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1 October 2019

Treasury – Consumer Data Right - consultation on priority energy data sets

AGL Energy Limited (**AGL**) welcomes the opportunity to provide comment on Treasury’s consultation paper on priority datasets for energy designation under the Consumer Data Right (**consultation paper**).

AGL has been at the forefront of the energy industry in our support for the development of a Consumer Data Right (**CDR**). We believe that consumers should have access to and control over data that directly relates to them.

We support the recommendation expressed in the Australian Competition and Consumer Commission (**ACCC**) Retail Electricity Pricing Inquiry (**REPI**) that the CDR be applied to the electricity sector as a priority. However, we believe that any expansion of a consumer’s right to access their data must be managed and rolled out in a way that facilitates and ensure rigorous protection of that consumer data.

We eagerly await the ACCC’s release of the proposed new timelines for energy CDR designation, noting an early 2020 start is no longer achievable. We encourage the ACCC and Treasury to take into account the different needs and complexities of the energy sector when making any decisions regarding the new timelines for implementing the CDR for energy.

As energy will be utilising a designated gateway model, that will be dependent on the development of information sharing through the Australian Energy Market Operator (**AEMO**), a new timeline must also consider the timeframes required for participants to build and test systems against this new interface. Failure to allow adequate timing for building and testing the new systems increases the risk that any new systems will have security or other technical flaw that could undermine the credibility of the CDR.

There are several integral questions that are yet to be answered and require significant consideration to ensure the effective operation of energy CDR. Most importantly, greater clarity is required about how authorisation, authentication and consents will work through a designated gateway with multiple data holders (**DH**). These matters will directly impact on the security of consumer’s data and their experience in interacting with the energy CDR. If the CDR is difficult for consumers to use, involves long delays in data access, or poses privacy concerns, the benefits of the CDR in the energy sector may never fully be realised.

In the submission we address the following points regarding the priority datasets:

- the need for clarification and further detail on the intended data captured under each proposed priority dataset and the expected format for this information;



- the cross-over between each of the proposed priority datasets;
- AGL's view as to which participants should be responsible for providing each of the proposed priority data sets;
- the potential risks associated to the disclosure of personal information listed under *customer provided data* and the need to understand the purpose of such disclosures; and
- the distinction between a *product offer* and an *electricity plan* under the retail product information category, and the importance of this distinction.

We also provide information on broader matters pertaining to the CDR in the energy sector that we encourage Treasury to consider prior to releasing a draft designation for the energy sector, including:

- the way consents, authentication and authorisation will be managed under this multi-participant, gateway arrangement (with a lack of distinct energy identifiers unique to a single customer);
- the role of personal data and verification of a customer as distinct from a disclosure of a CDR dataset.
- the need for Treasury and the ACCC to understand the purposes for which DH hold information, how they hold information, and how this information can be used for verification purposes;
- the importance of designating all DH of a certain category (e.g. all distributors, or all retailers) at the same time;
- that large and multisite customers should be excluded from energy CDR due to their unique relationship with the energy market; and
- the need to manage the right to deletion with the risks of potential customer complaints, ACCC and other regulatory investigations, or legal action.

We look forward to working with both Treasury and the ACCC on the development of an efficient, fair and effective CDR in the energy sector.

Should you have any questions please contact Kat Burela on 0498 001 328 or kburela@agl.com.au.

Yours sincerely,

Elizabeth Molyneux

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Contents

Datasets	4
General comments	4
Metering data	6
Billing information	10
Retail Product Information	10
Customer provided data	13
Other datasets	15
NMI standing data	16
Distributed Energy Resource Register	17
Energy designation	18
Designating all retailers	18
Authentication and verification	18
Government collection of CDR related data	18
Other observations	19
Right to deletion	20

Datasets

General comments

We welcome Treasury's initial consultation with the energy sector on the proposed priority datasets for energy CDR. The consultation paper helps provide participants with an understanding of how decision-makers are envisioning the energy CDR.

The AEMO gateway model was chosen, in part, as a recognition of the many participants in the energy market that hold data relating to a consumer's use of energy (including retailers, AEMO, Metering Data Provider's (**MDP**) and distributors). We encourage Treasury to therefore consider two key matters regarding this mix of DH's:

1. the purpose of the specific DH holding data and whether this will change (e.g. National Energy Retail Rules (**NERR**) changes underway), and
2. the link that each of these DH have with the customer and how this will impact on the capacity of the DH to verify authorisation and consent.

In relation to the first point, AEMO may be designated for metering data, but will not have all the relevant data for all customers until rule changes transition in mid-2022, with only interval metering data from July 2021.

Rather than designating retailers for an interim solution on metering information (e.g. that a retailer is designated as the DH until mid-2022), it may be more appropriate to simply designate that set of data once the market transition is complete. As the ACCC and Treasury have noted previously, energy consumers wishing to access their information directly can continue to access their metering information under the NERR and National Energy Retail Law (**NERL**). We encourage the ACCC revised energy CDR timeline to consider matters such as these when determining an implementation date for energy CDR.

For the second point, both the purpose of the DH and the link that DH has to the customer are integral to seamless and consumer-centric operation of energy CDR. Treasury and the ACCC will need to consider whether a National Metering Identifier (**NMI**) search in the Market Settlement and Transfers Solutions (MSATS) will be sufficient and in line with the purpose of strong privacy safeguards established within the CDR framework. This is a matter that will require further consultation and consideration with industry.

Data clarifications and objectives

AGL believes that there are numerous practical issues that must be considered for the implementation of the energy CDR. Some general energy data issues that we believe should be considered further are:

- **Time slice** – it is important to understand how the data will be requested in relation to time periods. The data can either be at the time of the request, or historical, but the results that come up will vary depending on the day and the period of the request. For example, a customer may have recently been through a price variation or added or removed government concession information. It is also possible that a customer had been billed on an estimate, but an actual meter read is now available.
- **Ongoing access** – It is presently unclear how data will be provided to Accredited Data Recipients (**ADR**) under ongoing consents. In our view, it is not clear under the existing legislation and rules whether:

1. the DH is obliged to provide the ADR with an up-to-date record of the relevant consumer data and to proactively provide new information about a customer to the ADR; or
2. the DH is only required to provide new information in response to a request made by an ADR.

