



Australian Government

Department of the Environment and Energy

National Energy Guarantee

Final Detailed Design

Commonwealth Elements

July 2018



Disclaimer

While reasonable efforts have been made to ensure that the contents of this publication are correct, the Commonwealth makes the information in this publication available in good faith but without any representation or warranty as to the accuracy or completeness of the publication. It is the responsibility of any person using or relying on the information in this publication to ensure that it is up to date and suitable for the circumstances of any proposed use. The Commonwealth cannot accept responsibility for the consequences of any use of the publication or any part thereof. To the maximum extent allowed under governing law, the Commonwealth will not be liable for any loss or damage that may be occasioned directly or indirectly through the use of, or reliance on, the contents of this publication.

© Copyright Commonwealth of Australia, 2018.

The *National Energy Guarantee Final Detailed Design Commonwealth Elements* is licensed by the Commonwealth of Australia for use under a Creative Commons By Attribution 3.0 Australia licence with the exception of the Coat of Arms of the Commonwealth of Australia, the logo of the agency responsible for publishing the report, content supplied by third parties, and any images depicting people. For licence conditions see:

<http://creativecommons.org/licenses/by/3.0/au/>

This report should be attributed as '*National Energy Guarantee Final Detailed Design Commonwealth Elements*', Commonwealth of Australia 2018'.

The Commonwealth of Australia has made all reasonable efforts to identify content supplied by third parties using the following format '© Copyright, [name of third party]'.

CONTENTS

- 1. Introduction 4**
 - 1.1. The National Energy Guarantee is the way forward4
 - 1.2. Delivering policy certainty4
 - 1.3. Commonwealth elements of the National Energy Guarantee5
 - 1.4. Development of the Guarantee to date5
 - 1.5. This Paper9
- 2. Setting and reviewing the electricity emissions target 10**
 - 2.1. Electricity sector emissions reduction target 10
 - 2.2. Setting the first ten years of electricity emissions targets 10
 - 2.3. Adjustments to targets and setting future targets 11
 - 2.4. Geographic neutrality..... 12
- 3. Exemption for emissions-intensive trade-exposed activities 13**
 - 3.1. Exemptions for EITE activities under the Guarantee 13
 - 3.2. Method for working out the exemption amount 13
 - 3.3. Applying for an exemption for EITE activities under the Guarantee 14
 - 3.4. Factoring the EITE exemption into the emissions reduction requirement 17
- 4. External offsets 19**
 - 4.1. The inclusion of external offsets..... 19
- 5. Supporting legislation 20**
- 6. Next steps 21**
- Abbreviations 22**

1. INTRODUCTION

1.1. The National Energy Guarantee is the way forward

The National Electricity Market (NEM) is changing. New, variable renewable generation is entering the system at an unprecedented rate, and older forms of dispatchable generation continue to close. Over 10 years to September 2017 around 5,200 megawatts (MW) of traditional thermal generation was withdrawn from the NEM.¹ Of the 2,600 MW of capacity added over six years to March 2018, 90 per cent was variable renewable generation.²

The Australian Government (the Government) has taken action to put downward pressure on electricity prices, including securing more gas supplies, abolishing the ability of energy networks to appeal decisions of the Australian Energy Regulator (AER) and increasing transparency for retail customers. This is beginning to have an effect. Businesses and households are beginning to see electricity prices fall, and further electricity price relief is on its way.

The Government must ensure that the right incentives are in place to ensure that Australia's electricity supply is affordable, that businesses are confident making investment decisions in the right mix of dispatchable generation assets, and that we meet our international commitments to reduce emissions.

The National Energy Guarantee (Guarantee) is a key piece of the puzzle. It is the first and best opportunity to integrate climate and energy policy to support investment in the right combination of resources. Its reliability requirement will build the signals into the market to enable it deliver the right dispatchable resources.

Building on the work of the Finkel Review and advice from the Australian Energy Market Operator (AEMO) about the NEM's dispatchable capacity, the Government sought advice from the independent Energy Security Board (ESB)—which comprises our nation's foremost energy market experts—on the best way to ensure the NEM provides reliable and affordable electricity, while meeting Australia's international commitments to reduce emissions.

The ESB proposed the Guarantee as a technology-neutral policy—designed to encourage investment in the lowest cost mix of technologies, making energy more affordable for households and businesses, while maintaining a reliable system and meeting Australia's international emission reduction commitments.

This paper outlines the detailed design of the Commonwealth elements of the Guarantee, including feedback received from stakeholders during consultation on the draft design.

1.2. Delivering policy certainty

The Guarantee has two components. The reliability requirement will ensure that in regions with tight levels of supply and/or large volumes of renewables, market customers deliver the right level of dispatchable energy capacity to cover their load during peak periods. The emissions requirement will ensure the average emissions level across a market customer's portfolio is consistent with our national emissions reduction target under the Paris Agreement.

Energy users and producers alike have recognised that the Guarantee represents the best opportunity to break a decade-long impasse on energy policy. It will provide the long-term

¹ AEMO, [Advice to Australian Government on Dispatchable Capacity](#), September 2017.

