



Wattly Pty Ltd
132 Cremorne Street
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Australia

23 August 2019

Att: Stephen Procter,

Strategic Delivery Manager, Sustainability Programs

Energy, Climate Change and Sustainability
NSW Department of Planning, Industry and Environment
sustainability@environment.nsw.gov.au

Dear Stephen

Re: Submission on the Consultation Paper on the NSW ESS Rule Change 2018-2019

Please find attached our response to the above consultation paper.

Yours sincerely

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Hamish McGovern

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Responses to questions

Question 1: Do you agree with the proposed transitional arrangement? Please provide reasoning supporting your response.

For Deemed Methods we believe this is a positive change over the previous transitional arrangement where there is a rush to complete jobs and register ESCs by the change date. However we would suggest that the registration deadline for ESCs under the current rule is extended until 30-Jun-2021 in line with the vintage expiry deadline for those implementations completed between 1-Jan-2020 and 16-Feb-2020.

No, for PIAM&V activities there are extreme negative unintended consequences to existing PIAM&V projects that are currently underway within the baseline or upgrade period and may take a further 18 months to complete. The proposed cutoff date for projects with implementation dates prior to February 2020 may render these projects ineligible due to the requirement to have the baseline deemed appropriate prior to the end of the baseline period. There are existing (and we anticipate future) projects where the baseline period has finished, but the upgrade measurement period will not be complete until well after February 2020. Hence there is no opportunity for the independent CMVP to assess prior to the end of the period as proposed in the changes to 7A.1

Question 2: Is this approximate three-month timeframe sufficient for preparing your business to be ready to comply with the new ESS rule? If not, what timeframe do you deem necessary?

No, for PIAM&V activities there are extreme negative unintended consequences to existing PIAM&V projects that are currently underway and may take a further 18 months to complete. The proposed cutoff date for projects with implementation dates prior to Feb 2020 may render these projects ineligible.

Question 3: Can you foresee any particular part of the new ESS Rule for which it will be difficult to get 'business-ready' within the proposed timeframe?

Issues outlined above where PIAM&V projects are underway.

Question 4: Do you agree with the proposed changes to Table A26? Please provide reasoning supporting your response.

No comment

Question 5: Do you agree with the proposed changes to Section 5.4(i)(ii)? Please provide reasoning supporting your response.

Yes, except for the requirement for the generator to be non-exporting in its entirety. We recommend that this requirement be changed to say that 95% of the energy generated should not be exported, or removed altogether. This would allow more projects to be drive energy savings under the ESS.

Question 6: Do you perceive any significant impacts, either positive or negative, associated with increasing the ESS cap on generating systems from 5MW to 30MW?

Wattly supports Northmore Gordon's submission on this question.

Question 7: Do you agree with the proposed updates to Equation 1 in Clause 6.5? Please provide reasoning supporting your response.

Yes, this removes any ambiguity from the use of equation 1.

Question 8: Do you agree with the proposed updates to Clause 6.8? Please provide reasoning supporting your response.

No comment

Question 9: Do you agree with the proposed changes to Clause 7A.1? Please provide reasoning supporting your response.

No. This introduces additional uncertainty for ACPs in seeking to comply with an already complex rule with a regulator that already exercises what seems to be significant discretion.

The PIAM&V method requires a substantial upfront investment by Customers and ACPs, often with substantial uncertainty around the energy savings. On top of this there is a significant level of regulatory risk related to the discretionary enforcement of the rule and lack of transparency by the Scheme Administrator. Giving the Scheme Administrator greater discretion further increases the commercial uncertainty and decreases the likelihood that ACPs will make wide use of the PIAM&V method.

It would be a benefit if there was more context around why this rule change is proposed so we might be able to offer other solutions that help meet the intent whilst providing more certainty to ACPs.

Question 10: Do you agree with the proposed changes to Measurement Procedures of the PIAM&V method? Please provide reasoning supporting your response.

No, There is currently merit in having flexibility to choose a suitable baseline measurement period from a range of past years. One reason is to ensure the period of operation produced data that was suitable for a regression model to meet suitable statistical requirements.

A potential solution may be to have the M&VP deem the Baseline Measurement Procedure appropriate prior to the Practical Completion date of the upgrade, with the ability for any variations from this appropriate Procedure recorded and signed off in the final M&V Plan. I.e. to provide a record of the agreed plan and any changes to be reviewed by the IPART panel auditor to give assurance that the variation or change in Baseline Measurement Procedure (or Period) is providing a suitable model and meeting the statistical requirements.

Northmore Gordon has provided further details. Wattly supports Northmore Gordon's response.

