

ITEM 2. ENVIRONMENTAL UPGRADE AGREEMENTS POLICY REVIEW**FILE NO: S101635****SUMMARY**

Environmental Upgrade Agreements are voluntary agreements between a building owner, a finance provider and a local council within NSW, which are designed to help overcome barriers to the implementation of environmental upgrades and retrofits.

Under an Environmental Upgrade Agreement, a finance provider advances funds to a building owner to undertake environmental works to an existing building. These funds are repaid by means of a charge on the relevant land, which is levied and collected by the council, as Environmental Upgrade Charges.

Whilst the legislation allows for an Environmental Upgrade Agreement to be applied to both non-residential buildings and strata buildings that are the subject of a multi-residence scheme comprising more than 20 lots, NSW councils, including the City, are currently only able to offer Environmental Upgrade Agreements to non-residential, non-strata buildings. Issues related to how Environmental Upgrade Agreements will work in a strata context have to be resolved, and the NSW Government's current focus is on market development for non-residential, non-strata Environmental Upgrade Agreements.

There has been increased interest and uptake in Environmental Upgrade Agreements, with two Agreements signed by the City of Sydney in 2013 (March and October) and two applications being received by the City in September and December 2013.

Given the increased levels of interest, it is recommended that Council confirm its commitment to offering Environmental Upgrade Agreements and the Chief Executive Officer's delegation to enter into these Agreements.

Council adopted the current *City of Sydney Environmental Upgrade Agreements Policy* on 10 December 2012, noting that it was to be reviewed twelve months later. The policy has now been reviewed and it is recommended that the current policy be retained, subject to the incorporation of minor amendments to provide for a review period of every two years. The minor changes required to the Approval and Review sections at the end of the Policy have been marked in bold italics (additions) and strikethrough (deletions).

RECOMMENDATION

It is resolved that:

- (A) Council adopt the City of Sydney Environmental Upgrade Agreements Policy, as shown at Attachment A to the subject report;
- (B) the City continue to promote the service and enter into Environmental Upgrade Agreements within the City of Sydney Local Government Area for non-residential buildings that are not subject to a registered Strata Plan; and

- (C) authority continue to be delegated to the Chief Executive Officer to:
- (i) enter into Environmental Upgrade Agreements in accordance with the *City of Sydney Environmental Upgrade Agreements Policy*;
 - (ii) make or amend Environmental Upgrade Charges under Environmental Upgrade Agreements; and
 - (iii) make minor amendments to the Environmental Upgrade Agreement Enforcement Procedure as required from time to time.

ATTACHMENTS

Attachment A: City of Sydney Environmental Upgrade Agreements Policy (with deletions shown in ~~strike through~~ and additions in ***bold italics***)

BACKGROUND

1. Environmental Upgrade Agreements are voluntary agreements between a building owner, a finance provider and a local council in NSW where:
 - (a) a building owner agrees to carry out environmental upgrade works to a building (for example works to improve the energy, water or waste efficiency of the building);
 - (b) a finance provider agrees to advance funds to the building owner to finance those environmental upgrade works; and
 - (c) the advance is repaid by means of a charge on the relevant land that is levied and collected by the council as Environmental Upgrade Charges.
2. The Environmental Upgrade Agreements service is underpinned by NSW legislation. All Environmental Upgrade Agreements entered into in NSW must use the standard template agreement contract developed by the NSW Government. To date, one template agreement is available, which is only for non-strata titled non-residential buildings.
3. Environmental Upgrade Agreements are designed to help overcome access to capital and split incentive barriers to the implementation of environmental upgrades to existing buildings. The split incentive issue is where a Building Owner pays for an environmental upgrade but it is the tenant that benefits financially (for example from lower electricity bills). This is reduced by allowing the Building Owner to pass on a proportion of the cost to the tenant as an outgoing if the tenant directly benefits.
4. On 12 September 2011, Council resolved to enter into Environmental Upgrade Agreements provided the number of agreements was limited to 10 during the first 12 month period for non-residential, non-strata buildings. Council also adopted the template agreement developed by the NSW Government and delegated authority to the Chief Executive Officer to enter into Environmental Upgrade Agreements.
5. Councillors were advised in October 2012 that no Environmental Upgrade Agreements had been signed during the first 12 month period in NSW, though work on the Frasers Property application for the Carlton United Brewery site at Chippendale was progressing. At that time, it was also reported that further building stock research would be undertaken to direct the City's future engagement strategies for Environmental Upgrade Agreements.
6. Since October 2012, the City has entered into two Environmental Upgrade Agreements, one for the construction of a trigeneration plant in Chippendale (March 2013) and the second for a full commercial office building upgrade in the city (October 2013). The City received two Environmental Upgrade Agreement applications for commercial building upgrades in September and December 2013, and we are working towards signing these agreements over the next few months. Work is also progressing with a building owner for another Environmental Upgrade Agreement application.

