

Accredited Service Provider Scheme Review

Issues paper



Planning,
Industry &
Environment

How to make a submission

The NSW Department of Planning, Industry and Environment is seeking feedback on the Accredited Service Provider Scheme Review: Issues Paper.

Send submissions by email to: asp.consultation@planning.nsw.gov.au

Submissions must be received by 11:59 pm **6 August 2021**.

Submissions may be made publicly available. If you do not want your personal details released, please indicate this clearly in your submission.

More information on the review is available at <https://energy.nsw.gov.au/asp-scheme-review>

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Maura Boland, Director
Greg Davies, Director
Lacy Barron, Associate Manager
Terry Miller, Associate Technical Advisor
www.insightpartnership.com.au

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Executive Summary

The Accredited Service Provider (ASP) Scheme is being reviewed to examine the continued need for the Scheme and to improve arrangements for contestable energy connection services.

The purpose of this Issues Paper is to outline likely issues and guide consultation. The Paper is based on scoping that included discussions with key industry stakeholders, review of formal documentation, review of documented issues raised in recent years and review of current administrative approaches.

The Scheme accredits organisations (Accredited Service Providers, or ASPs) to perform contestable work on the NSW electricity distribution network, giving consumers who need to connect to the network access to a competent and competitive market of service providers. This approach is unique in Australia. The Scheme was last formally reviewed in 2010; the current Review represents an opportunity to confirm the continued need for the Scheme and to address any limitations that may have emerged as a result of the changing operating environment.

The Terms of Reference for the Review comprise the following key questions:

- Does the current Scheme address its intended purpose of supporting contestable services?
- To what extent does the Scheme deliver against the objectives of competence, consumer access and safety?
- What arrangements are needed to ensure the Scheme administration meets contemporary customer service expectations?
- What arrangements are needed to ensure the Scheme is responsive to industry change, technological advancements and training updates into the future?

The scoping identified a range of issues which are represented in this Paper. Highlights include:

- Whether the services considered contestable should be expanded to include services other than those relating to connection (Section 4.2)
- The potential for enhanced pathways to becoming a Level 3 (Design) ASP (Section 5.2)
- How to best ensure the ongoing competence of ASPs and their Registered Employees (Section 5.3)
- How to best support end consumers both in accessing services and in their awareness of the role of the Scheme and the market it creates (Section 6)
- The unique role that the Scheme may play in ensuring safety, particularly given the role of IPART and Safe Work in this field (Section 7)
- How the Scheme may be updated to meet contemporary customer service expectations (Section 8.1)
- Ongoing approaches to ensure the Scheme stays current between reviews, including possible advisory mechanisms (Section 8.2).

The NSW Department of Planning, Industry and Environment is seeking feedback on the Accredited Service Provider Scheme Review: Issues Paper. This is the first public stage of the Review. The feedback from this stage will shape a Position Paper, which will undergo public consultation later in 2021.

All submissions to the Review should be received by 11:59 pm 6 August 2021 at asp.consultation@planning.nsw.gov.au

Review questions

1. Is the current approach of providing examples rather than a definitive list of works acceptably clear?
2. Is there a need to revisit existing classes, for example Classes 1X and 2X, and, if so, how?
3. Should new classes of work, incorporating non-connection services, be added? If so, please provide tangible evidence as to why the service should be included. If not, why not?
4. If so, why should those classes be prescribed in the ASP Scheme rather than another mechanism such as mutual agreement?
5. How should current requirements for accreditation and individual registrations be improved?
6. Should the accreditation requirements for Level 3 ASPs be updated?
7. What might grading of Level 3 ASPs look like?
8. What pathways could assist in growing the market of Level 3 ASPs?
9. How should ongoing competency be demonstrated, for both ASPs and registered employees?
10. How should the performance incentives and sanctions be strengthened?
11. Who should be responsible for market stewardship activities such as support pathways, foreshadowing the skills and capabilities needed, intervening in areas of market failure and so on?
12. What market stewardship activities would best support the Scheme's objectives?
13. To what extent is the Scheme delivering improved timeliness and cost for consumers?
14. What, if anything, is getting in the way of good consumer outcomes?
15. How should information be best provided to end consumers (household and business)?
16. How could consumer awareness of the Scheme be improved?
17. What unique and additional value does the ASP Scheme provide over other safety regulation?
18. How can Scheme service delivery (e.g. guidance, system interface, timeframes) be improved for applicants as well as existing ASPs and registered employees?
19. How could the Scheme deliver better value for a) DNSPs b) the broader ASP market and c) end consumers?
20. Which approaches are most important?
21. What is the best approach to fund Scheme enhancements within a cost-recovery framework?
22. Which elements require review and how often?
23. What kind of advisory arrangements would ensure appropriate expert input?
24. Is the Scheme still necessary and why?
25. Should the Scheme be delivered through a mechanism other than Government?

Acronyms

AER	Australian Energy Regulator
ASP	Accredited Service Provider
DNSP	Distribution Network Service Provider ('Distributor')
DPIE	NSW Department of Planning, Industry and Environment (includes the Department of Energy)
IPART	Independent Pricing and Regulatory Tribunal (NSW)
MOU	Memorandum of Understanding
NECA	National Electrical Contractors Association
NERIS	National Electricity Registration Scheme (UK)
PDF	Portable Document Format
RTO	Registered Training Organisation

Key definitions

Consumer	End user; person or organisation that is connected to the electricity network by the work of ASPs
Participant	Individual or organisation that is covered within the scope of the Scheme. Includes applicants for accreditation, Accredited Service Providers and Registered Employees
Stakeholder	Individual or organisation with an interest in the design and operation of the Scheme. Includes DNSPs, industry bodies (NECA), Registered Training Organisations, other regulatory bodies and other Government agencies

1 Introduction

Key points

- The ASP Scheme was introduced to support contestable work on the NSW electricity distribution network, with an aim to ensure competence and safety of work and improve services to consumers.
- The Scheme was last formally reviewed in 2010. Industry changes, policy expectations, good practice and requests from Scheme participants and stakeholders have driven the approach to this Review.
- The Review is a key step in ensuring sound regulatory design and practice.

1.1 ASP Scheme intent

The ASP Scheme was introduced in 1995 to provide consumers who need to connect to the distribution network with access to a competent and competitive market of service providers. Before the Scheme was introduced, access to such services was solely via the monopoly Distribution Network Service Provider (DNSP) or predecessor/s. Through the Scheme, these contestable services must meet both consumer objectives and protect the network assets owned by DNSPs. Consumer choice and competition in the supply of electricity is a fundamental plank of the broader legislative framework for energy supply.

While there are no currently stated Scheme objectives, the Scheme intent, coupled with instruments such as the legislation and regulations, imply the following objectives:

Contestability	Contestability of the works needed to connect consumers to the network assets, supporting an ongoing market that provides those works.
Competence	The competence of organisations and individual workers who provide those services is essential for effective and safe works.
Consumer access	Access by consumers to timely and competitively-priced services that meet needs.
Safety	Safe works protect people (consumers and workers), the consumer and network assets, and the reliability of the connection.

1.2 The need for review

The last review of the Scheme was in 2010ⁱ. The review noted the significant maturing of the market for electricity distribution network services since the Scheme was introduced, with an increase in the volume of contestable work and the number of service providers. That review focused on ensuring that the arrangements supporting contestability and the scope of contestable works were safety-focused, effective, efficient and appropriate.

The trends observed in the 2010 Review have continued through to today. At the time of the 2010 review, the value of contestable works was estimated at \$300 million. While there is no publicly

ⁱ Review of contestable services on the New South Wales electricity network: Final report July 2010

available data, our discussions with DNSPs have estimated the current value of works at closer to \$1 billion.