Question 11: Do you have any specific concerns in relation to the cut-off date of 17 February 2020?

Yes we do. The proposed modifications to the Rule are that it would apply where applications are made for ESC registrations after 17 February 2020.

This would therefore affect many Wattly PIAM&V projects that are currently underway with an Operating Period ending in 2019 or 2020. Baseline modelling for many of these projects is already developed, and most would not have had M&V Professional signoff of the Baseline Energy modelling before the end of the Baseline Period.

Question 12: Would this change present any particular issues for your business?

Yes, Wattly has projects underway that will be impacted by the proposed changes. Northmore Gordon has provided further details. Wattly supports Northmore Gordon's response

Question 13: Do you agree with the proposed changes to Clause 7A.16 of the PIAM&V method? Please provide reasoning supporting your response.

Wattly supports greater transparency and greater clarity regarding the interpretation of the ESS Rule, however we are concerned that the Scheme Administrators may publish without consultation and without a transitional period and interpretation of the rule is not consistent with current practices nor potential consistent with the policy objectives. This increases risk and reduces commercial certainty.

A good example of the Scheme Administrator the interpretation of the Rule being at odds with industry and policy objectives involves the Commercial Lighting Method Copayment requirements and the addition of the words "must have paid" into the Rule resulting in no form of financing being acceptable to the scheme administrator.

A lack of consideration for transition period in which to adjust for projects that are underway. This is especially difficult with long running projects found in PIAM&V

Question 14: Do you agree with the proposed changes to the NABERS baseline method? Please provide reasoning supporting your response.

Yes, Wattly supports greater adoption of the NABERS method, and whilst not familiar with the method, the reasoning presented at the forum, to allow 0.5 star improvements, bring energy savings forward, and to adjust the calculations so that improvements from a low baseline would recognize higher energy savings, all seems positive to push greater energy savings in commercial buildings.

Question 15: Would this change shift the market to the sale of these high efficiency appliances over appliances of a lower energy efficiency? Please provide reasoning supporting your response.

No comment

Question 16: Is the link between sales data and proposed changes to the grouping of appliances appropriate?

No comment

Question 17: Do you agree with the proposal to amend Activity Definition B5 to include refrigerators with more than two doors? Please provide reasoning

No comment

Question 18: Do you agree with the proposed amendments to the space type and space type classifications? Please provide reasoning supporting your response.

Wattly agrees on the amendments made to the following:

Harmonise with the Victorian Energy Upgrade Specifications by:

- a. introducing a new space type for gyms,
- b. expanding the definition of Building Lighting to include Commercial/Industrial premises classified as BCA Class 10a,
- c. reducing the annual operating hours for restaurants and cafés in museums and art galleries, while maintaining the annual operating hours for restaurants and cafés in accommodation and food services.

However, we are seeking clarification on the following amendments:

1. Amend various Space Types in Table A10.2 to align with changes to the BCA.
2. Amend the building/space group in Table A10.3 for building classification "BCA Class 7b buildings" from A (Others) to C (Industrial). This is to align with the classification of wholesale storage in Table A10.2.
3. Amend Table A10.2 so that the wholesale storage space type includes distribution centres. This amendment is based on feedback requesting clarification on the classification of distribution centres within the existing categories.

1) Definition of the following space types:

- "Storage" - AOH = 5000, Asset Lifetime = **7.3 years** (table A10.2) and;
- "BCA Class 7b" - AOH = 5000, Asset Lifetime = **11 years** (table A10.3)

Based on the definition given by the NCC for building classifications, a BCA Class 7 buildings "are typically warehouses, **storage buildings** or buildings for the display of goods (or produce) that is for wholesale", we have the following questions

- i. What space types fall under the definition of "Storage" as opposed to BCA Class 7b?
- ii. What are the differences between the two space types?
- iii. Why is the asset lifetime different?

2) Definition of Wholesale in space types

Do these include businesses that are defined as "wholesale" but also serve to the public? Examples of wholesale businesses that sell to the public include:

- TLE - electrical wholesaler
- Bursons - automotive wholesaler

Either partially or wholly within these premises.

3) Service levels for "wholesale storage and display areas".

Can you elaborate on the "Vertical lux" requirement for wholesale storage and display areas. AS1680 does not reference any recommended illuminance levels in the vertical plane. The revised Table A10.2 in the Rule states:

"Wholesale storage and display area **with a vertical illuminance target of 160 lx** (including distribution centres)"

- i. Is this considered to be an additional benchmark that is to be incorporated into service levels based on AS1680 recommended lighting for storage areas?

