



**The Hon Anthony Roberts MP**  
Minister for Resources and Energy  
Special Minister of State

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Your reference: LAC14/117

Ms Ronda Miller  
Clerk of the Legislative Assembly  
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Dear Ms Miller

Thank you for your letter of 7 April 2014 providing the final report of the Legislative Assembly Public Accounts Committee *Inquiry to Cogeneration and Trigeneration in New South Wales*.

The NSW Government is committed to facilitating timely and effective arrangements for integrating embedded generation, including cogeneration and trigeneration systems, both through the national energy and NSW market frameworks.

It is important to ensure that these frameworks meet the needs of customers and providers of polygeneration systems to reduce barriers, enabling new entrants and diversifying energy supply for NSW customers while ensuring public safety and consumer protections are appropriately maintained.

The NSW Government acknowledges the work of the Legislative Assembly Public Accounts Committee in considering the regulatory framework, financial viability and risks faced by prospective polygeneration customers.

The Government's response to the Committee's recommendations is outlined in the enclosed NSW Government response.

Yours sincerely

Anthony Roberts MP  
**Minister for Resources and Energy**  
**Special Minister of State**

Encl.

**NSW Government response to the  
Legislative Assembly Public Accounts Committee  
Report: *Polygeneration in New South Wales***

**September 2014**

**NSW Government response to the Legislative Assembly Public Accounts Committee's report: *Polygeneration in New South Wales***

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The NSW Government acknowledges the work of the Legislative Assembly Public Accounts Committee in considering the regulatory framework, financial viability and risks faced by prospective polygeneration customers. The Government's response to the Committee's 20 recommendations is outlined below.

**RECOMMENDATION 1**

<p>The Committee recommends that the NSW Department of Trade and Investment, Regional Infrastructure and Services develop and implement mandatory network design, planning and reliability standards for polygeneration networks across NSW.</p>
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**Noted**

The Department of Trade & Investment, Regional Infrastructure and Services (NSW Trade & Investment) will look at options for implementing this recommendation to minimise regulatory burdens and costs, promote safety and consumer protections as well as support investment in polygeneration networks. This will be undertaken in the context of national frameworks (including COAG Energy Council and Australian Energy Market Commission work) and include the identification of any gaps in the current regulatory framework. NSW Trade & Investment will report back on the results of its analysis to the NSW Government by June 2015.

Much work is already taking place to implement the intent of this recommendation through Australian Energy Market Commission rule change proposals, including the COAG Energy Council rule changes regarding connecting embedded generation and distribution network pricing arrangements to look at more efficient network pricing arrangements.

## RECOMMENDATION 2

The Committee recommends that the NSW Office of Environment and Heritage promote its recently developed 'Cogeneration feasibility guide' and 'tool' to businesses, government departments and public sector agencies across NSW.

### Supported

The Office of Environment and Heritage (OEH) launched the *Cogeneration Feasibility Guide* and supporting Microsoft Excel-based tool in November 2013. This guide and tool help users understand cogeneration and trigeneration and take users through a step-by-step process to investigate the feasibility of a project. A site's specific energy and tariff data can be entered into the cogeneration tool to analyse the financial viability of cogeneration for the particular site. The *Cogeneration Feasibility Guide* has been downloaded 450 times and the tool over 300 times from the OEH website. Over 250 hard copies of the *Guide* have been distributed through industry conferences and training courses.

The *Cogeneration Feasibility Guide* has been widely promoted by OEH. The guide was publicly launched by the Minister for the Environment. OEH has distributed the guide to Energy Saver program participants as well as key stakeholder groups such as the Energy Efficiency Council and the Green Building Council of Australia. In addition, OEH offers introductory and technical training on cogeneration feasibility with close to 200 participants trained to date.

OEH is assisting a number of government sites to evaluate and implement polygeneration projects. For example, OEH is currently assisting the Sydney Olympic Park Authority and Auburn Hospital with the installation of cogeneration systems and support has been given to 10 hospitals across western Sydney and regional NSW.

OEH will continue to promote the *Cogeneration Feasibility Guide* and tool to NSW businesses and government agencies and support the identification and implementation of suitable site-specific polygeneration projects.

## RECOMMENDATION 3

The Committee recommends that the NSW Department of Trade and Investment, Regional Infrastructure and Services develop an emergency plan, outlining procedures to respond to gas supply shortages and unforeseen interruptions to gas supply, particularly to polygeneration systems in hospitals and nursing homes.

### Noted

Comprehensive emergency response procedures are already in place under legislation and other regulatory mechanisms to address unforeseen interruptions to gas supply. Households, hospitals and nursing homes are prioritised for access to gas in the event of supply shortages. These arrangements cover gas usage by polygeneration systems connected to the network.

#### **RECOMMENDATION 4**

The Committee recommends that the NSW Department of Trade and Investment, Regional Infrastructure and Services publicly report on the outcome of its investigation of market-based mechanisms for promoting gas efficiency.

