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Mr Owen Pascoe  
Director  
Australian Energy Market Commission  
PO Box A2449  
Sydney South NSW 1235

**Electronic Lodgement:** <http://www.aemc.gov.au>

**AEMC, REVIEW OF REGULATORY ARRANGEMENTS FOR EMBEDDED NETWORKS, DRAFT REPORT, 12 SEPTEMBER 2017, SYDNEY  
REFERENCE: RPR0006**

The Caravan, Camping & Touring Industry & Manufactured Housing Industry Association of NSW Ltd (CCIA) is the State's peak industry body representing the interests of holiday parks, residential land lease communities (residential parks, including caravan parks and manufactured home estates), manufacturers and retailers of caravans, RVs, motorhomes and camping equipment and manufacturers of relocatable homes.

We currently have as members 713 businesses representing all aspects of the caravan and camping industry. Of these, 469 members are holiday park and residential land lease community operators in various areas of New South Wales (NSW).

Under the Australian Energy Regulator's (AER) *Electricity Network Service Provider Registration Exemption Guideline Version 5 (Network Guideline)* and *(Retail) Exempt Selling Guideline Version 4 (Retail Guideline)* our holiday park and residential land lease community members are classified as follows:

<b>Embedded Network Type</b>	<b>AER Exemption Classes</b>
Operator selling metered energy to occupants of holiday accommodation on a short-term basis in a caravan/holiday park	Class <b>D3</b> of the Retail Guideline and Class <b>ND3</b> of the Network Guideline  Do not need to register their details with the AER, however are required to comply with Conditions attached to their exemption
Operator selling metered energy to residents who principally reside in the caravan park/residential park or manufactured home estate	Class <b>R4</b> of the Retail Guideline and Class <b>NR4</b> of the Network Guideline  Must register their details with the AER and comply with Conditions attached to their exemption
Operator selling metered energy to occupants of holiday accommodation on a short-term	Class <b>R4</b> of the Retail Guideline and Class <b>NR4</b> of the Network Guideline

<p>basis <b>as well as</b> residents who principally reside in the caravan/holiday park (mixed park)</p>	<p>Must register their details with the AER and comply with Conditions attached to their exemption</p> <p><b>NOTE:</b> <i>Even if a caravan park has only 1 permanent resident, they are required to register their details with the AER under Class <b>R4</b> of the Retail Guideline and Class <b>NR4</b> of the Network Guideline, even though the majority of their customers are holiday makers.</i></p>
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For the purpose of these submissions, wherever we refer to “holiday parks” we are referring to caravan parks that only supply energy via an embedded network to occupants of holiday accommodation on a short term basis (i.e. there are no permanent residents in these caravan parks). Wherever we refer to “residential land lease communities” we are referring to residential parks, including caravan parks and manufactured home estates, that supply energy via an embedded network to residents who live there. This includes caravan parks that supply energy to as few as 1-2 residents (mixed parks) right through to residential land lease communities that are exclusively residential.

As the peak industry body representing holiday parks and residential land lease communities in NSW with embedded electricity networks, the CCIA is an important stakeholder in relation to the AEMC’s Review of Regulatory Arrangements for Embedded Networks Draft Report, 12 September 2017 (Draft Report). Accordingly, we welcome the opportunity to provide a response to the draft proposals. Our submissions on each of the proposed changes are set out below under corresponding headings.

### Industry Position

We note the AEMC’s reasons for finding that the current regulatory framework for embedded networks is no longer fit for purpose, particularly due to the practices of some unscrupulous embedded network operators (we understand many of them to be in the Queensland apartment market). Further, the submissions from some stakeholders on the AEMC Review of Regulatory Arrangements for Embedded Networks Consultation Paper, 11 April 2017 (Consultation Paper) indicate that consumer protections, compliance and enforcement, and measures to facilitate better access to retail market competition need to be strengthened for some embedded network types. We can see that several of the proposals in the Draft Report would contribute to that goal.

However, we are concerned that the proposals put forward in the Draft Report will not promote the “*efficient investment in, and operation of, electricity services for the long-term interests of consumers*” in NSW holiday parks and residential land lease communities. Aspects of the proposed changes are likely to impose an unnecessary compliance burden and costs (many of which are currently unknown to stakeholders) on the operators of these embedded networks.

The AEMC’s starting proposition is that “*energy is an essential service and all energy consumers should generally receive the benefit of the same core set of consumer*

*protections.” Further, “any differences in the level of consumer protections a customer receives should be based on the nature of the service and the needs of the consumer, not the business model of their supplier.”<sup>1</sup>*

However, the nature of the services provided by holiday parks and residential land lease communities to customers in NSW, and the different needs of these customers, warrant a separate consideration of the regulatory approach. To ignore these business models entirely, the state based legislation that governs them and the bundle of services they provide their customers would be a disservice to these energy consumers.

The AER acknowledges this issue in its submission on the AEMC’s Consultation Paper:

*“...while we support the principle that energy customers should receive the same protections whether from a retailer or exempt seller, we also recognise it is unworkable for many ENOs to comply with the full suite of consumer protections and obligations of authorised retailers. In particular, ENO relationships with customers are more complex than a traditional retailer/customer relationship, as ENOs often provide other services and may also be landlords. ENOs also operate in a monopolistic environment, unlike retailers. As such, it is important that the framework remains flexible and recognises that businesses requiring exemptions are distinct from retailers.”<sup>2</sup>*

As such, the AER noted the importance of the exemptions framework remaining flexible and recognising that businesses requiring exemptions are distinct from retailers.<sup>3</sup>

## **Background**

As outlined in earlier submissions, most holiday parks and residential land lease communities in NSW are older developments that have evolved over time. The embedded networks within them have come about through circumstance, as opposed to a conscious business decision to develop an embedded network that factors in the development and maintenance costs, including the new requirements for appointing an Embedded Network Manager (ENM). In many cases, the infrastructure is older and owned by the park operator.

Traditionally, caravan parks and camping grounds were associated with low-cost accommodation for tourists and ‘transients’, but they have also existed as a source of low-cost housing since at least the 1930s.

