T R A N S C R I P T

LEGISLATIVE ASSEMBLY ENVIRONMENT AND PLANNING COMMITTEE

Inquiry into Renewable and Affordable Energy for Apartments

Melbourne – Tuesday 24 March 2026

MEMBERS

Juliana Addison – Chair
Martin Cameron – Deputy Chair
Jordan Crugnale
Daniela De Martino
Wayne Farnham
Martha Haylett
David Hodgett

WITNESSES

Pernille Cavanough, President, and

Tim Graham, Vice-President, Strata Community Association Victoria.

The CHAIR: Welcome back to the Legislative Assembly Environment and Planning Committee's Inquiry into Renewable and Affordable Energy for Apartments. All mobile telephones should now be turned to silent.

I welcome Pernille Cavanough and Tim Graham from Strata Community Association Victoria.

All evidence given today is recorded by Hansard and broadcast live on the Parliament's website. While all evidence taken by the committee is protected by parliamentary privilege, comments repeated outside this hearing, including on social media, may not be protected by this privilege.

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I invite you to make a 5-minute opening statement, and this will be followed by questions from members.

Pernille CAVANOUGH: Thank you, Madam Chair. We appreciate the opportunity of being here today. My name is Pernille Cavanough, and I am the President of the Strata Community Association of Victoria, otherwise known as the SCA. We are the peak industry body representing professional strata managers and service providers across the state. By way of background, I am also a business owner. I operate Dixon Kestles, which is a strata management firm, and I have worked in the property sector for over 30 years, for the last 15 specialising in strata management. I hold a Victorian real estate licence, and I am qualified in business management, as well as property and strata management. I have spent much of my career working directly with owners corporations and their committees. Accompanying me today is Mr Tim Graham, the Vice-President of SCA. Mr Graham is a strata lawyer with more than 27 years of experience advising owners corporations and strata managers on legislative frameworks governing apartment buildings and is also the immediate past president of the Australian College of Strata Lawyers.

Strata Community Association Victoria, or SCA, represent 251 strata management companies here in Victoria and 115 service provider companies, with more than 1300 individual members. Collectively, our members advise owners corporations responsible for over half a million lots across Victoria, which represents an insured value of approximately $471 billion. Strata housing, as you know, is now a central and growing component of Victoria's housing system, with more than 1.27 million Victorians, which equates to about 18% of our Victorian population, living in strata-titled housing, which includes apartments and multiunit developments. As population density increases, strata communities will play an increasingly important role in the state's energy and emissions reduction future. However, apartment residents face structural barriers in accessing renewable and affordable electricity that do not apply to detached housing. Unlike detached home owners, apartment residents must make decisions collectively through an owners corporation, share infrastructure costs and operate with a complex legislative and governance framework. That framework fundamentally shapes what upgrades can occur and how quickly they can be implemented. So while technologies such as shared rooftop solar, heat pumps, managed EV charging and power systems are now well established, the uptake in apartment buildings remains limited by systemic barriers. These include ageing electrical infrastructure, significant shared up-front costs, collective decision-making thresholds, funding programs designed primarily for detached housing and in some cases, latent building defects, particularly fire safety issues, that must be addressed before electrification can proceed.

It is also important to recognise that owners corporations are creatures of statute. They can only act where authority is clearly provided under the *Owners Corporations Act 2006*. Where legislation does not clearly support infrastructure installation, cost allocation, access to private lots or ongoing maintenance responsibilities, owners corporations may be unable to lawfully proceed even where there is strong resident support. This legislative constraint is a key reason why electrification initiatives in apartment buildings stall. Without targeted reform, the gap between detached housing and multiunit dwellings will continue to widen. This is particularly concerning given the high proportion of renters and social housing residents living in apartments, many of whom experience energy stress but have limited influence over upgrade decisions.

For these reasons, SCA Victoria submits that apartments must be recognised as a distinct housing category in energy policy. Policy settings designed for detached homes cannot be applied to multiunit developments. Our submission recommends a whole-of-building electrification pathway supported by coordinated reform across energy policy, the planning framework and OC legislation.

In summary, our key recommendations are to formally recognise a whole-of-building electrification pathway for apartments; to treat apartments as a distinct housing category within energy policy, supported by funding; to expand apartment-specific funding for enabling infrastructure, such as substations and switchboards; to modernise governance settings to support practical and timely decision-making; and to prioritise equity, ensuring smaller schemes and mixed tenure buildings are not left behind. With coordinated reform, apartment buildings can make a meaningful contribution, delivering affordable, reliable and renewable electricity for hundreds of thousands of Victorians. Without it, structural barriers will continue to limit participation by a growing share of our population. SCA Victoria welcomes the opportunity to contribute today. I look forward to taking your questions and working towards some practical working solutions. Thank you very much.

