



# **AMBER ELECTRIC PTY LTD**

ACN 623 603 805

## **AER RETAILER AUTHORISATION**

### **APPLICATION**

7 OCTOBER 2020



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## 1 INTRODUCTION

Amber Electric Pty Ltd (ABN 98 623 603 805) (**Amber Electric**) was founded in December 2017 with the goal of using new technologies to help customers save money, while powering the transition to renewable energy.

Amber Electric has developed an electricity retail product which entails the sale of electricity to customers at real-time wholesale prices (**Amber Energy Product**). The Amber Energy Product combines the wholesale price of electricity and the percentage of renewable energy in the grid, which is communicated to customers via an online application (the **Amber Electric App**), to enable the customer to identify when it's cheap and green to use electricity. Customers on the Amber Energy Product will be charged the same wholesale electricity costs that are charged to retailers who purchase their energy needs directly from the spot market, plus a flat administrative fee (currently, \$10 per month). Customers on the Amber Energy Product are protected from any increases in the wholesale price by capping the maximum price a customer will pay for their energy to the Default Market Offer over a 12 month period.

Customers with the Amber Energy Product will be able to monitor their electricity usage on the Amber Electric App by checking their usage history, which is broken down by hours, days and weeks. The Amber Electric App also shows the electricity price forecast for the following 12 hours, so the customer can make informed decisions about their electricity usage.

The Amber Electric App also provides information on the percentage of renewables in the grid, allowing customers to shift some of their usage away from peak periods. This not only reduces costs for the customer and creates more demand for renewables but, it is also contributes towards increasing the reliability of the grid. Amber Electric estimates that if it can shift the power consumption of 1 million customers to the Amber Energy Product, this would abate CO2 equivalent to taking 1 million cars off the road.

Amber Electric is also developing new technology and working with partners to optimise smart devices like household batteries, electric vehicle chargers, hot water systems and pool pumps. For more information on Amber Electric's business model, please refer to Amber Electric's Business Plan (enclosed at **Attachment A** – and provided on a commercial-in-confidence basis).

Currently, the Amber Energy Product is made available to retail customers through Energy Locals Pty Ltd ACN 606 408 879 (**Energy Locals**). With this application, Amber Electric is seeking to obtain authorisation as a retailer from the AER, so that it can assume the role of provider and retailer of the Amber Energy Product in New South Wales, Queensland, South Australia and the Australian Capital Territory.

Amber Electric will also concurrently submit an application to the Victorian Essential Services Commission for an Electricity Industry Licence in Victoria.



This application has been prepared in accordance with the AER Retailer Authorisation Guideline version 2, dated December 2014.

## 2 GENERAL PARTICULARS

2.1 Legal name of applicant **Amber Electric Pty Ltd**

2.2 ABN 98 623 603 805

2.3 Registered business address and address for correspondence  
1 Vaughan Street  
Richmond VIC 3121

2.4 Nominated contact person  
Chris Thompson  
Co-Chief Executive Officer and Co-Founder  
[info@amberelectric.com.au](mailto:info@amberelectric.com.au)  
Phone: 1800 531 907

2.5 Form of energy for which retailer authorisation is sought  
Electricity

2.6 Date to commence retailing energy  
Subject to obtaining a retailer authorisation as an outcome of this application, Amber Electric intends to commence offering retail services for electricity in October 2020.

2.7 Nature and scope of operations  
Amber Electric is seeking to obtain authorisation as a retailer from the AER to retail electricity to residential and small business customers with consumption less than 160MWh per annum. For more details regarding Amber Electric's business model, please refer to the Business Plan enclosed at **Attachment A –**

Amber Electric has not previously held a retailer authorisation in Australia or overseas.

Amber Electric has not made any previously unsuccessful licence applications in Australia or overseas.

Energy Locals holds a full retailer authorisation from the AER and an electricity licence issued by the Victorian Essential Services Commission. Energy Locals retails the Amber Energy Product under its business name 'Amber Electric Retail Services.' Once Amber Electric obtains its retailer authorisation, it will be operating under its company name, 'Amber Electric Pty Ltd' and not any business name.

