

Ms Susan Faulbaum
Director, Consumers and Markets
Australian Energy Regulator

Dear Ms Faulbaum

I write in reference to application from “South Stradbroke Utilities Pty Ltd” (SSU) applications for individual retail exemption

We are concerned that the proposed change could have a detrimental impact on the affordability of Electricity (and gas) and may also impact the security of supply at Couran Cove.

On the face of it, a retail exemption would seem logical for the arrangements on the island, only if there was stable inter-company / Body Corporate relationships and financial environment on the island which there is not, otherwise it would most likely be supported by all.

Couran Cove is controlled by a complex arrangement of body corporates, The rules of how costs are distributed between these entities and then from the body corporate (BC) entities to individual owners were initially established when the resort started in the late 90’s and have in most part stayed the same since. To further complicate the situation certain individuals have multiple companies that have significant or controlling interests in multiple of the body corporates. It is impossible to keep up with who owns what as the company shareholdings and structures keeps changing!

Complex agreements have been agreed and executed between parties and BCs about how money that is coming in is to be used, trying to ensure prudent use of available funds. Unfortunately things are getting worse and we find ourselves in a litigious environment with a number of Supreme Court applications (past and future) adding further strain to scarce funding.

We see that any changes associated with this application and reducing possible regulatory oversight and may allow certain parties to argue that existing body corp rules on how costs are distributed for energy use can be ignored. We see this as a large risk on fair and equitable costs for energy supply.

We note that the application comes from a company that is currently not supplying anything to Couran Cove. We assume that the company will at some point take over the role that currently Island Resort Infrastructure Pty Ltd has which is to run the utilities on the island including the Power and Gas arrangements. It may also take over the role for Water and sewerage. We note that the director and Secretary for both companies (SSU and Island Resort Infrastructure Pty Ltd) are the same.

The change would definitely increase costs of supply. The resort does not have suitable existing infrastructure to allow for individual customer electricity metering for all consumers and the application talks about electronic meter reading by a metering agent. This infrastructure does not exist and would be expensive to be installed causing an immediate increase in energy costs. In the interim till the infrastructure is installed it is proposed to read existing meters and then apportion costs. For the metering that is in place, what is connected

to an individual meter varies significantly, some apartments/ cabins have one meter that measures their usage as well as the adjacent dwelling. In some cases street lighting comes off certain meters that also have apartments on them. Not understanding exactly what SSU will actually be providing, but given its title, it may be going to run the water and sewerage for Courant Cove and clearly metering their own usage would be a significant cost which they would avoid, but this would require estimation of this very high load and make it very difficult to appropriately apportion energy usage, noting that the water and Sewerage was not mentioned in the application as a customer. Apportionment of costs could result in an equitable outcome if an independent body scrutinises any proposals and takes input from all stakeholders and can have any decision binding.

Also presumably a price structure will be established for energy supply by SSU (the application is currently proposing this only for electricity supply) and we are concerned this structure will not be equitable. With the complex nature of ownership and governance at Couran Cove there is no exiting governance arrangement that could set a pricing structure that could not be perceived as having a conflict of interest. As such the only option that would be considered fair by all parties is that the pricing structure would be set by a completely independent body like the AER.

We see that less regulatory oversight could impact the security of supply. With the non-payment of debt between BCs we see that a reduction in rules that the exemption would allow, may make it possible for SSU to restrict supply without due regard for rules that would otherwise apply. We note that this is a current dispute between BCs and Island Resort Infrastructure Pty Ltd where restriction of supply is proposed due to non-payment see attached document titled "Notice of intention to restrict supply – SSKB (3).pdf".

We would welcome a complete review from the AER on power supply arrangements for Couran Cove, in its application SSU have stated that there are no other viable arrangements in place for energy and yet within a few kilometres COURAN POINT SERVICES PTY LTD ABN 85089110672, also generate and distribute electricity. Possibly generation could be made a competitive arrangement on the island and network provision handled by a distribution company that could be scrutinised by the AER.

