

20 March 2017

Samantha Chard  
Assistant Secretary  
Critical Infrastructure Centre  
Attorney-General's Department  
3-5 National Circuit  
Barton ACT 2600

By e-mail: [cicentre@ag.gov.au](mailto:cicentre@ag.gov.au)

## **Strengthening the National Security of Australia's Critical Infrastructure**

Dear Sam,

Energy Networks Australia welcomes the opportunity to make a submission to the Critical Infrastructure Centre's 'Strengthening the National Security of Australia's Critical Infrastructure' discussion paper (February 2017).

Energy Networks Australia is the national industry body representing businesses operating Australia's electricity transmission and distribution and gas distribution networks. Member businesses provide energy to virtually every household and business in Australia.

Energy Networks Australia recognises and supports the Critical Infrastructure Centre's purpose to provide greater clarity for owners, operators and investors of critical infrastructure in terms of critical asset identification, risk assessment and development of risk management strategies.

Through consultation with its member businesses, Energy Networks Australia has identified several general comments for further consideration by the Critical Infrastructure Centre, and has provided responses relating to the 10 questions posed within the Discussion Paper for comment (please see Appendix A).

### ***Defining the role of the Critical Infrastructure Centre***

Energy Networks Australia member businesses expressed a need for greater understanding of the role of the Critical Infrastructure Centre (the Centre) and its relationship with existing Australian Government agencies such as CERT Australia, to assure stakeholders that there is no duplication of responsibility or reporting requirements. This definition will also assist energy network owners and operators in identifying how best to engage with the Centre and assist with more accurately answering some of the questions contained within the discussion paper.

Consultation on this topic revealed that our members are wanting to develop a strong partnership-type arrangement with the Centre, which would build upon successful relationships that exist with CERT Australia and the Trusted Information Sharing Network (TISN). Energy Networks Australia recommends that the Centre moves to establish a

steering committee or similar, with representatives from industry and Government, to ensure successful development of the Centre's operating framework and stakeholder engagement mechanisms.

### ***Implications of restrictions on foreign ownership, as well as foreign-sourced products and services***

Energy Networks Australia recognises that appropriate controls need to be in place to protect Australia's critical infrastructure. The Electricity Network Transformation Roadmap recently developed by Energy Networks Australia and the CSIRO identified that between \$888 Billion and \$988 Billion dollars will need to be spent in Australia's electricity systems, including customer resources generating network and other services between 2017 and 2050. To achieve efficient costs for customers, Australia will rely on investment from both Australian and foreign sources. Energy Networks Australia urges that consideration be given to cost implications to network operators and consumers of restrictions on foreign ownership, in terms of reducing market competition for production, supply and ownership of energy infrastructure.

Without compromising the security objectives of the Centre, Energy Networks Australia suggests the Centre also consider the impact of its proposed functions in situations where certain types of products or services cannot be sourced from within Australia, or where the costs of utilising Australian versions of these products or services is prohibitive. This consideration of the impact of regulatory decisions on energy networks is increasing in importance as electricity networks undergo a rapid transformation to a more complex and decentralised design, where new technologies have few providers or alternatives.

### ***A 'Last resort' power***

Energy Networks Australia recognises and supports that use of a 'last resort power' would be restricted to matters of national importance, where other protection mechanisms have been deemed to fail. Further clarification is requested on how such a power would be implemented, what would trigger the power, and whether such considerations would include quantification of the potential impact on network operation safety, costs or reliability.

Alignment with the similar last resort power available within the telecommunications industry would assist network owners and operators to understand potential impacts on industry, and is particularly important for energy network owners or operators who also own or operate telecommunication networks. Of course, the structural implementation of such a power should account for differences in jurisdictional arrangements, particularly where similar powers already exist within States such as in Victoria where the Energy Minister has broad powers under the *Electricity Industry Act 2000*.

As you are aware, revenue from operation of energy networks is regulated by the Australian Government through the Australian Energy Regulator, with revenue determinations conducted on 5 year intervals. This has implications for how to account for sudden increases in operating costs, which may be brought on by Government mandated restrictions on supply chains or network ownership.

Early consultation with energy network owners and operators is recommended, to allow network owners and operators to understand how to mitigate risks that may otherwise trigger

the last resort power. This is particularly important for companies who are already partly or wholly foreign owned, as well as companies currently reliant on foreign owned products and services.

Should you have any additional queries, please feel free to contact Heath Frewin, Energy Network Australia's Senior Program Manager – Asset Management on (02) 6272 1531 or [hfrewin@energynetworks.com.au](mailto:hfrewin@energynetworks.com.au).

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'John Bradley', written in a cursive style.

**John Bradley**  
**Chief Executive Officer**

APPENDIX A

**Address of specific questions raised**

Question for discussion	Energy Networks Australia response
<p><b>Are the proposed functions of the Centre adequate to better manage the national security risks to our critical infrastructure?</b></p>	<p>Energy Networks Australia considers the proposed functions of the Centre to be adequate.</p>
<p><b>What role could you play in assisting the Centre to undertake these key functions?</b></p>	<p>Energy Networks Australia represents gas distribution, and electricity transmission and distribution network providers and would work wherever needed with the Centre to facilitate industry collaboration. Further details are needed on how the Centre’s industry engagement will be structured, before a definitive understanding of how Energy Networks Australia or its members can assist the Centre.</p> <p>Energy Networks Australia considers that a steering group (such as the advisory council model currently used by the Trusted Information Sharing Network) could be established, to allow knowledge to be shared between network operators and the Centre on how to best implement the proposed functions of the Centre.</p>
<p><b>How should the Centre work with owners and operators when performing its functions, including understanding existing mitigation mechanisms?</b></p>	<p>Energy Networks Australia supports the Australian Cyber Security Strategy and recognises that industry must do its part in ensuring the success of this strategy. To this purpose, Energy Networks Australia and its member organisations would like to work in partnership with the Critical Infrastructure Centre and assist the Centre in its functions such as through voluntary reporting.</p> <p>As mentioned previously, a Government-Industry joint steering group could be formed to work together to design an effective engagement structure for how and when the Centre performs its functions.</p>

