



Housing Australia

HOUSING AUSTRALIA GUIDELINES

**FOR AFFORDABLE HOUSING BOND
AGGREGATOR LOANS**

August 2018

AHBA LOANS AT A GLANCE ...

WHAT'S ON OFFER?

Loan finance (AHBA Loans) under the Affordable Housing Bond Aggregator (AHBA), as administered by the Housing Australia (Housing Australia), to support improved housing outcomes for Australians.

WHO CAN APPLY?

To be eligible for an AHBA Loan you must be a registered community housing provider (CHP) and satisfy the Housing Australia's additional eligibility criteria.

WHAT CAN AHBA LOANS BE USED FOR?

A CHP may use an AHBA Loan to:

- acquire new housing stock;
- construct new housing stock;
- maintain its existing housing stock;
- assist with its working capital requirements and/or for application towards its general corporate purposes; and/or
- refinance its existing indebtedness,

in each case, provided that the use of the loan finance can be demonstrated to improve housing outcomes for Australians. Additional requirements will apply where any CHP applies for an AHBA Loan that is to be used for a 'mixed tenure development'.

WHAT ARE THE FIRST STEPS TO APPLY FOR AN AHBA LOAN?

Any CHP interested in obtaining an AHBA Loan should read these guidelines.

Each application for an AHBA Loan must be made through a Housing Australia relationship manager. A Housing Australia relationship manager may be contacted by the submission to the Housing Australia of an Expression of Interest (EOI) Form, which will be available on the Housing Australia website or upon request from the Housing Australia.

The Housing Australia may be contacted on 1800 549 767 or via email at enquiries@housingaustralia.gov.au.

CHPs are encouraged to discuss their individual circumstances in full with the Housing Australia relationship manager before deciding whether to apply for an AHBA Loan.

STRUCTURE OF THESE GUIDELINES

These guidelines contain information about:

- the eligibility requirements for AHBA Loans;
- how to apply for an AHBA Loan; and
- the process the Housing Australia will follow when making a decision in relation to an AHBA Loan, as well as requirements specific to applications for an

AHBA Loan.

These guidelines do not cover financing provided by the Housing Australia through the National Housing Infrastructure Facility (NHIF). CHPs and other persons interested in housing infrastructure finance should refer to the NHIF guidelines on the Housing Australia website.

Applicants must read this document before submitting an EOI Form or applying for an AHBA Loan. Before applying for an AHBA Loan, or making any decisions in relation to an AHBA Loan, the Housing Australia recommends that Applicants seek advice from their legal, business, tax, financial and/or other professional advisers.

Terms that are capitalised in these guidelines are defined in the Glossary at the end of the document.

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1. OBJECTIVES OF THE HOUSING AUSTRALIA AND THE AHBA

The Australian Government has established the Housing Australia (**Housing Australia**) under the *Housing Australia Act 2018* (**Housing Australia Act**) to improve housing outcomes for Australians by:

- strengthening efforts to increase the supply of housing;
- encouraging investment in housing, in particular in the social or affordable housing sector;
- providing finance, grants or investments that complement, leverage or support Commonwealth, State or Territory activities that relate to housing; and
- contributing to the development of the scale, efficiency and effectiveness of the community housing sector in Australia.

To achieve these outcomes, the Housing Australia is responsible for administering the AHBA and the NHIF. These guidelines set out the requirements for accessing the AHBA.

The provision of AHBA Loans is governed by the requirements and constraints of the Housing Australia Act and the Investment Mandate made by the Treasurer under section 12 of the Housing Australia Act. The Investment Mandate directs the Housing Australia on the performance of its operations in a range of areas and specifies requirements in relation to the provision of AHBA Loans.

2. HOW WILL THE AHBA WORK

The AHBA is a fundraising platform and loan provider for the community housing sector, administered by Housing Australia.

The Housing Australia's AHBA functions are two-fold:

- **Fundraising** - the Housing Australia will raise funds through borrowings from the Commonwealth and by issuing bonds in the Australian domestic debt capital markets (Housing Australia Bonds). The issuance of Housing Australia Bonds should also enable indirect investment in the community housing sector; and
- **AHBA Loans** - the Housing Australia will use the proceeds of its fundraising activities to finance AHBA Loans, endeavoring to provide low cost, appropriate loan products to CHPs.

