



## Environmental Upgrade Agreements Policy

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### 1. Background

On 18 February 2011, the *Local Government Amendment (Environmental Upgrade Agreements) Act 2010* took effect amending the *Local Government Act 1993 (NSW) (LG Act)* 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 invest in environmental upgrades to existing buildings by providing access to fixed rate, long tenor finance.

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### 2. Scope

This policy will apply to all EUAs involving the City of Parramatta.

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Environmental Upgrade Agreements Policy		
Owner: Manager, City Strategy	Area: Environmental Outcomes	POL No: 372
Date of Commencement: May 2017	Approval Authority: Council	Date Approved: 8 May 2017
Amendment 2	Date of Next Review: 2022	Review: 5 Years

### 3. Purpose

The purpose of this document is to provide a framework for City of Parramatta (CoP) to determine under which circumstances CoP will enter into an EUA.

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### 4. Definitions

**EUA Application Form** means the City of Parramatta Environmental Upgrade Agreement Application Form.

**Orders** means all orders issued by the CoP for a person to do or to refrain from doing.

All capitalised terms used in this Policy and not otherwise defined shall have the meaning ascribed in the EUA.

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### 5. Application

5.1 CoP may only enter into an EUA if:

#### **Environmental Upgrade Works**

- 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 LG Act 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](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 CoP to have complied with all the property development compliance requirements.

#### **Building**

- b. The Building is not subject to a registered Strata Plan.
- c. There are no outstanding Orders that have been issued in relation to the Building pursuant to any relevant legislation.
- d. There are no encumbrances noted or registered on the title for the Building which may impact on CoP exercising its rights under EUA Enforcement Procedure.

#### **Building Owner**

- e. The Building Owner has successfully completed and submitted an EUA Application Form to CoP.
- f. The Building Owner has no overdue debts to CoP and is not in dispute with CoP regarding any matter.

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- g. The Building Owner has consulted CoP to ensure that all property development compliance requirements have been met or will be met prior to the earlier of the date that the EUA is executed by the Building Owner, CoP and Finance Provider or the Commencement Date.
- h. The Building Owner agrees to be bound by the requirements of the EUA (including the Additional Conditions as required by CoP), CoP's EUA Enforcement Procedure and this Policy.

**Finance Provider**

- i. The Finance Provider acknowledges and agrees that it has undertaken a credit assessment of the Building Owner and is satisfied that at the Commencement Date the Building Owner is able to comply with its obligations under the EUA.
- j. The Finance Provider agrees to be bound by the requirements of the EUA (including the Additional Conditions as required by CoP), CoP's EUA Enforcement Procedure and this Policy.

5.2 CoP will:

- a. Issue billing notices to the Building Owner on a quarterly basis showing the Environmental Upgrade Charge (EUC) due on the 31<sup>st</sup> August, 30<sup>th</sup> November, 28<sup>th</sup> February and 31<sup>st</sup> 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 when twenty eight (28) days prior notice in writing is given;
- d. Amend the EUC in the event of pre-payment, where the pre-payment does not reduce the amount outstanding to zero;
- e. Charge the Building Owner all applicable fees/charges (as defined in the EUA) in the event that the Building Owner fails to pay the EUC on the Charge Payment Date; and
- f. Not be a party to any dispute that may arise between the Building Owner, a tenant or the Finance Provider as to any matter relating to an EUA.

<b>REFERENCES</b>	<p><b>Related Legislation and Standards</b></p> <p>Local Government Act 1993 No 30 – Part 2A Environmental Upgrade Agreements</p> <p>Local Government (General) Regulation 2005 – Part 5A Environmental Upgrade Agreements</p> <p>Guidelines for Environmental Upgrade Agreements as published in the Government Gazette of NSW dated 18 February 2011</p> <p><b>Related Policies and Procedures</b></p> <p>City of Parramatta Environmental Upgrade Agreements Enforcement Procedure</p>
<b>POLICIES</b>	
<b>ATTACHMENTS</b>	

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