



**The Hon. Matt Kean MP**  
Treasurer  
Minister for Energy

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Our ref: DOC22/1008023

Ms Helen Minnican  
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Dear Ms Minnican *Helen*

Thank you for your letter regarding Report No. 3/57 of the Committee on Law and Safety – Embedded networks in New South Wales. I thank you for the opportunity to respond to the recommendations in the report.

Please find attached the NSW Government response to Report No. 3/57's recommendations.

Yours sincerely

**Matt Kean MP**  
Treasurer  
Minister for Energy

*16.2.23*

## Recommendations from the Legislative Assembly Inquiry into Embedded Networks

#	Recommendation	NSW Government proposed position	Comments
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.	Support	<p>The NSW Government will continue to work closely with other jurisdictions and regulatory bodies to secure regulatory reforms which improve consumer protections for embedded network customers.</p> <p>The NSW Government will:</p> <ul style="list-style-type: none"> <li>a) Introduce an IPART determined maximum price for hot and chilled water services, and for gas services, in embedded networks; and</li> <li>b) Initiate an IPART review on whether a maximum price that is below the Default Market Offer price for electricity embedded networks is required, and a preferred methodology for such a maximum price.</li> </ul>
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.	Support	The NSW Government will continue to engage with other jurisdictions and regulatory bodies to improve compliance with the embedded network regulatory framework.
3	That the NSW Government improve data collection regarding embedded networks, particularly to identify the number of residents living in embedded networks.	Support in-principle	<p>The NSW Government recognises the gaps in data on the number of embedded network sites and their customers in NSW and across Australia.</p> <p>The Australian Energy Regulator (AER) is currently responsible for registration and data collection for some embedded network customers. The NSW Government has requested that the AER explore expanding its</p>

			<p>data collection responsibility to include additional data on embedded networks.</p> <p>The NSW Government is also consulting on opportunities to improve access to data on the number of embedded networks and customers in NSW.</p>
4	That the NSW Government implement a standardised billing structure requiring the itemisation of embedded network services	Support in-principle	<p>Bill content requirements are established nationally through the National Energy Retail Rules (NERR), the AER's Better Bills Guideline and the AER's Retail Exempt Selling Guidelines. The NSW Government considers that billing rules for embedded networks should continue to be managed nationally.</p> <p>The NSW Government will continue to advocate for improved billing standards for embedded network customers with national bodies such as the AER.</p>
5	That the NSW Government immediately ban the separate charging of hot and chilled water in embedded networks and implement fulsome price protection measures to prevent the unreasonable and unfair pricing of these essential services.	Support in-principle	<p>The NSW Government will:</p> <ul style="list-style-type: none"> <li>c) Introduce a maximum price for hot and chilled water services, and gas services, in embedded networks. <ul style="list-style-type: none"> <li>i. The NSW Government will direct the Independent Pricing and Regulatory Tribunal (IPART) to undertake a review to determine the best mechanism or methodology to establish a maximum price protection for hot and chilled water embedded networks, and gas embedded networks.</li> </ul> </li> <li>d) Direct the IPART to undertake a review to consider whether the NSW Government should ban the third-party installation of new hot and chilled water embedded networks.</li> </ul>

6	<p>That the NSW Government collaborate with federal, state and territory governments and energy regulatory bodies to ensure hot and chilled water consumers in embedded networks have equal protections as are provided under the National Energy Customer Framework, including by requiring that these services are billed in accordance with the underlying source of energy.</p>	Support	<p>The NSW Government will continue to engage with other jurisdictions and regulatory bodies to improve consumer protections for hot and chilled water embedded network customers.</p> <p>The NSW Government will release a Ministerial Statement of Expectations requesting that hot and chilled water embedded network operators bill customers in the underlying energy source. This means that customers must be billed based on the energy used to heat or cool water (ie. c/kWh), rather than in litres of water heated or cooled. The Statement of Expectations will also clarify that the NSW Government considers that the sale of hot and chilled water when billed in the underlying energy source constitutes the sale of energy.</p> <p>The NSW Government intends to implement legislative and regulatory changes to give legal effect to the Statement of Expectations. This would enable consumer protections available under the National Energy Consumer Framework that apply to electricity and gas embedded networks to also apply to hot and chilled embedded networks.</p> <p>Following IPART's reviews, the NSW Government may also recommend changes to the National Energy Consumer Framework to further strengthen protections.</p>
7	<p>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.</p>	Support in-principle	<p>The NSW Government has not identified any issues in relation to safety in embedded networks. The obligations under the Electricity Supply Act 1995, and Service and Installation Rules relating to consumer and network safety are consistent for both retailer and exempt seller operated embedded networks with on-grid systems.</p>
8	<p>That the NSW Government implement measures to ensure that network infrastructure, particularly in residential land</p>	Support in-principle	<p>The NSW Government will continue to engage with stakeholders on this matter and develop solutions that meet the unique needs of residential land lease communities (RLLCs).</p>



