



“The Waratah Main Beach Apartments”

11 April 2017

Mr. Tristan Peterson
Assistant Director | Retail Markets Branch
Australian Energy Regulator
GPO Box 3131,
Canberra ACT 2601

Dear Mr. Peterson,

Re: Application to Australian Energy Regulator (AER) for an Individual Exemption (Embedded Network) – The Waratah Main Beach CTS 16570 (Waratah Apartments)

Thank you for your response and feedback relating to our Individual Exemption Application for Waratah Apartments at Main Beach, Queensland.

While in our view, we have already addressed in detail all the matters set out in the Individual Exemption Application, as requested on the Australian Energy Regulator (**AER**) website, we hope that the additional information contained in this letter will satisfy your requirements for acceptance of our Application.

We certainly wish to continue with our AER Application and the conversion to an embedded network on the basis that the benefit to our residents outweighs the disadvantages.

We understand that we must obtain informed consent from our residents, which we have already done.

We can further demonstrate and evidence this by providing the following documents and information, as requested, to support our AER Application.

SUPPORTING DOCUMENTATION AND INFORMED CONSENT

1. We refer to our original Application for an Individual Exemption (Embedded Network) (AER Application) and the commercial-in-confidence documents attached. Our Application was delivered to the AER through our Consultant, Energy Options Australia on 27 January, 2017.

You have acknowledged receipt of our Application in your email response dated 2 February, 2017.

2. We also refer to a copy of the Application for the Conversion & Supply of Electricity directed to the Body Corporate of the Waratah Main Beach CTS 16570, being one of the attachments to our AER Application – that Application, which is a blank form, is **attached** again for ease of reference.

The Application form specifically requests that all signees (resident users of electricity) be made aware of the AER requirements and obligations under an embedded network. This information was taken from the AER website and additional information, such as the classifications and link to AER website, were provided by us.

The Application form also attached an “**Information for electricity residents in embedded networks**” sheet (Information Sheet) and the class of exemption applicable to our building with links to the AER website, should the signees (resident users of electricity) require any additional

information. The combined Application and Information Sheet were provided to all residents (resident users of electricity) at the Waratah Apartments building complex.

3. For clarity, the Application for the Conversion & Supply of Electricity and the Information Sheet (prepared by Meter2Cash Solutions on our behalf), mentioned in paragraph 2 above, being one of the attachments to our original AER Application, were delivered to all residents (resident users of electricity) at the Waratah Apartments and, contained the following information for electricity users in embedded networks – evidence of clear communication with residents:

Information Sheet: “Information for electricity residents in embedded networks”

What is an embedded network?

In some sites (typically apartment blocks, retirement villages, caravan parks and shopping centres), the electrical wiring is configured in such a way as to enable the owner of the site to sell energy to all the tenants or residents based there. This is known as an **embedded network**.

The owner of a site with an embedded network usually buys energy from an energy retailer and then ‘on-sells’ the energy to the different residents at the site (the on-seller”). In some situations, the energy sold by the owner may be generated on site. Most people that sell energy in embedded networks are known as **exempt sellers** because they do not need to become authorised by the Australian Energy Regulator (AER) as an energy retailer. However, exempt sellers and owners and operators of embedded networks have to follow certain rules that continue to protect your rights.

How does being in an embedded network affect your energy rights?

All energy residents have protections and rights, but they may be different if you are in an embedded network and buy your energy from an exempt seller; compared to when you buy your energy from an authorised energy retailer. For instance, due to changing to an embedded network the advantage is the significant reduction on kWh rate and daily service fees. You would not be able to opt out and go to another retailer unless paying for the associated costs involved. Opting out would only result in increased costs for both kWh and service fee rates, under a bulk supply arrangements your rates will always be better than a retailer.

Your energy rights as a customer of an embedded network supplier

If you buy your electricity from an on seller you will have access to all the protections that retailers provide you under the National Energy Retail Law and National Energy Retail Rules.

You can find lots of information about your rights and Conditions applicable to your exemption on the AER website Classes of retail exemption and applicable conditions.

