



City of Salisbury Values: Respectful, Accountable, Collaborative, Helpful

Building Upgrade Agreements Policy

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| Adopted by: | Council |
| Responsible Division: | City Shaping |
| First Issued/Adopted: | 28 August 2017 |
| Last Reviewed: | 28 August 2023 (Resolution No. 0454/2023) |
| Next Review Date: | August 2025 |

1. Purpose

The purpose of this policy is to specify the circumstances under which the City of Salisbury will enter into and administer a Building Upgrade Agreement.

Building Upgrade Agreements provide a mechanism to help building owners to access loans to improve the energy, water and environmental efficiency or sustainability of commercial (ie non-residential) buildings that are at least two years old by providing access to alternative long term finance secured against the property.

Building Upgrade Agreements can also support funding of heritage works to State and local heritage listed buildings (to maintain, repair, upgrade or reinstate heritage significance of a building; achieve compliance with requirements under Building Rules within the meaning of the *Planning, Development and Infrastructure Act 2016* or the Commonwealth's *Disability Discrimination Act 1992*; or facilitate ongoing occupation of a building).

2. Scope

This policy applies to all Building Upgrade Agreements involving the City of Salisbury.

A Building Upgrade Agreement is a voluntary agreement between a building owner, a finance provider and Council where:

- a Building Owner agrees to carry out upgrade works to a building as prescribed by the *Local Government (Building Upgrade Agreements) Regulations 2017*. These works cover both environmental upgrades and heritage works to non-residential buildings; and
- a Finance Provider agrees to advance funds to the Building Owner to finance those upgrade works; and
- Council levies a charge on relevant land (a building upgrade charge) for the purpose of recouping the money advanced by the finance provider for the upgrade works (and any interest or other charges payable to the finance provider under the agreement); and pays the finance provider any money paid to Council by way of the building upgrade charge.

3. Legislative Requirements and Corporate Policy Context

On 10 December 2015, the *Local Government (Building Upgrade Agreements) Amendment Act* passed through Parliament making South Australia the third jurisdiction in Australia to enable Building Upgrade Finance after New South Wales and Victoria. The Act was proclaimed and the Regulations made on 25 July 2017, with the mechanism becoming operational on 1 August 2017.

The legislation that enables Building Upgrade Agreements is:

- Schedule 1B of the *Local Government Act 1999*
- *Local Government (Building Upgrade Agreements) Regulations 2017*

Council's participation in the Building Upgrade Agreement program is consistent with its objective to position Salisbury as the place of choice for businesses to invest and grow and its desire to support business competitiveness through efficient resource use.

4. Interpretation/Definitions

Nil

5. Policy Statements

- 5.1 Council's consideration of approaches to enter into a Building Upgrade Agreement will be guided by its requirements under the *Local Government Act 1999* and its broader strategic objectives as articulated in the City Plan.

- 5.2 The following legislative requirements need to be met for Council to consider entering into a Building Upgrade Agreement:
- a) The proposed upgrade works are either environmental upgrade works or heritage upgrade works and are consistent with the relevant provisions of *Local Government Act 1999* and *Local Government (Building Upgrade Agreements) Regulations 2017*.
 - b) The building is located in the City of Salisbury Local Government Area and was constructed at least 2 years ago.
 - c) The building is a prescribed building used primarily for commercial, industrial or other non-residential purposes in accordance with the relevant provisions of *Local Government Act 1999* and *Local Government (Building Upgrade Agreements) Regulations 2017*.
 - d) The Building Owner has provided the City of Salisbury with a Statutory Declaration that satisfies the *Local Government Act 1999* Schedule 1B clause 2 (5) and (6) requirements.
- 5.3 Council will only consider entering into a Building Upgrade Agreement if the following criteria are met, but reserves the right to consider other relevant matters:
- a) The proposed works align with the intent of the Council's strategic management plans.
 - b) There are no outstanding Orders that have been issued in relation to the Building determined based on completion of a Council Section 7 search (in accordance with the *Land and Business (Sale and Conveyancing) Act 1994*).
 - c) The Building Owner has no overdue rates debts with the City of Salisbury.
 - d) The Building Owner is not in dispute with the City of Salisbury regarding any matter.
- 5.4 The City of Salisbury will:
- a) Issue billing notices to the Building Owner on a quarterly basis showing the Building Upgrade Charge in accordance with the Agreed Repayment Arrangements;
 - b) Only accept payment of a Building Upgrade Charge via direct debit;
 - c) Only accept pre-payments of the Building Upgrade Charge when twenty-eight (28) days prior notice in writing is given;
 - d) Charge the Building Owner all applicable fees/charges (as defined in the Building Upgrade Agreement); and
 - e) Require all parties to the Building Upgrade Agreement to acknowledge, as a condition of the Building Upgrade Agreement, that the Building Upgrade Agreement does not imply or constitute consent or approval as required

under any relevant legislation including the *Planning, Development and Infrastructure Act 2016*.

6. Related Policies and Procedures

6.1 Building Upgrade Finance Enforcement Procedure

7. Approval and Change History

| Version | Approval Date | Approval By | Change |
|---------|----------------|---------------------|---|
| 1 | 28 August 2017 | Council (1966/2017) | N/A |
| 2 | 27 April 2021 | Council (0914/2021) | No change |
| 3 | 28 August 2023 | Council (0454/2023) | New template and amendments to simplify process |

8. Availability

8.1 The Policy is available to be downloaded, free of charge, from Council's website www.salisbury.sa.gov.au

8.2 The Policy will be available for inspection without charge at the Civic Centre during ordinary business hours and a copy may be purchased at a fee as set annually by Council.

City of Salisbury Community Hub
34 Church Street, Salisbury SA 5108
Telephone: 8406 8222
Email: city@salisbury.sa.gov.au

9. Review

9.1 This Policy will be reviewed every two years.

Further Information

For further information on this Policy please contact:

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