

Our Ref: AER23006892  
Contact Officer: Sarah Pinchuck  
Contact Phone: 07 3835 4661

23 Marcus Clarke Street  
Canberra ACT 2601  
GPO Box 3131  
Canberra ACT 2601  
tel: (02) 6243 1111

5 December 2024

[www.aer.gov.au](http://www.aer.gov.au)

Mr Steve Hazelwood  
Head of Sustainable Asset Co Pty Ltd  
29-31 Efficient Drive  
TRUGANINA VIC 3029

By email: [REDACTED]  
Cc: [REDACTED]

Dear Mr Hazelwood,

### **Re: Sustainable Asset Co Pty Ltd – application for individual network exemption**

I refer to your individual network exemption application, received on 15 December 2023, for Sustainable Asset Co Pty Ltd (**SUSTASCO**) to own, operate or control an electricity distribution system supplying the Oakden Rise development at Oakden SA 5086.

I am writing to inform you that on 22 November 2024, the AER decided to grant SUSTASCO an exemption from the requirement to register as a Network Service Provider and the operation of Chapter 5, in respect to the electricity distribution system at the Oakden Rise development.<sup>1</sup>

The exemption is subject to the core conditions contained in the Network Exemptions Guideline<sup>2</sup> published from time to time, as modified by the Instrument of Exemption at **Schedule 1**, attached to this letter.

#### **Exemption conditions**

The National Electricity Law (**NEL**) and National Electricity Rules (**NER**) give the AER power to impose such terms and conditions on exempt persons as it considers appropriate.<sup>3</sup> In addition to the core conditions in the Network Exemptions Guideline (noted above), we have also included bespoke conditions. These have been included so we can effectively regulate SUSTASCO's supply arrangements and ensure customers at the Oakden Rise development are sufficiently protected. We would like to particularly draw your attention to the bespoke conditions below.

#### ***Licence (Condition F)***

The AER expects SUSTASCO to obtain, and comply with the conditions of, an electricity distribution licence issued by the Essential Services Commission of South Australia (**ESCOSA**) to own, operate or control the distribution system at the Oaken Rise development.

#### ***Guaranteed Service Level scheme (Condition H)***

SUSTASCO must comply with the requirements of the Guaranteed Service Level scheme (**GSL**) contained in clause 2.3 of the *Electricity Distribution Code*, published by ESCOSA from time to time. However, this condition will no longer apply if GSL are imposed as a condition of an electricity distribution licence issued by ESCOSA.

---

<sup>1</sup> In accordance with s 13 of the NEL and cl 2.5.1(d) of the NER

<sup>2</sup> Currently, [Electricity network service provider registration exemption guideline \(version 6\) – 1 March 2018](#).

<sup>3</sup> s 13(4), NEL

### **Connection and pricing (Condition I)**

In deciding whether to grant SUSTASCO an individual network exemption, the AER considered how SUSTASCO's proposal met the National Electricity Objective (**NEO**) and gave strong consideration to the element of price. A deciding factor that influenced the AER's decision was the enduring benefit of network tariff discounts that SUSTASCO proposes to offer its customers at the Oakden Rise development.

We expect SUSTASCO to ensure customer price benefits are realised and maintained. As such, the AER has specified that SUSTASCO must charge its customers network tariffs at a discount to SA Power Networks' network tariffs (that would apply to similar customers of its distribution network (**Shadow Charge**)). Further, SUSTASCO must review and (if necessary) adjust its network tariffs yearly, to ensure they reflect the most recent Shadow Charge.

Should SUSTASCO seek to vary this condition, it will need to provide evidence to the AER that exceptional circumstances exist to justify a change to the network tariffs discounts offered to customers.

### **Failure to comply with these conditions may lead to revocation**

The AER can revoke SUSTASCO's exemption if we are satisfied that SUSTASCO has failed to meet the conditions set out in its Instrument of Exemption, or if the operation of the distribution system at the Oakden Rise development is no longer consistent with the NEO in all respects.<sup>4</sup>

If SUSTASCO becomes aware that any condition of this instrument of exemption is not satisfied, it must notify the AER within 10 business days.

### **Next steps**


SUSTASCO's exemption is subject to your acceptance of the conditions set out in the Instrument of Exemption at **Schedule 1**. SUSTASCO must advise the AER in writing by **COB 17 January 2025** whether it accepts these conditions.

We also request that SUSTASCO notify the AER within 10 business days of:

- being issued an ESCOSA electricity distribution licence, and
- commencing electricity supply to customers at the Oakden Rise development.

If you have any queries, or would like to discuss this further, please contact Sarah Pinchuck, A/g Director – Compliance and Enforcement on (07) 3835 4661.

Yours sincerely

  
**Matt Garbutt**

Executive General Manager  
Compliance, Enforcement, and Surveillance

Sent by email on: 05.12.2024

---

<sup>4</sup> Condition J(5) of the Instrument of Exemption.