² AER, [State of the Energy Market](#), May 2017 – updated with AEMO Generation Information.

policy certainty required for business to invest. This will place downward pressure on electricity prices and ensure the reliability of the NEM is maintained as we deliver on our international commitments to reduce emissions.

'The National Energy Guarantee proposes a technology-neutral approach while retaining a commitment to reducing emissions. This will allow energy sources to compete on their own merits and, ultimately, the most economic, reliable, and emissions-efficient technologies will rise to the top.' – National Farmers' Federation³

'Origin supports the objectives of the NEG to bring together energy and climate change policy and provide a clear investment signal for low emissions and reliable generation sources at least cost to Australian homes and businesses.' – Origin⁴

The ESB has proposed that the Guarantee should apply in the NEM and be embedded into the broader energy governance framework. This will allow the mechanism to be fully integrated with the broader energy rules, maximising consistency between the reliability and emissions requirements and reducing complexity and compliance costs for participants.

To do this, the Guarantee will be implemented primarily through amendments to the Australian Energy Market Agreement (AEMA), the National Electricity Law (NEL) and the National Electricity Rules (Rules).

1.3. Commonwealth elements of the National Energy Guarantee

As signatory to the Paris Agreement, the Commonwealth Government is responsible for setting Australia's national emissions reduction targets, and ensuring we have the right mix of policies in place to achieve them.

For this reason, the Government has led the work and consultation on the design of the elements of the Guarantee that relate to achieving our emissions reduction targets. This includes setting the target for the Guarantee, the treatment of emissions-intensive trade-exposed (EITE) activities and the role of external offsets.

These elements of the Guarantee will be implemented through Commonwealth legislation.

1.4. Development of the Guarantee to date

The Government accepted the recommendation of the ESB to adopt the Guarantee on 17 October 2017. The ESB has since been progressing its development. A timeline of the consultation process to date is shown in Figure 1.

The ESB was asked to provide initial advice on the Guarantee, including detailed modelling analysis led by the Australian Energy Market Commission (AEMC) for consideration by the Council of Australian Governments (COAG) Energy Council (Council). The ESB presented this advice at the 24 November Council meeting, where the Council agreed the ESB should provide further advice on the Guarantee after broad consultation.

³ National Farmers' Federation, [Media Release](#), 19 April 2018.

⁴ Origin, submission to June 2018 consultation paper, National Energy Guarantee Draft Detailed Design for Consultation Commonwealth Elements, July 2018.

On 15 February 2018, the ESB published a consultation paper on the draft design of the Guarantee.⁵ This paper also sought stakeholder views on the Government's approach to the design elements related to Australia's emissions reduction targets.

Over 150 submissions were received in response to the consultation paper from a wide range of stakeholders. To facilitate public consultation, the ESB held a public forum on the draft design with presentations from the ESB, the Government and industry representatives.

Following this two month consultation process, the ESB and the Government released updated position papers on 20 April.⁶ The high level design set out in these papers was presented to the Council at its April meeting. The Council agreed that the ESB would continue to develop the detailed design of the Guarantee and bring back the final design in August for determination.

Since April, the ESB and the Government have continued to consult on the detailed design of the Guarantee. As part of the development process, the ESB convened Technical Working Groups (TWGs) to provide advice on certain aspects of the detailed design. The TWGs involved a broad range of stakeholders with relevant expertise, from across 30 organisations. The ESB prepared 14 issues papers to facilitate discussions with jurisdictions and TWGs on the detailed design.⁷

The ESB released a consultation paper on 15 June on the draft detailed design for the emissions and reliability requirements.⁸ A further 11 technical working papers were released alongside the consultation paper, to inform stakeholder consideration of the policy.⁹ A consultation Regulation Impact Statement (RIS) was released on 29 June by the ESB to meet the COAG RIS requirements.¹⁰

The Government released its *Draft Detailed Design for Consultation Commonwealth Elements* paper (herein June 2018 consultation paper) alongside the ESB's consultation paper on 15 June, presenting the proposed design of the Commonwealth elements of the Guarantee.¹¹

The ESB held another public forum and webcast on the draft detailed design on 2 July. The ESB and the Government presented on the draft detailed design, and 15 stakeholders had the opportunity to provide feedback on the detailed design.

Over 70 written submissions were received in response to the draft detailed design of the Guarantee presented in the Government's June 2018 consultation paper. This reiterated stakeholder support for the mechanism.

'By relying on existing market structures and placing responsibility for meeting emissions and reliability targets on retailers, the Guarantee is our best chance to drive

⁵ ESB, [National Energy Guarantee Draft Design Consultation Paper](#), 15 February 2018.

⁶ ESB, [National Energy Guarantee: High Level Design Document](#), and Australian Government, [National Energy Guarantee Update on Commonwealth Design Elements](#), April 2018.

⁷ ESB, [Issues Papers](#), 22 May 2018.

⁸ ESB, [National Energy Guarantee Draft Detailed Design Consultation Paper](#), 15 June 2018.

⁹ ESB, [Technical Working Group Papers](#), 15 June 2018.

¹⁰ ESB, [National Energy Guarantee Consultation Regulation Impact Statement](#), 29 June 2018.

