



Government of Western Australia  
Department of Mines, Industry Regulation and Safety  
Energy Policy WA

# Consultation on the draft Electricity Industry Amendment (Distributed Energy Resources) Bill 2023



**TDOWG**

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24 May 2023

Working together for a  
**brighter** energy future.

# Acknowledgement of Country



# Housekeeping

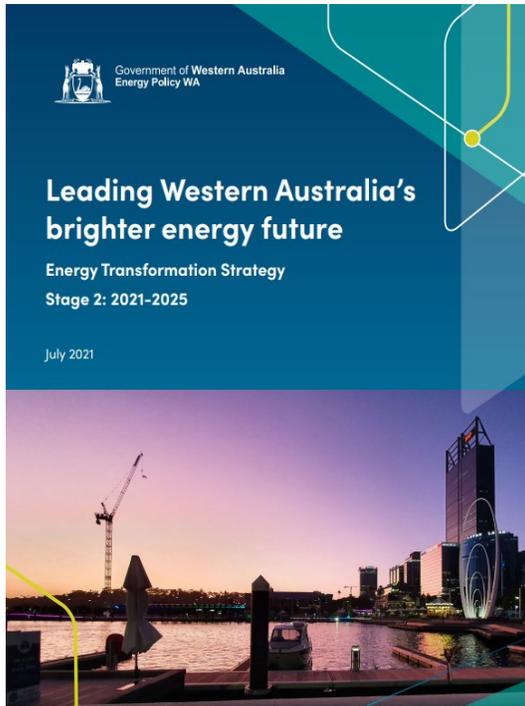
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- Please keep comments and questions relevant to the topic of the meeting.
- You can email questions or comments to [EPWA-info@dmirs.wa.gov.au](mailto:EPWA-info@dmirs.wa.gov.au) after the meeting.
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- The slides will be published on EPWA's website following the meeting.

