



# Environmental Defenders Office

11 March 2025

Rami Greiss  
Executive General Manager  
Consumer and Fair Trading Division  
ACCC  
23 Marcus Clarke St  
CANBERRA ACT 2601

**By email:** [rami.greiss@acc.gov.au](mailto:rami.greiss@acc.gov.au)

**Copy to:** Chris O'Yang, Director (A/g)  
Consumer and Fair Trading Division and Sustainability Task Force  
[chrisoyang@acc.gov.au](mailto:chrisoyang@acc.gov.au)

Dear Rami,

## **Potentially false, misleading or deceptive representations made by Diamond Energy**

1. We act for the Carbon Reduction Institute (**CRI**).
2. Our client requests that the Australian Competition and Consumer Commission (**ACCC**) investigate whether certain representations made by Diamond Energy, an electricity provider based in Victoria which retails electricity to consumers in New South Wales, Queensland, South Australia and Victoria, may breach the *Australian Consumer Law (ACL)*, being Schedule 2 to the *Competition and Consumer Act 2010* (Cth) and in particular ss 18, 29 and 33.
3. Our client's concerns relate to Diamond Energy's claims on its website that they 'go beyond carbon neutral'<sup>1</sup>, that 'from our first customer we have offset most of their everyday carbon emissions'<sup>2</sup>, that their 'assets have delivered a net abatement of 2.12 tonnes of carbon dioxide equivalent per MWh of generated electricity'<sup>3</sup>, that they 'source more from

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<sup>1</sup> See, for example, *Diamond Energy (Web Page)* <<https://diamondenergy.com.au>>; *Beyond Carbon Neutral (Web Page)* <<https://diamondenergy.com.au/beyond-carbon-neutral/>>.

<sup>2</sup> *Green Electricity Guide (Web Page)* <<https://diamondenergy.com.au/green-electricity-guide-diamond-energy/>>.

<sup>3</sup> *Beyond Carbon Neutral (Web Page)* <<https://diamondenergy.com.au/beyond-carbon-neutral/>>.

renewable energy than our customers consume<sup>4</sup> and that their customers are ‘supporting renewable energy at no extra cost’<sup>5</sup> (the **Statements**).

4. A compilation of the instances in which the Statements appear on Diamond Energy’s website are set out at **Annexure A**.
5. Diamond Energy’s claims represent to consumers that Diamond Energy’s retail electricity offering is one which has zero, or better than zero, emissions impact because it is sourced from renewable energy.
6. Our client considers that Diamond Energy’s claims may be false, misleading or deceptive or likely to mislead or deceive, because:
  - a. The Statements inaccurately represent the emissions impact of the electricity retailed to consumers by Diamond Energy as ‘beyond carbon neutral’ or ‘offset’, when in reality consumers are supplied with standard grid electricity without any additional environmental benefit. Customers are not receiving electricity produced by renewable sources above the standard grid electricity composition, unless the customers purchase additional GreenPower products; and
  - b. The Statements suggest that Diamond Energy is ‘offsetting’ its emissions to achieve ‘carbon neutrality’, when in fact it is double counting by selling its Large-scale Generation Certificates (the ‘offsets’) at a profit to other companies.

Our client notes the ACCC’s Compliance and Enforcement Priorities for 2025-2026 which continue to include ‘consumer, fair trading and competition concerns in relation to environmental claims and sustainability, with a focus on greenwashing.’<sup>6</sup> This matter also involves similar conduct to a previous investigation by the ACCC, that led to enforcement action against Momentum Energy in 2016.<sup>7</sup>

#### *Background information*

7. Diamond Energy is both an electricity generator and retailer. Diamond Energy creates Large-scale Generation Certificates (**LGCs**) through the renewable energy it generates and sells into the electricity grid.
8. However, for Diamond Energy’s retail customers to receive the emissions reduction benefit of Diamond Energy’s renewable energy generation, the LGCs held by Diamond Energy must be voluntarily retired to offset the emissions embedded in the grid electricity it retails to consumers. This would achieve ‘carbon neutrality’.

