

NSW LOCAL INFRASTRUCTURE RENEWAL SCHEME

GUIDELINES

ACCESS TO SERVICES

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1. Introduction

On 26 March 2007, the Local Government and Planning Ministers' Council endorsed the National Frameworks for Local Government Financial Sustainability. The National Frameworks address three key areas:

- asset planning and management;
- financial planning and reporting; and
- criteria for assessing financial sustainability.

The National Frameworks promote prudent, transparent and accountable financial management by local governments. They also seek to encourage a strategic approach by local government to meet current and emerging challenges.

The National Frameworks have informed the development of the asset management and long-term financial planning components of the Integrated Planning and Reporting (IP&R) framework, which was introduced in October 2009. The IP&R framework has been developed to improve local councils' long term community planning and asset management, as well as to streamline reporting to the community. It aims to improve the sustainability of local communities by encouraging councils, residents, NSW Government agencies and other community organisations to work together on long-term plans to achieve community outcomes.

The NSW Government has recognised that investment in infrastructure is needed across NSW, and as part of its *NSW 2021 State Plan*, the Government has committed to increase expenditure on critical infrastructure.

To achieve this, the NSW Government has committed to implementing a Local Infrastructure Backlog Policy which comprises the following elements:

- An audit of each council's local infrastructure backlog to provide better information on investment needs, which is being undertaken by the Division of Local Government (DLG);
- A Local Infrastructure Renewal Scheme (LIRS) to provide the opportunity for councils to access interest subsidies for the purpose of funding legitimate infrastructure backlogs; and
- Setting up a system for financial assessment and benchmarking of councils' finances including gearing levels and investment strategies.

The infrastructure backlog audit will be based on councils' 10-year Asset Management Plans (AMPs) prepared under the IP&R framework and data included in councils' annual financial reports. The audit is being undertaken in stages during 2011 to 2014.

The LIRS will provide support for projects/programs that commence over three years from 2011/12. By 2012/13 all councils are required to have completed their 10 year AMPs under the IP&R framework, and will have been able to undertake the necessary project/program preparation for negotiating loans for which they intend to seek interest subsidies under the LIRS.

2. What is the Local Infrastructure Renewal Scheme?

The LIRS aims to provide a 4% interest subsidy to assist those councils with legitimate infrastructure backlogs to cover the cost of borrowing. The subsidy aims to provide an incentive to councils to make greater use of debt funding to accelerate investment in infrastructure backlogs and augment funding options already available to councils.

The LIRS is being administered by the DLG.

It is anticipated that there will be two to three rounds of applications for LIRS assistance commencing with a first round in 2011/12. The final round of applications will commence no later than 2013/14, to enable loan drawdown by 30 June 2015.

All loans subsidised by the LIRS must have a loan term not exceeding ten years (irrespective of starting date of the loan agreement), and will be subject to specific conditions of LIRS support (see section 6).

This document provides guidance for LIRS applicants on:

- eligibility requirements and assessment criteria for evaluating applications;
- the process for submission of applications and the information required;
- conditions under which LIRS support will be provided to successful applicants; and
- contact details and other miscellaneous information which may be useful to applicants.

3. Eligibility Requirements

3.1 Who can apply?

Any local council in NSW which meets the eligibility requirements in this section and agrees to the conditions of LIRS assistance in section 6 of this Guideline is eligible to apply.

Two or more councils who wish to apply for LIRS assistance to implement a single or group of projects/programs located across council boundaries may do so, provided that each council submits its own separate application and the required documentation in support of that application. Each council must meet the eligibility requirements, assessment criteria and accept the conditions of LIRS assistance (including each participating council contracting a separate loan to cover its share of project/program cost).

In each application round, a council may submit an application (and may be eligible to receive a LIRS subsidy) for a maximum of two separate projects/programs. In this case, each project/program will be assessed as a separate application, but the Assessment Panel will take into consideration the council's capacity to service debt on the two projects/programs.

For this reason, if a council is submitting applications for two projects/programs the council should clearly identify in each application the name and estimated cost of the two projects/programs for which council is submitting an application and council's long term financial plan must clearly identify the impact of both projects/programs on its repayment capacity and financial situation.

3.2 Eligible projects/programs

The projects/programs for which a council proposes to incur borrowings to be subsidised under the LIRS should be identified as part of council's infrastructure backlog.

Favourable consideration may be given to a project/program which is identified in the council's 10 year AMPs prepared under the IP&R framework, although inclusion in an AMP will not be an essential criterion for assessing the application.

