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To the General Manager

Response to Updating the Network and Retail Exemption Guidelines Consultation Paper

As the peak body representing caravan parks, both of single purpose and mixed-use parks (that is parks with a mix of tourists, residents in moveable dwellings, and residents in manufactured homes) in Queensland, we appreciate the opportunity to provide feedback on the draft recommendations made by the Australian Energy Regulator (AER) in the Updating the Network and Retail Exemption Guidelines Consultation Paper.

Caravan Parks Association of Queensland (CPAQ) is an important stakeholder in the review of regulatory arrangements for embedded networks due to the large number of caravan parks in Queensland running embedded networks- of our 325 caravan park members, roughly a third operate embedded networks.

As a sector, electricity is often supplied as a service through embedded networks for the benefit of residents living in caravan parks. Due to the nature of caravan parks this supply also extends to tourists staying within the park.

It is important to note that this service is not a core part of the caravan park business model.

Due to Queensland housing legislation caravan parks running embedded networks do not make a profit on the on-supply of electricity for residents; if anything, they generally make a loss due to the high administrative burden and maintenance costs associated with running the network.

With all changes to the network and retail exemption frameworks, we recognise that protections and guidelines must support residents living in embedded network environments, however we are concerned that changes will impose an unnecessary and costly compliance burden on small embedded networks, such as caravan parks, that are already at a disadvantage by running an embedded network.

We are particularly concerned about situations where changes to the National Framework may also cause additional confusion due the conflicts within the state legislation, or force our members to incur extra costs for the supply of what is an essential service in their business, particularly as they are unable to divest this interest.



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Background

Those caravan parks in Queensland running an embedded network with long term residents, that on-charge on a metered basis are regulated by the Residential Tenancies and Rooming Accommodation Act 2003 (RTRA) and/or Manufactured Homes (Residential Parks) Act 2003 (MHA).

These pieces of Queensland legislation have strong consumer protections for the supply of utilities.

Under the MHA and RTRA, where park owners own, operate and maintain the embedded network, they incur significant costs which include, but are not limited to, maintenance, meter reading, calculation of bills, calculating, claiming and refunding concessional rebates, and chasing outstanding accounts for residents.

There are examples of park owners in Queensland having a staff member who spends more than one full day a month undertaking administration relating to the on-supply of electricity alone. These costs mean that rather than an embedded network being a cost neutral exercise as intended it is actually costing parks money.

Under the Residential Tenancies and Rooming Accommodation Act 2003:

Section 167: ***Service charges for moveable dwelling premises individually metered***

- (1) This section applies to moveable dwelling premises if the tenant is required to pay an amount for the lessor's outgoings for a service charge for the premises because the tenant is enjoying or sharing the benefit of the relevant service or facility.
- (2) The tenant may be required to pay an amount for the outgoings only if the premises are individually metered for the service or facility.
- (3) The tenant must not be required to pay an amount for the outgoings that is more than—
 - (a) if a way for working out the amount payable by the tenant is prescribed under a regulation—the amount worked out in the way prescribed; or
 - (b) if a way is not prescribed—the amount charged by the relevant supply authority for the quantity of the thing, or the service or facility, supplied to, or used at, the premises.

Under the Manufactured Homes (Residential Parks) Act 2003 :

Section 99A: ***Separate charge by park owner not to be more than cost of supply for use of utility***

- (1) This section applies if—
 - (a) under a site agreement or another agreement or arrangement, a home owner for a site in a residential park is required to pay the park owner or a third party for the use by the home owner of a utility at the site; and
 - (b) the use is separately measured or metered.
- (2) The park owner 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.

Maximum penalty—20 penalty units.
- (3) For subsection (2), the park owner charging the home owner, or arranging for the home owner to be charged, an amount for the use of the utility includes—
 - (a) the park owner directing the home owner to pay the amount to a third party; and
 - (b) the park owner agreeing or arranging with a third party for the home owner to be charged the amount and the park owner or third party charging the home owner the amount for the purpose

of that agreement or arrangement.

- (4) Without limiting subsection (2), a prohibited amount includes the following amounts charged, or purported to be charged—
- (a) an amount for reading a meter for the use of the utility;
 - (b) another amount for administration relating to the supply, or on-supply, of the utility to the site, including, for example, an amount relating to obtaining for the home owner a State government concession or rebate for the supply or on-supply of the utility.
- (5) In this section—

relevant supply entity means the entity that has charged, or may charge, the park owner for supplying the utility to—

- (a) the site; or
- (b) the residential park for on-supply to the site.

supplied, to a site, includes supplied to the residential park for on-supply to the site.

third party means an entity other than the relevant supply entity.

Our submission

Do stakeholders agree that responsibility for meeting certain network exemption conditions should be restricted to one person, for example the network owner or controller?

As most caravan parks are both the owner of the embedded network and the retailer we do not believe that changes to this requirement will have a negative impact on our members.

