THE INDEPENDENT VOICE OF STRATA OWNERS

02 8197 9919
0418 232 476
enquiries@ocn.org.au
ocn.org.au

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Mark Feather
General Manager, Policy
Australian Energy Regulator
By email: Mark.Feather@aer.gov.au

Re- OCN Response to AER Review of exemptions framework for embedded networks

Prepared by:

Fred Tuckwell, Chair, Owners Corporation Network of Australia

Dear Mark

Introduction

OCN welcomes the opportunity to provide input into the AER review of exemptions framework for embedded networks.

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 are experts in residential strata, hence our comments relate to what our members are seeking. On behalf of our members, we have been engaged in embedded networks for over 4 years and have run two webinars on the subject.

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. We are active in in a range of sustainability related issues, including electrification of apartment buildings, solar and electric vehicle charging and make comment on approaches and how embedded networks could be used in a supportive way.

The Strata sector

Over 2.5 million people live in strata households in Australia. NSW, which has the largest sector, has just over 89,000 residential strata schemes housing 1.3 million people. It is the fastest growing type of dwelling, with over a thousand new schemes being registered each year. The national ownership profile averages 60:40 resident owners to investors.

https://cityfutures.ada.unsw.edu.au/documents/717/2022_Australasian_Strata_Insights_Report.pdf

All NSW strata buildings must have an owners corporation which is a statutory corporation – it has unlimited liability and mandatory obligations to hold building insurance and strict obligations to carry out repairs and maintenance. Day-to-day administration generally falls to resident owners and strata

committees. The role of the strata management industry is to provide administrative support under commercial "strata agreements". In the case of embedded networks our comments also apply to mixed use buildings, which are overseen by a building management committee (BMC) which represent the interests of both residents and small businesses operating in the building.

We fully support the submission to this AER Report, and to a recent and similar IPART Draft report into embedded networks, by Professor Sherry from Macquarie University as an expert in the many legal issues with embedded networks, *References are made to Professor Sherry's submission, including the page number of that report.*

Our submission makes five key points in response to the questions raised in the consultation paper:

1. The need for a **level playing field** with respect to housing.
2. Our concerns regarding **embedded network growth**.
3. **Misuse and/or fit for purpose use of exemptions framework**.
4. The need to differentiate between **developer initiated** and **owners corporation initiated** embedded networks.
5. Our recommendations for a **Fit for purpose model - Local Energy Service (LES).**

Level playing field

Housing is not an optional consumer item.

> *Professor Sherry IPART pp2 -…it is imperative that governments ensure that housing and the essential services that people use in their housing, (energy, water, sewerage etc) are only offered on a fair and equitable basis.*

OCN advocates for a '**level playing field**' with respect to housing. With standalone housing there is never any notion that a builder would supply and sell the home to prospective buyers under the condition that those prospective buyers do not own any of the energy infrastructure and have to pay it off via a third party by way of a long-term contract. This would never be acceptable – so why should a home which is part of an apartment building be any different?

> *Professor Sherry IPART pp7: - Developers cannot do this* (ie transfer costs to perspective owners) *in non-strata housing because of the century's old, rational prohibition on positive obligations (i.e., to pay money) on freehold land. It is not legally permissible for a developer to sell an ordinary house and make the purchaser and successive owners pay a third party, such as a solar or air conditioning company, for infrastructure or services. The only reason it is legally possible in strata title is because of the existence of a separate body corporate that can be bound by contracts, which successive apartment owners have to pay, and because of the levying provisions in strata legislation.* ***However, the body corporate and levying provisions were not created for this reason.*** *They were created so that private citizens could manage their collectively owned buildings. Use of these legal forms to bind owners to long term contracts that benefit third party service providers is an abuse of the strata title legal form.*

Energy Consumers Association (ECA) also advocate for a similar approach, as outlined in their response to the recent IPART report on embedded networks, key point 2:

> *Consumers living and working within embedded networks should receive protections equivalent to on-market customers.*

Apartment living is significantly lagging in the new and important areas of increasing energy efficiency, mainly because of poor understanding of approaches to and often very high costs of the necessary additional building infrastructure to provide these important new services.