Councils who have not completed the IP&R process, but who wish to apply for LIRS assistance, may do so provided that their application meets the eligibility requirements and essential criteria.

The borrowing to be subsidised under the LIRS should be incurred for the purpose of funding specific new works, upgrades, or renewal of infrastructure of the council that meets a core purpose of local government and is intended for community use – e.g. roads, community halls, libraries, parks, sports grounds (subject to the exclusions listed below).

Some types of infrastructure projects/programs will not be eligible for LIRS assistance. For example:

- Projects/programs which do not provide assets to meet an infrastructure backlog in a core service delivery area of local government responsibility to the community (e.g. council premises).
- Projects/programs which largely result in commercial profits to private parties (e.g. construction of a retail shopping centre).
- Information and Communications Technology (ICT) (e.g. purchase of computers for council offices). However, ICT that is to be purchased as an integral part of an infrastructure system to address an infrastructure backlog may qualify (e.g. computer monitoring systems for a dam or a local road network).
- Infrastructure works already in progress as at the date of publication of these Guidelines, including those funded by existing debt.

Projects/programs which are for private benefit and which will cover costs through a revenue stream (e.g. an auditorium or entertainment centre to be funded through fully costed user charges) may be considered, provided that all of the following conditions are met:

- (a) community benefit rather than exclusive private commercial profit is the overriding objective of the project/program;
- (b) the project/program is a component of a larger construction program of other facilities that comply with the eligibility requirements in this section, and the wider program is to be funded by the proposed borrowing;
- (c) the project/program has previously been subject to community consultation as part of the development approvals process and/or the implementation process for the IP&R framework; and
- (d) project/program documentation and preparation is sufficiently advanced to enable the merits of it to be assessed and ranked against other proposals in accordance with the assessment criteria.

3.3 Minimum cost of projects/programs

Preference will be given to projects/programs or groups of projects/programs with a total cost of at least \$1 million.

This amount may comprise, for example:

- a single project/program (e.g. a park, a library, a single road segment);
- a group of different but related projects (e.g. redevelopment of community facilities clustered in a single location);
- a group of projects of a similar nature that can be packaged as a single program (e.g. small road projects in different sites within the local government area which require major periodic renewal).

For small councils, projects/programs with a total cost of less than \$1 million may still be considered on a case-by-case basis, provided they comply with other eligibility requirements and the essential and desirable assessment criteria.

The \$1 million minimum on a project/program may be equal to or greater than the proposed loan amount, depending on whether council proposes to use other funding sources (e.g. internally generated funds, grants from the Commonwealth or other parties).

3.4 Acceptance of LIRS funding conditions

Successful applicants will be required to enter a LIRS agreement with the NSW Government and in doing so will have to accept the conditions set out in section 6.

4. Essential Criteria

4.1 Project/program is for legitimate infrastructure backlog works

It is important that the Council explains where the project/program ranks in relation to its other infrastructure backlog priorities and provides evidence demonstrating that the proposed backlog infrastructure project/program will directly meet service needs in the local government area. For instance, reference should be made to strategic planning or development approval documents, documents prepared for the IP&R framework, profiles and projections of economic activities in the area and how the project/program will deliver services consistent with council's plans.

This should include Council's condition assessment of the assets included in the proposed infrastructure backlog project/program. Asset management planning and asset condition assessments should be completed consistent with the requirements set out in section 3.4 of the *Planning and Reporting Manual for local government in NSW 2010*.

To assist in determining whether projects/programs meet this criterion, the Assessment Panel may consult with other agencies (e.g., Department of Planning and Infrastructure; Department of Trade, Industry and Regional Infrastructure Services, Department of Finance and Services) or other parties as required.

4.2 Accelerated infrastructure investment

Council must demonstrate how the LIRS subsidy will accelerate the provision of infrastructure in their area and support the council's Resourcing Strategy under the IP&R framework (where completed). Applications must show evidence that insufficient 'internal' council funds are available for the infrastructure project/program.

4.3 Project/program preparedness and delivery timeframe

It is not necessary for an applicant to have competitively tendered the project/program, or completed all detailed project/program development work, or obtained final loan financing at the closing date for applications.

However, an applicant will be expected to adequately demonstrate and document its intentions in its submissions at the application closing date, provide a realistic indication of its project/program delivery timetable, and provide evidence of indicative terms of the loan proposed to be subsidised. An applicant should be able to demonstrate that it has the necessary resources, project/program management expertise and administrative capacity to deliver the project/program and maintain the asset once it is complete.

