



Australian Government

Department of Climate Change, Energy,  
the Environment and Water



# Industry-led Electricity Contract Co-design - Interim Guidelines and Procedures

Prepared by NEM Review Implementation Taskforce,  
in consultation with ASL

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### Acknowledgement of Country

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# Summary

The final report of the National Electricity Market (NEM) Wholesale Market Settings Review (the NEM Review), delivered in December 2025, recommended convening an industry-led co-design process to define a small set of core derivative contracts that could underpin trading activities and the proposed Electricity Services Entry Mechanism (ESEM) and Market Making Obligation (MMO).

These interim guidelines inform the establishment of an initial industry-led contract co-design process following that recommendation. The initial co-design process is intended to commence in April 2026, with a focus on developing contract structures suitable for the first ESEM tender.<sup>1</sup> Contract structures developed through the co-design process could also be subject to an MMO in future.

This process follows the NEM Review's successful 2025 contract co-design pilot, which demonstrated that an industry-led working group can effectively reconcile diverse stakeholder perspectives to develop practical contract solutions. The initial co-design process has been designed to incorporate lessons learned from the pilot, incorporating recommendations for enhanced resourcing, longer duration, broader stakeholder engagement, and clearer governance arrangements.

The co-design process will be led by a Working Group of around 10 industry specialists with diverse perspectives, representing a range of market participants. The Working Group will be appointed by a Convening Group comprised of representatives from the Commonwealth Department of Climate Change, Energy, the Environment and Water NEM Review Implementation Taskforce (NEMRIT), the Australian Energy Regulator (AER)<sup>2</sup> and AusEnergy Services Limited (ASL) (collectively the Convening Group). NEMRIT plans to engage NEM state and territory jurisdictions throughout 2026 to ensure these perspectives are also understood by Working Group members. The contract co-design Working Group will be supported by professional facilitation, will be provided access to legal and analytical resources, and will be required to engage regularly with external stakeholders.

These guidelines are provided primarily for the benefit of prospective Working Group members and industry stakeholders. The Working Group Terms of Reference (section 5.2) outlines minimum expectations for Working Group member conduct, including management of confidentiality, conflicts of interest, the need for constructive compromise, evidence-based decision-making, and alignment with the National Electricity Objective.

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<sup>1</sup> The first ESEM tender is anticipated to commence in late 2027, subject to the agreement of the Energy and Climate Change Ministerial Council, and passage of relevant National Electricity Law.

<sup>2</sup> The AER has elected to participate in the Convening Group in an observer role only. It is anticipated that it will assume a different role in future co-design processes upon passage of the proposed NEL and NER amendments.

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# 1 Background and context

Australia's electricity system is undergoing unprecedented transformation. Technological innovation, changing consumer preferences, ageing coal-fired generation, commercial drivers, and ambitious climate goals are combining to reshape how we generate electricity, maintain reliability, and operate our grid. The scale and pace of change, across infrastructure, workforce, and supply chains, requires enhanced coordination and strategic planning. Australian governments are working collaboratively to establish long-term energy plans and market signals that bring new electricity services online in time to replace retiring assets, delivering consumer savings through effective use of available resources while maintaining reliability.

In response to the challenges of transitioning to renewable energy, the Australian Government commissioned the National Electricity Market Wholesale Market Settings Review (the Review) in 2024. Led by an independent expert panel, the Review examined whether existing wholesale market arrangements, designed for a system dominated by large thermal generators, remain fit for purpose in a system increasingly reliant on variable renewable generation, storage, and demand-side participation.

The Review's final report was delivered to Energy Ministers in December 2025. It concluded that, while the NEM's energy-only market design remains sound, targeted reforms are needed to support timely investment in the diverse mix of services required for a reliable, renewable-based system. The Review's 12 recommendations address investment frameworks, contracting arrangements, and market settings to ensure Australia can achieve its energy transformation while maintaining affordability and reliability for consumers.

From here, the Commonwealth will work closely with state and territory governments, and industry, to implement the Review's recommendations. This process will culminate in proposed amendments to the National Electricity Law (NEL) and National Electricity Rules (NER), to be considered by the Energy and Climate Change Ministerial Council (ECMC) at the end of 2026.

The final report recommended two key mechanisms requiring standardised electricity contracts:

- **The Electricity Services Entry Mechanism (ESEM):** A mechanism to extend contract tenors and manage long-term price risk for new electricity service providers, supporting resource adequacy across *bulk energy* (e.g. wind, solar), *shaping* (e.g. batteries, demand response), and *firming* (e.g. pumped hydro, peaking gas) services.
- **The Market Making Obligation (MMO):** An obligation on designated market participants to provide liquidity in standardised derivative contracts, ensuring price discovery and enabling effective risk management.

