# Regulatory sandboxing – Trial waiver application form

Purpose of this form

The commission’s Trial Project Guideline requires applicants to use the online form to submit applications for a trial waiver via the Energy Innovation Toolkit website.[[1]](#footnote-2) Applicants are required to upload their supporting information and documents using the online form.

This trial waiver application form has been published to the Essential Services Commission (the commission)’s website to assist applicants with understanding what information must be provided with an application made through the Energy Innovation Toolkit website.

This application form may only be used to submit a trial waiver application to the commission if the online form on the Energy Innovation Toolkit website is not operational for an extended period of time.

## Basis for this form

A trial waiver granted by the commission relieves a person from the requirements under the *Electricity Industry Act 2000* (Vic) and/or *Gas Industry Act 2001* (Vic) to obtain a licence in respect of the relevant activity specified in the trial waiver.[[2]](#footnote-3) A trial waiver applies for a time-limited period and is subject to conditions imposed by the commission.

A trial waiver may cover any of the following activities as they are defined in section 16 of the *Electricity Industry Act 2000* or section 22 of the *Gas Industry Act 2001*:

|  |  |
| --- | --- |
| Electricity activities | Gas activities[[3]](#footnote-4) |
| * Supply or sale of electricity.
* Generation of electricity for supply or sale.
* Transmission of electricity.
* Distribution of electricity.
 |  | * Sale of gas by retail.
* Providing gas services (other than the sale of gas by retail) by means of a distribution pipeline.
 |

An application for the issue of a trial waiver must be made to the commission in a form approved by the commission. The information specified in this form is approved by the commission for the purposes of trial waiver applications made through the Energy Innovation Toolkit website (or where that website is unavailable for an extended period).

Use of this form and the applicant’s responsibilities

An application for a trial waiver may be made by any legal person including, without limitation, individuals, incorporated associations, unit and other forms of trusts and corporations. Entities that are not a legal person (for example, an unincorporated joint venture) cannot apply for a licence.

For the purpose of this application form, reference to the term “Officer” includes the directors and secretary, and other persons who make or participate in making decisions that affect a substantial part of the applicant’s business (for example, Chief Executive Officer, Chief Financial Officer or General Manager).

The information requested in this application should be provided in the spaces provided and additional information enclosed when required. It is the applicant’s responsibility to take all reasonable steps to ensure the information provided in the application form is complete, true and correct. An officer is required to make a declaration to that effect (in the application form).[[4]](#footnote-5)

Failure to disclose information or misrepresent any matter relevant to such information may result in a trial waiver not being issued or in the later revocation of a trial waiver. It is a criminal offence if an applicant has provided false or misleading information or documents. Should this occur, further action may be taken against the applicant pursuant to section 61A of the *Essential Services Commission Act 2001*.

The applicant is responsible for providing the commission with current, accurate and relevant documentation. It is the applicant’s responsibility to make all reasonable inquiries to obtain the information requested by this form.

Timely processing of the application will be helped by providing accurate and relevant information to complete an application. This means we have all the information we need to complete our assessment. All applications are assessed on a case-by-case basis. If insufficient information is provided with an application, the commission will request additional information to be submitted before the application is considered further.

Prior reading

It is essential that an applicant reads our [Trial Project Guideline](https://www.esc.vic.gov.au/sites/default/files/documents/Regulatory%20sandboxing%20-%20Trial%20Project%20Guideline%20-%201%20July%202022.pdf) and [Supplementary Information for Trial Waiver Applications](https://www.esc.vic.gov.au/sites/default/files/documents/Regulatory%20sandboxing%20-%20Supplementary%20information%20for%20trial%20waiver%20applications%20-%2029%20June%202022.pdf) before submitting the application through the online portal on the Energy Innovation Toolkit website.

It is the applicant’s responsibility to ensure their compliance with legal obligations when applying for a trial waiver.

Trial waiver conditions

The Industry Acts authorise the commission to issue a trial waiver subject to conditions as decided by the commission. A trial waiver will generally include conditions that are consistent with the commission’s standard licence conditions, codes of practice and other rules in the commission’s framework. However, the commission may determine that these requirements do not apply to a particular trial project.