# Why We're here ...

## Energy Transformation Strategy: Stage 2

July 2021



1. Implementing Taskforce decisions



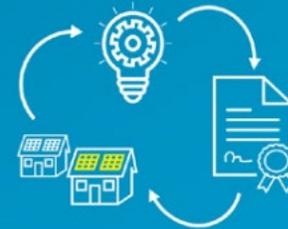
2. Integrating new technology



3. Keeping the lights on



4. Regulating for the future



# The story so far ...



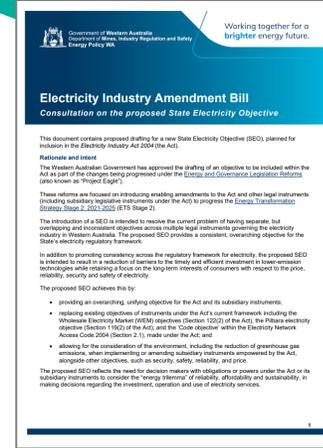
**October 2021**

Consultation - proposed reforms



**December 2022**

Public forum - update

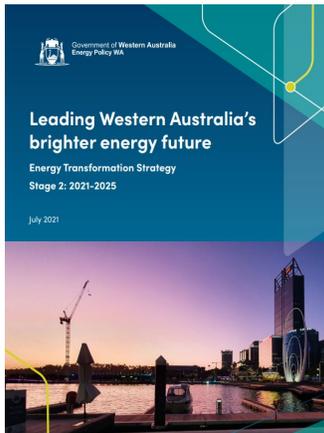


**February - March 2023**

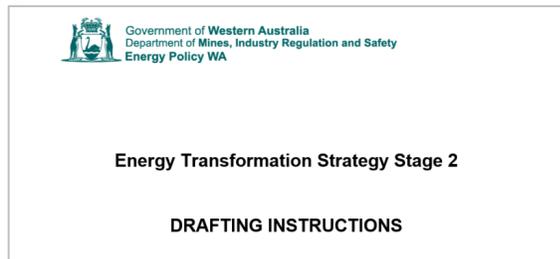
Consultation - SEO

Electricity Objective – Consultation Summary Paper

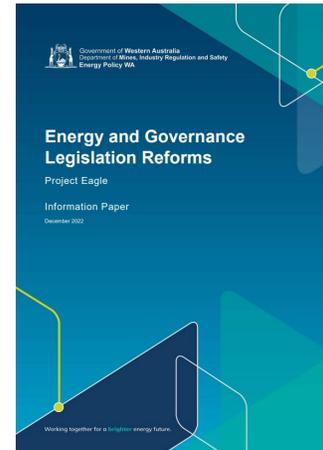
**July 2021**  
ETS Stage II



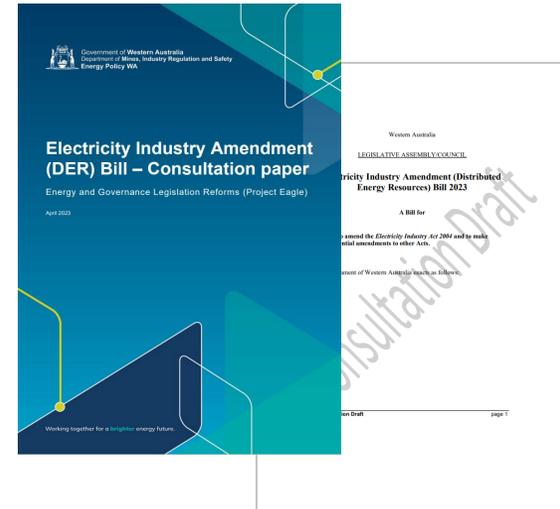
**August 2022**  
Cabinet approval



**January 2023**  
Information Paper - scope



**May 2023**  
Consultation - Bill

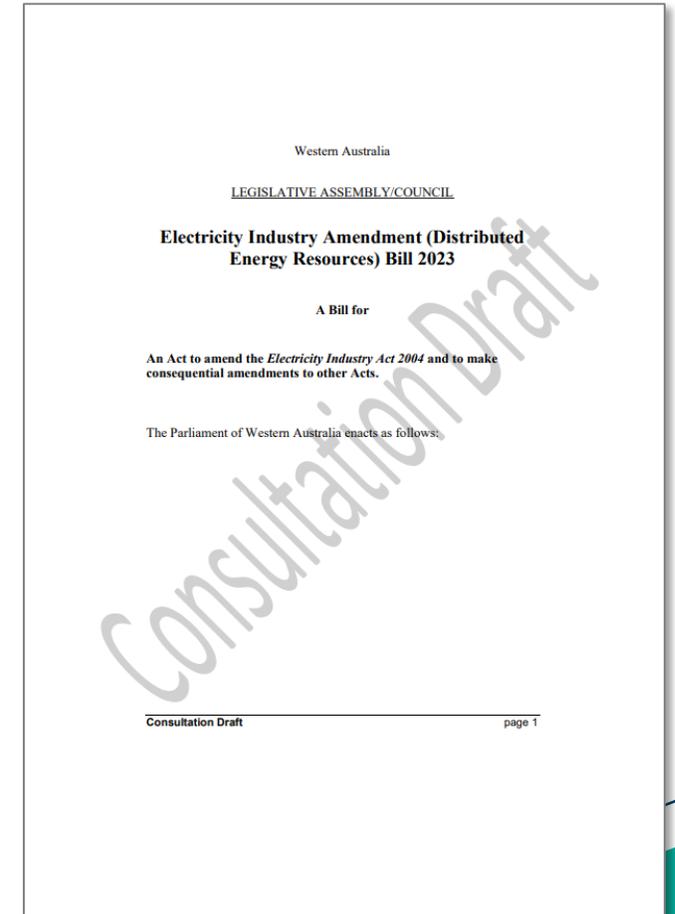


# Energy and Governance Legislation Reforms

## Project Eagle Recap

- **Government signed off on the scope of the reforms towards end of 2022**
- **The draft bill has now been produced in line with these Government approved instructions**
- **Legislation is meant to be enabling and permissive**
- **The draft bill will be followed by policy work over the coming years (in subsidiary instruments)**
  - Consultation on policy will occur in a comprehensive stakeholder engagement process (including formal Rule Change processes) after passage of the Amendment Bill

**This session is a chance to outline the changes and raise questions on the intent and drafting**



# Legislation hierarchy

These reforms are only changing the *Electricity Industry Act 2004*

## Legislation (changed via passage of a bill in parliament)

Laws providing a general framework rather than specific detail of when, where and how the laws might be applied.

## Regulations/codes

Changed by the Minister for Energy.

Scope of regulations/codes are set out in legislation.

## Rules

Changed by the Minister or Coordinator of Energy (and subject to change management process that includes significant stakeholder consultation).

Scope of the rules are set out in Act & Regs.