Once conversion has been signed off by all parties the site will be registered as an on seller and exemptions for both Retail and Network exemptions will appear on the AER public register of authorised retailers.

The Classification of the conversion and applicable conditions are indicated below:-

Retail R2:- Persons selling metered energy to ten or more residential residents within the limits of a site that they own, occupy or operate.

Applicable Conditions: <http://www.aer.gov.au/retail-markets/retail-exemptions/classes-of-retail-exemption-andapplicable-conditions/applicable-conditions-for-exemption-class-r2>

Network NR2:- Persons selling metered energy to ten or more residential residents within the limits of a site that they own, occupy or operate

Applicable Conditions:: - <http://www.aer.gov.au/networks-pipelines/network-exemptions/classes-of-network-serviceprovider-exemption-and-applicable-conditions>

Your energy rights as a customer of an exempt seller

When you buy your electricity from an exempt seller in an embedded network, you still have protections and rights. These are part of the 'exemption conditions' that the Body Corporate and nominated billing agent must comply with to sell energy in an embedded network under the requirement of the AER legislation and where applicable The National Energy Retail Rules (NERR), the same as your current retailer does.

If the conversion goes ahead, METER2CASH Solutions abides by the rules and regulations of both the AER and the NERR and offers the same rights as a retailer applicable under the AER Exempt Selling Guideline and National Energy Rules and Laws.

Additional Information

Australian Energy Regulator – aer.gov.au

The body of the [Application form for the Conversion & Supply of Electricity](#) also contained the following acknowledgement, agreement and understanding, which required signing by each resident who voluntarily consented to the conversion:

We need your explicit and informed consent in order to proceed with the bulk conversion of this site. Please tick the below citing your understanding of the requirements of converting to an embedded site. Please sign the form and return to your building contact as indicated in Item 1 above, this will allow the retro fit to proceed. If you require any further questions please contact the building contact direct.

- I have read, understood and made any queries in relation to the Bulk Supply Conversion
- My consent is informed and I give my consent voluntarily
- I have had avenues to query and question during the conversion process
- I have the capacity and have made an informed decision
- I have been provided with the Retail Exempt Conditions applicable for the conversion and have been provided with the link the Australian Energy Website pertaining to Information for electricity residents in embedded networks.

Providing your customer details & signature authorizes the Body Corporate to proceed with converting the electricity within this building into a bulk supply arrangement.

Refer to the section headed Mitigation of Detriment: Retail contestability and competitive offers [at pages 9 – 11 inclusive, of our original AER Application.](#)

4. We **attach scanned** copies of **all 93 (out of 94 resident electricity users) signed Application forms for conversion approval** showing **explicit informed consent** by residents at the Waratah Apartments. We offered to provide these signed informed consents in our AER Application, if requested.

Refer to the following sections respectively headed:

- Section 3 – Residential profile of the building, at page 4, of our original AER Application.
- Mitigation of Detriment: Retail contestability and competitive offers, at pages 9 – 12 inclusive, of our original AER Application.
- Mitigation of Detriment: Customer dispute resolution services, at pages 11 – 12 inclusive, of our original AER Application.
- Mitigation of Detriment: State or Territory Legislation, at pages 12 – 13 inclusive, of our original AER Application.
- Efforts to obtain explicit informed consent, at pages 13 – 14 inclusive, of our original AER Application.

As mentioned, in our AER Application, **only 1 Owner/resident** has chosen to opt out and not participate in the proposed conversion to an embedded network. Please refer to our original AER Application, confirming that the resident, who has chosen to opt out, will not be included in the embedded network but rather, wired out of the new switchboard infrastructure to a new secondary switchboard facility, at no cost to the resident.

5. We rely upon our original AER Application (including confidential attachments) and this letter (including confidential attachments) to progress our Application for an Individual Exemption (Embedded Network).

Additional Information:

In addition to the information contained in our AER Application and the above, there have been many opportunities for residents to be involved during the information process in 2016 and 2017 for questions and answers relating to the proposed conversion.

