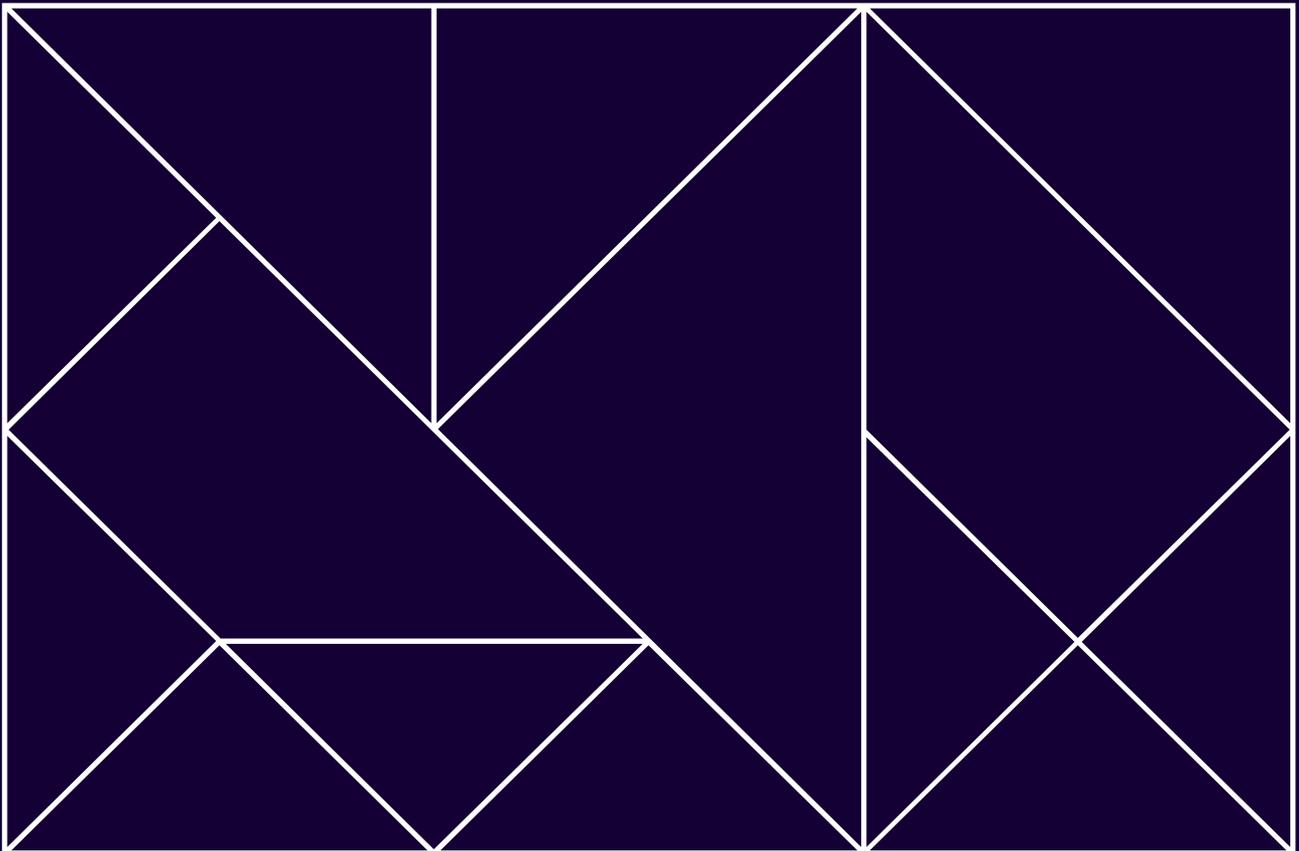


6 May 2024

# Review of the Market Advisory Committee

Consultation Paper



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Goomup, by Jarni McGuire

# Contents

<b>Call for Submissions</b>	<b>i</b>
<b>1 Background and Context</b>	<b>2</b>
1.1 Regulatory framework for the Market Advisory Committee	2
1.2 Current situation	3
<b>2 Review Considerations and Reform Options</b>	<b>5</b>
2.1 Introduction	5
2.2 Purpose of the MAC	6
2.3 MAC roles and responsibilities	7
2.4 MAC Membership	10
2.5 MAC Operations	14
<b>Appendices</b>	<b>18</b>
<b>A Supporting Background Information</b>	<b>A-1</b>
A.1 History of the Market Advisory Committee	A-1
A.2 Current situation	A-1
A.3 Operation of the Market Advisory Committee	A-2

# Request for Submissions

## Overview

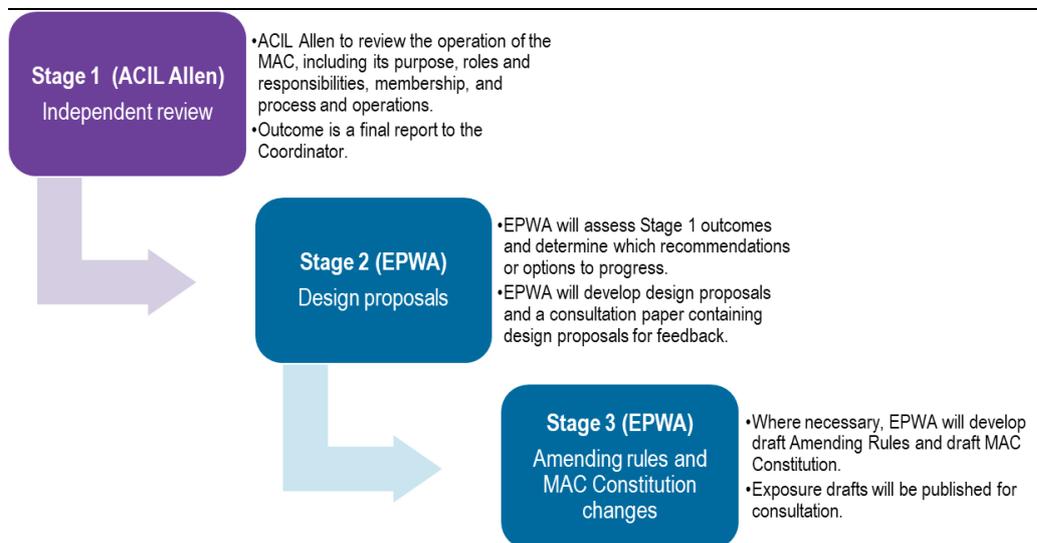
The Market Advisory Committee (MAC) is a committee of industry and consumer representatives convened to provide advice in relation to Rule Change Proposals, Procedure Change Proposals, and the evolution of the Wholesale Electricity Market (WEM) and the WEM Rules.