# Intent of the reforms

## Interaction between legislation and policy

- **The changes in the draft bill are intended to set out the framework for implementation of reforms**
- **The specific wording is deliberately permissive – it introduces concepts so that further policy work can be implemented *in future***
- For example: Distribution system market and DSM operator are introduced as defined terms in the bill, however, Government has a specific policy direction that there will not be a DSMO in foreseeable future
- It is included to facilitate the future development of such a function *if desired*

**We are seeking your feedback about where the bill is too restrictive, or where the specific drafting approach may have unintended outcomes.**

# Background – the reforms process

- Stage 1:**
- Parliamentary approvals and drafting (2023)
  - Consultation on the SEO and Amending Bill
  - Incorporation of feedback, preparation of Bill and passage through Parliament

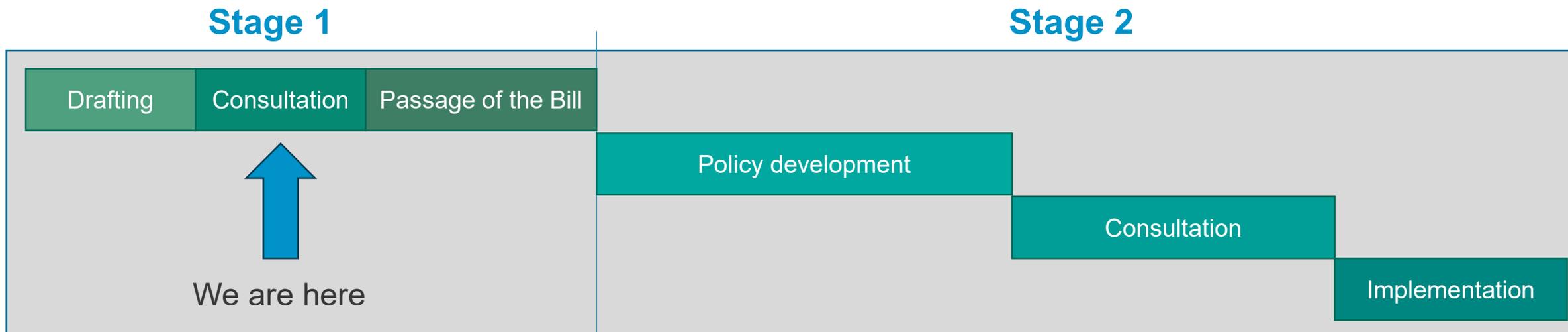
- Stage 2:**
- Policy development to consider required changes
  - Extensive consultation process with Industry
  - Implementation of changes
- This will occur with each policy area



# Background – the reforms process

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# Detail of the reforms

## 1. A new, overarching Objective

Overarching theme for the EI Act and subsidiary instruments

## 2. Expanding the scope of the WEM Rules

**Electricity  
Networks Access  
Code 2004**

Made under Part 8 of  
the EI Act

**Western Power's  
Technical Rules**

Made under the  
Access Code

**Electricity Industry  
(Metering) Code  
2012**

Made under Part 2 of  
the EI Act

***Electricity Act  
1945***

Relating to network  
voltage and frequency  
limits

**Electricity  
Industry (NQRS)  
Code 2005**

Made under Part 2 of  
the EI Act

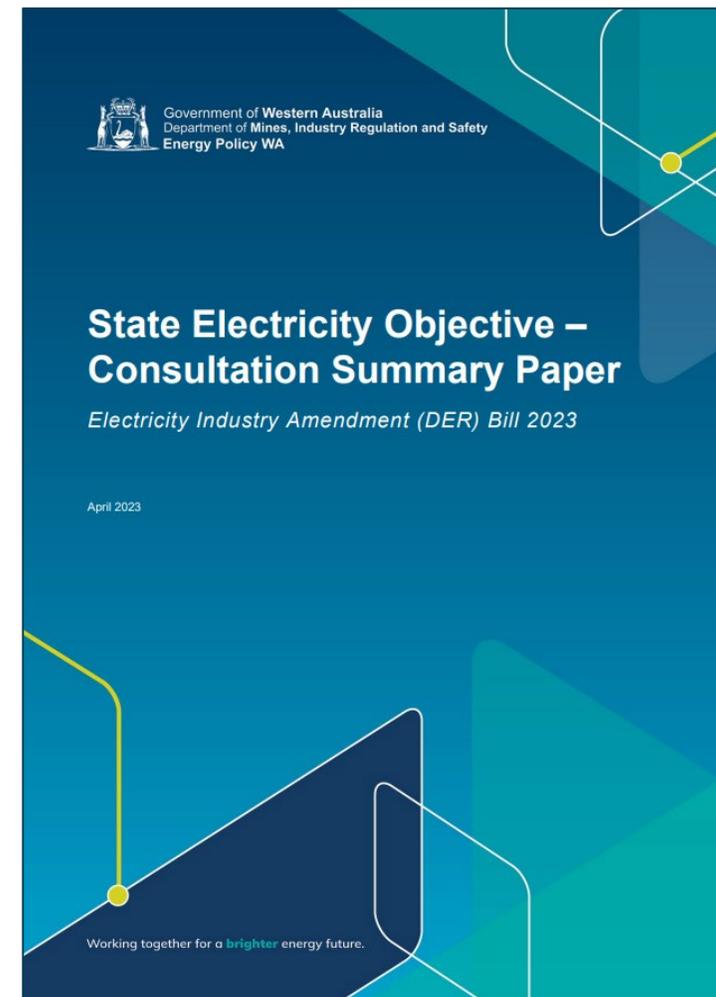
## 3. Improving arrangements to address new subject matter

