Friday, 30 October 2026

Queensland Treasury
1 William Street
Brisbane QLD 4000

Dear Queensland Treasury

Re: CEC submission regarding draft Code of Conduct for Renewable Energy Developers

The Clean Energy Council (***CEC***) welcomes the opportunity to provide a submission to the Queensland Treasury (***Treasury***) in relation to the draft *Code of Conduct for Renewable Energy Developers* (***Code***) and accompanying draft *Industry Guidance on the Code of Conduct* (***Industry Guidance***).

The CEC is the peak body for the clean energy industry in Australia, representing nearly 1,000 businesses operating across renewable energy generation, energy storage and the broader clean energy supply chain. Our members include developers, owners and operators of, and investors in, wind energy facilities, solar energy facilities, battery energy storage systems, and associated infrastructure.

The CEC supports social licence being assessed and regulated to ensure high performance across the industry. Our members recognise that strong community engagement, benefit sharing and responsible development are fundamental to the long-term success of renewable energy in Queensland, and to delivering the state's energy system at the pace and scale required. We are not arguing against regulation of social performance. We are arguing that it should sit where it can work.

We also acknowledge the changes Treasury has made since the earlier targeted consultation. However, two structural issues remain, and they are the focus of this submission. The first is that the draft Code duplicates matters already comprehensively regulated through Queensland's planning framework. The second is that assessing social licence at the generation authority stage inappropriately requires consideration of the adequacy of engagement at a point in the project lifecycle where it creates investment risk without improving community outcomes.

We appreciate that there is a legislative basis for preparing the Code, noting that subsection 180(2)(f) of the *Electricity Act 1994* (Qld) (the ***Act***) provides that '*the regulator may issue the authority only if satisfied... the social licence criteria prescribed by regulation are satisfied for the generating plant to be connected to a transmission grid or supply network under the authority*'. We also note that section 180A of the Act expressly envisages a code of conduct for social licence criteria. With this context in mind, our recommendations focus on ensuring that the Code does not duplicate existing frameworks and recognises prior community engagement (for example, where undertaken as part of the planning approvals process).

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We set out the CEC's comments and recommendations below.

Summary of recommendations

Recommendation 1: Treasury should identify any specific gaps the Code addresses that are not already covered by State Codes 23, 26 and 27, Social Impact Assessments (***SIAs***) and Community Benefit Agreements (***CBAs***). We recommend that any particular gaps be updated in the State Codes to ensure consistency (and to facilitate the deeming provision noted in recommendation 2 below).

Recommendation 2: Demonstrated compliance with applicable State Codes and SIA and CBA requirements (as evidenced by the relevant development approval) should be expressly deemed to satisfy the social licence criteria under the Code.

Recommendation 3: Developers should be permitted to incorporate existing approved documents and commitments by reference in the Social Licence Suitability Report, rather than being required to reproduce material in full.

Recommendation 4: Amend the draft Code to expressly clarify that where the Regulator is not satisfied that the Code's social licence expectations are met, a generation authority will not be withheld, but instead the applicant will be required to work towards clear metrics or goals to satisfy the social licence criteria within a set timeframe.

Recommendation 5: Include procedural fairness protections in the Code or the Act rather than the Industry Guidance.

Recommendation 6: Remove or soften Schedule 2 of the Industry Guidance so it applies only where a neighbour benefit scheme or agreement is requested by, and agreed with, relevant neighbours. Established schemes and negotiated agreements should be recognised. If Schedule 2 is retained, it should expressly confirm that a neighbour's decision not to enter an agreement does not constitute developer non-compliance where a genuine offer and good-faith process can be demonstrated.

Recommendation 7: Factors used to identify eligible neighbours should be clarified, while preserving project-specific flexibility. The definition of neighbour should be capable of being set project by project on an impact basis, having regard to technology type, siting and local context.

Recommendation 8: The finalised Code and Industry Guidance should clearly separate Coexistence Queensland's advisory, regulatory advice and complaints facilitation functions. The materials should also explain how information provided to Coexistence Queensland will be handled, including when it may be disclosed to the Regulator, how potential or identified conflicts will be managed, and how developers will be given an effective opportunity to respond to adverse material before a decision is made.

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Recommendation 9: The basis on which Coexistence Queensland advises the Regulator, including the scope and parameters of that role, should be clarified, as well as the boundary between Coexistence Queensland and the Australian Energy Infrastructure Commissioner (***AEIC***).

Recommendation 10: The Code and Industry Guidance should set out how coordinated or high-volume correspondence will be treated, including confirming that a proportionate, consolidated response can constitute genuine engagement.

Recommendation 11: Treasury should publish assessment criteria, performance expectations, evidence requirements and decision-making principles under the Code. Assessment should focus on the reasonableness, quality and proportionality of the developer's conduct, having regard to matters within the developer's reasonable control. The finalised framework should expressly confirm that community disagreement, objections or unresolved opposition do not, of themselves, establish a failure to satisfy the social licence criteria.

Recommendation 12: Amend the draft Industry Guidance to confirm that developers may select engagement mechanisms suited to the project and community, and expressly permit regional or shared engagement structures where they are appropriate for the community and the project.