In the period since the 2010 review, the most notable change has been introduced by the Australian Energy Regulator (AER), which is responsible for setting and implementing a significant component of the regulatory framework for the industry. The AER has introduced rules for ringfencing operations of DNSPs such that connection services can only be delivered by an entity separate from the DNSP, and that the DNSP must treat all suppliers equally.

There have also been several significant policy changes that affect the Scheme across the last decade or so, and are more sharply apparent than at the time of the previous review. Two of particular importance are the significant shifts that have happened across Australian businesses regarding their safety management, backed by a marked change in safety regulation, and the strong focus on customer service of the NSW Government which has shaped consumer expectations. These shifts have changed the landscape in which the Scheme is delivered.

A significant influence on the need for review was the ongoing engagement between DPIE and industry stakeholders, many of whom were concerned to preserve the value of the Scheme by bringing it up to date.

1.3 Ensuring sound regulatory design and practice

The Review will keep the principles of sound regulatory design and practice at the forefront of assessing issues. Those principlesⁱⁱ include:

Clarity of objectives	There are clear objectives that guide the design and operation of the regulatory activity.
Efficiency	The design delivers the necessary protections at the lowest overall cost to government and participants
Role clarity and accountability	Each player in the regulatory system has clear and distinct roles; accountabilities are clear
Transparency	The requirements of the regulation and the results are clear to regulated parties and to stakeholders
Predictability and consistency	Activities produce predictable and consistent outcomes for regulated parties across time and place
Flexibility and proportionality	The design is sufficiently flexible to allow regulators to adapt their approach to ensure regulated parties can adopt efficient or innovative approaches to meeting obligations; the approach is proportionate, fair and equitable in the way it treats regulated parties
Coherence	The provisions and requirements are well-aligned with existing requirements in related regulatory systems, thereby minimising gaps and overlaps
Adaptability	The regulatory design has scope to evolve in response to changing circumstances or new information on the regulatory system's performance

ⁱⁱ Adapted from a range of sources including [Government Expectations for Good Regulatory Practice \(treasury.govt.nz\)](#) and [OECD Best Practice Principles on the Governance of Regulators - OECD](#)

2 Terms of reference

Key points

- The purpose of this Review is to examine the continued need for and arrangements to deliver contestable electricity connection services as regulated through the ASP Scheme.
- This Issues Paper is based on an initial scoping including consultation with key stakeholders, and a review of current arrangements.
- The Review will not investigate issues outside the ASP Scheme, such as matters of AER jurisdiction.
- The Terms of Reference centre around the following key questions:
 - Does the current Scheme address its intended purpose of supporting contestable services?
 - To what extent does the Scheme deliver against the objectives of competence, consumer access and safety?
 - What arrangements are needed to ensure the Scheme administration meets contemporary customer service expectations?
 - What arrangements are needed to ensure the Scheme is responsive to industry change, technological advancements and training updates into the future?

2.1 Purpose

The Review aims to examine the continued need for and arrangements to deliver contestable electricity connection services as regulated through the ASP Scheme. The Review will deliver recommendations to position the Scheme for optimum value now and into the future.

2.2 Scope

Approach

This Issues Paper has been informed by initial scoping comprising:

- Consultation with key industry stakeholders, representing DNSPs, ASPs and end consumers
- Review of formal documentation that dictates the Scheme, including legislation, regulations and rules
- Review of documented issues raised by stakeholders in recent years regarding the Scheme
- Review of current administrative approaches.

The Issues Paper seeks to hear from industry stakeholders including DNSPs, ASPs, major project proponents, worker representatives and Registered Training Organisations (RTOs). The findings of consultation on the Issues Paper will shape a Position Paper. Consultation on the proposals in the Position Paper will inform the Review's final recommendations.

Exclusions

Many players are involved in the achievement of contestability, competitiveness, safety, consumer outcomes and protection of network assets. Scoping consultations identified a range of issues that are the responsibility of others, such as the AER and Safe Work. The Review will consider the way the Scheme interacts with those players, but it will not investigate issues outside the domain of the Scheme.

2.3 Terms of reference

The Review will explore whether the Scheme should be retained as is, modified or removed. Within that context, the key questions for the Review are as follows.

Does the current Scheme address its intended purpose of supporting contestable services?

- To what extent is there still a need for a Scheme to deliver on the identified objectives?
- Is the Scheme achieving its goal of creating a competitive environment for contestable services?

To what extent does the Scheme deliver against the objectives of competence, consumer access and safety?

- What services should be considered contestable?
- Should the concept of contestability be expanded to new services?
- To what extent is the Scheme delivering against its accreditation competence objectives, both at the point of entry to the Scheme and during the ongoing operations of ASPs and registered employees?
- Are the qualifications and training for Registration appropriate?

What arrangements are needed to ensure the Scheme administration meets contemporary customer service expectations and is responsive to industry change, technological advancements and training updates into the future?

- How can Scheme delivery be improved to better meet Scheme participant expectations including aspects such as timeliness, support and data platforms?
- Can the Scheme offer improved value to consumers and stakeholders?
- How can the Scheme remain responsive to change?

3 About the Scheme

Key points

- The NSW electricity industry comprises generation, transmission, distribution and retail, with the Scheme focusing on services through which end consumers are connected to network assets
- The arrangements for regulation of contestable services are set out in legislation, regulations and the Scheme Rules
- The Scheme accredits businesses and registers individuals, with the Rules defining the levels and classes of work, the qualifications required to perform works and the application and assessment processes.
- DNSPs also play an integral role in ensuring competence and safety outcomes through authorisation, inspection and suspension activities.
- The Scheme is unique in Australia.

3.1 Overview of the electricity industry

The NSW electricity industry has four elements:

Generation	Systems that change raw energy into electricity at power stations. Electricity generators operate in the National Electricity Market.
Transmission	Operation of the high voltage grid that connects generators and bulk supply points to distribution networks
Distribution	Movement of electricity from bulk supply points to business and households. Distribution Network Service Providers are monopoly providers licenced by the NSW Government; they own the poles, wires, cables and substations that comprise the network assets
Retail	Suppliers purchase electricity from the National Electricity Market and competitively sell electricity to end consumers (businesses and households)

The ASP Scheme focuses on services that connect end consumers to the network, also known as contestable services. The consumer pays for the cost of these services.

Appendix 1. Overview of the NSW electricity industry has a full description of the NSW electricity industry.

3.2 NSW regulation of contestable services

The key elements of the NSW regulatory framework are as follows.

Legislation	The <i>Electricity Supply Act 1995 (NSW)</i> (the Act) sets the framework for regulation, in enabling contestable services and requiring that any person performing contestable network services be accredited.
Regulations	The <i>Electricity Supply (Safety and Network Management) Regulation 2014</i> (the Regulation) sets out accreditation requirements

Scheme Rules	The accreditation requirements are given effect in the <i>Scheme Rules: NSW Accredited Service Provider (ASP)</i> . The Rules provide the classes of contestable services, eligibility requirements, evidence requirements and fees.
Application form	The application form s5 includes 12 undertakings to which the applicant must agree, including to only undertake contestable work for which accreditation is held, to comply with all requirements, to maintain records and to agree to exchange of information, amongst others.

In addition, there was a *Code of Practice for Contestable Works* in the past; this gradually fell out of use and has no current status.

Key national elements are:

- The Australian Energy Regulator (AER) is responsible for DNSP economic regulation
- The National Electricity Law and Rules set out the role of the AER.

Appendix 1. Overview of the NSW electricity industry has a full description of regulatory arrangements.

3.3 ASP Scheme

The Legislation makes provision for the accreditation of both natural persons and bodies corporate. In practice the ASP Scheme accredits businesses and registers individuals as competent to work on contestable services. The Scheme defines the types of work that can be performed (Levels and Classes), the qualifications required to perform those works and sets the grades that determine the fees paid for inspections by DNSPs, as well as the application and assessment process for accreditation and registration.