Enabling WEM Rules to address matters not adequately dealt with under existing instruments

# Previous Consultation - SEO

We received 16 submissions from stakeholders in March 2023

Much of the consultation fell into three broad areas:



# Detail of the reforms

## 1. A new, overarching Objective

(2) The *State electricity objective* is to promote efficient investment in, and efficient operation and use of, electricity services for the long-term interests of consumers of electricity in relation to —

(a) the quality, safety, security and reliability of supply of electricity; and

(b) the price of electricity; and

(c) the environment, including reducing greenhouse gas emissions.

(3) The Minister, the Authority, the Coordinator and the Board must have regard to the State electricity objective in carrying out a function under this Act.

(4) For the purposes of subsection (2), the Minister, the Authority, the Coordinator or the Board may give the weight to any aspect of the State electricity objective that the Minister, the Authority, the Coordinator or the Board considers appropriate in all the circumstances.

- SEO applies to whole Act
- Retains efficiency and long-term interests of consumers
- Adds “electricity services”
- Introduces environmental considerations

# Consultation on the SEO

## Other feedback

- Stakeholders supported the decision to use ‘electricity services’ rather than supply
- Stakeholders supported use of the term ‘generation’ rather than ‘production’ of electricity
- Confirmed there will be no retrospective application of the SEO
- Confirmation that there would be no other changes to Part 8A (the Pilbara)

## Defined term – electricity services

### ***‘electricity services’***

**(a) means services that are necessary or incidental to the supply of electricity to consumers of electricity; and**

**(b) includes –**

- (i) the production of electricity; and**
- (ii) services provided by means of, or in connection with, an electricity network; and**
- (iii) the sale of electricity**

# 1. The State Electricity Objective

Intended reform	Amendment
Introduce an objective (SEO) for the whole EI Act to promote long-term interests of consumers of electricity, in relation to reliability, price, and environmental considerations.	Section 3A(1) added
Minister, ERA, Coordinator of Energy and the Electricity Review Board must have regard for SEO, can give weight to limbs flexibly	Section 3A(2) and (3) added
Existing objectives under the EI Act should be replaced by the SEO: <ul style="list-style-type: none"> <li>• WEM objectives</li> <li>• Pilbara electricity objective</li> <li>• Electricity Networks Access Code objective</li> </ul>	Section 122(2) removed Section 119(2) amended Section 104 removed Schedule 2A (1) added
Ensure that specific methods of meeting the SEO can be prescribed in the regulations and the Electricity System and Market Rules	Section 124(1) amended Section 124(2)(a) added
Include definitions for quality, reliability, safety and security.	Section 3(1) additions
Include a definition for electricity services.	Section 3A(4) added

# Detail of the reforms

## 2. Expanding the scope of the WEM Rules

(becomes “Electricity System and Market Rules”)

**Electricity  
Networks Access  
Code 2004**

Made under Part 8  
of the EI Act

**Western Power’s  
Technical Rules**

Made under the  
Access Code

**Electricity Industry  
(Metering) Code  
2012**

Made under Part 2 of  
the EI Act

***Electricity Act  
1945***

Provisions relating to  
network voltage and  
frequency limits

**Electricity  
Industry (NQRS)  
Code 2005**

Made under Part 2 of  
the EI Act

## 2. Expanding the scope of the WEM Rules

### 2.1 Establishing the Electricity System and Market Rules

These amendments will simply enable the regulations to prescribe which matters can be addressed through the ESMR

### 2.2 Importing access into the ESMR

This will happen in a deliberate, phased approach and will be subject to considerable public consultation.

There will also be consequential amendments for access.

### 2.3 Technical Rules

The ESMR will be empowered to deal with matters under Western Power's Technical rules.

### 2.4 Enforcement

Provisions retain penalties existing under the current EI Act, but ensure they apply under the ESMR.

### 2.5 Network quality and reliability of supply

Provisions to include reliability requirements in the regulations or ESMR

### 2.6 Voltage and frequency limits

Provisions prescribing outdated limits in the *Electricity Act 1945* repealed, ESMR and regulations empowered to deal with prescribing voltage..

