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COAG Energy Council Secretariat  
Department of Industry, Science, Energy and Resources  
GPO Box 2013  
CANBERRA ACT 2601

## **Business NSW response to Moving to a Two-Sided Market**

Thank you for the opportunity to consider the proposals for Moving to a Two-Sided Market. Business NSW has addressed selected consultation questions, as well as provided some insights from our members on issues related to the move towards a two-sided market, in our response outlined below.

### **Introduction**

The transition to the post-2025 market design will be the most sweeping change to the NEM since privatisation, and arguably beyond. As a result, it is important that the changes being proposed work in the interests of energy users, including businesses, both in order to achieve benefits for those users and to address wider system challenges.

Business Australia, our business service provider, delivers the Business Energy Advice Program (BEAP) funded by the Australia Government through the Department of Environment and Energy. BEAP was set up as a result of a recommendation (number 52) from the ACCC's *Retail Electricity Pricing Inquiry* (REPI) conducted in 2017-18.

The ACCC specifically recommended that business organisations provide tailored retail electricity market advice to small businesses. BEAP provides free advice for small businesses with 6-20 employees and drought-affected businesses with 0-5 employees. Online self-service options for larger businesses are also provided.

Advice falls into three main areas:

1. Retail market advice to ensure small businesses have information to gain the best deal in the market for their energy.
2. Energy efficiency advice to help small businesses be more efficient.
3. Resource centre to help small businesses access grants, tools and online resources to take action.

Business Australia also operates Australian Business Energy (ABE) which offers a price comparison and switching service (for businesses and households). Since opening in 2018,

#### **About Business NSW**

Formerly NSW Business Chamber, Business NSW is the peak policy and advocacy body which has been representing businesses in NSW since 1826. Business NSW is one of Australia's largest business support groups with a direct membership of 20,000 businesses. Business NSW works with government, industry groups, as well as business and community leaders to provide a voice for our members. Operating throughout a network in metropolitan and regional NSW, Business NSW represents the needs of business at a local, state and federal level.

Australian Business Energy has helped its customers find over \$7 million in energy bill savings, at an average saving of \$432 for households and \$2,818 for businesses.

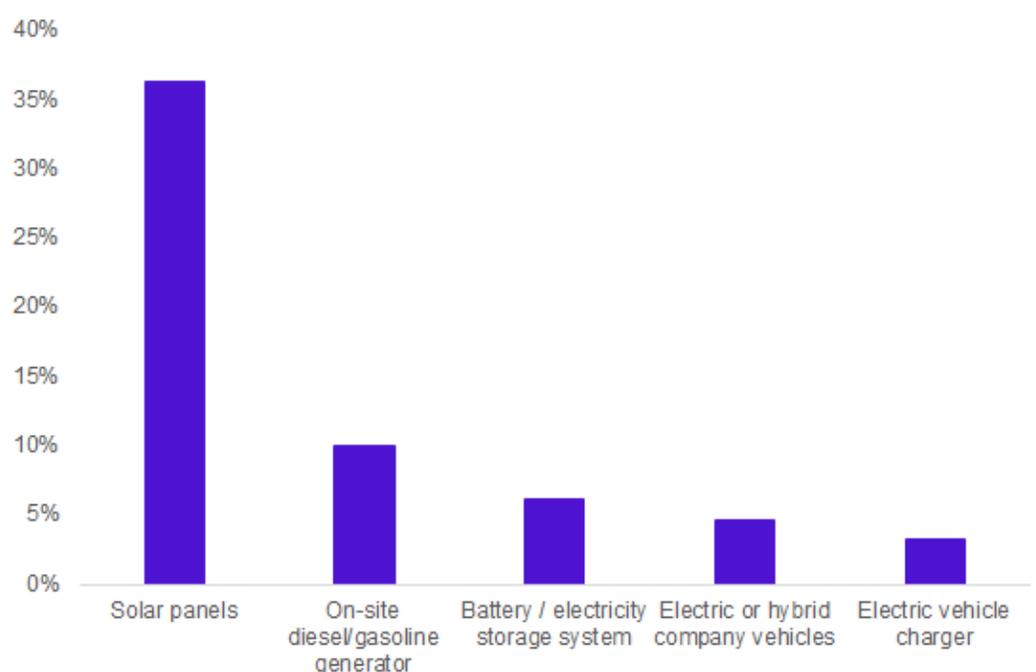
Running these services alongside our regular engagement with members gives us exposure to business concerns about energy issues, both across NSW and nationwide.

## Part 1. Business Survey Findings

Few businesses will have evaluated the full implications of moving to a two-sided energy market. Business engagement with the subject is driven principally by a desire to reduce costs or environmental footprint, which in turn drive the take-up of technologies like LED lighting, solar PV, EVs and battery storage. Being able to better optimise the use of these technologies, or to further cut energy costs to their business, might motivate further engagement.