The commission will have regard to a trial project and waiver application on a case-by-case basis to determine what conditions will apply to trial waivers.

Further information

The commission may request additional information from the applicant, or request clarification of information that the applicant has already provided in their application.

Consultation and confidentiality

We will consult publicly on all trial waiver applications. Applications and all supporting material that is not confidential will be made available on our website and/or on any other engagement platform as part of the consultation process. If the applicant believes that any information the applicant provides is confidential, it is the applicant’s responsibility to clearly identify this information and provide reasons why the information is confidential. Should we consider the applicant’s claim of confidential information to not be valid, we will give the applicant the opportunity to make submissions prior to our decision to disclose the information. The applicant should provide a ‘non-confidential’ version of the application form for publication.

The application form requires the applicant to give written consent to allow the commission to disclose any of its information, including confidential information, to certain other government bodies or regulators, where relevant to that entity’s functions relating to trial waivers. If the information being disclosed is confidential information, the commission will take all steps it considers reasonable to maintain confidentiality of that information with the recipient. The applicant must also agree to a legal disclaimer and a privacy statement relating to trial waivers.

How to lodge an application

As a first step, trial project proponents should utilise the resources on the Energy Innovation Toolkit website, including the Innovation Enquiry Service, to determine what regulatory barriers may exist for their project.[[5]](#footnote-6)

Once applicants have identified the regulatory barriers and have decided to apply for a trial waiver, they are encouraged to refer to the [Trial Project Guideline](https://www.esc.vic.gov.au/sites/default/files/documents/Regulatory%20sandboxing%20-%20Trial%20Project%20Guideline%20-%201%20July%202022.pdf) and [Supplementary Information for Trial Waiver Applications](https://www.esc.vic.gov.au/sites/default/files/documents/Regulatory%20sandboxing%20-%20Supplementary%20information%20for%20trial%20waiver%20applications%20-%2029%20June%202022.pdf). These resources provide information on the application process and the type of information that will be required to support an application. An applicant can discuss their proposed trial project and application with commission staff prior to submitting the application through the Energy Innovation Toolkit.

If an applicant is unable to access the Energy Innovation Toolkit, they can contact the commission’s regulatory sandboxing team for further assistance at regulatorysandbox@esc.vic.gov.au.

## Organisation details – The Applicant

**The applicant must answer all questions in this application.**

* 1. Name of applicant

State the full name of the applicant. The applicant is the person who will be undertaking activities under section 16 of the *Electricity Industry Act 2000* (Vic) and/or section 22 of the *Gas Industry Act 2001* (Vic).

|  |  |
| --- | --- |
| Name: |  |

* 1. Legal identity of the applicant

Provide the applicant’s ABN and ACN and information about the applicant (i.e. whether the applicant is a private limited company, trust, joint venture, etc.).

|  |  |
| --- | --- |
| ABN: | ACN: |
| Type of entity:  |

* 1. Contact details and address of the applicant

Please note you will be required to include with this application form a diagram of the corporate or organisational structure, including details of any related companies within the meaning of the *Corporations Act 2001*. Further details are provided in the supporting documents section of the application form.

|  |  |
| --- | --- |
| The Applicant |  |
| **Business address:** |
| State: | Postcode: |
| **Postal address (if different):** |
| State: | Postcode: |
| Organisation website: |
| **Full name of contact person:** |
| Position title: |
| Telephone: | Mobile: |
| E-mail: |

## General information

* 1. Has the applicant previously engaged with the Australian Energy Regulator regarding a trial waiver?

[ ]  Yes

[ ]  No

### 2.2 Does the applicant hold any licences or exemptions to hold a licence to operate in the electricity and/or gas industry?

[ ]  No

[ ]  Yes

If yes, is it a licence, an exemption or both licence(s) and exemption(s)?

What type of licence(s) or exemption(s)?

### 2.3 Is the applicant registered with the Australian Energy Market Operator as a market participant?

[ ]  No

If no, is the applicant intending to register? Provide details of the registration or inquiries made. If the applicant is not intending to register with the Australian Energy Market Operator, please provide a reason.

