

RESTRICTION OF PUBLICATION PART CLAIMED – Public

Submission to ACCC's request for information dated 15 June 2020 – Reauthorisation of the Solar Retailer Code of Conduct

1. Coverage of the Solar Retailer Code ("the Code")

a) Is the Solar Retailer Code intended to apply to any retail business, whether they sub-contract or also undertake the installation and design themselves?

b) Where an entity is a retailer, designer and installer we understand that they can choose to be accredited through the CEC accreditation scheme. In this circumstance, would an entity who is a retailer, designer and installer who is accredited under the CEC accreditation scheme also apply to be a signatory under the Solar Retailer Code? Please explain why or why not?

CEC's response:

a) The Code is intended to apply to PV retailers and to its sub contractors, specifically around presale and post sale practices, to ensure PV retailers also maintain a standard that will benefit consumers and the industry.

Application of installation and design of PV systems belong to the CEC's Accredited Installer program (refer to the CEC's submission to Interested Parties for further details). This is separate to the CEC's Solar Retailer Code and administered separately.

b) The CEC Accredited Installer scheme is set up to apply to individuals, and the Code applies to businesses who retail solar PV. If an Accredited Installer operates a business whether as a sole trader or company and want that business to commit to the Code of Conduct, they would apply to be a signatory to the Code.

2. Transition to NETCC

a) Page 10 of the application for re-authorisation states that the CEC intends to transition existing signatories to the NETCC over a two-year period because:

The CEC would be unable to transfer all signatories to the NETCC at once and were planning on transitioning the Solar Code signatories in stages. The signatories renew annually and in the past 12 months there have been hundreds of retailers that have signed on to the Solar Code.

Please provide additional detail about why the transition process is expected to take two years. For example, is it because existing signatories can sign on at any time during the year, and will likely want to wait out the full term of their annual membership given they have paid an associated fee?

CEC's response:

The following reasons are provided in support of the two-year transition process:

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(a) Yes applicants do sign on at any time of the year and it is only fair that they are given the full term of the annual fee paid;

(b) The complex requirements of changing the CEC's existing systems and processes including:

- Reconfiguring the data capture and data management system to NETCC specifications;
- Revision of all Code application and appeal forms, current correspondence sent to applicants and signatories;
- Ensuring that assessments of applications and compliance procedures are in line with NETCC requirements and;
- Alignment with other internal CEC business units, processes and procedures.

The CEC has not sought funding to undertake this transition project, and will be reliant on internal funding and resourcing to do so, with very limited capacity for extra costs as costs relating to the NETCC development, project management and industry consultation was funded entirely by the CEC.

(c) Key operational pieces such as NETCC branding and communications plan, the fees for the NETCC applicants, specific schedules relating to other technologies such as storage, electric vehicle charging and demand management, the composition of the Monitoring Panel and its charter, the breach procedures and breach matrix of NETCC that would apply to signatories are in development and will need to be further progressed and closer to finalisation before the transition can fully take effect. The development and consultation required to finalise these key operational parts will require some additional time;

(d) Existing signatories will also need to be given an option and time to consider if they wish to transition to NETCC. This requires time to ensure that we can cleanly transition from one program to another therefore reducing the potential for confusion;

(e) There also needs to be a period to promote and communicate when industry and other stakeholders can expect the NETCC to go live, which is not dissimilar to the 12-month process in introducing new legislation.

3. Application process

a) On page 14 of the application for re-authorisation, the CEC advises that:

An appeal mechanism for rejected applicants was considered, however, the administrative burden on the Code Administrator and the Code Review Panel would be significant and a corresponding cost levied onto the rejected applicants. The CEC advises that the volume of applications, preparing appeals and monitoring an ever-increasing number of signatories would be problematic to manage administratively in an efficient and productive manner.

i) Please provide documents or information which outlines how the CEC considered the appeals mechanism and why the CEC considers the administrative burden on the Code Administrator and the Code Review Panel would be significant.

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CEC's response:

The Code Administrator is responsible for managing many administrative tasks in carrying out its duties under the Code as outlined in Clause 3.1.2 (a) to (i). Please refer to **Attachment 1: Data for ACCC** (restriction claimed) Tab 2 for specific details.

