

13 August 2021

Residential Land Lease Community team

Att: [REDACTED]
Policy & Strategy, Department of Customer Service
4 Parramatta Square,
12 Darcy Street
Parramatta NSW 2150

By email: rlcreview@customerservice.nsw.gov.au

Dear [REDACTED]

SUBMISSION ON RESIDENTIAL LAND LEASE COMMUNITIES: ELECTRICITY CHARGING OPTIONS

As a major stakeholder in the regulation of residential land lease communities in NSW we welcome this opportunity to respond to the consultation on electricity charging options for residential land lease communities, as set out on the NSW Department of Customer Service (Department) consultation website <https://www.haveyoursay.nsw.gov.au/electricity-pricing>.

NEW OPTIONS FOR ELECTRICITY CHARGING

We note that the Department is considering how people living in residential land lease communities could be charged for electricity as part of reviewing the laws under the *Residential (Land Lease) Communities Act 2013* (RLLC Act), commenced in December 2020.

After considering several policy options following public feedback to March 2021, the Department is now asking for feedback on setting the maximum amount that a resident in a land lease community may be charged for electricity at the median market price. It is proposed that this could be achieved through:

- a single charge method that combines usage and supply charges
- a separate charges method with separate usage and supply charges.

Following our previous submissions that urgent amendment of section 77(3) of the RLLC Act is needed to address the problems regarding electricity charges in residential land lease communities, we wish to acknowledge the work the Department is undertaking to resolve this issue.

In response to the current consultation, we refer to our 12 March 2021 submission responding to the *Statutory Review of the Residential (Land Lease) Communities Act 2013 Discussion Paper* (Discussion Paper) and our 25 May 2021 email to the Department policy team. The industry position remains that Option 3, as set out in the Discussion Paper, is the simplest and better policy option in the longer term.

Removing provisions that govern what can be charged for electricity from the RLLC Act and leaving the Australian Energy Regulator's *AER (Retail) Exempt Selling Guideline* (Retail Guideline) to apply, as it already does, would alleviate all the confusion surrounding electricity charges in communities.

It would remove legislative duplication and result in a charging framework that is fairer for all parties and more appropriate for embedded networks in residential land lease communities than inserting the '[Reckless method](#)' in the RLLC Act. Such a framework would also be more akin to government policy that operated well for the industry for 30 years prior to the case of *Silva Portfolios Pty Ltd trading as Ballina Waterfront Village & Tourist Park v Reckless* [2018] NSWSC 1343 (Reckless).¹

The National Energy Customer Framework provides that customers should receive the same level of consumer protections, regardless of where they live. However, home owners in NSW residential land lease communities are currently at a significant advantage in relation to pricing compared to other customers in the National Electricity Market (NEM) simply because of where they live. This is not fair and equitable and must be addressed.

Electricity is an essential service, but this does not absolve a person from paying their fair share for this resource. Like other embedded electricity network operators, retailers and distributors, community operators should be allowed to charge home owners for electricity usage and service availability.

To ensure fair pricing, Condition 7 of the AER Retail Guideline places a cap on what exempt persons can charge for supply and usage. It provides that an exempt person '*must not charge the exempt customer tariffs higher than the standing offer price that would be charged by the relevant local area retailer for new connections, if the local area retailer were to supply that quantity, or estimated quantity, of energy directly to the premises of the exempt customer.*'

In turn, the *Default Market Offer* (DMO) limits the price that retailers can charge electricity customers on *standing offer* contracts. Since the introduction of the DMO on 1 July 2019 the market has seen reductions in standing offer prices, which should be reflected in electricity pricing in embedded networks operating in accordance with Condition 7.

It also needs to be acknowledged that prior to the *Reckless* case there were a number of communities that did not charge home owners to the maximum cap of the local retailer's standing offer for electricity, and we anticipate this will continue. Operators understand the benefits of offering value in community living to their customers.

Notwithstanding the industry position supporting Option 3 in the Discussion Paper, setting the maximum amount that a home owner may be charged for electricity supplied through an embedded network as the median market price, with a separate charges method, based on figures from the Independent Pricing and Regulatory Tribunal (IPART), could provide the industry with an alternative, interim solution so that communities can have a speedier resolution to this ongoing issue.

Despite its drawbacks, this option would send a clearer pricing signal for operators, home owners and other stakeholders than the *Reckless* method and should assist in reducing disputes about electricity charging in land lease communities.

¹ Refer to page 51 of our 12 March 2021 submission for a recap of the history of NSW Government policy on electricity charging in communities with embedded electricity networks.