¹¹ Australian Government, [National Energy Guarantee Draft Detailed Design for Consultation Commonwealth Elements](#), June 2018.

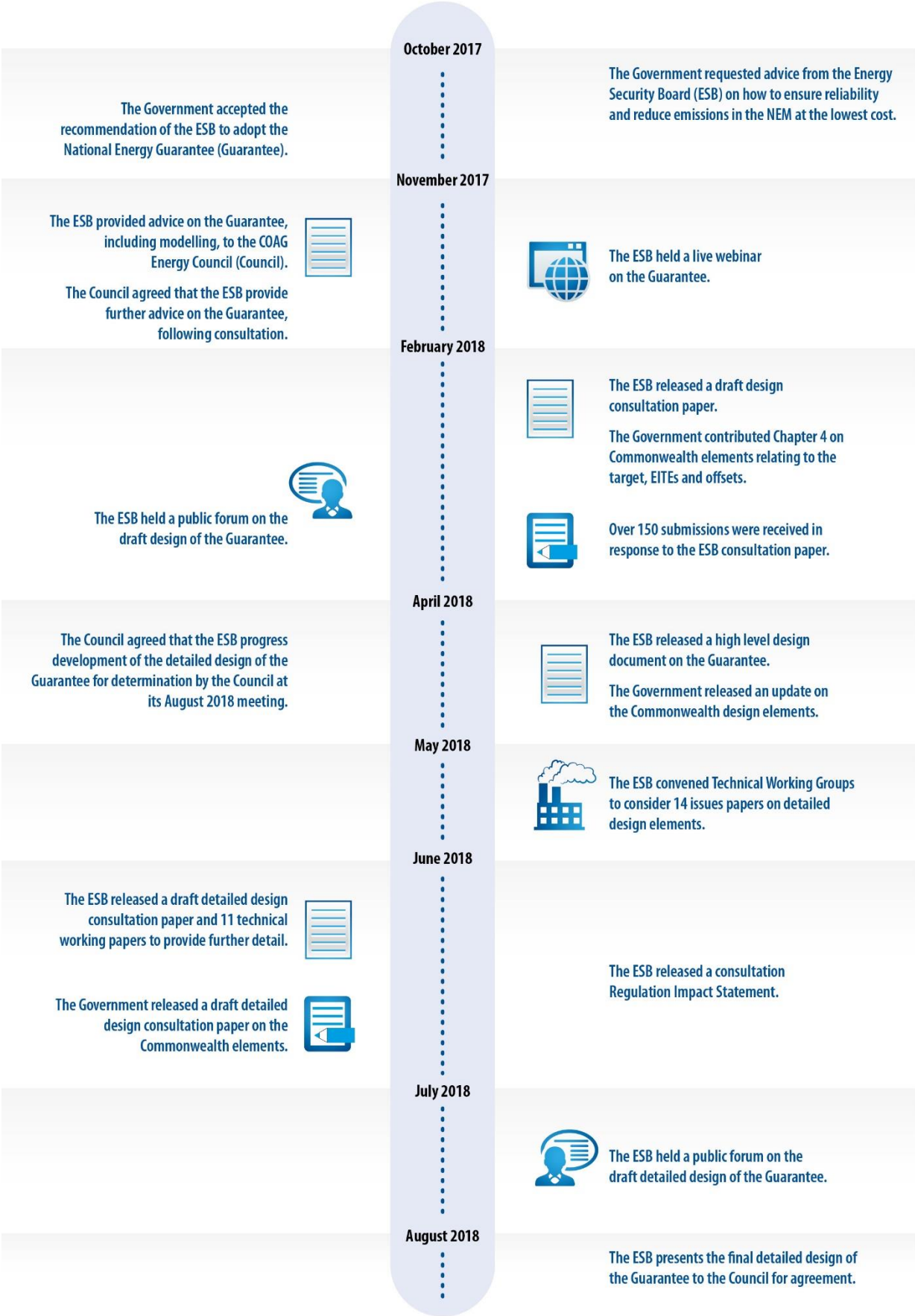
the investment we need in the energy sector, while also meeting our emissions reduction targets.’ – Business Council of Australia¹²

‘We are supportive of the NEG as we believe it has the potential to provide a level of stability to the transition of energy markets that is already underway and is set to continue for some years to come.’ – Energy Users Association of Australia¹³

¹² Business Council of Australia, submission to *National Energy Guarantee Draft Detailed Design for Consultation Commonwealth Elements*, July 2018.

¹³ Energy Users Association of Australia, submission to *National Energy Guarantee Draft Detailed Design for Consultation Commonwealth Elements*, July 2018.

Figure 1: Development of the National Energy Guarantee to date



1.5. This Paper

This paper sets out the Government's final position on the elements of the Guarantee for which the Commonwealth has responsibility (namely the target, EITEs and offsets). This paper is intended to be read in combination with the ESB's final detailed design paper, with the two papers setting out the final detailed design of the Guarantee for the Council's determination in August 2018.

Key features of the Commonwealth elements of the Guarantee are summarised below, with further detail provided in the following chapters.

Setting the emissions reduction target

The Government will set the emissions reduction target for the Guarantee consistent with a 26 per cent reduction on 2005 levels by 2030.

