

Generic works by-law information resource

This document is part of the electric vehicle (EV) ready buildings suite of resources found at energysaver.nsw.gov.au/electricvehicles.

This information resource is designed to assist both owners' corporations and lot owners within all strata schemes across NSW with the installation, maintenance, and operation of electric vehicle chargers within their strata schemes.

By-law requirements

This information resource and associated template materials may be appropriate in circumstances where all lot owners may wish to carry out work which will affect the common property to install an electric vehicle charger within their lot property parking spaces, for their personal use.

The materials contemplate that the lot owners consent to bearing the ongoing repair and maintenance obligations with respect to the works, and that the infrastructure will be connected to a power supply that is separately metered to their lot(s).

In that scenario, a common property rights by-law should first be approved by a special resolution at a general meeting to:

1. identify and approve the works contemplated; and
2. outline the specific repair and maintenance obligations for those works and the affected common property.

The lot owners will need to provide their prior written consent to the making of the by-law before the special resolution to adopt the by-law is put to the general meeting.

For the by-law to be effective, it must be approved by a special resolution at a general meeting of the owners corporation and registered with NSW Land Registry Services within 6 months of the date of that special resolution being adopted.

As the special resolution to adopt the by-law is a "sustainability infrastructure resolution":

- the motion passes on a special resolution if less than 50% of the votes cast on the motion are against it
- the owners corporation must consider the factors set out in section 132B of the Strata Schemes Management Act 2015 ("SSMA").

A lot owner is entitled to request that a motion to approve a by-law be included on the agenda of the next general meeting of the owners corporation.

A lot owner may also be able to compel the owners corporation to hold a general meeting to consider a motion. However, to do so, owners who collectively hold 25% of the scheme's unit entitlements must sign a requisition to hold that meeting and deliver it to the secretary of the owners corporation.

The secretary may otherwise convene a general meeting at any time. The strata committee can also resolve to convene a general meeting.

In all cases, the relevant statutory notice periods must be complied with when convening a meeting. These will vary depending on numerous factors.

Once approved, the by-law will have no effect until it is registered, but the authority to do the works contemplated in the by-law can be effective from the date of approval of the special resolution, provided that a motion under sub-section 108(1) of the SSMA was approved at the same time.

Template by-law for generic works – electric vehicle charger

To assist owners corporation or lot owners with obtaining the appropriate approval from the owners corporation to allow the installation of electric vehicle chargers, the following template by-law located on the [Energy Saver website](#) can be used: Electric vehicle charger motions and by-law – generic.

The above template by-law will operate as follows:

1. To permit all lot owners to install electric vehicle chargers within their lot property parking spaces, including electrical alterations to connect the chargers to a power supply (which must be separately metered and billed to the respective lot owners).
2. To provide the lot owners with exclusive use of the respective electric vehicle chargers and common property affected by such works, and make the lot owners responsible for the ongoing repair and maintenance.
3. To indemnify the owners corporation for any damage or loss suffered as a result of those works, their ongoing use, and any breach of the by-law by the lot owners.
4. To require that the works comply with all relevant building standards and laws, and for relevant insurances to be in place for the works (typically obtained by the contractor engaged). Note that ongoing insurance with respect to the charger under this arrangement is a responsibility of the owners corporation, and it should seek professional advice in that regard.
5. To provide remedies for potential breaches of the requirements of the by-law, including obligations to rectify issues that may arise and empower the owners corporation to address such issues if not rectified by the lot owner.

Although the by-law requires the electricity service and usage charges to be separately metered to the respective lots, an exception is provided in the event that the lot owners and the owners corporation have reached an agreement under section 117 of the SSMA concerning the electricity supply.

As this by-law will apply to all lots in the strata scheme—and given that it will require written consent of all those owners—it would be prudent to first discuss this proposal with all lot owners in the scheme to determine whether such a by-law is appropriate for your strata scheme.

The by-law is generic in nature and has been drafted to apply to a broad range of situations to permit the installation of electric vehicle chargers by all lot owners in the same strata scheme. This is an information resource only and is not intended to be legal advice contemplating your specific circumstances.

Before using this template by-law, you should consider the specific requirements of your strata scheme and the works contemplated. In the event that you are unsure as to whether this template by-law is appropriate for you or are unclear about any of the associated rights and obligations dealt with in the by-law, independent legal advice should be obtained.

Next Steps

If you believe this by-law is appropriate for you and you would like to use it to seek approval from your owners corporation to install electric vehicle chargers, then you may provide your strata manager or the secretary of your owners corporation with the following documents which are provided with this information resource on the [Energy Saver website](#):

1. the motions
2. the template by-law
3. the consent forms, which must be completed and signed by all owners of each lot individually (if those owners wish for their lot to be included in the by-law).

In providing these documents to your strata manager or the secretary of your owners corporation, you should expressly request that they be included on the agenda of the next general meeting of the owners corporation for its consideration.

In accordance with section 132B of the SSMA, you should also provide your strata manager or secretary with details about the costs of installing, running, and maintaining the proposed electric vehicle chargers, for the owners corporation to consider. The motions provided incorporate such consideration by the owners corporation.

If the motions are approved by a special resolution at a general meeting of the owners corporation, the works may be commenced, noting that the by-law must be registered at NSW Land Registry Services within 6 months from the date of approval.

If you are unclear about any of these issues or are unsure about whether these template documents are suitable for your circumstances, you should seek independent legal advice.

It should also be noted that these template documents have been drafted in March 2021. The legislation and associated requirements may change from time to time, and this may not be contemplated in these template documents.