The Department notes on the consultation website that a single charge method might make it 'easier to calculate bills with a single price and the single flat discount (20%) for low amperage.' However, the industry view is that there is little administrative difference between applying a single charge method versus a separate charges method.

In addition, the separate charges method is a fairer and more accurate reflection of retailer pricing practices in the NEM, as well as the NSW Government policy that applied to the industry for 30 years prior to the *Reckless* case. Separating charges for supply and usage would provide home owners with a clear indication of the respective charges, rather than a single aggregated amount, and this would allow ongoing comparison with other charging regimes.

In relation to discounting Service Availability Charges (SAC) for sites with lower amperage, the industry has never supported such discounts. These discounts were arbitrarily determined and introduced in 2006 as a policy response to address the issue of sites with amperage lower than 60 amps.

The costs of supplying electricity to a site in a residential land lease community are the same whether the site is receiving 20 amps or 60 amps or more, and the levels of amperage supplied to sites are determined by planning and supply authority laws at the time. In communities established many years ago, the provision of lower amperage to sites was normal development. In addition, operators now face additional costs associated with mandatory membership of the NSW Energy and Water Ombudsman.

It is also important to note that in communities where some home owners are retailed electricity by an authorised retailer the full SAC is charged by the retailer even if the amps supplied (via the embedded network) to the home owner's site is less than 60amps. This amount is not passed on to the operator like network charges in the NEM. Meanwhile, for other home owners in the same community who are on-sold electricity by the operator, they receive the discounts if their site receives less than 60 amps.

Despite these issues, the industry is prepared to accept and apply the existing discounts for SAC for home owners who receive less than 60 amps under the 'median market price - separate charges method.'

Therefore, in answer to the Department's targeted survey questions on the consultation website for electricity charging options in residential land lease communities we note the following responses on behalf of our members:

- 1. Do you support setting the maximum amount that a resident may be charged for electricity supplied through an embedded network at the median market price that is charged to retail customers?***

Yes, but only as an interim alternative to Option 3 as set out in the *Statutory Review of the Residential (Land Lease) Communities Act 2013 Discussion Paper*.

- 2. Do you support the single charge method?***

No.

- 3. Do you support the separate charges method?***

Yes.

4. Which of these two options for electricity charging do you prefer?

The industry preference is the median market price - separate charges method - allowing for separate usage and supply charges based on figures from the IPART and with existing discounts for SAC applied.

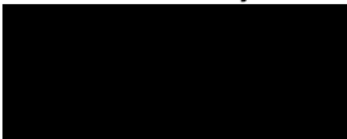
5. As a resident, how much more per month would you be willing to pay to have fair, certain and transparent electricity pricing?

The Association is not able to answer this question on behalf of home owners. However, we reiterate our comments that the National Energy Customer Framework provides that customers should receive the same level of consumer protections, regardless of where they live. Home owners in NSW residential land lease communities are currently at a significant advantage in relation to pricing than other customers in the NEM simply because of where they live. This is not fair and equitable and must be addressed.

CONCLUSION

Thank you for taking into consideration the issues we have raised. If the Department would like to meet to discuss our responses further, please contact Shannon Lakic, Policy, Training and Executive Services Manager on 0410 651 782 or email shannon.lakic@cciansw.com.au to make arrangements.

Yours sincerely



Lyndel Gray
Chief Executive Officer

About Us

The Caravan Camping & Touring Industry & Manufactured Housing Industry Association of NSW Ltd (CCIA NSW) is the peak industry body in this State representing the interests of holiday parks, residential land lease communities (residential parks, including caravan parks and manufactured home estates), manufacturers, retailers and repairers of recreational vehicles (RVs, including caravans, campervans, motorhomes, camper trailers, tent trailers, fifth wheelers and slide-ons), camping equipment suppliers, manufactured home builders and service providers to these businesses.

We currently have as members over 700 businesses representing all aspects of the caravan and camping and land lease living industry. Over 470 of these members are operators of holiday parks and residential land lease communities located throughout New South Wales (NSW) as follows:

Region	Number of Businesses
Far North Coast & Tweed	53
North Coast	75
New England (North Western NSW)	13
Manning/Forster	28
Newcastle & Hunter	65
Central Coast	31
Sydney & Surrounds	24
Leisure Coast (Illawarra and Shoalhaven)	50
South Coast (Eurobodalla and Sapphire Coast)	68
Central NSW	21
Murray & Riverina	33
Canberra & Snowy Mountains	15
Outback NSW	3