For example, if an ADR has authorisation to collect consumer usage information and at the time of the request the DH only had access to an estimate of the consumer's usage, but subsequently in two months' time has access to the actual consumer usage information; would the DH be obliged to provide the updated information if the consent is still valid and active or can the DH wait for the ADR to request that information? While we expect that the DH will only be required to respond to a request made by the ADR (due to the additional costs in monitoring this process), this poses the risk of a constant stream of requests that could result in technical failures to the relevant APIs. This issue should be clarified in the CDR rules, with additional restrictions set out in the Data Standards.

- **Corrections** – adjustments in usage information (estimates to actual meter data, application or removal of concessions to previous bills, etc.) need to be clearly defined under energy CDR as being new data, and not corrections to existing consumer data. This is related to the issue of ongoing access, as if DHs are obliged to “correct” usage information on the basis that it has changed overtime or it has received an actual meter read to replace the customer's estimate, this would have the implication of requiring the DH to push through updates rather than wait for requests from the ADR. Given the extensive obligations for data correction and penalties, it is important that this distinction is clearly defined within the designation instrument or ACCC rules.
- **Address clarification** – there are different types of addresses available (National Metering Identifier (NMI), billing, AusPost). Addresses can also relate to understanding the role of the DH - distributors may use the NMI address so they can read the meter, where a retailer will want the postal address of the customer so they can send a bill.

The energy market has encountered several issues in the past regarding the recording of addresses against a customer account. The NMI address can be different to the billing address and again may be different to the records used through AusPost. This can be for a number of reasons including: multiple meters at one address, location of NMI physically away from the house, houses resting on suburb boundaries (cross over zone), where the customer provided information relating to suburb does not align with AusPost etc. We have included diagrams on addresses at the end of this submission.

Address accuracy is a well-known issue, and a rule change was requested due to the known inaccuracies within Market Settlement and Transfer Solutions (**MSATS**). However, after considering the rule change request, the Australian Energy Market Commission (**AEMC**) did not make the rule change noting the cost and complexity to attempt to create a uniform standard.¹ We envisage similar issues if a standard was attempted for the CDR.

¹ See AEMC draft rule determination on improving the accuracy of customer transfers, 27 October 2016 which includes a table of address errors and assessment on whether an address standard would help alleviate these issues. The AEMC stated that the implementation of an address standard does not constitute a proportionate response to the issue raised in the rule change request. On balance, the costs and regulatory burden associated with implementing an address standard are likely to outweigh its limited benefits.

We welcome the opportunity to work with Treasury, ACCC and Data61 to work through these issues and find a solution that helps ensure industry costs are minimised while also providing consumers with accurate information under an effective authentication and verification process.

Metering data

One of the cornerstones of the CDR system is that all consumers should have access to their metering data. We do not see any reason to exclude any specific meter type.

However, we do note that both the quality and detail of the data may vary across meter types (e.g. due to intervals/estimations) and encourage decision-makers to acknowledge these discrepancies through their decisions and welcome the opportunity to work through these matters with other industry participants.

Further, as we indicate below in the Energy Designation section, we consider that large customers should be expressly excluded from energy CDR. If this is accepted by Treasury, then meter types 1-3 should be excluded because they are exclusively used by large customers to measure and monitor their energy usage.

As Treasury notes in their consultation paper, MDP provide metering data to market participants (such as the retailer). This will be in meter data file formats (such as NEM12 and NEM13) which are dictated by established AEMO industry business to business (**b2b**) rules. When retailers receive meter data the files are not in a customer-readable format. Retailers manage and change this data for the purposes of billing, or to aggregate information to assist with pricing (e.g. time of use pricing). AGL also uses this data along with a sophisticated algorithm to offer value added services such as Energy Insights.²

For example, AGL has systems and processes in place to convert the data and process it according to the customer attributes (e.g. product type). This will then be converted into the billing information which can include simple graphs of usage and charges to assist customers understand their energy usage.

Data purpose

As we have flagged above, it is important to understand the expectations that will be applied to different DHs and their role in CDR disclosures. While Treasury have indicated that AEMO, Retailers, MDP and Distributors are all metering DHs, the data is held and used for different purposes amongst participants.

Further, the introduction of a new rule that allows a customer to submit their own meter read in place of an estimate³, and which must be taken into consideration when determining who is an appropriate DH and understanding the differences in data held by various DHs. The AEMC and AEMO are also proposing to allow transfers on customer self-reads to speed up the transfer

² Using smart meter data and algorithms, Energy Insights tool breaks down a customer's electricity usage to estimate how much electricity your home uses on heating, cooling, lighting, laundry, standby and more. See [AGL website for information](#).

³ AEMC, [Estimated Meter Reads \(self reads\)](#), 25 October 2018

process.⁴ As we have previously submitted to the AEMC it is important to establish a hierarchy of estimates⁵, and in doing so, an appropriate DH can be determined.

Estimates and actuals

Within the energy market, the MDP, who may be the Distributor or commercial meter provider, is responsible for providing the meter data. This includes the provision of an estimate where no actual meter read is available.

The processes used to generate estimated meter data are mandated in the AEMO Metrology Procedures⁶ which the MDP must follow, and under which they are audited by AEMO to ensure they are following the correct procedures. While retailers hold metering data, retailers can only provide the customer with the metering data that is provided by the MDP, and the MDP will determine estimates in accordance with the AEMO Metrology Procedures.

The only time retailers generate estimates for customer bills is where the MDP has not provided any data, or where the estimate is part of a bill smoothing process agreed with the customer, or the estimate is a customer own read. This means that the DH of an estimate may be the MDP or a retailer.

Further, the self-meter read rule permitting customers to submit their own meter read in place of an estimate but does not require the Distributor or metering parties to use the customer self-reads for network billing or market settlement purposes. This means that the data that one DH holds may be different to that of another DH and could impact the way ADR's assess and provide services to customers.

Requiring more frequent actual meter reads

Treasury has asked whether there are advanced CDR use cases that may arise from more frequent meter reads. We encourage Treasury to consider the market transition already underway due to Power of Choice (**POC**).