Amber Electric is not seeking any non-standard licence conditions.

## 2.8 Jurisdictions intended to retail energy

Victoria, Queensland, New South Wales, South Australia and Australian Capital Territory (together, the **Jurisdictions**).

## 2.9 Type of customers

Amber Electric intends to retail electricity to residential and small business customers with consumption less than 160MWh per annum.

Amber Electric will offer market retail contracts to customers (both residential and business).

### 3 ORGANISATIONAL AND TECHNICAL CAPACITY

#### 3.1 Relevant retail or energy market experience

Amber Electric was founded in 2017 with a clear mission: to help Australian electricity consumers save money while powering the transition to renewable energy. In order to do this, Amber Electric developed a new kind of electricity product that provides consumers of electricity with access to wholesale electricity prices for a flat subscription fee (currently, \$10/month including GST).

In 2018, Amber Electric approached Energy Locals, a licenced electricity retailer to bring the Amber Energy Product to market, launching initially in NSW. The initial success of this product in the market led to Amber Electric and Energy Locals deciding to expand the product, first to South Australia, then to Victoria, Australian Capital Territory, and Southeast Queensland.

Under the current arrangement, the Amber Energy Product is sold and provided to customers by Energy Locals. To be clear, Energy Locals is the customer's electricity retailer, buying power from the wholesale market and selling electricity to end users. Energy Locals is responsible for sourcing a customer's electricity, liaising with networks and the market on a customer's behalf, organising metering services, facilitating concessions, and is ultimately responsible for the customer relationship. Energy Locals is also responsible for billing the customer, with technical support from Amber Electric due to the complex calculations involved in the spot price approach.

Amber Electric is responsible for marketing the product, with customers signing up to become Energy Locals' customers and getting access to the Amber Energy Product. Once a customer has signed up with Energy Locals, Amber Electric takes a proactive role in ensuring that customers have a great experience with the Amber Energy Product – with a focus on identifying ways that customers can reduce their bills further by shifting electricity loads in their premises to cheaper wholesale times.

As at the date of this application, Amber Electric has over 2000 customers using the Amber Energy Product. This number is increasing exponentially by the day and therefore, an accurate reflection of the actual number of customers is difficult to state at a moment in time.

Since commencing operations, Amber Electric has established many of the systems and processes it requires to be a retailer. It did this to support the processes of Energy Locals, through whom it was making the Amber Energy Product available to retail customers. This relationship allowed Amber Electric to gain experience in retail activities under the guidance and with the support of Energy Locals, and utilising the retail authorisations of Energy Locals.

A range of functions were established by Amber Electric to conduct the following activities on behalf of, or with the support of, Energy Locals:

- (a) designing the Amber Energy Product;
- (b) technical enablement of the Amber Energy Product;
- (c) interacting with customers and answering customer enquiries; and
- (d) defining the wholesale strategy to enable the Amber Energy Product.

Once Amber Electric obtains its AER retailer authorisation, it will be the provider and retailer of the Amber Energy Product.

### **3.2 Organisational structure**

Amber Electric is a single entity group. An organisational chart showing Amber Electric's organisational structure, including its Board, key personnel and number of employees is set out in **Attachment B –**.

### **3.3 Experience of staff**

A summary of the retail or energy market experience that each member of the Board brings to Amber Electric is set out below. Further information in relation to the experience and skills of Amber Electric's Board and key personnel is set out in **Attachment C –**.

Co-Founder, Co-Chief Executive Officer and Director, Daniel Adams, has experience in the Australian and international energy industry. As a Business Development Manager at Tesla Energy Australia, Daniel led the development of Tesla's South Australian Virtual Power Plant (VPP) project to install 50,000 solar systems and Powerwall's aggregated as VPP with a combined generation and energy storage capacity of 250MW/650MWh. He also initiated the design of Tesla's first electricity retail product with a white-label electricity retailer for Powerwall customers.

