

## 7.2 ENVIRONMENTAL UPGRADE AGREEMENT PROGRAM

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**Attachments:** 1. Environmental Upgrade Agreements Policy

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### SUMMARY

This report provides an overview of the process, structure and opportunities for Council to participate in the Environmental Upgrade Finance Program, administered by the Sustainable Melbourne Fund under its Better Building Finance (BBF) brand. The program enables local business to have their eligibility assessed for Environmental Upgrade Agreements (EUA).

An EUA is an agreement between a property owner, a bank and a local Council that facilitates a loan for building upgrades to improve energy, water or waste efficiency or increase renewable energy. EUA finance offers 100% project finance (including GST), very competitive, fixed interest rates and long-term loans of 10 years or more.

The BBF is the program administrator; all applications for EUAs are submitted to and assessed by the BBF. This assessment is done in conjunction with the standard financial and suitability for loan assessment by the lender.

As a signatory to an EUA, the role of the local Council is to sign the EUA, declare the Environmental Upgrade Charge (EUC) and levy and collect the EUC's through its rates system. Following receipt of loan repayment, Council is then required to remit to the lender within the agreed time. Council is not responsible for making the loan repayments if the property owner defaults or is no longer capable of funding the repayments.

The Sustainable Melbourne Fund designed the EUA program initially in 2010 for the exclusive use of the City of Melbourne. Following success within the City of Melbourne, in 2015, the State Government amended the *Local Government Act 1989* to allow all Victorian Councils to offer EUAs to their business community. To date nineteen local Councils offer EUAs. This has enabled small-medium businesses to undertake environmental upgrades to the value of \$24.3 million, saving businesses \$3 million annually and 15,000 tonnes of carbon across twenty-one Victorian municipalities.

This report recommends that Council endorse the use of Environmental Upgrade Agreements within Mitchell and provides the Chief Executive Officer with the appropriate instrument of delegation under the *Local Government Act 1989* to offer an environmental upgrade charge.

## ENVIRONMENTAL UPGRADE AGREEMENT PROGRAM (CONT.)

**RECOMMENDATION****THAT** Council:

1. Endorse the Environmental Upgrade Agreements Policy.
2. Endorse the use of Environmental Upgrade Agreements for businesses in accordance with the Environmental Upgrade Agreement Policy.
3. In accordance with Section 181H of the *Local Government Act 1989* delegate to the Chief Executive Officer:
  - a) The power to enter into an Environmental Upgrade Agreement on behalf of Council.
  - b) The power to declare and levy an environmental upgrade charge.

**BACKGROUND**

In 2010 the City of Melbourne became the first Australian municipality to offer Environment Upgrade Agreements (EUA). On behalf of the City of Melbourne the Sustainable Melbourne Fund designed and implemented this EUA program.

Following the success of the program within the City of Melbourne, in September 2015, the State Government amended the *Local Government Act 1989* to allow all Victorian Councils to offer Environmental Upgrade Agreements (EUAs) to their business community. The Sustainable Melbourne Fund is now the third-party administrator for EUAs via the Environmental Upgrade Finance Program for nineteen regional and metropolitan Victorian municipalities.

An EUA is an agreement between a non-residential property owner, a financial institution (lender) and local government. The agreement seeks to facilitate a building upgrade to improve environmental performance and efficiency. EUAs also allow for the tenant/s and building owners to collaborate on energy, water and waste minimisation projects.

The EUA program is an opportunity which enables financial lenders to tap into a sector of the loan market which would otherwise not be possible. In addition, some loan providers prefer the longer term fixed rate loan structure. Identifying the loan repayment as a statutory charge via the local Council, does provide lenders with increased sense of security and therefore the ability to offer longer loan terms. However, Council is not responsible for the loan repayment if default occurs, the usual collection procedure for unpaid rates and charges (via the *Local Government Act 1989*) would be applied. This procedure may include follow up via written correspondence and referral to Councils debt collector. All costs incurred because of the debit collection process will be recovered as additional fees & charges incurred by the property owner.

