

## The introduction of Building Upgrade Finance (BUF) in Western Australia – Shire of Serpentine Jarrahdale Formal Submission (File Ref)

### Executive Summary

The Shire of Serpentine Jarrahdale supports the review of the Local Government Act 1995 to enable the introduction of a Building Upgrade Finance (BUF) in Western Australia. In addition to this we recommend such a financing mechanism should not be limited to only the upgrade of existing commercial buildings. A financing mechanism like this has the potential to facilitate the use of far greater environmental and sustainability principles as early as subdivision stage and could be more cost beneficial at new build stage whilst also expanding the scope of upgrading existing buildings. We recommend this financing mechanism be considered for;

- **Communal Upgrade Finance (CUF)** at subdivision stage or retrofitting at a neighbourhood level to utilise public utility space (PUS) for shared renewable energy resources.
- **Environmental and New Upgrade Finance (ENUF)** to facilitate new buildings being built above minimum requirements up to best practice zero carbon or zero energy consumption levels.
- **Environmental Upgrade Finance (EUF)** which already exists in eastern states to assist building owners to upgrade existing commercial buildings to improve sustainability and energy efficiency.
- **Building Upgrade Finance (BUF)** to be used to upgrade existing buildings by removing hazardous materials such as asbestos and combustible cladding.

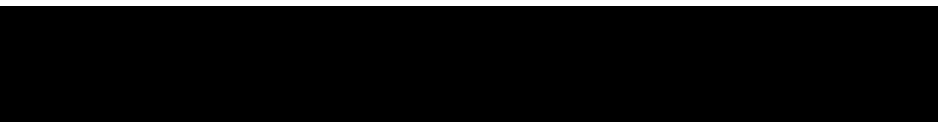
Building Upgrade Finance mechanisms already exist in other states and have successfully contributed to the upgrade of existing buildings in city's such as Melbourne and Sydney. Essentially the local government acts as the middleman between the property owner and a financial institute by collecting the loan repayments in the same way rates are collected and then forwarding the repayment to the financier whilst retaining an administration fee. This allows a property owner access to greater loans over longer periods and at a lower interest rate than a traditional commercial loan. In other states the local governments do not carry any liability as the loan is tied to the property and not the owner.

### How Building Upgrade Finance (BUF) Works

Building upgrade finance (BUF) is also known as Environmental Upgrade Finance (EUF) in other states. Any lender can provide building upgrade finance to fund works that improve the environmental performance of an existing building. As part of this finance, a contract known as an environmental upgrade agreement (EUA) is entered into by the building owner, the lender and the relevant Local Government. Under this contract, the lender advances funds to the building owner to complete the upgrade works and the loan is repaid through the Local Governments existing rates collection process, as an environmental upgrade charge (EUC).

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## BUF in other States

Victoria, New South Wales and South Australia have all established building upgrade finance programs.

### New South Wales

BUF known as Environmental Upgrade Finance (EUF) was enabled in New South Wales in 2010 through changes made to the *Local Government Act 1993* (NSW). It is not mandatory for Local Governments to offer the scheme to commercial and industrial buildings in their local government area, rather they can choose whether to provide this service or not. NSW legislation allows owners to pass on the costs of an EUF to the tenant through an Environmental Upgrade Agreement (EUA), not exceeding 'a reasonable estimate of the cost savings to be made by the lessee'. So the tenant entering into an EUF is guaranteed to be at a no-loss by only paying the cost up to a maximum of any savings resulting from the EUA.

### *Eligible upgrade works*

EUF is available for works that improve the environmental performance of an existing commercial building including projects that:

- increase energy and water efficiency
- prevent or reduce pollution and waste
- reduce material consumption
- improve recycling
- reduce use of private motor vehicles
- enable monitoring of environmental quality
- reduce greenhouse gases.

### Victoria

The City of Melbourne was the first council to launch BUF which was initially known as Environmental Upgrade Agreements (EUAs). BUF was enabled in Melbourne only through amendments made to the *City of Melbourne Act 2001* in September 2010. This has now been replaced with the introduction of amendments into the Victorian *Local Government Act 1989* so all local governments in Victoria have the option to participate. In Victoria the scheme is centrally administered through the Sustainable Melbourne Fund (SMF), which was initially set up when Melbourne was the only council in Victoria that could offer EUAs. The SMF is an independently managed and commercially oriented trust established by the City of Melbourne. SMF administers the scheme on behalf of all other local councils in the state. In Victoria building owners must obtain individual consent from tenants in order to pass a share of the cost through to tenants. Alternatively, if the owner does not wish to pass the cost along they do not require tenant consent to enter into an EUA.



### *Eligible upgrade works*

Like NSW, an EUA is available in Victoria for works that improve the environmental performance of an existing commercial building. In addition to this, in Victoria a similar funding mechanism is being used to replace dangerous combustible cladding on buildings. The mechanism, known as Cladding Rectification Agreements (CRAs), will be an agreement between owners (or owners corporations), lenders and local councils whereby owners are provided a long-term, low-interest loan to pay for the building work required to rectify the combustible cladding.

### South Australia

South Australia formally adopted BUF in 2017 through amendments to its *Local Government Act 1999*, called the *Local Government (Building Upgrade Agreements) Amendment Bill*. This amendment allows all South Australian local governments to enter into BUF agreements. The State Government is providing funding support over four years enabling the City of Adelaide to host a BUF Central Facilitator. The BUF Central Facilitator assists with the implementation and operation of BUF across South Australia. This is similar to the SMF in Victoria. In SA the owner can pass on the costs to the tenant by owners obtaining individual consent from the tenants (similar to VIC), or apply a 'no worse off' test (similar to NSW).

