



Housing Australia

HOUSING AUSTRALIA GUIDELINES

FOR AFFORDABLE HOUSING BOND
AGGREGATOR LOANS

January 2024

AHBA LOANS AT A GLANCE

WHAT'S ON OFFER?

Loan finance (AHBA Loans) under the Affordable Housing Bond Aggregator (AHBA), as administered by 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 Housing Australia's additional eligibility criteria outlined in these guidelines.

WHAT CAN AHBA LOANS BE USED FOR?

A CHP may use an AHBA Loan to:

- acquire new housing;
- construct new housing;
- maintain its existing housing;
- 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. Further information in relation to eligibility criteria and approved AHBA Loan uses are set out in this document.

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

Any registered CHP, or entities intending to become registered CHPs, interested in obtaining an AHBA Loan should read these guidelines.

Each application for an AHBA Loan must be made through the [Housing Australia Portal](#).

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

Further information about AHBA Loans can be found [here](#).

STRUCTURE OF THESE GUIDELINES

These guidelines contain information about:

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

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

Applicants must read this document before applying for an AHBA Loan. Before applying for an AHBA Loan or making any decisions in relation to an AHBA Loan, 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 guidelines.

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1. OBJECTIVES OF HOUSING AUSTRALIA AND THE AHBA

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

- strengthening efforts to increase the supply of housing;
- encouraging investment in housing, in the social or affordable housing sector;
- providing finance or grants 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, Housing Australia is responsible for administering various programs that provide loans and grants. These guidelines set out the requirements for accessing Affordable Housing Bond Aggregator loans (AHBA Loans).

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

The Investment Mandate was amended in 2023 to establish the Housing Australia Future Fund Facility (HAFFF) and National Housing Accord Facility (NHAF). The HAFFF and NHAF are expected to collectively support the delivery of 20,000 new social homes and 20,000 new affordable homes across Australia over 5 years. AHBA loans can be provided to finance social and affordable housing projects that are funded through the HAFFF and NHAF. AHBA Loans that are sought to support specific housing programs, such as the HAFFF and NHAF, may be subject to additional eligibility criteria and specific AHBA Loan terms and conditions. Applicants should refer to the relevant loan product statement and indicative terms sheets for further details in this regard.

2. HOW THE AHBA WORKS

The Affordable Housing Bond Aggregator (AHBA) is a fundraising platform and loan provider for registered CHPs, administered by Housing Australia.

Housing Australia's AHBA functions are two-fold:

- **Fundraising** - Housing Australia raises 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** - Housing Australia uses the proceeds of its fundraising activities to finance AHBA Loans, endeavoring to provide low cost, appropriate loan products to CHPs.

The AHBA enables 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.

These AHBA Guidelines contain a high-level summary of some of the typical terms and conditions which apply to loans provided by Housing Australia which are exclusively funded in full through a bond issuance under the AHBA. The source of funding for all or part of any Housing Australia loan remains at Housing Australia's sole discretion, at all times.

To the extent Housing Australia elects to utilise an alternate source of funding for all or part of any of its loans, different terms and conditions may apply (including as to pricing, tenor, and drawdown profile).

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

3.1 ELIGIBLE APPLICANTS

To be eligible for an AHBA Loan, Applicants must be a registered CHP. An entity that intends to become a registered CHP may apply for an AHBA loan but must be registered prior to drawing down under the AHBA Loan Documents.

Eligible Applicants must also:

- have an Australian Business Number (ABN);
- have an account with an Australian financial institution; and
- be legally constituted and exist at the date of application or, in the case of a Special Purpose Vehicle (SPV), be able to demonstrate that it will be legally constituted by the time AHBA Loan Documents are entered.

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). Such criteria will be specified in this numbered section under replacement guidelines as published on Housing Australia website, at www.housingaustralia.gov.au, or included in relevant program documentation.

4. LOAN USES

An eligible Applicant may use an AHBA Loan to:

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

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

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 social and affordable housing and no less than 50% of the loan amount must relate to social and affordable housing.

A 'mixed tenure development' for these purposes is a development which aims to improve housing outcomes for Australians by (1) making social and 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 social or affordable housing outcomes).

4.1. CONSTRUCTION FUNDING

As outlined above, Housing Australia can provide an AHBA Loan to support construction projects. At the end of the construction phase, construction loans will convert to a term facility.