Many caravan parks were originally camping grounds on reserves of Crown land in coastal areas outside the capital cities, squatted by people who had lost their homes and who had no housing alternative to living in tents, shacks and vans. The reserves were converted to caravan parks after the Second World War and maintained by local councils, although most parks had little in the way of communal facilities.<sup>4</sup>

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<sup>1</sup> AEMC Presentation Slides, *Review of Embedded Networks, Draft Report, Public Forum, 4 October 2017*

<sup>2</sup> Australian Energy Regulator, *Submission on regulatory arrangements for embedded networks, 17 May 2017, p 10*

<sup>3</sup> *Ibid.*

<sup>4</sup> Social Policy Research Centre, *The Provision of Commonwealth Rent Assistance to Residents of Non-Standard Forms of Accommodation for Older People, University of New South Wales, 2010, pp17-18.*

In 1986 legislation was passed which finally legalised long-term occupancy of sites and set minimum standards for caravan park residency. And in 1992 State Environmental Planning Policy (SEPP) 21 – Caravan Parks was introduced, encouraging “the orderly and economic use and development of land used or intended to be used as a caravan park catering exclusively or predominantly for short term residents (such as tourists) or for long-term residents, or catering for both.”<sup>5</sup>

The Residential Tenancies Act 1987 (RT Act) originally covered permanent residents of residential parks. However, it later became clear that there were so many differences between tenancies in parks and other residential tenancies that separate legislative provisions were necessary. As a result, the Residential Parks Act 1998 (RP Act) was introduced and started in March 1999 providing further protections for specifically for park and estate residents, including protections for energy consumption.

Although corporate ownership is increasing, many holiday parks and residential land lease communities remain in private ownership. They are small and medium family businesses where the on-selling of energy via an embedded network is genuinely ancillary to their core functions. The operators of these parks and communities know the residents well and in many cases, they live with them on site.

Holiday parks and residential land lease communities are not large, faceless landlords who try and avoid their obligations to properly manage the embedded network. They are highly regulated in NSW and, more importantly, many do not have the luxury of aggregating additional compliance costs of a more burdensome regulatory regime across multiple parks or communities.

There is also a mixture of parks and residential land lease communities that must be considered:

- ) High quality caravan parks used exclusively for tourist accommodation (holiday parks). These parks provide resort type facilities, including cabins, powered sites, unpowered camping sites, toilet and shower amenities, laundry facilities, swimming pools, water features, jumping castles, boat ramps, kayak and bicycle hire.
- ) Caravan parks that cater for niche markets, such as grey nomads who travel for long periods of time in their motorhomes and caravans, or ‘long-term casual occupants’ who own their caravans and rent a short time site for holiday use only (no more than 180 days in a year under local government regulations). These parks can also have resort type facilities or more basic facilities.
- ) Some caravan parks operate by providing tourist accommodation in summer periods and in winter the park owner rents out vans to itinerant workers and people in need of short term accommodation.
- ) On the other hand, there are caravan parks that have a mixed clientele all year – tourists, home owners and renters – but the population generally swells with more tourists in summer. Here, there are no marginal caravan dwellers. People freely choose to live in these caravan parks.

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<sup>5</sup> Section 3(1)(a).

- J) However, other caravan parks can have marginal caravan dwellers, where the sites are used as permanent accommodation for people in crises, such as domestic violence victims or unemployment.
- J) There are also residential land lease communities which are exclusively residential and operate like gated communities, offering a high standard of living for over 55's. They provide for high quality standalone manufactured homes and resort style facilities, including bowling greens, libraries, swimming pools and community halls.

In holiday parks and residential land lease communities, 'price,' 'quality,' 'safety' and 'reliability' are not concepts that are exclusive to electricity. For permanent residents they are important considerations for everyday life. The viable operation of a residential land lease community is fundamental to the livelihood of its residents.

Many people choose to live in caravan parks and residential land lease communities for lifestyle or locational reasons. However, caravan parks are also used as an affordable housing option for low to moderate income earners and those on fixed incomes, such as seniors and people on a disability support pension. Some parks also provide accommodation for itinerant workers, people who have been locked out of the house and land rental market for various reasons and those who cannot afford to buy a home.

Like any business, holiday parks and residential land lease communities need to cover their costs to remain viable. Therefore, any additional costs they will face as a result of the AEMC's review, will eventually flow through to their customers, including low-income residents, seniors and retirees. If residential land lease community operators are burdened with further compliance costs it will impact upon housing affordability as they seek to recoup these costs through increasing site rents. In addition to capping energy costs for residents, the limitations on energy usage and service availability charges in NSW mean there is no other way for operators to offset this cost.

We therefore strongly urge the AEMC to give serious consideration to what additional benefits the proposed changes will really bring for these customers. Residential land lease communities are an important part of the housing mix across NSW. They provide an affordable housing choice for many people, who develop strong networks of support within their park that they value highly.

We would also like to reiterate the sentiments of other attendees at the AEMC's public stakeholder forum on 4th October 2017 in Sydney. The changes to be implemented by the AEMC's National Electricity Amendment (Embedded Networks) Rule 2015 (Embedded Networks Rule Determination) are yet to take effect from 1 December 2017. We agree with the other stakeholders that this review is coming too 'hot on the heels' of that rule change.

Many stakeholders, including the AER, agree that the AEMC's Embedded Networks Rule Determination will go a long way to assist customers to seek their energy supply from a retailer of choice. It should be given sufficient time to take effect to properly inform the AEMC's next steps. Only then can a proper assessment be made of how well the new role performs in practice and the extent of the benefits brought to off-market customers.

We therefore ask COAG and the AMEC to reconsider the timeframe for this review. Despite this, please see below for comments on the proposed changes.

## Improving Access to Competition for Customers in Legacy Embedded Networks

### **Requiring Embedded Network Managers to Register Off-Market Meters**

The AEMC has indicated that in order for a retailer to provide an accurate quote to a consumer it requires access to National Metering Identifier (NMI) Standing Data. Thus, it is proposed that where there is an ENM appointed, child embedded network customer connections should be issued with NMIs, registered by the Australian Energy Market Operator (AEMO) in the market settlement and transfer solution (MSATS) system and discoverable by retailers, regardless of whether the customer is on- or off-market.

ENMs would be required to:

- ) Apply to AEMO for NMIs for off-market metering installations
- ) Register the NMI for off-market metering installations with AEMO (i.e. in MSATS)
- ) Maintain information in the metering register (i.e. NMI standing data in MSATS) about whether the meter complies with the current National Energy Market (NEM) requirements.

Page 63 of the Draft Report states the AEMC *“does not does not consider that an additional requirement to assign a NMI to each off-market metering installation and to enter its NMI standing data into the MSATS system is onerous or disproportionate where an ENM has been appointed. We think that an ENM will have the capability to register and manage NMIs, but that requiring small embedded network service providers without an ENM to register and manage NMIs may be an unreasonable impost.”*

While we appreciate consideration of delaying this requirement until an ENM has been appointed, we question the need for this additional task in holiday parks and residential land lease communities, particularly in mixed parks (i.e. parks that have a mixture of tourists, home owners and renters) where holiday makers out number permanent residents. If a permanent resident seeks to go on-market and this triggers the appointment of an ENM, will the ENM be required to issue NMIs to child meters on holiday sites as well as residential sites? What if the particular park only has 1-2 permanent residents? There needs to be clarity on the approach for mixed parks.

