



Response of the Victorian Caravan Parks Association (VicParks) to *the Review of Regulatory Arrangements for Embedded Networks* developed by the Australian Energy Market Commission (AEMC) setting out the Commission’s proposed policy approach to the regulation of embedded network providers to provide maximum consumer choice and all appropriate consumer protection for customers in an embedded network.

## 1. Introduction

The Victorian Caravan Parks Association Inc. (VicParks) thanks the Commission for the opportunity to comment on the matters raised in the Consultation Paper.

Some of the comments in this paper have been previously made in our response in 2016 to the Review of the General Exemption Order - Draft Position Paper developed by the Department of Environment, Land, Water and Planning (the Department) setting out the Department’s proposed policy positions on how to improve the efficiency and effectiveness of the Victorian electricity licence exemptions framework. Our comments remain pertinent to the AEMO review of regulatory arrangements for embedded networks and have been included.

## 2. Industry Overview

The Victorian Caravan Parks Association Inc. (VicParks) is the peak industry body for owners, managers and lessees of caravan parks in Victoria. Its members are predominantly regionally based, and the caravan park industry forms an important component in the supply of both regional tourism and regional residential accommodation.

The caravan park industry provides economic benefits and employment to regional towns and cities across the state; current state and federal government research indicates that there is significant opportunity for increased tourism visitation and supply of affordable permanent accommodation, , and a subsequent increase in regional economic growth and employment as a result.

VicParks members employ more than 2500 staff in regional locations. The Victorian caravan park industry is estimated to contribute more than \$475 million annually to the Victorian state economy.

The Strategic Plan of the Victoria Caravan Parks Association that was developed in 2013 identified that caravan parks hold more than 54% of all accommodation capacity in Victoria. However, there is an average vacancy rate of about 49-52% across the entire year, for all but the peak summer weeks

in late December-January during the summer school holidays. There is certainly capacity for caravan parks to offer increased levels of affordable full-time residential accommodation to assist the government to alleviate homelessness.

### 3. Submission

#### Proposed Exemptions

The caravan park industry is highly-regulated and is currently working co-operatively with the CFA and the Department to review and reduce current levels of burdensome regulation. It is therefore pleasing to see that the Department recommended in the Draft Position Paper distributed in 2016 that caravan park embedded networks will continue to be entitled to a deemed exemption for the distribution, supply and sale of electricity within their sites.

For the purposes of clarification, there are a number of operating models for the conduct of a commercial caravan park that offers guest accommodation to both permanent residents and holiday customers.

DESCRIPTION	CUSTOMER BASE	COMMENTS
Part 4A Residential Park	Solely for ## Part 4A Site Tenants who own their own dwelling and enter into a site agreement to rent the site on which their home is occupied.	This is a growing segment of the market which provides affordable housing in a 'gated' community with many shared facilities for use by the homeowners.
"Hybrid" Caravan Park – Both Part 4A and Part 4	Mixed customer base, comprising a mix of tourists on short-stay visits, # Part 4 Residents who rent their dwelling from the park owner, and ## Part 4A Site Tenants	Hybrid parks gear their business and service delivery around two entirely different customer bases. Tourists and permanent residents have entirely different needs which must be balanced to the satisfaction of each. We estimate that about 80% of our membership operate "hybrid" parks with this mixed customer base
Tourist Parks	A park that is purely focused on providing accommodation for tourists in either the park's own cabins, on annuals' sites or on caravan or camping sites.	While some of these parks are large and belong to successful marketing chains, many of these parks have less than 100 sites and rely solely on the tourist market.

# a *Part 4 resident* is defined by the Residential Tenancies Act (Victoria) 1997 as a person living permanently in a caravan or rented dwelling in a caravan park who has no other residence, and renting the site on which the dwelling is situated (renter/renter).

## a *Part 4A site tenant* is defined by the Residential Tenancies Act (Victoria) 1997 as a person living permanently in a caravan park in cabin accommodation that they own, renting only the site on which the cabin is situated (owner/renter)

Only Tourist Parks would be entitled to the deemed exemptions VD3 and VND3 proposed by the Draft Position Paper.

The Draft Position Paper proposed that Residential Parks and Hybrid Parks, each of which typically supply electricity through embedded networks to permanent residents, would fall into proposed categories VR4 and VNR4 and would be required to register before being entitled to the exemption.

The business model of Residential Parks requires that all sites within the park are occupied by permanent residents. However, in the case of Hybrid Parks the number of permanent residents can vary widely from park to park.

Whilst the Draft Position Paper stated that the exemption for categories VR4 and VNR4 will come into effect on registration, there is no detail given as to what will be involved in the registration process. If the registration process is onerous and imposes a significant regulatory burden on caravan park operators then the likely effect is that park operators will be further discouraged from offering sites to permanent residents and these sites in Hybrid Parks will be converted to tourist sites. This would have a significant impact on the availability of low cost accommodation options particularly in regional areas, and a further reduction in the supply affordable housing in areas where it is most required.