[ ]  Yes

If yes, specify which categories from the following options:

[ ]  Market Customer

[ ]  Market Small Generation Aggregator

[ ]  Demand, Response Service Provider

[ ]  Market Generator

[ ]  Market Network Service Provider

### 2.4 Does the applicant’s parent company or company group hold any licences or exemptions from having to hold a licence to operate in the electricity and/or gas industry?

[ ]  No

[ ]  Yes

If yes, is it a licence, an exemption or both licence(s) and exemption(s)?

Specify the type of licence(s) and/or exemption(s)

**Licence types**:

[ ]  Electricity retail licence

[ ]  Electricity distribution licence

[ ]  Electricity transmission licence

[ ]  Gas retail licence

[ ]  Gas distribution licence

[ ]  Gas transmission licence

**Exemption types**:

[ ]  Electricity retail exemption

[ ]  Electricity distribution exemption

[ ]  Electricity transmission exemption

[ ]  Gas retail exemption

[ ]  Generation registration

### 2.5 Has the applicant or the parent company previously held a licence that has been suspended or cancelled?

[ ]  No

[ ]  Yes

If yes, provide details:

### 2.6 Has the applicant, any directors of the applicant, any related body corporate, or any person with significant managerial responsibility or influence on the applicant been involved in any material breaches of obligations regulated by the commission or any other regulator?

[ ]  No

[ ]  Yes

If yes, provide details:

### 2.7 Is the applicant, any directors of the applicant, any related body corporate, or any person with significant managerial responsibility under investigation in relation to its regulatory obligations?

[ ]  No

[ ]  Yes

If yes, provide details:

## Partner organisation

Use this section to provide information if you are submitting an application on behalf of a third-party or are intending to undertake the trial in partnership with another organisation(s). You can add more than one organisation.

If your partner organisations are subcontractors or other agents, only the 'coordinating entity' needs to submit the application. As part of the application, the commission may require copies of relevant agreements between the organisations.

Where waivers are required for multiple entities, each partner must submit a waiver. As part of the application process, the commission may need evidence that the joint application has authority to bind the coordinating entity as well as the partners for which the joint waivers will be provided.

* 1. Are you submitting a trial waiver application on behalf of a third-party, or is the applicant proposing its innovation to be delivered in partnership with other organisation(s)?

[ ]  No

[ ]  Yes

If yes, complete the below table:

|  |  |
| --- | --- |
| Partner organisation |  |
| Provide the ABN and ACN of the other organisation(s)

|  |  |
| --- | --- |
| ABN: | ACN: |

What role is the partner organisation performing in the delivery of the applicant’s innovation? |
| Full name of contact person at partner organisation: |
| Position title: |
| Telephone: | Mobile: |
| E-mail: |

## Project description

* 1. Provide a description of the project, including if the innovation is a product, service, new business model or other.

* 1. What are the aims, objectives and success criteria for the project?

* 1. Is the applicant seeking a waiver from the National framework, Victorian framework or both?

[ ]  National framework

[ ]  Victorian framework

[ ]  Both

* 1. Select which law(s) and/or rule(s) you are seeking a waiver from

[ ]  *Electricity Industry Act 2000* (Vic)

[ ]  *Gas Industry Act 2001* (Vic)

[ ]  *Essential Services Commission Act 2001* (Vic)

[ ]  Order in Council that applies to Victoria’s energy framework

[ ]  Commission Code of Practice (please specify):

[ ]  Commission Guideline (please specify):

[ ]  Other (please specify):

* 1. Identify the particular provision(s) the applicant is seeking a waiver from

* 1. Why is the trial waiver required to conduct the trial project?

* 1. Describe if the project will include the installation of new infrastructure or assets?

* 1. Describe the intended audience/customer. How many and what type of consumers or participants will be involved? How do you intend to recruit them?

* 1. Which market/s will the project operate in?