Page 48 of the AEMC’s Embedded Networks Rule Determination states:

*“There are also some embedded networks where the benefits of appointing an embedded network manager before a customer seeks to go on-market are likely to be less than the costs. For example, an embedded network with only two customers is less likely to have a customer seek to go on-market than an embedded network with one hundred customers and therefore the potential benefits of appointing an embedded network manager may be smaller. In these situations embedded network operators should not be required to appoint an embedded network operator before a customer seeks to go on-market.”*

As a result, the AEMC’s Embedded Networks Rule Determination took a more flexible approach – giving the AER the ability to decide when an ENM must be appointed by

an embedded network operator. One of the advantages cited was “*embedded network operators operating embedded networks where the likelihood of customers seeking to go on-market is low will not be required to bear the costs unless a customer seeks to go on-market.*”<sup>6</sup>

Page 49 of the AER’s Network Guideline states:

*“We have omitted classes ND3 and NR4 from the relevant activity classes. These classes concern short-term rental accommodation (as is common in tourism) residential land lease and manufactured home sites. For class ND3, we do so on the basis that the transient nature of those tenancies makes it unlikely that there would be sufficient opportunity to offset the transaction costs of appointing an ENM. For class NR4, we are satisfied that the price control effect of State based legislation (where it exists) makes the costs of an immediate appointment of an ENM unlikely to outweigh the benefits of an early appointment.”*

Once an ENM is appointed to an embedded network within a NSW holiday park or residential land lease community, we see no real consumer detriment if NMI’s were obtained by the ENM for the child meters on an ‘as needed’ basis. If the task is simply administrative, then this should not cause any real delay to the customer and would not preclude the operator from directing the ENM to obtain NMI’s for all child meters if that was their preferred business decision.

This would be a fair and equitable approach, particularly given there is currently no information available as to who will be an accredited ENM nor what the costs will be.

Stakeholders at the AEMC’s public forum on 4 October 2017 suggested the costs of the ENM are likely to be charged on a ‘per site’ basis. If this is the case, then any additional costs incurred by the embedded network operator should not be incurred until they are necessary for a particular site. NSW residential land lease communities also have the ability to price-match under the AER’s Network Guideline.

Despite the above, without being a participant in the energy markets operated by AEMO and fully understanding how the MSATS system works, we are concerned that the embedded network infrastructure in holiday parks and residential land lease communities will present practical difficulties for this proposal.

Stakeholders have indicated that in many cases to go on-market a customer will have to bear the cost of removing the embedded network meter and installing a meter that is ‘visible’ in the NEM settlement process. Is such ‘visibility’ required to comply with the AEMC’s proposal? Is particular communication capability required? Or is the process of issuing child embedded network customer connections with NMI’s, having them registered by the AEMO in the market settlement and transfer solution (MSATS) system and ‘discoverable’ by retailers simply an administrative, data entry task?

Some infrastructure in NSW holiday parks and residential land lease communities is fairly new, but much of it is older and has been extended or added-to over time. Wiring and meters would have been compliant at the time of installation, but may not be fully compliant with current standards. For example, meters used in the past for sub-

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<sup>6</sup>AEMC 2015, *Embedded Networks, Rule Determination*, 17 December 2015, p 49



metering, such as in caravan parks, were not required to meet the more stringent testing standards of other energy meters.<sup>7</sup>

In many cases, the embedded network infrastructure is exposed to the elements with a market meter supplying electricity to the holiday park or residential land lease community and multiple child sub-meters, which are basic accumulation meters, forming part of open air 'powerheads' used for billing. Amperage to individual sites is also limited in many cases.

Finally, in some cases, where holiday parks and residential land lease communities have undergone staged development, electricity is supplied to customers by the embedded network operator AND the Local Network Service Provider (LNSP), resulting in a 'mixed supply' via what could be termed a 'partially' embedded network.

We call on the AEMC to consider the nuances of embedded networks in holiday parks and residential land lease communities and whether the nature of the wiring and metering infrastructure will present practical barriers for compliance with this proposal.

During further consultation in preparing this submission, we acknowledge the AEMC's clarification that the Draft Report did not recommend ENMs be required to input all NMI standing data into MSATS. However, further clarity on the details of requirements in this regard would be appreciated.

### **Access to Standard Network Tariffs**

To assist the switching process, it is proposed to allow a retailer of an on-market embedded network customer to pay the exempt embedded network service provider a network tariff that is equal to the standard published LNSP network tariff that would apply if there was no intermediate embedded network.

In our submissions on the AER's draft amendments to the Network Guideline in October 2016 we argued that the retailer who wins the customer's business should cover the costs of the ENM. That suggestion was not taken up, however this proposal is a positive recommendation.

The AER's Network Guideline does not allow embedded networks to charge tariffs to support the costs of embedded network infrastructure. The view is that network development costs are met in the initial establishment of the facility and such costs *"are capital in nature and are normally recoverable through lease payments, fit-out charges or the like."*<sup>8</sup> Hence the ability to charge a 'shadow price.'

Theoretically this assists NSW holiday parks but doesn't offer a lot of assistance to NSW residential land lease communities. Maintenance of these (often open air) embedded networks is ongoing and does incur costs, hence the ability for residential land lease communities to charge Home Owners a service availability charge in accordance with clause 13 of the Residential (Land Lease) Communities Regulation 2015 (RLLC Reg).

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<sup>7</sup> <http://www.measurement.gov.au/Industry/business/Pages/Electricity-Meters.aspx>

<sup>8</sup> AER, *Electricity Network Service Provider – Registration Exemption Guideline, Version 5, 1 December 2016*, p58-59.



We support the proposal because once a customer in a NSW residential land lease community goes on-market, the current drafting of the Residential (Land Lease) Communities Act 2013 (RLLC Act) makes no allowance for charging a service availability charge without the operator also supplying electricity. It also makes no allowance for 'shadow pricing.'

We also support the proposal for a retailer of an on-market embedded network customer to pay the exempt embedded network service provider a network tariff that is equal to the standard published LNSP network tariff because retailers should also be required to contribute to improving access to competition, not merely reap the benefits. It is also a better outcome for customers to receive one bundled network and energy bill from the retailer.

Further detail is needed on the B2B requirements to make this proposal work. For example, will embedded networks be required to obtain and use particular software for invoicing the retailer? What will be the cost of this? What powers will be available to ensure retailers pay network tariff invoices and what dispute resolution mechanisms will be available?

### [Elevating Embedded Networks into the National Framework](#)

In seeking further clarity from the AEMC, our understanding of the proposals in the Draft Report is as follows:

#### **New Embedded Networks**

It is proposed that the majority of new embedded networks will be elevated into the national regulatory and market framework under the National Electricity Law (NEL), National Energy Retail Law (NERL), National Electricity Rules (NER) and the National Energy Retail Rules (NERR). This will further require:

1. Any person who engages in the activity of owning, controlling or operating an embedded network must be registered as a registered embedded network service provider with AEMO, or exempted by the AER according to a narrow set of circumstances.