The MAC has been a feature of the WEM since market commencement on 21 September 2006. It was established to provide advice to those with responsibilities under the WEM Rules, being the Coordinator of Energy (Coordinator), the Economic Regulation Authority (ERA), the Australian Energy Market Operator (AEMO), and Western Power (as Network Operator).

One of the functions of the Coordinator (clause 2.2D.1(h) of the WEM Rules) is to consider and, in consultation with the MAC, progress the development and evolution of the WEM and the WEM Rules. Under this clause, the Coordinator is conducting a Review of the operation of the MAC (Review) throughout 2024, to ensure the MAC is fit for purpose and effective, and in particular, that it operates efficiently and provides balance, timely and useful advice to the Coordinator. The Review is timely, given the upcoming changes to the WEM (see section 1.4).

The Review is being undertaken in three stages, with Stage 1 being completed independently by ACIL Allen between February and 1 July 2024. ACIL Allen has been engaged to independently assess the MAC’s purpose, representation, roles and responsibilities, and process and operation to ensure these aspects of the MAC’s operation or governance are fit for purpose.

**Figure 1** Review of the MAC



This Consultation Paper pertains to Stage 1 of the Review. The outcome of Stage 1 will be a series of recommendations delivered via a final report to the Coordinator by 1 July 2024. Stage 2 and 3 of the Review will be undertaken by Energy Policy WA (EPWA) between July and September 2024. Any subsequent changes made to the MAC will be at the Coordinator's discretion following further work conducted by EPWA during Stage 2 and 3. Further information on this can be found in the Scope of Works, at the [Market Advisory Committee Review](#).

The MAC Review is being undertaken in parallel with the Procedure Change Process Review. Further information on the Procedure Change Process Review can be found on EPWA's website.

## **Call for Submissions**

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This paper is the **Consultation Paper** for Stage 1 of the Review of the Market Advisory Committee. The Consultation Paper presents a series of interim observations and reform options, against which ACIL Allen is seeking market views.

Market Participants and other interested parties are requested to provide feedback on the questions posed in this Consultation Paper. Please do this via written response in a format of your choice which clearly identifies the matter you are responding to. Please include any further general observations in a separate section of your response.

The consultation process closes at 5pm 30 May 2024. Submissions should be emailed to ACIL Allen's Project Manager, Ryan Buckland, at [r.buckland@acilallen.com.au](mailto:r.buckland@acilallen.com.au).

Stakeholder submissions received in response to the Consultation Paper will be published on the Energy Policy WA website. **Please advise if you do not wish for your submission to be published.**

For further information on the review or to discuss the initial reform suggestions and other findings, please contact Ryan as above or on +61 8 9449 9621.

# Consultation Paper

# Background and Context

# 1

The current regulatory framework for the Market Advisory Committee, its place within the WEM Rules and the governance system of the WEM more broadly, and ACIL Allen’s perspective on the current context the Market Advisory Committee is operating in, is summarised in this section.

## 1.1 Regulatory framework for the Market Advisory Committee

The Market Advisory Committee (MAC) is an important pillar of the regulatory and governance architecture of the WEM. Since the WEM commenced in 2006, the MAC has played a role as a conduit for Market Participants and other stakeholders to provide input into the regulatory system in its role as an advisory body.

The significance of the MAC is reinforced by its capacity to inform the development of Rule Change Proposals through an independent Chair (Chair) who is appointed by the Minister for Energy but is otherwise completely independent from the setting of policy within Western Australia’s electricity sector.

Clause 2.3 of the WEM Rules provides for the establishment of the MAC, as explained in **Box 1.1**.

### Box 1.1 Role of the Market Advisory Committee

The Market Advisory Committee is a committee of industry representatives convened by the Coordinator:

- a) to advise the Coordinator regarding Rule Change Proposals
- b) to advise AEMO, the ERA, the Coordinator and Network Operators regarding Procedure Change Proposals
- c) to advise the Coordinator, AEMO and the ERA on the development of Rule Change Proposals where requested by the Coordinator, AEMO or the ERA
- d) to advise the Coordinator regarding matters concerning, and the Coordinator’s plans for the evolution and development of the WEM and WEM Rules
- e) to provide assistance to the Coordinator in its role of monitoring the effectiveness of the WEM.

*Source: Clause 2.3.1. of the WEM Rules*

In providing advice, the MAC must have regard for the WEM Objectives, prescribed under section 122(2) of the EI Act. Any recommendations that the MAC makes must be consistent with these objectives. These objectives will soon be superseded by the State Electricity Objective (SEO) (see section 1.3).

**Box 1.2** Current WEM Objectives

The objectives of the market are —

- a) to promote the economically efficient, safe and reliable production and supply of electricity and electricity related services in the South West interconnected system; and
- b) to encourage competition among generators and retailers in the South West interconnected system, including by facilitating efficient entry of new competitors; and
- c) to avoid discrimination in that market against particular energy options and technologies, including sustainable energy options and technologies such as those that make use of renewable resources or that reduce overall greenhouse gas emissions; and
- d) to minimise the long-term cost of electricity supplied to customers from the South West interconnected system; and
- e) to encourage the taking of measures to manage the amount of electricity used and when it is used.

Source: Section 122(2) of the EI Act

## 1.2 Current situation

The WEM is undergoing significant changes as a result of the ongoing Energy Transformation Strategy (further information in **Appendix A**). EPWA is continuing to review the legislative and governance arrangements for the energy sector, with the aim of creating a regulatory environment that is agile and responsive to the challenges and opportunities of the energy transformation.

Upcoming changes include the introduction of the *Electricity Industry Amendment (Distributed Energy Resources) Act 2024*<sup>1</sup>, (the DER Act) which was assented to on 7 March 2024, and will commence on proclamation (expected to occur prior to the end of 2024). The DER Act will make changes to the *Electricity Industry Act 2004* (the EI Act) that will impact the operation of the MAC, including:

- the introduction of a new **SEO**, to replace the current WEM Objectives; and
- expanding the scope of the WEM Rules (to be renamed the **Electricity System and Market Rules (ESMR)**) to address matters contained in:
  - the Electricity Networks Access Code 2004;
  - Western Power's Technical Rules;
  - the Electricity Industry (Metering) Code 2012; and
  - the Electricity Industry (Network Quality and Reliability of Supply) Code 2005.

**Box 1.3** The State Electricity Objective

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.

Source: *Electricity Industry Amendment (Distributed Energy Resources) Act 2024*, s.5.

