



Application for declaration of operational control

under section 55 of the *National Greenhouse and Energy Reporting Act 2007*

FORM

CER-NGER-004

v1.0 27/01/2015

Purpose of this form

This form is for a controlling corporation to apply to the Clean Energy Regulator (the Regulator) for a declaration that it has operational control over a facility.

Determining the facilities for which a corporate group has operational control is central to defining the reporting obligations of a registered controlling corporation under the National Greenhouse and Energy Reporting Act 2007 (the NGER Act).

A registered controlling corporation must report on the greenhouse gas emissions, energy production and energy consumption from the operation of facilities under the operational control of the corporation's group.

A member of a corporate group is considered to have operational control over a facility if it has the authority to introduce and implement operating, and/or health and safety, and/or environmental policies. Only one corporation can have operational control over a facility at any time.

If there is uncertainty about which corporation has operational control over a facility, the corporation deemed to have operational control is the one with the greatest authority to introduce and implement operating and environmental policies.

Eligibility

Declarations of operational control

Under section 55 of the NGER Act the Clean Energy Regulator *may* make a declaration that a corporation has operational control of a facility, either on the Clean Energy Regulator's own initiative or on application by *that* corporation.

When such a declaration is in force the corporation is deemed to have operational control of the facility for the purposes of the NGER Act.

When to apply for a declaration of operational control

Only in exceptional circumstances should a corporation apply to the Clean Energy Regulator for a declaration of operational control.

Specialist advice should be sought where there is uncertainty or disagreement about the operational control of a facility. All reasonable efforts to apply the definition of operational control in the NGER Act to a corporation's circumstances should be made prior to any application for a declaration.

Key legislative requirements for an application for a declaration of operational control

An applicant for a declaration of operational control must be a controlling corporation or a member of a controlling corporation's group.

Any application for a declaration of operational control must include details of any contracts or arrangements showing that the applicant has the greatest authority to introduce and implement operating and environmental policies as required by regulation 6.03(d) of the *National Greenhouse and Energy Reporting Regulations 2008* (the NGER Regulations).

Each application for a declaration of operational control must relate to only *one* facility.

An application for a declaration of operational control may be made at any time regardless of:

- whether the applicant has applied for registration under the NGER Act, and
- financial ownership of the facility that is the subject of the application.

Instructions for completing this form

Pen colours	Please use a black or blue pen to write on the form.
Check boxes	Mark boxes like this <input type="checkbox"/> with a ✓ or ✗. When an instruction asks you to 'tick' the box, you can still use either ✓ or ✗.
Go to	Where you see an instruction like this - <input type="checkbox"/> Go to question 5 - mark the relevant box with a ✓ or ✗ and then skip to the question number shown. You do not need to answer the question(s) in between. Where an instruction has a black double arrow (▶▶), go to the next indicated part/section. Where an instruction has a black single arrow (▶), go to the next question. Where an instruction has a black single arrow pointing down (▼), fill in the field(s) directly below.
Mandatory questions	If all fields in a question are mandatory and must be completed, (required) is added to the end of the question label text. If a field in a question is mandatory only IF a condition is met, (required if any) is added to the end of the question label text.
▶	This symbol indicates an instruction on what to do next.
ⓘ	This symbol indicates additional useful guidance to filling in the adjacent field or section.
📄	This symbol advises that more than one entry may be required for the section and therefore you may need to photocopy or print the section or fill in a duplicate section.
📎	This symbol advises that additional documentation to support a claim may need to be attached to the application.
Duplex printing	This form is designed to be duplex printed to save on paper. All new sections start on the right-hand side of a page spread.

Help filling in this form

The NGER Act should be read in conjunction with the *National Greenhouse and Energy Reporting Regulations 2008* (the NGER Regulations).

The NGER Act, NGER Regulations and NGER Guidelines may be obtained on the [Clean Energy Regulator website](#). Contact the Clean Energy Regulator for guidance on the types of details required for contracts or arrangements that demonstrate the applicant has the greatest authority to introduce and implement operating and environmental policies. Queries should be directed to reporting@cleanenergyregulator.gov.au.

If you require assistance filling in the form or have any questions regarding this application process please contact the Clean Energy Regulator general enquiries line **1300 553 542** or reporting@cleanenergyregulator.gov.au.

Submitting this form

A signed copy of this form should be kept for your records.

