

Explanatory note – large energy users’ scheduled activity premises

18 December 2017



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The Department of Environment, Land, Water and Planning develops policy for the [Victorian Energy Upgrades](#) program. The program provides incentives for Victorian households and organisations to make energy efficiency improvements that save money on their energy bills and reduce Victoria's greenhouse gas emissions

The Essential Services Commission administers the program as the ‘Victorian Energy Efficiency Target scheme’ under the *Victorian Energy Efficiency Target Act 2007*.

For more information, visit veet.vic.gov.au.

Contents

1. Introduction	1
1.1. Background	1
1.2. Overview	1
2. Register of scheduled activity premises	3
3. Administrative process	5
4. Considerations for specific stakeholders	7
4.1. Occupiers of scheduled activity premises	7
4.2. Accredited persons	8
4.3. Relevant entities	9
5. Potential issues	11
5.1. Treatment of SAPs	11
– 5.1.1. Ownership changes	11
– 5.1.2. Change in site purpose	11
– 5.1.3. Multiple occupiers/multiple buildings	11
– 5.1.4. Multiple addresses	11
5.2. Address issues	12
6. Legal context for this document	13
Appendix A	14

1. Introduction

1.1. Background

The Victorian Energy Efficiency Target Act 2007 (the Act) and the *Victorian Energy Efficiency Target Regulations 2008* (the Principal Regulations) establish the Victorian Energy Efficiency Target (VEET) scheme. This scheme allows for accredited businesses, known as accredited persons (APs), to create Victorian energy efficiency certificates (VEECs) when they help energy consumers make selected energy efficiency improvements to their homes, business premises or other non-residential premises.

Prior to 1 August 2017, premises of large energy users, which were previously registered participants in the *Environmental Protection Agency's Environment and Resource Efficiency Plans (EREP) program*, were excluded from the VEET scheme. The introduction of amended Principal Regulations on 1 August 2017 provides for new arrangements for these premises (called scheduled activity premises in the Principal Regulations) within the VEET scheme.

1.2. Overview

The Principal Regulations define scheduled activity premises (SAP) to be premises at addresses identified in two tables under Schedule 37 (Part 1 and Part 2), as well as other premises in relation to which there was, on 29 June 2014, an entry on the register kept under section 26F of the Environment Protection Act 1970. Together these provisions define all sites which were previously registered participants in the EREP program to be SAPs.

These SAPs are excluded from the VEET scheme unless the entity who occupies the premises provides the Essential Services Commission (the commission) with written notice that the SAP wishes to 'opt-in' to the scheme. SAPs which 'opt-in' to the VEET scheme are eligible to create and register VEECs for eligible upgrades undertaken at their premises. However, premises which 'opt-in' to the VEET scheme, also become prescribed customers for the purposes of the definition of scheme acquisition in the Act (i.e. the premises creates a liability for their energy retailer in respect of electricity and/or gas consumed at those premises) only following the registration of Victorian energy efficiency certificates (VEECs) for the premises. The premises then become a prescribed customer on 1 January of the second calendar year after the calendar year in which a certificate is first registered. For example, a premises which creates VEECs and has those VEECs registered in November 2017 will become a prescribed customer, and first create a liability for its energy retailer, from 1 January 2019. Energy retailers may then pass through the costs of the liability to the SAP from this date.

SAPs which do not 'opt-in' to the VEET scheme will continue to be excluded from the VEET scheme. This means that SAPs are not eligible to create VEECs under the scheme. They also do not create a liability under the scheme for their energy retailer.

Occupiers of SAPs who have opted in and wish to create VEECs in the VEET scheme will either need to become an accredited person (AP) or work with an AP to create VEECs in respect of activities carried out at the premises. For more information on how to participate in the VEET scheme, please refer to the VEET website (www.veet.vic.gov.au).

2. Register of scheduled activity premises

We will be publishing a Register of scheduled activity premises (the Register of SAP) on its website to provide stakeholders with the information necessary to determine which premises are SAPs. This register includes all addresses listed in Schedule 37 of the Principal Regulations (Part 1 and 2), as well as addresses of other premises which were participants of the EREP program.

