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# Submission for REGULATORY SANDBOX ARRANGEMENTS TO SUPPORT PROOF-OF-CONCEPT TRIALS

## Executive Summary

In summary, I applaud your interest in creating more innovation. I do not think a regulatory sandbox is the answer. It actually creates another layer of regulation, often with minimal benefit.

Fast and reliable regulatory guidance is much more beneficial, especially if it gives new players access to discussing their projects with regulating bodies.

In addition, I support enhanced discretion of regulators to exempt pilot projects from regulatory requirements.

This approach creates co-operation with a focus on positive outcomes for consumers of electricity, it opens the ability to deal with innovative solutions that we might not even imagine today.

## Introduction

I am working as a volunteer for ZEN (Zero Emissions Noosa). Our goal is to increase the uptake of renewable energy in Noosa and we have put together a marketing plan of how to achieve that.

It includes a range of stakeholders including Energex and electricity retailers. In my research about the electricity market and running proof-of-concept trials, I came across your paper and wanted to add some thoughts.

Sometimes they are based on guesses and assumptions as I do not have much experience in the energy market. However, my role as entrepreneur in the fintech space and experience with the fintech sandbox might shed some useful light on your plans.

## QUESTION 1: OTHER SANDBOX EXAMPLES

I have had some experience with the ASIC fintech sandbox that your paper mentions. The most useful feature for us was the Innovation Hub that provided informal guidance around current regulations.

The problem was that it took 3 months to get a response. And then the response was just more questions. That is far too long in the fast moving start-up world. Mainly because an innovative business has many options as to how to solve a specific problem. Often it is possible to adjust how something is offered to customers and that can change the regulatory framework completely.

The “**fast, frank feedback service**” offered by ofgem in the UK sounds like a great solution.

I would propose a consultation session within a couple of weeks. Speaking with an industry expert who knows the full regulatory requirements across the various relevant bodies will direct the thinking of a start-up towards the most effective implementation.

## QUESTION 3: BARRIERS TO PROOF-OF-CONCEPT TRIALS

We are still in the early stages of preparing our trial and cannot comment. However, from your paper it

sounds like trials are absolutely possible. The question would be whether that is limited to existing electricity market players and whether less experienced start-ups get the same support.

Innovation often happens when we are free from an industry's knowledge of what is NOT possible. This is more likely to happen in small startups. So the suggestion I would like to make is to review when the AER exercises its enforcement discretion, and whether that predicates known players or allows for small innovative businesses.

## QUESTION 4: ACCESS TO GUIDANCE ON THE REGULATORY FRAMEWORK

### (a) Is there a lack of access to guidance for innovative new entrants on navigating the energy regulatory framework?

It is difficult to find the right starting point for guidance for new entrants. This is because we might not even know what to ask.

### (b) If so: • What type of guidance is needed?

I would propose a mutual review of the innovator's plans and business model. **"Fast, frank feedback service"** that focuses on two areas: which bodies and regulations might impact the business plans and what changes might reduce the regulatory burden.

The goal is **"innovative technologies that can help reduce the costs of providing secure and reliable electricity supply and also contribute to reducing emissions"**. Avoiding unnecessary regulatory costs definitely help with that.

### Who should provide it?

Regulators' mindset is around the avoidance of risk. Innovation searches out new pathways that are risky by their very nature of not having been used before. It is for that reason, I'd rather see the guidance come from outside the regulators.

It seems that ARENA and Energy Consumers may be more closely aligned to achieve positive outcomes through innovation. With the existing trust relationships between them and AER, AEMO and AEMC, the more "independent" guidance could then flow into fruitful relationships at the point of proposing trials.

### Should guidance be coordinated across the AER, AEMO and AEMC?

Yes, definitely. And also extended to ARENA and Energy Consumers Australia and possibly ASIC and the other financial regulatory organisations. As energy and financial trading merges more, there is benefit in that.

### How should the provision of guidance be funded?

Innovation is unpredictable. It is often not possible to know the likelihood of business models succeeding as there are so many variables. That is the reason, I suggest small support to many businesses & projects early on. It could be a stepped approach where the initial guidance is a phone call only. The projects making it to the next round could then receive more in-depth guidance.