The targets will be set in Commonwealth legislation as a table of annual average emissions per megawatt hour (MWh) levels (known as electricity emissions targets) for the financial years 2020–21 to 2029–30, following a steady trajectory calibrated to achieve the 2030 target. The NEL will adopt the target set in Commonwealth legislation for the purpose of the Guarantee.

Electricity emissions targets will be extended by 2025 for the financial years 2030–31 to 2034–35, and will be further extended every five years thereafter.

In the first half of 2024 the Government will conduct a review to ensure targets for the financial years 2025–26 to 2029–30 remain appropriate.

Exemption for EITE activities

All EITE activities eligible for exemption from the Renewable Energy Target (RET) will also be eligible for exemption under the Guarantee.

The Clean Energy Regulator (CER) will be responsible for determining the amount of electricity eligible for exemption under the Guarantee. This will be based on a method established in Commonwealth legislation consistent with the electricity use method under the RET.

The application for exemption will be streamlined with the RET, such that a single application can be submitted to access an exemption amount for both the RET and the Guarantee.

The design of the process for applying the exemption amount to a market customer's load is the responsibility of the ESB. To ensure the emissions target is achieved, the total exempt MWhs will be shared across all non-EITE load as an adjustment to the annual load used for compliance. The ESB has provided further details of this process in its final detailed design paper, which sits alongside this paper.

The role of offsets

Market customers will be able to use Australian Carbon Credits Units (ACCUs) to meet up to five per cent of their individual requirements under the emissions element of the Guarantee.

2. SETTING AND REVIEWING THE ELECTRICITY EMISSIONS TARGET

2.1. Electricity sector emissions reduction target

The emissions reduction target for the electricity sector will be a 26 per cent reduction on 2005 levels by 2030, consistent with the Government's commitment under the Paris Agreement. This target is based on the principle that emissions reductions in the electricity sector should be balanced with the need to provide an affordable and reliable electricity supply.

The Government has consistently reflected this position during the development of the Guarantee, including in the Government's input to the ESB's February *Draft Design Consultation Paper*, the Government's subsequent *Update on Commonwealth Design Elements* and the Government's June 2018 consultation paper.

2.2. Setting the first ten years of electricity emissions targets

The electricity emissions targets will be included in new National Energy Guarantee legislation, expressed as annual average emissions per MWh levels for each financial year for the 10-year period from 2020–21 to 2029–30. Stakeholders expressed widespread support for expressing the electricity emissions targets as average emissions per MWh levels in their submissions to the Government's June 2018 consultation paper.

'Hydro Tasmania supports the proposal to set targets as emissions per MWh.' – Hydro Tasmania¹⁴

'...the proposal to set targets based on emissions intensity of electricity generation (tCO₂-e/MWh) is a sensible approach.' – ERM Power¹⁵

The electricity emissions targets will follow a trajectory consistent with achieving an emissions reduction of 26 per cent on 2005 levels by 2030. The NEL will include a provision to adopt these targets for the purpose of the Guarantee.

Expressing the initial 10 years of electricity emissions targets in Commonwealth legislation will provide investment certainty because the emissions per MWh level market customers must achieve for compliance will be known for the first 10 years of the scheme. Several submissions made in response to the Government's June 2018 consultation paper supported this approach.

'Delta also supports the Australian Government's proposal to enshrine the first 10 years of targets in legislation. This approach provides additional certainty for the industry early in the life of the scheme.' – Delta Electricity¹⁶

'Setting an initial 10 years of targets will provide the market with maximum certainty to drive investment in new generation capacity.' – Business Council of Australia¹⁷

The electricity emissions targets set for the decade will be based on an emissions budget. The emissions budget will specify the maximum level of emissions that can be produced over the

¹⁴ Hydro Tasmania, submission to *National Energy Guarantee Draft Detailed Design for Consultation Commonwealth Elements*, July 2018.

¹⁵ ERM Power, submission to *National Energy Guarantee Draft Detailed Design for Consultation Commonwealth Elements*, July 2018.

¹⁶ Delta Electricity, submission to *National Energy Guarantee Draft Detailed Design for Consultation Commonwealth Elements*, July 2018.

¹⁷ Business Council of Australia, submission to *National Energy Guarantee Draft Detailed Design for Consultation Commonwealth Elements*, July 2018.

10-year period. As previously stated in the Government's June 2018 consultation paper, the emissions budget will be established by following a trajectory consistent with a 26 per cent reduction on 2005 level emissions.

The shape of the trajectory will be steady, where the electricity emissions targets decline by the same amount each year, which provides for a steady rate of transformation and avoids investment having to occur over a shorter period of time at the end of the decade to achieve the same amount of abatement. In order to provide the market flexibility to find the least cost path, the ESB's design allows the use of limited carry forward and deferral provisions. Stakeholder submissions to the Government's June 2018 consultation papers showed support for a steady trajectory.

A key input to calculating the annual electricity emissions targets is projected electricity demand. The Government will use demand forecasts for each year over the 10-year period, provided by the AEMO, to set the annual electricity emissions targets. The projected level of demand provided by AEMO must be consistent with the ESB's process for calculating market customer load under the Guarantee.

