

Friday 10 May 2019

Consumer Affairs Victoria
Attention: Policy and Corporate Services
Re: Owners Corporations and Other Acts Amendment Bill Exposure Draft
By email: cav.consultations@justice.vic.gov.au

Allume Energy's Submission on the Exposure Draft of the Owners Corporation and Other Acts Bill

Allume Energy is a Melbourne-based company that is committed to extending the benefits of rooftop solar to all. Our target customers are residents in apartment buildings and business owners in multi-tenant commercial and retail buildings. We have invented a world-first patented technology called the SOLSHARE which allows one rooftop solar system to be shared by all occupants of a building. This hardware is proudly designed and assembled in Victoria.

This submission focusses on the aspects of the Owners Corporations and Other Acts Amendment Bill Exposure Draft (herein 'the Exposure Draft') that pertain to rooftop solar on apartment buildings.

Residential rooftop solar in Victoria

The Victorian Government has accelerated the rollout of rooftop solar in Australia through its solar rebates scheme administered by Solar Victoria. This program is to be applauded. To date this incentive has been made available to owner-occupiers of detached houses and – importantly from a social equity perspective – to social housing providers.

In the lead-up to the 2018 Election, the Andrews Government committed to extending this rollout to apartment buildings:

Owners corporations will also be eligible. In order to receive the 50 per cent rebate and no-interest loan, they will need to demonstrate that the benefits of installing solar panels will be passed on to tenants.¹

At present a very small fraction of apartment buildings in Victoria have rooftop solar. Those that do have rooftop solar installed almost always have the common light and power connected, but no apartments connected. In this scenario there is no direct benefit to residents (whether owner-occupiers or renters) in the form of reduced electricity bills.

Little headway has been made in Victoria or Australia more broadly in extending the benefits of solar to apartment residents.

¹ <https://www.danandrews.com.au/policies/renters-to-benefit-from-labors-solar-panels-plan>

Impacts of the proposed reforms on rooftop solar for apartments

Rooftop Solar installations on apartment buildings need prior authorisation from the Owners Corporation due to the need to occupy common area on the roof and in the electrical switchboard cupboard/room. Under the existing *Owners Corporation Act 2006* this entails a special resolution, or failing that, an interim special resolution.

Sn 41 of the Exposure Draft provides some further scope for achieving an interim special resolution, particularly in circumstances of Owners Corporations which have disengaged lot owners who unwittingly block special resolutions simply by not participating in the ballot or poll, such that votes are received from less than 50% of lots.

This is a step in the right direction; however, the risk persists of interim special resolutions being overturned by a petition by 25% of lot owners, such that an apartment community could be prevented from accessing solar by a parsimonious minority of lot owners.

Sn 55 of the Exposure Draft prevents the spurious blocking of rooftop solar installed on the exterior of a single lot. This is welcome. However, it does not explicitly prevent spurious reasons being used to block shared rooftop solar systems that cover the exterior of multiple lots.

The Exposure Draft does not appear to provide any framework for the administration of a future program of loans and grants from the State Government to Owners Corporations for the purposes of subsidising solar. Such a program will require greater flexibility on the part of Owners Corporations to take on financial liabilities or facilitate the collection of contributions from residents (including renters).

Other Australian jurisdictions have implemented or will implement reforms to Owners Corporation legislation and regulations that more effectively address the barriers to rooftop solar on apartment buildings. Some examples are provided below.

The Australian Capital Territory

Sn 23(1) of the *Unit Titles (Management) Act 2011 (ACT)*, an Owners Corporation, through an ordinary resolution, may:

- approve the installation of sustainability or utility infrastructure (including rooftop solar) on the common property; and,
- approve the financing of the installation of the sustainability or utility infrastructure; and,
- grant an easement or any other right over any part of the common property for the purpose of the installation, operation or maintenance of the sustainability or utility infrastructure.

A test is set by Sn 23(2), which requires the long-term benefit of the proposed infrastructure to be greater than the cost of installing and maintaining the infrastructure.

Sn 23(3) provides an arrangement for shared ownership and treatment of any income earned from sustainability infrastructure, which for rooftop solar may include revenues from Feed-in Tariffs.

New South Wales

The returned Liberal-National Government in NSW committed to easing Owners Corporation laws such that solar can be approved with an ordinary resolution, in place of the current requirement for a special resolution.²

Western Australia

The Western Australian Government has introduced changes to acts and regulations that allow for a full suite of solar energy ownership options.³ Solar infrastructure can be owned by:

- the Owners Corporation (as ‘personal property’);
- all of the owners jointly (as common property);
- one or some of the owners; or,
- a third party (such as an electricity retailer).

If the infrastructure is owned by a third party or one/some of the owners, the Owners Corporation:

- can approve the installation of sustainability or utility infrastructure on common property by passing an ordinary resolution; and,
- the owner of the infrastructure will have access to the infrastructure through a statutory easement and the details of the arrangement will be contained in an infrastructure contract between the strata company and the owner of the infrastructure.

Recommendations

Based on Allume Energy’s experience in overcoming the barriers to solar for apartment buildings, the following recommendations are made:

Recommendation 1

The reforms to the *Owners Corporation Act 2006* follow the lead of other Australian states and territories and implement an ordinary resolution standard for rooftop solar and other sustainability infrastructure, i.e. at least 50% of votes cast at a meeting or by ballot.

Recommendation 2

The reforms to the *Owners Corporation Act 2006* and subordinate regulations follow the lead of other Australian states and territories and include flexibility in the ownership and management of, and liability for, rooftop solar and other sustainability infrastructure whether used by a single lot, multiple lots or the entire resident community.

Recommendation 3

Solar Victoria and the Solar Homes Transition Team in DELWP be closely consulted to ensure the reforms proposed in the Exposure Draft do not preclude or constrict any future grant or loan administration to Owners Corporations for the purposes of rolling out rooftop solar on apartment buildings.

² “Coalition push to make it easier for apartments to install solar”, *Sydney Morning Herald*, 18 March 2019.

³ <https://www0.landgate.wa.gov.au/titles-and-surveys/strata-reform/all-about-the-reform/improved-management>

Thank you for the opportunity to make a submission on the Exposure Draft. Please do not hesitate to contact me at alex@allumeenergy.com.au or 0413 766 792 if you have any questions or would like further details on the above recommendations.

Kind Regards



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Cc:

The Hon. Lily D'Ambrosio MP, Minister for Solar Homes and Minister for Energy,
Environment & Climate Change

The Hon. Marlene Kairouz MP, Minister for Consumer Affairs, Gaming and Liquor Regulation