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Dear Ms Jolly

**CCIA NSW SUBMISSION ON DRAFT NETWORK EXEMPTIONS GUIDELINE AND DRAFT RETAIL EXEMPT SELLING GUIDELINE (VERSIONS 7)**

The Caravan, Camping & Touring Industry & Manufactured Housing Industry Association of NSW Ltd (CCIA NSW) is the State's peak industry body representing the interests of over 500 holiday parks and residential land lease communities (residential parks, including caravan parks and manufactured home estates) and over 200 manufacturers, retailers and repairers of recreational vehicles (RVs, including caravans, campervans, motorhomes, camper trailers, tent trailers, fifth wheelers and slide-ons), camping equipment suppliers, manufactured home builders and service providers to these businesses.

We currently have as members over 700 businesses representing all aspects of the caravan and camping industry and residential land lease living industry. Of these, just over 490 members are holiday parks and residential land lease communities located throughout New South Wales (NSW).

Under the Australian Energy Regulator's (AER) current *Electricity Network Service Provider - Registration Exemption Guideline, Version 6, March 2018* (Network Guideline) and *AER Retail Exempt Selling Guideline, Version 6, July 2022* (Retail Guideline) our holiday park and residential land lease community members are classified as follows:

**Holiday Parks**

Embedded Network Type	AER Exemption Classes	Requirements
Persons supplying metered or unmetered energy to occupants of holiday accommodation on a short-term basis	Class <b>ND3</b> of the Network Guideline	Deemed classes of exemption. Do not need to register with the AER, however, they are required to comply with Conditions attached to their exemption
Persons selling metered energy to occupants of holiday accommodation on a short-term basis	Class <b>D3</b> of the Retail Guideline	

## Residential Parks

Embedded Network Type	AER Exemption Classes	Requirements
Persons supplying metered or unmetered energy in caravan parks, holiday parks, residential land lease parks and manufactured home estates to residents who principally reside there	Class <b>NR4</b> of the Network Guideline	Registrable classes of exemption. Must register with the AER and comply with the Conditions attached to their exemption
Persons selling metered energy in caravan parks, residential parks and manufactured home estates (also known as residential land lease communities) to residents who principally reside there	Class <b>R4</b> of the Retail Guideline	

## Mixed Parks

Embedded Network Type	AER Exemption Classes	Requirements
Persons supplying metered or unmetered energy to occupants of holiday accommodation on a short-term basis <b>AND</b> in caravan parks, holiday parks, residential land lease parks and manufactured home estates to residents who principally reside there (mixed parks)	Class <b>NR4</b> of the Network Guideline	Registrable classes of exemption. Must register with the AER and comply with the Conditions attached to their exemption  <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, despite the majority of their customers being holiday makers.</i>
Persons selling metered energy to occupants of holiday accommodation on a short-term basis <b>AND</b> in caravan parks, residential parks and manufactured home estates (also known as residential land lease communities) to residents who principally reside there (mixed parks)	Class <b>R4</b> of the Retail Guideline	

For the purpose of this submission, wherever we refer to 'holiday parks' we are referring to caravan parks that supply/sell energy via an embedded network to occupants of accommodation on a short-term basis (i.e., these are not permanent residents, that is, they are not living in the park).

Wherever we refer to 'residential land lease communities' we are referring to residential parks, including caravan parks and manufactured home estates, that supply/sell energy via an embedded network to residents who live there. This includes caravan parks that supply energy to a few 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 NSW is an important stakeholder in relation to the AER's *Draft Network Exemptions Guideline Version 7* (Draft Network Guideline) and *Draft Retail Exempt Selling Guideline Version 7* (Draft Retail Guideline).

Thank you for meeting with us on 8 April 2025 to discuss the draft Guidelines. We welcome the opportunity to provide our feedback as relevant to our members. This submission reiterates and expands on the issues raised during those discussions.

### **Notice of Draft Decision**

There is a statement made on page 20 of the *Notice of Draft Decision – March 2025* document that we wish to clarify. Table 2 sets out ‘*Differences in retail consumer protections between customer types.*’ In relation to ‘*Access to rebates and concessions*’ under the column ‘*Exempt seller customer in embedded network*’ Table 2 states:

*‘NSW – ineligible for most concessions unless their seller is a signatory to the voluntary Social Programs for Energy Code.’*

This statement is inaccurate. In NSW embedded network customers are eligible for most energy rebates except for Energy Accounts Payment Assistance (which is under review).<sup>1</sup> The difference is that embedded network customers apply for rebates via the Service NSW website, as opposed to the situation of a customer’s retailer applying rebates to the customer’s account.

**We request that the AER amend this statement because inaccuracies like this perpetuate the spread of misinformation about embedded networks.**

### **Draft Network Guideline**

While the Draft Network Guideline remains structured around conditions, rather than our suggestion of structuring according to class activity, most amendments in Version 7 are reasonable and we commend the AER team on their pragmatic approach.