POC was implemented in December 2017 and has seen the replacement of accumulation meters with smart meters across NEM states (excluding Victoria). As smart meters are rolled out, the need for estimates will reduce (as demonstrated in Victoria), which will help to alleviate concerns regarding estimates and customer reads) and will also minimise the number of manually read meters (read on a quarterly basis).⁷

While accumulation meters still exist in the market, there will be issues with estimates and the quality of the information a customer has for their energy usage. Access issues remain one of the key reasons that a meter read does not take place. There will be customers wishing to engage in the CDR framework that may also have chronic access issues, impacting the accuracy of their data, and this should be recognised by Treasury and the ACCC in their energy CDR decisions. Further, the

⁴ See AEMC draft rule determination, [reducing customer switching times](#), September 2019

⁵ See [AGL submission to AEMC draft decision](#), 20 September 2018

⁶ See [AEMO Metrology Procedures](#) December 2017

⁷ AEMC [self reads](#) rule change decision 2018

implementation of CDR in energy may help to speed up the roll out of digital meters as consumers receive benefits from participating in the CDR framework.

Allowing consumers to port their historic metering data to a new retail service provider

The consultation paper asks whether there is commercial value in allowing consumers to port their historic metering data to a new retail service provider when they switch to a new product with that service provider. This raises a number of questions, including whether Treasury intends for this data to be captured under the CDR regime through explicit informed consent (**EIC**), or as a part of a change to the NERR.

Another area that requires clarity is whether Treasury intend that the historic data be provided as part of all customer transfers, or only where the customer has elected for their historic metering data to be disclosed under the CDR. If it will happen at the election of the customer, is the expectation that the winning retailer would be an ADR (and subject to the privacy safeguards – including the right to deletion), or as a permitted disclosure under the NERR applicable to all customers?

There are issues with linking historic metering data to specific customers. As such, porting historic metering data may raise privacy concerns (e.g. if only linked to the NMI), and must be balanced against the intricate relationships that consumers have with their energy supply. For example, in multi-occupant scenarios it is likely that only one occupant is the account owner, but there are multiple users of the service (e.g. families, share-houses etc.) What is the ownership or right to access this data in situations where the account holder may leave the residence, but other energy users continue to receive electricity supply (whether under a new account or not). This could arise in several situations, including separation, divorce or share-house occupants changing over time).

There is also the issue of customer expectations as to the use of this historical metering data. The new retailer cannot bill the customer for this prior usage, and if the customer has changed or installed new appliances (especially high load ones such as an air conditioner) then the historical data will be misleading. Further, historical metering data will lose its value over time, as weather patterns shift (e.g. into longer periods and more extreme events of hot and cold periods), and as customer usage, behaviours and family dynamics change.

For the above reasons we consider that historical metering information should not be automatically ported to the winning retailer. This information should only be provided as required under the energy CDR framework with the consumer's consent.

Smart meter privacy concerns

While we do not consider any meter type, except for large customer meter types, should be excluded from the CDR regime, we have taken the opportunity to note privacy concerns that are associated to the use of smart meter data. It should be noted that the potential privacy concerns extend beyond the scope of the CDR, to the usage of smart meters generally.

The analysis of smart meter data can reveal a lot about an individual. Energy data could provide insight into personal behaviour patterns (when someone watches TV, plays video games or goes to bed), occupation of premises, household composition, consumer appliances in the home, home

security, etc. Over time these technologies will mature, providing details about consumers that may not be immediately apparent.⁸

From these insights, it may be possible to materially enhance the data to extrapolate other information, including:

- whether someone has a medical condition;
- whether someone is engaged in criminal activity;
- the number of people in the house;
- the rhythm of their lives (when they use certain devices) (e.g. shower at night/eat toast for breakfast);
- the type of appliances that they have in the house and when they use them;
- when someone is usually in the house and when the house is empty;
- whether someone has a security system; and
- the financial situation of the house (when some of these factors are combined).

We also note that these categories are value-added data derived from meters and as such should not be subject to the CDR but excluded as materially enhanced.

Because detailed energy usage data has this capacity to reveal information about activities within a home and the habits of its occupants, it is also likely to be of interest to many beyond the energy industry, including law enforcement, marketers, insurance companies, even criminals.⁹

Data from these sensor collection points, particularly when aggregated, could become a home-made surveillance infrastructure for perpetrators of domestic violence. There have been a number of studies, including case study interviews with domestic violence survivors¹⁰, where perpetrators use technology and data to abuse the individual/family.¹¹

Accordingly, it is important that stringent security measures are taken to protect metering data from unauthorised disclosure or access, and that the CDR has an appropriately rigorous authorisation and consent process to ensure that any disclosure to an ADR does not put the consumer at risk of harm. We recognise that this will likely be considered under the ACCC Rules and relevant data standards.

It is also essential to ensure that consumers are fully aware of any services that may be provided by an ADR that involve insights through metering data, and that the fully informed consent of the consumer remains at the heart of the CDR disclosure regime.

⁸ Resolution on Privacy and Security Related to Smart Meters (Trans Atlantic Consumer Dialogue) p.4

⁹ Privacy Issues in Smart Grid Development, Jennifer M. Urban, p.1

¹⁰ See for example, Queensland University study into domestic violence - <https://law.uq.edu.au/research/our-research/using-law-and-leaving-domestic-violence/domestic-violence-case-studies>

¹¹ This can include hacking into emails or service accounts, monitoring internet use and disabling internet connections, switching off smart-connected electricity devices such as air conditioning and lighting etc.

Billing information

Treasury has sought insights on how retail customer billing data is shared between market participants currently and whether there is a general industry standard for billing information. The National Energy Market (**NEM**) has been structured around understanding energy usage rather than on a sharing of billing practices of different retailers. The meter data that retailers use to produce bills is shared through the NEM b2b system. As we note above, this comes in market specific data formats that are not appropriate for customers. Other than this sharing of metering data, retailers do not currently share billing data with other retailers.

Understanding what is expected to be shared regarding historical bills (e.g. an account summary of amounts owed/paid) will assist in ensuring that the data captured under this category does not contradict or overlap with other data collected (e.g. metering data – estimates or actuals).