Housing Australia will be able to borrow up to \$1 billion through a facility with the Australian Government to assist with the initial funding of AHBA Loans.

The AHBA is expected to enable fundraising on a larger scale and on different terms to what would be possible for individual CHPs accessing the loan or capital markets, and for the savings from that fundraising activity to be passed through to CHPs in the form of lower interest and/or longer tenor loans, enabling them to improve housing outcomes for their clients.

3. AHBA LOANS

3.1. WHAT AHBA LOANS CAN BE USED FOR

A CHP may use an AHBA Loan to:

- acquire new housing stock;
- construct new housing stock;
- maintain its existing housing stock; and/or
- assist with its working capital requirements and/or for application towards its general corporate purposes; and/or
- refinance its existing indebtedness,

provided that the use of the loan finance can be demonstrated to improve housing outcomes for Australians.

The Housing Australia may provide an AHBA Loan in relation to a mixed tenure development only if it is satisfied that any profits from the development will be applied to support affordable housing outcomes.

A 'mixed tenure development' for these purposes is a development which aims to improve housing outcomes for Australians by (1) making affordable housing available for sale or rent, and (2) also making housing available for sale or rent on the private market at the prevailing market price (or such other price which does not support affordable housing outcomes).

3.2. AHBA LOAN TERMS

The key commercial terms and conditions that are to be included in the AHBA Loan documents are summarised in the General Information for Indicative Terms for AHBA Loans document, which is available upon request from a Housing Australia relationship manager. That document is indicative only and has been prepared to provide information for CHPs of the AHBA Loan types that may be made available from time to time. AHBA Loan documents may also include additional conditions determined by the assessment process or to take into account any other considerations identified by the Housing Australia.

Successful Applicants will be required to enter into a legally binding Facility Agreement and a Common Terms Agreement with Housing Australia. The Common Terms Agreement sets out the terms and conditions that are to apply to all AHBA Loans and other financing procured by the Applicant from the Housing Australia (including under the NHIF). The Facility Agreement will include other terms and conditions that apply to the AHBA Loan.

An offer of an AHBA Loan may lapse if an Applicant does not sign the Facility Agreement, Common Terms Agreement and any other required AHBA Loan document within the timeframe specified by Housing Australia. Applicants should note that no contractual arrangement will exist with the Housing Australia until these documents are signed by the Applicant and the Housing Australia.

By signing the AHBA Loan documents (including the Facility Agreement and Common Terms Agreement), the Applicant will agree that they are subject to the terms of those documents.

Applicants should be aware that if their financial position changes significantly during the term of an AHBA Loan, or they breach the terms and conditions of the AHBA Loan as specified in the AHBA Loan documents, the Housing Australia may initiate recovery or remedial action as specified in the relevant AHBA Loan documents.

3.3. MONITORING AND COMPLIANCE

Housing Australia will continually monitor compliance with, and the ongoing capacity of the borrower to meet, the terms and conditions of the AHBA Loan documents.

Successful Applicants will be required to provide the Housing Australia with information regarding the financial condition, business and operations of the Applicant and its group members as the Housing Australia may reasonably request or require about any secured property and the Applicant's compliance with the terms and conditions of the AHBA Loan documents.

3.4. REPORTING REQUIREMENTS

Successful Applicants will be required to provide information throughout the term of their AHBA Loan in accordance with the reporting requirements specified in the AHBA Loan documents.

4. WHO IS ELIGIBLE TO APPLY FOR AN AHBA LOAN?

4.1. ELIGIBLE APPLICANTS

To be eligible for an AHBA Loan, an Applicant must be a community housing provider (however described) that is registered under a law of, or under a scheme administered by, a State or a Territory.

No other person or entity is eligible for an AHBA Loan.

4.2. ADDITIONAL ELIGIBILITY CRITERIA

The Housing Australia may (at any time, and in its discretion) impose additional criteria for eligibility to apply for any AHBA Loans (in accordance with section 16(3) of the Investment Mandate)

(Additional Eligibility Criteria).

As at the date of these guidelines, the Additional Eligibility Criteria for AHBA Loans include that, in addition to the matters described in section 4.1 above, Applicants must also:

- have an Australian Business Number (ABN);
- have a bank account with an authorised deposit-taking institution; and
- be legally constituted and exist, and be registered as a registered community housing provider, as at the date it submits an Application Form for an AHBA Loan.