Government and regulators should investigate ways to improve the fairness and equity for all homes, irrespective of if they are standalone or contained in an apartment building or townhouse/villa development.

Specifically, with respect to embedded networks as they exist in apartments, townhouses and villas, options for this improvement in fairness and equity include:

- improve the **compliance** and monitoring regulatory framework for embedded networks;
- improve **data collection** regarding embedded networks, particularly to identify the number of residents living in embedded networks;
- implement a standardised **billing structure** requiring the itemisation of embedded network services;
- **disclosure** of the existence of an embedded network in a building as part of the sales process;
- disclosure of expected energy cost savings as a result of the existence of an embedded network as part of the sales process;
- regulating embedded network **contract provisions**, including the term of the contract and conditions of termination, to ensure they are not unduly burdensome for consumers;
- **funding** assistance for education on the range of approaches to increase energy efficiency in apartment buildings and implementation costs for said approaches;
- legislating for a new type of embedded network operator, **local energy service** (see following) provider to work with owners corporations to provide advice, project management and capital funding.

Embedded Networks

Embedded Network Growth

OCN is concerned about the growth of embedded networks and the harm to consumers that is consistent with that growth. We are particularly concerned with the summaries in the AER Review, concerning changing business models and references to third party compliance business models, specifically the frequent use of "may" indicating that the AER does not know for a fact what is happening. This concern is shared by Professor Sherry:

> *Professor Sherry IPART pp4. Embedded networks: third party operators v owners corporations*
>
> *Much of the existing regulation of embedded networks, such as AER exemptions, seems to be based on an assumption that embedded networks are being operated by owners corporations. Some no doubt are, although these do not seem to have figured prominently in submissions to any government reviews. The only embedded networks that seem to be the subject of consumer complaint, and thus the driver for much government investigation, are embedded networks run by third parties. This may be because there are many more third-party operator networks or because they are the only networks with unfair terms. Whatever the reason, it is clear that government regulation needs to be able to distinguish between embedded networks genuinely run by the owners of the building (the owners corporation), who along with their tenants, pay the bills, and embedded networks run by third party companies…..*

Misuse and/or fit for purpose use of exemptions framework.

The AER report calls for data to support many questions raised. The NSW Legislative Assembly report on Embedded Networks (Nov 2022)[1] (NSW LA Report) found the current exemption framework to be not fit for purpose and calls for the AER (and others) to implement better data collection and compliance regarding embedded networks.

> *NSW LA Report Sect 1.66 - The Public Interest Advocacy Centre (PIAC) was critical of compliance action taken by AER because it does not actively seek registration, does not monitor the performance of registered entities, has limited information regarding exempt entities and conducts limited enforcement actions to ensure intended consumer outcomes are delivered.*

Due to the lack of data the NSW LA Report is referring to, it is the case that data is simply not available, which is part of the problem the recommendations in the NSW LA Report is seeking to address.

OCN contends that many, if not the majority, of existing embedded networks are developer and third party initiated, which harm owners and owners corporations, who are subsequently locked into long term unfavorable contracts, over which the owners corporation and unsuspecting consumers have little or no control.

> *Transcript of the NSW Parliamentary Inquiry - Public Interest Advocacy Centre (PIAC): Embedded networks are not designed to service or supports the interests of the people living in them. They are allowed in the hope that innovative operators will pass benefit on to the residents, but they have become a mechanism for additional profit for the developers and operators, leading to the rapid growth in their employment.*

It seems that much of this growth comes from a misuse of the NR2 exemption. From the AER definitions, NR2 is intended for small scale sale of electricity within a building, not for commercial use of electricity sale. Use by developers and third-party embedded network business is commercial use and certainly not small-scale use within a building. In OCN's opinion this commercial use is against the intended use of the NR2 exemption and should be banned.