[ ]  National

[ ]  ACT

[ ]  NSW

[ ]  NT

[ ]  QLD

[ ]  SA

[ ]  TAS

[ ]  WA

[ ]  VIC

* 1. Indicate the location of the applicant’s intended customers, if applicable. More than one location may be selected.

[ ]  National

[ ]  Metropolitan

[ ]  Outer Metropolitan

[ ]  Regional

[ ]  Rural

[ ]  Other

* 1. Describe the location/s of the customers or participants

* 1. State whether the applicant’s customers whose aggregate consumption at a supply point is or is likely to be:

[ ]  Less than 40 MWh (small residential and/or business customers)

[ ]  40MWh to 160MWh (medium customers)

[ ]  More than 160MWh in a year (large customers)

[ ]  1,000GJ or less (residential and small business customers)

[ ]  More than 1,000GJ (medium and large customers)

[ ]  Unsure

* 1. What is the proposed duration of the trial project?

**Note:** The project cannot exceed five years.

* 1. Which stages of the innovation project has the applicant already completed?

[ ]  Consultation (initial scoping)

[ ]  Consultation (final)

[ ]  Financing

[ ]  Planning or development approval

[ ]  Project output has already commenced

* 1. Has the applicant previously engaged with any of the following entities about the innovation project?

[ ]  Australian Renewable Energy Agency

[ ]  Australian Energy Market Operator

[ ]  Australian Energy Market Commission

[ ]  Australian Energy Regulator

[ ]  Essential Services Commission

[ ]  Other federal or state agency (please specify):

[ ]  Have not previously engaged with any of the above entities about this project.

* 1. Has the applicant received funding or financing from a third party?

[ ]  No

[ ]  Yes

If yes, what sources have approved financial support?

☐ Participated in ARENA funding round

☐ Received funding from another Government agency, please specify which

☐ Private funding/financing

☐ Other (please specify which Government agency and program):

* 1. When does the applicant plan to launch its innovation?

[ ]  6 months

☐ 6-12 months

☐ More than 12 months

☐ Unsure (provide more information on your business development stage)

* 1. How will the trial project be monitored, reported on and evaluated, including how learnings will be shared?

## Eligibility criteria

Describe how the trial project will address the following trial waiver order requirements. If you have any supporting documents for this section, you will have the ability to attach these with the application. Ensure these documents are clearly labelled.

* 1. Consumer impacts

Provide a description and identification of the benefits to consumers from the trial project, and how these benefits will be measured.

Provide a description of how the needs and requirements of any customers experiencing vulnerability will be supported.

**Note:** Where the trial project may affect customers experiencing vulnerability, applicants are expected to consult with relevant organisations that represent customers prior to submitting the application and explain the outcomes of that consultation in the application.

Provide a description of how consumer protections will be maintained through the trial project.

Provide a description of how customer privacy will be maintained, including how customer information will be collected, used, managed and disclosed.

* 1. Risk management

Provide a description of the risk management plan for the proposed trial project.

Provide a description of the risks for other market participants and how these risks will be mitigated.

Provide a description of the processes in place to monitor and respond to potential risk events.

Does the applicant expect there to be any risks to the safety, reliability or security of electricity supply of energy and/or gas as a result of your project?

[ ]  Yes

If yes, explain what these risks are and how those risks will be avoided or mitigated.

☐ No

If no, why not?

Provide a description of any consultation undertaken with Australian Energy Market Operator, Energy Safe Victoria or any other relevant bodies regarding the proposed trial project and the risk management plan

* 1. Provide evidence of the organisation’s operational, technical and financial ability to carry out the proposed trial project

* 1. Provide a description of the proposed trial project closure process and how trial project participants will revert to their pre-existing supply arrangements or move onto suitable alternative arrangements that comply with all relevant regulatory requirements after closure of the trial project (also known as an exit strategy)

* 1. Provide a description of how it is proposed that trial project participants:
1. will provide their explicit informed consent and how this will be recorded. If it is intended that explicit informed consent will not be obtained, the applicant must explain why this should not be required

1. can raise a dispute in relation to the proposed trial project and the proposed internal and external processes and procedures in place to resolve to resolve disputes