As stated at the beginning a retail exemption would seem to make sense but given the situation that we are in, we feel that any decision on this should be much more thoroughly investigated with pricing structure for energy published by SSU, the extra costs of metering that are to be imposed to be made available to all, apportionment to cover deficiencies in metering published and any other impact on the complex body corporate rules that are present to be understood. As such we would request a significant deferment of any decision and potentially an investigation into energy arrangements.

If the exemption was to proceed we would ask that the AER impose the following rules to ensure arrangements are equitable,

- Costing structures and prices are oversighted by the AER
- Apportionment arrangements are oversighted by the AER

Finally we have found the application from SSU very confusing, we have added comments to the document (attachment titled "AER Submission.pdf") where we felt the application did not provide enough information for us to understand what was being proposed, or if we felt the answers were incorrect in some manner.

Thank you for considering this objection

Yours sincerely

Paul McKeen

10 July, 2020

Couran Cove Community Plan MCP 106751

C/- Charlotte Divall

Stewart Silver Kings & Burns

PO Box 8319 GCMC

QUEENSLAND 9726

Dear Charlotte and Couran Cove CBC Committee

NOTICE OF INTENTION TO RESTRICT SUPPLY OF POWER, WATER AND SEWER SERVICES TO COURAN COVE RESORT

As you may be aware, Island Resort Infrastructure Pty Ltd (the operator) has filed in the Supreme Court for the recovery of a significant amount of arrears owing to it by the CBC. We note those arrears have been acknowledged by the CBC and the Strata Manager SSKB on a number of occasions. We further note that a member of the CBC has instructed and appointed a lawyer to file a defence on 30 June 2020 (noting the resolution of the CBC Executive Committee on 3 July 2020 to the contrary) and we are now met with allegations that the Agreements we are supplying the services under are in some manner not legally enforceable and that committee member now seeks to deny liability for the debts accrued to date.

We further note that in addition to the arrears referenced above, despite ongoing supply of services by the operator, there has not been a single payment received for the supply of services provided since the end of the CBC budget year in February 2020 and the CBC has failed to resolve its budgets to ensure appropriate levies are struck so that it can continue to raise the required levies. We also note that the subsidiary body corporates of Eco, Lagoon and Broadwater continue to hold significant funds in their bank accounts and refuse to pass these funds to the CBC and if these payments were made, the CBC might have some funds to pay for infrastructure services.

We understand the challenges that are faced by many at the moment, however, there are still significant levies being collected by the subsidiary body corporates and these are not being passed on to the CBC. The provision of infrastructure services to the resort is a very costly exercise and it is unreasonable for the CBC or any of the owners or subsidiary body corporate committees at the Resort to presume services can continue without any payment to the operator for the same.

Shop 36C, 60-70 Seaworld Drive, Main Beach, QLD 4217
Ph: (07) 5597 9999

Island Resorts (Infrastructure) Pty Ltd
ABN 18 613 379 221

As a consequence of the points raised above and the ongoing default of the CBC by failure of the CBC to pay the operator for the supply of its infrastructure services, we hereby advise that unless there is an immediate payment of \$651,057.84 for arrears accrued for infrastructure services of power, water and sewer provided from 1 March, 2020 until 30 June 2020 and in addition an appropriate payment arrangement is reached between the CBC and the operator for a regular weekly payment to the operator of \$38,500 from 1 July 2020 onwards, being part payment for ongoing supply of infrastructure services moving forward, the operator intends to restrict supply of infrastructure services on the date that is 7 Days from the date of this letter.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Graeme Webb', is positioned above the printed name.

Graeme Webb Director

Ph: (07) 5597 9999

Part 1: General information requirements

Please provide the following information in your application for an individual exemption:

1 Your legal name. If you are a body corporate or community corporation, please indicate this.

South Stradbroke Utilities Pty Ltd

Who is this proposed applicant? None of the affected private residents (354 homes) have ever heard of the proponents and they have no current agreements with the body corporate that owns the infrastructure.

What is the proponents experience and history in providing the proposed essential services?

What date was this company registered?

What does South Stradbroke Utilities Pty Ltd actually own?

What is the proponents affiliation with the current service provider if any?

2 Your trading name if different to your legal name.

No comments / Questions

3 Australian Business Number (ABN) or Australian Company Number (ACN).

49 636 726 497

No comments / Questions

4 Registered postal address for correspondence. We may verify this information with the Australian Securities and Investments Commission (ASIC) or other relevant agency.

