



**Submission on the Draft Report on the Independent Review of the
Greenhouse and Energy Minimum Energy Standards Act**

January 2019

Overarching Comment

AREMA agrees with the report's main findings, namely that, "the GEMS Act is achieving its purpose of providing a streamlined nationally-consistent approach to appliance energy efficiency while effectively reducing energy use, power bills and greenhouse gas emissions." Additionally, we agree with the broad thrust of the findings as detailed in the Executive Summary for specific reforms to ensure that the GEMS Act can deliver additional benefits to the Australian community.

AREMA also observes that the rationale for development of the GEMS Act – the development and deployment of a nationally consistent and comprehensive approach to energy efficiency - remains relevant today. State-based policy and programs are difficult for industry, particularly when their development is ad hoc and inconsistent. An effective national approach offers a better solution that can streamline regulatory development, deliver meaningful energy and environmental benefits at scale, while also reducing regulatory burden on industry. It is imperative however to ensure that the GEMS Act works well. AREMA's comments are intended to help further improve the GEMS Act.

Specific Comments

Section 2.2 – AREMA notes the reference to the Air Conditioning and Refrigeration Advisory Committee. It is worth observing that the Act does not mandate bodies such as this and that ACRAAC was established after a period of poor communication between the GEMS Regulator (and officials) and industry. As a result of this experience it was recognised that there was an overwhelming need for genuine, considered consultation in the development of new regulation and that a formal structure could assist in achieving this aim. While AREMA's experience in developing new regulations over the last few years has been overwhelmingly positive, this engagement is not industry's universal experience. AREMA would propose that consideration be given to the development of similar committees and other strategies wherever possible to lock in the practice of effective consultation.

Section 2.5 – AREMA was supportive of the development of the E3 2017-18 Prioritisation Plan and notes that a similar plan was not released to industry for the 2018-19 period. AREMA proposes that this plan be developed and released annually. Further, AREMA suggests that industry be engaged in its development, or – at least – that its views are sought before it is finalised.

Section 3.3 – AREMA strongly supports the reviewer's analysis that, [as] "Australia is a relatively small market for appliances and equipment . . . [in] most cases, it is important that Australia seeks to harmonise with world's best practice regulations rather than seeking to overstep or lead on product energy efficiency. It is unlikely that multinational companies would produce a specific product line to meet Australian specific regulatory requirements."

Section 4.3 – AREMA notes the large benefits estimated that accrue to the Australian community from energy efficiency measures. We would point out that while the GEMS Act has reduced regulatory burden from a state-based approach to energy efficiency regulation, the GEMS Act is still an overall cost to industry and not a benefit. Accordingly, it is appropriate for the community – through Government – to cover some of the direct costs and not have these be the sole responsibility of industry.

Section 5.2.2 – AREMA observes that while MEPs may drive innovation globally, the small size of the Australian market mitigates against policy here driving the technological development of globally traded products.

Section 5.2.3 – AREMA points out that COAG’s guidance about consultation is woefully insufficient to provide industry with the certainty about the process it requires. There are numerous examples where there was “consultation,” but industry’s views were not considered and were rejected out of hand. This has led to technically flawed policy with perverse and costly outcomes. A simple recitation of COAG principles is insufficient to provide industry confidence that there will be genuine engagement. AREMA proposes that Recommendation 4 be amended to:

The Commonwealth Government request that the COAG Energy Council develop criteria to assess whether a standards or determination only process will be used and engage closely with industry on a product-by-product basis before agreeing to an approach.

Recommendation 6 & 7 – AREMA proposes that the recommendations be amended to include consultation with industry as part of the decision process. The GEMS Act impacts greatly on industry activities and it is only appropriate that we are part of the process in developing reforms and not simply a recipient of government conclusions.

Recommendation 8 – AREMA proposes that the recommendation be amended to provide industry comfort that issues it raised will be considered in setting dates. It is proposed that the recommendation be amended to

The Commonwealth Government consult with *and consider evidence provided by* affected stakeholders before specifying the implementation date of GEMS determinations. (words in italics added)

Recommendation 9 – AREMA notes that it was useful when the workplan was published. Propose amending recommendation to:

The Commonwealth Government request that the COAG Energy Council maintain *and publish* a work plan to review and renew GEMS determinations as appropriate. (words in italics added)

Recommendation 10 – AREMA notes that there are a number of flexible approaches to registration currently available which are usefully canvassed by the reviewer. We further note that these have not been used widely, and that there is a possibility and need for greater flexibility for registration relation to registrations. We propose that the recommendation be broadened to encourage greater uptake of flexible approaches and to ensure that any legislative hurdles that currently exist in using these approaches are identified.

Recommendation 12 – AREMA strongly supports this recommendation. We would note, however, that we have had issues in the past where tight definitions have prevented common sense approaches that would work well, and we therefore request that any legislative amendment be prepared in such a way to provide the regulator with the capacity to respond to specific industry circumstances.

Recommendation 13 – AREMA contends that this recommendation should include active consideration of how the ozone and GEMs legislation and compliance framework could be made more complementary. This would include, but not be limited to, registration issues. We propose that this recommendation be amended to:

The Commonwealth Government examine the joint registration arrangements with the EESS for ~~other~~ GEMS products covered under the Act *and establish a working group with relevant officials and industry to determine how the ozone and GEMs legislation could be streamlined.* (words in italics added)

Recommendation 25 & 26 – AREMA strongly supports the collection and publication of robust data - noting at times there are significant, problematic and even insurmountable commercial-in-confidence issues. We agree that good data enhances policy making and provides a level playing field both for companies and supports effective industry engagement with government. We would, however, point out that the base data is industry-owned and of particular relevance to it. We suggest therefore that the recommendation be recast to include active participation by industry in both the oversight and conduct of assessment of GEMs effectiveness.

Recommendation 30 – As detailed above, AREMA would urge engagement with industry on the development of the workplan and that the plan be published. It would be useful for the recommendation to include these concepts.

5.7.2 – AREMA notes the comments from ASBEC, the Green Building Council and Climateworks and urges caution. As the reviewer notes, the Australian market is not large enough that new products will be developed for it should we have the most stringent energy efficiency measures. We also note that – at times – while European regulation in particular is set at a much higher bar than Australia, in Europe there is a reliance on self-assessment and virtually no compliance. Industry intelligence suggests that the solution at times is for the regulation to be effectively ignored within those jurisdictions. Setting the highest standard does not mean that the highest standard is actually applied. Finally, AREMA would observe that at times – chillers for example – international standards take very different approaches. Simply lifting an international standard and using it in Australia could lead to significant disruption without necessarily any gain in energy efficiency.

Recommendation 37 & 38 – In AREMA’s view the recommendations are inadequate. Quite simply, AREMA contends that there should not be two or more sets of regulation covering energy efficiency of the same product. This leads to increased industry cost for consultation, as well as compliance and other associated issues. We propose that the recommendation be amended to:

The Commonwealth Government continue to work with the COAG Energy Council to *eliminate the double coverage of equipment from building and appliance regulations and ensure consistency and harmonisation between them.* (words in italics added)

Additional Notes

For some products – such as chillers – the industry does not see the benefit for a public database. Suppliers rely on far more precise information for their decision-making. It is proposed that there be scope in the act to remove the database requirement where not needed to reduce administration costs.

The GEMS legislation should be amended to allow use of third party verification services such as AHRI and Eurovent for bespoke products, particularly where the Australian regulatory system is (will be) based on these.