> *Professor Sherry. AER Report response Page 3 - It seems that exemptions exist in multi-owned properties because it was assumed that the sale of energy is not a core part of a body corporate's 'business' (they in fact have no business) or that of retirement village operators and land lease community operators. That remains true, at least for bodies corporate, but it appears to be manifestly untrue for many exempt embedded network operators. Their core business does seem to be the sale of energy to consumers, and so it is unclear why they are entitled to exemptions.*

In the case of NR2 use, a more appropriate use may be owners corporations using the exemption for small scale sale of electricity within the building to charge back electricity costs to users who use common property electricity to charge electric vehicles. We believe this use of the category is according to the intended use, rather than the embedded network operator commercial use of NR2. This use of a proper framework for the use of electric vehicle charging is also mentioned in the NSWLA Report Section *Finding 4:*

[1] https://www.parliament.nsw.gov.au/tp/files/83278/Report%20-%20Embedded%20Networks%20in%20New%20South%20Wales.pdf

> *The lack of disclosure around embedded network services is concerning, and it is vital that the NSW Government ensures that embedded network businesses do not exploit the rise of electric vehicle infrastructure being installed and operated in strata complexes.*

From OCN's perspective, there are two distinct types of embedded networks; **developer initiated,** and **owners corporation initiated,** and we believe there needs to be clear distinction between the two.

Developer Initiated

OCN does not support **developer initiated** embedded networks where developers are simply transferring building infrastructure costs, which are reasonably expected to be included as part of the building fabric, to unsuspecting future owners and tenants, and creating unfavorable third-party contracts to bind purchasers to excessive ongoing payments for those normally included costs, and the customer dissatisfaction with lack of customer service and billing issues which flow from these arrangements.

Professor Sherry's expert legal opinion that developers have no right to do this - IPART Response pp 3.

> *3. Strata title apartment buildings belong to their collective owners*
>
> *……In the context of embedded networks, the capacity to make savings from a discount on the bulk purchase of energy comes from the existence of a collective group of owners and tenants. As a result, that discount belongs to the owners and tenants. It does not belong to the developer, who does not have a right to effectively sell that discount to a third party embedded network operator. Nor does the developer have the right to sell the infrastructure to a third-party operator or create contractual rights over that infrastructure in favour of a third-party operator. Apartment owners pay for infrastructure when they purchase their apartments, along with their proportionate share of common property. To the extent that developers are effectively able to sell the discount and rights to infrastructure through contracts that bind owners corporations, **this is an abuse of the strata title legal form**. Owners corporations do not exist for developers to make additional money on developments, and they do not exist so that third party operators can benefit from long term contracts.*

In her detailed responses to parts of the IPART Draft report, Professor Sherry makes comment on a number of points as to why **developer initiated** embedded networks should not be supported, which are outlined below:

- *pp 4 By insisting that 'customers should pay a share of the cost of the embedded network operator's investment in the infrastructure' operators are in effect suggesting that apartment owners should pay for the infrastructure twice – once to the developer pursuant to their sales contracts, and then again to the operator pursuant to a developer-negotiated contract between the operator and the body corporate.*
- *Pp5 When it comes to the ongoing costs of maintaining that infrastructure, the owners corporation has a statutory obligation to do so under the Strata Schemes Management Act 2015 (NSW), s 106. That statutory obligation and liability exists irrespective of any body corporate contracts in relation to infrastructure. Of course, the body corporate could engage a third party provider to do the necessary work for the owners corporation to comply with its statutory obligations, but that engagement should be negotiated by the owners corporation independently of the developer.*
- *Pp6 Contracts are invariably negotiated primarily in the interests of the parties who negotiated them, that is the developer and the embedded network operator. Contracts like this have caused considerable dispute in strata and community schemes in Australia over the past three decades, and globally, in the past half century.*

