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Australian Energy Regulator

Submitted by email: [consumerpolicy@aer.gov.au](mailto:consumerpolicy@aer.gov.au)

## **DRAFT CONSUMER VULNERABILITY STRATEGY**

Dear Mark,

Thank you for providing the opportunity for Energy Consumers Australia to comment on the Australian Energy Regulator (AER) Draft Consumer Vulnerability Strategy (the draft Strategy).

The AER's inclusion in the Strategic Plan of the objective to "protect vulnerable consumers, while enabling consumers to participate in energy markets" and the associated work program creates a significant opportunity for us all to reassess how the regulatory framework can better achieve outcomes for all household and small business consumers, and how it may need to be adapted.

We set out below the broader context in which to consider that overall objective of addressing vulnerability and consumer participation, the draft Strategy and the Australian Energy Regulator's role in retail market regulation and performance monitoring in jurisdictions that have adopted the National Energy Retail Law and the National Energy Consumer Framework (NECF).

### **Improving affordability has to be front and centre**

Without an overarching commitment to improving affordability, we see a real risk that the energy divide could widen over the course of the transition to a net zero power system. The scale of investment required to replace fossil fuel generation with a 100% renewable system is enormous and could significantly increase electricity prices faced by consumers – both households and businesses.

While there has been some recent relief for consumers in lower retail prices, this increased investment and the timeframe over which it is set to occur, coupled with increases in interest rates and rising inflation, could all contribute to retail electricity (and gas) prices again rising. This could mean retail electricity prices rising above the national average of 30 cents a kilowatt hour, which would make them the highest prices historically and amongst the highest internationally.

It is therefore critical that there is rigorous attention to efficient investment and effectively utilising the capacity of the transmission and distribution network, so that there is no more additional capacity built than is necessary any earlier than required.

### **Opportunity is unequally distributed**

As well as the first transition to a net zero power system, there is a second transition that is underway across 10 million households and 2.6 million small businesses, proving opportunities and challenges in how these consumers are able to use, generate and store electricity.

These opportunities are not equally distributed, across people, place and practice.

Households that do not have energy efficient housing and appliances, rooftop solar PV or home battery storage, potentially face disproportionately higher energy bills. With the rise in the proportion of households in rental accommodation, and the decline in detached housing, as many as one third of residential energy consumers could potentially be left behind through the second transition. Small businesses face similar barriers, where those who cannot install solar PV or battery storage or improve the energy efficiency of their property face higher costs.

The second transition focuses on people - it requires consumers to navigate a new energy system with disruptive technology and shifting social practices.

It requires new capabilities of consumers: that consumers are able to understand which technologies or services will generate benefits to them, that they have the financial means to procure them, and that they have the technical literacy to use them in the right way to secure those benefits.

### Consumer agency and protection

In our view specific sector regulation – in energy and in the financial sector - together with the economy wide provisions of the Australian Competition and Consumer Law and access to external dispute resolution, is not keeping pace with the changes in the market, the range of business models and the blurring of boundaries between what is “energy supply” and what is not.

We need to reframe the assessment of the regulatory framework by starting with the consumer, and their experiences and needs and a holistic view of the “market for energy” rather than assuming that the existing regulatory frameworks can be simply adapted to remain fit for purpose. There also needs to be specific consideration of how consumer decision making in relation to fuel switching – from gas to all electric homes – is supported and the practices of suppliers regulated.

Energy Consumers Australia is exploring how this problem could be framed from the consumer perspective.

- **Agency** goes beyond simply regulating suppliers and information to considering what is needed for consumer decision making and building confidence and trust. We are moving from simple comparisons of retailers or retail offers, which are commonly anytime pricing and regulating the information on bills. The “market for energy” now applies to a wide range of options consumers may need to consider in retail offers or connection agreements for control over their assets or time varying pricing for buying from, and selling electricity to, wholesale and other markets.
- **Protection and rights** should be appropriate to the myriad ways intermediaries are marketing energy supply, energy services and technologies that enable consumers to use, store or generate energy. They should apply whether electricity is bundled with telecommunications, internet, insurance, finance and credit or tenancy. There are multiple intermediaries including retailers, aggregators, home energy management system suppliers and networks through connection agreements.
- **Dispute resolution and enforcement** are foundational so that consumers have clear mechanisms for redress across the “market for energy” and regulators have the appropriate authority and resources to monitor consumer outcomes, and address non-compliance swiftly.

## Improving consumer outcomes through better retail regulation and practice

In preparing our response to the draft Strategy, we have considered how it will provide practical and effective assistance to people who need help with meeting energy costs right now, as well as how well the Strategy will address the challenges and opportunities we see emerging for consumers in a transforming energy system.

There is already an energy divide, with people on lower to middle incomes paying a much greater proportion of their income on energy costs than better-off households. Yet assistance is not keeping pace with changing circumstances, in an economy that has experienced low wages growth over a decade, more people are living below the poverty line with costs of living pressures rising and more recently the effects of the pandemic have put pressure on people's lives and livelihoods.

In relation to support to meet the costs of their energy bills, as the draft Strategy notes, the number of consumers accessing payment plans is less than pre-COVID levels, and the average debt of consumers has increased by 56%. Our most recent Energy Consumer Sentiment Survey makes clear that there are significant numbers of consumers under financial pressure who are not accessing payment plans or hardship programs. 14% of customers told us they were struggling to pay their bills, and 39% said they could pay their bills but nothing extra. Just under three-quarters of households surveyed said that they were now more concerned about their ability to pay their bills than they were before COVID.

The AER's Consumer Vulnerability Strategy should play a critical and positive role in addressing the impact of energy costs on people's lives and livelihoods and ensuring that the changes in the energy system do not widen the energy divide between those with resources and access to technology and those without. We have explicitly called out the structural nature of energy poverty in our submission, noting that these problems cannot be solved in the energy system alone and go to both housing, tenure and income.

The Strategy could build the resilience of households and small businesses to address existing market barriers, but also better equip them in the future "market for energy". Using the framing of resilience provides an opportunity to avoid the perceived implications in the use of the term vulnerability, that the people and businesses to be assisted are in some way marginal or impaired.

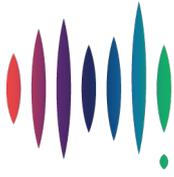
In this context we consider there is an inherent tension that needs to be called out between the needs of consumers experiencing payment difficulties, and the needs of the energy business seeking to minimise overdue payments and bad debts, at the lowest cost. There is also the risk of a perverse incentive that the better an energy business is in meeting the needs of customers in payment difficulty, or not actively discouraging the acquisition of poor paying customers, the higher will be their overall cost to serve. For that reason, we support consideration of changes to the framework that would better align incentives to support consumers experiencing payment difficulties.