However, Additional Eligibility Criteria may be imposed, from time to time and without prior notice, in connection with AHBA Loans that are to be made in particular periods. Such criteria will be specified in this numbered section under replacement guidelines as published on the Housing Australia website, at www.Housing Australia.gov.au.

5. REGULATORY REQUIREMENTS FOR AHBA CONSTRUCTION WORK

Building work funded by the Housing Australia is subject to all relevant Commonwealth, State or Territory work health and safety laws. This includes the Australian Government Building and Construction WHS Accreditation Scheme (the Scheme).

The Scheme is administered by the Office of the Federal Safety Commissioner. It applies to companies who intend to enter into head contracts for building work that are funded directly or indirectly by Australian Government agencies, subject to financial thresholds.

Building work includes, amongst other things, work on:

- buildings, structures or works that form part of land; and
- preparatory/ finishing operations.

The head contractor will need to be accredited under the Scheme if:

- the head contract for the building work is greater than \$4 million; and
- the total value of the Housing Australia funding to a project is at least \$6 million and represents at least 50 per cent of the total construction project value, or
- the total value of the Housing Australia funding to a project is \$10 million or more, irrespective of the proportion of Housing Australia funding to the total construction project value.

It is important that CHPs ensure they are familiar and can comply with the obligations that may arise for them and their contractors, in relation to projects funded under the AHBA. In particular:

- any company that is to be engaged as the head contractor for building works may be required to be accredited under the Scheme, at the time at which tenders for the relevant contract are called; and
- where no tender process is to be conducted for the head contract, these requirements would instead apply from the time when a CHP enters into a contract with a contractor for this work.

For detailed information on the Scheme, CHPs should visit the website of the Federal Safety Commissioner, at www.fsc.gov.au.

6. HOW TO APPLY

6.1. CONTACT A HOUSING AUSTRALIA RELATIONSHIP MANAGER

Each application for an AHBA Loan must be made through a Housing Australia relationship manager. A Housing Australia relationship manager may be contacted by the submission to the Housing Australia of an EOI Form, which will be available on the Housing Australia website or upon request from the Housing Australia.

The EOI Form will be made available once the Housing Australia's relationship management team is in place. In the interim, you can discuss the requirements which are anticipated to apply to AHBA loans with Treasury officials by contacting the Housing Australia.

The Housing Australia may be contacted on 1800 549 767 or via email at enquiries@housingaustralia.gov.au.

Completed EOI Forms can be submitted to the Housing Australia via email to enquiries@housingaustralia.gov.au or by mail to Level 10, Export House, 22 Pitt Street, Sydney, NSW, 2000.

An EOI Form is expressly not an application or proposal for any AHBA Loan and does not require the Housing Australia to make any financing decision nor a decision not to provide finance.

CHPs are encouraged to discuss their individual circumstances in full with the Housing Australia relationship manager before deciding whether to apply for an AHBA Loan.

6.2. SUBMITTING AN APPLICATION

To apply for an AHBA Loan, CHPs must:

- complete an Application Form, which are available upon request from Housing Australia relationship managers;
- provide all the information requested in the Application Form and these guidelines; and

- submit their application to the Housing Australia through a Housing Australia relationship manager, along with all required supporting documentation.

Applicants are responsible for ensuring that their applications are complete and accurate. Giving false or misleading information is a serious offence under the *Criminal Code 1995* (Cth). The Housing Australia will investigate any false or misleading information and may exclude applications from further consideration.

Following the submission of an Application Form, a CHP's AHBA Loan application may, in the Housing Australia's discretion, be further developed in consultation with the Housing Australia or a Housing Australia relationship manager. However, neither the Housing Australia nor any Housing Australia relationship manager is obliged to develop any relevant application.

6.3. SUPPORTING DOCUMENTATION AND OTHER INFORMATION

The Schedule to these guidelines sets out the specific information and documents that CHPs are required to provide in connection with their submission of any Application Form. The Housing Australia or any Housing Australia relationship manager may also request CHPs to provide other available documentation in support of their application, including:

- due diligence reports (legal, technical or other);
- valuations of any property to be secured by the AHBA Loan;
- for construction facilities:
 - working plans, design documentation and engineering plans, specifications for the construction of the works, as well as any feasibility studies and construction programs and budgets;
 - environmental assessments, planning approvals or audit reports;
- copies or details of any authorisations, consents, approvals, licences, exemptions, filings or registrations in respect of the CHP; and
- copies of any equity, debt finance and project arrangements applicable to the CHP.