As a Consultant at Boston Consulting Group, Daniel provided advice to a national energy retailer on disruptions in the Australian residential energy market from distributed energy resources, developed a capex reduction program, sourcing strategy and a system to improve field force productivity for an Australian electricity distributor and designed the strategy and business plan for a new smart meter business for an energy retailer. Daniel has also developed a solar investment strategy to displace diesel generation in remote isolated systems and developed a new solar product under complex legal and regulatory constraints for a new Australian energy business.

As an Innovation and New Product Development Consultant for Hawaiian Electric, he led the product and program development of Hawaii's community solar scheme, allowing customers to buy an interest in utility scale solar projects and developed the business case for a 90 MW solar project.



As an engineer for DNV GL Renewables, developing an optimised layout for a proposed wind farm with an installed capacity of 90MW and consulted on wind energy analysis, wind farm capital investment and operational expenditure benchmarking.

Co-Founder, Co-Chief Executive Officer and Director, Christopher Thompson, is experienced in corporate development practice. Prior to founding Amber Electric, he helped build and launch Bamilo, Iran's largest online marketplace, with 300 employees and sales over \$US30 million. At Bamilo, Christopher acted as a leader across the organisation and was involved in establishing the vision, strategic goals, policies and structures that defined Bamilo. As a Consultant at Boston Consulting Group, Christopher brings his extensive experience working with clients across telco, retail, oil and gas, health insurance, financial services, and aviation.

Tushar Roy brings specialist legal experience from his role at Baker McKenzie in its technology, media and telecom practice. Tushar also has extensive strategy consulting experience gained over 7 years as a Principal at the Boston Consulting Group. He is also an Investment Partner at Square Peg Capital where he manages investment sourcing and develops and executes sourcing strategies, performs due diligence analysis and leads investments.

Daniel Winter brings his strong directorship skills and experience to Amber Electric. Daniel has experience as a technology and strategy focused Business Analyst at Accenture Australia, where he worked on strategy and/or technology projects for government and multinational oil, gas and utility companies. Daniel worked within small teams across several projects in the natural resources and energy sector to facilitate clients with data and process analysis, technology strategy development, pre-acquisition technology asset segregation and operational and business efficiency improvement projects.

### **3.4 Third party providers**

As set out in section 3.1, Amber Electric has an arrangement with Energy Locals whereby Energy Locals provides energy retailing services to support the delivery of the Amber Energy Product, including:

- (a) compliance for concessions and life support;
- (b) customer billing;
- (c) coordination on wholesale arrangements; and
- (d) interaction with other market participants (networks, metering providers etc.).

Energy Locals also provides regulatory and compliance management services for the Amber Energy Product with respect to all laws applicable to retail electricity supply under the National Energy Retail Law and within the National Electricity Market.

Once Amber Electric obtains its retailer authorisation, Energy Locals will continue to provide the services set out in section 3.1 to support the delivery of the Amber Energy Product, under the supervision of Amber Electric.

As described in section 3.1, Amber Electric will have the benefit of using already established systems and processes that it developed in supporting Energy Local's retail activities in respect of the Amber Energy Product. Amber Electric will bring this experience to its customers once it obtains its retailer authorisation and commences retailing the Amber Energy Product to customers.

Currently, TallyIT provides billing services to support the sale of the Amber Energy Product through Energy Locals. Once Amber Electric obtains its retailer authorisation, TallyIT will continue to provide the same billing services to customers and the already established processes will continue to apply.

Amber Electric also currently engages Mention Me Limited (**Mention Me**) to provide services relating to Amber Electric's Refer-a-Friend programme and, software enabling Amber Electric to offer customers a Refer-a-Friend reward. Mention Me is aware of the regulatory regime with which electricity retailers are required to comply, particularly regarding communications with customers and potential customers. Amber Electric's engagement with Mention Me will continue once Amber Electric obtains its retailer authorisation.

Amber Electric does not envisage any disruption to existing customers of the Amber Energy Product, once it commences retailing activities. For further information in relation to customer arrangements, please refer to section 3.10.