1. will have access to the Energy and Water Ombudsman (Victoria)’s dispute resolution services and if the applicant is, or will become a member of the Energy and Water Ombudsman (Victoria)

1. can raise a dispute in relation to the proposed trial project if the applicant is not a member of the Energy and Water Ombudsman (Victoria)’s dispute resolution services and if so, what alternative form of external dispute resolution is proposed. Explain why the applicant considers that approach to be appropriate

### 5.5A Provide a description of what consultation the applicant has undertaken with the Energy and Water Ombudsman (Victoria) in relation to dispute resolution processes

### 5.5B Provide a description how it is proposed trial project participants can opt out of the proposed trial project, or if it is proposed that trial project participants should not be able to opt out of the trial project (or that there should be restrictions on the circumstances in which trial project participants can opt out), the reasons why this should be the case

* 1. Disconnections

Where the proposed trial project directly involves the supply or sale of electricity or gas to small customers, please provide a description of the proponent’s proposed processes in relation to disconnection

* 1. How does the proponent consider the trial project contributes to the development of regulatory and industry experience?

* 1. Has the applicant engaged with the jurisdictional safety regulator on the project and the proposed risk management plan?

Consultation with regulators and market bodies may include the Australian Energy Market Operator, Energy Safe Victoria, or any other relevant bodies regarding the trial project and the proposed risk management plan.

☐ No

If no, why not?

[ ]  Yes

If yes, do you require a licence, registration, authorisation, exemption or other form of approval, and did you receive one from them?

* 1. The commission must consider whether the extent and nature of any confidential information impair the commission’s ability to provide public transparency in relation to the conduct and outcomes of trial projects. Provide any comments you consider relevant to this assessment

* 1. Does the proponent consider that the extent and nature of the confidential information may impair the appropriate development of regulatory and industry experience arising from the trial project? Provide an explanation to support your response.

## Victorian innovative trial principles

As part of the application, you will need to describe how the project will address each of the following innovative trial principles. If an innovative trial principle does not apply to the project, you will need to outline the reasons why it is not applicable. The commission takes each innovative trial principle into account in determining whether a trial project is genuinely innovative.

The commission must also consider whether the trial project is likely to contribute to the achievement of the commission’s statutory objectives when it exercises its powers and performs its functions, including when considering applications for trial waivers. This is pursuant to the *Electricity Industry Act 2000* (Vic), the *Gas Industry Act 2001* (Vic) and the *Essential Services Commission Act 2001* (Vic).

The objectives are outlined in:

* section 8 of the *Essential Services Commission Act 2001* (also see section 8A of the *Essential Services Commission Act 2001*),
* section 10 of the *Electricity Industry Act 2000*, and/or
* section 18 of the *Gas Industry Act 2001*.
	1. Explain whether the trial project is focused, or will continue to focus, on developing new or materially improved approaches to the use or supply of, or demand for, electricity and/or gas.

* 1. Explain whether the trial project is likely to contribute to the achievement of the objectives of the commission under the *Electricity Industry Act 2000* (Vic), *Gas Industry Act 2001* (Vic) and the *Essential Services Commission Act 2001* (Vic).

* 1. Explain whether the trial project is able to demonstrate, or will continue to demonstrate, a reasonable prospect of giving rise to materially improved services and outcomes for customers who purchase electricity and/or gas.

* 1. Explain how the trial project maintains, or will continue to maintain, adequate consumer protections for customers who purchase electricity and/or gas, including whether the trial project may involve risks to such customers and, if so, how those risks might be mitigated.

* 1. Explain whether the trial project is unable to proceed, or continue to proceed, because of the Electricity Industry Act 2000 (Vic), Gas Industry Act 2001 (Vic) and/or any instrument made under those two Acts (as applicable).

* 1. Explain whether the trial project has moved beyond research and development stages but is not yet established, or of sufficient maturity, size or otherwise commercially ready, to attract investment.

* 1. Explain whether the trial project may negatively impact the Australian Energy Market Operator’s (AEMO) operation of the national electricity system and national electricity market or AEMO’s operation of systems relating to natural gas (including AEMO’s performance of its declared system functions) and markets and auctions for natural gas and how those impacts can be mitigated.