Following are the key elements of the Scheme:

Accreditation of businesses	Businesses that meet requirements around competence, safety and insurance can become accredited to do contestable services. Once accredited, they become known as ASPs. Accreditation is renewed annually.
Levels	Each ASP is accredited for specific types of work, known as levels. The levels do not imply competence but specify work types.
Classes of work	Each ASP is accredited for specific classes of work requiring relevant expertise within each level. Where expertise is extended, they can apply to be accredited for additional classes.
Grade	Each ASP is graded. Grading implies level of competence and results in a benefit of reduced inspection fees by DNSPs. ASPs can apply to be regraded where there is evidence of increased competence.
Registration of individuals	All personnel that conduct contestable works must be registered. They need to demonstrate competence, typically through their qualifications or completion of training requirements. Registration does not need to be renewed.
Suspension or cancellation	Accreditation can be cancelled for various reasons including no longer being competent to provide the class of services for which accreditation was granted, contravention of the conditions of the accreditation or no longer being a fit and proper person.

Review of decisions	Decisions around accreditation (refusals, imposing or varying conditions, suspension or cancellation) can be reviewed.
Fees and charges	Businesses and individuals pay fees for accreditation, renewal of accreditation, reclassification, regrading and registration. These fees fund the Scheme's administration.
Public lists	The Scheme provides to the public up-to-date details of persons accredited to provide any class of contestable services.

Table 1 Levels and Classes of Accreditationⁱⁱⁱ

Level	Level 1: Construction of network assets	Level 2: Service work/ connection services	Level 3: Design of network services
Class			
A	Overhead	Disconnect and Reconnect	Overhead electricity reticulation
B	Underground paper lead and Polymeric	Underground service conductor	Underground electricity reticulation
C	Underground polymeric only	Overhead service conductors	
D	N/A	Energising Network Operator service equipment including service protection devices/fuses	
X	Non-electrically qualified	Non-electrically qualified	

3.4 DNSP role in ensuring Scheme objectives are met

DNSPs also play an integral role in ensuring competence and safety outcomes through the following elements:

Authorisation	As DNSPs are responsible for the network assets, each DNSP authorises ASPs and registered employees to work on their network assets. This typically involves training in safety and operating procedures.
Inspection	DNSPs are required to inspect works by ASPs and registered employees. The rate of inspection and the fee imposed is determined by the ASP Grade.
Suspension	Where the DNSP identifies concerns as a result of repeated failures to comply with requirements, it can suspend registered employees or ASPs.

3.5 Approach in other jurisdictions

Other jurisdictions in Australia have not identified that connection services must be contestable works nor have they put in place an accreditation system for service providers to undertake contestable works. DNSPs perform connection services directly, citing safety reasons. Some DNSPs, however, have

ⁱⁱⁱ Refer to Scheme Rules for full details.

identified that limited works on or near their networks will be contestable. These DNSPs allow for tenders or, in some instances, the DNSP runs a pre-qualification scheme.

In Victoria there is no requirement for connection services to be contestable, and the DNSPs have different connection policies and contestability policies. Jemena, for example, does not allow connection services to be contestable, but has put in place an accreditation process for providers to perform some contestable works:

- design and construction of connection assets
- network extensions
- real estate developments.

SA Power Networks does not allow connections as contestable works, but has identified some components that may be contestable in larger industrial, commercial, or residential developments. Contestable components may include works that:

- *can be constructed in isolation from the existing distribution network and this construction does not adversely impact the security, safety and reliability of the existing network and customers*
- *will initially be used only to supply the connection applicant.*

SA Power Networks advises the consumer which elements of the work are contestable and if the consumer decides to proceed with a third-party provider, SA Power Network prepares the technical specification for the works.

In England and Northern Ireland, competition has been introduced into the energy market and a third-party professional services company, Lloyd's Register, administers the National Electricity Registration Scheme (NERS) on behalf of the distributors. Lloyd's Register assesses applicants in relation to legislative, safety, quality, environmental, competency, and technical issues. The requirements for registration are established by a Scheme Advisory Panel made up of network representatives.

These NERS providers, known as Independent Connection Providers, are then qualified to undertake connection services on the network, except design of alterations to the existing network. NERS incorporates a second-tier scheme for civil contractors that are supervised by ICPs to undertake limited works such as excavation, cable laying and backfill.

4 Which services should be considered contestable?

Key points

Current arrangements define contestable services in the context of consumer connection services. This section considers:

- The current arrangements for contestability, including whether the existing classes need to be revisited
- Whether there is a case to expand the classes of contestable services beyond consumer connection services.

4.1 Current arrangements for contestability

The Act establishes the concept of contestable network services in the context of consumer connection services, defining them as:

- (a) a service provided for the purpose of complying with a requirement imposed by a distributor under this Division, and*
- (b) any other distribution service (within the meaning of the National Electricity Rules) prescribed by the regulations*

The Classes of contestable network services are defined in Part 2 of the Scheme Rules (see Table 1 Levels and Classes of Accreditation for the overall classification). Within each class there is a description and examples. For example, Class 1A is categorised as: Overhead – work on or near the overhead electricity network. The examples provided include pole erection, tower construction, conductor stringing and tensioning, street lighting works comprising pole erection, stringing of conductors and luminaire erection and substation construction. These examples are illustrative and not exhaustive, leaving some possibility of confusion as to what is definitively included in each class.

Initial scoping discussions identified a particular concern that Classes 1X and 2X, which accredit non-electrically qualified ASPs, were potentially subject to abuse through permitting non-competent people on site.

Question:

1. Is the current approach of providing examples rather than a definitive list of works acceptably clear?
2. Is there a need to revisit existing classes, for example Classes 1X and 2X, and, if so, how?

4.2 Should the concept of contestability be expanded to new services?

Scoping strongly suggested that there was support for expanding the type of works considered contestable beyond connection services to new (non-connection) services. Many proposed that some categories of works provided solely by DNSPs were not being provided as efficiently as possible under current arrangements and that there was market benefit to be gained from making them contestable. For example, there was concern that delays in accessing services to install and remove tiger tails were at times so significant that there were reports of projects that sidestepped them altogether.

Should there be a need to introduce new services, the first test for the Review is to determine whether such services could be accommodated within existing classes, whether new classes are

required or whether the outcome could be achieved through non-Scheme arrangements such as mutual agreements (which have been permitted by DNSPs in the past).

The following table identifies the potential services identified through preliminary scoping and the way they may be treated.

Table 2 Possible areas for Scheme expansion

Service	Description	Potential response
Tiger tails	Installation and removal of temporary protective covers over live overhead wires as a safety warning device.	New category may be required OR Add to either 1A or 2C
Relocations	Moving/relocating poles and wires or underground cables, often as part of other works e.g. road widening.	Potentially modify existing category 1A, 1B and/or 1C
Generators	Connection of new generators (e.g. solar farms, wind farms) particularly at sub-transmission voltages.	New category may be required
High-voltage sub-transmission	High-voltage sub-transmission consumer connections (e.g. aluminium smelter, mine); requires some specialist expertise.	New category may be required
Vegetation management	Trimming vegetation on or near network assets where the DNSP requires payment for the work (e.g. local government street trees or trees on private properties overhanging street mains and service mains).	New category may be required OR Potentially modify existing category 1X

In order to meet the threshold for introduction of new services, it will be essential to demonstrate a clear benefit in terms of broader efficiency and net benefit to consumers. Stakeholders with an interest in expanding the categories of work will need to provide tangible examples of why inclusion of those activities would offer such a benefit.

In addition, new services will need to be considered in the context of existing legislative and policy provisions. For example, the scoping identified that some were concerned about arrangements for metering (see box below). In order to consider whether the Scheme could consider accreditation to deliver metering installations and repairs, the Review will need to demonstrate a clear benefit from changing the current delineation between contestable works under the Scheme and metering provider works.

