CREATING STRATA SOLUTIONS

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A glimpse into NCAT's approach to the new requirement of **Sustainability Infrastructure Motions**



The first judgment on sustainability infrastructure motions is finally here!

The Strata Schemes Management Act was amended in 2025 to require a sustainability infrastructure motion to be included as an agenda item at every AGM. (For a refresher on these amendments, *click here* to see our overview).

The recent decision of *Fegent v The Owners – Strata Plan No 6544* considered the new requirements under the SSMA. The key issues in the case were:

(1) whether sustainability improvement had to be the dominant purpose of the motion, and

(2) the extent to which the owners corporation must consider the cost of the works, including running and maintenance costs.

Dominant Purpose
The Tribunal held that sustainability improvements **do not need** to be the dominant or key purpose of the change to common property, particularly in light of Parliament's explicit intention to encourage a 'broad' range of initiatives. Rather, the test is whether the sustainability improvement is ***a*** purpose of the change, rather than the dominant purpose.

Cost Consideration
The Tribunal was satisfied that the owners corporation had considered the cost of the sustainability infrastructure before the passing of the Sustainability Infrastructure Motion. Thus, the owners corporation fulfilled their obligations under the legislative requirements."

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As sustainability infrastructure motions continue to be included as agenda items at AGMs throughout 2026, there will be more Tribunal decisions regarding the operation of these motions.

Get in touch today for specialist advice prior to your next AGM to ensure that your sustainability infrastructure motion obligations are met!

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