4.3.1 Project/program preparedness

Support will only be provided to subsidise borrowings for projects/programs that are in a reasonably advanced stage of preparation. For example, applicants may wish to provide evidence:

- that appropriate project/program preparation (e.g. project/program cost-benefit analysis, project/program scoping, options studies, design and other relevant work) has been or is being undertaken;
- that the LIRS subsidy will help to accelerate the delivery of the infrastructure project/program;
- of council's procurement strategy for the project/program;
- from the detailed business case documentation prepared for the project/program; and
- that council has considered other relevant factors affecting project/program preparedness, and is doing the necessary work to address these.

4.3.2 Project/program commencement

Applicants must provide evidence that project/program construction will commence within 12 months after the date of signing of the LIRS Agreement. It may be possible to extend this deadline by another six months, but only upon council demonstrating due cause and meeting certain other conditions (see section 13.1).

The project/program timetable must nominate the approximate target month and year of project/program commencement. 'Project/program commencement' will be defined with specific reference to commitments in the construction contract between the council and the contractor, or the typical definition of this term in most construction contracts. Courses of action in the event of failure to meet the 12-month deadline will be specified in the LIRS Agreement (see section 11).

4.3.3 Project/program completion

Applicants must provide evidence that the project/program construction is expected to be completed in accordance with the construction timetable submitted with the application, subject to allowance in the timetable for reasonable grace or cure periods.

The project/program timetable must nominate the approximate target month and year of project/program completion. 'Project/program completion' will be defined with specific reference to the construction contract between the council and the contractor, or the typical definition of this term in most construction contracts.

It is expected that projects/programs supported by the LIRS will not require multiple staging. However, where the applicant intends to fund a multi-stage program, the stage that is funded by the LIRS must:

- (a) have a clear completion date for an identifiable infrastructure asset that can start being used by the community once construction is completed;
- (b) have a nominated completion date that is within the period of loan repayment; and
- (c) meet the conditions for LIRS support in section 6.

4.3.4 Project/program finance

Information regarding the availability of internal council funds (e.g. from future general rates income or special rate variations) for the project/program may be taken into account in the assessment of applications.

For example, applicants may wish to provide:

- initial (pre-tender) project/program cost estimates;
- copies of relevant council decisions to implement the project/program and fund it with borrowings;
- the quality of available cost estimates (e.g. the assumptions and basis for the estimate, whether it is reliable and reasonable, extent of quantity surveying and engineering cost estimation work completed);
- if available, the results of preliminary cost-benefit analysis and financial appraisal work undertaken – e.g. projected cash flows, financing assumptions such as indicative loan size and loan repayments; and
- other relevant information, including from any business case prepared for the project/program.

4.4 Commitment to delivering affordable and sustainable infrastructure projects/programs

Council must submit its relevant Asset Management Plan and its Long Term Financial Plan with the proposed project/program resourcing commitments clearly identified as evidence of the affordability of the loan.

The Division's Integrated Planning and Reporting Manual and Long-Term Financial Planning Guidelines set out the requirements for the development of a Long-Term Financial Plan that will provide evidence that the proposed infrastructure investment is affordable and sustainable.

Councils should use the guidance provided on performance measures, modelling and the use of sensitivity analysis to make clear in their application that the proposed projects/programs will not impact negatively on council's long-term sustainability.

Note: The TCorp Financial Assessment and Benchmarking Report for each council will be submitted to the Assessment Panel to inform their assessment of the application.

5. Desirable Criteria

5.1 Consistent with State and Regional planning

Council should identify whether a project/program is consistent with State Government State and Regional planning and/or integrated with State Government infrastructure projects. Where successful service delivery depends on integration of the asset with State infrastructure, proof should be provided that the necessary State infrastructure is already available. For example, priority may be given to local road works that feed into a regional network if there is sufficient capacity in the regional network.

5.2 Duration of loan

Generally, greater financial risks tend to be associated with longer loan terms. Depending on outcomes, take-up and loan terms of projects/programs in the first round of applications, the Assessment Panel may give higher priority to projects/programs having shorter loan terms.

6. Conditions of LIRS Assistance

6.1 Financial assessment and benchmarking by TCorp

Applications that satisfy the eligibility and essential criteria in the Guidelines will be subject to a NSW Treasury Corporation (TCorp) financial assessment and benchmarking. (Attachment 1 provides a sample of the contents of the TCorp Financial Assessment and Benchmarking Report).

