



Building Upgrade Agreements

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Department:	City Development	Division:	Economic Development & Urban Policy
Function:	4 - Economic Development	Responsible Officer:	Manager, Economic Development & Urban Policy

A - PREAMBLE

- On 10 December 2015, the *Local Government (Building Upgrade Agreements) Amendment Act* passed through Parliament making South Australia the third jurisdiction in Australia to introduce a Building Upgrade finance mechanism 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.
- A Building Upgrade Agreement (BUA) 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; 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.

B - CITY OF SALISBURY

- This policy will apply to all Building Upgrade Agreements involving the City of Salisbury.

C – POLICY PURPOSE/OBJECTIVES

- 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 buildings that are at least two years old by providing access to reduced interest and longer term finance.

3. Building Upgrade Agreements can also support funding of heritage works (to maintain, repair, upgrade or reinstate heritage significance of a building; achieve compliance with requirements under Building Rules within the meaning of the *Development Act 1993* or the Commonwealth's Disability Discrimination Act 1992; or facilitate ongoing occupation of a building).
4. 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.

D - DEFINITIONS

1. Nil

E - POLICY STATEMENT

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.

2. Council will only consider entering into a Building Upgrade Agreement if the following criteria are met:

2.1 Upgrade Works

- a) The proposed works are consistent with the relevant provisions of Schedule 1B of the *Local Government Act 1999*.
- b) The proposed works are consistent with the relevant objectives of Council's City Plan.

2.2 Building

- a) The building is located in the City of Salisbury Local Government Area and was constructed at least 2 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.
- d) There are no encumbrances noted or registered on the title for the Building which may impact on the City of Salisbury exercising its enforcement rights.

2.3 Building Owner

- a) The Building Owner has successfully completed and submitted a BUA Application Form to City of Salisbury.
- b) 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.
- c) The Building Owner has no overdue debts to City of Salisbury and is not in dispute with City of Salisbury regarding any matter.

- d) The Building Owner has consulted City of Salisbury to ensure that all property development compliance requirements have been met or will be met prior to the earlier of the date that the BUA is executed by the Building Owner, City of Salisbury and Finance Provider or the Commencement Date.
- e) The Building Owner agrees to be bound by the requirements of the BUA (including any additional conditions as required by City of Salisbury), this Policy and Council's broader approach to enforcing non-payment of rates and other charges.

2.4 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.
 - b) The Finance Provider agrees to be bound by the requirements of the BUA (including any additional conditions as required by the City of Salisbury) and this Policy.
3. The City of Salisbury 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) Only accept payment of a BUC via direct debit;
 - c) Only accept pre-payments of the BUC when twenty eight (28) days prior notice in writing is given;
 - d) Charge the Building Owner all applicable fees/charges (as defined in the BUA) in the event that the Building Owner fails to pay the BUC on the Charge Payment Date; and
 - e) 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 a BUA.
4. To provide a consistent approach to the receipt and assessment of applications, building owners will be required to complete and submit a Building Upgrade Agreement application form to the City of Salisbury.

F - LEGISLATION

- 1. Local Government Act 1999
- 2. Local Government (Building Upgrade Agreements) Amendment Act 2015

G - REFERENCES

- 1. Nil

H - ASSOCIATED PROCEDURES

- 1. Building Upgrade Finance Administration

Document Control

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