With respect to development project loans, the following costs are eligible for an AHBA Loan during construction:

- Land acquisition (post planning approval)
- Land remediation
- Transaction Costs
- Design and professional fees
- Construction costs
- Capitalised interest

Applicants must also comply with regulatory requirements, including the National Construction Code (NCC) and obligations in relation to construction projects funding under the AHBA. Please see Schedule 1 for further details.

5. LOAN FEATURES

5.1. LOAN AMOUNT

Eligible CHPs can apply for a minimum loan amount of \$5 million. Housing Australia may consider making exceptions for lower loan amounts subject to financing and project considerations.

Loan parameters may vary under major programs (e.g., the HAFFF and/or NHAF programs). Please refer to the relevant loan product statement for further details.

5.2. LOAN TERM AND REPAYMENTS

AHBA Loans are typically offered on 10–15-year terms, structured on an interest only basis with a bullet repayment at the end of the loan term.

Where AHBA Loans relate to other major programs, they may be subject to different terms. For example, AHBA Loan terms may be offered for a longer term of up to 25 years under the HAFFF and NHAF programs. In this scenario, AHBA Loans will be structured with an amortising profile, requiring repayment of both principal and applicable interest on the balance of the loan over the agreed term by making regular payments.

The repayment profile of AHBA Loans may be amended in certain circumstances at Housing Australia's discretion.

5.3. INTEREST RATE

A fixed interest rate will apply to all AHBA Loans over the loan term. Under some longer-term loans, for example those supporting HAFFF/NHAF programs, a Base Rate Adjustment might apply. Refer to the applicable product statement for further detail.

In some situations, for example releasing progressive drawdowns during a construction phase, Housing Australia may fund a loan through other sources other than a fixed rate bond issuance (including from sources with a variable rate of funding). In that case, different terms and conditions (including as to pricing) would apply.

5.4. PROJECT INTEREST RATE MANAGEMENT OVER LOAN LIFE

Applicants for AHBA Loans may be responsible for interest rate management during the loan term of the loan and will need to specify their preferred approach to interest rate risk when completing the application. Applicants will need to specify either a request for Housing Australia to manage interest rate risk or a clear strategy for self-management of interest rate risk. Strategies should be prepared regarding the following guidance notes on Fixed Loan Commitment or Variable Loan Commitment options.

Borrowers may elect to apply for a Fixed Loan Commitment or a Variable Loan Commitment from Housing Australia, where a:

- Fixed Loan Commitment is a commitment from Housing Australia for a fixed amount of funding to be provided on or about the bond issuance date; and a

- Variable Loan Commitment is a commitment from Housing Australia for an amount of funding that will size on or about the Loan Commencement Date based on the Prevailing Base Rate.

The Prevailing Base Rate will be the base rate that Housing Australia is able to obtain in the market for a loan term between 10 and 15 years. The Loan Commencement Date is the date that Housing Australia makes the funds available for drawdown. Loan commitments will be subject to satisfaction of all the conditions to funding under the relevant loan agreement and related finance documents in form and substance satisfactory to Housing Australia.

Please note that the Base Rate Adjustment policy may be different for major programs (e.g., under the HAFFF and/or NHAF programs). Please refer to the relevant loan product statement for further details.

5.5. KEY FINANCIAL COVENANTS

Financial covenants are a mandatory requirement for all AHBA Loans. Proposed financial covenants are used to measure the financial strength of the CHP, primarily focused on the ability to service debt over the life of the loan.

Housing Australia's financial covenants will be tested periodically and will include, but are not limited to, the following:

- Interest Coverage Ratio (ICR) does not fall below 1.50 times
- Loan to value ratio (LVR) not to exceed 60%
- Corporate borrowings to total property values not to exceed 40%

Financial covenants may vary for AHBA Loans supporting projects funded through other major programs (e.g., HAFFF and/or NHAF programs). Please refer to the relevant loan product statement for details.

5.6. SECURITY REQUIREMENTS

Consistent with the Investment Mandate, successful Applicants must provide Housing Australia with appropriate and satisfactory security for repayment of the AHBA Loan. Security requirements are mandatory, and changes are only negotiable in certain circumstances by exception.

As part of their application, Applicants should identify any security (for example, mortgage, charge or registered security interests over the Applicant's property or project works) that they are willing to provide to secure their payment obligations under the AHBA Loan Documents and provide details of the quality and value of such security.