Metering

Metering warrants specific consideration. Currently, ASPs are required to assist in the completion of some meter installations. However, there is a separate pathway for accreditation in connection services and provision of metering services. Stakeholders have argued that this appears to increase the cost and reduce the convenience of the provision of meters for consumers.

Metering was formerly considered a contestable class of works. However the introduction of national regulation and the change of ownership of meters from DNSPs to retailers, reflected in legislative amendments, means that metering was removed from the Scheme.

Question:

3. Should new classes of work, incorporating non-connection services, be added? If so, please provide tangible evidence as to why the service should be included. If not, why not?
4. If so, why should those classes be prescribed in the ASP Scheme rather than another mechanism such as mutual agreement?

5 The role of the Scheme in ensuring competence

Key points

Competence is a precursor to performance, and is currently assessed at the point of initial application or application for expanded classes or regrading. This section considers:

- Potential issues in establishing initial competence, such as maintaining and updating training qualifications
- The pathways to competence for Level 3 ASPs
- The arrangements for assessment of ongoing competence.

5.1 Establishing competence initially

How competence is established

Competence of individuals and organisations that provide contestable works is a precursor to performance—that is safe, adequate works at the right price, delivered in a way that protects the network assets.

The competence of ASPs is assessed at the initial application and during application for additional classes. Competence is currently given effect through:

- The company demonstrating that they employ personnel who have appropriate qualifications and training to carry out that class of work and have demonstrated competence within the last 12 months in safety and testing procedures appropriate for that classification (that is, either registered employees or persons eligible to become registered employees)
- A requirement to hold public/products liability insurance and, for Level 3 ASPs, professional indemnity insurance
- Management systems including work health and safety, business management and environmental management. For Level 1 ASPs, these systems are independently assessed, while Level 2 and 3 ASPs submit a declaration of compliance with copies of the system.

Competence of registered employees is determined by:

- Completion of specific training and/or
- Experience.

Improving how competence is established

The scoping identified a range of concerns about the current approach to establishing competence.

Appropriateness of qualifications	There was general agreement that the current qualifications are outdated, with a range of courses no longer being offered and appropriate courses that are on offer not being included.
Who requires registration	DNSPs raised concerns regarding works in which the operator was registered (hence trained) but the supervisor was not, indicating potential concerns regarding expertise contained within a chain of command.
Use of subcontractors in establishing competence	A few ASPs have reportedly established their competence based on the expertise of subcontractors, rather than ongoing staff. Some subcontractors appear to work for many different ASPs, possibly raising questions about veracity of the subcontracting arrangement and therefore of the competence of the ASP itself.

Role of authorisation

While authorisation is outside the regulatory framework for DPIE, it still forms a critical step in establishing competence. DNSPs require that all new ASPs undergo training in procedures and safety before they become authorised to work on the DNSP's specific assets.

Question:

5. How should current requirements for accreditation and individual registrations be improved?

5.2 Pathways to competence for Level 3 ASPs

The scoping raised specific concerns about the pathways to competence for Level 3 ASPs; that is, those undertaking design of overhead and underground electricity reticulation.

Currently, in order to demonstrate competence for Level 3 (design) work, ASPs must have:

- EITHER completed engineering qualifications, 12 months industry experience in design and declare a knowledge of the relevant DNSP's construction standards specific to the class
- OR Completed a series of designated elective units in an Advanced Diploma course and declare a knowledge of the relevant DNSP's construction standards specific to the class
- OR provide documentary evidence of at least 5 years' industry experience in design accompanied by a written reference from a DNSP or similar organisation and declare a knowledge of the relevant DNSP's construction standards specific to the class.

Concerns included:

- The appropriateness of the initial qualifications, with a view that they did not necessarily equip the applicant to undertake the class of design work
- The market depth of qualified (and those with potential to qualify) Level 3 practitioners, resulting in delays to access competent providers
- The need to differentiate the competence of Level 3 ASPs through grading, which was viewed as a necessary addition to the Scheme, both up front in the initial period in which individuals were practising their work (with some mentioning the concept of 'P Plates'), and then once fully established. This was driven by an experience that some practitioners did not submit work that was capable of being implemented, and hence drove re-work and additional cost for consumers.

Question:

6. Should the accreditation requirements for Level 3 ASPs be updated?

7. What might grading of Level 3 ASPs look like?

8. What pathways could assist in growing the market of Level 3 ASPs?

5.3 Ensuring ongoing competence

The regulatory framework implies the requirement for ASPs and registered employees to maintain ongoing competence. Organisations and individuals that may be competent today may lose that competence in coming years, whether as a result not maintaining knowledge of contemporary practice, loss of familiarity with requirements or through undertaking an insufficient number of jobs. Such a loss of competence could result in the regulatory outcomes being compromised. An analogy might be driver's licences, which assess ongoing competency through maintaining a number of 'points' vision and health requirements.

The ASP Scheme has provisions for assessing ongoing competence, with the Rules noting that “all of the eligibility requirements must be maintained for the duration of a person’s accreditation”. However, there are no practices in place to assess ongoing competence, other than for currency of insurance and for ASPs seeking regrading.

The scoping highlighted concerns with the performance/competence of ASPs and registered employees, and that there was no systematic approach to capturing, assessing and acting on performance data.

In their role as authorisers for work on the network assets, DNSPs currently inspect works and have the ability to suspend registered employees or, less frequently, ASPs where works are not meeting standard. That information is captured on their own systems, but is not accessible to other DNSPs. The information is provided to DPIE but is not more broadly accessed. There is no stated practice, policy or procedure addressing the relationship between suspension by a DNSP and potential suspension by DPIE. Currently, there is no shared practice or calibration between DNSPs to establish common criteria for suspension, meaning that practice on suspension is likely inconsistent and so not optimal in a regulatory context, although these limitations could be addressed.

In the case of registered employees, there are currently no Scheme provisions to suspend or cancel registration, nor any requirements for registered employees to keep their information up-to-date. One issue canvassed was what ongoing competence might look like for registered employees. Scoping suggested it may include such factors as:

- The number of jobs undertaken annually (with potential to set a minimum level to establish a minimum level for competence)
- The level of issues identified with the works undertaken
- Recency of training, with potential to introduce measures such as continuing professional development requirements or participation in some form of annual refresher.

One stakeholder suggested that the introduction of a practical expiry to registration, and hence the need for re-registration, might assist in capturing more current information for registered employees.

Question:

9. How should ongoing competency be demonstrated, for both ASPs and registered employees?

5.4 Performance incentives and sanctions

The effectiveness of regulation typically relies on alignment of performance incentives to reinforce desired behaviours, coupled with sanction for non-compliance.

Performance incentives

There are few financial incentives for performance for ASPs. The most significant incentive is the cost of inspections. Inspections of works completed by ASPs are conducted by DNSPs, at a frequency and cost prescribed by the grading of the ASP in the Rules and the rate set by the AER. In general, higher graded ASPs are inspected less frequently and at a lower cost than are lower graded ASPs. It could be argued that grading offers a market incentive to improve performance by reducing costs to ASPs (and hence to consumers). In practice, this could be seen as imposing additional costs to consumers for work by less competent providers.

Stakeholders raised a number of issues including that:

- There is no common mechanism for standardising the approach to inspections across DNSPs, and so likely inconsistency of outcome
- There is a perceived low incidence of downgrading meaning that grading is not closely scrutinised
- The AER approves inspection costs, yet the hours applied per inspection may be inconsistent across the industry.

Sanctions

The Regulation makes provision for suspension or cancellation of accreditation as the primary sanction when the ASP is not competent or has otherwise not complied with requirements. There are no monetary sanctions although suspension or cancellation of accreditation restricts future operations. The Regulation also steps out the necessary requirements for suspending or cancelling accreditation as well as the process for review. The Application Form includes undertakings to which the ASP must agree, including to acknowledge that the Scheme may commission an independent audit of records, equipment and works to confirm compliance with the conditions of accreditation.