In compiling the Register of SAP, we have included addresses of premises for which relevant entities have claimed exemptions in their 2015 and 2016 Annual Energy Acquisition Statements pursuant to Section 33 of the Act, and Regulation 12(2) of the Principal Regulations (i.e. addresses of sites which have been submitted by relevant entities as being EREP premises for either of the 2015 and 2016 compliance years).

The following information is included on the Register of scheduled activity premises in respect of each premises:

- the company name of the occupier of the SAP
- the address of the premises
- the site descriptor of the SAP – this may be necessary where a premises does not possess a complete address and/or to provide a reference back to the Schedule 37 list
- the status of the SAP – there are four possible statuses for each premises: null, 'Notice Made', 'VEECs Registered' and 'Prescribed Customer' (Table 1 provides a description of these)
- the date the notice was made by the SAP to opt-in to the scheme
- the date the VEECs were first registered in respect of the SAP
- the date on which the occupier of the SAP becomes a prescribed customer under the Act.

Table 1 below provides a description of each status. In addition, section 4 below details when a status change occurs in respect of the SAP.

Table 1: SAP status descriptions

Status	Description
Null	SAP is excluded from the VEET scheme.
Notice made	Occupier of the SAP has successfully provided notice to the commission to opt-in to the VEET scheme. A prescribed activity under the VEET scheme can be undertaken for premises with this status and VEECs created following the completion of the upgrade activity.
VEECs registered	VEECs have been successfully created and registered for prescribed activities undertaken at the premises. SAPs with this status are eligible to undertake further prescribed activities under the VEET scheme.

Status	Description
Prescribed Customer	Occupier of the SAP has become a prescribed customer for the purposes of the definition of scheme acquisition in the Act. The energy consumed at this premises will be included in the liability calculations of their energy retailer (i.e. relevant entity) under the Act.

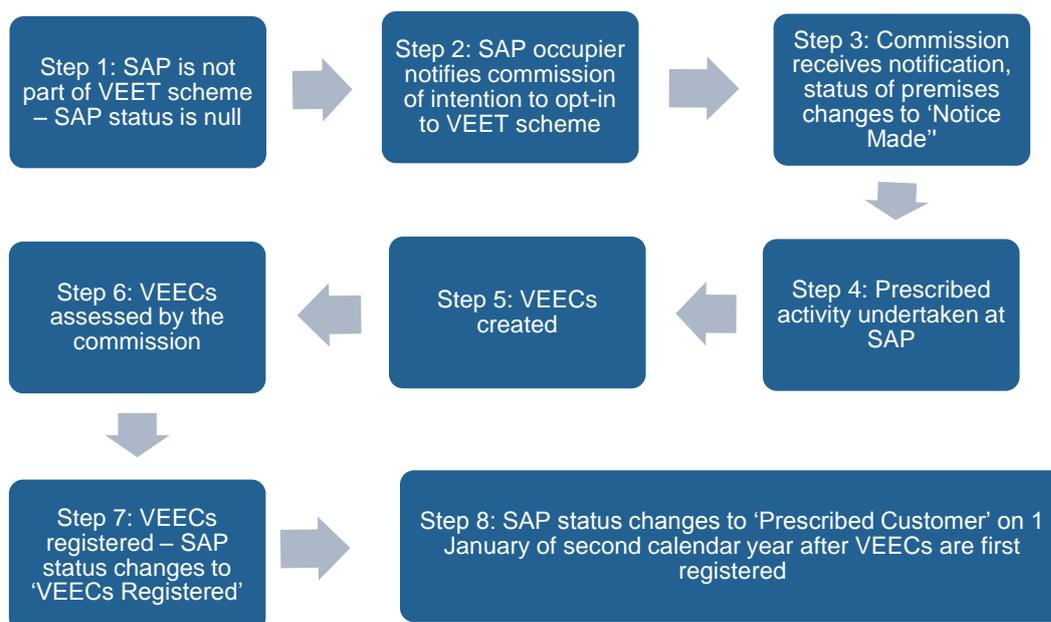
We will make all reasonable endeavours to maintain this register accurately. However, those accessing the register are responsible for making their own assessment of the information and for verifying such information. All information on the register is subject to change without notice. It remains the responsibility of the AP to ascertain whether or not a premises is a SAP from the energy consumer occupying the premises prior to undertaking a prescribed activity under the VEET scheme.