### 2.7 Transitional arrangements

These provisions assist instruments being moved into ESMR, allowing them to remain in effect until changed

## 2.1 Establishing the Electricity System and Market Rules

The ESMR are empowered by regulations. The amendments to the EI Act will enable the regulations may prescribe all matters to be addressed through the ESMR

Intended reform	Corresponding amendment
Permit the regulations to provide for electricity system regulation in any part of the State. Retain the ability for regulations to establish the WEM in the SWIS.	Section 121A Section 122
Allow regulations to be made to rename the 'market rules' as 'Electricity System and Market Rules'.	Section 123 Consequential naming changes throughout
Establish a list of all matters the ESMR may address. (Further information is provided in section 2.3 below).	Section 123(1A) Schedule 2A
Ensure the ESMR, established under the regulations, can apply generally to electricity systems (i.e. outside the WEM-SWIS), and also specifically to the WEM-SWIS.	Section 122, 123
Dis-apply the <i>Interpretation Act 1984</i> 43(6) for penalties up to \$1,000, as the ESMR has its own penalty regime.	Section 123(2)
Remove the general privative mechanisms in 116/120T.	Section 116 removed Section 120T removed

## 2.2 ENAC – Incorporating access into the ESMR

The Amendment Bill will provide for the ESMR to address access and covered networks in the same way. In the future, coverage decisions relating to access will be made under the ESMR, not the Access Code.

Incorporating access into ESMR - Intended reform	Corresponding amendment
Require the regulations to provide for ESMR which include provisions in relation to access to services of network infrastructure facilities. <ul style="list-style-type: none"><li>• The replacement of section 104, which establishes the Access Code.</li></ul>	Sections 104, 104A, 104B, 105, 106 amended
Remove the requirement for an Access Code, and instead have the ESMR deal with the same content as the Access Code.	Section 104A amended
Remove 'the purposes' of Part 8, which are served by the SEO (i.e. the promotion of the long-term interests of consumers).	Section 102 removed

## 2.2 ENAC – Consequential amendments for access

Sections of the Amendment Bill which are obsolete due to other changes have been removed.

Consequential amendments - Intended reform	Corresponding amendment
<p>Remove provisions relating to the Access Code, which are replaced by mechanisms for the status and amendment of the ESMR, including:</p> <ul style="list-style-type: none"><li>• s107 - Code is subsidiary legislation</li><li>• s108 - Public comment on amendment or replacement of Code</li><li>• s109 - Exception to section 108</li><li>• s110 - Consultation with network service providers on amendment or replacement of Code</li><li>• s111 - Review of Code.</li></ul>	<p>Sections 107 to 111 removed</p>
<p>Provide for the Minister for Energy to decide whether a network is covered under the ESMR.</p>	<p>Section 3(1) definition of covered network</p>
<p>Ensure the application of the civil penalty regime occurs generally within the ESMR, not specifically to the Access Code.</p>	<p>Section 118 removed</p>

## 2.3 Technical Rules

The ESMR will be empowered to deal with matters dealt with by Western Power's Technical Rules (also referred to as the 'technical code').

Intended reform	Corresponding amendment
Remove the requirement for Technical Rules to be formulated, and for the content of the Technical Rules to instead be addressed by the ESMR.	Section 104B(m) removed Schedule 2A outlines content to be included in the ESMR

## 2.4 Enforcement

Enforcement provisions relating to the contravention of the ESMR are included in the drafted amendments, retaining penalties existing under the current EI Act.

Intended reform	Corresponding amendment
Removal of relevant clauses referring to the Access Code.	Sections 116 – 118 removed
Insertion of relevant clauses under Division 5: <ul style="list-style-type: none"><li>• Penalties for contravening access</li><li>• Penalties for contravention of the ESMR</li><li>• Criminal proceedings</li></ul>	Section 115 retained Section 124G added Section 124H added