The CHAIR: Terrific. Thank you very much for being here and making time to share your expertise with us today. Who would like to start?

Wayne FARNHAM: I will go. I might as well go straight to Tim on the last comment I made.

Tim GRAHAM: I will wave again.

Wayne FARNHAM: You heard the statement I made: do you believe that investors' vote value should be less than that of an owner occupier? We are getting a lot of people saying it is the investors that tend to stall projects, because they are investors, you know, and they do not want to spend the money. What are your thoughts on that?

Tim GRAHAM: There are three categories of stakeholders that live in strata, I think. There are owner-occupiers, and there are perhaps two streams that they are concerned with – one is the social and the other is the economic. By 'social' I mean day-to-day amenity around the property, and economic probably speaks for itself. So if you are an owner-occupier, you are concerned with both. If you are an investor, you are less likely to be concerned with the social implications because you are not there. And if you are a tenant, well, you are probably more concerned with the social and less with the economic. I recognise that many leases, whether residential or retail, catalyse the obligation for a tenant to effectively subsidise – to the extent the law allows – the OC fees payable by the landlord. So with those different stakeholders, there are different interests, and I do not think there is much that could be done to qualify or change that.

I agree with the previous speaker that proprietary ownership in Victoria could perhaps be worded better, but the owners corporation is registered not as the proprietor of common property but as nominee for the owners of common property as tenants in common in shares proportional to their lot entitlement. Now, what that means is that the owners of lots from time to time effectively comprise the OC, and it is the legal vehicle by which they own it. To somehow distinguish based on occupancy a proprietary right I think would run against fundamental principles of property ownership, frankly. I can see the low-level attraction of it, given those three stakeholder-interested groups identified at the outset, but that is more operational and should not, in my respectful opinion, rise above proprietary interests. So in other words, no. I think it is a really interesting question, but my immediate thoughts are that there should not be a distinguishment.

Wayne FARNHAM: Following on from that, then – being this committee – we are talking about renewable energy, especially into apartment buildings, and it has been pretty well found that the renters are the ones that are missing out on this. The last speaker said 80% of Melbourne apartments are actually rented out. What mechanisms could be put in place, then, when an owners corporation has put forward a plan to introduce renewable energy into an apartment complex but it is that the owner-occupiers and the renters are missing out on the renewables – what could be put in place to make that fairer in the system, rather than getting voted down all the time by investors?

The CHAIR: Can I just interrupt for one second. Wayne, what I wrote down was four out of five people in the City of Melbourne live in residential strata, but they are not necessarily tenants.

Wayne FARNHAM: Sorry. I will take that back. Thank you for that correction, Chair. I appreciate that.

The CHAIR: I just hoped I had heard it right. Go on.

Wayne FARNHAM: We have a high proportion of people renting apartments. It does not seem fair that they are missing out. As has been pointed out previously, standalone houses are all fine, but when we get to apartments, the renters are missing out. So what can we do about it?

Tim GRAHAM: Well, I think the first thing to recognise is that owners corporations scarcely have a relationship with tenants. When one goes to the *Owners Corporations Act*, the nomenclature is 'occupiers', and there is other nomenclature: 'owners'. So I assume by default then that occupier is a tenant – they could be some other form of guest. But owners corporations do not have power over them as it stands, or the only power over them is in regard to really rules and conduct-type stuff. So firstly, you have to create the relationship. Secondly, I think the way I would approach your excellent question is to identify what those restrictions are currently, and the previous speaker, I think, very eloquently pointed to some of them. As quickly as this: if the work constitutes a 'significant alteration' as that defined in section 52, or 'upgrading' as that defined in section 53, then a special resolution is required of 75%, which is notoriously difficult to elicit. There are other barriers that stymie that sort of stuff. There are a few of the model rules that I think militate. The most direct one lies in model rule 5.2, which talks about consent or authority to change the outward appearance, and there is a distinguishment between sustainability items and other types of outward appearance.

There are various cases out of the tribunal over the years. One I was involved with, which I can say is a matter of record, although it is an unreported decision, was called Aisenberg – A-I-S-E-N-B-E-R-G. It concerned the Balencea building on St Kilda Road, and the Aisenbergs had installed a screen. It is an aperture balcony; it does not protrude from the superstructure – it is cut in. They had put in a screen, and their evidence was that it was less for sun glare than for wind, as there was a tunnelling effect through these aperture balconies. It is award-winning building. The architect gave evidence that there was a certain aesthetic quality – the thing had won awards all around the world, apparently, or at least in our region – and that the installation of this screen deleteriously affected that outward appearance aesthetic. So it is something to be taken quite seriously.

