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ENERGY UPDATE

RECENT LEGISLATIVE CHANGES IN VICTORIA HELPS PAVE THE WAY FOR GROWTH IN SOLAR DISTRIBUTED GENERATION

Recent legislative changes in Victoria have given impetus to the debate about rooftop solar and the extent to which householders and businesses can access the benefits of this plentiful source of renewable energy.

These changes pave the way for the further growth of distributed generation¹ and for new market entrants to provide solar leasing solutions.

In 2014 small scale solar was responsible for 15.3% of Australian's clean energy generation and produced 2.1% of the country's total electricity. Although the generous feed in tariff (**FIT**) programs run by the states and territories from 2009 have now largely been replaced by less generous schemes, the falling cost of solar PV infrastructure and rising electricity prices in many areas means that the business case for solar remains compelling in many circumstances. For a range of reasons there has been comparatively lower take up in Victoria.

The Victorian Renewable Energy Roadmap (**Roadmap**) released in August 2015 specifies four priority areas:

- 1 Transformation of the wholesale electricity market to renewable energy focus;
- 2 Reduce barriers to growth of distributed generation and energy storage;
- 3 Encouraging household and community development of renewables; and

¹ Generation of power at or near the location in which the power will be consumed. Most renewable technologies such as wind, solar and biomass, lend themselves to distributed generation due to their abundance in many locations and their ability to generate small scale power.

- 4 Government support for renewable energy with a focus on job creation in Victoria.

Following on from the Roadmap, the Victorian Government has taken two important legislative steps which are likely to incentivise and encourage businesses, homeowners, solar leasing providers, financiers and utilities to grow the rooftop solar market in Victoria.

REFORM 1 - SOLAR LEASING PROVIDERS GIVEN A CLASS EXEMPTION FROM LICENCE OBLIGATION

Until now, the regulatory framework operating in Victoria has prevented the operation of alternative energy providers. An Order in Council issued under the *Electricity Industry Act 2000* (Vic) (**EIA**) effective from 8 December 2015² waives the requirement of a person to be licenced to distribute electricity in certain circumstances. The amendments provide that any person may:

- generate or distribute electricity on premises they do not own; and
- sell that electricity to the owner or occupier of those premises or a licensed retailer.

The exemption from the licencing obligation is subject to conditions including:

- the premises' generating capacity must be less than 5 mW;

² Victoria Government Gazette no S 393 8 December 2015 General Exemption Amendment Order 2015 inserts a new Item 7 into the General Exemption order made under section 17 of the *Electricity Industry Act 2000*.

- the exempt person must not be the relevant licensed retailer or a registered wholesaler; and
- some or all of the generator output must be sold to the householder and the balance must be sold to the licensed retailer.

The changes effectively align Victoria with NSW, Queensland, SA, ACT and Tasmania, where alternative energy sellers are permitted to apply for an individual authorisation exemption under the National Energy Customer Framework³.

These changes will enable new entrants to the Victorian market to both offer leases to those interested in installing solar infrastructure *and* sell the power generated back to the premises owner. Importantly, given that the 5mW cap is relatively high⁴, this interest will not be limited to small householders and will extend to commercial businesses, where the value proposition is likely to be more compelling. These changes will overcome some of the barriers to uptake including installation costs and long term confidence in the suitability of the installed solar infrastructure. In order to sell electricity into the grid, new entrants would of course need to comply with obligations under the National Electricity Rules, including as to registration.

Solar leasing is well established in the US and continues to be a growth market there where there has been a 16 fold increase in solar installations since 2008 without any significant government provided incentives or subsidies. Although there are variations, under the US solar leasing model a homeowner enters into one or more agreements with a leasing provider under which the provider agrees to install and maintain a solar array, and the homeowner agrees to purchase a specified level of electricity at a fixed price for a fixed period (generally 10-20 years) (the **Solar Leasing \ PPA Model**). The leasing provider then on sells the balance of the power to the local distribution business. As the owner of the infrastructure, the leasing provider has the benefit of all incentives, rebates, refunds or credits which might be offered by any government over the period of the arrangement.

It is important to note that in Australia, what is often referred to as 'solar leasing' is in fact simply a third party finance model where finance is provided to a home owner for the solar array installation subject to monthly repayments. The financier is not involved in

³ The WA Government is currently considering implementing a 'class' exemption to licensing.

⁴ Many household solar arrays are 5kW or less.

the arrangements with the relevant network business and does not sell electricity. Instead the homeowner enters into its own connection agreement with the relevant distribution network service provider.

Whilst a number of major electricity retailers (and Clean Energy Corporation Australia) already offer solar leasing to premises' owners the Solar Leasing \ PPA model is yet to achieve the level of penetration seen in Europe and the US.

The Solar Leasing \ PPA Model raises a number of legal issues, including under the *Personal Property Securities Act 2009*, the application of the *National Consumer Credit Protection Act 2009* and the National Credit Code, insurance coverage, responsibility for defects and damage to the premises, and scope and scale of maintenance obligations.

REFORM 2 - COMMERCIAL ROOFTOP SOLAR GETS A BOOST

The most activity in commercial rooftop solar has been seen in NSW. Commercial solar now accounts for 27% of total installations by capacity, and in the last year or so a number of large installations have been completed⁵.

Initiative 4 of the Roadmap is to "*Address barriers to distributed generation and storage*". A key part of achieving this initiative is enabling all local governments to offer Environmental Upgrade Agreements (**EUAs**).