	<p>For example, consultation with member organisations has illustrated to Energy Networks Australia that variation exists between jurisdictions in terms of the definition of what constitutes critical infrastructure. The Centre could work through the steering group to come to consensus on a nationally consistent definition, which would assist in undertaking a national risk assessment of critical infrastructure.</p> <p>As another example, the steering group could develop a self-assessment methodology for understanding risk management maturity of infrastructure operators.</p>
<p><b>What other type of information would be important for the Register to collect and why?</b></p>	<p>Energy Networks Australia recommends the Centre consider collecting contextual information related to assets, to understand why each asset is considered critical. Such contextual information could include the number or importance of dependent consumers or spatial proximity to population.</p> <p>Where possible, to ensure efficiency, information provided by network operators to the Centre should align with similar reporting already being undertaken for other State or Commonwealth agencies.</p>
<p><b>What other types of information would improve our understanding of foreign involvement in outsourcing, offshoring and supply chain arrangements?</b></p>	<p>Energy Networks Australia seeks further clarification from the Centre on what it considers “foreign involvement” and how the functions of the Centre could impact on supply chain arrangements. This clarification would then allow us to provide input on what other types of information would assist in understanding foreign involvement.</p> <p>We are keen to assist. As you would be aware, network operators often utilise products and services of companies which originate from overseas. This includes companies based in Australia providing products which utilise components manufactured overseas, as well as international companies with local support offices. A situation could exist where restrictions on use of foreign-sourced SCADA and operational management systems cause network operators to</p>

	<p>look for Australian solutions, where no suitable Australian-produced products are available.</p>
<p><b>Does the 30 day period provide sufficient time for owners to register their interest in a critical infrastructure asset? If not, what alternative(s) do you propose and why?</b></p>	<p>Without knowing what the registration process will entail, or what level of detail is required, it is not possible to provide a definitive answer at this stage.</p> <p>Energy Networks Australia would welcome a practical registration process and suggests that the Centre consider a provision to review the performance of the process within 12 months of introduction.</p>
<p><b>Is a six month transition period appropriate? If not, what alternative(s) do you propose and why?</b></p>	<p>As above, it is difficult to provide a definitive answer without first designing the structure to which network owners and operators must transition to.</p> <p>Energy Networks Australia would welcome a practical approach, designed in partnership with network owners and operators, to ensure objectives are achieved.</p>
<p><b>What are the main advantages and disadvantages of a register administered by the Australian Government?</b></p>	<p>Energy Networks Australia considers a national register administered by the Australian Government to be the most appropriate option. This is based on the national importance of critical infrastructure security and the national approach that already exists to energy network regulation. Naturally, effort should be made to ensure minimal duplication of State or Territory-based reporting requirements where possible.</p> <p>A national register, with nationally agreed reporting definitions and commitments, would allow a more accurate assessment of overall risk. Energy Networks Australia suggests that the Centre consider seeking further input from industry on reporting mechanisms, timing and available information when establishing such a register.</p> <p>Given this would represent a valuable source of intelligence, Energy Networks Australia recommends that this register be appropriately secured by the Australian Government.</p>
<p><b>What are your views on the introduction of a 'last resort</b></p>	<p>Energy Networks Australia recognises and supports that use of a 'last report power' would be</p>

**power' to address significant risks where all other risk management avenues have been exhausted?**

restricted to matters of national importance, where other protection mechanisms have been deemed to have failed.

Energy Networks Australia considers that while last resort powers should be matched to the specific risks that face each sector, alignment with the similar last resort power available within the telecommunications industry would assist network owners and operators understand potential impact on industry, and is particularly important for energy network owners or operators who also own or operate telecommunication networks.

Energy Networks Australia would appreciate further clarification of how such a power would be implemented in an environment with varying existing jurisdictional powers, what would trigger the power, and whether such considerations would include quantification of the potential impact on network operation safety, costs or reliability. This is particularly important for energy networks, as revenue from operation of these networks is regulated by the Australian Government through the Australian Energy Regulator, with revenue determinations conducted on 5 year intervals.

For example, prevention of network owners and operators from using foreign-sourced network management systems or system support services could materially increase operating costs in the short term, with no way for networks to include such unexpected costs in their existing 5 year revenue determination. Consideration of how to operate the last resort power within the existing regulatory environment, including how to mitigate this increase in cost, should be pursued by the Centre.

Early consultation with energy network owners and operators is recommended, to allow network owners and operators to understand how to mitigate risks that may otherwise trigger the last resort power. This is particularly important for companies who are already partly or wholly foreign owned, as well as companies currently reliant on foreign owned products and services.

**What other protective measures or safeguards could be applied to enhance national security risk mitigation in those rare cases where risk cannot be appropriately mitigated via current mechanisms?**

Energy Networks Australia would welcome stronger guidance from the Centre on what is expected of owners and operators of critical infrastructure. As a preventative measure, the Centre could establish a clear understanding of what is good practice.