Building Better Regional Cities
Program Guidelines

April 2013
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1. ACTIVITY OVERVIEW

1.1 What is Building Better Regional Cities?
The Building Better Regional Cities (BBRC) Activity is part of the Affordable Housing Program and is a $100 million funding commitment by the Australian Government to invest in local infrastructure projects that support new housing developments in regional cities.

Forty-seven regional cities (as listed at Section 2.1 below) were eligible to apply for funding under BBRC. Up to $15 million (GST Exclusive) was provided for infrastructure in each successful regional city. This was for one development or spread across several, depending on local demographic patterns and community preferences.

Funding for BBRC became available in the 2011-2012 Financial Year, and ceases on 30 June 2014. The one funding round proposed to be delivered has closed and there is no current selection process. The BBRC application process was managed by the Department of Sustainability, Environment, Water, Population and Communities (SEWPAC) and program responsibility was transferred to the Department of Families, Housing, Community Services and Indigenous Affairs (FAHCSIA) in the machinery of government changes on 14 December 2011.

1.2 What are the objectives of Building Better Regional Cities?
The objectives of BBRC are to invest in local infrastructure projects that support an increase in the number of homes* for sale and rent that are affordable for working families on ordinary incomes, in communities that are experiencing positive jobs and population growth that need more homes to be built. This investment in regional centres may also help to relieve the pressure on major capital cities, so that Australia can grow sustainably.

Two main groups are set to benefit as a result of the Australian Government’s contribution under BBRC:
- working families on ordinary incomes (low to moderate income earners) living in regional centres who are suffering from cost of living pressures; and
- new residents who want to move into the area for jobs, who need homes.

* For the purpose of BBRC the term ‘homes’ covers dwellings.

2. ELIGIBILITY

2.1 Eligible Regional Cities:

| Newcastle (NSW) | Wyong (NSW) | Toowoomba (QLD) | Warrnambool (VIC) |
| Tweed Heads (NSW) | Maitland (NSW) | Mackay (QLD) | Traralgon (VIC) |
| Wagga Wagga (NSW) | Gosford (NSW) | Rockhampton (QLD) | Mandurah (WA) |
| Albury (NSW) | Lismore (NSW) | Bundaberg (QLD) | Bunbury (WA) |
| Coffs Harbour (NSW) | Lake Macquarie (NSW) | Hervey Bay (QLD) | Kalgoorlie/Boulder (WA) |
| Queanbeyan (NSW) | Cessnock (NSW) | Gladstone (QLD) | Geraldton (WA) |
| Tamworth (NSW) | Bathurst (NSW) | Goolong (VIC) | Mount Gambier (SA) |
| Port Macquarie (NSW) | Ballina (NSW) | Ballarat (VIC) | Devonport (TAS) |
| Orange (NSW) | Gold Coast (QLD) | Bendigo (VIC) | Burnie (TAS) |
| Dubbo (NSW) | Sunshine Coast (QLD) | Wodonga (VIC) | Launceston (TAS) |
| Wollongong (NSW) | Townsville (QLD) | Mildura (VIC) | Palmerston (NT) |
| Nowra (NSW) | Cairns (QLD) | Shepparton (VIC) | |

2.2 Eligible Organisations

Only the 47 local governments listed at Attachment A (which directly correspond to the Eligible Regional Cities identified at 2.1 above), were eligible to submit an Application for funding under BBRC.
2.3 Consortium Arrangements

While State and Territory governments, private companies and incorporated not-for-profit bodies were not eligible to apply for funding directly, they were encouraged to participate in BBRC by entering into Consortium arrangements with an Eligible Organisation. Similarly, where other local governments (i.e.: those not listed at Attachment A) operate either partially or wholly within an Eligible Regional City, they could apply to participate in BBRC by entering into Consortium arrangements with the Eligible Organisation for that Eligible Regional City.

Where a Consortium has been entered into, the Eligible Organisation must act as the lead organisation for submitting the Application. Funding approval (including as the contracting party for the Funding Agreement and associated funding releases) will only be offered to the Eligible Organisation.