<sup>1</sup> Parliamentary Counsel's Office. 2024. *Electricity Industry Amendment (Distributed Energy Resources) Act 2024*. Accessed: [https://www.legislation.wa.gov.au/legislation/statutes.nsf/law\\_a147416.html](https://www.legislation.wa.gov.au/legislation/statutes.nsf/law_a147416.html)

These instruments will be moved across to the WEM Rules over the coming years and this will significantly increase the scope and technical complexity of matters that the MAC will be required to provide advice on. In this context, the Review is not only assessing whether the MAC is currently fit for purpose, but also whether it will be effective in delivering advice as the WEM Rules evolve into the ESMR.

# Review Considerations and Reform Options

# 2

ACIL Allen’s initial observations regarding the operations and status of the Market Advisory Committee, and potential options for reform, are presented in this section. The initial observations are subject to further review and consideration, informed by stakeholder feedback requested throughout the section.

## 2.1 Introduction

This Consultation Paper has been informed through the initial engagement ACIL Allen has undertaken consisting of a survey and subsequent individual consultation meetings with MAC members and EPWA. This consultation with stakeholders has raised a number of considerations which have been grouped under the following categories:

- **Purpose of the MAC:** The degree to which the purpose of the MAC is appropriate, and whether it will be suitable in future, considering the introduction of the new SEO and the ESMR.
- **Roles and responsibilities of MAC members:** The degree to which the roles and responsibilities of the MAC are clear, and whether the eligibility criteria for membership are fit-for-purpose given the changes to the WEM.
- **Membership of the MAC:** The degree to which the current membership of the MAC ensures that it can effectively fulfil its current purpose, and whether changes to the composition of the MAC may be required as a result of the new SEO or the ESMR to ensure a balanced view in the MAC.
- **Operations of the MAC:** The degree to which the MAC is administered efficiently, and whether improvements could enable the provision of more timely and effective advice.

Each of these areas are explored further below, including any issues identified by ACIL Allen through the course of the MAC Review (Review), and potential options for how these issues could be rectified. ACIL Allen are interested in hearing whether stakeholders agree or disagree with the issues identified, and whether the proposed options and draft recommendations will rectify these issues.

In some cases, the options identified to resolve issues could be implemented concurrently, while in other cases they are mutually exclusive. This diversity reflects the broad range of feedback gathered by ACIL Allen during consultation, and ACIL Allen’s intention to gather further feedback across these various options, rather than prematurely narrowing the focus of the Review.

This Consultation Paper forms an important part of the consultation process and stakeholder input will be important for ACIL Allen to formulate the final advice to the Coordinator by 1 July 2024.

## 2.2 Purpose of the MAC

### **High-level issue statement**

The role of the MAC, as contained in clause 2.3.1 of the WEM Rules, does not provide an overarching ‘reason for being’ for the MAC, leading to differences in stakeholder perceptions of what the MAC is intended to achieve.

ACIL Allen’s initial engagement with stakeholders was conducted on the premise that the role of the MAC, as contained in clause 2.3.1 of the WEM Rules, was analogous to its purpose. However, stakeholder consultation has revealed clear differences in views on what the MAC is convened to achieve, with stakeholders divided as to whether the MAC is primarily a sounding board, a strategic advisory body, or an expert advisory body.

Through these discussions, some stakeholders raised that clause 2.3.1 of the WEM Rules more closely resembles a statement of functions, rather than a ‘reason for being’. Some stakeholders have also suggested that the role of the MAC is primarily reactive, with the primary purpose of the group to advise on matters which are often put forward as pre-formed proposals for reforms.

ACIL Allen believes that these differences stem primarily from the absence of a clear overarching purpose for the MAC, leading stakeholders to infer its purpose based on their individual understandings of the role and their motivations for participating on the MAC. When a role is mistaken for purpose, it provides space for individuals to define their own objectives, which may be at odds with other MAC members and introduce competing priorities for MAC members. This lack of clarity on the fundamental reason for the MAC’s existence may cause missed opportunities to fully utilise the MAC’s potential.

As such, ACIL Allen considers it important to discern and articulate a clear purpose for the MAC to ensure that its activities align with its intended outcomes and contribute meaningfully to the WEM.

ACIL Allen is seeking further feedback on the options presented in

**Table 2.1** below.

**Table 2.1** Potential reforms – Purpose of the MAC

Options for reform	Advantages	Disadvantages
<p><b>P1 – Status Quo</b> The purpose of the MAC remains synonymous with its role.</p>	<ul style="list-style-type: none"> <li>– Maintains stability of role for the MAC during a period of significant and ongoing change</li> </ul>	<ul style="list-style-type: none"> <li>– May be a missed opportunity to clarify the intended overarching purpose of the MAC in a changing environment</li> </ul>
<p><b>P2 – Define the overarching purpose of the MAC</b> An overarching purpose for the MAC would be defined. The purpose should be separate to the role (clause 2.3.1.).</p>	<ul style="list-style-type: none"> <li>– May provide clarity and focus on MAC goals and objectives</li> <li>– May ensure MAC member alignment</li> <li>– Could help provide parameters for MAC effectiveness</li> <li>– May enable broader communication on committee role and goals</li> <li>– Could provide greater alignment for the MAC with the SEO</li> <li>– May increase motivation and engagement of the MAC by cementing the importance of contributions towards outcomes</li> </ul>	<ul style="list-style-type: none"> <li>– Could limit the MAC’s ability to adapt to react to ongoing market changes, or introduce scope creep</li> <li>– If there is limited agreement on the purpose from the MAC, the purpose will have limited impact on operations</li> <li>– Introduces a new package of work into the reform process</li> </ul>

### 2.2.1 Draft recommendation

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To address the high-level problem statement, ACIL Allen is proposing to recommend **P2 – Define the overarching purpose of the MAC** to the Coordinator.

ACIL Allen consider that an appropriately defined purpose would provide greater clarity and focus for MAC members on the committee's goals and objectives and would allow the MAC to focus its efforts towards achieving these specific outcomes. Differences in stakeholder perceptions of the 'point' of the MAC may mean that MAC members are not working towards the same outcome, or that they have divergent views on the goal of MAC advice.

To appropriately develop a guiding statement, it will be necessary to obtain MAC and broader electricity industry buy-in and consider principles that would inform the purpose. Principles could include:

- alignment with the SEO
- the type of advice sought from the MAC
  - currently, ACIL Allen understands that the MAC is primarily a representative industry body, with a certain level of expertise expected. The purpose should capture the type of advice the MAC should provide going forward – for example, is the group to provide primarily technical advice, or more strategic advice?
- positioning the MAC within the WEM as a part of the Coordinator's decision-making processes (noting that the MAC is not a decision-making body but is part of the overall process for other decision-makers, including the Coordinator).