Amber Electric has engaged Hive Legal Pty Ltd (**Hive Legal**) to provide certain legal services including, to provide all legal and regulatory work required to achieve registration and licensing of Amber Electric as a retailer in certain jurisdictions of the National Electricity Market. Hive Legal has significant expertise in energy law and regulation spanning more than 30 years in the Victorian and national energy regimes. Amber Electric's engagement with Hive Legal is ongoing in accordance with the terms and condition of engagement entered into between Hive Legal and Amber Electric.

### 3.5 Business plan

A copy of Amber Electric's Business Plan is enclosed at **Attachment A**-. The Business Plan includes, but is not limited to, Amber Electric's strategic direction and objectives, forecast results and detailed assumptions.

### 3.6 Compliance strategy

Amber Electric is committed to ensuring compliance with all relevant regulatory requirements. With the assistance of its external legal advisors, Amber Electric has developed a Regulatory Risk and Compliance Register which sets out Amber Electric's key

regulatory obligations and the source of each obligation. Amber Electric also has in place a Compliance Strategy, which outlines how applicable legal, regulatory and technical requirements should be met including, how compliance breaches will be identified and remedied.

The Regulatory Risk and Compliance Register and Compliance Strategy are to be overseen by the Chief Executive Officers and Chief Financial Officer. The Chief Executive Officers are responsible for ensuring that all:

- (a) activities of the business conform to applicable statutory, industry and technical requirements; and
- (b) material business risks have been identified, are periodically updated and refreshed, and are being addressed by the appropriate person.

The Chief Executive Officers are also responsible for preparing and submitting compliance reports to the AER as required, and works with Amber Electric's external legal advisors to ensure full compliance with all relevant obligations on an ongoing basis.

A copy of Amber Electric's Regulatory Risk and Compliance Register and Compliance Strategy is enclosed at **Attachment D**.

### **3.7 Complaints and Dispute Resolution Procedure**

Amber Electric has a Complaints and Dispute Resolution Procedure to ensure that customer complaints are managed in a professional, efficient and fair manner, a copy of which is enclosed at **Attachment E**. Amber Electric has developed its Complaints and Dispute Resolution Procedure consistent with the principles in AS/NZS 10002:2014 Guidelines for complaint management in organisations.

### **3.8 Skill and/or knowledge gaps**

Amber Electric has had the unique opportunity to assist and support Energy Locals, its key partner in delivering electricity retail services to customers since 2018. Throughout this period, Amber Electric's management and staff have gained first-hand experience in conducting electricity retail activities and have become fully apprised of the obligations and requirements of the regulatory framework and operational issues that may arise.

Amber Electric is committed to ensuring that the appropriate mix of skills, experience and expertise are considered when employing staff and when making Board appointments. Amber Electric is satisfied that it has access to the required expertise and capacity to meet its initial retail business needs. As the business grows, resource needs will be evaluated and when necessary, Amber Electric will provide training, engage third-party providers and/or recruit the necessary skills to ensure requirements of the retailer authorisation and customer expectations are met. Amber has developed a Recruitment and Selection Policy, a copy of which is enclosed at **Attachment F**.

### 3.9 Risk management strategy

Amber Electric has a Risk Management Policy and Risk Management Strategy that ensures that its culture, processes and structure will achieve its business objectives whilst managing any potential risks to the business.

A copy of Amber Electric's Risk Management Policy and Risk Management Strategy, which covers both operational and financial risks is enclosed at **Attachment G –**. Amber Electric also maintains and regularly updates a Risk Register as a risk management tool by identifying any potential risks to the business, a copy of which is enclosed at **Attachment H –**.

Amber Electric has the required insurance coverage in place including, WorkCover, Public Liability, and Directors and Officers Insurance. Certificates of Currency are enclosed with this application.

Amber Electric's risk management and compliance strategies have been subject to an independent external assurance process. A copy of the Independent Assurance Report – Risk and Compliance Review from RSM Australia dated September 2020 is enclosed at **Attachment I –**.