In 2025, the NEM Review Panel piloted an industry-led co-design process to test the approach to developing these contracts. Over four workshops, the pilot Working Group (representing developers, generators, retailers, banks, large consumers, and financial market participants) explored contract options and concluded that workable sets of contract structures exist for the proposed bulk energy and shaping services. These were a set of ex-post contracts, containing dispatch-weighted average swaps and heads and tails spreads, subject to further investigation of how these contracts are

operationalised and financed. Capped and uncapped time-of-day blocks were also found to be a workable set if issues with the ex-post set cannot be resolved. The pilot Working Group recommended caps as the contract for firming auctions.

In addition to specific contract type recommendations, the Working Group recommended that market participants look to define and trial ex-post products, and further investigate the financeability of time-of-day blocks as soon as possible. The full set of recommendations can be found in the [NEM Review Final Report Supplementary Materials](#) (section 4.1).

The pilot Working Group unanimously recommended that the industry-led co-design process be adopted as the formal model for determining contracts should the ESEM be fully implemented. Key recommendations for the formal process included: a longer duration for the process, with longer intersessional periods; enhanced technical resourcing; broader stakeholder engagement; and independent governance arrangements. These recommendations have been adopted for this set of guidelines. Until a formal process determines otherwise, the Working Group recommended that the MMO could be applied to existing cap and baseload swap contracts.

## 2 Interim guidelines purpose and scope

### 2.1 Purpose of interim guidelines

These interim guidelines establish the formal co-design process, building on lessons learned from the pilot. The contract structures recommended through this co-design process will be ratified by amendments to the NEL and NER, providing:

- Finalised NEL amendments and NER changes implementing the NEM Review reforms are approved by ECOMC;
- The ESEM Administrator (once appointed) approves relevant contracts for use in the ESEM;
- The AER designates contracts as subject to the MMO, as relevant and appropriate.

These interim guidelines have been prepared by the NEMRIT in consultation with ASL. Following completion of the co-design process, passage of relevant legislation, and rulemaking, the guidelines will be reviewed and updated to reflect lessons learned and any legislative requirements.

### 2.2 Scope and context of the initial process

This initial co-design process operates in a transitional context that distinguishes it from future processes. Further detail on unique features of the initial process is provided below.

#### 2.2.1 Pre-legislative implementation

The initial co-design process will commence prior to approval of NEL and NER amendments by ECOMC. Any final contract templates developed through this process will be subject to ratification through legislative amendments, if approved by ECOMC.

### 2.2.2 Transitional governance arrangements

NEMRIT is a member of the Convening Group for the initial co-design process. NEMRIT's participation facilitates coordination with legislative drafting processes, supports the appointment and establishment of the ESEM Administrator, and provides continuity from the NEM Review. The Convening Group for future co-design processes are anticipated to comprise only the AER and ESEM Administrator, following its appointment and mobilisation. ASL is a member of the Convening Group for this interim process until the ESEM Administrator is appointed.

### 2.2.3 Focus on ESEM contracts

This initial co-design process will primarily consider contracts for use in the ESEM. However, it is important that any contract structures are capable of being subject to an MMO in the future. Contracts must be fungible and capable of being listed on a platform subject to the MMO.

In the medium term, it is expected that the MMO will be limited to South Australia, applying to caps (and potentially swaps) as traded on the ASX or any other AER-approved platform. If contracts selected by the Working Group are used to finance a significant volume of new electricity generation and subsequently recycled back into the market, it is likely they could be considered for inclusion in the MMO in future.

### 2.2.4 First tender focus

The contract structures developed through this process are intended for use in the first ESEM tender, anticipated to occur in late 2027. Subsequent co-design processes may be required to refine or expand the suite of available contracts based on market experience, technological developments, or evolving policy requirements. The anticipated cadence of future co-design processes is every four years, though a more frequent cadence may be required in the early years of ESEM operation.

## 3 Overview of co-design structure

### 3.1 Key elements of a co-design structure

The contract co-design process seeks to leverage the commercial expertise, operational knowledge, and practical experience of market participants (who will use these contracts) to enable effective and efficient outcomes. Industry participants understand real-world trading conditions, project financing requirements, risk management needs, and operational constraints that are essential to designing contracts that will function effectively in commercial settings. This collaborative process seeks to balance diverse interests across generators, retailers, traders, financiers, and consumers, creating workable compromises that build market confidence and support implementation. The process will include incumbents and newer entrants.

