Submission to the AEMC
Improving life support processes

11 September 2025

About the Justice and Equity Centre

The Justice and Equity Centre is a leading, independent law and policy centre. Established in 1982 as the Public Interest Advocacy Centre (PIAC), we work with people and communities who are marginalised and facing disadvantage.

The Centre tackles injustice and inequality through:

- legal advice and representation, specialising in test cases and strategic casework;
- research, analysis and policy development; and
- advocacy for systems change to deliver social justice.

Energy and Water Justice

Our Energy and Water Justice work improves regulation and policy so all people can access the sustainable, dependable and affordable energy and water they need. We ensure consumer protections improve equity and limit disadvantage and support communities to play a meaningful role in decision-making. We help to accelerate a transition away from fossil fuels that also improves outcomes for people. We work collaboratively with community and consumer groups across the country, and our work receives input from a community-based reference group whose members include:

- Affiliated Residential Park Residents Association NSW;
- Anglicare;
- Combined Pensioners and Superannuants Association of NSW;
- Energy and Water Ombudsman NSW;
- Ethnic Communities Council NSW;
- Financial Counsellors Association of NSW;
- NSW Council of Social Service;
- Physical Disability Council of NSW;
- St Vincent de Paul Society of NSW;
- Salvation Army;
- Tenants Union NSW; and
- The Sydney Alliance.

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The Justice and Equity Centre office is located on the land of the Gadigal of the Eora Nation.

Consumer Action Law Centre

Consumer Action is an independent, not-for profit consumer organisation with deep expertise in consumer and consumer credit laws, policy and direct knowledge of people's experience of modern markets. We work for a just marketplace, where people have power and business plays fair. We make life easier for people experiencing vulnerability and disadvantage in Australia, through financial counselling, legal advice, legal representation, policy work and campaigns. Based in Melbourne, our direct services assist Victorians and our advocacy supports a just marketplace for all Australians.

Combined Pensioners & Superannuants Association

Combined Pensioners and Superannuants Association of NSW Inc (CPSA) is a non-profit non-party-political membership association that promotes the rights and interests of pensioners of all ages, older people on low incomes and superannuants. Founded in 1931, our aim is to improve the standard of living and well-being of CPSA's constituents.

Energetic Communities

Energetic Communities Association is a Queensland-wide community organisation that advocates social and regulatory change to achieve a fast and fair transition through research, engagement and advocacy in sustainable energy, energy equity, energy efficiency, climate change adaptation and mitigation, and healthier and affordable homes for vulnerable households, communities and not for profits.

South Australian Council of Social Service

The South Australian Council of Social Service is the peak non-government representative body for non-government health and community services in South Australia, and has a vision of *Justice, Opportunity and Shared Wealth for all South Australians*. SACOSS' purpose is to influence public policy in a way that promotes fair and just access to the goods and services required to live a decent life. We undertake policy and advocacy work in areas that

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That consideration be given to recommending that the term 'life support' be changed to 'medical energy needs customer'.

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That this process considers how life support registrations can better align with jurisdictional concession and rebate processes and make recommendations accordingly.

1. Introduction

The Justice and Equity Centre (JEC), Consumer Action Law Centre (CALC), Combined Pensioners & Superannuants Association (CPSA), Energetic Communities Association and the South Australian Council of Social Service (SACOSS) welcome the opportunity to respond to the Australian Energy Market Commission's (AEMC) National Energy Retail Amendment (*Improving life support processes*) Rule 2025 Consultation Paper.

This process provides a timely opportunity to examine life support measures which provide important protections for many consumers. We support aspects of this rule change, particularly the intent to ensure those who need energy service continuity can be accurately identified and supported safely through outages. However, we are concerned that measures to progress this positive aspect of reform are accompanied by a range of other changes to the life support framework. Many of these proposals will result in loss of protection for many consumers and involve an unreasonable shift in the burden of risk and responsibility onto consumers.

In this context we would support the AEMC focussing more narrowly on progressing the positive aspects of his proposal, while initiating a wider review of the life support framework to identify and address opportunities for reforms to ensure life support measures deliver more effectively on their intent to protect vulnerable consumers. This process should also consider what aspects of reforms require jurisdictional involvement, what aspects are best progressed through the rules, and what aspects can more appropriately addressed through updated guidelines and other policies.

1.1 The existing arrangements

The current life support arrangements focus on the registration of equipment needs which comes with relatively minimal, but important consumer protections regarding:

- notification of planned outages;
- protection from disconnection for non-payment;
- 24 hour contact details for their retailer and distribution network business (DNSP); and
- information about preparing for outages.

These are important for the impacted people, while not being onerous for the energy businesses involved.

1.2 The central proposal

This proposal seeks to provide "enhanced services"[1] for those with more 'critical' life support equipment needs so they are "proactively looked after".[2] This involves upgraded measures to identify these 'critical' needs life support equipment users so they can be offered more substantial assistance. We understand this responds to a death resulting from inadequate identification and support for a customer with life-support equipment needs. We agree it is necessary to take action

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[1] Essential Energy and SA Power Networks, *Rule Change Request #BetterTogether – Beter Protections for Life Support Customers* (2023) 4.

[2] Ibid 11.

to ensure such unacceptable consequences are not repeated and welcome the proponents' intent to address this.

1.3   Additional aspects of the proposal

The proposal also involves a wider assessment that the existing registers are not accurate or reliable enough, and the existing processes for registration not robust enough. Whilst we agree there are issues with the accuracy and reliability of the current register, and that it is important to be able to identify the people who are the most vulnerable in outages, we have serious concerns about the proposed approach and inclusion of a range of additional changes we do not consider necessary to achieve the primary intent of the proposal. In this submission we provide an alternative perspective on how identification of those most vulnerable can be achieved, whilst ensuring that the register and related life supports work better for other life support equipment users.

Life support registrations and de-registrations are currently undertaken by retailers and DNSPs according to varied processes and to varied standards. There have been periodic attempts to address flaws in the current systems, but these have been narrowly focussed. The likelihood of more people needing to be registered for life support equipment in the future – as a result of an ageing population and an increasing recourse to in-home medical and aged-care – means there is a need for a more complete review of the functioning of life support registration.