The purpose of the assessment is to assist councils' asset acquisition and investment management strategies, including providing advice on their capacity to utilise debt when appropriate.

The external financial assessment is intended to be a general review of the applicant's overall finances and financial prospects, but not a review of the acceptability or viability of the specific project/program that is the subject of the LIRS application – this is a matter for council to determine.

However, the financial assessment can advise whether the council has the capacity to borrow in order to meet its infrastructure backlog, and should be used to confirm the impact of any proposed borrowings on the council's finances.

The financial assessment report will be available to the council for its own general financial planning purposes. However, the independent financial assessment is not a credit rating report.

The due diligence or investigations required to assess an applicant's capacity to repay the specific loan will remain the responsibility of the lender.

Where a proposed project/program is to be jointly implemented by two or more councils, a separate financial assessment and benchmarking will be done for each participating council.

6.2 Loan to be subsidised must be obtained from a third party lender

Council's loan that is to be subsidised by the LIRS must be negotiated and obtained directly from a third party lender. As evidence of this, the application must include, at the minimum, an indicative Bank Term Sheet from the lender as at the application closing date.

During the evaluation period (i.e. between the application closing date and the date that is 14 days prior to the date of announcement of successful applicants by the Assessment Panel), a council will be expected to provide an updated Bank Term Sheet which is as close to final as possible, and Excel spreadsheets showing projected cash flows which provide sufficient information on which to estimate the LIRS subsidy.

The required information will include:

- (a) the amount and term of the loan;
- (b) a repayment schedule showing loan drawdown dates and amounts of principal and interest payments over the life of the loan; and closing balances at the end of each repayment period; and
- (c) other relevant loan arrangements (e.g. capitalisation of interest at intervals over the life of the loan; any fees to be included in the principal etc).

This updated Bank Term Sheet will be appended to, and will form part of, the LIRS Agreement between council and the NSW Government.

6.3 No NSW Government guarantee

The NSW Government will not guarantee any part of borrowings or other financial obligations of councils who access support under the LIRS. The NSW Government will not:

- (a) be party to any council discussions or negotiations with prospective providers of finance;
- (b) endorse any finance agreement that a council may enter into with its lender/s; or
- (c) be a party to the loan agreement.

Financial assessment and benchmarking by TCorp, or any formal or informal consultations by the NSW Government regarding debt facilities or any other financial arrangements of lenders with councils, do not constitute an implicit or explicit NSW Government guarantee on councils' financial or non-financial obligations incurred under the LIRS, or on the projects/programs proposed by councils to be subsidised by the LIRS.

6.4 DLG legislative requirements

Councils are required to comply with any legislative requirements that may apply to a project/program. For example if a proposed project/program meets the criteria for a Capital Expenditure Review, then council must meet the requirements which are set out in DLG Circular to Councils 10/34.

6.5 One LIRS contribution only

Applicants will be eligible for one subsidy contribution per project/program. However, a council may submit an application (and may be eligible to receive a LIRS subsidy) for a maximum of two separate projects/programs in each application round. Each project/program should be lodged as a separate application which will be separately assessed. For purposes of determining the maximum number of projects/program for which any council is eligible for a subsidy, a project/program to be implemented by two or more councils will count as a single project/program for each participating council.

6.6 Allowable purpose and allowable expenses

The LIRS interest subsidy will be made available only for the specific purpose of offsetting the interest cost for loans from third party lenders for the allowable purposes.

Refinancing of existing loans (as at the date of public release of this Guideline) will not be eligible for LIRS support.

Proceeds of the loan are not to be applied towards costs of administration, travel, licensing, salaries or other activities or recurrent costs that are the responsibility of the applicant. However, a maximum of 10% of the total loan amount supported by the LIRS can be spent on specialist advice or design and permit costs (for example, engineering or planning).

Councils will be responsible for all ongoing costs and the management of assets procured with LIRS support.

6.7 Deadline for council and lender to agree on loan terms

For the first round of applications, the deadline for council and the third party lender to agree on loan terms will be set so as to be consistent with the timetable for contract close, financial close and project/program delivery, and in no case will extend beyond the project/program commencement date.

For the final LIRS application round (whose date is yet to be determined), the (unsubsidised) terms of the loan by the third party lender to the council for the purpose of financing the eligible project/program should be agreed between the council and its lender no later than 30 June 2015.

6.8 Loan duration to be no longer than 10 years

All loans subsidised by the LIRS must have a loan term no longer than ten years from the date of signing of the LIRS Agreement. In any case, all LIRS funding will terminate on or before 30 June 2025.