The following summary outlines the key category of tasks required of the Code Administrator:

Assessment of applications and renewals

- Processing an application takes an average minimum of [REDACTED] hours which will include corresponding with the applicant, a review of the applicant's website and any promotional material, its quotes, invoices, terms and conditions, site specific performance estimate and complaints handling procedures for compliance with the Code requirements, requesting documents that have not been submitted, answering queries, drafting letters to the applicant highlighting areas of concern, and processing payment of the application should the application be successful. The average time processing applications does not include waiting time on the response from applicants.
- In the past three months, the Code Administrator has received over 1500 calls and taken over 300 calls per month. This is an important service to the industry and provides a platform for swiftly resolving any queries that applicants might have, or for signatories to raise issues and providing advice to callers. Consumer queries are also directed to a dedicated CEC customer relations team, who provide general advice and some dispute resolution for consumers.
- Renewals of signatories are done annually¹ and prior to the renewal being granted to signatories, the Code Administrator requests a set of current documentation from the signatory for review to ensure continued compliance with the Code. This is estimated to take between [REDACTED] hours to complete and the Code Administrator has averaged [REDACTED] renewals in the past three months, with the number expecting to increase to an average of [REDACTED] in the last quarter of 2020. The average time processing renewals does not include waiting time on the response from signatories.

Code Compliance

- The Code Administrator received 145 complaints from January 2020 to June 2020 and estimates it takes an average of between [REDACTED] hours (depending on the nature of the non compliance) to assess the nature of the complaint, conduct further enquiries including preparing an internal panel if required,² correspond with the signatory and prepare required correspondence, consider the signatory's response, allocate appropriate sanctions as necessary, preparing an appeal if required for the Code Review Panel, and notifying the signatory of the outcome. The average time does not include waiting time on the response from signatories or their representatives.
- The Code Administrator has carried out approximately [REDACTED] pro active audits in the past two months, with more allocated for July. These take a minimum of [REDACTED] hours to complete and

¹ <https://www.cleanenergycouncil.org.au/industry/retailers/fees>

² <https://www.cleanenergycouncil.org.au/industry/retailers/program-data/complaints-procedure>

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includes a review and substantiation of the signatory's online testimonials and ■ deidentified consumer documents for compliance with the code. The average time conducting audits does not include waiting time on the response from signatories.

- The results of the compliance work carried out by the Code Administrator is displayed on the CEC website³ and in the Quarterly Compliance Report (sent to the ACCC on 1 July 2020).

Training, promotion and reporting

- The Code Administrator promotes the ASR Program at CEC wide events⁴ and at external events such as the Foresighting Forum and the community solar forum at Municipality of Kingston
- Annual webinars are recorded for the benefit of signatories
- Quarterly reports are sent to all signatories and a selection of the statistics are updated on the CEC website

ii) Please provide information which outlines the additional cost which would be imposed on the rejected applicants.

The costs relating to the Code Review Panel are in **Attachment 2: Invoices of Code Review Panel members- restriction claimed**). The costs for three Panel members time for attendance per quarter is approximately ■■■■■

- Approximately three to four hours is taken by one CEC staff ■■■■■ to compile, index and prepare documentation for the CRP and to correspond with the potential appellant;
- Approximately 1 hour of review time per panel member per appeal. Estimated costs for the Panel: ■■■■■

The approximate cost equals \$751 per appeal

Since July 2019, there have been an average of ■ rejected applications a month (further information on rejected applicants outlined in **Attachment 1: Data for ACCC** (restriction claimed) Tab 1.

The Panel convene every quarter, with some urgent appeals sent to the Panel for review out of session. As Code Review Panel members are external to the CEC and have other work commitments (for example, Gerard Brody is the Chief Executive of CALC), it is not feasible or practicable to expect Panel members to review all appeals of rejected applicants, on an average of ■ appeals per month. The administrative burden on the Code Administrator would also be significant as would be the cost per appeal.

b) For each of the calendar years between 2015 to 2020 (thus far), provide the following information:

- i) the number of applications received and the number of applications approved
- ii) the number of rejected applicants

³ <https://www.cleanenergycouncil.org.au/industry/retailers/compliance-activity>

⁴ Refer to CEC's response to Interested Parties submission on p.6

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iii) the number of rejected applicants who re-applied, and

iv) of the rejected applicants who re-applied, how many become signatories to the Code and how many were rejected again?

Please refer to **Attachment 1: Data for ACCC** (restriction claimed)- Tab 1.

Eighty percent of rejected applicants who have reapplied have been successful in becoming signatories. The application process in part 4.1 of the Code requires a systematic and thorough approach in ensuring that applicants understand the responsibilities as a signatory.

c) Clause 4.1.4 of the Code states that formal feedback on the application assessment will be provided to the applicant. Please outline what information is provided to applicants who are rejected? Does the information provide details of why the applicant was rejected and what they would need to do for their application to be successful if they sought to re-apply?

The Code Administrator submits that the onus is on the applicant to demonstrate that it can meet the requirements of the Code.

After an assessment of the applicants terms and conditions, quotes, invoices and advertisements the Code Administrator will highlight areas of concern and relate the areas of concern to the clauses of the Code. The Code Administrator advises that common areas of non-compliance would include advertisement and marketing, refund provisions for consumers and warranty requirements. These are considered severe breaches of the Code (like in TruSolar's case).

