AUSTRALIAN ENERGY COUNCIL

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Expansion to the Non-Bank Lending Sector

The Australian Energy Council ('AEC') welcomes the opportunity to make a submission to Treasury's Exposure Draft consultation on *Expansion to the Non-Bang Lending Sector.*

The AEC is the peak industry body for electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. AEC members generate and sell energy to over 10 million homes and businesses and are major investors in renewable energy generation. The AEC supports reaching net-zero by 2050 as well as a 55 per cent emissions reduction target by 2035 and is committed to delivering the energy transition for the benefit of consumers.

The AEC's comments are specific to the proposed amendment to facilitate access to energy product reference data. The AEC does not support this amendment progressing as it is currently written and believes this consultation phase is not adequate to properly consider stakeholder input. Standalone consultation should be undertaken to fully assess the costs and security risks of this amendment, and suitability of alternative solutions.

Consultation process

The inclusion of an energy-specific amendment in a Non-Bank Lending Exposure Draft is not intuitive, has created stakeholder confusion, and reduced visibility of the proposed change. Stakeholder engagement is made further difficult by the consultation material providing no rationale or reason for why this amendment is being made.

When the Data Standards Body ('DSB') last year floated the current amendment through Noting Paper 248, it received clear feedback from energy data holders and CDR solution providers that the proposed change contained problems. These problems related to:

- Legalities – the Energy CDR Designation Instrument is clear that the Australian Energy Regulator and Victorian Government are data holders for general retail arrangement information, not energy retailers.
- Complexity – the "proxy" solution being proposed is not simple to implement.
- Costs – the "proxy" solution is not economic nor efficient for energy retailers.
- Consideration of alternative solutions – there was no consultation with stakeholders on alternative solutions, such as an enhancement within the Registrar.

Since that Noting Paper closed (August 2022), there has been no private or public consideration of the proposal. It is unclear why this amendment is suddenly being progressed now and with no meaningful avenue for stakeholder input. Moreover, without any rationale or reason being provided, it appears none of the problems mentioned above have been contemplated, let alone remedied.

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Treasury did indicate at its *Stakeholder Forum for Energy Sector Measures* that it had undertaken a cost-benefit analysis before progressing this amendment; however, no such analysis has been made public and energy data holders have stated they were not spoken to in the lead up to this consultation.

Given that Treasury has acknowledged (at the same Stakeholder Forum) that this amendment cannot commence from 1 November 2023, it is not clear why consultation must be rushed through an Exposure Draft. The AEC considers Treasury should use the extra time available to perform meaningful consultation and consideration of the problems that have been raised.

Costs and administrative burden
Due to the sudden nature of this amendment proposal, likely costs cannot be quantified in the time available. However, it is expected that the costs of implementation will not be trivial. It will also impose an administrative burden on energy data holders. For Tier 1 data holders that have already fulfilled their CDR obligations, this amendment will require either re-contracting or diverting IT staff on other projects. Tier 2 data holders nearing implementation do not have the bandwidth to incorporate new builds at such a late stage.

While a delayed commencement might provide some relief, it would nonetheless be more preferable for alternative solutions, such as an enhancement within the Registrar, to be explored in the meantime to ensure the most cost-effective solution is being implemented.

Security risks
CDR solution providers have raised concern that the implementation solution will create information security and privacy risks for data holders and their customers. These concerns have been expressed in response to Noting Paper 248 and Decision Proposal 318. It is important that these risks are managed before any implementation solution commences.

Commencement date
Notwithstanding the above, if Treasury does proceed with the amendment in its current form as has been indicated at stakeholder forums, the AEC considers commencement should be no earlier than 1 November 2024. Retailers have already budgeted for the IT capital spent on CDR for the financial year and should not be expected to re-budget to implement this change at short notice.

This commencement date should be made clear in the rules, not the technical standards, so energy data holders have legal certainty.

Any questions about this submission should be addressed to Rhys Thomas, by email Rhys.Thomas@energycouncil.com.au or mobile on 0450 150 794.

Yours sincerely,

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