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Draft Code of Conduct for Renewable Energy Developers

AGL Energy Limited (**AGL**) welcomes the opportunity to provide feedback on Queensland Treasury's draft *Code of Conduct for Renewable Energy Developers* (**the Code**) and draft Industry Guidance on the Code of Conduct (**Industry Guidance**).

With operations across multiple states, AGL has significant experience in developing renewable projects, engaging with host communities and complying with state and federal obligations, including comprehensive environmental assessment of the potential impacts on nature and biodiversity.

AGL has established several processes and policies that outline our commitments and procedures in relation to nature and biodiversity, Traditional Custodians and communities in the regions in which we operate. AGL's Community Engagement Policy outlines our approach to early and ongoing engagement with community stakeholders with the aim of working together to create positive long-lasting social, economic and environmental impacts which help communities to grow and thrive.

We support the Queensland Government's commitment to establishing clear expectations for renewable energy developers and delivering meaningful benefits for communities[1]. To support timely investment in an affordable, reliable and sustainable energy system, the Code should complement existing frameworks, avoid duplicative requirements, and provide clear, proportionate and predictable approval pathways.

Key points raised in this submission

- **AGL supports clear expectations for developers and positive community outcomes**. AGL supports meaningful community engagement and benefits, while advocating for a clear, proportionate and predictable Code that avoids regulatory duplication.
- **Social licence assessment at the generation authority stage comes too late**. Generation authorities are typically sought late in development, making discretionary assessment at this stage a material stranded asset risk if a project cannot connect and operate.
- **The Code could increase financing and investment risk**. Introducing a discretionary approval late in project development creates uncertainty that could delay financial close, increase transaction costs, tighten financing conditions and deter investment in Queensland projects.
- **The social licence criteria are too subjective**. Broad concepts such as "genuine" engagement and "proportionate" benefits create significant regulatory discretion and risk guidance becoming de facto requirements.
- **There is substantial duplication with existing planning and community benefit requirements**. The Code should not duplicate assessment of community engagement, impact mitigation and community benefits already addressed through social impact assessments (**SIAs**), community benefit agreements (**CBAs**) and the other existing approval processes.

[1] AGL has also previous engaged on the Queensland Government's Renewables Regulatory Framework, see here

- **Executed SIAs and CBAs should satisfy the community benefits criterion**. SIAs and CBAs should be recognised as satisfying corresponding social licence requirements, rather than merely informing the Regulator's assessment.
- **Existing agreements should not be reopened later**. Reassessing existing CBAs risks undermining regulatory certainty and holding proponents responsible for outcomes beyond their control.
- **Confidential agreements need to be accommodated**. Agreements with First Nations parties, including cultural heritage, native title and benefit-sharing agreements, may support social licence but may also be subject to confidentiality obligations.

Assessing social licence at the Generation Authority stage is too late

Stranded asset risk

The stated purpose of the Code is "to assist the Regulator in considering, for section 180(2)(f) of the *Electricity Act 1994* (Qld), whether the social licence criteria prescribed by regulation are satisfied". These criteria apply to the Regulator's decision on an application for the grant or transfer of a generation authority for wind, solar, battery and hybrid projects of 30 MW or more, as well as annual reporting by authority holders.

In practice, a generation authority is one of the last approvals an energy project obtains. It is commonly sought after financial close, and after construction has commenced or is close to completion. By that point, the proponent will typically have:

- secured land rights and negotiated agreements with host landholders;
- entered into agreements with First Nations parties (including cultural heritage agreements, native title agreements, and/or voluntary benefit sharing arrangements);
- prepared a SIA and negotiated and executed a CBA with the relevant local government pursuant to the Community Benefit System;
- obtained development approval on an impact assessable basis through the State Assessment and Referral Agency (**SARA**);
- reached final investment decision, committed debt and equity and executed construction, equipment supply and connection contracts; and
- incurred the majority of the project's capital expenditure.