Given rising energy costs and the flexibility of EUA loan terms, there has been growing interest and uptake in the Environmental Upgrade Finance Program. Via the use of EUAs, this program has enabled small-medium businesses to undertake environmental upgrades to the value of \$24.3 million, saving businesses \$3 million annually and 15,000 tonnes of carbon across twenty-one Victorian municipalities.

Of the existing EUAs, 66% (27) are of a small-medium project scale with each project having a loan amount of less than \$250,000. The lowest value project loan is \$17,000

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**ENVIRONMENTAL UPGRADE AGREEMENT PROGRAM (CONT.)**

for solar panel installation on a small commercial office space within the City of Melbourne.

**ISSUES AND DISCUSSION**Environmental Upgrade Agreements – Structure

An EUA facilitates a financial loan that commercial property (office, hospitality, retail, agriculture, manufacturing and industrial) owners can apply for. Finance secured via an EUA is for specific building upgrade works which improve energy, water or waste efficiency or increase renewable energy sources (e.g. solar panel installation).

EUAs are generally not available for offsetting costs associated with the construction of new buildings, however, EUA works could be undertaken as part of larger redevelopment/expansion project.

As the program administrator, applications for EUAs are submitted to and assessed by the BBF; and the applications are considered in conjunction with the standard finance and loan suitability assessment process of the lender.

Once the loan is approved, the property owner, financial institution and Local Council all enter into a voluntary agreement (the EUA) regarding the purpose, terms and collection process of the loan.

The EUA is a voluntary agreement. As such, Council is not obliged to sign a EUA just because approval of a loan has occurred. One of the requirements of funding approval is the eligibility confirmation by Council for the applicant to enter into an EUA. Ultimately if Council does not sign an EUA, loan funds would not be released.

To ensure that assessment of Council's signatory to any EUA is transparent and accountable, an Environmental Upgrade Agreement Policy has been prepared and is attached to this report. When considering becoming a signatory to an EUA, Council (or its delegate) needs to be satisfied that the business seeking the EUA meets the requirements of the attached policy.

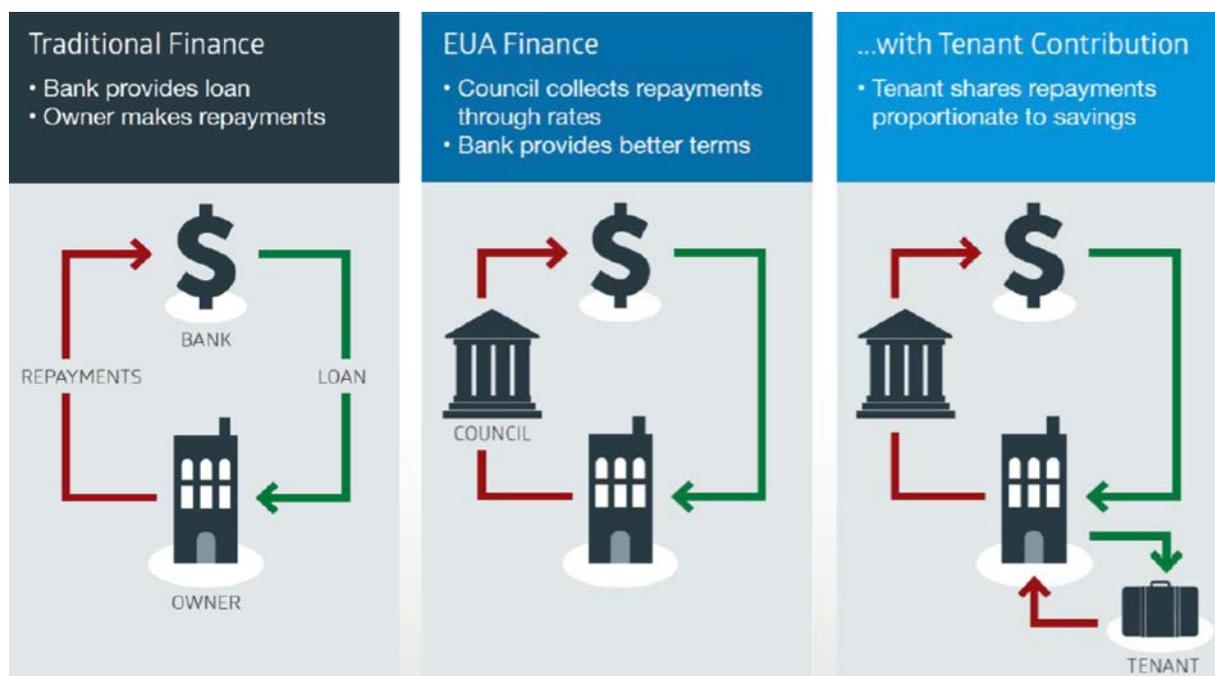
The proposed Environmental Upgrade Agreement Policy considers matter such as:

- Is it a ratable property;
- Is the property up to date on all rates and charges;
- That the capital improved value of the land is not exceeded because of the upgrade works;
- That the works relate to an existing building which is used predominantly for non-residential purposes;
- Any measurable increase in jobs, economic activity and business viability; and
- Ongoing compliance with relevant regulatory frameworks.

ENVIRONMENTAL UPGRADE AGREEMENT PROGRAM (CONT.)

Following the commencement of an EUA, loan repayments are collected via Council’s standard rating process. Council is then required to remit to the lenders within the agreed time. If loan repayments are not made, the usual rates and charges collection procedures will be followed by Council. Council does not become liable for payment of loans if the property owner defaults on the loan. Council only remits to the lender once payment from the property owner is received.

While Council does incur additional administrative cost as a result of the collection and remittance of loan repayments, there is no financial outlay by Council. Evidence from other Councils currently using EUAs, indicated that the additional administrative time is 1 hour per EUA. Identifying the loan repayment as a statutory charge, to be collected by Council, provides a higher level of certainty to the lender to support longer loan repayment terms. This directly benefits the business cash flow via lower loan repayments, therefore enabling greater opportunity for business development and expansion, which support local job retention and growth.



**Figure 1: Loan structure - Traditional Finance V EUA finance.**

Unlike other finance options, EUAs allow tenants to contribute to loan repayments via agreements (written consent) that tailor the project to the site and business requirements. For example, tenants are responsible for paying costs associated with electricity use, therefore any savings attributed to renewable energy installation, would be to the financial benefit (reduced costs) of the tenant. Under an EUA, the tenant could contribute to the loan repayments, to an extent that correlates with (or lesser than) the savings from reduced electricity costs (subject to agreement).

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ENVIRONMENTAL UPGRADE AGREEMENT PROGRAM (CONT.)

### Environmental Upgrade Agreements – Benefits

The key benefits of utilising EUAs include:

#### *Flexible loan terms*

Flexible loan terms are a significant benefit of EUAs when compared with traditional bank loans. EUA finance offers 100% project finance (including GST), very competitive interest rates and long-term loans of 10 years or more.

The length of loan term is the primary financial benefit of an EUA. Generally, bank finance has a loan repayment term of 3-5 years, with refinance the main option for achieving longer loan repayment periods. The longer loan terms offered by EUAs, result in lower repayments enabling greater cash flow within the business.

#### *Business Incentive*

EUAs are an incentive that can be utilised by Local Government to assist in attracting new businesses and encourage existing business to expand, invest and further develop their premises. Nearby municipalities including Moira Shire, Mount Alexander Shire Council, Macedon Ranges Shire Council, Greater Bendigo and Greater Shepperton all offer EUAs. The implementation of EUAs at Mitchell is consistent with the broader regional business incentives.

#### *Improved business cash flow*

Utilising EUAs to undertake building upgrade works will provide more favorable conditions to improve business cash flow by:

- Upgrading buildings to deliver savings on utility and/or waste disposal bills.
- Flexible loan terms that result in lower repayments for land owners.
- Ability for the land owner and tenants to develop agreed strategy of the building upgrades and to both contribute to the loan repayment costs.
- EUAs can be utilised in conjunction with any other available grants and subsidies.