In deciding what level of security is appropriate, Housing Australia will consider the quality and type of any security available from an Applicant, the creditworthiness of the Applicant, the potential exposure of the Commonwealth and Housing Australia in the event of a default, and the conventional practices of a prudent lender.

Security for an AHBA Loan will require at a minimum:

- 1st ranking registered real property and leasehold mortgages over the Applicant's property;

- specific security agreements over the shares in the Applicant or SPV undertaking the project, to the extent available;
- general security agreements over all assets of the Applicant and other entities guaranteeing the Applicant's obligations;
- Multi-party / tripartite Deeds with relevant stakeholder and project participant entities;
- Subordination Deeds where relevant to subordinate other existing or future indebtedness to the AHBA Loans; and
- Account bank agreements regarding the bank accounts of the borrower.

Housing Australia may require additional security in some circumstances, if considered necessary. Where applicable, assets provided as security must be insured to the satisfaction of Housing Australia.

6. HOW TO APPLY

6.1. HOUSING AUSTRALIA PORTAL

Applications for AHBA Loans must be made to Housing Australia via the Housing Australia Portal (HAP).

A link to the HAP is available via the Housing Australia [website](#) or upon request from Housing Australia.

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

6.2. SUBMITTING AN APPLICATION

To apply for an AHBA Loan, Applicants must:

- complete an Application Form via the HAP;
- provide all the information requested in the HAP and these guidelines; and
- submit their application to Housing Australia through the HAP, along with all required supporting documentation.

Applicants are responsible for ensuring that their applications are complete and accurate. Housing Australia will investigate any false or misleading information and may exclude applications from further consideration.

Following the submission of an application via the HAP, an AHBA Loan application may, in Housing Australia's discretion, be further developed in consultation with Housing Australia. However, neither Housing Australia nor any Housing Australia representative is obliged to develop any relevant application.

Applicants should keep a copy of any application made and any supporting documents.

6.3. CHP FINANCIAL MODEL

All AHBA Loan applications will require the submission of a standard CHP Financial Model. This model and instructions on completion, debt structure, debt sizing and covenant checking are available on the Housing Australia [website](#).

Applicants applying for AHBA Loans from Housing Australia will need to input key borrower, property, and project information into the CHP Financial Model. The model can provide an indication of the CHP's projected financial position and feasibility of the project, particularly in relation to the application.

AHBA Loan applications made to support other major program applications (e.g., HAFFF and NHAFF) may be required to complete a different, program-specific financial model template

instead of the standard CHP Financial Model. Please refer to the relevant program's documentation.

6.4. SUPPORTING DOCUMENTATION AND OTHER INFORMATION

The HAP sets out the supporting information that CHPs are required to provide in connection with their submission of any Application Form. This includes information regarding the Applicant's registration, social and affordable housing outcomes, financial viability, and quality of security.

Following submission of an application via the HAP, Housing Australia or any Housing Australia representative may also request Applicants to provide other available documentation in support of their application. Any further documentation and information requested will depend on several factors including the purpose for which the AHBA Loan is being sought, the assets being given as security for the AHBA Loan and the Applicant's existing financing arrangements.

6.5. CLARIFICATION AND CHECKS

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

In assessing an application, Housing Australia reserves the right to conduct further checks to verify the information provided by the Applicant and use information from:

- Commonwealth agencies or departments, such as the Australian Taxation Office and the Australian Securities and 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, 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 Housing Australia's assessments and its general discretion.

Each AHBA Loan application will be assessed by 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 Housing Australia's discretion to do so.

Only fully completed applications that address each of the Evaluation Criteria and provide complete information will be accepted. If not fully completed, Applications will not be considered by Housing Australia. If Applicants wish to amend any part of their application after submitting it, they should contact Housing Australia immediately.

7.1. CONCESSIONS

Housing Australia may (at its discretion) provide, but is not limited to, the following loan concessions:

- lower interest rate loans than offered by commercial financiers;
- longer loan tenor than offered by commercial financiers;
- deferred loan repayments or tailored loan repayments schedules;
- funding via a second ranking, or subordinated, loan behind senior financiers;
- acceptance of certain market risks that would typically fall to the borrower;
- extended periods of capitalised interest for a loan;
- lower or different loan fee structures to those offered by commercial financiers; and
- loans with an option to roll-over.

