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4th April 2013

Via email: adjudication@accc.gov.au

General Manager
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

Re: Application for authorisation made under subsection(s) 88 (1A)/88(1) of the Competition and Consumer Act 2010

Please find attached an application prepared by the Clean Energy Council (CEC) for authorisation made under subsection(s) 88 (1A)/88(1) of the Competition and Consumer Act 2010, in relation to the proposed Code of Conduct for solar photovoltaic (PV) retailers.

The CEC is the peak body representing Australia's clean energy and energy efficiency industries. The CEC works with over 550 member organisations and governments to identify and address the barriers to efficient industry development in the renewable energy sector, including the solar PV industry.

The following documents are enclosed:

- Voluntary Code of Conduct for Solar PV Retail Businesses
- Form A - Exclusionary provisions and associated cartel provisions
- Form B - Agreements affecting competition or incorporating related cartel provisions
- Submission in support of Application for Authorisation
- Attachment A – Code Review Panel Terms of Reference
- Attachment B – Code Compliance Procedure

A lodgement fee related to this application will be paid upon receipt of an invoice from the ACCC.

Please do not hesitate to contact either Kate Allsopp, phone: 03 9929 4134, email KAllsopp@cleanenergycouncil.org.au or Kate Teperman, phone: 03 9929 4135, email KTeperman@cleanenergycouncil.org.au for any queries regarding this application.

Kind regards,

David Green
Chief Executive

Form A

Commonwealth of Australia

Competition and Consumer Act 2010 — subsections 88 (1A) and (1)

EXCLUSIONARY PROVISIONS AND ASSOCIATED CARTEL PROVISIONS: APPLICATION FOR AUTHORISATION

To the Australian Competition and Consumer Commission:

Application is hereby made under subsection(s) 88 (1A)/88 (1) of the *Competition and Consumer Act 2010* for an authorisation:

- to make a contract or arrangement, or arrive at an understanding, a provision of which would be, or might be, a cartel provision within the meaning of Division 1 of Part IV of that Act and which would also be, or might also be, an exclusionary provision within the meaning of section 45 of that Act.
- to give effect to a provision of a contract, arrangement or understanding that is, or may be, a cartel provision within the meaning of Division 1 of Part IV of that Act and which is also, or may also be, an exclusionary provision within the meaning of section 45 of that Act.
- to make a contract or arrangement, or arrive at an understanding, where a provision of the proposed contract, arrangement or understanding would be, or might be, an exclusionary provision within the meaning of section 45 of that Act.
- to give effect to a provision of a contract, arrangement or understanding where the provision is, or may be, an exclusionary provision within the meaning of section 45 of that Act.

(Strike out whichever is not applicable)

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

1 Applicant

- (a) Name of Applicant:
(Refer to direction 2)

A91365

Clean Energy Council Limited ACN 127 102 443

- (b) Description of business carried on by applicant:
(Refer to direction 3)

The Clean Energy Council (CEC) is an incorporated not-for-profit association which operates nationally. It is funded principally by membership fees, with additional income generated by events and activities such as industry accreditation programs. The CEC is the peak body representing Australia's renewable energy and energy efficiency industries. Its priorities are to:

- **Create the optimal conditions in Australia to stimulate investment in the development and deployment in Australia of the world's best clean energy technologies;**
- **Develop effective legislation and regulation to improve clean energy technologies;**
- **Work to reduce costs and remove all other barriers to accessing**

clean energy;

- **Develop and advocate effective policy to accelerate the development and deployment of all clean energy technologies; and**
- **Promote awareness of the industry, thought leadership and clean energy business opportunities through industry events, meetings, newsletters, directorates and the media.**

The CEC, in partnership with solar members, is working with governments to greatly expand the range of households and businesses that can access the benefits of solar photovoltaic (PV) electricity.

- (c) Address in Australia for service of documents on the applicant:

Level 15, 222 Exhibition Street, Melbourne VIC 3000

2 Contract, arrangement or understanding

- (a) Description of the contract, arrangement or understanding, whether proposed or actual, for which authorisation is sought:
(Refer to direction 4)

Voluntary Code of Conduct for Solar PV Retail Business (the Code).

For further detail, please see accompanying Submission in support of Application for Authorisation (Submission).

- (b) Description of those provisions of the contract, arrangement or understanding described at 2 (a) that are, or would or might be, exclusionary provisions and (if applicable) are, or would or might be, cartel provisions:
(Refer to direction 4)

Section 2.4 17 of the Code might be an exclusionary provision.

Sections 3 and 4 of the Code might be an exclusionary provision.

- (c) Description of the goods or services to which the contract, arrangement or understanding (whether proposed or actual) relate:

The retail sale of solar PV systems

- (d) The term for which authorisation of the provision of the contract, arrangement or understanding (whether proposed or actual) is being sought and grounds supporting this period of authorisation:

5 years on the basis that:

(a) the use of solar PV systems is likely to continue growing over the next 5 years; and

(b) if it takes 1 to 2 years to get substantial industry uptake, 5 years would be a reasonable period to conduct a review of the effectiveness of the Code.

3 Parties to the proposed arrangement

- (a) Names, addresses and descriptions of business carried on by other parties or proposed parties to the contract or proposed contract, arrangement or understanding:

The proposed parties are all solar PV retailers who satisfactorily undertake the Application Process in Section 4.1 of the Code and

became signatories.

- (b) Names, addresses and descriptions of business carried on by parties and other persons on whose behalf this application is made:
(Refer to direction 5)

Interested parties are set out in Appendix A to the accompanying Submission. There are no signatories as yet. The business of each signatory will be the retail sale of solar PV systems.

4 **Public benefit claims**

- (a) Arguments in support of application for authorisation:
(Refer to direction 6)

See Part 6 of the accompanying Submission.

- (b) Facts and evidence relied upon in support of these claims:

See accompanying Submission generally.

5 **Market definition**

Provide a description of the market(s) in which the goods or services described at 2(c) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions):
(Refer to direction 7)

The market for the retail sale and purchase of solar PV systems other affected markets:

- (a) the sale and purchase of components of solar PV systems;**
- (b) the sale and purchase of design services;**
- (c) the sale and purchase of installation services.**

For further information see accompanying Submission.

6 **Public detriments**

- (a) Detriments to the public resulting or likely to result from the contract arrangement or understanding for which authorisation is sought, in particular the likely effect of the contract arrangement or understanding, on the prices of the goods or services described at 2 (c) and the prices of goods or services in other affected markets:
(Refer to direction 8)

See Part 7 of accompanying Submission.

- (b) Facts and evidence relevant to these detriments:

See accompanying Submission generally.

7 **Contracts, arrangements or understandings in similar terms**

- (a) This application for authorisation may also be expressed to be made in relation to

other contracts, arrangements or understandings or proposed contracts, arrangements or understandings, that are or will be in similar terms to the abovementioned contract, arrangement or understanding:

- (b) Is this application to be so expressed?

Yes

- (c) If so, the following information is to be furnished:

None

- (i) description of any variations between the contract, arrangement or understanding for which authorisation is sought and those contracts, arrangements or understandings that are stated to be in similar terms:

(Refer to direction 9)

None

- (ii) Where the parties to the similar term contract(s) are known — names, addresses and descriptions of business carried on by those other parties:

(Refer to direction 10)

Not known

- (iii) Where the parties to the similar term contract(s) are not known — description of the class of business carried on by those possible parties:

The retail sale of solar PV systems

8 **Joint Ventures**

- (a) Does this application deal with a matter relating to a joint venture (See section 4J of the *Competition and Consumer Act 2010*)?

No

- (b) If so, are any other applications being made simultaneously with this application in relation to that joint venture?

Not applicable

- (c) If so, by whom or on whose behalf are those other applications being made?

Not applicable

9 **Further information**

- (a) Name, postal address and telephone contact details of the person authorised by the applicant seeking authorisation to provide additional information in relation to this application:

**Kate Teperman
Policy Officer
Level 15, 222 Exhibition Street
MELBOURNE VIC. 3000
Tel: (03) 9929 4135**

**Kate Allsopp
Accreditation Manager
Level 15, 222 Exhibition Street
MELBOURNE VIC. 3000
Tel: (03) 9929 4134**

Dated 26/3/13

Signed by/on behalf of the applicant

A handwritten signature in black ink, appearing to read 'David Green', written in a cursive style.

.....
(Signature)

.....
David Green

.....
(Full Name)

.....
Clean Energy Council

.....
(Organisation)

.....
Chief Executive

.....
(Position in organisation)
.....

DIRECTIONS

1. Use Form A if the contract, arrangement or understanding includes a provision which is, or might be, a cartel provision and which is also, or might also be, an exclusionary provision. Use Form B if the contract, arrangement or understanding includes a provision which is, or might be, a cartel provision or a provision which would have the purpose, or would or might have the effect, of substantially lessening competition. It may be necessary to use both forms for the same contract, arrangement or understanding.

In lodging this form, applicants must include all information, including supporting evidence, that they wish the Commission to take into account in assessing their application for authorisation.

Where there is insufficient space on this form to furnish the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the applicant.

2. Where the application is made by or on behalf of a corporation, the name of the corporation is to be inserted in item 1 (a), not the name of the person signing the application and the application is to be signed by a person authorised by the corporation to do so.
3. Describe that part of the applicant's business relating to the subject matter of the contract, arrangement or understanding in respect of which authorisation is sought.
4. Provide details of the contract, arrangement or understanding (whether proposed or actual) in respect of which the authorisation is sought. Provide details of those provisions of the contract, arrangement or understanding that are, or would or might be, exclusionary provisions. Provide details of those provisions of the contract, arrangement or understanding that are, or would or might be, cartel provisions.

In providing these details:

- (a) to the extent that any of the details have been reduced to writing, provide a true copy of the writing; and
 - (b) to the extent that any of the details have not been reduced to writing, provide a full and correct description of the particulars that have not been reduced to writing.
5. Where authorisation is sought on behalf of other parties provide details of each of those parties including names, addresses, descriptions of the business activities engaged in relating to the subject matter of the authorisation, and evidence of the party's consent to authorisation being sought on their behalf.
 6. Provide details of those public benefits claimed to result or to be likely to result from the proposed contract, arrangement or understanding including quantification of those benefits where possible.
 7. Provide details of the market(s) likely to be effected by the contract, arrangement or understanding in particular having regard to goods or services that may be substitutes for the good or service that is the subject matter of the application for authorisation.
 8. Provide details of the detriments to the public, including those resulting from any lessening of competition, which may result from the proposed contract, arrangement or understanding. Provide quantification of those detriments where possible.

9. Where the application is made also in respect of other contracts, arrangements or understandings, which are or will be in similar terms to the contract, arrangement or understanding referred to in item 2, furnish with the application details of the manner in which those contracts, arrangements or understandings vary in their terms from the contract, arrangements or understanding referred to in item 2.
10. Where authorisation is sought on behalf of other parties provide details of each of those parties including names, addresses, and descriptions of the business activities engaged in relating to the subject matter of the authorisation, and evidence of the party's consent to authorisation being sought on their behalf.

Form B

Commonwealth of Australia

Competition and Consumer Act 2010 — subsections 88 (1A) and (1)

AGREEMENTS AFFECTING COMPETITION OR INCORPORATING RELATED CARTEL PROVISIONS: APPLICATION FOR AUTHORISATION

To the Australian Competition and Consumer Commission:

Application is hereby made under subsection(s) 88 (1A)/88 (1) of the *Competition and Consumer Act 2010* for an authorisation:

- to make a contract or arrangement, or arrive at an understanding, a provision of which would be, or might be, a cartel provision within the meaning of Division 1 of Part IV of that Act (other than a provision which would also be, or might also be, an exclusionary provision within the meaning of section 45 of that Act).
- to give effect to a provision of a contract, arrangement or understanding that is, or may be, a cartel provision within the meaning of Division 1 of Part IV of that Act (other than a provision which is also, or may also be, an exclusionary provision within the meaning of section 45 of that Act).
- to make a contract or arrangement, or arrive at an understanding, a provision of which would have the purpose, or would or might have the effect, of substantially lessening competition within the meaning of section 45 of that Act.
- to give effect to a provision of a contract, arrangement or understanding which provision has the purpose, or has or may have the effect, of substantially lessening competition within the meaning of section 45 of that Act.

(Strike out whichever is not applicable)

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

1. Applicant

- (a) Name of Applicant:
(Refer to direction 2)

A91366

Clean Energy Council Limited ACN 127 102 443

- (b) Short description of business carried on by applicant:
(Refer to direction 3)

The Clean Energy Council (CEC) is an incorporated not-for-profit association which operates nationally. It is funded principally by membership fees, with additional income generated by events and

activities such as industry accreditation programs. The CEC is the peak body representing Australia's renewable energy and energy efficiency industries. Its priorities are to:

- Create the optimal conditions in Australia to stimulate investment in the development and deployment in Australia of the world's best clean energy technologies;
- Develop effective legislation and regulation to improve clean energy technologies;
- Work to reduce costs and remove all other barriers to accessing clean energy;
- Develop and advocate effective policy to accelerate the development and deployment of all clean energy technologies; and
- Promote awareness of the industry, thought leadership and clean energy business opportunities through industry events, meetings, newsletters, directorates and the media.

The CEC, in partnership with solar members, is working with governments to greatly expand the range of households and businesses that can access the benefits of solar photovoltaic (PV) electricity.

- (c) Address in Australia for service of documents on the applicant::

Level 15, 222, Exhibition Street, Melbourne VIC 3000

2. Contract, arrangement or understanding

- (a) Description of the contract, arrangement or understanding, whether proposed or actual, for which authorisation is sought:
(Refer to direction 4)

Voluntary Code of Conduct for Solar PV Retail Business (the Code).

For further detail, please see accompanying Submission in support of Application for Authorisation (Submission).

- (b) Description of those provisions of the contract, arrangement or understanding described at 2 (a) that are, or would or might be, cartel provisions, or that do, or would or might, have the effect of substantially lessening competition:
(Refer to direction 4)

Sections 2 and 3 of the Code amount to agreements among competitors as to their dealings with customers and potential customers including many of their contractual obligations (e.g. 5 year warranty) which might have the effect of substantially lessening competition.

- (c) Description of the goods or services to which the contract, arrangement or understanding (whether proposed or actual) relate:

The retail sale of solar PV systems

- (d) The term for which authorisation of the contract, arrangement or understanding (whether proposed or actual) is being sought and grounds supporting this period of

authorisation:

5 years on the basis that:

- (a) the use of solar PV systems is likely to continue growing over the next 5 years;**
- (b) if it takes 1 to 2 years to get substantial industry uptake, 5 years would be a reasonable period to conduct a review of the effectiveness of the Code.**

3. Parties to the proposed arrangement

- (a) Names, addresses and descriptions of business carried on by other parties or proposed parties to the contract or proposed contract, arrangement or understanding:

The proposed parties are all solar PV retailers who satisfactorily undertake the Application Process in Section 4.1 of the Code and became signatories.

- (b) Names, addresses and descriptions of business carried on by parties and other persons on whose behalf this application is made:
(Refer to direction 5)

Interested parties are set out in Appendix A to the accompanying Submission. There are no signatories as yet. The business of each signatory will be the retail sale of solar PV systems.

4. Public benefit claims

- (a) Arguments in support of authorisation:
(Refer to direction 6)

See Part 6 of the accompanying Submission.

- (b) Facts and evidence relied upon in support of these claims:

See accompanying Submission generally.

5. Market definition

Provide a description of the market(s) in which the goods or services described at 2(c) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions):

(Refer to direction 7)

The market for the retail sale and purchase of solar PV systems other affected markets:

- (a) the sale and purchase of components of solar PV systems;**
- (b) the sale and purchase of design services;**
- (c) and purchase of installation services.**

For further information see submission.

6. Public detriments

- (a) Detriments to the public resulting or likely to result from the authorisation, in particular the likely effect of the contract, arrangement or understanding, on the prices of the goods or services described at 2 (c) and the prices of goods or services in other affected markets:
(Refer to direction 8)

See Part 7 of accompanying Submission.

- (b) Facts and evidence relevant to these detriments:

See accompanying Submission generally.

7. Contract, arrangements or understandings in similar terms

This application for authorisation may also be expressed to be made in relation to other contracts, arrangements or understandings or proposed contracts, arrangements or understandings, that are or will be in similar terms to the abovementioned contract, arrangement or understanding.

- (a) Is this application to be so expressed?

Yes

- (b) If so, the following information is to be furnished:

- (i) description of any variations between the contract, arrangement or understanding for which authorisation is sought and those contracts, arrangements or understandings that are stated to be in similar terms:
(Refer to direction 9)

None

- (ii) Where the parties to the similar term contract(s) are known — names, addresses and descriptions of business carried on by those other parties:

Not known

- (iii) Where the parties to the similar term contract(s) are not known — description of the class of business carried on by those possible parties:

The retail sale of solar PV systems

8. Joint Ventures

- (a) Does this application deal with a matter relating to a joint venture (See section 4J of *the Competition and Consumer Act 2010*)?

No

- (b) If so, are any other applications being made simultaneously with this application in relation to that joint venture?

Not applicable

- (c) If so, by whom or on whose behalf are those other applications being made?

