

Checklist

Individual exemption application

(other than PPA providers)

[Retail Exempt Selling Guideline](#) – July 2022 (Appendix B)

Instructions

1. Submit this completed checklist as part of your application, alongside a cover letter and supporting evidence, as required.
2. Applications should be submitted in DOCX (Microsoft Word) format, where possible.
3. If we identify missing or inconsistent information, we will seek clarification *before* accepting your application. We will only request further information on **one** occasion.
4. We will only accept applications that we deem to have met the minimum information requirements set out in this checklist.
5. Upon acceptance, your application will be published on the AER website for public consultation. The consultation period will run for 20 business days, whereby interested stakeholders can make submissions. Any submissions received will inform our application assessment process.
6. If your application includes confidential information, please submit two versions of the document – one marked **confidential** and one marked **public**:
 - a) any information the applicant deems to be confidential information must be redacted in the public version. The public version will be published on our website for public consultation.
 - b) confidential information will be handled in accordance with our [ACCC/AER Information Policy](#).

Prerequisite requirement

Please tick the boxes in relation to the following statements:

I confirm I have read and understood all the instructions listed above: ☒

I hereby declare that the information provided below is true and correct. I also understand that any wilful dishonesty may render for refusal of this application ☒

General information requirements

Please provide the below information as part of your application. Where a third party is submitting the application on your behalf, please provide a statement or letter verifying that the third party has the authority to act on your behalf.

Requirement		Applicant response
General information requirements		
1	Your legal name. ¹ If you are a body corporate or community corporation, please indicate this.	The Trustee for Energy Bay Oscar Fund (ABN 86 236 720 454)
2	Your trading name, if different to your legal name.	Energy Bay
3	Your Australian Business Number (ABN) or Australian Company Number (ACN). Confirm your ABN or ACN matches the legal name you have provided via the ABN Lookup website or ASIC Connect website respectively.	86 236 720 454
4	Your registered postal address. We may verify this information with the Australian Securities and Investments Commission (ASIC) or another relevant agency.	Level 16/167 Macquarie Street, Sydney NSW 2000
5	A nominated contact person, including their position in the organisation and contact details.	Damian Soto, Project Director
6	The primary activity of your business (for example, managing a shopping centre or managing residential accommodation).	Renewable Energy Investment Fund
7	Why you are seeking an individual exemption, and why you consider an individual exemption is appropriate to your circumstances (rather than a retailer authorisation or registrable class exemption). <i>Refer section 3 – Retail Exempt Selling Guideline pg. 10</i>	Seeking an Individual Exemption as 85% consent was obtained.
8	The site address where you intend to sell energy Please attach a site map as an appendix to this checklist.	Stockland Forster Shopping Centre Breese Parade, Forster NSW 2428
9	Provide a brief description of this site and its current and future intended use/s.	The site is a shopping centre and will continue to operate. As part of Stockland's net zero target, Energy Bay has been appointed to create an embedded network and introduce large scale renewable energy generation and storage at the site.
10	The <i>form</i> of energy for which you are seeking the individual exemption (electricity or gas, or both). Electricity <input checked="" type="checkbox"/> Gas <input type="checkbox"/> Electricity & Gas <input type="checkbox"/>	
11	If you selected electricity (above), state whether the relevant network is directly or indirectly connected to the main grid or is (or will be) an off-grid network.	Directly connected to the main grid.
12	Are you establishing, or have you established, energy supply in an area where there are no other viable energy supply arrangements available? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	All metering will be installed by an AEMO accredited Meter Data Provider allowing consumers to use the same meters should they opt to use their own retailer.

¹ The applicant must be a legal person, for example an individual, company, corporation, or body corporate. A trust is not a legal person and cannot hold an exemption. If you are seeking an exemption for a trust, a trustee must apply.