To the extent that a concession is appropriate for Housing Australia to consider, Applicants may be required to:

- identify the loan amount and the loan concession(s) sought under the AHBA;
- identify the extent to which other funding / finance will be provided by third parties for the project (and identify the relevant third parties);
- provide an analysis of the costs to complete the project; and
- provide evidence that alternative available finance could not achieve the same impact on social and/or affordable housing supply.

Housing Australia will only provide Applicants with the minimum concessions the Housing Australia Board assesses as necessary for the project to proceed in the proposed timeframe.

8. NOTIFICATION OF AHBA LOAN DECISIONS

8.1. NOTIFICATION OF FINANCE DECISIONS

Housing Australia will notify Applicants of the outcome of their application in writing, including reasons for a decision to decline an application. If you are not satisfied with our decision on your loan application, you can request a review of the loan decision. You must submit the request for a review by writing to us via email to enquiries@housingaustralia.gov.au within 30 business days of receipt of the decision notification.

8.2. LENDING DECISIONS

Housing Australia's decision in relation to an 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 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. This will include a legally binding Facility Agreement and a Common Terms Agreement (among other documents). 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 Housing Australia (including under the NHIF). The Facility Agreement will include other terms and conditions that apply to the AHBA Loan.

The finalisation of these documents, in forms acceptable to 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 Housing Australia have executed all required AHBA Loan Documents, the Applicant does so at its own risk. An Applicant will be required to indemnify Housing Australia for all external legal costs incurred by Housing Australia with respect to the preparation and the negotiation of the AHBA Loan Documents. No other binding contract or other understanding will exist between Housing Australia and an Applicant, nor will there be any obligation on Housing Australia's part to provide an AHBA Loan to an Applicant, unless and until the parties have entered 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).

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 Housing Australia until these documents are signed by the Applicant and Housing Australia, aside from any indemnity letter in respect of legal fees, costs and expenses that may be incurred by Housing Australia in the period prior to execution of the AHBA Loan 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, Housing Australia may initiate recovery or remedial action as specified in the relevant AHBA Loan Documents.

9. REPORTING REQUIREMENTS

9.1. AHBA MONITORING AND REPORTING REQUIREMENTS

Housing Australia regularly monitors compliance 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 information throughout the term of their AHBA Loan in accordance with the reporting requirements specified in the AHBA Loan Facility Agreement.

To support annual loan reviews, information regarding the financial condition, business and operations of the Applicant and its group members and any other information that 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, will be required to be provided by the Applicant.

As part of the loan review process, Housing Australia will assess the Applicant's capacity to refinance the remaining principal when the loan term expires. Financial covenants will likely be assessed quarterly or half yearly.

Other regular reporting requirements may include project status reports, building occupancy reports, update building maintenance reports if required, status of financial covenants (principally interest coverage ratio and actual annual debt service coverage ratio). On 3-to-5-year intervals, the Applicant is to provide an updated valuation of the subject property security.

10. 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 Housing Australia's assessment staff.

Applicants will be asked to declare, as part of their application, any perceived potential, or existing conflicts of interest, 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 Housing Australia in writing immediately.

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.

11. 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 Housing Australia (including their application) is complete and accurate;
- all costs associated with the preparation and lodgment 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 Housing Australia.

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

All Applicants for AHBA Loans will be required to make an attestation about the accuracy of information submitted to support their application.

12. CONFIDENTIALITY AND PROTECTION OF PERSONAL INFORMATION

12.1. Confidentiality

Subject to the disclosures permitted below, Housing Australia will treat all information supplied to it by any Applicant in an Application as confidential so far as the law permits.

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

12.2. Privacy

In addition to section 12.1, Housing Australia will treat personal information in an Application in accordance with the *Privacy Act 1988* (Cth) and the associated Australian Privacy Principles and its Privacy Policy. This includes letting Applicants know:

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

Collection

Housing Australia will collect the following information supplied to it by an Applicant in an Application: name, position, and contact details of the authorised representatives of the Applicant and other entities involved with the application as relevant; name, position, and contact details of any referees; proof of identity documents (including name, date of birth and address) and information about current and prior business activities for directors of the Applicant.