Not applicable

9. Further information

- (a) Name and address of person authorised by the applicant to provide additional information in relation to this application:

**Kate Teperman
Policy Officer
Level 15, 222 Exhibition Street
MELBOURNE VIC. 3000**

Tel: (03) 9929 4135

**Kate Allsopp
Accreditation Manager
Level 15, 222 Exhibition Street
MELBOURNE VIC. 3000**

Tel: (03) 9929 4134

Dated: 26/03/13

Signed by/on behalf of the applicant



(Signature)

David Green

(Full Name)

Clean Energy Council

Chief Executive

(Position in Organisation)

DIRECTIONS

1. Use Form A if the contract, arrangement or understanding includes a provision which is, or might be, a cartel provision and which is also, or might also be, an exclusionary provision. Use Form B if the contract, arrangement or understanding includes a provision which is, or might be, a cartel provision or a provision which would have the purpose, or would or might have the effect, of substantially lessening competition. It may be necessary to use both forms for the same contract, arrangement or understanding.

In lodging this form, applicants must include all information, including supporting evidence, that they wish the Commission to take into account in assessing the application for authorisation.

Where there is insufficient space on this form to furnish the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the applicant.

2. Where the application is made by or on behalf of a corporation, the name of the corporation is to be inserted in item 1 (a), not the name of the person signing the application and the application is to be signed by a person authorised by the corporation to do so.
3. Describe that part of the applicant's business relating to the subject matter of the contract, arrangement or understanding in respect of which the application is made.
4. Provide details of the contract, arrangement or understanding (whether proposed or actual) in respect of which the authorisation is sought. Provide details of those provisions of the contract, arrangement or understanding that are, or would or might be, cartel provisions. Provide details of those provisions of the contract, arrangement or understanding that do, or would or might, substantially lessen competition.

In providing these details:

- (a) to the extent that any of the details have been reduced to writing, provide a true copy of the writing; and
 - (b) to the extent that any of the details have not been reduced to writing, provide a full and correct description of the particulars that have not been reduced to writing.
5. Where authorisation is sought on behalf of other parties provide details of each of those parties including names, addresses, descriptions of the business activities engaged in relating to the subject matter of the authorisation, and evidence of the party's consent to authorisation being sought on their behalf.
 6. Provide details of those public benefits claimed to result or to be likely to result from the proposed contract, arrangement or understanding including quantification of those benefits where possible.
 7. Provide details of the market(s) likely to be effected by the contract, arrangement or understanding, in particular having regard to goods or services that may be substitutes for the good or service that is the subject matter of the authorisation.
 8. Provide details of the detriments to the public which may result from the proposed contract, arrangement or understanding including quantification of those detriments where possible.
 9. Where the application is made also in respect of other contracts, arrangements or understandings, which are or will be in similar terms to the contract, arrangement or understanding referred to in item 2, furnish with the application details of the manner in

which those contracts, arrangements or understandings vary in their terms from the contract, arrangements or understanding referred to in item 2.

Submission in Support of Application for Authorisation

Voluntary Code of Conduct for PV Retailers

1. Introduction

This submission has been prepared to provide further context and support for the Clean Energy Council (CEC)'s application for authorisation made under subsection(s) 88 (1A)/88(1) of the Competition and Consumer Act 2010.

Subject to authorisation, the proposed scheme outlined below will enable solar photovoltaic (PV) retail companies to implement a scheme designed to self-regulate and promote high standards and best practice in the PV retail industry.

1.1. The Clean Energy Council

The CEC is an incorporated not-for-profit association which operates nationally. It is funded principally by membership fees, with additional income generated by events and activities such as industry accreditation programs. The CEC is the peak body representing Australia's renewable energy and energy efficiency industries. Its priorities are to:

- Create the conditions in Australia to stimulate investment in the development and deployment in Australia of the world's best clean energy technologies;
- Work to reduce costs and remove all other barriers to accessing clean energy;
- Develop and advocate effective policy to accelerate the development and deployment of all clean energy technologies; and
- Promote awareness of the industry, thought leadership and clean energy business opportunities through industry events, meetings, newsletters, directorates and the media.

The CEC, in partnership with solar members, is working with governments to expand the range of households and businesses that can access the benefits of PV electricity.

2. The Proposed Scheme: PV Retailer Code of Conduct

2.1. Overview

The PV Retailer Code of Conduct (the Code) aims to promote best practice measures and activities for retail businesses that are selling PV systems. This Code is for retail businesses who want to demonstrate the commitment they have to promoting responsible activity and development in the renewable energy sector across Australia. The Code is not intended to replace existing consumer, energy or environmental planning legislation, policy or regulations at local, state or federal government levels, but to bring about increased accountability on the PV retail industry, leading to improved PV experiences for consumers.

The Code addresses four broad areas in the marketing and sale of PV systems: pre-sale activities, post-sale activities, documentation, and general business and obligations of signatories. Further detail on the Code's scope and objectives and on the Code rules and standards, can be found in Section 1 and Section 2 of the Code respectively. The Code administration and compliance arrangements are

outlined in Section 3, and include an enforcement regime to sanction signatories for failure to comply with the Code or supporting procedural documents.

The scheme will be voluntary and will include any PV retailer, both non-CEC members and CEC members who choose to subscribe to, and meet the required standards of, the Code. Subject to authorisation being granted, signatories will be required to comply with the Code and supporting procedural documents, including the Code Compliance Procedure, and Code Review Panel Terms of Reference. A copy of these documents are provided at **Attachment A and B**.

A recognisable Code landmark is being developed for participating companies that will provide consumers with reassurance that retailer signatories will adhere to the standards outlined in the Code, including delivering a quality product, adhering to all relevant consumer protection laws, and backing the operation of their PV system for a five year period.

2.2. Code Administration & Compliance

The Code will be administered by the CEC, and independently overseen by a Code Review Panel (CRP). The CEC will be responsible for carrying out administration and day-to-day supervision of Code compliance, including:

- Determining when breaches of the Code have occurred.
- Determining appropriate action when breaches of the Code have occurred.
- Enforcing sanctions.
- Referring cases to the CRP for consideration as required.
- Providing secretariat functions for the CRP.
- Overseeing promotion of the Code.
- Developing training and supporting material on the Code to assist signatories to comply with the Code.
- Develop supporting materials for consumers including information on PV and a flyer on the Code.

The Code administrator will investigate all reported breaches of the Code but will not resolve a dispute between the Code signatory and the consumer. Consumers requiring a dispute resolution body will be referred to either the Code signatory or the relevant consumer protection organisation.

Alleged breaches of the Code will be investigated by the Code administrator, in accordance with the Code Compliance Procedure. Where a breach is found to have been made, depending on the severity of the breach (determined in Breach Matrix, Section 3.5 of the Code) the Code administrator will either allocate a sanction in accordance with the Code Sanctions Matrix (Section 3.6 of the Code), or provide documentation relating to the breach along with a recommended course of action to the CRP for consideration. Where a breach is handled solely by the Code administrator, a Code signatory is entitled to appeal the ruling to the CRP, whose final decision is then binding.

The CRP will be an independent body, containing no representative of the Code administration team. The CRP's powers and functions are set out in its Terms of Reference. The Panel will consist of at least three individuals from a range of professional backgrounds, suitably qualified to arbitrate cases referred by the Code administrator, and to hear appeals against sanctions imposed by the Code administrator. The CRP will be responsible for:

- Arbitrating cases referred to it by the Code administrator.
- Arbitrating appeals against sanctions imposed by the Code administrator.
- Conducting inquiries into Code compliance.
- Meeting regularly to look at revisions to the Code, policy changes, how the Code operates, and complaints data.

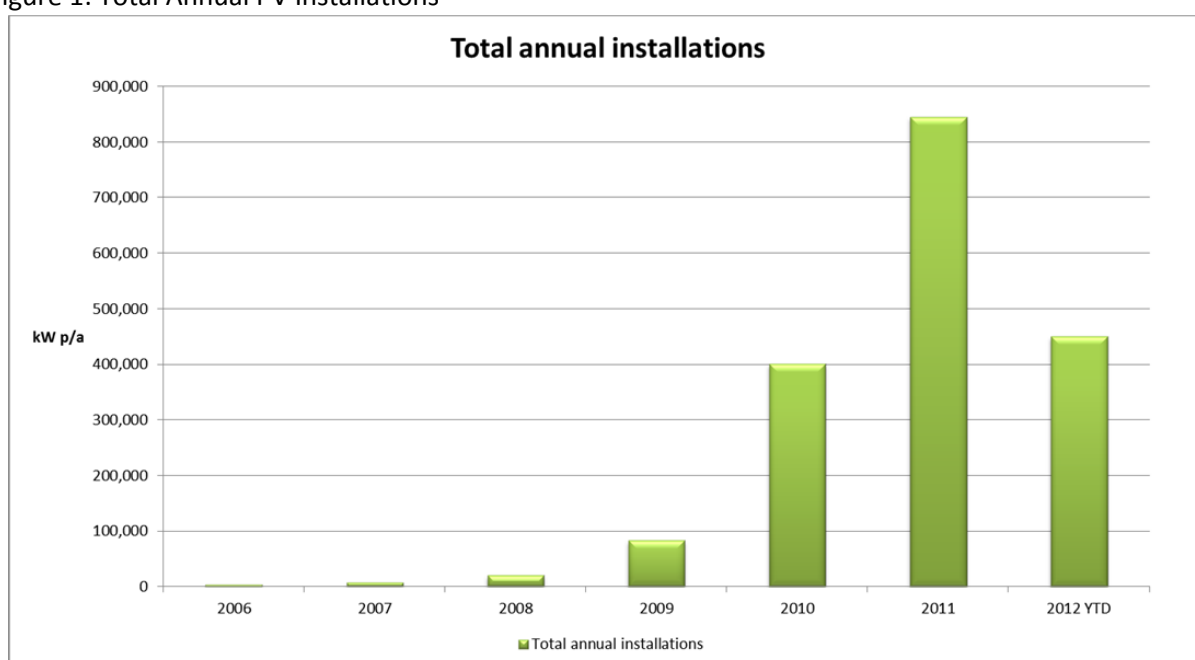
- Producing an annual report assessing the Code’s operation and effectiveness.

3. PV Retailing in Australia: the PV Market

3.1. Changing Nature of the Market

The PV market has changed radically over the last four years. Australia installed more than 859 MW of PV in 2011, doubling the 400 MW installed in 2010; itself growth of 400% on the previous year.¹ Residential sales dominate PV installations, at over 95 per cent of the market. An estimated 392,500 small residential systems were installed in Australia in 2011.² Approximately 17 per cent of suitable housing stock is now fitted with PV. The graph and table below show the uptake of PV annually in Australia up to the end of July 2012.

Figure 1: Total Annual PV Installations



Source: Clean Energy Council, *Solar Power Australia 2011-12*, prepared by Solar Business Services and SunWiz

Table 1: kW of sub-100kW installations by year

Year	kW Installed
2000	554
2001	409
2002	1,499
2003	976
2004	1,599
2005	1,127
2006	1,376
2007	4,652
2008	13,614
2009	84,573
2010	388,408

¹ Clean Energy Council, *Solar Power Australia 2011-12*, prepared by Solar Business Services and SunWiz

² *Ibid*

2011	859,642
2012 to end July	450,109
Total	1,808,537

Source: Clean Energy Council, *Solar Power Australia 2011-12*, prepared by Solar Business Services and SunWiz

This rapid increase in the amount of PV installed in Australia has altered the nature of the PV market. Prior to the boom the – much smaller – PV market was dominated by small businesses with local customers. Typically, these small businesses were run by the installer, and therefore had a focus on technical quality.

Now the PV market is dominated by larger players operating across state boundaries. As these companies usually subcontract their installations, this means that those running the business are less likely to be accredited installers (see Section 4.1 below), or to understand the technical aspects of installing PV. The industry has moved from one where sales came from word of mouth referrals, to one where call centre sales are common. This has radically changed the nature of the industry and consequently the issues arising in the sector.

3.2. The PV Retailer Market

The PV market is made up of a number of different parties who will be affected by the proposed scheme. These parties are outlined below.

1) Sales:

- PV retailers
 - Large: Represented by an estimated 150 large PV retailing companies, larger retailers are highly proficient at consumer marketing, sales and operations. They dominate sales volumes in Australia with the top 20 PV retailers providing approximately 40% of all sales in 2011. Satisfying widespread demand for small residential systems has necessitated the development of various consumer-based marketing and sales techniques, and some of these companies now employ hundreds of staff across multiple locations.³
 - Medium: Represent a broad range of companies, small or medium sized and increased from an estimated 700 companies to more than 1,000 in 2011. They serve local areas and some have been highly successful at building profitable and competitive businesses. Individually, they generally sell far less volume than large PV retailers.⁴
 - Small: Although sales volumes are small and there are perhaps 300 companies classified in this space. This segment reduced substantially in 2011 as total market volumes grew and many evolved into medium or large retailers. However a combination of start-ups and contractors converting to retailing increased the number of active small companies in early 2012.⁵
- Utilities
 - Several electricity retailers also sell PV systems. Utility companies have continued to diversify into the PV industry although their approach and focus on PV varies greatly.

³ *Ibid*

⁴ *Ibid*

⁵ *Ibid*

- Electrical contractors
 - Electrical contractors who are installers accredited by the CEC represent the vast majority of companies with an estimated 2,500 companies active in PV. Most of these focus purely on installation, servicing the needs of retailers as sub-contractors.⁶

2) The Current Market

The PV retail market is extremely competitive, and as it continues to grow, there is a regular flow of new entrants. Given the changing nature of the market, clear data is difficult to obtain around the market shares of participants. However the CEC's *Solar Power Australia 2011-12* report recently reached a number of conclusions based on analysis of the numbers of accredited installers, small-scale technology certificates (STC) created, and other available intelligence.

A recent analysis of Victorian PV companies showed that the top 20% of companies (measured in STC creation levels) held less than 45% market share. The top ranks of the PV retailers change regularly, and generally none is able to hold more than 10% market share (see Table 2 below).⁷ There are a large number of small and medium sized companies in the industry and the use of subcontracted installers is now widespread. The *Solar Power Australia 2011-12* report stated that:

“An analysis of 2011 installers by company name...[shows that] [a]round 12% of the companies have three or more accredited installers listed under their company name, nine companies host four or more accredited installers and one has 36 on its books. Almost 80% have only one accredited installer listed under a company name, an indication of the very strong presence of small and medium sized companies in the industry and the use of subcontracted installers. There are 3,946 named companies listed with accredited installers.

Whilst the Accredited Installer List is a valuable indication of the level of trade-based employees and companies, not all PV retailers appear on this list. Companies who subcontract 100% of installation, supervision and/or design work or who specialise in value chain activities that don't require installation (such as wholesaling, on-line sales, marketing or franchising and/or new entrants) adds to the total number of active companies in the industry. Based on recently updated historical analysis, the total number of companies active in the market is estimated to number approximately 4200-4500”.⁸

Table 2: Top ranks of PV retailers, based on analysis of the REC Registry undertaken by Sunwiz at August 2012.

Company	Rank 2012 (Aug)	Rank 2011
True Value Solar	1	2
Origin Energy	2	1
Solar Gain	3	5
Green Engineering	4	14
Great Solar	5	22
AGL Solar	6	12
Infinity Solar	7	17
Modern Solar	8	8
Zen Technologies	9	7
Unleash Solar	10	13

Source: Clean Energy Council, *Solar Power Australia 2011-12*, prepared by Solar Business Services and SunWiz.

⁶ *Ibid*

⁷ *Ibid*

⁸ *Ibid*

4. Need for Self-Regulation

4.1. CEC Accreditation for PV Designers and Installers

PV accreditation is a qualification that demonstrates competence in design and/or installation of stand-alone (SPS) and/or grid-connected solar photovoltaic power systems. The CEC is the body responsible for the accreditation of PV designers and installers. Consumers wanting to take advantage of the Federal Government financial incentives available under the Small Scale Renewable Energy Scheme (SRES), are required to use a CEC accredited installer and designer. This requirement is determined defined by the Federal Government in accordance with the *Renewable Energy (Electricity) (Cth) Regulations 2001*. CEC accreditation is not linked to membership with the CEC.

A CEC accredited PV designer/installer:

- Has completed necessary PV specific training courses.
- Has provided a practical example of their work to the CEC.
- Is bound by an Accreditation Code of Conduct and the Accreditation Terms and Conditions.
- Complies with the CEC Design and Install Guidelines, relevant Australian Standards and all other relevant regulations.

The aims of the CEC accreditation scheme are:

- To improve the safety, performance and reliability of PV systems installed in the field.
- To encourage industry best practice for all design and installation work involving PV systems.
- To provide a network of competent PV power systems designers and installers.
- To increase the uptake of PV power systems to generate electricity, by giving customers increased confidence in the design and installation work.

The CEC accreditation system enables the CEC to penalise any accredited installer that fails to install a PV system to the relevant Australian Standards and CEC guidelines. Both the standards and guidelines are technical documents focusing on safety and the correct operation of the PV system. More information on the PV Accreditation Program is available at:

<http://www.solaraccreditation.com.au/>.

