

## Item 9: Finance

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### 9.1 Environmental Upgrade Agreements

REPORT BY THE CHIEF FINANCIAL OFFICER  
TO 13 OCTOBER 2021 ORDINARY MEETING  
GOV400088, A0000000

#### RECOMMENDATION

##### That Council:

1. receive the report by the Chief Financial Officer on the Environmental Upgrade Agreements; and
2. endorses the implementation of Environmental Upgrade Agreements for the Mid-Western Regional local government area;
3. delegates the General Manager to appoint a third-party provider to administer Environmental Upgrade Agreements for Council, for a trial period of two years;
4. requests an Environmental upgrade Agreement Policy be developed and brought back to Council for consideration;
5. supports the integration of Environmental Upgrade Agreements within Council's finance systems; and
6. requests a report be brought back to Council at the end of the trial period on the performance of the Environmental Upgrade Agreements.

#### Executive summary

At the June Ordinary Council Meeting, Council resolved:

***That a business plan be completed and a report be brought back to Council to ascertain the cost and benefit of endorsing Environmental Upgrade Agreements.***

The purpose of this report is to review the Business Case outcome for Council to offer Environmental Upgrade Agreements (EUA) to business and building owners within the Mid-Western Regional Council area, under a two-year trial period through a third party EUA administrator.

#### Disclosure of Interest

Nil.

#### Detailed report

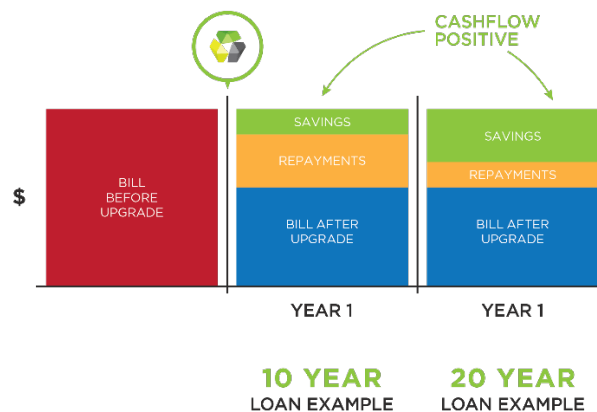
Environmental Upgrade Finance is a type of loan, provided by a third-party lender such as Bank Australia or Credit Suisse, to fund environmental upgrades to a private property. At this time the

finance mechanism is most commonly applied to all types of commercial properties, but discussions are under way with the NSW Government to expand it to residential property.

The loan is secured against the property by an **Environmental Upgrade Charge** raised against the land by Council and quarterly repayments are collected, just like council rates, until the full amount has been paid off. Due to the security provided by the charge raised on the land, businesses can access finance and longer loan terms which may have otherwise been difficult to attain. The details of this loan are documented by an Environmental Upgrade Agreement.

This finance mechanism is specifically used to pay for works that improve the energy, water or environmental efficiency and overall sustainability of commercial and other buildings; a loan that is then repaid by the building owner alongside council rates over an agreed time period.

The finance can be used for a range of projects such as installation of renewable energy systems, new equipment or initiatives to improve energy and water efficiency, or projects that minimise waste, maximise resilience or improve resource efficiency; there just needs to be a measurable sustainability improvement over time, and councils do not pay anything for the service. Due to the reductions in utility charges and other expenses, most projects are cashflow positive from the beginning, freeing up capital for the business:



It is not envisaged that EUAs will be taken up by a large number of businesses across the Mid-Western Region, but it may assist businesses which have been hoping to perform sustainable upgrades but have found the work cost-prohibitive such as motel and accommodation stock, aged care, childcare or retail and tourism facilities.

#### Benefits:

An Environmental Upgrade Finance program has the potential to deliver advantages through implementing any combination of the following within commercial, retail, agricultural, industrial, healthcare, child-care, aged-care or other types of property (currently excluding residential):

- Solar installation with potential battery connection and/or EV charging points
- Lighting or HVAC upgrade
- Machinery or plant retrofit
- Water or waste efficiency upgrade
- Insulation or cladding improvements
- Broader sustainability upgrades.

