BCCM Fact Sheet | Electric vehicles in bodies corporate

The Queensland Government anticipates that 50% of new passenger vehicle sales in Queensland will be zero emission by 2030, increasing to 100% by 2036.

The information in this fact sheet does not relate to hydrogen-powered vehicles – the focus is electric vehicles (EVs).

In view of the fast-growing market for electric vehicles (EVs), bodies corporate should be prepared for an increase in EV charging requests.

The information in this fact sheet is based on the:

- Body Corporate and Community Management Act 1997 (the BCCM Act); and
- Body Corporate and Community Management (Standard Module) Regulation 2020 (the Standard Module).

If you do not know which regulation module applies to your community titles scheme, you can contact Titles Queensland on 07 3497 3479 to request a copy of the community management statement (CMS).

This fact sheet provides some general information to help Queensland community titles schemes plan appropriately for a safe EV future.

Fire safety considerations for EVs

EVs (which include fully electric vehicles, regenerative braking hybrids and plug-in hybrids) typically have rechargeable lithium-ion batteries. Although EV fires are currently infrequent, the consequences of an EV fire can be serious, especially if it involves the lithium-ion battery. Battery fires from EVs can be hard to put out and may require extra time, resources, and water to manage.[1]

The existing fire safety measures in a building may not be sufficient in the case of an EV fire. There is no one-size-fits-all approach for EVs or EV charging, and a fire safety professional – such as a building certifier or a fire safety engineer – should assess and advise on the specific needs of your building. For more information on EV fire safety, the Queensland Fire Department endorses the approach outlined in Electric Vehicles (EV) and EV charging equipment in the built environment (Version 1.5)

[1] See the Insurance Council of Australia's briefing note: https://insurancecouncil.com.au/wp-content/uploads/2024/03/ICA_Briefing_Managing-fire-risk-EVs_Nov-2023.pdf.

Operating a private electricity network

Bodies corporate should consider whether allowing occupiers to access electricity from the wiring it owns, operates or controls would be deemed as operating a 'private electricity network'. If so, the body corporate must obtain the necessary exemptions.

Installing a communal EV charger

Depending on the scheme, it may be more suitable for the body corporate to install a communal EV charger(s) on the common property for general use, instead of owners installing their own chargers.

Potential benefits of a communal charger(s) include:

- avoiding any future disputes if the scheme's current utility infrastructure is suitable for less chargers than there are lots
- minimising any safety risks if the body corporate is in control of the installation and ongoing maintenance.

Bodies corporate installing a communal EV charger(s) must exercise due diligence in the investigation stage, as outlined below.

Step 1: contact your building insurer

We strongly advise bodies corporate to **contact their building insurer for advice first.** Many insurers have their own requirements, standards and design guidelines when assessing risk for EVs and EV charging infrastructure.

Contacting the insurer first may **shortcut the investigation process** and guide the body corporate in obtaining properly targeted quotes from appropriately qualified professionals at the outset.

It is also important for the body corporate to disclose their intention to install EV charging infrastructure to their insurer first, as it may impact insurance coverage.

Step 2: engaging qualified professionals

At a minimum, all electrical work must be conducted by a licensed electrician and comply with Australian Standards and wiring rules. After the body corporate has contacted their insurer and obtained quotes from qualified professionals – such as licensed electricians or fire safety professionals – the committee may need to call a general meeting to vote on the proposed works.

Installing a communal EV charger(s) on common property will typically be classed as an 'improvement' (change) to the common property.

A body corporate can make an improvement to the common property for the benefit of the body corporate if it is properly approved. Some improvements can be authorised by the committee, while others may need to be approved at a general meeting by an ordinary resolution or a special resolution (section 186, the Standard Module). The type of body corporate approval needed largely depends on the cost of the improvement.

More information about improvements to the common property by the body corporate can be found on our website.

By-laws regulating the use of communal chargers

As the BCCM Act does not specifically regulate EVs, it may be difficult to ensure the fair and appropriate use of communal chargers without suitable by-laws. The BCCM Act enables bodies corporate to create by-laws regulating the use and enjoyment of common property and body corporate assets (section 169, the BCCM Act).

The body corporate can consider various factors when creating an EV by-law, including:

- who can use the communal charger?
- when can someone use the communal charger?
- how long can someone use the communal charger?

When creating a by-law, the body corporate must be mindful that there are limitations on by-laws (section 180, the BCCM Act). If a by-law does not comply with the legislation, it may be invalid.

