

7 June 2022

Legislative Assembly Committee on Law and Safety
Director – Scrutiny and Engagement
By email: lawsafety@parliament.nsw.gov.au

OCN – Embedded networks and NSW

Dear Sam

Strata is the fastest growing form of residential property ownership in Australia. Over half the new dwellings to be built in our metropolitan areas over the next decades will be strata titled. The growth of this sector raises increasingly important questions over property ownership and governance.

The Owners Corporation Network of Australia Limited (OCN) is the independent peak consumer body representing residential strata and community title owners and residents. As such, OCN is uniquely positioned to understand the needs and constraints within this unique housing sector, as well as to advise on the potential impacts that legislation may have on planning, development, and day-to-day operational outcomes.

OCN strives to create a better future for residential and community living and ownership. We support the transition to resilient, empowered communities living in climate ready, defect-free buildings.

OCN welcomes the NSW Government's intention to hold an inquiry into and report on embedded networks in NSW.

Following is our submission.

Summary

- The Owners Corporation Network (OCN) opposes embedded network contracts entered into by the developer of the apartment building.
- The Federal Government review of unfair contracts needs to specifically provide consumer protections to bodies corporate / owners corporations (OCs).
- The current State Government level dispute resolution process is slow, expensive and inconsistent – and should be improved.
- OCN calls for the repeal of the S 132a electricity exemption, within the NSW Strata Schemes Management Act 2015.

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Overall

OCN supports an overall platform of the democratic right of owners corporations to decide what is best for their community.

There are two different sets of circumstances relating to embedded networks:

1. Where embedded networks are entered into by developers to transfer costs to the detriment of purchasers (consumers). In this case owners corporations do not have the right to decide.
2. Where embedded networks are entered into by the owners corporation to get a better deal on electricity prices and/or initiate sustainability-based projects like solar panels for electricity or hot water. In this case the owners corporations make the choice.

OCN does not support embedded networks entered into by the developer as, at the simple level, it is developers transferring cost of essential infrastructure, which would have otherwise been borne by them in the initial development, to unsuspecting owners by forcing their engagement in long term cost recovery contracts. Our concerns are about:

- Lock in contracts;
- Lack of consumer protection;
- Price gouging due to lack of competition;
- Locked out of technology upgrade paths like solar;
- Ownership of the infrastructure e.g. if the supplier owns the infrastructure, the OC may not be able to make changes without paying for it, having it ripped out or needing to be replaced.

We are of the view that Government action to protect the customer would be a positive step.

Repeal S 132a exemption, within the NSW Strata Schemes Management Act

Section 132A was part of the consumer protection initiatives in the NSW Better Business Reforms of 2018, to prevent owners corporations from being 'locked into' long term utilities supply contracts that prevent them from obtaining a better deal in the marketplace. Utilities supply contracts are therefore limited to a maximum length of three years if they started after the reform commenced, or 10 years if they started before the reform.

However, the drafting is widely agreed to need improvement and many stakeholders have expressed concern about its scope and asked questions about how it applies across various scenarios.

Due to time constraints and impending Australian Energy Market Commission recommendations about embedded networks across the whole Australian energy marketplace, a 'carve-out' was included in section 132A so that it does not apply to embedded networks for the supply of electricity to residents (but presumably does apply to embedded networks supplying other utilities such as gas). Stakeholders report it is in embedded electricity networks where the biggest problems lie so this exemption should be repealed.

Pricing for Hot water

All consumers should be provided with the appropriate protections regardless of type of service provision. The protections provided under the 'traditional common hot water systems' should be considered the minimum set for all. That means charging for the energy used to heat the water and not a per litre usage base charge.

It is essential that the customer receives consumption data for their use of energy AND water. What is measured can be controlled. For those properties that use solar to pre-heat their hot water, it is possible that by charging for external energy only the customer would not be able to understand their actual water consumption.

Internet

A Strata Scheme has reported owners being locked into the communications service provider Huawei when Telstra and other companies have chosen not to deal with Chinese communications suppliers. This is a lock-in contract where owners and tenants were not allowed to take advantage of alternative/ cheaper offers.

Stormwater

At the first annual general meeting of another strata scheme the strata manager supplied one contract each for strata management, building management, cleaners etc and stormwater management. Fortunately, one purchaser with a procurement background identified that the strata management, building management, cleaner contracts were around 40% above market price and the stormwater maintenance contract was both very long and inflated. The Owners Corporation voted not to renew the stormwater contract (15 years for \$81,900+GST, equivalent of \$5,460+GST pa) despite the Strata Manager insisting the supplier was the only one in Australia, and then when challenged, that warranties would be voided by going elsewhere. The OC was successful in procuring the service with an annual contract for \$1,500+GST pa.

Yours sincerely,



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