Purpose

Housing Australia will collect the above-mentioned information to use and reproduce the whole or any portion of the information for the purposes of evaluating an Application, administering the AHBA including any AHBA Loan Documents entered by an Applicant, and complying with any reporting requirements of Housing Australia in relation to the AHBA.

Disclosure

An Applicant's personal information can only be disclosed to someone else if:

- it is already in the public domain;
- disclosure is authorised or required by law or is reasonably necessary for enforcement of the criminal law;
- it will prevent or lessen a serious and imminent threat to a person's life or health; or
- the Applicant is given reasonable notice of the disclosure, and the Applicant has consented to the disclosure.

By submitting an Application, the Applicant accepts that Housing Australia may publish (on the internet or otherwise) the name of the successful or recommended Applicant(s), the value of the successful agreement(s), the financing mechanisms, the location of the project, and the provisions of the agreement(s) generally.

The Applicant is taken to have familiarised itself with Commonwealth legislation relating to the disclosure and treatment of information including the *Freedom of Information Act 1982* and the *Auditor General Act 1997*.

Consent

Notwithstanding any copyright or other intellectual property right that may subsist in any Application documents, by submitting an Application, an Applicant consents to Housing Australia using and disclosing information submitted in the Application for the purposes listed above, grants a licence to this effect and acknowledges that disclosure of such information may occur as outlined in the disclosure section above.

The Applicant also consents to Housing Australia disclosing personal and confidential information to:

- the entities listed in paragraph 6.5 above for checking purposes;
- the Australian Taxation Office for compliance purposes;
- the Housing Australia Board, any assessment committee of Housing Australia, and relevant Housing Australia employees and contractors, to help Housing Australia manage the AHBA effectively;
- Housing Australia's employees and contractors so Housing Australia can research, assess, monitor, and analyse the AHBA and its 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 for the purpose of program reports and consultations;
- the Auditor-General, Ombudsman or Privacy Commissioner; and
- a Minister, House, or Committee of the Australian Parliament.

13. DISCLAIMER

Housing Australia and the Australian Government are not liable for any cost, loss or damage however caused (including negligence on the part of 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 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.

Housing Australia and the Australian Government will not be responsible for any costs or expenses incurred by CHPs in their dealings with Housing Australia, the AHBA or any Housing Australia representative (including any costs or expenses incurred in preparation or lodgment of an application).

14. EVALUATION

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.

15. REVIEW OF GUIDELINES

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](#).

16. SCHEDULE 1 – REGULATORY REQUIREMENTS

NATIONAL CONSTRUCTION CODE

The National Construction Code (NCC) establishes minimum requirements for the design and construction of buildings across Australia. The NCC has been published and is available on the NCC website (<https://ncc.abcb.gov.au>). Although the NCC is not a legislated code, it is established and published by the Australian Building Codes Board which works in collaboration with Commonwealth, State and Territory governments to establish the industry code for both new and existing buildings. The NCC is comprised of the Building Code of Australia and the Plumbing Code of Australia, which are given legal effect by different laws in each State and Territory.

AHBA CONSTRUCTION WORK

When Housing Australia is directly or indirectly funding covered building work, the Work Health and Safety Accreditation Scheme (WHS Scheme) established under the *Federal Safety Commissioner Act 2022* (Cth) and specified in the *Federal Safety Commissioner (Accreditation Scheme) Rules 2023* (Cth) (WHS Rules) will apply, subject to specified financial thresholds.

WHS Scheme – What must a CHP do?

Where the WHS Scheme applies, a CHP receiving an AHBA loan must:

- ensure the head contractor who will deliver / perform the building work is accredited under the WHS Scheme at the time it enters the building contract; and
- require in the building contract that the head contractor contracted to undertake the building work:
 - remains accredited while carrying out the building work; and
 - complies with all conditions of WHS Scheme accreditation.

When does the WHS Scheme apply - Covered building work.

Covered building work includes, amongst other things, work on:

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

However, it does not include the construction, repair, restoration, extension or alteration of single dwelling houses, or buildings, structures and work associated with single dwelling houses. A 'single dwelling house' is a detached house; or one of a group of two or more attached dwellings such as a row house, terrace house, town house or villa unit (Class 1A buildings under the NCC).