#### **Guiding questions**

- Do you believe there is a current clear 'reason for being' of the MAC?
- What do you consider the overarching purpose of the MAC?
- Do you believe there is a need to define an overarching purpose for the MAC? Why or why not?
- If so, what are some guiding principles for developing an overarching purpose?

## 2.3 MAC roles and responsibilities

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#### **High-level issue statement**

The MAC's role in clause 2.3.1 is framed as reactive rather than proactive, meaning it does not currently have a set function to take a more proactive role in assisting in the development and delivery of policy.

Clause 2.3.2 of the WEM Rules describes the roles and responsibilities of the MAC and outlines its role in the market as an advisory body on a range of matters. Through consultation with stakeholders, ACIL Allen has determined, that along with its stated role under clause 2.3.1 of the WEM Rules, the MAC also has several important, unstated roles that may benefit from being made more explicit.

#### **Stated role of the MAC**

The MAC as stated in clause 2.3.1. of the WEM Rules is a committee of industry representatives: an advisory body to provide advice on Rule Change Proposals, Procedure Change Proposals, and the effectiveness of the WEM. It must, where practical, endeavour to reach a consensus position

on any issue before it. In providing advice on these matters, the MAC must have regard for the WEM Objectives (soon to be the SEO).

Stakeholders considered the stated role of the MAC to be appropriate, and there were no suggestions on other roles the MAC should have.

However, several stakeholders noted that the role of the MAC was largely a 'reactive' body, and there was limited ability for it to take a proactive role in assisting in the development and delivery of policy to better achieve the WEM Objectives.

It was advised by several stakeholders that the MAC currently plays a limited role in Rule Change Proposals, due to the existence of the current transitional arrangements whereby the Minister for Energy makes Rule Changes, noting that the MAC has Working Groups for each major review, and has visibility of papers and proposals before they go out, including the opportunity to review and make comments.

While all stakeholders are supportive of the need to make quick Rule Changes to ensure the smooth operation of the market, many stakeholders have noted that this has resulted in the MAC having less influence in the process than previously (where Rule Changes were industry-led), prompting consideration of how the MAC's role may need to evolve to ensure effectiveness where these arrangements continue.

These stakeholders noted that where the Rule Changes were previously industry-led, they considered there was a clearer role for the MAC in assessing the strength of the Rule Change Proposals and providing advice to the Coordinator. Currently, some see this advice as 'circular', where the Coordinator is seeking advice on their own Rule Change Proposal, raising questions as to how influential MAC advice is in this process.

The need for the MAC to endeavour to provide a single 'industry' perspective when providing advice was also challenged by some stakeholders during the initial phase of consultation. In this regard, some stakeholders queried whether this requirement was necessary, given the often competing and conflicting views of various segments of the market.

### **Unstated roles of the Market Advisory Committee**

While the MAC has a range of stated roles and functions, ACIL Allen's observation through engagement and broader review is there are a range of unstated roles the MAC and its constituents play in the market, particularly in the context of the evolution of the market.

These roles include:

- providing transparency for decision-making processes through detailed minutes of the MAC meetings. This provides an important 'check' on the rationale and capacity of policymaking to ensure proposals are evidenced, well considered and able to stand up to scrutiny.
- enabling access to corporate and industry knowledge through detailed minutes of the MAC and its Working Groups, including Working Group papers. This in turn assists in the development of a market-wide 'corporate memory' for the WEM which can be relied upon by all WEM Participants.
- providing for the ongoing learning and development of capability to participate and engage in the market and understand the market through participation on Working Groups.

The MAC process is transparent, with public, detailed meeting minutes and papers highlighting discussions and decisions that have been made at specific points in time. This enables those without a MAC representative to remain up to date with the current reform process and gather insight as to the rationale for decision-making processes.

While EPWA provide opportunities for stakeholders to provide input on decisions through participation on Working Groups and consultation papers, the MAC meeting minutes provide insight into the process of arriving at certain matters, making them a highly valuable piece of market information. This also allows for the building of a knowledge base from which future decisions can be made.

**Table 2.2** Potential reforms – MAC roles and responsibilities

Options for reform	Advantages	Disadvantages
<p><b>R1 – Status Quo</b> The role and responsibilities of the MAC remain unchanged.</p>	<ul style="list-style-type: none"> <li>– Maintains stability of role/purpose for the MAC during a period of significant and ongoing change</li> </ul>	<ul style="list-style-type: none"> <li>– In conjunction with an overarching purpose, refining the role of the MAC may provide opportunities to clarify its intended function</li> </ul>
<p><b>R2 – State the unstated roles of the MAC</b> The unstated roles of the MAC would be placed under clause 2.3.1. of the WEM Rules to embed its importance in providing decision-making transparency and industry development.</p>	<ul style="list-style-type: none"> <li>– Embeds transparency and industry knowledge building as a core function of the MAC’s existence to provide guidance on its ongoing need</li> </ul>	<ul style="list-style-type: none"> <li>– As this is already the case, there may be limited benefit in making this explicit</li> </ul>
<p><b>R3 – Addition of a strategic function</b> The MAC role would be expanded to include a ‘strategic’ function, for example to advise the Coordinator on emerging issues or policy direction.</p>	<ul style="list-style-type: none"> <li>– Provides for the MAC to provide proactive and strategic advice to the Coordinator/other bodies (not just via Rule Change Proposals), drawing on industry expertise</li> </ul>	<ul style="list-style-type: none"> <li>– May increase the workload of the MAC</li> <li>– May increase the workload of EPWA – both as Secretariat and in responding to strategic advice</li> </ul>
<p><b>R4 – Remove need for consensus</b> The requirement for the MAC to endeavour to reach a consensus view on issues would be removed so that the MAC could provide an unfiltered view of class positions.</p>	<ul style="list-style-type: none"> <li>– Advice from the MAC would be representative of the conflicts and trade-offs seen between Market Participants as a result of reform processes</li> </ul>	<ul style="list-style-type: none"> <li>– May not be clear when there is a dominant view on an issue</li> <li>– May result in a lack of compromise between MAC members on different issues</li> </ul>

### 2.3.2 Draft recommendation

To address the high-level problem statement, ACIL Allen is proposing to recommend **R3 – Addition of a strategic function** to the MAC.

This would be implemented in parallel to developing and defining the overarching purpose for the MAC, to provide for the MAC to be convened to provide more proactive and strategic policy advice to the Coordinator.

This would shift the focus somewhat from immediate Rule Changes towards a more long-term view of the market operations, with the policy and strategy behind these changes to be embedded in the MAC’s advisory function – noting that the current functions of the MAC would remain.