We appreciate the opportunity to engage with the AER in this important work. Should you have any questions on this submission, please contact Kerry Connors, Director, Energy Inclusion by email at [kerry.connors@energyconsumersaustralia.com.au](mailto:kerry.connors@energyconsumersaustralia.com.au).

Yours sincerely,



Lynne Gallagher  
**Chief Executive Officer**



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## Response to questions

The following responds to the specific questions asked in the draft Strategy.

### Language/terminology questions

**Q 1.** *Recognising that some consumers would not identify with or respond positively to the use of the term 'vulnerability', do stakeholders have insights about consumer preferences for the type of wording or language the AER could use?*

Consumers experience vulnerability - it is not a personal characteristic. It is situational – people can be vulnerable in one situation, but not in others. There is reasonable concern that when labels such as 'vulnerable' or 'hardship' are used in communications with consumers, they carry a stigma and can cause people to feel shame or embarrassment, and so not seek the assistance they need.

We have seen over COVID the emergence of new cohorts of consumers experiencing financial hardship<sup>1</sup>, as well as increasing numbers of Australians reporting higher levels of anxiety and depression<sup>2</sup>. COVID has also revealed the human impact of small businesses in financial difficulties<sup>3</sup>. Those customers are unlikely to describe themselves as vulnerable or in hardship and may also not be aware of programs to support them.

As the Strategy acknowledges, a consumer can be more vulnerable to negative outcomes due to individual circumstances, their situation and/ or by market design and delivery. We propose that the AER consider using 'resilience' instead of vulnerability in describing the Strategy.

Resilience infers a capability to withstand adversity now and into the future, and better aligns with the Strategy's focus on ensuring that the transitioning and future energy market meets the need of consumers (outcome 3).

We note that terminology matters most when you are talking directly to consumers, where research indicates that asking open questions and listening with sensitivity and empathy will generate more effective responses. The AER should consider developing guidance for industry that indicates appropriate terminology for consumer-facing communications. Good models could include the following.

- The Money Advice Trust<sup>4</sup> publishes a range of guides to help industry support consumers in vulnerable circumstances, including on how to encourage consumers to indicate when they need help.
- We also endorse the five principles of engagement, outlined in the Essential Services Commission Victoria report *Sensitive and appropriate engagement with consumers experiencing vulnerability*<sup>5</sup> (2021) and which demonstrate a commitment by the regulator to transparency, inclusivity and intentionality – that engagement is considered, planned and genuine.

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<sup>1</sup> <https://www.abs.gov.au/statistics/economy/finance/household-financial-resources/latest-release#financial-stress-and-behaviours>

<sup>2</sup> <https://www.abs.gov.au/statistics/people/people-and-communities/household-impacts-covid-19-survey/may-2021>

<sup>3</sup> <https://www.businessnsw.com/content/dam/nswbc/businessnsw/surveys-other/COVID19%20BUSINESS%20IMPACTS%20SURVEY%20JULY%202021.pdf>

<sup>4</sup> <https://www.moneyadvicetrust.org/training-and-consultancy/vulnerability-resources/?#guides-and-reports>

<sup>5</sup> See

<https://www.esc.vic.gov.au/sites/default/files/documents/C%2021%202937%20%20MSEI%20Engagement%20report%20-%20FINAL%20January-2021%282%29.pdf>

## Comments on the Strategy

The following outlines our response to questions 2-10 in the draft Strategy.

### *Complementary research*

Our most recent Energy Consumer Sentiment Survey<sup>6</sup> (ECSS) found that 14% of consumers identified as under financial pressure (with those findings replicated in similar research<sup>7</sup>). That aligns poorly with the number of consumers actively engaged in retailers' hardship programs, which remain consistent over time at around 1% of customers, with only around 1.3-2.5% of electricity customers on a payment plan.

The ECSS also revealed that people under financial pressure reported less positive ratings across all other satisfaction measures, compared to those who are financially comfortable. They are less satisfied with overall customer service, communication and ease of accessing their account.

More worryingly, people under financial pressure reported lower levels of confidence in their ability to make decisions about their energy, or had the information, support and tools to help them.

The ECSS also reported that only 40% of financially pressured consumers positively rated their energy companies, compared to 58% of consumers who are financially comfortable. Lack of trust is a considerable impediment – around 40% of customers under financial pressure reported asking their electricity provider for help managing their bills. Of these, three quarters said they received help that was useful, with one quarter reporting they did not receive help that was useful.

We support the Strategy's action to undertake Vulnerability Impact Assessments across the AER's work, including for example, the implications for consumers of the shift to retail offers for time varying pricing.

The proposed reforms to underlying network tariffs assume that consumers are able and willing to engage in time varying retail pricing and that they receive appropriate information, that is timely and relevant and know what to do in response to these signals.

Despite these assumptions, research has shown that consumer knowledge of time varying retail pricing offers is quite low. This was indicated in our survey, where we asked respondents to tell us the underlying retail tariff in their bill. Overall, 1 in 3 respondents said they did not know. It is likely that this proportion is higher, as the survey did not check to see if the household incorrectly stated what tariff they were on. There has been research which found that it is closer to 1 in 2 households that do not understand how their bill is determined.

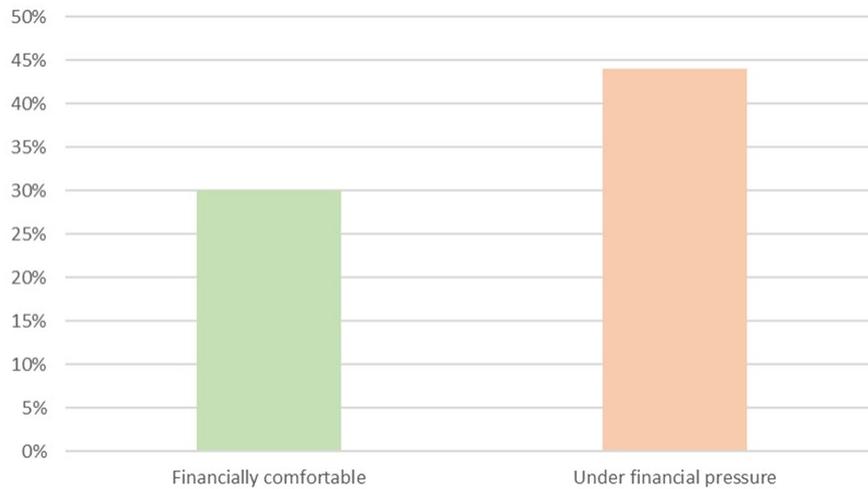
The chart below (Figure 4) shows that there were some differences in knowledge of retail tariffs between financially comfortable and uncomfortable households. Here we worryingly have nearly 1 in 2 financially vulnerable households not knowing their tariff structure. This means they are less likely to understand their bill and know how to avoid paying high peak rates. We likely have a large group of consumers unaware that they are on a time varying tariff likely making them worse off.

