

9 December 2022

Rowena Park
General Manager – Compliance and Enforcement Branch
Australian Energy Regulator
GPO Box 3130
Canberra ACT 2601

c/- AERexemptions@aer.gov.au

Dear Ms Park

Submission into Draft Network Exemptions Guideline (version 7)

Caravan Parks Association of Queensland (CPAQ) is the peak body for Queensland's caravan park industry with 335 caravan park members located across the state and a further 85 associate members.

Approximately half of our caravan park members are embedded networks, supplying electricity to their guests or residents. These businesses mainly fall under the **ND3**, **ND6** and **NR4** exemption categories.

Due to the large number of member businesses impacted by the proposed changes to the Draft Network Exemptions Guidelines, we appreciate the opportunity to provide feedback on this document.

It is important to note that our members that operate embedded networks are required to comply with the AER guidelines (in most cases both the network guidelines and retail exempt selling guidelines), as well as state legislation, in the form of the Residential Tenancies and Rooming Accommodation Act 2008 and Manufactured Homes (Residential Parks) Act 2003, which is highly prescriptive as it applies to the charging of utilities such as electricity to residents.

Due to these requirements, caravan parks are unable to recover all their costs, particularly those relating to the administration costs of this component of their business, for the supply of electricity. Therefore it is critical that any amendments to these guidelines do not put further unnecessary financial or administrative burdens on the park.

In reviewing these draft guidelines we are confident that most of the draft policy positions achieve this outcome while still protecting the end user. Further, the amendments to the layout, language, and readability, along with the inclusion of flow charts and diagrams make this document easier to navigate and understand.

Please find following our comments in relation to each section outlined in the Notice of Draft document.

Section 4. Primary Registrant

We support the draft policy position that where more than one person owns, controls or operators a network, holds an exemption from the AER and the relevant exemption is a registrable exemption, those persons may (but are not required to) nominate a primary registrant to the AER.



CARAVAN PARKS
ASSOCIATION OF
QUEENSLAND LTD

ABN 75 688 493 704

Postal: PO Box 5542
Stafford Heights Q 4053

Unit 9, 10 Hudson Road
Albion Q 4010

P: 07 3862 1833

F: 07 3262 9890

E: parks@caravanqld.com.au

W: www.caravanqld.com.au

We do not support the draft policy position in relation to all parties being responsible for a failure to comply with the applicable conditions.

We recommend that **IF** a primary registrant is nominated and they do not comply with the condition(s) applicable they are the only party held responsible for this failure, and that they are in breach of the relevant condition of their exemption.

If no primary registrant is nominated, and none of the parties comply with the condition(s) applicable, all parties are responsible for the failure and will be in breach of the relevant condition(s) of their exemption.

This recommendation ensures that the party responsible for applicable condition is held accountable without penalising the other party, further this encourages the nomination of a primary registrant. If the AER finds the primary registrant in breach of this condition, at that point they can then notify the other party and place the obligation on this alternate party.

Section 5. Small Generation Aggregator Schemes

While the draft policy position for small generation aggregator schemes seems reasonable, we note that there are new technologies, new solutions and new business models entering the market on an almost daily basis at present.

With this in mind, we believe it is appropriate that this policy position be reviewed regularly.

Section 6. Embedded Network Manager Requirements

In version 6 (and prior versions) of the Electricity Network Service Provider- Registration Exemption Guideline there was an explicit paragraph which clarified that classes ND3 and NR4 were omitted from the ENM appointment trigger conditions as it had been determined by the AER that the cost outweighed the benefits of the appointment of an ENM.

With the removal of the following paragraph:

“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.”

from this document, replaced by a footnote on page 54, we believe it makes it harder for these operators of class ND3 and NR4 activities to understand their obligations. The operation of the embedded network is not the primary business of these operators (or any embedded network operator) and in this case, the businesses are largely small ‘mum and dad’ style operators who do not have a team of legal advisers to clarify their obligations.

We strongly recommend that this paragraph be reinstated in version 7 of these guidelines for clarity.

It is critical that operators under class NR4 and ND3 clearly understand their exemption to ensure they are not required to incur additional charges for a service that is unnecessary. As identified in the introduction to this submission, our members are unable to recover all their costs associated with the supply of electricity and an additional unnecessary charge simply adds to their financial burden.

Otherwise we support the draft policy position in relation to the timeframes to appoint an ENM, particularly the inclusion of a clear time line and the continued inclusion of the conditions where the appointment of an ENM does not apply to sites, specifically in regional Queensland, where the network existed prior to January 2012 and no complaint meters are installed, and where all on-market customers have reverted to off-market.

The development of the recent factsheet (*“How to access an authorised retailer of your choice if you live in an embedded network”*) supports this policy position, providing clear information to customers on their right to go ‘on-market’ while also being realistic about the potential downsides to a customer choosing to do so in some environments.

Having a document which has been prepared and distributed by the AER ensures that the information supplied to a customer is the same whether it comes from the EENSP or the incoming retailer. We strongly support the use of documents like this to ensure all parties have clear and consistent messages, reducing confusion and disputes.