3. Administrative process

The Principal Regulations provide the requirements for the commission to administer in respect of a SAP's involvement in the VEET scheme.

Figure 1 provides an overview of our administrative process in respect of a SAP's involvement in the VEET scheme. An explanation for each step is provided below.

Figure 1: SAP administrative process



Step 1: SAP is not part of VEET scheme - SAP status is null

The Principal Regulations (Regulation 10(1)(ab)) exclude all SAPs from the VEET scheme unless the occupier of the SAP notifies the commission of their intention to opt-in to the scheme pursuant to Regulation 10AA. All SAPs which have not opted-in are listed in the Register of SAP as having an initial status of null.

Step 2: SAP occupier notifies commission of intention to opt-in to VEET scheme

An occupier of a SAP may opt-in to the VEET scheme by providing notice to the commission of their intention to undertake a prescribed activity at SAP pursuant to Regulation 10AA. Where the premises are occupied by a body corporate, the chief financial officer (CFO) (however described) for the body corporate, or otherwise an occupier of the premises, must provide notice by using the

notification to undertake a prescribed activity template available on the energy consumer page of the VEET website.

Step 3: Commission receives notification, status of premises changes to 'Notice Made'

We will change the status of a SAP on the Register of SAP from null to 'Notice Made' upon receipt of successful notification. In assessing the validity of the notification, the commission may seek to confirm the person providing the notification has the requisite authority to do so.

Prescribed activities are not to be undertaken at a premises until a successful notification is made to the commission (i.e. until the SAP status on the Register of SAP has changed from null to 'Notice Made'). If the activity is undertaken prior to this occurring, VEECs are not eligible to be registered for the activity. This is an important consideration for occupiers of SAPs and accredited persons (APs) undertaking prescribed activities for that SAP.

Step 4: Prescribed activity undertaken at SAP

Once notification is made pursuant to Regulation 10AA, an AP is able to undertake a prescribed activity under the VEET scheme at the SAP. It is the responsibility of the AP to secure confirmation from the occupier of the premises that this has occurred.

All non-residential prescribed activities under the VEET scheme, including project-based activities, are available to be undertaken at a SAP. For a list of these activities, please refer to the VEET website.

Steps 5, 6 & 7: VEECs created, assessed by the commission and registered – SAP status changes to 'VEECs Registered'

Upon completion of a prescribed activity at a SAP, an AP may create VEECs for the activity. The commission will assess the creation of VEECs and will make a decision whether to register VEECs. Once VEECs have been created and successfully registered for that activity at the SAP, the status of the SAP on the Register of SAP will change to 'VEECs Registered'.

Step 8: SAP status changes to 'Prescribed Customer' on 1 January of second calendar year after VEECs are first registered

On 1 January of the second calendar year after a VEEC is first registered at a SAP, the premises becomes a prescribed customer for the purposes of the definition of scheme acquisition in the Act. This means that the relevant entity will not be able to claim an exemption for the energy consumed at the SAP in respect of their liability under the Act and Principal Regulations. The status of a SAP on the Register of SAP changes to 'Prescribed Customer' on this date.