4.2. PV Retailer Code of Conduct: Filling the Gap

While there are a range of state and federal regulatory regimes in place overseeing the activities of retail businesses interacting with customers in the PV sector, there is a view that the current level of regulation is not effectively ensuring the integrity of retailers selling systems to consumers. There are a number of reasons why a voluntary industry code of practice can contribute to, and build upon, this regulatory space.

Currently the CEC PV accreditation scheme is the only national PV Accreditation system. There are one or two 'Best Practice' schemes, but nothing that 'accredits' PV designers and installers.

PV accreditation is a qualification that is available to individual PV power system designers and installers only. It is the individual installer that is accredited, not companies. It is now the case that there are PV retailers in the market continuing to demonstrate unsatisfactory or unethical behaviour towards consumers. However the CEC has no jurisdiction under the accreditation scheme to address the behaviour of these companies. Furthermore, as many larger PV retailers also sub-contract out

their installations, it is increasingly common for the PV retailer to walk away leaving the installer to be penalised for actions that were the result of the PV retailers' behaviour.

The Code aims to close this gap and will enable the CEC to take action against Code signatories behaving unethically. It will also provide an incentive for some PV retailers to improve their behaviour towards consumers beyond what may be required under existing legislation, and take responsibility for the whole PV system. For example, Section 2.2, 10 of the Code requires the PV retailer to provide a five year whole of system warranty on the operation and performance of the whole PV system including workmanship and products. Currently if there is something technically wrong with the PV installation, or the system fails to operate as expected, the installer can be held responsible. If the installer is no longer accredited there is no action the CEC can take to ensure the consumer issue is resolved. This Code will enable the CEC to assign responsibility of the PV system working correctly for five years with the retailer, and ensure the retailer addresses any issues in that time. The Code deliberately makes the PV retailer accountable for installers across a variety of areas. Another example is Section 2.3 of the Code which requires the retailer oversee and ensure that the responsible parties provide the consumer with the necessary documentation after they have purchased a PV system.

Another theme deliberately addressed in the proposed scheme relates to consumer education. A PV installation is a complex, technical product with a complicated connection process. Most domestic consumers are not experts in solar technology, and quite often a solar installation is a once off purchase for the consumer. With the increased range of products and suppliers on the market, being an informed consumer has never been more important. It is thus essential that PV retailers provide consumers with the information they need to choose the most suitable system for them and to get the best from it. PV retailers have a role to play in ensuring consumers are better equipped to make choices about a product that is right for them, and ensuring that they have all the information required to make smart decisions and to help avoid any problems down the line.

Many of the problems that currently exist in the industry are a result of lack of education or understanding. A market where consumers are poorly informed will continue to encourage operators who rely on high-pressure sales techniques that can make a consumer feel regret later down the track. By emphasising the role of the PV retailer in educating the consumer around PV, the Code provides a standardised national framework for signatories and addresses some systemic issues in the industry not currently addressed by existing regulatory regimes. For example, lengthy delays between system installation and meter installation/connection of the PV system to the electricity network by the electricity retailer and/or distributor are a common problem, and Section 2.2, 7-8 of the Code requires signatories play a role in informing the consumer of the process, expected timing, and potential problems that can arise.

Finally, the Code facilitates greater education for PV retailers and consumers about their obligations and rights under the law. Anecdotal evidence, a look at investigations undertaken, or infringement notices issued, by the ACCC against solar companies for misleading advertising, and even a simple analysis of some advertisements being used in the industry, indicates that many companies may not be currently following the law. In particular, stakeholders consulted consistently indicated strong concerns around unethical advertisements and sales tactics used by PV businesses. One example is a case where the ACCC issued an infringement notice after a company advertised a solar system in a method which implied the maximum capacity was equal to the size of the inverter, when in fact the maximum output of the panels was below the advertised capacity of the inverter.⁹ More recently,

⁹ ACCC, "True Value Solar Pays infringement notices for misleading advertising", 4 November 2011: <http://www.accc.gov.au/media-release/true-value-solar-pays-infringement-notices-for-misleading-advertising>.

the ACCC investigated and sanctioned two solar panel companies for claiming that cost of electricity would go up by 400 per cent under the carbon tax.¹⁰

While it is recognised that legislative requirements should be complied with regardless of the existence of any proposed Code, and the benefit of compliance with such laws should not be attributed to any arrangements in the Code, it is proposed that the Code will facilitate increased compliance with the law by making PV retailers more aware of their obligations, through the provision of examples specific to PV. The above issue potentially arising from advertising of inverter capacity is deliberately addressed in section 2.1, 1(vii) of the Code.

There is also an ongoing need to educate consumers about their legal rights, and particularly what to be aware of when purchasing a solar system. This will occur, for example, through the PV retailer providing their customers with a Code flyer containing links to further information. References to Australian Consumer Law have also been provided in the Code in particular areas of concern.

A broader summary of the evidence used to identify this regulatory gap (Section 5), and of the public benefits arising from the proposed scheme (Section 6) is provided in below.

5. Identifying Systemic Issues

5.1. Stakeholder Consultation

The proposed scheme has been developed through an Industry Integrity Working Group with the support of CEC solar members who deliberately called for an initiative to improve retail standards in the PV industry. However the range of systemic industry issues addressed in the Code were identified through a much broader stakeholder consultation process. The overwhelming majority of stakeholders indicated their strong support for the proposed scheme. Those consulted with are outlined below (and in more detail at Figure 2) and include government, regulatory bodies, consumer organisations and industry.

- PV Retailers (small, medium and large)
 - Engagement with non-CEC members and CEC members, including over 120 PV retailers and a range of other businesses operating in the PV industry
 - Targeted engagement with the top 15 PV retailers with largest market share
 - 16 meetings with companies equating to more than 23.55% of market share¹¹
- Consumer Groups
 - Consumer Utilities Advocacy Centre
 - Consumer Action Law Centre
 - Alternative Technologies Association
 - Choice
 - St Vincent de Pauls Society

¹⁰ACCC, “ACCC accepts informal undertaking for alleged misleading carbon price claims”, 5 July 2012: <http://www.accc.gov.au/media-release/accc-accepts-informal-undertaking-for-alleged-misleading-carbon-price-claims>.

¹¹Based on figures on the top ranks of PV retailers at May 2012, formed by analysis of the REC Registry undertaken by Sunwiz. Of this list, the CEC engaged directly with all of the top 12 retailers equating to 27.59% market share. ‘Engaged’ companies include 9 companies (23.55% market share) who the CEC met with, plus one company who provided feedback electronically and two companies who were contacted and did not respond. It is important to note that these figures are based on REC creation, and an additional 29.17% of REC creation at that time was attributed to brokers, and a further 29.55% to a category described as the ‘rest of Australia’. Based on updated figures on the top ranks of PV retailers at January 2013, the CEC engaged with all of the top 16 retailers, bar two.

- State Ombudsmen
 - Engaged all state bodies, met/talked with Victoria and NSW
- Consumer Affairs bodies
 - Engaged all state bodies, met/talked with Victoria, Queensland and ACT
- Federal Government
 - Commonwealth Department of Climate Change and Energy Efficiency
 - Clean Energy Regulator
 - Office of Minister for Climate Change and Energy Efficiency, Greg Combet
 - Office of Shadow Minister for Climate Action, Environment and Heritage, Greg Hunt
- REC Agents Association
 - Greenbank Environmental and Green Energy Trading
- Administrators of other industry codes
 - Energy Assured Limited Scheme to monitor and improve door to door marketing standards.
 - United Kingdom Renewable Energy Assurance Ltd. Consumer Code set up by the Renewable Energy Association for consumers of small-scale energy generation systems.
 - Code Compliance Monitoring Committee who administer the Code of Banking Practice in Australia

Figure 2: Stakeholder Consultation Process

Phase	Progress/Stakeholder
Round 1: Project Scoping	
Initial Scoping & Development	<ul style="list-style-type: none"> • Preliminary identification of Code objectives and systemic industry issues • Consultation with Industry Integrity Working Group and CEC members • Development of skeleton draft • Industry Workshop: confirmation of support for core concepts of draft Code, obtain views on implementation approaches and industry expectation
	<i>Incorporated edits and additions to draft Code as required</i>
	<i>Distributed draft to Industry Integrity Working Group and CEC members for feedback</i>
Round 2: Broader Consultation	
Development & Stakeholder Consultation	Feedback on draft Code & identification of systemic industry issues via: <ul style="list-style-type: none"> • Clean Energy Regulator • Department of Climate Change and Energy Efficiency • Office of Minister for Climate Change and Energy Efficiency, Greg Combet • Australian Competition and Consumer Commission • Consumer Utilities Advocacy Centre • Alternative Technologies Association • Energy and Water Ombudsman Victoria • Renewable Energy Installation Guarantee Agency • Renewable Energy Assurance Ltd. • Energy Assurance Ltd. • PV Retailers: Meetings with ‘focus group’ of ten individual companies, targeting those in top fifteen largest market share
	<i>Incorporated edits and additions to Code as required</i>
	<i>Re-distributed draft to Industry Integrity Working Group and CEC members for feedback</i>
Round 3: Broader Consultation	

Development & Stakeholder Consultation	Further feedback draft Code & identification of additional industry issues via: <ul style="list-style-type: none"> • Consumer Action Law Centre • Consumer Affairs Victoria • St Vincent de Pauls Society • Choice • Banking Code of Practice Code Compliance Monitoring Committee • Greenbank Environmental • PV Retailers: Meetings with additional ‘focus group’ of individual companies targeting those in top fifteen largest market share
	<i>Incorporated edits and additions to Code as required</i>
	<ul style="list-style-type: none"> • Clean Energy Regulator (2nd meeting) • Department of Climate Change and Energy Efficiency (2nd meeting) • Office of Minister for Climate Change and Energy Efficiency, Greg Combet (2nd meeting) • Office of Shadow Minister for Climate Action, Environment and Heritage, Greg Hunt
	<i>Incorporated edits and additions to Code as required</i>
	<i>Re-distributed draft to Industry Integrity Working Group and CEC members for feedback</i>
Round 4: Broader Consultation	
Finalisation of Code Draft & Stakeholder Consultation	<ul style="list-style-type: none"> • State and Territory consumer affairs bodies • Australian Competition and Consumer Commission (2nd meeting) • PV Retailers: Re-distribute Code to “focus group” of retailers. Hold further individual meetings as requested. Continued targeted retailer engagement with top fifteen largest market share
	<i>Distributed final draft to Industry Integrity Working Group and CEC members for feedback</i>
	<i>Legal Review</i>
	<i>Final edits and additions to Code as required</i>
Formal Submission of final draft to ACCC	

5.2. Solar Complaints

Solar related consumer complaints continue to be a concern for regulators of Australian Consumer Law. Recent media reports have stated that solar complaints increased by more than 30 per cent in 2012, and that the Australian Competition and Consumer Commission (ACCC) received 1613 complaints about solar in 2012.¹² When WA Consumer Protection released details of its top five complaints of 2012, solar products were identified as “the burning issue of the year”. Of the 10,808 complaints Consumer Protection handled in 2012, solar products (installation delays and warranties) accounted for 234 of those complaints.¹³ Acting Commissioner for Consumer Protection David Hillyard also stated that:

“As we began 2012 Consumer Protection had just secured an enforceable undertaking from a major PV system provider to deal with extended installation delays which were concerning a high number of consumers”.¹⁴

¹² Daily Telegraph, “Avoid Shady Dealers”, 11 February 2013: <http://www.pressdisplay.com/pressdisplay/viewer.aspx>.

¹³ Government of Western Australia, Department of Commerce: Consumer Protection, “Hottest Complaint of 2012: Solar Products”, 31 December 2012: http://www.commerce.wa.gov.au/Corporate/Media/statements/2012/December/Hottest_complaint_of_2012_sola.html.

¹⁴ Government of Western Australia, Department of Commerce: Consumer Protection, “Hottest Complaint of 2012: Solar Products”, 31 December 2012: http://www.commerce.wa.gov.au/Corporate/Media/statements/2012/December/Hottest_complaint_of_2012_sola.html.

The Victorian Energy and Water Ombudsman (EWOV) *Annual Report 2012* also identified solar as an ongoing area of concern. In 2011-12, EWOV received 9,777 solar cases, 269 enquiries and 9,508 complaints. The number of solar cases received represented an increase of 79% from 2010-11. Around 796 cases were about solar installation companies, which were referred to Consumer Affairs Victoria.¹⁵ Particular trends identified related to billing problems after the installation of solar, and concern around delays to the completion of a new solar installation, meaning a customer would miss out on eligibility for a feed in tariff. More specifically:

- Billing delays or errors, back-billing, concern that electricity retailers hadn't applied the correct solar tariff or credits, inaccurate/higher than expected bills being received after switching to solar.
- Solar installation companies delaying the installation process and paperwork submission.
- Connection delays, upgrade costs and metering issues, including delays in solar meter upgrades.
- Confusion around solar paperwork required. EWOV stated that:
"There was evident confusion about the solar paperwork, a situation customers said wasn't helped when they received incorrect or conflicting information about the aspects of the process from their electricity retailer, distributor or solar installer".¹⁶

Previous reports produced by EWOV also identified concerns relating to solar marketing. In particular:

- Customers with very large expectations of cost savings which aren't always delivered.
- Customers with unrealistic expectations of bill reductions they could expect and the credits they would be offered for the solar electricity they generated.
- Concern that some installers were over-selling the benefits of solar.

EWOV's *Annual Report 2010* also reported a number of consumers who were later referred to Consumer Affairs Victoria contacting EWOV about the solar installation company to complain about delays in the refunding of deposits, solar installation not being completed, and poor quality work being undertaken.¹⁷

Similarly, complaints to the New South Wales Energy and Water Ombudsman (EWON) about solar and feed-in tariff issues doubled in 2012, with 1247 complaints received compared to 621 in 2010–2011.¹⁸ In addition to confusion about the NSW Solar Bonus Scheme and complaints around confusing or misleading marketing, customers contacted EWON about similar types of issues as those identified by EWOV.¹⁹

The information outlined above is by no means an exhaustive analysis of available data. EWOV, EWON, and WA Consumer Protection have been selected as examples as to the types of trends occurring. They provide an insight into the status of consumer complaints in the solar industry generally. While some of the complaints categories referred to above relate primarily to the behaviour of electricity retailers rather than the PV retailer, PV retailers also have a role to play in addressing some of these problems, even those that may not lie directly/solely within the solar company's area of responsibility.

Jurisdictional variations in reporting and data collection make it difficult to obtain quantitative figures on the types of solar complaints at a national level. The fact that some solar related complaints can

¹⁵ Energy and Water Ombudsman (Victoria) *2012 Annual Report*.

¹⁶ *Ibid*

¹⁷ Energy and Water Ombudsman (Victoria) *2010 Annual Report*.

¹⁸ Energy and Water Ombudsman (NSW) *2012 Annual Report*.

¹⁹ *Ibid*

be dealt with by state ombudsmen, and many are referred to consumer affairs bodies also adds complexity to the process. Nevertheless, despite the lack of a nationally consistent approach to categorising solar complaints, revision of available reports and data, consultation with regulators of Australian Consumer Law, consumer protection organisations, and other stakeholders outlined in Section 5.1 enables a consistent picture of issues arising in the sector to be formed. This builds upon the CEC’s own knowledge obtained from complaints the CEC receives about PV retailers (which are referred to the relevant consumer protection body).

Broadly, complaints tend to fall into the following thematic categories:

- Misleading or deceptive conduct. For example, misrepresentation of state and Commonwealth incentive schemes, marketing which over-sells the benefits of solar and the impact solar will have on electricity bills.
- Systems not performing as expected, for example, customers not receiving the benefit on power bills as expected.
- Issues relating to misrepresentation of product, or incorrect products received.
- Issues around contract cancellations and refund requests.
- Supply issues including delays in the supply and installation of a system, installation not being completed, goods not being supplied.
- Panels placed in the wrong location.
- Faulty systems, failures or defects with goods, and unsatisfactory or defective workmanship.
- Warranty or price disputes.
- Queries relating to implied warranties, cooling off rights.
- Feed in tariff and rebate related disputes.
- Lost paperwork or delays in supply of paperwork required to connect the system to the grid, or get access to feed in tariffs and STCs, leaving households facing financial detriment.
- Problems associated with the electricity retailer (and if relevant, the distributor), in making a transition to a new customer category with the electricity retailer. For example:
 - Connection delays (delays in connection of the system to the electricity network)
 - Metering issues associated with the installation of solar-capable meter/change to a time of use meter, upgrade costs
 - Delays/errors in billing such as inaccurate bills being received after switching to solar, incorrect solar tariff or credits being applied.

A summary of how these categories of complaints are addressed in the Code is provided at Table 3.

