordability Reports to enable stakeholders to make timely comments when the report is published. While we do make some embargoed copies of our reports available, these are circulated only to the COAG Energy Council and persons who have directly contributed to the report in question. Other interested parties are welcome to contact us or subscribe to the relevant section of our website to ensure that they receive copies of our reports as soon as they are published.

In terms of accepting stakeholders' oral contributions, we have also recognised the importance of this by retaining a commitment in our draft revised Framework (under the principle of being accessible and inclusive) that we will where possible, accept submissions in a range of formats, including written submissions, oral or emailed comments, etc.

7.3 Principle 3 - Being transparent

Stakeholders provided feedback about how we could be more transparent in our engagement including by providing greater clarity on purpose and how stakeholder input has informed our decisions.

7.3.1 Explaining the purpose and approach

Stakeholders suggested that we could be more specific about the context and objectives for each engagement process, as well as the proposed approach. Some thought the 'level' of engagement we were using could be more clearly specified and one in particular felt that we

could be clearer with stakeholders other than network service providers about how those stakeholders could participate in our processes.

To address these concerns, we are committing to outlining our aims clearly at the start of each process, specifying which engagement approaches we will be using and indicating how stakeholders can be involved.

As part of the review process, we will be developing more tools and support to help AER project teams plan consultations and engagements. These will include prompts to provide information about the context of each consultation and to explore possibilities for coordinating with other engagement activities planned by us and other organisations. It will also include publishing information about our process and the relevant contacts at the start of each consultation and, if possible, seeking early views on this process, as well as the timing for input.

7.3.2 Reporting on how stakeholder input informed our decision

While stakeholders acknowledged that there has been improvement over time in our reporting of how we used stakeholder input, they suggested more could be done particularly in network resets. Most felt it was important for the AER to acknowledge the input it received, and when we are not able to apply particular input to set out the reasons for this. Stakeholders also saw benefit in setting out trade-offs that may have occurred in reaching a decision as well as the consideration given to network businesses' own engagement processes and outputs. For example, we could provide greater clarity around the ability for customer preferences to be reflected in regulatory decisions and whether the AER had in-principle concerns with specific methodologies such as willingness-to-pay studies.

It was also suggested that we consider publishing a summary, alongside our regulatory decision, that sets out how the feedback we received has been incorporated into our decision. Some stakeholders also suggested that we do regular 'testing' that all contributions have been captured to ensure transparency.

We agree that it is important that stakeholders are aware of how input has informed our decisions. We recognise that our stakeholders want us to do more, particularly in the area of network revenue determinations. We are looking at practical solutions that will build on our current practices to and help close this gap including the use of tables to summarise the input we have received and indicate how it was taken into consideration.

Some of our stakeholders have also asked how we weigh up key areas and submissions when making our decisions. Our aim is to ensure that our decision documents set out this process so stakeholders can follow and understand how we formed our views and how their input informed our decisions. Our decisions are made after consideration of a range of information which may include businesses' regulatory proposals, stakeholder submissions, external consultants' reports and our own technical analysis. We do not apply weightings to any particular issues or stakeholder groups but instead factor in all of the information we have, including our own analysis, to come to a conclusion about what, in our expert opinion, is the best decision in all of the circumstances.

7.3.3 Being transparent in this process

To ensure transparency in our own review process, this section reports on some feedback which we have already responded to directly.

Some stakeholders raised particular issues around the regulation of embedded networks, including the overlapping and sometimes conflicting regulatory requirements, the time and resources needed to meet the new guidelines, and establishing an industry-specific participant consultative group. Due to the specific nature of their concerns, we have responded directly to these stakeholders to explain the work we do with policymakers and other regulatory agencies to minimise any overlap or conflict, why the new guidelines were necessary to protect consumers and that we do not propose to establish an industry participant consultative group at this time.

7.4 Principle 4 – Ensuring the effectiveness of our engagement is measurable

Some stakeholders suggested that we could do more to monitor whether the Framework principles have been met and to seek feedback on the outcomes of our engagement. They generally agreed that more could be done to measure success against clear objectives for each engagement process. Some suggested that checks, measures and changes needed to happen throughout, with a more comprehensive assessment at the end of the process. It was also considered important to ensure that the assessment method was timely and suited the project and the respondents. In addition to surveys, stakeholders thought having a 'lessons learnt' and feedback session at the end of each major project would be valuable.

We agree that we can improve the way we monitor and evaluate the overall effectiveness of our engagement. The draft revised Framework retains commitments that we will seek feedback on our engagement activities, using a range of methods (including monitoring our progress through our stakeholder survey) to evaluate their effectiveness and use this information to continuously improve. We have also committed to reporting on our engagement activities and their effectiveness on our website and in our annual report.

We are open to receiving stakeholder feedback about our processes at any time. We will be looking to improve our internal processes to ensure that the methods we use to seek feedback on our engagement are timely and suited to the particular process and respondents. We also want to improve our internal processes to evaluate the feedback received and share 'lessons learnt'. This will include choosing a few significant projects to undergo a peer review style assessment.

7.5 Other issues raised

Some stakeholders noted a strong improvement in engagement with the Consumer Challenge Panel., including its new governance framework and improved timeframes for input, and suggested that this may provide some learnings for the AER's Customer Consultative Group (CCG). In response to this feedback, we will look at applying lessons from this process to our other consultation groups, including our CCG, and identify where those may assist our processes, noting the different roles and functions of the various groups.

8 How to have your say

We encourage feedback on the new draft Framework and the wider proposals in this paper, both from individuals and organisations who have already provided input to this project and those who might wish to make comments for the first time.

Submissions to this consultation paper are due by 5 pm on **Friday 28 July 2017.**

We are flexible in how we obtain your input, including through e-mails, face-to face meetings and telephone conversations.

Written responses can be sent electronically to SEFreview@aer.gov.au or mailed to:

Stakeholder Engagement Framework Review
Australian Energy Regulator
GPO Box 520
MELBOURNE VIC 3001

Or please contact us at SEFreview@aer.gov.au if you would like to set up a time to discuss your views with us instead.

The feedback that we receive in response to this consultation paper will be used to inform our final revised Stakeholder Engagement Framework which we are expecting to publish by September 2017.