The issue and growth of **developer initiated** embedded networks is further addressed in both the NSW LA Report page 3:

> *Section 1.16. Second, where embedded networks are entered into by developers when building a new residential complex, particularly in strata schemes. The Committee understands that in some new apartment complexes, developers may choose to avoid the cost of establishing internal networks and metering by contracting a third party or embedded network business to install this infrastructure. This third party then benefits from embedded network contracts to provide power to the building, that can obligate and lock in future owners to lengthy contracts.*

and AEMC Report[2], pp 20 -22:

> *In contrast, the Commission understands developers now often choose to avoid the cost of establishing internal networks and metering by contracting a third party to fund and supply the infrastructure and the metering throughout an apartment complex.*

The Energy Consumers of Australia (ECA) response to this AER Review, makes the point that small businesses, where they are part of a mixed use building, are also impacted by **developer initiated** embedded networks:

> *ECA submission pp2: Our recently released Power over their Power research revealed being part of an embedded network such as in shopping centres or at the base of residential blocks can restrict small business's ability to make modification to energy access, install energy efficient equipment or change providers. This limits their ability to effectively adapt to the changing energy landscape. Many small businesses are also unaware of these limitations and restrictions when entering into an embedded network arrangement and are largely unsupported in their fight when trying to extract themselves.*

Any review of exemptions framework needs to critically review this destructive practice by developers, which is an abuse of strata law, and ensure future frameworks prohibit this consumer harmful business model.

We have pointed out that data collection is an issue, which means that there is no available data to identify just how many **developer initiated** embedded networks exist. We have also commented on the apparent assumption from AER that embedded networks are being operated by owners corporations. With respect to banning the misuse of the exemption framework by developers, this observation leads to potentially two outcomes:

1. Either there are few **developer initiated** embedded networks, in which case correcting this misuse and creating a fit for purpose model will have little effect on the industry or,
2. more likely, correcting this misuse and creating a fit for purpose model will create a marked improvement in consumer rights.

Owners Corporation Initiated

OCN Supports the need for owners corporations to be free to enter into agreements with operators for the upgrade, management and/or funding of energy efficiency and other energy upgrades and

[2] https://www.aemc.gov.au/sites/default/files/2019-06/Updating%20the%20regulatory%20frameworks%20for%20embedded%20networks%20-%20FINAL%20REPORT.PDF

that the benefits of such are passed on to owners and tenants. This would require a fit for purpose framework, closer to the intent of the exemption framework.

> *Professor Sherry IPART pp5: Instead of the current developer-installed model of embedded network operators, it would be preferable if Australia developed an industry that provides services directly to bodies corporate to manage body corporate owned energy infrastructure on a fee for service basis.*
>
> *Professor Sherry – Green Strata pp18. Embedded networks can be beneficial but only if they are negotiated for the benefit of the body corporate, the entity made up of owners who will pay the bills….*

To enable an **owners corporation initiated** model, we note harm to the name 'embedded networks' and associated processes. Expert working group input into a similar submission in Victoria and subsequent report, https://engage.vic.gov.au/embedded-networks-reviewwhere, recommended that embedded network use in the future should be focused on sustainability and referred to as **'local energy service' (LES)** to distinguish between the current and future models.

Fit for purpose model - Local Energy Services (LES)

Rather than the name embedded networks, **local energy service (LES)** should be investigated as a new name and business model to assist owners corporations in the electrification of existing gas operated apartment buildings. In this instance, these new LES operators should be legislated as a fee for service model, dealing directly with the owners corporation, rather than a developer or other third party, to ensure that only the cost of these new services are borne by or passed on to the respective owners corporations. In this response, with reference to this new business model, we use the term **local energy service** for this future model, rather than the term embedded network.

LES would include conditions around renewable energy, and that the benefits of such are passed on to owners and tenants.