## 2.5 Network quality and reliability

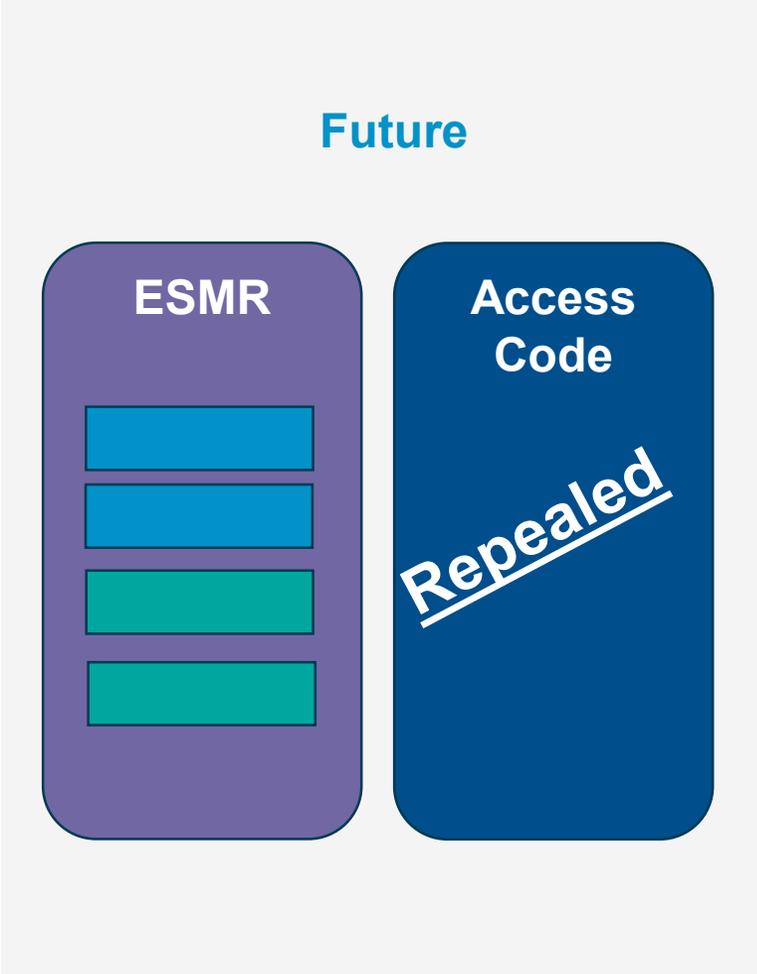
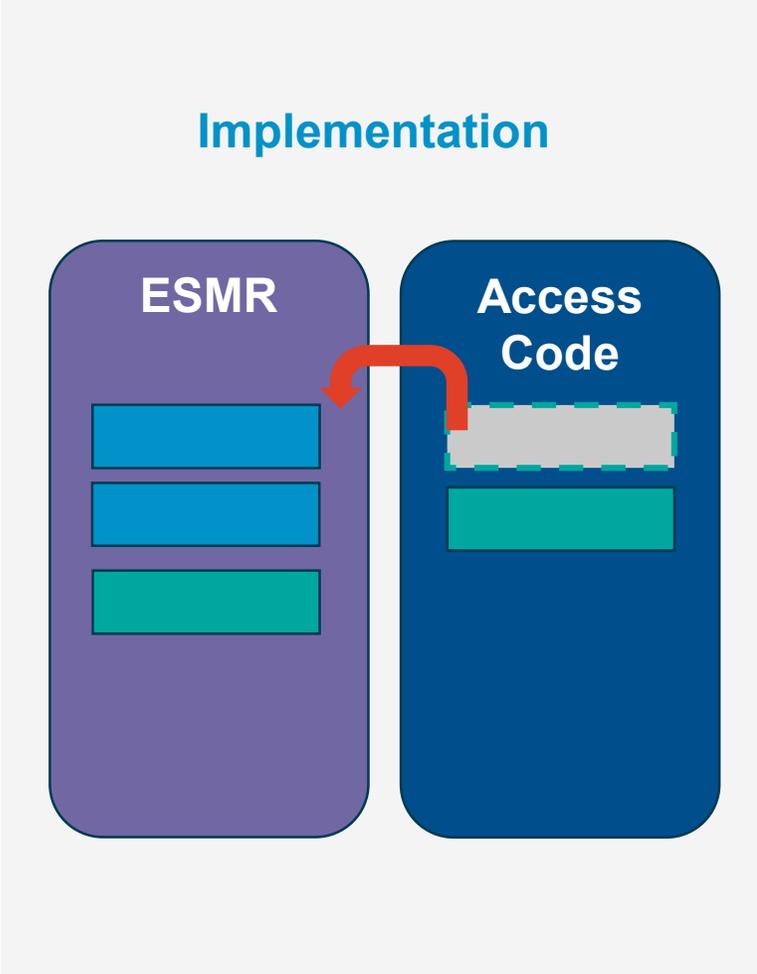
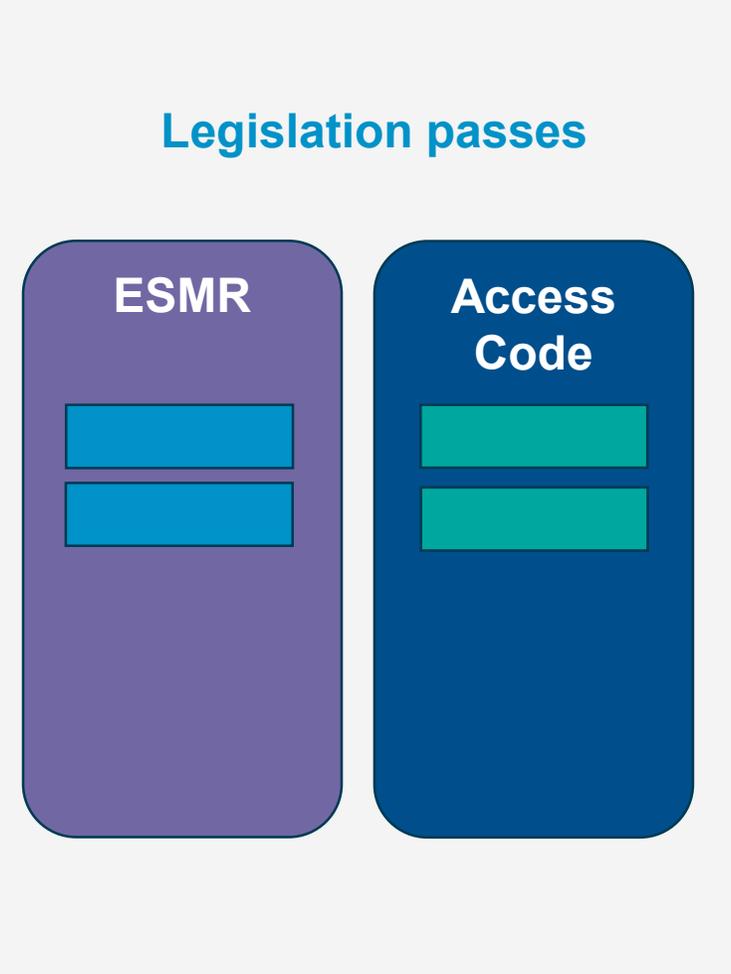
Intended reform	Corresponding amendment
Regulations or ESMR empowered to provide for: <ul style="list-style-type: none"> <li>• Reliability;</li> <li>• Security;</li> <li>• Quality; and</li> <li>• Safety.</li> </ul>	Section 124A(1) added (a) (b) (c) (d)
Regulations or ESMR empowered to provide for: <ul style="list-style-type: none"> <li>• Obligations for licence holders to comply with the above; and</li> <li>• Compensation to customers if licence holders fail to comply.</li> </ul>	Section 124A(1) added (e) (f)
Removal of equivalent provisions creating the NQRS Code.	Section 39(2)(d) & (da) removed
Consequential amendments referring to section 39 amended to instead refer to the regulations or ESMR for: <ul style="list-style-type: none"> <li>• 'Service standards' relevant to the Pilbara; and</li> <li>• 'RPC standards' applying to Horizon Power.</li> </ul>	129D(4), 129N(5) amended Section 39A(1) amended