Recommendation 13: The Code should be applied on a technology-neutral and impact-based basis, or clear justification provided for any differential treatment. A streamlined pathway should also be provided for low-impact projects.

Recommendation 14: An early establishment review of the Code should be undertaken with industry two years after the Code commences, focused on the interaction between the Code and the planning framework.

Recommendation 15: Extend the review mechanism in the Code to capture the Industry Guidance, and require public consultation on any substantive amendment(s) to the Industry Guidance.

Recommendation 16: The Industry Guidance should remain non-prescriptive and expressly recognise that land access arrangements may be adapted by agreement with the landholder. Where an existing agreement deals with the relevant issue, compliance with that agreement should be accepted unless it conflicts with legislation.

Recommendation 17: Amend section 8(3) of the draft Code to provide that where generating plant sits in proximity to another generating plant, the relevant person is expected to cooperate with other proponents and stakeholders where reasonably practicable, to minimise cumulative impacts and enhance benefits for the affected community.

Recommendation 18: Amend section 8(1)(b) of the draft Code to link to existing approval conditions, impact assessments and approved management measures to avoid duplication and inconsistent interpretation.

Recommendation 19: Amend section 2(3) of the draft Code to also provide that the Code does not apply to applications for a generation authority where a development approval application for the relevant project was made prior to the Code's commencement.

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Recommendation 20: Include in the Code clear and comprehensive transitional provisions that preserve existing lawful agreements and benefit arrangements established before the Code's commencement, rather than imposing new expectations on completed historical engagement. Amend section 2(3) to confirm that the Code does not apply to applications for transfer of a generation authority, where the relevant generation authority was issued prior to commencement of the Code.

Recommendation 21: Clarify the definition of 'relevant person' so that it applies only to persons with a material degree of control or management over the relevant activities, and confirm in the Code or Industry Guidance that isolated incidents will not result in an adverse social licence finding where effective systems were in place and the issue was addressed promptly.

Recommendation 22: Amend the draft Code and Industry Guidance to remove references to the Code's 'requirements' and 'obligations', in recognition of the stated position that the Code does not impose standalone obligations.

Recommendation 23: Amend section 10(1) of the draft Code to provide that the Code applies to the transferee in respect of the relevant generating plant upon the transfer of a generation authority.

Recommendation 24: Amend the draft Code and Industry Guidance to clarify that, when assessing a transfer application, the Regulator will consider only whether the social licence criteria are satisfied for the generating plant to which the authority relates, not the transferee's unrelated portfolio and performance on other projects.

Recommendation 25: If recommendation 24 is not accepted in full, then we recommend publishing objective transfer criteria and defining the type, relevance and duration of compliance history that may be considered when assessing a transfer application. A project-level register of material commitments should support due diligence and continuity. Minor or unrelated issues on other projects should not prevent transfers.

Recommendation 26: Amend the draft Industry Guidance to ensure that annual reporting is proportionate to project stage and risk. In particular, the framework should accept existing reports, allow incorporation by reference, prescribe a concise standard reporting template, and avoid requiring the same information to be provided to multiple agencies. Reporting frequency should also be capable of adjustment for stable operational projects with a strong compliance record.

Recommendation 27: Clarify the MW threshold in the draft Code; and remove the reference in the draft Industry Guidance to lodging an application to amend a generation authority.

Detailed comments and recommendations

1. The Code duplicates the planning framework

Queensland has recently built a comprehensive planning framework for renewable energy development. Wind projects are assessed against State Code 23, solar projects against State Code

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26 and battery storage facility projects against State Code 27. Large-scale projects are assessed by the State Assessment and Referral Agency, and must complete an SIA and enter a CBA approved by the relevant local government before a development application is lodged.

That framework already regulates the matters the draft Code addresses. Member feedback identifies the overlap at the provision level, for example:

- Schedule 1 of the draft Industry Guidance, dealing with land access, is covered by performance outcomes including: PO7 of State Code 23, PO5 and PO7 of State Code 26 and PO12 and PO17 of State Code 27.
- Part B, section 7, community and stakeholder engagement, is covered by: PO16 of State Code 23, PO15 of State Code 26, PO8 of State Code 27. The approved CBA carries its own implementation commitments, and most projects already hold construction and operations phase community and stakeholder engagement management plans.
- The decommissioning expectations in the draft Industry Guidance in Part B, section 8, including a funded decommissioning plan, are addressed by: PO24 to PO27 of State Code 23; PO21 to PO24 of State Code 26; and PO31 to PO35 of State Code 27.
- Part B, section 9 of the Code (delivery of benefits), duplicates the CBA process, which already requires the design, shape, quantum and deployment approach for benefit sharing to be agreed before lodgement.

Further, social impact considerations in the Code overlap with matters assessed through planning and environmental approval processes, including noise, visual amenity, land use and coexistence.