			<p>utilities are not fixed and change depending on household needs and size. Providing an 'average' cost risks misleading prospective tenants or owners. Further work will be undertaken to determine the best way to educate and inform consumers.</p> <p>The NSW Government will also request the AER to only approve new embedded networks where doing so is in the long term interests of consumers, and will offer to submit a rule change request to the Australian Energy Market Commission if the AER believes that the current rules fetter its discretion in this regard.</p>
<b>10</b>	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	Support	<p>The <i>Strata Schemes Management Act 2015</i> (SSMA) already limits the term of a contract between an owner's corporation and embedded network provider for the supply of utilities, excluding contracts for the supply of electricity to residents of a strata scheme through an embedded network.</p> <p>In line with Recommendation 120 of the statutory review of the SSMA, the NSW Government will introduce legislative changes in 2023 to reduce the period of contract terms for the supply of electricity through an embedded network.</p> <p>In line with Recommendation 57 of the statutory review of the SSMA, legislative amendments will also be prepared to include a prohibition on unfair terms in standard form contracts offered to owners corporations, mirroring the unfair contract terms provisions of the Australian Consumer Law (Part 2-3).</p>
<b>11</b>	That the NSW Government implement a Retailer of Last Resort scheme to protect customers in embedded networks.	Support in-principle	<p>Nationally energy laws provide a framework for the Retailer of Last Resort scheme for on-market energy customers. The NSW Government considers that a Retailer of Last Resort scheme for embedded network customers would be best achieved through a national approach.</p> <p>The NSW Government will advocate through national forums for the appropriate creation of fit-for-purpose Retailer of Last Resort arrangements</p>

			for embedded networks. The NSW Government considers that administering a NSW-specific Retailer of Last Resort scheme may be duplicative and require excessive administrative recourses.
<b>12</b>	That the NSW Government ensure there is adequate information available to consumers in embedded networks about access to complaints and dispute resolution services.	Support	<p>The NSW Government regularly engages with the Energy and Water Ombudsman NSW (EWON) and peak consumer bodies on ways to improve information for consumers within embedded networks about access to complaints and dispute resolution.</p> <p>The NSW Government will also ensure that its websites provide clear information about how to access complaints and dispute resolution services and will continue to work closely with community organisations and EWON to enhance the dissemination of the information to relevant customers.</p>
<b>13</b>	That the NSW Government work with AER and the Energy and Water Ombudsman NSW to ensure exempt entities become members of the Ombudsman	Support	<p>In 2018, the AER updated its guidelines to require ‘exempt sellers’ in NSW to become members of state energy ombudsman schemes. The NSW Government amended the NSW Electricity Supply (General) Regulation 2014, and worked together with EWON to expand EWON’s charter to ensure residential customers in embedded networks had access to EWON’s dispute resolution services.</p> <p>This change addressed a gap in consumer protections for customers who are supplied electricity or gas by an embedded network. These customers can now have their energy disputes resolved at no direct charge, by EWON.</p> <p>The NSW Government will continue to engage with EWON and the AER to require embedded network operators to become members of EWON.</p>
<b>14</b>	That the NSW Government ensure that small business customers in embedded networks are adequately protected	Support	The NSW Government is strengthening consumer protections for embedded network customers, including small business customers, in a range of ways as outlined in previous recommendations.
<b>15</b>	That the NSW Government, in collaboration with the Energy and Water Ombudsman NSW, develop and implement measures to ensure	Noted	The NSW Government considers that this recommendation would be extremely difficult to implement in practice. Service providers need to cover their costs. This is consistent with arrangements in other jurisdictions and for on-market customers. Further work with national regulators will be