1.4   The AEMC approach to this process

We wish to highlight the approach the AEMC has taken to the *Improving the application of concessions to bills* rule change. In particular, the apparent commitment not to be limited to actions which can be taken in the rule change itself, but to make recommendations for other processes and jurisdictions on the basis of work done (and input received) in the rule change process. This demonstrates welcome leadership and an important means of avoiding siloing amongst various energy bodies and process. It recognises the broader need to support disadvantaged consumers and make all possible contributions in promotion of that purpose. Where the AEMC determines that required reforms in life support protections sit outside of the scope of this rule change, we encourage the AEMC to take a similar approach.

1.5   Our approach in this submission

In this submission, we rely heavily on evidence regarding the experiences and feedback of people who require life support equipment in the Australian Energy Foundation's (AEF) 2021 research report, *Better outcomes for energy consumers using life support equipment at home*. We understand the rule change proponents also draw heavily on this work though, in many cases, have interpreted its conclusions and implications very differently.

This submission focusses on a preferable approach to dealing with the range of issues raised in the rule change proposal by first highlighting issues with the approach proposed in the rule change. We highlight the need for an approach grounded in robust and consistent principles, which prioritises the protection of consumers, in line with a contemporary understanding of vulnerability and an appropriate approach to risk of harm.

2.   Principles for protections

Good regulatory policy is grounded in consistent application of robust principles. We encourage the AEMC to take a principles-based approach to this process, with appropriate principles including:

- Roles and responsibilities should be determined according to which parties incentives are best aligned with the interest of consumers,

- A 'precautionary' principle should be taken to potential harms and risks to consumers.

- Management of risks is best placed with the party capable of best managing those risks.

- Rules reforms should be focussed on energy needs and energy-related frameworks and considerations. Medical decisions should be left to medical professionals and the patients themselves.

- Any changes should not result in loss of current eligibility to life support equipment registration.

- Any changes made to the National Energy Retail Rules (NERR) should be focussed on maintaining/improving outcomes for people eligible for life support-related protections.

- Systems and processes must be designed to protect vulnerable people, but also respect their agency.

- Protections should minimise the burden on people registering/registered for life support equipment protection, and their families/carers.

- Protections for consumers in standard supply arrangements should be extended to those in embedded networks and in prepayment arrangements.

- A 'no wrong door' principle should be taken to registrations. Regardless of who is responsible for maintaining registration, consumers should expect contact with either retailer or DNSP to result in the same outcome.

Recommendation 1

That consideration of reforms to life-support frameworks be based on consistent application of robust principles prioritising the interests of consumers and the protection of people who need energy to support their medical needs.

Our responses detailed in this submission have been informed by these principles.

3. What a preferable approach should involve

This section summarises how an appropriately principle-based approach could be taken to issues raised in the proposal:

Prioritising consumer safety by making process owners responsible

Rather than resorting to default de-registration, process owners (ideally DNSPs) should develop processes to verify or 'check-in' with households that life-support registration is still required and whether assistance with backup plans is needed. A precautionary approach should be taken to safety, only de-registering households who confirm they no longer need to be registered.

Definition of life support clearly in an energy context

Identifying and protecting energy needs related to medical issues is much broader than is commonly understood by 'life support equipment' in a medical context. This may include important support for mobility, and heating or cooling in some circumstances.

Clearly defining and identifying 'critical needs'

The definition of critical needs should be based on medical needs and be determined by guidance from medical practitioners and advocates. Ideally this would be defined to clearly encompass all needs relying on continuous energy supply, where the impact of energy failure is an unacceptable risk to the health and safety of the person.

We support implementation of a life-support registration subgroup for those with 'continuous energy needs'. The remaining 'existing' life support registrants - who require life support equipment - should remain as 'life support users'. Benefits such as communications should apply equally to all people registered for life support. There should be no reduction in penalties for breaches related to anyone registered for life support equipment.

Reviewing registered equipment

The existing equipment list should be retained. An alternative may be defining eligible equipment in the AER's *Life support registration guide*. This would enable more appropriately detailed consultation with stakeholders and medical and home-care experts.

Recognising permanent needs

Capacity to register someone permanently, and maintain their registration, should be introduced. The AEF research found the vast majority of people registered for life support equipment have permanent needs. Given this, a capacity for permanent registration is required, and should be the default setting for all people registered for life support. This is appropriate for both systemic efficiency and administrative simplicity, as well as a precautionary approach to consumer risk and harm.

Making medical confirmation more accessible

Application and confirmation should be simple, streamlined and consistent, through a single form. This should be easy to access, complete and lodge and involve the collection of the minimum necessary information. Registration and confirmation should be more accessible, particularly in regional areas. Consideration should be given to enabling other appropriately qualified medical professionals such as pharmacists and registered nurses – that is, other practitioners who can assess or issue medications in some circumstances - to complete medical confirmation forms.

Consideration should also be given to accepting medical certificates as a proxy for medical confirmation.

General life support registration protections are minimal and impose little cost on energy providers. There is no evidence of widespread fraud. These facts, in concert, justify a precautionary approach to initiating and maintaining registrations. People should be registered 'in good faith' and remain registered for life support, even in the absence of a medical confirmation form. In any case, it is not appropriate for registration to be so dependent upon medical confirmation which is often expensive and difficult to attain.

More effective and diverse communication
We support measures to expand communication and enable a 'nominated person' to be part of the registration. To ensure life-support protections – particularly notification of unplanned outages – are effective, more diverse and effective methods of communication are required.

Making the register fit-for-purpose for the future
A more holistic response to many of the issues raised in the proposal is warranted. We highlight the following opportunities:

- Consider designating DNSPs the process owner and responsible for the register.

- Consider a central database for registrations, as well as medical confirmations.

- Align central registration of life-support with eligibility of medical and life support related concessions and rebates.

- Enable emergency services to have visibility of life support registrants.

We expect that many of these issues cannot be dealt with through a rule change or may not best be dealt with through the rules. We encourage the AEMC to identify these aspects and consider progressing them through a wider review, or by making recommendations to other processes and responsible jurisdictional parties.

4.   Identified issues with the rule change proposal

In this section we apply our principles in analysing the rule change as proposed, identifying issues and detailing a preferable approach.

4.1   Inappropriate shifting of burdens and risk

The proposal would involve an unacceptable shift of risk from DNSPs to people who need life support equipment and their carers. This includes:

- Resorting to deregistration when a household has not properly completed registration (such as by not providing medical conformation) even if they have legitimate life support equipment needs.

