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Energy Savings Scheme Rule Change 2016-17

To whom it may concern

Lighting Council Australia (Lighting Council) welcomes the opportunity to comment on the Energy Savings Scheme Rule Change 2016-17 Consultation Paper (*consultation paper)* and Draft ESS Rule. Lighting Council provides the following responses to questions posed in the *consultation paper* as well as recommendations for action in areas not specifically highlighted in the *consultation paper.*

Question 1: Is the proposal to require Electricity and Gas Savings data at an Activity Definition level for the HEER and HEAB sub-methods reasonable?

Lighting Council does not have strong views in this area. However, we acknowledge the Home Energy Efficiency Retrofits (HEER) deemed energy savings method does require a mandatory site assessment be conducted on or before the project implementation date so we consider that electricity and gas savings data at an activity definition level should be calculated and available when data is submitted.

This data should be audited by the Scheme Administrator to deter the practice of overclaiming certificates.

Acceptable end-user equipment

Lighting Council agrees with the proposed minor amendments to section 9.2A of the ESS Rule that should clarify the equipment requirements and the Scheme Administrator acceptance/rejection allowance if the requirements of Section 9.2A.3 are not met.

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Purchaser Co-payment provision

Question 8: Are there changes to ESS Rule requirements around the purchaser co-payment that could meet the objectives of consumer engagement and quality lighting outcomes while reducing red tape and compliance costs?

Lighting Council strongly supports maintaining and auditing the purchaser co-payment provision in the ESS Rule. We agree the co-payment transaction must be completed at the time the energy savings for an implementation are calculated and submitted (as stipulated in the ESS Rule), we agree the changes proposed to the ESS Rule should clarify this requirement and support further auditing efforts by the Scheme Administration to enforce this provision.

Lighting Council believes that companies are skirting the commercial lighting co-payment requirement by either not requesting payment be made, not completing the co-payment transaction before energy savings are calculated or by refunding the co-payments to the installation owner at a point-in-time after the co-payment is initially made.

Lighting Council applauds the recent co-payment audit focus and encourages further auditing of this co-payment provision after the amended ESS Rule is determined. Further, Lighting Council recommends an audit strategy to detect all breach methods mentioned above including examination of company financial records at a point after the energy savings are calculated and claimed.

Commercial Lighting

Question 11: Do you agree with the proposed amendments to Table A9.2?

Lighting Council agrees with the proposed amendments to Table A9.2 that will specify control gear solely on the energy efficiency index (EEI) rating of ballasts in accordance with AS 4783.2:2002. Removing the reference to technology type will simplify interpretation of this table.

Public Lighting Energy Savings Formula

Question 12 Do you wish to be part of a targeted consultation on potential rewording of Clause 5.4(c) to make this clear?

Lighting Council agrees that public lighting upgrades should be retained as a recognised energy savings activity and we request inclusion in targeted consultation on potential rewording of section 5.4(c) to make this intent clear.

We agree the current wording of section 5.4(c) may lead to the disqualification of public lighting upgrades when they also satisfy a regulatory investment test under the National Electricity (NSW) Law.

Definition of Small Business Building and Residential Building

Question 13: Do you agree with amending the definition for Small Business Building to allow Energy Savings to be calculated for BCA class 5, 7b and 8 buildings?

Lighting Council agrees with the proposal to amend the definition for Small Business Building to allow energy savings to be calculated for BCA class 5, 7b and 8 buildings in addition to the current allowance for class 6 buildings. Class 5, 6, 7b and 8 buildings can all be occupied by small businesses and so should be included in the small business building definition.

Question 14: Do you agree with amending the definition for Residential Building to allow Energy Savings to be calculated for BCA class 4 buildings?

Lighting Council agrees with the proposal to amend the definition for Residential Building to allow energy savings to be calculated for BCA class 2 and 4 buildings in addition to the current allowance for class 1 buildings and a non-habitable building on the same site. Class 1, 2 and 4 buildings are all dwellings types and should be included in the residential building definition.