'The Government's proposed use of AEMO forecasts of future demand levels to determine the target appears sound and is consistent with that proposed by the ESB in determining the retail load covered by the emissions requirement of the Guarantee.' – Meridian and Powershop¹⁸

2.3. Adjustments to targets and setting future targets

The Government intends for the Guarantee to be an enduring climate and energy policy. To provide ongoing investment certainty, by 2025 the Government will set targets for the financial years 2030–31 to 2034–35, and will set an additional five years of targets every five years thereafter. This aligns with the requirement under the Paris Agreement to submit national emissions reduction targets every five years and the Government's five-yearly review process proposed in the 2017 Review of Climate Change Policies.¹⁹

'...we support the proposed approach to set an emissions intensity target in legislation for 10 years, with the subsequent five years of targets set at five yearly intervals. This is important in ensuring that the Guarantee supports investment in the NEM.' – Rio Tinto²⁰

Some stakeholders have suggested that the process for setting future targets should consider changing market conditions and Australia's commitments to reduce emissions.

'The process for adjusting any emissions targets should be transparent, independent of Government, and based on predictable principles and commitments, such as energy market demand and Australia's international emissions reduction commitments.' – AGL²¹

¹⁸ Meridian and Powershop, submission to *National Energy Guarantee Draft Detailed Design for Consultation Commonwealth Elements*, July 2018.

¹⁹ Australian Government, [2017 Review of Climate Change Policies](#), December 2017.

²⁰ Rio Tinto, submission to *National Energy Guarantee Draft Detailed Design for Consultation Commonwealth Elements*, July 2018.

²¹ AGL, submission to *National Energy Guarantee Draft Detailed Design for Consultation Commonwealth Elements*, July 2018.

The Government intends to consider energy market conditions including price, reliability, as well as Australia’s international obligations when setting future targets.

Between 1 January 2024 and 30 June 2024, the Government will undertake a review of the existing legislated targets under the Guarantee for the five financial years from 2025–26 to 2029–30 to ensure they remain appropriate.

The review will include public consultation and a report of the review will be published by 30 June 2024.

2.4. Geographic neutrality

A consistent approach to energy policy should be taken across the NEM. If states and territories choose to pursue their own renewable energy targets, this will not affect the national electricity emissions targets that will apply under the Guarantee. The reliability requirement of the Guarantee will ensure that sufficient dispatchable generation is available across all jurisdictions, regardless of the impact of state-based targets on the distribution of investment across regions.

‘Our policy principles set out our support for a simple yet efficient policy framework, which by definition preferences a national approach to a patchwork of differing state-based programs.’ – Australian Industry Greenhouse Network²²

Government’s position

- The emissions reduction target for the electricity sector will be a 26 per cent reduction on 2005 levels by 2030.
- New National Energy Guarantee legislation will include a table of electricity emissions targets, expressed as annual average emissions per MWh levels for the initial 10-year period from 2020–21 to 2029–30.
- Electricity emissions targets will be extended by 2025 for the financial years 2030–31 to 2034–35 and every five years thereafter.
- The Government will conduct a review in 2024 to ensure targets for the financial years 2025–26 to 2029–30 remain appropriate.

²² Australian Industry Greenhouse Network, submission to *National Energy Guarantee Draft Detailed Design for Consultation Commonwealth Elements*, July 2018.

3. EXEMPTION FOR EMISSIONS-INTENSIVE TRADE-EXPOSED ACTIVITIES

3.1. Exemptions for EITE activities under the Guarantee

The Government will provide an exemption for EITE activities from the emissions requirement of the Guarantee, consistent with long standing practice under the RET. This recognises the importance of preserving the international competitiveness of Australian businesses carrying out emissions-intensive activities.

The CER will administer exemptions for electricity used in EITE activities under the Guarantee. The CER's issuance of exemptions under the Guarantee will need to be supported by Commonwealth legislation.

Stakeholders were supportive of retaining the CER as the regulator responsible for EITE exemptions.

'Aligning the treatment of EITEs under the Guarantee with the existing RET exemption process is a logical step from a compliance perspective, as is maintaining the Clean Energy Regulator (CER) as the responsible regulator under the Guarantee.' – Cement Industry Federation²³

'Where exemptions are implemented for EITE loads, Stanwell supports the proposal to retain the Clean Energy Regulator (CER) as the administering body.' – Stanwell²⁴

Entities that undertake eligible EITE activities will be able to apply to the CER for an exemption in relation to the electricity that is used in undertaking an EITE activity as defined.

EITE entities will be able to transfer their exemption to their electricity supplier (a market customer with an obligation under the Guarantee), consistent with the RET. The transfer of an exemption will be a matter for negotiation between the EITE entity and their supplying market customer. The CER will not have a role in this transaction.

The NEL will give effect to how exemptions are applied to reduce a market customer's load under the Guarantee.

3.2. Method for working out the exemption amount

The definition of an EITE activity and the electricity use method, both established under the RET, will be retained for calculating the amount of the exemption under the Guarantee. Submissions in response to the June 2018 consultation paper supported the use of the electricity use method for the Guarantee exemption.