If the purpose of designating billing information is to understand the amounts owed and paid, then we suggest that this category be referenced and appropriately limited to cover account statements or billing transactional information. If the designated billing information is not limited to account statements/billing transactional information, then there are other issues that Treasury should consider. For example, a consumer may elect that their usage data and billing information be disclosed, but not their customer-provided information such as their address. If a .pdf version of the whole bill (e.g. at time of issue to the customer) was captured under the CDR, then personal information would be captured and disclosed.

It is our position that anything other than an account summary/billing transaction information would cross-over into other proposed energy CDR priority datasets and therefore potentially require the customer to disclose more CDR data than the customer may have thought they consented to.

Retail Product Information

In the consultation paper, Treasury proposes that both generic and tailored product information be made available through the CDR.

We encourage Treasury to consider these two sets of data separately to ensure that the most appropriate solution is developed for each dataset as each dataset serves a distinct purpose and retailers generate and manage data in different ways. Specifically:

1. the in-market product options available for a consumer (known as an energy offer, basic product information, product and plan information summary), serves to make consumers aware of the different products that are generally available;
2. the product information for a particular customer's existing plan, serves to allow that customer to compare its current plan with offers.

Product offers (general product information)

The purpose of product offers is to help energy customers compare available offers and make informed decisions about whether to switch to a new energy plan or to a new retailer. This is information that assists a customer to understand a new energy offer including:

- tariffs;
- usage charges;

- applicable discounts;
- non-price incentives;
- information on eligibility;
- availability; and
- length of contract period / benefit.

This information is important for a consumer to know before accepting a new energy offer and is required to be provided to obtain EIC. As the consultation paper identifies, there are currently obligations on retailers under the NERR and the Victorian Energy Retail Code Victoria (**ERC**) to provide current, generally available energy offer information to EnergyMadeEasy (**EME**) and Victorian Energy Compare (**VEC**). These websites exist for the purpose of allowing customers to compare energy offers in the market in a clear, fair and consistent way.

AGL has previously advocated for an interface and utilisation of retailer product information on the government websites VEC / EME. We continue to consider that such an interaction may assist in timely and efficient comparison of new offers for customers looking for a better deal. Retailers are constantly managing their product availability, adjusting offer information (such as the underlying tariffs), retiring products or introducing new products.

By linking the CDR system with VEC / EME, ADR's could compare live offers in the market without having to rely on screen scraping or daily downloads which could include old or redundant offer information. For example, Services NSW offers Energy Switch¹², a government led initiative, scrapes the data on EME to provide comparisons for consumers. For ADR's to be able to provide accurate, timely and effective comparisons for consumers, the CDR system should link to VEC / EME.

Tailored plan information

As Treasury notes in the consultation paper, to be able to achieve the objectives of the CDR, customers need to have information about the specific electricity plan they are on. The energy plan is the information about the electricity arrangement an individual has with their retailer and this does not necessarily link with a particular generally available in-market product (either name, offer, offer ID or another identifying factor).

This is what Treasury has referred to as *tailored information* and is not the same as an energy offer and cannot be linked to offer information on VEC / EME. This is for several reasons including customers on old offers no longer available in-market (pre offer ID requirements), price change events, changes in network tariffs, end of benefit periods and so forth. Customers are provided all the relevant information regarding their energy plan as it changes (e.g. through price variation or end benefit notices) and cannot be considered in the same way that energy offer information is considered for active plans.

We agree that customers should be able to access the information relevant to their specific energy arrangement, including daily supply charge, tariff/rates, price incentives (discounts, credits). As we note above, information on eligibility and availability is important for an energy offer but is superfluous to the customers current plan, particularly as a customer's eligibility may change overtime (e.g. stop being a member of a club).

¹² <https://www.service.nsw.gov.au/transaction/use-energy-switch-comparison-tool>

Providing tailored plan information in the CDR regime.

Currently there is no industry requirement on the format of provision of plan information to customers. When a customer signs up to a new energy retailer (or energy product) they receive a welcome pack from the retailer. This includes important information relevant to their new energy arrangement including the Terms and Conditions, rates, supply charge, discount, that are necessary for EIC.

The consultation paper looks at the linkages between VEC / EME and the CDR framework. If retail product information is split as we are suggesting, then an information flow between VEC / EME and the CDR system in either direction would not be appropriate for tailored plan information.

Information on VEC / EME is not fit for purpose for identifying an individual customer plan without replicating a retailers billing system within these sites which is highly impractical and rife with security and privacy concerns. These concerns are a large part of why the ACCC did not choose the centralised model for CDR energy data flows.

Other issues with using VEC / EME to access data relating to the individual customer plan include:

- offers that are no longer offered by a retailer are removed from VEC / EME and as such it will not be possible to link customers to retired offers;
- restricted offers are not created in the backend of EME unless specifically requested by a customer;
- only retailers can link an individual customer to a plan, and not all plans are offers;
- offer ID's only became an obligation in 2018 meaning retailer practices prior to this would be inconsistent. These obligations also only apply to offers on VEC / EME, not restricted offers; and
- products are often developed using a family name for the offer but different underlying structures for the rates/discounts etc. due to factors such as network tariffs.

It is also likely that information needed for the CDR system will not always align with the requirements of VEC / EME. The two bodies responsible for the EME and VEC websites have different requirements on retailers for energy offer input and management. Despite consistent calls from industry to deliver a harmonised approach, the two systems continue to differ. Differences are likely to continue between the two, especially given the recent Victorian Order in Council giving VEC the ability to collect customer-provided data to recommend energy offers to them.¹³ This recent Victorian change may see new and specialised fields being introduced for VEC. Requiring the CDR system to capture the requirements of two other systems is impractical and will not help provide certainty to retailers.

Further, there is a substantial amount of manual work that goes into the management and creation of energy offer information by retailers which should be acknowledged when considering solutions for CDR energy offer and plan information. By way of example, eligibility restrictions are currently a required field in EME. While there is a list of eligibility restrictions (e.g. the code and value, such as whether the customer has a seniors card), there is also an option for 'other eligibility criteria' and capacity for free-text information to be included. This is in recognition that no list can be exhaustive, particularly as new innovative products are developed and as such there is no consistent way to create consistency and possible eligibility criteria across all retailers.

¹³ Further information on the Victorian Order in Council is provided below on page 18.