Benefits to the Mid-Western Regional Council are many, as Building Upgrade Finance can:

- Assist local businesses to address increasing utility and other operational costs
- Unlock private sector finance so businesses of every size can invest in growth
- Maintain competitive edge by providing opportunities for many types of local businesses that are available in other council areas

- Incentivise local business to stay within or move into the Mid-Western Regional area
- Stimulate local economic activity and help improve business profitability in the region
- Help engage ratepayers to achieve Council's economic and sustainability objectives.

Business and building owners around the Mid-Western Regional Council area benefit through:

- Reduced utility bills with energy, water and waste efficiencies
- Cashflow positive from day one, with savings exceeding repayments in most cases
- Becoming more self-sustainable and resilient, reducing costly economic impacts and stress on local infrastructure through electricity, water and waste demands
- Improved asset value and measurable sustainability gains
- Increased comfort, indoor environmental quality, or tenant attraction
- Long-term fixed-interest loans that enable better long-term budgeting and forecasting.

There are already over 115 examples of projects that have benefitted from Environmental Upgrade Finance around Australia, ranging from just under \$15,000 to over \$4,000,000; these projects have been retail shops, dental clinics, agricultural production facilities, distilleries, offices, warehouses and distribution centres, and many other types.

**Process:**

Once Mid-Western Regional Council has resolved to offer Environmental Upgrade Finance and set up the Finance Program with the help of a third-party administrator, the finance is established through a three-way contract known as an Environmental Upgrade Agreement (often referred to as "an EUA") drawn up between the building owner, Council, and lender. The loan is used to pay for the building upgrades and the council takes repayments over the term of the agreement alongside the usual rates paid each quarter using the same process, albeit with a different charge notice. Templates for these documents are available from the NSW Government and any third party administrators.

**Measurable environmental benefits:**

It is anticipated that, in line with other NSW and VIC projects, Environmental Upgrade Finance would principally be used to help install solar, energy efficiency, lighting, battery and insulation upgrades across small, medium, and large projects around the Mid-Western Regional Council area. It is projected that, during the two-year trial period proposed, two smaller projects (i.e. below \$50,000), two medium projects (i.e. below \$100,000) and one large project (i.e. above \$500,000), be targeted with the help of a third party administrator, economic development, community groups, installers and sustainability channel partners. This will allow for a proper calculation of the sustainability benefits achieved, in terms of CO<sub>2</sub>e / kWh / MW, kilolitres of water saved, or tonnes of waste avoided, and will help to inform the next steps.

**Review of potential options:**

- 1) Self-administer Environmental Upgrade Finance arrangements  
Whilst this option may initially seem easier, Mid-Western Regional Council would need to develop all of the documentation and templates, finance processes and legislative administration, and would need to undertake the business, economic development and communications processes associated with offering the Finance Mechanism to the local business community.
- 2) Appoint a third-party administration provider on a two-year 'trial' basis  
Third-party administration providers now set up and manage the program for each council and remove most of the administration burden from councils, making it easier for building owners and lenders to apply Environmental Upgrade Finance through streamlined processes. There is currently only one known third-party administration provider working in NSW; Better Building Finance currently works with over 45 councils across NSW, SA and VIC to offer these services,

providing finance through Bank Australia and other lenders. Another third-party administration provider recently left the NSW market without establishing any projects.

Better Building Finance only gets paid a processing and administration fee from the building owner, and only when it facilitates a project funded through Environmental Upgrade Finance. Council does not pay any money to Better Building Finance or the lender at any time.

This second option is recommended, and it is suggested that the Council works closely with the third-party service provider to measure the success of the trial period, communicate the case studies around the community, and report back to Council towards the end of the trial period.

It should be noted that NSW Councils that self-administer Environmental Upgrade Finance have been less successful with the amount of projects that have been supported within their LGA's.