The person applying for registration as an embedded network service provider will have to satisfy the AEMO that they have the capability to comply with the NER and the procedures authorised under the NER.

Registered embedded network service providers will be required to comply with a sub-set of the requirements of a network service provider, as set out on page 86 of the Draft Report.

Registered embedded network service providers will also be required to appoint an ENM for all its embedded network connection points and the ENM will be required to:

- a) apply to AEMO for NMIs for all off-market metering installations
- b) provide the Metering Coordinator with the NMI for the metering installation
- c) register the NMI for off-market metering installations with AEMO (i.e. in MSATS)
- d) maintain information in the metering register (i.e. NMI standing data in MSATS) about the metering installations.

2. Any person who sells energy to a consumer in an embedded network must hold a retailer authorisation from the AER (under a more flexible retailer authorisation framework), or be exempted by the AER from holding a retailer authorisation according to a narrow set of circumstances.

Authorised on-selling retailers of off-market embedded network customers will be required to appoint a Metering Coordinator, subject to appropriate rules and procedures for off-market metering services being developed.

3. Registered embedded network service providers and authorised on-selling retailers would also be required to comply with reporting requirements under the NERL and/or as directed by the AER.

Subject to the development of an appropriate sub-set of network requirements and a more flexible retailer authorisation framework, the proposals for new embedded networks appear fair and reasonable. Before being built, new embedded networks would be aware of the requirements and the costs of compliance and it will be an informed business decision as to whether or not to proceed.

The feedback from members of our Association is that new residential land lease communities are generally being built with all sites connected directly to the local electricity distribution network (i.e. no embedded network). As set out above, embedded networks in existing holiday parks and residential land lease are something that evolved over time – they were not a conscious business decision to develop an embedded electricity network.<sup>9</sup>

However, we ask that consideration be given to retaining the ‘eligible community’ concept in the AER’s Network Guidelines, or something similar, to allow for embedded networks where benefits are provided to consumers by way of discounted prices, multi-service offerings, affordable housing, more environmentally sustainable housing and/or improved access to embedded energy generation. NSW residential land lease communities offer many benefits to residents and are an important provider of affordable housing.

Provisions to encourage the development of embedded networks like these should be a feature of the AEMC’s proposed new framework, because the retail energy market is far from perfect and suffers from its own problems. Real improvement in the energy space will not come from simply opening up one dysfunctional market to another.

We also request the AEMC further consider the follow issues:

### **1. Definitions of New and Legacy Embedded Networks**

The definitions of “new” and “legacy” embedded networks should be based on whether or not embedded networks “existed” at the relevant time, rather than whether or not they were “registered” with the AER. This will ensure a smooth transition for all deemed exemption holders (including holiday parks)

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<sup>9</sup> Given the opportunity many of our members would opt to transfer their embedded networks and connect all sites to the local electricity grid. However, this would require significant funding and cooperation from local network service providers.

and would ensure that those residential land lease communities who have not yet registered with the AER will not be penalised.

We acknowledge that the AER's Network Guideline and Retail Guideline have been in effect in NSW for some time. However, there are no doubt some residential land lease communities that have not registered as yet, particularly those that are not members of our Association.

It would not be an appropriate outcome for these operators, nor their customers, if they were forced into a more burdensome framework for new embedded networks simply because of an administrative omission.

## **2. Avoid Duplication with State Legislation**

Whatever way the framework for new embedded networks is developed, we request that the AEMC avoid duplication between federal and state legislation wherever it occurs.

As set out in previous submissions on AEMC and AER reviews, the primary relationship between embedded network customers and embedded network operators in NSW holiday parks is an arrangement for holiday accommodation. The primary relationship between embedded network customers and embedded network operators in NSW residential land lease communities is one of tenancy. What this means is that these customers have multi layered protections under other legislation and their agreements.

For example, embedded network customers in NSW holiday parks enjoy consumer protections under the AER's Network Guideline and Retail Guideline, the Australian Consumer Law, the Holiday Parks (Long-term Casual Occupation) Act 2002 (HP Act), the Holiday Parks (Long-term Casual Occupation) Regulation 2009 (HP Reg) and their occupation agreements. The NSW Civil and Administrative Tribunal (NCAT) has jurisdiction to hear and determine disputes relating to a breach of an occupation agreement or to a disagreement that could form the basis of a breach of the occupation agreement (which includes utilities). These customers can also seek the assistance of the NSW Energy and Water Ombudsman (EWON) and Fair Trading NSW.

Embedded network customers in NSW residential land lease communities enjoy an even higher level of consumer protection under the AER's Network Guideline and Retail Guideline, the Australian Consumer Law, the RLLC Act, the RLLC Reg and their site agreements. The NCAT has jurisdiction to hear and determine disputes relating to a right or obligation under the RLLC Act and RLLC Reg (which includes utilities) or a dispute arising from, or relating to, a site agreement or collateral agreement. These customers can also seek the assistance of EWON and Fair Trading NSW, as well as other organisations like the Affiliated Residential Park Residents Association NSW Incorporated (ARPPA) and their own Residents Committee.<sup>10</sup>

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<sup>10</sup> Under Part 9 of the RLLC Act residents of a community may by resolution establish a residents committee. Their functions include representing the interests of the residents in connection with the day-to-day running of the community and any complaint about the operation of the community.

In some respects, embedded network customers in NSW residential land lease communities enjoy consumer protections that customers under standard NEM supply do not. For example, under the RLLC Act, community operators are prohibited from applying site fee payments to unpaid utility charges and the NCAT has jurisdiction to make binding orders regarding payment plans for utility arrears, making disconnection unavailable except through an order of the NCAT.

Thus, in developing the changes to the structure of the two-tiered regulatory framework it is important that legislative duplication be avoided, particularly for smaller operators with limited resources. We would be happy to work further with the AEMC and other stakeholders to assist in this process.

### **3. *Avoid Limiting the AER Too Much***

The Draft Report proposes that the NER be amended to provide more guidance to the AER on the criteria for network service provider exemptions (which would restrict these exemptions to narrow circumstances) and more guidance be provided in the NERR to the AER on the criteria for selling (retail) exemptions.

It is also proposed that the AER be provided limited discretion under the authorisations framework to exempt retailers that on-sell electricity in embedded networks from specific conditions under the NERR where the cost of meeting the obligation is disproportionate to the benefit, and does not impede access to retail market competition. Further, more guidance be provided in the NERR to the AER on the criteria for selling (retail) exemptions.

In light of our submissions in point 2 above (Avoid Duplication with State Legislation) the AER's discretion should not be limited so far as to remove the ability to exempt authorised retailers that on-sell electricity in embedded networks from specific conditions under the NERR where effect of State based legislation duplicates such obligations or provides an effective alternative.