### *Eligible upgrade works*

Like NSW and VIC, Building Upgrade Finance is available for Environmental upgrades that improve the energy, water or environmental efficiency or sustainability of a building. SA also allows for the funding to be used for the upgrade of heritage buildings such as works;

- To maintain, repair, upgrade or reinstate heritage significance;
- Associated with Building Code and disability access compliance;
- That facilitates the heritage building's ongoing occupation.

### Western Australia

In WA a number of local governments have sustainability strategies to increase sustainability across areas such as water conservation, waste minimisation, energy and emissions reduction, biodiversity and liveability. Projects that fit these categories could be deemed as environmental upgrades and would benefit from access to a BUF.

In the Shire of Serpentine Jarrahdale we have seen an increased number of Building applications for the installation of roof mounted solar panels on a range of commercial buildings such as poultry sheds, dairy sheds, shopping centres and other process operation plants. These projects could have benefited from access to a BUF.

### **Benefits**

Buildings with higher environmental performance are more sought after. This leads to higher investment yields, lower operating costs, higher asset values and lower vacancy rates. BUF also addresses major barriers to environmental upgrades of exiting buildings which is the initial capital cost and a split incentive for the owner and occupier to cover the costs.



### Building owners

- 100% project finance, removing the need for upfront capital.
- Tenants can be requested for contributions which can be used to help service the loan, improving return on investment and payback periods.
- Longer loan term (10-20 years) fixed rates compared to typical commercial financing (2-5 years).
- Debt tied to the property, not the owner (so doesn't affect existing loan to valuation ratios). If desired the debt can be transferred to the new owner if the property is sold.
- Energy savings can effectively pay back the capital outlay.
- Greater transparency in cost/benefit sharing with tenants.

### Tenants

- Improves amenity with zero upfront capital outlay.
- Improves amenity and quality of the building they work in.
- Any contributions a tenant makes are equal to or less than the energy bill savings resulting from the upgrades. The tenant can never be financially worse off.
- The contribution made by the tenants goes towards a positive environmental benefit reducing CO<sup>2</sup> emissions of their business operation.

### Local Governments

- Rejuvenating business precincts by reducing vacancy rates and increasing the quality and amenity of existing buildings,
- Providing an additional council service on a cost recoverable basis,
- Demonstrating social responsibility,
- Delivering environmental benefits,
- Attracting and retaining businesses and residents.

### **How EUF affects council liability**

In Victoria, the council is responsible for imposing EUF charges and passing these onto the lender to repay the loan. However, it is the bank (or other financier) that provides the loan funds and the council operates more as an intermediary. Accordingly, in the event of a loan default the council is not liable for the outstanding charges. The amended *Local Government Act 1989* specifically provides that local councils are not liable for failure of an owner or occupier to pay an environmental upgrade charge. It also requires an EUF agreement to specify that the lending body must reimburse the council if the agreement is terminated early and the council has refunded any excess charges collected from the owner or occupier.

### **Issues to be taken into consideration**

Some of the issues to be taken into consideration whilst introducing such a scheme as BUF are;

- Who is responsible and what is the initial cost of setting up a BUF scheme in WA including legislative and regulatory changes,



- How the ongoing management and administration of the program is carried out, either by a central administrator, (e.g. Sustainable Melbourne Fund) or by each individual local government opting in to provide the BUF (e.g. NSW)
- The contractual agreements between all parties involved (i.e the owner, tenant, local government and finance provider.
- Would a BUF be considered a liability to local governments and affect any loan or other financial ratios;
- How details of the existence of a BUF is provided to prospective purchasers;
- How the charge is recorded against the property;
- How does work on a strata property;
- What are the repayment cycles;
- With local governments generally having large property portfolios, how can local governments benefit from such a scheme and upgrade community facilities which will have a greater benefit to the community.

## **Recommendations**

The Shire supports the review of the Local Government Act 1995 to allow for such a financing mechanism as BUF. BUF schemes could potentially be utilised more effectively if it was not limited to the upgrade of existing buildings only. In most instances a new development is prevented from exceeding the minimum requirements in terms of safety, sustainability and environmental efficiency due to initial capital costs associated. A financing mechanism that enables developers, builders and building owners to go above and beyond the minimum requirements could have enormous benefits to building users through to the community and the environment.

### Building Upgrade Finance (BUF) to remove hazardous material

In WA it would be beneficial to have a Building Upgrade Finance (BUF) mechanism for the upgrade of existing buildings to remove dangerous and hazardous materials such as asbestos and combustible cladding. This fund should be separate to an Environmental Upgrade Fund (EUF) which is used to fund environmental efficiencies of a building.

### Communal Upgrade Finance (CUF)

A Communal Upgrade Finance (CUF) mechanism could be utilised as early as subdivision stage. This CUF could be used to encourage developers to utilise a portion of public open space as a public utility space (PUS) to the benefit of the community within that subdivision. This PUS could be used to house a communal solar battery that retains the energy created by solar panels on the roofs of the residential dwellings within that neighbourhood. This solar power can then be redistributed to the ratepayers providing renewable energy that is funded in its entirety through a levy collected by the local government. This concept could also be used to retrofit in existing neighbourhoods.

### Environmental and New Upgrades Finance (ENUF)



The existing Environmental Upgrade Finance in eastern states is limited to the environmental efficiency upgrade of existing buildings only. Retrofitting existing buildings is less proficient and more costly than introducing greater sustainability measures at the design stage of a building. The use of an Environmental and New Upgrades Fund (ENUF) could increase the quality and sustainability of new builds and reduce the overall lifecycle cost of a building and running costs to the occupants by facilitating construction above the minimum requirements up to best practice. This could be up to a zero carbon or zero energy consumption levels.