

9.4 Building Upgrade Finance (using Environmental Upgrade Agreements) Policy

REPORT BY THE MANAGER PROPERTY AND REVENUE
TO 15 JUNE 2022 ORDINARY MEETING
GOV400098, EN200067

RECOMMENDATION

That Council:

1. receive the report by the Manager Property and Revenue on the Building Upgrade Finance (using Environmental Upgrade Agreements) Policy;
2. endorse public exhibition of the Building Upgrade Finance (using Environmental Upgrade Agreements) Policy for a period of 28 days (Attachment 1);
3. adopt the Building Upgrade Finance (using Environmental Upgrade Agreements) Policy, if no submissions are received after the exhibition period;
4. adopt the following Environmental Upgrade Agreement Supporting Documents:
 - 4.1 The Environmental Upgrade Agreement Enforcement Procedure being Council's Debt Management and Recovery Policy (Attachment 5);
 - 4.2 Environmental Upgrade Agreement Application Form (hosted online);
5. delegate authority to the General Manager:
 - 5.1 to negotiate, execute and administer Environmental Upgrade Agreements and to negotiate, execute and administer any variation for an existing Environmental Upgrade Agreement in the Mid-Western Regional Council's Local Government Area;
 - 5.2 make and amend Environmental Upgrade Charges under Environmental Upgrade Agreements; and
 - 5.3 make and amend Environmental Upgrade Agreement Supporting Documents as required;
6. endorse the use of the Environmental Upgrade Agreement contract template (4 July 2016), approved or otherwise agreed by the NSW Director General of the Department of Premier and Cabinet from time to time (Attachment 6);
7. place on public exhibition for 28 days the following fees, as written below; and
 - Environmental Upgrade Agreement - Signing Fee \$400
 - Environmental Upgrade Agreement – Administration Fee \$200, per year
 - Environmental Upgrade Agreement – Administrative Cost - Late Payment Fee \$20, per each late payment;

8. **adopt the new fees following the 28 day exhibition period if no submissions are received.**

Executive summary

The purpose of this Report is to present the draft Building Upgrade Finance (using Environmental Upgrade Agreements) Policy (the Policy) to Council for consideration along with a number of proposed delegations to the General Manager relevant to Council's implementation and ongoing management of the Environmental Upgrade Finance Program (EUFP).

The draft Building Upgrade Finance (using Environmental Upgrade Agreements) Policy is appended as attachment 1.

Disclosure of Interest

Nil

Detailed report

At the 13 October 2021 Ordinary Council Meeting, Council endorsed the implementation of Environmental Upgrade Agreements (EUAs) in the Mid-Western Regional Council area and requested *an Environmental upgrade Agreement Policy be developed and brought back to Council for consideration*.

The report and Council minute are appended as attachments 2 & 3, respectively.

The Policy reflects and supports the discussion in the October Council report and provides clear parameters around the establishment and administration of EUAs in accordance with the following legislation and guides:

- In New South Wales, Building Upgrade Finance (BUF) has been enabled through amendments to the *Local Government Act 1993* (Part 2A – Environmental Upgrade Agreements) (LG Act) which allows any local council in NSW to offer EUAs;
- The *Local Government (General) Regulation 2005* (Part 5A- Environmental Upgrade Agreements) which enables council's to delegate to the General Manager the authority to make or amend Environmental Upgrade Charges (EUCs);
- The *Guidelines for Environmental Upgrade Agreements 18 February 2011* support the legislation and provide details on the mandatory provisions for councils.
- The NSW Department of Planning, Industry and Environment's *NSW Local Council's Building Upgrade Finance Guide March 2020* provides an overview of BUF and procedural information regarding its establishment and administration. The Guide is appended as attachment 4.

The Policy also stipulates a trial 2 year period during which time, a Program Administrator will be contracted to assist in establishing the EUFP and work with Council to provide administrative services to facilitate Council meeting its obligations under the EUA Legislation.

As the legislation allows Council to delegate authority to the General Manager to enter into EUAs, and to make or amend EUCs under an EUA, it is recommended that Council delegate authority to the General Manager so that Council can manage EUAs efficiently.

To support the General Manager's delegation, it is also recommended that Council endorse the development and use of the following Environmental Upgrade Agreement Supporting Documents:

- *Environmental Upgrade Agreement Application Form* – an eligibility check for the building owner, building and upgrade works (not required by the legislation, but created to confirm eligibility against the legislative requirements).
- *The Environmental Upgrade Agreement Enforcement Procedure* – outlining Council's best endeavours to recover unpaid EUCs (required as an annexure to the *EUA contract*). Council's *Debt Management and Recovery Policy* is the reference in this regard. Appended as attachment 5.

The *Environmental Upgrade Agreement* contract is the template contract prepared by the NSW Government for all transactions in NSW. Appended as attachment 6.

New fees and charges are proposed that aim to cover the full cost of the administration work required to setup a new agreement (Signing Fee \$400) and continue with the quarterly and annual administration required by the agreement and regulations (Administration Fee \$200 per year). A new fee for administering late payment procedures (Administrative Cost - Late Payment Fee \$20 per each late payment) will also be setup.

Community Plan implications

Theme	Good Governance
Goal	An effective and efficient organisation
Strategy	Prudently manage risks association with all Council activities

Strategic implications

Council Strategies

Not applicable

Council Policies

Not applicable

Legislation

Not applicable

Financial implications

Proposed GUFP fees –

Revenue associated with these changes is on the basis of cost recovery only.

Associated Risks

The risks and liability to Council in the management and delivery of the EUFP were detailed in the 21 October 2021 report.

The draft Policy addresses the key risks appropriately, ensuring that any projects carry an acceptable level of risk. Risk is also mitigated by utilising the services of a third-party program administrator.

DIANE SAWYERS
MANAGER PROPERTY AND REVENUE

NEIL BUNGATE
ACTING CHIEF FINANCIAL OFFICER

28 March 2022

- Attachments:*
1. Draft Building Upgrade Finance (using Environmental Upgrade Agreements) Policy. (separately attached)
 2. Report Council Meeting 13/10/2021. (separately attached)
 3. Minute 301-21 Council Meeting 13/10/2021. (separately attached)
 4. NSW Local Council's Building Upgrade Finance Guide NSW DPIE March 2020. (separately attached)
 5. Environmental Upgrade Enforcement Procedure 11/12/2019. (separately attached)
 6. EUA-NSW Government prepared contract-4-July-2016. (separately attached)

APPROVED FOR SUBMISSION:

SIMON JONES
ACTING GENERAL MANAGER