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Exemption Guidelines Review

The Shopping Centre Council of Australia (SCCA) welcomes the opportunity to provide feedback on the *Exemption Guidelines Review Consultation Paper* (the Consultation Paper), which focusses on the interaction between the flexible trading framework and the exemption frameworks, and providing for greater flexibility and productivity for retrofitted commercial embedded networks.

The SCCA and our members have had longstanding engagement with the AER on embedded network matters, and arguably more so than any other party across the period that the AER has been the regulator. We have engaged across all relevant consultations in relation to retail exemptions, network exemptions and customer protections.

We are broadly supportive of the proposals included in the Consultation Paper, and our submission proposes some refinements to maintain the commendable intention of improving flexibility and productivity for exempt sellers.

Context

As we have discussed with the AER previously, embedded networks and ENOs are often wedged into sub-optimal regulatory frameworks that aren't designed for embedded networks or that seek to address problems that don't exist. A common justification is that increased requirements for embedded networks are needed for consumer protection, however our experience is that failures in consumer protection (at least in respect of embedded networks for small business customers as distinct to residential customers) are never identified or detailed.

In our experience, this is due to a lack of familiarity from regulators with embedded networks and the challenges that industry face complying with regulatory requirements in practice, particularly while energy costs continue to increase alongside compliance costs without acknowledgment by regulators.

Further, in our experience our concerns are too often dismissed, with unfulfilled commitments that they will be considered as part of other reviews.

Ultimately, these issues will only be resolved through a commitment from the AER to review and reform the entire exemption framework for non-residential embedded networks in collaboration with ENOs. This would require a focus on the impact of the multitude of regulatory and exemption conditions that impact embedded networks. The current Consultation Paper is a welcome start, but there is much more work than should be undertaken.

Such a review would align with the Government's broader productivity agenda, particularly in respect of the productivity-inhibiting effect of isolated regulatory measures combining to create environments that are, in practice, unworkable for industry. In effect, embedded networks are experiencing a 'death by a thousand cuts' through siloed regulation that doesn't consider the practical impact of each additional requirement or constraint.

Our submission to the Draft DMO Determination 2026-27 made the following recommendations, which are appropriate to repeat here and that we would welcome further discussions with the AER on:

- Recommendation 1.** **The AER should establish a focused review on the regulatory environment that ENOs operate within and commit to implementing reforms ahead of DMO 9.**
- Recommendation 2.** **As part of the review in Recommendation 1, the AER should establish an industry working group to support the review.**
- Recommendation 3.** **The exemption framework for embedded networks should ultimately be adjusted to provide flexibility for ENOs who are otherwise effectively forced to have a DMO price cap through Condition 7 of the *Retail Exempt Selling Guideline*, unlike retailers.**

Consultation Paper Feedback

The SCCA is broadly supportive of the proposals to avoid regulatory duplication for secondary settlement point arrangements, and to remove the application requirements for commercial embedded network retrofits.

In accordance with the intention to of the proposals to reduce unnecessary regulation and provide for increased flexibility for embedded network operators, we propose, in response to Question 7, that the minimum standardised statements be principles-based rather than prescribed wording.

Requiring information to be provided in line with specific principles will allow exempt sellers the flexibility they need to comply with similar requirements across other jurisdictions and for the information to be communication in the most appropriate way for customers.

- Recommendation 4.** **In response to Question 7 - Minimum standardised statements should require specific principles to be included, rather than prescribed wording.**

We commend the AER on taking genuine steps to reduce the regulatory burden for operators of embedded networks. We welcome these developments and propose that further work in collaboration with industry (noting our previous recommendations as listed above) to identify targeted and appropriate reform measures to reduce unnecessary and/or duplicative regulation for embedded network operators.

Follow up

We appreciate the opportunity to provide feedback on the proposed changes to the exemption guidelines and would welcome continued engagement with the AER on further measures to achieve an appropriate regulatory balance.

Angus Nardi
Chief Executive