

## **EMBEDDED NETWORKS IN NEW SOUTH WALES**

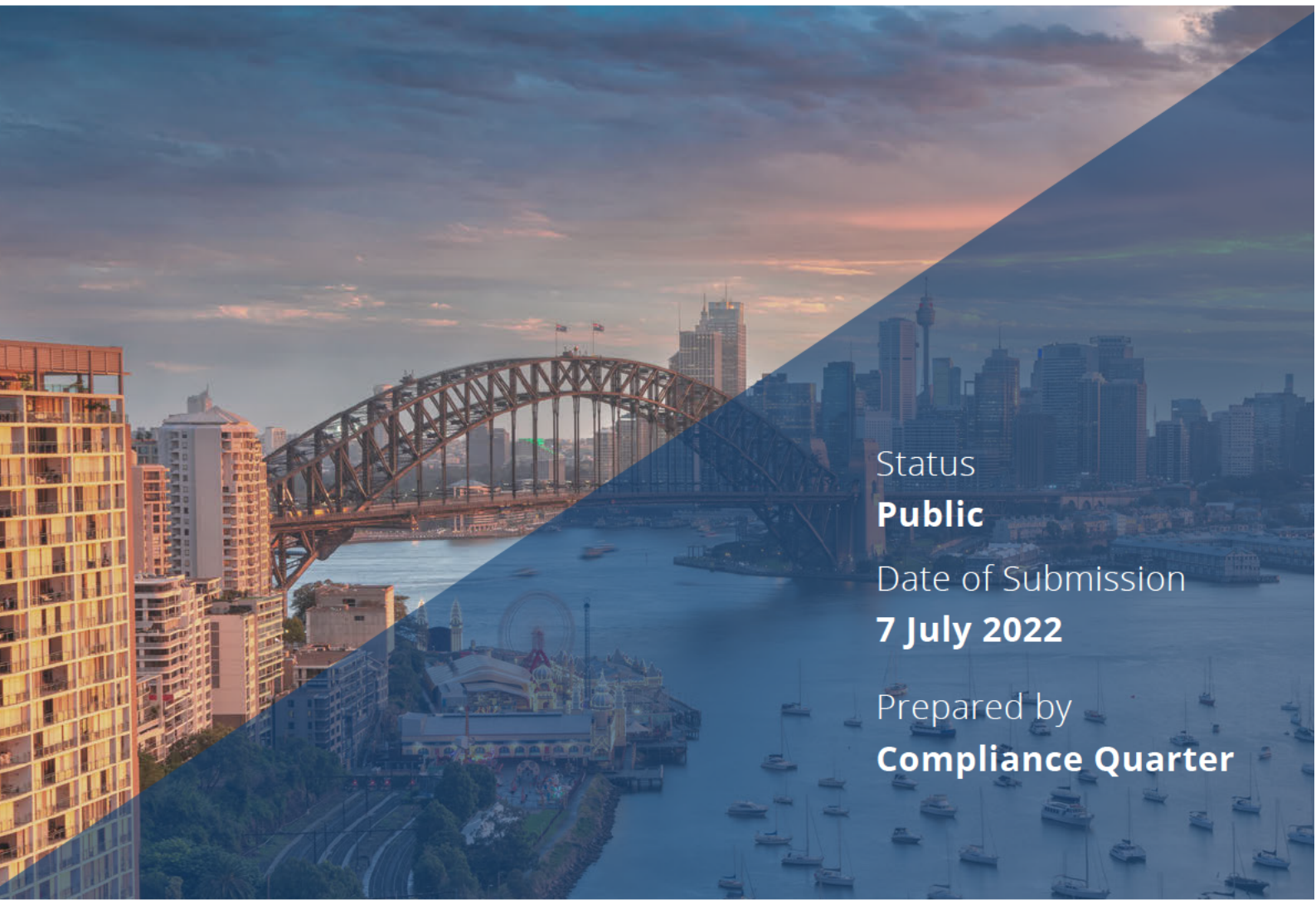
**Organisation:** Local Energy Network Action Group

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# LAW AND SAFETY INQUIRY INTO EMBEDDED NETWORKS IN NSW.