### Key elements:

Features of Environmental Upgrade Finance include:

- A simple fixed-interest loan repaid with council rates
- Works must have a measurable environmental benefit
- Quarterly repayments are made after an Environmental Upgrade Charge notice is raised and sent out alongside (but separate to) the quarterly rates charge notice
- Whilst interest rates may be different to banks or other lenders variable rates, the long-term nature of the loans allow lenders to offer extended, more consistent terms that others can't, that fit with longer term budgeting, reducing the size of quarterly payments
- Provides 100% project finance for private (rateable) building owners' environmental upgrades – now predominantly smaller and medium size – for many types of property
- Long-term loan repayment terms (5-20 years) can enable cash-flow positive projects
- The loan is tied to the building, not the owner, and can be passed from vendor to purchaser when the property is sold
- Tenants (building occupiers) can also benefit from EUF with significantly reduced utility costs or building performance, with the option to pass repayments through to tenants where their benefits can be quantified and measured
- Councils do not take on any risk or liability for the loan, do not pay for the Environmental Upgrade Finance mechanism, and do not incur any financial costs associated with it
- Organisations such as Better Building Finance are supported by ARENA (Australian Renewable Energy Agency) and Bank Australia to encourage uptake of sustainability initiatives across NSW.

## Community Plan implications

Theme	Protecting Our Natural Environment
Goal	Live in a clean and environmentally sustainable way
Strategy	Support Programs that create environmental awareness and promote sustainable living

## Strategic implications

### Council Strategies

Not applicable.

### Council Policies

It is recommended to develop a Council Policy to provide clear parameters around the management and availability of Environmental Upgrade Agreements. This will be brought back to a future Council meeting, when the Finance processes have been modified and defined to integrate the EUA requirements.

## Legislation

Section 54 of the Local Government Act 1993 covers the administration requirements and limitations of Environmental Upgrade agreements:

### 54D Environmental upgrade agreement

- (1) A council may enter into an environmental upgrade agreement with a building owner and a finance provider in relation to a building.
- (2) An "environmental upgrade agreement" is an agreement under which-
  - a) a building owner agrees to carry out environmental upgrade works in respect of a building, and
  - b) a finance provider agrees to advance funds to the building owner to finance those environmental upgrade works, and
  - c) the council agrees to levy a charge on the relevant land for the purpose of repaying the advance to the finance provider.
- (3) A building owner is a person who is the owner of the land on which the building is erected.
- (4) For a building erected on land that is the subject of a strata scheme, the owners corporation for the strata scheme is taken to be the building owner.
- (5) The function of entering into an environmental upgrade agreement can be delegated by a council only to the general manager of the council. The delegation must specify the building or buildings to which the delegation relates.
- (6) Other persons may also be party to an environmental upgrade agreement.

It should be noted that Council fees under agreement are set out at Section 54H of the Local Government Act 1993.

### 54H Council fees under agreement

- (1) An environmental upgrade agreement may authorise a council to deduct from any money paid in respect of an environmental upgrade charge, and retain, as a council fee:-
  - a) a service fee, being a fee to cover any costs incurred by the council in entering into, or administering, the agreement, and
  - b) a late payment fee, being the amount, or a part of the amount, charged under the agreement for late payment of an environmental upgrade charge.
- (2) The environmental upgrade agreement must specify the amount of, or a method for calculating, any such council fee.
- (3) Part 10 of Chapter 15 does not apply in respect of a council fee charged under an environmental upgrade agreement.
- (4) However, section 610D applies to the service fee component of the council fee.

**The service fee will be required to be set in Councils Fees and Charges, and the fee will be developed and brought back to Council for endorsement with the proposed Policy.**

## Financial implications

It should be noted that a cost-recovery basis for any Council time spent confirming projects is recommended. A Signing Fee (to be confirmed, but initially suggested at \$250) per agreement signed by the Council during the trial period payable by the third-party provider, as well as an Annual Administration Fee ranging from \$40 to \$200 per EUA signed by the Council during the trial period, which is payable by the property owner at the end of each quarter, for the duration of the term of the EUA. All such cost-recovery measures for staff time would be covered in a formalised Services Agreement with the third-party provider (BBF).

Council is not a lender for any of the upgrade works and therefore will have no capital expenditure.

Promoting, developing and implementing projects will require a limited amount of officer and administrative time. Building owners pay a small administration fee that is based on the size of the loan, so smaller upgrades pay much smaller administration fees.