There are, however, areas of concern for our sector that require revision as outlined below.

### **Eligible Communities and Counter-Offer Provisions**

**We reiterate we do not support removing the ‘eligible communities’ and counter-offer provisions from the Network Guideline.**

Residential land lease communities in NSW are currently subject to electricity price controls set by the Independent Pricing and Regulatory Tribunal (IPART) under the *Residential (Land Lease) Communities Act 2013* (RLLC Act) resulting in customers being unlikely to seek to go on-market. This means Embedded Network Manager (ENM) services are unnecessary at this time, and this would be one reason for a lack of take up of the eligible communities and counter offer provisions in activity class NR4, not because there is a lack of interest in forming ‘eligible communities.’

It would be a poor policy outcome and a disservice to embedded networks and their customers to simply remove these provisions without at least redrafting them to reduce their complexity and improve their suitability. Although they have not yet been taken up, these provisions provide a benefit to embedded network customers who do not utilise the service of an ENM.

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<sup>1</sup> Find an energy rebate, NSW Climate and Energy Action, NSW Government, <https://www.energy.nsw.gov.au/households/rebates-grants-and-schemes/find-energy-rebate> accessed 21 April 2025

It is widely acknowledged that bulk purchasing schemes offer the most benefit if all customers remain inside the embedded network. In its *Reasons for Decision* document during consultation on version 5 of the Network Guideline in 2016 the AER concluded –

*‘Our final position remains that the exempt embedded network service provider will be required to absorb the ENM costs, except in the limited case of an eligible community bulk purchasing scheme. We consider this position will provide the lowest barrier to effective competition in embedded networks and thereby ensure embedded networks seek to operate on a competitive basis.’<sup>2</sup>*

Removing the eligible communities and counteroffer provisions from the Network Guideline at this time would be premature. Over time, ENM services may become more prevalent, and thus, the benefit provided by the ‘eligible communities’ provisions to customers wanting to remain inside the embedded network is important.

It would be unfair to force home owners who want to stay in an embedded network and continue to receive the benefit of a bulk purchasing arrangement to have to bear the cost of ENM services for other home owners seeking to go on-market without some sort of cost-recovery mechanism.

### **Continuity of Supply – Condition 1.17**

As previously submitted, we have no issues with the proposal to impose new Condition 1.17 in the Draft Network Guideline to require an exempt network service provider to immediately notify customers and the AER of the actual, or likely risk of, disconnection of the parent connection point and take actions as set out in Condition 1.17 to ensure customers continue to have access to energy.

**However, Condition 1.17 should not apply to embedded networks operating under activity class ND3, such as holiday parks.**

Holiday parks are tourism businesses, so the primary relationship between an embedded network customer and an embedded network operator in a holiday park is an arrangement for holiday and other accommodation on a short-term basis. The supply of energy is therefore incidental and temporary.

As customers in holiday parks make use of the embedded network only occasionally and for holiday and other short-term purposes, regulators have identified that these arrangements need little regulatory oversight. Operators still have obligations in relation to supply, pricing, information disclosure, billing, receipts, dealing with complaints and resolving disputes, but issues like Retailer of Last Resort (ROLR) provisions are not of concern in holiday parks.

Further, Condition 21 *Continuity of Supply* of the Draft Retail Guideline does not apply to activity class D3. The same should be reflected in the Network Guideline for class ND3.

**We raised this issue in our meeting with the AER team on 8 April 2025 [REDACTED]. Therefore, we request that Appendix A-1: Classes of deemed and registrable exemptions on page 38 be amended in the relevant column to mark Condition 1.17 as ‘N/A’ for class ND3.**

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<sup>2</sup> AER, *Reasons for Decision – Amended Network Exemption Guideline – Version 5, Commonwealth of Australia, 2016, p25*

## Meaning of ‘Short-Term Accommodation’

We note that guidance has been provided in Footnote 41 of *Appendix A-1: Classes of deemed and registrable exemptions* of the Draft Network Guideline (on page 38) that for class ND3 the AER considers accommodation provided on a ‘short-term basis’ to mean ‘3 months or less.’

**We strongly oppose this change and the AER's interpretation, as it will significantly impact holiday parks and mixed parks offering accommodation that can extend beyond 3 months, and which is not residential accommodation.**

Examples include:

- Site hire to long-term casual occupants under the *Holiday Parks (Long-term Casual Occupation) Act 2002*. These people are not residents of the holiday park or mixed park, as they must not live there and must have a principal place of residence somewhere other than the site. Rather, these people rent a site for a moveable dwelling<sup>3</sup> (including a caravan) they own, which they use for holiday or recreational purposes, and they can do so for up to 180 days in any 12-month period.<sup>4</sup>
- Guests who could be staying for a longer holiday or for other purposes such as travelling for work, visiting friends and relatives, seeking medical care locally, etc.
- Seasonal workers or contractors, such as fruit pickers during harvest season or road workers for a local infrastructure project.
- ‘Grey nomads’ who are travelling the country in their recreational vehicle for a period of time.