Requirement		Applicant response																					
General information requirements																							
	If yes , please provide further information. If no, please provide examples of how customers will be able to access alternatives, should they choose to utilise their power of choice.																						
13	The date from which you intend to start selling energy.	1/01/2026																					
14	Mailing addresses for premises at the site (where applicable). We may use this information to ensure that potential customers are able to participate in our consultation process.	Stockland Forster, Breese Parade, Forster NSW 2428																					
15	Details of your (or your agent's) energy selling experience, for example: <ul style="list-style-type: none"> • date/s and location/s of previous operations • form/s of energy sold • scale of operations (the number, size, and type of customers) • an explanation of which activities will be conducted in-house, and which will be contracted out to third parties. 	Energy Bay manage numerous retail exemptions as part of their core function, that being a sustainable investment fund financing the installation of large scale renewable generation. These include Stockland Point Cook, Stockland Wendouree, Glendale Shopping centre to mention a few. Billing will be outsourced to RMS Utilities.																					
16	Do you currently hold; or have you previously held; or been refused an energy selling exemption or a retail licence (retailer authorisation) in any state or territory? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes , please provide details (including any relevant AER reference number/s).	Registrants: The Trustee for Energy Bay Oscar Fund / ABN 86 236 720 454 Energy Bay has never been refused an exemption in any state or territory. AER References below. <table border="1"> <thead> <tr> <th colspan="3">AER reference</th></tr> </thead> <tbody> <tr> <td>REX-000002205</td><td>AER - R0482/12</td><td>E-5644</td></tr> <tr> <td>REX-000001720</td><td>REX-000000102</td><td>AER - R0175/13</td></tr> <tr> <td>AER - R0481/12</td><td>E-3936</td><td>E-6625</td></tr> <tr> <td>REX-000000101</td><td>E-5001</td><td>E-7345</td></tr> <tr> <td>REX-000000085</td><td>REX-000000102</td><td>E-8312</td></tr> <tr> <td>REX-000000100</td><td>AER - R0479/12</td><td></td></tr> </tbody> </table>	AER reference			REX-000002205	AER - R0482/12	E-5644	REX-000001720	REX-000000102	AER - R0175/13	AER - R0481/12	E-3936	E-6625	REX-000000101	E-5001	E-7345	REX-000000085	REX-000000102	E-8312	REX-000000100	AER - R0479/12	
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17	Have you have made arrangements in the event that you can no longer continue supplying energy (for example, whether the retailer that sells to you has agreed that they will service the customers)? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes , please explain the arrangements you have put in place. If no , please provide the reasons why you have not put arrangements in place. <i>If an exempt seller is (or expects to be) disconnected, or there is any likelihood that they will be unable to continue selling energy, they must notify the exempt customers and the AER immediately. As part of this notification, the exempt seller must advise the steps they are taking to arrange an alternative supply.</i>	<p>In the unlikely event that power cannot be supplied to the customers, Stockland who is the asset owner, will take over the responsibility from Energy Bay and work with Diamond Energy to supply energy to customers and continue as per normal. Stockland also has the option to engage other retailers or embedded network managers to supply energy to the site and also the customers.</p> <p>All metering is installed complying with service installation rules using an AEMO accredited meter data provider, to ensure in the highly unlikely event that both parties go under, the same meters with the help of the LNSP can be rolled over to on-market metering points, therefore allowing consumer access to their own retailers instantly. Subsequently, the gate meter NMI will be abolished and the embedded network will be dismantled.</p>																					

Particulars relating to the nature and scope of the proposed operations

To determine whether it is appropriate to exempt you from the requirement to hold a retailer authorisation, we need information on the nature and scope of the proposed operations.

Requirement		Applicant response								
Particulars relating to the nature and scope of the proposed operations										
18	<p>What is the total number of customers at the site? Please provide a breakdown between residential, retail, and commercial customers (include whether they are small or large, as defined for the jurisdiction in which you intend to operate).</p> <p><i>The threshold for large electricity customers in New South Wales, the ACT, Queensland, and Victoria is 100 MWh per annum, 150 MWh per annum in Tasmania and 160MWh per annum in South Australia. For gas, the threshold in all jurisdictions is 1 TJ per annum.</i></p>	<table><tr><td>Residential</td><td>0</td></tr><tr><td>Commercial/retail (small customers)</td><td>74</td></tr><tr><td>Large customers</td><td>5</td></tr><tr><td>Total</td><td>79</td></tr></table>	Residential	0	Commercial/retail (small customers)	74	Large customers	5	Total	79
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Commercial/retail (small customers)	74									
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	<p>Will your customers be your tenants?</p> <p>Yes <input type="checkbox"/></p> <p>No <input checked="" type="checkbox"/></p>	Stockland is the Asset Owner and will be co-registered as Network Exemption holder, Energy Bay is the Embedded Network Operator that is applying for the Individual Exemption. RMS Utilities will perform ENM services (RMSENM) and billing services on behalf of Energy Bay.								
19	<p>Will you be providing other services, aside from energy to persons on the site (for example, accommodation/leasing of property)?</p> <p>Yes <input type="checkbox"/></p> <p>No <input checked="" type="checkbox"/></p> <p>If yes, please specify these services and the contractual or leasing arrangements under which you are providing them.</p>									
20	<p>Will you be on-selling energy purchased from an authorised retailer or purchasing it directly from the wholesale market?</p>	Grid power will be purchased through an authorised retailer.								
21	<p>What is the estimated annual aggregate amount of energy you are likely to sell (kilowatt hours or megawatt hours for electricity and mega joules or gigajoules for gas) and the average expected consumption of customers for each type of customer you service (residential customers, retail, or commercial customers)?</p>	3 000 MWh's								
22	<p>Will your customers be wholly contained within a site owned, controlled, or operated by you?</p> <p>Yes <input checked="" type="checkbox"/></p> <p>No <input type="checkbox"/></p> <p><i>For the purposes of this question, a body corporate may be taken to 'operate' premises it oversees.</i></p>									
23	<p>Will each premises/dwelling be separately metered?</p> <p>Yes <input checked="" type="checkbox"/></p> <p>No <input type="checkbox"/></p> <p>If no, please explain why not and how you intend to determine energy charges.</p>									
24	<p>Will meters allow your customers to change retailers (i.e. not buy their energy from you) as required by the Network Exemptions Guideline?</p> <p>Yes <input checked="" type="checkbox"/></p> <p>No <input type="checkbox"/></p> <p>Please specify the types of meters to be installed at the site.</p>	Type 4 meters (EDMI or similar) will be installed by an AEMO accredited MDP to ensure the same meters can be used on-market.								
25	<p>In what form, and how often, will you bill your customers? Will you be issuing bills yourself or through a billing agent?</p> <p>Please provide an energy bill sample.</p>	Monthly and through a billing agent, that being RMS Utilities.								

