13 July 2018

Dr Kerry Schott
Independent Chair
Energy Security Board
By email: info@esb.org.au

Dear Dr Schott,

Energy Security Board

National Energy Guarantee - Draft Detailed Design Consultation Paper

The Property Council of Australia welcomes the opportunity to comment on the Energy Security Board (ESB)'s Consultation Paper '*National Energy Guarantee: Draft Detailed Design Consultation Paper'* and provide feedback on aspects of the draft detailed design.

The Property Council is the peak body for owners and investors in Australia's $670 billion property industry. We represent owners, fund managers, superannuation trusts developers and investors across all four quadrants of property investments: debt, equity, public and private.

The property industry has traditionally been a more passive participant in energy markets. Rising wholesale energy costs and an absence of sound policy and market settings has resulted in unprecedented pressures on the costs and availability of electricity and gas for our members' operations, as well as hindering the ability of the property sector to become more active participants in energy markets and make the transition to net zero emissions. This is consistent with the strong sustainability mandate of leading members, many of whom have carbon neutral targets or net zero emissions targets that fall due well before 2050.

The Property Council believes that the primary objective of energy markets should be to serve the long-term interests of the consumer as stated in the National Electricity Objective (NEO) and National Gas Objective (NGO). In the last decade, Australia has lost its advantage in reliable and competitively priced energy due to the ongoing and highly partisan debate on energy and climate change policy.

We support the objectives of the National Energy Guarantee (NEG) to depoliticise energy policy in Australia. This integrated approach should also be reflected in the NEO and NGO, which should be amended to include an objective to reduce emissions over time, in line with our international commitments.

We believe the NEG provides a framework for certainty Australian businesses need and will deliver improvements in the reliability, affordability, and sustainability of the National

Electricity Market (NEM). Its effectiveness will depend on the policies introduced to complement it; a coherent emissions reductions framework for the broader economy will be essential and will require effective collaboration with other key sectors, including the built environment.

Attached to this letter we include a submission with responses to issues detailed in the consultation paper. Please do not hesitate to contact us and arrange a meeting.

Kind Regards,

Mike Zorbas
Group Executive – Policy & Advocacy

Detailed comments in response to the ESB's Consultation Paper

1. Governance

The Property Council supports the ESB's preferred option for COAG Energy Council to agree on the detailed designed of the NEG and implement the Guarantee through existing governance arrangements for the NEM through amendments to the Australian Energy Market Agreement (AEMA), the NEL and the Rules.

We further support efforts to investigate how Western Australia could participate in the emissions reduction requirement of the NEG. Australia has a national commitment to reduce emissions across the economy and there is an overwhelming preference from the property sector for governments to pursue this in a nationally consistent manner.

We also believe the NEG, once established existing governance arrangements for the NEM, should have oversight from the ESB and a requirement for the Commonwealth to publicly report on progress against the emissions requirement and reliability requirement on an annual basis. This will help to ensure the ongoing policy agenda is depoliticised with a strong commitment to transparency from Government.

2. Ensuring competition objectives are met

The Property Council has advocated strongly for the objectives of simplicity and price competitiveness for the consumer to be a central to the design of the NEG. We support the concept of a Market Liquidity Obligation for vertically integrated retailers with generation shares in gap regions but believe more must be done to avoid entrenchment of their dominance in certain regions.

The Property Council supports additional, complementary measures around the issues of market concentration following the release of the Australian Competition and Consumer Commission (ACCC)'s final report of its Retail Electricity Pricing Inquiry.

We urge the detailed design of the NEG to provide for recommendations 1-9 of the ACCC report and in particular, consideration should be given to how the framework addresses:

- *Recommendation 1: The NEL should be amended to prevent any acquisition or other arrangement (other than investment in new capacity) that would result in a market participant owning, or controlling dispatch of, more than 20 per cent of generation capacity in any NEM region or across the NEM as a whole.*
- *Recommendation 6: The NEL should be amended so as to require the reporting of all over-the-counter (OTC) trades to a repository administered by the AER. Reported OTC trades should then be disclosed publicly in a de-identified format that facilitates the dissemination of important market information without unintentionally revealing the parties involved. The requirement should be implemented to align with (or be eligible for)*

any OTC reporting requirements under the NEG. The AER, AEMC and AEMO should have access to the underlying contract information, including the identity of trading partners.[1]

In relation to recommendation 6 above and the proposed trade repository to provide additional transparency in areas of wholesale contracting that are currently opaque, we strongly support the provision of information publicly to consumers. As proposed for the emissions registry where retailer emissions intensities would be made public, we request pricing information for firming contracts under the reliability requirement is also made public, so customers can benchmark the offering from their retailers.