Loans to councils for new asset acquisition purposes would typically be expected to have a range of five to ten years, although shorter loan durations are also possible.

Due to possible financial risks associated with longer loan terms, the Government may review and adjust the maximum 10-year loan duration in succeeding LIRS application rounds, depending on outcomes and take-up in the first round. However, this will not affect LIRS subsidy agreements previously signed in the first round.

6.9 LIRS subsidy to be fixed at commencement of LIRS agreement

The NSW Government will provide an interest subsidy on the loans contracted by successful applicants with their lender. The dollar amount of the subsidy for a given project/program will be fixed in the LIRS Agreement and will be calculated based on:

- (a) the rate of LIRS subsidy; and
- (b) the loan amount and term of each application as contained in the updated Bank Term Sheet that is made available by council to the DLG 14 days before the date that successful applicants are to be announced.

There will be no adjustment to this subsidy amount over the life of the LIRS Agreement, except as provided in the terms of that Agreement (e.g. in relation to events of default and other triggers in the Loan Agreement between the council and the lender, unusual circumstances or variations permitted by the Agreement).

The NSW Government's liability will be limited solely to the amount of the interest subsidy that is specified in the LIRS Agreement with council.

6.10 Councils accept all risk apart from LIRS subsidy in LIRS agreement

Councils are to take full risk on:

- interest rate or other financial risk on any liabilities in excess of the agreed amount of the State subsidy as specified in the LIRS Agreement; on the other hand, council will retain the benefits of any upside interest rate risk between the signing of the LIRS Agreement and the final approved Loan Agreement;
- interest rate or other financial risk on any liabilities for any period exceeding the term of the loan for which the subsidy is provided under the LIRS Agreement;

- the event that a council wishes to refinance the loan (beyond the period of the original loan term for which LIRS support was provided), all costs and financial risks associated with such refinancing, including the full interest cost of the refinancing; and
- any non-financial (e.g. construction or project management or contractual) risks that result in the project/program being delayed and/or which may consequently generate unplanned financing costs or other financial risks for the project/program.

6.11 LIRS subsidy will be paid on a reimbursement basis

Once the lending institution has disbursed the proceeds of the loan to a council, the council will be expected to make (unsubsidised) interest payments directly to the lending institution in accordance with the final Loan Agreement between those two parties, which will incorporate the final approved loan terms.

The DLG will then reimburse the council for the amount of the subsidy and at the frequencies included in the LIRS Agreement, provided no events of default or other unusual circumstances arise (for which separate provision will be made in the LIRS Agreement) and until the total amount of the subsidy is fully paid to the council.

6.12 Submission of final approved Loan Agreement and Bank Term Sheet

After selection as a successful applicant and signing of the LIRS Agreement, a council will be expected to negotiate and sign the final Loan Agreement with its lender ("financial close"). Once financial close is achieved, successful applicants will be required to submit a certified copy of the final Loan Agreement and final approved Bank Term Sheet.

Financial close may be expected to occur after the signing of the LIRS Agreement. Therefore, the final loan documentation will not be used for eligibility or application assessment purposes, but for post-implementation review of the LIRS, particularly after the first round. Information from the final loan documentation will also inform the implementation of any future application rounds.

Failure to submit a copy of the final approved Loan Agreement and Bank Term Sheet after financial close will be grounds for withholding payment of the LIRS subsidy until it is submitted to the DLG.

7. Pre-notification requirements

Councils who intend to lodge an application for LIRS assistance are requested to notify their interest in advance by emailing the DLG by close of business on Friday, 10 February 2012.

Note: this will not preclude other councils from applying but assist the DLG and TCorp in planning the assessment and benchmarking process. TCorp will commence the financial assessment and benchmarking for councils that notify their intention to make an application for LIRS assistance. Further information on this process will be provided to these councils.

8. Submission of Applications

The DLG will develop an application form to assist councils with preparing their application. The application form will be made available to those councils that indicate they are considering applying for a LIRS subsidy by 10 February 2012.