Works undertaken off-site (such as the prefabrication of made-to-order components to form part of any building, structure or works and carried out at a place that is not the site where a permanent dwelling will be installed, or the transportation or supply of building materials to site) are not covered building work. The installation of prefabricated components at a building site is covered building work.

Financial thresholds – When does the WHS Scheme apply?

Where Housing Australia indirectly funds covered building work, the WHS Scheme will apply if:

- the *Head Contract* for building work has a value of at least \$4 million (GST inclusive); and
- the total value of the Australian Government funding contribution to the project is at least \$6 million and represents at least 50% of the total project value;

OR

- the total value of the Australian Government funding contribution to the project is at least \$10 million (GST inclusive), irrespective of the proportion of Australian Government funding.

In determining whether these financial thresholds are met so as to trigger the operation of the WHS Scheme the following must be considered:

total value of a project - this is broader than just the contract value(s) for *covered building work* and includes all associated costs to complete a development / project; **AND**

total value of a Head Contract - regardless of the value of the *Building Works* component of the relevant *Head Contract*.

Where an AHBA loan recipient is receiving both an AHBA loan and funding under another Housing Australia or Commonwealth program, *the total value of the Australian Government funding contribution* will include the AHBA loan and the value of all other funding contributions.

Where a project is delivered in multiple stages via different contracts, each will be a head contract and the financial thresholds and approach set out above should be applied to each contract to determine whether the WHS Scheme applies. Applicants should be mindful not to structure projects in a way that could be characterised as deliberate contract value splitting to avoid the application of the WHS Scheme.

Who needs to be Accredited when the WHS Scheme Applies?

Where the WHS Scheme applies, the Applicant must engage an accredited builder via a head contract to carry out *covered building work*. Accredited builders can be identified at <https://www.fsc.gov.au/accreditation-register>.

Where an accredited builder is engaged under a head contract, any subcontractors to that builder do not require accreditation.

An unaccredited member of joint venture may carry out *covered building work* for a project to which the WHS Scheme applies, provided, there is a member of the joint venture that holds

WHS Scheme accreditation.^[1] For this to occur, the following information must be provided to the Federal Safety Commissioner (FSC) before a head contract can be entered into:

- details of the joint venture partners, the project and proposed head contract;
- a written undertaking from the accredited joint venture member that they take full responsibility for work health and safety for the life of the project and that building work will be carried out in accordance with their WHS Management System (WHSMS) for the life of the project; and
- a written undertaking from the unaccredited joint venture member that building work will be carried out in accordance with the accredited builder's WHSMS for the life of the project and that they will participate fully in any audit of the accredited member's WHSMS and its implementation on site.

If the FSC is satisfied with the information provided and proposed joint venture safety arrangements, it will provide a written confirmation to the joint venture members that the unaccredited joint venture member may carry out building work for that specific project.^[2]

Guidance only

The above summary is provided for guidance only. Applicants should seek and obtain their own legal and financial advice regarding the WHS Scheme and its application and operation.

The Office of the Federal Safety Commissioner is the regulatory body responsible for determining the application of the Scheme. Detailed information on the Scheme, is available on the website of the Federal Safety Commissioner, at <https://www.fsc.gov.au/>.

^[1] Section 26(g) Federal Safety Commissioner (Accreditation WHS Scheme) Rules 2023 (Cth).

^[2] The OFSC advises that assessing whether the undertakings meet the section 26(g) requirements is a relatively quick process (often within 1 – 2 weeks), noting confirmation from the OFSC is required for each project - i.e. it is project specific.

17. 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 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.
Eligibility Criteria	the criteria specified in section 3, including any Additional Eligibility Criteria.
Facility Agreement	the agreement to be entered into between a successful Applicant and Housing Australia, which contains terms and conditions governing the provision of the AHBA Loan.
Investment Mandate	the <i>Housing Australia Investment Mandate Direction [2023]</i> (Cth).
HAFFF	the Housing Australia Future Fund Facility, administered by Housing Australia.
Housing Australia	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 Housing Australia in the Australian domestic debt capital markets.
Memorandum of Common Provisions	the “Memorandum of Common Provisions” to be entered into between, amongst others, a successful Applicant, and the Housing Australia.
NHAF	the National Housing Accord Facility, administered by Housing Australia.
NHIF	the National Housing Infrastructure Facility, administered by Housing Australia.
WHS Scheme	the Australian Government Building and Construction WHS Accreditation Scheme.