Businesses are part of the wider shift in energy consumer activity that the two-sided market proposals respond to. When we surveyed our membership in December 2019, 36 per cent of respondents said they have solar panels at their business (see Figure 1). This means the share of solar-equipped businesses now fractionally exceeds the share of businesses using natural gas, at least among our surveyed group.

**Figure 1: “Does your business have any of the following energy technologies?”  
(respondents could select more than one option)**



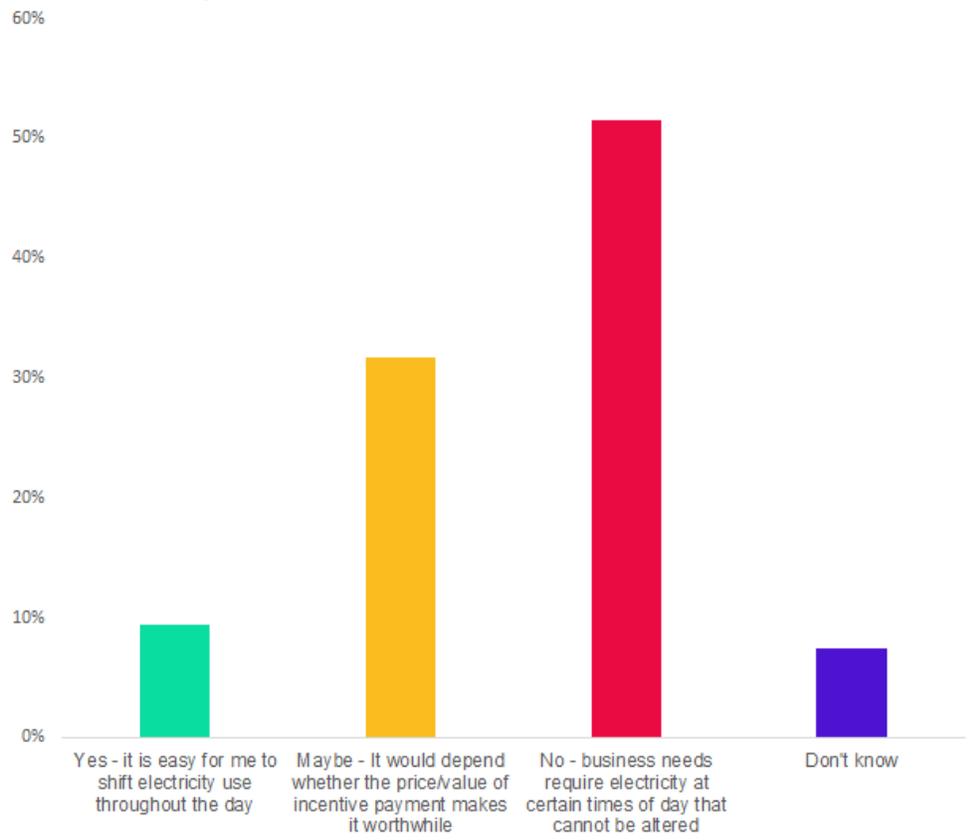
With solar catching up with traditional energy forms, it can no longer be considered a niche technology, and is now firmly within the mainstream of NSW business practice. These businesses can no longer be seen solely as energy consumers, but also as potential producers and sellers.

Six per cent of respondents said they already had a battery or electricity storage system, numbers which are likely to grow as technology costs fall, and which could be spurred further by government support for the technology. Market reforms which increase the value to solar PV owners from being able to consume at different times from when their system is producing will increase the business case for storage technologies further.

One of the principal challenges to the appeal of a two-sided market is if it is seen to require further sacrifice from energy users who are already broadly dissatisfied with the way the energy market is working. We asked businesses for their views of proposed ‘demand response’ initiatives, which would offer energy users an incentive payment for reducing electricity use at peak times of the year. Businesses are not yet persuaded that they would want to participate.

More than half of surveyed businesses said they would not be able to take the incentivised actions (e.g. switching off/slowing machinery, reducing air conditioning use, changing shift/production schedules etc) for any value of incentive (see Figure 2). Another 39 per cent either didn’t know or said it would depend on the size of the incentive. Nonetheless, even if demand reduction occurs primarily from the 9 per cent of businesses who said such steps were relatively easy, it could ease pressures on the system allowing other, less flexible energy using businesses to continue their operations without constraint during times of peak load.