In the instance where these two parties are different individuals or entities, we believe the person who operates the network should be the responsible person. The person who operates the network is the most logical choice in terms of appointing an Embedded Network Manager and joining an Ombudsman scheme.

Due to their responsibilities, they are the party which is most likely to deal directly with the end user, have a complaint made against them through the ombudsman, or to know when it is necessary to appoint an Embedded Network Manager.

Should we clarify the meaning of controlling and operating an embedded network?

Clear information should be provided for each definition, especially if one party will have additional responsibilities (i.e. joining the ombudsman scheme). If clear definitions are not applied it may result in obligations not being met as parties are not clear on their obligations, or disputes over who is the responsible party.

The definition may include specific tasks that the party is responsible for, such as dealing directly with the end user.

What do stakeholders consider a reasonable timeframe to procure and appoint an Embedded Network Manager?

Currently embedded network operators of certain types of embedded network, including our members, caravan parks and holiday accommodation, may delay the Embedded Network Manager (ENM) appointment until a customer enters into a contract with a market retailer.

While this is not likely to become an issue for holiday accommodation, as generally the guest is either not charged directly for electricity, or they are not staying for any real length of time, this may be something that caravan park offering residential accommodation is required to appoint.

Under the MHA and RTRA, caravan parks are limited as to what they can charge their residents for electricity. This limitation means that any costs to operate the network, invoicing, following up outstanding accounts, maintenance to the network, come at a cost to the park operator and are taken directly from the profitability of the park.

When considering this along with the fact that many caravan parks were built before the requirement to use smart meters was implemented, has resulted in very few retailers considering selling into caravan parks. This has meant that (to our knowledge) the appointment of an Embedded Network Manager has not been necessary.

Caravan parks are primarily micro- small businesses, with the vast majority of our members have less than 5 staff members, some running with just a husband and wife team operating the business. As a result, if they choose to take time off for a holiday there is no decision maker left at the park to fill in for them.

While we understand the importance of not unduly delaying the transfer process, having to tight a time frame on this requirement could be to the detriment of caravan park owners and other small business operators.

A short time frame may not allow for those periods when the property owner may take a holiday – if they are on a cruise or overseas, they may be out of contact with their relief managers due to lack of phone or internet service.

Further for a caravan park, during peak season a park owner/manager may be dealing with up to 200 guests checking in and/or out in a day. During these times administration tasks often take a back seat to dealing with this influx of guests.

We recommend that the period for appointing an ENM be 28 days. In most cases an operator will ensure that the appointment is made prior to this however this would allow situations where a park operator has had a three week break for this requirement to be met while not unduly impacting them and the running of their business.

Do stakeholders agree the appointment of Embedded Network Managers should be deferred in regional Queensland and legacy unmetered sites?

We are supportive of the recommendation that the appointment of Embedded Network Managers should be deferred in Regional Queensland and for legacy unmetered sites.

Do stakeholders agree that the appointment of Embedded Network Managers be deferred if they are no longer required, for example when all on-market customers have reverted to off-market? Are there other situations when Embedded Network Manager services are no longer required?

We are supportive of the recommendation that embedded network operators who hold an exemption from any of the deferred Embedded Network Manager appointment classes to revert to deferred appointment if they previously appointed an Embedded Network Manager and there are no longer any on-market customers in their network. We agree that it is reasonable that they must re-appoint an Embedded Network Manager in accordance with the guideline if the conditions for such an appointment are satisfied (i.e. a resident wishes to go on market again).

Should the information embedded network owners/operators provide prospective customers be standardised?

Having standardised information that can be provided to prospective customers would be beneficial as it would ensure that all customers have received the same, balanced information. Not only will this provide more balanced information to potential customers, it would also make it easier for dispute resolution processes as there would be no confusion about what the relevant disclaimer information covers.

If standardised information is supplied, it is critical that the information provided is balanced and does not overstate the disadvantages whilst downplaying the advantages.

Further the information needs to either be broad enough to cover all different types of embedded networks or there needs to be multiple versions, each with a focus on a different sector and/or state.

Should the network exemption guideline's term 'express written consent' be replaced with 'explicit informed consent', and be provided in writing?

We strongly support the change from express written consent to explicit informed consent as it will ensure that all matters relevant to the transaction will be disclosed.

Not only does this ensure that the customer receives accurate and relevant information, it also allows for changes in technology which may see some of this disclaimers and information provided in a video format, or some other format, to meet the needs of non-English speakers and people with challenges with the written language.

Requiring explicit written consent does not consider changes in technology which may see consent in the form of a video, voice recording or some other method, which not only supports those older residents with arthritis who might struggle to hold a pen but also people with other challenges with the written language.

Should record keeping requirements explicitly apply to all situations where consent is required under the network and retail guidelines?

