



Housing for the Aged Action Group

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General Exemption Order

Draft position paper

Department of Environment, Land, Water and Planning

This submission is a response by Housing for the Aged Action Group (**HAAG**) to the General Exemption Order (**GEO**) draft position paper.

This response relates specifically to the exemptions granted to caravan and residential park owners and operators supplying and on-selling electricity through an embedded network, and the consequent impact on long term tenants and residents.

HAAG is a member based organisation and facilitates a working group representing members who are residents and site tenants across Victoria living in caravan and residential parks. The working group was consulted for response to the draft position paper and their feedback is reflected throughout this submission.

Background and overview

Caravan parks have traditionally provided affordable, holiday accommodation often also allowing for permanent residency in low numbers. Over time the industry has evolved to provide larger numbers of sites allocated for permanent residents, and in turn moveable dwellings have also evolved to reflect the interest in this type of affordable housing especially for retirees.

Dwellings can be rented on a long term basis in some caravan parks, but many permanent residents own their dwelling and rent the site on which it stands. This form of housing tends to cater for those with lower income and asset levels, as the age and style of dwelling provided is priced more affordably to purchase.

Another form of retirement housing, known as 'residential parks' or 'residential villages', began to emerge in Victoria around the 1980's and onwards, developing from the coastal holiday lifestyle options most prevalent on the New South Wales and Queensland coasts. Residential parks arose when people, mostly retirees,

chose to live permanently in caravan parks in dwellings they owned. Over time parks began to choose either to provide mainly tourist sites or to offer mainly permanent living. The evolution towards permanent living became more evident in Victoria in the late 1990's – early 2000's and instigated the development of 'residential parks'.

Residential parks, also known as residential villages, are purpose built for permanent living where people own their moveable dwelling and lease the site on which it stands. These villages are marketed at people over 55 years of age often offering a more affordable retirement lifestyle than retirement villages, although this is now changing as the industry grows exponentially.

Residential parks/villages are still technically considered caravan parks and differ from retirement villages. Within many caravan and residential parks and villages operators supply and sell electricity through an embedded network.

Just to reiterate this submission focuses on the situation as relevant to permanent residents of caravan and residential parks purchasing electricity through an embedded network.

Classifying exemptions

Position paper recommendations:

Those undertaking the following activities should continue to be exempt under the GEO from the requirement to hold a licence under section 16 of the *Electricity Industry Act 2000*:

- 1. the intermediary distribution and supply of electricity;**
- 2. the intermediary sale of electricity; and**
- 3. small-scale generation activities.**

The General Exemption Order should, however, be amended to establish 'registrable' categories of exemptions, in addition to deemed exemptions and individual exemptions.

New exempt entities wishing to operate under a registrable exemption will need to register their activities on the public registration database, to be established by the ESC. The benefit of the exemption will come into effect upon registering.

Existing exempt entities already operating under what will be a registrable exemption category will have a six month period to register on the ESC's public registration database.

In addition, deemed and registrable exemption categories will be divided into exemption classes tailored to specific activities, based on the AER's current exemption categories as adapted to reflect Victoria's needs. This will include specific 'multiple activity' exemption categories to address certain new

developments in the market such as community energy projects and solar PPAs.

HAAG believes it is reasonable that park operators that engage in electricity distribution through an embedded network should continue to be exempt under the GEO, in recognition that this is not their main trade and is a by product of the type of business they operate.

However we support the recommendation that park operators be required to register their activities on a public register. We also support the recommendation that the Essential Services Commission (**ESC**) establish and administer the registration system and believe a six month transition period for operators to register is reasonable.

The use of the Australian Energy Regulator's (**AER's**) registrable exemption classes as the basis for Victoria's exemptions classes provides a consistency across the sector.

Consumer protections

Position paper recommendations:

The Department supports the need to clarify and specify what consumer protections are available to consumers purchasing electricity from an exempt seller. The ESC will be referred the task of specifying which provisions of the ERC (and other codes and guidelines as necessary) will apply to all exempt sellers (as core protections) and particular classes of exempt sellers (as additional protections).

HAAG is very supportive of the proposal to clarify and specify what consumer protections are available to permanent park residents. It is important that applicable consumer protections are clearly disclosed to residents in parks to create more transparency and understanding of the system. A package of information provided upon entry to a park would be beneficial, as would a requirement for the park owner to display information about rights in the main office.

Given the Essential Services Commission (**ESC**) administers the ERC it is appropriate the ESC be tasked with specifying which consumer protections apply to customers of embedded networks.