While retailers' systems and processes will vary, it is important to note that not all information can be easily automated – particularly where no existing obligation current exists on retailers. Mapping eligibility criteria of an offer to an existing customer's energy plan is not a current obligation. Either the customer was eligible at the time of the offer, or they were not (which would mean they would not have been put on that plan).

Given the limitations of the above two options that seek to utilise VEC / EME, we recommend an alternative approach is considered. The CDR system should clearly define what specific tailored plan information the customer needs to know (e.g. tariff, supply charge, discounts) to interact in the CDR framework to achieve the aim of comparison and switching. We encourage decision-makers work further with industry to determine the best way of providing this information to ADR's.

Customer provided data

Customer provide data is another category within the consultation paper that requires further consideration. Customer provided data should be considered under two sub-categories, personal and non-personal information. Personal information would include information provided by a customer from which they may be identified or reasonable identifiable (e.g name, phone number, email, date of birth).

Under the ACCC banking Rules, customer data is defined in clause 1.3 which includes name, phone number, email and physical address as well as any data that is provided at the time of acquiring a particular product **and** relates to eligibility¹⁴. The Rules explicitly exclude date of birth under banking and it is unclear why this is suggested for collection under the energy CDR. If it is for the purpose of verification, then this should only be required through the authorisation process to the DH, rather than as a part of the consumer data to be disclosed to the ADR.

There are also issues with addresses being used for verification (or request for electricity service) for the reasons we stated above regarding address accuracy.

Therefore, Treasury need to be clear on the objective of providing personal data under the CDR regime. Specifically, it needs to be clear whether customer provided data is intended to be used to allow the ADRs to provide their offered services (e.g. switching a customer to a new product or service) or used as a means of verification or authentication under the CDR system.

CDR objectives and service opportunities

AGL supports the Treasury stated aim for the CDR energy designation being to allow for customer access to data to make more informed product and service choices. As these offerings are developing and maturing, the market is seeing more opportunities for the consumer to be provided with comparison and switching services. We are also seeing the development of subscription options within the energy market, such as the CHOICE Transformer service which recently ended (as of 30 June 2019). Under, this program, for a fee, customers could use the service to handle switching between better deals across retailers for a 12-month period.

¹⁴ ACCC [draft banking Consumer Data Right Rules](#), August 2019, p107

Part of the reason CHOICE Transformer stated they were ending this service for customers was because of energy regulations impacting customer transfers. CHOICE noted that retailers often needed to contact the customers to get their consent to switch which slowed down the process of the service and was noted as being frustrating for customers.¹⁵

If one of the expected outcomes of the CDR is that ADRs will be making those product choices and managing consumer switching, then what role will EIC play under the NERR and NERL in the future? Further, under this type of structure, what (if any) consideration will be given to the disclosure of commercial interests by ADRs and arrangements they may have with select DH. The design of the authentication and authorisation process for disclosures under the energy CDR will need to be designed in tandem with possible amendments to the NERR and NERL to ensure that an effective informed consent process remains, while also providing for the desired efficient customer experience.

If the onus is to sit with the consumer to know or understand the commercial arrangements that comparator sites have when choosing their service, then it creates a greater information burden on the customer and does not help simplify engaging in or understanding the energy market. We note that the ACCC's REPI recommended a mandatory code for comparator websites that would prevent comparators from using Preferred Partner Programs. We encourage further consideration on this point, as well as the future role of EIC in the energy market.

Identifying a customer

Being able to correctly identify and authenticate a consumer is an integral part of data management, from security, privacy and safety perspectives. Know Your Customer (**KYC**) obligations that apply to banking and allow for the identification and verification of customer information (prior to the provision of financial services), do not apply to the energy sector.

There are no truly unique and consistent identifiers for consumers in relation to their energy service/s, we note for example:

- NMIs are attached to premises and not the customer. Multiple consumers can live at a property with one NMI, and only one might be the account holder (e.g. the customer). This scenario is complicated further with share-houses and other multiple-occupant arrangements;
- electricity and gas accounts will have account numbers - but these are only unique to the retailer, and are not unique to the customer (as they may change as the customer switches retailers or enters into a new product arrangement with the same retailer)-
 - a customer may have an electricity account number and a gas account number, which could be supplied by different retailers;
 - the customer may have a service address, a billing address, a holiday home address or other arrangements that will complicate the use of addresses as an identifier of the customer (we have also included some further address examples at the end of the submission); and

¹⁵ See [Choice Media statement](#), March 2019

- What retailers will accept as *acceptable identification* (as defined under the NERR)¹⁶ may vary (e.g. acceptable identification includes *another form of photographic identification*). There are also then exceptions under the NERR for where acceptable identification is not provided.¹⁷

Customers providing their information to ADR's

To obtain services from an ADR, CDR consumers will need to provide some base level personal information to sign-up. This is likely to include their name and form of contact (e.g. phone number or email address). It is therefore unclear why Treasury is suggesting this information should be shared by the DH.

By being required to provide personal information that should otherwise be provided by the customer to the ADR directly, at least for the purposes of verification, the CDR regime would increase the risk of improper disclosure, unauthorised access and/or identity theft. Without proper controls, it is possible that family-violence perpetrators may try to fraudulently access a victim's information through a retailer's call centres, including their phone number and home address. While this risk will exist irrespective of the CDR system, they may be amplified by requiring unnecessary disclosures, or disclosures of information that are meant for the purposes of verification.

Identification of a customer also has greater value beyond accessing an energy account. Many businesses, including insurance and telecommunications, as well as government services, use phone numbers, date of birth and address as security identification methods. Unnecessary disclosure and unauthorised access to this data can compound the risks and create identity theft and other disruptions for consumers. If drivers' licenses were required in CDR data disclosures for example, then this too could aid nefarious activity against a consumer.

ACCC Digital Platforms

We also want to raise with Treasury the recent ACCC Digital Platforms report and the recommendations regarding privacy. In particular, the ACCC has recommended that the definition of personal information be extended to include, amongst other things, metadata and device identity. It is currently unclear what, if any, impact this recommendation may have on the CDR and designated data sets – and how this right may interact with the right to deletion that was introduced in a recent bill.¹⁸

Other datasets

- **Hardship** - we encourage Treasury and the ACCC to consider the role of hardship information in the CDR regime. Including information about whether the customer is receiving hardship

¹⁶ [National Energy Retail Rules, Part 1, Division 1](#), Definitions - Acceptable identification in relation to a residential customer

- a driver licence issued under the law of a State or Territory, a current passport or another form of photographic identification
- a Pensioner Concession Card or other entitlement card, issued under the law of the Commonwealth or of a State or Territory;
- a birth certificate.