Where a proponent has completed an SIA, executed a CBA, or made other commitments under planning legislation in relation to the generating plant, the draft Code provides that the Regulator may treat those commitments as relevant to the assessment of social licence criteria.[1]

While welcome, this provision should go further: the CEC recommends that where a proponent has demonstrated compliance with applicable State Codes and SIA and CBA requirements (as evidenced by the relevant development approval), the social licence criteria under the Code be taken to be satisfied at the generation authority application stage. To facilitate this 'deeming', we recommend that Treasury identify any areas of inconsistency between the Code and the community consultation required to be undertaken as part of the planning approval process and amend the State Codes accordingly. Developers should also be permitted to incorporate existing approved documents and commitments by reference in the Social Licence Suitability Report, rather than being required to reproduce material in full.

Under this approach, the Code would retain a clear role where the planning framework has not addressed social licence, including:

[1] Draft Code, section 6(4).

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- Where an approval is sought to be transferred. In this scenario, as the transferee did not go through the development application process, it is reasonable to reassess community engagement matters (subject to recommendation 20).
- Where the applicant for the generation authority differs from the entity that obtained the development approval.

Recommendation 1: Treasury should identify any specific gaps the Code addresses that are not already covered by State Codes 23, 26 and 27, and SIA and CBA requirements. We recommend that any particular gaps be updated in the State Codes to ensure consistency (and to facilitate the deeming provision noted in recommendation 2 below).

Recommendation 2: Demonstrated compliance with applicable State Codes and SIA and CBA requirements (as evidenced by the relevant development approval) should be expressly deemed to satisfy the social licence criteria under the Code.

Recommendation 3: Developers should be permitted to incorporate existing approved documents and commitments by reference in the Social Licence Suitability Report, rather than being required to reproduce material in full.

2. Assessing social licence at the generation authority stage creates investment risk

The generation authority is a technical and financial licence for grid connection. Its purpose is to establish whether a generator has the capability to connect to and operate within the National Electricity Market.

It is sought very late in the development timeline. By the time an application is made, community engagement has been undertaken, the development application has been assessed and conditioned, the SIA is complete, the CBA has been entered into, and the project has typically reached a final investment decision. In many cases construction is underway or complete.

Attaching a discretionary social licence test at that point means a fully permitted and fully constructed project could be prevented from generating revenue on grounds unrelated to grid safety or performance. It also creates the potential for matters already assessed and approved through planning processes to be re-litigated through a separate regulatory pathway. Accordingly, to ensure certainty for proponents we have recommended (as above) that a development approval, supported by an SIA and CBA, be deemed to satisfy the Code.

Without the certainty of previous consultation being deemed to satisfy the Code, the Code could present a financing problem. Project finance is committed against a defined set of conditions precedent, and lenders size and price debt on a known consent pathway. A discretionary judgement that sits after financial close and before first revenue cannot be diligenced. There is no way to demonstrate in advance that the judgement will be made favourably, particularly where the detailed expectations sit in a guidance document that is not a statutory instrument, and it is possible that opposition groups could weaponise this very mechanism (see below for details).

This uncertainty risks significantly reducing investors' appetite to invest in, and financiers' willingness to finance, Queensland renewable energy projects. The implications extend beyond the cost of capital to whether capital is committed at all. Where a risk cannot be bounded, capital prices it. That will raise the cost of capital for Queensland projects relative to other jurisdictions, and that cost flows through to the price of electricity paid by Queensland homes and businesses. It is a cost borne by consumers for a regulatory outcome the planning framework already delivers.

The timing also works against communities. A project that fails the test at the generation authority stage cannot be redesigned or re-sited. The result is a stranded asset, with the host community carrying an idle or partially built facility and no benefit flowing. The same expectations applied during development assessment would still be capable of changing the project.

Accordingly, the CEC recommends that obtaining a development approval should be deemed to satisfy the Code (as per recommendation 2 above). In addition, we recommend that the draft Code be amended to expressly clarify that where the Regulator is not satisfied that the Code's social licence expectations are met, a generation authority will not be withheld, but instead applicants will be required to work towards clear metrics or goals to satisfy the social licence criteria within a set timeframe.

Recommendation 4: Amend the draft Code to expressly clarify that where the Regulator is not satisfied that the Code's social licence expectations are met, a generation authority will not be withheld, but instead the applicant will be required to work towards clear metrics or goals to satisfy the social licence criteria within a set timeframe.

3. Procedural fairness

We acknowledge that the draft Industry Guidance sets out procedural fairness expectations, including notice provided by the Regulator of the matters giving rise to a proposed adverse view, a reasonable opportunity to respond, and consideration of revised material before a decision. That is a genuine improvement on the earlier draft provided as part of targeted consultation. However, locating these protections in the Industry Guidance provides a significantly less robust safeguard than prescribing them in the Code or the Act, as they may be removed or varied without changes to regulation or legislation. We therefore recommend that procedural fairness protections be included in the Code or the Act rather than the Industry Guidance.

Recommendation 5: Include procedural fairness protections in the Code or the Act rather than the Industry Guidance.