In conjunction with the overarching purpose, this would also ‘elevate’ the role of the MAC to explicitly provide for it to take a more strategic role in the WEM, mitigating some of the perceived overlap between it and its Working Groups (see **section 2.5** where some stakeholders suggest that the MAC re-examines Working Group discussions rather than adds to them).

The Coordinator would be expected to respond to this strategic advice by providing an update to the MAC on how its advice for this function has been considered. This update could be formalised by including a standing agenda item at MAC meetings where the Coordinator or EPWA provide a verbal update on progress.

If the MAC believes changes are needed to the WEM Rules, they can already suggest these changes and follow a strict, formal process. Therefore, a less formal response from the Coordinator regarding overarching strategic suggestions seems appropriate. ACIL Allen is interested in hearing from stakeholders whether this is suitable.

It's important to note that this function is advisory—the Coordinator would not be obligated to follow the advice, but rather to consider it.

### 2.3.3 Other options

#### R2 – State the unstated roles of the MAC

While ACIL Allen considers these unstated roles or functions of the MAC to provide numerous important benefits to the market, this aspect is likely better provided for in the overarching purpose (e.g., transparency as part of the purpose in convening the MAC), or as part of the MAC Constitution, where details of reporting from the MAC are contained.

#### R4 – Remove need for consensus

The requirement for the MAC to endeavour to reach a consensus ensures that the MAC's dominant view is presented to the Coordinator and other bodies. Given this advice is accompanied by any dissenting views, ACIL Allen consider it is appropriate to ensure balanced advice.

#### **Guiding questions**

- Do you believe that the unstated roles (transparency, industry knowledge) of the MAC should made explicit? Why or why not?
- Do you believe that the MAC should have an explicitly proactive and strategic role within the WEM? Why or why not?
- Do you believe that removing the need for the MAC to endeavour to reach a consensus will improve or decrease the quality of advice from the MAC? Why would this be the case?

## 2.4 MAC Membership

#### **High-level issue statement:**

Stakeholders have suggested that the current composition of the MAC is not able to provide balanced advice, particularly with the introduction of the new SEO, given the dominance of generators on the MAC.

The membership of the MAC is governed by clause 2.3.5. of the WEM Rules, in conjunction with clause 2.3.5A of the WEM Rules which stipulates that the Coordinator must use reasonable endeavours to ensure equal representation of Market Participants that own, control or operate energy producing generators and those that sell electricity. One of the responsibilities of MAC members is to represent the interests of their stakeholder class, rather than their individual organisation.

Current classes of members are provided for under the MAC Constitution (3.5 – 3.6), such that:

- MAC members who represent a single entity (AEMO, Synergy and Western Power, and small-use consumers) are compulsory class members
- MAC members who represent a class of participants (Market Participants, Network Operators and Contestable Customers) are discretionary class members.

Some stakeholders have suggested that the current MAC composition means that there are more generators represented on the MAC than there are representatives from other parts of the electricity value chain (transmission, distribution, wholesale / retail service providers, consumers), due to the inclusion of those who both sell and generate electricity (gentailers). There is a perception that gentailer representatives will generally provide feedback from a generator perspective, which increases the influence of generator considerations in discussions. This makes it challenging for the Coordinator to appropriately balance the MAC between energy producers and energy retailers, per requirements under clause 2.3.5A.

Stakeholders were split as to whether the MAC composition was correct, with some MAC members suggesting that its current composition provided for the right mix of representation across all the market segments, with others suggesting the MAC was dominated by particular classes of representatives and lacked voices that would ensure the delivery of the new SEO, particularly in relation to the SEO’s environmental/emissions limb.

Some stakeholders suggested that the MAC is convened to focus on the purpose of the WEM, emphasising the *wholesale* aspects of the electricity value chain. This view suggests there is a limited role in the MAC for small-use energy consumers specifically, as their outcomes are a function of outcomes in the wholesale market (i.e. small-use consumers do not directly *participate* in the wholesale market, even if they are *subject* to its outcomes).

In ACIL Allen’s view, this is a reflection of the current purpose and stated roles of the MAC, and the current objectives of the WEM. In the future, with the SEO taking effect, there are likely to be a range of opportunities for consumers to participate in the WEM more directly such as through demand side programs, demand management, demand aggregation, as well as growth in the number of contestable loads as industries transition to electrifying their operations. ACIL Allen considers these should be represented on the MAC.

Stakeholders were primarily concerned with how the new SEO would affect the MAC’s ability to provide advice, rather than focusing on the technical matters being introduced through the ESMR. The general perception from stakeholders is that the MAC will convene a technical Working Group to provide information on these matters.

A small number of stakeholders did believe that the ESMR could cause challenges for the MAC, with some considering that the MAC could be transformed from a representative advisory body to an expert advisory body to enable the MAC alone to provide this advice.

ACIL Allen heard diverging views on the relevance of retaining compulsory class members (AEMO, Synergy, Western Power, small-use consumers). ACIL Allen would be interested in further feedback on this issue to enable decision making.

**Table 2.3** Potential reforms – MAC Membership

Options for reform	Advantages	Disadvantages
<p><b>M1 – Status Quo</b> The membership of the MAC does not change.</p>	<ul style="list-style-type: none"> <li>– Provides continuity and stability of advice and prevents disruption to MAC operations during reform period</li> </ul>	<ul style="list-style-type: none"> <li>– Current membership may not be fully aligned with the new SEO, as it lacks a voice explicitly associated with the environment/emissions reduction</li> </ul>

