# Body Corporate Suitability Disclosure

Disclosures are to be submitted to the Offshore Infrastructure Registrar (the Registrar) via email offshoreelectricity@nopta.gov.au

**Notes:**

1. A **separate** disclosure is required to be completed by the body corporate or foreign company and any of the entities in its corporate structure that it is relying on.
2. Foreign companies and companies (including corporate trustees) are required to fill out the disclosure.
3. If all of the information in a previously submitted disclosure remains true and correct, this previously submitted disclosure can be referenced in your future dealings with the Registrar.
4. If **not** all of the information in your original disclosure remains true and correct, a new disclosure must be completed and submitted to the Registrar, as soon as this information becomes outdated.
5. Further guidance for completing each question in the disclosure can be found at **Appendix A**.

**Details**

|  |  |
| --- | --- |
| **Body Corporate Name or Foreign Company Name:** |  |
| **Australian Company Number (ACN), Foreign Company Australian Registered Body Number (ARBN) or Registration number in country of registration** |  |
| 1. Has the named body corporate or foreign company been refused a renewable energy infrastructure or electricity transmitting infrastructure related licence or authorisation, or had a licence restricted, cancelled, or revoked within Australia or internationally?
 | [ ]  No [ ]  Yes and I have provided details in an attachment to this disclosure |
| 1. Has the named body corporate or foreign company been convicted of an offence against, or ordered to pay a pecuniary or monetary penalty for the contravention of a civil penalty provision of, any of the following laws:
	1. the *Offshore Electricity Infrastructure Act 2021* (the OEI Act), including any regulations made under the OEI Act;
	2. any other Act or legislative instrument prescribed by the regulations (if any); or
	3. the *Criminal Code Act 1995* and the *Crimes Act 1914*, to the extent that these Acts relate to the OEI Act, including any regulations made under the OEI Act, or an Act or legislative instrument prescribed by the regulations.
 | [ ]  No [ ]  Yes, and I have provided details in an attachment to this disclosure |
| 1. Is there any debt due and payable by the named body corporate or foreign company to the Commonwealth under the OEI Act, the *Offshore Electricity (Regulatory Levies) Act 2021* or any other law prescribed by the regulations?
 | [ ]  No[ ]  Yes, and I have provided details in an attachment to this disclosure |
| 1. Has the named body corporate or foreign company been involved in any material breaches of obligations regulated by the Registrar, the Offshore Infrastructure Regulator, as defined under the OEI Act, or any other regulator who is involved in the regulation of renewable energy resources or infrastructure?
 | [ ]  No [ ]  Yes, and I have provided details in an attachment to this disclosure |
| 1. Has the named body corporate or foreign company, either in Australia or internationally
	1. been declared bankrupt,
	2. been subject to debt judgements, or
	3. had any insolvency proceedings (including any administration, liquidation or receivership)?
 | [ ]  No [ ]  Yes, and I have provided details in an attachment to this disclosure |
| 1. Has the named body corporate or foreign company had any enforcement action taken against it under any Commonwealth, state, territory government, or foreign legislation (including but not limited to the *Competition and Consumer Act 2010* (Cth), *Corporations Act 2001* (Cth), or the *Australian Securities and Investments Commission Act 2001* (Cth))?
 | [ ]  No [ ]  Yes, and I have provided details in an attachment to this disclosure |
| 1. Has the body corporate or foreign company been found to have engaged in conduct involving fraud or dishonesty in:
2. any criminal or civil proceedings brought against the applicant by an agency of the Commonwealth or a State or Territory government?
3. any action brought against the applicant by any foreign government?
 | [ ]  No [ ]  Yes, and I have provided details in an attachment to this disclosure |

**Signatures**

1. **I am/ We are signing this form as either: \* #**

[ ]  The Directors/Director and Secretary of an Australian registered company.

[ ]  The Attorney appointed under a Power of Attorney of an Australian registered company.

[ ]  The person/s authorised to sign to legally bind a Foreign registered company (including foreign companies registered with ASIC). ∞

[ ]  The Attorney appointed under a Power of Attorney of a Foreign registered company. ∞

\* *Mark the applicable box.*

**#** *If an applicant is a government entity, they should contact the Registrar prior to discuss signing requirements*

*∞ See the Registrar’s Form Guide for information on required evidence of signing authority/powers of attorney for foreign registered companies.*

1. **I / We confirm that the information provided in this form is true and correct.** *Please note that giving false or misleading information is an offence under Part 7.4 of the Criminal Code Act 1995 (see in particular sections 136.1 and 137.1 of the Criminal Code) and section 75 of the OEI Act.*

***A. Australian registered company***

|  |
| --- |
| **Executed by (insert full name of company including the ACN)** |
|  |

*As a Director/ Sole Director/ Secretary, in accordance with section 127 of the Corporations Act 2001 (Cth), by:*

|  |  |
| --- | --- |
| *Signature* | *Signature* |
| *Full name (block letters)* | *Full name (block letters)* |
| *Office held (Director/Sole Director)* | *Office held (Director/Secretary) \** |
| *Date* | *Date* |

\* Record the applicable position held by the signatory. Section 127 of the *Corporations Act 2001* provides that a company may validly execute a document with or without a common seal if the document is signed by: (i) two directors of the company; (ii) a director and the secretary of the company; or (iii) where the company is a proprietary company and has a sole director who is also the sole company secretary, that director.