Where Consortium arrangements are entered into, the lead organisation is legally responsible for ensuring all obligations relating to the terms and conditions of the Funding Agreement are met. As such Consortia need to be supported by appropriate legal arrangements, and it is the responsibility of the lead organisation to put these legal arrangements in place. The Australian Government may require Successful Applicants to confirm that such legal arrangements are in place, prior to the first funding release being made. Where such arrangements are not put in place within four weeks of the Funding Agreement being executed, the Department may withdraw the offer of funding to the Eligible Organisation and cancel the Funding Agreement.

2.4 Eligible Infrastructure Projects

Funding must be used for infrastructure that supports new infill and greenfield housing developments located within Eligible Regional Cities.

The types of infrastructure that can be funded under BBRC include:

- Connecting or trunk infrastructure such as water and sewerage headworks, upgrades or extensions to drains and sewers (including the augmentation or replacement of existing infrastructure, where this is needed to support infill or greenfield housing developments), and connecting roads and bridges; and
- Community infrastructure such as parklands and open space; pedestrian and cycle paths; community centres, and recreation facilities.

All construction for the infrastructure component funded by the Australian Government must be completed by 31 March 2014 unless otherwise agreed in writing, to enable final payments to be made prior to 30 June 2014. If agreed otherwise in writing the funding recipient must demonstrate that work on construction is significantly progressed by 31 March 2014. While it is not mandatory for dwellings to be constructed by 31 March 2014, the Australian Government will be giving priority to projects which see both lots and dwellings delivered within this timeframe.

Funding provided under BBRC does not include any funding for future maintenance or upgrades to the development. Any application submitted must take into account future costs that might arise from the initial BBRC investment.

2.5 What will not be Funded?

Funding will not be provided for projects that:

- are located outside of the 47 Eligible Regional Cities;
- involve the replacement, repair or refurbishment of existing infrastructure (except where that infrastructure requires augmentation or replacement to support infill or greenfield housing developments);
- supports or involves the replacement, repair or refurbishment of existing housing stock such as flood damaged homes or social housing stock;
- are delivered or supported through other Australian Government programs and initiatives aimed at increasing the supply of housing (including supported indirectly through funding from the National Affordable Housing Agreement);
- are designed to support or replace existing administrative costs of Applicants (e.g: operational costs, wages, vehicle leasing and maintenance, upgrade of offices);
- are likely to have ongoing project operational costs where demonstration of funding to support those
ongoing operational costs is not provided;

- seek a BBRC contribution exceeding $15 million (GST Excl) in value; or
- where construction of the infrastructure - for which BBRC funding is sought - has already commenced.

Funding must not be used by Successful Applicants for any administrative costs associated with the approved project.

IMPORTANT NOTE: Funding will NOT be provided retrospectively nor can it be used for costs incurred or accrued prior to the Funding Agreement being executed. If you apply for BBRC funding do not begin projects dependent on BBRC funding, or parts of larger projects reliant on BBRC funding, until the Funding Agreement is signed, as costs will not be reimbursed.

2.6 Funding Availability

Applicants could apply for funding of up to $15 million (GST Exclusive) (in total across all Applications) for Eligible Infrastructure Projects that support new housing developments within Eligible Regional Cities.

Projects which include funding and/or in-kind contributions from the Applicant and/or other sources, or which generate further savings as a result of the BBRC investment, were encouraged.

Projects can be delivered across one or more financial years, however no funding will be provided beyond the 2013-2014 financial year. Applicants should seek independent advice on the taxation treatment of the grant and should protect their own legal interests in any Consortium arrangements.

2.7 Mandatory Eligibility Criteria

Applications for funding must also comply with the following mandatory eligibility criteria:

- be submitted by an Eligible Organisation;
- be for an Eligible Infrastructure Project that is to be delivered within an Eligible Regional City; and
- demonstrate to the satisfaction of the Department that the project can be commenced, and, unless otherwise agreed in writing, construction of the infrastructure component funded by the Australian Government can be completed, in the period between the project commencement date and 31 March 2014.