Table 3: Consumer Complaints and how they are addressed in the Code

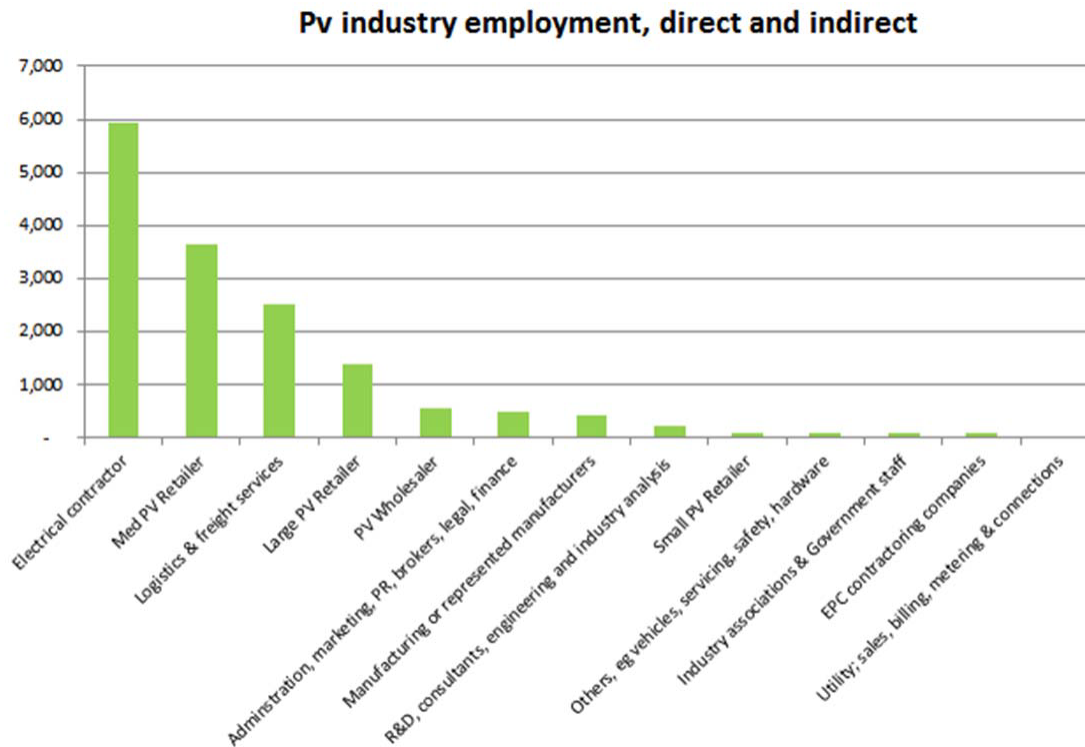
Issue	Section of Code Addressing Issue
Misleading or deceptive conduct	Section 2.1
Performance & bills after installation of solar. Systems not performing as expected	Section 2.1, including clauses 1, 4 (f-h, m), 14, 15 Section 2.2, including clauses 5-6
Issues relating to misrepresentation of product, or incorrect products received	Section 2.1, including clauses 1 (b), (f)(ix), 4 (e)
Issues around contract cancellations and refund requests	Section 2.1, including clauses 4, 6 Section 2.2, including clauses 3, 4
Supply issues including delays in the supply and installation of a system, installation not being completed, goods not being supplied.	Section 2.1, clause 4 (j) Section 2.2, clause 4 (c)
Panels placed in the wrong location	Section 2.1, including clauses 4 (f-g) Section 2.2, including clauses 3, 4
Faulty systems, failures or defects with goods, and unsatisfactory or defective workmanship	Section 2.2, clause 10

Warranty or price disputes	Section 2.1, clauses 4 (i, l) Section 2.2, clause 10
Queries relating to implied warranties, cooling off rights	Section 2.1, clause 4 (l) Section 2.2, clauses 1-2
Feed in tariff and rebate related disputes	Section 2.1, including clauses 1, 3, 4 (c-d, m), 13
Lost paperwork or delays in supply of paperwork required to connect the system to the grid, or get access to feed in tariffs and STCs	Section 2.2, clauses 7-9
Problems associated with the electricity retailer (and if relevant, the distributor), e.g. delays in connection of the system to the electricity network, metering issues associated with the installation of solar-capable meter, upgrade costs, delays/errors in billing after switching to solar, incorrect solar tariff or credits being applied.	Section 2.1, including clause 4 (l), 14-17 Section 2.2, clauses 7-9
Consumer confusion about the operation of STC Clearing House	Section 2.1, clauses 3, 4 (d), 13

6. Public Benefits

It is proposed that the Code will have substantial public benefits which would outweigh any potential detriments constituted by any lessening of competition arising from the scheme. These benefits have been discussed briefly in Section 4.2 and are further outlined below. Given the number of consumers that are impacted each year through their interactions with PV retailers, and with an estimated 15,550 people directly and indirectly employed in the PV industry across 3,250 companies in 2011 (see Figure 3), the impact of these benefits will be distributed widely beyond the primary parties involved in the Code (the PV retailer and consumer), and beyond the PV industry itself.²⁰

Figure 3: PV employment in Australia



Source: Clean Energy Council, *Solar Power Australia 2011-12*, prepared by Solar Business Services and SunWiz

²⁰ Clean Energy Council, *Solar Power Australia 2011-12*, prepared by Solar Business Services and SunWiz

Broadly speaking, the proposed scheme will lessen the risk of exploitation of susceptible consumer groups, improve the flow of information to consumers and PV retailers, and facilitate increased compliance with federal and state legislative requirements. Being a Code signatory will also be a point of competitive difference from non-signatories and therefore may ultimately increase competition.

6.1. Improved standards in the PV Sector, increased consumer confidence and consumer protection

The Code will:

- 1) Guarantee a high quality experience for consumers wishing to buy small-scale PV systems for their homes.
- 2) Protect the public from unethical behaviour and bring about increased accountability in the PV retail industry and address current issues in the industry, in particular:
 - Concern around misleading businesses practices.
 - Misleading claims given to consumers regarding the performance of their PV system and future electricity bills.
 - Misleading advertising regarding the size of PV systems, the value of available government incentives, and the suitability of the PV system.
 - The retailer not taking responsibility for the whole of the PV system including product warranties and workmanship.
 - Sub-standard installation work, and the PV retailer not taking responsibility for the actions and work of subcontracted parties.
- 3) Protect consumers against dishonest and misleading advertising and sales tactics, and ensure that sales representatives act ethically at all times during marketing campaigns and when dealing with customers.
- 4) Ensure that the consumer is provided with the necessary information in writing to enable full education about their purchase prior to entering into a contract.
- 5) Ensure that consumers' legal rights relating to cooling off periods, deposits, and refunds are respected and upheld, and that the consumer has the opportunity to cancel a contract where significant or unreasonable changes are made after point of contract that are not approved in writing.
- 6) Ensure that the consumer is receiving a system that is installed correctly, in accordance with existing legislation, regulations, standards and CEC accreditation guidelines.
- 7) Ensure that the consumer is provided with a standard minimum warranty period covering the operation and performance of the entire system, and that the retailer is responsible for addressing any problems relating to workmanship or product that arise during this period.
- 8) Ensure that the consumer is provided with the required documentation after the PV system is installed, and that the retailer and the consumer are fully aware of who is responsible for the provision of the relevant documentation.
- 9) Provide consumers with confidence that the retailer will act in compliance with relevant federal and state based laws and regulations.
- 10) Ensure that the retailer maintains consistent business practices, including, but not limited to, effective complaint handling procedures and cancellation procedures.
- 11) Facilitate education for PV retailers and assist them to comply with their legal, regulatory and ethical obligations as well as to understand their rights.

6.2. Educate consumers and enable them to make more informed choices

The Code will:

- 1) Provide a mechanism for consumers to distinguish between players in the market and identify companies who are committed to conducting their business in line with best industry

practices. The development of a Code landmark and a range of communications collateral for consumers including a Code flyer will further facilitate this consumer recognition.

- 2) Facilitate greater education for consumers around the purchase of PV, including potential problems that may arise, and factors impacting on system performance, and place greater accountability upon the PV retailer in expediting this education.
- 3) Facilitate greater education for consumers about their rights and obligations under the law.

EWOV specifically referred to a lack of consumer education as an underlying cause of complaints:

“Our overall assessment is that customers had trouble resolving complaints themselves because they found it hard to obtain good information on (and then understand) the complex solar process, the required forms and the responsibilities of the different parties involved in the process”.²¹

The Ombudsman further noted that once consumers had been provided with general information, nearly 80% of their solar cases in 2011-12 were referred back to the customer’s electricity retailer or distributor.²²

6.3. Provide nationally uniform practices and address jurisdictional challenges

The Code will:

- 1) Create a standardised national framework which addresses systemic issues in the industry not currently addressed by existing regulatory regimes. This will assist in streamlining the way that PV retailers interact with consumers, creating consistency and certainty.
- 2) Educate consumers in the navigation of sometimes complex and varied requirements across jurisdictions. For example, differing requirements of electricity retailers or distributors relating to available financial incentives or the connection of solar systems to the electricity network, which are a challenge even for companies operating in the industry.

6.4. Reduced regulatory cost

The Code will:

- 1) Facilitate regulatory compliance.
- 2) Through its reporting and administration regimes, provide a mechanism for the CEC to disseminate information relating to the industry, identify new and emerging issues, and act as an additional resource and point of call for regulators and other concerned stakeholders. Systemic concerns identified by the CEC will be referred to the relevant regulators, as would any potential contraventions of Australian Consumer Law. Likewise, the ability of the Code administrator to communicate with signatories will provide a resource for regulators who wish to disseminate information to parties relating to regulatory matters.
- 3) Reduce costs to consumer affairs bodies, industry ombudsmen, and state and federal government departments arising from administration and enforcement required to address solar complaints. It is proposed that this self-regulatory scheme would likely reduce the quantity of complaints received by these bodies, given that the Code has been designed to directly address common complaints (as per Table 3).

6.5. Reduced risk and cost for other stakeholders operating in the market

The Code will:

- 1) Reduce risk to REC agents and provide additional safeguards for participants interacting in the STC market. Examples include the risk of fraud and risks arising from the provision of misleading information to consumers around the operation of the STC Clearing House.
- 2) Reduce risk and administrative cost for state and federal government bodies who administer government incentive schemes, by for example, discouraging the misrepresentation of government schemes, electricity prices, and operation of the STC market.

²¹ Energy and Water Ombudsman (Victoria) *2012 Annual Report*.

²² *Ibid*

- 3) Reduce risk for the over four thousand CEC accredited installers, (particularly sub-contracted installers) by providing clarity about what the PV retailer is responsible for, preventing retailers from unfairly blaming the installer when something goes wrong, or from pressuring installers to undertake work that is low quality or unsafe.
- 4) More ethical behaviour and the five year warranty provision should promote appropriate care and attention being given to the choice of product, choice of installers, and volume of work allocated to installers, and this should lead to increased safety for installers and consumers.

6.6. Economic efficiency & environmental benefits

The Code should also contribute to economic efficiency and provide broad environmental benefits, which will be of value to the community generally. These include:

- 1) Consumers wasting less money on over-sized or otherwise inappropriate PV units.
- 2) Consumers wasting less money on repairs and through lost electricity generation due to down time.
- 3) Improved standards of service offered by retailers and in the design, sizing and installation of units should result in more efficient electricity generation which has an environmental as well as an economic benefit.
- 4) Less public complaints should result in a better uptake of PV by consumers, which in turn will be better for the environment due to further reduction in greenhouse gas emissions.
- 5) Reduction of risk and improved standards in the industry will assist consumers to be better equipped to harness the potential economic benefits of solar (for example, to better manage their electricity use in the context of the increasing cost of electricity), whilst also understanding that a range of potential financial outcomes for individuals exist. PV already appears to be a popular option for lower income households to reduce the burden of high electricity bills. Recent socio-economic analysis of PV uptake showed that more than 50% of system buyers earn less than \$100,000 p/a and more than 25% earned less than \$65,000 p/a.²³

The potential impact of any additional environmental and economic benefits brought about by this Code is apparent when consideration is given to the impact the industry is already having in Australia. PV contributes to the achievement of Australia's emission reduction targets, and by improving the strength, competitiveness and sustainability of the energy industry, contributes to the enhancement of Australia's economic prosperity, consistent with the principles of environmental responsibility and sustainable development. PV can "generate clean electricity where it is consumed at a price cheaper than the cost of transporting dirty energy from a distant generator, even before all health and environmental externalities are priced".²⁴

Solar power is projected to make a significant contribution to Australia's annual energy requirements over the next decade. "At current installed capacity, PV represents 3.2% of all current generation capacity".²⁵ The Australian Energy Market Operator (AEMO)'s August 2012 statement on the impact of PV and renewables in South Australia (SA), calculated that as a result of the contribution of renewables in SA, there is a five year deferral in any new generation investment required.²⁶ Furthermore,

"The Bureau of Resource and Energy Economics (BREE) now views PV as being cheaper than all fossil fuels by 2030 and Australia's cheapest energy source by 2040. AEMO has recognised that

²³ Clean Energy Council, *Solar Power Australia 2011-12*, prepared by Solar Business Services and SunWiz

²⁴ *Ibid*

²⁵ *Ibid*

²⁶ *Ibid*

PV will only become more cost competitive with retail electricity – as such a great way to improve small business competitiveness and ease cost of living pressures”.²⁷

6.7. Market Share of Signatories

The complexity of determining accurate market share data has already been discussed. However it is recognised that in order to deliver on the proposed public benefits, an appropriate proportion of the PV retailer market will need to sign on to the proposed scheme. To this end, consultation has been targeted towards the top ranks of PV retailers. Yet noting that this list regularly changes (even at the time of writing this submission one company in the top 10 ranked PV retailers entered voluntary administration), that generally no company is able to hold greater than 10% market share, and that there is a very strong presence of small and medium sized companies in the industry, the CEC has also been targeting the many smaller and medium sized companies in the sector.

To address the challenge arising from such a diverse and changeable industry, the CEC has commenced a broad campaign to engage with PV retailers, communicate the Code’s objectives, and to seek commitments and support for the scheme. This campaign will be ongoing, and continue long after the proposed scheme may be approved by the ACCC. The response to date has been positive. A list of parties in support of the proposed scheme is provided at **Appendix A**, and this list continues to grow each week.

As an initial target (subject to authorisation of this application), the CEC aims to sign on to the scheme 50% of the largest top 10 retailers, and 50 small to medium sized companies, which could represent 30-40% of the market. Given the growing list of confirmed companies in support of this initiative, the CEC has a reasonable and strong expectation of achieving the intended market share required to ensure the scheme achieves its proposed benefits.

Broader community and consumer recognition of the Code brand will also be important in ensuring the Code has its intended impact. The initial strength of the Code will come from marketing, and the benefit of becoming a signatory will be competitive advantage. To this end, a newly developed Code brandmark, combined with a strong communications campaign to market the Code to consumers and broadly within the community, will enable signatories to market their commitment to best practice and to stand out from non-signatories.

It may be argued that if the companies that sign on to the Code initially aren’t the problem, then the Code’s ability to achieve its intended public benefits will be diminished. On the contrary, if all such companies wanted to sign up immediately then that would be a strong indication that the standards outlined in the Code are too low. Also, by signing up the majority but not all of the top 10 PV retailers (by market share) there is an immediate marketing benefit for the PV Retailers who have signed up and meet the standards of the Code. This will encourage those signatories to promote the Code further, which will raise consumer awareness of the Code and provide incentive for non-signatories to meet the standards required of the Code in order to become signatories.

While the intent of the Code is to discourage disreputable behaviour, the CEC does not expect that every retailer will sign up to begin with – and this is not regarded to be a negative. There are several companies out there who would not currently become Code signatories due to their existing business practices. The CEC does not want such companies to become signatories until they have demonstrated that they will comply with the Code. Their doing so prematurely would risk damaging the Code reputation and rendering the Code brandmark untrustworthy in the eyes of consumers.

²⁷ *Ibid*

Furthermore, it is the nature of launching such a voluntary scheme that it is difficult to engage certain companies in the beginning, whose fundamental philosophy and business model may be based on minimal customer care, and pushing the limits as to their legal and ethical obligations. Changes to such behaviour do not happen overnight, yet this Code will provide a mechanism to trigger a change. It is anticipated that the market will ultimately force such companies to lift their standards in order to sign on to the Code, as the market develops through this Code, consumer recognition of the Code brandmark grows, and consumer expectations rise. More and more companies will be encouraged to change their behaviour if they want to have access to the benefits of a brand that their competitors have.

7. Public Detriments

The Code will be open to all PV retailers operating in the market. Membership to the Code will be actively encouraged and there will be no relationship between an applicant's membership or lack of membership with the CEC in the determination of their eligibility to become a Code signatory. It is proposed that the Code will have minimal, if any, impact on competition.

The sections of the Code which may be deemed to be anti-competitive are outlined and discussed in detail below.

Clause 2.4(17) of the Code provides that signatories must employ and contract CEC accredited designers/installers for all system designs and installations, who abide by the CEC Accreditation Code of Conduct and Accreditation Terms and Conditions, or an equivalently trained accredited designer/installer as defined by the Federal Government in accordance with the *Renewable Energy (Electricity) (Cth) Regulations 2001*. There may be a perception that requiring signatories to only deal with such installers/designers would unreasonably restrict or limit the ability of non-accredited persons to engage in the solar industry, and hence constitute an exclusionary provision.