This effectiveness of the co-design approach was validated by the 2025 pilot co-design process, which successfully brought together participants with competing commercial interests to develop practical contract recommendations. The proposed structure for the initial co-design process maintains appropriate institutional oversight through the Convening Group to ensure that the process serves the broader public interest while leveraging industry expertise for technical

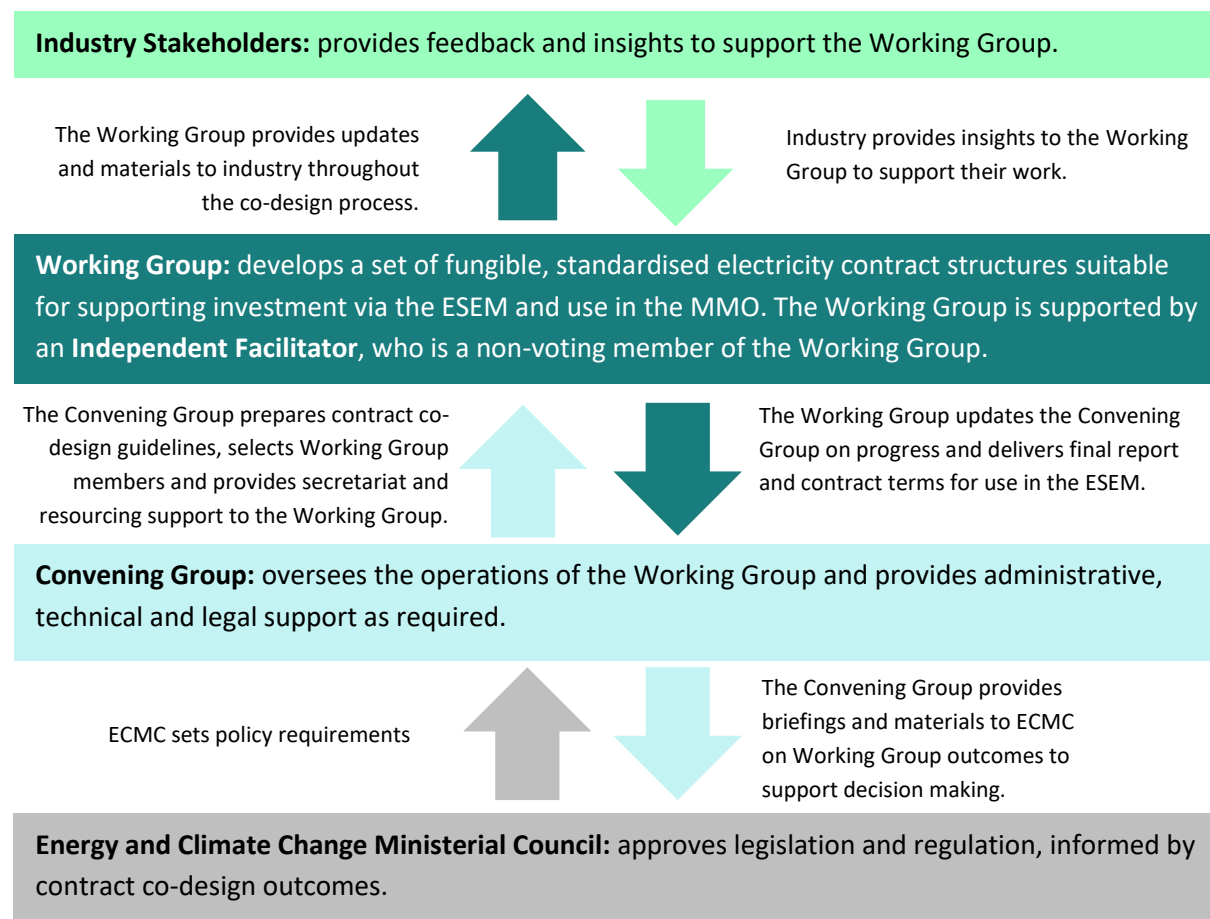
development. It is also appropriate given the current transitional period prior to passage of NEL and NER amendments, and prior to settling governance considerations.

### 3.2 Proposed structure

The co-design process will be undertaken within a clear and transparent governance structure, with the roles and relationships among participants shown in **Figure 1**.