In all these cases, the accommodation stay can legally exceed 3 months without changing its classification from short-term/holiday to long-term/permanent. The classification is dependent on the purpose of the stay.

If the policy intent of this change is to distinguish between customers using short-term or ‘holiday’ style accommodation and residential customers, the AER should provide guidance based on the type of accommodation rather than an arbitrary timeframe of ‘less than 3 months.’ A time-based approach will cause embedded networks currently operating under class ND3 of the Network Guideline to fall outside a relevant and appropriate activity class.

**We raised this issue in our meeting with the AER team on 8 April 2025 [REDACTED]. We therefore request that the AER delete this change to the Draft Network Guideline.**

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<sup>3</sup> Defined in the *Local Government Act 1993 – Dictionary - moveable dwelling* means—

(a) any tent, or any caravan or other van or other portable device (whether on wheels or not), used for human habitation, or

(b) a manufactured home, or

(c) any conveyance, structure or thing of a class or description prescribed by the regulations for the purposes of this definition.

<sup>4</sup> See clause 73(1)(c) of the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021*

## Metering Installation – Condition 2.4

We extend our thanks to the AER team for amendments to Condition 2.4 of the Draft Network Guideline, which restores deleted content from *Condition 4.2 Metering installation and NEM requirements* of the current Network Guideline.

Condition 4.2 contains important information that clarifies who pays to replace meters installed in embedded networks before and after 1 January 2012 and in what circumstances. The information was added to Version 5 of the Network Guideline (December 2016) and further improved upon in the current Version 6 (March 2018). This information is not replicated in the NER and we note that previous guidelines are revoked when a new guideline commences.

We requested that this information and the table be reinstated in the Draft Network Guideline because it is important for parties to understand and have access to help resolve any disputes.

We are pleased to see content from Condition 4.2 restored in Condition 2.4, although some amendments have been made to some wording in the condition. Most of these changes are clear and reasonable, but there could be some misinterpretation of the following sentences on page 62:

- *‘This condition applies to entirely new or changed (repaired or replaced) child metering installations within an existing exempt network.’* – the use of the word ‘entirely’ is confusing. **We suggest revising this sentence to: ‘This condition applies to new or changed (repaired or replaced) child metering installations within an existing exempt network.’**
- *‘Where the customer has no child meter, the exempt network service provider must install one that complies with the requirements of schedule 7.4 of the NER at their own expense’* – this sentence could be misinterpreted to require existing unmetered sites to have meters installed.

**We discussed this sentence with the AER team on 8 April 2025,** [REDACTED]

**Therefore, we suggest revising this sentence to: ‘Where the customer has no child meter and the exempt network service provider seeks to install one, the exempt network service provider must install one that complies with the requirements of schedule 7.4 of the NER at their own expense.’**

## Embedded Network Manager Requirements – Conditions 3.1 – 3.4

For embedded networks where there are less than 30 small residential or small business customers, we note Condition 3.3 of the Draft Network Guideline requires that where an ENM trigger event occurs the exempt network service provider must appoint an ENM within 30 business days of the occurrence of the ENM trigger event.

This is a shorter period than the 90 days we recommended in our 5 July 2021 submission on the AER’s Consultation Paper. We do not press the issue at this time, however, **if 30 business days proves to be insufficient to allow a successful procurement process (and subject to our above submissions regarding retaining the mechanism for eligible communities to not appoint an ENM immediately) we request the AER prioritise a review of this time period.**

In relation to deferral of the appointment of an ENM, we welcome the AER's decision to maintain in the Draft Network Guideline provisions allowing this where it would not serve a practical purpose.

For holiday parks and residential land lease communities operating under activity classes ND3 and NR4 it is our understanding that there are no changes in the Draft Network Guideline for when an ENM must be appointed in these embedded networks.

Despite changes to the wording in the relevant conditions in the Draft Network Guideline (new Conditions 3.1 – 3.4) and more reliance on the use of footnotes to differentiate the relevant activity classes (pages 63 – 64), it remains that:

- Class ND3 is not a relevant activity class that requires early appointment of an ENM. This is due to this class concerning short-term accommodation. However, in the unlikely event an ENM trigger event occurs the exempt network service provider must appoint an ENM.
- Class NR4, regardless of whether there are more or less than 30 small residential customers, is also not a relevant activity class that requires early appointment of an ENM. This is due to the AER's determination that the costs will outweigh the benefits of early appointment of an ENM. However, in the event an ENM trigger event occurs the exempt network service provider must appoint an ENM.

