

**STATUTORY DECLARATION OF OWNER UNDER
SECTION 181B(4) OF THE LOCAL GOVERNMENT ACT 1989 (VIC)**

Date:		
To:	Hepburn Shire Council PO Box 21 Daylesford VIC 3460	
Rateable Land: <i>(insert title, volume number and address as represented on the rates notice)</i>		
Owner: <i>(insert building owner name as represented on the rates notice)</i>		
<i>(insert alternative address if applicable and ACN if applicable)</i>	of	ACN

BACKGROUND AND INSTRUCTIONS

Explanation of statutory requirement

1. The Owner of the Rateable Land wishes to enter into an Environmental Upgrade Agreement pursuant to Division 2A of Part 8 of the *Local Government Act 1989* ("the Act") with the Hepburn Shire Council ("Council") and the Lending Body in order to fund works that will improve the energy, water or environmental efficiency or sustainability of the building on the Rateable Land.
2. Section 181B of the Act requires a number of conditions to be satisfied before the Council can enter into an Environmental Upgrade Agreement with the Owner.
3. One of these conditions is that the Owner, or an authorised representative of the Owner, provide a statutory declaration in accordance with section 181B(4) of the Act to confirm that certain prescribed actions have been undertaken.

Actions to be completed

4. To comply with the condition in section 181B(4), the Owner (or a person authorised on behalf of the Owner) must undertake the prescribed actions (see item 5) and complete and sign a statutory declaration (see item 6).
5. The prescribed actions include providing the Council with certain information. As part of providing this information, the Owner should:
 - 5.1. complete the form at **Annexure A**; and
 - 5.2. notify existing mortgagees of the Environmental Upgrade Agreement using the template at **Annexure B** and provide copies of those notifications at **Annexure C**.
6. Once the form at Annexure A is complete, and notifications have been provided to existing mortgagees, the Owner should sign the statutory declaration at **Annexure D** and return it to the Council, along with the covering page, Annexure A, and copies of the notifications required to be provided at Annexure C.
7. The Council's address for correspondence is:

Hepburn Shire Council
PO Box 21 Daylesford
VIC 3460

Checklist

8. The Owner should complete the following checklist to ensure that all required actions are complete.

Action	Tick if complete
Complete form at Annexure A	
Notify existing mortgagees of Environmental Upgrade Agreement using the template at Annexure B	
Provide copies of notifications sent to existing mortgagees at Annexure C	
Complete and sign statutory declaration at Annexure D	

ANNEXURE A: INFORMATION REQUIRED FROM OWNER

- List the names and addresses of existing mortgagees of the Rateable Land, mortgages owing on the Rateable Land and the total amount owing in respect of each mortgage.

"Existing mortgagee" means any holder of a mortgage for the Rateable Land, regardless of whether the mortgage is registered or unregistered.

If a relevant mortgage is held against two or more properties including the Rateable Land, the total amount owing on the mortgage is deemed to be the proportion of the debt secured by the mortgage that applies to the Rateable Land. The relevant proportion of debt should be calculated by distributing the debt between all the properties against which the mortgage is held in proportion to the relative capital improved values of the properties. For example, if a debt of \$1m is secured by a mortgage registered against two properties and the first property has a capital improved value of \$2.5m and the second property has a capital improved value of \$7.5m, the total amount owing on the mortgage in respect of the first property would be \$250,000 and in respect of the second property \$750,000.

	Mortgage number	Date of mortgage	Name of mortgagee	Address of existing mortgagee	Total amount owing on the mortgage
1					
2					
3					
4					
5					
TOTAL					\$

- Provide copies (at **Annexure C**) of the notifications sent to existing mortgagees that advise the existing mortgagees that the Owner intends to enter into an Environmental Upgrade Agreement. Use the template at **Annexure B** to provide the notification.
- List all taxes, rates and charges owing on the Rateable Land (including the total amount owing in respect of each tax, rate or charge) imposed by or under any Act.