The Working Group, comprising around 10 specialists and supported by an independent facilitator, will develop contract recommendations within the framework established by these guidelines. The independent facilitator acts a non-voting member of the Working Group. As collective representatives of industry, the Working Group will provide regular updates to industry stakeholders, enabling broader feedback and insights throughout the process to support the Working Group's deliberations. The Convening Group oversees the Working Group's operations and provides administrative and resourcing support. The Convening Group provides briefings and materials to ECMC on Working Group outcomes to support decision making.

**Figure 1 – Description of roles of, and relationships between, key stakeholders**



## 3.3 Decision Making and Approvals

Decisions of the Working Group should be made by consensus. Where consensus is not achieved, decisions should be made by simple majority. In the case of a tie, the Convening Group may cast a tie-breaking vote. The Working Group can agree further rules for decision making, providing they do not contradict these guidelines.

The recommendations from the Working Group are not subject to a formal approval by the Convening Group or ECMC. However, the adoption of recommended contracts for use in the ESEM would be conditional upon approval by the ESEM Administrator (once appointed, and pending formalisation of this process in the NEL). Similarly it is proposed that any decision on designation of contracts for market making would also be subject to AER's regulatory decision pending formalisation of this process in the NEL.

Given the ESEM focus of this interim Working Group, the Convening Group may provide principles and guidance to Working Group members regarding the indicative future requirements for later contract approval by the ESEM Administrator. Where requirements are unknown or unclear, the Working Group should consult with the Convening Group and agree a set of assumed requirements.

# 4 Convening Group

## 4.1 Members

The Convening Group for the initial co-design process must be made up of one representative from each of:

- The Commonwealth Department of Climate Change, Energy, the Environment and Water NEM Review Implementation Taskforce (NEMRIT)
- The AER (in an observing capacity only)<sup>3</sup>
- ASL

For the avoidance of doubt, the Convening Group representatives can be supported by other members of their respective organisations.

## 4.2 Scope and authority

The Convening Group will:

- Select the members of the Working Group and appoint an Independent Facilitator (as per Section 5.1).
- Provide administrative and secretariat support to the Working Group including:

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<sup>3</sup> The AER has elected to participate in the Convening Group in an observer role only. It is anticipated that it will assume a different role in future co-design processes upon passage of the proposed amendments to the NEL and NER.

- Assist the Facilitator to draft workshop agendas and distribute all meeting papers to members in advance of workshops, using reasonable endeavours to circulate papers at least 5 business days prior to workshops to ensure members sufficient time to consider the content of the papers.
- Arrange in-person workshops including venue booking and catering.
- Publish non-confidential meeting papers online as soon as practicable after the papers have been distributed to members.
- Publish workshop minutes online as soon as practicable after their confirmation.

The Convening Group may also:

- Provide the following forms of resourcing to the Working Group at the request of the Working Group, contingent on available Convening Group resources, and value for money assessment by the Convening Group:
  - Analytical support, including modelling, to investigate key questions about contract function and interaction with the electricity market.
  - Legal support to formalise contract structures.
  - Travel to in-person Working Group meetings.
  - Note taking or other forms of secretarial support.
- Attend Working Group meetings in an observer capacity.
- Adjust the process if needed to ensure its success such as, for example, by adjusting timelines.
- Remove members of the Working Group in the event of misconduct, underperformance (Section 4.3) or a failure to comply with the Working Group terms of reference (Section 5.3).

All processes specified in these guidelines requiring a decision of the Convening Group require agreement of the two active Convening Group members.

## 4.3 Convening Group meetings

The Convening Group shall meet as required to discuss:

- Progress of the co-design process against Terms of Reference
- Progress of the NEM Review implementation and interfacing workstreams
- Any required amendments to the guidelines
- Resourcing requests from the Working Group
- Any performance management concerns
- Other matters as relevant.

# 5 Working Group

## 5.1 Working Group Appointment

### 5.1.1 Selection Process

Working Group members will be selected by the Convening Group according to the following process.

<b>1. EOI Process</b>	The Convening Group will seek nominations, via an Expression of Interest form on ASL's website.
<b>2. Selection</b>	Nominees will be assessed by the Convening Group against the selection criteria outlined in the next section.
<b>3. Reference Checks</b>	If deemed necessary by the Convening Group, reference checks or interviews will be conducted to confirm alignment of prospective Working Group members with selection criteria.
<b>4. Appoint Working Group</b>	Selection decisions will be made by written notice and communicated to the nominee. The notice will state the date the appointment takes effect and state the term of the appointment.
<b>5. Publish Working Group members</b>	Once finalised, the full list of individual Working Group members will be made public on the <a href="http://energy.gov.au">energy.gov.au</a> website.