***OR*** *as the holder of a Power of Attorney for an Australian Registered Company*

I declare that I have a Power of Attorney authorising me to execute this Form on behalf of the Company named above, which has not been revoked as at the date of this Form. \*

|  |
| --- |
| *Signed at (location):* |
| *Signature of holder of Power of Attorney* | *Signed in the presence of: signature of Witness* |
| *Full name of Attorney (block letters)* | *Full name of Witness (block letters)* |
| *Position*  |  |
| *Date* | *Date* |

|  |  |
| --- | --- |
| **Has a copy of the Power of Attorney document previously been provided to the Registrar? \*** | Choose an item. |
| **Date of Power of Attorney**  | Click here to enter a date. |

\* A person signing as attorney for an Australian registered company must provide the Registrar with a copy of the Power of Attorney document for our records.

***OR***

***B. Foreign registered company***

|  |
| --- |
| **EXECUTED BY**  |
| Full name of company: |
| Country of registration: |
| Registration number in country of registration: |
| Australian Registered Body Number (ARBN): |

*As person/s who can legally bind the Foreign Company, in accordance with the laws of the company’s country of incorporation, by:*

|  |  |
| --- | --- |
| *Signature* | *Signature* |
| *Full name (block letters)* | *Full name (block letters)* |
| *Office held (Director/Other) \** | *Office held (Director/Secretary/Other) \** |
| *Date*  | *Date*  |
| (If required) Signed in the presence of: *Signature of Witness* | (If required) Signed in the presence of: *Signature of Witness* |
| *Full name and address of Witness (block letters)*  | *Full name and address of Witness (block letters)*  |

\* *See the Registrar’s Form Guide for information on the evidence required to be provided to Registrar of the signing authority for foreign registered companies.*

***OR*** *as the holder of a Power of Attorney for a Foreign Registered Company*

I declare that I have a Power of Attorney authorising me to execute this Form on behalf of the foreign registered Company named above, which has not been revoked as at the date of this Form. \**∞*

|  |
| --- |
| *Signed at (location):* |
| *Signature of holder of Power of Attorney* | *Signed in the presence of: signature of Witness* |
| *Full name of Attorney (block letters)* | *Full name of Witness (block letters)* |
| *Position* |  |
| *Date* | *Date* |

|  |  |
| --- | --- |
| **Has a copy of the Power of Attorney document previously been provided to the Registrar? \*** | Choose an item. |
| **Date of Power of Attorney**  | Click here to enter a date. |

\*A person signing as attorney for a foreign registered company must provide the Registrar with a copy of the Power of Attorney document for our records.

*∞ See the Registrar’s Form Guide for information on required form/additional information to be provided for powers of attorney for foreign registered companies.*