### 3.10 Customer arrangements

Amber Electric will offer market retail contracts to customers. These will be materially similar for all customers who purchase the Amber Energy Product. A copy of a typical example of the proposed market retail contract that will be adopted by Amber Electric is enclosed at **Attachment J –**.

Amber Electric will work towards transferring customers who currently receive the Amber Energy Product through Energy Locals to Amber Electric's own proposed market retail contract, with the explicit informed consent of each customer and with the support of Energy Locals.

Amber Electric has a Hardship Policy which offers a range of support programs for customers experiencing hardship, a copy of which is enclosed at **Attachment K –**.

Amber Electric understands its obligations under the *Privacy Act 1988 (Cth)* (**Privacy Act**) in relation to customers' personal, sensitive, credit and credit eligibility information. Amber Electric also understands its obligations under the National Energy Retail Law and the National Energy Retail Rules in relation to obtaining customer explicit informed consent where required. Amber Electric has developed a Privacy Policy designed to comply with these laws and regulations, a copy of which is enclosed at **Attachment L –**. The Privacy Policy is available for download on Amber Electric's website and reference to the Privacy Policy is made in the market retail contract terms and conditions and other relevant documents.

Amber Electric has established and manages an in-house call centre for taking customer phone calls and providing customer service using its own trained staff. The telephone system has the necessary features and functions for customer service, legal and compliance needs.

### **3.11 Steps taken to obtain membership of relevant energy industry ombudsman schemes**

Amber Electric will apply to become a member of the energy industry ombudsman schemes in each of the Jurisdictions prior to commencing operations within those Jurisdictions. Amber Electric has initiated discussions with the ombudsman offices in each of the Jurisdictions and advised them of its intention to submit membership applications in the event that its retail authorisation application to the AER is successful. A copy of the correspondence with each of the ombudsman offices is enclosed at **Attachment M –**

### **3.12 Arrangements with market participants and back-up plans**

As at the date of making this application, Amber Electric intends to purchase energy from the gate meter through an authorised retailer who will have the relevant market participant agreements. As such, Amber Electric will not require specific agreements with distributors or registration as a market participant with AEMO. Amber Electric intends to secure all gate meter energy supply from Energy Locals, a licenced electricity retailer.

## 4 FINANCIAL CAPACITY

### 4.1 Amber Electric's current financial position

A copy of Amber Electric's financial reports for the past 12 months is enclosed at **Attachment N –**.

### 4.2 Credit rating

Amber Electric does not have a credit rating.

### 4.3 Corporate structure

Amber Electric is a private company that is wholly owned by its shareholders. It is not part of a group of related companies and/or party to a partnership, joint venture or alliance agreement with another company.

### 4.4 Written declarations

For a written declaration from Amber Electric's Co-Chief Executive Officer stating Amber Electric is a going concern and that there are not any factors that would impede Amber Electric's ability to finance energy retailer activities under the retailer authorisation for the next 12 months, please refer to **Attachment O –**.

For a written declaration from Amber Electric's Accountant stating that:

- (a) an insolvency official has not been appointed in respect of the business or any property of the business;
- (a) no application or order has been made, resolution passed or steps taken to pass a resolution for the winding up or dissolution of the business; and
- (b) they are unaware of any other factor that would impede Amber Electric's ability to finance energy retail activities under the authorisation,

please refer to **Attachment P –**.

### 4.5 Access to additional capital

Amber Electric has access to equity through the issue of new shares to existing shareholders and new investors. For further information, please refer to **Attachment Q –**.

### 4.6 Forecast revenue and expenditure

Forecast revenue and expenditure is included in the Business Plan at **Attachment A –**.

### 4.7 Additional information in relation to financial capacity



Please refer to the Bank Report enclosed at **Attachment R** – showing Amber Electric’s total assets.