3. CONDITIONS OF FUNDING

3.1 The Funding Agreement

Successful Applicants will need to enter into a Funding Agreement with the Australian Government prior to any payment of funds being made. A Funding Agreement is a performance-based, legally enforceable agreement between the Australian Government and the Successful Applicant that sets out the terms and conditions governing the funding to be provided.

3.2 Consortium Arrangements:

Where projects are delivered through Consortium arrangements, a Funding Agreement will only be entered into with the lead Eligible Organisation, and where the lead Eligible Organisation can confirm that the Consortium is supported by appropriate legal arrangements or that such arrangements will be in place within 4 weeks of execution of the BBRC Funding Agreement.

3.3 Timeframe for Entering into a Funding Agreement:

Successful Applicants had eight weeks after the successful projects are announced by the Minister to enter into a Funding Agreement with the Australian Government. The offer of funding may be withdrawn if the Applicant cannot meet this timeframe, has not obtained agreement from the Department for an extension to this timeframe, or if there are other significant reasons why the project cannot commence.
3.4 **Commencement Date**

The project commencement date is the date that the signed (by the Successful Applicant's authorised representative) Funding Agreement is co-signed by a delegate of the Department (the Funding Agreement is ‘executed’).

3.5 **Payment of Funding**

Project funds will be paid in accordance with the agreed milestones and payment schedules specified in the Funding Agreement. All funding releases are subject to the Successful Applicant complying with the terms and conditions of the Funding Agreement.

Unless otherwise agreed in writing, a final payment will be made upon the following conditions being met:

- Completion of the infrastructure component of the project by 31 March 2014; and
- provision of all reports and acquittals required under the BBRC Funding Agreement, which are acceptable to the Department, and receipt of a correctly rendered tax invoice by 30 April 2014.

3.6 **Performance and Reporting Requirements**

The Department is responsible for measuring the effectiveness of BBRC and is also required to report on program expenditure in accordance with the *Financial Management and Accountability Act 1997*. Successful Applicants will be required to meet reporting and performance obligations under the terms and conditions of the Funding Agreement.

**Performance Measures:**

Proposal-specific performance measures should be developed, and described by Applicants in their application. Performance measures are agreed upon as part of the Funding Agreement negotiations, and Successful Applicants are required to report on the progress of their projects against the agreed performance measures. Suitable performance measures may include:

- planned versus actual delivery of infrastructure items / components;
- achievement of milestones by the due date;
- stages of infrastructure delivered by a particular date;
- land release stages delivered by a particular date;
- total number of lots and/or dwellings delivered by a certain point;
- amount of benefits delivered to eligible purchasers or renters of affordable homes per lot and/or dwelling; and
- number of low to moderate income earners benefiting from the BBRC investment.

**Reporting Requirements:**

Successful Applicants must provide regular reports on their progress against the performance measures and milestones agreed to in their Funding Agreement. It is intended that the reporting frequency may be set at either quarterly or half yearly intervals, or at other key project milestones, depending on the size and/or complexity of the projects, and on the results of the risk and financial viability assessments undertaken by the Department. The reporting frequency and reporting content will be determined as part of the Funding Agreement negotiations. Demonstrated acquittal of expenditure by Successful Applicants will also be a key element of these reports, as is noted in paragraph 3.8 below.

Where progress payments are linked to the achievement of specific activities or milestones, these payments will only be made after the relevant progress report is accepted by the Department and the Department agrees that the requirements for payment stated in the Funding Agreement have been met, including expenditure of the previous payment. Additionally, if funding has been approved subject to meeting certain conditions, evidence that the conditions have been met must be presented to, and accepted by, the Department.

The Department may require the reporting obligations to be extended by a further two years or more beyond 30 June 2014, where Successful Applicants have indicated that it will not be possible to deliver any of the following by 31 March 2014:
- Release of lots for sale;
- Release of dwellings for sale; or
- Benefits to purchasers or renters of affordable homes per lot and/or dwellings.

This would allow sufficient time for Applicants to meet their obligations under the Funding Agreement (note: such an extension to the reporting timeframes will NOT involve extending the period in which funds will be released, as funds will not be released after 30 June 2014).