1. 21 January, 2017 – the Body Corporate sent all Owners a Notice of Annual General Meeting (AGM) including, among other things, an **Explanatory Note** in connection with the proposed bulk electricity supply conversion to an embedded network – **attached** is a copy of the Explanatory Note.
2. 27 February, 2017 – the Body Corporate held its AGM and addressed a number of business matters including the proposed bulk electricity supply conversion. At the AGM, the writer, as Chairman, spoke to the AER Application and informed Owners/residents present of the progress towards conversion.

At that time, the Chairman invited questions from the Owners/residents about any aspect of the proposed conversion to an embedded network, addressing the potential benefits/savings, the advantages/disadvantages of the proposed conversion, the mitigation action to be taken to include the infrastructure works, provision of a secondary switchboard to facilitate the wiring out of the resident(s) who has chosen to opt out of the proposed conversion, the cost of the conversion, the administration and billing processes following conversion and, allowing residents to make an informed choice/decision between continuing to receive electricity from a retailer of choice or, from the Body Corporate under an embedded network.

It was noted that 93 of the total 94 resident users of electricity in the residential building community were in favour of the conversion albeit, that the cost of conversion and the upgraded infrastructure/switchboard/separate metering was a capital cost for the Body Corporate (Owners) and subject to majority consent by the Owners at general meeting – the AGM.

By majority, the Owners of the Body Corporate voted in favour of the conversion and the capital expenditure for infrastructure costs associated with the conversion for the benefit of all resident users of electricity in the building – **attached** is a copy of an extract of the AGM Minutes relevant to the voting in connection with the bulk electricity conversion.

3. 6 March, 2017 – the Body Corporate Committee discussed the requirements for proceeding with the bulk electricity conversion, subject to AER approval following a public comment process – **attached** is a copy of an extract of the Committee Meeting Minutes relevant to the bulk electricity conversion.

In the interim, we request that you analyze the information contained in this letter and advise if there is additional information you require, please.

The Body Corporate at the Waratah Apartments, Owners and all resident electricity users have been informed of the potential benefits/advantages/disadvantages of bulk supply. The Body Corporate is fully aware of its obligations in connection with the supply of electricity under an embedded network.

Refer to the following sections respectively headed:

- Mitigation of Detriment: Retail contestability and competitive offers, at pages 9 – 12 inclusive, of our original AER Application.
- Mitigation of Detriment: State or Territory Legislation, at pages 12 – 13 inclusive, of our original AER Application.
- Efforts to obtain explicit informed consent, at pages 13 – 14 inclusive, of our original AER Application.

While we understand that there are significant benefits to the retrofit of our residential building to an embedded network, we are also aware of the ongoing obligations of supply and mitigation of detriment that you mentioned in your email, specifically relating to Section 7 of the guideline.

Refer to the following sections respectively headed:

- Mitigation of Detriment: Retail contestability and competitive offers, at pages 9 – 12 inclusive, of our original AER Application.
- Mitigation of Detriment: State or Territory Legislation, at pages 12 – 13 inclusive, of our original AER Application.
- Efforts to obtain explicit informed consent, at pages 13 – 14 inclusive, of our original AER Application.

SECTION 7 OF THE GUIDELINE

There are clear short term benefits for users of electricity under the embedded network, which significantly reduce utility rates and service fee charges compared to a retailer.

We have considered both short and longer terms options for users at the Waratah Apartments and as a Body Corporate, we understand that the service level offering, mitigation of detriment and informed consent are key to getting an application approved and, are our ongoing obligations as an on-supplier

Refer to the following sections respectively headed:

- Mitigation of Detriment: Retail contestability and competitive offers, at pages 9 – 12 inclusive, of our original AER Application.

- Mitigation of Detriment: Customer dispute resolution services, at pages 11 – 12 inclusive, of our original AER Application.
- Mitigation of Detriment: State or Territory Legislation, at pages 12 – 13 inclusive, of our original AER Application.
- Efforts to obtain explicit informed consent, at pages 13 – 14 inclusive, of our original AER Application.