Section 7. Explicit informed consent

We believe the draft policy position on this section is appropriate however do not believe it will apply to any of our members.

Section 8. Disconnection protections for energy only customers

We support the draft policy position for disconnection protections for energy only customers as it replicates the disconnection obligations in conditions 9 to 11 of the Retail Exempt Selling Guideline. This replication will reduce confusion and make it very clear for those exemption holders that have obligations under the Retail Exempt Selling Guideline as well as the Network Exemptions Guideline.

This clarity and consistency is important for embedded networks as the supply of electricity is incidental to their normal business therefore needs to be as simple and clear as possible.

Section 9. Additional amendments

Meaning of owning, controlling and operating

We are supportive of the decision to include guidance only rather than a definition as this recognises the speed at which technology and business models in this space are evolving.

Eligible communities and counter-offer provisions

While there has not been any take up of the eligible communities or counter offer provisions to date, the removal of these provisions may add additional cost burdens to some of the new business models that are being investigated in Queensland, for example, Home Owner ‘owned’ and managed manufactured home parks where the communal property would be owned by a cooperative of home owners rather than a third party.

Further the legislation under which caravan parks and manufactured home (residential parks) in Queensland provide residential accommodation is continually changing and the removal of, particularly, the eligible communities provision may put the residents in these communities in a position where they are worse off.

Removal of redundant and extraneous content

While metering installation and NEM requirements are covered by the NEL or NER we believe that it is important that the details of those circumstances where the exempt network operator is NOT required to cover the cost of an upgraded metering installation are included within these guidelines and clearly stated.

This information ensures that whichever document a customer of an embedded network, or an embedded network operator, reads, clearly sets out this information, reducing the likelihood of disputes and confusion.

Glossary

We support the inclusion of additional terms and definitions in the glossary and feel this makes the document easier to navigate as the guideline does include a lot of acronyms.

Continuity of supply

As the supply of electricity is incidental to the business of an embedded network, the risk of disconnection in an embedded network likely means:

- (a) The embedded network is unable to pay their bills in which circumstance the issue is likely larger than just the loss of electricity
- (b) The retailer is no longer supplying the embedded network for some other reason in which case the embedded network will need assistance

Further, these businesses rely on the supply of electricity for the operation of their business more broadly so the loss of electricity would have significant impacts not just on their customers but also on their business.

As such, **we recommend that the AER consider:**

- the development a templated letter/form to assist embedded networks notify their customers
- a factsheet which clearly sets out these requirements (which could also be made available through the various ombudsman schemes
- the provision of a contact point within the AER where the embedded network can get assistance, including help to devise a plan to mitigate the disconnection risk.

Other – drafting notes

Page 32: This table includes reference 33 on exemption class ND2 which appears to be included in error (as this applies to exemption class ND3, not ND2).

Page 55: Condition 3.4: the reference to ‘they’ at the end of line 1 is unclear – does this refer to the ENM or EENSP.

Conclusion

While supplying electricity to guests and residents is incidental to the operation of a caravan park, it is also critical that they are able to offer this service in an efficient and cost-effective manner with no unnecessary financial or administrative burdens.

As identified previously, many of these business operators are small and micro businesses who do not have large teams of legal advisers to ensure that they are understand the many complex documents related to the on-supply of electricity. As such it is critical guidelines such as this are as clear and easy to navigate as possible.

We appreciate the opportunity to provide feedback on how the changes in version 7 will impact our members and to provide recommendations which will ensure this document is fit for purpose.

Should you have further questions about this submission, please do not hesitate to contact me on the details in the cover email sent with this letter, or on page one of this document.

Kind regards



Michelle Weston

Chief Executive Officer

About Caravan Parks Association of Queensland

Caravan Parks Association of Queensland Ltd (CPAQ) is the peak industry body representing caravan parks in Queensland. Established in 1966, we provide a united and informed voice for the Queensland caravan parks industry.

As a professional, solution focused association, we encourage and support industry best practice across all areas of business by providing our members with leadership, support, networking, professional development, and promotional opportunities.

There are currently 420 full and associate members of CPAQ, made up of caravan parks (catering for tourists and residents) and campgrounds, large and small, from all corners of the State, industry suppliers, tourism businesses, plus regional and local tourism organisations.

We seek to work with both state and local governments to balance the needs of the consumer with those of the Government and industry. Further we actively strive to ensure not only that minimum standards within parks are met, but that over time these industry standards are in fact driven higher.

Caravanning Queensland

We trade under the brand **Caravanning Queensland** which joins the two related but separate peak industry bodies in Queensland:



Caravan Parks Association of Queensland (CPAQ) the voice of the caravan park owners and operators and the associated supply chain in Queensland.

Caravan Trade & Industries Association of Queensland (CTIAQ) the voice of the trade sector in the caravan and camping industry in Queensland with a membership made up predominantly of retailers, manufacturers, hirers, repairers, and suppliers in the caravan and camping industries.