7. The Environmental Upgrade Agreements service was the subject of a review led by the NSW Government, which examined issues surrounding Agreements for strata titled buildings with the intention to open the service to these buildings at a later stage. While this review has been completed, a number of issues, mostly relating to the overarching principles of lending to strata and debt recovery, remain unresolved.
8. As a consequence, a template agreement for strata titled building upgrades has not been developed. The City has been advised that whilst this is still a priority for the NSW Government, the current focus is facilitating the non-residential, non-strata Environmental Upgrade Agreements market. Therefore, neither the City, nor other NSW councils that offer the service, can currently offer Environmental Upgrade Agreements to upgrade strata titled buildings. Further progress in this area will be reported back to Council.
9. Council's risk management processes and industry consultation led to the revision of the *City of Sydney's Environmental Upgrade Agreements Policy* in July and December 2012. Council adopted the current policy on 10 December 2012, noting that it was to be reviewed after 12 months. A review of the policy has now been undertaken and it is recommended that the current policy be retained, subject to the incorporation of minor amendments to provide for a review period of every two years.
10. The City has recently undertaken significant work to improve our internal efficiency in managing the service and, in collaboration with all levels of government and industry, has sought to develop the market and build capacity in the commercial property sector for sustainability action.

KEY IMPLICATIONS

Strategic Alignment – Sustainable Sydney 2030

11. The Environmental Upgrade Agreements service is aligned with *Sustainable Sydney 2030* strategic direction 2, which provides a road map for the City to become a leading environmental performer. Retrofitting buildings to improve their environmental performance will be essential to realise this goal and Environmental Upgrade Agreements will help to facilitate this.

Organisational Impact

12. Administration of Environmental Upgrade Agreements at the City is currently coordinated by an officer located in the Sustainability Programs Unit. This position ends in June 2014 and will need to be extended to continue the coordination of the program. The extension of this position is subject to a budget request in the 2014/15 financial year.

Environmental

13. Environmental Upgrade Agreements can assist building owners overcome market barriers to upgrading and improving the performance of existing buildings. Environmental Upgrade Agreements can be used to fund any upgrade works that result in an environmental benefit. Eligible works include replacing existing air conditioning with improved efficiency or low emission thermal energy alternatives, installing low emission energy sources or installing equipment to connect to low emission infrastructure, installation of efficient lighting, and installing equipment to capture, recycle or re-use water or to connect to recycled/re-used water infrastructure.
14. Continuing to offer Environmental Upgrade Agreements in the City will provide continuity in the market and help to accelerate action taken by building owners to improve the environmental performance of the city's building stock.

BUDGET IMPLICATIONS

15. The City charges a fee for the administration and processing for each Environmental Upgrade Agreement application it receives. The City's fees have been set at a competitive rate to encourage market uptake and also to cover a significant proportion of the costs to deliver the service.

RELEVANT LEGISLATION

16. *Local Government Act 1993, Part 2A Environmental Upgrade Agreements.*

CRITICAL DATES / TIME FRAMES

17. One of the Environmental Upgrade Agreement applications currently with the City is working towards contract execution and commencement of works at the end of February 2014.

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Director City Life

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