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<sup>6</sup> *Energy Consumer Sentiment Survey*, Dec 2021 <https://ecss.energyconsumersaustralia.com.au/sentiment-survey-december-2021/>

<sup>7</sup> See for example the Australian Bureau of Statistics *Household Financial Resources* Dec 2020 <https://www.abs.gov.au/statistics/economy/finance/household-financial-resources/latest-release#financial-stress-and-behaviours>, or The Melbourne Institute, *Tracking the Pulse of the Nation Tracker* <https://melbourneinstitute.unimelb.edu.au/data/covid-19-tracker>

Figure 4 – Percentage of survey respondents who had no knowledge of their electricity tariff (%)

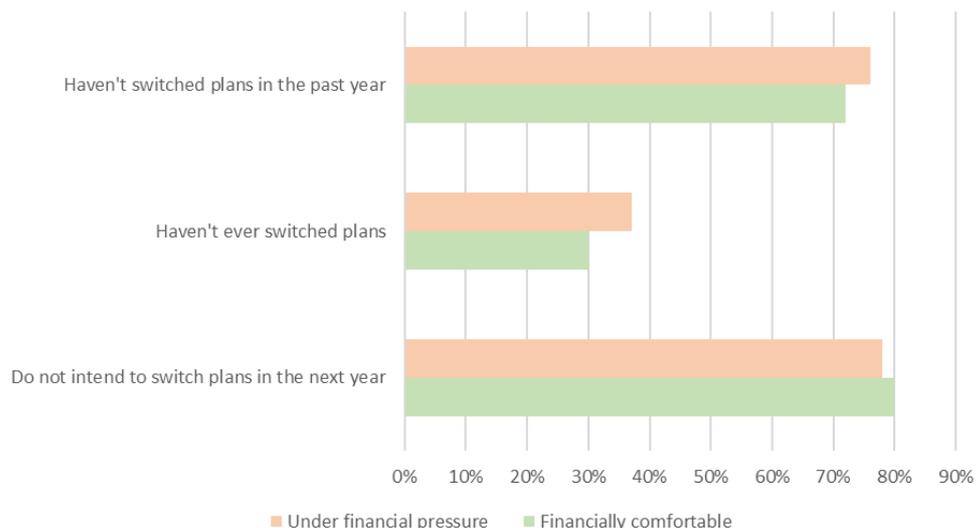


Source: Energy Consumer Behaviour Survey, 2021, Energy Consumers Australia

Further, there is evidence to suggest that those under financial pressure are less able to adjust their energy use behaviours, such as participating in demand response schemes, and therefore are likely to be hurt by any direct monetary tariff changes. In addition to having lower income and therefore being unable to acquire devices that participate in demand response schemes, they are less likely to be at home during the day, they consider it hard to plan when they need to use appliances, or they are more likely to feel that they have other priorities with their time.

In addition, low-income households are no more likely to demonstrate switching behaviour than financially comfortable households. This warrants us to reconsider our assumptions that those who may not be satisfied with the value for money of their energy plan to be actively engaged in the market. Figure 5 shows that households under financial pressure were: slightly less likely to have switched in the past year, more likely to say they have never switched energy plans, and only slightly more likely to intend to switch plans in the next year (whether they do so, is a separate question).

Figure 5 – Switching behaviour among survey respondents (%)



Source: Energy Consumer Sentiment Survey, December 2021, Energy Consumers Australia

These findings underline the importance and timeliness of the draft Strategy.

Energy poverty and the response to it, which is energy inclusion, is a significant concern for Energy Consumers Australia. Appendix 1 outlines the nature and impact of energy poverty in Australia, noting the divergence in experience of households in financial stress with households that are financially comfortable. It also outlines the ECSS findings that households in financial stress have lower ratings of satisfaction and trust in this market.

We also recently made a [submission](#) to the Monash Energy Institute's Just Transition in Australia Report, which goes beyond solutions in the energy system, that are needed to ensure a just transition for consumers.

### Small business

The experiences of those consumers during the COVID-19 pandemic demonstrated the detriment and impact not just on the business, but on the business owner's personal finances, health and wellbeing. Over COVID, we saw higher levels of debt recorded for small business – 42% higher than pre-COVID. The AER's Statement of Expectations provided relief to those customers, but they are now back to limited protections in a more vulnerable economic environment. Research from the Energy and Water Ombudsman NSW found that 56% of small business customers experiencing debt collection were also experiencing financial vulnerability, compared to 7% pre-COVID.<sup>8</sup>

External circumstances outside the small business' control – such as extreme weather events or illness – can cause significant distress, and at a time when the customer's capacity to negotiate with their energy supplier can be very limited.

There were retailers that provided effective and substantive assistance to their small business customers including deferring network charges during lockdowns. We would support the extension of hardship provisions – such as affordable payment plans – to small businesses.

In this context, Energy Consumers Australia has provided grants to the Council of Small Businesses in Australia (COSBOA) and to Business NSW to consider the lived experience of small businesses in this market. Those will be published within the next 2 months and should provide useful insight into how best to address the needs of those customers.

### *Implementation of the Strategy*

We support the implementation of all the proposed actions outlined in the Strategy, though would note that the Essential Services Commission Victoria's review of its Payment Difficulty Framework has not yet concluded, so it would seem reasonable to wait for the findings of that process before beginning Action 3, to review the National Energy Customer Framework (NECF).

Energy Consumers Australia is happy to work with the AER across most of the actions – particularly developing the indicators of vulnerability, Retailer Report Cards, and regulatory reform. We would also be willing to work with the AER on how we could reach out to and support organisations through the Grants Program, to build the evidence base, or help support participation.

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<sup>8</sup> Spotlight on *Consumer and Small Business energy debt solutions*, Energy and Water Ombudsman NSW <https://www.ewon.com.au/page/publications-and-submissions/reports/spotlight-on-consumer-and-small-business-energy-debt-solutions>

We would note that the Strategy is ambitious in scope, and includes substantive projects, which will require active stakeholder commitment and support. A potential barrier may therefore be that the AER will seek to have the same stakeholder involvement in more than one of those actions, which could impose an unreasonable load, particularly on consumer and smaller organisations. The execution of the Strategy should consider the extent and level of stakeholder engagement to ensure it spreads the load evenly.

We see a range of benefits arising from the Strategy, including:

- improving service design and delivery, including through better leveraging retail data to identify and offer help to consumers and improving understanding of the diversity of consumer needs;
  - including making more visible those customers who may be paying their energy bills but are rationing unsafely;
- empowering consumers through providing more information on the outcomes they can expect from an individual retailer;
- minimising disconnection from an essential services that will support people's health and wellbeing;
- helping build consumers' trust and confidence in the market, and so the likelihood they will engage with their retailer; and
- more consistent decision-making by the AER, through a focus on consumer impacts.