To obtain a generation authority, applicants must demonstrate through a Social Licence Suitability Report that they have addressed three "social licence criteria". The Code identifies conduct "that may support a finding that the criteria are satisfied".

As currently framed, the criteria may operate in practice as a binary gateway to grid access. If the Regulator is not satisfied that they are met, the potential consequence is that a financed and potentially constructed project may be unable to connect to the grid and commence operations. This exposes substantial committed capital deployed in reliance on approvals and relevant agreements to a discretionary assessment made at a point when proponents have limited ability to materially change project design, engagement or benefit-sharing arrangements, creating a material stranded asset risk.

AGL acknowledges Treasury's position that the Code is intended to uplift performance rather than operate as a pass/fail test, and that section 1(3) of the Code states that it does not create standalone obligations. However, the Code itself also states that it "establishes expectations for community engagement and the

maintenance of social licence criteria". This creates a risk that Part B of the Code will be treated in practice by decision makers as mandatory, rather than as guidance on how the criteria may be satisfied.

AGL is also concerned that the Code relies on subjective concepts rather than clear and objective criteria. These subjective concepts include "genuine" engagement, "appropriately" managing impacts, and benefits that are "genuine and ongoing" and "proportionate" to project scale and duration. It also extends to contractor and subcontractor conduct at any tier, and cumulative impacts with neighbouring projects. These matters are inherently evaluative and, in part, depend on third party conduct and on circumstances beyond a proponent's control.

Risk to project finance

Project finance generally requires lenders to be satisfied, before committing funds, that key project approvals and agreements have been or will be obtained. A discretionary approval of this kind arising late in project development is therefore likely to be treated by financiers as an additional risk requiring mitigation.

AGL anticipates that the Code, as drafted, may result in:

- generation authority approval becoming a condition precedent to financial close or first drawdown, delaying projects and increasing development costs;
- additional due diligence, legal opinions and technical adviser review of social licence matters, increasing transaction costs;
- tighter debt sizing, higher margins, or requirements for additional equity or sponsor support to manage residual risk; and
- greater difficulty attracting new capital, particularly from international investors comparing Queensland with other jurisdictions.

These outcomes would increase the cost of developing new generation and storage. The additional layer of regulatory requirements and associated risk could increase the cost of developing new generation and storage and therefore could be inconsistent with the Government's commitment under the Better Regulation Policy to a "competitive regulatory framework that supports Queensland's economy and encourages investment".

These risks also extend to:

- **Transfers**: Section 10 of the Code would prevent the Regulator from approving a transfer unless the transferee confirms its understanding of the Code and allows the Regulator to consider advice from Coexistence Queensland on the transferee's track record. Uncertainty at the transfer stage may affect asset values, refinancing and secondary market liquidity.
- **Annual reporting**: Social licence assessment continues after a generation authority is granted. AGL welcomes Treasury's advice that the Code is not intended to create additional enforcement powers. However, the current drafting may support that perception. Express clarification is therefore important given the potential implications for investment and financing over an asset's operating life.

Increasing alignment and avoiding duplication across existing frameworks

Duplication of criteria in Community Benefit System

Since February 2025, wind, solar and battery projects have progressively become impact assessable, while the *Planning (Social Impact and Community Benefit) and Other Legislation Amendment Act 2025* (Qld) introduced mandatory SIAs and CBAs before a development application is made under the *Planning Act 2016* (Qld) (**Planning Act**). The Code itself acknowledges these requirements.

The Code's three social licence criteria substantially duplicate matters already addressed through the Planning Act and Community Benefit System:

- **Community and stakeholder engagement** (section 7 of the Code) requires consideration of whether the proponent has "engaged genuinely with the affected community", including before lodgement of

the development application. This engagement is already addressed through the SIA engagement requirements.