The documentation and information requested will depend on a number of factors including the purpose for which the AHBA Loan is being sought, the assets being given as security for the AHBA Loan and the CHP's existing financing arrangements.

6.4. FURTHER INFORMATION AND CHECKS

The Housing Australia may request further information from a CHP to assess their application. If the Housing Australia finds an error or information that is missing, it may ask for clarification or additional information from the relevant Applicant. The Housing Australia may also liaise with any CHP, their commercial financiers and professional advisers as required to confirm and verify the evidence and information provided by the CHP as part of their application.

In assessing an EOI Form and/or an Application Form, the Housing Australia reserves the right to conduct further checks to verify the information provided by the CHP and use information from:

- Commonwealth agencies or departments, such as the Australian Taxation Office and the Australian Securities Investments Commission;
- State or Territory agencies;
- law enforcement agencies;
- credit reference agencies;
- courts or tribunals;
- referees; or
- any other appropriate organisation or person reasonably required as part of these checks.

7. HOW APPLICATIONS ARE ASSESSED

In administering the AHBA, the Housing Australia will apply commercial disciplines to assess and decide on applications in accordance with these guidelines, the Housing Australia Act and the Investment Mandate. The provision of any AHBA Loan is subject to satisfaction of Eligibility Criteria and the Housing Australia's assessments and its general discretions.

Each AHBA Loan application will be assessed by the Housing Australia on a case-by-case basis, in accordance with its own credit, risk and lending criteria, without any preference as to the date that the application for that AHBA Loan is initiated. Any decision to provide, or to decline to provide, an AHBA Loan remains subject to the Housing Australia's discretion to do so.

8. CONFLICTS OF INTEREST

Conflicts of interest can adversely affect the performance, integrity and implementation of programs such as the AHBA.

For example, a conflict of interest, or perceived conflict of interest, could arise if the CHP, or any personnel of the CHP has a professional, commercial or personal relationship with a party who is able to influence the AHBA Loan application process, such as a member of the Housing Australia Board or the Housing Australia's assessment staff.

Applicants will be asked to declare, as part of their application, any perceived, potential or existing conflicts of interests, or that, to the best of the Applicant's knowledge, there is no conflict of interest.

If a CHP later identifies an actual, apparent, or perceived conflict of interest, they must inform the Housing Australia in writing immediately.

The Housing Australia will take all reasonable measures to appropriately manage any conflicts of interest and ensure that the assessment and decision-making in relation to AHBA Loan applications is undertaken without bias.

9. NOTIFICATION OF AHBA LOAN DECISIONS

9.1. NOTIFICATION OF FINANCE DECISIONS

The Housing Australia will notify Applicants of the outcome of their application in writing, including reasons for a decision to decline an application.

9.2. LENDING DECISIONS

The Housing Australia's decision in relation to AHBA Loan is final in all matters, including:

- the approval of the AHBA Loan;
- the approved AHBA Loan amount(s); and
- the terms and conditions of the AHBA Loan.

Successful Applicants for AHBA Loan funding will be required to sign relevant AHBA Loan documents with the Housing Australia (and other third-parties, as required) which will set out the terms and conditions of the AHBA Loan and related security and other arrangements.

The negotiation and finalisation of these documents, in forms acceptable to the Housing Australia, will be a condition precedent to the success of any AHBA Loan application.

If an Applicant incurs any costs or expenses before the Applicant and the Housing Australia have executed all required AHBA Loan documents, the Applicant does so at its own risk. No binding contract (including a process contract) or other understanding (including, without limitation, any form of contractual, quasi-contractual, restitutionary or promissory estoppel rights, or rights based upon similar legal or equitable grounds) will exist between the Housing Australia and an Applicant, nor will there be any obligation on the Housing Australia's part to provide AHBA Loan funding to an Applicant, unless and until the parties have entered into all required AHBA Loan documents.

