



Do I require owners corporation approval to install solar power or solar hot water system on a residential strata building for personal use?

Where an owner proposes to install a solar power or solar hot water system on a residential strata building for personal use, the owner will need to ensure that the owners corporation passes a special resolution to create a by-law that allows the installation and outlines the terms under which that approval is given.

This is done at the general meeting - either the Annual General Meeting (AGM) or an Extraordinary General Meeting (EGM).

Where an owners corporation proposes to install a solar power or solar hot water system on a residential strata building for common use, a special resolution approving the installation is required however, no by-law is required.

Refer to the terminology section of the sheet for definitions.

When should I discuss the solar proposal with my strata manager and/or executive committee?

The proposal should be discussed with the strata manager and/or owners corporation executive committee early in the process, prior to contacting solar service providers.

They may be able to advise how and when solar providers are able to access the roof, whether an AGM or EGM is already scheduled, whether you will need to bear the costs of preparing the necessary by-law and potentially for holding any EGM to gain approval. They may also be aware of other building issues that may affect your proposal.

What should the by-law address?

The by-law ensures that the owner is responsible for the installation and maintenance of the system, as well as to protect the amenity and safety of all residents and building users. Seek feedback from the strata manager and/or executive committee to ensure the by-law covers all the conditions they consider necessary. A summary of elements that the by-law should cover are provided for guidance below. Legal advice should be sought to draft an appropriate by-law, taking into account any particular circumstances.

Template by-laws are being developed by NSW Fair Trading. Example by-laws may also be sourced from other owners such as the example available at www.reduceyourfootprint.com.au/gosolar.

a) Definition of the system

All components of the system should be clearly identified by their type, model numbers, proposed location, size, weight, and any penetrations of common property.

Supporting photographs, plans or drawings should be provided.

b) Pre-conditions to the commencement of work

Before any work is commenced, the owner should provide the owners corporation with:

- a copy of the installer’s certificate of insurance relating to the installation that may be required under Section 92(2) of the Home Building Act 1989

- a copy of the installer's Certificate of Currency of Contractor's All Risks insurance cover for a minimum of \$10,000,000
- certification that the system's installation will not negatively impact the:
 - structural integrity of the building
 - integrity of waterproofing for the roof and common property walls
 - integrity of fire safety separations

c) Installing the system

The owner should undertake to:

- use only the services of suitably licensed and accredited installers
- meet all requirements of their local council and energy supplier
- comply with the Building Code of Australia and any relevant Australian Standards
- maintain the structural integrity of the building
- maintain the integrity of the building's waterproofing
- make no variations to the system as defined in (a) above
- ensure minimal disturbance to other residents
- keep the common property clean and tidy during the installation
- repair any damage caused by the installation, whether that damage is to common property or that of other residents or owners

d) Maintenance of the system, common property and the property of other owners or residents

The owner should:

- maintain the system, in accordance with the manufacturer's specifications
- use only qualified and licensed tradespeople for maintenance and repair of the system
- maintain any common property at a point of contact between the system's components and common property
- repair any damage caused by the system, at any time, to common property or the property of other owners or residents

e) Removal of the system

The system could need to be de-commissioned, or even part or all of it de-installed, in order to undertake emergency repairs or necessary maintenance to any underlying common property. The by-law should outline the responsibilities of each party in such a scenario.

If the system is removed permanently, the owner may be required to restore all affected common property to its original condition.

f) Indemnity & Costs

The owner should agree to pay the full costs of:

- installing the system
- maintaining and repairing the system
- repairing any damage caused to common property or the property of other owners or residents
- removing the system and restoring affected common property to its original condition
- any work performed by the owners corporation pursuant to Section 65 of the Strata Schemes Management Act 1996
- registering the by-law
- any increase in the owners corporation's insurance premium attributable to the system

The owner should indemnify the owners corporation against any:

- loss or damage to common property
- loss or damage to the property of other owners or residents
- injury to any person
- damage to the system as a result of work carried out by the owners corporation pursuant to Section 65 of the Strata Schemes Management Act 1996

g) Breach of the by-law

If the owner fails to fulfil obligations of the by-law, the owners corporation can:

- provide notice in writing requesting that the owner complies
- perform any necessary work if the owner fails to do so after receiving written notice
- recover the costs of performing such work

h) Rights of the owners corporation

The owners corporation should retain the right to perform emergency repairs or necessary maintenance on underlying common property, even if that necessitates de-commissioning or de-installing the system, under terms and conditions agreed to in advance by both parties and clearly stipulated in this by-law.

How do I get a special resolution and by-law approved?

Any owner entitled to vote at a general meeting can ask for a motion to be included on the agenda for the by-law to be adopted.

If an AGM or EGM is already scheduled, written notification should be provided to the secretary of the executive committee 3-4 weeks prior to the meeting in order to allow for preparation and distribution of the agenda.

If an EGM needs to be scheduled, this can be done by: a majority vote of the executive committee; or if a group of owners (who are entitled to vote and who together hold at least a quarter of the total unit entitlements) give written notice to the secretary (or another member of the executive committee if the secretary is away) asking for the meeting to be held.

If an EGM is called to address the motion, the owner may be asked to pay the costs associated with it, or the owner may offer to pay those costs if it will help expedite the process.

At the meeting itself, the owner will need to present information to persuade other owners to support the initiative, including:

- plans, photographs and diagrams of the where the components of the system will be installed (if they're not already included in the by-law)
- how each of the relevant considerations for the impact the installation will have on common property will be addressed
- the benefit to the owner of the proposed system.

Do I need to register the by-law?

Once a by-law has been approved at the AGM or EGM, it needs to be registered at the Land and Property Management Authority (LPMA). If an original common

property Certificate of Title is not available, contact the LPMA to find out if you can submit a statutory declaration.

Terminology

By-law

By-laws are a set of rules that all people living in the strata scheme must follow. They apply equally to tenants and owners and can be made or changed to meet the needs of all owners and to assist with running the scheme.

Lot

A lot is an individual property such as an apartment in a strata title apartment block and generally includes everything including and within the inner surface of the boundary walls, the under surface of the ceiling and the upper surface of the floor.

Common property

All the areas of land and building not included in any individual property or 'lot'. Common property generally includes the roof. To confirm, ask the managing agent or check the strata plan.

Owners corporation

The owners corporation comprises all the owners of the 'lots' to administer, control, maintain and manage all areas of the common property for the scheme.

Executive committee

The executive committee is made up of elected owners who oversee day-to-day issues on behalf of the owners corporation. They may work in collaboration with a strata managing agent (if one has been appointed).

More information available at www.fairtrading.nsw.gov.au/Tenants_and_home_owners/Strata_schemes/Common_property_and_the_lot.html.

Disclaimer

This information was prepared by Green Strata Network and GO SOLAR and is intended as a guide only. Randwick, Waverley and Woollahra Councils and Green Strata Network are not responsible for the use of this information. The information is correct as at October 2010 and is subject to change.