In considering stakeholder engagement on the implementation, we view the most important steps as:

- inclusivity – engaging with a diverse range of consumers who have challenges / issues in this market, and working with them to co-design solutions;
- feedback loops – that the Strategy collects data and develops metrics to understand the measures or activities that have been most effective in delivering good outcomes to those consumers; and
- collaboration – engaging genuinely with stakeholders, recognising that your partners may have limited capacity, and planning accordingly.

The most important outcomes are that the Consumer Vulnerability Strategy:

- delivers better service and outcomes to consumers experiencing vulnerability; and
- can accommodate new intermediaries, business models, products and services.

We believe that the most important metrics will be consumer outcomes – we would see value in working with stakeholders to identify those measures, as it is difficult for any one stakeholder to know what metrics are practicable, accurate and where there is sufficient data. In the UK the Office of Gas and Electricity Markets (Ofgem) Consumer Vulnerability Strategy proposes a series of metrics for each of its outcomes<sup>9</sup> that could provide a useful starting point for discussion.

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<sup>9</sup> See Appendix 2, *Ofgem Consumer Vulnerability Strategy 2025* at <https://www.Ofgem.gov.uk/publications/consumer-vulnerability-strategy-2025>

## Comments on Strategy Objectives

The following address the questions posed in relation to each Objective.

### Objective 1: Improve identification of vulnerability

**Question 10:** *The AER is interested in understanding whether stakeholders already use a set of indicators to identify customers who may be experiencing vulnerable circumstances. What factors should we consider in developing this toolkit? What else could the AER do to recognise and support industry participants who are providing effective early intervention? If you have insights, an existing list of indicators you would like to share with us, or are interested in being involved in contributing to the development of the toolkit, please reach out to our team.*

We welcome the AER's willingness to work with stakeholders to develop a better understanding of the indicators that will identify when someone might need additional assistance to manage their energy bill or usage.

There has been substantive research undertaken in energy, other sectors and internationally to understand when a customer might be vulnerable to energy hardship or detriment<sup>10</sup>. There is a broad consensus that consumers are more likely to experience negative outcomes depending on:

- individual characteristics (eg digital literacy, poor health, cognitive impairment etc);
- market factors (such as poorly designed products, complexity, information asymmetry); and
- their situation (such as losing a job, relationship breakdown, or renting).

While the circumstances contributing to vulnerability can be multi-dimensional and complex, we see two key areas where the AER toolkit could address diversity and help cut through complexity.

First, we would see value in the AER engaging with retailers not only to understand better the information they currently collect, but how they're using that data to offer assistance to consumers, to build into the toolkit.

Our Power Shift research<sup>11</sup> found retailers can have limited meaningful knowledge about their customers, such as the customer's preferred language and means of communication, or the number of people in the household. Examples of where better analytics could help might be:

- collecting relevant information – for example, asking the age of the oldest person in the house to assess eligibility for concessions and rebates; their preferred language; or the best contact time;
- interrogating enquiry data – matching customer queries about a service or communication with demographics would help identify where certain cohorts of customers might be more vulnerable<sup>12</sup>; and

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<sup>10</sup> See for example European Commission *Understanding consumer vulnerability in the EU's key markets* (2016) <https://le-europe.eu/publication/understanding-consumer-vulnerability-in-the-eus-key-markets-february-2016/> or Ofgem's *Consumer Vulnerability Strategy 2025* at <https://www.Ofgem.gov.uk/publications/consumer-vulnerability-strategy-2025>

<sup>11</sup> *Scoping an effective voluntary industry guideline* 2019 at <https://energyconsumersaustralia.com.au/wp-content/uploads/Scoping-an-effective-voluntary-industry-guideline-for-helping-households-manage-their-energy-usage-and-bills.pdf>

<sup>12</sup> *Understanding your vulnerable customers*, Deloitte Newsroom at <https://www2.deloitte.com/nz/en/pages/risk/articles/understanding-vulnerable-customers.html>

- identifying very low consumption, especially on very hot and cold days, to flag where a customer might be unsafely rationing their energy or other relevant circumstances such as family violence, arrests or involuntary detention.

The list of indicators is likely to grow and/or refine, particularly as new retailers, business models, products and services emerge, or our understanding of what indicators are most effective improves. It would be useful for the AER to be able to incorporate feedback from initiatives such as the Thriving Communities Partnership's One Stop One Story hub<sup>13</sup>, or - when finalised - Sydney University's research<sup>14</sup> on communicating effectively with CALD consumers, funded through an Energy Consumers Australia grant.

The future "market for energy" will require different capabilities from customers, as well as different behaviours. The extent of that change may be poorly understood both by the customer as well as the retailer. The UK Centre for Sustainable Energy's *Smart but Fair* research<sup>15</sup> developed an Offer Profiling Tool to understand the household capabilities and attributes required to take up a smart energy offer and outlined in Appendix 2. The AER could consider incorporating this or a similar tool into its toolkit.

The second cut through is to work with vulnerable consumers to develop the toolkit. The historical focus on financial hardship as the main determinant of vulnerability has meant that the sector has been slow to engage with consumer voices who may experience vulnerability in different ways.

We recommend that the development of the toolkit actively engage with consumers who have a different lived experience of the energy market, such as CALD consumers, people with a disability, First Nations peoples, rural and remote communities, or mental health advocates. Those voices will be especially important to understand how to ensure the "market for energy" and new energy services are inclusive and accessible.

There is the potential for the Energy Consumers Australia Grants Program to support those groups' engagement with the AER, and we would be happy to work with you on an outreach program.

## Objective 2: Reduce complexity and enhance accessibility for energy consumers

*Q. 11 Should the AER's Retailer Report Cards be extended to report on quality-of-service metrics? How would this information best be presented to consumers? What costs and other considerations are relevant?*

We strongly endorse the objective to reduce complexity and enhance accessibility. As is noted in the draft Strategy, the costs and adverse impacts of poor design and service are significant. The AER's use of consumer testing and behavioural insights over the past few years has provided greater confidence about consumer preferences and needs and is building a more rigorous evidence base to shape regulatory practice.

We see merit in being able to provide consumers with better information about service quality. We agree that it should act as an incentive to improve quality of service and provide useful information to consumers.

We also see this initiative providing consumers, particularly consumers who need help, with greater confidence that they will be treated fairly and supportively by their retailer and so encourage them to seek assistance at an earlier stage.