#### *Improved environmental performance and resilience*

EUAs are used to facilitate the upgrades to existing buildings to improve the performance of the building and reducing greenhouse gas emissions. Building upgrades which are eligible for EUAs must improve energy, water or waste efficient or increase renewable energy. A reduced reliance on natural resources (e.g. water, electricity) will assist in making businesses less vulnerable to price change or climate change impacts (e.g. reduced water availability).

## ENVIRONMENTAL UPGRADE AGREEMENT PROGRAM (CONT.)

**CONSULTATION**

This report has been prepared collaboratively between the Economic Development and Finance Departments, and in consultation with the BBF.

There is growing awareness of EUA use in the business community, as the Sustainable Melbourne Fund program is now offered by 21 Local Council's in Victoria with another 18 undergoing the decision-making process.

Council's Economic Development Department and the BBF have been approached by three separate businesses who are interested in undertaking EUAs. Further discussion with each business indicates a willingness and preparedness to commence the EUA process as soon practical. Two of these businesses are part of EUAs for other business properties within adjoining municipalities.

Through the regular small business engagement events (e.g. Rural and Small Towns Forum), planning concierge service and day to day business interactions, the Economic Development Department will launch the availability of EUAs at Mitchell.

**FINANCIAL, RESOURCE AND ASSET MANAGEMENT IMPLICATIONS**

There is no direct financial cost to Council in becoming part of the Environmental Upgrade Finance Program as administrated by the BBF Council's Finance and Economic Development Departments will be required to invest a small amount of officer time in establishing the EUA repayment system within Council's current rating and finance software.

Advice from other Councils indicates that the establishment of the financial processes for EUAs requires an initial officer time of less than 1 hour per agreement and the subsequent invoice and payment processing has been minimal. Sustainable Melbourne Fund and participating Councils like Moira and Greater Shepperton are continuously improving their processes and are willing to share this experience with Mitchell.

The main resources risks to Council for the EUAs are identified as: property owner defaulting on the loan re-payment; the number of EUAs to support the level of Council's investment is not sustainable; and internal finance systems are not aligned with EUA establishment and processing. These resource risks have been addressed and reconciled through the following:

- The EUA loans are secured against the rateable property, not the business.
- Council's involvement will be with the invoicing of the loan repayment, collection of funds and repayment to the lender, once funds have been received.
- Should a property owner default on their loan repayment, the usual rates and charges collection procedures will be followed by Council, Council does not

## ENVIRONMENTAL UPGRADE AGREEMENT PROGRAM (CONT.)

become liable for the payment of the loan. All costs incurred by Council as a result of debit collection, would be recovered from the property owner.

- EUAs are registered to the property, therefore if there is change of ownership the loan will remain and become the responsibility of the new owner, unless other agreements are reached between vendor and new property owner.
- The EUA program will be promoted through existing channels such as mail outs to traders' groups, online media, etc. to promote a successful and viable program.
- BBF will enable the establishment of the necessary processes and systems to manage EUAs. BBF is also in the process of developing a billing service whereby the collection of the charge can be outsourced to BBF as well.

**POLICY AND LEGISLATIVE IMPLICATIONS**

The legislative framework for establishing and managing an Environmental Upgrade Agreement is prescribed in Division 2A, Sections 181A through J of the *Local Government Act 1989*.

The powers to enter into an Environmental Upgrade Agreement on behalf of Council and to declare and levy an environmental upgrade charge can be delegated to the Chief Executive Officer in accordance with Section 181H of the Act. This power cannot be sub-delegated.

Council Plan

The roll out of EUAs is consistent with the Mitchell Shire Council Plan 2017-2021, specifically key Strategy 5.2 state that Council should "*Foster economic growth through supporting new and existing businesses, industry, public sector investment and events*".

Economic Development Strategy

The use of EUAs is consistent with the *Mitchell Shire Council, Economic Development Strategy 2016-2021*, by seeking to Improve governance and systems within Council that support business needs.

