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Re: Independent review of the Energy Security Board

Shell Australia Pty Limited (Shell) is committed to supplying gas to domestic customers and is in a strong position to support Australia's energy market transition. With increased investment in renewable generation, access to natural gas will have an important role as a fuel source for gas-fired generators to provide firming and security services.

The creation of our energy trading venture – Shell Energy Australia – has enabled us to further expand into the east-coast domestic gas market. Through our QGC-LNG project and Shell Energy Australia we supplied around 16 percent of east-coast demand in 2019.

We are active participants in the National Electricity Market (NEM) through the 144MW Condamine Power Station and are building our first commercial-scale solar project – Gangarri – in Queensland. The recent acquisition of ERM Power as a wholly-owned subsidiary of Shell Energy Australia, further unlocks growth opportunities to support the NEM as it transitions to more renewable flexible generation and storage.

Long-term success of both the Australian economy and companies such as ours will be highly dependent on our ability to anticipate the types of energy and technology needed to support a reliable, flexible and cost-effective electricity grid. The confidence in this success needs to be driven by genuine leadership from governments and energy market bodies.

Shell welcomes the opportunity to provide comment on the performance and future of the Energy Security Board (ESB) as part of its independent review. However, given the short consultation timeframe and lack of clarity around the Reviewer and methodology, we are only able to provide high level comments. We do believe this to be an important consultation and considered stakeholder engagement is necessary to ensure the right long-term governance model is achieved for the NEM.

REDUCE RED AND GREEN REGULATORY BURDEN

Shell considers that there is an ongoing role for the ESB over the short-medium term, particularly with the Finkel recommendations still being implemented and the work on the post-2025 NEM market design. However, we consider that now is an opportune moment to re-examine the governance arrangements of Australia's energy markets.

The Australian Government has put energy forefront to support Australia's economic recovery after the impact of COVID-19. Yet the cost of operating in the energy market due to regulatory and compliance requirements is increasing, putting much needed investment to support the NEM as it transitions to risk. With the additional rule-making functions of the ESB there is the likelihood of an emergence of additional layers of regulation for energy businesses.

Shell proposes that a key outcome of this review should be a recommendation, as a matter of priority, to examine options to improve the workings of Australia's energy market governance. This should include examining regulatory and compliance inefficiencies that exist across the sector and which create increased costs for business, create regulatory barriers for new entrants and unnecessary costs for consumers. While regulation is necessary, it should be streamlined and support efficient and effective outcomes, rather than be duplicative and processes for process sake.

Shell considers that the Productivity Commission is best placed to do this work and should examine national and state red and green tape across the electricity, renewable and gas markets. The role of government departments and energy institutions should be examined, and efficiencies identified where gains can be made through rationalised reporting requirements.

Through reducing inefficient red and green tape, energy businesses will be better placed to emerge from the COVID-19 impacts to support Australia's economy. It will ensure the energy market regulatory framework is streamlined and fit for purpose for a post-2025 NEM. It will also restore confidence that governments and energy market bodies are delivering in the long-term interests of consumers and support the significant investment needed to replace retiring generation.

Shell welcomes the opportunity to discuss this proposal in more detail.

ESB PERFORMANCE CRITERIA

Shell encourages the Reviewer to examine the ESB's performance against three key criteria – independence, transparency and accountability.

Independence

The independence of the ESB is essential to provide confidence that energy markets will not be subject to interference from any particular agenda and that the best interest of consumers is being considered.

In recommending the establishment of the ESB, the Finkel Review highlighted the need for the body to be independent, that the Chair and Deputy Chair 'will play an important role.....by bringing an outside perspective and a fresh set of eyes'.¹ We would recommend the Reviewer examine if the ESB has maintained a level of independence in its functions. The ASX Corporate Governance Principles is a useful benchmark.

Transparency

The energy market regulatory reform pipeline is currently relatively compact and complex with many interdependencies. The task from the COAG Energy Council for the ESB to develop advice on whether changes to the NEM is required to enable the provisions of a full range of services to deliver a secure, reliable and lower emission electricity system at least-cost may have substantial impact on market participants.

It is our view that there is limited visibility of the ESB's activities and deliverables. It is difficult to understand who is responsible for, and the status of, work programs and how decisions around policy advice have been made. For example, how was the decision to set an interim reliability measure of 0.0006% of unserved energy in each region reached. We recommend the Reviewer examine the ESB's consultation process and transparency in decision making and mandate. We consider that the AEMC's consultation process should be used as a benchmark. It is also essential that consultation as part of the ESB's rule-making function not be diluted and should still bring in the technical expertise of broader groups including mechanisms such as the Reliability Panel.

¹ <https://www.energy.gov.au/sites/default/files/independent-review-future-nem-blueprint-for-the-future-2017.pdf> pg 165

Building on these points, we note the ESB adds another layer of “influences” on the development of the NEM. This takes further resources to engage and track ESB activity. It is unclear whether the decisions/outcomes are improved under the ESB model relative to the existing governance model and we expect that this review should examine this.

If the ESB is to remain as a longer proposition, we believe it should be supported by a permanent and independent secretariat and that meeting communiques should be released. We would also suggest that the selection framework of independent Panel members should be published.

Accountability

Good governance depends on mechanisms for holding parties to account for their actions or inaction. The role of the COAG Energy Council should be to hold the ESB and energy market bodies to account against clear performance indicators. The Finkel Review highlighted the need for the COAG Energy Council to strengthen the Statement of Expectations for energy market bodies to include performance-based outcomes. It is our view that this has not transpired and as such requires urgent attention.

While the ESB should not replace the functions of the COAG Energy Council, while in place, its mandate could be expanded to provide a greater oversight function of the AEMC, AEMO and AER in the short-term. This may require impartiality and the need for greater transparency around decision making.

Shell also considers that a concept similar to the AER’s Consumer Challenge Panel should be introduced into the ESB’s governance arrangements and include market participants and customer representatives. We consider this would assist the ESB to obtain wider expert advice so as to better balance its policy advice and decisions.

Shell welcomes the opportunity for further discussion. Please contact Erin Bledsoe at Erin.Bledsoe@shell.com for any queries regarding this submission.

Yours sincerely,

Greg Joiner



CEO ERM Power and VP Shell Energy Australia