The Code Administrator would recommend that rejected applicants re-read the Code of Conduct, paying attention to the areas of concern and engage with their lawyers to enable their Terms and Conditions to be altered to reflect the requirements of the Code.

If the Code Administrator determines that the application has extensive non-compliance or where the applicant has not made an attempt to meet the code requirements, a rejection letter is issued. Please see attached (**Attachment 3: Letters of Outcome**-restriction claimed). For example, [REDACTED] was rejected by the Code Administrator but took on board the Code Administrator's feedback and was approved as a signatory on their second application.

Other outcomes

If the Code Administrator determines that the application demonstrates a major level of non compliance, where an applicant has made an attempt to meet the code requirements then a first review letter is issued. These letters are issued in circumstances where the applicant has made clear efforts to comply with the Code, but still demonstrates a significant degree of non-compliance in their documentation. In this case, these key areas the applicant would need to focus on are highlighted and the relevant Code sections which should be re-read are referenced and the applicant is given an opportunity to amend the documentation and re-submit it for further assessment. (**Attachment 4: First Review letters**- restriction claimed)

The Code Administrator can also determine if the application and documentation demonstrates only medium non compliance with the Code and the applicant has made a clear attempt to meet requirements, a letter of amendments may be issued to bring the applicants documentation within the requirements of the code, along with requests for clarification. (**Attachment 5: Letters of Amendment**- restriction claimed)

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d) On page 14 of the application for re-authorisation, the CEC states the Code Administrator found that many rejected applicants were re-applying almost immediately, without taking care to understand the obligations under the Code. The Code Administrator implemented a new process where any unsuccessful applicants must wait three months from their rejection date before their application will be reassessed. Does the CEC have the ability to alter the 3 month time period at its discretion? For example, if an applicant is able to address the concerns with an application that was previously rejected? How is this process communicated to applicants?

The three month period is applied consistently and the Code Administrator considers the three month period as a minimum for applicants to read the code in its entirety, understand the requirements, obtain external advice if required, institute the changes in their documentation and advertisements, communicate the requirements of the code within the organisation for example, the sales and marketing teams, agents or vendors (as per Clause 2.4.24).

The Code Administrator must ensure that consumers are adequately protected by the requirements of the Code, particularly when there is a launch of a government program. The time period also acts as an incentive for applicants to properly understand and entrench the Code requirements in their processes.

The CEC has taken onboard prior feedback and generally will proceed with an application if there's been clear attempts to meet the requirements of the Code as outlined in paragraph 3(c) above.

e) Please explain what is meant by the term 'adverse findings' as outlined at clause 4.1.1(g)? Is the CEC required to inform the applicant what the 'adverse findings' are before the CEC decides on an application and does an applicant get an opportunity to respond?

All applicants consent to an integrity and financial check that the Code Administrator performs using an external agency as per 4.1.1(d) as part of the application process.

Adverse findings would include warnings or court outcomes from other regulators published online, multiple deregistered entities or outstanding court or tribunal actions which are registered to the company, or to the directors of the applicant company. Adverse findings are connected to the declarations on the application form, discussed in (4) below.

Applicants who are unable to tick off on the declarations would normally contact the Code Administrator for assistance. The Code Administrator makes further enquiries, and this provides the applicant an opportunity to respond, please see attached for examples (**Attachment 6: Requests for further information**- restriction claimed) The Code Administrator requested further clarification from applicants and have been given adequate assurance and further information, and have gone on to become Approved Solar Retailers.

4. Declarations that applicants seeking to become signatories must make (Attachment F)

a) What was the process for developing the declaration which is provided at Attachment F to the application for re-authorisation? Did the CEC undertake any consultation with existing signatories or those applying to become signatories in developing the declaration?

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CEC's response:

Under 4.1.1(a) of the Code signatories are required to complete the online application form, along with the series of declarations as part of the application. The declarations were developed, along with the appeals form, by the Code Administrator and approved by the Code Review Panel, as these forms were to be drafted for the online application form after the ACCC granted final determination on 23 September 2013.

The Code itself underwent extensive consultation prior to being submitted to the ACCC for authorisation in April 2013 and in 2015, with the declarations being utilised at the end of 2013.

The declarations form was submitted to the ACCC on 17 April 2015 along with an application for revocation and substitution.

b) Please outline how applicants demonstrate their compliance with the fifth criterion. For example, that no shareholders of their organisation have a close family member who is a shareholder in a business that has gone into liquidation, received a court judgment against them or 'engaged in activity which could cause the Code to fall into disrepute'.

The CEC utilises a paid financial and integrity check to cross reference directors and shareholders (where relevant and applicable) of companies and will request further information from applicants should there be some irregularities detected. We would rely on applicants to contact the Code Administrator prior to lodging an application in the event of not being able to meet the declarations.

c) If an applicant is unable to make one or more of the declarations, are there any circumstances in which they can still become a signatory? For example, by providing additional evidence regarding the circumstances/context of their situation?