There are other rules too. The larger thing is that in Victoria we have got a hybrid of where boundaries lie. They can be the interior face of a structural building; the median, which is the halfway point of the structure; the exterior face; or a combination of those within the one plan. So what can be done on common property as compared to what can be done on private property is not necessarily the same consideration, although it may be that the same infrastructure might affect them both. An obvious example might be if there were solar panels or any infrastructure put on a roof. It might be privately owned, for a start – it could be a staged lot still retained by the developer – and the boundary might lie at the median of the roof, so the OC could give consent for the upper half. But let us say it needs to be affixed beneath that median point, then it becomes a private property issue. That needs to be taken into account through the prism that you can have a variance of each of those boundary points within the one plan.

As far as common property that might be affected goes, then there are two model rules that militate, and they are not quite the same. One is that an owner-occupier must not alter or damage common property without approval. The OC can give its approval for alteration or damage, but what it cannot do under, I think, model rule 4.13 is give consent to an obstruction, and the physical embodiment of any piece of infrastructure is an obstruction; there is a law on that. So we have got this competing notion where the OC can give consent to an alteration, but it cannot give consent to an obstruction. Perhaps the way around that is giving a lease, but then you are back to the special resolution requirement, which is where I started, and it is a difficult threshold. PC, do you have anything to add to or qualify that?

Pernille CAVANOUGH: I think I could add maybe a little further with respect to not just renters but all owners in apartments. If you are looking for a leverage or a mechanism tool to use, one of the things we have turned our minds to is the maintenance plan. Whilst that only currently applies to tier 1 and tier 2 – the larger buildings – it could be put in play across the board in a perfect world where owners corporations, the committees and the owners, must turn their mind to how energy efficient the building is. At the moment we do not have a rating system in residential like we do in commercial, but possibly that could be another avenue to explore for new buildings, which obviously have rating systems, but also for retrofitting those older buildings when you have got 50s and 60s apartment blocks and even older and they want to do some works. Whilst our law currently prohibits that if we cannot get the 75% special resolution up, if it was somehow legislated or recommended to be put into the maintenance plan as a tool that could be utilised by the lot owners, then at least

it could raise the awareness as a starting point to help start educating a lot of these lot owners that it is important to do for the longer term, not just the short term – so not just for an owner that is going to be there for a year or two but to sustain the building itself for another 30, 50, 100 years or however long it is going to have its life for. That is really what the lot owners have a responsibility to do to look after that building and ensure it is maintained but also sustained. That could be a mechanism that could be worth exploring.

The CHAIR: I have got a question. I am thinking of the leadership role that you play in terms of the advice you give, which I am sure comes up and comes down – it is a two-way thing. What leadership can professional building managers show, or be encouraged to, to really try and push for sustainability on older buildings?

Pernille CAVANOUGH: I will take that. It comes down to education. So absolutely, all of our strata managers are required to achieve CPD each year. That could certainly be developed and then put out to all of our members in that format. Committee members can also do training should they wish. The SCA offers training to committee members, so they can do it. We appreciate that they are volunteers and probably have better things to do with their time, but it does really help in understanding and for them to make the best decisions for their owners corporations. So I think it is twofold: there are the committees and there are the strata managers themselves, but you have got competing interests of course with the buildings themselves, which currently have other priorities in a lot of instances, whether it be cladding, roof replacements, window replacements or carpet replacements – all of those ongoing maintenance issues – and that costs. So yes, absolutely, education is something we could assist with and we would be happy to do.

I think the AGM is obviously going to extend that further to lot owners, so you would reach all owners in some way, and that communication obviously goes out annually when you issue your manager's report within the AGMs. There are some tools in there that we would be happy to support. I think we just need to be mindful of adding an extra burden onto owners corporation committees and strata managers. We need to make it as easy as possible for them, and at the moment it is really difficult. The intent from the strata managers and from a lot of committees is yes, we want to approach these sustainable energy and efficiency matters for our building, but it is very difficult to get consensus from the owners. Plus we have also got building constraints as to where to physically put some of the infrastructure that is required to sustain the energy efficiency – batteries and panels and all of those sorts of things. I note earlier they were talking about putting them on balconies. To Tim's point, that absolutely cannot be done at the moment because it would change the external appearance of the property. Legislatively, it cannot happen. That could potentially change, but there are difficulties.

