

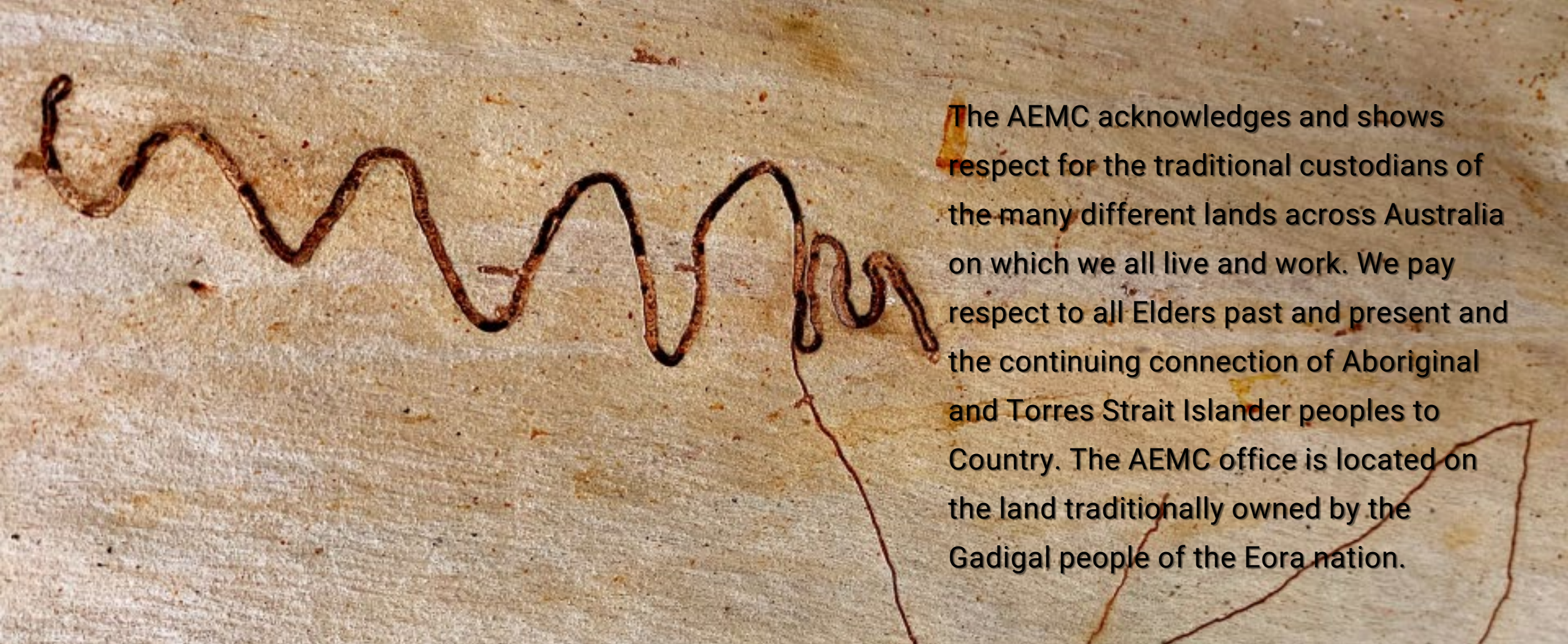
Compensation and dispute resolution frameworks

Virtual Public Forum

Martina McCowan – Director
Patrick Loughrey – Adviser (Project Lead)
Carlos Dias – Legal Director
Russell Pendlebury – Economics Director

6 July 2023

AEMC

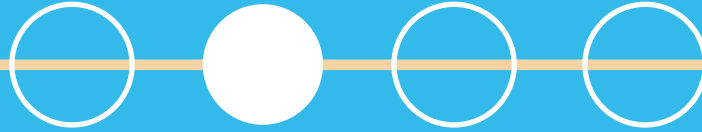


The AEMC acknowledges and shows respect for the traditional custodians of the many different lands across Australia on which we all live and work. We pay respect to all Elders past and present and the continuing connection of Aboriginal and Torres Strait Islander peoples to Country. The AEMC office is located on the land traditionally owned by the Gadigal people of the Eora nation.