It is not possible to obtain data on the numbers of unaccredited solar designers/installers operating in the industry, however it is likely that that this number is low, given that consumers wanting to take advantage of the SRES scheme must use a CEC accredited installer and designer. Furthermore, the Code reflects whatever the *Regulations* deem to be acceptable in the accreditation of PV installers/designers. The Clean Energy Regulator, through these *Regulations*, has determined the suitability, independence and transparency of ensuring appropriate standards in the industry are maintained. If other accreditation bodies are established under the *Renewable Energy (Electricity) (Cth) Regulations 2001*, such bodies would also be compliant with the Code as an accreditation provider. The inclusion of such a provision would also improve the delivery of the public benefits by ensuring that consumers are receiving systems designed and installed to an acceptable quality and safety standard.

It is possible that the conduct of signatories in agreeing amongst themselves as to the rules on which signatories will be admitted to, and expelled from, the Code (Sections 3 and 4 of the Code), amounts to an exclusionary provision because those rules have the purpose of preventing, restricting or limiting the services provided by the Code administrator for those who are not signatories (for example, benefits such as use of the Code brandmark, ability to claim membership to the Code). It may also be considered that Code reporting and compliance requirements may result in barriers to entry for potential signatories, and ultimately restrict a company from subscribing to the Code. For example, a company may not be able to sign on to the Code due to financial or administrative hurdles Code signatories are required to meet, and this may be deemed to be anticompetitive.

However all prospective signatories will be on even footing, and eligible to become a signatory so long as they comply with the relevant rules and standards outlined in the Code. While all companies

are treated equally in their assessment for eligibility to become a signatory, to ensure that the smaller companies are on equal footing with larger companies in the requirement for payment of an annual Code fee, the fee structure has been tiered according to the number of PV installations a company completes per year.

The CEC has also sought to mitigate potential bureaucratic/administrative burdens imposed by the Code where possible. A range of supporting documentation to assist Code signatories in digesting and adhering to the scheme will be developed. This may include for example, guides to complying with the Code, templates for Code reporting, a Code leaflet and fact sheets for consumers. Signatories will not be expected to re-write procedures that they already have in place, so long as they comply with the Code.

Where a member fails to comply with the Code, and faces sanctions, or even being publically named, this may result in negative publicity for a signatory, and in them being removed as a Code signatory, or discourage consumers from engaging with them, thus negatively affecting their ability to compete or conduct their business in future.

While the mechanics of the proposed scheme requires this state of affairs, all signatories are treated equally in regards to their requirement to comply with the Code. Code compliance procedures will be fully transparent, and the administration of the Code will be overseen and monitored by an independent body, the CRP. The members of the CRP will have no conflict of interest, be non-signatories to the Code, and be appropriately qualified to ensure due process is followed at all times in the administration and investigation of breaches of the Code, and application of sanctions.

Clear reporting processes have been put in place to ensure transparency, and clear guidelines around penalties, sanctions and compliance have been set out in the Code. These outline the circumstances in which penalties will be applied, and how they are applied. Where a signatory is suspected or found to be non-compliant with the Code, the imposition of any sanctions will be determined by the Code administrator, or where appropriate, referred to the CRP for consideration. Where a major breach has been made, signatories will be given an opportunity to rectify the breach within a reasonable timeframe before the company is publically listed on the CEC website. If the breach is rectified in this time, the breach will be publically listed de-identified. All Code signatories will be entitled to an independent right of appeal to the CRP, whose final decision will be binding.

The Code would not function effectively nor achieve its goals without appropriate monitoring, reporting and compliance requirements. Efforts have been made to reduce any administrative burden, but some is unavoidable if the scheme is to deliver the intended public benefits. Consumer confidence in the Code compliance and monitoring processes are also essential if the Code is to achieve the expected public benefits. The compliance regime must match the objectives of the Code. Without sanctions acting as an effective deterrent to breaching the Code, the ability of the proposed Code to achieve the expected consumer and public benefits would be minimal.

Sections 2 and 3 of the Code also may amount to an agreement amongst competitors as to the terms and conditions on which they deal with customers, which may give rise to a lessening of competition. For example, agreeing to terms of trade such as the warranty provision under Section 2.2, 10 of the Code may have an effect on competition. However it is proposed that such effect would not be substantial. In the case of warranty for example, signatories would be free to differentiate themselves and compete by offering a warranty that goes above what is required as a minimum standard in the Code. Furthermore, such agreements are essentially what constitute voluntary codes of practice, and are necessary if the Code is to achieve its goals and public benefits.

An additional possible detriment is that there may be a small average increase in the cost of PV installations. Providing a five year warranty on the whole of system will drive the use of better quality product. Higher quality generally costs slightly more than the lesser quality. Retailers that have not, historically, provided any support after the installation will be required to 'support' the system for five years. Consultation with the industry has revealed that some retailers' business models would be affected by this, and to provide this guarantee could increase their costs, hence the overall cost of install. However it is also expected that any price increases would also be matched with a concurrent increase in quality of product, and quality of installation in the industry, amounting to reduced risk and costs in the long term for consumers, and adding to the public benefits to be gained by the proposed scheme.

8. Additional Information

8.1. Prospective need for changes to the detail of the conduct

An annual report on the Code's operation, including reporting on Code compliance will be produced by the CRP, to enable a periodic assessment of the Code's effectiveness, ensure the Code standards meet the identified objectives and community expectation, and to identify systemic issues and areas for improvement. All breaches and sanctions occurring each year will be reported in the Code's annual report.

The Code, Code reporting, CRP and CRP terms of reference will also be independently reviewed every three years following their commencement. The review will be undertaken by a suitably qualified, independent person/body. These reviews will be conducted in consultation with relevant stakeholders including consumer advocacy groups, government bodies and regulators of consumer law.

Appendix A: Interested Parties

Parties in support of the proposed scheme:

Company	Details of Business
Energy Matters	PV retailer
Infinity Solar	PV retailer
Ingenero	PV retailer
AGL	PV retailer
CSR	PV retailer
Juno Energy	PV retailer
Solaworx	PV retailer
Earthsave	PV retailer
Maxi Solar	PV retailer
Breaze	PV retailer
Eris Mccarthy	PV retailer
Springers	PV retailer
Sungevity	PV retailer
Central Solar	PV retailer
Sunshine Coast Solar/The Sun Works Solar Centres	PV retailer
Clean Green Power	PV retailer
Natural Technology Systems	PV retailer
Suntrix	PV retailer
The Green Power Company	PV retailer
Infinite Energy	PV retailer
Solargain	PV retailer
Zen Technologies	PV retailer
Sunergy Solar Water Wind	PV retailer
Ecovation	PV retailer
EcoSmart Solar	PV retailer
Millennium Solar Consultancy	PV retailer
Blue Mountain Solar	PV retailer
Clean Energy Solar	PV retailer
Evolve Energy	PV retailer
Applied Environmental Solutions	PV retailer
Sola Direct	PV retailer
Solar Australia	PV retailer
Surpass Solar	PV retailer
MJ Coonan Electrical	PV retailer
Corospark	PV retailer
Skyline Solar	PV retailer
Si Clean Energy	PV retailer
Solar Life	PV retailer
Shine on Solar	PV retailer
Metro Solar	PV retailer

Other interested parties:

- Consumer Utilities Advocacy Centre (David Stanford)
- Consumer Action Law Centre (Gerard Brody)
- Alternative Technologies Association
- Choice (Katrina Lee)
- St Vincent de Pauls Society
- Ombudsmen Victoria and NSW and ACT
- Consumer Affairs Bodies Victoria, Queensland
- Clean Energy Regulator
- Commonwealth Department of Climate Change and Energy Efficiency
- Office of Minister for Climate Change and Energy Efficiency, Greg Combet
- Office of Shadow Minister for Climate Action, Environment and Heritage, Greg Hunt
- REC Agents Association
- Greenbank Environmental
- Green Energy Trading



Clean Energy Council

Voluntary Code of Conduct for PV Retail Businesses

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1. Introduction

The Clean Energy Council (CEC) is the peak body representing Australia's renewable energy and energy efficiency industry.

1.1 Purpose and Objectives

This non-prescribed voluntary Code of Conduct (the Code) aims to promote best practice measures and activities for retail businesses that are selling solar photovoltaic (PV) systems. This Code is for retail businesses that want to demonstrate the commitment they have to promoting responsible activity and development in the renewable energy sector across Australia. This Code is not intended to replace existing consumer, energy or environmental planning legislation, policy or regulations at local, state or federal government levels, but to bring about increased accountability within the PV retail industry.

The primary entities involved in the sale and installation of PV are the installer, designer, and retailer. It is the nature of the PV market that these roles can all be filled by one individual, or conversely, two or three different entities. The former category is typically found in small retail businesses run by a qualified installer/designer, and the latter typically in medium to larger sized companies that subcontract out the designs and/or installations of PV systems, meaning that those running the business or making a sale are less likely to be qualified installers/designers. Many PV retailers in the industry now sell systems direct to consumers and sub-contract the installation of those systems.

CEC Accreditation for Solar PV Designers/Installers

The CEC Accreditation Team manages a PV accreditation program to accredit the designers and installers of solar systems. CEC Accreditation is not linked to membership with the CEC. This qualification demonstrates competence in design and/or installation of stand-alone and/or grid-connected solar PV systems. Only individuals are able to gain accreditation under the PV accreditation scheme, which has a technical focus on safety and the correct design and installation of PV systems. A CEC-accredited solar designer/installer:

- Has completed necessary solar specific training courses.
- Is bound by the CEC Accreditation Code of Conduct and the CEC Accreditation Terms and Conditions.
- Complies with the CEC Design and Install Guidelines, relevant Australian Standards and all other relevant regulations when designing/installing PV systems.

In order to claim Federal Government financial incentives available under the Small-scale Renewable Energy Scheme (SRES), consumers must use a CEC-accredited installer and designer, in accordance with the *Renewable Energy (Electricity) (Cth) Regulations 2001*. More information on the Solar PV Accreditation Program is available at: solaraccreditation.com.au.

Code of Conduct for PV Retailers

The PV Accreditation Program deals with matters relating to the installation and design of PV systems. This Code deals with matters that relate to the marketing and sale of PV systems to ensure the PV retailer also maintains a standard that will benefit consumers and the industry.

The Code has been developed to improve the relationship between consumers and PV retailers and ensure the industry is suitably regulated. The Code is a self-regulated scheme designed to provide consumers with confidence that the retailer will act in compliance with (and where appropriate, go beyond) relevant federal and state based laws and regulations, and conduct its business in a professional and ethical manner. The Code also deliberately connects the responsibility of the retailer with the obligations of accredited installers/designers, to ensure that retailers are fully accountable for the actions of any subcontracted parties. This Code aims to address issues identified which may impact on the reputation of the industry. These issues include:

- Misleading claims given to consumers regarding the performance of their PV system and future electricity bills.
- Misleading advertising regarding the size of PV systems, the value of available government incentives, and the suitability of the PV system.
- The retailer not taking responsibility for the whole of the PV system including product warranties and workmanship.
- Sub-standard installation work.
- The retailer not taking responsibility for subcontracted parties acting on their behalf and any parties who generate sales leads utilised by the retailer.

The Code will be updated to reflect changes in the above, with the aim of proactively addressing issues that adversely affect consumers and the reputation of the PV industry.

To achieve its objectives, this Code addresses four broad subject areas:

Pre-Sale Activities

- To protect the consumer against dishonest or misleading advertising and sales tactics, and to ensure that sales representatives act ethically at all times during marketing campaigns and when dealing with consumers.
- To ensure that the consumer is provided with the necessary written information to enable full understanding and awareness of their purchase.

Post-Sale Activities

- To ensure that consumers' legal rights relating to cooling-off periods, deposits and refunds are respected and upheld, and that the consumer has the opportunity to cancel a contract where changes are made after point of contract that are not approved in writing.
- To ensure that the consumer receives a system that is installed correctly, in accordance with existing legislation, regulations, standards and guidelines.
- To ensure that the consumer is provided with a standard minimum warranty period covering the operation and performance of the entire system, and that the retailer is responsible for addressing any problems relating to workmanship or product that arise during this period.

Documentation

- To ensure that the consumer is provided with the required documentation after the PV system is installed, and that the retailer and the consumer are fully aware of who is responsible for the provision of the relevant documentation.

General Business

- To ensure that the retailer adheres to all existing legislation and regulations, and maintains consistent business practices including, but not limited to, effective complaint handling procedures and cancellation procedures.

1.2 Scope and Interpretation

While the Code has been developed primarily to address issues arising during the sale and installation of small-scale PV to residential and small business consumers, the Code applies to any PV retailer that becomes a signatory, regardless of what size system and to whom they are selling. However, where signatories are selling PV to medium and large scale business consumers (who can be assumed to have a genuine and reasonable opportunity to negotiate the terms of a contract), it is acceptable for a commercial contract to supersede specific clauses of the Code.

This Code exists in addition to any relevant state or federal legislation including *Australian Consumer Law (Cth)* (ACL) (Schedule 2 of the *Competition and Consumer Act 2010*, which is the new name of the *Trade Practices Act 1974*). Signatories' obligations under these laws are not replaced or restricted by this Code. This Code applies to the extent that it is consistent with all existing state or federal legislation or regulation. Where the Code is found to be inconsistent with any existing state or federal legislation or regulation, that regulatory obligation will take precedence to the extent of the inconsistency. Compliance with this Code does not guarantee compliance with any legislation.

A summary of relevant laws that protect consumers is provided at Appendix 5.5.

1.3 Signatories to the Code:

PV retail businesses that are signatory parties are compliant with and agree to adhere to the Code. They:

- Are any PV retailers, including those selling PV to residential and small business consumers and those selling PV to medium and large scale business consumers.
- Are committed to developing and conducting their business in line with best industry practices and interacting with consumers in a professional and ethical manner.
- Include non-CEC members and CEC members who choose to subscribe to the Code.

A regularly updated list of current signatories to the Code will be available online for consumers.

2. General Rules and Standards

Signatories to the Code comply with the rules and standards in this chapter as set out below.

2.1 Pre-Sale Activities

Advertisements and Promotions

1. Any advertisements, promotions, quotations and statements produced must be legal, truthful, and comply with all relevant legislation. Signatories must:
 - a) Ensure all state and federal government incentive schemes are fairly and accurately represented, including not misrepresenting an association with government, or falsely claiming to be part of a government scheme.
 - b) Not provide any false or misleading claims relating to the company, product or services being offered including system performance, stocks and substitution of products.
 - c) Clearly attribute any claims relating to performance and savings to a reputable source.
 - d) Advertise the total price as prominently as they advertise a component of the price.
 - e) Provide information that is specific to the state or region of advertisement.
 - f) Not engage in any misleading or deceptive conduct in relation to the price, value or quality of goods or services including:
 - i. .
 - ii. Failing to clearly outline disclaimers or relying on disclaimers buried in small print in order to deliberately mislead a consumer.
 - iii. Making statements with promises, predictions or opinions that are known to be untrue or incorrect, or there are no reasonable grounds for making them.
 - iv. Quoting tariffs or financial incentives that are no longer available or not available in the region of advertisement.
 - v. Misleading consumers about the impact that installing solar will have on their electricity bills.
 - vi. Misleading consumers in relation to the size of the system or output.
 - vii. Advertising large inverters with small systems, with the intention of making it appear that the system size is the size of the advertised inverter.
 - viii. The place of origin (manufacture) of a product.
 - ix. Exaggerating or misleading a consumer in regards to their need for the product.

Sales and Quoting Practices

2. Signatories must adhere to ethical sales and quoting practices during all steps of the process including but not limited to:
 - a) Avoiding high-pressure sales tactics that induce consumers to make quick or uninformed decisions about the product and technologies that they are selecting. High-pressure sales tactics can be defined as (for example):
 - i. Seeking to sell products to individuals who, or organisations that, are clearly unable to understand the information and/or the contract they are being asked

to enter into. For example, deliberately targeting consumers who are vulnerable due to mental illness or physical disability, age, learning difficulties, or speaking English as a second language.

- ii. Offering inflated prices and then discounts for agreeing to sign on the day or for providing testimonials and/or providing referrals.
- iii. Revisiting the consumer's premises uninvited intending to pressure the consumer.
- iv. Applying psychological pressure (by appealing to the consumer's fears, greed or vanity), to persuade the consumer to make a quick purchase decision.
- v. Undertaking badgering techniques, such as making daily telephone calls, to pressure individuals or organisations into signing contracts.
- vi. If the consumer reasonably feels they have been subject to high-pressure sales tactics then this may also be considered to constitute such tactics.
 - What constitutes 'reasonable' will be determined by the Code Administrator (see Section 3.1 below).

b) When engaging the consumer in their home or place of business:

- i. Identifying all sales agents with company-issued identification for the safety and comfort of consumers.
- ii. Explaining up-front the purpose of the visit and informing the consumer that they can ask the retailer to leave.
- iii. Leaving the premises immediately if the consumer asks them to do so.
- iv. Explaining to consumers their right to terminate the agreement within ten business days for unsolicited sales.

3. Any reference to Small-scale Technology Certificates (STCs) must be consistent with Clean Energy Regulator wording, whereby an STC is a financial incentive, not a rebate, and consumers will not qualify for any government-based financial recompense at the completion of the STC creation process.

