

16 November 2021

Submitted via: parliament.nz

Economic Development, Science and Innovation Committee
Parliament
Wellington

RE: Electricity Industry Amendment Bill

Energy is an essential service, whānau need it for their health wellbeing and social participation. Clear protections to ensure all whānau can readily access the energy they need under fair arrangements are critical to wellbeing in our communities as our energy system transitions.

FinCap thanks the Economic Development, Science and Innovation Committee (**Select Committee**) for the opportunity to comment on the Electricity Industry Amendment Bill (**Amendment Bill**).

We strongly support the proposed amendments that can lead to prevention of hardship in Aotearoa via more robust consumer protections. FinCap is specifically concerned about the harm to whānau who find themselves having to decide whether to heat or eat. Whānau in Aotearoa should never be facing having to go without essential energy services.

We also strongly support the proposed amendments which would lead to a 'regulatory backstop' that can bring certainty that the recommendations of the Electricity Price Review (**EPR**) will be implemented. Clear recommendations from a review need to be progressed. Each day that protections or initiatives recommended by the EPR are not implemented, the harm they aim to prevent in the community continues.

We expand on these comments in the submission below.

About FinCap

FinCap (the National Building Financial Capability Charitable Trust) is a registered charity and the umbrella organisation supporting the 200+ local, free financial mentoring services across Aotearoa. These services support more than 70,000 people in financial hardship annually. We lead the sector in the training and development of financial mentors, the collection and analysis of client data and encourage collaboration between services. We advocate on issues affecting whānau to influence system-level change to reduce the causes of financial hardship.

FinCap comments on the Amendment Bill

Overall policy objective

FinCap strongly supports focus on regulatory frameworks that are appropriate for our electricity system transitioning to new technology. Because electricity is an essential service, we encourage the Select Committee and other decision makers to always focus on ensuring that all in Aotearoa have fair access to the essential electricity services they need. To achieve this, we need protections against unfair treatment where an inability to pay or other issue arises with which ever technology delivers supply.

We are concerned that financial counsellors and consumer lawyers in Australia have seen essential energy service protections not keep pace with new business models. This has been causing or compounding hardship issues in the community.¹ We encourage decision makers to get ahead and set clear expectations around consumer protections so emerging businesses have certainty about the standard they will be held to.

The ongoing capacity for expert consumer representation in decision making about the energy system as well as appropriate powers for the regulator to have oversight or intervene would lead to better outcomes for communities in Aotearoa.

Establish the Consumer Advocacy Council funded by an industry levy

We strongly support the establishment of an independent Consumer Advocacy Council funded by a modest industry levy. While FinCap does currently provide comment with the purpose of resolving systemic issues that may cause or compound hardship for whānau, we see the potential for much more consumer representative input that could improve decision making in the electricity system.

MBIE's estimate of \$2 per year for each household is a cost that would be easily recovered many times over where focused consumer advocacy leads to more efficient provision of essential energy services in the long-term interests of consumers. For example, advocacy could lead to:

- Better design of more understandable tariffs so that households save hundreds of dollars each year.
- Investment refocusing into infrastructure that will better deliver what consumers actually want, thus avoiding the cost of any correction in the future.
- Robust protections that mean more whānau are confident to heat homes and avoid challenges to their wellbeing that would have arisen otherwise.

All the above examples of benefits from consumer advocacy could lower the chances that people face difficulty paying and need support from a financial mentor in the first place. They could also

¹ Consumer Action Law Centre, 2019. *Sunny Side Up: Strengthening the consumer protection regime for solar panels in Victoria*. Available at: <https://consumeraction.org.au/20190404-sunny-side-up-report/>

These submissions provide further commentary on future protections to the Australian Energy Market Commission:

[Implement strong protections to ensure households benefit from new energy technology](#)
[Maintain households' rights when accessing essential energy services](#)

lower the chances that a financial mentor will be unreasonably challenged in overcoming an energy issue for a whānau they support.

FinCap has also spoken with a prominent consumer advocate in Australia who estimates levies for consumer advocacy in their National Energy Market are recovered more than a hundred times over in benefits to consumers and who could give an overview of this if helpful for the Committee.

It is important the Consumer Advocacy Council can focus most of its efforts on gathering evidence of what small consumers need and then making sure that information is factored into decision making. Clause 38 of the Amendment Bill puts in a requirement that the Consumer Advocacy Council consult with small consumers and industry participants when requesting funding from levies. This is sensible safeguard but we are concerned there may be an opportunity for those who have a motivation to restrict the Consumer Advocacy Council's effectiveness to waste time by being unreasonably challenging through that process.