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<sup>4</sup> See, for example, *Diamond Energy* (Web Page) <<https://diamondenergy.com.au>>; *Support Renewables – Beyond Carbon Neutral* (Web Page) <<https://diamondenergy.com.au/our-energy-evolution/>>, *Source more than consume* (Web Page) <<https://diamondenergy.com.au/source-more-than-consume/>>.

<sup>5</sup> *Diamond Energy* (Web Page) <<https://diamondenergy.com.au/>>.

<sup>6</sup> ACCC, *2025-26 Compliance and Enforcement Priorities* (20 February 2025)

<<https://www.accc.gov.au/system/files/compliance-enforcement-priorities-2025-26-thumb.pdf>>.

<sup>7</sup> <https://www.accc.gov.au/media-release/momentum-energy-pays-penalties-of-54000-in-relation-to-renewable-energy-advertising>

9. Without Diamond Energy retiring its LGCs against its customers' electricity consumption, Diamond Energy's retail customers are receiving standard grid electricity without any other emissions reduction related to Diamond Energy's renewable energy generation.
10. Diamond Energy does not retire its LGCs against its customers' electricity consumption.<sup>8</sup> Instead, the vast majority of its LGCs are on-sold to other electricity providers to enable them to meet their compliance requirements under the Mandatory Renewable Energy Target.
11. As a result, Diamond Energy customers receive standard grid electricity with corresponding emissions reflective of the grid's overall composition. The emissions reduction benefit of Diamond Energy's renewable energy generation goes to other electricity retailers who purchase and surrender the LGCs and are thereby able to claim a greater share of renewable energy generation.
12. Since the Statements representing that it is a renewable energy provider were first published, Diamond Energy has seen a significant increase in customer numbers (see **Annexure C**). Some companies have been purchasing power from Diamond to meet their obligations under the Climate Active Scheme, although in one example (see **Annexure D**) Diamond Energy were unable to provide proof of retirement of credits to a climate active participant Munro Partners Pty Ltd. Diamond Energy now offer Greenpower at an extra cost to those organisations requesting proof of retirement.

### **Reasons why the Statements may be false, misleading or deceptive**

#### *Relevant principles*

13. Section 18 of the ACL prohibits a person from engaging in conduct in trade or commerce that is misleading or deceptive or is likely to mislead or deceive.
14. Section 29 of the ACL prohibits the making of a range of specific false or misleading representations about goods and services in connection with the supply or possible supply of those goods or services (including in relation to the standard, quality, value, grade, composition, style, model, history or previous use of goods).
15. Section 33 of the ACL also prohibits conduct that is liable to mislead the public as to the nature, manufacturing process, characteristics, suitability or quantity of any goods.
16. The ACCC's guidelines on environmental and sustainability claims<sup>9</sup> relevantly includes:
  - a. Principle 1: Make accurate and truthful claims, which states that if a claim is not true or only partially true, it should be changed or not made at all;

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<sup>8</sup> See the data compiled relating to Diamond Energy's RET LGcs as at 10 December 2024 from the REC Registry in **Annexure B**. The REC Registry is accessible here: <<https://www.rec-registry.gov.au/rec-registry/app/home>>.

<sup>9</sup> ACCC, *Making environmental claims: A guide for business* (December 2023) <<https://www.accc.gov.au/system/files/greenwashing-guidelines.pdf>>.

- b. Principle 3: Do not hide important information, which states that the most important question to ask is whether the overall impression created would be misleading to the ordinary and reasonable consumer; and
  - c. Principle 5: Avoid broad and unqualified claims, which states that terms which convey sweeping benefits that can mean different things to consumers, such as 'sustainable' and 'environmentally friendly', may easily mislead consumers in the absence of qualification or clarification.
17. For the following reasons, our clients consider that the Statements may breach ss 18, 29 and/or 33 of the ACL, including because of the inconsistency of the Statements with the ACCC's guidance, and in particular Principles 1, 3 and 5.