¹⁷ See for example section 40(2)(c) of the [NERR](#) which allows retailers to require a small customer to provide a security deposit if they have refused or failed to provide acceptable identification. See also the Energy Retail Code Victoria.

¹⁸ See [Treasury Laws Amendment \(2019 Measures No. 2\) Bill](#) 2019

assistance may help retailers with early identification and ensuring that assistance is provided by a new retailer. Early identification and assistance can help customers before they fall into financial stress as identified by the AEMC and the Australian Energy Regulator in recent reviews of energy hardship arrangements.¹⁹

- **Credit checks** – we note that part 9 of the banking designation instrument excludes credit information and encourage that this exclusion be carried over to energy CDR.
- **Concessions** – does Treasury intend to capture concessions information under customer provided data? Transferring concession information would make transfers easier for customers but would be reliant on the losing retailer having accurate details which had recently been validated.

Validation is important to ensure that the customers concession card is still eligible and ensuring that concessions are not inappropriately claimed. Retailers also need to obtain the customer consent at the point of adding or reactivating a concession card which could not occur under a simple information transfer from the losing retailer. While it may be possible for a representative (e.g. someone authorised to give consent on the customers behalf) to provide those details to a new retailer for the purposes of customer transfer, it would still be reliant on the representative having up-to-date and recently-validated information. There are also matters regarding concession card eligibility across states and fuels (e.g. QLD State Seniors & Immigration cards are only valid in QLD). The inclusion of concessions information would therefore create risks for the winning retailer, unless these risks are addressed in the CDR energy rules and would apply consistently across concession regimes.

- **Life support** – further consideration and information should be provided to industry regarding if, and how, life support customer data should be managed under CDR. There are stringent rules in the energy sector around life support obligations on both retailers and distributors. We encourage Treasury to consider the importance of life support information against existing obligations.

NMI standing data

We support that the proposed NMI Standing data (connection point information) as useful data points to assist a customer or third parties to analyse the customers energy use.

In relation to the AEMO review of NMI standing data fields flagged by Treasury, we encourage the addition of other relevant fields such as controlled loads (solar, battery and ripple). We would also encourage meter interval data to be included, as whether the customer has 5-minute or 30-minute interval data may affect the types of retail products that are available/suitable for them.

Controlled Load – solar, battery, ripple

Different types of control loads can assist an ADR to tailor retail service offerings to the customer. This means that understanding control loads can enable parties to understand what behind the meter products a customer may have installed (e.g. electric hot water, solar, etc) and tailor a

¹⁹ See the Australian Energy Regulator and AEMC, for example: <https://www.aemc.gov.au/news-centre/media-releases/better-hardship-programs-customers-who-need-help-paying-their-bills>

solution accordingly. This can improve a customer's choice and tailor solutions to the way that they receive their energy.

Opportunity

Understanding whether the customer has time switched or network switched controlled load may be very relevant in a demand response environment. This is because the networks can switch load on at chosen times which can impact price signals. If a distributed energy resource (**DER**) orchestrator wanted to pull energy from customers batteries in a period of peak demand where the prices are high, the networks ability to switch control load on may mean that the customer may not see a price reduction that they may have expected.

AEMO as a data holder for NMI standing data

As we have raised above, the system for authentication and authorisation in the energy sector will be the pillar of a secure and trusted energy CDR.

While AEMO may be DHs of NMI standing data, they do not have access to the customer data that retailers have and as such are unable to link the unique NMI to a specific customer in a retail environment. The purpose of AEMO holding this data is for settlement and retailer transfer purposes and does not facilitate direct consumer engagement.

Retailers marry the NMI standing data to the connection point information (which the customer is linked to). In this instance it may be sensible for a retailer to be responsible for the sharing of NMI standing data through the CDR system – however, it will depend on what system of authentication and authorisation is decided on for energy.

A simpler separation of the two roles would be that AEMO hold the data for the purposes of b2b, where retailers hold the data for the purposes of business to consumer interaction.

Distributed Energy Resource Register

We do not object to the inclusion of the DER register within the CDR energy datasets. However, we do make the following observations about the DER register:

- As with the NMI standing data comments above – AEMO will not hold the specific customer information relating to the site where the DER information is collected. The DER register information is collected in relation to NMI, AC Connection ID and Device ID information.²⁰ While AEMO can map the information to retailers through MSATS, it may require a new process to allow portability of that information.
- While AEMO may consider a database design that enables coupling with MSATS there are costs of integration and issues regarding NMI/customer verification, and historic information access needs to be considered. For example, if a customer moves to a new house and has an ongoing CDR access arrangement, will there be mechanisms in place to revoke their access to the NMI specific DER information attached to their CDR data?

²⁰ See [DER Information Guideline](#) for list

Energy designation

The following section highlights some key points for Treasury's consideration in preparing a draft energy designation instrument and the future ACCC energy Rules.

Designating all retailers

There is an opportunity with the energy sector to develop a CDR solution, utilising the AEMO gateway model, that is appropriate and measured for all energy participants. As such, we encourage Treasury to designate all retailers at the same time, rather than phase in retailers over a period based on their size. This will help ensure that smaller retailers are fully engaged in the AEMO developments and deliver a fit for purpose solution to the market.

For small customers (residential and small business) to be able to effectively and fairly gain the benefits of the CDR regime, Treasury should also consider the designation of exempt sellers and embedded networks. The growth of both of these energy service providers (particularly with the growth of apartment buildings in major cities) means that an increasing proportion of Australian consumers are receiving their energy through this alternative provider.²¹

Authentication and verification

Authentication and verification are integral to the CDR system and at present it is unclear how these will operate in the energy CDR environment. As we outline in the *Identifying the customer* section, there is not a clear, consistent and reliable industry approach (in terms of a unique customer identifier) within the energy sector for customer identification. This will cause issues when trying to ensure a safe and reliable authentication and verification process under energy CDR.