Small Business Building default savings factors

Question 15: Do you agree with the following? If not please indicate why and provide us with an evidence base to support your justification:

- **Provide separate Electricity Savings Factors for Small Business Buildings based on 4,200 operating hours in Activity Definitions E1, E4 and E5.**
- **Provide a separate Deemed Activity Electricity Savings equation based on 3,000 operating hours in Activity E11.**
- **Provide separate Electricity Savings Factors for Small Business Buildings based on 3,000 operating hours for 'LED Lamp only – ELV' replacements in Activity Definition E1 and E3.**
- **Provide separate Electricity Savings Factors for Small Business Buildings based on 1,000 operating hours in Activity Definitions E2.**
- **Provide a Lifetime deeming period of 10 years for Small Business Buildings.**

Lighting Council agrees the default small business savings factors in the HEER lighting activities should be separate to residential savings factors and reflect the Commercial Lighting Energy Savings Formula default operating hours and lifetime deeming period (i.e. limited to 10 years).

We agree with the proposed draft amendments to the activity definitions E1, E2, E3, E4, E5 and E11 that reflect the above principles and better account for the lifetime energy savings that are achievable through small business installation upgrades.

ELV Halogen to 240V LED

Question 16: Do you agree with the proposal to expand Activity E1 to allow Energy Savings to be calculated when replacing an ELV halogen downlight with a 240V LED?

Lighting Council agrees in principle with the proposal to expand energy saving activity E1 to allow the replacement of an extra-low voltage halogen lamp/luminaire with a mains voltage (240V) LED lamp or luminaire.

However, we urge caution where the replacement involves re-wiring or re-connecting the fixed installation mains voltage wiring as this will require the services of a qualified electrician. Also, the modification of ELV rated luminaires to accommodate mains voltage (240V) rated lamps would require the re-manufacture and safety testing of the newly created mains voltage luminaire and we would urge against promoting such practices as this could lead to poor safety outcomes.

We recommend further discussion on this point with Lighting Council Australia before finalising the arrangements that allow ELV halogen downlights to be replaced by 240V LEDs.

Replacing a T8 or T12 Luminaire with a LED Luminaire

Question 17: Is the proposal to replace the 10W banding in Table E5.1 with 5W banding appropriate?

Lighting Council agrees with the draft proposal to introduce additional columns in Tables E5.1 and E5.2 that will allow categorisation of the replacement lamp into finer bands (i.e. 15W, 25W, 35W, 45W columns). We agree this amendment will allow more accurate calculation of achievable energy savings.

Areas not addressed in the *Consultation Paper*

ESS Rule, Section 5.3A Replacement or removal of end-user equipment

5.3A The replacement or removal of End-User Equipment only constitutes a Recognised Energy Saving Activity if the Accredited Certificate Provider:
(a) does not refurbish, re-use or resell that End-User Equipment; and
(b) if the Implementation Date is on or after 15 May 2016, disposes of that End-User Equipment appropriately, such that:

(i) if the postcode of the Implementation is in a Metropolitan Levy Area listed in Table A25 of Schedule A, any lighting End-User Equipment containing mercury must be recycled in accordance with the recycling requirements of a Product Stewardship Scheme; and

(ii) recycling evidence is obtained for any refrigerants being disposed of, such as a tax invoice or a recycling receipt, or any other evidence acceptable to the Scheme Administrator.

Lighting Council funds and manages the FluoroCycle scheme which seeks to increase the national recycling rate of mercury-containing lamps. Lighting Council acknowledges the leadership shown by the NSW Energy Savings Scheme by requiring that end-of-life mercury-containing lamps are recycled following lighting upgrades within the Metropolitan Levy Area.

However, Lighting Council is concerned that excluding regional NSW from the requirements of the ESS will contribute to the total levels of mercury entering the environment.

It is important to note that,

- mercury is a neurotoxin and is dangerous to humans, and
- mercury cannot be contained in landfill.

Once mercury-containing lamps are broken in landfill the mercury converts to the more toxic methylmercury. Methylmercury can be transported long distances through the atmosphere, soil and waterways so mercury-containing lamps decommissioned and sent to landfill in regional NSW contribute to the total levels of mercury entering the environment.