By post

Post your completed application with any accompanying documentation to:

**Clean Energy Applications
Clean Energy Regulator
GPO Box 621
Canberra ACT 2601**

By email

Alternatively, email your scanned, completed application to the Clean Energy Regulator at reporting@cleanenergyregulator.gov.au.

If the email and its attachments (the application and supporting documents) are larger than 10MB, they must be sent using multiple emails that are clearly marked (ie by including an identifier in the subject line, eg '1 of 3', '2 of 3', '3 of 3'). The signed application form must be saved as a single scanned file and not split into parts. Files may be zipped to reduce their size.

If you submit your application by email, you do not need to send the original hardcopy of the application by post.

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Part A: Applicant details

i Provide the following details for the *corporation proposed to have operational control over the facility that is the subject of this application.*

1. Name of applicant corporation* (required)

Name	
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2. Head Office postal address* (required)

Address			
Suburb/City		State	
Country		Postcode	

3. Identifying details* (required)

- ▶ You must provide one of the following for the controlling corporation in order of precedence: ABN, ACN, ARBN or trading name and street address.

ABN	
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i If the controlling corporation does not have an ABN, please provide the controlling corporation's ACN.

ACN	
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i If the controlling corporation does not have an ABN or an ACN, please provide the controlling corporation's ARBN.

ARBN	
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i If the applicant does not have an ABN, ACN or an ARBN please provide the applicant's trading name and street address:

<input type="checkbox"/>	Tick here if the trading name and street address are the same as the trading name and head office postal address provided above and go to question 4 ▶		
OTHERWISE provide details below: ▼			
Trading name			
Street address			
Suburb/City		State	
Country		Postcode	

4. Details of a contact person for the applicant corporation (required)

- ▶ Tick appropriate title, or add other title in the space provided.

Title	<input type="checkbox"/>	Mr
	<input type="checkbox"/>	Mrs
	<input type="checkbox"/>	Miss
	<input type="checkbox"/>	Ms
Other	<input type="text"/>	

- ▶ Add full name details below:

Given name	<input type="text"/>
Middle name(s)	<input type="text"/>
Family name	<input type="text"/>

5. Contact details* (required)

Phone number	<input type="text"/>
Email address	<input type="text"/>

Applicant status

- ▶ This applicant corporation is:

the controlling corporation. Go to Part C ▶▶

OR a subsidiary of a controlling corporation. Go to Part B ▶

OR A joint venture. Go to Part B ▶

OR A partnership. Go to Part B ▶

Part B: Controlling corporation details

- Provide the following details for the controlling corporation of the applicant corporation.

Controlling corporation

6. Name of controlling corporation* (required)

Name	
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7. Head Office postal address* (required)

Address			
Suburb/City		State	
Country		Postcode	

8. Identifying details* (required)

You must provide one of the following for the controlling corporation in order of precedence: ABN, ACN, ARBN or trading name and street address.

ABN	
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i If the controlling corporation does not have an ABN, please provide the controlling corporation's ACN.

ACN	
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i If the controlling corporation does not have an ABN or an ACN, please provide the controlling corporation's ARBN.

ARBN	
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i If the applicant does not have an ABN, ACN or an ARBN please provide the applicant's trading name and street address:

<input type="checkbox"/>	Tick here if the trading name and street address are the same as the trading name and head office postal address provided above and go to question 9 ►		
	OTHERWISE provide details below: ▼		
Trading name			
Street address			
Suburb/City		State	
Country		Postcode	

9. Contact details for the controlling corporation* (required)

Phone number

Email address

Part C: Details of the facility

- ▶ Provide the following details for the facility that the applicant is proposed to have operational control over

10. Name of the facility* (required)

Name	
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11. Industry sector which the activity is attributable to under the NGER Regulations* (required)

ANZSIC	ANZSIC Code (3 digit)	Classification

12. Is the facility a Network facility?

No

Go to question 13 ▶

Yes

Go to question 12a ▼

12a. Facility geocode

- ▶ Provide details of the latitude and longitude of the site of the facility.

- ▶ Provide the co-ordinates for multiple sites if required.

	Latitude	Longitude	
Facility geocode			<i>Google Maps reference accepted for Geocoding: http://maps.google.com.au/</i>
Facility geocode			
Facility geocode			
Facility geocode			

13. Is the facility a Transport facility?* (required)

No

Go to question 14 ▶

Yes

Go to question 13a ▼

13a. State/Territory

- ▶ Which State or Territory are the activities constituting the facility attributed to?