- Reducing penalties for breaches and reducing reporting requirements for people who would be designated in the 'Assistive Life Support Equipment' category.

- Removing large numbers of people from being eligible for registration by substantially narrowing the definition of life support equipment.

We explore each of these issues in detail throughout section 4.

The proposal does not involve any strengthened requirements on DNSPs. While we understand that Essential Energy intend improved identification of those most vulnerable to enable them to provide more substantive assistance (including back-up power arrangements), this intent is not reflected in the proposal. We strongly support such efforts, and recommend they be reflected in obligations on DNSPs.

There is also no proposal to track any additional assistance, whether it is undertaken, whether it is effective, and the experience of the household. In the absence of any legal requirements to provide additional assistance, we recommend additional assistance measures be tracked to ensure that they are effective. This would support consideration of further reforms or incentives.

Recommendation 2

That the rule change include measures to track whether additional assistance is provided to households where life support equipment is used, what that assistance was, how effective it is in an outage and what the experience of the household members was regarding the assistance.

4.2   Structural issues with registration processes

The proposal has outlined issues with life support registration processes. These arise from structural flaws in responsibility for registration. While we recognise these flaws, it is not appropriate to seek to remedy out of date and poorly maintained registers by placing additional burden and risk on people who use life support equipment or their carers / families.

Retailers may register more life support households than DNSPs, but they have little incentive to keep this registration up to date and bear little or no cost for out of date registrations. As it stands, a risk-averse retailer is better off leaving people registered and has little incentive to incur costs verifying the registration.

DNSPs tend to directly register fewer households for life support than retailers. But they do bear costs of out-of-date registers, having to ensure compliance with notification requirements around outages. Out of date registers also limit DNSPs' capacity to give priority registration for life support households, should this be available, and to provide additional assistance regarding backup power.

It is preferable for there to be a single 'register' and the party with most incentive to keep this accurate is the DNSP. From a householder perspective, arguably it is also better to be registered via a DNSP so that there is no change to their registration when they switch retailers. Noting the *Maintaining life support customer registration when switching* rule change in 2021 improved this somewhat, the onus currently remains on consumers to make sure they are registered for life support with their new retailer. Introducing a single responsible entity (DNSPs) and improved business-to-business processes to minimise consumer burden should be considered as part of measures to properly address issues with registration processes.

4.2.1   Registration process

The proposal would see people who do not provide medical confirmation after two occasions being prevented from registering again without providing medical confirmation in advance. We

strongly disagree with this proposal and consider it a disproportionate response to the issue of medical confirmation.

There are many people likely to rely on life support registration who have difficulty accessing medical professions, for geographic, financial or other practical reasons. Additionally, many struggle to deal with administrative processes of this nature, particularly where they are impacted by other health and mental health issues. In this context it is unreasonable for life-support registration (specifically dealing as it does with more vulnerable people) to place the burden so squarely on the impacted household.

Claims of widespread abuse of the register are unfounded and accompanied by no evidence. While the proponents note that 26% of AusNet's households registered for life support have overdue medical confirmation,[3] this can simply indicate that providing medical confirmation is a significant impediment. In the absence of any meaningful evidence to the contrary, systemic fraud should not be assumed.

Systems such as life support protections must be designed to protect vulnerable people by applying an overarching precautionary principle. The risk to people of being denied important protections is much greater than the cost of small numbers of people being inappropriately registered.

Importantly, even those who may be registered for life-support without a 'need' are still paying their bills and can still have any debt collected if they do not.

The AER's Opportunity 13: Consider alternatives to disconnection to manage risk in the energy market in their *Review of payment difficulty protections in the NECF – Findings Report* is a relevant consideration for this process given one of the major protections for life-support registrants is additional protection from disconnection.

Where the risk of 'wrongfully' deregistering someone is significantly higher than the cost of registering someone who may not have a strong need, a harm based/precautionary approach should prevail.

Recommendation 3

That people who fail to provide medical confirmation should not be removed from the list without a proper process to verify eligibility.

We recommend process owners – ideally DNSPs- implement a system to verify registered households on a regular basis (for instance, annually). This would determine if the registered person with life-support equipment needs still resides at the premises and determine if any assistance regarding backup plans is required. This process could be based on the initial registration process, and help keep registers up to date, reducing any risk of fraud without adding unreasonable risk to the household.

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[3]   Ibid 23.

We note this was proposed in the rule change but has not been reflected in a requirement. Given this approach is already possible, but not consistently followed consideration of a requirement is warranted.

Recommendation 4

That process owners (ideally DNSPs) implement a system to verify registered households on a regular basis (annually), to determine if the person with life-support equipment needs still resides at the premises and whether backup plan assistance is required.

4.2.2   Re-registration process

The proposal would require all people registered for life support equipment – not identified with permanent needs - to get medical confirmation every four years regardless of whether they switch retailers or move house (as is currently the case). This increases the risk of otherwise eligible people with life-support equipment needs losing registration, especially in conjunction with the 'two strikes and you're out' proposal where there is failure to provide medical confirmation.

Accessing medical confirmation from a registered medical practitioner requires significant expense, time and organisation, particularly in regional areas. The AEF found that some households choose not to access medical-related concessions – a process requiring similar medical confirmation - because of the cost and time required.[4]

Introducing a general 'permanent needs' category of life-support registration – rather than restricting this to those with 'critical' needs – would ensure the potential number of people with 'out of date' medical confirmation who still need to be registered, would be negligible. For this group, alternatives should be considered, such as allowing them to simply verify their needs are still valid every four years, on the basis of their original medical confirmation.

In any case, the system should ensure responsibility for register accuracy rests with the owner of the registration. Introduction of a 'permanent needs' category will require register owners to systematically verify people who have permanent needs are still at the property. This same system should be capable of enabling registrants to simply verify their previously demonstrated 'non-permanent needs' are also still valid.

Recommendation 5

That people not registered as having permanent needs only be required to indicate that their needs are still valid every four year in order to remain registered – with this not requiring medical confirmation.

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[4]   Australian Energy Foundation (AEF), *Better outcomes for energy consumers using life support equipment at home* (2021) 3.

4.2.3 Deregistration process

The proposal involves compelling de-registration by changing the language from 'may' to 'must' in the deregistration processes. This introduces unnecessary risk for people dependent on life support equipment and we strongly disagree with implementing such a change.