Our position is similar in relation to the proposal that the AER would not be permitted to exempt authorised retailers from complying with a minimum set of conditions including, for example:

- ) providing access to independent dispute resolution through Ombudsman schemes
- ) explicit informed consent when entering into a contract
- ) life support requirements
- ) disconnection requirements.

NSW holiday parks and residential land lease communities already have these or similar obligations. We discuss this in more detail below under the heading Better Consumer Protections for New and Legacy Embedded Networks.

### **4. *Clarify Customer Switching Requirements***

Currently, under the AER's Retail Guideline exempt sellers have an obligation to supply within the embedded network. Clarity is needed on what happens when an embedded network customer who has gone on-market sells their dwelling. Would the incoming resident be bound by the former home owner's

choice to go on-market and (for practical reasons) be required to choose another retailer? Or would they have the option of rejoining the embedded network? What if a home owner wishes to rejoin the embedded network? There may be practical barriers relating to a customer returning to being off-market and further consultation is needed in developing a workable solution.

### **Exemption Framework for Narrow Set of Circumstances**

We support the proposal to retain an exemption framework where:

- a) registration as an embedded network service provider would be unnecessary or unduly costly<sup>11</sup>
- b) the costs of retail authorisation and facilitating retail competition would outweigh the benefits to customers, and
- c) the need for regulatory oversight is low.<sup>12</sup>

A prime example of this is a NSW holiday park.

As set out on page 90 of the Draft Report, the supply of energy to holiday park customers is where the duration of occupancy is short or temporary. This includes holiday cabins, powered camp sites and short-term sites occupied by Long Term Casual Occupant (up to a maximum of 180 days per year) under the HP Act.

Holiday parks are an extremely important part of the tourism economy. Our industry continues to be one of the fastest growing domestic tourism sectors in Australia, and NSW is Australia's favourite State for caravanning and camping. Further, caravanning and camping accommodates 29% of the visitor holiday nights in Regional NSW making it a vitally important part of the tourism infrastructure.

Any new embedded networks within NSW holiday parks should continue to be exempt so that these businesses can continue to charge holiday makers for the energy they use, rather than spread the cost over all customers and cause a rise in accommodation fees. It is important that this sector of the tourism industry remain competitive.

The sophistication of recreational vehicles (motorhomes, campervans and caravans, etc) that draw power from sites continues to increase, with units now fitted with several electrical appliances including fridges, air-conditioners, TVs, stereos washing machines and microwaves. These businesses should have the ability to charge tourists for the energy they consume on a 'user pays' basis.

In addition, embedded network customers in NSW holiday parks already enjoy consumer protection under federal and state legislation as set out above and these would continue.

In relation to the proposal to remove the current exempt seller factors from the NERL and replace these with principles that clarify the purpose of retail exemptions are to address circumstances where a) the costs of retail authorisation, facilitating retail competition and retail churn would outweigh the benefits to customers, and b) the need for regulatory oversight is low, this is too limited.

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<sup>11</sup> AEMC, *Review of Regulatory Arrangements for Embedded Networks, Draft Report, 12 September 2017*, p 89.

<sup>12</sup> *Ibid*, p 98.

Many of the current exempt seller related factors set out in Section 115 (1) of the NERL are still relevant and should be retained. For example, we maintain that *“whether selling energy is or will be a core part of the exempt seller’s business or incidental to that business”*<sup>13</sup> remains an important factor in relation to NSW holiday parks and residential land lease communities, despite the differing position of the AEMC (see our submissions under Industry Position and Background headings).

Further, other factors such as *“whether the exempt seller’s circumstances demonstrate specific characteristics that may warrant exemption”*<sup>14</sup> and *“the extent to which the imposition of conditions on an exemption, or to which the requirements of other laws, would allow appropriate obligations to govern the applicant’s behaviour”*<sup>15</sup> are important in order to capture innovation and avoid imposing overly burdensome, duplicate legislation.

In the event that an embedded network is warranted, we request that consideration also be given to retaining an exemption framework for new residential land lease communities, for the reasons set out above. NSW residential land lease communities offer many benefits to residents and are an important provider of affordable housing. Provisions to encourage the development of embedded networks like these, that offer benefits to customers, should be a feature of the AEMC’s proposed new framework.

### **Grandfathering for Legacy Embedded Networks**

We are pleased to see that legacy embedded networks would be grandfathered under their existing exemptions, albeit with some modifications to exemption conditions and AER functions and powers as set out in Chapter 7 and Chapter 9 of the Draft Report.

We appreciate the AEMC’s view on page 49 of the Draft Report regarding *“the implications of retrospectively imposing a significant number of changes on existing embedded network operators given their varying levels of resources and capacity to implement these changes”* and thus we generally support the proposals for new embedded networks, subject to our above submissions.

Our reservations are primarily in relation to existing holiday parks and residential land lease communities. Following our further discussions with the AEMC in preparing this submission, we welcome the position that the AEMC review is not intending to trigger infrastructure upgrades in existing holiday parks and residential land lease communities.

However, further clarity is needed on how existing exemptions will continue to apply and whether the exemptions are limited. For example, will they be lost under certain circumstances? Will they be transferable on the sale of the business? What if a NSW holiday park or residential land lease community undertakes development works to expand or reconfigure its sites under local planning regulations?

We also seek further clarity on whether legacy embedded networks will be required to incur the same, or similar, costs that will be faced by new embedded networks i.e. contribute a proportionate amount towards the operational costs of the market?<sup>16</sup>

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<sup>13</sup> Section 115 (1) (a)

<sup>14</sup> Section 115 (1) (b)

<sup>15</sup> Section 115 (1) (e)

<sup>16</sup> AEMC, *Op cit.*, p 53

In addition to ENM costs (which are still unknown) other costs identified in the Draft Report include:

- ) AEMO participant and other fees
- ) AER authorisation fees
- ) Costs of complying with enhanced obligations
- ) Costs of AER reporting requirements, and
- ) Ombudsman membership fees.

We agree with other attendees at the AEMC's public stakeholder forum on 4th October 2017 that in order to make fully informed submissions on the review more information is needed on the above costs.

### **Better Consumer Protections for New and Legacy Embedded Networks**

As set out above, NSW holiday parks and residential land lease communities are subject to additional regulatory controls at the State level and their embedded network customers already enjoy consumer protection for energy consumption. Consequently, the industry is not opposed to some of the consumer protection proposed in the Draft Report.

However, we are opposed to legislative duplication of consumer protection. It is clear from the Draft Report that even operators of legacy embedded networks will face additional costs under a new framework, (e.g. fees for membership of an Ombudsman scheme). Duplication will only add to an already complex system, raising the administrative and compliance costs even further.

The new regulatory framework, and the improved exemption framework for legacy and any new exempt customers, must adequately take into account differences in the market, take account of State based legislation that duplicates an obligation or provides an effective alternative, and respond with proportionate regulation so that customers and businesses are not burdened with an overly complex, duplicitous and confusing system.