Some of the core protections that HAAG members believe should be included are:

- Clear billing arrangements, especially frequency and bill content,
- Being informed of prices and tariff changes,
- Transparent provision of information,
- Clear and effective complaints and dispute resolution procedures,
- Meter reading arrangements, including who is authorised to undertake this,
- Hardship consideration if residents are struggling to pay their charges, and;

- The provision of service agreements outlining what happens in the event of a loss of supply or failure and repairs.

In HAAG's original submission it was also suggested that the obligations on embedded network operators as outlined in the Electricity Distribution Code (**EDC**) should be updated. Of the clauses that embedded network operators are currently exempt from, the following should be made compulsory:

5.4.1(a) which outlines that an operator must make information accessible about any interruption or emergency affecting the supply of electricity. This is especially important for residents in parks who are never informed why there is a fault or failure and when supply will be restored.

9.1.2 to 9.1.6 which relate to the provision of a customer charter and what it must contain, the provision of the EDC upon request and information on the quality availability of supply.

9.1.12 which takes into account the multi-lingual needs of customers.

10.1.12 which ensures customers are told about complaints procedures and the availability of the Energy and Water Ombudsman Victoria (**EWOV**).

Choice of retailer

Draft position paper recommendations:

The Department sees considerable merit in measures to improve information provision to customers that may be sold electricity by exempt sellers.

The Department proposes enhancing existing exemption conditions, to require an exempt seller to obtain the explicit informed consent of a customer to the exempt selling arrangement before the customer enters into that arrangement. In obtaining this consent the customer must be made aware of its right to elect to purchase electricity from a licensed retailer of the customer's own choosing.

The Department will continue to liaise with our partner agencies to work towards all new apartments having suitable metering to enable effective retailer choice.

It is important that existing and prospective residents of parks be made aware of how electricity is supplied within the park and they be informed that they can choose an alternative supplier.

The information provided should detail:

- what an embedded network is,
- the conditions of exemptions provided,
- how choice can be exercised and the impact this might have on the

- customer,
- what consumer protections are applicable,
 - what dispute resolution procedures are available,
 - how pricing is set, and;
 - how matters are enforced, including which authorities (with contact details) are responsible for the various elements of the network.

However it must be highlighted it is difficult and costly to switch suppliers. The bulk of residents living in caravan and residential parks in Victoria are older and therefore most likely to be pensioners. They could not afford to make the switch.

It is understood that for existing parks, depending on the network configuration and type of meters installed, it may be problematic to change the system so as to enable residents to choose their own retailer. Ensuring that at least new developments have suitable metering is a start. The position paper, however, only mentions new developments in the context of apartment buildings but HAAG believes this should also apply to new park developments as well.

Where park residents are charged appropriately, below the maximum charges set by the ESC, generally people are not interested in changing retailers. Where residents are charged the maximum charges, both for supply (or service to the property) and usage, without transparent information and explanation there is a tendency for people to want to seek out more competitive prices. This highlights that the issue is not so much about choice as it is about being appropriately charged and informed with clear consumer protections in place.

Obligations on embedded network operators

Draft position paper recommendations:

Embedded networks serving multiple strata title lots should cease to be protected by the GEO, and should be transitioned to an appropriately designed licensing framework administered by the ESC.

Caravan park embedded networks will continue to be subject to a deemed exemption.

Distribution of electricity to adjacent properties will continue to be subject to individual exemptions. However, the Department will continue to monitor the development of new energy technologies and may issue special exemptions where appropriate to allow for trial and pilots of innovative energy supply models. Community energy projects will be subject to a registrable exemption.

District scale energy networks will continue to be subject to the current energy licensing framework.

Although it does not appear in the recommendations highlighted by the position paper, HAAG supports the Department's position on page 19 "to disallow network charging practices in embedded network sites". Park residents often question the purpose and level of their service charge as it is never made clear exactly what this charge is for.

However HAAG is concerned with the recommendation that proposes that "caravan park embedded networks will continue to be subject to a deemed exemption".

Although the paper states in the body of section 6.3.3 that "if the relevant caravan park owner is supplying electricity to persons who principally reside in the caravan park then the owner will be required to register with the ESC" the proposed recommendation does not explain this and residents are concerned this will be overlooked and misunderstood.

It must be recognised that at present the term caravan park technically covers tourist parks, mixed tenure parks and purpose built, permanent residential parks. HAAG understands that parks selling energy to permanent residents will be required to register with the ESC but this particular recommendation seems to contradict that and does not make it clear there are two distinct categories. It is HAAG's hope this will be clarified in the final position paper.