Under Rule 125 (4) (a) retailers are required to take "Reasonable steps to contact the customer in connection with the customer's failure to provide medical confirmation". Their compliance with this is unclear and it is possible many have not been de-registering households, because it's an activity where the immediate costs outweigh the cost of leaving registrants on their system.

The AEF found 3% of people had asked to be deregistered but weren't. This indicates that not being de-registered when asked is a problem, but it is not widespread. Some people in the AEF research indicated that it was distressing for them because they were trying to be removed from the life support register because their loved ones had passed away.[5] This would have been distressing for these people, however, we consider the appropriate response is to have proper processes – which already exist in the rules - and for these processes to be followed, rather than introducing compulsion which comes with other risks and consequences.

In the AEMC's final determination of the *Strengthening protections for customers requiring life support equipment* rule change, they determined that "there should be room for discretion in deregistration, particularly given the potentially disastrous consequences of incorrectly removing someone from the register"[6] and that:

> Risks should be allocated to those parties who are best placed to manage them. Retailers and distributors have a range of tools for seeking information and managing financial impacts. For example, retailers or distributors typically have a range of staff who can identify and manage their legal obligations, and seek to make contact with the customer through various channels. By contrast, customers do not typically have access to the same risk management resources. This is particularly the case for vulnerable people who need life support protections.[7]

We consider that this logic is still relevant and should continue to guide the AEMC's consideration of de-registration processes.

Recommendation 6

That discretion must be retained in the de-registration process and that 'may' deregister not be changes to 'must'.

The safest way to reduce risk is to only de-register households who confirm they no longer need to be registered. Instead of effectively making life support registrants responsible for improving the accuracy of the register – and shifting risk and onus on to households - process owners should be required develop verification processes as we have detailed.

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5   Ibid 23.
6   36-37.
7   37.

DNSPs should manage the register and directly (and indirectly via retailers) manage registrations. This should be regarded as either an end state or interim step before progressing to a centralised model.

If a rule change regarding registration and de-registration is to be made, then we recommend only de-registering households when the household confirms they no longer need to be registered.

Recommendation 7

That households should only be de-registered when they confirm registration is no longer required.

It would be useful for the AER to provide guidance about how often registered households could be 'verified' regarding their on-going need for life support registration (for example, a maximum of annually) and that this contact could also include offering supports requiring backup plans. This would appropriately balance accuracy with consideration of burden on household.

Recommendation 8

That the AER provide guidance about how often registered households could be 'verified' regarding their on-going need for life support registration (for example, a maximum of annually) and that this contact could also include offering supports requiring backup plans etc.

4.2.4   Unnecessary reduction in reporting requirements and penalties

We do not support reducing reporting requirements and penalties for breaches for life support registrants, even where these people are re-classified as 'assistive' registrants. Even those without 'critical needs' still have significant needs and vulnerability. No evidence has been given that there's no risk of harm for these people. We do not see reasonable justification for reducing penalties or reporting requirements in relation to any life-support registrants. We are concerned that a change would signal that less care should be taken with people in this category. Existing penalties for breaches and requirements regarding reporting should continue to apply.

Recommendation 9

That there be no changes to existing penalties and reporting requirements for breaches of notification of outage, including for people not identified as having 'critical' needs.

Our understanding is that the proponents propose that the penalty for failure to deregister be reduced from a Tier 1 to a Tier 2 penalty. If that is a correct understanding, consistent with a harm/risk-based approach to regulation, we support this change. Whist it is frustrating for households who asked to be de-registered but aren't, failure to de-register does not risk lives so does not need to be a Tier 1 penalty.

4.3   Risks in introducing critical needs category

4.3.1   Defining the purpose of critical needs

We support the identification of people with critical needs, who are vulnerable to the impact of even a short outage. However, more work needs to be done to provide a robust definition of this need. The proposed changes to the equipment list are not appropriate or sufficient for this purpose. Nor do we consider the proposed definition sufficient guidance.

Our understanding of the purpose of such a critical needs category is to enable DNSPs to identify and support those with continuous energy needs. That is, those most vulnerable to dying or incurring significant adverse health implications in an outage, even a short one.

Based on feedback, the AEF developed the following list of issues to consider should a priority or critical needs category of life support users be implemented:

- Consider life dependency.

- Consider mobility challenges that people with a disability experience and that their energy needs extend beyond typical life support equipment to any type of assistive equipment (e.g., wheelchair, hoists, electromagnetic door locks).

- Consider multiple users at a single property or multiple equipment in use by a single individual.

- Consider subgroups within each equipment type / category as people's needs and dependency vary (even using the same type of equipment).

- Consider life of battery backup, which varies considerably based on the state of the battery and demand on the battery from more energy intensive equipment like ventilators vs CPAPs.

- Refer to the 'Telstra Priority Assist' program as a benchmark to follow.[8]

We note that this list covers a much wider range of 'priority' needs than the proposal. It possibly even covers people the proponents seek to make ineligible from being registered entirely – eg people requiring electromagnetic door locks, which are not likely to be considered 'other medical equipment'.

Recommendation 10

That the AEMC develop a clear purpose and robust definition for life support registrants with 'critical' needs.

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[8]   AEF (n 4) 84.

Decisions regarding who has critical needs should be left to medical practitioners, with appropriate guidance as to purpose. This guidance could be provided as part of an updated AER *Life support registration guide*, with consultation from medical experts and disability advocates.

Recommendation 11

That guidance for identifying the circumstances of people with 'critical needs' be provided as part of an updated AER Life support registration guide*, with transparent consultation with advocates, people with lived experience and medical experts.*

4.3.2   Create a subgroup, not two tiers

There is a risk distinguishing between 'critical' and other life support equipment needs will create a tiered system devaluing the needs and vulnerability of people in the other group. All people on the register should be considered life support equipment users with the same formal protections.

Respondents to the AEF's survey were asked how they would feel about changes to life support equipment protections that included a mechanism to identify and provide additional support to those most in need. 45% of respondents indicated this wouldn't result in anxiety for them because they consider that categorising need would see their needs prioritised. Meanwhile, 44% reported that they would feel anxious with this approach because they consider their needs will be underestimated and they will receive less priority. 89% of respondents wanted or expected to have their needs prioritised, whilst only 11% were comfortable with others being prioritised ahead of them.[9] This indicates the risks of a two-tiered system in creating anxiety for life support equipment users and their family / carers. The preferred approach should be clearer creation of a subgroup of critical needs, rather than having two separate tiers, as proposed.