Options for reform	Advantages	Disadvantages
<p><b>M2 – Add a renewable generation representative</b></p> <p>At least one renewable generation representative added to the MAC, either as an additional representative or specified as an Energy Producer representative.</p>	<ul style="list-style-type: none"> <li>– May provide for a better balance between incumbent and new technologies in providing advice to decision-making bodies on market settings</li> <li>– Appears aligned with the new SEO in providing a voice for lower emissions technologies</li> <li>– Ensures stability of MAC membership</li> </ul>	<ul style="list-style-type: none"> <li>– Explicitly providing for a renewable generation representative may disadvantage MAC applications from thermal generators</li> </ul>
<p><b>M3 – Expert advisory body</b></p> <p>Membership would shift from industry representatives towards technical experts with the advice sought predominantly relating to the technical practicalities of proposals</p>	<ul style="list-style-type: none"> <li>– Mitigates risk that advice is biased towards organisational priorities</li> </ul>	<ul style="list-style-type: none"> <li>– Potentially doubles-up on the role of the Working Groups</li> <li>– Technical experts may lack the authority to speak on behalf of their stakeholder class</li> </ul>
<p><b>M4 – Representation based on SEO</b></p> <p>Representatives would be aligned with at least 1 of the 3 limbs of the SEO:</p> <ul style="list-style-type: none"> <li>– the quality, safety, security and reliability of supply of electricity</li> <li>– the price of electricity</li> <li>– the environment, including reducing greenhouse gas emissions</li> </ul>	<ul style="list-style-type: none"> <li>– Aligns MAC membership clearly with the 3 limbs of the new SEO</li> <li>– Ensures equal representation of the 3 limbs of the new SEO to ensure balanced advice</li> <li>– Depending on future drafting, may provide for more consumer voices and renewable generation representatives, as suggested by stakeholders</li> </ul>	<ul style="list-style-type: none"> <li>– May increase the workload of EPWA to determine where current Market Participants sit under the SEO</li> <li>– May not provide the right signal to MAC members in that each member should have regard for all 3 limbs</li> </ul>
<p><b>M5 – Equal representation</b></p> <p>Membership would provide for equal representation from each stakeholder class, with gentailers to form their own class.</p>	<ul style="list-style-type: none"> <li>– Provides for equal split between generators, gentailers, retailers, transmission and distribution, system security and consumer representatives (small and large) to ensure balanced advice</li> <li>– Provides equal standing for all stakeholder classes</li> </ul>	<ul style="list-style-type: none"> <li>– Does not address perceptions that generators have a dominant voice in the MAC</li> </ul>
<p><b>M6 – Minister’s discretion</b></p> <p>Membership is subject to the discretion of the Minister in consultation with the Chair to provide a representative body with a balanced range of backgrounds, skills, and capabilities.</p>	<ul style="list-style-type: none"> <li>– Provides for a broad range of stakeholders to sit on the MAC, with different skills and viewpoint</li> <li>– Provides flexibility, so that MAC membership could be targeted towards finding solutions for current issues or priorities</li> </ul>	<ul style="list-style-type: none"> <li>– May have a potential for bias or raise perceptions of political influence on the MAC</li> <li>– May result in certain perspectives being overlooked or excluded</li> </ul>

### 2.4.1 Draft recommendation

To address the high-level problem statement, ACIL Allen is proposing to recommend **M4 – Representation based on the SEO** or **M6 – Minister’s discretion**.

**M4 – Representation based on the SEO** would involve representation aligned with the 3 limbs of the SEO to provide for more equal representation of the 3 limbs to ensure balanced advice. In practice, this would likely involve a similar group of representatives to the current MAC but provide stronger alignment to the outcomes sought through the provision of advice through ensuring that each limb has an equal voice.

ACIL Allen expects that most MAC members would sit across more than one of the limbs, for example, energy storage providers who could participate under the first limb given storage's role in system security.

However, ACIL Allen suggest that stakeholders could be grouped broadly as follows:

- the quality, safety, security and reliability of supply of electricity
  - AEMO, Western Power, thermal generators (including gentailers) and demand side response programmes
- the price of electricity
  - consumers (contestable and small-user) and retailers (not including gentailers)
- the environment, including reducing greenhouse gas emissions
  - renewable generators (not including those with thermal generation greater than 50% of their overall capacity), energy storage providers and DER aggregators.

This option may be challenging to balance, given that it is ACIL Allen's understanding that retailers and Contestable Customers are often hard to attract to the MAC. In addition, aligning stakeholders with specific limbs may be challenging, as participants are likely to be concerned with multiple limbs from the SEO.

**M6 – Minister's discretion** would see all MAC members being approved by the Minister for Energy in consultation with the independent Chair to provide for a balanced range of backgrounds, skills, and capabilities to provide broad perspectives on market outcomes as they relate to the SEO. Like now, membership criteria would be based on a sound understanding of the operations of the WEM.

As with M4, ACIL Allen expects that this option would ultimately involve a similar group of representatives to the current MAC. However, it is envisioned that requiring Ministerial approval of MAC members would likely result in senior representation that would lend itself to a more strategic view for the MAC, aligning with the approach taken in ACIL Allen's recommendations.

Under this option, it would be important to clearly define and make transparent the selection criteria and process to address concerns about perceived bias or political influence in MAC membership appointments. These criteria should also emphasise the importance of achieving a balanced representation of members.

#### **2.4.2 Other options**

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##### **M2 – Add a renewable generation representative**

Under this option, no other changes would be made to MAC membership other than the inclusion of a renewable generation representative. This would be the least disruptive means of updating the MAC membership to ensure that the environmental limb of the SEO is provided for, however, does not appear to address the broader challenge of the MAC's composition, being the current dominance of generators.

##### **M3 – Expert advisory body**

Consultation revealed that some stakeholders consider the MAC may need to move towards being an expert, technical body, rather than a representative, strategic body. Where this were to be adopted, this would ensure that the MAC is capable of providing advice relating to the ESMR – however it would not address concerns regarding the provision of advice relating the introduction of the SEO, nor would it provide the strategic advice that ACIL Allen has suggested throughout this paper.

## M5 – Equal representation

This option would see gentailers comprise their own class, separate from generators and retailers, and provide for an equal split of all representative classes (for instance, two representatives from AEMO, two from Western Power, two gentailers, two retailers, etc). This could be combined with M2, to include equal representation of renewable generators, or a renewable generator as one of two generation representatives. However, like M2, this would not address current generator dominance in discussions.

### **Guiding questions**

- Do you consider that changes to the composition of the MAC are required? Why or why not? Please consider the introduction of the SEO, the reform process, and any other matters that may be relevant.
- If the composition of the MAC should be changed, are any of the above proposals appropriate? Why or why not?
- Considering the draft recommendation, how should the 3 limbs be balanced? Is explicit alignment with the SEO in terms of membership appropriate? Is the suggested representation under each limb appropriate? Why or why not?
- Should compulsory class membership be retained? Why or why not? Are there any advantages or disadvantages to this?

## 2.5 MAC Operations

### **High-level problem statement:**

The MAC is currently experiencing a high workload due to the market reform work program. Issues such as meeting length and volume of papers are a result of the level of work required through this process, which cannot be resolved through this Review except through changing the function of the MAC.

However, in the context of the need to define an overarching purpose and ensure a strategic focus for the MAC, there is room to clarify the relationship between the MAC and its Working Groups.

### **MAC meeting length and frequency**

Currently, the MAC meetings run for approximately two hours, with stakeholders consistent in their feedback that the meeting length and frequency was appropriate in providing the opportunity for genuine discussion and debate on issues. While some stakeholders have suggested that meeting length may need to increase when the matters under the MAC's remit expand, there has been limited support for meetings extending beyond the two hours, suggesting that meeting length is appropriate.