This is our understanding of the ENM requirements for activity classes ND3 and NR4 based on our interpretation of the conditions and footnotes of the Draft Network Guideline, our understanding of previous versions of the Network Guideline, and the fact that a proposal for a change in this area was not raised in the Consultation Paper nor the *Notice of Draft – Network Exemptions Guideline (Version 7)*.

We are concerned, however, that the average holiday park or residential land lease community operator will not easily comprehend the requirements because a key paragraph of information that is in *Condition 4.4.2 ENM appointment trigger conditions* on page 54 of the current Network Guideline (Version 6) has been deleted. That paragraph is:

*'We have omitted classes ND1 and ND2 from the relevant activity classes. These classes have fewer than 30 customers. 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.'*

We raised in our previous submission dated 8 December 2022 that this is extremely helpful information for a layperson that explains, in very simple terms, what the ENM appointment requirements are for activity classes ND3 and NR4. It is therefore disappointing to see that it is still missing from the Draft Network Guideline.

Most but not all holiday parks and residential land lease communities in NSW are members of our Association. These non-member businesses will not have the benefit of receiving information and assistance from this Association with interpreting the AER guidelines.

**As part of the objective to make the Draft Network Guideline easier to understand, we request the footnotes be amended to explicitly take account of activity class NR4 with**

**30 or more customers and the above paragraph be reinstated (whether in the text, footnotes or appendices of the Draft Network Guideline).** This would be a great help to avoid confusion for our members, as well as other embedded networks operating under these activity classes.

## **Pricing Visibility – Condition 5.2**

Condition 5.2.3 imposes a requirement on an exempt network service provider to notify a customer of any change to their network tariff at least 5 business days before the variation takes effect. This aligns with the new requirement added to Condition 7 of the Draft Retail Guideline.

**We request consideration of whether this requirement should apply to residential land lease communities in NSW, given the unique pricing arrangements under the RLLC Act.**

### Electricity pricing in NSW residential land lease communities

Last year, amendments to the RLLC Act were passed in NSW changing the rules for how much customers in residential land lease communities can be charged for electricity. Under the new laws, operators must not charge a daily supply charge or usage charge per kWh that exceeds the ‘comparable market offer’ for the community’s distribution district.

The new laws require IPART to determine the ‘comparable market offer’ and advise the Commissioner of Fair Trading. Clause 10A of the *Residential (Land Lease) Communities Regulation 2015* (RLLC Regulation) states:

***‘10A Determination and publication of comparable market offers—the Act, section 77(5) and (7)(d)***

*(1) The Independent Pricing and Regulatory Tribunal must determine the median retail market offer for residential customers (the **median retail offer**) for each distribution district at least once every 12 months.*

*(2) As soon as practicable after determining the median retail offer for each distribution district, the Independent Pricing and Regulatory Tribunal must give the Commissioner written notice of the following—*

- (a) the median retail offer for each distribution district,*
- (b) the date from which the determination takes effect.*

*(3) As soon as practicable after receiving written notice under subclause (2), the Commissioner must publish the following information on a publicly available website—*

- (a) the median retail offer for each distribution district,*
- (b) the date from which the determination takes effect.’*

IPART made its first determination on 31 July 2024,<sup>5</sup> with the prices commencing on 25 September 2024.

Further, if the electricity being supplied to a site by an operator is less than 60 amps, clause 14 of the RLLC Regulation requires the following daily supply charge discount to apply:

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<sup>5</sup> IPART, *Determination – Maximum electricity prices for land lease communities – 31 July 2024*, <https://www.ipart.nsw.gov.au/documents/determination/determination-maximum-electricity-prices-land-lease-communities-31-july-2024> accessed 21 April 2025

Level of supply to site	Maximum daily supply charge	Discount
less than 30 amps	40% of daily supply charge	60%
30-59 amps	70% of relevant daily supply charge	30%
60 or more amps	100% of relevant daily supply charge	None

Considering all pricing information is publicly available, and home owners under the RLLC Act must be given at least 21 days to make payment, we question whether an additional administrative requirement under the Draft Network Guideline for operators to provide a notice to customers of the change to their tariff *'at least 5 business days before the variation takes effect'* is a necessary burden to impose.

There is also the potential for IPART to make a determination that takes effect sooner than 5 business days from the date of determination. The only time requirement in the NSW legislation is that the IPART must make a determination at least once every 12 months. IPART's determination should apply in all respects, but there is a potential for legislative conflict.

We note that conflicts with State and Territory laws are contemplated by the AER, as stated on page 7 of the Draft Network Guideline: *'those State or Territory laws take precedence over the Guideline's conditions.'* However, **to avoid confusion and imposing an unnecessary administrative burden on operators, we request the AER consider a specific exemption from this requirement for residential land lease communities in NSW.**

#### Gas pricing in NSW residential land lease communities

There are very few embedded networks in NSW residential land lease communities that supply or on-sell gas, however, for those that do section 77 (6) of the RLLC Act provides:

*'(6) The operator must not charge an amount for the use of a utility other than electricity that is more than the amount charged by the utility service provider for the quantity of the service supplied to, or used at, the residential site.*

*Maximum penalty—20 penalty units.'*

To calculate these charges, operators' total gas costs are divided by total megajoules used and then applied to each resident's consumption (i.e. a 'blended' rate). This means a new rate can apply in each billing period due to variation factors (e.g. seasonal, operational).