* 1. Explain whether the trial project is able to be trialled and evaluated.

* 1. Explain whether there is potential for the trial project to be successfully expanded.

* 1. Explain whether the trial project will provide for public sharing of knowledge, information and data resulting from the trial project?

## Supporting documents

Please ensure that any confidential documents are clearly marked as such.

Diagram of corporate and organisational structure

Provide a diagram of the:

1. corporate or organisational structure (including any parent and related companies within the meaning of the *Corporations Act 2001*), and

**Attachment reference**:

1. organisational chart (including composition of the board, management, and other key personnel responsible for the key functions).

**Attachment reference**:

**Risk management plan**

Provide documentation to demonstrate the applicant has identified the risks associated with the trial project and any proposed risk management systems and processes to address those risks.

**Attachment reference:**

**Registration with the Australian Energy Market Operator**

Provide documentation to demonstrate the applicant is already registered with the Australian Energy Market Operator or if the applicant is intending to register, provide evidence of the registration enquiries.

**Attachment reference:**

**Financial resources**

Provide documentation to demonstrate the applicant has received funding or financing from a third party, if applicable, and has access to sufficient financial resources to carry out the proposed trial project.

**Attachment reference:**

**Technical capacity**

Please provide evidence of the applicant’s technical capacity to carry out the proposed trial project. This may include details of the skills and experience of key persons involved in the project and details of any third-party expertise that may have been leveraged.

**Attachment reference:**

**Access to a dispute resolution scheme**

If applicable, provide evidence the applicant is already a member of the Energy and Water Ombudsman (Victoria) or has approached the Energy and Water Ombudsman (Victoria) about joining the scheme. If there is an alternative form of external dispute resolution proposed then provide details of the alternative scheme.

**Attachment reference:**

## Statutory declaration

The applicant must declare that all information provided in the application for a trial waiver is true and correct. The applicant must provide an executed statutory declaration. The statutory declaration must be made by the applicant (where the applicant is an individual) or a director of the applicant (where the applicant is a corporation) and must be made in accordance with the requirements of the *Oaths and Affirmations Act 2018* (Vic).

An example statutory declaration form can be found [here](https://www.justice.vic.gov.au/statdecs). Information for authorised witnesses can be found [here](https://www.justice.vic.gov.au/justice-system/legal-assistance/information-for-authorised-statutory-declaration-witnesses).

**Attachment reference:**

**What must be included in a statutory declaration**

The statutory declaration must address the following:

* Identification of the declarant’s position and/or role with the applicant.
* That the declarant believes the information provided in the application to be true and correct.
* That the declarant believes the applicant has the financial resources to commence and operate the activities the subject of the licence. Further, that the applicant intends to be/is registered as a market participant with the Australian Energy Market Operator in relation to the activity of a trial waiver (if applicable).

I [name]………………………………………………………………...

of [address]……………………………………………………………….

make the following statutory declaration under the *Oaths and Affirmations Act 2018* (Vic):

1. That I am the director of [**insert company name and details**]
2. I believe [**company name**] is financially viable, having adequate resources to commence and sustainably operate the trial project.
3. [**Company name**] intends to register/is registered as a market participant with the Australian Energy Market Operator in relation to the activity of a trial waiver (if applicable).
4. The information provided in the attached application to the Essential Services Commission for a trial waiver is true and correct

and I make this declaration conscientiously believing these matters to be true and knowing that making a statutory declaration that I know to be untrue is an offence.

Date: …………………………

Signature: ………………………………………

**[signature of person making this statutory declaration in the presence of the authorised statutory declaration witness]**

Declared at: ………………………………………………………………… on ………………………

Witness

I am an authorised statutory declaration witness and I sign this document in the presence of the person making the declaration:

…………………………………………………….

**[signature of authorised statutory declaration witness]**

on [*date*]

**[full name and personal or professional address of authorised statutory declaration witness in legible writing, typing or stamp]**

**[qualification as an authorised statutory declaration witness]**

A person authorised under section 30(2) of the Oaths and Affirmations Act 2018 to witness the signing of a statutory declaration.