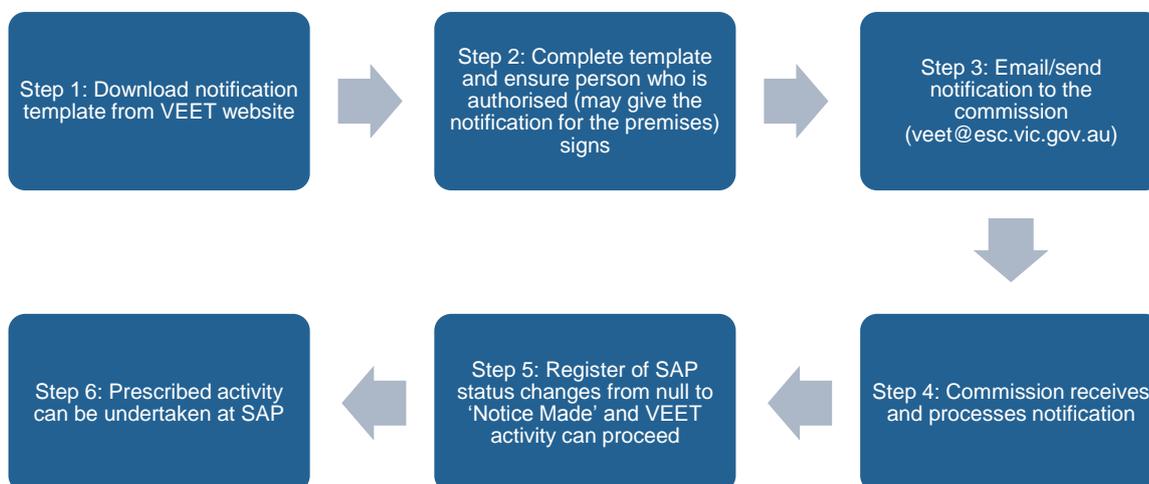
4. Considerations for specific stakeholders

4.1. Occupiers of scheduled activity premises

Occupiers of SAPs are excluded from the VEET scheme unless they opt-in to the scheme by providing the commission with notification in the manner required by the commission. SAPs which 'opt-in' to the VEET scheme are able to create and register VEECs for eligible activities undertaken at their premises. However, premises which 'opt-in' to the VEET scheme also become prescribed customers for the purposes of the definition of scheme acquisition in the Act (i.e. the premises creates a liability for their energy retailer in respect of electricity and/or gas consumed at the premises) following the registration of VEECs for the premises. The premises become a prescribed customer on 1 January of the second calendar year after the calendar year in which a certificate was first registered. Energy retailers may then pass through the costs of the liability to the SAP.

Prior to opting-in to the VEET scheme, an occupier of a SAP should seek legal advice in relation to the implications for their energy retail contracts and/or discuss their VEET liability with their energy retailer. If an occupier of a SAP decides to opt-in to the VEET scheme, they must follow the steps in Figure 2 to provide effective notice to the commission.

Figure 2: SAP opt-in notification process



Steps 1, 2 & 3: Download, complete and send notification template to the commission

An occupier of the SAP must make the notification using the [Notification to undertake a prescribed activity template](#), available from the VEET website. The notification must be completed by the person with the requisite authority. The notification must include information on all National

Metering Identifiers (NMI) and/or Meter Installation Registration Numbers (MIRNs) which are located on the premises for which the opt-in notification applies.

If the SAP is occupied by a body corporate, this notification must be completed by the chief financial officer (CFO) (however described) for the body corporate, or otherwise the occupier of the premises. The signed notification should be emailed to the commission via the VEET inbox at veet@esc.vic.gov.au.

Step 4: Commission receives and processes notification

In assessing the validity of the notification, we may seek to confirm the person providing the notification has the requisite authority to do so. If the commission requires further information or clarification, an officer may contact the person who made the notification.

Step 5: Register of SAP status changes from null to 'Notice Made' and VEET activity can proceed

Once we accept the notification as being valid, the status of the premises on the Register of SAP will change from null to 'Notice Made'. The date the notification was made will also be published on the register. The commission will also advise the occupier of the SAP in writing when it accepts the notification as being valid.

Step 6: Prescribed activity can be undertaken at SAP

Once the above steps are completed, a prescribed activity under the VEET scheme can be undertaken at the SAP. It is important for the occupier of the SAP to await the change in status of the premises on the Register of SAP to 'Notice Made' before proceeding with the VEET activity in order to avoid the risk of VEECs created for that premises being ineligible for registration under the VEET scheme.

