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Our ref: AA1000514
Contact officer: Miriam Kolacz
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15 June 2020

www.accc.gov.au

Mindy Lim
Code of Conduct Manager
Clean Energy Council Limited

By email: [REDACTED]

Dear Ms Lim

Clean Energy Council Limited application for re-authorisation AA1000514 – request for further information

As part of progressing our analysis for this matter, we are seeking further information from you relating to the substantive application for re-authorisation. Please see the request for further information at **Attachment A** to this letter.

We request that the Clean Energy Council provide this information by **Tuesday 30 June 2020**.

A copy of this letter and your response (subject to any request for exclusion) will be placed on the ACCC's public register.

If you wish to discuss this letter, please contact Miriam Kolacz on 03 9658 6476.

Kind regards

Danielle Staltari
Director
Adjudication

Attachment A – Request for further information

1. Coverage of the Solar Retailer 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?

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?

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

- 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.
- 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?
- f) 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?

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

5. Copies of Code Review documents

Could we please request copies of the following documents:

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

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/buying-solar/government-programs>) require consumers to use CEC 'Approved Retailers' to be eligible for financial incentives?
- b) Are there any other programs the CEC is aware of that do so?
- 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?