*Inaccurate or only partially true claims*

18. The Statements represent to the ordinary consumer that Diamond Energy supplies clean electricity generated from their renewable energy activities.
19. Diamond Energy's environmental claims are likely to mislead consumers into believing that their own electricity consumption, if purchased through Diamond Energy, is 'beyond carbon neutral' and 'offset' by Diamond Energy's renewable energy generation.
20. However, the Statements and Diamond Energy's claims of going 'beyond carbon neutral' do not reflect the actual emissions impact of the electricity being supplied to consumers by Diamond Energy, which is standard grid electricity.
21. As explained above, Diamond Energy would need to voluntarily surrender its Large-scale Generation Certificates in order for their customers to benefit from the emissions reductions they represent. Without surrender of the LGCs Diamond Energy creates, its customers are receiving standard grid electricity without any additional emissions benefit from Diamond Energy's renewable energy activities.
22. The details of the LGCs retired by Diamond Energy are set out at **Annexure B**, as extracted and compiled from the publicly available information in the REC Registry. The table indicates that of the 2,262,431 LGCs generated by Diamond Energy in total, 1,761,220 LGCs or 78.8%, were sold to third parties, rather than being surrendered by Diamond Energy to offset the emissions in the electricity it supplies to customers.
23. In 2023, Diamond Energy voluntarily surrendered only 25,724 LGCs. In order for the electricity supplied by Diamond Energy in 2023 to have been 'carbon neutral' or 'offset', Diamond Energy needed to voluntarily surrender an additional 81,607 LGCs.
24. Furthermore, in order to substantiate its claim that Diamond Energy's 'assets have delivered a net abatement of 2.12 tonnes of carbon dioxide equivalent per MWh of generated electricity', Diamond Energy would have needed to obtain and surrender an additional 2,701,908 LGCs (since inception), or 295,197 LGCs in 2023 alone.
25. Each of the Statements represent inaccurate or only partially true claims about the electricity supplied by Diamond Energy to its customers. This is a conceptually challenging area in which the ordinary consumer would likely lack the specialist knowledge to

interrogate and verify Diamond Energy's claims and is therefore likely to be misled by the Statements.

*Overall impression is misleading – omission of important information and the impact of the Statements*

26. As set out above, the Statements represent to the ordinary consumer that by purchasing their electricity through Diamond Energy, they will be supplied with clean electricity from Diamond Energy's renewable energy activities.
27. The Statements mislead customers into believing that the emissions associated with their personal electricity consumption has been 'offset' by purchasing their electricity through Diamond Energy, when they are in fact being supplied with standard grid electricity.
28. In making the Statements, Diamond Energy omits critical information about how they are managing the emissions reduction benefit associated with their renewable energy generation – namely, that LGCs must be voluntarily surrendered in order for consumers to be receiving clean energy.
29. Diamond Energy does not disclose that the majority of the LGCs they generate from providing renewable energy are on-sold to other energy companies to enable them to meet mandatory renewable energy targets.
30. Diamond Energy's practice of on-selling its LGCs to third parties who are then also able to claim the emissions reduction benefit they represent, while simultaneously making the claims in the Statements, is double counting of the actual emissions reduction benefit of Diamond Energy's renewable energy activities.
31. The environmental benefit received by a customer purchasing their electricity through Diamond Energy is effectively identical to purchasing through an alternative retailer. In order to have their personal emissions offset, customers need to purchase a dedicated GreenPower product through which LGCs are in fact retired.
32. The Statements have had an appreciable effect on consumers. As set out in **Annexure C**, Diamond Energy has attracted a large number of new customers since beginning to make the Statements, with its retail sales of electricity more than doubling. (I have updated this annexure, while I feel this still is correct
33. The misleading impact of the Statements is reflected in the fact that despite supplying vastly more quantities of electricity, the quantity of Diamond Energy's customers using GreenPower products has actually decreased. This indicates that customers are being misled by the Statements into believing that they are already accessing and utilising renewable energy by purchasing their electricity through Diamond Energy, and do not have to purchase an additional GreenPower product to 'support renewable energy.'
34. This substantiates that the reasonable consumer would likely understand that the Statements represent that selecting Diamond Energy as their supplier enables them to access and support electricity generated from a renewable source and reduce the emissions impact of their electricity consumption.