One useful example might be distributed energy resources (DER) where solar energy and storage are provided behind the meter and provided in such a way that expensive building energy supply upgrades are either replaced or reduced. This would also reduce the overall network load.

Properly implemented, LES would have the following benefits:

- Local can be defined as a single building, rather than spanning a commercially oriented third party.
- Conditions can be set to **fund investment** in renewables and electrification for owners corporations and building management committees;
- Designed to improve the **compliance** and monitoring of a regulatory framework;
- Include **data collection**, particularly to identify the number of residents living in LES.
- implement a **standardised billing structure** requiring the itemisation of previous or current embedded network services.
- **disclosure** of the existence of a LES in a building as part of the sales process:
- disclosure of expected energy cost savings as a result of the existence of a LES as part of the sales process;
- regulating LES contract provisions, including the term of the contract and conditions of termination, to ensure they are not unduly burdensome for consumers;
- funding assistance for **education** on the range of approaches to increase energy efficiency in apartment buildings and implementation costs for said approaches.

- LES would include conditions such that the benefits are passed on to owners and tenants.

Irrespective of the name, local energy service or embedded networks, this set of benefits should be included in any future model.

Report Response

As mentioned in the introduction, OCN are experts in residential strata, hence our comments relate to what our members are seeking. Where questions are outside this area of expertise, no answer is provided.

Question 1 - Do stakeholders consider one factor or principle should take precedence over another? If so, what weighting should we give the various principles or factors provided by the Retail Law and set out above, to support any case for change to the exemptions framework?

OCN submits that the principle - *Exempt customers should not, as far as practicable, be denied customer protections afforded to other customers* takes precedence. Our reasoning is this is consistent with our view that apartment owners should be afforded a '**level playing field'** (see above heading). Stopping developers who unfairly and illegally take advantage of loopholes in strata legislation to transfer infrastructure costs to unsuspecting new owners must be a priority.

This is closely followed by *whether the energy seller is intending to profit from the arrangement* because evidence shows that developers and their associated third-party operators are excessively profiting from long term contracts relating to the use of embedded networks to transfer costs to new owners rather than including in the building infrastructure costs.

Question 3 – Is our proposed review scope reasonable? If not, what other supply arrangements should be considered and why?

We believe the scope is reasonable, however it misses a key point. The AER Review focusses largely on lack of competition, high prices, protections, and the compliance framework. The harm we see and are concerned about is misuse of the exemption framework by **developer initiated** embedded networks.

Question 4 - What factors are driving the increase in residential exemptions?

OCN is of the view that most of the growth in embedded networks is driven by developers seeking to reduce costs by passing electrical infrastructure costs on to unsuspecting future owners. As Professor Sherry points out this is an abuse of ***strata title legal form*** and unavailable to non-strata housing because of the century's old, rational prohibition on positive obligations (i.e., to pay money) on freehold land.

> *Professor Sherry AER Response: Whatever the specific trigger for the construction of embedded networks, there is little doubt that they are connected to developers maximising their profit. That is their right as private profit-making entities. However, it is the government's job to ensure developers do not do so at the expense of citizens and their basic rights. Government regulation of operators in private markets is a fundamental attribute of all fairly functioning markets in liberal democracies.*

We also point out that this growth is driven by an exemption framework which is not fit for purpose - *Finding 2 of the NSW LA Report.*

Conversely, in the future, we believe that growth in **local energy services**, should be **owners corporation initiated** rather than **developer initiated**, those owners corporations seeking to invest in renewable energy and electrification, and that the benefits of such are passed on to owners and tenants. This would require a fit for purpose framework, closer to the intent of the exemption framework.

Question 6 – How common is it for new residential developments to be built as embedded networks?