The only way for an operator to comply with the proposal in the Draft Network Guideline would be to apply the 'blended' rate of the previous billing period to the forward billing period for the duration of the '5 business days notice' period. However, this time lag could result in non-compliance under the RLLC Act where there is a pricing variation, and a penalty can be imposed.

**Consequently, the AER's proposal is unworkable for gas embedded networks within NSW residential land lease communities. We reiterate our request that the AER consider a specific exemption from this requirement for this sector.**

We note the same issue arises for communities in QLD that must comply with pricing provisions under section 99A of the *Manufactured Homes (Residential Parks) Act 2003* (MHRP Act). That section provides an operator *'must not charge the home owner, or arrange for the home owner to be charged, an amount (a "prohibited amount") for the use of a utility that is more than the amount charged by the relevant supply entity for the quantity of the service supplied to, or used at, the site.'*

This mirrors the application of a 'blended' rate for gas in NSW residential land lease communities under section 77 (6) of the RLLC Act. As such, **QLD operators supplying electricity and gas via embedded networks will also face potential non-compliance with state legislation should Condition 5.2.3 apply to them.**

### **Other Amendments**

On page 12 of the Draft Network Guideline and page 9 of the Draft Retail Guideline the words '*such as landlord and tenant*' have been deleted from the third paragraph. **We request these words be reinstated as they provide a useful example to clarify what is meant by '*another more significant relationship*.'**

### **Possible Drafting Error**

The definition of 'Embedded Network Manager (ENM)' on page 2 of the Draft Network Guideline has been revised as follows:

- Definition in current Network Guideline – '*Has the same meaning specified in chapter 10 of the NER*'
- New Definition in Draft Network Guideline – '*A person:*
  - a. *Who meets the requirements listed in schedule 7.7 and has been accredited and registered by AEMO as an Embedded Network Manager, and*
  - b. *Who has not been deregistered by AEMO as an Embedded Network Manager under clause 7.4.4(d).*

**Without a reference to the NER in the new definition, the references to 'schedule 7.7' and 'clause 7.4.4(d)' are unclear.**

### **Draft Retail Guideline**

#### **Meaning of 'Short-Term Accommodation'**

Guidance has also been provided in Footnote 15 of the Draft Retail Guideline (on page 9) and within *Appendix A-1: Classes of deemed and registrable exemptions and conditions (Table 1)* (on page 31) that for class D3 the AER considers accommodation provided on a 'short-term basis' to mean '*3 months or less*.' This aligns with changes to the Draft Network Guideline.

**Reiterating our submissions on page 5, we strongly oppose this change and the AER's interpretation, as it will significantly impact holiday parks and mixed parks offering accommodation that can extend beyond 3 months and which is not residential accommodation.**

If the policy intent of the change is to distinguish between customers using short-term or 'holiday' style accommodation and residential customers, the AER should provide guidance based on the type of accommodation rather than an arbitrary timeframe of '*less than 3 months*.' Otherwise, this change will cause embedded networks currently operating under class D3 of the Retail Guideline to fall outside a relevant and appropriate activity class.

**We raised this issue in our meeting with the AER team on 8 April 2025 [REDACTED]. We therefore request that the AER delete this change to the Draft Retail Guideline.**

## **Pricing Visibility – Condition 7**

We note the amendment to Condition 7. 2, which imposes requirements on an exempt seller to provide notice to the exempt customer of any change in the exempt customer tariff at least 5 business days before the variation takes effect. This aligns with the new requirement added to Condition 5.2.3 of the Draft Network Guideline.

**In line with our submissions above, we request consideration of whether this requirement should apply to residential land lease communities in NSW, given the unique pricing arrangements under the RLLC Act.**

In these embedded networks, all electricity pricing information (as determined by the IPART) is publicly available and under the RLLC Act home owners must be given at least 21 days to make payment. We question whether an additional administrative burden under the Draft Retail Guideline for operators to provide notice to customers of the change to their tariff *‘at least 5 business days before the variation takes effect’* is necessary.

There is also the potential for the IPART to make a determination that takes effect sooner than 5 business days from the date of determination. The only time requirement in the NSW legislation is that the IPART must make a determination at least once every 12 months. IPART’s determination should apply in all respects, but there is a potential for legislative conflict.