### **Dispute Resolution**

We note the Draft Report recommends that the AER, Ombudsman and jurisdictional governments continue to develop required changes to the retail exemption guideline and State regulations to increase access to independent dispute resolution services for exempt customers.<sup>17</sup> However, embedded network customers of NSW holiday parks and residential land lease communities have had access to appropriate dispute resolution for a long time.

The RT Act originally covered permanent residents of residential parks. However, it later became clear that there were so many differences between tenancies in parks and other residential tenancies that separate legislative provisions were necessary. As a result, the RP Act started in 1999, and further protection was secured for residents, including enhanced dispute resolution mechanisms.

Under the NSW Fair Trading *Customer Service Standards for the Supply of Electricity to Permanent Residents of Residential Parks* residents were able to apply to the NCAT

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<sup>17</sup> AEMC, *Op Cit.*, p 103



(previously the Consumer, Trader and Tenancy Tribunal) regarding electricity disputes or ask EWON to investigate complaints.

These dispute resolution mechanisms have been maintained under the current legislation, the RLLC Act and RLLC Reg. NCAT is also able to hear and resolve disputes for holiday park customers under the HP Act.

Further, Fair Trading NSW provides free information about consumer rights and options to resolve disputes with traders, including embedded network customers in holiday parks and residential land lease communities, and can contact the operator and attempt to negotiate a settlement.

Accordingly, under NSW legislation customers of embedded networks in holiday parks and residential land lease communities already have access to free and independent dispute resolution provided by EWON and Fair Trading NSW, as well as access to NCAT.

ARPPRA is also very proactive in informing residents about their rights and acting on their behalf in disputes. They have produced a factsheet on utilities and provide extensive support to their members on a range of topics, including utility charges payable under tenancy agreements.

In order to take proper account of exempt customers such as those in NSW holiday parks and residential land lease communities, and maintain a proportionate regulatory burden, dispute resolution requirements in the AER's Retail Guideline and Network Guideline, whether they are aligned or not, should continue to take a hierarchical approach. An exempt entity should only be required to join an Ombudsman scheme where a relevant external dispute resolution body does not already exist.

Fair Trading NSW and EWON already provide high quality, independent dispute resolution services and information to residents and occupants in holiday parks and residential land lease communities. Operators generally comply with any decision of EWON in relation to a complaint or dispute regarding the provision of connection services or the supply of electricity.

The issue appears to be EWON's ability to recover fees and charges and growing concerns about the cross-subsidy to exempt sellers, even though the proportion of complaints from our industry is extremely low.

While Ombudsman scheme representatives in attendance at the AEMC public stakeholder forum on 4 October 2017 indicated that membership fees would be scaled, taking into account the types and capabilities of embedded network operators, this would still be an additional cost to NSW holiday parks and residential land lease communities that is unnecessary. Complaint numbers to EWON from customers of embedded networks in NSW holiday parks and residential land lease communities are low<sup>18</sup> because the current system works.

While there may be growth in the embedded network sector generally, with landlords looking to energy on selling as a means of supplementing their rental income, there is no rapidly increasing development of holiday parks and residential land lease communities in NSW with dedicated embedded networks. As such, the number of energy disputes in this sector is unlikely to escalate.

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<sup>18</sup> *Energy & Water Ombudsman NSW, Annual Report 2015/2016, p 59.*

Further, exempt entities like these have more complex relationships with their customers than retailers do. In many cases, energy complaints are bundled with other issues such as site fee arrears and can be difficult to isolate. The usefulness of an ombudsman to resolve these sorts of matters is limited. EWON already refers such customers to NCAT, as NCAT has jurisdiction to hear and resolve all the issues, and this is an appropriate course of action. Disputes involving issues other than energy are difficult to 'decouple,' hence the adequacy of our existing system.

### **Access to Concessions**

Access to concessions is not a problem for customers of embedded networks in NSW holiday parks and residential land lease communities. Long-term residents of an on-supplied residential community are eligible to apply for the Family Energy Rebate, NSW Gas Rebate, Low Income Household Rebate, Life Support Rebate and Medical Energy Rebate direct.<sup>19</sup>

However, we agree with the view that jurisdictional bodies should consider options for improving awareness of entitlements and access to concession schemes for customers of all other embedded network types.

### **Price Regulation**

We agree with the AEMC's view that the existing price cap (where exempt customers are charged no more than the standing offer price of the local area retailer) is an appropriate safety net for exempt customers. NSW holiday parks and residential land lease communities are subject to this requirement under State legislation as well, and NSW residential land lease communities are subject to a further cap on the service availability charge under the RLLC Reg.

### **Retailer of Last Resort**

We agree that applying a Retailer of Last Resort (RoLR) scheme is unlikely to work for exempt customers, particularly in NSW holiday parks and residential land lease communities.

In most cases, the exempt seller and exempt embedded network service provider is also the owner/operator of the holiday park or residential land lease community. In the event of an exempt seller failure, permanent residents of residential land lease communities will have bigger issues of concern than their energy consumption and a RoLR scheme will be an incomplete solution for them.

In any event, the RLLC Act contains provisions regarding the appointment of administrators, receivers and managers to protect the well-being and financial security of the residents of the community.

### **Monitoring and Enforcement**

We note the following solutions/recommendations in the Draft Report have been made in response to stakeholder concerns over insufficient AER powers and resources to monitor and enforce exemption conditions:

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<sup>19</sup> <http://www.resourcesandenergy.nsw.gov.au/energy-consumers/financial-assistance/rebates>

- a) Requiring new embedded network on sellers to be authorised retailers and embedded network services providers to be registered participants would allow the AER to have the same monitoring and enforcement powers it currently has over authorised retailers and registered distribution network services providers.

Some flexibility will be given to the AER to exempt authorised retailers and registered embedded network services providers from some reporting requirements.

- b) For legacy exempt customers and new exempt customers:
  - i. The NERL should specify a role for the AER to monitor embedded network service provider and exempt selling behaviour, including flexibility to examine the conduct of particular sellers as required,
  - ii. AER consideration of how monitoring can be increased under its current functions and powers,
  - iii. AER consideration of whether the reporting requirements under the exemption framework should be increased,
  - iv. Review of the penalty amounts for infringement notices, and
  - v. Alignment of enforcement options for network exemption breaches be more closely aligned with the enforcement powers for retail exemption breaches.

In principle, we would support streamlining the monitoring and enforcement provisions for embedded networks to deliver a regulatory framework that is simpler, fairer and more efficient. However, we reiterate our concerns regarding increased regulation and costs for NSW holiday parks and residential land lease communities.