Recommendation 12

That a 'critical needs' subgroup of life-support equipment registration be created with all remaining people registered for life support simply being Life Support Users.

4.3.3   Reconsider the name 'critical' needs

The AEF found that some respondents were concerned about being registered for life support on the basis they would be seen as vulnerable or stigmatised, with some people not wanting special treatment.[10] The idea of 'critical needs' could result in a further reticence to be registered, and could be associated with feelings of helplessness, rather than protection and assistance.[11]

As was found in the AER's *Review of Payment Difficulty – Findings Report*, terminology such as 'hardship' is problematic and can be a barrier to seeking assistance.[12] Terminology such as 'critical needs' should be confined to the rules – if used at all - with external facing documents using more neutral language. As such, we consider it preferable to refer to 'continuous energy needs', rather than 'Critical Life Support Equipment' needs. This would remove emotive language

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[9]   Ibid 83-84.
[10]   Ibid 60.
[11]   See below we articulate concern about the use of the term 'life support'.
[12]   See page 14.

which may cause distress to both people who qualify to be in the category, who may feel alarmed at that language, as well as those don't qualify, who may feel that their needs and vulnerability are not being taken seriously. Importantly, it also refers directly to people's energy needs rather than their medical needs, which is more appropriate for the NERR.

Recommendation 13

That consideration be given to the language used to describe people in the 'critical' needs group, with preferable alternatives such as 'continuous energy needs.'

4.4   Equipment list changes not justified

The proposal includes substantial changes to the equipment list which are unnecessary. The changes appear to reflect an intent to narrow the list to those likely to be associated with 'critical needs'. This does not recognise the complexity of medical equipment needs.

We are concerned with the proposed amendment to the 'other' category, inserting the words 'medical equipment', and significantly limiting eligibility. This restricts eligibility for people who need non-medical equipment for their health, such as heating and cooling; refrigeration for vital medicines; and electricity to power accessibility systems (eg powered chairs, beds, doors etc). This does not recognise the important role energy plays in supporting the health and safety of vulnerable people, beyond medical devices.

The proposed list also omits certain currently eligible equipment – including CPAP machines - despite their importance in supporting many people's health. We are also concerned by the exclusion of people 16 years and over from certain equipment and requiring ventilators to have backup power and mains fail alarms. We do not consider these changes justified and oppose their implementation.

We prefer to retain the current list and guidance on eligible equipment in the AER's *Life support registration guide* as is currently the case. Alternatively, the definition in the NERR could refer to the *Life support registration guide*. The *Life support registration guide* enables more detailed guidance on the types of equipment that are eligible and is more easily accessible to medical professionals. Having the list (or a more thorough list / guidance) outside of the NERR enables focused and careful consultation so the list keeps pace more easily with the development of new medical equipment and medical practises.

Recommendation 14

That the current life support equipment list be retained with details contained in the AER's Life support registration guide*, or that the Rules refer to the eligible equipment in the AER's* Life support registration guide.

4.5   Limitations in application of permanent needs

Medical professionals should be able to indicate lifelong need for life support equipment. This would be administratively efficient for process owners, effective in managing risk to registrants, and minimise administrative burden on registrants. Capacity to be registered for permanent needs should apply to all registrants who have a lifetime need, rather than restricted to those in

the 'critical' category as proposed. There is no reason to distinguish between critical and other needs. Once the system to register permanent needs has been created, applying it to all registrants creates no additional cost, but delivers substantial benefits to all registrants.

The AEF found that only 0.5% of respondents to their survey indicated that their medical condition is temporary,[13] indicating that it is overwhelmingly the usual situation that people's life support equipment needs are permanent. This provides strong justification for the benefit of a general application.

Given the balance of likelihoods, it would be more effective for permanent needs to be the 'default', with an option to indicate temporary needs at registration. This would highlight the need for register owners to verify ongoing need on a regular basis. This verification process could be a platform to check for any change in need – for instance a change in level of criticality – and encourage the registrant to get a medical confirmation to confirm this change in need.

Recommendation 15

That registration for permanent needs should apply to all people registered for life support equipment and not be restricted to those in the 'critical' category.

4.6   Further communications improvements needed

Improved communications collections, including more electronic communications should be enabled. Information regarding outages should be delivered in multiple formats, and we recommend that people should be able to nominate two preferred means of contact. Increasingly, communications via SMS and email can be missed or dismissed as a scam. Nominating two preferred means of communications will help reduce these risks and ensure messages are recognised as legitimate.

Recommendation 16

That collection of electronic communications be enabled to support additional means of communicating outages.

Recommendation 17

That registrants should be able to nominate two means of preferred communication of outage and other important information.

A nominated second person should also be able to be listed with the registrant, to be contacted when there is a planned and unplanned outage. Options about when to contact the nominated person should be given to ensure control and agency.

Recommendation 18

That a second person should be able to be identified as a 'nominated person' in addition to the account holder. Options about when to contact the nominated person should be given.

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[13]   AEF (n 4) 61.

4.6.1   Planned outages

The AEF found that people were generally satisfied with the information they received about planned outages. However, they identified it would be helpful to receive:

- a reminder SMS on the day before the outage;

- updates, particularly if the outage is postponed or delayed;

- confirmation once power is restored; and

- for some people, additional notification time.

The AEF found that 90% of life support equipment users / their carers would like to be notified of a planned outage, even if the DNSP was unsure whether their home would be impacted.[14]

Recommendation 19

That any communications guidance or requirements be guided by evidence presented in the AEF's report regarding preferences for contact during planned outages. Communications guidance or requirements should apply to all registrants, not be limited to those with critical needs.

4.6.2   Unplanned outages

The AEF found that 65% of respondents expected to be contacted in an unplanned outage.[15] Many respondents also indicated they would like additional contact from DNSPs, including at the start of an outage[16] and once the outage has been resolved.[17] If there is a severe outage – lasting longer than a day - 92% of respondents would like regular updates.[18] Some people also indicated that being provided with information about places that still have power where they could relocate to would be helpful.[19]

Given DNSPs currently have no requirements to contact life support customers during an unplanned outage, this rule change process is an opportunity to introduce them. Where the proposal to collect electronic communications channels is being considered, such requirements could be implemented at little additional costs, while being very valuable for people who use life support equipment and their carers.