However, the Rules are silent on the policies or procedures that would give effect to the Regulation. In effect, this means that there is no transparent compliance and enforcement component in the regulatory framework. The result is that participants may be unclear on performance requirements and there is a lack of clarity about how and when accreditation may be downgraded or cancelled.

In practice, there have been few investigations, suspensions or cancellations by DPIE in recent times. However, DNSPs have suspended the authorisation of registered employees and ASPs where they have perceived non-compliance with authorisation requirements.

Question:

10. How should the performance incentives and sanctions be strengthened?

5.5 The ambiguity regarding market stewardship

Market stewardship activities often accompany the regulatory activities within managed markets. For example, market stewardship activities can intervene to support pathways into a market, ensuring new entrants have the skills and capabilities to address the full range of requirements, ensuring regulated entities stay current in their knowledge, identifying areas of market failure (eg thin markets) and intervening to bolster provision of services in those locations.

Some stakeholders raised concerns about an apparent lack of a market stewardship role, specifically:

- That DNSPs often took on a role in ‘shepherding’ new entrants so they achieved overall competence in related areas, such as overall business competence or project management. They highlighted that this role was particularly important for Level 3 participants.
- RTOs highlighted that a lack of information on changing market need delayed their ability to develop appropriate training.

The DNSPs looked to DPIE to fill the market stewardship role.

Questions

11. Who should be responsible for market stewardship activities such as support pathways, foreshadowing the skills and capabilities needed, intervening in areas of market failure and so on?
12. What market stewardship activities would best support the Scheme’s objectives?

6 The Scheme role in improving consumer access

Key points

- In theory, market contestability benefits end consumers.
- There is little information available to assess the extent to which the Scheme delivers this benefit; while there are likely positive outcomes, the scoping also indicated some possible areas for improvement
- End consumers need to be fully aware of the Scheme and how to use ASPs to realise their benefit; there may be some barriers currently to achieving this.

6.1 Consumer access to services

The creation of a market for contestable services should benefit end consumers through increased access to competent providers, acceptably low wait times and competitive costs.

However, it is difficult to assess the extent to which this objective is being achieved overall as there is no market data on time, volume, and cost of services. A comprehensive assessment of impacts would consider both the upfront time and cost of works and the cost of rework arising from incompetence.

Given the absence of data, we canvassed stakeholders to obtain impressions of benefit and identify any warning signals that might indicate areas for improvement.

Overall, there appears to be support that service contestability is benefitting consumers.

- The best estimates indicate substantial increases in work volumes since the 2010 review (despite the removal of metering), suggesting that the market is extremely active.
- Anecdotally, some ASPs have a very high volume of activity and are offering competitive prices.

There is some evidence of areas requiring attention:

- We are advised that lead times are high for switching or commissioning activities
- There may be some classes of work in which there is minimal expertise. DNSPs particularly highlighted Level 3 works as cause for concern
- DNSPs raised concerns that inadequacies in the design work by some Level 3 ASPs resulted in rework and project delays and, hence, higher costs for business consumers
- We heard anecdotes that unacceptable delays in accessing providers competent in tiger tails (currently not considered contestable works) sometimes result in dangerous workarounds
- There appear to be thin markets in some locations, particularly in regional and remote locations. In those cases, we heard anecdotes about market 'monopolies' by small operators that charged unacceptably high fees.

Questions:

13. To what extent is the Scheme delivering improved timeliness and cost for consumers?
14. What, if anything, is getting in the way of good consumer outcomes?

6.2 Consumer awareness and understanding of the Scheme

In order for end consumers to benefit from contestable markets, consumers need complete information, thereby avoiding information asymmetries which distort market outcomes.

The scoping activities have suggested that there may be limited consumer awareness and understanding of the Scheme, particularly for households. There is limited public information to explain the implications of the Scheme to consumers. Stakeholders advise us that they are aware that even more informed consumers, such as developers, experience difficulties in accessing information that might assist them in selecting an ASP.

The Scheme website is the key source of information for consumers. The page 'Installing or altering your electricity service' is aimed at households and has a high-level explanation of the three distributors and Level 1, 2 and 3 ASPs, and links to separate PDFs (updated each month) that provide contact details for Levels 1, 2 and 3 ASPs. The PDF is sorted by (business) postcode and has single dimensional searchability (eg specific suburb OR specific class OR company name OR suburb). There is no equivalent page for developers or businesses.

By contrast, an informed consumer seeking a competent ASP accredited to do a specific class of work might reasonably be expected to require information on:

- Level and category AND
- Grade AND
- Location, including within the ASP's identified operating area (eg a reasonable radius or ASP-identified LGAs).

A quick search of public information suggests that at least some ASPs promote the Scheme and their accreditation status to potential consumers.

Questions:

15. How should information be best provided to end consumers (household and business)?
16. How could consumer awareness of the Scheme be improved?

7 The role of the Scheme in delivering safety outcomes

Key points

- Safety is a major consideration in managing electricity supply.
- The regulatory framework for safety has changed since the Scheme was implemented.
- Given the changed regulatory framework for safety, to what extent does the Scheme add additional value in addressing safety concerns.

7.1 Safe supply of energy

The Act aims to promote the delivery of a safe and reliable supply of electricity. This concept of safety is also embedded in the Scheme through the Rules, which require evidence of safety management systems as part of initial accreditation.

There is no comprehensive public reporting of safety incidents in contestable services. Stakeholders advised that safety performance was good, especially in the context of work that is inherently risky. IPART reported only one significant safety incident in 2019-20, where two civil contractors reporting to an ASP provider were injured by an arc flash, one of whom was hospitalised (IPART Annual Compliance Report, 2019/20).

7.2 Changes in safety regulation

The regulatory arrangements for safety have changed significantly since the ASP Scheme was introduced and last reviewed. The key shift is that the *Work Health and Safety Act (2011)* now sets clear expectations of Directors and other people responsible for the management of a business to ensure that the entity resources a safety system. These expectations are supported with personal liability for failure to protect the safety of individual staff members. Directors are therefore directly liable for safety incidents. This creates an immediate and real sanction for failing to manage safely effectively.

Within the context of energy network operations, IPART is the safety regulator and monitors compliance with the *Electricity Supply Act 1995* and the *Electricity Supply (Safety and Network Management) Regulation 2014*. DNSPs are accountable to IPART and required to report to the Tribunal. IPART and SafeWork NSW have an MoU to coordinate activity, particularly enforcement of breaches.

This means that there are multiple, comprehensive regulatory mechanisms in place to drive safe operations on electricity networks, as summarised in Table 3. Summary of safety regulation of NSW energy.

Table 3. Summary of safety regulation of NSW energy

	SafeWork NSW	IPART	DNSPs	ASPs
Role	Overall safety regulator	Safety regulator for energy network operators (including DNSPs)	Responsible for managing safety on their network, including people working on or near the network (includes ASPs)	Responsible for managing safe undertaking of contestable works
Requirements	All entities must operate safely	Network operators must:	Comprehensive safety system	Must operate safely

	SafeWork NSW	IPART	DNSPs	ASPs
	Organisations must have safety systems Major incidents must be reported Power to investigate an incident (visit a site and compel production of evidence) and prosecute Legislation makes directors/ decision makers personally liable for incidents	<ul style="list-style-type: none"> ▪ operate safely ▪ ensure the safety of people working on or near their network assets ▪ notify IPART of any major incidents ▪ report compliance annually IPART (or SafeWork on IPART's behalf) can investigate an incident and audit a DNSP's safety system	Ensure contractors and others (including ASPs) have safety systems for work on or near electricity networks and are inducted into the safety requirements of the DNSP (authorisation) Report major incidents Suspend authorisation of underperforming ASPs	Must have safety systems in place (ref SafeWork) Report safety incidents to DNSP and SafeWork when relevant Directors/decision makers are personally liable for incidents
Other arrangements	MoU with IPART to cooperate and avoid duplication	Reports annually to the Minister about overall sector performance. MoU with SafeWork to cooperate and avoid duplication	Authorisation system and processes Annual compliance report to IPART	Must be authorised by DNSP
Implications for ASPs	ASPs required to meet safety obligations (as per all organisations) Significant sanctions for non-performance	DNSPs accountable to IPART for unsafe performance of ASPs working on or near their network	DNSPs are accountable for ensuring that ASPs operate safely on or near their network	N/A

7.3 Scheme safety requirements

Applicants for accreditation are required to have safety management systems in place, including the use of Safe Work Methods Statements and completion of comprehensive risk assessments. Applicants for L1 accreditation are assessed by an independent assessor using a standard checklist; applicants for L2 and L3 accreditation must state that they have systems that meet the listed requirements.