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Submission of: Local Energy Network Action Group



Status

**Public**

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Prepared by

**Compliance Quarter**

## **Submission:      Embedded networks in New South Wales**

Thank you for the opportunity to respond to the NSW Legislative Assembly Committee on Law and Safety Inquiry into Embedded Networks in NSW. This is a submission to the NSW Legislative Assembly Committee on Law and Safety by the Local Energy Network Action Group.

### **I. About the Local Energy Network Action Group**

The Local Energy Network Action Group (LENAG or “the Group”) is a collaboration of embedded network operators, specialist consultants and providers of innovative utility software and technology. This public submission is lodged by Compliance Quarter on behalf of LENAG members: benergy, ENM Solutions, Intellihub and Microgrid Power.

The Group is intent on working in the interests of customers and the industry as a whole and will not seek to drive protectionist policies. The Group has adopted the following guiding principles:

- Place benefits to consumers at the centre, so that consumer protections will be driven by the needs of customers and accommodated in the business model of suppliers and other interested parties.
- Prioritise equitable outcomes, where embedded network customers can access the same competitive retail offers and consumer protections as other electricity consumers, should they choose.
- Demonstrate innovation and leadership in the energy industry so as to create awareness and recognition of what the embedded network industry provides in terms of stakeholder outcomes and consumer benefits.

### **II. Desired Outcomes**

In terms of potential outcomes from regulatory reforms, we see the following as being critical:

- Ensuring those that currently benefit from embedded networks today are not worse off from the changes made, and their ability to bulk buy energy is protected.
- Future-proof the ability of customers in embedded networks to gain access to renewable and clean energy technology.
- Understanding the complexity involved in implementation of the recommendations, both at a practical and technical level.
- Alignment with the AEMC’s 2019 recommended law and rule changes for embedded networks.

### III. Overview of local energy networks

At their core, local energy networks create a pool of value that can be used to fund infrastructure and/or provide greater discounts to energy bills.

Embedded networks deliver benefits to consumers. Embedded networks:

- Protect consumers from significant price changes with the majority of embedded network operators managing the risk of price changes at the gate meter and via embedded generation. While many on-market energy retailers have increased their market offers above the Default Market Offer, a rate determined by the Australian Energy Regulator, the Group has retained pricing at levels below the Default Market Offer;
- Allow for the communal use of solar PV, EV Charging, and energy storage installed at an embedded network, whereas otherwise, individual occupants would experience barriers to the installation and use of such technologies. These barriers may include access to roof space, financial and technical;
- Drive innovation by the delivery of energy services based on distributed generation, storage and EV Charging; and
- Have the potential to provide grid stability services as they can be operated in such a way to either maximise self-generation and consumption or export.

Today's operators in local energy networks do more than supply & bill electricity services – they are a key financial and infrastructure partner to smart sustainable urban and rural developments, both high-rise and broadacre, through the provision of critical infrastructure to these local networks.

Importantly, the majority of new projects in New South Wales from local energy network providers include the provision, funding, operation and maintenance of:

- On and off site renewable energy (thereby reducing onsite emissions);
- Energy efficiency through building management systems (**BMS**);
- Mobility solutions (EV charge points and EV); and
- Critical heating and cooling infrastructure (HVAC, central hot water).

These services can be:

- funded by the local energy operator, which reduces the capital costs to consumers in these communities; and
- delivered within the DMO price cap as set by the AER ensuring low-cost energy supply.

There has been a transformation change in local energy networks over the past five years and, today, local network providers are leading innovators in sustainable energy and urban developments.

Existing energy market conditions are rightly classified as unprecedented. The existing market conditions favour the very large vertically integrated energy suppliers. Smaller energy providers, including those within embedded networks, will be critical to ensuring a competitive and functional energy market as the energy transition. The regulatory settings for smaller providers will be critical in determining their success or failure.