## Schedule 1 – Instrument of Exemption

### INDIVIDUAL EXEMPTION FROM THE REQUIREMENT TO REGISTER AS A NETWORK SERVICE PROVIDER AND THE OPERATION OF CHAPTER 5 OF THE NATIONAL ELECTRICITY RULES

DATE OF APPROVAL: **22 November 2024**

TYPE OF NETWORK: **Distribution system**

---

Pursuant to section 13 of the National Electricity Law, the Australian Energy Regulator (AER) decided on 22 November 2024, to grant Sustainable Asset Co Pty Ltd / ABN 60 660 232 655 an exemption from the requirement to register as a network service provider and the operation of Chapter 5 of the National Electricity Rules in accordance with clause 2.5.1 of the National Electricity Rules, subject to the conditions set out below.

This instrument of exemption applies to the electricity distribution system at the Oakden Rise development, being land held in Certificates of Title Volume 6257 Folios 128, 129, 130, Volume 6226 Folio 969 and Volume 6256 Folio 495.

---

### Preamble – Interpretation

In this instrument of exemption, unless the contrary intention appears, a reference to a statute, regulation, rule or other law includes regulations and other instruments made under it and consolidations, amendments, re-enactments or replacements of any of them.

### Condition A – Application of the Network Exemptions Guideline

1. Sustainable Asset Co Pty Ltd must comply with all provisions of the Network Exemptions Guideline as issued from time to time for the distribution system at the Oakden Rise development, with the exception of:
  - a) Requirements relating to deemed or registrable exemptions
  - b) Requirements relating to converting an existing site to an embedded network (retrofit)
  - c) Requirements relating to transmission systems
  - d) Requirements relating to dedicated connection assets (or designated network assets).

### Condition B – Embedded Network Manager appointment deferment

1. In accordance with clause 2.5.1(d2) of the National Electricity Rules, Sustainable Asset Co Pty Ltd is exempted from the requirement to comply with the ENM conditions until such time as an ENM conditions trigger occurs. That is, an Embedded Network Manager need not be appointed for a network subject to this instrument of exemption until:
  - a) a small customer at the Oakden Rise development enters a market retail contract for the sale of energy at the relevant child connection point and the cooling off period in relation to that contract has expired; or
  - b) a large customer at the Oakden Rise development has entered a contract for the sale of energy at the relevant child connection point.
2. For the purposes of Condition B, the terms 'ENM conditions', 'Embedded Network Manager', 'Child connection point' and 'Cooling off period' have the same meaning assigned to them in Chapter 10 of the National Electricity Rules.

Note: Should the definition of 'ENM conditions trigger' change after the issue of this instrument of exemption, the terms as defined in the National Electricity Rules (version 217) take precedence over the meaning provided under condition B(1)(a) and (b).

### **Condition C – Connection and supply of network services**

1. Sustainable Asset Co Pty Ltd must comply with any connection policy (Connection Policy) approved under an electricity distribution licence issued by the Essential Services Commission of South Australia.
2. If:
  - a) Sustainable Asset Co Pty Ltd receives a request for connection and/or access to the network services provided by the distribution system at the Oakden Rise development from an existing or intending Registered Participant or a person who is eligible to become a Registered Participant; and
  - b) there is no Connection Policy, or it does not apply to the request,  
Sustainable Asset Co Pty Ltd must, subject to Condition C(3), allow that person to form a connection and have access to the network services provided by the distribution system at the Oakden Rise development.
3. Sustainable Asset Co Pty Ltd is not required to allow connection and provide access under Condition C(2) where it would:
  - a) adversely affect supply to any electricity customers at the Oakden Rise development;  
or
  - b) require Sustainable Asset Co Pty Ltd to augment the distribution system at the Oakden Rise development.
4. If Sustainable Asset Co Pty Ltd rejects a request, set out in Condition C(2)(a), Sustainable Asset Co Pty Ltd must notify the AER within 20 business days of that decision.
5. For the purposes of Condition C, the terms 'Augmentation', 'Connection', 'Network Services', 'Registered Participant' and 'Supply' have the meaning assigned to them in the National Electricity Rules.

### **Condition D – Terms and conditions for connection and network services**

1. If there is no Connection Policy, or the Connection Policy does not apply to the relevant agreement, the terms and conditions (including price) on which Sustainable Asset Co Pty Ltd allows connection to, and provides access to, the network services provided by the distribution system at the Oakden Rise development must be consistent with the provisions set out in:
  - a) Chapter 5 of the National Electricity Rules, governing the terms and conditions of a Connection Agreement; and
  - b) Chapter 5A, governing the terms and conditions of a Model Standing Offer.<sup>5</sup>

Note: Although Sustainable Asset Co Pty Ltd is exempt from the operation of Chapter 5 of the National Electricity Rules, the purpose of Condition D(1)(a) is to require an agreement in relation to the distribution system at the Oakden Rise development, to satisfy the same substantive requirements as if Chapter 5 of the National Electricity Rules applied (if there is no Connection Policy governing that agreement).