'The proposal to retain the electricity use method for calculating the exemption under the Guarantee is logical, given that all EITE entities must have transitioned to this method by 2020.' – Cement Industry Federation²⁵

²³ Cement Industry Federation, submission to *National Energy Guarantee Draft Detailed Design for Consultation Commonwealth Elements*, July 2018.

²⁴ Stanwell Corporation Limited, submission to *National Energy Guarantee Draft Detailed Design for Consultation Commonwealth Elements*, July 2018.

²⁵ Cement Industry Federation, submission to *National Energy Guarantee Draft Detailed Design for Consultation Commonwealth Elements*, July 2018.

Some major stakeholders were supportive of the Government's proposed position that existing EITE activities listed in the current RET Regulations would be eligible for exemption under the Guarantee.

'BlueScope acknowledges the historical level of rigor and analysis involved in defining and establishing approved EITE activities, and supports the position that to retain consistency, all EITE activities eligible for the exemption under the RET should be eligible for an exemption from the emissions requirement of the Guarantee.' – BlueScope Steel²⁶

The eligibility framework applying to existing EITE activities will apply to any new EITE activities that establish in Australia.

The approach for calculating an exemption will also take into account the ESB's final Guarantee design to ensure consistency with how market customer load is calculated within the emissions registry and the treatment of transmission and distribution losses. As is the case under the RET, any portion of electricity that is used by an EITE entity for a purpose other than carrying out an EITE activity will not be exempt from the emissions requirement of the Guarantee.

The Government will establish the details of the method for calculating the amount of exemption under the Guarantee in Commonwealth legislation.

The CER is currently developing for the RET an online monitoring tool to allow EITE entities and authorised liable entities to estimate the exemption amount throughout the year. This tool will be expanded to allow EITE entities and authorised market customers to track an estimated exempt EITE load throughout the Guarantee compliance year.

'Aurora Energy encourages the use of a similar online platform under the emissions requirement to enable retailers and other liable entities to monitor the estimated EITE exemption amount each year.' – Aurora Energy²⁷

After the Guarantee compliance year, the CER will obtain electricity data and use the description specified in each exemption to calculate the exemption amount (in MWh) for each site.

3.3. Applying for an exemption for EITE activities under the Guarantee

In considering the application process for the exemption, the Government is guided by the principle of minimising regulatory and administrative burden by leveraging existing processes where possible. Submissions indicated strong support for this.

'Leveraging existing processes for the exemption of EITE entities should minimise the regulatory and administrative burden on market participants.' – Aurora Energy²⁸

²⁶ BlueScope, submission to *National Energy Guarantee Draft Detailed Design for Consultation Commonwealth Elements*, July 2018.

²⁷ Aurora Energy, submission to *National Energy Guarantee Draft Detailed Design for Consultation Commonwealth Elements*, July 2018.

²⁸ Aurora Energy, submission to *National Energy Guarantee Draft Detailed Design for Consultation Commonwealth Elements*, July 2018.

‘... aligning the exemption process for the NEG with the existing process for the RET is a sensible and low cost approach and is fully supported by the MEU.’ – Major Energy Users Inc.²⁹

‘By aligning the RET exemption process and Guarantee exemption process the administrative burden and compliance cost will be minimised for EITE entities.’ – The Business Council³⁰

Recognising this, the Government will align the exemption application process under the RET and the Guarantee. EITE entities will be able to submit a single application to the CER, indicating whether the application is to be considered for the purpose of exemption under the RET, the Guarantee or both (until 2030 during the life of the RET).

The application will cover the upcoming calendar year for RET compliance and financial year for Guarantee compliance. For example, an applicant could submit one application covering the 2020 RET compliance year and the 2020–21 Guarantee compliance year for a particular site.

The application will need to contain information required to calculate the exemption under both schemes—that is, the amount of electricity in MWh used in undertaking an EITE activity in the respective timeframes. Application requirements will be specified in Commonwealth legislation, and the CER will prepare appropriate guidelines for the application. Audit requirements will also be streamlined under both schemes to minimise burden where possible.

‘The proposal to require a single audit to meet compliance obligations under the RET and the NEG is certainly welcome.’ – The Australian Industry Greenhouse Network³¹

EITE entities will have from 1 August the previous year until no later than 30 March of the relevant RET compliance year to submit an application to the CER for exemption under both the RET and the Guarantee. This would mean that the application would be received no later than three months before the start of the relevant compliance year for the Guarantee. The CER would then assess the application and issue separate exemptions for both schemes relating to their respective compliance years.

‘...the proposal to align the exemption application process under the RET and the Guarantee (with exemption applications due between 1 August of the previous year and 30 March of the relevant RET compliance year) is supported.’ – Cement Industry Federation³²

The Guarantee exemption amount will be finalised by the CER after the end of the Guarantee compliance year. EITE entities will be notified of the exemption amounts before market customer loads are finalised for the compliance year under the Guarantee (that is, by 1 September).

²⁹ Major Energy Users Inc., submission to *National Energy Guarantee Draft Detailed Design for Consultation Commonwealth Elements*, July 2018.

³⁰ The Business Council, submission to *National Energy Guarantee Draft Detailed Design for Consultation Commonwealth Elements*, July 2018.