Point of Contract

4. A written contract must be provided to the consumer that shows:

- a) An itemised list of the goods to be supplied.
- b) The total price of all goods and services.
- c) The total value of any discounts, STCs, Goods and Services Tax (GST) and rebates (if applicable).
- d) Specification that any STC payment is a point-of-sale payment made to buy an asset/right from the consumer (not a discount or rebate).
- e) Full specifications of the system, including the solar modules (manufacturer, model, quantity, power rating) and inverter/s (manufacturer, model, quantity, power rating).
- f) A site-specific full system design including the proposed roof plan (sketch or diagram is acceptable), all shading issues, orientation and tilt, along with the system's site-specific estimated energy yield i.e. daily performance estimate in kilowatt hours (kWh) for each month of solar generation..

- i. The performance estimate must be based on data obtained from the CEC System Design Guidelines for Accredited Designers or other reputable source.
 - g) It is acceptable for Section 4(f) above to be provided as a deliverable of the contract, so long as:
 - i. This information is provided before the expiry of any cooling-off period.
 - ii. Where Section 4(f) is provided as a deliverable of contract:
 - The initial contract must include a generic outline of the likely system performance estimate (to enable the consumer to make an informed purchase decision).
 - The consumer must be entitled to a full refund upon request, if they do not consent to the site-specific full system design and performance estimate upon receipt of this information.
 - h) The expected efficiency losses due to shading or orientation.
 - i) Any site conditions and special circumstances beyond the control of the signatory which may result in extra chargeable work not covered by the quote, and hourly or daily rates which would apply in this situation.
 - i. This includes any additional costs that may arise at or after installation and that will not be borne by the signatory. For example, fees for meter exchange/reconfiguration, damage on meter panels, and changing dedicated off peak control devices if required.
 - j) A timetable for supplying and installing the system.
 - k) Business terms, including the payment method, deposits and timetable, and how long the quote will be valid for.
 - l) Details about any after-sales services, guarantees and express warranties. The warranty must:
 - i. Set out relevant claim periods or procedures.
 - ii. Include a statement that the consumer's rights under the warranty sit alongside the consumer guarantees which are required under ACL and cannot be excluded.
 - Under ACL, consumers cannot sign away their consumer guarantee rights. Signatories must not put terms into their contracts to avoid their consumer guarantee obligations.
 - iii. The consumer's cooling-off and termination rights.
 - m) Full disclosure of all assumptions made in relation to systems and finance offerings including:
 - i. System design, performance and output assumptions.
 - ii. Financial savings including STC financial incentives, savings relating to return on investment, income and energy prices.
 - n) A clause stating that the signatory must comply with this Code.
5. The contract must be expressed in a clear and transparent way, using plain language that is legible.

6. Signatories must endeavour to draw to the attention of the consumer specific requirements of the contract which, if not brought to the consumer's attention, are likely to result in a dispute. For example, Section 4(i), additional fees that may arise, or if there is any difference between a price verbally quoted, and the final contract price.
7. Both parties must sign the agreement and any amendments.
 - a) Equivalent methods of legal agreement other than signing a contract in person are also permitted (for example, electronic acceptance).
8. Any requirement to provide a document or information in writing, or provide a signature or record of information can be met in electronic form.
9. Receipts must be issued for all deposits collected.

Prior to Signing the Contract

10. Before the contract is signed the signatory must provide the consumer with the address of the local office or showroom, or a telephone number where any queries can be answered.
11. Consumers must be given a flyer describing this Code and also including:
 - a) The process for provision of consumer feedback and lodging consumer complaints.
 - b) A link to the CEC Solar PV Consumer Guide.

A link to this flyer is acceptable, so long as a hard copy can be provided upon request. The Code flyer will be produced and provided to signatories by the Code Administrator (see Section 3.1).

12. Signatories must ensure that the contract is explained to consumers prior to entering into an agreement.
13. Signatories must clearly explain the process surrounding the payment and trade of STCs, including:
 - a) Where relevant, the provision of accurate information about the operation of the STC Clearing House (i.e. that STCs in the Clearing House are only sold when there is a buyer, there is no guarantee on how long they will take to sell, and consumers are not guaranteed \$40).
14. Consumers must be advised that their electricity contract/tariff may change following installation of solar and to check with their electricity retailer what new electricity tariff rates may be applied.
15. Signatories must advise consumers of potential billing issues that may arise following changeover of the meter. For example, consumers should contact their electricity retailer and check their bills to confirm that the agreed tariff has been applied by their electricity retailer.

Approval to Connect to the Network

16. Consumers must be advised (where relevant in the state of installation) that they require approval from their distributor to connect a system to the electricity grid, must fill out the relevant paperwork prior to installation and should gain approval prior to sale.
 - a) Where consumers take responsibility for obtaining approval to connect to the network, they are not entitled to a refund if the application is rejected and the contract has already been signed.

17. For signatories that prepare and submit the relevant documentation required for approval to connect to the network on behalf of the consumer, they must ensure the consumer receives approval prior to installation.
 - a) Where signatories take responsibility for obtaining approval to connect to the network, consumers are entitled to a refund if the application is rejected and the contract has already been signed.

2.2 Post Sale Activities

Pre-Installation

Cooling-Off Period

1. For unsolicited sales, consumers must be given ten business days to cancel the contract without penalty (the cooling-off period) after they have signed the contract.
2. Where a consumer wishes to withdraw from a valid contract after the expiry of any cooling-off period, signatories are entitled to apply their own policies regarding fees for cancellation, in line with the termination rights specified in the initial contract, provided that such cancellation fees do not amount to unfair contract terms under the ACL. Cancellation fees must be reasonable, and related to the cost incurred by the signatory. Consumers have rights under unfair contract terms provisions in ACL relating to cancellation of contracts and termination fees.

Refunds

3. Once the consumer has signed the contract, any variations to the system design must be documented and signed off by the consumer prior to installation.
4. A full refund must be given to the consumer upon request when:
 - a) The final system design provided in accordance with Section 2.1, 4(f) is significantly different to that quoted at point of contract and is not signed off by the consumer.
 - b) Where, in accordance with Section 2.1, 4(g), the site-specific full system design and performance estimate is provided as a deliverable of the contract and:
 - i. This information is not provided before the expiry of any cooling-off period.
 - ii. The consumer does not consent to this information upon receiving it.
 - c) The delivery timeframe for installation completion that was agreed upon at point of contract is not honoured and the consumer does not consent to a revised timeframe.
 - i. Excluding reasonable events outside of the control of the signatory or customer (e.g *force majeure* events).
 - d) Where, in accordance with Section 2.1, 16, the signatory acting on behalf of the consumer to obtain approval to connect to the network does not do so prior to sale, and the consumer does not receive approval from the distributor to connect a system.
 - e) Extra chargeable work not specified in the initial contract arises, the additional costs are not borne by the signatory, and the consumer does not consent to these additional costs.

Post-Installation

5. Consumers must be informed on how to measure the performance of their system. Signatories must specify how energy output can be measured by one of the following:
 - a) Demonstration.
 - b) Written instructions on how to read the inverter.
 - c) Provision of a measuring device that links back to the inverter.

Energy output is a reasonable measure of performance, savings are not.

6. Signatories must inform consumers how to appropriately maintain their system on a regular basis (provision of maintenance documentation in accordance with Section 2.3 below is sufficient).

Connection to the Network

7. Signatories must prepare and submit all relevant documentation on behalf of the consumer (where permitted to do so) required from the electricity retailer and/or distributor for meter installation and connection of the system to the network, or otherwise clearly explain to the consumer the process for preparing and submitting such documentation.
8. Consumers must be informed of the process between system installation and network connection. Signatories must:
 - a) Notify the consumer when they have provided the relevant paperwork to the electricity retailer and/or distributor (if applicable).
 - b) Provide expected timeframes for each step.
 - c) Advise the consumer who they should contact to follow up on progress.
 - d) Advise of any potential problems that may arise.
9. Signatories must endeavour to respond in a timely manner to any additional compliance requests from the distributor or electricity retailer (for example, re-submitting incorrect paperwork), and if required, in consultation with the consumer.

Warranty

10. A standard minimum retailer's warranty period of five years must be provided by the signatory, on the operation and performance of the whole PV system including workmanship and products.
 - a) This retailer's warranty exists over and above the consumer's automatic rights under consumer guarantees.
 - b) The consumer is entitled to claim a remedy if the goods or services do not meet a consumer guarantee or retailer's warranty.
 - i. Signatories must implement warranty repairs or replacements within a reasonable timeframe.
 - ii. The consumer is not entitled to a remedy when the signatory does not meet a consumer guarantee (statutory and retailer's warranty) due to something:
 - Someone else said or did (excluding the signatory's agents or employees).
 - Beyond human control that happened after the goods or services were supplied (e.g. *force majeure* events, possums, extreme weather).

2.3 Documentation

- Below (Section 2.3, 2) is a list of the required documentation that the consumer needs to receive once the PV system is installed, and who is responsible for providing the documentation. Signatories must ensure that the responsible parties below provide the consumer with this documentation.
- This documentation must be provided in either electronic format or hard copy. Where appropriate, specified information (for example, a web link) on where this information can be found is acceptable, however hard copies must be provided upon request from the consumer.

Party responsible	Documents
Retailer	<ul style="list-style-type: none"> • List of equipment • Warranty information • Equipment manual • Equipment handbook • Array frame engineering certificate
Designer	<ul style="list-style-type: none"> • Shut down and isolation procedure • System performance estimate • Maintenance • Earth fault alarm actions • System connection diagram • Site inspection checklist
Installer	<ul style="list-style-type: none"> • Testing / commissioning • Declaration of compliance • Certificate of electrical safety (where applicable)

2.4 General Business and Obligations of Signatories

Compliance with the Law

- Signatories must comply with all local, state and federal legislation, CEC Accreditation Guidelines and regulations including but not limited to:
 - The Renewable Energy Target (*Renewable Energy (Electricity) Act 2000* and *Renewable Energy (Electricity) (Charge) Act 2000*) which is supported by the *Renewable Energy (Electricity) Regulations 2001*.
 - The Australian Government Do Not Call Registry (*Do Not Call Register Act 2006*) and associated telemarketing standards including permitted hours for contacting consumers.
 - Schedule 2 of the *Competition and Consumer Act 2010*, which replaced the *Trade Practices Act 1974*.
 - Respecting “Do Not Knock” or “No Hawkers” stickers

- e) Additional outlined in Appendix 5.4.

In-house Procedures and Complaints Handling

2. Signatories must be responsive to, and deal appropriately with, consumers at all times.
3. Consumers have the right to expect that PV systems supplied by a signatory will perform properly, reflect the agreed contract, be fit for purpose as per the specifications provided and as outlined by the signatory and meet the standards the consumer would reasonably expect, including those set out in this Chapter 2: *General Rules and Standards*.
4. If consumers are dissatisfied with a product or service offered or provided, they can provide a complaint to the signatory. A complaint may include any expression of dissatisfaction with a product or service offered or provided, with the sales process or salesperson, or with the complaints handling procedure itself.
5. Signatories must have an appropriate internal complaint handling process that is fair, efficient and transparent, in line with the following:
 - a) Compliant with relevant legislation and standards including the Australian Standard on Complaints Handling AS ISO 10002-2006, which Australia adopted as the replacement for AS 4269 in 2006.
 - b) Information about this complaints process must be made available to consumers and staff.
 - c) Signatories must log the complaint and begin their investigation within a reasonable time of its receipt.
 - d) Every reasonable effort must be made to advise the complainant as soon as possible of receipt of the complaint and the expected timeframe for resolution of that complaint.
 - e) Feedback on the outcome of complaints must be provided within 21 days of receipt. Where additional time is required:
 - i. Consumers must be informed of the need for more time to complete investigation.
 - ii. The investigation must be completed within 45 days of receipt of the complaint.
 - f) Where consumers are dissatisfied with the outcome of a complaint, signatories must provide them with the appropriate contact details for escalating that complaint either internally or externally to the relevant state or territory industry consumer protection organisation, as an independent dispute resolution body.

Signatories must ensure that consumers fully understand the various avenues of complaint available to them. Consumers who have attempted to have their complaint resolved by the signatory and are dissatisfied with that response be referred by the signatory to the applicable industry ombudsman or consumer affairs body.
 - g) Signatories must maintain appropriate record keeping of complaints and their outcomes.
6. Signatories must be able to demonstrate compliance with the Code and provide evidence of compliance to the Code Administrator when a suspected breach of the Code is being investigated. This could include:
 - a) Documented procedures
 - b) Discussion of standard practices

- c) Examples of standard documentation given to consumers such as contracts, warranty documents

Information to be Provided to the Code Administrator

7. Signatories are required to provide an annual reconfirmation of their compliance with the Code which also serves to reaffirm the signatory's ongoing commitment to implementing the Code.
8. Signatories must nominate an authorised person as the "Code primary contact", and provide up to date details including email address, title and telephone number for this contact. Signatories must inform the Code Administrator within 28 days of a change to the Code primary contact's details. Signatories must inform the Code Administrator immediately of any change in circumstances that may impact on the primary contact's ability to fulfil their role.
9. Signatories must inform the Code Administrator of any complaints lodged against them with an energy ombudsman or consumer affairs body.
10. Signatories must undertake to inform the Code Administrator of any breaches to the Code made by other signatory companies.
11. Signatories must provide the Code Administrator with the following information and data upon request. This information will be used by the Code Administrator in managing the administration of, and compliance with, the Code, including compliance audits and investigating all suspected breaches of the Code.
 - a) Relevant in-house procedures outlined above in Section 2.4: *In-house Procedures and Complaints Handling*.
 - b) Records of all relevant business activities and transactions relating to a suspected breach, including (if applicable) information provided to the consumer who lodged the complaint, and training provided to employees. These records must be kept for a minimum period of five years, for audit purposes in the administration of this Code.
 - c) Details of any known breaches of the Code.
 - d) Regular (for e.g. quarterly) complaints data, including:
 - i. The number of complaints received.
 - ii. The type of complaints received.
 - iii. The number of resolved complaints.
 - e) Any other information that the Code Administrator deems relevant for investigating a suspected breach of the Code.
12. All commercial in confidence information will be treated with appropriate confidentiality.
13. Signatories must comply in a timely manner with reasonable requests made by the Code Administrator for the provision of information or documentation in relation to compliance audits or investigation of suspected breaches of the Code.
14. Signatories must comply with all reasonable requests of the Code Review Panel in pursuance of its functions (see Section 3.2).

Training and Promotion of the Code

15. Signatories must ensure consumers are made aware of the Code and:
 - a) Take all reasonable steps to promote the benefits of the Code to consumers, including telling consumers about the Code and providing copies when asked.

- b) Advertise the latest version of the Code on their website and in other relevant marketing documents.
 - c) Ensure consumers are aware of their company's complaints handling provisions.
- 16. Signatories must ensure employees and representatives, whether employed directly, subcontracted or selling on the company's behalf:
 - a) Are aware of the Code and their responsibilities under the Code
- 17. Signatories must employ and contract CEC accredited designers/installers for all system designs and installations, who abide by the CEC Accreditation Code of Conduct and Accreditation Terms and Conditions, or an equivalently trained accredited designer/installer as defined by the Federal Government in accordance with the *Renewable Energy (Electricity) (Cth) Regulations 2001*.
- 18. Signatories must ensure the safety of installers, subcontractors and employees.
 - a) Persons must be appropriately qualified and have completed safety training modules (as listed in CEC Accreditation Guidelines) appropriate to the work including working from heights training.
 - b) Signatories must demonstrate due diligence in ensuring the safety of persons under their direct or indirect responsibility.

Obligations of Signatories and Grounds for Action to be Taken

- 19. Signatories have given an undertaking that they agree to follow the Code as outlined in this document.
- 20. Signatories must comply with the Code *General Rules and Standards* (this Chapter 2) when selling, designing and installing solar PV systems.
- 21. Signatories also agree to be bound by the Code compliance procedure (breach of the Code procedure), Code Review Panel terms of reference and landmark guidelines.
- 22. Signatories must not act in any way that might bring the Code into disrepute.
- 23. Signatories must not make any vexatious or unfounded claims against other Code signatories.
- 24. Signatories must ensure all of their employees, contractors, agents, and any other individuals who act on their behalf comply with the latest version of the Code. Signatories will be held responsible for all the actions of their employees, those individuals they contract with or who sell on their behalf. This includes the practices of third parties from whom signatories purchase sales leads.
- 25. The Code Administrator/Code Review Panel may modify both the Code and supporting documentation at any time, and signatories are obliged to comply with the most current version of these documents at all times. Code signatories will be notified by email of any changes to these documents, and will be given three months' notice of any significant changes.
- 26. The Code Administrator/Code Review Panel may take action where there is any failure by a signatory to meet their obligations under the Code. These circumstances include:
 - a) Any breach of the Code by a signatory or failure to comply with the Code.
 - b) Any conduct or activity which has or may bring the Code into disrepute.
 - c) Failure to observe and conform to all relevant Australian Standards and all relevant CEC Accreditation Guidelines, and all applicable laws, ordinances, regulations and codes of practice.

- d) Failure to comply with the requirements for provision of information and data as outlined above in Section 2.4: *Information to be provided to the Code Administrator*.
- e) Failure to pay any applicable fees.
- f) Making any false or misleading declarations or statements to the CEC relating to the Code.
- g) Where there are complaints of a serious nature made against the signatory that are unresolved.
- h) Where the signatory becomes bankrupt, insolvent, or their organisation is placed under administration.
- i) Serious, wilful, systemic, repetitive non-compliance with the potential to impact a large number of consumers or to have a serious impact on a lesser number of consumers.