---

<sup>5</sup> The exempt person is not required to submit a Model Standing Offer to the AER for prior approval.

2. For the purposes of Condition D, the terms 'Connection Agreement' and 'Model Standing Offer' have the meaning assigned to it in the National Electricity Rules.

### **Condition E – Energy selling**

1. Subject to condition E(2), Sustainable Asset Co Pty Ltd must not engage any person to sell electricity to off-market customers at the Oakden Rise development who does not hold a retailer authorisation granted by the AER.
2. Sustainable Asset Co Pty Ltd must not engage any person to sell energy to off-market customers at the Oakden Rise development under a retail exemption without the prior written consent of the AER.

### **Condition F – Licence**

1. Sustainable Asset Co Pty Ltd must comply with any South Australian law requiring it to be authorised to own, operate and/or control the distribution system at the Oakden Rise development.

Note: The AER understands that Sustainable Asset Co Pty Ltd is required to hold an electricity distribution licence issued by the Essential Services Commission of South Australia to operate the distribution system at the Oakden Rise development under section 15(2)(b) of the *Electricity Act 1996 (SA)* and comply with any terms and conditions therein.

### **Condition G – Maintenance and technical standards**

1. Sustainable Asset Co Pty Ltd must maintain the distribution system at the Oakden Rise development to the standards specified in any legislation, regulation or licence applicable to Sustainable Asset Co Pty Ltd or the specified distribution system.

Note 1: Relevant legislation under this condition includes, but is not limited to, the National Electricity Law, the National Electricity Rules, the *Electricity Act 1996 (SA)* and the *Electricity (General) Regulations 2012*.

Note 2: The AER understands that the distribution system Oakden Rise development is to be connected to the SA Power Networks distribution system at the Corner of Fosters Road and Grand Junction Road, Oakden SA 5086.

### **Condition H – Guaranteed Service Level scheme**

1. Sustainable Asset Co Pty Ltd must comply with the requirements of the Guaranteed Service Level scheme contained in clause 2.3 of the Electricity Distribution Code, as issued by the Essential Services Commission of South Australia from time to time.

Note 1: This condition only applies where an electricity distribution licence issued by the Essential Services Commission of South Australia under section 15(2)(b) of the *Electricity Act 1996 (SA)* to operate the distribution system at the Oakden Rise development does not require Sustainable Asset Co Pty Ltd to comply with the Guaranteed Service Level scheme.

Note 2: This condition only applies to service standard requirements, and not to any payment requirements, of the Guaranteed Service Level Scheme.

### **Condition I – Connection and pricing**

1. Sustainable Asset Co Pty Ltd must allow access to the distribution system at the Oakden Rise development on reasonable commercial terms, to be negotiated with any party seeking access in accordance with Condition C or D, as applicable.
2. Sustainable Asset Co Pty Ltd must set the ongoing charge for network services provided to customers at the Oakden Rise development in accordance with the published charge that would have applied to the same customer if connected directly to the SA Power Networks distribution network (Shadow Charge), modified as follows:

- a) small customers will receive a minimum combined discount of 40% relative to the Shadow Charge, comprising:
  - i) a minimum 5 percent discount on the supply and metering Shadow Charge (\$ per annum); and
  - ii) up to a 70 percent discount on the single rate usage Shadow Charge (\$ per kWh).
- b) City of Port Adelaide Enfield Council will receive a discount on the public lighting Shadow Charge (\$ per annum) provided for under the Service Level and Supply Agreement with Sustainable Asset Co Pty Ltd, as negotiated from time to time.

### **Condition J – Commencement and expiry**

1. This instrument of exemption takes effect on and from 22 November 2024.
2. If Sustainable Asset Co Pty Ltd becomes aware that any condition of this instrument of exemption is not satisfied, it must notify the AER within 10 business days.
3. If Sustainable Asset Co Pty Ltd notifies the Essential Services Commission of South Australia of a breach of any applicable industry code, industry rule or licence, it must notify the AER within 10 business days.
4. This instrument of exemption terminates on the date that:
  - a) Sustainable Asset Co Pty Ltd is dissolved;
  - b) Sustainable Asset Co Pty Ltd fails to satisfy Conditions F and/or G;
  - c) the AER decides to revoke the instrument of exemption in accordance with condition J(5).
5. The AER may vary or revoke this instrument of exemption. The decision to revoke the exemption is exercisable in the same way, and subject to the same conditions, as the decision to grant the exemption.

Note: For example, the AER may decide to revoke the instrument of exemption if a condition is not satisfied, or if there is a material change to the customers connected to the distribution system. The AER reserves the right to revoke or vary this exemption if necessary to ensure the conditions for exemption are consistent with the Network Exemptions Guideline, as issued from time to time.