The body corporate may consider seeking legal advice about the wording of an appropriate EV by-law. More information about the process for making by-laws can be found on our website.

General considerations when installing a communal charger

In addition to the fire safety considerations, some more general questions for bodies corporate to consider and seek advice on when installing a communal charger may include:

- what is the capacity of the existing electrical utility infrastructure in the scheme?
- what kind of EV chargers can the current infrastructure handle, and how many?
- how will the body corporate meter and charge EV owners for electricity usage?
- what administrative systems need to be in place to ensure the body corporate is not running a business under section 96 of the BCCM Act?
- what is required to ensure the EV charger is maintained in good condition?
- is the EV charger going to be installed in a visitor parking area?
- if an EV charger is going to be installed in a visitor parking area:
    - will the wording of any of the body corporate's parking by-laws need to be changed?
    - will removing the visitor parking area conflict with the Development Approval (DA) conditions?

The committee may wish to contact their local council or seek legal advice regarding any possible conflict with the DA conditions.

Lot owner installing an EV charger

An owner seeking to install their own EV charger should consider whether it is being installed on common property, or their own lot.

Even where an EV charger is being installed within an owner's lot, electrical wires (called utility infrastructure under the BCCM Act) can still be common property. More information about whether utility infrastructure is common property can be found on our website.

Improvement to common property by a lot owner

If an EV charger will be connected to common property utility infrastructure in some way, an owner must seek body corporate approval (section 187, the Standard Module).

The committee can approve an owner's improvement if:

- the total cost of the EV charger (including installation) is less than $3,000; and
- the EV charger does not detract from the appearance of any lot or common property; and
- the body corporate is satisfied that the use and enjoyment of the EV charger is not likely to be a breach of the owner's duties as an occupier – for example, causing a nuisance to others (section 167, the BCCM Act), or interfering with the supply of utility services to another lot or common property (section 166, the BCCM Act).

If any of the points above are not satisfied, the owner must obtain approval at a general meeting of the owners by ordinary resolution.

If an owner receives the body corporate's approval, the owner must maintain the EV charger in good condition (unless excused by the body corporate) and comply with any conditions of approval.

More information about owners making improvements to common property can be found on our website.

Improvements to a lot by an owner

If the installation of an EV charger is an improvement to an individual lot, an owner must first check if their body corporate has any by-laws regulating the changes they can make. For instance, the by-law may specify the type of charger that can be installed or require an owner to obtain body corporate approval.

Even if body corporate consent is not needed, an owner must consider the possible impact on others in the scheme before installing the charger on their lot.

More information about owners making improvements to their own lot can be found on our website.

Seeking body corporate approval

Depending on the type of approval required, an owner will need to submit a motion to the committee or to a general meeting of the owners.

More information about submitting motions and drafting motions can be found on our website.

If an owner breaches the legislation, for example, by not seeking the body corporate's approval as required under the regulations or their scheme's by-laws and there is damage to common property or another lot as a result, the owner could be responsible for property damage under section 281 of the BCCM Act.

General considerations when deciding an owner's improvement application

The body corporate and its committee must act reasonably when deciding whether to approve an owner's application (section 94 and section 100, the BCCM Act).

The following considerations may assist the body corporate during the decision-making process:

- what is the capacity of the existing electrical utility infrastructure in the scheme?
- is the type of charger being proposed by the owner suitable for the existing infrastructure in the scheme (for example, a three-phase EV charger)?
- will the installation of the proposed charger impact future applications from other owners (for example, if the current utility infrastructure cannot handle multiple chargers)?
- how will the body corporate meter and charge the owner for electricity usage?
- for a common property installation – should the owner have additional rights, such as exclusive use or a lease or license over the relevant area?
- is an appropriately qualified professional installing the charger?
- is it appropriate for an owner to enter a supply of services agreement with the body corporate as a condition of approval for the EV charger (section 210, the Standard Module)?

The above factors should be considered together with the fire safety considerations endorsed by the Queensland Fire Department. Whether the body corporate's decision is reasonable ultimately depends on the situation and circumstances of the specific scheme.

Further information

This fact sheet has been prepared in collaboration with the Queensland Fire Department. If you would like more information about fire safety requirements, visit www.fire.qld.gov.au.

The Office of the Commissioner for Body Corporate and Community Management (BCCM office) provides general information about the BCCM Act and its associated regulation modules. General information about most body corporate topics can be found on our website at www.qld.gov.au/bodycorporate.

You can also contact our Information and Community Education Unit on 1800 060 119 or in writing at: www.qld.gov.au/bodycorporatequestion.