Introductory remarks

AEMC

Tim Jordan – Commissioner



Agenda and Housekeeping

Martina McCowan – Director

1 Introductory comments

2 Purpose of forum and housekeeping

3 Overview of the rule change request

4 Overview of the consultation paper and timelines

5 Q&A

6 Closing remarks

Purpose of today's presentation



- AEMC staff will provide an overview of the rule change request on compensation and dispute resolution frameworks



- AEMC staff will provide an overview of the next steps to progress the rule change process



- Forum participants will be invited to ask questions in a dedicated Q& A session

Housekeeping

- All participants are currently in 'listen-only' mode
- Moderators can switch your mic on if you are invited to speak.
- Asking questions
 - Use the Q&A button on the bottom of your screen
 - Questions will be answered at a dedicated Q&A session
 - We will try to answer all questions, but will prioritise questions with most 'upvotes' first
- Presentations from today will be posted on our website after the webinar

COMPETITION PROTOCOL

KEY PRINCIPLES



The AEMC is committed to complying with all applicable laws, including the ***Competition and Consumer Act 2010*** (CCA), during this forum. Breaching the CCA can lead to serious penalties for individuals involved in any breach (including large financial penalties and imprisonment for key individuals involved). This protocol governs the way in which discussions will proceed at this forum, and each attendee agrees to adhere to this protocol in order to comply with the CCA.

Each attendee must make an independent and unilateral decision about their commercial positions and approach in relation to the matters under discussion in this forum.

Attendees must not discuss, or reach or give effect to any agreement or understanding which relates to:

- **pricing** for the products and/or services that any attendee supplies or will supply, or the terms on which those products and/or services will be supplied (including discounts, rebates, price methodologies etc)
- **targeting (or not targeting) customers** of a particular kind, or in particular areas
- **tender processes** and whether (or how) they will participate
- any decision by attendees:
 - about the purchase or supply of any products or services that other attendees also buy or sell
 - to not engage with persons or the terms upon which they will engage with such persons (i.e. boycotting); or
 - to deny any person's access to any products, services or inputs they require
- **sharing competitively sensitive information** such as non-publicly available pricing or strategic information including details of customers, suppliers (or the terms on which they do business), volumes, future capacity etc
- **breaching confidentiality obligations** that each attendee owes to third parties.

COMPETITION PROTOCOL

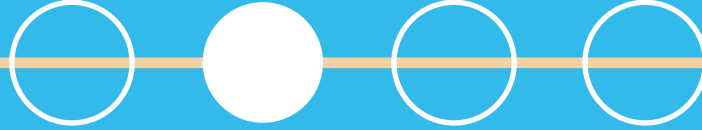
COMMUNICATION AND
MEETING GUIDELINES



Attendees must ensure that all communications (including emails and verbal discussions) adhere to the ***Key Principles***.

This forum will be conducted in accordance with the following rules:

- The agenda for this forum does not include anything that could contravene the Key Principles set out in this protocol.
- Participating in this forum is subject to you having read and understood the protocol including the Key Principles.
- We will keep accurate minutes of the forum, including details of attendees.
- If something comes up during the forum that could risk contravening any competition laws, attendees should:
 - Object immediately and ask for the discussion to be stopped.
 - Ensure the minutes record that the discussion was objected to and stopped.
 - Raise concerns about anything that occurred in the forum with their respective legal counsel immediately afterwards.



Overview of the rule change request

Patrick Loughrey – Adviser

We have received a rule change request from Energy Ministers

Over the last year, there have been a number of changes to address security and reliability threats and better manage volatility in the East Coast Gas System (ECGS). Experiences in the Victorian DWGM and the NEM compensation and dispute resolution frameworks have indicated opportunities to improve the regulatory framework.