35. Without the concomitant surrender of LGCs, which does not occur and the requirement for which is not disclosed by Diamond Energy, consumers are likely being misled by Diamond Energy's representations into falsely believing that they can and have reduced the emissions impact of their own electricity consumption by purchasing through Diamond Energy.

**Request to investigate**

36. Consumers rely on environmental claims on their face to make decisions about the retailers and products they purchase. For the reasons set out above, our client considers that the Statements are misleading or deceptive or likely to mislead or deceive, and thereby contravene ss 18, 29 and 33 of the ACL.
37. Our client considers that there is a significant potential for harm being borne out by the reduction of Diamond Energy customers who are selecting electricity products with a verifiable emissions reduction outcome and the proliferation of Diamond Energy's claims through various guides and recommendations. The conceptual background is complex, allowing Diamond Energy to make the potentially misleading and deceptive Statements while consumers lack the specialist knowledge to independently understand and interrogate the claims.
38. For these above reasons, our client requests that you investigate this issue.
39. If you have any questions, please do not hesitate to contact us by email at [kirsty.ruddock@edo.org.au](mailto:kirsty.ruddock@edo.org.au) or by phone at (02) 7227 0031.

Yours faithfully

**Environmental Defenders Office**



**Kirsty Ruddock**

Managing Lawyer

Corporate and Commercial

Reference number: SE-09309

## Annexure A

Australia's greenest electricity provider - Diamond Energy, accessible at <https://diamondenergy.com.au/>

✔ Supporting renewable energy doesn't have to cost you more

✔ Going beyond carbon neutral

### Supporting renewable energy at no extra cost

Your support helps us deliver more renewable energy across Australia. Our competitive rates have ongoing discounts so supporting renewables doesn't have to cost you more.

### Beyond carbon neutral

By sourcing more from renewable energy than our customers consume we go beyond carbon neutral.

Green Electricity Guide, accessible at <https://diamondenergy.com.au/green-electricity-guide-diamond-energy/>

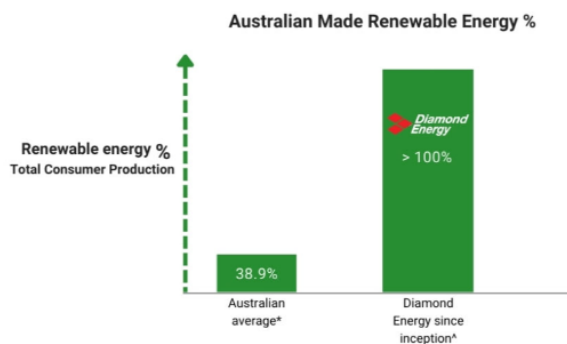
Here are the reasons we have been top rated in every Green Electricity Guide and survey by Greenpeace:

- Source more electricity from renewable generators than our customers consume.
- Go beyond **carbon neutral**... from our first customer we have offset most of their everyday carbon emissions<sup>^</sup>.

Source more than consume, accessible at <https://diamondenergy.com.au/source-more-than-consume/>



## Source more than consume



Diamond Energy delivers more electricity sourced from Australian renewable energy generators to the grid than our customers consume.

Beyond Carbon Neutral, accessible at: <<https://diamondenergy.com.au/beyond-carbon-neutral/>>