The CHAIR: I guess my supplementary question then is: I see this as a benefit to apartment living, to be able to have reduced costs. I am thinking of older Victorians who may be on a fixed income, self-funded retirees and also multigenerational apartments with younger people coming through with a real ideological commitment to sustainability and to climate change. What could the government do? You mentioned the word 'burden'. How could the Victorian government reduce the burden to make it easier? Have you got any suggestions?

Pernille CAVANOUGH: That is a big question. For strata managers or for the buildings and the lot owners?

The CHAIR: For both. Or you can pick and choose.

Pernille CAVANOUGH: They do go hand in hand. I think there needs to be some legislative reform in that space. I think that will help a lot. We need to be very careful, though, and Tim will tell you, we do not want to give carte blanche and remove all decision-making criteria. We work in a democratic society, and that system works really well within owners corporations 80 or 90% of the time. So I think some reform there. I think the education piece is key, absolutely, and I know the lady that was in earlier mentioned the education piece as well. There are lot owners that purchase an apartment and have no idea. They do get that first levy notice, and our strata managers get the calls.

Daniela DE MARTINO: Bill shock.

Pernille CAVANOUGH: Yes, bill shock, absolutely. They are like, 'What?' So I think that piece is imperative. How that comes, whether that goes into the OC certificate that goes into the contract of sale – people do not always read it. So we need a number of ways to get to those lot owners. But the committees that make the decisions – it needs to be on their radar. We need to force it onto their radar in a nice way. You know,

for the government to meet its 2030 goals, you are going to have to put it in front of people. It is that whole 'You can lead a horse to water, you can't make them drink.' But we can put it year on year in the AGM that that is the tool that you can utilise to reach all of those lot owners in some way, shape or form.

Tim GRAHAM: Madam Chairperson, can I just buttress that? It really was an excellent –

The CHAIR: Sure, please do. I love a buttress – a flying buttress.

Tim GRAHAM: Love a buttress – fortify, augment. In your question you mentioned apartments themselves and law reform. The first structural problem we have with the law in Victoria is that the *Owners Corporations Act* and the *Subdivision Act*, as a brace, do not differentiate between types of strata. So the same legislation that governs apartment towers, which is really the presumption of what we have been talking about, covers estates, and the considerations of solar plants on a roof of a tower are going to be quite different than Point Cook estate or Wyndham Waters or whatever you want. Every other state has different community titles legislation, so it is a holistic, wholesale change. But really, before you do that it is going to get increasingly difficult to cherrypick parts of legislation, the pie, only to – I mean, we have got size, we have got the tiers, but they do nothing to talk about the different uses and whether it is vertical or horizontal. So that is a sweeping change, respectfully, that I think we need to deal with before much else.

The CHAIR: Terrific. Thank you for that.

Daniela DE MARTINO: Recognising apartments as a distinct category in and of themselves.

Tim GRAHAM: Well, I would put it the other way that lateral land subdivisions should be regarded differently. I mean, they do not have heating and cooling towers; they do not have concierges; things are freestanding; they might not have common property. There is one in particular down at Sandhurst that does not have an owners corporation. So they are really quite qualitatively different.

The CHAIR: Jordan, do you have a question?

Jordan CRUGNALE: I was going to further that, yes, like my colleague was saying, around distinct housing categories in that energy policy. If apartments have their own kind of distinct housing policy and then the owners corporation building maintenance levy is reframed to include not just maintenance – you know, through that your whole building can have an energy audit and there is a drop-down menu of all the different things, from moss on the side or windows or rooftop solar or whatever it is, and changing that frame. Is that something that would sort of clear a quicker pathway to more efficient buildings and lower cost energy for apartments?

Tim GRAHAM: My answer would be yes because, I mean, if you are taking the existing, as the previous speaker correctly identified, if you have got a maintenance plan, as the bigger buildings require, then you have to have a maintenance fund pertinent to the maintenance plan. Maintenance is limiting. In fact until a few years ago it was really that major capital expenditure items were limited to elevators and heating and cooling plant. They did not consider windows or anything that, you know, might be a significant expense – and certainly not cladding. So that has expanded, but it is still limited by the word 'maintenance'. Your suggestion is that it is almost like a sinking fund or a savings account that is not just maintenance. It might go to a whole range of things.

Pernille CAVANOUGH: You have got to look holistically. I do not know what I said.

Jordan CRUGNALE: It is sustenance. What did you call it?