Requirement		Applicant response
Particulars relating to the nature and scope of the proposed operations		
	<i>Condition 3 of the Retail Exempt Selling Guideline sets out our expectation around billing for <u>residential</u> customers.</i>	
26	<p>What dispute resolution procedures do you intend to put in place to deal with energy-related complaints and issues?</p> <p>Confirm that your dispute resolution policy is consistent the Australian Standard AS10002:2022 Guidelines for complaint management in organizations (or subsequent versions).</p> <p>Please provide a copy of the relevant policy.</p>	<p>Current dispute resolution process included in the letter of intent. The small consumers will have access to the ombudsman. The large consumers currently does not have access to the ombudsman but any disputes are treated fairly to ensure tenant satisfaction. Should large consumer tenancies change in the future, they will have access to the ombudsman.</p> <p>Confirmed that the dispute resolution policy is consistent with AS10002:2022 and a copy of the dispute resolution policy is attached.</p>
27	<p><i>This question only applies where residential customers are included in your application.</i></p> <p>Are you a member of a recognised energy industry ombudsman scheme in the jurisdiction/s in which you intend to on-sell energy to residential customers?</p> <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> <p>n/a <input checked="" type="checkbox"/></p> <p>If no, have you taken steps to become a member?</p> <p>Yes <input type="checkbox"/></p> <p>No <input checked="" type="checkbox"/></p> <p>If yes, please provide supporting evidence or explain steps taken to obtain membership. Supporting evidence should include an ombudsman membership application reference number if attainable from the relevant ombudsman.</p> <p>If no, please explain the reasons you have not taken steps to become a member.</p> <p><i>An exempt seller must, (if permitted by an energy ombudsman scheme) be a member of, or subject to, an energy ombudsman scheme for each jurisdiction where it sells energy to exempt customers and must comply with the requirements of that scheme.</i></p>	
28	Please provide any further information that would assist us to assess your application.	See Cover Letter

Requirement		Applicant response
AER consultation process		
29	<p>Have you advised customers of the AER's consultation process, including that the AER will:</p> <ol style="list-style-type: none"> consult on individual exemption applications publish your application on its website invite public submissions on your application from interested stakeholders, and ensure that the public consultation period runs for at least 20 business days? <p>Yes <input checked="" type="checkbox"/></p> <p>No <input type="checkbox"/></p> <p>Please provide evidence of your communication with customers regarding the above.</p>	<p>Attachment reference: We have, informed the tenants about the public consultation.</p> <p>The marketing material used in the consent campaign sent (Letter of Intent) highlights the public consultation process plus the sample of Notice of Public Consultation attached.</p> <p>Once informed by the AER of the public consultation period we will inform the tenants.</p>

Converting embedded networks (retrofitting)

If you are planning to sell energy through a converted embedded network, your application needs to also address the following questions. If your application does not involve a retrofit you do not need to complete this section.