<sup>13</sup> <https://thriving.org.au/what-we-do/the-one-stop-one-story-hub>

<sup>14</sup> See <https://grants.energyconsumersaustralia.com.au/archive/supporting-cald-australians-to-be-empowered-energy-consumers>

<sup>15</sup> See <https://www.cse.org.uk/projects/view/1359>

Our Energy Consumer Sentiment Survey qualitative research revealed the impact of low levels of trust: *“I didn’t contact [my retailer] as I wasn’t sure how to deal with it, and I did fear that I would make them want to cut off my power or call the bill in full ... You hear stories of people getting cut off and having debt collectors chase them”* .

The Consumer Policy Research Centre’s research<sup>16</sup> suggested quality of service information will support the market - “where distrusting consumers switching from their current provider cannot identify a higher quality alternative, they may disengage entirely”.

The sector has relied too heavily and for too long on threat of disconnection forcing consumers to engage – initiatives like reporting actively on quality-of-service metrics offer an alternative and far more constructive approach.

### Objective 3: Strengthen protections for consumers facing payment difficulty

*Q12 Do stakeholders see merit in implementing a payment difficulty framework for the NECF? What are the risks and opportunities, costs and benefits? What consumer and market outcomes could a NECF payment difficulty framework focus on?*

As noted above, we anticipate that “market for energy” and new services and appliances will change the way consumers interact with their providers. At the same time, we expect to see new business models emerge. Some may offer a choice for consumers of bundling energy with other services (such as internet, mobile phones, car leasing or tenancy). Alternatively, intermediaries may provide a service distinct from energy retailing, such as home energy management, aggregation of hot water storage or battery storage to name a few examples. This means that consumers will be asked to interact with the energy system in new ways, and by providers. This means that the National Energy Customer Framework (NECF), which was designed for a market that was moving to retail contestability and price deregulation, is not fit for purpose for a broader range of supplier relationships.

In relation to the NECF, and traditional energy supplier relationships, there would be clear systemic efficiencies in using the Victorian approach and it has overall been seen as a positive evolution for consumers in financial hardship. We note that the Essential Services Commission Victoria is currently reviewing the payment difficulty framework, and that consumer advocates have identified ongoing barriers<sup>17</sup> to customers easily accessing appropriate assistance. It would therefore seem sensible to wait for the conclusion of the ESCV review before beginning Action 3.

We would support a review of the NECF to consider whether there is a more effective regulatory approach to assisting customers who are struggling to pay their energy bills. Energy Consumers Australia has consistently advocated for regulation that focuses on consumer outcomes and would welcome working with the AER to help define and develop appropriate measures. Ofgem identified a series of outcomes within five themes in its Vulnerability Strategy<sup>18</sup> that provide a useful starting point for consideration about defining consumer and market outcomes.

- Improving identification of vulnerability and smart use of data: outcomes included energy consumer acting swiftly to offer support, evidence that consumers are self-identifying, and better use of data.
- Supporting those struggling with bills: outcomes of relevance to the Strategy included access to affordable energy, proactive support through payment plans.

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<sup>16</sup> *Picking Peaches* Consumer Policy Research Centre (2020) at <https://cprc.org.au/wp-content/uploads/2021/11/CPRC-2020-Picking-Peaches-Service-Quality-in-the-Victorian-energy-market-1.pdf>

<sup>17</sup> See Consumer Action Law Centre submission at <https://consumeraction.org.au/wp-content/uploads/2021/12/211130-Submission-PDF-key-questions.pdf>

<sup>18</sup> *Ibid*, Appendix 2

- Driving significant improvements in customer service for vulnerable consumers: outcomes were about retailers' corporate culture focusing on identifying and supporting those customers, systems to better target and tailor to consumer needs, new entrants delivering a high level of service, and easy access to relevant information about how suppliers can help them.
- Encouraging positive and inclusive innovation: outcomes included all consumers to access affordable and suitable energy services, services designed to meet the needs of a wide range of consumers, and practical innovative measures to help vulnerable consumers.
- Working with others to solve issues that cut across multiple sectors: outcomes included greater understanding and consistency across essential services markets, information sharing with community and consumer organisations supporting consumers, and working with government on common consumer challenges.

In this context, we note that Ofgem has in place enforceable principles that apply to their retail regulation for communication with customers.<sup>19</sup> These are relevant to the overarching goal of supporting all consumers in their decision making – the second part of the AER's objective for participation in energy markets.

According to Ofgem, the intention underlying the introduction of the enforceable principles (see Figure 6) is that:

*"We think there is considerable scope for suppliers to improve how they communicate. We want consumers to get the right information, in the right form and at the right time, to enable them to understand their costs and consumption, to access and assess their options, and to take action where appropriate."*

Figure 6 Ofgem Overarching Consumer Engagement Objective and Encouraging and Enabling Principles

**Consumer engagement objective (SLC 31F.1)**

- Suppliers must comply with the two new 'encouraging and enabling engagement' principles, and the new detailed rules around prompts to engage (SLC 31F.5), in a manner that's **designed to promote positive consumer engagement**.
- By engagement here we mean a consumer either considering switching tariff or supplier, or understanding and managing their energy costs and consumption.
- In complying with the two principles below, suppliers must also take a consumer's characteristics and features of their current tariff into account, and (where appropriate) the consumer's preferences too (SLC 31F.2).

**'Continuing to make informed tariff and consumption choices' principle (SLC 31F.3)**

- Suppliers must provide consumers with information, services and/or tools to help consumers:
  - (a) **understand the key features of their tariff** (including any charges, fees and payments associated with the tariff), and
  - (b) **make informed choices about how they manage their costs and consumption**, including when, and how much, energy they consume (and how this could be more efficient or flexible).

**'Comparing and switching tariff and supplier' principle (SLC 31F.4)**

- Suppliers must provide consumers with information to help them **understand that they can switch tariff and supplier**, and that they may benefit (including financially) from doing so.

It's up to suppliers to determine the **form and frequency** with which they provide this information, but it must be sufficient to achieve the outcomes set out in the principles.

<sup>19</sup> See <https://www.ofgem.gov.uk/publications/final-decision-domestic-supplier-customer-communications-rulebook-reforms>

The full guide to the principles can be downloaded from [here](#) .

*Q 13 Do stakeholders support the AER exploring options around improved engagement between energy businesses and consumers at risk of disconnections, such as knocking before disconnection? Are there other alternatives, options or practices that energy businesses are using to provide supports in this area? Do stakeholders support the idea of a further disconnection threshold review at this time?*

We strongly support the AER's efforts to make disconnection truly a last resort. As noted earlier, disconnection warning notices have been used as a means to drive engagement, but they are a blunt and not very effective mechanism, and – as the draft Strategy acknowledges – causing harm to consumers and encouraging behaviours such as self-rationing or resorting to high interest payday loans that exacerbate harm.