### Beyond carbon neutral

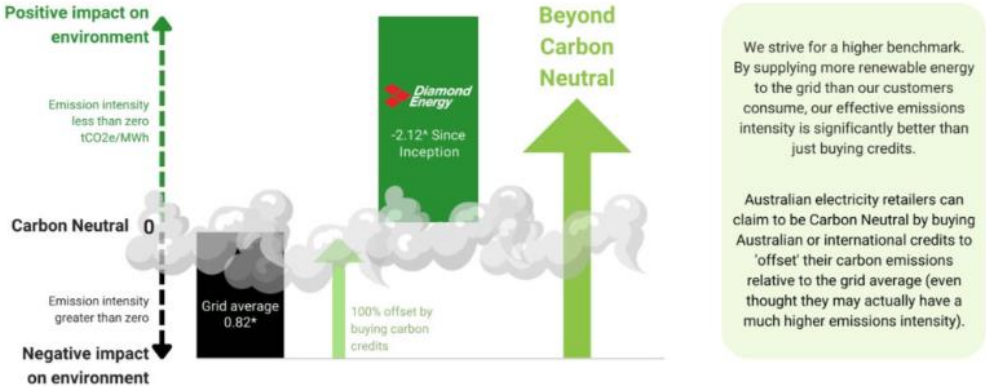
From inception, we have delivered more electricity sourced from Australian renewable energy generators to the grid than our customers consume.^

As we continue to support more renewable energy in Australia, we will strive to have a positive impact on our environment and go **beyond carbon neutral**.

### Our positive impact on the environment

"Historically, the net greenhouse gas emissions abatement from Diamond Energy's renewable energy generators exceeds the GHG emissions arising from the electricity consumed by our customers."^

Diamond Energy's Effective Emission Intensity



"Diamond Energy owned and controlled generation assets deliver a lower emission intensity than the grid average. Since inception our assets have delivered a net abatement of 2.12 tonnes of carbon dioxide equivalent per MWh of generated electricity. This is even greater if we include the avoided emissions that would otherwise have been released from organic waste."^



## Annexure B

**REC Registry (LGC public register) - <https://www.rec-registry.gov.au/rec-registry/app/public/lgc-register>**

Diamond Energy Pty Ltd registered person ID is 953.

This table displays the total LGCs (renewable energy credits) created by registered person 953.

### REC Registry statistics for Diamond Energy – 26/2/2025

26/02/2025	TOTAL LGCS Created		Used / owned Diamond Energy		Used by Others	
	Qty	%	Qty	%	Qty	%
Invalid due to Audit	10,191	0.5%	10,191	0.5%	-	
Invalid due to LGSC refund	235,470	10.4%	-		235,470	10.4%
Invalid due to Surrender	1,531,962	67.7%	172,548	7.6%	1,359,414	60.1%
Invalid due to Voluntary Surrender	200,054	8.8%	86,981	3.8%	113,073	5.0%
Pending Audit	4,071	0.2%	4,071	0.2%		
Pending Transfer	1,456	0.1%	1,456		14,626	0.6%
Pending creation payment fee	57,110	2.5%	57,110	2.5%		
Registered	222,117	9.8%	183,480	8.1%	38,637	1.7%
	<b>2,262,431</b>		<b>515,837</b>	<b>22.8%</b>	<b>1,761,220</b>	<b>77.8%</b>

## ESTIMATING RETAIL SALES (MWh) from Diamond Energy – reversing MRET targets

Year	RECs generated (1)	Surrendered under MRET (2)	MRET % - Annual (3)	Estimated MWh Sales (4)
2008	3,975	183		
2009	3,190	0		
2010	23,041	0		
2011	4,488	100	5.62%	1,779.36
2012	3,454	382	9.15%	4,174.86
2013	4,185	2,762	10.65%	25,934.27
2014	7,806	4,007	9.87%	40,597.77
2015	9,956	6,498	11.11%	58,487.85
2016	9,253	6,826	12.75%	53,537.25
2017	16,214	6,216	14.22%	43,713.08
2018	124,205	9,310	16.06%	57,970.11
2019	185,600	10,466	18.60%	56,268.82
2020	306,693	13,124	19.31%	67,964.79
2021	357,142	19,781	18.54%	106,693.64
2022	312,938	27,905	18.64%	149,704.94
2023	322,762	21,507	18.96%	113,433.54
2024	492,770	43,481	18.48%	235,286.80
2025	74,759		17.91%	
<b>TOTAL</b>	<b>2,187,672</b>	<b>172,548</b>		<b>1,015,547.08</b>

Data was collected on the 26/2/2025 numbers in red may still increase.