# Applications for a Trial Waiver

## Disclaimer

The terms below which are used in the disclaimer, have the following meanings in the disclaimer:

**For applications to the ESC for a Trial Waiver**

* **Trial Waiver:** has the same meaning as in section 54(1) of the *Electricity Industry Act 2000* and section 55(1) of the *Gas Industry Act 2001*.
* **Trial Project Confidential Information:** means Trial Waiver Information submitted to the ESC that is confidential or commercially sensitive.
* **Trial Project Guidelines:** means those guidelines prepared and issued under section 63 of the *Electricity Industry Act 2000* (Vic) and section 52 of the *Gas Industry Act 2001* (Vic).
* **Trial Waiver Information:** has the same meaning as in section 51 of the *Electricity Industry Act 2000* and section 52 of the *Gas Industry Act 2001*.
* **ESC:** means the Essential Services Commission established under the *Essential Services Commission Act 2001* (Vic).
* **AER:** means the Australian Energy Regulator.

### Applications to the Essential Services Commission for a Trial Waiver

* + 1. To the extent that is lawful, the ESC is not responsible or liable for any loss suffered by you or a third party arising from a failure to be granted a Trial Waiver, nor for any delay in determining an application for a Trial Waiver. The timeline within which the ESC will determine an application for a Trial Waiver set out in the Trial Project Guidelines is indicative only and is not binding on the ESC in any way.
		2. To the extent that is lawful, the ESC is not responsible for any loss suffered by you or a third party arising from any action, or inaction, by the ESC in the course of the ESC determining an application for a Trial Waiver. Neither is the ESC responsible for any action or inaction of any third party relating to the ESC’s determination of an application for a Trial Waiver, including, but not limited to, any delay attributed to a third party in providing necessary information or assistance to the ESC.
		3. In granting a Trial Waiver, the ESC is making no statement about, advising or commenting in any way, on the commercial viability of the applicant’s Trial Project.
		4. You must not misrepresent the information, guidance or regulatory relief given to you by the ESC.
		5. You must not describe your propositions as “ESC approved” or otherwise imply in any way that the ESC endorses your product, service, methodology or business model.

**I confirm that I have read, understood and agree to the above Disclaimer:**

Full name: …………………………

Signature: ………………………………………

Date: …………………………

# Consent to Information Sharing

The terms below which are used in the Consent to Information Sharing, have the following meanings in the Consent to Information Sharing:

**For applications to the Essential Services Commission for a Trial Waiver**

* **Trial Waiver**: has the same meaning as in section 54(1) of the *Electricity Industry Act 2000* and section 55(1) of the *Gas Industry Act 2001*.
* **Trial Project Confidential Information**: means Trial Waiver Information submitted to the ESC that is confidential or commercially sensitive.
* **Trial Waiver Information:** has the same meaning as in section 51 of the *Electricity Industry Act 2000* and section 52 of the *Gas Industry Act 2001.*
* **ESC**: means the Essential Services Commission established under the *Essential Services Commission Act 2001* (Vic).
* **AER**: means the Australian Energy Regulator.

### Applications to the Essential Services Commission for a Trial Waiver

* + 1. Any information (including Trial Project Confidential Information) provided by you is at your own risk.
		2. Any information submitted to the ESC in relation to an application for a Trial Waiver, other than Trial Project Confidential Information, may be published by the ESC, including as part of a consultation process.
		3. Any Trial Waiver Information which you provide to the ESC, including but not limited to information in, or in connection with, an application for a Trial Waiver, that you consider is confidential or commercially sensitive, must be identified by you as having this quality.
		4. If you provide the ESC with Trial Project Confidential Information, the ESC will endeavour to keep that information confidential, subject to its capacity to disclose under paragraphs **Error! Reference source not found.**, 5 or pursuant to law (including section 61(3) of the Essential Services Commission Act 2001).
		5. The ESC may disclose to the AER any Trial Waiver Information (including Trial Project Confidential Information) in the ESC's possession or control, subject to Part 4 of the Essential Services Commission Act 2001: section 66 of the Electricity Industry Act 2001 (Vic) and section 67 of the Gas Industry Act 2001 (Vic).
		6. The ESC may disclose your Trial Project Confidential Information to the following entities, on a confidential basis, to assist the ESC to determine your application for a Trial Waiver:
		7. The Australian Energy Market Commission;
		8. Australian Energy Market Operator Limited;
		9. Energy Safe Victoria;
		10. the Victorian Department of Environment, Land, Water and Planning.
		11. Where the AER:
			1. has received information provided by you in, or in connection with, an application for a Trial Waiver; and
			2. is of the opinion that the information is best directed to, and considered by, the ESC;