**Figure 2 – Working Group Selection Process**

### 5.1.2 Minimum Representation Requirements

The Convening Group should aim to appoint around 10 members to the Working Group (excluding the Facilitator). The Working Group membership should represent a broad range of relevant industry perspectives and expertise, balancing a diversity of market segments.

This must include at least one member from each of the following:

1. A non-vertically integrated variable renewable energy developer
2. A small retailer or large energy user
3. The Clean Energy Finance Corporation
4. The project finance or investment sector

5. An entity that actively trade or is involved in the risk management of electricity derivatives.

Other members may include demand side participants, integrated developers and/or retailers, or large energy users with a variety of load shapes.

### 5.1.3 Selection criteria

Selection of Working Group members by the Convening Group will be informed by the following selection criteria contained in **Table 1**.

**Table 1 - Selection Criteria**

Criteria	Desired Experience
1. Commercial acumen and suitably experienced	<ul style="list-style-type: none"> <li>• A sound understanding of both physical and financial electricity markets</li> <li>• Infrastructure investment experience</li> </ul>
2. Technical expertise	<ul style="list-style-type: none"> <li>• Operational experience with electricity derivatives and contract structures</li> <li>• Understanding of project finance and financeability requirements</li> </ul>
3. Collaborative approach	<ul style="list-style-type: none"> <li>• Demonstrated ability to work constructively toward sector-wide solutions and/or a track record of productive engagement in industry forums</li> </ul>
4. Independence of thought	<ul style="list-style-type: none"> <li>• Willingness to challenge assumptions and engage in constructive debate</li> <li>• Capacity to move beyond advocacy positions to find workable compromises</li> </ul>
5. Availability and commitment	<ul style="list-style-type: none"> <li>• Able to commit to proposed 6-8-month phase 1 timeline with regular workshops, with reduced availability required for the subsequent 4-month phase 2 for detailed drafting and potential ISDA confirmation</li> <li>• Capacity to prepare between meetings, review analysis, and consult internal stakeholders</li> <li>• Capacity to present outcomes to broader industry stakeholders</li> </ul>

### 5.1.4 Appointment of independent facilitator

The Working Group will be coordinated by a professional facilitator, who will be appointed by the Convening Group. The facilitator will be a neutral participant of the Working Group, managing any conflicts of interest to ensure they do not influence the direction of the co-design process. The facilitator will be a member of the Working Group but will not have voting rights. They will ensure the co-design process runs in a smooth, timely manner and stays focused on delivering the required contracts within the prescribed timeframe.

The facilitator will provide the following support:

- Consult and agree with Working Group members on possible ways of working and approach to contract co-design workshops.
- Manage the development of supporting materials for co-design workshops, in consultation with the Convening Group.
- Develop structure and content of workshops (as per high-level work plan agreed by Working Group), in collaboration with the Convening Group.
- Facilitate Working Group workshops.
- Engage with Working Group members between workshops as needed to encourage participation in any surveys/analysis/activities/pre-reading required for pre-workshop preparation.
- Lead the development of a final report that meets the requirements set out in the Terms of Reference.

## 5.2 Working Group terms of reference

### 5.2.1 Objective

The Working Group is responsible for developing standardised electricity derivative contract structures covering the three core ESEM services as defined in the NEM Review Final Report (bulk energy, shaping and firming)<sup>4</sup> that meet the following required attributes:

- Could be used to finance new electricity service provider projects via the ESEM.
- Could be subject to an MMO.
- Are in the form of a final contract template (for example, a template confirmation for use with the latest 2002 ISDA Master Agreement and 2006 AFMA Electricity Markets Addendum).

### 5.2.2 Scope

In achieving the objective, the Working Group is responsible for:

- Preparing a high-level workplan of activities, in consultation with the Convening Group, including the scope and timing for any required technical, legal, or analytical support.
- Developing its own procedures and ways of working, as required, except as provided for in these guidelines.

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<sup>4</sup> The services definitions in the NEM Review final report are:

**Bulk energy:** The capability to generate zero emissions electricity from one or more specified generating units or voluntarily scheduled resources.

**Shaping:** The capability to consume or generate from one or more specified bidirectional units or voluntarily scheduled resources, or to consume and cease to consume from one or more specified voluntarily scheduled resources.