4. Neighbour benefits and agreements

Schedule 2 of the draft Industry Guidance is written on the assumption that neighbour benefit schemes and agreements are a settled norm across the industry. It provides that all reasonable efforts should be undertaken to establish a scheme or agreement, that the key principles should be followed

where possible and practicable, and that where neither is in place it should be demonstrated that genuine and good faith efforts were made to reach one.

That assumption does not hold across the sector. Neighbour agreements are common in wind development, where footprints are large and development timelines provide enough time to develop and enter into these bespoke agreements. They are frequently neither requested by neighbours nor entered into for battery storage projects, which generally have smaller footprints and lower impacts, and are designed to setbacks that manage those impacts at source. Battery projects on brownfield or industrial land in or near urban areas may face lower levels of community concern.

Applying a uniform expectation regarding neighbour benefits across all technologies and settings could create regulatory and community expectations that do not reflect the actual impact profile of a project. This may also require developers to demonstrate efforts towards arrangements that neither party has sought. Neighbour arrangements need to remain flexible enough to account for technology type and local context.

Schedule 2 also sits awkwardly alongside the planning framework. Under State Code 27, SIA and CBA processes already require neighbours to be identified and considered, and require the CBA to be entered into by the relevant local government. Where a council is not satisfied that neighbours have been suitably engaged, that must be resolved before a development application is lodged.

We therefore recommend that Schedule 2 be removed, or softened so that it applies only where a scheme or agreement is requested by, and agreed with, relevant neighbours. Established schemes and negotiated agreements should be recognised. If Schedule 2 is retained, it should expressly confirm that a neighbour's decision not to enter an agreement does not constitute developer non-compliance where a genuine offer and good faith process can be demonstrated.

The CEC welcomes the distinction the draft Industry Guidance now draws between neighbour benefit schemes, which are voluntary benefit sharing arrangements, and neighbour benefit agreements, which are negotiated with individual neighbours. That distinction should be preserved and reinforced, and neither should be conflated with neighbour agreements directed at impact mitigation.

We note however that the definition of 'neighbour' in the draft Industry Guidance remains broad. A 'neighbour' is defined as 'a landholder (meaning both an owner or occupier) of a property that is in proximity to a proposed or existing generating plant and project related infrastructure, and is directly affected by the project, whether or not they adjoin the host land.'[2] The draft Industry Guidance does not establish clear eligibility boundaries, valuation principles or an approach to overlapping impacts from multiple projects. This may drive inconsistent expectations and create tension between communities and projects.

Treasury should clarify relevant factors used to identify eligible neighbours, while preserving project-specific flexibility. The definition of neighbour should be capable of being set project by project on an impact basis, having regard to technology type, siting and local context.

[2] Draft Industry Guidance, p. 3.

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Recommendation 6: Remove or soften Schedule 2 of the Industry Guidance so it applies only where a neighbour benefit scheme or agreement is requested by, and agreed with, relevant neighbours. Established schemes and negotiated agreements should be recognised. If Schedule 2 is retained, it should expressly confirm that a neighbour's decision not to enter an agreement does not constitute developer non-compliance where a genuine offer and good faith process can be demonstrated.

Recommendation 7: Factors used to identify eligible neighbours should be clarified, while preserving project-specific flexibility. The definition of neighbour should be capable of being set project by project on an impact basis, having regard to technology type, siting and local context.

5. The role of Coexistence Queensland

Under the draft Code and Industry Guidance, Coexistence Queensland has a broad role. Its functions include: advising developers on Code compliance; advising the Regulator on whether a developer has met the social licence criteria, and on general compliance matters; and facilitating the resolution of disputes between developers and complainants on a voluntary basis.

We note that the scope of Coexistence Queensland's regulatory advice function is particularly wide-ranging. The draft Industry Guidance contemplates that in providing advice to the Regulator on whether a developer has met the social licence criteria, Coexistence Queensland 'may include observations on a range of matters' including community engagement, coexistence issues, complaints, dispute facilitation matters or systemic issues and conduct of contractors and subcontractors.[3]

The CEC supports Coexistence Queensland and the work it does. We understand the rationale for expanding its role to handle complaints, and this is consistent with developments in other jurisdictions, including the expansion of the Energy and Water Ombudsman into renewable energy in New South Wales.

However, this should be approached carefully. There is potential for the functions of Coexistence Queensland to overlap in practice. This risks discouraging early and open engagement where developers are concerned that advisory discussions with Coexistence Queensland could later be used to inform a social licence assessment by the Regulator.

The finalised Code and Industry Guidance should clearly separate Coexistence Queensland's advisory, regulatory advice and complaints facilitation functions. They should also explain how information provided to Coexistence Queensland will be handled, including when it may be disclosed to the Regulator, how potential or identified conflicts will be managed, and how developers will be given an effective opportunity to respond to adverse material before a decision is made. We also

[3] Draft Industry Guidance, pp. 4-5.

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recommend further clarification of the basis on which Coexistence Queensland advises the Regulator, including the scope and parameters of this role.

Further, recognising that the AEIC already performs a complaints function for renewable energy projects, and that the draft Code already contemplates Coexistence Queensland referring matters to the AEIC, it is not clear what a duplicated complaints service provides that does not already exist. The respective roles of Coexistence Queensland and the AEIC should be clarified.