ADVANTAGES

Among other things, the advantages of an embedded network for residents include:

- The Body Corporate will be providing rates and service fees with combined savings of approximately 25% - 35% below what a retailer can provide.
- Note: all residents are currently paying approximately \$0.2326/kWh plus \$1.1647/day service fee (excluding GST)
- Once converted the pricing will be approximately \$0.20/kWh (or equal to what the Body Corporate can negotiate, noting we are currently pay just below 19 cents now for our Common Power. However with recent increases in the wholesale electricity market, the residential rates are expected to increase significantly from 1 July 2017) plus \$0.27123/day service fee (excluding GST)
- The service fee (a major component of many residents' accounts) is fixed for three years and only subject to CPI increases.
- The Body Corporate will not disadvantage a resident consumer now or in the future as we would offer rates equivalent to or less than a retailer, should there ever be changes within the market.
- Therefore, consumer price and service quality level will be comparative, if not better than that of a retailer. Thus complying with the Exempt Selling Guideline for the approved conditions and, we also confirm that this service level will be maintained into the future.
- We will conduct regular comparisons with retailers to ensure we offer complete rates and do not exceed standard retail pricing.
- Body Corporate and its chosen billing agent, Meter2Cash Solutions, will comply with the requirements of the AER therefore ensuring compliance with the legislative requirements under the NERR, the AER (Exempt Selling Guideline), the RTA requirements and the Body Corporate and Community Management Act in Queensland.
- We are aware that the Body Corporate represents the Waratah Apartments community as a whole and must provide the best possible utility rate and service equivalent to all resident electricity users. Being approximately 70% owner occupied/lock ups ensures that as a Body Corporate, we also have a vested interested in the utility at this site to reduce our utility costs and to also reduce Owner's common power costs, where possible.
- Unlike retailers that are focussed on profitable outcomes from the supply of electricity to customers/consumers, Body Corporates that operate an embedded network are not driven by profit but, by delivering better and more cost effective outcomes for Owners/residents provided always that the embedded network is being well managed. Body Corporates are not permitted to conduct a business enterprise for profit under the Body Corporate and Community Management Act (QLD).
- Refer to the following sections respectively headed:
 - Mitigation of Detriment: Retail contestability and competitive offers, at pages 9 – 12 inclusive, of our original AER Application.
 - Mitigation of Detriment: Customer dispute resolution services, at pages 11 – 12 inclusive, of our original AER Application.

- Mitigation of Detriment: State or Territory Legislation, at pages 12 – 13 inclusive, of our original AER Application.
- Efforts to obtain explicit informed consent, at pages 13 – 14 inclusive, of our original AER Application.

DISADVANTAGES

Residents have been informed of the disadvantages of an embedded network including:

- Once opted into the embedded network, residents will not be able to opt out without significant electrical costs being borne by them – refer to Section 3 headed – Residential profile of the building, at page 4, of our original AER Application.
- Note: all residents are currently paying \$0.2326/kWh plus \$1.1647/day service fee (excluding GST).
- Owners (not residents per se) of the Body Corporate are required to meet the capital infrastructure costs associated with the conversion of the building to an embedded network, subject to the Body Corporate’s rights and powers under the Body Corporate and Community Management Act (QLD) to recover the infrastructure cost from users amortised over a 5 year period, as determined by the Body Corporate.
- Owners (not residents per se) of the Body Corporate are required to meet the capital infrastructure cost of wiring out 1 Owner/resident user of electricity to enable the conversion to proceed, subject to the Body Corporate’s rights and powers under the Body Corporate and Community Management Act (QLD) to recover the infrastructure cost from users amortised over a 5 year period, as determined by the Body Corporate. Note: the Body Corporate has approved, at its AGM in February 2017, to transition to a secondary switchboard capable of future wire outs, to facilitate other residents opting out of the embedded network, should that situation arise.