**To prevent imposing an additional administrative burden on operators, and to avoid confusion, we request the AER consider a specific exemption from this requirement for residential land lease communities in NSW.**

We also reiterate our above submissions in relation to gas pricing in NSW residential land lease communities and communities in QLD that must comply with pricing provisions under section 99A of the MHRP Act. **The AER’s proposal is unworkable for these embedded networks, and we reiterate our request for consideration of a specific exemption from this requirement for this sector.**

To improve pricing visibility, we also note the AER proposes new Condition 7. 4 which stipulates an exempt seller must publish the exempt customer tariffs and charges, and a percentage comparison of the exempt customer tariffs to the local area retailer’s standing offer, on its website, or in the absence of a website, display this information in a location accessible to exempt customers (for example, a communal area).

**We have significant concerns about the administrative and financial impacts of this new condition on residential land lease communities in NSW.**

As outlined above, under the RLLC Act the IPART determines the ‘comparable market offer’ for land lease communities (usage and supply charges for each distribution district) at least once every 12 months and advises the Commissioner of Fair Trading. This information is publicly available.

Furthermore, under section 76 of the RLLC Act, operators and ‘third-party suppliers’ are extremely limited in the charges they can impose on home owners. Section 78 permits fees for late and dishonoured payments, but charges such as account establishment fees, debt collection fees, and security deposits, as set out in the Draft Network Guideline, are not allowed.

**Given these unique pricing arrangements and limitations, we question whether the additional administrative burden of publishing pricing information on websites or in**

**communal areas, including a percentage comparison to the local area retailers standing offer, is warranted. There is little additional benefit to customers in these communities, which does not outweigh the additional administrative burden and resulting costs for operators.**

The IPART's pricing determination is the relevant electricity price signal for these embedded networks and the IPART's pricing methodology results in pricing that is lower than the standing offer price.

Further, the Bastion Insights report that the AER commissioned and referenced in the *Notice of Draft Decision – March 2025* identified that exempt sellers who charge significantly less than the DMO are more likely to be exempt owners corporations or caravan parks (20-68% below the DMO).<sup>6</sup>

Additionally, if the electricity supplied to a site by an operator is less than 60 amps, discounts on daily supply charges must be applied. This further complicates the process for electricity charges.

For embedded networks in NSW residential land lease communities that on-sell gas, the administrative burden of Condition 7. 4 will be compounded as pricing can change every billing period. The pricing capable of being displayed would be retrospective and have limited benefit to the consumer. We reiterate that section 77(6) of the RLLC Act states:

*'(6) The operator must not charge an amount for the use of a utility other than electricity that is more than the amount charged by the utility service provider for the quantity of the service supplied to, or used at, the residential site.*

*Maximum penalty—20 penalty units.'*

To calculate these charges, operators divide total gas costs by total megajoules used and apply this 'blended' rate to each resident's consumption, which can result in a new rate each billing period due to variation factors (e.g., seasonal, operational). New Condition 7.4 would require these operators to update their websites, or communal area information, with previously applicable pricing every billing period.

Moreover, authorised retailers do not make their standing offer prices easily accessible, which can make it difficult for operators to find and publish a percentage comparison to the local area retailer's standing offer. Retailer websites are often difficult to navigate, and operators frequently need to call the retailer to obtain this information. This will add to the time involved with complying with this condition.

**Given unique pricing arrangements under the RLLC Act, we believe the AER's proposed changes to Condition 7. 4 will offer little additional benefit to customers in NSW residential land lease communities compared to the additional administrative burden and operational challenges for operators and third-party suppliers. We request the AER consider a specific exemption from this requirement for this sector.**

Again, similar issues arise for communities in QLD that on-sell energy (electricity and gas) and must comply with pricing provisions under section 99A of the MHRP Act. This section states that an operator *'must not charge the home owner, or arrange for the home owner to be*

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<sup>6</sup> Bastion Insights, *Review of the Exemptions Framework for Embedded Networks Research Report*, prepared for the Australian Energy Regulator May 2024, p 18, <https://www.aer.gov.au/system/files/2025-03/Bastion%20Insights%20-%20Review%20of%20the%20exemptions%20framework%20for%20embedded%20networks%20research%20report%20-%20May%202024.pdf> accessed 26 April 2025.

*charged, an amount (a 'prohibited amount') for the use of a utility that is more than the amount charged by the relevant supply entity for the quantity of the service supplied to, or used at, the site.'*

New Condition 7.4 would require these operators to update their websites or communal area information every billing period, imposing a significant administrative burden on them and exponentially increasing operational challenges for operators managing multiple sites. Pricing would also be retrospective and have limited benefit for customers.

## **Family Violence Protections**

We are not opposed to extending family violence obligations to exempt sellers to support customers experiencing family violence, as helping to end family violence is a whole-of-society, whole-of-government responsibility.