PO BOX Q1616 Queen Victoria Building NSW 1230

Whose address is this as it is different to the registered office address.

5 Nominated contact person, including their position in the organisation and contact details.

Daryna Sarana, Manager , daryna@edgcapital.com .au (02) 9236 7437

What is the experience of the nominated person in providing the proposed utility services. What is their qualifications relating to the proposed services?

6 Why you are seeking an individual exemption, and why you believe that an exemption (rather than a retailer authorisation) is appropriate to your circumstances.

The company seeks an individual exemption due to a unique selling environment in which it operates. South

Stradbroke Utilities Pty Ltd has been established to recover the costs of the provision of power (and other services) to various properties within Couran Cove Island Resort on South Stradbroke Island in Queensland.

Is the applicant a Business seeking profit from this arrangement or is it purely on a cost recovery basis only?

Will there be full disclosure on actual costs?

The arrangement of services provision is unique in this instance because;

The Resort produces its own power via on site generators

This statement is misleading as the resort does not provide the power services.

What infrastructure is the applicant proposing on using to supply the proposed services (eg. Generators)? Quantity, capacity, redundancy etc.

Who will own the provided infrastructure? Will it be owned outright by the applicant?

Where will the infrastructure be located? On whose land?

What agreements have been made with the current supplier to assume services?

What agreements have been made with the Body Corporates that own the infrastructure to assume services. The body corporates are not aware of any agreements to change infrastructure providers.

There is no available power connection to the grid at the Resort

The Resort requires flexibility to exemption conditions to ensure that it can cover its costs of providing services to Resort properties

How will the costs of the operation be verified? What is considered a fair markup/profit for the proponent to make over and above the true cost of providing the services?

Will the Body Corporates have access to time sheets and invoices of the applicant to verify the stated expenses?

Properties at the resort are a mix of privately owned and Resort owned properties

This statement made by the applicant re ownership is misleading. All residential properties whether they are used as hotel rooms or permanently occupied are individually titled, are part of the one of the numerous registered body corporates and are privately owned.

“The Resort” itself is a management company only and owns no properties at all although some of the properties and leases may be held beneficially by company or corporate structure..

South Stradbroke Utilities Pty Ltd has lodged an application for a retail exemption, however, it is noted that compliance with the Core exemption conditions as outlined in the AER (Retail) Exempt Selling Guideline (version 5, March 2018) cannot be achieved due to the nature of the selling environment as outlined above.

It is considered that several conditions cannot be met and these are noted as follows;

Condition 2 - Information provision

7. B. any right of the exempt customer, under state or territory laws, to elect to purchase energy from a retailer of their choice and information on the options for metering that would allow this choice.

Given there is no available connection to the grid nor any other retailer that can provide power to properties at Couran Cove Island Resort, there is no information that can be provided to satisfy this condition.

Condition 7 - Pricing

7. 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.

This condition cannot be met by South Stradbroke Utilities for the following reasons;

The scenario 'if the local area retailer were to supply [energy]' does not exist, does not apply to the location and therefore there is no standing offer price

It is not possible for a local area retailer to supply energy directly to the premises of any exempt customers

The cost of generating electricity dictates the rate at which power is sold, not at the rate power might be purchased as with a typical on grid arrangement

The costs associated with generating electricity at the Resort

include; o Purchase of diesel o Transportation of diesel to the island by barge, storage and movement

to the generating facility

o Capital and Operational expenditure

The proponent may have a HUGE conflict of interest in that it could be related to companies that own properties and leases within the resort. What is stopping the proponent to offer preferential pricing to its own related companies which then artificially increases prices to private owners.

What is stopping the proponent from offering volume discounts to its own related entities which then artificially increases prices to private owners.

What price is the electricity going to be offered to the single largest user of power which is the body corporate or subcontracted companies engaged to provide water and sewerage services to the residents on the island?

Do all residential customers get charged the same tariff? Do all the commercial users pay the same tariff? More details need to be supplied about these proposed charges.

Will there be proof that everyone is being charged and everyone is paying the same rate ongoing? Are there rules that the operator can change this moving forward?