Whilst VicParks cautiously supports the notion of a new registrable exemption category for caravan parks supplying electricity to permanent residents, its support is contingent upon the registration process being a simple and inexpensive process that does not impose a significant regulatory burden upon caravan park owners.

VicParks also submits that it may be appropriate to consider whether a minimum number of sites within a Hybrid Park occupied by permanent residents would be required before the caravan park operator would be required to register.

**Question 1 Does the two-tiered framework of requiring either registration/authorisation or exemption remain fit for purpose?**

VicParks supports the continuation of the current status that caravan park operators as embedded networks will continue to be subject to a deemed exemption from the licensing requirements.

VicParks reserves its position with regard to the proposed new registrable exemption categories VR4 and VNR4 until details of the registration process are known.

VicParks contends that the scale and size of caravan park networks are not to be compared with those of many shopping centres, retirement villages and large apartment complexes that are other examples within the embedded network categorisation.

## Consumer Protection

In Victoria the pricing for the supply and usage of electricity to their customers by caravan park operators, as embedded network retailers, is prescribed by the Essential Services Commission. The Commission reviews the maximum supply and usage charges annually and VicParks promotes these to members.

VicParks has received little negative feedback from any residents of caravan parks to indicate concern about over-charging for the supply and usage of electricity to their site, and who feel that there are inadequate protections and dispute resolution processes in place for residents to seek redress. It is important that the volume of complaints of this nature be quantified to get a sense of scale of the issue. As in all such review processes, the majority of satisfied customers may not have offered their view to the Review.

Having said that, this Association would not support illegal pricing or other activities associated with the supply and distribution of electricity within embedded networks. Any such activity is reprehensible and not condoned. Residents whose permanent place of residence is a dwelling in a caravan park may be in a situation where there is no other place that they can afford or that they can identify for their home. In many regional locations, the caravan park is the only option for persons whose previous rental history, medical condition or family/social situation has effectively taken them out of consideration for any other tenancy option. They deserve the full protection of consumer law.

VicParks supports recommendations that clarify and specify what consumer protections are available to consumers purchasing electricity from an exempt seller. The recommended VicParks agreements that set out the terms and conditions of residency in caravan parks already indicate full disclosure of the embedded network provision of supply.

VicParks agrees in principle with the conditions that the AER has considered necessary to apply to retail exemptions that are outlined on Page 30 -31 of the document, specifically essential service provision, information provision, dispute resolution, and in most circumstances, hardship provision. This last item needs further consideration because of the fact that the caravan park is not only the provider of electricity for which payment is required, but is also the provider of site rental and dwelling, for which payment is required. In many cases, rent arrears precede payment difficulties with power and other park costs, and all of the late payments should be seen as a wider arrears issue.

Caravan park businesses are not geared to a level where rental and other arrears can be indefinitely sustained, and the Residential Tenancies Act specifically provides that the caravan park owner may issue a Notice to Vacate on 14 days notice for rent arrears of 7 days or more.

**Question 6 (a) (ii) Do stakeholders consider the ACL and tenancy legislation to provide suitable complementary protection for embedded network consumers alongside energy-specific consumer protections, including the exemption conditions?**

**Box A.1 Exempt seller and customer related factors**

VicParks contends that the Residential Tenancies Act 1997 RTA currently provides comprehensive protection for consumers in an embedded network. The RTA (206ZG) specifically requires that a park owner “must not seek payment ...that is more than the amount that the relevant supplier would have charged the site tenant”. The sale of electricity by the park owner to residents cannot be a profit centre in its own right. The sale of energy is therefore NOT a core part of the caravan park business and is incidental.

In general VicParks contends that caravan park businesses are able to meet the proposed AER Exemption guidelines listed on P38 – 41 of the document.

**Choice of Retailer**

VicParks agrees that caravan park owners should be required to provide specific information to residents at the time of their move into the park, on the nature of the supply of electricity as an embedded network retailer, the rates as determined periodically by the Essential Services Commission, their limited opportunities in many regional areas for selecting an alternative supplier at a reasonable cost, and their avenues for lodging any complaint. This would provide greater transparency for residents and provide information to assist them in any related decisions.

VicParks would be happy to lead this process, and would develop the necessary information pack and educate members about their responsibility to provide this information to residents.

**Question 4 How can access to retail competition be improved?**

VicParks supports the recommendation that an exempt seller be required to obtain the explicit informed consent of a customer to the exempt selling arrangement before the customer enters the arrangement and to make the customer aware of his or her right purchase electricity from an alternate retailer and the terms on which that may be done.

However to date, the available technology (purchased entirely at the cost of park owners to allow separate metering of each site in order to provide individual invoices based on usage by each tenant) has not provided opportunities for supply from alternate retailers to be obtained easily and economically. VicParks opposes any suggestion that caravan parks may be required to retrofit their embedded networks to more easily achieve this as it would impose an unreasonable cost on caravan park operators who have installed their embedded networks in good faith.

