

INQUIRY INTO EMBEDDED NETWORKS IN NEW SOUTH WALES

## **Legislative Assembly Committee on Law and Safety**

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Answers to Supplementary Questions

Hearing: 18 August 2022

## Energy

### Supplementary Questions to NSW Government

1. What action is the NSW Government taking to address the recommendations made by the 2019 AMEC report?

#### Answer

The AEMC's 2019 report on embedded networks has yet to be considered by the National Energy Ministers.

In February 2021, Energy Senior Officials agreed that the former Chair of National Energy Ministers, the then Commonwealth Government Minister for Energy and Emissions Reduction, should circulate the Report and proposed response to the National Energy Ministers for consideration. The Report has yet to be circulated to the National Energy Ministers.

The NSW Government has advocated for the Report and proposed response to be circulated to, and considered by the National Energy Ministers as soon as possible.

2. In your view, should hot water be classified as energy and therefore under the regulatory ambit of the AER?

#### Answer

Yes, the NSW Government considers that the sale of hot or chilled water should be considered as the sale of energy when customers are billed in the underlying input of energy, as either gas or electricity. The NSW Government has advocated this position to the Australian Energy Regulator (AER), but the AER has not yet agreed to the proposition. The NSW Government is actively identifying options to clarify that the sale of hot or chilled water should be considered as the sale of energy.

3. Can you provide an update on the progress and timeline for the implementation of the recommendations of the statutory review of the Residential (Land Lease) Communities Act 2013?

**Answer**

The recommendations of the statutory review of the *Residential (Land Lease) Communities Act 2013* that require legislative reform will be progressed through two separate stages - a Phase 1 Bill and a Phase 2 Bill. This approach will facilitate quicker implementation of some reforms, while the more complex and contentious recommendations continue to be considered, consulted on and drafted.

A Phase 1 Bill has been drafted and was sent to targeted stakeholders for feedback in August 2022. Stakeholder feedback is currently being considered and incorporated, where appropriate, into an updated Bill.

Introduction of the Phase 1 Bill to Parliament will be subject to Government and Parliamentary priorities.

Policy development to implement the remaining recommendations and to develop the Phase 2 Bill is ongoing. It is anticipated that targeted and public consultation on the Phase 2 Bill will occur in 2023.

4. Can you provide an update on the progress and timeline for the implementation of the recommendations of the statutory review of the Strata Schemes Management Act 2015?

**Answer**

Similarly, the recommendations of the statutory review of the *Strata Schemes Management Act 2015* which require legislative reform will be implemented in two phases. A draft Phase 1 bill has been developed and has been sent to targeted stakeholders for feedback, with feedback due in October.

A draft Phase 2 bill will be developed over 2022 and will include the review report's recommendations on embedded networks. The development of the draft Phase 2 Bill will likely involve targeted stakeholder consultation in 2022 and a broader public consultation in 2023.

The Department of Customer Service will continue to refine this phased approach, including assessing the appropriateness of including specific recommendations in each of the separate bills. The bills will be introduced to Parliament subject to Government and Parliamentary priorities.

5. (a) What requirements are there for disclosing to potential owners or tenants that a residence is in an embedded network?  
(b) At what point is this required to be disclosed, and by who?  
(c) If not, why?

**Answer**

There are no obligations on developers, real estate agents, strata managing agents or vendors to disclose information about embedded networks to prospective buyers of a strata lot.

However, prospective buyers can make their own enquiries to check whether an embedded network exists in a strata scheme through the inspection of strata records. Purchasers of strata units will commonly obtain a search of the strata records as part of their ordinary pre-purchase due diligence.

A statutory review of strata schemes laws was tabled in NSW Parliament in November 2021. The review found that there could be benefits for new entrants to a strata scheme in having a better initial understanding of the nature of the utility services in a strata scheme, especially if they involve embedded networks.

Recommendation 122 of the review recommended that, as part of any sale of strata scheme units, including off the plan sales, there is a plain English disclosure of which services are provided through an embedded network, their ownership structure and what this will mean for residents, including in relation to access to alternative providers and ongoing capital costs.

The review also recommended the inclusion of additional educational material about embedded networks in strata schemes on the NSW Fair Trading website. The Department is working to implement the recommendations of the review and will consult with relevant internal and external stakeholders about these recommendations.

In terms of tenancy, in March 2020, the compulsory standard form residential tenancy agreement was amended to require landlords and agents to declare whether the electricity or gas for the rental property is supplied through an embedded network. This means that the disclosure occurs at the time of signing a tenancy agreement. Any further changes to the disclosure requirements would require further analysis, including consideration of the appropriate legislative instrument, and stakeholder consultation.

6. What is the timeframe for expanding the EAPA program to embedded network customers?

**Answer**

The NSW Government has commenced work to expand Energy Accounts Payment Assistance (EAPA) to embedded network customers as soon as possible.