These embedded networks are already highly regulated with wide-ranging administration and enforcement powers given to Fair Trading NSW. Further, embedded networks that are run by small to medium enterprises have fewer resources to understand and implement compliance with a complex regulatory system and less ability to absorb compliance costs. We therefore oppose changes to the regulatory framework that would increase the regulatory burden and costs for these businesses.

Overall, the review of regulatory arrangements for embedded networks needs to take better account of the less sophisticated embedded network operator and consider ways to assist customers through a range of options, not just regulatory. If embedded network customers in NSW holiday parks and residential land lease communities are not receiving the myriad consumer protections they already have (which we do not believe is the case), then perhaps this is a problem better solved through resources and education.

We look forward to working further with the AEMC and the AER to ensure any revised monitoring, enforcement and reporting requirements, take proper account of our industry and do not result in creating costs that are disproportionate to the benefits.

### **Consumer Protection Issues for Embedded Network Customers supplied by Authorised Retailers**

We note the number of retail market issues that require consideration and possible changes to the NERR and potentially the NERL, including:

- a) the designated retailer concept,
- b) the shared customer concept and the relevant consumer protections that stem from it,
- c) extension of the tripartite relationship between a customer, retailer and distributor to include obligations regarding the relationship between the embedded network service provider, retailer and distributor, and
- d) developing an appropriate sub-set of distributor obligations for embedded network service providers through the new category of 'registered embedded network service provider.'

While it is not possible at this time to comment on the details of these changes we acknowledge that clarity will be needed in these areas. We also believe the AEMC's observation that "*it may not be appropriate to simply substitute an exempt embedded network service provider for a distributor*"<sup>20</sup> is an important consideration in all the above respects, not just the extension of the tripartite relationship concept. For example, certain provisions of the NERR and NERL may only function on a practical level because of the relatively small number of network service providers. This may change as the numbers of registered market participants and authorised retailers increases.

We reiterate that feedback from members of our Association is new residential land lease communities are generally being built with all sites connected directly to the local electricity distribution network (i.e. no embedded network). We therefore do not envisage a large number of authorised retailers in our sector, and based on the recommendations of the Draft Report holiday parks will remain exempt.

However, they may be some corporate businesses that will seek to develop multiple residential land lease communities with embedded networks and so will want to become authorised retailers. In the absence of exemption, we look forward to working further with the AEMC on the development of appropriate requirements for them.

### **Other Consumer Protections**

In relation to further specific consumer protections for embedded network customers supplied by authorised retailers we make the following comments:

- a) **Vulnerable customer arrangements** – we agree the AER should have some flexibility in the authorisation of on-selling retailers to allow vulnerable customer arrangements to be appropriate for the embedded network supply situation. In particular, such obligations should not override any rights that on-selling retailers have under specific industry laws and/or fair contract terms (e.g. payment of rent).
- b) **Price regulation, standing offers and obligations to supply** – we do not oppose extending the local area standing offer price cap to off-market customers in embedded networks supplied by an authorised retailer. This proposal would have no change impact for our industry.

Despite the low numbers of retail customers in NSW, Victoria and South Australia who are supplied on standing offers,<sup>21</sup> we also do not oppose

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<sup>20</sup> AEMC, *Op Cit.*, p108

<sup>21</sup> AEMC, *Op Cit.*, p 110

amendments to the NERL and NERR to extend the requirement on designated retailers to provide a standing offer to include embedded network customers.

This links to the issue identified by the AER that in relation to an on-market customer in an embedded network, who no longer wishes to be supplied through a market retail contract (currently their only choice) the retailer has no obligation to offer a standing retail contract.<sup>22</sup>

Similarly, in relation to whether local area retailers should be obliged to offer to supply energy to retail customers within embedded networks in their associated distribution supply districts, this may provide the answer to any practical barriers preventing a customer returning to being off-market as noted above. However, further consultation is needed to determine the significance of this issue and to inform the development of an appropriate solution.

- c) ***De-energisation, re-energisation and life support equipment*** – we understand that under the proposed framework the NERR will need to be amended to align the de-energisation and re-energisation rules and life support rules for retail customers in embedded networks with standard supply customers.

However, given the more complex relationships that can exist between embedded network service providers and their customers we request that consideration also be given to requirements for authorised retailers and registered embedded network service providers to share information during the lead up to de-energisation, which will also involve consideration of privacy principles. Duplication in process should also be avoided where the registered embedded network services provider is also the authorised retailer.

- d) ***Retailer of Last Resort*** – we agree with the view that extending the RoLR scheme to off-market retail customers in embedded networks presents some difficulties and may not outweigh the benefits.

The AEMC indicates on page 125 of the Draft Report that rather than applying for retailer authorisation, most owners corporations will establish relationships with third party authorised retailers. The suggestion is that where a retailer fails, it may fall to an owners corporation or similar body to arrange a new retailer. We seek further clarity on how this might work where no such commercial relationship with third parties exists (i.e. the registered embedded network service provider and authorised retailer is the same entity).

### **Information Provision for Exempt and Retail Customers**

In NSW holiday parks and residential land lease communities there is already sufficient provision for disclosure of the cost, benefits and risks of embedded networks to customers at the time of purchase or lease of a property as a result of our State based laws.

As noted in the Draft Report, Condition 2 of the AER's Retail Guideline requires exempt sellers to provide extensive information to embedded network customers at the commencement of supply.

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<sup>22</sup> AER, *Op Cit.*, p 15

Further, Part 3 of the HP Act set out the rights of prospective occupants of holiday parks as follows:

**Part 3 Rights of prospective occupants of holiday parks to be provided with information**

**9 Prospective occupants have a right to certain information**

- (1) *A park owner who proposes to enter into an occupation agreement under which a person will be the occupant of a site must prepare, or arrange for the preparation of, a document that includes the following questions, and any other questions that may be prescribed by the regulations, and correct written answers to those questions:*
- (a) *What occupation fees will be charged under the occupation agreement?*
  - (b) *Will there be any extra occupation fees charged during school holidays or any other busy periods?*
  - (c) *Will there be any extra occupation fees charged for additional occupants or visitors?*
  - (d) *Will the occupant have to pay any additional or extraordinary charges (other than occupation fees), for instance any gas or water charges? If the occupant does have to pay, for what purposes does the occupant have to pay?*
  - (e) *What are the costs of preparing the occupation agreement?*
  - (f) *How much notice will the occupant get before occupation fees go up?*
  - (g) *How much notice will the occupant get before he or she is asked to leave the site or otherwise end the agreement?*
  - (h) *How will any disputes about the occupation agreement be sorted out, or any other disagreements?*
  - (i) *Can an occupant sell the occupant's moveable dwelling while it is in the holiday park? What restrictions are there on an occupant regarding the sale of the occupant's moveable dwelling while it is in the holiday park? What are the commission arrangements if the park owner sells the occupant's moveable dwelling?*
  - (j) *Is there any restriction on the types of moveable dwellings allowed at the park?*
  - (k) *What can the occupant put on the site besides the moveable dwelling (such as a carport or garden shed)? The answer to this should take into account:*
    - (i) *what the park owner will permit, and*
    - (ii) *what the local council will permit, and*
    - (iii) *what regulations made under the Local Government Act 1993 will permit.*
  - (l) *Are there restrictions on the use of common facilities? If so, what hours are the facilities available and who may use the facilities? Are there any other restrictions on the use of these facilities?*
  - (m) *Who pays for the cost of an occupant's dwelling being relocated within the park during the term of the occupation agreement?*
- (2) *The park owner must not enter into an occupation agreement in relation to a site unless the prospective occupant under that agreement has first been provided with a copy of the document referred to in subsection (1).*