Please refer to de-identified samples in the **Attachment 6** at paragraph 3(e) where the Code Administrator has requested further information and these applicants have gone on to be a signatory.

d) Does the declaration apply to existing signatories and does the declaration need to be renewed at any time?

This relates to Clause 2.4.9 of the Code as an obligation on all signatories. The declarations do not apply to existing signatories apart from:

I declare that the applicant company will disclose to the Clean Energy Council any information regarding: a complaint upheld, in part or in full, by the Australian Competition and Consumer Commission or any state based consumer affairs agency complaint outstanding or currently under investigation with a consumer affairs agency.

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5. Copies of Code Review documents

Could we please request copies of the following documents:

CEC's response:

a) The 2016 Independent Review of the Solar Retailer Code (per footnote 13, application for re-authorisation).

The CEC has provided a copy of the 2016 report via email to ACCC on 1 July.

b) Any report(s) produced by Cameron Ralph Khoury in relation to the internal review of the Solar Retailer Code undertaken by the CEC in 2019 (per page 17 of the application for re-authorisation).

Cameron Ralph Khoury (CRK) assisted the CEC with the proposed drafting and review of the Solar Retailer Code prior to the CEC's application to the ACCC. The table sets out which changes should be proceeded with (and some instances where drafting should be improved) and clauses that CRK suggest should be dropped. The proposed changes in the table were discussed with CEC staff prior to a number of proposed amendments being accepted and inserted into the existing draft.

Please see attached report (**Attachment 7** - Table of proposed changes- restriction claimed).

6. Government programs

a) Which of the federal and state or territory government programs listed on the CEC's website (<https://www.cleanenergycouncil.org.au/consumers/buyingsolar/government-programs>) require consumers to use CEC 'Approved Retailers' to be eligible for financial incentives?

CEC's response:

The following table outlines each state and federal government program that recommended or required the participation of Approved Solar Retailers. Decisions on guidelines, availability of rebates and requirements on programs lie with respective state governments.

| | | |
|--|--|---|
| ACT govt (not mandatory for ASRs but recommended) | Next Generation Energy Storage program Stage 1-5 | Grants for residential battery installation |
| Latrobe Valley Authority (Vic Gov) | Home Energy Upgrade Program | Grants for residential solar PV and energy efficiency |
| Surf Life Saving Victoria (Vic Gov) | Community Renewables Solar Grant | Grants for solar PV on community buildings |
| Moreland Energy Foundation | Positive Charge | Community bulk buy program |
| NSW Department of Education | | Installing solar PV on NSW schools |
| NSW Office of Environment & Heritage | | Battery and PV installs on public buildings |
| Department of Natural Resources, Mining and Energy (Qld) | | Interest-free loans for solar and storage |
| | | Solar on rental properties |

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| | | |
|---|--------------------------------------|--|
| Health Purchasing Victoria | | Solar PV on Victorian hospitals |
| South Australia Government - Dept of Energy and Mining | Home Battery Scheme | Subsidies for household batteries |
| Solar Victoria | Solar Homes program | Rebates for Solar PV, Battery, solar hot water and solar panel for renters |
| Department of Industry, Science, Energy and Resources (Federal) | Energy Efficient Communities Program | Community Energy Efficiency and Solar Grants 2020 |

b) Are there any other programs the CEC is aware of that do so?

There are no other programs that the CEC is aware of other than the ones listed above. Currently, all other programs have ended, with Solar Homes and the Home Battery Scheme still open.

c) CEC states on its website that CEC Approved Solar Retailers get access to exclusive tender opportunities from organisations and government departments. Please provide further details about this, including details about the types of exclusive tender opportunities CEC Approved Solar Retailers get access to and, more generally, how important it is to be a CEC Approved Retailer to express an interest in a government tender?

In 2018 Queensland Government allocated \$21 million to provide interest-free loans to householders that are considering installing a solar system, standalone battery system or a combined battery/solar system. The scheme also includes a grant for householders and businesses that install eligible battery energy storage systems. The Queensland Government also conducted a \$4 million trial that will provide financial incentives for landlords to install a solar PV system at their rental property and extend the benefits of solar to their tenants. The project trialled new technology aimed at enabling landlords and tenants to better share the value of installing solar systems.

Both of these opportunities were only available to Clean Energy Council Approved Solar Retailers who are based in Queensland or have an office in the state. Retailers would have to refer to Tender documentation on QTender website for the release of these programs and information on how to apply. The CEC does not have access to these tender documents.