Applicants will need to provide the following information as part of the application:

- (a) name and address of Local Council and that council's Australian Business Number (ABN);
- (b) contact details of an authorised person from the Local Council, who will act as the nominated contact for the LIRS application and from whom more information or clarification about the application can be sought, if required;
- (c) The relevant Asset Management Plan and Long-Term Financial Plan with the proposed project/program resourcing commitments clearly identified as evidence of the affordability of the loan;
- (d) profile of the proposed project/program – including details of the nature, location, type, scale of infrastructure project/program; the target beneficiaries; whether the project/program is being done jointly with other councils;
- (e) estimates of capital cost, and comments about the content and quality of these estimates; this may include quotes from suitably qualified contractor/s or design consultants to support the project/program cost cited in the application;
- (f) estimates of project/program cost financing (including from sources other than the proposed loan, if applicable);
- (g) a project/program budget detailing costs relating to the LIRS project/program – including sources and uses of funds for the project/program and estimates of (unsubsidised) interest cost and LIRS subsidy, at least on an annual basis;
- (h) an indicative Bank Term Sheet including the amount proposed to be borrowed (if this is different from the capital cost estimates provided); interest rate; loan term; particulars of assets or other security provided by the council to cover the loan; excel spreadsheets showing the calculation of periodic interest payments (to enable calculation of LIRS subsidy payments); and any other relevant details about the proposed loan;
- (i) copies of Council Minutes showing prior council approval to proceed with the project/program or capital expenditure, and (if decided separately) to incur a loan to fund the project/program; and
- (j) all other documentation demonstrating the applicant's compliance with the eligibility requirements and essential and desirable criteria.

Note: For single projects/programs to be undertaken by multiple councils, each participating council must lodge a separate application.

9. Lodging applications

Applications must be received by close of business (5.00pm) on Friday, 30 March 2012. The application form can be emailed to lirs@dlg.nsw.gov.au (files over 5MB should not be emailed) or posted to:

Coordinator Infrastructure
Local Infrastructure Renewal Scheme
Division of Local Government
Department of Premier & Cabinet
Locked Bag 3015
Nowra NSW 2541

Applicants who need help with their application can contact the DLG Coordinator Infrastructure on phone 4428 4100 or e mail lirs@dlg.nsw.gov.au .

SUMMARY OF KEY DATES

Item	Date
Pre-notification of intention to lodge application	10 February 2012
Application closing date	30 March 2012
Announcement of successful applicants	At the earliest, late June 2012 – but may be extended if many RFCs are required. Specific date to be announced by Assessment Panel after initial review of applications received.
Signing of LIRS Agreement	Maximum 30 days after announcement of successful applicants

10. Assessment of applications

10.1 Stages of the assessment process

After the closing date, applications will be assessed in three stages:

- 1. Preliminary check upon opening of the applications and assessment by Technical Panel against the eligibility requirements and essential criteria in section 3 and 4 of this Guide.**

Applications found to be ineligible, or whose documentation is incomplete at the closing date and are deemed unlikely to be completed within the assessment period, may not be assessed.

Applications whose project/program preparation documents are incomplete at this stage but are likely to be completed within the assessment period, will be given the opportunity to complete and submit the missing documentation by no later than 14 days prior to the target date for the announcement of successful applicants.

2. Assessment Panel review

The Technical Panel will submit its assessment of applications for consideration by the Assessment Panel. The Assessment Panel will determine those applications that satisfy the eligibility requirements and essential criteria. These applications should then progress to the TCorp financial assessment and benchmarking process if that has not already been undertaken.

3. Final evaluation and ranking of applications by the Technical Panel and submission to the Assessment Panel for final decision.

Applications will be assessed and ranked against the essential and desirable criteria in sections 4 and 5 of this Guideline.

Note: Where a project/program is jointly undertaken by two or more councils, each participating council will be individually evaluated against the eligibility requirements and assessment criteria just like any other single applicant.

10.2 Requests for clarification or additional documentation

To help ensure that assessment outcomes are based on information that is as accurate and up-to-date as possible, the assessment process will include Requests for Clarification (RFCs). At any stage, the Technical Panel and/or the Assessment Panel may seek clarification about any aspect of a council's application, and will issue an RFC in writing to the applicant. This could include requests for additional documentation if there are gaps in the initial submissions.

The applicant will be expected to provide a response in writing, or a copy of any additional documentation requested by the Technical Panel or the Assessment Panel, within a specified number of days. The responses will be considered in the final evaluation and ranking of applications by the Assessment Panel.

10.3 Assessment criteria

In the first instance, the Assessment Panel will evaluate applications with reference to the essential criteria in section 4 of this Guideline. The Assessment Panel will have the option of giving more favourable consideration to applications if, in addition to meeting the essential criteria, they also meet the desirable criteria in section 5.

