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Department of Climate Change, Energy, the Environment and Water
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Re Review of AEMO Governance – Discussion paper

The Australian Energy Council (AEC) welcomes the opportunity to provide comment on the Department of Climate Change, Energy, the Environment and Water (DCCEEW) Review of AEMO Governance Discussion Paper.

The AEC is the peak industry body for retailers and generators operating in energy markets. Our members generate and sell energy to over 10 million homes and businesses. We seek to deliver a market that allows consumers to benefit from the transition to a reliable, affordable and decarbonised energy system. The AEC supports the transition to net zero emissions by 2050, and the role of the electricity sector in unlocking opportunities for reductions in other sectors. AEC members are major investors in the renewable energy, firming and energy security services needed to deliver an effective transition.

Overall Views

AEMO's role has grown over time and now includes not only the market and system operator role but also planning functions and administration of tender processes for new generation through its subsidiary AusEnergy Services Ltd (ASL). This review provides a timely opportunity to ensure AEMO's functions and governance structure are still appropriate.

Overall, the AEC believes that AEMO currently has a complex role which it carries out to a high standard, especially in relation to its core market and system operator role. Further, AEMO has improved its engagement with industry in recent years. The AEC values this engagement which is generally conducted in a constructive and transparent manner.

We would suggest that the current review concentrate on incremental changes that could improve accountability and cost effectiveness. Our key points include:

- Governance frameworks – it is vital that AEMO's core market and system operator role remain as an independent legal entity. This is especially important for investment confidence as the sector continues its transition to a low emission future. We recommend that the existing structure be retained with a possible separation of ASL.
- Membership structure and board of directors – to maintain the integrity of AEMO's core functions and promote investment in the industry, it is important that AEMO retain a highly experienced and independent board.
- Budget - the AEC would support further scrutiny and transparency of AEMO's budget. This should include having an independent body review and approve AEMO expenditure. Additionally, AEMO should provide more transparency in the costs of implementing regulatory changes.

These items are discussed in more detail below.

Detailed Comments

Governance frameworks

AEMO's core role is a market operator and as such it is vitally important that it remains an independent and impartial body that can provide confidence that the market is operating efficiently and reliably. This is becoming even more important as the energy market transitions to a more sustainable future.

We suggest that AEMO's existing legal structure be largely retained, and that AEMO continue to focus on meeting the key energy market objectives as established in the National Electricity Law and National Gas Law, National Energy Retail Law and Western Australia's State Electricity Objectives - regarding price, quality, safety and reliability – ultimately for the long term interests of consumers.

The discussion paper flags incremental improvements such as greater clarity of accountability, increased reporting and oversight. The AEC would support such principles. A move towards a corporate Commonwealth entity or to a statutory body established under state or territory legislation brings risks and could undermine AEMO's role as a politically neutral market operator and planner.

Recommendation 1: AEMO does not transition to a corporate Commonwealth entity or to a statutory body established under state or territory legislation

AEMO performs a critical role in planning and forecasting the energy market and ensuring the secure and reliable supply of electricity. Governments already have some influence over AEMO by directing it to undertake specific projects, but AEMO still operates with some degree of independence, which is a reassuring feature for market participants and investors. Transitioning AEMO to a corporate Commonwealth entity or to State-based statutory bodies could inadvertently undermine its independence and provide opportunities for political interference.

One framework question that may require change is the structure of ASL. The AEC's experience is that ASL conducts its responsibilities to a high standard, including engagement with industry and other stakeholders. The paper notes that AEMO holds 70% of voting rights and NSW has 30% - yet ASL performs functions for the Commonwealth (Capacity Investment Scheme), for South Australia (Firm Energy and Reliability Mechanism) and is likely to play a role in administering the proposed Electricity Services Entry Mechanism (ESEM). This indicates that the current structure of ASL may not be appropriate in the future and a more formal separation from AEMO could be prudent.