**Appendix A**

|  |  |
| --- | --- |
| **Suitability Disclosure Question**  | **Guidance**  |
| 1. Has the named body corporate or foreign company been refused a renewable energy infrastructure or electricity transmitting infrastructure related licence or authorisation, or had a licence restricted, cancelled, or revoked within Australia or internationally?
 | This question is seeking to understand whether the body corporate or foreign company has had any type of renewable energy infrastructure or electricity transmitting infrastructure related licence or authorisation refused, restricted (even temporarily), cancelled or revoked either within Australia or elsewhere, internationally within the **past 15 years**. Renewable energy infrastructure is infrastructure (such as an onshore or offshore wind farm or solar project) for generating electricity or other forms of energy from renewable energy resources, and storing or transmitting the electricity or energy.Electricity transmission infrastructure is infrastructure (such as an onshore or undersea cable and other infrastructure associated with the cable) for storing or transmitting electricity (including electricity not generated from renewable sources).If you answer yes to this question, attach information including details around the type of licence, jurisdiction, timing and reasons for refusal, cancellation or revocation of the licence or authorisation, and any other information which will assist the decision maker in determining if the body corporate or foreign company is suitable to hold a licence.  |
| 1. Has the named body corporate or foreign company been convicted of an offence against, or ordered to pay a pecuniary or monetary penalty for the contravention of a civil penalty provision of, any of the following laws:
2. the *Offshore Electricity Infrastructure Act 2021* (the OEI Act), including any regulations made under the OEI Act;
3. any other Act or legislative instrument prescribed by the regulations (if any); or
4. the *Criminal Code Act 1995* and the *Crimes Act 1914*, to the extent that these Acts relate to the OEI Act, including any regulations made under the OEI Act, or an Act or legislative instrument prescribed by the regulations.
 | This question is seeking to understand whether the body corporate or foreign company has **ever** been convicted of an offence or ordered to pay a pecuniary or monetary penalty for the contravention of a civil penalty provision of Australia’s *Offshore Electricity Infrastructure Act 2021* and related legislative instruments or relevant criminal legislation. If you answer yes to this question, attach information including details around the law that was contravened, the timing, licence details to which this relates, and any other information which will assist the decision maker in determining if the body corporate or foreign company is suitable to hold a licence.  |
| 1. Is there any debt due and payable by the named body corporate or foreign company to the Commonwealth under the OEI Act, the *Offshore Electricity (Regulatory Levies) Act 2021* or any other Act prescribed by the regulations?
 | This question is seeking to understand whether the body corporate or foreign company **currently** has any outstanding debts due or payable to the Australian Government in relation to the OEI Act and related legislative instruments. If you answer yes to this question, attach information relating to the debt, when it was due, and any actions you are undertaking to remedy the debt. Levies that have been invoiced but are not yet due do not need to be included.  |
| 1. Has the named body corporate or foreign company been involved in any material breaches of obligations regulated by the Registrar, the Offshore Infrastructure Regulator, as defined under the OEI Act, or any other regulator?
 | This question is seeking to understand whether the body corporate or foreign company has **ever** been involved in any material breaches of obligations regulated by the Registrar or the Offshore Infrastructure Regulator (NOPSEMA). These include the issuing of: 1. An improvement notice;
2. A direction that specifies the Regulator is satisfied on reasonable grounds that there has been a non-compliance with a particular provision of the OEI Act;
3. A successful prosecution; or
4. The cancellation of a licence

If you answer yes to this question, attach information relating to the type of material breach, when it occurred, whether the relevant direction or improvement notice is still in force (and any actions you are undertaking to remedy the breach and any other information which will assist the decision maker in determining if the body corporate or foreign company is suitable to hold a licence. |
| 1. Has the named body corporate, or foreign company either in Australia or internationally
2. been declared bankrupt,
3. been subject to debt judgements, or
4. had any insolvency proceedings (including any administration, liquidation or receivership)?
 | This question is seeking to understand whether the body corporate or foreign company within Australia or internationally has been declared bankrupt, has had its affairs placed into administration, has been the subject of debt judgements or had any insolvency proceedings within the **past 10 years.** If you answer yes to this question, attach information including details around the jurisdiction, timing, details relating to the matter, and any other information which will assist the decision maker in determining if the body corporate or foreign company is suitable to hold a licence.  |
| 1. Has the named body corporate or foreign company had any enforcement action taken under any Commonwealth, state, territory government, or foreign legislation (including but limited to the *Competition and Consumer Act 2010* (Cth), *Corporations Act 2001* (Cth), or the *Australian Securities and Investments Commission Act 2001* (Cth))?
 | This question is seeking to understand whether the body corporate or foreign company has had any enforcement action taken under any Commonwealth, state, territory government, or foreign legislation within the **past 10 years.** If you answer yes to this question, attach information including details around the type of proceeding, jurisdiction, timing, outcome and any other information which will assist the decision maker in determining if the body corporate is suitable to hold a licence.  |
| 1. Has the body corporate or foreign company been found to have engaged in conduct involving fraud or dishonesty in:
2. any criminal or civil proceedings brought against the applicant by an agency of the Commonwealth or a State or Territory government?
3. any action brought against the applicant by any foreign government?
 | This question is seeking to understand whether the body corporate or foreign company has been found to have engaged in conduct involving fraud or dishonesty within the **past 10 years**. Criminal [proceeding](http://www5.austlii.edu.au/au/legis/cth/consol_act/ca191482/s15ya.html#proceeding) means an action taken in court to bring a [criminal](https://www.collinsdictionary.com/dictionary/english/criminal) [prosecution](https://www.collinsdictionary.com/dictionary/english/prosecution) against someone. [Civil proceedings](https://www.lawinsider.com/dictionary/civil-proceedings) [means any](https://www.lawinsider.com/dictionary/civil-proceedings?cursor=Cl4SWGoVc35sYXdpbnNpZGVyY29udHJhY3RzcjoLEhpEZWZpbml0aW9uU25pcHBldEdyb3VwX3YzMyIaY2l2aWwtcHJvY2VlZGluZ3MjMDAwMDAwMGEMogECZW4YACAA) judicial proceedings in relation to civil or commercial matters. They are civil nature rather than of a criminal nature. If you answer yes to this question, attach information including details around the type of proceeding, jurisdiction, timing and any other information which will assist the decision maker in determining if the body corporate or foreign company is suitable to hold a licence.  |