Where the MAC is provided with an explicitly strategic role, there may be a need for further or longer discussions, particularly in the context of the ongoing WEM Reform program.

There may be opportunities to refine the meeting length where more matters are brought to the MAC – for instance by agreeing to previous meeting minutes and Working Group meeting minutes out of session – noting that this will not save much time. Another option is to highlight the discussions and decisions that must be made at the current MAC meeting, and which can be carried over for future meetings, without compromising reform timing. It was suggested by stakeholders that discussions are sometimes cut short due to the perceived need to 'get through' all agenda items. However, this will be at the discretion of the Chair.

### **Length and content of papers**

Stakeholders frequently raised the length of MAC meeting papers as a challenge. The papers for each MAC meetings are generally provided to the MAC 5 business days before the meeting and are usually well over 100 pages.

While ultimately up to the discretion of the independent Chair, several stakeholders suggested that previous meeting minutes and Working Group meeting minutes be provided in the papers as a link reducing the length of the meeting papers, to enable MAC members to prioritise matters for decision-making or discussion when reading through the MAC meeting papers.

Several stakeholders also suggested that the papers require a 'summary' document to guide members towards the relevant discussion points and important decisions to be made.

### **Working Groups**

The Working Groups are convened by the MAC to support the MAC in performing its advisory role. Working Groups consider issues in greater technical detail than can be done at the MAC level, with Working Group members sought from across industry and the market. When a Working Group is proposed, the MAC must approve the Scope of Work and Terms of Reference.

Most stakeholders consider that the Working Groups function well, with several MAC members noting that they sit on multiple Working Groups and consider them important in providing the level of detail necessary to achieve outcomes.

However, some stakeholders have expressed concerns that the reporting process for the Working Groups to the MAC is unclear, noting that EPWA writes the Working Group Agenda papers for the MAC meeting, including outcomes, without these papers necessarily having been agreed to by the Working Group (with stakeholders noting this is largely due to the need for EPWA to provide papers to the MAC, not a circumvention of process).

While matters that have not been to the Working Group are clearly noted, some stakeholder suggested this meant that the MAC was being asked to agree to matters that had not been duly considered. Other stakeholders consider that the MAC is duplicative of Working Group processes, as the MAC often discusses the technical detail that has already been discussed at a Working Group level.

### **Participation of observers**

Several stakeholders noted that, prior to the current independent Chair, stakeholders with an interest in the WEM could attend the MAC as observers. There was some support for this to be reintroduced, although other stakeholders suggested this confused distinctions between MAC members and general participants given that observers often provided input at the meetings, which reduced the importance of being selected as a MAC member.

**Table 2.4** Potential reforms – MAC operations

Options for reform	Advantages	Disadvantages
<p><b>O1 – Status Quo</b> The MAC operations do not change.</p>	<ul style="list-style-type: none"> <li>– Stakeholders broadly consider the operations of the MAC are appropriate</li> </ul>	<ul style="list-style-type: none"> <li>– Missed opportunity to consider refinements to certain processes</li> </ul>
<p><b>O2 – Define the reporting process between the MAC and Working Group</b> The reporting process from the Working Groups to the MAC would be defined to more clearly stipulate the process from Working Group discussions to Working Group papers being viewed at the MAC</p>	<ul style="list-style-type: none"> <li>– This would provide information for the MAC as to the process a Working Group paper has undertaken to be presented to the MAC</li> <li>– Makes reporting lines from the Working Group to the MAC clearer</li> </ul>	<ul style="list-style-type: none"> <li>– Creates more work for EPWA and the Working Group</li> <li>– Potentially slows down processes</li> </ul>
<p><b>O3 – Allow observers at the MAC meetings</b> Observers would be able to attend MAC meetings, but not participate</p>	<ul style="list-style-type: none"> <li>– Provides even greater transparency of MAC discussions</li> <li>– Maintains distinction between MAC members and observers</li> </ul>	<ul style="list-style-type: none"> <li>– Has the potential to be disruptive where observers attempt to take a greater role in the meeting (as noted in the past)</li> </ul>

### 2.5.2 Draft recommendation

To address the high-level problem statement, ACIL Allen is proposing to recommend **O2 – Define the reporting process between the MAC and Working Groups**.

Similar to the purpose of the MAC, there were different stakeholder views expressed as to the purpose of the Working Groups. While all agreed that they were convened to provide technical advice to the MAC, there was no clear view on how the process of getting this advice to the MAC and how the MAC dealt with this advice should function. Some stakeholders raised concerns that the updates presented to the MAC on Working Group discussions had not been viewed by the Working Group prior to its introduction to the MAC.

ACIL Allen considers that clearer reporting arrangements could be achieved through updating the Working Group Terms of Reference to include that:

- Working Group updates as drafted by EPWA for the MAC will be provided to the MAC and the Working Group concurrently
- Working Group members can raise issues with the content of these updates prior to the MAC meeting, otherwise the paper will be taken as agreed by the Working Group.

This would fit in the context of other changes proposed by ACIL Allen, in providing for the Working Group to continue its current technical view, and the MAC to take a more strategic approach through simple clarification of this process.

Given the time pressures currently being experienced by all involved in the market reform process, ACIL Allen considers there to be benefit to ‘closing the loop’ between the MAC and the Working Group without requiring additional approval processes. This would involve providing papers to the MAC and the Working Group simultaneously, ensuring that everyone involved has access to the same information at the same time.

This approach aims to address stakeholders' concerns that the papers presented at the MAC may not have been agreed upon at the Working Group level. By sharing the papers simultaneously, it provides an opportunity for any issues to be raised and discussed between the two groups, thereby enhancing transparency and alignment in the decision-making process.

### **2.5.3 Other options**

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Given the importance of the MAC in providing transparency, ACIL Allen have carefully considered whether to recommend **O3 – Allow observers at the MAC meetings**, which would only increase this transparency. On balance, ACIL Allen considers that while silent observers would likely benefit from viewing MAC meetings, this would not necessarily confer benefits back to the MAC.

#### ***Guiding questions***

- Do you consider there to be any issues with current Working Group processes? Can you think of any examples of this?
- What do you think is the role of the Working Groups versus the role of the MAC? Is there a need to make this more distinct?
- Do you believe there needs to be a clearer reporting line between the MAC and the Working Groups? How could this work?

# Appendices

# Supporting Background Information

# A

## A.1 History of the Market Advisory Committee

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Since its inception, the MAC has undergone significant changes in parallel to the evolving WEM.

It was originally overseen by the Independent Market Operator (IMO), and provided advice on Rule Change Proposals, Procedure Change Proposals, and market operation and SWIS operation matters.