#### **Under consideration**

The *NSW Energy Efficiency Action Plan* (Action 4) commits the Government to investigate market-based mechanisms to provide financial incentives for household and business natural gas efficiency.

The Energy Savings Scheme (ESS) is a market-based instrument that creates financial incentives to reduce electricity consumption by encouraging energy savings activities. It provides opportunities for energy saving equipment and technologies to be delivered to businesses and households. NSW customers benefit from lower electricity bills through energy efficiency activities and businesses can gain income from selling Energy Savings Certificates (ESCs).

The NSW Government is currently considering the inclusion of gas as part of the review of the ESS. An ESS issues paper was released for public comment in December 2013.

NSW Trade & Investment and the OEHL will publicly report the findings and outcomes of the ESS review.

#### **RECOMMENDATION 5**

The Committee recommends that gas savings be included in the Energy Savings Scheme.

#### **Under consideration**

The NSW Government is currently considering the inclusion of gas as part of the review of the ESS as detailed in the reply to recommendation 4 above.

## **RECOMMENDATION 6**

The Committee recommends that the NSW Office of Environment and Heritage conduct a review and publicly report its findings on whether the proposed NSW Energy from Waste Draft Policy Statement is discouraging the generation of renewable gases from waste.

### **Not supported**

The NSW Government does not support a review of the NSW Energy from Waste Policy Statement (the Policy) at this stage. The Policy has only been in operation since March 2014 and there will be limited cases to review and evaluate. An early review may lead to investment uncertainty.

A future review would be appropriate once industry has had the opportunity to develop and implement facilities and upgrades that generate renewable gases from waste. A five year period of operation would be considered appropriate prior to any review.

The policy was released on 17 March 2014 following an extensive public consultation process. The policy outlines requirements for facilities proposing to recover energy from waste in NSW, establishing a two-tiered framework that separates requirements for the thermal treatment of waste on the basis of risk.

The NSW Government is supportive of the generation of renewable gases from waste where it is part of an integrated, compliant waste management strategy. The Policy facilitates the production of energy from a broad range of gases, including renewable and synthetic, with regulatory requirements determined by the type of gas. The Policy enables the use of renewable gases produced from waste streams that were unavailable under previous approaches.

It should also be noted that the Energy from Waste Policy is led by the Environment Protection Authority and not the Office of Environment and Heritage.

## **RECOMMENDATION 7**

The Committee recommends that the Minister for Resources and Energy initiate a review of the Gas Supply Act 1996 and relevant Regulations to enable renewable gas injection into the gas grid to be separately accredited.

### **Noted**

There may be scope for a gas accreditation scheme to be incorporated in the existing National GreenPower Program. This issue has been included in the scope of work for the evaluation of the National GreenPower Program that will include stakeholder consultation. This approach is preferred over a review of the Gas Supply Act 1996 at this time.

## RECOMMENDATION 8

The Committee recommends that the Minister for Resources and Energy update the Service and Installation Rules to provide improved guidance for prospective polygeneration connection applicants.

### Supported

The Service and Installation Rules Working Group will be asked to consider whether any changes are required to the Rules to support polygeneration systems and report back to the Minister for Resources and Energy by 30 June 2015.

## RECOMMENDATION 9

The Committee recommends that the Department of Trade and Investment, Regional Infrastructure and Services work with the Distribution Network Service Providers in NSW to develop a transparent approval process for polygeneration connection applicants.

### Supported

NSW Trade & Investment will work with DNSPs to ensure that network requirements are clear, transparent and readily available. This will be conducted in parallel with the above work identified in Recommendation 8.

## RECOMMENDATION 10

The Committee recommends that the Minister for Resources and Energy, through his position on the Standing Council on Energy and Resources, support the rule changes proposed by the Australian Energy Market Commission to amend the National Electricity Rules with respect to embedded generators.

### Supported in principle

Amendments have already occurred to the *National Electricity Rules* (the Rules) and will come into effect from 1 October 2014. These new Rules, relating to the connection of embedded generators, now set in place a clearer and more transparent process for generators greater than 5 MW to connect to the network. Through the work of the Renewable Energy Advocate, NSW Trade & Investment is facilitating a targeted process to assist the NSW DNSPs to apply the new rules and pass on the benefits to stakeholders.

### RECOMMENDATION 11

The Committee recommends that the Minister for Resources and Energy advocate for the rule change proponents' proposal to introduce a mechanism to provide oversight of Distribution Network Service Providers' decision-making process relating to the right of a generator to export excess electricity to the grid.

#### Noted

The NSW Government will review the merits of each proposal in context of NSW 2021 Plan goals to rebuild the economy, particularly to place downward pressure on the cost of living and increase the competitiveness of doing business in NSW.