To seek further clarification for the use of the storage space types:

With reference to the NCC 2019

NCC 2019, Explanatory notes, p. 38:

“There are three basic types of Class 7 building. The first is a carpark as defined in the NCC. The second is a building used for storage, often referred to as a ‘warehouse’. The third is a building used for the display of goods or produce for sale by wholesale. ‘Wholesale’ means sale to people in the trades or in the business of ‘on-selling’ goods and services to another party (including the public).”

Further to this on p. 39-40 of the same section:

“Class 6 or Class 7?

Class 7 buildings include those used to sell goods on the wholesale market, whereas Class 6 buildings are used to sell goods to the public.

Some establishments claim to sell goods to both the wholesale and retail markets. As a rule, however, ***if the general public has access to the building, it is considered a ‘shop’, and therefore a Class 6 building.***” [Emphasis mine]

Thus the interpretation of the NCC as it relates to the ESS rule would be:

There are two type of Class 7b buildings:

- Building used for storage
- Building used for display of goods for sale by wholesale

Noting that if the general public has access then the classification should be class 6 even if the business is primarily wholesale, refer to examples above.

I.e. if the building is used for either storage or display of wholesale goods (or both), then it could be classified as Class 7b.

NCC 2019, Table J6.2a, p. 378-9, identifies requirements for 2 type of storage:

Locations for “Storage”, and “Wholesale storage area”

From Table A10.2 of the proposed Rule

Space types for “Storage”, “Wholesale storage and display area”

Does this mean: Wholesale storage and display - i.e. the area is used both for the storage and display, or does it mean Wholesale storage^[1] and display - i.e. the area is used for either wholesale storage or wholesale display.

For example, does a space for the storage of goods for wholesale in boxes on racking - i.e. not on display - meet this criteria or would the area need to be classified as “Storage” and hence a shorter asset lifetime.

It is still unclear from the proposed rule how the space types for “Storage” and “Wholesale storage and display area with a vertical illuminance target of 160 lx (including distribution centres)” should be applied.

Given the ambiguity of the way the rule is written, and the punitive nature of IPART in the administration of the rule, we would propose that the storage areas in Table A10.2 is simplified to harmonise with the VEU:

Combine the Spaces Types “Storage” and “Wholesale storage and display area with a vertical illuminance target of 160 lx (including distribution centres)” into one area: “Storage” with 5,000

annual operating hours and Building/Space Group: “See Table A10.3” - i.e. referring to the BCA classification of building. This simplification would reduce the risk for all participants.

Question 19: Given the scope of these changes, is it your understanding that the three-month transitional period for being ‘business-ready’ is sufficient?

Wattly believes that the 3 month transitional period for being ‘business-ready’ will be sufficient.

Question 20: Do you agree with the proposed change to the definition of maintained emergency lighting? Please provide reasoning supporting your response.

Wattly agrees in principle with the proposed changes to include switched and unswitched maintained emergency lighting. However we have concerns how this will be implemented and what additional evidence burden is introduced. Given the variance in types of luminaires, buildings, and installation configurations we would suggest that the proposed Space Type for Un-Switched Maintained emergency Lighting has a matching approved product category for Un-Switched maintained emergency lights. Only new products approved as un-switched may be used in this category. This approach, rather than collecting evidence from site on whether a particular luminaire is switched or not, is the only way we see that the evidence collection is viable.

Further to this, how will emergency luminaires with dimming - e.g. low-power and high-power modes - or sensor controls - e.g. occupancy sensors - be dealt with under the new rule? We note that the scenario with the greatest energy saving would be the case where an existing (baseline) un-switched maintained emergency fittings (operating 8,500 AOH) is replaced with switched maintained emergency fitting (operating at fewer hours, say 3,000 AOH in a Class 5 building, plus the addition of sensors to further reduce energy consumption).

Question 21: Does the proposed change provides for all relevant qualified contractors to undertake the lighting upgrade works? Please provide reasoning supporting your response.

Wattly agrees on the amendments to make it clear that qualified electricians and apprentices can perform the upgrades, provided they are meeting the requirements of the legislation

Question 22: Does the proposed change provides for all relevant qualified contractors to undertake the lighting upgrade works? Please provide reasoning supporting your response.

Wattly agrees on the amendments to make it clear that qualified electricians and apprentices can perform the upgrades, provided they are meeting the requirements of the legislation

Question 23: Do you have any comments on proposed Activity Definition E13?

