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SOLAR PANEL INSTALLATION IN A SECTIONAL TITLE SCHEME

We are currently faced with an electricity crisis, forcing many residents to find alternative sources of renewable energy.

It is important to determine the prerequisites in a sectional title scheme before installing fixtures such as solar panels. The Sectional Title Schemes Management Act makes no specific mention of the installation of solar panels. However, many schemes include clauses in their rules of conduct relating to the installation of permanent fixtures, stating that the Body Corporate needs to provide consent before installation may occur. The consent may also be made subject to certain conditions, for example that the owner must insure and maintain the installation.

Most sectional title schemes aim to have some form of uniformity in the aesthetic of the units. Aesthetic guidelines may impact on whether the installation of solar panels will be allowed.

It is also important to note that roofs of sectional title units are regarded as common property. Prescribed Management Rule 4 states that a party to a scheme may not erect anything on the structure forming part of the common property, which will cause damage to that common property, without the written consent of the relevant governing body.

Section 10(2)(b) of the Sectional Title Schemes Management Act states that the rules of conduct may be "substituted, added to, amended or repealed by special resolution of the body corporate." An owner could therefore approach the Body Corporate and request that they amend the rules of conduct to include the installation of solar panels. In some rules of conduct, it is stated that parties who install permanent fixtures without first obtaining the necessary consent, may be subject to paying fines.

A Body Corporate of a sectional title scheme is allowed to prohibit the installation of solar panels. Where a Body Corporate refuses to give consent for the installation of solar panels and the owner installs the panels anyway, the Body Corporate will have the right to obtain an enforcement order from the Community Schemes Ombud or a court, compelling the removal of the solar panels at the cost of the owner.

However, it should also be noted that section 10(3) of the Sectional Titles Schemes Management Act states that the "conduct rules must be reasonable and apply equally to all owners of units." Therefore, where a Body Corporate refuses to consent to the installation of solar panels, the refusal must be based on reasonable grounds and has to apply to all owners. Section 38(1) of the Community Schemes Ombud Service Act provides that "any person may make an application for adjudication of a dispute, if such person is a party to or affected materially by a dispute".

The opinions on solar panels in schemes, are divided. However, it is clear that parties to a sectional title scheme will be allowed to erect solar panels on the common property as long as the necessary consent has been obtained, and that installation does not cause serious damage to the common property.