#### IV. Responses to the terms of reference

Our responses to each of the terms of reference are set out in the table below:

Terms of reference	Response from LENAG	Further comment
The current legal framework regulating embedded networks	<p>The existing legal and regulatory framework for embedded networks was examined by the Australian Energy Market Commission (<b>AEMC</b>) and is set out in its final report.</p> <p>There are additional jurisdictional regulations that govern embedded networks in NSW. These include:</p> <ol style="list-style-type: none"> <li>1. Section 77 of the Residential (Land Lease) Communities Act 2013<sup>1</sup></li> <li>2. Section 38 of the Residential Tenancies Act 2010; and</li> <li>3. Section 132A of the Strata Schemes Management Act 2015</li> </ol> <p>Of those instruments, LENAG notes the extent of litigation in relation to section 77 of the Residential (Land Lease) Communities Act 2013. While LENAG members are not operators of residential land lease community parks, reform is required to section 77(3) to enable operators to recover their reasonable costs and to ensure that customers and operators can operate with certainty.</p> <p>A review of the Act was conducted in 2021 and the Department of Customer Service published its <a href="#">final report</a> in</p>	Refer to the final AEMC report <a href="#">here</a> .

<sup>1</sup> We note that s 77 (3) of the Act was considered by the NSW Supreme Court in the matter of [Silva Portfolios Pty Ltd trading as Ballina Waterfront Village & Tourist Park v Reckless \[2018\] NSWSC 1343](#) and in a number of decisions of the NSW Civil and Administrative Tribunal including by the Appeal Panel in [Tork v Parklea Operations Pty Limited t/as Gateway Lifestyle Residential Park – Stanhope Gardens \[2019\] NSWCATAP 299](#)

	<p>November.</p> <p>LENAG submits that section 77 of the Residential (Land Lease) Communities Act 2013 is inconsistent with pricing protections found in the National Energy Customer Framework and believes that the provisions in the National Energy Customer Framework are preferable and should apply.</p>	
<p>Changes to the legal framework proposed by the Australian Energy Market Commission in its 2019 review on updating the regulatory frameworks for embedded networks</p>	<p>LENAG supports the recommendations set out in the AEMC's final report on the regulatory frameworks for embedded networks.</p> <p>The AEMC's final report identifies and provides solutions to gaps in the current regulatory framework. The implementation of the AEMC's final law and rule package will benefit consumers and provide the industry with certainty.</p>	<p>LENAG notes that the AEMC's final recommendations were not accepted by State and Territory Ministers following consideration of a cost-benefit analysis report prepared by KPMG.</p> <p>LENAG believes that adjustments could be made to ensure that costs to implement the recommendations are managed by appropriate adjustments.</p>
<p>the effect of embedded networks on NSW residents and businesses, including any health or safety concerns</p>	<p>The risks to consumers of embedded networks were comprehensively examined in the AEMC's final report and we support the solutions proposed by the AEMC.</p>	

	The Group is not aware of any health or safety issues within embedded networks in NSW.	
policy and legal solutions to address the effect of and concerns about embedded networks, including to address any gaps in the regulatory framework or safety concerns raised by NSW residents and businesses	As above, the Group recommendation is that the AEMC's final law and rule changes be supported by the NSW Government.	
any other related matters.	<p>LENAG notes that the Australian Energy Regulator (<b>AER</b>) is currently undertaking a review of the exemptions and authorisations frameworks. The review arises as a result of the Energy Security Board's (<b>ESB</b>) final advice to energy ministers in July 2021 as part of its post-2025 market design project. The review aims to assess the adequacy of the current energy consumer protection framework in the context of a transitioning energy market.</p> <p>The AER review focuses on the authorisation and exemption frameworks as these are the gateway for energy products and services being captured by the NECF.</p> <p>The review will assess whether these frameworks remain fit for purpose for the post-2025 NEM, whether the NECF should and will capture new energy products and services that are likely to emerge, and what regulatory reforms may be required to ensure energy consumers continue to be adequately protected.</p> <p>It appears likely that the AER will recommend that the AEMC's final report on embedded networks be reconsidered.</p>	The AER's review page is <a href="#">here</a> .

## **V. Conclusion**

Local energy networks, or embedded networks, provide a range of benefits that will become more and more critical as we transition to a decentralised and more resilient energy market.

LENAG endorses the findings of the Australian Energy Market Commission in 2019 and notes that the Australian Energy Regulator is currently re-examining many of the questions that gave rise to the 2019 report.

There are gaps in the regulatory framework and those should be addressed within the national energy customer framework. The advantages of embedded networks now and into the future must be recognised as must the importance of smaller energy retailers and suppliers.

LENAG would welcome the opportunity to provide further information to the Inquiry and to respond to any questions that arise.

Should you have any questions on this submission please contact:

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