Record keeping is good business practice and if consent is being received from all parties (written or some other form) it should be a requirement that this information be kept on file for a minimum period. This record keeping requirement provides protection for all parties to the transaction.

Is there any other information exempt sellers should provide embedded network customers to help them access retail competition?

We would strongly support the development of a factsheet which can be provided to a new resident on what an embedded network is, the benefits, and the process they need to follow if they wish to enter a market contract. Having this information branded by the AER, or an appropriate Government body, will give additional credence to the content and provide a level of confidence that the content provided is official information, not just information from a landlord or embedded network which may not provide the full picture.

If this factsheet is developed it is important that it considered different circumstances, a caravan park embedded network is very different from an apartment block embedded network or a retail embedded network.

Some of the items we believe should be covered in this fact sheet include information about the benefits and pitfalls of being part of an embedded network, along with the fact that the resident may be responsible for the cost of upgrading their meter, any additional costs which may be incurred when going on market, and what happens if they then wish to return to the embedded network (i.e. go off market).

Do stakeholders have a preference – for a broader set of hardship assistance conditions or an exempt seller hardship plan?

Caravan parks that run embedded networks often have a more vulnerable residents than those in the general community. According to the 2016 ABS Census, over 23,000 individuals (or 0.5% of all residents) in Queensland live in caravan parks, however when looking at low-income earners (under \$42,000 p.a. per household) 3.3% live in Queensland caravan parks.

As the park owner charges for electricity, an hardship in relation to their electricity account is likely to also be seen with late payment of rent, potentially not just risking their electricity supply but also putting their tenancy at risk.

We have found that, generally, if a resident falls behind with their electricity bill they also fall behind with their rent and once they get into this cycle it can be very difficult for them to get out of it without external support.

It is not the role of the caravan park (or landlord) to subsidise rent or electricity costs because the tenant cannot meet their obligations. In saying that most caravan park operators would prefer that their existing tenants are able to meet their obligations and stay in place.

While hardship provisions in general support individuals and households going through a short period of hardship, for those on very low income, falling behind on any of their bills can result in a cycle of significant hardship.

As micro to small businesses, caravan parks are not in a situation where they know the best place to refer a resident facing hardship, nor should they be expected to. Having a single source of this information, ideally collated and updated by the Government, would support not only the resident but also the embedded network operator where supply of electricity is not their primary business.

Developing a model hardship plan which is supported by regularly reviewed and updated Government resources (i.e. a website with information on accessing financial counselling and the various concessions available in any state) would provide embedded network operators a 'best practice' hardship policy with relevant and accurate information which they could choose to adopt as is, or with minor amendments.

We would be supportive of the development of a model hardship assistance plan, especially for smaller embedded networks, providing it was developed in conjunction with peak bodies representing embedded networks of all sizes.

What key protections should be included in a hardship policy template for exempt sellers?

There are a few protections that we believe should be available to customers in an embedded network including confidence that they may develop a payment plan in partnership with the exempt seller and that if they follow that payment plan their account and supply will not be impacted, the option of flexible payment plans, support from the embedded network in accessing government concessions and assurance that if they have elected a representative to act on their behalf, the embedded network will engage with their representative the same way they would if dealing directly with the customer.

Are there other measures that would facilitate exemption holders' taking up membership of ombudsman schemes?

In our sector, exemption holders do not supply electricity as a core business activity. They are currently trying to keep across the legislation that relates to running their caravan park in addition to the ever-changing rules relating to the COVID-19 pandemic.

The additional rules that apply under the AER rules are another barrier to running and growing their business and such we believe that information and advice needs to be clear, easy to access and ideally sent directly to the business.

As the AER has registration details for most embedded networks across Australia which should allow them to communicate directly with the exemption holder (except where the exemption is deemed) on key matters such as membership of an ombudsman (where appropriate). Information could also be distributed through peak bodies.

Unmetered connections in Embedded Networks

In Queensland many residents of caravan parks prefer to have their electricity costs included in their rent as it provides them a level of certainty about their expenses.

We have found this to be particularly beneficial in North Queensland where many older residents that pay for their electricity based on a meter reading will not run their air-conditioning due to their perceived high cost, whilst their

counterparts that do not receive a separate electricity bill (because the electricity usage is included in their rent) do not have this same reluctance to use the air-conditioning, providing a better quality of life.

On this basis, and subject to the cost of a new meter being incurred by the resident, we do not object to the proposed changes in section 6 of the discussion paper.

Disconnection for energy only customers

While in principle we do not object to the amendment of the network exemption guideline to include the retail exemption guideline's disconnection obligations (conditions 9-11), it is important that a network owner is not worse off by the customer going 'on-market'.

Ensuring that the network owner receives fair compensation for use of the network is one way to limit the chances that an on-market customer will be cut off.

For more information

Should you wish to speak to me on any of the recommendations in this submission, [REDACTED]

Kind regards
[REDACTED]

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 445 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. 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.