4.2. Accredited persons

An occupier of a SAP may choose to become an accredited person (AP) under the VEET scheme in order to create VEECs in respect of the prescribed activity at their premises. Alternatively, the SAP may contract an existing AP under the VEET scheme to create and register VEECs on their behalf. The AP may also be contracted to carry out the prescribed activity on behalf of the SAP.

If you are interested in becoming an AP under the VEET scheme, please refer to the [Explanatory note – lodging an application for accreditation](#) available on the VEET website.

It is the responsibility of the AP to ascertain whether or not a premises is a SAP from the occupier of the premises prior to undertaking a prescribed activity under the VEET scheme. Where the activity premises are a SAP, the AP will need to seek confirmation from the occupier of the

premises that they have provided the commission with written notice pursuant to Regulation 10AA of the Principal Regulations. It is important for the AP to check that the status of a SAP on the Register of SAP is not null (i.e. the premises either has a status of 'Notice Made', 'VEECs Registered' or 'Prescribed Customer').

All non-residential VEET activities, including project-based activities, are available to be undertaken at SAPs. All non-residential assignment form requirements have been amended to ensure APs and consumers confirm whether a premises is a SAP as part of the assignment of rights from the consumer to the AP. All assignment forms used by APs need to be amended to ensure compliance with the SAP administrative requirements.

4.3. Relevant entities

All SAPs are initially excluded from the VEET scheme, and accordingly, their energy consumption remains excluded from their relevant entity's liability under the scheme. However, under the amended Principal Regulations, an occupier of a SAP may choose to opt-in to the scheme. Once the SAP becomes a 'prescribed customer'¹, a VEET liability exemption no longer applies and the relevant entity must include the electricity and/or gas acquisitions from the premises in their annual energy acquisition statement calculation.

It is the responsibility of the relevant entity to review the commission's Register of SAP to determine whether any of the premises of their customers have had VEECs registered in respect of the premises and/or have become prescribed customers during the year. The relevant entity must ensure that any changes to the status of a SAP are accounted for when completing the annual energy acquisition statement process.

Relevant entities should contact the commission on veet@esc.vic.gov.au if they have any queries relating to the status of any SAP on the Register of SAP and the effect on their scheme acquisitions for the year.

The following documents dealing with relevant entities' compliance with the Act and Principal Regulations have been amended to reflect the new requirements relating to SAPs:

- *Explanatory note - relevant entities: preparation and audit of annual energy acquisition statements.*
- *Explanatory note - relevant entities: calculation of scheme acquisitions.*

¹ The premises become a prescribed customer on 1 January of the second calendar year after the calendar year in which a certificate was first registered

Relevant entities should familiarise themselves with these amended documents to ensure compliance with the Act and the Principal Regulations.

5. Potential issues

5.1. Treatment of SAPs

5.1.1. Ownership changes

The regulations relating to SAPs apply irrespective of ownership changes in respect of premises following the closure of the EREP program. Accordingly, all premises which were previously participants of the EREP program remain a SAP even if the new owner or occupier of the premises was not the registered company for the premises under the EREP program. Accordingly, the new owner and/or occupier of these premises will need to provide written notification to opt-in to the VEET scheme pursuant to Regulation 10AA of the Principal Regulations.

5.1.2. Change in site purpose

The commission is aware that there may be premises which will undergo a significant change in purpose since its inclusion in the EREP program. Where a premises has changed significantly in purpose, for example, a factory that has been subdivided into housing blocks, the premises should no longer be treated as a SAP. The commission will need to confirm the change of use and decide if it is sufficient to justify the change in the premises' SAP status.

If you have questions about the status of a SAP which has been repurposed, please contact VEET Support on veet@esc.vic.gov.au.

5.1.3. Multiple occupiers/multiple buildings

The commission is aware that there may be premises which are SAPs which may be occupied by multiple occupiers and/or premises which consist of multiple buildings. If you are an occupier of such a premises and wish to ascertain your eligibility under the VEET scheme, please refer to Appendix A for the commission's position on the various multiple occupiers/multiple buildings scenarios. If you still have questions after reviewing the information contained in Appendix A, please contact VEET Support on veet@esc.vic.gov.au.