The changed safety regulatory framework outlined in section 7.2 now requires these elements to be in place, primarily through Safe Work. There are powerful sanctions in place to prevent and penalise unsafe practice outside of the Scheme.

The Scheme played an important role in safety when initially established. Scoping suggested that the evolution of the safety environment means that role has also evolved and may have less relevance.

Question:

17. What unique and additional value does the ASP Scheme provide over other safety regulation?

8 How can Scheme administration deliver improved outcomes and responsiveness to future change?

Key points

Accreditation Schemes need to stay current, both in the elements of the Scheme itself and the administration and implementation of the Scheme. This section:

- Considers the delivery of accreditation and other ‘services’ to applicants, ASPs and registered employees in the context of contemporary service expectations
- Canvases whether there might be additional value the Scheme might offer to the broader market and end consumers
- Explores which elements of the Scheme Rules require regular update, how often that update might be required and governance mechanisms to ensure all relevant expertise is available to ongoing review.

8.1 Improved administration and value

Improved delivery of accreditation and other services

The NSW Government has a goal to ensure customers are at the centre of everything. The strategic objectives^{iv} are:

- Make it easier for customers to access services
- Make it easier to do business in NSW
- Design services based on customer journeys
- Enhance confidence in government services.

In the case of Scheme administration, the ‘customers’ are applicants and those already accredited or registered. Consumers of contestable services are considered in the following section.

The arrangements supporting Scheme administration and delivery have not been updated for many years. The current application process is clumsy for applicants and difficult to administer. There are some gaps with regard to contemporary customer expectations including:

- Guidance. The guidance offered to applicants through the website, Rules and application form is minimal and, as a consequence, applications are often incomplete.
- Turnaround times. Applicants are given an initial estimate of turnaround times; however, the turnaround time excludes the time taken in following up on missing information, often a sizeable component. Turnaround times are variable, but appear to be outside reasonable expectations. Further, current systems have no provision to provide updates to applicants on the status of their application.
- Business-focused. For applicants, receiving accreditation status permits them to undertake contestable works. A number of factors such as the application process itself, time delays in resolving applications and outdated interface systems via email rather than smart digital processes may unnecessarily slow business entry to the market.
- Information on registered employees is not updated regularly, and so likely to be outdated.

New approaches such as preparation of clear customer-centred guidance and use of self-service portals could reduce application times, improve data accuracy and meet contemporary customer

^{iv} [Put Customer at the Centre | Digital.NSW](#) accessed on 110621

service expectations, while supporting entry to the contestable services markets for businesses. Transitioning to this approach would require additional investment, but appears to have potential to significantly enhance the experience of Scheme users.

Question:

18. How can Scheme service delivery (e.g. guidance, system interface, timeframes) be improved for applicants as well as existing ASPs and registered employees?

Improved value

Scoping suggested a number of ways that changes in the Scheme might result in the delivery of greater value. Most of these have been canvassed in previous sections, but are summarised here.

Consumer information

Replacing the current practice of sharing ASPs with end consumers through a static PDF, with limited searchability, with a dynamic searchable form including locational capability would improve information access for consumers and likely the ability of consumers to connect to appropriate ASPs.

Market shaping

A regular update on industry change and direction could provide guidance to trainers on training needs and drive market entrants to meet specific gaps. This might extend to interventions for locations or classes where there are currently thin markets.

Sharing performance information

A means of capturing and sharing the performance information that each DNSP collects on ASPs, such as suspensions, could assist other DNSPs in managing performance and possibly consumers in understanding the performance of registered employees and ASPs.

Questions:

19. How could the Scheme deliver better value for a) DNSPs b) the broader ASP market and c) end consumers?

20. Which approaches are most important?

Investment in Scheme improvements

The Scheme is currently funded on a cost-recovery basis, through fees. The scoping identified strong support for enhanced operations. Any potential Scheme improvements would require additional resourcing, noting the importance of proportionality in balancing Scheme adequacy with cost of operations.

Questions:

21. What is the best approach to fund Scheme enhancements within a cost-recovery framework?

8.2 Responsiveness to change

The need for regular update of the Scheme Rules

The need for change in elements of the Scheme, such as the definition of contestable works and the training requirements necessary to establish competence, has already been raised. Underlying this is a need to maintain currency of the Scheme, through regular review.

Scoping suggests that the following elements emerged require regular review:

Training requirements	A significant update in training requirements to match current offering and industry need is required in the short term. A regular review of training offerings can also anticipate industry changes and provide guidance to the market on expectations. <i>Possible frequency: Biennial review</i>
Categories of work	A significant update in categories of work is required in the short term. Issues that have arisen across the last decade suggest that the Scheme categories will also require amendment into the future as work types and methods change. <i>Possible frequency: Biennial review</i>
Relevant number of inspections	The removal of metering has meant the number of inspections required to provide evidence for improved grading is now hard to achieve. <i>Possible frequency: ad hoc, in response to factors affecting volume</i>
Fees	The Scheme needs to operate on a cost-recovery basis. Fees should be updated regularly to ensure they cover the cost of administration. An indexation guide such as building CPI could establish a transparent mechanism for fee increases. <i>Possible frequency: Annual review</i>

A consultative mechanism for review

The nature of the elements to be reviewed requires targeted industry input. Stakeholders suggested that there could be a consultative governance forum that brought together those with specific expertise in training and works to provide expert input to reviews. This could be an *ad hoc* forum established for each review, or an ongoing advisory entity.

Questions:

22. Which elements require review and how often?
23. What kind of advisory arrangements would ensure appropriate expert input?

9 A continued need for the Scheme?

Key points

This section explores whether there is a continued need for the ASP Scheme, given the size of the contestable market, alignment with NSW Government policy objectives and stakeholder perspectives.

Best practice regulation supports the regular review of the continued need for regulation. Of particular concern are considerations such as:

- Whether there is still a problem of sufficient size or scope and a case for government action
- An ongoing alignment with government policy objectives
- That regulation remains the most feasible approach to manage the problem.

The review needs to establish a case that ongoing regulation via the Scheme is the best option and, if it is the best option, how might the Scheme be improved to meet expectations.

The size of the contestable service market is bigger than ever

The 'problem' being addressed by the ASP Scheme is assurance around delivery of network connection services to consumers in a manner that both protects the network assets and offers fast and well-priced access to consumers. While there have been many changes to the market since the Scheme's establishment in the mid-1990s and the last review in 2010, there is still evidence that this issue remains. At the time of the 2010 review, value of contestable works was estimated at \$300 million. Information on the current value of contestable works undertaken is held by DNSPs and is not publicly available; however, discussions with DNSPs suggest the value may now be approaching \$1 billion.

Continued alignment with policy objectives

The Scheme was established at a time when connection services were offered only through monopoly distributors. The creation of a viable market for competitive service provision remains a priority in the current policy environment.