## 5 SUITABILITY CRITERION

### 5.1 Regulatory compliance

Amber Electric, its associates, other businesses where its officers have held an officer position and any other entity that exerts control over its business activities, has not:

- (a) materially failed to comply with regulatory requirements, laws or other obligations over the previous 10 years, including infringement notices or other enforcement action (including voluntary administrative undertakings) being taken by a regulatory body;
- (b) previously had any authorisations, authorities or licences held in any industry revoked;
- (c) failed in its authorisation, authority or licence applications in any industry;
- (d) been the subject of any past or present administrative or legal actions in relation to an authorisation, authority or licence in any industry; and
- (e) been in any situation where they (or an associate) have previously triggered the RoLR provisions of the Retail Law or equivalent state/territory/foreign legislation or have transferred or surrendered an authorisation or licence in circumstances where if not done, triggering a RoLR event would have been likely.

Please refer to the enclosed written declaration from Amber Electric's Co-Chief Executive Officer.

### 5.2 Applicant's declaration

No offences have been committed against, or been prosecuted under, any territory, state, Commonwealth or foreign legislation (including, but not limited to, the *Australian Securities and Investments Commission Act 2001* (Cth), *Competition and Consumer Act 2010* (Cth) and the *Corporations Act 2001* (Cth)) relevant to Amber Electric's capacity as an energy retailer, by Amber Electric or its current directors, any other person that exerts control over Amber Electric's business activities, and all persons who are responsible for significant operating decisions for Amber Electric. Please refer to the enclosed written declaration from Amber Electric's Co-Chief Executive Officer.

### 5.3 Criminal history checks

Criminal history checks are available on request for any directors or officers of Amber Electric and/or individuals named in this application.

### 5.4 Written declaration from Chief Executive Officer



For a written declaration from Amber Electric's Co-Chief Executive Officer stating that members of Amber Electric's management team have not been disqualified from the management of corporations, please refer to **Attachment S**-. A bankruptcy search of the management team of Amber Electric has been conducted with no evidence of past bankruptcy. A copy of the bankruptcy search results is enclosed at **Attachment T** -.

#### **5.5 Names and addresses of key officers**

Full names and current residential addresses of Amber Electric's Directors and key officers is set out in **Attachment U** -.

#### **5.6 Policies and procedures addressing the probity of officers and other key management staff**

Amber Electric has adopted a Code of Conduct which outlines key policies and business practices addressing the probity and conduct of all Amber Electric employees (including directors and officers). A copy of Amber Electric's Code of Conduct is enclosed at **Attachment V** -. The Code of Conduct deals primarily with the following matters:

- (a) conflicts of interest;
- (b) confidentiality;
- (c) acting lawfully, with honesty and integrity;
- (d) protection of Amber Electric's property;
- (e) compliance with laws and regulations;
- (f) unethical behaviour and reporting of unlawful behaviour; and
- (g) workplace safety.

## 6 ATTACHMENTS

The following attachments are provided as supporting documentation in relation to this application.

<b>Attachment</b>	<b>Confidential</b>
A. <b>Business Plan</b>	Yes
B. <b>Organisational Chart</b>	Yes
C. <b>Key Personnel Experience</b>	Yes
D. <b>Regulatory Risk and Compliance Register and Compliance Strategy</b>	Yes
E. <b>Complaints and Dispute Resolution Procedure</b>	No
F. <b>Recruitment and Selection Policy</b>	Yes
G. <b>Risk Management Policy and Risk Management Strategy</b>	Yes
H. <b>Risk Register</b>	Yes
I. <b>Independent Assurance Report – Risk and Compliance Review</b>	Yes
J. <b>Market Terms and Conditions</b>	No
K. <b>Hardship Policy</b>	No
L. <b>Privacy Policy</b>	No



<b>M. Correspondence with Ombudsman offices</b>	Yes
<b>N. Financial Reports</b>	Yes
<b>O. CEO's Declaration</b>	Yes
<b>P. Accountant's Declaration</b>	Yes
<b>Q. Access to additional capital</b>	Yes
<b>R. Bank Report</b>	Yes
<b>S. CEO's Declaration</b>	Yes
<b>T. Bankruptcy search results</b>	Yes
<b>U. Details of directors and key officers</b>	Yes
<b>V. Code of Conduct</b>	Yes