A small fee for businesses could help reduce the time-wasters. But the bulk of the costs should be covered by our taxes.

### Should an application be required in order to gain access to detailed guidance? If so, what criteria should apply?

Written applications are useful to help guide the thinking of new projects around the basic principles that need to be considered. So I support written applications.

As I outlined above, success cannot always be spotted at the beginning of innovative ideas and often it is only during the research into possible solutions that the real gems are discovered. I would

therefore set very minimal criteria and allow anyone who takes the time to work through the application process to receive the initial guidance.

A more onerous process might follow before more in-depth guidance is given.

**(c) Is there a role for binding advice from market bodies on certain aspects of the regulatory framework to support proof-of-concept trials?**

Investors are backing marketing, technology and people risk. It is highly desirable that regulatory risk is minimised. So yes, binding advice is very useful to test more innovative concepts.

## QUESTION 5: TRIALS UNDER AER ENFORCEMENT DISCRETION

**(a) Is the AER's ability to issue no action letters, provide waivers and exemptions, and use its enforcement discretion sufficient to facilitate proof-of-concept trials in the NEM? If not, why?**

This is preferable to a formal sandbox. It creates the ability to react to unexpected innovation. If a sandbox is defined, it is only taking current knowledge into account. Completely new opportunities might not fit, but are likely to bring great benefit to the community.

In the fintech sandbox, limitations that were set up with a certain offering in mind, limited other solutions that on the face of it fell under it, but did not have anywhere close to the risk attached to them (e.g. the limit of how many clients a startup can have without a AFSL applies to both investment and payment services where one dealt with Millions of Dollars and the other with a few thousand only).

**(b) Is there a need for a more formal process for proponents of proof-of-concept trials to seek a no action letter?**

I do not know the current process, so cannot really comment. But I do know that regulatory certainty is essential to founders and investors. So the formality of the process is not so relevant, but the outcome has to be relied upon.

**(c) Should no action letters that facilitate innovation or proof-of-concept trials be made public?**

On one hand, this might inspire others to find similar innovations and reduce the burden on the regulatory advice service. On the other hand it could lead to copying innovation, which is not really innovation any more. So overall, I would say it is better not to publish the details.

## QUESTION 6: THE NEED FOR A FORMAL REGULATORY SANDBOX

**(a) Would formal regulatory sandbox arrangements, where some regulatory requirements are relaxed on a time-limited basis whilst appropriate safeguards remain in place, serve to better facilitate proof-of-concept trials in the NEM?**

As outlined above, my experience with the fintech sandbox was mainly a waste of time. It was far too restrictive and did not take special circumstances into account. In effect, it created another layer of regulation that needed to be navigated.

In addition, the tight time-frames around it pretty much meant, a participant had to start preparing for the full regulatory requirements straight away to be ready by the time, the time-limit sandbox ended.

I much rather trust in humans working together towards the desired outcomes of the regulatory framework and making decision based on actual projects. With the innovators, outcomes focused organisations such as ARENA & Energy Consumers Australia and regulators to protect the grid and consumers working together in a cooperative fashion, the best outcomes will be achieved.

### (b) What other regulatory tools are needed to facilitate proof-of-concept trials?

Regulation is important to protect consumers and the Australian community. However, giving new things a go can lead to much more positive outcomes than what the regulations envisaged.

While not a regulatory tool, I see it as essential to train the regulatory teams to think outside the box. Rather than just focusing on whether an innovative solution fits within regulation, it is important to change the focus and allow a level of discretion in interpretation what a regulation wanted to achieve and how the innovation can get us closer to positive outcomes.

It means supporting a level of risk taking. While I do not know any of the relevant bodies' cultures, my guess is that this requires a refocusing of the culture.

## QUESTION 8: TRIALLING INNOVATIVE REGULATORY PROCESSES

This deepens the point I made above. A regulated sandbox will limit the possibilities. But facilitating the right parties to cooperate will create innovative solutions and positive outcomes that we cannot even imagine yet.

### Conclusion

I hope that this input is beneficial and look forward to working with you over the coming months to help achieve more renewable energy uptake through an innovative pilot project in Noosa that hopefully can be copied by many other communities across Australia and the world.