

DEPARTMENT OF FINANCE
CORPORATE INFORMATION

27 MAY 2016

24th May 2016

Alex Kroon
A/Project Leader
Markets and Regulation Division
Public Utilities Office, Department of Finance
Locked Bag 11
Cloisters Square WA 6850

Dear Mr Kroon,

Re: Amendments to electricity and gas on-selling licence exemptions

Knight Frank welcomes the opportunity to provide comment on the draft amendments to the electricity and gas on-selling licence exemptions to allow a third party to manage the on-seller's embedded network and supply customers within the network on behalf of the on-seller.

Knight Frank, as the world's largest privately owned real estate company, represents over 300 property Owners and over 1,500,000 sqm of tenanted space in Western Australia. We are acutely aware of the implications of these changes on our clients and tenants and how they will impacted.

Knight Frank does not support the proposed amendments and the speed of which Government are attempting to pass them. The short consultation period and work program timeline does not allow for proper analysis of the implications to market consumers including commercial landlords who may have their control of their embedded networks diluted by the proposed changes.

We have consulted extensively to determine the impact of the proposed changes and we cannot support them without a thorough consultation period and recognition of landlord's ownership of their embedded networks.

Knight Frank puts forward the following recommendations:

- **Extend the consultation time period and work program timeline to allow affected stakeholders to fully analyse the impacts of the proposed changes**
- **Acknowledge the ownership of the embedded networks and conduct a proper review of the impact on current existing legal contracts and the effect the changes will have should a landlord opt to appoint a third party to manage their embedded network**
- **Finish the energy market review phase 2 before making any changes**

Extend the consultation time period and work program timeline

The cornerstone of good policy is genuine, transparent and comprehensive consultation which considers the real-world impact a policy will have on affected businesses, organisations and communities. This is likely to lead to better outcomes and greater acceptance by key stakeholders, some of who may be negatively affected by the policy. Furthermore, timeframes for consultation should be realistic to allow stakeholders enough time to provide a considered response.

The consultation period on the paper outlining the proposed amendments to electricity and gas on-selling licence exemptions does not meet the criteria for best practice consultation and subsequently does not give affected stakeholders adequate time to review the proposed changes and the impact they will have.

Any changes to the existing energy market rules will have an impact on the commercial and strata sector of the retail energy market and therefore this sector has a right to a considerate and genuine consultation period to enable full analysis of the implications of the proposed changes. Furthermore, the work program timetable needs to be extended to ensure a robust and transparent consultation process.

According to the work timetable set out by the Public Utilities Office (PUO) the public consultation paper was released on 27 April with the response period lasting 30 days, followed by a review of submissions lasting less than a month – due to be completed in May, and then ministerial approval being sought in May/June 2016. The result is a full work program timetable of a month which is wholly unacceptable.

For significant changes, such as the ones being proposed in this paper, a much broader and lengthier work program timetable is necessary to guarantee proper and effective consultation. The short consultation period and unrealistic work program timetable undermines the whole process and portrays the message that Government is trying to rush these changes through without fully realising the impact they will have. This creates uncertainty and leads to poor outcomes.

Knight Frank calls on Government to extend the consultation period and whole work program timetable to give affected stakeholders adequate time to fully analyse the impact of the proposed changes and respond to them. Furthermore, through greater involvement the PUO will deliver better outcomes and there will be greater acceptance from affected stakeholders.

Recommendations

- **Extend the consultation time period and work program timeline to allow affected stakeholders to fully analyse the impacts of the proposed changes**

Acknowledge the ownership of the embedded networks

One of the major deficiencies of the draft amendment papers is the failure to acknowledge current ownership of the embedded networks. It goes further too even describe Landlords, who own the embedded networks, as a “barrier to entry by market participants”.

As Landlords are the ones who are most affected by the proposed changes it is only right that they are acknowledged as the owners of the electrical infrastructure. Furthermore, the paper doesn't acknowledge the existence or value of a landlord's existing legally contractual arrangements (i.e. leases) or the possible effects the amendments will have, should a landlord opt to appoint a third party.

The commercial property sector, by its ownership and investment in embedded network infrastructure, must be both acknowledged and protected in the proposed amendments. Any change to the retail energy market in WA must not dilute or compromise ownership rights and or investment made by end users into their embedded network infrastructure and meter network assets. It is crucial that owners retain the right to recover fees to manage and maintain this infrastructure.

This approach encourages private investment by building owners and end users into current technology. Where this investment has occurred, significant efficiency improvements have been achieved in electricity consumption and peak demand.

Technology innovation in embedded network smart metering, and power quality improvement associated infrastructure is active within the property market, but limited in scale. The development of drivers, mechanisms and incentives to proliferate deployment of this current technology and innovation requires State Government input and assistance if this opportunity is to be exploited.

Furthermore, any proposed energy market rule changes to the commercial and strata sector of the retail energy market allowing 3rd party entry into the embedded network markets need to consider existing contractual structure and framework currently in place. I.e. tenant leases, energy supply contracts and revenue recovery arrangements. Unconsidered changes would create a quagmire of legal implications and could adversely, affect property values, existing income streams, operational expenditure budgets and lease arrangements.

If not considered carefully, legislation changes around the design, management and cost recovery of an embedded network could have far reaching implications on Landlords asset ownership rights by diluting control of their existing embedded networks.

Recommendations

- **Acknowledge the ownership of the embedded networks and conduct a proper review of the impact on current existing legal contracts and the effect the changes will have should a landlord opt to appoint a third party to manage their embedded network**

Finish the energy market review phase 2

The Government is currently going through phase 2 of its Energy Market Review. As part of this review, the Government is investigating a broader agenda relating to full retail contestability. This review is still currently under way with a position paper due sometime in the first half of 2016.

With this in mind it seems at odds with the current review currently underway, that the Government would propose changes which have significant implications on the commercial

property and strata property markets who are significant contributors and stakeholders in the Western Australian Electricity Market.

Knight Frank implores Government to complete its phase 2 Energy Market Review before proposing amendments to electricity and gas on-selling licence exemptions. This will allow embedded network customers and operators to fully investigate the implications of the review before further changes are proposed.

It is critical that owners of embedded networks have the opportunity to analyse the ramifications of proposed changes to the designing, commissioning and the ongoing management of large and small scale networks.

Recommendations

- **Finish the energy market review phase 2 before making any changes**

Conclusion

Knight Frank does not support the proposed amendments and the speed of which Government are attempting to pass them. The short consultation period and work program timeline does not allow for proper analysis of the implications to market consumers including commercial landlords who may have their control of their embedded networks diluted by the proposed changes.

The commercial property and strata property markets must be recognised as significant contributors and stakeholders in the Western Australian Electricity Market. Their contribution to energy competition, efficiency programs and peak load reductions must be recognised and before any changes are made to the practice of on-selling gas and electricity.

We look forward to continuing our dialogue regarding the key recommendations outlined in our submission.

Kind regards,

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