**SUSTAINABILITY IMPLICATIONS (SOCIAL AND ENVIRONMENTAL)**

Participating in EUAs will facilitate improved energy, water and waste efficiency, therefore contributing to beneficial environmental outcomes such as reduced water usage or reduction in greenhouse gas emissions.

The use of EUAs will also build resilience within the business community, by reducing vulnerability to future utility pricing changes or climate change impacts (e.g. water availability), therefore helping to sustain business and underpin local job creation and retention.

**CHARTER OF HUMAN RIGHTS IMPLICATIONS**

The rights protected in the *Charter of Human Rights and Responsibilities Act 2006* were considered in preparing this report and it's determined that the subject matter does not raise any human rights issues.

ENVIRONMENTAL UPGRADE AGREEMENT PROGRAM (CONT.)

### **OFFICER DECLARATION OF CONFLICT OF INTEREST**

No officers involved in the preparation of this report have any direct or indirect interest in this matter.

### **CONCLUSION**

The use of EUAs is an excellent and straight forward opportunity for Council to directly assist local business in undertaking new investment, reduce operating costs and improve asset value, all while providing environmental efficiencies which will ultimately benefit the environment and help lower costs for local businesses.

This report recommends that Council endorse the Environmental Upgrade Agreement Policy, therefore enabling eligible businesses to submit applications for EUAs to the BBF for assessment. This report also recommends that the Mitchell Shire Council Chief Executive Officer be provided with the appropriate instrument of delegation under the *Local Government Act 1989* to declare and levy an environmental upgrade charge.

# **MITCHELL SHIRE COUNCIL**

## **Council Meeting Attachment**

### **ADVOCACY AND COMMUNITY SERVICES**

**17 SEPTEMBER 2018**

**7.2**

#### **ENVIRONMENTAL UPGRADE AGREEMENT PROGRAM**

**Attachment No: 1**

**Environmental Upgrade Agreements Policy**

# Environmental Upgrade Agreement Policy

<b>Policy Owner</b>	Advocacy and Community Services Economic Development
<b>Creation Date</b>	17/09/2018

**Context**

An Environmental Upgrade Agreement (EUA) is an agreement between a property owner, a bank and local government that facilitates a physical upgrade to improve energy and water efficiency and waste reduction within an existing business operation.

An EUA offers 100% project finance, very competitive interest rates and minimal impact on business cash flow. The key role for local government in an EUA is to levy the loan repayment using the Council rates system and then remit that payment to the lender (bank).

**Purpose**

The purpose of this policy is to provide a framework for determining if a Mitchell Shire business is eligible for an Environmental Upgrade Agreement.

**Scope**

This policy is applicable to all applications for Environmental Upgrade Agreements within the Mitchell Shire.

**Policy**

***Business Eligibility***

To qualify for an Environmental Upgrade Agreement, applicants need to meet the following eligibility criteria, as well as any additional criteria set by the financier.

- A. The property must meet the following requirements:
  - i) be located within the Mitchell Shire;
  - ii) Is ratable;
  - iii) be current on all rates and charges due to Mitchell Shire Council;
  - iv) the total value of the environmental upgrade charge – when added to any taxes, rates, charges or mortgages owing on the ratable land – must not exceed the capital improved value of the land prior to any works undertaken as part of the environmental upgrade agreement; and
  - v) be an existing building on ratable land and used predominantly for non-residential purposes.
  
- B. The following factors will also be considered:
  - i) Projects that offer a substantial new investment or support an existing business in a way that will result in a measurable increase in jobs, economic activity or business viability;
  - ii) Ongoing compliance with relevant any regulatory framework (e.g. Mitchell Planning Scheme, Local Laws, existing permits and licenses);

- iii) Ratio of Capital Improved Value to Environmental Upgrade Agreement value; and
- iv) Project rated and ranked for environmental benefits.
- v) Recommendations and advice from the Sustainable Melbourne Fund.

**Responsibilities**

- A. The Chief Executive Officer will be responsible for approving Environmental Upgrade Agreements under delegation from Council.
- B. This policy is the responsibility of the Economic Development Department and will be monitored and reviewed on an annual basis.