Successful Applicants will be required to pay any 'out of pocket' costs and expenses associated with establishing the AHBA Loan (for example, mortgage registrations, title searches, personal property securities register searches and registrations and personal and corporate background checks).

10. APPLICANT RESPONSIBILITIES

Applicants are responsible for:

- ensuring they have read and understood the guidelines and all documents referred to in these guidelines;
- ensuring any document or information they provide to the Housing Australia (including their application) is complete and accurate;
- all costs associated with the preparation and lodgement of their application; and
- ensuring their project complies with all legal requirements set out in any relevant Commonwealth, State or Territory legislation and regulations.

Successful Applicants are responsible for ensuring they have read and understood all aspects of the AHBA Loan documents and any associated documents provided by the Housing Australia.

CHPs should seek advice from their legal, tax, financial and/or other professional advisers.

11. CONFIDENTIALITY AND PROTECTION OF PERSONAL INFORMATION

Subject to the disclosures permitted below, the Housing Australia will treat information supplied to it by any CHP as confidential.

The Housing Australia will treat personal information in an application in accordance with the Australian Privacy Principles and the *Privacy Act 1988* (Cth). This includes letting CHPs know:

- what personal information the Housing Australia collects;
- why the Housing Australia collects the personal information; and
- who the Housing Australia gives the personal information to.

A CHP's personal information can only be disclosed to someone else if the CHP is given reasonable notice of the disclosure and:

- where disclosure is authorised or required by law or is reasonably necessary for the enforcement of the criminal law; or
- if it will prevent or lessen a serious and imminent threat to a person's life or health; or
- if the CHP has consented to the disclosure.

By submitting an EOI Form and, subsequently, any Application Form, an Applicant consents to the

Housing Australia using and disclosing information submitted as part of the application for the purpose of administering the AHBA and assessing the application and acknowledges that disclosure of information may occur where authorised or required by law, or where the information is already in the public domain.

They also consent to the Housing Australia disclosing personal and confidential information to:

- the Australian Taxation Office for compliance purposes;
- the Housing Australia Board, any assessment committee of the Housing Australia and other Housing Australia employees and contractors to help the Housing Australia manage the AHBA effectively;
- the Housing Australia's employees and contractors so the Housing Australia can research, assess, monitor and analyse the AHBA and activities;
- employees and contractors of the Commonwealth and other Commonwealth agencies for any purposes, including government administration, research or service delivery;
- the Commonwealth, other Commonwealth, State, Territory or local government agencies in program reports and consultations;
- the Auditor-General, Ombudsman or Privacy Commissioner; and
- a Minister, House or a Committee of the Australian Parliament.

The AHBA Loan documents will also include confidentiality provisions, which will apply in connection with the AHBA Loan and any arrangements expressly identified therein.

12. DISCLAIMER

The Housing Australia and the Australian Government are not liable for any cost, loss or damage however caused (including negligence on the part of the Housing Australia or the Australian Government) that is suffered or incurred by any person as a consequence of any matter or thing relating to, or incidental to their reliance on these guidelines, any enquiry made by them or their participation in the application process or provision of information in respect of the AHBA, including without limitation, instances where the Housing Australia:

- varies or terminates all or any part of any assessment process or any negotiations with a CHP; or
- exercises or fails to exercise any of its other rights under, or in relation to these guidelines or the AHBA.

The Housing Australia and the Australian Government will not be responsible for any costs or expenses incurred by CHPs in their dealings with the Housing Australia, the AHBA or any Housing Australia relationship manager (including any costs or expenses incurred in preparation or lodgement of an EOI Form or in taking part in any application process).

13. EVALUATION

The Housing Australia may conduct periodic evaluations to determine the extent to which operations under the AHBA are contributing to Australian Government policy objectives and the objects of the Housing Australia Act.

14. REVIEW OF GUIDELINES

The Housing Australia may modify, review, revoke or vary these guidelines at any time and without notice. Where these guidelines are to be modified or varied, revised guidelines will be published on the Housing Australia website.

SCHEDULE – SUPPORTING DOCUMENTS

Applications for an AHBA Loan are required to address each of the matters described below, none of which are listed in any particular order of importance.