In July 2022 the AER Retail Guideline introduced a new hardship policy condition and policy template for exempt sellers to ensure residential customers in embedded networks who experience payment difficulties due to hardship can have access to adequate support to better manage their energy bills. Operators of NSW residential land lease communities were very proactive in implementing their new responsibilities.

We previously submitted that as long as the proposed family violence obligations are similar to the hardship requirements – i.e. they are 'scaled-back' versions of retailer responsibilities – they should be supported. It is positive that this is largely the case for new Condition 27 of the Draft Retail Guideline. However, there are several issues of concern that need to be addressed, which are set out below:

### Documentary evidence

Proposed Condition 27 4. a) stipulates that an exempt seller's family violence policy must not require an exempt customer to provide evidence of family violence or police notification, as a precondition for accessing the protections and support set out in Condition 27 and the exempt seller's family violence policy.

**We request the AER reconsider this provision and allow exempt sellers to request documentary evidence of family violence (such as a copy of an Apprehended Violence Order, statutory declaration, etc). This consideration is crucial given the reduced capabilities of exempt sellers compared to authorised retailers and their limited resources to manage customer debt.**

Furthermore, the relationship between operators and residents in a residential land lease community differs significantly from the commercial relationship between an authorised retailer and their customer. Often, the operator or manager of a community resides on-site and is personally known to all residents.

In instances where a retailer's customer is experiencing family violence, the retailer maintains a degree of separation through its call centre operations. However, a residential land lease community operator or manager may have direct physical contact with both the family violence victim and the perpetrator, complicating the situation.

**Given the close-knit nature of these relationships, it is imperative that family violence protections are reserved for genuine cases. Allowing operators to request documentary evidence ensures that the protections are appropriately applied and that the limited resources of exempt sellers are effectively managed.**

## Customer identification

We note that new Conditions 27.6 and 27.7 introduce requirements for exempt sellers to:

- a) identify an affected exempt customer's preferred method of communication and, where practicable, use that method of communication in all communications with the affected exempt customer, and
- b) implement a secure process that allows anyone acting on the exempt seller's behalf (e.g. employees, third-party providers, etc) to identify the account of an affected exempt customer and avoid affected exempt customer having to repeatedly disclose or refer to their experience of family violence.

While these new requirements appear reasonable, they necessitate that exempt sellers have the system capability to appropriately flag an affected customer's account and action their preferred method of communication.

Some of our members have expressed concerns that this will be challenging, particularly for exempt sellers operating multiple sites with bespoke operating systems. Complications will arise when an affected exempt customer contacts an employee at 'head office' who may be using a different system than the one used at the residential land lease community where the customer resides.

**We appreciate the AER's provision of a 6-month transition period for implementing the family violence protections. However, we request that the AER allow for these requirements in Conditions 27.6 and 27.7 to be reviewed if our members identify that the necessary system upgrades will impose a significant burden due to the cost or complexity of implementing these changes.**

## Energy contract consistency

Condition 27.12 stipulates that an exempt seller must ensure the terms and conditions set out in any exempt customer energy contract are consistent with the obligations under Condition 27.

While this requirement also appears reasonable, the AER should be aware that in NSW residential land lease communities an exempt customer's energy contract is typically the home owner's site agreement under the RLLC Act.

Section 27 of the RLLC Act mandates standard form site agreements, the terms of which '*must not be varied by the parties and to the extent the terms are so varied they are taken not to have been varied*' (see section 27(4)).

Although the requirements of Condition 27 do not seem to conflict with the standard form site agreement, we bring this to the AER's attention for clarity. **To avoid any potential confusion, we suggest amending Condition 27.12 as follows:**

***'12. An exempt seller must ensure the terms and conditions set out in any exempt customer energy contract are consistent with the obligations under Condition 27, except where State or Territory laws conflict with Condition 27, in which case those State or Territory laws take precedence.***

## Imposition of family violence obligations on holiday park operators

*Appendix A-3: Exemption class conditions* (Table 3) in the Draft Retail Guideline identifies that new Conditions 2.1.k) and 27 relating to family violence obligations apply to activity class D3 (e.g. holiday parks). **We strongly oppose this change, which was made without prior consultation.**

NSW holiday parks operating under deemed activity class D3 **do not have residential customers.** We have repeatedly raised this issue with the AER during reviews of the Network and Retail Guidelines, yet there remains a misunderstanding about the type of customers in these embedded networks.

Customers of holiday parks in this class are tourists, guests or long-term casual occupants. They are not residents, and they have a different set of rights and obligations.

As stated on page 36 of the *Notice of Draft Decision – March 2025*, the AER’s position is to attach family violence conditions to **residential and small business exemption classes.** Therefore, *Appendix A-3: Exemption class conditions (Table 3)* should not indicate that new Conditions 2.1.k) and 27 apply to class D3.