## 2.6 Voltage and frequency limits

The network voltages which are prescribed in the *Electricity Act 1945* do not meet the current Australian and international standards for voltage. Provisions in that act will be repealed and ESMR and the regulations empowered to deal with prescribing voltage.

Intended reform	Corresponding amendment
Regulations or ESMR empowered to provide for: <ul style="list-style-type: none"><li>• The system voltage or frequency at which network operators supplies electricity to the premises of a consumer; and</li><li>• The maintenance of system voltage within specified limits.</li></ul>	Section 124B added
Removal of the specification of network voltages in primary legislation	Section 135, 136 (which repeals <i>Electricity Act 1945</i> section 25(1)(d))
Specification for distribution and transmission system voltages in regulations.	Section 3(1) definitions

# 2.7 Transitional arrangements



## 2.7 Transitional arrangements

These arrangements allow existing instruments to be imported in part or in full at different times as policy development and consultation is completed. Allows instruments to remain in effect until incorporated within the ESMR.

Intended reform	Corresponding amendment
The regulations may provide, or authorise the ESMR to provide, for the regulation of matters of a savings, transitional or supplementary nature.	Division 11 added (ss 129AB-129AG)
Transitional arrangements can permit Minister to determine by order in the Gazette how any matter in progress is to be treated (for the purposes of the ESMR)	Section 105(2)

# Detail of the reforms

## 3. Improving arrangements to address new subject matter

- Addressing matters not adequately dealt with currently
- Heads of power to deal with new things
- New definitions for those things to be included

### 3. Addressing new subject matter

The amendments will:

- **Enhance the regulatory framework's ability to address new technologies**
- **Enable regulation of distribution matters (including DER), microgrids, embedded networks and stand-alone power systems (SPS)**
- **Bolster the scope and powers of regulation for the lower-voltage systems**
- **Introduce heads of power to address issues**
- **Introduce new concepts and definitions relating to distribution systems, DER equipment, aggregated facilities, microgrids, embedded networks**
- **Allow for identification of responsible parties, roles, relationships, obligations**

### 3.1 New terminology and changes to definitions

Definition of distribution systems will be expanded to include embedded networks or microgrids. Connected facilities will also be introduced into the EI Act (as a DER facility that is connected to the distribution system, or as a thing that manages flow to or from the distribution system).