Daniela DE MARTINO: Improvements – maintenance and improvements.

Jordan CRUGNALE: Well, just a building levy.

Pernille CAVANOUGH: Yes, it is everything. It is the capital works; it is the maintenance.

Tim GRAHAM: 'Improvements' is a good word, I think.

Pernille CAVANOUGH: But it is also the sustainability of the building for the next 50, 100 years, you know.

Jordan CRUGNALE: A sustainable building levy.

Tim GRAHAM: And those are exercisable by an ordinary resolution, so if you have got that explicit conduit, then all the stuff I indicated earlier that attracts the special resolution requirement can be avoided that way.

The CHAIR: Martha Haylett. Sorry, did you want to keep going, Jordan?

Jordan CRUGNALE: No.

Martha HAYLETT: Thank you. I am just wondering, and this is open to both of you, about the avenues of appeal. If someone is bringing to the owners corp AGM that they want sustainability upgrades, and it keeps getting voted down by especially those investors, what are the avenues of appeal? Or do you just have to take it back to the next AGM? Are there any improvements that can be made in terms of the appeals process?

Tim GRAHAM: There is no appeals process. You can apply to VCAT in respect to what is called an owners corporation dispute, and that is defined in section 162 of the *Owners Corporations Act*, and then 165 sets out what orders the tribunal can make. Given that OCs are creatures of statute and VCAT is a creature of statute, you are limited only to what an empowering enactment gives you. I do not think you will find much satisfaction looking at the definition of a dispute and the orders the tribunal can make in terms of these sorts of sustainability works.

Martha HAYLETT: Are you anecdotally hearing from a lot of OCs that that is what is happening, that there are people trying to get these sustainability upgrades and they are just constantly getting voted down?

Tim GRAHAM: I cannot say that I am.

Pernille CAVANOUGH: I know there is a huge focus from the committee about investors. That is not my experience. It is just the democratic process. Some people want it, some people do not. I do not think we have enough statistics at this stage to accuse the investors of having a particularly different mindset. There are some wonderful investors out there that have bought their property with long-term investment goals, and the only way they can achieve that – I think the education coming through the real estate sector as well as the strata sector is improving. Lot owners are becoming more astute, and they are looking at the longer term value and the increase in capital value of those apartments and they want that. A smart investor will actually be on board with the energy solutions, if we have got the right people, the right strata managers and the right lot owners on committee endorsing them and leading them there. I would be cautious about differentiating investors from just good decision-making by lot owners.

Martha HAYLETT: Just one quick supplementary. Thinking about those OC meetings, I note that one of your recommendations was that you would like to have almost a standing agenda item about sustainability. How could that be done? Is there a way to do that across the board? Does that require legislative reform or something like that?

Tim GRAHAM: It could be done with an easy legislative reform. There are already, in about section 70 or 71, mandatory minimum inclusions in an agenda for an annual general meeting, so it could easily be added.

Martha HAYLETT: Thank you.

Martin CAMERON: This is the last one from me. Thank you very much. It has been very interesting listening to you. In a perfect world where legislation was changed and we could enable renewables to be put into all the buildings, how many buildings would fail in having renewable energy added to them because of current electrical infrastructure? Are we opening up unintended consequences of 'We've lined everything up, but the actual building fails our electrical standards and other safety standards'? I suppose what I am trying to get at is: are buildings not up to scratch? Is that part of the issue as well?

Tim GRAHAM: We might both have a crack at this. I will limit myself to one minute. It might not be a matter as to whether they are not up to scratch. There are issues to take into account like load-bearing capacity.

Batteries weigh a lot. If everybody wants one, has the thing been structurally designed to absorb that load? Perhaps not even in new buildings. The other issue – I reiterate the comments I made before about where the boundaries might lie on a given plan of subdivision. For conduits, the running of electrical wires, cabling and what have you, you will be creating penetrations into common property at the least, in my experience, and potentially people's lots. That can do all sorts of things. Perforating can also damage structural integrity. It can create noise separation issues, fire separation issues and water barrier issues. It should not be something undertaken lightly, to just go and start damaging the fabric of the building.

Pernille CAVANOUGH: I honestly do not think we have that sort of data available as to which buildings would be compatible or not. I do know from my own experience that there are a number of owners corporations that cannot upgrade the infrastructure to the building, because of issues with power to the grid, power to the street and power to the building, so that is absolutely an issue. It is something to consider.

The CHAIR: Thank you very much, Pernille and Tim, for your expert contributions today. They were really interesting.

Witnesses withdrew.