(1) - The total quantity of RECs generated by DE Owned generators

(2) - Quantity of LGC's surrendered by DE to meet the MRET legislation

(3) - The annual MRET % for that year (Companies must purchase enough LGC to cover this portion of the electricity they retail)

(4) - Reversal of the MRET target -  $(\{\text{surrendered under MRET}\} / \{\text{MRET \% Annual}\} * 100\%)$

## % of renewable achieved by Diamond Energy

Year	Estimated MWh Sales	Surrendered by DE for MRET target	Voluntary Surrendered by DE	% Renewable achieved <sup>(1)</sup>	LGCs required to achieve 100% renewable <sup>(2)</sup>
2011	1,779.36	100		5.62%	1,679.36
2012	4,174.86	382		9.15%	3,792.86
2013	25,934.27	2,762		10.65%	23,172.27
2014	40,597.77	4,007	537	11.19%	36,053.77
2015	58,487.85	6,498	1,720	14.05%	50,806.85
2016	53,537.25	6,826	1	12.75%	48,431.25
2017	43,713.08	6,216	1,751	18.23%	39,662.08
2018	57,970.11	9,310	2,734	20.78%	50,411.11
2019	56,268.82	10,466	1,807	21.81%	49,085.82
2020	67,964.79	13,124	971	20.74%	58,944.79
2021	106,693.64	19,781	22,464	39.59%	70,813.64
2022	149,704.94	27,905	21,493	33.00%	112,404.94
2023	113,433.54	21,507	25,724	41.64%	81,607.54
2024	235,286.80	43,481	7,779	21.79%	196,520.13
<b>TOTAL</b>	<b>1,015,547.08</b>	<b>58,005</b>	<b>86,981</b>	<b>25.56%</b>	<b>823,386.41</b>

(1)  $\frac{\text{Surrendered by DE for MRET target} + \text{Voluntary surrendered by DE}}{\text{Estimated MWh sales}}$

(2) (adds greenpower and PPA sales as these LGCs are owned by the organisations they were retired on behalf of.)

## Abatement required to deliver an equivalent of negative 2.12 (-2.12) t-CO<sub>2</sub>e per MWh

Year	LGCs required to achieve 100% renewable	Market based emissions factor	Abatement needed for Carbon Neutral <sup>(1)</sup>	Abatement need for negative 2.12t CO <sub>2</sub> e per MWh <sup>(2)</sup>	LGCs Required to achieve -2.12t-CO <sub>2</sub> e <sup>(3)</sup>
2011	1,679.36	0.95*	1,602.41	5,162.65	5,410.58
2012	3,792.86	0.95*	3,619.06	11,659.93	12,219.88
2013	23,172.27	0.95*	22,110.46	71,235.67	74,656.64
2014	36,053.77	0.95	34,401.69	110,835.68	116,158.37
2015	50,806.85	0.93	47,440.30	155,150.82	166,160.92
2016	48,431.25	0.94	45,517.05	148,191.31	157,679.17
2017	39,662.08	0.96	37,914.32	121,997.93	127,621.74
2018	50,411.11	0.98	49,246.02	156,117.58	159,811.09
2019	49,085.82	1.01	49,447.63	153,509.56	152,386.32
2020	58,944.79	0.98	57,710.22	182,673.17	186,580.99
2021	70,813.64	0.95	66,936.53	217,061.44	229,634.09
2022	112,404.94	0.84	93,947.09	332,245.56	397,522.04
2023	81,607.54	0.81	66,102.11	239,110.10	295,197.66
2024	196,520.13	0.81	159,181.31	575,803.98	710,869.11
<b>TOTAL</b>	<b>823,386.41</b>		<b>735,176.21</b>	<b>2,480,755.40</b>	<b>2,791,908.61</b>

(1)  $\{\text{LGCs required to achieve 100\% renewable}\} * \{\text{Market based emissions factor}\}$