We also note that individuals can move into a property and use energy without creating an account, this is colloquially referred to as *Dear customer* or *Unknown customer*. Under these arrangements, retailers are required to provide supply to a site (e.g. a home) and therefore an *Unknown customer* will be generating data that would be captured under the CDR. For example, this would include, product (standing offer), metering data, and potentially billing. This would not include customer-provided data such as a name for the individual or *acceptable identification* (as referred to above).

Depending on how the CDR system establishes the eligibility of a consumer to participate (e.g. that there is an active energy account – similar to the banking eligibility requirements noted below), then these *unknown customers* may have entitlements to access their CDR energy data. This could create issues for verification under the CDR and added complexities depending on whether a NMI, consumer name, or some other customer-provided identifier, is used for verification purposes.

Government collection of CDR related data

A number of State governments have begun to collect energy related data from consumers or energy related bodies. AGL consider these programs should be captured by the CDR eco-system. For example, the Victorian Government issued a recent Order in Council (Order)²² for which the purpose

²¹ See for example section 2.3 of the AEMC final [report on embedded networks](#).

²² Advanced Metering Infrastructure (Information) Order - Order in Council The Governor in Council, under section 46D of the Electricity Industry Act 2000

is to provide the Victorian government access to and disclosure of data relating to the electricity consumption of a customer, for information about comparative offers for the supply and sale of electricity, and for other matters. This Order requires AEMO to provide interval metering data and related information when requested by a customer to DEWLP via VEC. In this sense, DEWLP would be performing the services role of an ADR. A similar arrangement of customer data collection for switching services is offered by Services NSW.²³

While this does not alter the type of data that retailers are required to provide, we encourage Treasury and these bodies to work together to ensure that regulatory changes are developed in harmony and in the customer interest. We note the potential confusion for a customer who may misunderstand this program of work as related to the CDR and a customer's rights (e.g. for revocation of consent, deletion etc). For these reasons, we strongly encourage Treasury to ensure that government departments/agencies that provide services (such as comparison and switching offered by Services NSW, or the recent VEC Order, should be subject to the CDR framework and not exempt.

Other observations

- **Derived data/value added data** – as we have suggested above, the datasets need to be clearly defined or risk unnecessary scope creep and overlap across datasets. The banking CDR excludes data that is materially enhanced information, which we would support being replicated in the energy sector.
- **Eligible CDR consumers** – (refer also to above regarding *Unknown customer*) - under the banking CDR, an eligible CDR consumer is defined as an individual (18 years or older) and has had an account with the DH that is open and set up in such a way that it can be accessed online.²⁴ We agree with this definition as being generally appropriate for the energy sector but recommend Treasury ensure that the wording is sector appropriate. For example, energy accounts tend to be active or inactive, rather than open and closed (as is the term used for banking). However, energy retailers also have obligations with former customers (who technically have an inactive account) but may continue to receive assistance from their previous retailer (such as a credit collection freeze) under new family violence requirements in Victoria.²⁵ It will need to be clear whether these types of accounts are intended to be captured.
- **Exclusion of large and multisite customers** - we continue to advocate for the exclusion of large businesses under energy CDR for the following key reasons:
 - Structure of the National Energy Consumer Framework (**NECF**) is for residential and small business customers and as such our mass market systems and arrangements are set up to support these two categories.
 - There is greater parity in the relative bargaining power of large customers and energy retailers.
 - Hedging arrangements can be influenced based on the acquisition of large customers
 - Bespoke arrangements are developed for large and multisite customers (and as such there is not generally available offers in the market for the purposes of comparison).
 - There would be significant costs for setting up new systems to store, manage and provide these bespoke arrangements, and thus requires a significant level of complex

²³ For further information see [Services NSW website](#)

²⁴ [Draft banking rules](#), August 2019, p110 Schedule 3 Part 2

²⁵ See [Essential Services Commission Victoria](#) recent Retail Code changes to support family violence survivors. These new obligations all extend to former customers of a retailer, who would not have an active (aka open) account with the retailer.

development to provide them in a consistent manner across industry. We note that these customers also receive bespoke metering and billing data tailored to their business needs.

We also recommend Treasury consider extending this exclusion to multisite customers. Multisite customers have aggregated usages that tend to expand beyond the thresholds of traditional small customers (residential and small businesses). As with large customers, multisite agreements are negotiated with the retailer and the proposed product comparison aims of the CDR would not be workable for these customers.

Right to deletion

Finally, we wish to comment on the Introduction of 56BAA²⁶ on 18 September 2019 which creates an obligation for the right to deletion of CDR Data per the ACCC Rules. This will require ADR's to delete all or part of CDR data in response to a valid request (with exceptions including anticipated legal proceedings). As we have raised in previous submissions²⁷, the right to deletion creates several complexities and can directly conflict with existing obligations, as well as the potential for future proceedings (that may not be anticipated).