Budget funding allocations for the LIRS have been set over five years commencing in 2011/12. In the event that the aggregate of LIRS subsidies sought for all applications meeting the essential criteria would, if granted, result in:

- (a) all of the allocated budget funding being used up in the first round of applications, or
- (b) total LIRS subsidy funding requirements exceeding the total five-year budget allocation,

then the Assessment Panel will do a second review of applications that initially met the essential criteria based on systematic application of the desirable criteria, to further refine the ranking of these applications.

In any application round, after applying the essential and desirable criteria, the Assessment Panel may repeat its review of applications as many times as necessary, based on other prioritisation criteria or processes (e.g. awarding only partial subsidies, or setting pre-conditions before some applicants can access the subsidy). The Assessment Panel will ensure that these additional criteria and processes are appropriately documented and communicated to applicants.

10.4 Outcomes of the Assessment process

The target date for announcement of successful applicants by the Assessment Panel will be determined after the Technical Panel assessment has commenced and the Assessment Panel is able to form a clearer view on the quantity and quality of applications received.

At the earliest, it may be possible for successful applicants to be announced three months after the application close date, but this may be extended should a significant number of RFCs be necessary.

Depending on scheme take-up, budget impacts, and attributes of applications received in the first round, it is possible for an application to be recommended by the Assessment Panel for consideration in later rounds. In this event, such applications will not automatically receive higher priority in the later round, and will be assessed as a new application on the same basis as all other applications received in that round.

Projects/programs selected for assistance may not receive the full requested subsidy, and LIRS assistance may be made subject to specific conditions to be determined by the Assessment Panel.

All decisions by the Assessment Panel will be final, and the Panel will not enter into negotiations or disputes with unsuccessful applicants.

10.5 Notification to applicants

After the application closing date, applicants will receive notification via email to confirm that their application has been received. Applicants may be contacted during the assessment process for further information or clarification about their application.

The Assessment Panel will announce the outcomes of the assessment process through letters to all applicants, which will provide the following information:

- (a) whether or not the application for assistance has been approved, and other possible outcomes of the assessment process including any conditions placed on the approval of the application (if applicable); and
- (b) where the Assessment Panel has applied other additional criteria or processes (apart from the essential and desirable criteria listed in this Guideline) in order to ration available LIRS budget funding, a description of those additional criteria or processes.

Given the possible large number of applications, feedback on applications may not be given to individual councils apart from the final notification to successful and unsuccessful applicants. A list of successful applicants and project/program summaries will be published on a LIRS webpage on the DLG website.

11. LIRS agreement

Successful applicants will be required to sign a LIRS Agreement with the NSW Government, stipulating obligations of the applicant and the conditions under which LIRS assistance is given.

These terms are summarised in section 6 of this Guideline. Where a proposed project/program is to be implemented by two or more councils, each participating council will sign a LIRS Agreement for its own loan. In these cases the LIRS Agreement may contain clauses uniquely tailored to the particular joint project/program arrangements.

The LIRS Agreement will also contain provisions regarding other matters, including (but not limited to) events of default, early repayments, monitoring and reporting requirements, and miscellaneous provisions. Other clauses in the Agreement will include:

- Confidentiality - The DLG use the information supplied to assess an application for LIRS assistance. Information on funded projects/programs may be used for promotional purposes. Subject to the provisions of the Government Information (Public Access) Act 2009, the DLG will endeavour to treat confidentially any sensitive personal and confidential information that is provided in an application.
- Insurances and indemnity - The applicant will be required to hold broad form public liability insurance (a minimum limit of \$20 million is expected) and, where applicable, professional indemnity insurance and workers' compensation insurance. The applicant will be required to indemnify the DLG for all losses and/or damage arising from the project/program.
- Tax liabilities - Goods and Services Tax (GST) applies to payments made under the LIRS, if the recipient is registered for GST. It is recommended that applicants seek independent legal and financial advice to determine all taxation obligations before submitting an application.

12. Timeframe for signing LIRS agreement

A successful applicant is expected to sign a LIRS Agreement within 30 days from the date that the DLG sends the Agreement to the applicant.

The 30 days allow for final clarifications between council and the Assessment Panel on the content of the Agreement. If, notwithstanding these consultations, a successful applicant fails to sign the LIRS Agreement within the deadline, the offer of LIRS assistance will automatically lapse and the budget allocation will be able to be reallocated to other projects/programs.

13. Implementation and Monitoring

Successful applicants will be required to comply with the following commitments.