- **Mitigating or addressing impacts** (section 8 of the Code) is concerned with avoidance and mitigation. This is initially addressed through the SIA process, which requires proponents to identify, avoid, mitigate and manage impacts. During the development application process, SARA will apply appropriate development conditions following assessment of the SIA avoidance, mitigation and management measures. Other approvals processes, including under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth), also apply the mitigation hierarchy.
- **Delivery of benefits** (section 9 of the Code) is concerned with whether the affected community" will receive genuine and ongoing benefits from the project". This is addressed through the CBA negotiated with the relevant local government, which provides an established mechanism for delivering and monitoring community benefits.

AGL is particularly concerned that section 6(4) of the Code provides only that the Regulator "may treat" those commitments made through an SIA or CBA as relevant to the assessment of the applicable social licence criterion. An executed CBA should be sufficient to satisfy this criterion, rather than being subject to a further substantive assessment by the Regulator as part of an application for a generation authority. This is particularly important given that the suitability of a CBA is not grounds for refusing a development application under section 106ZI(2)(b) of the Planning Act.

Accordingly, the generation authority process should not duplicate or reopen matters already assessed and resolved through the statutory planning and Community Benefit System processes.

Revisiting CBAs after they are signed and implemented

AGL is particularly concerned that the Code could reopen matters already addressed through the SIA and CBA processes, potentially years after those processes have concluded and agreed arrangements have been implemented.

This creates several practical issues:

- **Finality and reliance:** Proponents, councils and communities should be able to rely on CBAs negotiated through the statutory process. Reassessing whether agreed benefits are "genuine" or "proportionate" could undermine the finality of those arrangements and the role of local governments under the Planning Act. This could also create an avenue for challenging the SIA and CBA processes.
- **Shared responsibility**: Councils may determine how CBA contributions are allocated and may report on expenditure. Proponents should not be held responsible through the generation authority process for outcomes that may depend on decisions made by other parties.
- **Evolving expectations:** An assessment several years after a CBA is executed is likely to be informed by expectations that have evolved during that period, and proponents may have limited ability to renegotiate agreements once capital is committed.

To the extent the Community Benefit System requires improvement, AGL considers this should occur through the Planning Act framework, rather than through a parallel, duplicative assessment later in the project lifecycle.

Other confidential agreements

Finally, proponents commonly enter into agreements with First Nations parties, including cultural heritage agreements, native title agreements and voluntary benefit-sharing arrangements. Strict confidentiality requirements may prevent proponents from disclosing or relying on these agreements to demonstrate compliance with the Code, despite their relevance to the social licence criteria.

AGL's recommendations

AGL makes the following high-level recommendations in relation to the Code:

- Decouple the Code from the generation authority by removing the social licence criteria in section 180(2)(f) of the Electricity Act and provide a standalone head of power for a conduct-focused code.

- Pending legislative amendment, amend the Code so that an SIA completed and a CBA executed under the Planning Act are deemed to satisfy the corresponding social licence criteria, rather than being matters the Regulator "may treat … as relevant".
- Confirm expressly in the Code that the Regulator will not reassess matters considered through development assessment, the SIA or the CBA.

AGL appreciates the opportunity to provide input to this consultation and looks forward to continued engagement with the Queensland Government to ensure that the Code promotes positive community outcomes, is practical to implement and provides the certainty needed to support continued investment in renewable energy projects.

Should you have any questions in relation to this submission, please contact Leilani Kuhn at lkuhn@agl.com.au.

Yours sincerely,

AGL Energy

About AGL Energy

We believe energy makes life better and we are passionate about powering Australian life. Proudly Australian for more than 185 years, AGL supplies around 4.6 million customer services[2]. AGL operates Australia's largest private electricity generation portfolio within the National Electricity Market, comprising coal and gas-fired generation, renewable energy sources such as wind and hydro, as well as batteries and other storage technology. We are building on our history as one of Australia's leading private investors in renewable energy. Our ambition is to be a leader in the energy transition. As part of this, we are progressing our strategy to transition our energy portfolio and connect every customer to a sustainable future.

For more information visit agl.com.au

[2] Services to customers number is at 30 June 2026.