While technically levies are collected from industry participants, the funds are ultimately paid by consumers, and this is made explicit where some energy retailers already separately cost the small amounts for Electricity Authority levies on billing for whānau. We recommend that the Select Committee consider whether this drafted safeguard be adjusted so that the intended consultation is not filibustered by those opposed to the Council fulfilling its purpose and so that the requirement to consult is more focused on consumers not industry. This would align with the reality that whānau ultimately foot the very modest bill.

Ensure the Electricity Authority has a clear mandate to protect whānau and clear powers to gather information

Because electricity is an essential service it is very important the regulator is specifically tasked with ensuring appropriate consumer protections. We strongly support the aspects of the Amendment Bill which would bring about these settings. This is because we have presented issues with gaps in protections where whānau end up being excluded from accessing essential electricity services. These situations were reported to us by financial mentors, and we raised these with the Electricity Authority in a consultation process but the regulator did not view themselves as in the right position to address these significant issues currently.²

We also recommend including a scheduled review of how effective the tasking of the Electricity Authority with a consumer protection function has been in the Amendment Bill. Such a review could involve whether the transitioning of technology brings new challenges as to ensuring effective consumer protections. For example, situations may be arising now or may arise in the future where a whānau is dealing with a solar panel lease provider, battery software provider, retailer and distributor but left with no clue as to who to approach when their essential electricity supply disconnects without warning. That or they end up locked into the long-term use of technology through upfront investment despite this not being fit for purpose, meaning they are paying more for essential electricity services for decades.

² See concerns referred back to MBIE by the Electricity Authority in this letter from page 2: <https://www.ea.govt.nz/assets/dms-assets/28/Letter-from-CE-to-MBIE-Referral-of-issues-raised-during-the-consumer-care-guidelines-consultations-and-development-process-202.pdf>

We also strongly support the Amendment bill improving and clarifying the Electricity Authority's powers to gather information. Having a regulator who has good oversight of the electricity system and can demonstrate this to the public will ensure whānau and their financial mentors can have confidence that the electricity system is developing in their interests or that any issues will be brought to the surface and addressed.

Close regulatory gaps in essential energy service provision

We support the Amendment Bill addressing a potential regulatory gap around distributor's actions with the transition to new technology where doing so is likely to result in less people facing energy hardship or less people being put more at risk of facing energy hardship.

As mentioned in comments above we also recommend that work is done to set clear expectations around consumer protections in the conduct of emerging businesses so they have certainty about the standard they will be held to. Doing so will improve the likelihood that emerging models are both successful and not misaligned with consumer's long-term interests. For example, this action could mean a solar lease provider is expected to have a consumer care policy in place similar to that which is expected of an energy retailer currently. That policy could be required to publicly commit that lease provider to considering their service is fit for purpose when it is sold and also provide appropriate hardship arrangements if the whānau who signs up faces a change of circumstances ten years down the track.

Make delivery of the Electricity Price Review recommendations certain through a regulatory backstop

FinCap strongly supports certainty that the EPR recommendations are delivered. We therefore support the Amendment Bill including the ability for the Minister to have a strictly time limited and specific power to intervene and implement the EPR recommendations through changes to the Electricity Industry Participation Code.

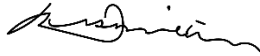
FinCap and many other stakeholders participated in the EPR and want to see progress on all the recommendations that are in the interests of whānau facing energy hardship as opposed to having to repeatedly relitigate high level decisions based on a thorough review.

The Electricity Authority is capable of making this progress but the Minister having a very specific and limited power to step in if it is getting off track will give us certainty that financial mentors will soon have more tools in the toolbox when whānau are facing energy hardship.

We only support a time limited and specific power to intervene in the interests of whānau as a backstop after the status quo arrangements have sufficient opportunity to deliver the EPR. We challenge some analysis that has said this potential intervention could have more costs than benefits. We put forward that this action provides the additional benefit of clear certainty as to what settings will arise for any investors who may be tossing up whether to participate in the electricity system in a way that will benefit consumers. We also put forward that any duplication of resources to ensure the EPR is delivered that might arise would be of overall benefit to the community as this will bring about an electricity system that is better aligned with improving the wellbeing of all whānau in Aotearoa into the future.

FinCap would welcome the opportunity to speak to the Committee as to the points in our submission. Please contact Jake Lilley, senior policy advisor at FinCap on 027 278 2672 or at jake@fincap.org.nz to discuss any aspect of this submission.

Ngā mihi,



Ruth Smithers
Chief Executive
FinCap