Finally, the CEC is also concerned about how the Code could be used by opposition groups. It is now common for coordinated groups to use generative AI to produce and send large volumes of correspondence to project inboxes, covering a wide range of matters including environmental impact, cultural heritage, fire risk, construction impacts and property values, among others. Where a proponent identifies that hundreds of emails have been sent by a single group, it will ordinarily respond at a general level rather than individually to each and every email.

Under the draft framework, that group could present evidence to Coexistence Queensland showing that a proponent has not responded to correspondence. On that evidence alone it would be understandable for Coexistence Queensland to form the view that the proponent has not engaged meaningfully with questions and requests for information. In practice that would not be a true reflection of the circumstances. Under this scenario, it is possible that Coexistence Queensland could then advise the Regulator that a developer has not met the Code. We recommend that the Code and Industry Guidance clearly set out the approach Coexistence Queensland will take regarding coordinated or high-volume correspondence, including confirming that a proportionate, consolidated response to such correspondence can constitute genuine engagement.

Recommendation 8: The finalised Code and Industry Guidance should clearly separate Coexistence Queensland's advisory, regulatory advice and complaints facilitation functions. The materials should also explain how information provided to Coexistence Queensland will be handled, including when it may be disclosed to the Regulator, how potential or identified conflicts will be managed, and how developers will be given an effective opportunity to respond to adverse material before a decision is made.

Recommendation 9: The basis on which Coexistence Queensland advises the Regulator, including the scope and parameters of that role, should be clarified, as well as the boundary between Coexistence Queensland and the AEIC.

Recommendation 10: The Code and Industry Guidance should set out how coordinated or high-volume correspondence will be treated, including confirming that a proportionate, consolidated response can constitute genuine engagement.

6. Assessment criteria, evidence and objectivity

The CEC supports the draft Code's focus on assessing developer conduct and systems rather than attempting to measure community acceptance. Social licence cannot be reliably measured by community sentiment alone, and even where developers follow leading practice some level of

opposition may persist. A developer can engage genuinely, respond to concerns, mitigate impacts and deliver benefits, but cannot guarantee consensus or prevent organised opposition. The presence of objections should not, by itself, indicate a failure to satisfy the social licence criteria.

To facilitate the proposed approach to the Code, Treasury should publish clear assessment criteria, performance expectations, evidence requirements and decision making principles under the Code. While the draft Industry Guidance provides examples of conduct that may indicate social licence criteria are satisfied and a suggested evidence set, it does not explain how the Regulator will weigh that evidence or what level of performance will be sufficient. This would give developers, the Regulator and communities a consistent basis for understanding how compliance will be assessed, and would improve transparency and regulatory certainty.

Acceptable forms of evidence should be expressly defined and should include SIAs, CBAs, engagement plans, Cultural Heritage Management Plans, and documented complaints and issue resolution processes. Assessment should focus on the effectiveness of engagement undertaken, the proponent's responsiveness to feedback, the transparency of information provided, and delivery against documented commitments and approved management measures, rather than a parallel substantive reassessment of matters already approved.

The CEC has been working with members on evidentiary requirements to meet maturity model definitions under the Commonwealth Developer Rating Scheme, and would be happy to share that work with Treasury if it is useful.

The framework should also clearly distinguish between matters within a developer's reasonable control and outcomes dependent on third parties. Community benefit funding may, for example, be governed or allocated by local government, community committees, independent trustees or grant bodies under the CBA structure. Similarly, local employment, procurement and infrastructure outcomes may be affected by labour availability, contractor markets, council processes and other third-party decisions. A developer should not be assessed adversely for outcomes it cannot reasonably control.

Assessment against social licence criteria should instead consider whether the developer has, for example, made agreed contributions available, established appropriate governance arrangements, participated in good faith and taken reasonable steps to support delivery.

Overall, the final framework should focus on the reasonableness, quality, and proportionality of the developer's conduct. It should expressly clarify that community disagreement, objections or unresolved opposition do not, of themselves, establish a failure to satisfy the social licence criteria.

Recommendation 11: Treasury should publish assessment criteria, performance expectations, evidence requirements and decision making principles under the Code. Assessment should focus on the reasonableness, quality, and proportionality of the developer's conduct, having regard to matters within the developer's reasonable control. The finalised framework should expressly confirm that community disagreement, objections or unresolved opposition do not, of themselves, establish a failure to satisfy the social licence criteria.

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7. Engagement expectations

The CEC welcomes the change to engagement timing. Anchoring genuine engagement to the period before a development application is lodged, rather than to feasibility or site selection, reflects the practical reality that at the earliest stages land access is rarely secured, project boundaries are undefined and technical parameters remain fluid.

We note that communities may have questions when they become aware that assessment activities are taking place. The CEC considers it leading practice for developers to be transparent about prospecting and assessment activity before a development application is lodged, and to respond to community questions as fully as they can at that stage.