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Data for 1 Jan 2015 - 30 June 2020

| | | |
|--|------|---|
| number of applications received | 1426 | |
| number of applications approved | 998 | |
| number still under assessment | 74 | |
| number of rejected applicants | 354 | 24.8% rejection rate - not fixed and can fluctuate over time |
| the number of rejected applicants who re-applied | 151 | 42.6% of rejected applicants have gone on to reapply |
| of the rejected applicants who re-applied, how many become signatories to the Code | 120 | 80% of rejected applicants who reapplied have been successful |
| the number of rejected applicants who have an application under assessment | 15 | 10% of rejected applicants have an application under assessment |
| of the rejected applicants who re-applied, how many were rejected again? | 16 | These 16 retailers have 35 rejections between them |

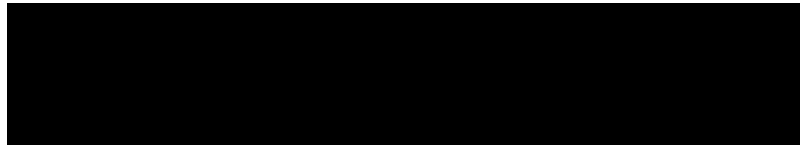


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| | Calls Received | Calls Answered | Avg Talk Time | % Answered | Max talk time |
|---------------------------------------|----------------|----------------|---------------|------------|---------------|
| Number of calls per month - June 2020 | 410 | 331 | 4min, 45sec | 80% | |
| Average call time | 535 | 362 | 4min, 40sec | 68% | |
| | 600 | 318 | 4min, 35 sec | 53% | 27 min, 8 sec |

No. of Monthly Complaints received for 2020

| Month | Total |
|---------------------------|------------|
| | |
| | |
| | |
| | |
| TOTAL @ 30.06.2020 | 145 |



| | | |
|-------------------------------|--|--------------|
| Audits to be completed - 2020 | | Total |
| | | 35 |

| | | |
|---------------------------|--|--------------|
| RENEWALS | | Total |
| ASRs to be renewed - 2020 | | 684 |
| ASRs to be renewed - 2021 | | |

Solar Retailer Code of Conduct Quarterly Report

1 February to 30 April 2020

Cumulative Statistics as at 30 April 2020

| | |
|---|-------|
| Total applications received | 1,336 |
| Total applications approved | 933 |
| Total applications rejected | 342 |
| Total removed | 11 |
| Total resigned | 18 |
| Suspended | 7 |
| Cancelled | 3 |
| Total applications pending | 34 |
| Current Approved Solar Retailers (including franchisees) | 975 |

Statistics for the period 1 February to 30 April 2020

| | |
|---------------------------------|-----|
| Applications received | 108 |
| Applications approved | 87 |
| Applications rejected | 25 |
| Signatories resigned or removed | 1 |

From the Code Administrator

Covid-19

These are challenging and unprecedented times. While there has been some good news in recent days about slowing infection rates across Australia, the impact of ongoing restrictions continues to be felt by the clean energy industry. Small to medium solar businesses are inevitably being affected by the massive disruption to everyday life. The Clean Energy Council has been running weekly webinars to support those managing a solar business during this difficult time. Webinars are usually available to Clean Energy Council members only, but we feel that it is important that Approved Solar Retailers have access to this information. Webinars are free to attend, however recordings of some webinars will only be available to [CEC members](#).

New announcements are being made frequently. The Clean Energy Council has produced valuable resources for solar retailers affected by COVID-19 which could be helpful to your solar business. To access this information please head to our [dedicated webpage](#). It includes information about federal and state government financial assistance programs, occupational health and safety and wellbeing.

The Clean Energy Council is here to support you and your business, so if we can assist you in any way please do not hesitate to contact the Code of Conduct Team.

Door Knocking is a Hazard

A reminder that door knocking puts workers and customers at high-risk of spreading Covid-19. It also increases the risk of solar being included in restrictions and could cause an industry-wide shut down. If your business is still door knocking, stop now. Approved Solar Retailers who are reported to the Code Administrator for door knocking activities may be breached under section 2.4.26 (a) and the appropriate sanctions will apply.

Rejection Rates

It's encouraging that even in the current environment solar retailers continue to submit a high volume of applications to become an Approved Solar Retailer. All applicants are put through a thorough vetting process to ensure they meet the requirements of the Code, which currently results in 25 per cent of applications being rejected. In March 2019, we implemented new rejection measures to ensure that applicants were committed to developing and conducting their business in line with best industry practice. Under the new measures, any unsuccessful applicant must wait 3 months from their rejection date before their application will be assessed. Before re-applying the applicant must sufficiently demonstrate in writing, that they can comply with the requirements of the Code and have systems and procedures in place to ensure ongoing compliance. A second rejection results in the applicant waiting six months before their application will be assessed. If the applicant is rejected a third time, the applicant must wait 12 months before their application will be assessed. A third application can be declined by the Code Administrator if the applicant's behaviour or actions are considered inconsistent with the Code. Unsuccessful applicants find these measures frustrating but it ensures that the integrity of the Code is maintained, and applicants fully understand their responsibilities under the Code.