Pricing

Position paper recommendations:

The Department proposes amending the Pricing Rule. The Department proposes to task the ESC with formulating a new price cap benchmark based on commercial market data. This would act as the maximum price that an exempt seller would be allowed to charge its embedded network customers for energy consumption.

The Department acknowledges that the Pricing Rule will need to be flexible to allow for new business models, for example, to allow for consumers who may wish to pay a higher price for the benefit of renewable electricity.

The current issue for park residents is that park operators usually charge at the maximum ESC tariff rate and will not negotiate a lower charge for permanent residents, even though there is a statement at the top of the tariff tables produced by the ESC explaining "*there is no requirement to charge at the maximum level in all circumstances, especially for the Supply Charge*".

The *Residential Tenancies Act 1997 (RTA)* currently contains a section that does not allow park operators to charge residents more than they are charged by their licensed retailer but residents are unable to find out what those charges are. HAAG hopes that this review will compliment the current RTA review to ensure there is more transparency of pricing.

HAAG also supports a new price cap benchmark based on market data, which will hopefully provide a more reasonable and realistic pricing schedule reflective of the rates charged outside of embedded networks.

Residents have also expressed that they would like to have the option of peak and off-peak charges, as they would with a licensed retailer. A majority of residents in caravan and residential parks and villages are retired pensioners and as a result are significant energy users. This is likely to be a consequence of being at home more and therefore utilising electricity for longer periods throughout the day, such as heating in the winter and air conditioning in the summer.

Residents have also noted that different distribution zones result in different levels of costs. There is a feeling amongst park residents that there should be more consistency in electricity costs and perhaps charges should be based on the type of supply, such as an embedded network in a park compared to an apartment building, as opposed to the zone.

Although this does not respond directly to any of the proposed recommendations where residents have installed solar panels they are currently generally not receiving reductions in their charges where they thought they might due to the benefits the park operators may derive in their overall bills.

The use of solar panels within an embedded network must be addressed within this review to ensure residents can benefit from the installation of solar panels. There should be a requirement for embedded network retailers to provide customers with a reasonable reduction in their charges.

Enforcement

Position paper recommendations:

The Department does not propose to amend the enforcement regime, applicable to the GEO and exempt entities, at this time. This position will, however, be reviewed as more information about exempt entities becomes available.

HAAG is concerned that there will still be no enforcement regime to engage in the case of non-compliant park operators. It is understood that this may change in the long-term once the Department better understands the size and state of the sector but without proper enforcement to support it, improvements in consumer protections may not be effective. The same enforcement powers should apply whether an entity is licensed or exempt, although with an appropriate penalty regime based on the size of sale and supply. Sometimes an appropriate penalty regime can assist with compliance.

It is also important that consumers understand their rights and operators understand their obligations. Distribution of information will be very important once amendments

have been made to the GEO to ensure all parties are aware of rights and responsibilities.

Dispute resolution

Position paper recommendations:

The Department supports extending EWOVs jurisdiction, making it available to customers of embedded network operators and associated exempt sellers.

The Department will continue to work with the ESC and with EWOV to establish a membership category for these exempt entities.

Following extension of EWOV's jurisdiction, the Department will also introduce a new exemption condition requiring an exempt entity to inform a customer in writing at the time the customer enters the arrangement, of their right to access the services of EWOV's dispute resolution mechanism.

As discussed in more detail in chapters 10 and 11, the Department does not currently propose that EWOV's jurisdiction should be extended to include alternative energy sellers and community energy projects generally, but does see some merit in customers of SPPA providers being able to access the scheme.

One of the most important proposed changes for park residents within the position paper is the support from the Department to extend the Energy and Water Ombudsman of Victoria's (**EWOV's**) powers to include customers of embedded networks. Residents are more inclined to contact an ombudsman for assistance than to take a matter to VCAT. It is less confronting, free and provides access to expert knowledge with an aim towards fair and equitable outcomes.

HAAG's only concern is that where operators do not comply with orders made by EWOV there will be no enforcement mechanism to compel them to meet the terms. Although the hope is that the process of having access to the ombudsman will produce an overall compliant sector.

It is also very important to provide upfront disclosure about the rights of consumers to access EWOV's services.

In having EWOV involved with embedded networks it may also highlight any systemic issues prevalent in the sector which will assist with further amendments into the future.

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