Separately, the draft Industry Guidance contemplates that community and stakeholder engagement may include establishing a community committee, where appropriate for the community and project.[4] This wording, together with the detailed composition the draft Industry Guidance sets out for such a committee and its encouragement to share information on committees with Coexistence Queensland, could in practice be treated as an expected standard for every project.

While a community committee model may be valuable for some projects, it should not become a de facto requirement. Existing regional forums, council processes, landholder groups or tailored engagement channels may be more effective in some locations. Assessment against the social licence criteria should focus on accessibility, representation, responsiveness and outcomes, not on whether a particular committee structure has been adopted.

Industry is also moving away from a project by project approach and towards coordinated regional structures that set direction rather than assess each project individually. This can help to reduce consultation fatigue in host regions and produce better outcomes for communities. The draft Industry Guidance already encourages developers to attend regional forums convened by Coexistence Queensland,[5] which provides a foundation for this approach. The finalised framework should confirm that developers may select engagement mechanisms suited to the project and community, and expressly permit regional or shared engagement structures where they are appropriate.

Recommendation 12: Amend the draft Industry Guidance to confirm that developers may select engagement mechanisms suited to the project and community; and expressly permit regional or shared engagement structures where they are appropriate for the community and the project.

[4] Draft Industry Guidance, p. 8.
[5] Draft Industry Guidance, p. 5.

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8. Proportionality and technology neutrality

The draft Code applies only to renewable energy and storage projects, despite generation authorities applying to all forms of generation. This risks regulatory inconsistency and singles out specific technologies without a stated justification.

Not all projects present equivalent community or land use impacts. A battery project on brownfield or industrial land has a very different risk profile, and generally attracts a very different level of community concern, to a large greenfield wind or solar development. The draft Code applies a standardised 30 MW threshold regardless of technology, siting or impact profile, and provides no streamlined pathway for low impact projects. Proportionality is left entirely to the Regulator's discretion under proposed section 2(4) of the draft Code, which provides that the Regulator 'will have regard to the scale, nature and potential impacts of the generating plant, and the characteristics of the affected community'.

We also note a threshold mismatch. The SIA and CBA obligations under State Code 27 apply to battery projects above 50 MW, while the Code applies to battery projects with a nameplate capacity of 30 MW or greater. For projects between those thresholds the Code is not duplicative, but nor is there an approved CBA or SIA for the developer to point to as evidence. That gap should be addressed deliberately.

The CEC recommends that the Code be applied on a technology neutral and impact based basis, with clear justification provided for any departure from this approach. We also recommend that a streamlined pathway is provided for low impact projects (as determined by specified minimum parameters on noise and/or visual impacts, for example).

Recommendation 13: The Code should be applied on a technology neutral and impact based basis, or clear justification provided for any differential treatment. A streamlined pathway should also be provided for low impact projects.

9. Review of the Code

Section 12(2) of the draft Code requires the Minister to review the Code at least once every five years, and permits an early establishment review after the commencement date to consider whether the Code is meeting its objectives.

Given the extent of overlap between the Code and the planning framework, the CEC recommends that an early establishment review be undertaken with industry two years after the Code commences. This review should focus specifically on the interaction between the two frameworks in practice and whether the Code is delivering outcomes the planning framework does not already secure.

We also note that the substantive detail of what is expected sits in the draft Industry Guidance rather than the draft Code. Indeed, section 3(3) of the draft Code provides that the Industry Guidance 'outlines the Regulator's expectations for developers in meeting the Act's social licence criteria [and] how to demonstrate compliance'.

However, the Industry Guidance is not a statutory instrument and is not captured by the review requirement in section 180A(7) of the Act, nor section 12(2) of the draft Code. The review mechanism should extend to the Industry Guidance. We also recommend introducing a requirement for public consultation on any proposed substantive amendment(s) to the Industry Guidance, given that document sets out the practical bar for compliance.

Recommendation 14: An early establishment review of the Code should be undertaken with industry two years after the Code commences, focused on the interaction between the Code and the planning framework.

Recommendation 15: Extend the review mechanism in the Code to capture the Industry Guidance, and require public consultation on any substantive amendment(s) to the Industry Guidance.

10. Land access guidance

Schedule 1 of the draft Industry Guidance sets out detailed expectations in relation to matters to be addressed in agreements relating to landowner access for private land. It includes matters such as training requirements for persons accessing the land, access, roads, livestock, workforce accommodation and gates (amongst other things). Some of these requirements may overlap with negotiated land agreements, biosecurity plans, safety systems, cultural heritage requirements, and contractor procedures. Some of the requirements may be useful as better practice guidance but they should not override project specific agreements that have been mutually agreed.

Recommendation 16: The Industry Guidance should remain non-prescriptive and expressly recognise that land access arrangements may be adapted by agreement with the landholder. Where an existing agreement deals with the relevant issue, compliance with that agreement should be accepted unless it conflicts with legislation.

11. Other drafting matters

Cumulative impacts

Section 8(3) of the draft Code provides that where a project sits in proximity to another generating plant, the relevant person is expected to take reasonable steps to minimise cumulative impacts where possible. Proponents can assess and manage the impacts of their own projects but have no control over the activities of other developers. The expectation should be to cooperate with other proponents and stakeholders where reasonably practicable, rather than to carry accountability for matters outside a developer's control.

