1. Background

On 18 February 2011, the Local Government Amendment (Environmental Upgrade Agreements) Act 2010 took effect amending the Local Government Act 1993 so as to establish a legislative framework that provided for and authorised Councils to enter into Environmental Upgrade Agreements ("EUA").

An EUA is a voluntary agreement between a Building Owner, a Finance Provider and a Council whereby:

- A Building Owner agrees to carry out environmental upgrade works to a building (works to improve the energy, water, or environmental efficiency or sustainability of the building); and
- A Finance Provider agrees to advance funds to the Building Owner to finance those environmental upgrade works; and
- The advance is repaid by means of a charge on the relevant land that is levied by the Council.

Generally, an EUA may be entered into by a Building Owner, a Finance Provider and a Council in relation to either:

a) a non-residential building; or
b) a strata building that is the subject of a multi-residence scheme comprising of more than 20 lots.

The purpose of an EUA is to encourage Building Owners to low carbon retrofit buildings by providing access to less expensive funds provided over a longer term.
2. Scope

This policy will apply to all Environmental Upgrade Agreements involving the Parramatta City Council.

3. Purpose

The purpose of this document is to provide a framework for Parramatta City Council (PCC) to determine under which circumstances PCC will enter into an Environmental Upgrade Agreement.

4. Definitions

Agreed Repayment Arrangement consists of:

a) the Charge Payment Dates;

b) the Charge Payments;

c) the Total Charge Amount;

d) the Actual Funding Amount;

e) the Funding Payments;

f) the amount of, or a method of calculating the Administrative Costs; and

g) the Total Administrative Costs

as set out in Annexure 1 of the Environmental Upgrade Agreement.

Building Owner refers to the owner of the property where the building retrofits will be made.

Council refers to the Parramatta City Council.

Environmental Upgrade Charge means the charge payable by the Building Owner to the Council in relation to the Environmental Upgrade Works under the Local Government Act and this agreement.

Environmental Upgrade Works refers to works to improve the energy, water, or environmental efficiency or sustainability of the building to which the agreement applies. Annexure 4 lists down the valid environmental upgrade works as defined in the EUA template as well as in the EUA guidelines.

Finance Provider refers to the institution advancing funds to the Building Owner to finance the Environmental Upgrade Works.

Orders means all orders issued by the Council for a person to do or to refrain from doing.
Attachment 2 – Environmental Upgrade Agreements Policy

5. Application

5.1 The Council may only enter into an EUA if:

a. The proposed environmental upgrade works:
   i. Relate to an existing, non-residential building within the Parramatta Local Government Area;
   ii. Are works as defined with Section 54E of the Local Government Act 1993 and as described in section 3.3 of the Guidelines for Environmental Upgrade Agreements issued under the Government Gazette of NSW dated 18 February 2011 (http://www.nsw.gov.au/sites/default/files/No_16_of_2011.pdf); and
   iii. Have been identified, documented and signed by a suitably qualified professional.
   iv. Have been reviewed by Council to have complied with all the property development compliance requirements.

b. The Building Owner has duly accomplished an EUA Application Form with all the required supporting documents.

c. The building is not subject to a registered Strata Plan.

d. There are no outstanding Orders that have been issued in relation to the building pursuant to any relevant legislation.

e. The building does not have any unacceptable legal encumbrance/s.

f. The Building Owner has consulted the Council to ensure that all property development compliance requirements have been met.

g. The Building Owner has been given a positive credit assessment by its nominated Finance Provider;

h. The Building Owner has an acceptable relationship with the Council.

5.2 The Council will:

a. Issue billing notices to the Building Owner on a quarterly basis showing the Environmental Upgrade Charges (EUC) due on the 31st August, 30th November, 28th/29th February and 31st May of each year in accordance with the Agreed Repayment Arrangements;

b. Only accept payment of an EUC via direct debit;

c. Only accept pre-payments of the EUC equal to the value of each Charge Payment as set out in the Agreed Repayment Arrangement of the EUA, if the pre-payments will not require an amendment to the Agreed Repayment Arrangement.

d. Only accept pre-payments of the EUC with amount greater than or equal to value of each Charge Payment as set out in the Agreed Repayment Arrangement.
Attachment 2 – Environmental Upgrade Agreements Policy

Arrangement of the EUA, if pre-payments will require an amendment to the Agreed Repayment Arrangement.

e. Only accept pre-payments of the Environmental Upgrade Charge when fourteen (14) days prior notice in writing is given;

f. Charge the Building Owner all applicable fees/charges (as defined in the Environmental Upgrade Agreement) in the event that the Building Owner fails to pay the EUC on the Charge Payment Date.

g. Not be a party to any dispute that may arise between the Building Owner and a tenant as to any matter relating to an Environmental Upgrade Agreement.

REFERENCES

Related Legislation and Standards

Local Government Act 1993 No 30 – Part 2A Environmental Upgrade Agreements

Local Government (General) Regulation 2005 – Part 5A Environmental Upgrade Agreements

Guidelines for Environmental Upgrade Agreements as published in the Government Gazette of NSW dated 18 February 2011

Related Policies and Procedures

Environmental Upgrade Agreements Enforcement Procedure

POLICIES

ATTACHMENTS

Trim Reference
Number/ Document Number

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Environmental Upgrade Agreements Policy

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