SECTION 7 OF THE EXEMPT SELLING GUIDELINE - 7.2.1 ASSESSING AN APPLICATION INVOLVING RETROFITS

We wish to address Section 7 of the Exempt Selling Guideline, as mentioned in your email, as follows:

1. Mitigation of detriment: Retail contestability and competitive offers

While child meters are not accessible to market retailers currently, we hope that given there is no such practice in the State of Queensland, this would not be considered sufficient to negate a claim for an exemption.

We do however understand that this may change in the future. Should that occur, we would manage this process between our billing agent and the retailer to ensure compliance with any change in legislation that affects us.

We are also aware of the “The Power of Choice” and the possible requirement of an Embedded Network Manager in the future - refer to the section headed Mitigation of Detriment: Retail contestability and competitive offers at pages 12 – 11 inclusive, of our original AER Application.

2. Mitigation of detriment: Customer dispute resolution services

We will abide by the dispute resolution process in place by our nominated billing agent, Meter2Cash Solutions and will comply with Condition 15 and Condition 9 of the AER Exempt Selling Guideline. A copy of the Meter2Cash Solutions dispute resolution process was **attached** to our original AER Application.

This has been communicated to all users already and will be further provided as and from the start of billing should the AER Application be approved - refer to the section headed Mitigation of Detriment: Customer dispute resolution services at pages 11 – 12 inclusive, of our original AER Application.

3. Mitigation of detriment: state or territory legislation

The Body Corporate understands its obligations under the AER legislation, the likely AER Exempt Conditions of approval and the AER Exempt Selling Guideline, when its AER Application is approved.

As set out in our AER Application (at page 12), the Body Corporate will use its best endeavours to comply with its legal and regulatory obligations in relation to the supply of electricity to residents under an embedded network.

In this regard, the Body Corporate will engage appropriate professional advisers, consultants, brokers and service providers to ensure the embedded network is properly and responsibly managed into the future.

The Body Corporate will be responsible for overseeing the management of the embedded network, the supply of electricity at cost effective and competitive charges, the on-supply of electricity to residents at reasonable prices on reasonable terms and conditions and, in accordance with the AER legislation/Exempt Selling Guideline and the Body Corporate and Community Management Act (QLD).

Importantly, the Body Corporate Committee will establish regular reporting procedures, monitoring and systems review of the embedded network, the supply of electricity at cost effective and competitive charges and the performance of the nominated administration/billing agent (Meter2Cash Solutions) to ensure compliance with its obligations under the embedded network approval conditions.

We understand that to not comply with the AER exemption conditions and relevant legislation could potentially be a breach of the law, which could result in penalties or fines being imposed or other regulatory enforcement action against the Body Corporate - refer to the section headed Mitigation of Detriment: State or Territory Legislation, at pages 12 – 13 inclusive, of our original AER Application.

4. Efforts to obtain explicit informed consent

We consider that we have fully addressed this requirement at length in both our original AER Application and in this letter.

Refer to the following sections respectively headed:

- Section 3 – Residential profile of the building, at page 4, of our original AER Application.
- Mitigation of Detriment: Retail contestability and competitive offers, at pages 9 – 12 inclusive, of our original AER Application.
- Mitigation of Detriment: Customer dispute resolution services, at pages 11 – 12 inclusive, of our original AER Application.
- Mitigation of Detriment: State or Territory Legislation, at pages 12 – 13 inclusive, of our original AER Application.
- Efforts to obtain explicit informed consent, at pages 13 – 14 inclusive, of our original AER Application.

We hope the above assists you in assessing the items in Section 7 that you mentioned in your email, and supports our AER application.

ATTACHMENTS

With reference to our AER Application, in addition to the many attachments to our original AER submission, **all additional attachments** contained in this letter are provided on a **strictly commercial in-confidence – not for public distribution basis**, **without the prior written consent of the Waratah Body Corporate**.

Please confirm your continued agreement to this necessary requirement and protection for our Body Corporate.

We are keen to progress our AER Application and move to a conversion to an embedded network as soon as possible. Kindly contact the writer directly on 0417 788 084 or by email, if you require any further information.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Michael Watkins', written in a cursive style.

Michael Watkins
Chairman
The Waratah Main Beach CTS 16570