3.7 Monitoring and Compliance

In addition to the regular reporting and performance requirements that Successful Applicants will be required to meet, the Department may ask for further information and/or conduct site visits and/or arrange inspections by third parties from time to time to monitor the progress of projects funded under BBRC and compliance with the terms and conditions of funding. These monitoring and compliance arrangements will be set out in the Funding Agreement.

3.8 Funding Acquittal

Successful Applicants are required to provide the Department with financial acquittals and audited financial statements, annually and upon completion of the project, that demonstrate that they have spent the Australian Government funding for the purposes specified in the Funding Agreement. The financial acquittals and financial statements must be audited by an independent auditor.

The Funding Agreement includes provision for the Australian Government to seek repayment of funds that are found to have not been spent in accordance with the purposes specified in the Funding Agreement. Applicants should familiarise themselves with the Funding Agreement to ensure they are able to comply with the acquittal requirements.

3.9 Compliance with Commonwealth, State and Territory legislation and regulations

Successful Applicants are responsible for ensuring that their project complies with all legal requirements set out in any relevant Commonwealth, State or Territory legislation and regulations, and that a duty of care is applied. Applicants should also be aware of any case based law that may apply to, or affect, their funding proposal.

3.10 Funding for Projects Relating to Building and Construction

Building work funded by the Australian Government is subject to all relevant Commonwealth, State or Territory occupational health and safety laws.

This includes, under the Building and Construction Industry Improvement Act 2005 (the Act):

- the Australian Government Building and Construction OHS Accreditation Scheme (the Scheme);
- the National Code of Practice for the Construction Industry (the Code); and

These are administered variously by the Office of the Federal Safety Commissioner and DEEWR. For detailed information on the Scheme, Applicants should visit the website of the Federal Safety Commissioner, at www.fsc.gov.au, while more information on the Code and Guidelines is available at www.deewr.gov.au/building.

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

- Any company that is to be engaged as the head contractor for those works may be required to be accredited under the Scheme, at the time at which tenders for the relevant contract are called. They may also be required to verify compliance with Code and Guidelines.
- Where no tender process is to be conducted for the head contract, these requirements would instead apply from the time when a local government enters into a contract with a contractor for this work.
These requirements would only apply in relation to the infrastructure construction element funded under BBRC, and not to the related housing developments. In addition, they would only apply where particular thresholds applying to the Scheme, and separate thresholds applying to the Code and Guidelines, are met. Applicants should visit the websites referred to above for detailed information on those thresholds; however, in summary they are as follows:

- The head contractor will need to be accredited under the Scheme if:
  - the head contract for the building work is greater than $3 million, and
  - the value of the Australian Government contribution to a project is at least $5 million and represents at least 50 per cent of the total construction project value; or,
  - the Australian Government contribution to a project is $10 million or more, irrespective of the proportion of Australian Government funding.

- The head contractor will need to be registered under the Code and Guidelines at the time of tender if:
  - the value of the Australian Government contribution to a project is at least $5 million and represents at least 50 per cent of the total construction project value; or
  - the Australian Government contribution to a project is $10 million or more, irrespective of the proportion of Australian Government funding.

Consistent with the requirements of the Act, Applications will not be considered eligible unless they confirm that the requirements of the Scheme, the Code and the Guidelines are, or will be, complied with. Any Successful Applicants will also be required to report regularly on compliance with these obligations, and the Commonwealth may terminate the funding for an approved project, and require its funding to be repaid, if full compliance is not consistently demonstrated.

There are no selection processes currently open for BBRC.

4. COMPLAINTS MECHANISM

Complaints will be dealt with under the Department’s complaints management policy. The complaints management policy ensures that any problems an Applicant has with the Department’s services, decisions or policies and those of the Department’s funded service providers, are taken seriously and dealt with promptly.

For BBRC, the initial contact person is:

Director
Building Better Regional Cities Program
Department of Families, Housing, Community Services and Indigenous Affairs
PO Box 7576
CANBERRA  ACT  2610

Email: bbrc@fahcsia.gov.au
Phone: (02) 6146 3860

If the complainant is not satisfied with the response from the Department and requests reconsideration within 30 calendar days, the manager or the initial contact officer will assess their investigation of the complaint and their response to the complainant.