Intended reform	Corresponding amendment
Introduce terminology in the EI Act for: <ul style="list-style-type: none"><li>• Embedded networks</li><li>• Microgrids.</li></ul>	Section 3(1) definition to refer to Section 124D
Introduce a definition of 'connected facilities' as a facility connected to the distribution system that manages or controls the flow of electricity to or from the distribution system.	Section 3(1)
Differentiation between distribution and transmission systems to be prescribed in regulation.	Section 3(1), definition of 'transmission system'
Introduce the role of the Coordinator, defined as the Coordinator of Energy referred to in the <i>Energy Coordination Act 1994</i> .	Section 3(1)

## 3.2 Distribution roles

Introduce heads of power to establish a distribution system market (including its governance and operation).

Intended reform	Corresponding amendment
Authorise the regulations to address, or allow the ESMR to provide for relevant roles, obligations and relationships relating to the distribution system. The regulations or ESMR may provide for:	Section 123(1A) added Schedule 2A
<ul style="list-style-type: none"><li>• Operation of a distribution system or connected facility</li></ul>	Section 124C(a)
<ul style="list-style-type: none"><li>• Identification of a system or facility operator</li><li>• Obligations on transparency and control</li></ul>	Section 124C(b), (c)
<ul style="list-style-type: none"><li>• Creation, governance and operation of a distribution system market</li><li>• Establishing rights and functions on relevant entity in relation to operation of that market</li></ul>	Section 124C(d), (e)
<ul style="list-style-type: none"><li>• Defining relationships between system or facility operators, the distribution market and WEM operators, and any other participant.</li></ul>	Section 124C(f)

### 3.3 Distribution technical standards

Intended reform	Corresponding amendment
Allow the ESMR to provide for relevant technical requirements relating to distribution systems (or other connected facilities) relating to supply of electricity through the distribution system and the transfer of electricity in and out of it.	Section 123(1A)(b) added Schedule 2A added
Allow the ESMR to provide for relevant technical requirements relating to remote monitoring, data capture and meter reading, remote disconnection and reconnection and other aspects of remote control.	Section 123(1A)(b) added Schedule 2A added

## 3.4 Distribution compliance

Intended reform	Corresponding amendment
Network service provider may be given the power to direct a person who has failed to comply with the EI Act, regulations or ESMR to rectify non-compliance (or, if not rectified, take action to rectify).	Section 124C(1)
A person may apply to the State Administrative Tribunal for a review of such a direction.	Section 124C(2)

### 3.5 Horizon Power provision of stand-alone power systems

Intended reform	Corresponding amendment
Horizon Power able to deploy SPS in covered networks, Pilbara networks, and outside covered networks.	Section 3A(1) added
Horizon Power is able to access land in order to deploy and operate SPS.	Section 144, 145 (amending the <i>Energy Operators (Powers) Act 1979</i> )
Authorise the regulations, and allow the ESMR to regulate Horizon Power's deployment of SPS in covered networks, Pilbara networks, and outside covered networks.	Section 105(1)(cb) Section 139 (amending the <i>Electricity Corporations Act 2005</i> )

## 3.6 Other matters

### Immunities

Intended reform	Corresponding amendment
Minister, the ERA and the Coordinator, and their officers are not liable if undertaking an act in good faith in performance of a function under the EI Act, regulations or ESMR.	Section 126(1A), (1B)
Participants (under <a href="#">s121(2)(b) &amp; (c)</a> ) and their personnel are do not incur civil monetary liability if undertaking an act in good faith, in performance of a system management function.	Section 126(2)

### Review of market operation

Intended reform	Corresponding amendment
Give the Coordinator the requirement to review the WEM on a three-yearly basis and provide it to the Minister for Energy.	Section 128(1)-(4),(6), Section 129 amended
Regulations or ESMR empowered to provide for: <ul style="list-style-type: none"><li>the Coordinator to appoint panels to provide assistance in conducting a review</li><li>the recovery of costs of any panel.</li></ul>	Section 129AA (a)  (b)

## 3.6 Other matters

### Energy data (Electricity data)

Intended reform	Corresponding amendment
Introduce defined terms for energy data, energy data platforms, and energy data services.	Section 3(1) definitions added
Allow the ESMR to provide for relevant standards and requirements for platforms and services.	Section 123(1A)(b) added Schedule 2A(6) added

### Other consequential amendments

Intended reform	Corresponding amendment
<i>Electricity Corporations Act 2005</i> .	Sections 137 - 141
<i>Electricity Transmission and Distribution Systems (Access) Act 1994</i> .	Sections 142 - 143
Energy Operators (Power) Act 1979	Sections 144 - 145

# Questions

Please send submissions to: [EPWA-info@dmirs.wa.gov.au](mailto:EPWA-info@dmirs.wa.gov.au)