Stakeholder perspectives suggest support for the Scheme's continuation

Scoping consultations identified strong support for the Scheme framework, albeit with some reservations about some design and implementation elements. While scoping suggested a range of areas for improvement, stakeholders agreed that the Scheme was, in the main, delivering on its objectives and offering value.

Questions:

24. Is the Scheme still necessary and why?

25. Should the Scheme be delivered through a mechanism other than Government?

10 Next steps

We are asking for comment from the sector and the community about the ASP Scheme in response to this paper. The key steps are:

Step	Activity	Who	Estimated end date
Consultation 1—Issues Paper	Comment on this Issues Paper	Sector/public	6 August 2021
Review and develop proposed options	Summarise submissions and develop a Position Paper on options	DPIE	
Consultation 2—Position Paper	Comment on Position Paper	Sector/ public	October/November 2021
Final Report and Recommendations	Summarise responses and make recommendations	DPIE	End 2021/early 2022

Appendix 1. Overview of the NSW electricity industry

In NSW, the electricity industry has four elements:

- **Generation:** Electricity generators own or control generating systems that change raw energy into electricity at power stations. Generators operate in the competitive wholesale National Electricity Market (NEM)
- **Transmission:** The NSW Transmission Operator Transgrid operates the high voltage grid interconnecting the generators and Bulk Supply Points to the distribution networks
- **Distribution:** Distribution Network Service Providers (DNSPs) own or control the systems (poles, wires, cables and substations) that move electricity from transmission Bulk Supply Points to where it is used by businesses and households. The NSW Government licences DNSPs to operate as monopoly providers in defined geographic locations.
- **Retail:** Suppliers purchase electricity from electricity generators in the NEM and compete to sell electricity to businesses and households.

The **electricity distribution network** in NSW is managed by three DNSPs:

- **Ausgrid:** Provides services to 1.8 million customers across the Hunter, Central Coast, Northern Sydney, Sydney CBD, Eastern Sydney, Inner Western Sydney and the Sutherland Shire through its network of substations, powerlines, underground cables and power poles.
- **Endeavour Energy:** Covers Western Sydney, the Blue Mountains, Lithgow, Wollongong, and the Illawarra and Shoalhaven regions, supplying energy to more than 1 million customers through its network of 202 major substations and 32,600 distribution substations, and 60,600 kilometres of underground and overhead cables.
- **Essential Energy:** Provides services to more than 860,000 customers across 95% of regional NSW and parts of Southern Queensland, managing a network of 183,000 km of powerlines.

Within the electricity distribution network, Accredited Service Providers (ASPs) are accredited companies or sole traders that provide contestable network services to consumers. These consumers include businesses, households and major project developers.

Other key stakeholders in the NSW electricity distribution industry include Safe Work NSW, the Independent Pricing and Regulatory Tribunal (IPART), the National Electrical Contractors Association (NECA), the Electrical Trades Union and other worker representatives.

NSW regulatory components

Legislation and Regulation

The [*Electricity Supply Act 1995 \(NSW\)*](#) (the Act) sets the framework for regulating the supply of electricity in the retail market and the transmission and distribution of electricity. A key aim of the Act is to promote consumer choice and competition in the supply of electricity, while ensuring appropriate safeguards for consumers, personnel working on the network, and the network itself. Ensuring the network is safe and efficient is a primary objective of the Act and regulations.

Part 3 Division 4 of the Act enables consumer choice in customer connection services and establishes these as contestable network services. In order to provide appropriate safeguards, Section 31A of the Act requires any person performing contestable network services to be accredited. The accreditation requirements that ensure only competent providers undertake works on the network are set out in the *Electricity Supply (Safety and Network Management) Regulation 2014* (the Regulation).

The Regulation identifies the high-level accreditation procedures, enables review of decisions, requires the Secretary to make available a list of accredited service providers, and allows for the Minister to make Scheme Rules. The Regulation requires the Secretary to be satisfied that an applicant for accreditation is a fit and proper person and competent to undertake contestable services in the class for which they've applied in order to accredit the applicant. The Secretary may refuse accreditation if the person is not found to be competent, if the applicant has failed to comply with conditions of accreditation previously, or if the applicant's current or previous accreditation was suspended or cancelled.

Some network services, including maintenance and augmentation not directly paid for by individual consumers, have remained as regulated monopoly services carried out by DNSPs. The Australian Energy Regulator (AER) requires DNSPs providing chargeable connection services to consumers directly and competing with ASPs to ring-fence those operations within their organisation.

National regulatory environment

The [Australian Energy Regulator](#) (AER) is responsible for DNSP economic regulation. The [National Electricity Law and Rules](#) set out the role of the AER and establish the regulatory framework for electricity networks. AER assesses the revenue requirements of regulated network entities on a regular basis (usually every 5 years). The assessment considers operational and capital expenditure, maintenance requirements, depreciation and liabilities, and the need to provide a commercial return on capital. The AER then sets a cap on the revenues and prices that a network can earn and charge during the subsequent period.

ASP Scheme documents

The Department of Planning, Industry, and Environment manages and administers the ASP Scheme in accordance with the Act, the Regulations, and the [Scheme Rules](#). The Regulation states that Scheme Rules may provide the:

- Classes of contestable services in respect of which a person may be accredited.
- Eligibility requirements for an accreditation or for renewal of an accreditation (including any qualifications, experience and training required for an accreditation)
- Means by which a person applying for an accreditation or renewal of an accreditation can give evidence of his or her eligibility for accreditation or renewal
- Fees required for an application for, or renewal of, an accreditation.

The Scheme Rules, last updated in December 2017, outline:

- Conditions of accreditation
- Eligibility requirements
- The contestable services that can be performed by ASPs under specified levels and classes of accreditation
- The requirement to register personnel with appropriate qualifications who will be performing works on or near the network
- Criteria for grading ASPs
- The application and renewal process
- The process for seeking a review of a decision.

The [Energy NSW](#) and Department of Planning, Industry and Environment (DPIE) website provides information on the ASP Scheme, application forms, training contacts and a list of ASPs.

Former Code of Practice for Contestable Works

A **Code of Practice for Contestable Works** was previously in place that identified the principles that underpinned contestability and consumer choice, detailed the type of work that was contestable, and outlined the responsibilities of different parties in the distribution network. While the Code outlined responsibilities of the Scheme administrator (DPIE), ASPs, consumers, and DNSPs, it was only directly binding on DNSPs. The requirements of the Code on other parties were enforced in ASP Scheme documents and individual contracts between ASPs and consumers.

Accreditation Scheme

Purpose of the Scheme

The ASP Scheme accredits providers who undertake contestable network services on behalf of consumers on the electricity distribution networks to which the *Electricity Supply Act* applies, including the distribution networks operated by Ausgrid, Endeavour Energy, and Essential Energy. The purposes of the Scheme are to:

- ensure only competent providers perform safe work on the network in compliance with prescribed standards
- to promote competition and consumer choice
- to maintain the safety and reliability of the distribution networks.

The ASP Scheme aims to improve efficiencies in the process for ASPs and DNSPs by accrediting competent entities to provide contestable services on electricity distribution networks. In order to be accredited, the Scheme Rules require ASPs to employ personnel or subcontractors with appropriate qualifications. The Scheme Rules require these individuals to be registered with the Scheme and sets out the qualifications required for each level and class. ASPs may then seek accreditation in the levels and classes for which registered personnel hold the specified qualifications.

In order to support consumer choice and contestability, DPIE publishes a list of all ASPs; their relevant level, classes, and grade; and their contact details.

History of the ASP Scheme

The Scheme was originally established in 1997 by the former peak body for DNSPs, the Electricity Association of NSW (EANSW). DNSPs funded the Scheme, which was operated at arm's length and provided elements of capacity building and performance management. In 2001, the Scheme was transferred to the NSW Government. Subsequently operation was funded on a cost recovery basis.