	Type of tax, rate or charge owing on the Rateable Land (eg land tax, council rates)	Name of person to whom tax, rate or charge is owed (eg State Revenue Office, Council)	Date that payment of tax, rate or charge is due	Total amount owing
1				
2				
3				
4				
5				
TOTAL				\$

**ANNEXURE B: TEMPLATE NOTIFICATION TO EXISTING MORTGAGEES
(SEE POINT 2 OF ANNEXURE A)**

Dear [Existing Mortgagee],

[Owner], as the owner of the [details of Rateable Land i.e. volume and folio numbers, lot number if applicable] ("Rateable Land") intends to enter into an Environmental Upgrade Agreement pursuant to Division 2A of Part 8 of the *Local Government Act 1989* (Vic) with the Hepburn Shire Council ("Council") and the [Lending Body]. The Environmental Upgrade Agreement will provide for money to be advanced to [Owner] by the [Lending Body] to fund works that will improve the environmental performance of [details of building i.e. street address] on the Rateable Land.

The money advanced to [Owner] under the Environmental Upgrade Agreement will be recovered by the use of a statutory charge called an "environmental upgrade charge" ("EUC"), which will be levied by the Council in respect of the Rateable Land. An unpaid EUC will become a priority charge on the land and be recoverable in the same way as other Council rates and charges are recoverable, including by sale of the Rateable Land.

[Owner] expects the Council to declare one EUC in respect of the Rateable Land under the Environmental Upgrade Agreement in the amount of [insert]. [Owner] will be required to repay [Lending Body] that amount in accordance with the following payment schedule.

[Insert payment schedule]

Section 181B(2) of the *Local Government Act 1989* (Vic) requires [Owner] to notify [Existing Mortgagee], as an existing mortgagee of the Rateable Land, of its intention to enter into the Environmental Upgrade Agreement and of the details of the EUC that is expected to be declared by the Council in respect of the Rateable Land. This letter constitutes notification for the purposes of that provision.

[Insert any additional information]

If you have any questions in relation to this letter, or the Environmental Upgrade Agreement or EUC arrangements more generally, please do not hesitate to contact [Owner representative].

Yours sincerely,

ANNEXURE C: COPIES OF NOTIFICATIONS SENT TO EXISTING MORTGAGEES

ANNEXURE D: STATUTORY DECLARATION

I, _____ of _____, in the State of Victoria, _____ do solemnly and sincerely declare as follows:

1. _____, the owner of the Rateable Land described on page 1 of this document, has complied with section 181B(2) of the *Local Government Act 1989* (Vic), which requires it to advise, in writing, any existing mortgagee in respect of the Rateable Land to which the Environmental Upgrade Agreement will apply—
 - (a) that _____ intends to enter into an Environmental Upgrade Agreement; and
 - (b) of the details of all environmental upgrade charges that are expected to be declared by the Hepburn Shire Council in respect of the Rateable Land under the Environmental Upgrade Agreement.
2. The details given to the Hepburn Shire Council under section 181B(3) of the *Local Government Act 1989* (Vic) by _____ are accurate and complete. Those details are:
 - (a) details of all registered and unregistered mortgages over the rateable land including—
 - (i) the total amount owing in respect of each mortgage; or
 - (ii) if a relevant mortgage is held against 2 or more properties including the Rateable Land, the proportion of the debt secured by the mortgage that applies to the Rateable Land calculated in accordance with section 181B(5) of the *Local Government Act 1989* (Vic); and
 - (b) details of all taxes, rates and charges owing on the Rateable Land (including the total amount owing in respect of each tax, rate or charge) imposed by or under an Act.

I acknowledge that this declaration is true and correct and I make it in the knowledge that a person making a false declaration may be liable to a penalty for perjury.

Declared at
In the State of Victoria on the
_____ day of
Before me:

Witness signature

Declarant signature

Witness name, address and qualification