**Figure 2: “Regulators are considering changes to electricity rules that would allow businesses to receive an incentive payment for reducing electricity use at peak times of the year. Would your business be willing to turn down electricity use (e.g. switching off/slowing machinery, reducing air conditioning use, changing shift/production schedules etc) for these incentives?”**



A lot of the focus of work on two-sided markets, including in this discussion paper, is on the scenario where energy users reduce their consumption at times of peak demand to protect the system and avoid outages. In that context, the benefit for (some) users is in avoided blackouts and reasonable prices – things that users expect a well-managed system to achieve anyway.

For the two-sided market concept to be more widely embraced, there might be value in more consideration of the corollary – the times when users will be encouraged to use more, and plausibly be paid to consume electricity at times. Are there possibilities for businesses to schedule to operate at higher capacity during these periods? Or will the existence of storage technologies in the market be able to absorb ‘excess’ production at these times?

## **Part 2. Responses to Selected Consultation Questions**

### **Q 2.1. Do stakeholders agree with our characterisation of the benefits of moving to a two-sided market? Are there other areas the ESB should be considering?**

Experience in recent years has shown that many users already struggle with the current energy market. They find it difficult to identify the best deals and to engage with the market in a way that leads to optimal outcomes, despite the market structure being relatively simple. The proposals for a two-sided market entail a significant increase in complexity in the energy market. Without much greater consideration of how users (business and residential) will navigate this complexity, there is a material risk that the reforms will not achieve their objectives of reliability and price, while leaving users feeling like they are in a worse position.

The success of a two-sided market will rest heavily on having entities who can relieve energy users of the need to deal with the intricacies of trading arrangements. These may be new businesses, familiar brands in the energy market carrying out new activities, or businesses expanding into the energy sector from other parts of the economy. Because the success of the two-sided market model will rely on a move away from a simple ‘units sold’ measure of value, existing generators/gen-tailers may not face the right incentives to play this intermediation role. Not only should moving to two-sided markets encourage new entry into the sector, the participation of new entrants will be one of the measures of its success.

However, four and half years after implementation, the nature of these intermediaries is very uncertain. The introduction summarises that “a two-sided NEM would...allow consumers to choose if and how they participate in the market or whether they operate through someone who does (for example through a retailer or aggregator). Technological advances and digitalisation mean that customers will not need to monitor electricity prices or actively participate if they choose not to.” Expansion of the number of consumers participating indirectly in the market implies a major expansion of the role and capabilities of aggregators (or retailers, though this role is less of a natural fit).

“Technological advances and digitalisation” are certainly possible in theory, but to date have been taken up by a relatively small number of enterprises compared with the scale of a two-sided NEM. As a result, there will be a related need for these technologies to show that they are workable at scale, and more pointedly, useable by households and businesses for whom energy market participation is a low priority. If this can be done in a way that requires little or no effort from participating businesses, and which avoids impacting on their main business activity, the reforms will have succeeded. On the other hand, if demand response reactions frequently

impede regular business output, there is a serious risk that these proposed reforms will lose public acceptance.

Automation of appliances and equipment will be necessary for the two-sided market to function and for the experience to be frictionless. Businesses will want reassurance that the aggregator managing their appliances and guiding them through the complexity of the new market is trustworthy and will act in their interest. Achieving a full roll-out of smart meters, and increasing the uptake of smart systems management technologies, will also be a prerequisite of these reforms.

The shorter the time gap between carrying out the desired behaviour (e.g. demand response action) and receiving the reward payment, the more often users are likely to do it. Part of the design process should ensure that it is capable of rapidly accounting for payments, bill credit or other forms of reward, so that users have a clear understanding of what they have done and how it corresponds with the benefit they have received. Waiting until the end of a quarterly billing cycle lacks the immediacy and clarity of a payment being received in real time, or on the following day.

**Q 3.2. Under the current market rules, traders of different kinds (e.g. retailers and small generation aggregators) have different obligations to the market operator, end users and other market participants. To what extent (if any) would it be helpful for a two-sided market design to distinguish between different types of traders, or between traders in different services?**

In general, Business NSW supports a shift to principles-based regulation from the current model. In this view, entities' responsibilities to the regulator would be determined by the activities they undertake, rather than the current model where both an entity's activities and its responsibilities are determined by the type of entity they are classified as. In a fully two-sided market, definitions will inevitably become more fluid as different entities choose to participate in different market activities. Narrowing the possibilities at this stage through prescriptive regulations would be unwise and unnecessary.

The exception to this is the role of regulated monopolies (i.e. network businesses). The activities of publicly licenced monopolies are appropriately constrained to avoid them using their monopoly influence from one area of their business to gain competitive advantage in other, otherwise contestable sectors of the market.