Major lamp recyclers, CMA Ecocycle and Toxfree, already offer collections across regional NSW. In addition, major waste organisations, such as SUEZ and Veolia, offer lamp recycling as an add-on service for regional customers. The collected lamps are forwarded to one of the lamp recyclers for processing. We understand remote area recycling is currently undertaken by mining companies and that collection is organised via the major waste companies. It is unlikely that there will be many lighting upgrades undertaken in remote areas. However, we are concerned with the current exclusion of many large regional centres, such as Albury, Queanbeyan and Wagga Wagga, from the requirement to recycle mercury-containing lamps following a lighting upgrade.

Many existing FluoroCycle Signatories are based in regional NSW including Essential Energy in Queanbeyan and Lismore City Council in Goonellabah. In addition, several national organisations recycle lamps from their NSW regional sites as part of their commitment to FluoroCycle. For example, Kmart Australia Ltd. recycles end-of-life lamps from sixteen NSW regional centres including Ballina, Tamworth and Wagga Wagga.

Potential lighting upgrades in regional NSW are likely to include offices, shopping centres, hospitals, universities, transport and logistics organisations and industrial sites. Lighting Council understands that these types of organisations are generally the largest users of mercury-containing lamps and would recognise the benefits of undertaking lighting upgrades.

Lighting Council requests the NSW ESS policy team consider amending Section 5.3A to require the recycling of mercury-containing lamps in NSW regional and metropolitan areas.

Questionable practices (inflated Watt ratings used for removed product to falsely claim increased energy savings certificates(ESCs))

Lighting Council claims that questionable practices under the Commercial Lighting Method (inflated Watt ratings used for removed product to falsely claim increased numbers of ESCs) are adversely impacting the NSW ESS market and legitimate businesses.

We encourage further discussion and consultation on this issue including between the NSW ESS policy team, the Scheme Administrator, Lighting Council Australia and the Energy Efficiency Certificate Creators Association to agree improvements to the scheme that would thwart such practices.

We understand that a public register of ESS installations has been discussed but may not be possible because of privacy considerations. Further suggestions include:

- An internal (IPART) register that includes an allowance for companies who have evidence or suspect non-compliance to easily report their installation audit information (i.e. estimated ESCs they would have created if they had undertaken the project). Significant variation between the actual ESCs claimed and the ESCs estimated and reported by other tender bidders would raise a flag with regulators for possible further investigation.
- A deemed values approach as used in other lighting energy savings methods.

Minor amendments to product approvals should be allowed

Lighting Council requests consultation be undertaken on a streamlined process to allow minor variations to product registrations where energy efficiency and lamp circuit power (LCP) is not impacted.

A streamlined process should be introduced to minimise the compliance burden associated with minor changes to products that do not adversely impact product efficiency and LCP. These include changes to LED drivers, product colour temperature or product physical attributes (e.g. external colour) that do not decrease the efficiency of a product or increase LCP.

Individual approvals required for every LED and driver combination and product variation are costly and of questionable benefit.

Limiting the number of applications that may be made during a period (provisions of section 9.2A.4)

Lighting Council urges review of the provision allowing widespread product registration limitations as triggering this provision would apply unfair treatment to suppliers who are not causing difficulties. We suggest it would be fairer to:

- impose a fee on product applications as this would likely deter frivolous applications (a fee can be charged on a cost recovery basis per section 9.2A.3)
- Limit the number of applications made by persons who have a history of registering large numbers of products that are not used within the Energy Savings Scheme.

ABOUT LIGHTING COUNCIL AUSTRALIA

Lighting Council Australia is the peak body for Australia's lighting industry. Its members include manufacturers and suppliers of luminaires, lighting control devices, lamps, solid state lighting and associated technologies. Lighting Council's goal is to encourage the use of environmentally appropriate, energy efficient, quality lighting systems.

Yours sincerely

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LIGHTING COUNCIL AUSTRALIA