3. Emissions Reduction Requirement

3.1. Generation and emissions allocation approach

The Property Council supports measures to encourage retail market competition including the proposed exemption of the first 50,000 MWh of any market customer's load from the emissions reduction requirement, to be spread over other market customer load.

The property industry is actively pursuing opportunities to innovate through distributed renewable energy generation and energy efficiency, in order to provide lower cost, lower emissions energy for their tenants and customers. To ensure the NEG lowers barriers for new market entrants, the ESB needs to consider how the reporting and compliance regime can kept as simple as possible so it doesn't disadvantage smaller retailers.

3.2. Accounting for generation and load

The Property Council strongly urges the Energy Security Board to establish a common framework that dictates how generators, retailers and consumers must calculate and report emissions, both for the purposes of compliance with legislation (federal and state) ***and*** making consumer claims on emissions reduction. The NEG only seems to contemplate this as far as scope 1 emissions for liable entities are concerned i.e. retailers and market customers and does not provide any clarity for consumers and the secondary market.

Essential to the success of the NEG is a well-defined framework for participants in the voluntary secondary market to encourage strong consumer action on emissions reduction. The leaders within Australia's property industry have set their own ambitious emissions reduction targets, but without clarity on how consumer claims for scope 2 emissions reduction would be treated under the NEG framework, this is likely to stall investment from some of Australia's most progressive businesses.

Property companies are required to report under the National Greenhouse and Energy Reporting Scheme (NGERS) largely to establish their scope 2 emissions and refer to the state based National Greenhouse Accounts (NGA) factors which are compiled using scope 1

[1] Australian Competition and Consumer Commission, 2018, '*Restoring electricity affordability and Australia's Competitive Advantage: Retail Electricity Pricing Inquiry – Final Report*', p. xvii-xviii

emissions factors from generators who also report under NGERS. With retailers required to publicly report their emissions intensities under the NEG it is unclear what the flow on effects will be to their customers who also report under NGERS e.g. would a property company who buys all its energy from retailer X be able to refer to retailer X's emissions intensity for their scope 2 emissions instead of the NGA factors? In this context, does the proposed framework for the NEG make state-based NGA factors redundant? Further, is it intended that a retailer would be able to allocate its emissions intensity to customers based on contracts relating to specific generation assets? These are all issues that require clarification we strongly urge the ESB to conduct a broad review of carbon accounting practice across the economy and establish a consistent framework for use by all stakeholders.

3.3. Green Power

The role of voluntary schemes in the NEG requires further consideration and should be looked at in the context of a long-term trajectory towards net-zero emissions for the electricity sector. The rationale for requiring additionality reduces the closer we get to 100% renewable energy, and given the inconsistencies that exist in carbon accounting across Commonwealth and state-level policies, we believe this should be the subject of expert review, in tandem with further development of the NEG.

As we have raised previously, the RET legislation does not address LGCs from the perspective of their use for scope 2 emissions reduction for consumer claims. As such, there is no legal framework that addresses the use of LGCs for achieving carbon neutrality claims. However, due to demand from the participants in the voluntary greenhouse market, particularly those that purchased GreenPower, the voluntary LGC market has evolved to operate under the *assumption* that LGCs are 'fully aggregated', encompassing all social environmental and non-energy attributes of the renewable energy that resulted in their creation.

3.4. Emissions Registry

The Property Council supports the provision of information from the registry to be made publicly available for the benefit of consumers' decision making.

We note the preferred approach includes providing, for each compliance year, information on the emissions intensity of each generator, total volume of output allocated to market customers, and overall schemes outcomes including the emissions intensity of each market customer.

While this level of transparency is welcome, we note it will not be possible for consumers to access the registry and understand what their retailer's aggregated emissions intensity will be. With the preferred approach devolving compliance to market customers and generators rather than controlling corporate groups, it will be difficult for customers to access the information of most value to them: retailer emissions intensity and price.