Recommendation 20

That DNSPs be required to provide updates to all people registered for life support when there is an unplanned outage.

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[14]   Ibid 91-93; 99.
[15]   Ibid 75.
[16]   People indicated they wanted confirmation that there was an outage and that it was being attended to. Knowing the approximate duration of the outage would help people decide whether they should stay at home or relocate.
[17]   Given that many people may choose or need to relocate during an outage, it is important for them to know when they can return to their home. For people who stay at home, they want to know when it is safe to plug their equipment back in.
[18]   AEF (n 4) 7.
[19]   Ibid 89-90. We encourage the AEMEC to read the full findings and other ideas that would help life support equipment users.

4.6.3 Assistance required for action plans

The AEF found a diversity of needs and situations for people who use life support equipment. Most people indicated that they did not need further assistance from their DNSP because:

- they already had a plan;
- didn't think they needed a plan;
- preferred to get information from their medical professional / carer; or
- that the information they already received from their DNSP was sufficient.

People indicated that the information they wanted from their DNSP was:

- Timely notifications eg outage timing and duration.
- Available options for backup power.
- Access to backup power.
- A checklist of actions to take /sample action plan.
- Local areas that equipment can be charged.
- Strategies to manage in extended outages.[20]

However, the AEF did find that 54% of people they surveyed did not have a backup plan which would ensure their needs were met in an outage, with only 7% having backup power which would enable them to meet their life support equipment needs in an outage.[21] There are risks that people are overestimating their capability, or that their responses are based on a lack of knowledge. As such, making basic backup information available to all life-support registrants, with scope to access more information would be an appropriate response to managing the risks involved.

The proposal does not include any additional requirements on DNSPs to improve supports for life support equipment households, including the provision of back-up information. We recommend the AEMC consider introducing such a requirement or more consistent guidance and monitoring of impacts.

4.7 Medical confirmation

4.7.1 Universal medical confirmation form

There is benefit in enabling DNSPs to see basic details about critical needs through a universal medical confirmation form. The AEF research found that some respondents considered that a universal medical confirmation form could help them reduce "time spent trying to understand the different forms used by retailers and distributors."[22]

Such a form would need to be very accessible given obtaining a medical confirmation form is already a significant impediment. It should not be lengthy or onerous, but simply state basic information DNSPs need to know about a life support household's energy needs.

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[20]   Ibid 96-100.
[21]   Ibid 25.
[22]   Ibid 85.

Recommendation 21

That a simple, single medical confirmation form be introduced and that it includes the minimum required to indicate a person's energy needs.

If households only have access to medical certificate, this should be accepted as confirmation of life support need, even where it may not detail the patient's energy needs.

Recommendation 22

That medical certificates be able to be accepted as confirmation of life support need.

To improve access to medical confirmation, enabling pharmacists and registered nurses to complete medical confirmation should be considered. People with life support needs – or their carers - are likely to have access to a pharmacist and possibly a registered nurse in a GP or specialist practice, who could verify their needs. This would be much easier to obtain and would not necessarily be accompanied by limitations in appointment access, and associated medical appointment costs.

Recommendation 23

That medical confirmation form be able to be completed by a pharmacist or registered nurse.

The current protections associated with life support registration are relatively minimal, though important. There is little incentive for fraud and no evidence of it occurring. While the focus should be on making medical confirmation cheaper and easier to obtain it is important to ensure verification requirements are not overly onerous in relation to the level of protection and 'benefit' involved.

4.7.2   Requirements on medical practitioners

The proposal imposes significant requirements on medical practitioners to explain life support protections (what they do and don't protect against); discuss and document a backup plan; and discuss concessions. This is a heavy reliance on medical practitioners and even if delivered could add significant expense to appointments. In any case, this cannot be monitored or enforced via the NERR and there is no way to ensure consistency of the information being provided. It is preferable to introduce measures that do not rely on medical professionals and minimise scope for inconsistency or unintended consequences. An alternative may be the creation of standardised information materials practitioners can easily provide.

4.8   Value in having a central database

The current registrations system is not working as intended. In the shorter term, it is likely to be more efficient and effective for DNSPs to assume management of registrations, given the greater alignment of registrations with location, and the greater interest DNSPs have demonstrated in keeping registrations accurate.

In the longer term a central database should be considered, either at national or jurisdictional level. Such an approach could significantly reduce risk of life support registrants losing coverage when they switch retailers.

The AEF asked life support users about their interest in a central protected database to hold their information to avoid having to provide information to retailers / DNSPs every time they switch retailers or move house. 91% of respondents supported the idea of a central database. Those who did not support it cited security / misuse of data concerns or indicated that they wouldn't need it because they didn't plan to move house or switch retailers.

The AEF also found that retailers and DNSPs identified the lack of data consistency across the industry as problematic, as was the on-going management of data after registration.[23]

If a central register was accompanied by dedicated staff to ensure that processes worked as expected, this could minimise administrative load on households and minimise risk to vulnerable people. Ensuring the register was up to date would reduce frustrations and enable DNSPs (and possibly emergency services) to identify the most vulnerable people in outages (and possibly natural disasters).

Given the AEMC has recommended the Energy Ministers explore options for a centralised mechanism to apply energy concessions and rebates, expanding this process to explore a centralised database for life support registration could be appropriate.

Recommendation 24

That consideration of a central registration system – at jurisdictional or national level – be recommended as part of wider measures arising from this process.

4.9   A process to assist access to backup power

The AEF identified considerable benefits to assisting households with accessing backup power in an outage. For example, enabling people to safely stay at home during shorter outages helps reduce the reliance on ambulances and hospitals - which is a particular issue for people with continuous / critical energy needs - and reducing the time DNSPs spend ensuring critical / continuous energy needs households are safe.[24]

The proponents have not proposed any requirements for DNSPs to support backup power arrangements where appropriate. Such requirements or guidance warrant further consideration. The AEF provide some ideas on how to achieve this including financing options, education / information and incentivising medical equipment suppliers to make their equipment battery compatible.[25] We encourage the AEMC to consider ways that continuous / critical needs life support households could be assisted to access backup power, either through incentive or a Rule.

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23   Ibid 105.
24   Ibid 39.
25   Ibid.

Recommendation 25

That consideration be given to measures assisting life support households with continuous energy needs to access backup power.