State/Territory		Go to Part D ▶▶
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14. Other type of facility

- ▶ Provide the type and street address of other facility.

Type			
Street address			
Suburb/City		State	
Country		Postcode	

Or

- ▶ Provide a description of where the activity will be carried out.

Other description	
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- ▶ Provide the latitude and longitude of the principal activity

	Latitude	Longitude	
Facility geocode			<i>Google Maps reference accepted for Geocoding: http://maps.google.com.au/</i>

Part D: Details of other entities

15. Are there any other entities that are not a member of the applicant's corporate group that the applicant considers has the authority to introduce and implement operating, health and safety and/or environmental policies for the facility that is the subject of this application?

No

Go to Part E ►►

Yes

Go to question 15a ▼

15a. Entities

► How many other entities?

i *If there are more than two other entities, attach the equivalent information for each additional entity on a separate page or pages*

Number of entities

Entity 1

16. Name of other entity 1* (required)

Name

17. Head Office postal address* (required)

Address

Suburb/City

State

Country

Postcode

18. Identifying details* (required)

- ▶ You must provide one of the following for the controlling corporation in order of precedence: ABN, ACN, ARBN or trading name and street address.

ABN	
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ⓘ If the controlling corporation does not have an ABN, please provide the controlling corporation's ACN.

ACN	
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ⓘ If the controlling corporation does not have an ABN or an ACN, please provide the controlling corporation's ARBN.

ARBN	
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ⓘ If the applicant does not have an ABN, ACN or an ARBN please provide the applicant's trading name and street address:

<input type="checkbox"/>	Tick here if the trading name and street address are the same as the trading name and head office postal address provided above and go to question 19 ▶ ,		
	OTHERWISE provide details below: ▼		
Trading name			
Street address			
Suburb/City		State	
Country		Postcode	

19. Details of a contact person for other entity 1

- ▶ Tick appropriate title, or add other title in the space provided.

Title	<input type="checkbox"/> Mr
	<input type="checkbox"/> Mrs
	<input type="checkbox"/> Miss
	<input type="checkbox"/> Ms
Other	

- ▶ Add full name details below:

Given name	
Middle name(s)	
Family name	

- ▶ Provide the person's contact details:

Phone number	
Email address	

Entity 2

20. Name of other entity 2* (required)

Name	
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21. Head Office postal address* (required)

Address			
Suburb/City		State	
Country		Postcode	

22. Identifying details* (required)

- ▶ You must provide one of the following for the controlling corporation in order of precedence: ABN, ACN, ARBN or trading name and street address.

ABN	
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i If the controlling corporation does not have an ABN, please provide the controlling corporation's ACN.

ACN	
-----	--

i If the controlling corporation does not have an ABN or an ACN, please provide the controlling corporation's ARBN.

ARBN	
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i If the applicant does not have an ABN, ACN or an ARBN please provide the applicant's trading name and street address:

<input type="checkbox"/>	Tick here if the trading name and street address are the same as the trading name and head office postal address provided above and go to question 23 ▶		
	OTHERWISE provide details below: ▼		
Trading name			
Street address			
Suburb/City		State	
Country		Postcode	

23. Details of a contact person for other entity 2

- ▶ Tick appropriate title, or add other title in the space provided.

Title	<input type="checkbox"/>	Mr
	<input type="checkbox"/>	Mrs
	<input type="checkbox"/>	Miss
	<input type="checkbox"/>	Ms
Other	<input type="text"/>	

- ▶ Add full name details below:

Given name	<input type="text"/>
Middle name(s)	<input type="text"/>
Family name	<input type="text"/>

- ▶ Provide the person's contact details:

Phone number	<input type="text"/>
Email address	<input type="text"/>

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Part E: Period for which the declaration is sought

24. Proposed start date for the declaration


	Day (dd)	Month (mm)	Year (yyyy)	
Start date *	<input type="text"/>	<input type="text"/>	<input type="text"/>	<i>numbers only</i>

25. Proposed end date for the declaration

	Day (dd)	Month (mm)	Year (yyyy)	
End date *	<input type="text"/>	<input type="text"/>	<input type="text"/>	<i>numbers only</i>

Part F: Details of contracts or arrangements

In accordance with regulation 6.03(d) of the NGER regulations, attach to this application the details of any contracts or arrangements that show that the applicant has the greatest authority to introduce and implement operating and environmental policies for the facility that is the subject of this application.

