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Energy Consumer Policy Branch
Consumer, Community and First Peoples' Energy Transition
Department of Energy, Environment and Climate Action (Vic)
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Submitted online via Engage Victoria

Clean Energy Council Submission to the Victorian Consumer Energy Resources Consumer Protections Review, Directions Paper

The Clean Energy Council (CEC) welcomes the opportunity to provide feedback to the Victorian Department of Energy, Environment and Climate Action's (DEECA) Directions Paper on the Consumer Energy Resources (CER) Consumer Protections Review.

The CEC is the peak body for the clean energy industry in Australia. We represent and work with Australia's leading renewable energy and energy storage businesses, as well as accredited designers and installers of solar and battery systems, to further the development of clean energy in Australia. The CEC has been actively involved in addressing key consumer protection issues for CER and has been appointed by the New Energy Tech Consumer Code (NETCC) Council as the administrator and steward responsible for the operations of the NETCC program. We are committed to accelerating the transformation of Australia's energy system to one that is cleaner, equal, fair and transparent for all consumers.

We support the Victorian Government's CER Consumer Protections Review that seeks to ensure essential energy services provided by CER are appropriately classed under a regulatory framework that enables clear and effective protections for consumers and promotes best practice in the industry. Consumer protection is a key policy priority for the CEC, as described in our CER Roadmap "Powering Homes, Empowering People" consumer protection plays an important role in building consumer's trust and therefore confidence to adopt new clean energy technologies in their homes and businesses to better manage their energy usage and costs¹.

¹ [Powering-Homes-Empowering-People-CER-Roadmap.pdf](#)

Measures such as model contracts, product performance standards, certification of products and installers and warranties all play important roles in reducing the risk a consumer may face in purchasing CER. The speed at which consumer complaints are resolved is also an important factor. As well as mitigating the impact of any problems for customers, strong consumer protection also serves as a demonstration of the maturity and security of the market to potential customers. While problems may arise, an industry that can demonstrate quick and positive resolution of problems when they occur will more likely attract new consumers to adopt its products and services.

Preferred Approach

In seeking a solution to consumer protections that supports new market dynamics; consumer participation; storage and supply; new business models and changing consumer behaviour, we recommend a least cost pathway that leverages existing infrastructure. This should provide a smoother, quicker, more predictable and better understood solution than the alternative of developing a completely new framework.

As such, we encourage the Victorian Government to utilise existing infrastructure as the preferred approach, such as the NETCC. This has been designed by peak industry and consumer bodies that builds on existing mandatory consumer protection regulations defined by the Australian Competition and Consumer Commission (ACCC)². It has also been accredited by the ACCC as a voluntary Code that would provide consumers of CER an overall net benefit. At present, the Code applies to rooftop solar, battery storage, EV chargers, home energy management systems. Retailers and installers of these technologies are required to establish and maintain business practices that meet specified standard of consumer protection standards, including fair and honest quotes, ethical sales practices, and after-sales customer service.

We note the Consultation Paper acknowledges there is a gap with the NETCC, in which a suspended signatory is not prevented from participating in the energy market outside of Government programs. This submission seeks to identify ways to address this gap. Addressing this gap, we believe can be achieved at lower disruption and cost than establishing a new and Victorian only unique regulatory regime.

The CEC recommends a fifth approach that combines an exemptions framework co-ordinated by the Essential Services Commission (ESC), linked to exempt industry participants that are signatories of the NETCC. This would allow CER providers that are NETCC members to seek an exemption from the licensing framework through the ESC, acknowledging and rewarding providers that have already committed to advanced consumer protections. It is expected this approach will provide a simple transition for many CER providers and incentivise suspended signatories to comply with the NETCC as alternatively, they will need to apply for a license to continue trading. In principle this approach can satisfy DEECA's guiding principles and

² [New Energy Tech Consumer Code | ACCC](#)

priorities in the same way as the preferred licensing/exemption proposal but at lower disruption and cost.

The NETCC undergoes regular 5-year reviews with the ACCC, guaranteeing futureproofing is built into the scheme. This is a far more flexible way to ensure consumer protection keeps up with market innovation. The CER Consumer Protections Review should aim to explore all options and leverage the existing work of the NETCC Council to ensure an effective and easily implementable solution is the preferred approach.

Raising awareness of consumer protections and the NETCC

One approach to leverage existing consumer protections in Victoria could aim to raise consumer awareness of the NETCC and the protections it offers consumers when dealing with a NETCC signatory. Similar to the Health Star Rating System³ or Water Rating Label⁴, where consumers can confidently make decisions around food and efficient products, a well-constructed and publicly funded consumer awareness campaign for the NETCC can raise awareness of the program and provide consumers with confidence on the level of support they will have available to them when dealing with a NETCC signatory. This will mean consumers will look to only deal with NETCC signatories when making their CER decisions, ensuring that CER providers not participating in the NETCC program would see a significant decline in their appeal and marketability to consumers.