Operation of the ASP Scheme

The Scheme Rules currently define contestable network services in 3 levels:

- Level 1: Construction of network assets
- Level 2: Service work and connection services
- Level 3: Design of network assets

There are more than 1,800 ASPs in NSW. The table below shows the number of ASPs and their accreditation details.

Table 1. Numbers of ASPs by levels

Level of Accreditation	Number of ASPs
Level 1: Construction of network assets	224
Level 2: Service work and connection services	1457
Level 3: Design of network assets	179
Total	1860

The value of work completed in NSW by ASPs across all three DNSPs is estimated to be approaching \$1 billion per annum.

Applying for accreditation

Contestable network services currently defined in the Scheme Rules include:

- Underground and overhead services
- Service equipment
- Transformers
- Switchgear
- Protection Equipment
- Augmentation
- Design.

The Scheme Rules set out a matrix of Levels and Classes of ASPs according to the type and complexity of services to be provided.

Table 2. Levels and Classes of Accreditation

Level	Level 1: Construction of network assets	Level 2: Service work/ connection services	Level 3: Design of network services
Class			
A	Overhead	Disconnect and Reconnect	Overhead electricity reticulation
B	Underground paper lead and Polymeric	Underground service conductor	Underground electricity reticulation
C	Underground polymeric only	Overhead service conductors	
D	N/A	Energising Network Operator service equipment including service protection devices/fuses	
X	Non-electrically qualified	Non-electrically qualified	

Grading

All ASPs are graded at the time of application. Grading determines the inspection fees ASPs pay to the DNSPs to inspect their work, as well as how many inspections are required. Inspection fees are set by the AER in the relevant price schedule for each DNSP. For example, the approved Level 2 ASP inspection fees for each Notice of Service Work for Essential Energy at April 2021 were:

- Grade A: \$46.49
- Grade B: \$78.10
- Grade C: \$223.14

All work done by Level 1 ASPs is inspected during construction or installation and prior to connection due to the impact of the works on the network. For Level 2 ASPs undertaking work that represents a lower potential risk to the network, a sliding scale of inspections applies:

- Grade A: 1 in 25 services must be inspected
- Grade B: 1 in 5 services must be inspected
- Grade C: 1 in 1 services must be inspected.

ASPs may apply for regrading on the basis of performance. The Scheme administrator will seek advice from DNSPs on the number of inspections and defects in order to determine eligibility for a higher grade.

Eligibility requirements

Any person or company may apply for accreditation. In order to be accredited to carry out these services, the Scheme Rules require providers to have:

- Appropriately qualified staff who register with the Scheme
- Specified insurances
- Specified management systems in place: WH&S, business processes, environmental management, resource management, and performance management.

Capability and qualifications

Applicants for accreditation must demonstrate they have appropriately trained personnel with qualifications in the levels and classes for which they are seeking to be accredited. All Level 1 and Level 2 ASPs must register personnel who are intending to work on or near the electricity distribution network. Separately, DNSPs require personnel to be registered prior to authorising them to work on their network.

Insurance

Applicants for accreditation or renewal must demonstrate they hold appropriate insurances:

- Level 1: Public/products liability insurance \$20m
- Level 2: Public/products liability insurance \$10m
- Level 3: Public/products liability insurance \$10m and public indemnity insurance for \$2 million

The Scheme Rules require that public and products liability insurance certificates must note DNSP interests.

Management Systems

Applicants must demonstrate they have management systems in place that are appropriate for the level and class of works for which they are seeking to be accredited. Applicants seeking Level 1 accreditation must demonstrate access to appropriate equipment, and demonstrate quality, health, safety and environmental management systems are in place. Level 1 applicants must also demonstrate appropriate contract management systems are in place where they engage subcontractors.

Applicants seeking Level 3 accreditation must demonstrate appropriate systems for the Level 3 works, including professional association membership or experience requirements and be able to demonstrate that they have knowledge of the various network standards and specifications.

Reflecting the nature of the work undertaken by Level 1 ASPs, DPIE engages independent assessors with extensive industry experience to assess the suitability of Level 1 applicants and to provide advice on the suitability of their management systems. The assessor undertakes a site visit and submits a report that provides the basis of determining eligibility and grading for all Level 1 applicants.

Level 2 and 3 applications are subject to a desktop assessment, reflecting the lower risks associated with this work.

Application Fee

The ASP Scheme operates on a cost recovery and user pays basis. Applicants must lodge the appropriate application form provided by DPIE with supporting materials information and the required fee.

Table 3. Application Fees (inclusive of GST)

Application type	Level 1	Level 2	Level 3
New accreditation	\$1,979	\$411	\$468
Renewal	\$293	\$293	\$293
Registration (for 5 personnel)	\$195	\$195	\$195
Regrading	\$1,580	\$195	N/A
Additional class	\$1,624	N/A	N/A

The application form sets out the conditions of accreditation and requires applicants to declare their compliance with terms and conditions.

Once accredited, ASPs must apply for annual renewal. Applications for renewal must be accompanied with the appropriate fee, evidence of having specified insurances in place, and confirmation that business entity remains the same.

Investigations, cancellation, and review of decisions

Investigations

DNSPs provide information to DPIE following serious breaches or incidents by an ASP or when a registered individual is suspended or has their authorisation withdrawn. This information is retained by DPIE and further investigations are undertaken if requested by the DNSP following their own investigation.

Following an investigation by DPIE, the Secretary may take a range of actions, including suspension, temporary downgrading, or cancellation. Although this occurs rarely, downgrading has a significant impact on ASPs as inspection fees increase if they are downgraded.

Cancellation

The Regulation allows for cancellation of accreditation where:

- The person is no longer competent to provide the relevant contestable service
- The person has been convicted of an offence under the *Electricity Supply Act 1995* or the [Gas and Electricity \(Consumer Safety\) Act 2017](#) or their regulations
- The person received accreditation on the basis of false or misleading information or they failed to disclose or provide required information
- A condition of accreditation has been breached
- Any other grounds relating to the safety of the work carried out or to public safety.

Following cancellation, individuals associated with the former ASP may seek accreditation as a different legal entity subject to complying with Scheme conditions and eligibility requirements.

Review of decisions

The Regulation and Scheme Rules allow for review of accreditation decisions to:

- Refuse an application for accreditation
- Refuse an application for renewal of accreditation
- Impose or vary accreditation conditions
- Suspend or cancel accreditation
- Not to act on a suspension of accreditation.

Applications for review must be provided in writing to the Secretary within 28 days of the receiving written notice of the decision (or 56 days in the case of a decision to not act on a suspension).

Other ASP requirements

In addition to accreditation conditions, ASPs must meet a range of other requirements, depending on the level and class of accreditation. These requirements include DNSP authorisation and SafeWork policies and guidelines.

National metering requirements

All new meters are now owned by electricity retailers and installed by licenced electricians engaged by the retailer. An ASP who previously installed meters for a DNSP can now only install meters if they are appropriately (and separately) authorised by the retailer supplying that site.

Authorisation of individuals to work on distribution networks

The ASP Scheme requires individuals working for ASPs to provide evidence that they have appropriate qualifications for the level and class of accreditation. Accreditation assesses whether the systems and structure of the accredited entity meet requirements for a competent provider.

In addition, DNSPs authorise individuals who work on or near their network. Authorisation assesses skills, expertise, and knowledge of individuals, and ensures individuals and ASPs have training in and are competent in DNSP-specific safety and technical policies. This supports the safety and reliability of the network by ensuring individuals working on that DNSP's network are familiar with the technical and safety requirements of the network.

Under the Regulation, DNSPs are required to have safety management systems in place that provide for the safety of the public and persons working on the network, as well as protection of property and management of environmental safety risks. Authorisation is a key part of the safety management system and partially addresses DNSP's work health and safety obligations.