Recommendation 17: Amend section 8(3) of the draft Code to provide that where generating plant sits in proximity to another generating plant, the relevant person is expected to cooperate with other proponents and stakeholders where reasonably practicable, to minimise cumulative impacts and enhance benefits for the affected community.

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Mitigation hierarchy

Section 8(1)(b) of the draft Code refers to mitigation of impacts to the lowest reasonably practicable level, where avoidance is not reasonably practicable. This language appears to draw on engineering and health and safety risk management frameworks rather than planning assessment frameworks. It should be linked to existing approval conditions, impact assessments and approved management measures to avoid duplication and inconsistent interpretation.

Recommendation 18: Amend section 8(1)(b) of the draft Code to link to existing approval conditions, impact assessments and approved management measures to avoid duplication and inconsistent interpretation.

Transitional arrangements and grandfathering

Section 2(3) of the draft Code provides that the Code does not apply to applications for a generation authority made but not decided before commencement. Because a generation authority is sought late in the development timeline, a project consented under current settings that lodges its application after commencement of the Code would be fully within scope. Transitional arrangements should extend to projects already under consideration within the planning framework.

The Code should include clear and comprehensive transitional provisions that preserve existing lawful agreements and benefit arrangements established before the Code's commencement, rather than imposing new expectations on completed historical engagement. Section 2(3) should be amended to confirm that the Code does not apply to applications for transfer of a generation authority, where the relevant generation authority was issued prior to commencement of the Code.

Recommendation 19: Amend section 2(3) of the draft Code to also provide that the Code does not apply to applications for a generation authority where a development approval application for the relevant project was made prior to the Code's commencement.

Recommendation 20: Include in the Code clear and comprehensive transitional provisions that preserve existing lawful agreements and benefit arrangements established before the Code's commencement, rather than imposing new expectations on completed historical engagement. Amend section 2(3) to confirm that the Code does not apply to applications for transfer of a generation authority, where the relevant generation authority was issued prior to commencement of the Code.

Definition of 'relevant person'

The draft Code provides that in considering conduct in relation to social licence criteria, the Regulator has regard to the conduct of 'any relevant person carrying out activities relating to the development, building or operation of the generating plant, to the extent the person has control or management of the development, building or operation'. Schedule 1 provides that 'relevant person' includes 'authority applicants, authority holders and contractors, subcontractors at any tier, agents and consultants'.[6]

[6] Draft Code, Schedule 1.

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The definition of 'relevant person' is very broad, and because it is non-exhaustive, it risks creating uncertainty about the full range of persons whose conduct may be attributed to the applicant's project. While the definition is limited to the extent a person has control or management, it does not specify the degree of control required. We recommend the definition is narrowed or clarified so that it applies only to persons with a material degree of control or management over the relevant activities (or similar).

Further, while the CEC supports clear expectations for contractors and subcontractors who interact with landholders and communities, we note the breadth of the definition of relevant person and the proposed flow-down expectations could expose authority holders to adverse findings arising from isolated acts at multiple tiers of contracting, including conduct beyond their immediate knowledge or control. We welcome the Code's focus on whether reasonable steps have been taken, and the Industry Guidance's reference to reasonable and proportionate steps to manage third-party behaviour. The Code or Industry Guidance should confirm that isolated incidents will not result in an adverse social licence finding where effective systems were in place, and the issue was addressed promptly.

Recommendation 21: Clarify the definition of 'relevant person' so that it applies only to persons with a material degree of control or management over the relevant activities, and confirm in the Code or Industry Guidance that isolated incidents will not result in an adverse social licence finding where effective systems were in place and the issue was addressed promptly.

Clarifications to language regarding Code obligations and requirements

The draft Code confirms that it 'does not create standalone obligations' but instead describes conduct that may support a finding that prescribed social licence criteria are satisfied.[7] The draft Industry Guidance affirms this, and elaborates that 'the Code should be understood as a practical guide to how the Regulator will assess social licence considerations, rather than a prescriptive or exhaustive set of requirements… it signals the types of behaviours, processes and evidence that are likely to support a positive assessment'.[8]

However, the Code and draft Industry Guidance also refer to 'obligations' and 'requirements' under the Code. For example, section 10(1) of the draft Code provides that a new generation authority holder 'assumes all Code obligations of the transferor',[9] and the draft Industry Guidance says that it 'provides information on the Regulator's expectations for relevant persons or developers in meeting the requirements set out in the Code'.[10]

This language is inconsistent with the above statement that the Code imposes no standalone obligations. We recommend Treasury reviews the draft Code and Industry Guidance to identify and remove references to the Code's 'requirements' and 'obligations' to resolve this inconsistency.

[7] Draft Code, section 1(3).
[8] Draft Industry Guidance, p. 3.
[9] See also section 10(2), which refers to 'obligations' described in the Code under the social licence criteria.
[10] Draft Industry Guidance, p. 3.