**Firming:** Capacity from one or more specified scheduled generating units, bidirectional units, voluntarily scheduled resources or wholesale demand response units that is capable of being dispatched continuously for the time it takes to reach the cumulative price threshold if prices are at the market price cap.

**Note:** *These definitions may be adjusted during implementation of the NEM Review recommendations.*

- Preparing contract evaluation criteria, based on provided policy requirements, guiding principles and other attributes the Working Group identify as important.
  - This may include principles identified as important following Working Group consultation with external stakeholders.
- Identifying, shortlisting and recommending preferred forms of contracts for the three core services (bulk energy, shaping and firming).
- Providing regular updates to external stakeholders (e.g. other industry participants, governments, and non-government organisations), in a form to be agreed between the Working Group and Convening Group (for example, online forums, published minutes, or consultation papers).
- Developing the Final Contracts Recommendation report.
- Reviewing meeting notes, discussion papers, meeting records, and other outputs prepared by the Convening Group. For efficiency purposes, two members should be nominated to approve records provided by the Convening Group.

The Working Group is not responsible for:

- Procuring technical, legal, or analytical support (such support will be requested from the Convening Group).
- Broader ESEM or MMO policy design beyond contract structures.
- Legislative or regulatory drafting.
- Detailed implementation planning (though the Working Group should identify key implementation considerations).
- Producing and publishing meeting notes, discussion papers, meeting records, and other outputs.

The Working Group may make recommendations about matters beyond those requested in the Terms of Reference. Any such recommendations will be considered by the Convening Group, but are not binding. For example, the Working Group may wish to make recommendations about an approach to developing an index to underpin a given contract structure, or on force majeure mechanisms within the ESEM.

The Convening Group may also request the Working Group's advice on relevant topics, for example, how a suggested contract structure might be applied to a technology that is not expected to make up the bulk of a particular service.

### 5.2.3 Deliverables and outputs

#### Phase 1:

The Working Group is responsible for producing a final contract recommendations report by **30 October 2026**, containing the following elements:

- Summary of the co-design process and approach undertaken.
- Recommended contract commercial term sheets (or similar) for bulk energy, shaping, and firming services, where required for new contract structures.

- Rationale for recommended contracts, including evaluation against requirements and the Working Group’s developed evaluation criteria.
- Identification of any trade-offs or limitations in the recommended approach.
- Areas where Working Group consensus was achieved and areas of disagreement (if any).
- Implementation considerations and dependencies.
- Lessons learnt from the contract co-design process for any future design processes.

#### **Phase 2:**

The Working Group is ultimately responsible for providing final contract templates (for example, a template confirmation for use with the 2002 ISDA Master Agreement). These documents will likely be developed in close consultation with legal experts (such as AFMA’s Documentation Committee). Development of final contract templates is anticipated to require approximately four months, commencing upon completion of Phase 1, and will require less overall time commitment from the Working Group than Phase 1.

### **5.2.4 Appointment of the Working Group**

The Convening Group, by consensus, will appoint members of the Working Group for a period of 18 months. This includes an initial 6-8 months for Phase 1 activities (recommending contract structures and developing commercial term sheets) and a further 4 months (approximate) for Phase 2 activities (consisting of review and approval of final contract templates developed through consultation with legal experts). The 18-month term has been set for contingency purposes and is considered unlikely to be fully utilised.

Working Group members are appointed on a voluntary basis, however, will be reimbursed for reasonable travel expenses.

## **5.3 Working Group Expectations and Conduct**

### **5.3.1 Working Group Expectations**

In meeting all requirements outlined in the terms of reference, Working Group members are expected to:

- Attend all workshops.
  - Working Group members may not send a replacement individual to take their place in any scheduled workshops, unless agreed in writing with the Convening Group.
- Review materials before meetings and actively participate in workshops.
- Act in accordance with the National Electricity Objective and in the broad interest of all market participants.
- Support decisions with evidence and relevant analysis.
- Bring their experience and perspectives, but also step outside of them and refrain from advocacy where beneficial to the process.
- Remain clear and civil and be willing to reach constructive compromise.

## 5.3.2 Confidentiality and information handling

### 5.3.2.1 Chatham house rule

Working Group discussions operate under the Chatham House Rule. This means that participants are free to discuss information received during meetings, but neither the identity nor the affiliation of any speaker, nor that of any other participant, may be revealed without their explicit consent.

