

Service and amenities agreements

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

In all strata schemes, owners and occupiers of lots will have the benefit of various services and amenities including services such as electricity, gas, and water. These services may form part of the common property or may be the responsibility of the individual owners and occupiers, depending on the strata scheme. Note that some strata schemes may have complex embedded service networks or similar arrangements—in all such cases, specific legal advice should be taken with respect to any proposal to install or regulate electric vehicle charging infrastructure.

When dealing with various services and amenities, such as electricity costs for common areas, it is common for the owners corporation to bear such costs, with the result that those costs are ultimately shared between all lot owners when levy contributions are raised (in accordance with their respective unit entitlements). It is not uncommon in some strata schemes for the gas usage for all individual lots to be a cost that is borne by the owners corporation in this way as well, and sometimes other services as well.

In accordance with section 117 of the *Strata Schemes Management Act 2015* (NSW) (“SSMA”), an owners corporation may enter into an agreement with an owner or occupier of a lot to provide amenities or services to a lot, or to the owner or occupier.

An important reason to consider such an agreement is that it may be able to allocate the costs and charges for provision of those services differently to how those costs would fall if the expense was borne wholly by the owners corporation (and lot owners needed to contribute to meet it in accordance with their respective unit entitlements).

Depending on the specific circumstances of your strata scheme, such an agreement may be appropriate to regulate the provision of electrical services as they relate to electric vehicle chargers. A services agreement under section 117 of the SSMA, could allow the owners corporation to enter into agreements with individual owners or occupiers, whereby those owners or occupiers could utilise common property electricity services in return for a fee.

Services Agreements Generally

A services or amenities agreement is an agreement between two parties for the performance or provision of certain services or amenities from one party to the other. Such agreement is essentially contract between the two parties and, to that end, is subject to the general principals of contract law. If you require further specific advice on what may constitute a valid and binding contract, you should seek legal advice.

A services or amenities agreement can cover a variety of different circumstances and may include terms governing:

1. the nature of the services to be provided

2. fees and other expenses
3. specific terms of the agreement including term length, rights to terminate or vary the agreement, and potentially a wide range of other matters
4. specific rights and obligations, including restriction or conditions of use and rights for other users.

The above terms are by no means exhaustive, and services agreements should be tailored for the specific circumstances of each owners corporation. Such agreements can be quite simple, but can also be quite complex, depending on the specific circumstances of each case.

Furthermore, when dealing with services agreements in respect of the supply of electricity, it is important that the owners corporation consider the potential implications that may arise under the various sources of law that regulate energy supply in Australia and New South Wales.

Given the complexities and potential risks associated with such services agreements, and the wide variety of what may be included, specific legal advice should be sought, and a tailored agreement prepared to account for the specific intricacies of the services required.

The above information resource is generic in nature and is aimed at providing a general overview of the relevant agreements that may be applicable and of assistance in respect of electricity services, including in respect of electric vehicle chargers, within strata schemes. This is an information resource only, and is not intended to be legal advice contemplating your specific circumstances.

In the event that you are unsure or do not understand the terms of the relevant information resources, independent legal advice should be obtained.