Distributed Energy Resources Register

As of 1 March 2020, the Australian Energy Market Operator (AEMO) will be operating a new Distributed Energy Resources (DER) register. This means that installers will need to provide additional information to network service providers (NSPs) about the PV systems they are installing on-site at residential or business locations. Each state and NSP are approaching the DER register differently and are working to different timelines. Most states are already collecting information for the DER register while others are not. Please visit [AEMO's website](#) for further information on these new requirements.

Compliance Activities – New report coming

As Code Administrator, we are responsible for carrying out compliance audits, initiating enquiries into compliance and investigating complaints that the Code has been breached. This results in determining when breaches have occurred, determining appropriate action and enforcing sanctions. These responsibilities ensure the integrity of the Code is maintained and signatories are held accountable for their actions. To highlight the work the Code Administrator does in this area, a new quarterly report will be sent to Approved Retailers covering compliance activity that has occurred. The first Approved Solar Retailer Compliance Activity Quarterly Report will be sent in May 2020.

Marketing, communications and engagement activities for this period

- This summer the Clean Energy Council ran an online advertising campaign promoting the Approved Solar Retailer program over a three-month period. The ads were targeted at consumers and reached over 863,000 people since commencement in December.
- The Clean Energy Council ran a Rooftop Solar and COVID-19 Webinar on 2 April featuring engaging discussions surrounding the latest developments on government support measures, safe work practices, customer responses and opportunities and financial implications for the Australian solar and battery industry. This Webinar recording is available [here](#).
- A number of guidelines and advisory notes from state Governments and building industry associations regarding practices that should be used on building sites to minimise the risk of COVID-19 infection have been released. To assist our Approved Solar Retailers with staying on top of the changing advice a summary brief, Guidelines for Building and Construction Nationally, was sent to Approved Solar Retailers on 20 April.
- On 30 April, the Clean Energy Council invited our Approved Solar Retailers to join another free webinar on Rooftop solar and COVID-19, offering small business support in navigating the complexities of managing a small business during these challenging times. Information about the government stimulus and support packages available as well as managing supply contracts and commercial lease agreements during the COVID-19 pandemic were topics covered.
- Uptake of the South Australian Home Battery Scheme (SA HBS) subsidy has significantly increased in recent months, with over 7,000 subsidies now approved. Approximately 79 megawatt hours of storage capacity is now committed to under the Scheme. In early April it was announced that the subsidy levels and cap were decreasing effective as of Wednesday 15th April with a new cap of \$4,000. Subsidies that were conditionally approved prior to this date are eligible for the previous subsidy levels with the systems needing to be installed within 6 – 12 months depending on property type.
- Solar Victoria released their latest Notice to Market in April 2020 to advise industry of upcoming changes to their Solar Homes program. The Notice to Market is effective as of 1 July, which gives retailers and installers time to familiarise themselves of the planned changes that will affect them and their customers. Please refer to [Solar Victoria's website](#) for more information.
- November to January Approved Solar Retailer Quarterly update sent on 04 February 2020.

Re-authorisation of Approved Solar Retailer Code of Conduct

The Australian Competition and Consumer Commission's (ACCC) authorisation of the Solar Retailer Code of Conduct (the Code) is due to expire in October 2020. The Clean Energy Council is seeking a further re-authorisation of the Code and is using the opportunity to

suggest minor amendments to bring it in line with industry developments. On the 26 March, a draft version of the amended Code along with the proposed changes was published on the Clean Energy Council [website](#) for consultation. Following the consultation period, the amended Code and application for re-authorisation was submitted to the ACCC. The ACCC will now consider the application and the Code will be published on the ACCC's [Authorisations Register](#) for a second round of public consultation in the coming weeks.

Feedback

The Clean Energy Council continually seeks and develops opportunities to promote the Code, which in turn leads to greater promotion of your business.

We value your input as an Approved Retailer and welcome any feedback you may have. We invite you to comment on the administration, governance or any other aspect of the Code, and offer suggestions on ways we can improve our services for Approved Solar Retailers.

Please contact codeofconduct@cleanenergycouncil.org.au if you would like further information or you wish to discuss this report.