**Q 3.5. Should some types of interactions (e.g. between traders and vulnerable residential customers, in respect of certain services) be restricted or prohibited, or will appropriate consumer protections address the concerns while allowing full end user choice in participation?**

An increased role for remote management of appliances in a two-way market creates new capabilities that could, in some circumstances, be used against the interests of consumers. For services with considerable complexity, there is a risk that users will be forced into long, impenetrable terms of service agreements that few, if any, will read and understand (as is common in many sectors of the economy). A specific concern is whether automated, demand response capabilities could be used to "throttle" or reduce consumption of a user that has not paid their bill. Technology that is capable of remote management of energy usage for the

purposes of system stability and price response is also capable of changing usage for other purposes.

**Q 5.2. The paper suggests that the all three options could be adopted as a transitional pathway. What are the relative benefits or trade-offs of a longer transition? Are there other options that should be considered in the transition? Are there any parties that should be priorities to transition first?**

The incremental transition pathway that would occur were all the options to be adopted in sequence has merit. It would allow for 'early adopters' to be able to opt in voluntarily for some (albeit limited) benefit, while allowing time and resources to work out problems that arise as changes are made. The move to a two-sided market will be the most sweeping change to the NEM since privatisation, and arguably beyond. Unintended consequences are inevitable, and it is better that planners and project managers allow time for those consequences to be rectified than to set out a hurried timetable that ends up leaving large groups of energy users behind.

We recognise that there are some market participants – including some small businesses – that have the chance to benefit from a more rapid move to a fully two-sided market. However, Business NSW would prefer a more methodical pace of reform that brings as many participants as possible along. This is in preference to a disruptive fast-paced change that conceivably brings about higher benefits, but which are matched by higher costs. Furthermore, the political economy element cannot be overlooked. A rapid change which loses public and political support will come under serious pressure to be amended or reversed. By building in time to adjust to users' concerns, a slower paced change has a better chance of survival.

**Q 8.1. Do stakeholders agree with our characterisation of reliability under a two-sided market noting this would be a long-term goal for an ultimate two-sided market?**

The concepts identified in this Chapter are a useful round-up of the reliability and security advantages of moving to a two-sided market. However, security improvements are not the primary benefit of these reforms. business NSW has some concern that, if the two-sided market concept is viewed primarily through a security lens, other benefits and risks to users will become obscured. As the paper notes, the "fraction of supply interruptions" that this policy addresses "is less than one per cent" of supply interruptions experienced by customers. The costs and benefits associated with this fraction of a percentage point of supply interruptions is likely to be dwarfed by the other, wide-ranging benefits and costs of the reform outlined in the rest of the discussion paper. As a result, Business NSW would encourage the ESB and COAG Energy Council to ensure they are taking into account the full range of affected stakeholders when considering these reforms, and not allow the argument to become dominated by questions of energy security alone.

**Q 9.1. In a two-sided market, what are the risks consumers are exposed to and not covered from under the current consumer protection frameworks (NECF and the ACL)?**

As businesses' involvement in the energy market becomes more sophisticated, regulation will need to evolve in response to new complexities. Helping businesses navigate this more complex landscape will grow in importance as the energy market continues to change in the years ahead. Prescriptive rule-making will need to make way for more flexible approaches to consumer protection to reflect a greater diversity of energy-related products available in the marketplace.

In response to the request from the Australian Energy Market Commission (AEMC) to provide feedback to the New Energy Products and Services and Traditional Energy Retail issues papers in January 2020, Business NSW made the following recommendations:

1. The AEMC should continue exploratory work on moving from more prescriptive to more principles-based regulation of energy retail.
2. The concept of 'essential service' is an important starting point, but its value as a guide to regulation is diminishing as energy markets become more complex. The AEMC should consider other metrics to judge whether energy market specific protections (such as the National Energy Customer Framework (NECF)) are applicable.
3. Problems with solar PV sales show the limits of existing consumer protections to help business energy consumers avoid detriment in a 'new energy' product. For consumer protections to be effective in maintaining confidence in the market as new products are introduced, wider application of the protection regime (but less prescriptive terms) will be needed.
4. Consumers should be able to select which information is relevant to them and tailor communications from energy companies to their preferences. Regulations which specify paper communications (bill contents and notification rules) over other methods of communication should be withdrawn.
5. Business NSW supports reforms to explicit informed consent (EIC) and cooling off period rules that enable new products to be introduced to the market.

Further details can be found in [our submission](#) to the AEMC retail market review.<sup>1</sup>

If you have any questions about this submission or would like to discuss in more detail, please feel free to contact me at [Simon.Moore@businessnsw.com](mailto:Simon.Moore@businessnsw.com).

Yours sincerely

**Simon Moore**  
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<sup>1</sup> <https://www.businessnsw.com/content/dam/nswbc/businessnsw/pdf/AEMC%20Retail%20Market%20Review%20v4.pdf>