the AER may disclose that information (including any Trial Project Confidential Information) to the ESC.

**I confirm that I have read, understood and agree to the above** **Consent to Information Sharing:**

Full name: …………………………

Signature: ………………………………………

Date: …………………………

# Privacy Statement

### Applications to the Essential Services Commission

* + 1. The Essential Services Commission of Victoria (**ESC**) will collect your personal information (as defined in the Privacy and Data Protection Act 2014 (Privacy & Data Protection Act)) that you submit using the Regulatory Sandboxing Portal.
		2. Any personal information that you submit using the Regulatory Sandboxing Portal will be collected by the ESC for the purpose of carrying out its statutory functions and associated activities under the Essential Services Commission Act 2001, in particular its functions:
1. to monitor and report on compliance by persons granted trial waivers with conditions of trial waivers under section 10AA(1)(a)(ii) of the Essential Services Commission Act 2001; and
2. to investigate contraventions or potential contraventions by persons granted trial waivers with conditions of trial waivers under section 10AA(1)(b)(ii) of the Essential Services Commission Act 2001.
	* 1. Your personal information is protected by law, including the Privacy & Data Protection Act. The ESC may use and disclose your personal information in accordance with the Privacy & Data Protection Act, including but not limited to any exemption arising under that Act. The ESC will not otherwise use or disclose personal information unless permitted or required by law.
		2. Information that the ESC obtains is retained and stored in accordance with the requirements of the Public Records Act 1973*,* associated Public Record Office Victoria standards and internal records policy.
		3. The ESC may disclose your personal information to its service providers, including but not limited to its ICT service providers, auditors and external legal services providers, to allow them to provide services to the ESC.
		4. The ESC may disclose your personal information to the AER where relevant to an application for a trial waiver that is under consideration by the AER or a trial waiver that has been granted by the AER.
		5. The ESC will provide you with reasonable access to your personal information held by the ESC upon request and will take reasonable steps to correct such information when requested by you, in order to ensure that the ESC’s records are correct.
		6. If you wish to contact the ESC about any privacy-related matters, you should contact energy.enquiries@esc.vic.gov.au with “Regulatory Sandboxing – privacy query” in the subject line.

**I confirm that I have read, understood and agree to the above Privacy Statement:**

Full name: …………………………

Signature: ………………………………………

Date: …………………………

1. Link to the Energy Innovation Toolkit: [www.energyinnovationtoolkit.gov.au](http://www.energyinnovationtoolkit.gov.au). [↑](#footnote-ref-2)
2. There are also separate licence exemptions specified in the 2017 General Exemption Order for persons who undertake certain electricity activities and meet the conditions of the exemption. [↑](#footnote-ref-3)
3. An Order in Council under section 8 of the Gas Industry Act provides that ‘gaseous fuel (other than natural gas as defined in the Act) is not to be gas for the purposes of Parts 3 and 4 of the Act’ (see Victorian Government Gazette S197, 29 October 2002). Accordingly, a trial waiver under the Gas Industry Act must relate to ‘natural gas’ services as defined in that Act. [↑](#footnote-ref-4)
4. Where an applicant is not a body corporate the applicant should contact the commission to discuss the appropriate person to make the required declarations. [↑](#footnote-ref-5)
5. Link to the Energy Innovation Toolkit: [www.energyinnovationtoolkit.gov.au](http://www.energyinnovationtoolkit.gov.au) [↑](#footnote-ref-6)