(2)  $\{\text{abatement needed for carbon neutral}\} + (2.12 * \{\text{LGCs required to achieve 100\% renewable}\})$

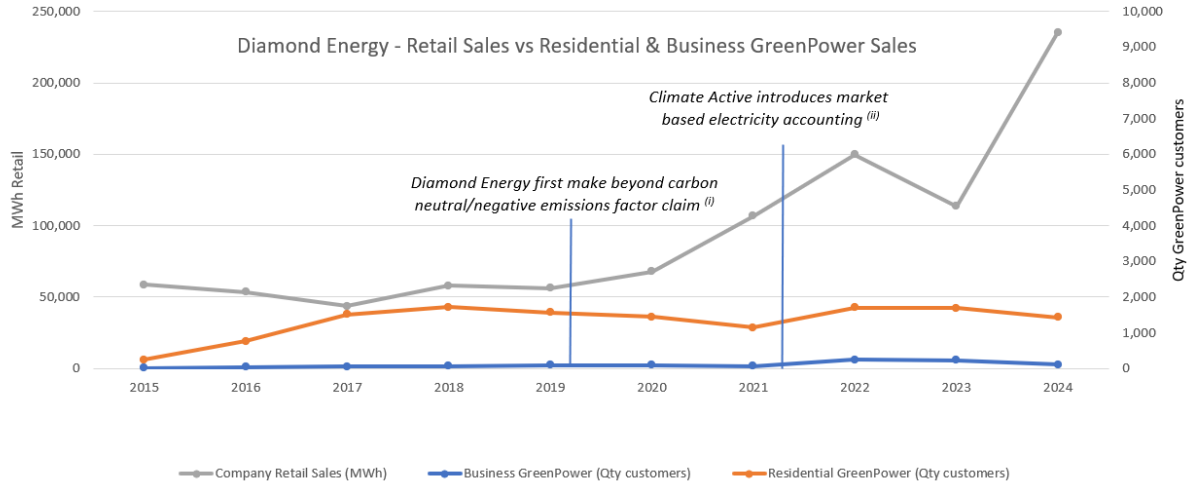
(3)  $\{\text{abatement needed for negative 2.12t CO}_2\text{e per MWh}\} / \{\text{Market based emissions factor}\}$

\* no published national emissions factors were available for 2011 through 2013, the 2014 factor has been used for these years.