*Maximum penalty: 2 penalty units.*

### **10 Prospective occupants have a right to be provided with the park rules for casual occupants**

*A park owner must not enter into an occupation agreement in relation to a site within a holiday park with a prospective long-term casual occupant unless the prospective occupant under that agreement is provided, before or at the time of entering into the agreement, with a copy of the park rules for casual occupants that are in force for the holiday park.*

*Maximum penalty: 2 penalty units.*

The above disclosure is an additional requirement to a written occupation agreement.

Prospective residents of residential land lease communities also have rights to disclosure of information under Part 4, Division 1 of the RLLC Act in an approved form prior to entering into a written site agreement:

### **Division 1 Disclosure of information**

#### **21 Disclosure statement required before entry into site agreement**

- (1) *The operator of a community must not enter into a site agreement with a person unless the operator has provided the person (or another person acting on behalf of that person) with a disclosure statement relating to the particular residential site at least 14 days before entering into the agreement.*

*Maximum penalty: 100 penalty units.*

*Note. This requirement extends to a case where the operator is entering into a new site agreement with an existing home owner.*

- (2) *The disclosure statement is to be in the approved form and is to include:*
- (a) details of the fees and charges that will be payable under the proposed site agreement for the particular residential site, and*
  - (b) details of the current range of site fees paid in the community, and*
  - (c) details of the services and facilities available in the community, and*
  - (d) details of compliance with statutory requirements applying to the community.*
- (3) *A disclosure statement is to be signed and dated by the operator.*
- (4) *The Tribunal may, on application by a prospective home owner, make an order requiring the operator of a community to provide a disclosure statement if:*
- (a) a residential site in the community is available for occupation by the prospective home owner, and*
  - (b) the operator fails to provide a disclosure statement in relation to the residential site to the prospective home owner within 14 days after a request for the statement is made.*



## **22 Approved information for prospective home owners**

- (1) *The Commissioner may approve the content and form of information that the operator of a community must provide to a prospective home owner or a person acting on behalf of a prospective home owner.*
- (2) *The operator of a community must not, without reasonable excuse, fail to provide the information in the approved form at or before the time the disclosure statement is provided in accordance with section 21.  
Maximum penalty: 10 penalty units.*
- (3) *Without limiting subsection (1), the approved information may relate to any of the following:*
  - (a) *residential communities generally,*
  - (b) *the rights and responsibilities of home owners in residential communities,*
  - (c) *a checklist for prospective home owners to consider before buying a home,*
  - (d) *contact details to obtain information and advice.*

## **23 Rescission during cooling-off period**

- (1) *A person who enters into a site agreement with the operator of a community is entitled, during the cooling-off period for the agreement, to rescind the site agreement by serving a notice in writing to that effect on the operator.  
Note. This entitlement extends to a case where an existing home owner enters into a new site agreement with an operator.*
- (2) *The cooling-off period for the agreement is the period:*
  - (a) *commencing on the date when the site agreement is entered into by the person, and*
  - (b) *ending at midnight on the day that is 14 days after the date the site agreement is entered into by the person.*
- (3) *On service of the notice of rescission, the site agreement is taken to be rescinded from the commencement of the agreement.*
- (4) *A person who rescinds a site agreement with an operator of a community under this section may also, during the cooling-off period for the site agreement, rescind any collateral agreement with the operator. The rescission is to be effected in the same way as, and has the same effect as, rescission of the site agreement.*
- (5) *The rescission of a site agreement, or any collateral agreement, under this section does not entitle any person to compensation of any kind.*
- (6) *A person who enters into a site agreement with the operator of a community ceases to be entitled to rescind an agreement under this section if the person starts to reside in a home located on the residential*

*site, or causes a home to be placed, installed or erected on the residential site, before the end of the cooling-off period.*

- (7) Subsection (6) does not apply to a person who is an existing home owner when the site agreement is entered into (being a person who is currently, or has previously been, a party to a site agreement relating to the residential site).*
- (8) In this section, a collateral agreement includes a contract for sale of a home on the site, if the seller is the operator of the community.*

#### **24 No restrictions on obtaining advice**

*The operator of a community must not restrict any person's right to seek independent advice before entering into a site agreement.*

*Maximum penalty: 10 penalty units.*

#### **25 False, misleading or deceptive information**

*The operator of a community or a person acting on behalf of the operator must not induce a person to enter into a site agreement by any statement, representation or promise that the operator or person acting on behalf of the operator knows or ought reasonably to know is false, misleading or deceptive.*

*Maximum penalty:*

- (a) in the case of a corporation—100 penalty units, or*
- (b) in any other case—50 penalty units.*

Due to the information disclosure obligations outlined above, customers considering moving into an embedded network within a NSW holiday park or residential land lease community (legacy or new) have the benefit of informed choice. In relation to the proposal that authorised on-selling retailers, and many exempt sellers, should be required to publish price information we do not consider this to be necessary for NSW holiday parks or residential land lease communities.

We would support exemption of these entities by the AER from inappropriate obligations.

#### **Gas Embedded Networks**

Our understanding is there are no gas embedded networks in NSW holiday parks and residential land lease communities. Any gas supply that takes place in NSW holiday parks and residential land lease communities is through the sale of LPG bottles. Accordingly, the Association is not in a position to respond on this issue.

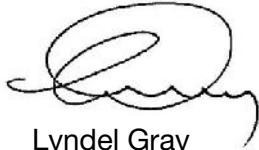
#### **Conclusion**

Thank you to the AEMC for considering our response to the Draft Report. As the peak industry body representing holiday parks and residential land lease communities in NSW with embedded electricity networks, the CCIA is an important stakeholder in relation to the review of regulatory arrangements for embedded networks.

We are available to discuss this submission further and to workshop with the AEMC and our members regarding the issues we have raised. As such, we look forward to our continued involvement in the consultation process.

Should you have any questions or require further information please contact us on (02) 9615 9999 or email [admin@cciansw.com.au](mailto:admin@cciansw.com.au).

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Lyndel Gray', with a large, stylized initial 'L'.

Lyndel Gray  
**Chief Executive Officer**