RELEVANT MATTER	SUPPORTING INFORMATION OR DOCUMENTS
Registration	An Applicant must be a community housing provider (however described) that is registered under a law of, or under a scheme administered by, a State or a Territory. The Application Form will require the Applicant to provide details and evidence of its registration status.
Affordable housing outcomes	An Applicant will be requested to demonstrate how it will use the proceeds of the AHBA loans in a manner that supports affordable housing outcomes. The Application Form will require the Applicant to provide details of how the loan will support affordable housing outcomes. Examples include that the AHBA Loan will result in more affordable housing to be made available.
Financial viability	An Applicant will be requested to demonstrate its continuing financial viability, and will be required to submit documents evidencing its financial viability as specified in the Application Form, which may include copies of the following documents: (a) its consolidated audited accounts for the last 3 financial years; (b) its current management accounts, business plans, financial forecasts, scenario and stress testing assessments; and (c) its most recent board approved Financial Performance Report prepared by the Applicant as part of demonstrating its compliance with Performance Outcome 7: Financial Viability to the Registrar (if regulated under the National Law, otherwise the equivalent, under its primary jurisdiction of regulation).
Quality of security	The Application Form will require an Applicant to provide details of: (a) the assets the Applicant is willing to provide as security to the Housing Australia to secure its obligations under an AHBA Loan (including the market value of, and net income derived from, those assets, and the basis on which those measures are provided); (b) any other encumbrances over the assets being offered to the Housing Australia as security; and (c) to the extent applicable and available at the time of application, the proposed priority/intercreditor arrangements that are to apply in respect of secured assets that are to be shared by the Housing Australia with the Applicant's other financiers
Availability of private sector finance	The Application Form will require an Applicant to provide reasonable details of any private sector finance it has procured, or has applied for, to fund the activities it proposes to fund with the proceeds of the AHBA Loan.

Culture of compliance	<p>An Applicant will be required to submit with the Application Form:</p> <ul style="list-style-type: none"> (a) a copy of its most recent annual performance and compliance report or survey conducted by any State or Territory housing agency and “CHP Annual Compliance Report” delivered by any State or Territory regulator; and (b) details of any notifications received by it in the last 12 months from any Federal, State or Territory agency or regulator relating to any non-compliance by the Applicant with any laws, regulations, rules, guidelines or procedures (including
RELEVANT MATTER SUPPORTING INFORMATION OR DOCUMENTS	
	<p>reasonable details of the circumstances and steps taken to cure the non-compliance or other outcomes).</p>
Other governmental assistance or support	<p>An Applicant will be required to submit with the Application Form reasonable details of the financial and other assistance and support that has been provided to it by any Federal, State or Territory agency, body or scheme.</p>

GLOSSARY

TERM	DEFINITION
Affordable Housing Bond Aggregator or AHBA	the “affordable housing bond aggregator” operated by Housing Australia and under which Housing Australia provides finance to registered CHPs by aggregating their lending requirements and primarily financing them through the issuance of bonds.
AHBA Loan	loan finance provided to a CHP under the AHBA.
AHBA Loan documents	the financing, security and other documents and instruments required by the Housing Australia in connection with any AHBA Loan.
Applicant	an applicant for an AHBA Loan.
Application Form	the application form to be submitted by Applicants as part of their formal application for an AHBA Loan.
CHP	a registered community housing provider.
Common Terms Agreement	the “Housing Australia Common Terms Agreement” to be entered into between, amongst others, a successful Applicant and the Housing Australia.
Eligibility Criteria	the criteria specified in section 4, including any Additional Eligibility Criteria.
EOI Form	means an expression of interest form, relating to AHBA Loans which will be available on the Housing Australia website or from the Housing Australia upon request.
Facility Agreement	the agreement to be entered into between a successful Applicant and the Housing Australia, which contains terms and conditions governing the provision of the AHBA Loan.
Investment Mandate	the <i>Housing Australia Investment Mandate Direction 2018</i> (Cth).
Housing Australia	the Housing Australia (a corporate Commonwealth entity constituted under the Housing Australia Act).
Housing Australia Act	the <i>Housing Australia Act 2018</i> (Cth).
Housing Australia Board	the board of directors of Housing Australia.
Housing Australia Bonds	bonds issued by the Housing Australia in the Australian domestic debt capital markets.
NHIF	the National Housing Infrastructure Facility, administered by Housing Australia.
Scheme	the Australian Government Building and Construction WHS Accreditation Scheme.