In practical terms:

- Members may discuss the substance of Working Group discussions with their organisations and external stakeholders.
- Members should not attribute specific views or positions to individual members or their organisations.
- Members should describe discussions in general terms (e.g., "the Working Group considered..." rather than "Company X argued...").

### 5.3.2.2 Classification of information

Working Group materials fall into three categories, outlined in **Table 2**.

**Table 2 – Information Classification and Treatment**

Information Type	Examples	Required Treatment
<b>Public materials:</b>	Workshop agendas, process updates, and final recommendations reports will be published by the Convening Group	May be freely shared and discussed.
<b>Working Group materials</b>	Technical analysis, draft recommendations, evaluation matrices, and workshop discussion papers shared with Working Group members to inform deliberations.	Members may discuss the content of these materials within their organisations for the purpose of preparation and informed participation, but should not distribute these materials externally or post them publicly. These materials may be published if agreed by the Working Group and Convening Group.
<b>Confidential materials</b>	In the first instance, no confidential materials should be shared by individuals.  In limited circumstances (for example, if materials are shared accidentally), materials may be marked as confidential.	Confidential materials should not be shared outside the Working Group without a consensus agreement of all members of the Working Group and the Convening Group.  ASL may require Working Group members to sign a confidentiality deed in relation to supporting information, analysis and data it provides to the Working Group to ensure compliance with ASL's obligations and commitments.

### 5.3.2.3 Use of information

Members must not use information from Working Group discussions to gain unfair commercial advantage in negotiations or trading or undermine the integrity or objectives of the co-design process. Members should exercise professional judgment about how information is used and shared, keeping in mind that the purpose of transparency is to enable meaningful stakeholder engagement while maintaining the integrity of collaborative deliberations.

Any information shared with either DCCEEW or the AER could be subject to a freedom of information request as per the *Freedom of Information Act 1982*.

### 5.3.2.4 External communications

The Convening Group is responsible for official public communications about the co-design process (for example, the publication of these guidelines).

The Working Group may choose to allow some of its members to speak on its behalf (for example, by electing a chair). Unless agreed by the Working Group, individual Working Group members may not speak on behalf of the Working Group as a whole. Working Group members may not speak on behalf of the Convening Group, or its constituents (e.g. the Commonwealth, ASL, AER).

In their capacity as individuals, Working Group members may respond to inquiries about the process from media, industry bodies, or other stakeholders, provided they:

- Do not speak on behalf of the Working Group or Convening Group as a whole.
- Clearly identify that they are speaking in their personal capacity.
- Do not attribute views to other members or organisations.
- Do not disclose information classified as confidential.

Where significant media or public interest arises, members should consult with the Convening Group to ensure coordinated messaging.

### 5.3.3 Conflicts of interest

A conflict of interest may arise where a member's personal interests, professional relationships, or organisational affiliations could directly benefit or be disadvantaged by specific recommendations being considered by the Working Group. Members must disclose any conflicts, and any engagements that could lead to perceived conflicts, to the Convening Group in writing before the first workshop, and must disclose any new conflicts as they arise during the process in a timely manner.

When in doubt about whether to disclose, members should seek guidance from the Convening Group. The Convening Group, in consultation with the affected member and the facilitator, will determine whether any management measures are required, such as the member abstaining from particular discussions or decisions. The Convening Group may engage a suitably experienced and qualified probity advisor to support the Working Group.

Convening Group constituents are required to disclose any conflicts of interest.

## 5.4 Working Group member changes

### 5.4.1 Resignation or removal from the Working Group

Members may resign by written notice to the Convening Group, stating the date on which the resignation takes effect. Any member that misses more than one workshop without prior agreement from the Convening Group is deemed to have resigned from the Working Group, except where extenuating circumstances, such as an illness, are subsequently detailed to the Convening Group. The Convening Group may appoint a replacement Working Group member in the event that a member moves organisations, a member misses, or indicates that they will miss, more than one workshop for the remainder of that member's term of appointment. The Convening Group should appoint a replacement member utilising the outcomes of a prior EOI process; if no suitable candidates are available, the Convening Group may run a new EOI process. If a new Working Group member is required urgently such that an EOI process is not practicable, the Convening Group may appoint a suitable candidate directly.