	that the cost of an Ombudsman investigation cannot be passed on to a consumer		undertaken to assess the appropriateness of restricting cost pass throughs to consumers raising complaints at the national level.
<b>16</b>	That the NSW Government ensure there is adequate hardship support available to embedded network customers	Support	<p>The NSW Government implemented amendments to the NSW Social Programs for Energy Code to ensure the 6 NSW energy rebates are available to all embedded network customers, effective from 1 February 2022. This change addressed an important gap in consumer protections for customers of embedded networks, to enable such customers to access energy bill support.</p> <p>The NSW Government will also continue to engage with the AER on its Towards Energy Equity Strategy to address issues faced by consumers experiencing vulnerability and hardship.</p>
<b>17</b>	That the NSW Government urgently extend access to Energy Accounts Payment Assistance (EAPA) vouchers to all residents in embedded networks	Support	<p>The NSW Government is committed to expanding the EAPA scheme to embedded network customers.</p> <p>The Energy Accounts Payment Assistance (EAPA) scheme supports people experiencing a short-term financial crisis or emergency to stay connected to essential energy services.</p>
<b>18</b>	That the NSW Government appropriately educate and communicate with vulnerable communities about embedded networks, including ageing and culturally and linguistically diverse consumers, to ensure they can make an informed choice and seek assistance.	Support	<p>The NSW Government is developing a range of information on its websites for customers of embedded networks.</p> <p>The NSW Government is aware that the AER has been working with state-based energy Ombudsman to increase dispute resolution options for exempt customers and have released several consumer-facing fact sheets explaining consumer rights in plain English.</p> <p>The AER has also committed to reducing complexity and enhancing accessibility for energy consumers, including embedded network customers, and through its Towards Energy Equity Strategy has committed to improving the AER's communications channels to assist energy consumer literacy.</p>
<b>19</b>	That the NSW Government collaborate with federal, state and territory governments and energy regulatory bodies to secure regulatory	Support	As outlined in previous recommendations, the NSW Government will release a Ministerial Statement of Expectations requesting hot and chilled water embedded networks bill customers in the underlying energy source. This



	reform, particularly to include embedded networks and update the definitions of 'selling energy', 'electricity, and 'gas' under the National Energy Retail Law		<p>means that customers must be billed based on the energy used to heat or cool water (ie. c/kWh), rather than in litres of water heated or cooled. The Statement of Expectations will also clarify that the NSW Government considers that the sale of hot and chilled water when billed in the underlying energy source constitutes the sale of energy.</p> <p>This would be followed by legislative and regulatory change to ensure that customers in these networks will be provided the same protections under the National Energy Consumer Framework as those customers in electricity and gas embedded networks.</p> <p>The NSW Government will also continue to engage with other jurisdictions and regulatory bodies to advocate for changes to the National Energy Retail Law and other relevant legal instruments to provide improved consumer protections for embedded network customers. Such changes could be recommended in the AER's current Review of Consumer Protections for Future Energy Services.</p>
<b>20</b>	That the NSW Government urgently collaborate with federal, state and territory governments to extend the Default Market Offer to embedded network customers	Support	<p>The NSW Government has advocated for the Commonwealth Government to extend the Default Market Offer maximum price protections to all embedded network customers. The Commonwealth Government has a public consultation to progress this reform.</p> <p>In the interim, the Ministerial Statement of Expectations referred to in previous recommendations will also direct electricity embedded network operators to ensure billing does not exceed the Default Market Offer as set by the Australian Energy Regulator. This will effectively set a maximum price on what embedded network providers can charge for customers in electricity embedded networks.</p>
<b>21</b>	That the NSW Government urgently implement the recommendations of the 2021 statutory review of the Strata Schemes Management Act 2015 relating to utilities contracts.	Support	<p>The recommendations of the statutory review of strata laws are being implemented in phases, with targeted stakeholder consultation where appropriate.</p>

<b>22</b>	That the NSW Government urgently implement the recommendations of the 2021 statutory review of the Residential (Land Lease) Community Act 2013 (RLLC Act) relating to the charging of electricity in embedded networks	Support	The recommendations of the RLLC statutory review are being implemented in phases, with targeted stakeholder consultation on some of the review's recommendations. This included on draft legislative amendments relating to the charging of electricity in embedded networks. The NSW Government intends to begin implementation of the recommendations in 2023.
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