

What is an embedded network, and am I in one?

This article is a joint publication from the Office of the Commissioner for Body Corporate and Community Management (OBBCM), and the Energy & Water Ombudsman Queensland (EWOQ). This article aims to address some common questions about embedded networks and the requirements for living in one.

What is an embedded network?

An embedded network is an electricity network between connection points (units, shops, caravans or otherwise) which is not part of the main electricity network.

In Queensland, there are the main power and water grids (on-street powerlines and water pipes) which supply utilities to houses, unit blocks and businesses. An embedded network is the smaller network within a building or complex with multiple lots, which distributes services internally.

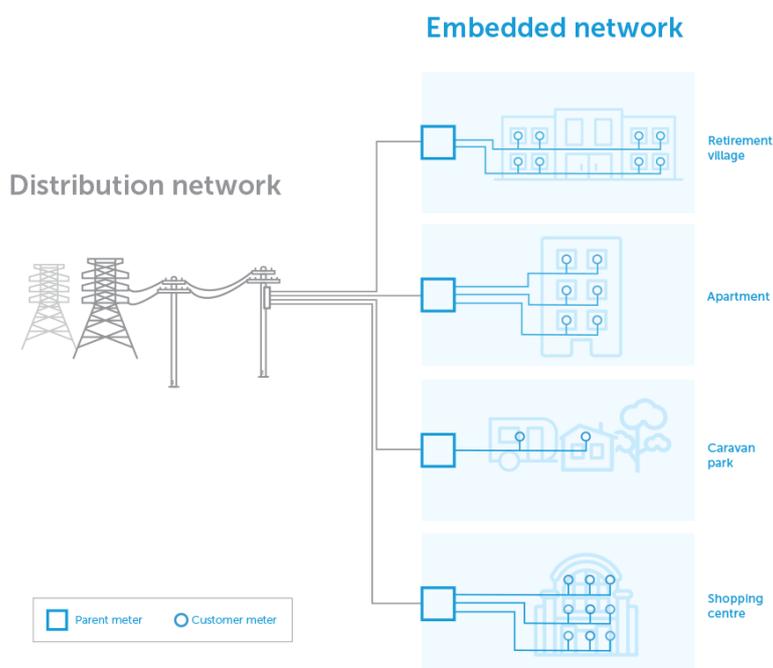


Image from Energy and Water Ombudsman Victoria

The above diagram shows the point at which power leaves the main grid. All of the examples above are embedded networks, despite obvious differences between a caravan park and an apartment block. The common feature is that there are multiple “connections” which all use the same master (often described as “parent”) connection to the main grid.

Bodies corporate and embedded networks

Almost all bodies corporate in Queensland are embedded networks. This includes everything from high-rise apartment buildings to commercial shopping centres to small residential schemes, even some duplexes. The only way in which a person in a body corporate will not be a part of an embedded network is if they have direct connections to the main grids for each lot. This would likely only be possible in larger gated communities which use powerlines (etc), or in certain two-lot schemes.



What is the law governing this?

There are several Acts which will apply to the operation of a body corporate's embedded network, and all body corporate committees, managers, and owners/occupiers should ensure they are familiar with the requirements contained in these. The laws concerning embedded networks have undergone extensive change in recent years, and these changes will affect the way in which bodies corporate have to make decisions when it comes to embedded networks.

Relevant legislation

There are some key pieces of legislation, one of which is administered by the OBCCM, and others which are currently only administered by the national Australian Energy Regulator (AER). The Queensland Government is currently reviewing the state energy legislation to include embedded networks in the jurisdiction of the Energy and Water Ombudsman Queensland (EWOQ). Further updates will be available from EWOQ's website <https://www.ewoq.com.au/>.

The Body Corporate and Community Management Act (BCCMA)

The BCCMA and its regulation modules contain comprehensive rules and procedures which set out, amongst many other things, the ways in which a body corporate must make decisions. It also contains rules concerning the ways in which "utility services" (which is broadly defined to include electricity, water, gas, telephone, etc) can be provided within bodies corporate.

The National Energy Laws (NEL)

The NEL are a group of Acts which have been adopted in Queensland, and which set out stringent requirements on how embedded networks are run. There are two key documents currently relating to the sale and supply of electricity within an embedded network,¹ and these set out the requirements which apply to persons who use an embedded network, those that supply the utility through that network, and those that run the network. There is currently no equivalent for gas or water embedded networks.