³¹ The Australian Industry Greenhouse Network, submission to *National Energy Guarantee Draft Detailed Design for Consultation Commonwealth Elements*, July 2018.

³² Cement Industry Federation, submission to *National Energy Guarantee Draft Detailed Design for Consultation Commonwealth Elements*, July 2018.

The RET Regulations require that the CER notify the EITE applicant of the exemption amount and if the applicant consents to the Regulator doing so, also notify the liable entity to which the certificate relates.³³ Some stakeholders are of the view that the requirement for the EITE entity to provide consent for the CER to share information with liable parties should not be replicated under the Guarantee.

'Aurora Energy is of the view that this consent requirement should be removed to ensure that the CER provides information on exempt EITE load to both the EITE applicant and the liable entity as soon as practicable. This will ensure liable entities are provided with information early to facilitate calculation of their load for emissions compliance.' – Aurora Energy³⁴

'It will be important that the latest information on EITEs is quickly shared between the provider of exemptions...Importantly, this information flow should not have to wait until customers or retailers provide consent.' – Australian Energy Council³⁵

The Government acknowledges the need to ensure information flows occur in a timely manner in order to comply with the emissions requirement of the Guarantee. As such, the Government will continue to consider how the legislative rules could enable liable entities timely access to the necessary information where the EITE applicant has already passed the certificate to the liable entity.

The *National Greenhouse and Energy Reporting Act 2007* (NGER Act) and legislative rules will also be amended to ensure the AER and AEMO have timely access to information about exemptions.

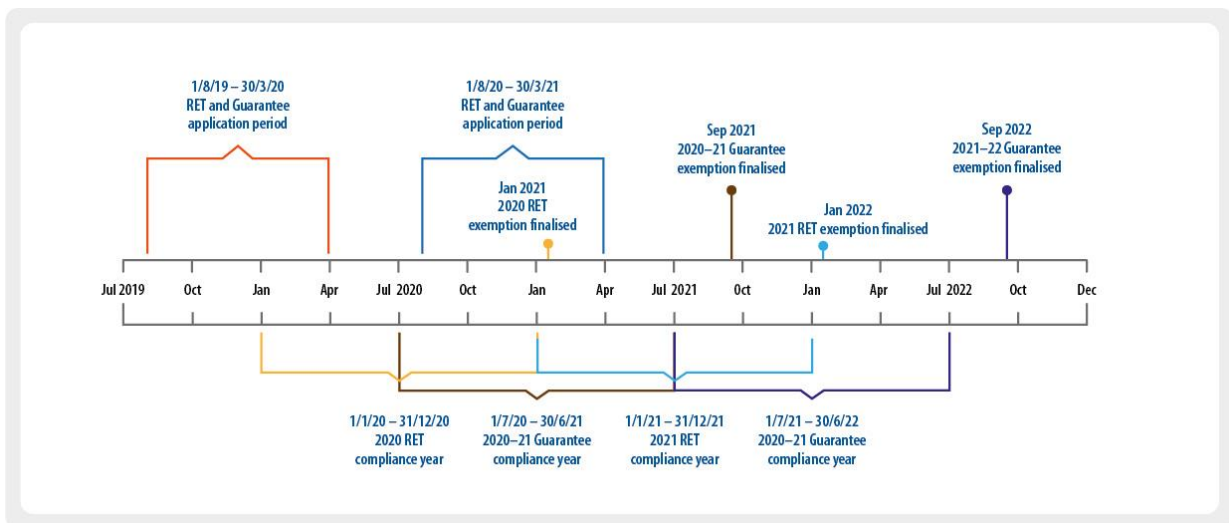
Figure 2 outlines the administrative approach for the EITE exemption.

³³ *Renewable Energy (Electricity) Regulations 2001*, Part 3A Division 5A Regulation 22ZHD Notice of certifiable amount.

³⁴ Aurora Energy, submission to *National Energy Guarantee Draft Detailed Design for Consultation Commonwealth Elements*, July 2018.

³⁵ Australian Energy Council, submission to *National Energy Guarantee Draft Detailed Design for Consultation Commonwealth Elements*, July 2018.

Figure 2: Application timelines for the RET and Guarantee



3.4. Factoring the EITE exemption into the emissions reduction requirement

The exemption of EITE activities is a policy responsibility of the Commonwealth. However, the detailed design of the emissions requirement under the Guarantee requires a process to give effect to the exemption amount issued by the CER for eligible EITE activities. The design of this process is the responsibility of the ESB.

A market customer with an exemption would not be required to demonstrate it has met the electricity emissions target for the portion of its customer load that is exempt. The ESB’s approach to give effect to the exemption amount is that each market customer’s load for the purpose of the emissions requirement will be reduced by any EITE load it supplies in a compliance year.

To ensure the overall electricity emissions target can be met, all emissions from the supply of electricity in the sector need to be accounted for, including those that relate to the supply of electricity to EITE customers. To achieve this, each MWh of non-EITE load across all market customers will be scaled-up by a factor such that it equals the total system load for the purposes of the emissions requirement.

The ESB has provided further details about how the EITE exemption will be applied in its final detailed design paper, which sits alongside this paper.