We note the ACCC recommends, in the final report of their inquiry into retail electricity pricing:

'*Recommendation 40: Retail price monitoring should be streamlined, strengthened and appropriately funded to ensure greater transparency in the market, reduced costs, and allow governments to more effectively respond to emerging market issues. This should be done by:*

- *COAG Energy Council agreeing to streamline price monitoring and reporting to the AER and the AER receiving all the necessary powers to obtain information from retailers*
- *COAG Energy Council agreeing to extend price reporting for retail electricity services to small to medium business customers*
- *state governments agreeing to close their own price reporting and monitoring schemes in favour of an expanded and strengthened NEM-wide regime*

A NEM-wide price reporting and monitoring framework be implemented which includes a combination of price monitoring with full EBITDA data (including standardised costs to serve, attract and retain consumers, and margins), and consumer expenditure surveys. This reporting should be done on a regular basis and include customer expenditure data, based on representative customer surveys and retailer billing and offer data, and be reflective of demographic information.'[2]

The Property Council therefore recommends the ESB works with the AER to ensure key information on retailer pricing (including firming contracts for reliability noted earlier) and emissions intensity is made publicly available in one central location that is simply presented for the benefit of consumers.

3.5. Reporting and administrative requirements

The Property Council strongly supports efforts to use and build on existing data sources (NGER) for assessing compliance. Where new information is required to assess compliance, such as emissions data for generation not currently captured in NGER, further consultation on additional reporting requirements should be undertaken.

4. Reliability Requirement

4.1. Liable entities for the Reliability Requirement

The proposed threshold of 5MW historical peak demand will capture many sites that represent individual commercial buildings and we believe the threshold proposed will capture many more sites than the 100 nominated in the ESB's technical working paper.

The Property Council believes the threshold for liability should not be set at a level where individual buildings and SMEs (such as small factories) are captured and do not have the

[2] Australian Competition and Consumer Commission, 2018, '*Restoring electricity affordability and Australia's Competitive Advantage: Retail Electricity Pricing Inquiry – Final Report*', p. xxiii

expertise required to respond. These users have borne substantial increases in energy prices in recent years and should not have to pay a premium to retailers to manage this obligation on their behalf. We suggest the threshold for the reliability requirement is set high enough to avoid capturing several smaller businesses while still covering a significant proportion of the NEM. Schneider Electric presented their own study at a recent ESB forum proposing a threshold of 100MW would reduce the number of liable entities and limit administrative complexity, while ensuring a significant proportion of NEM load is captured. The Property Council strongly supports the proposal to increase the threshold for the reliability requirement to 100MW.

There are industrial warehouses, shopping centres and commercial office towers that would currently trigger the 5MW peak demand at the individual NMI level and well as the aggregated peak demand across several NMIs for an individual building. Depending on the approach taken, this would vary substantially based on location of the building and the initial metering setup. This effectively creates a skewed approach to compliance and could create perverse disincentives to increase efficiencies on site and instead further split loads over different NMIs.

There is a strong potential for geographical bias in triggering reliability requirement depending on where there is more widespread use of embedded networks. Large shopping centres or large commercial buildings with embedded networks that have a gate meter where base building and tenant load is aggregated through a single NMI are likely to trigger the 5MW threshold, and with greater use of embedded networks in QLD compared to other states, this could create an unnecessary bias for firming requirements.

We note and support the provision for large users to opt in and manage their own reliability obligations instead of contracting additional firming from a retailer.

4.2. Demand Response Contracts

The Property Council strongly supports the development of a demand response mechanism for the wholesale electricity market to ensure that demand response products qualify for compliance under the reliability requirement. We look forward to the current AEMC Reliability Frameworks Review to bring forward the required changes and note the ACCC's recommendation that this be an immediate priority:

> *'Recommendation 21 - In relation to wholesale demand response, a mechanism should be developed for third parties to offer demand response directly into the wholesale market. Design of the mechanism should commence immediately, building on work undertaken in the AEMC's Reliability Frameworks Review. The mechanism should:*
>
> - *promote competition through allowing the widest range of businesses to directly offer demand response services*
> - *not allow retailers to limit the ability of their customers to engage a third-party demand response provider (to the extent it is not inconsistent with the retail contract)*

- *ensure load and generation response are valued appropriately based on the benefit they provide to the wholesale market*
- *limit technical requirements placed on the customer that may inhibit take up or scope of these services (for example, requirements for multiple meters at the customer site).'*[3]

We note and support the elements of the above recommendation from the ACCC that encourage competition by allowing abroad range of businesses to offer demand response services without being limited by their retailers, and without imposing undue technical and administrative burden on participants.

[3] Australian Competition and Consumer Commission, 2018, '*Restoring electricity affordability and Australia's Competitive Advantage: Retail Electricity Pricing Inquiry – Final Report*', p. xx