### RECOMMENDATION 12

The Committee recommends that the Minister for Resources and Energy publicly report on the progress of the amendment of the National Principles for Feed-in Tariff Schemes to include all forms of micro generation technologies.

#### Noted

The NSW Government has already reaffirmed its commitment to the *National Principles for Feed-in Tariff Arrangements*. The 2008 National Principles have been amended to extend the requirements from applying only to small renewables to all grid connected micro generation that is compliant with the relevant Australian Standard (AS4777). These revised National Principles were released during July 2013 and are publicly available on the COAG website at <http://www.coag.gov.au/node/507>.

### RECOMMENDATION 13

The Committee recommends the Minister for Resources and Energy publicly report on the extent to which the adoption of the National Energy Customer Framework has facilitated direct negotiation between Distribution Network Service Providers and customers, and led to any financial support for polygeneration to date.

#### Not applicable

Distributors are required to report to the Australian Energy Regulator on compliance with the National Energy Retail Rules and on performance as required by the Australian Energy Regulator (AER) *Performance Reporting Procedures and Guidelines*. There are no reporting requirements regarding the financial support measures extended to customers from the distributors.



#### **RECOMMENDATION 14**

The Committee recommends that the NSW Government reject calls for polygeneration to be incentivised over other forms of distributed energy generation by making available discounted network fees based on occasional use of the network.

#### **Noted**

The network charges for services provided by monopoly businesses are set by the AER following an extensive public review process. The network charges for the 2014 to 2019 period are being reviewed this year and will be determined by the AER in late 2014.

Where a polygenerator is seeking a connection that can be provided as a competitive service, and not under the regulated price structure discussed above, the market will set the appropriate charges.

#### **RECOMMENDATION 15**

The Committee recommends that the Department of Trade and Investment, Regional Infrastructure and Services provide an information package outlining the options available for, and the regulatory framework surrounding, virtual private wire networks and virtual net metering for those generators who wish to explore this method of distribution.

#### **Noted**

Virtual private wire networks and net metering arrangements are at an early stage of development. As the market develops, NSW Trade & Investment will monitor the need for additional information to support prospective polygeneration systems connecting to the network.

## **RECOMMENDATION 16**

The Committee recommends that, to the extent that safety requirements and consumer protection provisions allow, the Department of Trade and Investment, Regional Infrastructure and Services simplify retail licensing arrangements for smaller polygeneration operators.

### **Not applicable**

Since 1 July 2013 the Australian Energy Regulator (AER) has had responsibility for administering electricity retailer authorisations in NSW. As noted by the Committee, the AER has the discretion to authorise or exempt any person selling energy to premises (retailing).

The AER has been actively working to develop appropriate consumer protection requirements. Most recently, the AER issued a final statement of approach on the *Regulation of alternative energy sellers under the National Energy Retail Law* in July 2014. The AER recognises the need for ongoing flexibility in applying the appropriate level of regulation and details clear principles for the regulation of alternative energy sellers.

## **RECOMMENDATION 17**

The Committee recommends that the Minister for Fair Trading, through his position on the Ministerial Council on Consumer Affairs, advocate for the Australian Competition and Consumer Commission to provide clarity on the impact of anti-competitive behaviour and exclusive dealing in specific situations for developments utilising polygeneration.

### **Supported in principle**

The NSW Government is committed to keeping downward pressure on the cost of living and maintaining consumer protections for households across the State.

The Minister for Fair Trading will raise the issue of anti-competitive behaviour and exclusive dealing in specific situations for developments utilising polygeneration with the Federal Minister, through the meeting of Fair Trading Commissioners to be held in November 2014.

### **RECOMMENDATION 18**

The Committee recommends that the Minister for Resources and Energy publish an information package for consumers of energy from polygeneration sources outlining their rights and the responsibilities of energy providers.

#### **Noted**

NSW Trade & Investment will undertake a gap analysis for what information is already available through the AER and retailers and identify where further work is required. The Department will report back to Minister on options for improving information provision by the end of 2014.

### **RECOMMENDATION 19**

The Committee recommends that the Minister for Resources and Energy expand the powers of the Energy and Water Ombudsman to include customer complaints about the provision of thermal energy in the form of hot and chilled water.

#### **Noted**

The NSW Government will work with the Energy & Water Ombudsman NSW (EWON) to identify the feasibility and costs involved in EWON undertaking this role.

### **RECOMMENDATION 20**

The Committee recommends that the Premier introduce legislation to empower the Independent Pricing and Regulatory Tribunal to regulate the price of thermal services, in a manner similar to regulation of other energy services.

#### **Noted**

The NSW Government stopped regulating electricity prices on 1 July 2014. This was done because the electricity market is mature and there was evidence that removing regulation would increase competition and drive lower electricity prices.

The market for thermal energy is less mature. At this time NSW Trade & Investment is examining the establishment of a consumer protection regime for thermal energy, as part of the legislative framework for the safety and technical regulation of thermal energy networks.