Key points

The laws concerning embedded networks are complex, and when in doubt you should obtain legal advice concerning obligations under these, but here are some common, important issues everyone who is part of an embedded network should be aware of:

Power of choice reforms (electricity)

In 2017, amendments were made to the NEL which created (or increased) rights of participants in embedded networks to access competitive retailing of utility services. Before these amendments, in Queensland there was no recourse available to an owner within an embedded network who was dissatisfied with the service provided by the operator of that network (e.g. the body corporate or its chosen retailer).²

After these reforms, any person who receives electricity through an embedded network has the right to opt out of that provision of electricity, and to connect directly to a retailer through the main grid. If you are uncertain about the way in which you are currently purchasing electricity, you should contact your body corporate. If you are not satisfied with the rates currently provided to you, you are able to contact other retailers about comparable plans and how to make the switch.

¹ See <https://www.aer.gov.au/retail-markets/retail-guidelines-reviews/retail-exempt-selling-guideline-march-2018> and <https://www.aer.gov.au/networks-pipelines/guidelines-schemes-models-reviews/network-service-provider-registration-exemption-guideline-march-2018>

² It is important to note that a body corporate is not (and has never been) permitted to run a business under the BCCMA, so if you are buying a utility directly from your body corporate (and not, for example, from your caretaker or from another provider), then it is required to be passed on at cost.



The cost of metering

Metering can be a contentious issue within bodies corporate, particularly when it comes to billing and the cost of replacing these. The costs of installing or replacing meters, and the party responsible for these costs, will depend in part upon the specifications of your existing embedded network.

Not all lot owners within bodies corporate will have their own meter, and provisions in the BCCMA require that if there is no separate meter to a lot (or another manner of determining usage), that lot can only be charged on the basis of contribution schedule lot entitlements or equally amongst the owners.

However, the requirements under the NEL are more complicated; when a party opts to move out of the embedded network to a retailer of their choice, they will generally require a new meter, and potentially upgrades will be required to the whole embedded network. The responsibilities in relation to this are complex and it will depend upon the nature of the embedded network in question. It is not safe to assume that in all circumstances the person opting to move to a new retailer, or the body corporate, will be responsible. It all depends on the circumstances.

If you are unsure about the responsibility for costs, you should seek legal advice.

Invoicing disputes

There are many requirements for invoices under the NEL and the BCCMA. Care should be taken by parties providing or selling a utility within a body corporate.

Under the NEL, when a party is receiving a utility from their body corporate, and being charged for this, they should be invoiced in a way which shows how the charges were allocated, and – if there is a meter for the lot – what their usage was. Under the body corporate regulations, utility charges may be included on levy notices and there are requirements in regard to such notices.

The OBCCM generally deals with disputes between owners, occupiers and bodies corporate. However, some disputes about debts may not be able to be determined by the OBCCM. You can call the OBCCM for further general information, or seek legal advice.

Embedded network managers

Many bodies corporate will engage an embedded network manager to take over responsibility for management of the embedded network. This will include responsibility for invoicing, for ensuring compliance with legislation, and for holding licences to do so. If your body corporate does not have an embedded network manager engaged, you should seek legal advice as to whether you are required under the NEL to either become licensed as an embedded network manager, or to appoint one.

Where an embedded network manager is engaged, they will be a service contractor to the body corporate. Their appointment will be governed by the same provisions of the BCCMA relating to the engagement or authorisation of service contractors. Therefore, care should be taken when engaging an embedded network manager to ensure the processes under the BCCMA are followed.

So, who should I talk to if I have a problem or question?

Depending on the nature of your issue or question, one of the OBCCM, EWOQ, and the AER may be able to assist you.

If the question or issue relates to:

1. a decision of your body corporate, or the implementation of a section of the BCCMA in relation to your network – you can call the free information service provided by the OBCCM on 1800 060 119;
2. a problem you can't resolve with your embedded network provider – you can call EWOQ on 1800 662 837 to discuss your options;
3. the National Energy Laws and how they will affect you – you can call the AER on 1300 585 165.

The above services can only provide general information about legislative requirements. If you require specific or legal advice you should contact a solicitor.