Government’s position

- Eligible electricity used in carrying out an EITE activity will be exempt from the emissions requirement of the Guarantee.
- The definition of an eligible EITE activity and the electricity use method for calculating the exemption that are currently used under the RET will also apply under the Guarantee.
- The Government will establish the method for calculating the amount of exemption under the Guarantee in Commonwealth legislation.

- EITE entities will be able to submit a single application to the CER, indicating whether the application is to be considered for the purpose of exemption under the RET, the Guarantee or both. Audit requirements will also be streamlined.
- The CER will finalise the exemption amount after the Guarantee compliance year and will notify the EITE applicant of the exemption amount by 1 September.
- The ESB is responsible for determining how to apply the exemption amount issued by the CER to a market customer's load. This approach is set out in the ESB's final detailed design paper and will be given effect in the NEL.

4. EXTERNAL OFFSETS

4.1. The inclusion of external offsets

The Government has carefully considered whether market customers should be able to use offsets as a compliance option to meet the emissions requirement of the Guarantee. In its *Update on Commonwealth Design Elements* the Government said it would consider the use of offsets with reference to the following design principles:

- ensuring affordability
- facilitating efficient investment
- promoting competition.

The Government also considered the views of stakeholders through their submissions in response to the ESB's February *Draft Design Consultation Paper* and the Government's June 2018 consultation paper.

'...we consider that the development of additional low emissions generation within Australia to be the core benefit of the scheme and accordingly there should be strict limits on the use of offsets so that they are only utilised to deal with issues in variability and availability of Australian based renewable generation.' – Meridian and Powershop³⁶

The Government's position is that each year, a market customer will be able to use Australian Carbon Credits Units (ACCUs) to meet up to five per cent of its requirements under the emissions element of the Guarantee. International units will not be eligible for use. This five per cent limit will apply annually, meaning if a market customer chose not to use its full allocation in year one, its limit in year two would remain capped at up to five per cent of that year's requirements.

Amendments to the *Australian National Registry of Emissions Units Act 2011* (ANREU Act) will facilitate the surrender of ACCUs for the purpose of the Guarantee.

The ESB has set out a flexible compliance framework for the emissions component of the Guarantee, including the ability for market customers to carry forward an amount of overachievement to use towards a future year's target, and the ability to defer a proportion of the target to later compliance years. Further details of this framework are covered in the ESB's final detailed design paper.

The Government believes this framework, together with up to five per cent use of ACCUs, will enable market customers to manage any unexpected circumstances and to smooth compliance between years as necessary.

Government's position

- Market customers will be able to use Australian Carbon Credits Units to meet up to five per cent of their individual requirements under the emissions element of the Guarantee.

³⁶ Meridian and Powershop, submission to *National Energy Guarantee Draft Detailed Design for Consultation Commonwealth Elements*, July 2018.

5. SUPPORTING LEGISLATION

To effectively implement the Guarantee, the emissions-intensity of the electricity generators subject to the Guarantee needs to be determined so that it can be applied to market customer loads under the Guarantee. This role will be performed by the CER under the NGER Act. This Act will be amended so that existing reports cover the necessary emissions-intensity calculations. Generators that may be operated by persons outside the current reporting framework will be required to provide the necessary information if they are participating in the Guarantee. Detail relating to these arrangements will be in legislative rules developed in consultation with stakeholders. These rules will be developed to minimise any additional reporting burden and could include mechanisms to provide assurance over the reported information.

The CER will have the power under legislative rules to assess the emissions-intensity for participating generators if they report incorrectly or do not comply with reporting obligations. The legislative rules could also provide for estimates of emissions-intensity for new entrant generators or those who have undergone a significant upgrade. The CER will publish emissions-intensity information by 28 February following each financial year.

Government's position

- The NGER Act will be amended to support the implementation of the Guarantee.

6. NEXT STEPS

The final design of the Guarantee will be considered by the Council for its determination at the August 2018 meeting of the Council.

Should the Council agree to adopt the Guarantee, the ESB intends to release an exposure draft of the legislative amendments to the NEL for public consultation following the August meeting.

Final legislation will be presented to the Council for approval before introduction into the South Australian parliament by the end of 2018.

The necessary Rule changes will be progressed by the ESB and finalised in mid-2019 to take effect before the Guarantee's first compliance year. This is intended to be the 2020–21 financial year for the emissions requirement and could be as soon as the 2019–20 financial year for the reliability requirement.

The Government intends to introduce its supporting Commonwealth legislation into Parliament before the end of the year.

ABBREVIATIONS

ACCU	Australian Carbon Credit Unit
ANREU	Australian National Registry of Emissions Units
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
CER	Clean Energy Regulator
COAG	Council of Australian Governments
EITE	Emission-intensive trade-exposed
ERF	Emissions Reduction Fund
ESB	Energy Security Board
Guarantee	National Energy Guarantee
MW	Megawatt
MWh	Megawatt hour
NEL	National Electricity Law
NEM	National Electricity Market
NGERS	National Greenhouse and Energy Reporting Scheme
RET	Renewable Energy Target, legislated under the <i>Renewable Energy (Electricity) Act 2000</i> (Cth)
Rules	National Electricity Rules