Solar Victoria requires any CER provider to participate in their programs to be signatories of the NETCC⁵. As such, industry in Victoria is already highly familiar with the NETCC, 61% of the 1,600 signatories are based in the state⁶, indicating that an exemptions framework for CER providers who join this program will create less disruption and costs than the establishment of a new regulatory or licensing mechanism administered by the ESC. This is a strong example of how government agency support and promotion of the NETCC can drive positive behavioural change in industry, without the need for a heavy-handed and restrictive new regulatory regime that will take many years to develop, implement and educate consumers of their new rights.

Further, we highlight that the NETCC is a nationally consistent and recognised code for retailers and customers, compared to a Victorian exclusive licencing scheme. Hence, the proposed framework may create difficulties for CER providers operating across Australian states and territories, due to the administrative burden of an additional code or guideline under the proposed licensing conditions. While the *Electricity Industry Act 2000* has provided a consumer protection framework for traditional energy arrangements, the size and scope of these organisations greatly differs from CER providers. The CER marketplace is rapidly evolving with new technologies and business models and the NETCC provides a quick and effective way to adapt a consumer code to new technologies. In comparison, a Governmental

³ [Health Star Rating - Health Star Rating](#)

⁴ [Water rating label | Water Rating](#)

⁵ [Industry requirements for protecting consumers | solar.vic.gov.au](#)

⁶ [rooftop-solar-and-storage-report_jan-june-2024.pdf](#)

licensing framework may be less efficient when adapting to new products, services, and business models, and has not been developed primarily for CER providers.

Specified dispute resolution under the role of the Ombudsman

While majority of the proposed approach is not synonymous with other Australian jurisdictions, we note that the Western Australian Government has required CER providers to become a member of the Energy and Water Ombudsman, and the New South Wales Government have identified the intention to do so in the future. The CEC has previously advocated for the establishment of the Energy and Water Ombudsman as the entity responsible for resolving disputes regarding new and emerging energy technologies, including the development of a specific process for doing so. A specified dispute resolution pathway through one trusted source will ensure consistent handling of customer complaints and reduce confusion for consumers wanting to escalate any issues they encounter. Hence, the CEC is strongly supportive of Part 3 in the Directions Paper “Consumer access to free and independent dispute resolution.”

The CEC proposed fifth approach can leverage the proposed exemption framework to allow disputes to be first and foremost managed through the NETCC complaints handling process and then provide the consumer with access to the Energy and Water Ombudsman Victoria (EWOV) scheme if they are not satisfied with the outcome. This is not dissimilar to the current energy retailer licensing dispute resolution process where retailers are given the first opportunity to resolve the dispute before a consumer can escalate to an external party such as the Ombudsman. We recommend that the costs of the Ombudsman membership should be appropriate to the size of the business, with a fee structure that additionally considers the number of complaints brought to the EWOV. This will ensure that CER providers that contribute to a significant share of the EWOV’s dispute resolution resourcing will be proportionately responsible for the financing of this process. It is expected this structure will deter CER providers from repeated breaches of the NETCC and encourage resolution through the NETCC complaints handling process to reduce escalation to the EWOV.

A key influence in the CEC’s response to this Directions Paper is the magnitude that the proposed approach diverges from consumer protection reforms in other Australian jurisdictions and creates unique licencing conditions to Victoria. It is recommended that the Victorian Government undertake additional consultation with industry on their proposed approach, including the development of a case study with a cost benefit analysis to best define how the licensing/exemption scheme would work in practice. This should be compared to an exemptions framework with existing consumer protection schemes, such as the NETCC, and outline the estimated number of CER providers that would be covered by the existing scheme and the cost/benefit differential between the Consultant Paper’s preferred approach to the approach outlined in our submission. The NETCC has already been subject to a rigorous public benefit test by the ACCC and can demonstrate direct and positive net public benefits to the community.

The CEC is interested in ongoing consultation around the development of Victoria's CER Consumer Protections Review and would welcome the opportunity to engage industry in additional workshops with the Victorian Government. We view this Review as an important step in securing best practice and nationally consistent implementation of consumer protections in across Australian jurisdictions.

If you have any queries or would like to discuss the submission in more detail, please contact Maxime Di Petta (mdipetta@cleanenergycouncil.org.au).

Kind regards,

A handwritten signature in black ink that reads "C Hristodoulidis". The signature is written in a cursive style with a large initial 'C'.

Con Hristodoulidis
General Manager, Distributed Energy
Clean Energy Council