5.1.4. Multiple addresses

There are some premises which are a SAP which occupy multiple sites, at multiple addresses. An example of this are the premises associated with a university campus. Although these premises are noted as a single address entry in Schedule 37, there are multiple sites associated with these premises. Each individual address is treated as a discrete SAP for the purposes of administering the SAP requirements of the Principal Regulations. Accordingly, the Register of SAP lists each discrete address for SAP which occupy multiple sites.

Occupiers of a SAP which occupies multiple sites need to provide the commission with a written notification to opt-in for each individual site address. When undertaking a prescribed activity at an individual site, the VEECs registered for the individual site will only affect the VEET liability of that individual site.

5.2. Address issues

The commission is aware that the Register of SAP may contain inaccuracies in respect of the addresses of premises listed in the register. Given the EREP program is a legacy program, it has not been possible for the commission to ascertain with complete confidence the specific address details of all premises which were previously participants of the program. The commission has used its best endeavours to obtain an accurate list of addresses, including validating addresses through our address validation software, seeking confirmation of address details from the relevant entities (i.e. energy retailers) which claimed exemptions for these premises in the 2015 and 2016 compliance years, and seeking confirmation of the address details from the occupiers of these premises.

The commission is also aware that we may not always be informed of ownership changes and therefore the register may contain inaccurate information in respect of the site owner from time to time. The commission will use its best endeavours to update the register for any ownership changes which they are advised of, either by the site owner, or by the relevant entities as part of their annual energy acquisition statement process.

All information on the register is subject to change without notice. It is the responsibility of the accredited person to ascertain whether or not a premises is a SAP from the occupier of the premises prior to undertaking a prescribed activity at those premises under the VEET scheme.

If you are aware of any inaccuracies in the details of premises listed on the Register of SAP, please contact us on veet@esc.vic.gov.au.

6. Legal context for this document

We have prepared this explanatory note document as a general summary of relevant parts of the:

- *Victorian Energy Efficiency Target Act 2007*
- *Victorian Energy Efficiency Target Regulations 2008*
- *Victorian Energy Efficiency Target Scheme Guidelines*.

This document should not be relied upon as substitute for legal advice and should be read in conjunction with the above source documents. In the event of inconsistency between this explanatory note document and the above source documents, the content in the source documents takes precedence.

Appendix A

The following scenarios provide guidance as to the way the commission will treat particular situations where a SAP may apply to become part of the VEET scheme.

SAP situation	Commission's position
SAP site has single occupier and multiple NMIs and/or MIRNs (either across one building or multiple buildings on the site)	<p>In this situation, the opt-in notification would cover the whole site. There cannot be partial opt-in in this situation.</p> <p>Once VEECs are registered at the site, all energy and/or gas metered at the site's NMIs and/or MIRNs will be counted as scheme acquisition.</p>
SAP site has multiple occupiers with individual part site leases (e.g. separate leases for building A, building B and building C) on the same SAP site but the one NMI or MIRN for the site.	<p>In this situation, the opt-in notification would need to be made by the owner of the SAP site. The notification would cover the whole site. There cannot be partial opt-in in this situation.</p>
SAP site has multiple occupiers with individual part site ownership or leases (e.g. separate leases for building A, building B and building C). Occupiers have their own NMI or MIRN	<p>In this situation, each occupier with their own NMI or MIRN will be treated as a separate SAP for the purpose of opting-in to the VEET scheme.²</p> <p>Where a premises opts in because the NMI is separate but the MIRN is shared or the MIRN is separate but the NMI is shared, then the shared meter will be treated as continuing to be part of the SAP site and excluded from the site occupier's scheme acquisition.</p>

² Premises with an off-market meter (such as those connected to an embedded network) are not eligible to create VEECs unless the owner/occupier of the site opts in. To opt in, the occupier needs an individual NMI or MIRN.

Document version control

The RM reference for this document is: C/17/2014

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1.0	First release of document with introduction of regulation.	1 August 2017
2.0	Updated to new template. Amendment to section 5 and inclusion of Appendix A.	18 December 2017