Solar Retailer Code of Conduct Compliance Quarterly Report

1 February to 30 April 2020

Cumulative Statistics as at 30 April 2020

| Year | Total Complaints |
|------|------------------|
| 2013 | 1 |
| 2014 | 2 |
| 2015 | 7 |
| 2016 | 5 |
| 2017 | 12 |
| 2018 | 36 |
| 2019 | 159 |
| 2020 | 125 |

No. of Complaints received for the period 1 February to 30 April 2020

| Month | Total |
|--------------|-----------|
| February | 26 |
| March | 27 |
| April | 27 |
| TOTAL | 80 |

Sections of the Code breached for the period 1 February to 30 April 2020

| Classification | Section of the Code | Cases |
|---------------------------|-----------------------|-----------|
| Advertising and Promotion | Pre-Sales Activities | 5 |
| Point of Contract | Pre-Sales Activities | 5 |
| Refunds | Post-Sales Activities | 1 |
| Total | | 11 |

PRE-SALE ACTIVITIES

Advertising and promotions

- Two separate Approved Solar Retailers were found to have breached the Code as a result of misleading marketing and advertising. Pictures were published online depicting installations which were not completed by the retailers. The Code Administrator found this to be a severe breach of the Code. As required by the Code, the retailers rectified the issue and provided a strategy to prevent the breach from occurring again. The Code Administrator is satisfied with the Signatories' response and considers the requirements met. In accordance with Section 3.5 of the Code of Conduct, the Signatories had 1 breach recorded against each of them.

- An Approved Solar Retailer was found to have breached the Code as a result of promoting a misleading bulk-buying scheme. They failed to identify the entity responsible for the scheme and misrepresented the government's involvement in the scheme. The Code Administrator found this to be a severe breach of the Code. The Code Administrator is satisfied that the required audit and remediation tasks have been completed. In accordance with Section 3.5 of the Code of Conduct, the Signatory had 1 breach recorded them.
- An Approved Solar Retailer was found to have breached the Code as a result of misleading marketing and advertising. The retailer captured consumer data on Facebook by falsely posing as an entity connected to Government & the State Rebate programs. The Code Administrator found this to be a severe breach of the Code. The Code Administrator is now satisfied that the required audit and remediation tasks have been completed. In accordance with Section 3.5 of the Code of Conduct, the Signatory had 1 breach recorded them.
- An Approved Solar Retailer was found to have breached the Code of Conduct as a result of a series of misleading marketing and advertising campaigns. The retailer failed to outline financial disclaimers regarding how consumers would achieve advertised savings. Further, the Solar Homes program and STC scheme were misrepresented. The Code Administrator found these to be a severe breach of the Code. As required by the Code, the retailer rectified the issue. The Code Administrator is satisfied with the Signatories' response and considers the requirements met. In accordance with Section 3.5 of the Code of Conduct, the Signatories had 1 breach recorded against each of them.

Point of contract

- Five separate Approved Solar Retailers were found to have breached the Code as a result of non-compliant quoting practices. Non-compliant documentation was sent to consumers instead of the documents approved during their ASR application. Some signatories were also found to have supplied non-compliant Site-Specific Performance Estimates. The required remedial actions were considered by a panel of internal CEC staff members. The Code Administrator is satisfied that the required audit and remediation tasks have been completed. In accordance with Section 3.5 of the Code of Conduct, the Signatories had 1 breach recorded against each of them.

POST-SALE ACTIVITIES

Refunds

- An Approved Solar Retailer was found to have breached the Code as a result of non-compliant workmanship, damages to a consumer's roof and the failure to install a solar system as per the Site-specific Performance Estimate. The Code Administrator found this to be a major breach of the Code. As required by the Code, the retailer rectified the issue, briefed their staff, and provided steps it will follow to ensure the issue will not occur again. In accordance with Section 3.5 of the Code of Conduct, the Signatory had 1 breach recorded them.

Suspensions

| Signatory Name | Start Date | End Date |
|-----------------------|-------------------|-----------------|
| Start Solar | 02/03/2020 | 03/04/2020 |
| Technaus Solar | 04/03/2020 | 01/04/2020 |
| Sun Current | 13/03/2020 | 31/03/2020 |
| Solar Miner | 02/03/2020 | 13/03/2020 |

- Start Solar had their Approved Solar Retailer status suspended as a result of 3 major & 2 severe breaches of the Code. The nature of the breaches: Misleading consumers during sales consultations, Non-compliant refund terms given to consumer, Using non-compliant contract documentation, Incorrectly collecting and using personal consumer information and Finance agreements not provided to the consumer. The Signatory has completed all the required audit and remediation steps. They undertook external privacy training and have put new processes put in place.
- Technaus Solar had their Approved Solar Retailer status suspended as a result of a severe breach of the Code. The suspension occurred due to the retailer’s failure to complete remedial actions within a reasonable timeframe. The Signatory has now completed all the required audit and remediation steps. Recommendations of external auditor have been adopted.
- Sun Current had their Approved Solar Retailer status suspended as a result of 1 major & 2 severe breaches of the Code. The nature of the breaches: Using non-compliant customer contract documents, providing non-compliant refund provisions details to customer when contract was signed, providing non-compliant warranty provisions details to customer when contract was signed. The Signatory has now completed all the required audit and remediation steps. Recommendations of external auditor have been adopted.
- Solar Miner had their Approved Solar Retailer status suspended as a result of 1 major & 2 severe breaches of the Code. The nature of the breaches: Site-specific performance estimate not provided before installation, non-compliant refund terms given to consumer, non-compliant installation of inverter. The Signatory has now completed all the required audit and remediation steps, including modifications of the affected customer’s system. New documentation and procedures have been implemented for future use.