 *List the equivalent information for any additional documents on a separate page*

Attachment A	<input type="text"/>
Attachment B	<input type="text"/>
Attachment C	<input type="text"/>
Attachment D	<input type="text"/>

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Part G: Signature

This form should be signed by the Chief Executive Officer or equivalent of the participant making the application.

Under Division 137 of the *Criminal Code Act 1995* it may be an offence to provide false or misleading information or documents to the Clean Energy Regulator in purported compliance with the *National Greenhouse and Energy Reporting Act 2007*.

Name *			
Title/Position *			
Organisation (required, if any)			
Phone number*		Alternate phone number (optional)	
Postal address			
Postal address			
Postal address			
Suburb/City		State	
Country		Postcode	

Signature *	
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	Day (dd)	Month (mm)	Year (yyyy)	
Signature date *				<i>numbers only</i>

Additional information

This document contains important terms that are found within the NGER Act. Refer to the NGER Act, in conjunction with the NGER Regulations, for the meaning of these terms and ensure that you correctly apply them to your particular circumstances.

The National Greenhouse and Energy Reporting Guidelines (the NGER Guidelines) have been developed to help corporations understand their obligations under the NGER Act and the NGER Regulations.

The NGER Act, NGER Regulations and NGER Guidelines may be obtained at the [Clean Energy Regulator](#) website.

Assessment of the Application

Once an application has been received, the Clean Energy Regulator will consider the application and the information provided.

For each application for a declaration of operational control, the Clean Energy Regulator will either:

- make a declaration, or
- refuse the application.

The Clean Energy Regulator may seek any further information required to inform the decision on the application, either from the applicant corporation or any other affected party.

Please ensure that all details provided in this application are accurate, up to date and complete. A declaration will only be made if complete information is provided.

There is no statutory timeframe for a decision regarding an application for a declaration of operational control.

The Clean Energy Regulator will notify the applicant in writing of the decision on the application.

Protection of information

The Clean Energy Regulator is bound by the secrecy provisions of Part 3 of the Clean Energy Regulator Act 2011 (CER Act) in regard to information it collects in relation to this application and also by the Privacy Act 1988 in regard to personal information it collects.

Privacy statement

'Personal information' is defined in the Privacy Act 1988 to mean information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- a) whether the information or opinion is true or not; and**
- b) whether the information or opinion is recorded in a material form or not.**

The collection of personal information relating to this application is authorised by the National Greenhouse and Energy Reporting Act 2007 (NGER Act) and the National Greenhouse and Energy Reporting Regulations 2008.

Personal information collected in relation to this application will be used for the purposes of assessing the application, auditing compliance, enforcement of relevant laws and regulations and for related purposes. We cannot process the application if we do not collect relevant personal information.

The Clean Energy Regulator's Privacy Policy contains information about the agency's procedures for handling personal information including how a person can access their personal information held by the agency, and how to seek correction of such information. The Privacy Policy also contains information about how to complain about

a breach of the Australian Privacy Principles. The Clean Energy Regulator's Privacy Policy can be found at www.cleanenergyregulator.gov.au.

Accessibility disclaimer

Whilst the Clean Energy Regulator has worked to ensure this document is accessible, please contact us to obtain an alternative version if you are having difficulty, or you have specific accessibility needs.

Please call 1300 553 542 or email the name of the form and your needs to enquiries@cleanenergyregulator.gov.au

Disclosure of information

The Clean Energy Regulator is only able to disclose information relating to this application (including personal information) in accordance with the Clean Energy Regulator Act 2011, the NGER Act, the Privacy Act 1988 or as otherwise required by law.

The circumstances in which such information may be disclosed include:

- Disclosure to other agencies, persons or organisations to enable the verification of information contained in the application;
- Disclosure to the Secretary or authorised officer of a Department for the purpose of administering a program or collecting statistics relating to greenhouse gas emissions, energy consumption or energy production;
- Disclosure to certain agencies, bodies or persons where the Regulator is satisfied that disclosure will enable or assist those agencies, bodies or persons to perform or exercise their functions or powers, including the Australian Securities and Investments Commission, the Australian Competition and Consumer Commission and the Commissioner of Taxation;
- Disclosure for the purposes of law enforcement; and
- Disclosure to States and Territories in accordance with the NGER Act.