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In particular, we recommend that section 10(1) of the draft Code is amended to instead provide that the Code applies to the transferee in respect of the relevant generating plant upon the transfer of a generation authority.

Recommendation 22: Amend the draft Code and Industry Guidance to remove references to the Code's 'requirements' and 'obligations', in recognition of the stated position that the Code does not impose standalone obligations.

Recommendation 23: Amend section 10(1) of the draft Code to provide that the Code applies to the transferee in respect of the relevant generating plant upon the transfer of a generation authority.

Asset transfers

Section 10(2) of the draft Code provides that the Regulator must not approve the transfer of a generation authority unless the transferee has provided written confirmation that it has reviewed the Code and understands the obligations described under the social licence criteria (see our comments above regarding the reference to 'obligations', which also apply here).

The draft Industry Guidance goes further, indicating that the Regulator may take into account a transferee's performance on other projects.[11] Section 10(3) of the draft Code contemplates a similar approach and provides that the Regulator may ask Coexistence Queensland to provide advice on a transfer application, including the transferee's track record in relation to other generating plant it holds.

This approach appears to go beyond what is contemplated by the Act: section 184B(2) permits the Regulator to transfer a generation authority only if satisfied (amongst other things) that the prescribed social licence criteria '*are satisfied for the generating plant to which the authority relates*' (emphasis added). Consistent with this drafting, a transferee's unrelated portfolio should not form part of the social licence assessment.

We therefore recommend that the draft Code and Industry Guidance are amended to clarify and confine the scope of the Regulator's assessment to the generating plant to which the authority relates (excluding a transferee's unrelated portfolio).

However, if the above recommendation is not accepted in full, then we recommend publishing objective transfer criteria and defining the type, relevance, and duration of compliance history that may be considered when assessing a transfer application. A project-level register of material commitments should support due diligence and continuity. Minor or unrelated issues on other projects should not prevent transfers.

Recommendation 24: Amend the draft Code and Industry Guidance to clarify that, when assessing a transfer application, the Regulator will consider only whether the social licence criteria are satisfied for the generating plant to which the authority relates, not the transferee's unrelated portfolio and performance on other projects.

[11] Draft Industry Guidance, p. 10.

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Recommendation 25: If recommendation 24 is not accepted in full, then we recommend publishing objective transfer criteria and defining the type, relevance, and duration of compliance history that may be considered when assessing a transfer application. A project-level register of material commitments should support due diligence and continuity. Minor or unrelated issues on other projects should not prevent transfers.

Annual reporting and record keeping

The draft Industry Guidance anticipates detailed annual reporting on matters such as community engagement, complaints, delivery against commitments and decommissioning matters, supported by extensive contemporaneous records.[12] While good records are appropriate, renewable energy projects may already report similar information under existing approvals, agreements and corporate reporting mechanisms.

Annual reporting should be proportionate to project stage and risk. The framework should accept existing reports, allow incorporation by reference, prescribe a concise standard reporting template, and avoid requiring the same information to be provided to multiple agencies. Reporting frequency should also be capable of adjustment for stable operational projects with a strong compliance record.

Recommendation 26: Amend the draft Industry Guidance to ensure that annual reporting is proportionate to project stage and risk. In particular, the framework should accept existing reports, allow incorporation by reference, prescribe a concise standard reporting template, and avoid requiring the same information to be provided to multiple agencies. Reporting frequency should also be capable of adjustment for stable operational projects with a strong compliance record.

Drafting inconsistencies

Section 2(1) of the draft Code applies the Code to generating plant with a nameplate capacity of 30 MW or greater, while Schedule 1 defines generating plant as having a nameplate capacity of *more than* 30 MW. This drafting inconsistency should be reconciled.

Separately, the draft Industry Guidance requires a Social Licence Suitability Report before an application to amend a generation authority, but amendment applications are not within the application provision in section 2(1) of the draft Code (and under the Act, amendment of a generation authority does not require social licence criteria to be satisfied). The reference to an application to amend a generation authority should be removed from the draft Industry Guidance.

Recommendation 27: Clarify the MW threshold in the draft Code; and remove the reference in the draft Industry Guidance to lodging an application to amend a generation authority.

[12] Draft Industry Guidance, p. 4.

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Conclusion and next steps

The CEC and its members support the objective behind the Code. Social licence should be assessed and regulated, and industry should be held to a high standard of social performance.

Our concern is with design rather than intent. The Code regulates matters that Queensland's planning framework already addresses, and it does so at a point in the project lifecycle where the assessment cannot improve a project but can prevent it from operating. That combination adds cost without adding community benefit, and the cost is ultimately borne by Queensland electricity consumers.

The CEC looks forward to continuing to work with Queensland Treasury to refine the Code in a way that builds community trust while maintaining Queensland's attractiveness as a destination for clean energy investment.

The CEC welcomes further engagement with Treasury in relation to this submission. If you have any queries or would like to discuss our comments in more detail, please contact the CEC on erutherfurd@cleanenergycouncil.org.au or tmacleod@cleanenergycouncil.org.au.

Kind regards,

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