



## BUILDING UPGRADE FINANCE

First Approved	Adopted by Council 16 March 2020 Council Res ACM: 20507
Status	Council Policy
Review Frequency	4 yearly or as required
Last Reviewed	
Next Review Due	March 2022
File Number	18.63.001 / PL202079
Responsible Division	Resources
Related Documents	<i>Debt Recovery Operational Guidelines</i>
Applicable Legislation	<i>Local Government Act 1999 – Schedule 1B</i> <i>Local Government (Building Upgrade Agreement) Amendment Act 2015</i> <i>Local Government (Building Upgrade Agreements) Regulations 2017</i> <i>Development Act 1993</i> <i>Disability Discrimination Act 1992</i> <i>Heritage Places Act 1993</i>

### Introduction

The purpose of this policy is to provide a framework for entering into a Building Upgrade Agreement (BUA) whilst complying with and the *Local Government Act 1999 – Schedule 1B* and the *Local Government (Building Upgrade Agreements) Regulations 2017*.

### Definitions

**Act** – means the Local Government Act 1999

**Building Upgrade Finance (BUF)** is a long-term, fixed interest finance product provided for environmental and heritage upgrades to non-residential buildings.

**Building Upgrade Agreement (BUA)** is a voluntary agreement that involves three parties:

- the building owner agrees to undertake upgrade works to the building prescribed by the *Local Government (Building Upgrade Agreements) Regulations 2017*;
- the finance provider agrees to advance funds to the building owner to finance the upgrade works; and
- the council declares and levies a Building Upgrade Charge (BUC) against the land on which the building is situated, collect repayments from the building owner (via quarterly direct debit payments) and transfer them to the finance provider.

**Building Upgrade Charge (BUC)** means the amount agreed by the parties and specified in a BUA (including the amount advanced by the finance provider for the upgrade works and any interest or charges payable to the finance provider), to be declared and levied as a statutory charge on the land by the Council and payable by the building owner to the Council for the purpose of recouping the finance.

**Prescribed Building** - means a building that must be constructed at least two years before entering a BUA and must be used for commercial, industrial or other non-residential purposes such as, agriculture, retail, office, hotel or motel, in accordance with *Local Government Act 1999* and *Local Government (Building Upgrade Agreements) Regulations 2017*.

**Upgrade Works** – means:

- works that improve the energy, water or environmental efficiency or sustainability of a building (environmental upgrade works);
- any of the following works in relation to a heritage building (heritage upgrade works):



- Works for the purpose of maintaining, repairing, upgrading or reinstating the heritage significance of the building;
- Works associated with the compliance with requirements under the Building Rules (within the meaning of the *Development Act 1993* or *Planning, Development and Infrastructure Act 2016* once applicable) or the *Disability Discrimination Act 1992* of the Commonwealth;
- Works for the purposes of facilitating the ongoing occupation of the building.

*Heritage Building* means a building:

- a) That is, or forms part of, a State Heritage Place under *the Heritage Places Act 1993*; or
- b) Designated as a place of local heritage under *the Development Act 1993* or *Planning, Development and Infrastructure Act 2016* once applicable.

### **Objective**

Building Upgrade Finance has been enabled by Council to encourage and provide opportunities to non-residential (i.e. commercial, industrial, agricultural etc) building owners to invest in building upgrades that improve property assets and business competitiveness, reduce operating costs and deliver economic, heritage and environmental benefits to the community.

Building Upgrade Finance is consistent with the objectives of Council's Community Strategic Plan in particular:

- Innovate Throughout our Region
  - Productive Community Assets
  - Resilient Economy
  - Proactive Leadership and Accountability
- Thrive in Clean Green Futures
  - Progressive Approaches to Climate Change
  - Protection of Water Resources
- Participate in Wellbeing
  - Accessible Services & Opportunities
- Activate our Spaces
  - Vibrant Communities
  - Liveability of Townships and Rural Areas

### **Policy Statement**

Council will only consider entering into a BUA if all the following criteria are met:

#### *Upgrade Works*

- a) The proposed works are consistent with relevant provisions of *Schedule 1B of the Local Government Act*.
- b) the proposed works are in consistence with relevant objectives of Council's Community Strategic Management Plans.



*Building*

- a) The building is located within Council's boundary and was constructed at least two years ago.
- b) The building is a prescribed building under the Local Government Act 1999, used primarily for commercial, industrial or other non-residential purposes.
- c) There are no outstanding Orders that have been issued in relation to the building pursuant to any relevant legislation.

*Building Owner*

- a) The building owner has successfully completed and submitted a BUA Application Form to Council.
- b) The building owner has provided Council with a Statutory Declaration that satisfies the Local Government Act 1999 Schedule 1B clause 2(5) and (6) requirements.
- c) The building owner has no overdue debts to Council and is not in dispute with Council regarding any matter.

*Finance Provider*

- a) 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 BUA.

The Council will:

- a) Issue billing notices to the Building Owner on a quarterly basis showing the Building Upgrade Charge (BUC) in accordance with the Agreed repayment Arrangements.
- b) Charge the Building Owner all applicable fees/charges (as defined in the BUA), including in the event that the Building owner fails to pay the BUC on the Charge Payment Date.
- c) Not to 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 a BUA.
- d) All BUAs to be put to Council for consideration.

Where a BUC on a property becomes more than three years in arrears, Council may commence proceeding to sell the property under *Schedule 1B Clause 9 – Sale of Land for Non Payment of Building Upgrade Charge*.

**Availability of Policy**

This Policy will be available for inspection at Council's principal office during ordinary business hours and on the Council's website [www.alexandrina.sa.gov.au](http://www.alexandrina.sa.gov.au). Copies will also be provided to interested members of the community upon payment of a fee in accordance with Council's Schedule of Fees and Charges.