The success of SA Power Networks and Essential Energy's "knock before you disconnect" programs clearly demonstrates the value of a supportive and empathetic human interaction, and that energy businesses can do better. There are also an increasing number of resources available to assist companies work with their customers to be more responsive to their customer's needs<sup>20</sup>.

In working with industry, we think there would be value in sharing the principles and commitments around accessibility, collaboration and innovation that are outlined in the Energy UK *Vulnerability Commitment*<sup>21</sup> . This initiative is a voluntary agreement open to energy suppliers of all sizes and designed to complement the minimum standards outlined in regulation. The Commitment provides a series of concrete steps to engage proactively and sympathetically with vulnerable consumers, as well as building a culture of continuous improvement within the company,

Energy Consumers Australia would also support a review of the disconnection threshold. While we appreciate the need to mitigate against the risk of accumulating high levels of debt, we note that the average residential bill is around \$1434<sup>22</sup>, meaning the \$300 threshold in effect can be triggered for one small quarterly bill.

#### **Objective 4: Use the consumer voice and lived experiences to inform regulatory design and change**

*Q 14 Are vulnerability impact assessments an approach that other sector participants should incorporate into their decision-making processes? We would like to learn from organisations that currently consider these impacts.*

We strongly support the AER's commitment throughout the Strategy to reflecting evidence of consumers' lived experience in its actions. As outlined above, Energy Consumers Australia agrees that the energy transformation should be accessible, inclusive, affordable and empowers consumers to make the decisions of benefit to them.

The use of vulnerability impact assessments has been used by Ofgem<sup>23</sup> to understand the distribution impacts of an initiative on different types of customers, as well as using archetypes to understand how different types of households might be affected.

We think these assessments would not only support the Strategy, but also reinforce a strong consumer focus in each of the wide range of regulatory responsibilities undertaken by the AER.

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<sup>20</sup> See, for example, the *Just Energy Toolkit* [https://drive.google.com/file/d/1tEC\\_33kMBfFBQISHjcPD\\_pJyXGgtp3NX/view](https://drive.google.com/file/d/1tEC_33kMBfFBQISHjcPD_pJyXGgtp3NX/view) and *Inclusive Design in Essential Services*. Money Advice Trust and Fair By Design at <https://fairbydesign.com/wp-content/uploads/2021/01/Inclusive-Design-Firms-Guide-Final.pdf>

<sup>21</sup> See <https://www.energy-uk.org.uk/our-work/retail/vulnerability-commitment.html>

<sup>22</sup> <https://www.accc.gov.au/media-release/cost-of-supplying-electricity-to-households-at-an-eight-year-low>

<sup>23</sup> See <https://www.Ofgem.gov.uk/publications/impact-assessment-guidance>

## Objective 5: Balance affordability and consumer protections by minimizing the overall cost to serve

*Q 16 Do stakeholders see merit in a broad review to identify regulations and protections that have become redundant or unnecessary over time, as well as opportunities to promote consistency and reduce cost to serve across jurisdictions? Are there regulations that stakeholders consider should be particularly targeted for review due to their cost-to-serve implications? What regulations can be reviewed or removed while still maintaining and improving consumer outcomes?*

While Energy Consumers Australia sees merit in a review of consumer protections, we would strongly counsel that it be forward-looking, focusing on the needs of and benefits to consumers in the transforming energy market. It should consider where new protections might be required, noting that we will see new products and services, and address the greater risk that not all consumers have the capacity to engage in the new market for energy.

We see much less value in a review focused narrowly on redundancy, consistency or reducing red tape and risking consumers needs being traded off against energy businesses costs.

*Q 17 How can the AER and stakeholders best learn from each other, and embed understanding and consideration of vulnerability across our organisations and in our everyday systems?*

We welcome the AER's commitment to working with consumers and other stakeholders to deliver the Strategy.

We agree that the challenges outlined in the draft Strategy require a shared responsibility and are happy to work with the AER and other stakeholders to support the delivery of better outcomes.

We would also note that there is good research and practice in other jurisdictions that provide an indication of how we can design more effective, tailored assistance.

As an example of how to support creative responses that will be taken up by the whole-of-organisation, Sustainability First developed a Vulnerability Innovation Flight Path<sup>24</sup> that outlined the following steps.

- The company has mechanisms in place to understand the experiences and needs of their customers that generate ideas for innovation (eg effective and strategic relationships with organisations working with vulnerable consumers, proactively monitoring and researching customer experience, train, empower and support staff on vulnerability).
- There is a clear decision-making pathway for vulnerability ideas, including having a dedicated champion or team, with the power and flexibility to make decisions; the report notes the overwhelming majority of innovations were initiated by frontline staff.
- Ensuring available resources.
- Receptive environment internally and externally, including support of leadership team, encouraging regulatory environment, and external support.
- Feedback loops.

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<sup>24</sup> *Energy for all-Innovate for all*, Sustainability First, 2017 at [http://www.sustainabilityfirst.org.uk/images/publications/inspire/Energy%20for%20All-%20Innovate%20for%20All%20\(full\).pdf](http://www.sustainabilityfirst.org.uk/images/publications/inspire/Energy%20for%20All-%20Innovate%20for%20All%20(full).pdf)

*Q 18 Are there impact-measuring approaches or initiatives already underway that we should draw on? How should the AER share and communicate with our stakeholders about the impact of this Strategy?*

We recommend the AER consider analysis similar to Ofgem's annual Consumer Protection Report<sup>25</sup>, which provides a regular and systematic review of how Ofgem's Consumer Vulnerability Strategy is being implemented, and an opportunity for the sector to discuss the need to adapt or refine its approach.

It reports on market trends and consumer research, to consider the impact on energy consumers, particularly vulnerable consumers, in the short to medium term. The most recent report notes the impact of COVID to understand where certain consumers might need extra help. It identifies areas for improvement by energy suppliers, as well as areas and initiatives where suppliers performed well, with the aim of encouraging others to learn from this practice.

The Ofgem approach encourages that culture of continuous improvement. We think the AER would find value in a similar annual reflection, at least in the first years of its Consumer Vulnerability Strategy.

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<sup>25</sup> <https://www.Ofgem.gov.uk/publications/vulnerable-consumers-energy-market-2019>

## Appendix 1: Consumer vulnerability and energy poverty in Australia

### 1. Introduction

Understanding consumer vulnerability in the energy sector and exploring the myriad challenges and contextual circumstances that might affect their capabilities and agency to have control over their energy choices and services are essential endeavours for a just and decarbonised Australia. The Strategy provides a pathway to support and empower consumers in the ongoing energy transitions.