Cancellations

| Signatory Name | Start Date |
|------------------------|------------|
| Solar Seed | 11/03/2020 |
| Space Solar (Victoria) | 16/03/2020 |

- Solar Seed had their status as Approved Solar Retailer cancelled due to serious, wilful, systemic and repetitive non-compliance which was deemed detrimental to consumers.
 - Space Solar (Victoria) had their status as an Approved Solar Retailer cancelled for failing to complete the required remedial actions for severely breaching Code section 2 *Point of contract* and section 2.2 *Post-installation*.
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Appeals

Appeal of Code Administrators decision

- The Code Review Panel met to discuss and consider the appeal of the Code Administrator’s decision to record a severe breach of the Code against an Approved Solar Retailer. The Panel determined that the breach was substantiated, the sanction imposed on the retailer was confirmed as severe, and the retailer required to appoint an independent auditor as prescribed by the Code Administrator.

From the Code Administrator

Welcome to the first Approved Solar Retailer Compliance Quarterly Report. As Code Administrator, the Clean Energy Council is responsible for carrying out compliance audits, initiating enquiries into compliance and investigating complaints that the Code has been breached. This results in determining when breaches have occurred, deciding appropriate action, and enforcing sanctions. These responsibilities ensure the integrity of the Code is maintained and signatories are held accountable for their actions.

The aim of this quarterly report is to inform signatories about the nature of complaints being submitted to the Clean Energy Council and how the Code Administrator addresses issues that adversely affect consumers and the reputation of the solar industry. The Code Administrator will also provide educational information to highlight the most common types of non-compliance we are witnessing and how signatories can avoid breaching the Code.

Due to the ever-increasing number of Approved Solar Retailers, the Code Administrator has seen a rise in consumer complaints. This has resulted in a number of retailers being suspended and cancelled from the Approved Solar Retailer program. To avoid this happening to your business please ensure that all staff, contractors, and representatives have read the Code of Conduct and are aware of their responsibilities under the Code.

Sales Lead Generation

The Code Administrator has noticed an increase in the number of signatories using online advertising, particularly via generic pages and feeds appearing on social media such as Facebook. When the consumer provides their contact details in response, the sales lead is actioned by an Approved Solar Retailer or their marketing contractor on behalf of the signatory. The online advertising is produced by sales lead generation companies and is often non-compliant with the advertising provisions of the Code.

Section 2.4.24 of the Code clearly states that signatories will be held responsible for all the actions of their employees, contractors, agents and any other individual or businesses acting on their behalf to the extent that such actions are governed by the Code. Any signatory who chooses to engage in this type of sales lead creation will need to supervise their contractors closely, because they will be held accountable for any advertising or calls carried out by contractors.

The Code Administrator is focusing on this activity and intends to fully enforce the Code. If breaches are found, the Approved Solar Retailer will be dealt with according to the Complaints Procedure, and the marketing contractor will be reported to the relevant statutory authority. It should be noted that this enforcement strategy will still be applied even in instances where a consumer has completed a successful sales transaction and is satisfied with their purchase.

Updated SPE if change of design on day of install

The Code Administrator is concerned by the recent number of complaints it has received from consumers regarding the alteration of system layouts on the day of installation without their consent. Signatories who fail to provide accurate system designs due to variations will have a severe breach of the Code recorded against them.

Clause 2.2.3 states that once a consumer has signed a contract, any variations to the system design must be documented and signed off by the consumer prior to installation. This situation may occur when a system has been designed without a site inspection taking place. For example, if a reduced number of panels are installed or the panel layout is altered due to limited roof space. Reduction or relocation of panels forms a variation to the system design and must be documented and signed off by the consumer. If the consumer does not consent, they must be offered a full refund in accordance with clause 2.2.4 (a).

Door Knocking is a Hazard

A reminder that door knocking puts workers and customers at high-risk of spreading Covid-19. It also increases the risk of solar being included in restrictions and could cause an industry-wide shut down. If your business is still door knocking, stop now. Approved Solar Retailers who are reported to the Code Administrator for door knocking activities may be breached under section 2.4.26 (a) and the appropriate sanctions will apply.

Feedback

We value your input as an Approved Solar Retailer and welcome any suggested topics or issues that you would like to have covered in these reports.

Under section 2.4.10 of the Code Signatories must undertake to inform the Code Administrator of any breaches to the Code made by other signatory companies.

Please submit any suspected breaches of the Code via our online [Complaint Form](#).

Please contact codeofconduct@cleanenergycouncil.org.au if you would like further information or you wish to discuss this report.