3. Code Administration and Compliance

Signatories to this Code are also subject to the Code Administration and Compliance arrangements as set out below.

3.1 Role of Clean Energy Council (Code Administrator)

1. The Code will be administered by the CEC Accreditation Team. The Accreditation Team also manages the PV Accreditation Program to accredit designers and installers of PV.
2. The Code Administrator (CEC Accreditation Team) will be responsible for:
 - a) Managing the administration process relating to Code signatories.
 - b) Monitoring Code compliance:
 - i. Carrying out compliance audits and initiating inquiries into compliance.
 - ii. Investigation of complaints that the Code has been breached.
 - c) Determining when breaches of the Code have occurred.
 - d) Determining appropriate action when breaches of the Code have occurred.
 - e) Enforcing sanctions.
 - f) Referring cases to the Code Review Panel for consideration as required.
 - g) Secretariat functions for the Code Review Panel.
 - h) Overseeing promotion of the Code.
 - i) Development of training and supporting material on the Code to assist signatories to comply with the Code.
3. The Code Administrator is not a dispute resolution body, and will refer consumers to either the Code signatory or the relevant consumer protection organisation in accordance with Section 3.3 below.

3.2 Role of the Code Review Panel

1. The oversight, monitoring and direction of the Code will be undertaken by the Code Review Panel (the Panel).
2. The Panel will:
 - a) Be an independent body. All representatives must be independent of Code signatories. They must not have any conflict of interest, for example, having recently been employed by, or consultant to, any Code signatory.
 - b) Have no representative of the Code Administrator sitting on the Panel.
 - c) Be suitably qualified to arbitrate cases referred to it by the Code Administrator, and to hear appeals against sanctions imposed by the Code Administrator.
 - d) Consist of at least three participants that are all non-signatories to the Code:
 - i. A consumer representative with relevant experience and knowledge in, for example, consumer advocacy, protection and law, appointed by the Code Administrator in consultation with regulators of ACL.
 - ii. A PV representative with experience in the solar PV industry appointed by the Code Administrator.

- iii. A Chair with relevant experience and knowledge in, for example, regulatory or government administration of consumer law, or a suitable background to ensure due process is followed at all times, particularly when dealing with any breach of the Code. The Chair will be appointed by the Code Administrator and not employed in the PV industry.
3. Panel members will be appointed for a period of three years, and eligible for reappointment.
4. The Panel will be responsible for:
 - a) Arbitrating cases referred to it by the Code Administrator.
 - b) Arbitrating appeals against sanctions imposed by the Code Administrator in accordance with Section 3.7.
 - c) Conducting its own inquiries into Code compliance.
5. The Panel will adhere to the Panel terms of reference, which set out its powers and functions.
6. The Panel will meet regularly to look at revisions to the Code, policy changes, how the Code operates, and complaints data.
7. All decisions of the Panel are final. Signatories have no right of review beyond the Panel.

3.3 Consumer Disputes

- 1. The Code Administrator will investigate all reported breaches of the Code but will not resolve a dispute between the Code signatory and the consumer.**
2. Consumers who wish to make a complaint against a Code signatory should first contact the signatory directly. PV retailers that are signatories to this Code are required to have a fair and transparent consumer complaints process that meets or exceeds the requirements of the Complaints Handling standard, AS ISO 10002-2006. Details of this process are outlined in Section 2.4: *In-house Procedures and Complaints Handling*.
3. If the consumer is not satisfied with the resolution of a complaint by a Code signatory, they should then contact the relevant industry consumer protection organisation, for example the state consumer affairs or fair trading body (see Appendix 5.3).
4. Consumers are encouraged to inform the Code Administrator of any behaviour which may be in breach of the Code that is lodged with a consumer protection organisation, even if their complaint is subsequently resolved. They can do so using the dispute form available on the CEC Accreditation website (solaraccreditation.com.au).

3.4 Compliance and Auditing

1. The Code Administrator has put in place arrangements for monitoring signatories' compliance with the Code to ensure it delivers the desired outcomes. Signatories must agree to comply with the requirement for regular monitoring and to allow audits on their compliance with the Code.
2. The Code Administrator will carry out the following monitoring and auditing measures and assess ongoing compliance with the Code through:
 - a) Audit compliance checks.
 - b) Mystery shopping.
 - c) Assessing feedback from consumers obtained through consumer satisfaction surveys.
 - d) Investigating cases it is aware of in which signatories may have breached the Code.
 - e) Analysis of conciliation and arbitration cases.

- f) Analysis of consumer complaints.
- g) Media reports.
- h) Information received from other Code signatories.
- i) Any additional sources.

3.5 Breaches of the Code

1. The Code Administrator will investigate potential breaches of the Code by signatories. Breaches can be raised via:
 - a) Self-reporting from Code signatories.
 - b) Consumers using the dispute forms available on CEC websites
 - c) Any other person or body using the dispute form on the CEC solar accreditation website.
 - d) Evidence of breaches can also be taken from any source including those outlined in Section 3.4.
2. Alleged breaches of the Code will be investigated by the Code Administrator, which will follow the Code Compliance Procedure. The key steps of this procedure are:

- a) Where the only source of information on a potential breach is raised by a third party (Section 3.5, 1(a), (b) or (c) above), evidence of the breach will be requested from the third party.
- b) The Code Administrator will contact the Code signatory in writing, providing details of the alleged breach as soon as practicable.

The Code signatory will be given 21 days to respond to the Code Administrator setting out its comments and evidence on the alleged breach.

Once a signatory is aware a breach may have occurred, if the matter is not disputed, they must explain the actions they have taken to address the alleged breach as soon as practicable.

- c) The Code Administrator will investigate and assess the issue as soon as reasonably practicable in order to minimise consumer dissatisfaction and improve industry standards.
- d) Where a breach is found to have been made, depending on the severity of the breach (see Section 3.5: *Breach Matrix* below), the Code Administrator will either:
 - i. Allocate a sanction in accordance with Section 3.6; or
 - ii. Provide documentation relating to the breach along with a recommended course of action to the Code Review Panel for consideration.
- e) In the event that the breach is handled solely by the Code Administrator, a Code signatory is entitled to appeal the ruling to the Code Review Panel (see Section 3.7).
- f) If a breach is referred to the Code Review Panel (either by the Code Administrator or by appeal), the Panel will determine if a breach has occurred and the subsequent action, if any, that will be taken against the signatory.
- g) All parties involved in the complaint/breach will be notified of the outcomes of the investigation.
- h) All decisions by the Code Review Panel are binding.

Breach Matrix

3. The Table below indicates the seriousness of the breaches. In order to proactively target systemic issues in the industry, the breach levels can be altered at the discretion of the Code Review Panel. Any changes will be made in accordance with Section 2.4, 25.

Section of the Code	Breach level
Pre-sale Activities	
Advertisements and Promotions Any advertisements, promotions, quotations and statements produced must be legal, truthful, and comply with all relevant legislation.	Major
Sales and Quoting Practices Signatories must adhere to ethical sales and quoting practices during all steps of the process	Major
Any reference to Small-scale Technology Certificates (STCs) must be consistent with Clean Energy Regulator wording.	Medium
Point of Contract A written contract must be provided to the consumer and executed as described in Code.	Severe
Receipts must be issued for all deposits collected.	Medium
Prior to Signing the Contract Before the contract is signed the signatory must provide the consumer with the address of the local office or showroom, or a telephone number where any queries can be answered.	Minor
Consumers must be given a flyer describing this Code and also including: a) The process for provision of consumer feedback and lodging consumer complaints. b) A link to the CEC Solar PV Consumer Guide.	Medium
Signatories must ensure that the contract is explained to the consumer prior to entering into an agreement.	Major
Signatories must clearly explain the process surrounding the payment and trade of STCs.	Medium
Consumers must be advised that their electricity contract/tariff may change following installation of solar and to check with their electricity retailer what new electricity tariff rates may be applied.	Medium
Signatories must advise consumers of potential billing issues that may arise following changeover of the meter.	Minor
Consumers must be advised (where relevant in the state of installation) that they require approval from the distributor to connect a system to the electricity grid, must fill out the relevant paperwork prior to installation and should gain approval prior to sale.	Medium
For signatories who prepare and submit the relevant documentation required for approval to connect to the network on behalf of the consumer, they must ensure consumer have approval prior to installation.	Medium
Post-sale Activities	
Pre Installation Cooling-off periods and requirements will be adhered to.	Major
Refund requirements will be adhered to.	Major
Post-installation	

Consumers must be informed on how to measure the performance of their system.	Minor
Signatories must inform consumers how to appropriately maintain their system on a regular basis.	Medium
Signatories must prepare and submit all relevant documentation on behalf of the consumer (where permitted to do so) or otherwise clearly explain to the consumer the process for preparing and submitting such documentation.	Major
Consumers must be informed of the process between system installation and network connection.	Medium
Signatories must endeavour to respond in a timely manner to any additional compliance requests from the distributor or electricity retailer, and if required, in consultation with the consumer.	Medium
Warranty requirements must be adhered to.	Severe
Documentation	
Retailers must ensure that the responsible parties provide the customer with the relevant documentation in either electronic format or hard copy.	Medium
General Business and Obligations of Signatories	
Compliance with the Law	
Signatories must comply with all local, state and federal legislation, CEC accreditation guidelines and regulations.	Severe
In-house Procedures and Complaints Handling	
Signatories must be responsive to, and deal appropriately with, consumers at all times.	Medium
Complaint handling requirements will be adhered to. Signatories must have an appropriate internal complaint handling process that is fair, efficient and transparent.	Severe
Signatories must be able to demonstrate compliance with the Code and provide evidence of compliance to the Code Administrator when a suspected breach of the Code is being investigated.	Medium
Information to be Provided to the Code Administrator	
Signatories must comply with the requirements for information and data to be provided to the Code Administrator.	Severe
Training and Promotion of the Code	
Signatories must ensure consumers are made aware of the Code.	Medium
Signatories must ensure employees and representatives, whether employed directly, subcontracted or selling on the company's behalf are aware of the Code and their responsibilities under the Code	Major
Signatories must employ and contract CEC accredited designers/installers for all system designs and installations, or an equivalently trained accredited designer/installer as defined by the Federal Government in accordance with the Renewable Energy (Electricity) (Cth) Regulations 2001.	Severe
Signatories must ensure the safety of installers, subcontractors and employees.	Severe
Obligations of Signatories and Grounds for Action to be Taken	
Signatories must adhere to the Code Compliance Procedure, Code Review Panel terms of reference, and landmark guidelines.	Severe
Signatories must not make any vexatious or unfounded claims against other Code signatories.	Medium
Code Administration	
Failure to pay any applicable fees.	Major

Failure to comply with agreed action plan from an audit.	Major
Failure to comply with directives from the Code Administrator relating to Code breaches.	Major
Systematic Breaches This is a breach of the Code that is not a singular event but appears to be a procedural lack of compliance to the Code by the signatory resulting in either the potential to impact a large number of consumers or to have a serious impact on a lesser number of consumers.	Severe

3.6 Sanctions

- Once a breach of the Code has been confirmed then the sanctions will be undertaken as per the matrix below:

Breach	Sanction
Severe	<p>Signatory details to the Code Administrator its strategy to rectify the issue and appoints an independent Code auditor to audit the areas of activity where the breach(s) occurred at the signatory's cost. Audit results and actions to prevent the breach occurring again to be sent to the Code Administrator.</p> <p>The breach will be listed on the CEC website in accordance with Section 3.6, 2 below. The relevant regulator and ombudsman will be notified.</p>
Major	<p>Signatory details to the Code Administrator its strategy to rectify the issue and implements an agreed action plan (at their cost) to prevent the issue re-occurring.</p> <p>If more than three major breaches occur within a 12 month time frame the signatory must appoint an independent Code auditor to audit the areas of activity where the breach(s) occurred at the signatory's cost. Audit results and actions to prevent the breach occurring again to be sent to the Code Administrator.</p>
Medium	Signatory details to the Code Administrator its strategy to rectify the issue, and implements an agreed action plan (at their cost) to prevent the issue re-occurring.
Minor	The signatory provides a written undertaking to the Code Administrator that the breach will not be repeated.

- Where a major breach has been made, signatories will be given an opportunity to rectify the breach within a reasonable timeframe, in accordance with a determination by the Code Administrator/Code Review Panel.
 - If the breach is not rectified during this time, the breach will be publicly listed on the CEC website and in the Code annual report, identifying the name of the signatory involved.
 - If the breach is rectified during this time, the breach will be publicly listed on the CEC website and in the Code annual report, but will not name the signatory involved (i.e. de-identified listings of major breaches will be published in order to advise customers of issues prevailing in the sector).

Termination of Signatories

3. A signatory can be suspended or removed from the Code at the discretion of the Code Administrator and Code Review Panel.
4. Serious, wilful, systemic, repetitive non-compliance which is detrimental to consumers may be cause to remove the retailer as a signatory to the Code with immediate effect.
5. Suspension or cancellation of Code signatory can occur if:
 - c) The signatory fails to provide evidence that they have rectified or addressed a breach of the Code within a reasonable timeframe.
 - d) The signatory has multiple breaches that signify a systematic failure to adhere to the Code. In this case, they can be suspended until they provide evidence the systemic issue has been rectified.
6. Where a signatory has been removed or withdrawn as a Code signatory, the Code Administrator/Code Review Panel has the right to inform the general public and any interested party that the signatory is no longer a signatory to the Code. The signatory will also immediately cease to:
 - a) Describe themselves as a signatory to the Code.
 - b) Use the Code brandmark.
 - c) Advertise or portray themselves as in any way connected to the Code.

3.7 Appeals

1. If a Code signatory believes that the Code Administrator did not exercise reasonable discretion, that they were denied natural justice, or that new evidence has come to light that was not available at the time of original determination, they are entitled to appeal the determination of the Code Administrator to the Code Review Panel.
2. Signatories can lodge an appeal using the appeals form on the CEC solar accreditation website (solaraccreditation.com.au).
3. Appeals must be lodged within one month of the original Code Administrator determination. They must be submitted in writing, detailing the relevant issue, and reasons why the appeal is being made.
4. The Code Review Panel will consider and provide a ruling on the appeal in writing, along with reasons for the determination, as soon as reasonably practicable.
5. All parties involved will be notified of the outcomes of the investigation.
6. All decisions by the Code Review Panel are binding and there is no further right of appeal.

3.8 Review of the Code and Public Reporting

1. An annual report on the Code's operation, including reporting on Code compliance will be produced by the Code Review Panel, to enable a periodic assessment of the Code's effectiveness, ensure the Code standards meet the identified objectives and community expectations, and to identify systemic issues and areas for improvement.
2. All breaches and sanctions occurring each year will be reported in the Code's annual report. This information will not identify the names of any signatories, with the exception of:
 - a) Cases where a signatory has been removed or suspended from the Code.

- b) Severe breaches that are not rectified by the signatory, as outlined in Section 3.6, 2 above.
- 3. For the purpose of Sections 2.4, 7- 11, none of this information will be made publicly available, with the exception of 11 (c) and (d), which may be included in the Code's annual report de-identified.
- 4. The Code, Code reporting, Code Review Panel and Code Review Panel terms of reference will also be independently reviewed every three years following their commencement. The review will be undertaken by a suitably qualified, independent person/body.
- 5. The independent three yearly reviews will be conducted in consultation with relevant stakeholders including consumer advocacy groups, government bodies and regulators of consumer law. The independent reviewer will have access to all necessary documentation including procedures and reporting from the Code Review Panel and Code Administrator.
- 6. Systemic concerns identified during Code reviews will be referred to the relevant regulators, as will any breaches of laws and regulations.
- 7. These documents may be published on the CEC solar accreditation website (solaraccreditation.com.au).

4. Becoming a Code Signatory

4.1 Application Process

1. PV retailers wanting to sign on to the Code will need to complete the following steps:
 - a) Complete the online application form.
 - b) Agree to and sign the Code including the Code *General Rules and Standards* (Chapter 2).
 - c) Provide examples of standard documentation as requested (for example, contracts and quotes).
 - d) Submit to an integrity/financial check using an external agency.
 - e) Explain any adverse findings from a summary report on any dispute history lodged with the Code Administrator.
 - f) If required by the Code Administrator, attend an interview with Code Administrator.
 - g) If required by the Code Administrator, provide referees for reference checks/consumer feedback data.
2. Based on the information collected the Code Administrator will make an assessment as to whether the application sufficiently demonstrates that the retailer complies with the Code and has the systems and procedures in place to ensure on-going compliance.
3. Formal feedback on the application assessment will be provided to the applicant.
4. Incorrect or incomplete information submitted by an applicant may lead to the delay or rejection of an application.
5. Where an applicant's actions or behaviour is considered to be inconsistent with the Code, the Code Administrator has the right to refuse an application.
6. Becoming a signatory to the Code is open to both non-CEC members and CEC members..