Couran Point, which is an adjacent development, has an identical arrangement with power production and sale to its constituent properties

The difference between Couran Point and Couran Cove is there is no conflict of interest between owners and operators and commercial interests.

3 An exempt person must not impose any charge on an exempt customer that is not charged by the relevant local area retailer for new connections under a standard retail contract. A 'charge' includes, but is not limited to, account establishment fees, late payment fees, debt collection fees, disconnection and reconnection charges and security deposits. The amount of any allowable charge must not be greater than that charged under the relevant local area retailer's standard retail contract.

As above, there is no standard retail contract that applies to this site as it is not possible to enter into a

- retail contract; the Resort produces its own power and there is no connection to power on the grid. Therefore there are no comparable charges to be used as a benchmark.

- Charges are determined by the costs of generating and providing power to the subject properties

7 The address of the site at which you intend to sell energy, including a map of the site and a brief description of this site and its current and future use/s.

The address of the site at which the company intends to sell energy is Couran Cove Island Resort at South Stradbroke Island, Queensland, 4216.

Couran Cove Island Resort contains a mix of rooms for holiday rental and privately owned rooms. The proposed extent of metering other than for public and privately owned properties including various facilities and infrastructure including public lighting, pools, restaurants, bars and common rooms such as offices, conference rooms and stores.

Can the applicant provide a proper detailed to scale map of the proposed network locations and the proposed locations of the supplied infrastructure?

8 The primary activity of your business (for example, managing a shopping Centre)

Resort/Hospitality premises providing accommodation, amenities, facilities, food and beverage, activities

This statement is potentially misleading as we are not aware of the named proponent having any current link to the resort or hospitality arms of current "Resort" operation

9 The form of energy for which you are seeking the individual exemption (electricity or gas). For electricity, please state whether the network you propose to sell is directly or indirectly connected to the main grid or is (or will be) an off-grid network.

South Stradbroke Utilities is seeking an individual exemption for the sale of both gas and electricity. The power network is an off-grid network.

Is LPG bottled gas (which is how the gas is supplied) considered part of the AER Authority?

If not why is AER considering this application?

10 Are you establishing, or have you established, energy supply in an area where there are no other viable energy supply arrangements available?

Yes, the energy supply offered is the only energy supply available given there is no connection to grid power.

There is an existing electricity network and infrastructure that is owned by the various body corporate structures within the Resort Area. If the applicant is considering usage of this owned network then we need to see the proposed agreement and proposed remuneration for access to the Body Corporate infrastructure.

11 The date from which you intend to commence selling energy.

ASAP, ideally 1st January 2020

Under this application is the proponent seeking to back date charges to 1st January 2020? If not when would charges start?

Are the existing meters fitted to the buildings compliant for charging purposes? If not what is the charge going to be to have a meter installed? Will this be incorporated into a usage charge or will each owner receive a meter installation charge.

Do all meters across the network need to be installed before billing begins?

How will the homes that currently feed the community lighting be billed? What allowance will be made for these customers?

12 Mailing addresses for premises at the site (where applicable). We may use this information to ensure that potential customers are able to participate in our consultation process.

Reception, Couran Cove Island Resort. Mail to be directed accordingly.

There is no mail service delivery to the Island . This mailing address is not correct and any correspondence sent to this address will not be received / received.

13 Details of any experience in selling energy, for example: . date/s and location/s of previous

operations Same location, Couran Cove Island

Resort.

. form/s of energy sold

Power

. scale of operations (that is, the number, size and type of

customers) 354 properties, mix of public and private owned . an explanation of which activities will be conducted in-house and which will be contracted out to third parties. It is expected that the meter reading and issuing of bills will be managed entirely by a billing agent who will have electronic access to meter readings. In the interim; that is, prior to the commencement of a billing contract, it is expected that Resort resources will be able to take meter readings, issue bills and handle any complaints/disputes .

Previously we have been told that the costs associated with reading meters and installing compliant meters exceed the income that will be achieved after the system is made to be compliant. This was when meters were originally read internally. Wont engaging external billing agents and the compliance process still be cost prohibitive?

14 Whether you currently hold, or have previously held or been subject to, an energy selling exemption or a retail licence (retailer authorisation) in any state or territory. If so, please provide details.