We have no data on the number new developments that developers are seeking to transfer costs to unsuspecting future owners. We note that lack of data is a constant issue with embedded networks, an issue the NSW LA Report seeks to correct –

> *Recommendation 3 That the NSW Government improve data collection regarding embedded networks, particularly to identify the number of residents living in embedded networks.*

Question 7 - How do embedded networks result in lower energy prices for residential customers? Please provide supporting information.

We are not aware of any instances where there are savings for apartment residents because of the existence of an embedded network – but there are numerous reports of harms in the various reviews on the subject.

Question 8 - How do infrastructure costs for new developments built as embedded networks compare to non-embedded networks?

We have not seen any substantial reduction in the price of apartment buildings because of developer installed embedded networks or as a direct result of the developer transferring those costs to new owners.

Rather, there is strong evidence of the increased profitability to developers and third-party operator as a result of embedded networks:

> *Professor Sherry AER Response pp2: This is a system that benefits developers at the long-term expense of consumers. Contracts negotiated by a developer and an embedded network operator will invariably be for the benefit of those parties, not the ultimate consumers who have to pay for those contracts (apartment owners and residents) (see paper attached). It is inevitable that some or most of those contracts will be exploitative. Regulation cannot protect 'the long-term interests of energy customers in relation to price, quality, safety, reliability, security of supply, and emissions reduction' if energy is being delivered to customers through inherently exploitative or suboptimal contracts.*

Question 10 – What kind of innovative and emissions reduction arrangements can embedded networks offer residential customers?

We have stated **local energy service**, used by owners corporations, to fund investment in renewables and electrification has potential for residential apartment customers. See **local energy service** section for more detail.

Question 12 – How should we consider any consequential benefits such as improved access to affordable housing in this review?

We fail to see how treating apartment homeowners differently and unfairly compared to standalone homeowners will benefit affordable housing. To the contrary, while it may make it cheaper for developers, passing on unreasonable costs to new owners is a contradiction to affordable housing.

We wonder if there is room for government or community housing groups (vs commercial 'developers') to install **local energy services**?

Question 13 – What is the evidence that supports the view that embedded network customers are paying higher energy prices compared to on-market retail customers?

The issue of higher prices and lack of savings is addressed in the NSW LR Report:

> *Finding 3 - Residential customers in embedded networks have reduced and inequitable consumer protections and some face unjustifiably high energy costs. For example, the Committee heard reports of residents receiving outrageous hot water charges for $2 000 over a 9-month period and $9 700 for a 14-month period.*
>
> *2.6 The inquiry evidence indicates that embedded network consumers generally experience high bills, and many do not receive the benefit of bulk savings.*
>
> *2.7 Specifically, the Committee heard that customers can receive bills higher than those received by standard supply customers. This includes evidence from customers who moved from a property with a standard supply arrangement to one in an embedded network and experienced much higher charges.*

Question 14 – What evidence is available to understand the scale, extent or risk of harms?

There are very many reports dealing with the scale, extent and risk of harms. Very briefly:

> NSW LR Report:
>
> *Recommendation 1 - That the NSW Government urgently collaborate with federal, state and territory governments and energy regulatory bodies to secure regulatory reforms which improve the consumer protections available to embedded network customers, including price cap protections.*
>
> *Recommendation 2 - That the NSW Government work with federal, state and territory governments and energy regulatory bodies to improve the compliance and monitoring regulatory framework for embedded networks.*
>
> *Recommendation 4 - That the NSW Government implement a standardised billing structure requiring the itemisation of embedded network services.*
>
> *Recommendation 7 - That the NSW Government ensure obligations and requirements applying to embedded networks of different sizes in NSW legislation, including the Electricity Supply Act 1995 and the Service and Installation Rules, are clear and sufficient to protect consumers and maintain network safety.*
>
> *Recommendation 8 - That the NSW Government implement measures to ensure that network infrastructure, particularly in residential land lease communities, is maintained and upgraded where necessary to ensure the safety of and reliable supply to residents, including the consideration of the potential cost consequences for residents.*

Recommendation 9 - That the NSW Government:

a) ensure there are appropriate requirements to disclose embedded network services to a potential owner or tenant before they purchase or lease a property in an embedded network, including requiring real estate advertisements to disclose the average recurring costs of all services provided to that property through an embedded networks (for example, the sale of hot or chilled water);

b) require developers and embedded network operators to disclose any energy cost savings that potential owners would obtain when purchasing a property, such as from solar or other renewable sources.

