

7 February 2023

Lodged via the [netp@industry.gov.au](mailto:netp@industry.gov.au) email address.

Dear Energy Ministers,

**Submission in response to the consultation on Incorporating an emissions reduction objective into the national energy objectives**

The Clean Energy Council (CEC) is the peak body for the clean energy industry in Australia. We represent and work with hundreds of leading businesses operating in renewable energy and energy storage along with more than 7,000 solar and battery installers.

The CEC is committed to accelerating the decarbonisation of Australia's energy system as rapidly as possible, while maintaining a secure and reliable supply of electricity for customers.

The CEC supports the initiative to legislate greenhouse gas (GHG) emissions reduction into the national energy objectives.

The renewable energy sector has consistently called for coherent and harmonised national policy to tackle climate change, while building a robust clean energy economy in Australia. The false externalisation of carbon from the energy objectives has been a key impediment to achieving this, creating policy confusion and slowing the speed of the decarbonisation of the NEM.

Incorporating GHG emissions into the national energy objectives represents a major step forward. Acknowledging the economics of decarbonisation means this inevitable transition can be achieved in a more coordinated and efficient manner, delivering significant benefits to consumers.

The proposed changes will enable the AEMC, AEMO and AER to facilitate an orderly, low cost and secure NEM decarbonisation. Already the market bodies have acknowledged the reality of decarbonisation, and have begun the process of reforming the regulatory frameworks. However, this change will accelerate and streamline these processes, by enabling carbon costs to be directly accounted for by the market bodies.

Clarity regarding treatment of carbon costs will also better enable investment decision making, by changing the way NSPs make network investment decisions. Generation and storage developers will therefore be better placed to understand the likely development of the power system, enabling more efficient investment decisions.

Given that power generation accounts for roughly 30% of Australia's GHG emissions, these effects will make a significant contribution toward complying with international commitments.

There are several opportunities to refine the proposed changes, to ensure the prompt realisation of these energy objectives. These refinements should drive transparency and standardise how the revised objectives are translated into practice. This is critical so that industry can make efficient investment decisions, supporting NEM decarbonisation at the lowest total cost to customers.

- Firstly, clear governance arrangements will enable the market bodies apply the revised objectives in a consistent and transparent manner.
- Secondly, Ministers should provide clear instructions for how the ‘cost of carbon’ should be quantified and accounted for by the relevant market bodies.
- Finally, we urge Ministers to reject the proposed change of language from users of ‘electricity’ to users of ‘energy’ in the proposed changes to the NEO.

We hope the following comments are useful for Ministers in refining the draft language of the bill and to the market bodies for implementing regulatory frameworks from the updated objectives.

### **Governance – guidance and reporting**

Clear governance processes will enable implementation of the revised objectives. This is particularly important where regulatory bodies are implementing new statutory requirements. Clear guidance from law makers will help regulatory bodies overcome their risk aversion to potential judicial review.

We note comments from some parties opposed to the new emissions reduction objective that there may be an increased risk of litigation and/or judicial review as regulatory bodies implement the new objectives.

The argument is that risk averse market bodies may move slowly, or take an otherwise overly conservative approach, which would delay the implementation of the revised objectives. Should litigation or judicial review eventuate, it’s also argued that the transition of the power system could be delayed.

These risks are likely overstated. However, the best way to ameliorate them is for law makers to provide clear and unequivocal instruction to the market bodies as to how they should implement the revised objectives. As discussed below, this may take various forms.

Similarly, market bodies should face clear reporting obligations, to instil internal discipline in terms of compliance with the revised objectives. This will go a long way to stemming the risk of judicial review at its source, and therefore addressing any institutional risk aversion, while also reducing the risk of credible litigation or judicial review.

### **Governance – standardisation of interpretation**

The market bodies must also be instructed take a standardised and predictable approach to implementing and operationalising the revised objectives. A common approach will help to ensure GHG emissions reductions are accounted for consistently and predictably across rule making, the assessment of regulatory proposals and in system planning.

This will provide clarity for proponents and greater certainty for industry, encouraging more efficient investment, at lower costs to consumers.

Ministers should establish clear governance frameworks and a defined set of organisational requirements for each of the market bodies. We consider that a statement of expectations, or an equivalent guiding note, should provide the market bodies with sufficient guidance to enable a consistent implementation of the revised objective.

This should include identifying the Australian Energy Market Commission (AEMC) as the market body with overall responsibility for coordinating efforts to translate the revised objectives into practice. The AEMC should be directed to undertake a review of the national electricity rules, with a view to assessing

whether they remain consistent with the revised objectives. Where a gap or inconsistency is identified, the AEMC should work with Ministers to change the NER, to ensure consistency with the revised objectives.

We expect that the AEMC's work should initially focus on the long term planning and investment elements of the National Electricity Rules (NER), as well as those related to system security and economic regulation. Chapters 4, 5, 6 and 6a of the NER should therefore form the focus of the AEMC's initial work.