South Stradbroke Utilities Pty Ltd currently holds a retail exemption with the AER for classes R2, RS, R6 and R7.
The reference for the exemption is E-5775

How did this application come about? When was it made? Why weren't the affected parties notified about this application? Why was there no public consultation period? What are the specific about this exemption? What does it mean? How does it differ from this application? What is E-5775?

15 What arrangements you have made in the event that you can no longer continue supplying energy (e.g., has the retailer that sells to you agreed that they will service the customers).

The Resort produces its own power and therefore it does not rely on any other party for its supply. Any future changes to the nature of the power generation would be implemented so as to not interrupt the supply of power to the customers.

This statement is misleading as The Resort does not own any infrastructure as they simply operate the power plant as per Service Agreement and do not produce its own power.

What happens when there are outages? How will they be handled?

Part 2: Particulars relating to the nature and scope of the proposed operations

16 Will your customers be your tenants? If so, are they residential or commercial/retail

Those properties that are tenanted, being the holiday accommodation units and rented properties (by staff who live at the Resort for example) are owned by the Resort and the Resort pays for all services to these lots - the tenants pay a weekly rent only which does not include charges for services. Therefore, the customers are not the tenants. The customers consist of privately-owned properties and Resort owned properties.

Statement by the applicant is misleading because the Body Corporate owns the infrastructure, pays all running costs (admin levies) and the capital costs come from infrastructure sinking fund.

17 Are you providing other services (for example, accommodation/leasing of property) to persons on the site who you intend to sell energy to? Or will your only commercial relationship to persons on the site be the sale of energy? If you are providing other services, please specify what these services are, and the contractual or leasing arrangements under which these services are being provided.

Services offered to customers at the site include Body Corporate services . All properties at the Resort fall into one of various Bodies Corporate who pay levies and fees for, for example , upkeep and maintenance of Common areas.

Including all infrastructure.

18 What is the total number of customers at the site? Please provide a breakdown between residential and business customers (and whether they are small or large as defined for the jurisdiction in which you intend to operate).

354 Residential customers, most are owned by one of the Resort's entities and in the letting pool for holiday accommodation rental

Is there a proposal of initial costs on what the residents will pay for the services?

How is the cost being calculated? Is it based on the real costs relating to the infrastructure on a cost recovery basis.

10 (approximate) Business Customers, most are owned by one of the Resort's entities. For example, food and beverage venues are business customers and owned by the Resort.

Is there a proposal of initial costs on what the commercial users will pay for the services? What is the full proposed commercial tariff?

19 Will you be on-selling energy (that is, selling energy purchased from an authorised retailer) or purchasing it directly from the wholesale market?

We are proposing to sell energy, not on-sell it. The Resort produces its own power and will sell it to customers.

This is statement is misleading as “The Resort” doesn’t own or run the infrastructure nor does it produce its own power.

20 What is the estimated aggregate annual amount of energy you are likely to sell (kilowatt hours or megawatt hours for electricity and mega joules or gigajoules for gas) and the average expected consumption of customers for each type of customer you service (that is, residential customers and retail or commercial customers)?

It is expected that each residential premises will use on average 900kwh per quarter.

Therefore, per year, for 354 properties it is expected that a total of 1,274,400 kwh will be billed out.

There is no chance that 100% of the 354 properties will be permanently occupied. Therefore the above usage is an extremely broad estimation. Couran Cove Island has a very low number of owner occupiers as over 50% use their cabins for holiday purposes only and have done so for the past 20 years.

It is expected that roughly 10 commercial premises will use around 1800kwh per quarter and therefore it is expected that around 72,000 kwh will be billed out to commercial premises.

Gas is proposed to be charged out at a flat fee to cover costs of transporting/storing gas to the island. Gas used at residential premises is only for gas cooktops, hot water heaters and fireplaces.

21 Will your customers be wholly contained within a site owned, controlled or operated by you? (For the purposes of this question, a body corporate may be taken to 'operate' premises it oversees).

Yes. Customers will belong to a body corporate also but will be billed individually for energy consumption .