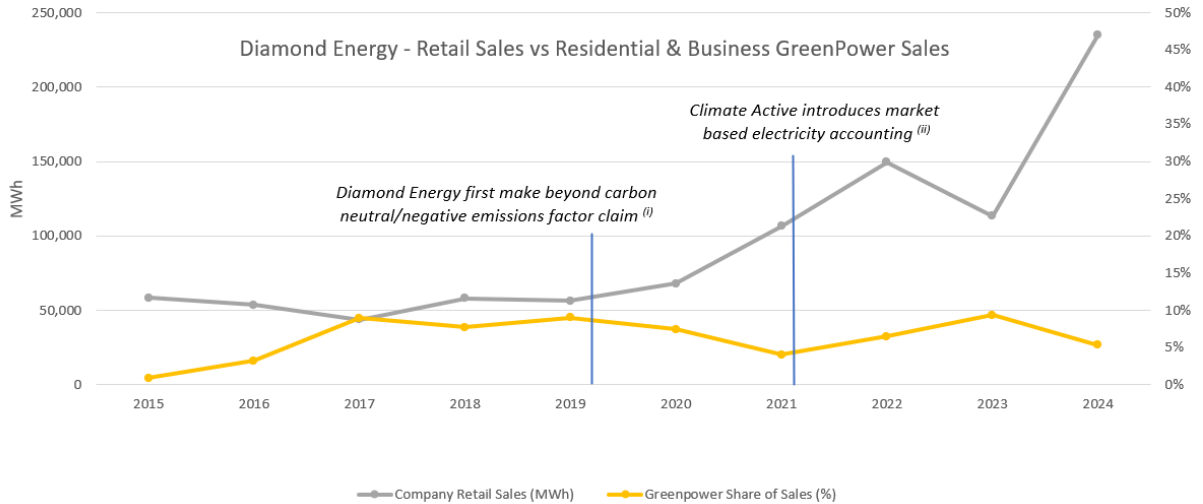
Annexure C

# Effect on GreenPower Sales

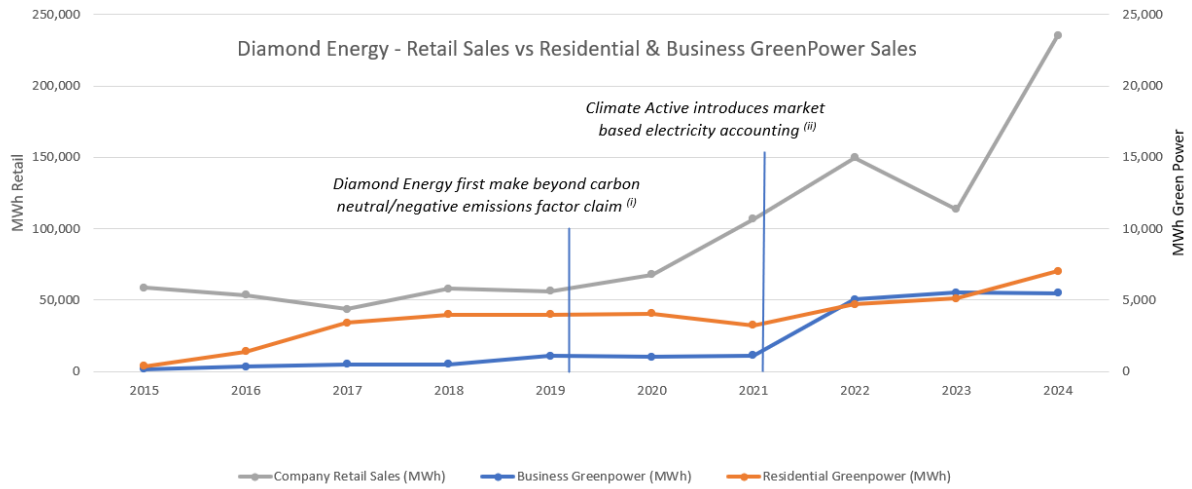
## GreenPower customers compared with total retail sales (MWh)



## GreenPower sales as a % of total sales (MWh)



## GreenPower sales (MWh) vs total Sales (MWh)



- (i) [Diamondenergy.com.au](https://web.archive.org/web/20190226171051/https://diamondenergy.com.au/our-energy-evolution/)  
Our Energy Revolution page is first captured by the wayback machine:  
<https://web.archive.org/web/20190226171051/https://diamondenergy.com.au/our-energy-evolution/>
- (ii) Climate Active Market Based Accounting, requires that business participants obtain proof of LGC retirement.  
<https://www.climateactive.org.au/sites/default/files/2021-4/Climate%20Active%20Electricity%20Accounting.pdf>

## Annexure D

### Climate Active statement of Munro Partners for 1 July 2021 to 30 June 2022

#### Emissions reduction actions

Initiative	Description	Status
<b>Energy</b>		
Procure 100% green power or certified carbon neutral power from our energy retailer	<p>Our Melbourne office premises has a 4 star NABERS Energy rating and 5 star NABERS Water rating.</p> <p>In May 2022 we switched our office electricity provider to Diamond Energy. Diamond Energy deliver more electricity sourced from renewables to the grid than their customers use, and are voted 5 stars (the highest rating) through the 2022 Greenpeace Green Electricity Rating.</p>	<p>Compliance achieved FY22.</p> <p>While Diamond Energy cannot confirm the energy Munro is utilising via the grid is from renewable sources, we consider we are meeting this initiative as Diamond Energy's delivery of energy to the grid is net positive, however we will continue to report on our office energy emissions as we cannot provide evidence of using renewable energy.</p>
<b>Waste</b>		