This is particularly the case in the event that ASL is appointed as the ESEM administrator. We would envisage that AEMO would play a key role in identifying the quantity of bulk VRE, shaping and firming services required to support the transition. However, the procurement of these services via the ESEM administrator would best be done via a separate entity to support good governance. In addition, the skillsets required to be an effective ESEM administrator are quite

distinct from the current skillsets in AEMO, a point we discussed in detail in a submission to the Expert Panel.¹

Besides the core system operator role, and the varied services of ASL, AEMO also provides a policy and system planning function which has proved controversial at times. We understand that there are potential reasons for retaining this function within AEMO but also other reasons why it could be separated. For example, there may be synergies in retaining it within AEMO because of the expertise of the staff involved. However, there also could be a benefit in moving this to a separate entity which can be more accountable to the Government(s) providing the policy direction.

If the planning and policy function is moved to a Government entity, then this should be funded by Government. A major issue with the recent significant budget growth of AEMO is that Governments' have added to its role but funded this through industry levies. This issue is discussed further below but is strongly linked to the governance framework chosen.

In Western Australia, the cost of operating the WEM has increased significantly since the approval of AR6 and it has put a spotlight on governance arrangements. A key contributing factor to AEMO's increasing costs in the WEM is the volume of projects driven by the State Government that AEMO is being required to implement without proper consideration of cost. This was noted by the Economic Regulation Authority:

"...[AEMO] must prioritise delivery of reform and transition activities to deadlines set in the WEM Rules and by the State Government and Energy Policy WA. As a result, AEMO is incentivised to prioritise the timely delivery and full scope of reform work, over limiting cost pressures."²

Enhanced governance arrangements, including sharpening reputational incentives and improving rigour around planning, reviewing, budgeting and implementing State Government led reforms is essential to ensure major projects benefit the customers who must ultimately pay for them.

In the United Kingdom, the Office of Gas and Electricity Markets is establishing a performance-based RIIO framework (Revenue, Incentive, Innovation and Outputs) for the new National Electricity System Operator (NESO). NESO's licence conditions will link executive remuneration to performance against KPIs. The AEC considers that such an approach should also be considered for AEMO.

Linking financial incentives for senior executives to the satisfaction of KPIs would require an amendment to AEMO's constitution and a restructuring of AEMO. However, this measure would act as a genuine incentive for executives to ensure AEMO operates efficiently and delivers projects on schedule.

¹ <https://www.energycouncil.com.au/media/0eplati4/20250930-aec-submission-to-esem-policy-design.pdf>

² See p32, [Australian Energy Market Operator's AR6 second in-period allowable revenue and forecast capital expenditure proposal – Final determination](#)

Membership structure and Board of directors

The AEMO Constitution currently requires that 3-6 board members (out of a total of 5-10) must have specific industry experience. The AEC supports maintaining a high level of energy industry expertise on the Board, particularly given the current rate of change in energy markets. Electricity and gas markets can include highly technical aspects, and it will increase confidence in the Board and AEMO more generally by having experienced industry members.

The discussion paper also notes that whilst board members with industry experience can make up the majority of the Board, members voting rights are split 60% governments and 40% industry. However, according to legislation, directors are bound to act in the best interests of the company, so such simplifications may not accurately reflect the governance structure. Overall, the AEC believes that a majority of directors (not only those nominally representing the industry) would benefit from having broad experience.

Recommendation 2: That AEMO retain a majority of independent directors with extensive industry experience

Budgeting and implications for AEMO's responsiveness to governments

The AEC would support further scrutiny and transparency of AEMO's budget. The discussion paper notes that AEMO's budget in the NEM has nearly tripled in the past 5 years. Whilst we acknowledge that this is partly due to expanded functions and requests from Governments, we suggest that the budgeting process could be improved. This is an important issue for our members, who directly contribute the industry levies to fund AEMO, and consumers who ultimately pay for reforms.