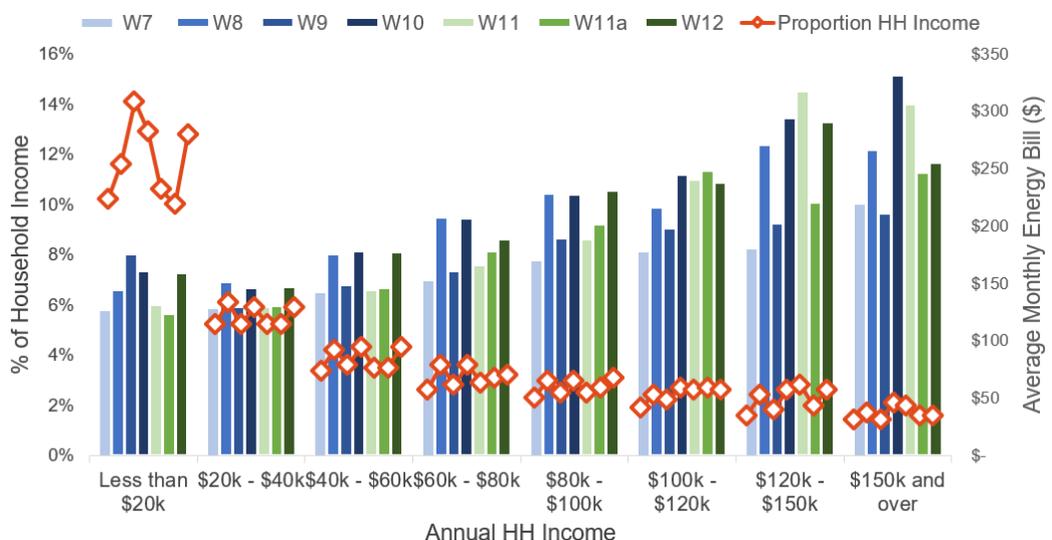
As Bouzarovski (2018, p. 19) explains, “energy vulnerability [...] highlights the factors that affect the likelihood of becoming [energy] poor”. Within the cohort of energy vulnerable Australians, there is a significant proportion of energy poor households who cannot access adequate, affordable, reliable, high-quality, and safe energy services to support their development and capacity to lead a decent life. Yet, energy poverty remains poorly defined and measured in Australia; we lack a national clear definition, metrics, and, most importantly, eradication targets. Although not the same, having robust evidence and indicators of energy poverty can be useful in identifying who is more susceptible to energy vulnerability, which might prompt preventative measures.

Due to limited research and understanding of the topic, data on the extent of energy poverty in Australia are inconclusive. Studies suggest that between 5% and 29% of the Australian population experiences energy poverty to varying degrees (Azpitarte et al., 2015; Churchill et al., 2020; Nance, 2013; VCOSS, 2018). We would like to take this opportunity to expand on this topic based on our own research.

### 2. The energy divide

Current metrics indicate that the average Australian household spends between 2-3% of its income on energy—reasonable and proportionate compared to other developed countries. However, analysis of averages masks the growing energy divide we are witnessing in Australia. Our [Energy Consumer Sentiment Survey](#) (ECSS) data indicates that energy costs account for a much greater proportion of income for low-income households (Figure 1). That is, despite these households incurring a lower average monthly energy bill. We see that for households with a combined annual income below \$40,000/year, they are actually spending on average 6% or more of their income on energy, over double the national average. This substantiates previous research (Cornwell et al., 2016).

Figure 1 – Energy bills as a proportion of household income in Australia



Source: Energy Consumer Sentiment Surveys (Waves 7-12), 2019-2021, Energy Consumers Australia

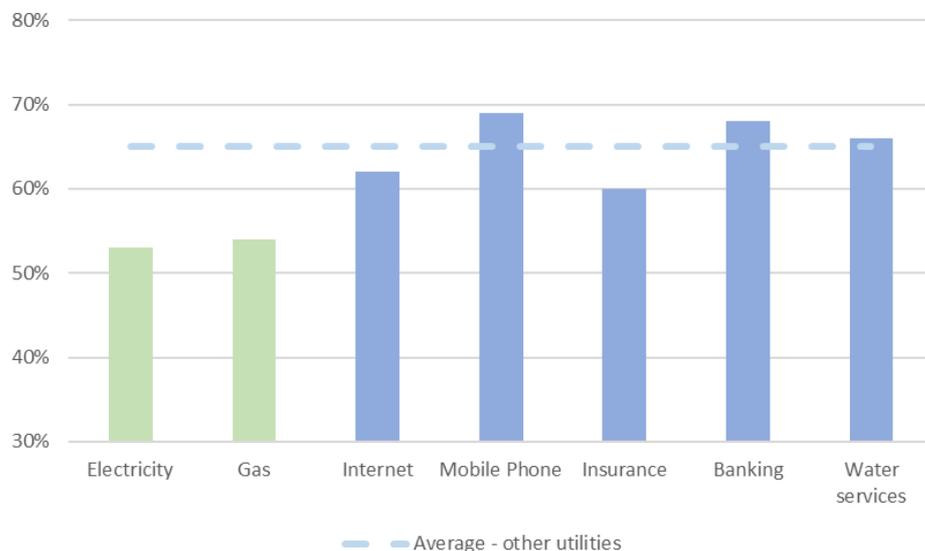
As an issue that reproduces the wider socioeconomic inequalities, there is no doubt that energy poverty and income poverty are distinct but closely intertwined problems. For some households, poverty is exacerbated by energy costs, and for other households, energy costs are what pushes them into poverty (Burlinson et al., 2018).

Our 2021 ECSS asked participants to report if they considered themselves to be financially vulnerable, that is, struggling to pay their bills. The survey found that 14% of households said they were struggling to pay their bills, while 39% said they could pay their bills but nothing extra. This shows that a significant part of our community faces some sort of financial hardship.

The COVID-19 pandemic has further amplified hardship for those already vulnerable. Our research has found that 72% of households under financial pressure agreed with the statement “I am now more concerned about my ability to pay electricity bills than I was before the COVID pandemic”. This compared to only 17% of financially comfortable households agreeing with the statement.

Overall, only 53% of households under financial pressure gave a positive rating for the value for money of their electricity, compared to 75% for households which were financially comfortable. Financially vulnerable households continue to rate the value for money of their energy below other utilities (Figure 2).