Requirement		Applicant response
Converting embedded networks (retrofitting)		
Provision of information – attach evidence that you have supplied prospective customers with easily accessible written information explaining:		
30	<ul style="list-style-type: none"> you are proposing to retrofit the site as an embedded network, which requires metering changes and both the pros and cons of being an embedded network customer. <p><i>Examples may include, but are not limited to, customer information leaflets, brochures or copies of presentations.</i></p>	Attachment reference: Yes, letter of intent
31	<ul style="list-style-type: none"> customers retain the right to contract with a retailer of choice even after inclusion in the embedded network (except where this right does not exist due to jurisdictional legislation). 	Attachment reference: Yes, letter of intent
32	<ul style="list-style-type: none"> to exercise their right to a retailer of choice, customers may need to enter into an 'energy only' contract, which is offered at retailers' discretion and may be difficult to obtain. <p><i>We encourage applicants to provide prospective customers with a copy of our AER factsheet, which explains the above in plain English and will satisfy this requirement.</i></p>	Attachment reference: Yes, letter of intent
33	<ul style="list-style-type: none"> customers in embedded networks may not receive the same protections as those of an authorised retailer under the National Energy Retail Law. 	Attachment reference: Yes, letter of intent
Provision of information – in addition, you must provide evidence in your application you have provided customers with:		
34	<ul style="list-style-type: none"> your electricity sales agreement, which details all fees and tariffs. <p><i>The energy sales agreement must be provided to prospective customers <u>prior</u> to seeking their consent to the retrofit.</i></p>	Attachment reference: Yes, letter of intent
35	<ul style="list-style-type: none"> contact details of a representative from your company to answer any queries or concerns about the proposed retrofit. 	Attachment reference: Yes, letter of intent

Requirement		Applicant response													
Converting embedded networks (retrofitting)															
Explicit informed consent ² – to demonstrate that you have obtained customer consent you need to:															
36	<ul style="list-style-type: none">provide evidence of their explicit informed consent to the proposed retrofit <p><i>Please note we cannot access Dropbox and explicit informed consent evidence may need to be submitted separately to AERexemptions@ aer.gov.au in PDF format, via multiple emails.</i></p> <p><i>If the proposed embedded network has more than 100 prospective customers, please contact us to seek permission to provide a sample of the explicit informed consent evidence. We will assess requests on a case-by-case basis.</i></p>	<table><tr><td>Number of customers who have provided explicit informed consent</td><td>63</td></tr><tr><td>Number of customers who have refused to provide explicit informed consent</td><td>9</td></tr><tr><td>Number of unresponsive customers</td><td>2</td></tr><tr><td>Vacant premises</td><td>5</td></tr><tr><td>Number of customers who are being wired out of the proposed embedded network</td><td>0</td></tr><tr><td>Total number of premises at the site</td><td>79</td></tr></table>	Number of customers who have provided explicit informed consent	63	Number of customers who have refused to provide explicit informed consent	9	Number of unresponsive customers	2	Vacant premises	5	Number of customers who are being wired out of the proposed embedded network	0	Total number of premises at the site	79	
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37	<ul style="list-style-type: none">confirm the explicit informed consent % calculation for total numbers affected by the proposed retrofit. <p><i>Vacant premises, common areas and 'wired out' customers should be excluded from the percentage calculations.</i></p> <p><i>If you can demonstrate at the conclusion of a marketing campaign that an 85% or greater majority of prospective customers have agreed to the retrofit, you may apply to the AER to convert the network. If the AER determines special circumstances apply, we may apply a lower or higher threshold to a specific application.</i></p>	<table><tr><td>% Of customers who have provided explicitly informed consent to the proposed retrofit</td><td>85.1%</td></tr></table>	% Of customers who have provided explicitly informed consent to the proposed retrofit	85.1%											
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38	<ul style="list-style-type: none">confirm that you sought consent separately from customers for the proposed retrofit and the energy sale agreement:<ul style="list-style-type: none">Yes, consent was sought for the proposed retrofit, separately from the energy sales agreement <input checked="" type="checkbox"/>No, consent was not sought for the proposed retrofit, separately from the energy sales agreement <input type="checkbox"/> <p>Provide an explanation of when and how consent documents were provided to prospective customers.</p>	Attachment reference: Attached Tenancy + Communications Report													
39	<ul style="list-style-type: none">attach a prospective customer consent summary/communications log, including dated records of consultation and meetings with all customers affected by the proposed retrofit, identifying and recording any non-consent and the reasons for non-consenting.	Attachment reference: Attached Tenancy + Communications Report													
40	<ul style="list-style-type: none">provide evidence of your attempts to resolve any customer concerns relating to the proposed retrofit.	Attachment reference: Attached Tenancy + Communications Report													
Retail contestability – to demonstrate you have addressed any potential customer detriment resulting from a loss of retail contestability, you must confirm you have:															
41	<ul style="list-style-type: none">sought advice from the distributor about whether non-consenting customers can be wired out of the embedded network. <p>Provide evidence of advice sought/received and details of any available 'wiring out' options.</p>	Attachment reference: Attached The Applicant along with their embedded network consultant sought advice from the local distributor regarding the possibility to wire non-consenting customers out of the embedded network. The financial impact will also be reviewed.													