In 2015, the WEM's system management and operation shifted to AEMO, while the IMO retained responsibility for administering and determining changes to the regulatory framework to April 2017.

At this time, responsibility for Procedure Changes were split between AEMO, the Rule Change Panel (RCP) and the ERA, while responsibility for other matters were transferred to:

- the RCP for rule changes;
- AEMO for market and system operations; and
- the ERA for market monitoring and compliance.

The RCP became responsible for the administration of the MAC, and the WEM Rules and the MAC Constitution were amended to be consistent with the new governance structure. The MAC's role was to advise:

- the RCP on Rule Change Proposals;
- AEMO, the RCP and the ERA on Procedure Change Proposals; and
- the RCP regarding matters concerning the evolution of the WEM Rules.

In March 2019, the Energy Transformation Strategy (ETS) was announced as the Western Australian Government's strategy to respond to the energy transition underway, and to plan for the future of the power system. The first stage of the ETS ran until May 2021, and introduced amendments to the WEM Rules to modernise the WEM.

## A.2 Current situation

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The second stage of the ETS commenced in July 2021, with EPWA continuing to review the legislative and governance arrangements for the energy sector, with the aim of creating a regulatory environment that is agile and responsive to the challenges and opportunities of the energy transformation.

As of July 2021, the Coordinator has responsibility for the administration of Rule Changes, and functions under the WEM Rules to:

- consider and (in consultation with the MAC) progress the evolution and development of the WEM and the WEM Rules;

- undertake reviews and consultation as required under the WEM Rules;
- provide MAC secretariat services and support the independent Chair of the MAC.

These changes also resulted in changes to the composition of the MAC to include an independent Chair and 2 small-use consumer representatives.

The DER Act was assented to on 7 March 2024, and will commence on proclamation (expected to occur prior to the end of 2024). The DER Act will make changes to the EI Act that will impact the operation of the MAC, including:

- the introduction of a new **State Electricity Objective**, to replace the current WEM Objectives
- allow the regulatory framework to address new subject matter, such as DER, microgrids, embedded networks and stand-alone power systems
- expanding the scope of the WEM Rules (to be renamed the ESMR) to address matters contained in:
  - the Electricity Networks Access Code 2004;
  - Western Power’s Technical Rules;
  - the Electricity Industry (Metering) Code 2012; and
  - the Electricity Industry (Network Quality and Reliability of Supply) Code 2005.

These reforms will significantly increase the scope and technical complexity of matters under the purview of the MAC.

In this context, the MAC Review is not only assessing whether the MAC is currently fit for purpose, but also whether, in its current form whether it will be effective in delivering advice following upcoming changes.

### A.3 Operation of the Market Advisory Committee

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Clause 2.3.5. of the WEM Rules prescribes the composition of the MAC. It must comprise:

- a) at least six and not more than eight members representing Market Participants, excluding Synergy;
- b) at least one member and not more than two representing Contestable Customers;
- c) at least one and not more than two members representing Network Operators, of whom one must represent Western Power;
- d) [blank]
- e) at least two independent members nominated by the Minister to represent small-use consumers;
- f) [blank]
- g) two members representing AEMO;
- h) one member representing Synergy; and
- i) an independent Chair, to be appointed by the Minister under clause 2.3.8A.

The various representative types (Market Participants, Contestable Customers, Network Operators etc) are known as stakeholder ‘classes’. MAC members are directed to represent the views of their class and participate in the interests of the stakeholder group they represent, rather than their individual organisation, in providing advice. Any specific views pertaining to particular organisations can be provided through applicable consultation processes.

To be selected to be on the MAC, members are expected to demonstrate:

- knowledge and experience relating to energy sector issues
- broad understanding of the technical, design and commercial aspects of the WEM
- commitment to actively and impartially contribute to the MAC, including an ability to:

- understand and adequately represent the interests of the membership group that they are appointed to represent
  - contribute constructively to MAC discussions
  - assess proposed rule and procedure changes against the WEM Objectives
  - understand the subject matters in proposals made to the MAC
  - consider market design issues and options for the evolution of the WEM and the development of the WEM Rules
- understanding of the WEM Rules and other relevant legislation including the EI Act, WEM Regulations, Metering Code, Access Code, and Technical Rules
  - understanding of the powers and obligations of the Coordinator, ERA and AEMO and the governance frameworks in which they operate.

The membership of the MAC reflects its role as a representative committee, rather than a technical committee, with more technical matters often being delegated to Working Groups, which the MAC can convene under clause 2.3.17. of the WEM Rules to assist it in providing advice in relation to its role under clause 2.3.1. of the WEM Rules.

In providing advice, the MAC must endeavour where practicable to reach a consensus issue on any issue before it (clause 2.3.1B.), with this unified view to be provided to the relevant agency. Clause 2.3.1C. provides for the independent Chair to determine where consensus is unlikely to be reached and instead provide advice which reflects a majority view, with dissenting views noted.

The MAC can perform its functions where a quorum is met, with quorum requirements contained in clauses 6.3 and 6.4 of the MAC Constitution.

The MAC meets frequently, averaging 8 meetings a year since 2021 and typically covers a range of materials during these meetings largely as a result of the government driven reform program and outputs of its Working Groups, including Rule Change Proposals.

EPWA provides administrative support to the independent Chair on behalf of the Coordinator, as the MAC Secretariat. This includes scheduling the meetings, distributing meeting papers, taking detailed minutes, and maintaining the MAC constitution.

The meeting minutes are more of a meeting record, specifying the issues discussed, the MAC discussion, action items and the positions taken by the MAC and where they did and did not reach a consensus view. These minutes generally form the MAC's advice to the Coordinator. In addition, the independent Chair is able to write to the Coordinator to provide direct advice on specific issues, after consulting with the MAC on the content of this advice.

**Melbourne**

Suite 4, Level 19; North Tower  
80 Collins Street  
Melbourne VIC 3000 Australia  
+61 3 8650 6000

**Canberra**

Level 6, 54 Marcus Clarke Street  
Canberra ACT 2601 Australia  
+61 2 6103 8200

ACIL Allen Pty Ltd  
ABN 68 102 652 148

[acilallen.com.au](http://acilallen.com.au)

**Sydney**

Suite 603, Level 6  
309 Kent Street  
Sydney NSW 2000 Australia  
+61 2 8272 5100

**Perth**

Level 12, 28 The Esplanade  
Perth WA 6000 Australia  
+61 8 9449 9600

**Brisbane**

Level 15, 127 Creek Street  
Brisbane QLD 4000 Australia  
+61 7 3009 8700

**Adelaide**

167 Flinders Street  
Adelaide SA 5000 Australia  
+61 8 8122 4965