If the complainant is still not satisfied after receiving this response and approaches the Department again, an internal review of the issue may be triggered. Complainants requiring an internal review of their complaint will be required to write to the Department requesting an internal review within 60 calendar days of receiving the second response and are required to state the grounds for the review.

If the complainant is still not satisfied with their response from the internal review process they may wish to pursue other avenues of complaint available to them outside of the Department. These include the
Commonwealth Ombudsman [http://www.ombudsman.gov.au] or the Administrative Appeals Tribunal as appropriate. If an Applicant is dissatisfied at any time with the Department’s handling of the complaint, they can also contact the Commonwealth Ombudsman.

4.1 Branding and Recognition Requirements

Given the significant financial commitment from the Australian Government, Successful Applicants are required to acknowledge the Australian Government’s support and funding for a project, by using due recognition words or by using an Australian Government logo in communication materials. These and other requirements relating to cooperation on communication and promotion activities are included in the terms and conditions of the Funding Agreement.

4.2 Confidential Information

Applicants must identify any information contained within their Application which they consider should be treated as confidential and provide reasons for the request. The Australian Government reserves the right to accept or refuse a request to treat information as confidential.

A request made under the Freedom of Information Act 1982 (Cth) for access to an Application marked ‘confidential’ will be determined in accordance with that Act.

5. THE DEPARTMENT’S RIGHTS

The Department and the Australian Government reserves the right to amend these Application Guidelines by whatever means it may determine in its absolute discretion and will provide reasonable notice of these amendments. The Department and the Australian Government also reserves the right to vary, suspend or terminate the Assessment Process, and, notwithstanding any other provision of these Application Guidelines may undertake direct negotiations or enter into a contract with any Applicant, as it determines in its sole discretion.

The Department reserves the right to mark any Application ‘non-compliant’ and not consider that Application for funding if it has concerns about the authenticity of the information provided. The Department may also consider, accept, assess and recommend a non-compliant bid, in its sole discretion.

Liability Issues

Without limiting the disclaimer below, the Department is not liable to the Applicant for any costs on the basis of any promissory estoppel, quantum meruit or any other contractual, quasi contractual or restitutionary grounds whatsoever as a consequence of any matter or thing relating to, or incidental to the Applicant’s participation in the Application and Assessment Process, including without limitation, instances where the Department:

- varies or terminates all or any part of the Assessment Process or any negotiations with the Applicant;
- decides not to acquire any or all of the services sought through the Assessment Process; or
- exercises or fails to exercise any of its other rights under, or in relation to the Application Guidelines.

Disclaimer

The Department and its officers, employees, agents and advisors:

- are not, and will not be, responsible or liable for the accuracy or completeness of any information in or provided in connection with the Program Guidelines and Application Forms;
- make no express or implied representation or warranty that any statement as to future matters will prove correct;
- disclaim any and all liability arising from any information provided to the Applicant, including, without limitation, errors in, or omissions contained in, that information;
- except so far as liability under any statute cannot be excluded, accept no responsibility arising in any way from errors or omissions contained in any information in the Application Guidelines and Application Form; and
accept no liability for any loss or damage suffered by any person as a result of that person, or any other person, placing reliance on the contents of the Program Guidelines and Application Form, or any other information provided by the Department.

6. PROBITY

The Australian Government is committed to ensuring that the process for providing funding under programs is fair and in accordance with published guidelines, as may be varied by the Australian Government from time to time. Any amendments to the BBRC Program Guidelines will be published on the Department’s website.

The Department has appointed a probity advisor to provide oversight of BBRC.
Glossary

**Audited Financial Statements**
Audited financial statements are independently audited by an approved auditor, prepared in accordance with Australian Accounting Standards. The financial statements should include:

- statement of financial position;
- statement of financial performance; and
- Statement of cash flow, including balance sheet and profit and loss statement.