### 5.4.2 Performance management

Any concerns regarding the performance or conduct of another member of the Working Group should be raised with a Convening Group member. If the Convening Group considers action is warranted, the Convening Group must:

- Discuss the matter with the member concerned and provide an opportunity for the member to state their view.
- If the discussion does not resolve the matter to the Convening Group's satisfaction, provide written notice to the member stating the concerns and the desired corrective action.
- If the member is affiliated with an organisation, inform relevant people at the member's affiliated organisation of the matter, if appropriate, prior to sending the written notice.
- If the member fails to address the concerns specified in the written notice, provide the member with an opportunity to discuss the matter further and, if appropriate, discuss the matter with the affiliated organisation.
- If not satisfied after due consideration of the member's explanation, the Convening Group may terminate the member's appointment to the Working Group.
- The Convening Group may appoint a replacement member as outlined in 5.4.1.

## 6 Insights from earlier co-design process

The Terms of Reference and Working Group expectations provided above are binding on the Working Group. This section is intended to provide information that may be useful to Working Group members, and is **not binding** on the future Working Group's approach to the co-design process.

### 6.1 Contract attributes

The Working Group is responsible for determining a set of evaluation criteria that will assist in agreeing a set of contract options. In determining a set of evaluation criteria, the Working Group may wish to consider the list of attributes developed by the pilot Working Group that guided the

development of the pilot contract co-design recommendations. These attributes are provided in **Table 3**.

**Table 3 - Contract attributes developed during pilot co-design process**

Pilot contract attributes	Description
<b>Fungible</b>	Can be separated from any individual buyer or seller and on-sold.
<b>Simple to value</b>	Contracts requiring a point of view on more parameters and more conditionality can be more challenging to value accurately.
<b>Works as a portfolio (modular, assessed across services)</b>	Covers all risks when used together with other contracts in set: No gaps / No overlaps.
<b>Assigns risk to buyers and sellers based on who can best manage</b>	Assigns risks to buyers and sellers based on who is best placed to manage, and thus preserve incentives for optimal investment/operational decisions.
<b>Adaptable to future market</b>	Can flex as market conditions change in future.
<b>Cross-technology competition</b>	Multiple technologies able to be compared.

Financeability, and whether products are useful to buyers, were also identified as essential attributes, but the group opted not to explicitly identify them as they were captured within the 'assigns risk' attribute.

The Working Group is not constrained by this attribute list in developing its own evaluation criteria, other than the required attributes listed in the Working Group terms of reference (**section 5.2.1**).

## 6.2 Process and timeline

Details on the approach undertaken in the pilot co-design process from 2025 are provided below for information. The Working Group is responsible for determining their desired process and timeline to achieve the objectives outlined in the Terms of Reference.

This pilot process included:

- Problem definition.
- Agreed criteria to judge successful contract structures.
- Longlist of options.
- Shortlist of options.
- Selection of preferred contracts for each service.

The process consisted of four in-person half-day workshops held in Sydney, taking place over a 10-week period. Economic analysis on the viability of the proposed contracts was provided by the NEM Review Secretariat and Griffith University PhD candidates.

An example timeline in **Table 4** assumes commencement in April 2026, with final recommendations delivered to the Convening Group by October 2026. This is provided for illustrative purposes only and does not need to be the approach taken by the Working Group.

TABLE 4 - FORMAL CONTRACT CO-DESIGN PROCESS – EXAMPLE TIMELINE			
Task/Activity	Start date	End date	Duration
<i>Phase 1</i>			
<b>Workshop 1</b> - Concepts and problem definition	Apr-26	Apr-26	1 day
Intersessional work - stakeholder engagement and analysis	Apr-26	May-26	5-6 weeks
<b>Workshop 2</b> - Prioritisation	May-26	May-26	1 day
Intersessional work - detailed contract analysis	May-26	Jun-26	5-6 weeks
Prepare and release contract shortlist for consultation	May 2026	May-26	2 weeks
Public consultation period (if consultation paper released)	May-26	Jun-26	3-4 weeks
<b>Workshop 3</b> - Contract selection	Jun 2026	Jun 2026	1 day
Intersessional work - detailed design parameters	Jul-26	Aug-26	5-6 weeks
<b>Workshop 4</b> - Design parameters and implementation	Aug-26	Aug-26	1 day
Intersessional work - draft final recommendations	Sep-26	Sep-26	4 weeks
<b>Workshop 5</b> - Finalise recommendations	Sep-26	Sep-26	1 day
Final recommendations report to Convening Group	Oct-26	Oct-26	1 week
<i>Phase 2</i>			
Develop contract confirmation templates in consultation with legal experts	Nov-26	Feb-27	4 months
Amend final recommendations to incorporate agreed confirmation templates	Mar-27	Mar-27	1 week