We consider the AER and AEMO will also have important work to undertake, to implement the revised objectives.

AEMO should be directed to reconsider its ISP assumptions and processes, including the scenarios that are accounted for in the ISP. In particular, we consider that AEMO should be required to exclude ISP scenarios that are inconsistent with overarching global emissions reductions requirements, including by reference to expected temperature increases beyond 1.5 degrees.

The AER should be directed to focus on the various guidance documents. In particular, the AER must revise its guidelines and documents associated with how TNSPs and AEMO should apply the regulatory investment tests and the ISP respectively, with a view to ensuring they are consistent with the revised goals.

In both cases, the actions of the AER and AEMO should also be in accordance with the overarching guidance established by the AEMC, to ensure there is a consistent and predictable approach taken across the three market bodies.

We also note commentary in the paper regarding how the revised objectives should be applied to projects that are already underway. We consider that the revised objectives should be applied as quickly as possible, including to projects that are currently under consideration. This should include both regulatory reform processes, such as AEMC reviews and rule changes, AEMO procedure changes and statutory functions, as well as AER / TNSP processes such as RIT-T applications and regulatory determinations.

This means that the default position should be that any 'in process' project should be required to take account of the new NEO, as per the date of issuance of this document. Organisations would then be required to publicly apply to the AER for a waiver, if to consider the revised objective would result in unreasonable impacts. For example, if a RIT-T process was 90% finished and new modelling would delay the process by several months, then a waiver could be granted.

### **Valuing Abatement**

A transparent, standardised and predictable approach to quantifying emissions abatement will be key to implementation of the revised objectives.

A key question is therefore the methods to be used when defining the overall quantification of carbon abatement in the energy sector, and then how to set an appropriate value per unit of abatement.

As a first step in this process, Ministers might consider setting a defined 'emissions budget', or a sectoral emissions target for the energy sector, consistent with the overall national emissions reduction commitments. Equally, the market bodies could be explicitly tasked with developing such a value, to ensure clarity and consistency of interpretation.

Accuracy of carbon abatement valuation is essential for effective and efficient market function. Finding such a cost requires several quantitative estimates, such as the value of marginal damages, including both those recognised in market valuations and unrecognised ones, discount rates, and distribution of climate sensitivities from integrated climate change assessment models. It also involves more qualitative decisions such as time frames for computing net present values, which socioeconomic scenarios to use, whether to follow sectoral specific targets or economy-wide ones, how to account for scope 2 and scope 3 emissions, among others.

Many of these more detailed decisions will be made by the respective market bodies, in accordance with the governance structures described above. However, Ministers should place clear requirements on the market bodies to make these decisions transparent and comprehensible to the general public. This can take the form of mandated reporting, and the development of regular review and consultation processes.

Other nations have wrestled with these issues and Australia can benefit from reviewing their examples. We encourage reviewing and learning from the efforts of other nations while respecting the differences of the Australian context.

While there is an urgency as climate-related damages continue to mount, a small investment of time at the outset can help avoid more costly revisions later. Needing to correct for large or chronic underestimation would be especially problematic.

### **Change of Language**

We caution against changing the language of the NEL to read “consumers of energy” instead of “consumers of electricity”. We appreciate and encourage the focus on seeking a path that will accelerate decarbonisation yet remain unconvinced that the proposed change would actually accelerate the transition.

There is no clear reason for changing the wording of the NEO from referring to ‘electricity’ to ‘energy’. In fact, we consider there is significant risk this could interfere with sensible decision making by market bodies and potentially run contrary to effective decarbonisation of the electricity sector.

Further analysis is required before making such a significant change to ensure perverse outcomes do not arise. This analysis must demonstrate how the proposed change would improve supporting regulatory frameworks, and include modelling that shows plausible paths of how decarbonisation will take place faster than it would otherwise.

We are particularly worried by the stated aim to codify natural gas as a transition fuel. It’s our strong view that gas has only a peripheral role to play in the transition of the electricity sector. While there are certain industries where direct substitution of natural gas (as a feed stock or for other processes) may be difficult, we consider these complexities do not arise in the electricity sector.

The levelized cost of storage continues to fall and already costs for many use cases are competitive with gas peaking plants. Market bodies already are supporting the regulatory frameworks, rules, processes, and planning that make feasible an electric power system fuelled entirely by renewable energy by 2030. Smart legislation and regulation can further support this rapid transition. The consultation paper, however, does not demonstrate how the proposed language change would accomplish that. On the contrary, making such a legislative change risks having the perverse effect of increasing emissions.

Until and unless there is convincing evidence and analysis to demonstrate that this change will accelerate, and not slow, decarbonisation, it should not go forward.

As always, the CEC looks forward further engagement from the energy ministers and market bodies on this reform to deliver an orderly transition and the significant economic benefits it continues to bring to Australia. Further queries can be directed to Christiaan Zuur at the CEC on [czuur@cleanenergycouncil.org.au](mailto:czuur@cleanenergycouncil.org.au)

Kind regards

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