*Figure 2 – Percentage of positive rating (rates 7-10) for value for money among financially vulnerable households*



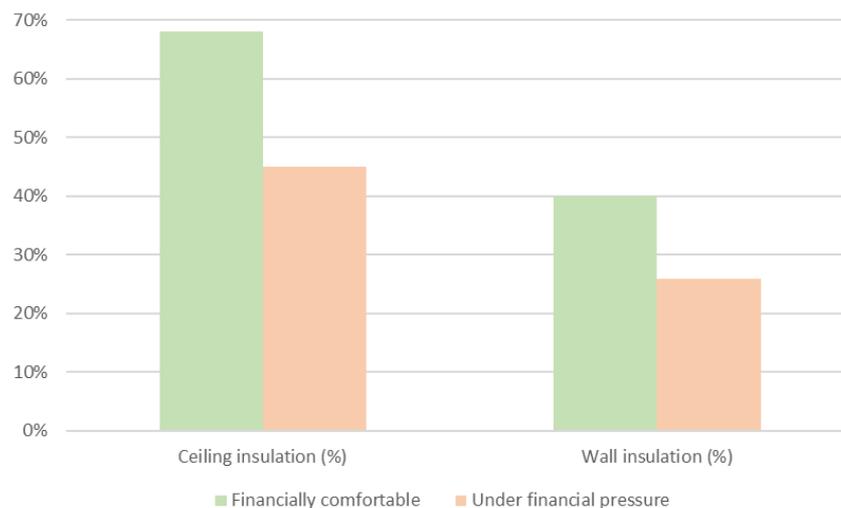
*Source: Energy Consumer Sentiment Survey, December 2021, Energy Consumers Australia*

### 3. Energy poverty, housing energy efficiency and climate change

Alongside low incomes and high energy costs, energy poverty is also a matter of poor home energy efficiency. The energy (in)efficiency of the home and its systems dictates the amount of energy that is used by households for essential services (e.g., heating, cooling, water heating, etc.), which reflects on energy costs. Overall, Australian homes are extremely inefficient when it comes to energy use and contribute to a significant proportion of national carbon emissions. In the NatHERS rating scheme from 0 to 10 stars, most existing homes are classified below 2 stars, which means the building envelope does very little to reduce the discomfort associated with hot or cold weather. It is not surprising that low-income households tend to live in poorer quality homes with low energy efficiency features and/or lack the agency and autonomy to improve their home due to being renters.

The following chart (Figure 3) from our December 2021 [Energy Consumer Behaviour Survey](#) shows the percentage of households surveyed with ceiling and wall insulation respectively. We have disaggregated responses by the households who said they were financially comfortable (in green) and those who said they were struggling to pay their bills / under financial pressure (in orange). There is a demonstrable difference in the amount of insulation in the homes of people who are financially comfortable, and those who are not. The results suggest that around 1 in 2 financially struggling households likely do not have any kind of insulation in their home at all.

*Figure 3 – Presence of ceiling and wall insulation in survey participants’ homes (%)*



*Source: Energy Consumer Behaviour Survey, 2021, Energy Consumers Australia*

In addition, there are barriers to low-income households obtaining the benefits of solar. They are more likely to be renters, and therefore cannot install solar, or their landlords have limited incentive to install it. If they do own a home, they likely have not had the significant money required to purchase solar. They are also potentially more likely to be living in a unit or an apartment where similarly, they are unable to install solar at their home. This was also identified in our survey: findings indicate that financially vulnerable households’ ownership of solar PV of 18% was half of that of financially comfortable households.

Electricity bills remain one of the top 3 most concerning bills for all Australians, and climate change impacts on temperatures and extreme weather events will, in all likelihood, affect the amount of energy required by households in coming decades. Recent research efforts on the relationship between housing, energy and health concluded that, particularly for vulnerable household groups, health outcomes are considerably dependent on sufficient and affordable access to energy services (Sherriff et al., 2020; Willand et al., 2021). Poor energy efficient homes waste energy and affect their occupants’ health and wellbeing.

#### 4. A whole-of-system approach to eradicate energy poverty

As noted previously, energy inclusion is a key priority for Energy Consumers Australia, and we believe AER must be ambitious in its Strategy to tackle consumer vulnerability through consumer protection and empowerment in whole-of-system approach.

Likewise, the interconnectedness of decarbonisation initiatives, energy system, markets and regulation changes, new energy products and services, and housing energy efficiency plays a pivotal role in how we address energy poverty in the transition.

If not properly coordinated, the transitions risk accentuating the energy divide. For the households who have access to energy efficiency features, solar rooftop, and battery storage and are capable of fully electrifying their homes, energy costs will possibly become insignificant. On the other hand, for those who lack the resources, agency, and capabilities to do so, an unfair energy transition will make their energy costs unbearable – and that is why we need a whole-of-system approach to eradicate energy poverty. Energy, housing and climate policies must work together and complement each other if we aim to achieve net-zero commitments in a way that benefits all Australians.

Lastly, we also encourage AER to consider ways of promoting the official acknowledgement and measurement of energy poverty in Australia. Plans to eradicate energy poverty must be embedded in net zero strategies, climate change adaptation initiatives, and energy transition reforms (as seen overseas with the European Green Deal and Renovation Wave).

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## Appendix 2: UK Centre for Sustainable Energy Offer Profiling Tool – Consumer attributes

The Offer Profiling Tool has been developed to help assess an offer against a household's capability – it can be downloaded from <https://www.cse.org.uk/projects/view/1359> .

The following is an extract from the Tool, to demonstrate the wide range of attributes that could affect whether a consumer or household can easily take up the offer.

Attribute	
Energy Profile	<ul style="list-style-type: none"> <li>High electricity usage</li> <li>Predictable, controllable, moveable peak electricity use</li> <li>Existing solar PV</li> <li>Existing battery storage</li> <li>Existing electric vehicle</li> <li>Smart appliances</li> <li>Other existing energy equipment (ie heat pump, EV charger)</li> <li>Specific Heating type</li> </ul>
Dwelling and local area	<ul style="list-style-type: none"> <li>Property energy efficiency</li> <li>On mains gas</li> <li>Suitability for solar PV</li> <li>Off-street parking or outdoor space</li> <li>Indoor space to install new tech</li> <li>Local grid capacity</li> <li>Smart meter</li> </ul>
Financial	<ul style="list-style-type: none"> <li>Household disposable income</li> <li>Income reliability</li> <li>Savings</li> <li>Credit score</li> <li>Willingness to invest or borrow</li> <li>Tenure type</li> <li>Tenure length and security</li> <li>Mortgage and lease conditions</li> </ul>
Digital Tech Readiness	<ul style="list-style-type: none"> <li>Smartphone</li> <li>Digital capability</li> <li>Mobile internet coverage</li> <li>Home broadband speed</li> <li>Open to new technology</li> </ul>
Personal and Social	<ul style="list-style-type: none"> <li>Resilience to power outage</li> <li>Good health &amp; free from disabling conditions</li> <li>Flexibility of lifestyle</li> <li>Trust in provider</li> <li>Motivated by eco values</li> <li>Attitude to risk</li> <li>Willingness to change</li> <li>Social capital</li> </ul>