4.10 A change in terminology is warranted

The term 'life support' is already problematic for the energy industry given the subjectivity in interpretation of what it covers. The AEF found this terminology can be problematic for users of life support equipment as well, with some people unaware that their equipment made them eligible to be registered, or being unable to reconcile their medical equipment needs with being registered for life support equipment.[26]

This rule change process is an appropriate opportunity to reconsider the terminology used. When considering terminology, it is important to keep the focus on the energy needs of the person, rather than their medical needs. For example, in order to properly describe the wide range of energy needs that people have, a better way to describe this could be 'medical energy needs customer'. This could improve understanding that the rules are designed to protect people with a wide range of medical energy needs. Whilst this is a longer-term consideration given that the term 'life support' is included in the National Energy Retail Law, we consider it an important consideration to improve life support processes and protections.

Recommendation 26

That consideration be given to recommending that the term 'life support' be changed to 'medical energy needs customer'.

4.11 Consideration of the appropriateness of disconnection

This proposal raises important questions regarding the appropriateness of disconnecting households for non-payment regardless of their life support equipment needs. For example, is it appropriate that people with cancer be disconnected from their energy service?

An alternative approach may be to expand upon 'life support' and develop a 'continuously connected energy customer' category. This category could include people currently eligible for life support registration, as well as others who are vulnerable in a potential outage, such as:

- people with frailty due to age,
- people with disabilities which impact communications and mobility, and
- people with acute mental health conditions and intellectual disabilities.

These would be people for whom protection from disconnection for non-payment is appropriate as is additional communications regarding outages. If this were to be implemented, DNSPs (and preferably emergency services) would need some insight into the vulnerabilities of the household member/s in order to develop appropriate responses to their needs.

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[26]   Ibid 61.

We encourage the AEMC to give broader consideration to who should be protected from disconnection for non-payment and given advance notice of planned outages due to their demonstrated vulnerabilities. While this is unlikely to be able to be pursued in this rule change, we encourage the AEMC to make recommendations for action in other relevant processes.

5.   Additional considerations

5.1   Life support concessions

The AEF found that many people conflate the process of life support registration, with processes to access a life support concession, given that these are generally both processed by the retailer. The AEF found that the concession reapplication process was one of the most difficult aspects of their interaction with energy services as a life support equipment user. The AEF also noted discrepancies between jurisdictional concessions as a frustration for both consumers and energy businesses.[27] In addition, the AEF found that retailers and DNSPs also identified registration process and concession requirement complementarity was desirable.

A centralised registration system could assist in smoother concession application. Rather than having to reapply, the owners of the central database could proactively confirm eligibility to both life support registration and concession, removing the need for households to do this separately and proactively.

Recommendation 27

That this process considers how life support registrations can better align with jurisdictional concession and rebate processes and make recommendations accordingly.

5.2   Embedded networks

We are concerned that people living in embedded networks continue to receive inferior services and protections. This is particularly concerning given that some embedded networks, - especially land lease communities and retirement villages - are likely to have high numbers of vulnerable residents with life support equipment needs. Any improvements to protections for life support users arising from this process should explicitly be applied to residents in embedded networks to ensure equitable treatment and safety.

5.3   Prepayment arrangements

Although people who require life support are supposed to be excluded from being in prepayment arrangements, we are concerned that identification of people with life support needs in many Aboriginal communities is inadequate and that monitoring of outcomes for these people is insufficient. This may be leading to people with serious life support needs being on prepayment arrangements and inadequately protected. We are also aware that sometimes the homes where someone is registered for life support and therefore the home can't be on a prepayment arrangement, become a community space because of the protection from 'self-disconnection,' leading to higher electricity costs / debt and over-crowding. This raises broader issues and

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[27]   Ibid 23-24.

concerns about the appropriateness of disconnection (including 'self-disconnection') as a tool to manage payment difficulty. The AEMC should pay particular attention to ensuring systems for monitoring consumers in prepayment arrangements identify and appropriately protect those with life support needs.

5.4   Connections with emergency services

We note that in Victoria, emergency services are able to access life support registration information. It is not clear that this is consistently practiced elsewhere. We encourage the AEMC to make recommendations that jurisdictional governments implement similar measures to help improve safety for life support users through measures outside of the energy sector.

6.   Response to consultation questions

Question 1: Theme 1. What is your view of the proposed definitions and whether they should be included in the NERR?

What do you see as the key issues for including the proposed definitions in the NERR, for example:

- *Would adding/amending these definitions improve outcomes for life support consumers?*
- *Would they appropriately capture all needs of life support customers, including those that do not involve equipment, such as refrigeration for insulin pumps?*
- *Is it appropriate to have the same list of equipment from which to draw the definitions of critical and assistive life support equipment? Are two different sets of lists needed, one for each type of equipment?*
- *Are there any specific needs related to equipment that requires gas connection that we need to capture?*

We are unconcerned by the introduction of the term 'Life Support User' to differentiate where the Life Support User is not the customer.

As detailed above (at *4.4 Equipment list changes not justified*), we are deeply concerned by the proposal to change the definition of Life Support Equipment. The proposed list is unreasonably restrictive and would remove eligibility for many people who are currently eligible for life support protections. The definition fails to capture other medical energy needs such as refrigeration; water heating; and heating and cooling and mobility / accessibility support.

Further consideration must be given to terminology used to describe the 'Critical Life Support Equipment'. It is unclear what the purpose of describing this equipment is. We consider it preferable to use the term 'continuous medical energy needs' to enable DNSPs to identify those most vulnerable to serious harm in an outage (see *4.3.1 Risks in introducing critical needs category*).

We do not support the creation of an 'Assistive Life Support Equipment' category. Anyone not included in the 'critical' / 'continuous energy needs' subgroup, should continue to be considered as Life Support Users (see *4.3.2 Create a subgroup, not two tiers*).

It is not clear to us why there is a proposal to include the definition of a Registered Medical Practitioner. It would be beneficial if other health professionals could verify needs, such as pharmacists and registered nurses (see *4.7.1 Universal medical confirmation form*).

Question 2: Theme 1. What is your view of the proposed amendments to civil penalty provisions for breaches relating to notification and deregistration - based on proposed changes to definitions as outlined in section 2.1.1 above?

We do not support any reduction of reporting requirements and penalties for breaches in relation to people not in the 'critical' needs subgroup. People in this category still have significant needs and vulnerability (see *4.2.4 Unnecessary reduction in reporting requirements and penalties*).