13.1 Project/program commencement

Failure of a successful applicant to commence project/program construction within 12 months after the date of signing of the LIRS Agreement may result in the LIRS subsidy to that applicant being withdrawn, and the budget allocation for this subsidy being reallocated to other projects/programs. (See section 4.3.2 for a definition of 'project/program commencement'.) If construction does not commence within this deadline, the applicant will be placed on notice and requested to explain the reasons for the delay.

An extension over the 12-month limit of no more than six (6) months will be possible, but only upon council:

- (a) demonstrating due cause;
- (b) providing evidence that council is taking specific measures to remedy the delay; and
- (c) submitting an amended project/program delivery schedule to the satisfaction of the Assessment Panel.

The maximum 18-month limit on project/program commencement is to avoid the 'banking' of successful applications for indefinite periods, and to help ensure timely and efficient take-up of LIRS funding as provided for in the NSW Budget.

13.2 Variations in project/program design, timetable or deliverables

Should successful councils wish to vary the proposed design, scope, timetable or deliverables of the project/program after the LIRS Agreement has been signed, those councils will be required to provide details of these changes in writing to the Assessment Panel – if possible even before the project/program changes have been approved and/or implemented.

This requirement will apply, whether or not these project/program variations substantially alter the LIRS subsidy payment schedule.

Should the project/program changes result in significant changes to any of the major loan parameters, with consequent changes to scheduled interest payments by council and LIRS interest subsidy payments by the NSW Government, the council will be required to submit the following to the Assessment Panel:

- (a) details of the specific project/program changes and any detailed revisions in project/program delivery timetable;
- (b) amended project/program cash flows and amended financial modelling spreadsheets; and
- (c) evidence that the council still has the capacity to manage the revised project/program, particularly if the revisions entail expansion in project/program scope or complexity.

13.3 Periodic reporting

Financial and non-financial reporting requirements will be detailed in the LIRS Agreement. During the construction stage of the project/program, councils will be required to provide quarterly reports on project/program status and financial flows (expenditure and funding sources, e.g. drawdowns on the LIRS-subsidised loan).

Statements of Expenditure on the project/program will be part of the project's/program's monitoring and reporting requirements and may be subject to audit.

Reports on loan drawdowns and interest and principal repayments will continue to be required over the life of the loan in line with the LIRS Agreement.

13.4 Project/program completion

On completion of the project/program, a council will be required to submit to the DLG a Final Report which should include:

- (a) evidence of project/program completion (as defined in section 4.3.3);
- (b) a Statement of Expenditure which includes amounts actually spent on the project/program; the final amount of borrowing incurred, the total interest expense actually paid by the council, and the total amount of LIRS subsidy received by the council; and
- (c) an Acquittal Certificate which must be signed by the General Manager and the responsible accounting officer.

14. Future rounds

The Government will review the cost and LIRS program outcomes of the first round of applications, and may make adjustments in future rounds. The Government's decisions regarding the operation and funding of subsequent rounds will be made in the context of decisions for the annual State Budget for each of the years 2012/13 to 2014/15.

The Assessment Panel and the DLG will ensure that the assessment process is conducted so as to ensure that:

- (a) successful determinations in the first round are limited, if that is necessary to ensure that some of the funding provided for the scheme is available for subsequent rounds;
- (b) no one council receives an excessive share of the scheme's total funding; and
- (c) LIRS subsidy expenditure remains within budget funding limits over the forward estimates period.

In the event of any amendments to scheme design authorised by the Government between application rounds, the changes are to be publicly announced to councils in the form of addenda to this Guideline for Applicants. Any amendments will apply to future application rounds, and will not apply to LIRS Agreements previously signed.

ATTACHMENT 1

Draft Outline – NSW Treasury Corporation - Financial Assessment and Benchmarking Report

Financial Assessment and Benchmarking Report

Name of Council

Section 1: Executive Summary

Section 2: Introduction

- 2.1 Purpose of Report
- 2.2 Background
- 2.3 LIRS Application

Section 3: Review of Financial Performance (audited financial statements)

- 3.1 Operating Results
- 3.2 Financial Management
- 3.3 Capital Expenditure
- 3.4 Risks

Section 4: Review of Financial Forecasts (IP&R documents)

- 4.1 Operating Results
- 4.2 Financial Management
- 4.3 Capital Expenditure
- 4.4 Risks
- 4.5 Scenario Analysis
- 4.6 Borrowing Capacity

Section 5: Benchmarking and Comparisons with other similar councils

Section 6: Conclusion

ATTACHMENT 2 - Indicative Project/Program and LIRS Funding Timeline