In late 2020 and early 2021, the AEC and Energy Networks Australia jointly commissioned work into AEMO's governance that recommended more industry or regulatory oversight of its activities and expenditure along with completion of the statement of role. This report led to AEMO convening a Financial Consultative Committee, to give industry and consumers greater oversight and input into AEMO's financial governance. This committee is operating and remains beneficial, however there is potential to enhance it further through a more direct role in AEMO's governance as a committee reporting directly to the Board.

Consideration should also be given to funding an independent expert to interrogate AEMO's costs to ensure they are prudent and efficient, similar to the way the ERA in Western Australia reviews proposals from AEMO to determine the allowable revenue and forecast capital costs, or the way networks are regulated in the NEM. For example, the AER (or another independent body) could play a role in scrutinizing the budget.

Recommendation 3: An independent body should review and approve AEMO expenditure

Having an independent body make the final approval decision on expenditure would add a layer of accountability, keep checks on AEMO, and give more confidence to stakeholders.

Recent proposals led by Energy Policy WA to reduce the role of the ERA in providing oversight of AEMO in Western Australia were widely rejected by stakeholders.³ The ERA, consistent with its functions under the ERA Act 2003, is regarded as an important and necessary safety net for Market Participants, who rely on the ERA's unique skillsets and capacity to assess AEMO's submissions, ensure they are operating efficiently and keep them accountable. The ERA acts as a critical guardrail that creates a degree of accountability for AEMO.

The main issue in Western Australia is that AEMO has been required to implement a large number of projects to address the energy transition underway in the WEM. Most of these projects are driven by the State Government or Energy Policy WA, and AEMO has a requirement to implement these reform programs to deadlines set in rules and guidelines. However, most of the larger reforms, such as the WEM Reform, five-minute settlement, WEM Investment Certainty Review and Planning Criterion changes, did not undergo a cost-benefit analysis. The volume of these reform projects being given to AEMO is outstripping their capacity. The AEC welcomes a review of AEMO's oversight arrangements with a view to reducing costs and improving transparency and accountability.

The transparency of how costs are allocated could be improved. Whilst AEMO provides some level of detail about how costs are allocated across programs, it is not always clear how costs are split between core market operations and other requests from Governments. Providing further transparency and reporting requirements would be beneficial. To the extent that jurisdictions are retaining AEMO to do jurisdictional-specific work, these costs should be recovered through the jurisdictions themselves, rather than be socialised as part of participant fees.

For example, an extract below is taken from AEMO's Final budget and fees FY26 document⁴. It shows a high-level overview of AEMO's investment plans. Whilst having transparency of these projects is useful, it would be beneficial to also have further granularity under each project, including which aspects are the results of Government policy.

Table 7. AEMO's FY26 Net Investment Plan

Budget FY25		Budget FY26	Variance	Variance
\$m		\$m	\$m	%
Reform delivery (NEM and East Coast Gas)	73.9	85.3	11.4	15.4%
WA program	32.1	32.0	(0.1)	(0.3%)
Designing and modernising market operations systems	48.8	38.6	(10.2)	(20.9%)
Modernising business systems	25.2	24.1	(1.1)	(4.4%)
AEMO capital expenditure	180.0	180.0	0.0	0.0%
Project-related operating costs *	38.6	36.9	(1.7)	(4.4%)
Total investment expenditure #	218.6	216.9	(1.7)	(0.8%)

³ See p15, [Allowable Revenue Framework Review: Consultation Paper](#)

⁴ AEMO Final budget and fees FY26, page 39.

AEMO cost overruns when implementing AEMC rule changes is also an issue. The AEC has experienced a trend towards the AEMC making rule changes that leave an increasing level of discretion to AEMO in implementation. Some aspects of AEMOs implementation could be construed as technical in nature but some move into the realms of policy making. These implementation workstreams do not always include an estimate of costs or a cost benefit analysis which takes into consideration the costs to industry as a result of how AEMO decides to implement changes on their end. There is also little accountability on AEMO to justify their costs or to ensure that they are kept to once the rule change is approved and implemented.

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