**We addressed this issue in our meeting with the AER team on 8 April 2025.** [REDACTED]

[REDACTED]. **We therefore request that the AER amend the Draft Retail Guideline to ensure that in *Appendix A-3: Exemption class conditions (Table 3)*, new Conditions 2.1.k) and 27 are marked ‘N/A’ for class D3.**

## Exempt Seller Family Violence Policy template

The draft Exempt Seller Family Violence Policy template is generally acceptable, and we commend the AER for providing this helpful resource to exempt sellers.

However, we request the following minor amendments:

1. Page 1 opening paragraph –

*‘This policy applies to all ~~energy customers residential and small business customers~~ at [insert site] who may be affected by family violence. It explains how we will help you if you tell us you are experiencing family violence, including our obligations to protect your energy-related information, and support you if you are having trouble paying your energy bills.’*

**This amendment is to ensure the Exempt Seller Family Violence Policy template correctly identifies which customers family violence protections are intended for (i.e. residential and small business customers).**

2. Footnotes –

The AER Exempt Seller Hardship Policy template includes footnotes referencing Conditions 2, 9, 12 and 26 of the Retail Guideline. This approach significantly aids in understanding the policy and its relation to the conditions that exempt sellers must meet.

**We recommend that the same method be applied for the draft Exempt Seller Family Violence Policy template.** This would provide clear, immediate references to the relevant conditions, which would help exempt sellers to navigate and implement

the policy in alignment with those conditions, ultimately leading to more effective and consistent application of family violence protections.

3. Page 2 -

Minimum requirements	Standardised statements
	<p><del>We will not ask you to give us evidence that you are affected by family violence before we can help you:</del></p> <p>We will not ask you to repeatedly disclose your personal circumstances.</p> <p><b>You can choose how you want to communicate with us</b></p> <p>We will request your preferred form of communication and we will only use that form of communication to talk to you about your energy account.</p> <p>If we cannot use your preferred form of communication, we will offer other ways to communicate with you.</p> <p><b>You can nominate a support person</b></p> <p>You can choose a support person to communicate with us:</p> <p>A support person could include a:</p> <ul style="list-style-type: none"> <li>• family member or friend</li> <li>• financial counsellor</li> <li>• social worker</li> <li>• someone who helps you manage your <u>energy bills</u>.</li> </ul> <p>We will only do this if you give us your permission and provide us the contact details of your preferred person(s). If this happens, we'll note their details in our records. We will only communicate with you and/or the person you choose, according to your instructions.</p> <p>If you prefer, we can communicate solely with your chosen support person.</p>

**These amendments are to align the draft Exempt Seller Family Violence Policy template with our above submissions and with the drafting approach of the Exempt Seller Hardship Policy template.**

4. Page 4 –

Minimum requirements	Standardised statements
<p><i>Assistance available to affected exempt customers experiencing payment difficulties</i></p>	<p><b>If you are experiencing payment difficulties</b></p> <p>If you are affected by family violence and are struggling to pay your energy bills, contact us for help as soon as possible. We can offer <del>a range of</del> support, including payment plans and waiving fees associated with late payment (if applicable).</p> <p><b>Late payment fees</b></p> <p>We will waive late payment fees on your energy bill.</p> <p><b>Payment Plans</b></p> <p>If you are a residential customer on a payment plan with us, and you have missed your payments, we will work with you to set up a new payment plan.</p> <p><b>Hardship policy</b></p> <p>If you are a residential customer experiencing payment difficulties, we will tell you about the support options available through our Hardship Policy. [insert link to <del>or attach copy of</del> policy]. You can ask us for a copy of our Hardship Policy at any time.</p> <p><b>We will not disconnect you</b></p> <p>We will consider how family violence has impacted your ability to pay your energy bills and will not disconnect your energy supply if your unpaid energy bills resulted from family violence or would impact your safety.</p>

**These amendments are to improve readability and allow exempt sellers who may not be able to provide a link with an alternative option for providing a copy of their Hardship Policy.**

**Other Amendments**

On page 9 of the Draft Retail Guideline the words *‘(for example, landlord and tenant)’* have been deleted from the second paragraph. **As noted for page 12 of the Draft Network Guideline, we request these words be reinstated as they provide a useful example to clarify what is meant by *‘another more significant relationship.’***

**Conclusion**

Thank you for considering our feedback on the Draft Network Guideline and Draft Retail Guideline. As the peak industry body representing holiday parks and residential land lease

communities in NSW with embedded networks, CCIA NSW is an important stakeholder in relation to the review of the AER exemptions framework for embedded networks.

We are available to meet again to discuss the issues raised in this submission before the revised Guidelines are finalised. Please contact Shannon Lakic, General Manager Policy & Engagement, on [REDACTED] [REDACTED] [REDACTED] or email [REDACTED] to make arrangements.

We look forward to our continued involvement in the consultation process.

Yours sincerely

A large black rectangular redaction box covering the signature of Lyndel Gray.

Lyndel Gray  
**Chief Executive Officer**