Recommendation 10 - That the NSW Government consider regulating embedded network contract provisions, including the term of the contract and conditions of termination, to ensure they are not unduly burdensome for consumers.

And so on!

Question 15 – What other harms do embedded network customers face?

See Q3 - The harm we see and are most concerned about is due to **developer initiated** embedded networks.

Question 17 – What are the risks and implications for embedded network service providers, prospective exempt sellers, customers and other relevant third parties if we require current deemed exemptions to be registered? How could any risks be mitigated?

We do not believe that requiring registration of the ND exemption is warranted. The use, according to the definition, by owners corporations to permit small scale use, like use for common property use in electric vehicle charging is simple and warranted. The answer lays in preventing commercial use of the ND and NR exemptions by developers and third party embedded network operators for their own gain.

Question 18 – How should we measure the benefits to consumers of registration?

Not required for ND exemptions.

Question 19 – What are the risks and implications for embedded network service providers, prospective exempt sellers, customers and other relevant third parties if we revised the NR2 registrable network class exemption activity criteria to include prescribed customer benefits that must be met by NR2 registrable network class exemption holders? How could the risks be mitigated?

Effectively developers and embedded network operators are using NR2, which is not fit for purpose, as a convenience to justify commercial use of electricity sale. A simple answer is to revise the definitions to ban this misuse and make it fit for purpose for the new category of **local energy service** providers.

Question 20 – If we were to prescribe a list of specific embedded network customer benefits, what could be included?

See **local energy service** section of this document.

Question 21 – What other regulatory approaches would enable the AER to ensure future embedded networks are beneficial to customers?

See answers to:

- Q1 and section on **level playing field**.
- Q3, Q6 and Q19 – Ban the misuse of exemption framework by developers and associated third parties;
- Q4 – Provide a fit for purpose framework for **local energy service** providers;
- Q10 and Q20 – Create **local energy service** providers to work with owners corporations to fund investment in renewables and electrification;

Question 22 – What are the risks to embedded network service providers, prospective exempt sellers, customers and other relevant third parties if we introduced a requirement to apply to the AER to register an NR2 network class exemption?

Rather than a risk to embedded network operators, there is a risk to apartment customers and small business owners of **not** requiring a formal application to the AER is a continuance for the current regime of misuse by embedded network operators to the detriment of consumers.

Question 23 – What are the implications of requiring embedded network service providers to demonstrate customer benefits before being permitted to register an NR2 network class exemption?

The requirement to demonstrate customer benefits, such as those included in our section on **local energy service** providers, can only improve customer benefits.

Question 24 – What support is there to stop the expansion of residential embedded networks by closing the NR2 registrable network exemption class?

We do not believe that closing the NR2 exemption class is necessary and doing so could prohibit future use of **local energy service** operators as a useful new business model. OCN's position is to prevent **developer initiated** embedded networks.

A revised and fit for purpose NR2 addressing the issues raised in the section on **local energy service** providers in our view is the best option.

Question 26 – What compliance breaches should exempt sellers be required to submit to the AER, if they on-sell to residential customers?

We agree with the findings of the NSW LA Review, that the current use of the exemption regimen is not fit for purpose. Any revision of the process should include:

- Reporting of any developer costs transferred to an embedded network operator or third party supplier;
- Capital costs and payment arrangements for any infrastructure provided as part of the service provision;
- Service charges included in the service provision;
- Actual energy prices charged, compared to the DMO.