Wattly supports the addition of Activities Definition E13. However, we have a few questions and comments:

- i. What is the process for adding Activity E13 (T5 to LED) to our current RESA accreditation for HEER?
- ii. If there is an additional process required, when it is active, when will be able to apply?
- iii. Will there be an amendment to the HEER method guide? When will that be available?
- iv. Why is the proposed Light Output of the new End-user equipment (in lumens) for activity E13 greater than the requirement of activity E13 for the same existing equipment? i.e. E1 requires 3000 lm for an upgraded 2 x 1200mm lamps, where as E13 requires 3500 lm.

Wattly proposes that column 2 "Light output of new End-User Equipment (lm)" of Tables E13.1 and E13.2 are updated to match with Tables E5.1 and E5.2.

Further to this we request that a standardised method is published to allow ACPs to add activity E13 to an existing HEER accreditation in an efficient and consistent way is published so that all ACPs that wish to do so can have the E13 method in place for a 17-Feb-2020 start.

Question 24: How likely are you to use the proposed Activity Definition E13? Why/why not?

Wattly is of the opinion that adding activity F13 to the HEER method, this will facilitate an increase in upgrades so that the common T8 and T5 linear fluorescent lamps are covered. This addition will also eliminate the requirements to split the same upgrade in to two different RESA's i.e. HEER and CLESF.

Question 25: Do you agree with the proposed definition as opposed to the current definition of the Implementation Date for HEER activities? Please provide reasoning supporting your response.

Wattly agrees to the proposed definition for the HEER implementation date. However, we have a few questions and comments:

- i. Is the Implementation date the beginning of the upgrade or the completion of the first activity of the upgrade?
- ii. Is it an additional date that needs to be added to the Nomination form or is it the Nomination date?

Question 26: Do you anticipate that this change would present any difficulties with being nominated and generating ESCs for a particular work program?

Wattly would not anticipate any issues with this change.

Question 27: Do you agree with combining lamp only magnetic and electronic transformers into a single category? Please provide reasoning supporting your response.

Wattly supports combining both the magnetic and electronic transformer for the existing luminaire. However, we have a few questions and comments:

For Tungsten halogen Lamp (ELV) with Electronic Transformer or Magnetic Transformer:

- i. Since both transformer types result in the same Energy Savings Factor, do we still need photo evidence of the transformer?
- ii. What is the definition of LED LAMP ONLY? Does this include ELV LED lamps still?
- iii. There is no definition given for LED LAMP ONLY in section 10 of the ESS Rule, please advise on definition of LED LAMP ONLY

Question 28: Would this change result in reduced administrative costs for your business?

Wattly is of the opinion that this would be beneficial if the requirement to collect a photo of each transformer from the site is removed.

Question 29: Do you agree with aligning the terminologies used in Schedule E? If not, please provide supporting evidence to justify your response.

Wattly agrees with the consistent use of the term “Light Output” for the new End-User Equipment.

Question 30: Do you agree with the use of the 3-star rating, as defined within the 2019 Refrigerated Cabinets Determination, as a baseline for determining energy efficient status? Please provide reasoning supporting your response.

Wattly agrees to the 3-star rating as a baseline for determining energy efficiency status

Question 31: Do you agree with the proposed changes to Activity Definition F1? Please provide reasoning supporting your response.

In the proposed change, the TEC is defined as the “Annual Energy Consumption” with the units kWh/day. The definition of Annual Energy Consumption does not line up with the units provided. This definition and units do not equate correctly in the Deemed Equipment Electricity Savings were the TEC (Annual Energy Consumption) is multiplied by 365.24 days, essentially doubling up the yearly multiple.

Can you please confirm that the TEC is annual energy consumption (kWh/year) or is it the daily energy consumption (kWh/day)?

Question 32: Do you agree with the proposed changes to Activity Definition F4? Please provide reasoning supporting your response.

Wattly agrees to the proposed changes.

Question 33: Do you agree that the removal of “and accepted by the Scheme Administrator” would make the activity easier to use? Please provide reasoning supporting your response.

Wattly agrees to the removal of “and accepted by the Scheme Administrator”

Question 34: Do you agree with updating and aligning this Activity Definition in line with the updates to the GEMS Determination 2018? Please provide reasoning supporting your response.

Wattly does not agree with the use of GEMS as the baseline for Activity Definition F7. Wattly is one of the only ACPs to have performed an upgrade under the original High Efficiency Motors method (now Activity F7) and we noted at the time that the energy savings awarded was a fraction of the actual energy savings due to the fact that large industrial motors are in use for decades. It is very likely that the motors being upgraded will not appear on any GEMS lists and hence the energy savings achieved will be much much higher. Wattly does not agree with updating to the latest GEMS for the purpose of



the baseline, alternatively we propose that if a baseline motor does **not** appear on GEMS list then the lowest efficiency be used for the category of motor from the very first GEMS list as the baseline.