In the context of these changes, Energy Ministers have identified a number of issues with the existing framework for compensation, following intervention by AEMO, in terms of **clarity, consistency, efficiency and effectiveness**



Energy Ministers submitted a rule change request to the Commission on 23 May. The Commission initiated the request and published a consultation paper on 22 June.

The request proposes to amend the NGR to refine the compensation and dispute resolution frameworks

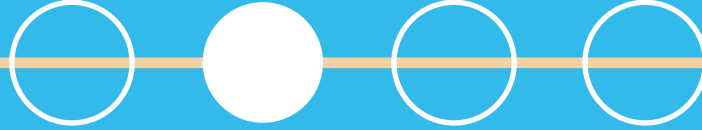
There are opportunities to provide greater **clarity** around responsibilities, rights, and the processes of the compensation framework, including eligibility and right of appeal.



There are opportunities to provide greater **efficiency and effectiveness** while still ensuring the compensation framework applies to the diversity of entities in the ECGS, e.g. through introducing the ability to join compensation claims, the ability for the dispute resolution panel (DRP) to rely on third party information, and appropriate procedural arrangements



Energy Ministers also asked the AEMC to consider greater **consistency** between the ECGS and DWGM frameworks, as well as with the broader compensation and dispute resolution framework, noting that each may still require bespoke arrangements.



Overview of the consultation paper and timelines

Patrick Loughrey – Adviser

The rule change request identifies issues in relation to the compensation and dispute resolution arrangements

The rule change request identifies the following areas that may benefit from improved clarity, consistency, efficiency, and effectiveness:

- Ensure the procedural and governance arrangements under the ECGS compensation framework are fit for purpose – this may entail amending the Part 15C framework, or the development of a new framework separate to Part 15C;
- Provide reasonable and proportionate access to compensation - considering parties are detrimentally affected by AEMO's exercise of directions powers under the ECGS framework;
- Sufficiently incentivise behaviour that supports system reliability or adequacy through the compensation framework;
- Ensure the compensation framework is sustainable – that is, access to compensation and the quantum of payments is subject to appropriate limits;
- Provide funding arrangements for compensation payments that are fair and equitable - given the nature of claims made and the role and circumstances of the relevant market participants required to fund the compensation claims.

Possible solutions that would improve the clarity, consistency, efficiency and effectiveness of the frameworks

- **Governance and procedural arrangements:**

- The role of the Adviser and timeframes to establish a Dispute Resolution Panel (DRP)
- The ability for the DRP to call on, or rely on, third-party information
- Right to appeal
- Ability to join compensation claims
- The interactions between Parts 15C and other parts of the NGR that refer to part 15C

- **The scope of the framework:**

- Clarifying legal rights and obligations in advance
- Clarifying eligibility for compensation and the interaction with incentives

- **Funding arrangements:**

- Funding of compensation claims
- Allocation of costs.



Rule change timelines

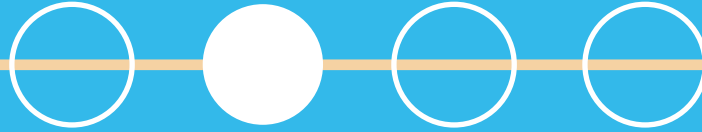
The rule change is proceeding on our standard timeline:



Opportunities for engagement

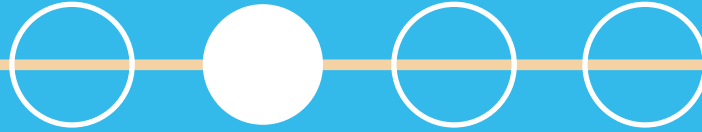
- We are particularly cognisant of the large number of reforms in the industry recently, as well as the burden of consultation this placed on stakeholders
- To help manage this burden for stakeholders we are planning to run forums with industry groups. We will take minutes of these forums to use in lieu of, or addition to, formal submissions
- We will still run other meetings with stakeholders, please feel free to reach out to the team to set up a bilateral meeting





Q&A - and comments

Martina McCowan and Patrick Loughrey



Closing remarks

Tim Jordan – Commissioner

AEMC

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