**Australian Accounting Standards**
The standards of that name maintained by the Australian Accounting Standards Board created by section 226 of the *Australia Securities and Investments Commission Act 2001* (Cth).

**Applicant**
Means an Eligible Organisation that submits an Application. Individuals are not eligible to apply for BBRC funding.

**Application**
Means the application for funding submitted by an Applicant. The application must be filled out in accordance with the requirements in these Application Guidelines, on a prescribed Application Form including mandatory attachments and submitted by the Closing Date.

**Application Form**
The electronic (or hardcopy) application form made available to Applicants to submit an Application for funding. The application form must be submitted in accordance with the instructions in these Application Guidelines.

**Application Pack**
The material made available by the Department for Applicants to help ensure Applicants understand their requirements for submitting a completed Application Form by the Closing Date. The application pack consists of the Application Guidelines, Application Form and Draft Funding Agreement.

**Application Period**
The period for an Applicant to complete and submit their Application Form. It commences from the time the Applications are sought and finishes on the Closing Date for submitting Applications. During this period the Department will only respond to requests for information that seek clarification of issues or material that allow them to better understand the requirements of the Application Form and Application Guidelines.

**Assessment Criteria**
The assessment criteria for assessing applications as outlined in the Application Guidelines.

**Assessment Process**
The assessment process for the selection of funding recipients outlined in the Application Guidelines.

**Closing Date**
The closing date is the date and time specified in the section 'Important Information'.

**Commercial-In-Confidence**
Information in the Application Form that the Applicant clearly identifies as confidential and is not information that is:

a) in the public domain, or
b) already known to the Department other than through an obligation of confidence.

**Consortium**
A consortium is an association of two or more companies, organisations or governments (or any combination of these entities) with the objective of participating in a common activity or pooling their resources for achieving a common goal. The Department will only contract with the lead organisation of
the consortium, and that lead organisation must be an Eligible Organisation. A Successful Applicant who utilises a consortium arrangement will be held liable for all obligations contained in the terms and conditions of the Funding Agreement. This includes monitoring, management, financial performance, service outcomes, and insurance coverage.

**Delegate**
The Minister or his/her nominated representative who will approve all projects and Successful Applicants, with reference to a report on the Assessment Process outcomes provided by the Department.

**The Department**
Commonwealth Department of Families, Housing, Community Services and Indigenous Affairs **Draft Funding Agreement**
The draft Funding Agreement is a draft only copy of the Funding Agreement, and is supplied as part of the Application Pack. It is available separately from these Application Guidelines via the Departmental website. A Draft Funding Agreement may, but will not necessarily, constitute the final version of the Funding Agreement. See also - Funding Agreement.

**Eligible Infrastructure Project**
See sections 2.4 and 2.5 of these Application Guidelines.

**Eligible Organisation**
See section 2.2 of these Application Guidelines.

**Eligible Regional Cities**
See section 2.1 of these Application Guidelines.

**Funding Agreement**
The Funding Agreement is the agreement that is signed by a Delegate of the Department and the Successful Applicant's authorised representative. The Department’s Funding Agreements are performance based, legally enforceable agreements between the Commonwealth and the funding recipients that set out the terms and conditions governing the funding. Funding Agreements are used where the Department is providing funding to another party to deliver services or undertake certain activities, on behalf of the Department, to the community.

**Greenfield**
Agricultural land or undeveloped site in a city or rural area.

**Infill**
New construction within an existing built-up (urban) area.

**Investment Ready**
Projects which are “investment ready” must be ready to proceed, including to commence construction, within six months of signing the Funding Agreement. It is expected that all planning, rezoning, environmental and/or native title and other relevant approvals will be in place.

**Incorporated non-profit or not-for-profit organisations**
An organisation is non-profit if its activities are not carried on for the profit or gain of its individual members. The constitution or governing documents of the organisation should prohibit distribution of profits or gains to individual members.

**The Minister**
The Minister for Housing and Homelessness **Successful Applicant**
Those Applicants who are selected by the Minister and who subsequently sign a Funding Agreement with the Australian Government.
## Eligible Organisations

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