How will this be charged as the body corporates are already paying 100% of the costs of the provision for infrastructure including fuel, barge transport for fuel, servicing, repairs and day to day operating costs of the infrastructure.

With above in mind what costs are actually going to be charged? Will the users be charged again? The users are currently the Body Corporate, paying levies for infrastructure services split evenly between the owners depending on strata unit entitlements.

22 Will each premises/dwelling be separately metered? If the application is for a new development or a redevelopment and customers will not be separately metered, please explain why not. For unmetered supply, state how you will determine energy charges?

Yes, each premises will be separately metered. There will be some unmetered energy to Common Property which is owned by the Resort. By deduction after allowing for individual meters, these can be billed accordingly.

Deduction of services is not a fair way to charge. All users must be metered and charged on an actual usage basis. Rates need to be transparent for all parties.

Are the businesses that currently don't have meters going to be metered? If so at whose expense?

Will the street-lights connected to individual private cabins be disconnected and common lighting metered separately?

Will the newly titled shops be fitted with meters?

Will the administration building, workshop and commercial laundry be fitted with meters?

Will the marina be fitted with meters and charged for usage? If so to which organisation?

23 Will meters allow your customers to change retailers (i.e. not buy their energy from you) as required by the AER's Network Guideline?

Yes, although as discussed in this application, there is no other retailer from whom the customers can purchase energy.

Statement by the applicant re alternative supplier not being available is misleading. Currently both services are being provided to the Community Body Corporate via a service agreement

by a different supplier. No notice has been received by current supplier that they plan to stop supplying.

24 In what form and how often will customers be billed? Will you be issuing bills yourself or through a billing agent?

Bills will be issued quarterly to customers. It is proposed that initially, the company may issue bills itself, while in future it is likely that a billing agent will be engaged to provide these services on behalf of the company.

Is there a proposal of initial costs on what the residents will pay for the services?

How is this cost being calculated?

Are there going to be connection charges?

What will the charge be to install compliant meters?

25 What dispute resolution procedures do you intend to put in place to deal with energy related complaints and issues?

Confirm whether it is consistent with the Australian Standards: AS/NZS 10002:2014 Customer Satisfaction -

Guidelines.

South Stradbroke Utilities Pty Ltd will maintain a contact phone number and e-mail address for customers to use for any account related enquiries.

As per the *Dispute resolution for residential embedded network customers. Regulatory impact statement.*

October 2019, the following services are available for customers as part of any matters that are not able to be resolved directly between the customer and South Stradbroke Utilities Pty Ltd.

What is the supply guarantee?

What happens when there is an outage? What is the proposed redundancy for the network?

Is there a compensation package?

Outline what the package is?

Figure 1: Current complaint and dispute resolution mechanisms available to embedded network customers

As part of its due diligence process, South Stradbroke Utilities has contacted the Energy & Water Ombudsman Queensland to understand whether its customers are able to potentially make use of the services provided by EWOQ. The advice from EWOQ as at December 2019 was that currently, the services are not available to customers on embedded networks due to legislative restrictions. Further, EWOQ advised that proposed changes to legislation are currently under

consultation and it is likely that within the next 18-24 months, these changes may be passed which will provide a wider range of customers access to EWOQ services as with the equivalent schemes in most other States.

It is therefore expected that in the short to medium term, customers will be able to gain access to Ombudsman services in relation to energy related complaints and dispute resolution.

A copy of a letter from EWOQ is attached to this application, setting out the above.

South Stradbroke Utilities Pty Ltd

26 Please provide any further information that you consider would assist us to assess your application.

The Body Corporate owns the existing infrastructure. Is the new supplier proposing running new infrastructure to each property or using existing network?

The CBC has no arrangements with the applicant currently for land and access to the Body Corporate owned infrastructure (being cable, pipeline, meters, regulators etc).

Also the Body Corporate pay the infrastructure admin levy (fuel, transport, barge etc) along with the sinking fund levy for replacement and repairs.

We need to see the proposed agreements and proposed remuneration for access to the Body Corporate owned infrastructure.

Is the applicant intending to purchase a new power plant to produce electricity and what land are they intending to put it on?

Are they going to build new power plant or are they intending to purchase from the Body Corporate the existing transmission lines and cables to deliver this power