As Better Building Finance does not charge a fee to council for their services, no tender process is necessary. The processing and administration fees are transparent to the building owner and council at all times, and all processes are undertaken in line with the Local Government Act and any other legislation.

Better Building Finance will provide an accurate schedule of payments when an EUA is set up, to allow the Council's rates and finance team to program the charge notices for the lifetime of the loan.

In the unlikely event of a charge notice not being paid, Council does not take on any liability for the loan but is only requested to undertake 'best endeavours' to recover payments in line with the NSW Local Government Act and in the same way that it would for unpaid rates notices. In the worst-case scenario, whereby a property must be sold to recover unpaid debts, the charge notices would be placed alongside the rates notices for payment.

No budget variation is recommended at this stage, and a variation (if required) will be brought back through a Monthly Budget Report as necessary.

## Associated Risks

### **Risks and liability to Council in the management and delivery of an EUA program**

If Council appoints a third-party administration provider on a trial basis, the costs and associated risks include:

*Table 1. Costs and risks of third-party administration.*

<b>Cost/risk</b>	<b>Comment/solution</b>
Administrative burden for Council to set up the system within Council's finance system.	<p>There are resources required by Council in implementing BBF's online Billing Platform. Support from the IT team, and Council's Finance System consultants will also be required to integrate the online Billing Platform. The current cost of set up is unknown. To partly compensate for this, there is a small cost recovery fee paid to council for their time in integrating and administering the charge:</p> <ul style="list-style-type: none"> <li>• \$250 (proposed) per EUA signed by the Council paid to Council by BBF.</li> <li>• \$40–200 (proposed) annual administration fee paid by the property owner to Council.</li> </ul> <p>The online Billing Platform ensures that all the project and finance administration is automatically provided and managed, ensuring that Council has a robust, transparent, and well-governed process. Ongoing maintenance and reporting will be required but is anticipated to have a low impact on internal resources.</p> <p>There is a risk that implementation and integration will be more difficult than initially anticipated, and this could:</p> <ol style="list-style-type: none"> <li>a) Increase the amount of time required to implement the program</li> <li>b) Increase the costs required to develop integration between the two systems, and ensure the system is working</li> </ol>



<p>Small percentage of loans would default.</p>	<p>Although Council will need to ensure that the any projects carry an acceptable level of risk, this will be assessed on a case-by-case basis and a report provided by the third party provider (BBF) with full recommendations based on data, financials and documentary evidence.</p> <p>In the event of a charge notice not being paid, Council plays the role of debt-collector and is requested to recover payments in line with the Local Government Act as per unpaid rates notices. Council does not take on any liability for the loan and can recover all legal costs from the sale in a cost-recovery model.</p>
<p>Low uptake.</p>	<p>Since the legislation was enacted in 2011, EUAs have had historically low uptake in NSW, with one of the reasons being as the first EUAs were administered directly by Councils there was a lot of learnings involved with this. Having third party expertise, coupled with the online Billing Platform and promoting smaller sized loans, plus the COVID-19 crisis, may now provide more favourable conditions for businesses to access this 'green' finance.</p> <p>If uptake is low in the Mid-Western Regional LGA, this will come at relatively low risk to Council.</p>
<p>A 'two-year trial' will be a longer-term investment.</p>	<p>A two-year trial means a two-year 'recruitment trial' and will still involve Council being involved with the life of the loan i.e. up to 20 years. The average EUA loan term ranges from between 5–11 years.</p>
<p>Third-party administrator ceases to exist.</p>	<p>If the third-party administrator (BBF) ceases operation, they have written into their contract that an alternate lender (Perpetual) would manage the online billing platform for the life of the EUA loan.</p>

Council has no financial stake in the projects and only acts to facilitate the loan between the property owner and lender. Loans are secured against the property and Council is not obligated to meet repayments in the event that the property owner default or misses a payment; this remains the responsibility of the owner. Council will need to ensure that any projects carry an acceptable level of risk. This will be assessed on a case-by-case basis and utilising the third-party provider.

LEONIE JOHNSON  
CHIEF FINANCIAL OFFICER

1 September 2021

*Attachments:* Nil

APPROVED FOR SUBMISSION:

BRAD CAM  
GENERAL MANAGER