Our understanding is that the proponents propose that the penalty for failure to deregister be reduced from a Tier 1 to a Tier 2 penalty. If that is a correct understanding, consistent with a harm/risk-based approach to regulation, we support this change. Whist it is frustrating for households who asked to be de-registered but aren't, failure to de-register does not risk lives so does not need to be a Tier 1 penalty.

Question 3: Theme 2: Is there confusion around who may deregister a premise when there is a change in the customer's circumstances?

- *Should deregistering a premises be mandated as suggested?*
- *Are there any unintended consequences of the proposed changes?*
- *Are updates required to the AER Life support registration guide to clarify deregistration roles?*
- *Are changes to B2B processes required due to the proposed changes?*

We strongly oppose changes to make deregistering a premises mandatory. Appropriate safety steps already exist in the Rules. The AEMC should investigate why these are not being followed rather than making changes which increase risk and responsibility for vulnerable people. Households should only be de-registered when they confirm they no longer need to be registered (see *4.2.3 Deregistration process*).

Question 4: Theme 2: Do you have any views on requesting an updated medical certificate every four years?

- *Is it appropriate to create a permanent medical confirmation for critical life support customers with ongoing needs?*
- *Should this permanent confirmation also be extended to customers on assistive life support?*
- *Are the proposed roles for registered medical practitioners in the life support registration appropriate?*
- *Is it appropriate to compel deregistration for customers that do not provide a medical confirmation?*

As detailed above in *4.2.2 Re-registration process*:

- We are opposed to requiring medical registration every four years. This introduces unnecessary risk, onus and cost. People should be able to simply re-verify their needs

periodically, and confirm their medical needs are still valid.

- Permanent needs should be the default position for all people registered for life support (not only those with 'critical' needs) (see *4.5 Limitations in application of permanent needs*).

- The AEMC does not have the power to require medical practitioners to give such detailed information about life support protections and backup plans. This is an inappropriate and ineffective framework for information provision, likely to lead to significant inconsistencies between medical practitioners. It might also add significant costs to medical visits. Simpler and more energy-specific platforms for consistent information provision should be created (see *4.7.2 Requirements on medical practitioners*).

- As detailed in our submission (see *4.2.3 Deregistration process*), we are strongly opposed to deregistering people for failure to provide medical confirmation.

Question 5: Theme 2: Do you have any views on introducing a cap on registration attempts without medical confirmation?

- *Are there any unintended consequences from introducing a limit on registering without medical confirmation?*
- *Are there other issues and approaches we should consider?*

We are opposed to placing a cap on registration attempts without medical confirmation (see *4.2.1 Registration process*). Instead of adding risk by removing otherwise eligible people from being registered, making medical confirmation easier (such as enabling a pharmacist or registered nurse to complete the form) should be pursued (see *4.7.1 Universal medical confirmation form*).

Question 6: Theme 2: Is there currently an inconsistency in how life support is assessed between different retailers and DNSPs?

- *Is back-up planning lacking for life support customers?*
- *Who should hold the responsibility for backup planning?*
- *Do the proposed templates capture all relevant information to ensure accurate life support registration and effectively protect and prioritise customers during planned and unplanned outages? Is there any information that should be added or removed?*
- *Is it appropriate for the AER to develop the proposed Medical Confirmation and Back-up plan templates?*
- *Are there unintended consequences or risks mandating the use of the suggested templates in the rules?*

The AEF found that many households did not have a backup plan, or their backup plan was not sufficient. It is unclear why that is – whether the information provided is not effective, or whether it is not provided in an effective way. We welcome efforts to improve both of these (see *4.9 A process to assist access to backup power*).

The AEMC can't impose rules on medical practitioners. DNSPs are best place to be responsible for helping households with backup plans (see 4.*7.2 Requirements on medical practitioners*).

We see value in a medical confirmation form template. However, this form would need to be very easy to access given obtaining a medical confirmation form is already an impediment, for example it may need to be accessible beyond the AER's website. This form should not be lengthy or onerous, but simply state the minimum information DNSPs require regarding their energy needs, ie to identify their vulnerability in an outage. Medical certificates should still be acceptable evidence of medical need (see *4.7.1 Universal medical confirmation form*).

Question 7: Theme 3: Would adding a nominated contact person improve the safety and experience of life support users?

- *Are there any privacy, safety, consent or implementation risks associated with this proposal?*
- *Should notifying the nominated contact person be mandated for both planned and unplanned outages?*
- *Are there any other issues we should consider in relation to this proposal?*

We support enabling a nominated contact person to improve the safety and experience of life support equipment users. The registrant should be able to nominate in which circumstances this nominated person is contacted, to ensure agency. We do not consider that this proposal would greatly increase risk or opportunity for abuse of the registrant (see *4.6 Further communications improvements needed*).

Question 8: Should customers' electronic contact details be captured in the medical registration form?

Are there any unintended consequences of such a change?

As detailed above, we see benefits to electronic contact details being added, but this should come with measures to ensure people can nominate their preferred means of contact (see 4.6 Further communications improvements needed).

Question 9: Should the rules be updated to explicitly clarify that SMS/email notification of planned outages to life support customers is permitted?

- *Would this improve outcomes for these customers?*
- *How can the rules ensure communications are conducted according to the customers' preferences?*
- *Are there any unintended outcomes from the proposed change?*

As detailed above, we see value in clarifying that SMS/email notification of planned outages to life support customers is permitted. People should be able to nominate their preferred contact method. We recommend that critical information should be delivered in two ways to reduce the chance of it being missed (see *4.6 Further communications improvements needed*).

Question 10: Theme 3: Noting a central database for storing medical confirmations is outside the scope of this rule change process, are there recommendations that could be made to progress the issue?

Are there any immediate concerns with this proposal?

We support exploration of a central database for registration (at national or jurisdictional level) and medical confirmation forms (see *4.8 Value in having a central database*).

Question 11: Assessment framework

Do you agree with the proposed assessment criteria? Are there additional criteria that the Commission should consider or criteria included here that are not relevant?

The AEMC's assessment criteria and rationale should include that the safety and risk for consumers - especially vulnerable consumers as is the case for this rule change proposal - must take precedence over the other assessment criteria, particularly market efficiency.

As detailed above (see *2. Principles for protections*), we consider that all proposals for change should be grounded in solid principles. We provide and apply our recommended principles throughout this submission.