



NSW LEGISLATION CHANGES - ENVIRONMENTAL UPGRADES

The NSW Government published the 'Guidelines for Environmental Upgrade Agreements' in February this year. These changes start a new era where building owners, financiers and councils can prepare and submit agreed arrangements to retrofit a building.

The changes are supported by an amendment to the Local Government Environmental Upgrade Agreements Act introducing the mechanism to finance works resulting in environmental improvements for non-residential buildings or strata residential buildings with multiple occupiers.

The objective is to improve an existing building's efficiency with respect to energy & water use.

The voluntary scheme fundamentally operates as follows:

1. Councils cannot mandate entry of participants into agreements.
2. Building owners agree to complete environmental upgrades. This can be initiated via a development or planning consent.
3. A financier agrees to provide advance funds for that upgrade.
4. The council agrees to levy the land as a fund for ensuring the financier is repaid and in accordance with a repayment schedule specified in the agreement. The council collect the levy and pass this onto the financier.
5. By levying the land any change in ownership can be tracked and the new owners are required to be bound by the agreement. If the previous owner has already repaid the total loaned then the new owner is not liable for this charge.

What are the benefits & for whom?

Building Owners

Gain an opportunity to upgrade their property to current environmental standards without a massive upfront single investment and can amortise that cost over the life of the loan. Additionally, it means their property retains some value as more pressure is applied to have existing buildings improved for environmental performance. As governments move to have environmental audits enforced before the sale of a property this allows owners to demonstrate they have acted responsibly.

Environment

Progressive improvement in energy & water efficiencies means less pollution and waste of valuable resources.

Local Government

For local government this mechanism provides councils with the ability to facilitate 'greener' developments in existing suburbs while also encouraging owners to upgrade buildings that are energy & water inefficient.



What are the potential issues?

Councils are not liable for defaults on the repayments issued by the financier for any upgrade. However, local government must demonstrate that it has attempted to recover those costs in any specifications contained within the agreement and are the responsibility of the council.

Reference sources

- WME MAGAZINE JUNE 2011
- <http://www.environment.nsw.gov.au/grants/>