4.2 Signatory Fees

1. Retailers are required to pay an annual fee in order to maintain their status as a Code signatory.
2. Code fees are tiered according to company size and based on the number of installations per year each company completes.
3. The applicant or signatory must agree that becoming and remaining a signatory to the Code is subject to and conditional upon the timely payment of the following fees.

Size of company	No. of installs per year	Annual fee
Large	Greater than 5,000	\$7,000
Medium	1,000-5,000	\$4,000
Boutique	Less than 1,000	\$350

4. The CEC reserves the right to alter or vary the fees from time to time after reasonable notice is given to signatories, in accordance with Section 2.4, 25.

4.3 Withdrawing from the Code

1. Retailers can withdraw as a signatory to the Code at any time provided they advise the Code Administrator of their intention in writing, and give two weeks' notice of their request to be removed as a signatory.
2. Signatories who choose to withdraw from the Code will not be entitled to a refund of any fees or associate charges already paid at the date of receipt of notice to withdraw.

4.4 Use of Brandmark

1. Signatories are required to use the Code brandmark in accordance with the relevant guidelines. The Code brandmark remains the intellectual property of the CEC and legal action may be taken in regard to its misuse.

5. Appendix

5.1 Glossary and Definitions

The definitions for terms used in this document are as follows.

- **Australian Consumer Law** – Schedule 2 to the *Competition and Consumer Act 2010* (Commonwealth).
- **Agreement** – See ‘Contract’
- **Best Industry Practice** –
 - a) Developing and conducting a business in a manner in line with leading practice in the industry, in order to maintain quality that goes beyond mandatory legislated standards.
 - b) A benchmark for the industry that shows results superior to those achieved purely through adherence to legislation.
 - c) Can evolve over time as improvements are discovered.
- **Breach** – Any failure to comply with the Code of Conduct including the Code *General Rules and Standards*, and other documentation referred to in the Code.
- **Business Day** – A day that is not a Saturday, Sunday or public holiday in the relevant location in Australia.
- **CEC** – Clean Energy Council.
- **Code** – This Code of Conduct, as published by the Clean Energy Council.
- **Code Administrator** – Clean Energy Council. Has the meaning outlined in Section 3.1.
- **Code Review Panel** – Has the meaning outlined in Section 3.2.
- **Complaint** – Any expression of dissatisfaction with a product or service offered or provided, or with a complaints process itself.
- **Consumer** – A person, business or not for profit organisation that seeks to buy or lease goods or services from a business or other provider, is party to a contract, or is eligible under the criteria set by a retailer to enter into a contract to acquire a product. Includes the following categories of consumer:
 - a) **Residential Consumer** – A person who purchases solar PV principally for personal, household or domestic use at premises.
 - b) **Small Business Consumer** – A business or not for profit organisation which at the time it enters into the contract, may not have a genuine and reasonable opportunity to negotiate the terms of the contract. A small business is defined in accordance with the *Fair Work Act 2009* as one with fewer than 15 employees, not including casual employees. Associated entities are taken to be one entity when calculating the number of employees.
 - c) **Medium and Large scale Business Consumer** – Any that does not fit into a) or b) above.
- **Contract** – An agreement made between two or more parties (for example, a retailer and a consumer) to supply goods or services relating to a solar PV product, that is intended to be legally enforceable. Contracts can be made in writing or orally.
- **Designer** – Clean Energy Council accredited designer of PV systems.
- **Dispute** – A complaint by a consumer in relation to a Code signatory, that has not been immediately resolved when brought to the attention of that signatory.

- **Distribution** – The activity of delivering electricity from the generator via wires to the end user (retail customers including homes, businesses, etc.).
- **Distributor** – A distribution network service provider, which is an owner, controller or operator of an electricity distribution system.
- **Electricity Retailer** – An entity that delivers and sells electricity directly to the end-use customer.
- **Force Majeure Event** – an event outside the reasonable control of a retailer or a consumer.
- **Inform** – To advise in writing or verbally.
- **Installer** – Clean Energy Council accredited installer of PV systems.
- **Manufacturer** – Includes a person who:
 - a) grows, extracts, produces, processes or assembles goods
 - b) portrays themselves to the public as the manufacturer of goods
 - c) causes or permits their name, business name or brandmark to be applied to goods they supply
 - d) permits themselves to be held out as the manufacturer by another person, or
 - e) imports goods into Australia where the manufacturer of the goods does not have a place of business in Australia.
- **Product** – The solar PV system including panels, inverters and components.
- **Retailer** – Solar PV retailers who are signatories to the Code of Conduct.
- **Signatory** – See ‘Retailer’.
- **Signed** – Has the meaning of something signed in person or equivalent point of acceptance in accordance with the Electronic Transaction Act and other relevant legislation.
- **Solar PV** - Solar photovoltaic.
- **System** – The solar PV system. Refers to the entire arrangement, including PV modules and all other equipment required to make it work including inverters and components.

5.2 Additional Information

Further information relating to this Code including documentation referred to in the Code, guides for signatories to assist in complying with the Code, Code templates, and information for consumers, can be found on the CEC solar accreditation website (solaraccreditation.com.au).

Designer/Installer Accreditation

- Design Guidelines
- Install Guidelines
- Accreditation Code of Conduct
- Accreditation Terms and Conditions

The Code

- Code Compliance Procedure (breach of the Code procedure)
- Code Review Panel terms of reference
- Brandmark guidelines
- Code flyer (consumer guide to the Code)

Consumer Information

- CEC Consumer guide to buying household solar panels:
cleanenergycouncil.org.au/resourcecentre/Consumer-Info/solarPV-guide.html

- CEC guides to connecting to the grid:
cleanenergycouncil.org.au/resourcecentre/gridconnection.html

5.3 Consumer Protection Organisations/Other Contacts

Consumer Affairs

Australian Competition and Consumer Commission

GPO Box 3131
Canberra ACT 2601
T. 1300 302 502
accg.gov.au

Australian Capital Territory Office of Regulatory Services

GPO Box 158
Canberra ACT 2601
T. (02) 6207 0400
ors.act.gov.au

New South Wales NSW Fair Trading

PO Box 972
Parramatta NSW 2124
T. 13 32 20
fairtrading.nsw.gov.au

Northern Territory Consumer Affairs

GPO Box 1722
Darwin NT 0801
T. 1800 019 319
consumeraffairs.nt.gov.au

Queensland Office of Fair Trading

GPO Box 3111
Brisbane QLD 4001
T. 13 13 04
fairtrading.qld.gov.au

South Australia Office of Consumer & Business Services

GPO Box 1719
Adelaide SA 5001
T. (08) 8204 9777
ocba.sa.gov.au

Tasmania Office of Consumer Affairs & Fair Trading

GPO Box 1244
Hobart TAS 7001
T. 1300 654 499
consumer.tas.gov.au

Victoria Consumer Affairs Victoria

GPO Box 123
Melbourne 3001
T. 1300 55 81 81
consumer.vic.gov.au

Western Australia Department of Commerce: Consumer Protection

Locked Bag 14
Cloisters Square WA 6850
T. 1300 30 40 54
commerce.wa.gov.au

Australian Securities and Investments Commission

PO Box 9827
(in your capital city)
T. 1300 300 630
asic.gov.au

Other Bodies

- Clean Energy Regulator ret.cleanenergyregulator.gov.au
- Australian Competition and Consumer Commission acc.gov.au

5.4 Relevant Acts and Legislation

The Code and *Code General Rules and Standards* should be read in conjunction with relevant legislation including:

- *Australian Consumer Law* (Schedule 2 of the *Competition and Consumer Act 2010*, the new name of the *Trade Practices Act 1974*) (Cth).
- State and Territory fair trading legislation, where relevant.
- State and Territory door-to-door sales legislation, where relevant.
- The *Disability Discrimination Act 1992* (Cth).
- The *Racial Discrimination Act 1975* (Cth).
- Any other relevant equal opportunity legislation.
- *The Privacy Act 1988* (Cth).
- *The Spam Act 2003* (Cth).
- *The Do Not Call Register Act 2006* (Cth).
- Renewable Energy Target legislation (*Renewable Energy (Electricity) Act 2000* and *Renewable Energy (Electricity) (Charge) Act 2000*) which is supported by the *Renewable Energy (Electricity) Regulations 2001* (Cth).
- Relevant state domestic building work contracts Acts:
 - *Domestic Building Contracts Act 1995* (Victoria).
 - *Home Building Act 1989* (New South Wales).
 - *Domestic Building Contracts Act 2000* (Queensland).
 - *Building Work Contractors Act 1995* (South Australia).
 - *Home Building Contracts Act 1991* (Western Australia).
 - *Housing Indemnity Act 1992* (Tasmania).
- The *Electronic Transactions Act 1999* (Cth).
- Relevant state and territory electrical licensing legislation (for example, *Electricity (Licensing) Regulations 1991* (Western Australia)).

Code Compliance Procedure

This procedure details the process for responding to alleged breaches of the PV retailers Code of Conduct.

Alleged Breaches

1. The Code Administrator will investigate potential breaches of the Code by signatories. Breaches can be raised via:
 - a) Self-reporting from Code signatories.
 - b) Consumers using the dispute form available on the CEC website.
 - c) Any other person or body using the dispute form on the CEC website.
 - d) Evidence of breaches can also be taken from any other source including:
 - Proactive audit compliance checks.
 - Mystery shopping.
 - Feedback from consumers obtained through consumer satisfaction surveys.
 - Investigation of cases in which signatories may have breached the Code.
 - Analysis of conciliation and arbitration cases.
 - Analysis of consumer complaints.
 - Media reports.
 - Information received from other Code signatories.
 - Any additional sources.
2. When an alleged breach is reported by a third person a written acknowledgment of receipt of the alleged breach will be sent to the complainant within 24 hours of receiving the dispute form.
3. The alleged breach will be classified to ensure it is within the jurisdiction of the Code Administrator. The Code Administrator only deals with alleged breaches of the Code. It does not try and resolve disputes between consumers and PV retailers.
4. If the alleged breach is outside of its jurisdiction, the Code Administrator will inform the complainant that they need to take the complaint to the relevant body, for example, the PV retailer, or, if the consumer is unsatisfied with the resolution of a complaint by the Code signatory, refer the issue to the relevant industry consumer protection organisation.
5. Having lodged a complaint with the PV retailer or the relevant industry consumer protection organisation, the complainant can still lodge a 'breach of the Code' complaint with the Code Administrator.

Investigating Alleged Breaches

1. Alleged breaches of the Code will be investigated by the Code Administrator. The steps that will be taken are:
 - a) The Code Administrator will contact all involved parties, providing details of the alleged breach to the Code signatory in writing within five business days.
 - b) Where the only source of information on a potential breach is raised by a third party, evidence of the breach will be required from the complainant.
 - c) The Code signatory will be given 21 days to respond to the Code Administrator setting out their comments and providing any evidence relating to the alleged breach. If the signatory chooses not

- d) to dispute the alleged breach, they must explain the actions they have taken to address the alleged breach.
- e) The Code Administrator will investigate and assess the issue as soon as reasonably practicable in order to minimise customer dissatisfaction and improve industry standard.
- f) After reviewing all documentation to determine if the alleged breach is valid, all parties will be informed of the progress regarding the alleged breach, and if required more information will be requested.
- g) All communication will be recorded in full and kept on file.
- h) The dispute will be investigated by various means, including one or more of the following:
 - Talking with all involved parties.
 - Requesting more information as required.
 - An audit of the PV retailer's relevant procedures if required.
 - Talking to external organisations if required.
 - The PV retailer presenting information to the Code Administrator
- i) Where a breach is found to have been made, depending on the severity of the breach (see Breach Matrix, Section 3.5, 3 of the Code) the Code Administrator will either:
 - Allocate a sanction in accordance with Section 3.6 of the Code; or
 - Provide documentation relating to the breach along with a recommended course of action to the Code Review Panel for consideration.
- j) In the event that the breach is handled solely by the Code Administrator, a Code signatory is entitled to appeal the ruling to the Code Review Panel (see Section 3.7 of the Code). An appeal may be made if:
 - A Code signatory believes that the Code Administrator did not exercise reasonable discretion, that they were denied natural justice, or
 - New evidence has come to light that was not available at the time of original determination.
- k) Signatories can lodge an appeal using the appeals form on the CEC website. Appeals must be lodged within one month of the original Code Administrator determination. They must be submitted in writing, detailing the relevant issue, and reasons why the appeal is being made.
- l) If a breach is referred to the Code Review Panel (either by the Code Administrator, or by appeal), the Panel will determine if a breach has occurred and the subsequent action, if any, that will be taken against the signatory. The PV retailer may be called to present information to the Panel.
- m) All parties involved in the breach will be notified of the outcomes of the investigation in writing, along with reasons for the determination, as soon as reasonably practicable.
- n) All decisions by the Code Review Panel are binding and there is no further right of appeal.

Data Collection and Reporting

1. In order to ensure the Code remains effective it is critical to track the general industry complaints. The Code Administrator will do this by:
 - a) Collating relevant data from state and national consumer protection agencies
 - b) Collating the complaints data supplied by Code signatories

2. This data will be analysed and used to track the effectiveness of the Code, and to highlight newly arising problem areas that may need to be addressed by the Code. A regular summary of this data will be reported to the Code Review Panel by the Code Administrator.
3. All investigations of alleged breaches that result in a sanction or rectification will also be recorded. Quarterly data on the number of breaches and the sanctions applied will be available on the Code website (excluding company names).
4. This compliance procedure will be reviewed in the annual review of the Code and its operation by the Code Review Panel.
5. This procedure will be located on the CEC website.

Code Review Panel Terms of Reference

Composition and Role of the Code Review Panel

1. The oversight, monitoring and direction of the PV Retailer Code of Conduct (the Code) will be undertaken by the Code Review Panel (the Panel).
2. The Panel will adhere to these Terms of Reference (TOR), which sets out its powers and functions.
3. The Code, Code reporting, Code Review Panel and these TOR will be independently reviewed every three years following their commencement. The review will be undertaken by a suitably qualified, independent person/body.
4. The Panel will:
 - a) Be an independent body. All representatives must be independent of Code signatories. They must not have any conflict of interest, for example, having recently been employed by, or consultant to, any Code signatory.
 - b) Have no representative of the Code Administrator permitted to sit on the Panel.
 - c) Be suitably qualified to arbitrate cases referred to it by the Code Administrator, and to hear appeals against sanctions imposed by the Code Administrator.
 - d) Consist of three participants that are all non-signatories to the Code:
 - i. A consumer representative with relevant experience and knowledge in, for example, consumer advocacy, protection and law, appointed by the Code Administrator in consultation with regulators of ACL.
 - ii. A PV representative with experience in the solar PV industry appointed by the Code Administrator.
 - iii. A Chair with relevant experience and knowledge in, for example, regulatory or government administration of consumer law, or a suitable background to ensure due process is followed at all times, particularly when dealing with any breach of the Code. The Chair will be appointed by the Code Administrator and not employed in the PV industry.
5. Panel members will be appointed for a period of three years, and eligible for reappointment.
6. The Panel will be responsible for:
 - a) Arbitrating cases referred to it by the Code Administrator.
 - b) Arbitrating appeals against sanctions imposed by the Code Administrator in accordance with Section 3.7 of the Code.
 - c) Conducting inquiries into Code compliance.
 - d) Producing an annual report on the Code's operation, including reporting on Code compliance, to enable a periodic assessment of the Code's effectiveness, ensure the Code standards meet the identified objectives and community expectation, and to identify systemic issues and areas for improvement.
7. All decisions of the Panel are final. Signatories have no right of review beyond the Panel.

8. Panel members will serve in good faith in accordance with these TOR and shall put aside their own interests to work together for the benefit of consumer protection in the small-scale PV energy sector.
9. The Code Administrator may exercise its discretion to remove a Panel member if it considers that the Panel member has failed to discharge its responsibilities in accordance with these TOR.
10. Where a Panel member retires or is removed by the Code Administrator, the Code Administrator shall exercise its discretion to select a replacement Panel member in accordance with Section 3 (d) above.
11. The Code Administrator shall publish details of all Panel members on the CEC website.

Review Panel Meetings

12. The Panel will meet regularly – a minimum of six times per year
13. During meetings, the Panel will:
 - a) Carry out its responsibilities listed in Section 5 above;
 - b) Adopt, maintain and update the documentation relating to the administration of the Code;
 - c) Monitor the performance of signatories to the Code in accordance with the methods set out in the Code and these TOR;
 - d) Monitor complaints data and changes in the industry that could lead to the identification of areas requiring future update in the Code;
 - e) Monitor the operation of the Code;
 - f) Approve any revisions to the Code, and comment on any proposed revisions of these TOR;
 - g) Establish such Expert Groups as it considers necessary to advise it in carrying out its responsibilities hereunder; and
 - h) Review any reports presented to it by the Code Administrator.
14. A Panel meeting shall be quorate where three Panel members, or their representatives, are present.
15. Where a Panel member is unable to attend a meeting, he or she may nominate an alternate to attend on his/her behalf providing that the alternate is made aware of and abides by the principles of service of Panel members.
16. Panel members must attend at least 70% of Panel meetings.
17. The Panel shall decide any matters requiring its approval by consensus, or by a simple majority of those present and voting at a properly convened and quorate meeting.
18. The Code Administrator shall take minutes of proceedings at each Panel meeting.