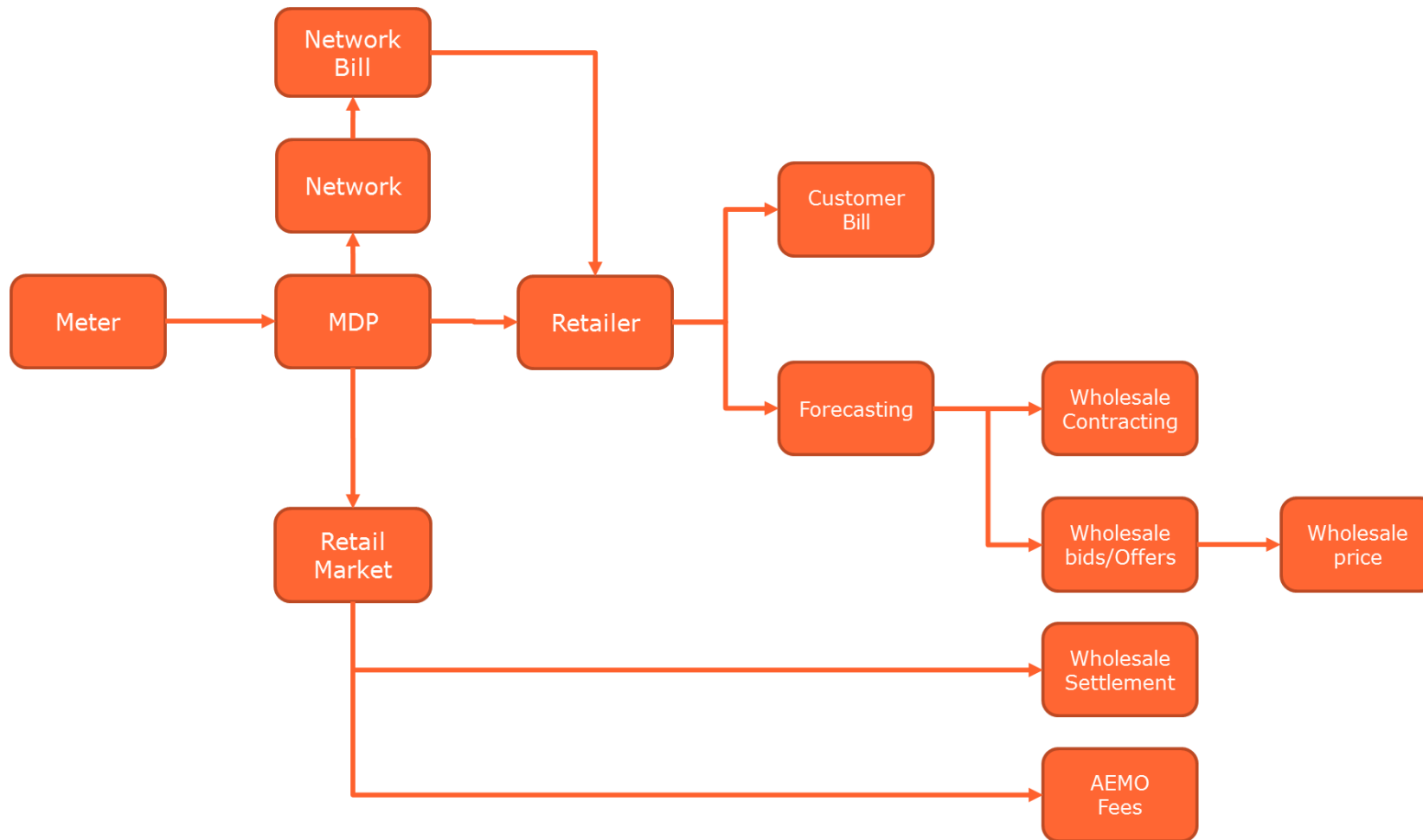
In the energy sector, there are obligations under the NERR and NERL for record keeping which would conflict with or restrict the ability for a consumer to request deletion, and make it largely redundant.²⁸ There are also new obligations under the Energy Retail Code (ERC) Victoria, including informing customers of the 'best offer' and the Clear Advice Entitlement (CAE). Under the CAE, retailers must take into account everything reasonably known about the customer to make a recommendation on the best offer for them. If we have accessed CDR data prior to acquiring the individual as a customer, and then give clear advice based on that information, we will be bound by ERC obligations to retain that data for a minimum of 2 years, irrespective of any request to delete. This creates a risk of consumer confusion in how a *right to delete* may or may not apply in these circumstances, which could result in undue complaints that burden the regulators.

There are other matters that may impact whether an ADR should be required or able to delete the information. For example, if a comparator website reviewed a consumer's CDR data and made a recommendation for a better offer based on that data, and then the consumer asked for that data to be deleted; if there was a legal dispute in the future, there would be no way to prove or determine whether the recommendation by the comparator website was fair, reasonable and in the customer's interest. This circumstance is highly unlikely to be considered an 'anticipated' proceeding, and therefore the exception would not apply. Given that the *Competition and Consumer Act 2010* (Cth) does not require intent for the conduct to be misleading, it is quite possible that claims could arise without the ADR's anticipation.

²⁶ [Treasury Bill amendment](#) p.18

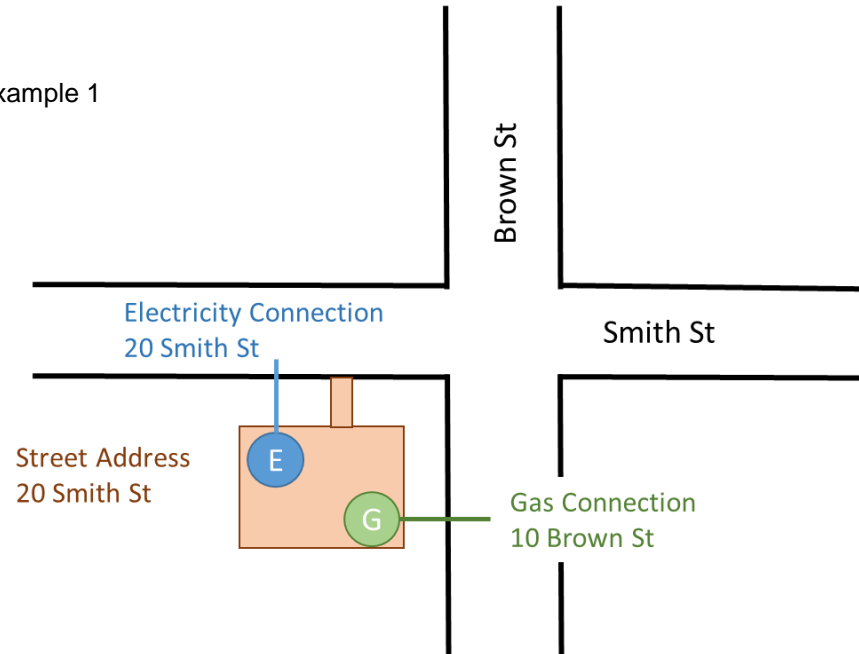
²⁷ [AGL Submission to ACCC CDR Rules Framework](#), 12 October 2018

Meter Data Flow diagram



Address examples and uses

Example 1



Example 2

Real estate: 4/152 High St Elsternwick
Postal Address: Unit 4, 150 High St, Ripponlea
Electricity Address: 4/150 High St, Elsternwick
Gas Address: Unit 4, 150-154 High St, Ripponlea
All of these are correct and are for the same property