² The Network Exemptions Guideline provides further detail on explicit informed consent calculation requirements.

Requirement		Applicant response
Converting embedded networks (retrofitting)		
		The Essential Energy requirements will be further reviewed when the technical design is done for the site.
42	<ul style="list-style-type: none"> taken steps to ensure customers who wish to remain with their retailer, but cannot be wired out, will not be financially disadvantaged by the retrofit. <p>Measures to reduce financial detriment are likely to include price matching for affected customers and taking financial responsibility for any double billing of network charges.</p> <p>Provide evidence that supports your confirmation.</p>	<p>Attachment reference: As per the requirements of the Retail Exempt Selling Guideline, we have mitigated this detriment by:</p> <ul style="list-style-type: none"> The Applicant has notified all tenants via emails, phone calls and site visits; of a right to choose their own retailer, that they will receive two invoices if they choose not to purchase energy from the Applicant, and (for non-consenting tenants) that the Applicant will price match any genuine electricity offer that would be available to that grid connected customer. Where a tenant has requested to remain with their authorised retailer, the Applicant will facilitate competition by allocating “child” NMIs to all tenants who choose to purchase energy from an authorised retailer. This allows tenants to remain with their existing authorised retailer under their current contract arrangement. Once the embedded network is installed, the Applicant will notify all authorised retailers to inform that either: <ol style="list-style-type: none"> the tenant has chosen to purchase energy from the Applicant, and request to cease billing from the date of embedded network install, or the tenant has chosen to continue to purchase energy from their authorised retailer, and to cease invoicing for network charges effective the date of embedded network install. The Applicant will appoint an ENM to follow up with relevant market participants to request the AEMO Market Settlements and Transfer Solution (MSATS) is updated to reflect the embedded network installation minimising instances of double charging. Where a tenant notifies the Applicant of double charging, the Applicant’s agent will follow up with the relevant market participants to ensure this is rectified. This is predicated on the tenant providing a Letter of Authority to engage with their authorised retailer on their behalf. The Applicant commits to ongoing annual price reviews to ensure the rates on-sold are competitive to rates a tenant would otherwise receive from authorised retailers.
Customer dispute resolution services		
43	<p>Provide evidence that you have advised customers of your dispute resolution process and the available options for external dispute resolution, such as ombudsman schemes. For individual exemptions relating to retrofits, we will assess the need for ombudsman scheme membership on a case-by-case basis.</p>	<p>Attachment reference: Yes – sample in letter of intent.</p> <p>Copy of new dispute resolution policy is attached.</p>

Document attachment checklist	Tick as appropriate
Cover letter	<input checked="" type="checkbox"/>
Public application version with confidential information redacted, for publication on our website	<input checked="" type="checkbox"/>
Statement or letter verifying that a third party has the authority to act on your behalf (if relevant)	<input checked="" type="checkbox"/>
Site map (In cover letter)	<input checked="" type="checkbox"/>
Sample energy bill	<input checked="" type="checkbox"/>
Energy sales agreement (Part of Letter of Intent)	<input checked="" type="checkbox"/>
Proposed dispute resolution policy (Part of Letter of Intent)	<input checked="" type="checkbox"/>
Evidence of efforts to obtain ombudsman scheme membership (if relevant)	<input type="checkbox"/>
Evidence that customers have been advised they retain the right to contract with a retailer of choice (Part of Letter of Intent)	<input checked="" type="checkbox"/>
<i>Retrofit applications only</i> (Part of Letter of Intent) Marketing campaign evidence, including and evidence of: <ul style="list-style-type: none"> • information provision (see 30-34) • explicit informed consent (see 36) • a prospective customer consent summary/communications log (see 39) • engagement with the distributor (see 41) • attempts to resolve prospective customer concerns (see 40) • providing prospective customers their options for dispute resolution (see 43). (new policy attached) 	<input checked="" type="checkbox"/>