An EUA is a financing mechanism which allows owners of non-residential buildings to undertake energy efficiency upgrades (including retrofits such as rooftop solar) by obtaining finance from a third party lender, and then repay the investment through Council rates (which is in turn passed onto the lender). The use of the Council rates system has the effect that an EUA loan is prioritised which results in benefits including competitive loan rates. Further, the system is attractive to builder owners and managers because the loan is secured against the property rather than tied to the owner.

Previously only offered by the City of Melbourne, amendments to the Local Government Act⁶ came into effect on 1 November 2015 which permit all councils

⁵ The Stockland Shellharbour Shopping Centre completed in September 2015 has a 1.2 MW capacity and in July 2015 four installations across four IKEA stores each with 700kW capacities were completed.

⁶ *Local Government Legislation Amendment (Environmental Upgrade Agreements) Act 2015*, assented 8 September 2015.

to offer EUAs. This brings Victoria into line with New South Wales where such agreements have been offered by councils since around 2011. South Australia has indicated its intention to legislate for EUAs in the near future.

In Victoria and NSW an EUA is broadly defined as relating to works which "improve the energy, water or environmental efficiency or sustainability" of the building. So far the projects the subject of EUAs in the Melbourne CBD have largely been limited to air conditioning, heating, cooling and glazing works, however there is no reason an EUA cannot be used for rooftop solar.

This, in conjunction with a renewed focus by business on achieving sustainable solutions to minimise their building maintenance costs, is likely to lead to more growth in this area. One recent project of interest is the installation of a 59.4kW system at level 56 of 101 Collins Street (which is one of Melbourne's tallest buildings). The panels have been installed vertically and have been engineered to withstand high winds. The power generated will be used to offset the electricity consumed by the building's condenser water system. There have also been residential projects⁷ which have gained attention (again funded in part by the City of Melbourne under an EUA), and the Council is focussing on further rooftop solar projects following completion of a rooftop mapping process last year.

OTHER KEY DEVELOPMENTS

Discounts to households with rooftop solar

Other changes to the EIA introduced last year by the Victorian Government are intended to provide additional consumer protection to home owners in the context of an evolving electricity market⁸. The amendments came into effect on 1 January 2016 and include:

- an additional objective imposed on the Essential Services Commission (ESC) to promote customer protection;

⁷ The recent financing of a 50kW solar array on the Hero residential building in the Melbourne CBD which will generate 53,000 kWh of electricity per year and is expected to be paid off in 8 years. Announced in January 2016 by the Sustainable Melbourne Fund (run by the City of Melbourne)

⁸ *Energy Legislation Amendment (Consumer Protection) Act 2015* which amends the *EIA, the Gas Industry Act 2001 (Vic)* and the *Essential Services Commission Act 2001 (Vic)*.

- provisions requiring a holder of a licence to sell electricity to offer to sell electricity to a renewable energy customer⁹ at the same tariff and terms and conditions as it would offer to a non renewable energy customer. This requirement does not prevent a licensed retailer from offering terms to a renewable energy customer that are more favourable;
- provisions requiring a holder of a licence to sell electricity to give specified information to the ESC in accordance with guidelines which the ESC may publish
- provisions significantly increasing the penalty imposed on an energy licences for breach of a licence or Code of Practice; and
- provisions prohibiting the imposition of early exit fees in certain circumstances.

FIT reviews

For those who export solar energy into the grid, the feed-in tariff in Victoria, which is set by the Essential Services Commission has recently been cut from 6.2c/kWh to 5c/kWh¹⁰. However, the Victorian government has promised an inquiry into the FIT arrangements in Victoria and, as part of that review, to consider the environmental and social value of distributed generation¹¹.

Battery storage

Reliable, affordable and readily available battery storage will likely trigger further growth in rooftop solar. The International Renewable Energy Agency predicts the global market for battery storage will grow from \$US220 million in 2014 to \$US18 billion by 2023. A number of electricity retailers are already offering batteries to residential and commercial customers in Australia. CSIRO and AEMO have published reports forecasting that a payback period of 7 years or less for battery storage will be reached for larger customers in Victoria by 2020.¹² ARENA announced last year that it was funding a four year

⁹ Defined as a qualifying customer, a TFiT scheme customer or a relevant small RE generator (ie a person with a generation licence or an exempt person). The specified intent is to ensure that such a customer generates from a system with capacity of less than 100kW.

¹⁰ The current FIT in NSW is 4.8 c/kWh.

¹¹ In addition, in *Queensland* a review is being conducted by the Productivity Commission and the draft report is expected mid February 2016. Details of the review in Victoria have not yet been announced.

¹² AEMC, *Integration of Energy Storage*, Discussion Paper 9 October 2015, page 4.

trial (due to start early this year) of a PV \ battery storage combination at a new housing development north of Perth.

A number of technological developments, including improvements in battery storage and PV generation, together with greater uptake of smart meters and electric vehicles, are likely to result in significant changes to the operation of energy markets over the next decade. For example, in the context of storage, the AEMC's December 2015 report on the integration of energy storage suggests that network businesses should be able to own storage behind the meter, but only through an effectively ring-fenced affiliate. The AER is required to publish revised ring-fencing guidelines for electricity distribution businesses by 1 December 2016 to replace the existing state based regulations.

Whilst the impact may not be immediate, the recent changes create an environment in which rooftop residential and commercial solar can grow in Victoria.

MORE INFORMATION

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