VicParks also contends that both of the billing proposals in Box 3.1 are cumbersome and likely to give rise to further dispute and complaints from retail customers. The first option is cumbersome for both the network operator and the retailer, requiring them to come to an arrangement to charge for the services of the other, in order to provide a single bill for the customer. However it is likely to be less difficult than the second option for a customer to receive two bills – from the embedded

network operator for network services, and from the retailer for energy services. This can only create more work for both, and confusion for the customer.

Access to choice is not assisted by increased complexity of billing processes to provide that option.

Through our participation in the Review of the Residential Tenancies Act conducted by government in Victoria last year, it was obvious that many of the concerns of residents that were expressed at various forums arose from misinformation and suspicion that they were being over-charged in relation to advertised cheaper options that in fact did not always end up cheaper when full costs were applied.

Finally, we contend that the statement on Page 31 of the document that *“given the increasing scale and complexity of embedded networks, the risks to consumers are changing”*

does not apply to embedded networks in caravan parks. There has been no observable change in the scale and size of these network arrangements, since caravan parks have fixed site numbers that do not provide for growth of site numbers and customers beyond the original planning provisions in place when the parks were developed, in most cases, many decades ago.

We agree with the statement on this page also, that there should be a consideration of the special characteristics of the relationship between park owner and customer that is more complex and meaningful than is the norm in other embedded networks. The park owner as landlord also rents the site and manages the daily communications with the consumer on a wide range of issues that go far beyond the role of provider of electricity supply.

## **Pricing**

The central purpose of caravan parks is to provide accommodation – both long-term and short-term to visitors and residents. Providing a supply of electricity to residents of caravan parks is not a core business operation of caravan park owners. It is not a business operation in itself, but rather a supply to residents of a necessary amenity to render comfortable and safe site occupancy.

Park owners must provide the infrastructure for the supply of electricity to residents on meters that can be separately read for billing purposes. They must, by government regulation regularly read the meters, provide detailed invoices, and supply receipts.

The Essential Services Commission annually sets the rates for charging residents for supply and usage costs. These are the maximum rates that can be charged.

The administrative tasks associated with supply and maintenance of infrastructure, provision and maintenance of meter, reading meters and invoicing accordingly, issuing receipts and following up late payments are onerous. The supply charge provides financial compensation to the park operator for the work involved that is in alignment. Moreover, the ability to charge for supply and usage is critical to park owners remaining in a position to properly conduct and maintain the embedded network.

There has been no demonstrated evidence provided to VicParks that the current system of operation as an embedded network disadvantages residents of caravan parks.

It is important, however, that residents be informed that the pricing regime is set by the Essential Services Commission. It is within the powers of this body to set a rate that is reasonable and is on a level with that set for comparable supply elsewhere by the retailer.

There is, however, an anomaly in the current regime. Specifically, the Residential Tenancies Act (1997) Part 4A Section 206ZH requires that

*A site owner must not seek payment or reimbursement for a cost or charge under ...that is more than the amount that the relevant supplier of the utility would have charged the site tenant.*

Section 166 of RTA contains a similar provision applying to Part 4 residents in caravan parks.

Not only is it extremely difficult, given the nature of an embedded network, to determine the cost that a relevant supplier would have charged a person living outside the park, but also, the sections are at odds with charging at rates for supply and usage that do not exceed the maximum rates published by the Essential Services Commission.

This anomaly is likely to be addressed in the *Fairer, Safer Housing Review* currently being undertaken by the Victorian Government. VicParks has been part of the wide consultation process during this review, as a significant stakeholder in the provision of affordable housing.

Coupled with that VicParks welcomes the proposal to task the Essential Services Commission with formulating a new price cap benchmark provided it relates to both usage and supply charges.

VicParks would support a recommendation that the Essential Services Commission formulate a new price cap benchmark specifying the maximum price that an exempt seller would be allowed to charge its embedded network customers for energy consumption and supply.

## **Dispute Resolution**

VicParks supports the suggestion that the role of the Energy and Water Ombudsman (EWOV) be widened to provide an effective dispute resolution process that is simpler and less confronting than the option to apply to VCAT. We believe that the majority of caravan park owners would welcome the option of an independent third-party to hear and mediate solutions to consumer complaints, and decide the degree to which they have substance, as opposed to a misunderstanding of the billing process and the applicable rates in place for usage and supply. Whatever is put in place should not diminish the benefits that are provided to the majority of satisfied customers, but should help consumers who may be caught in embedded networks that are not fair and beneficial.

VicParks also supports recommendations that an exempt entity be required to inform a customer in writing at the time the customer enters the arrangement of their right to access the services of the

EWOVs dispute resolution mechanism.

Again, thank you for the opportunity to comment on the proposals in the Review Paper. Please contact me on 03 9372 3420 if further information is required.

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