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ALUMINIUM COMPOSITE PANEL CLADDING LOAN SCHEME

Guidelines

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Government of South Australia
Department of Treasury
and Finance

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1. Introduction

The Government of South Australia recognises the risk from potentially combustible Aluminium Composite Panel (ACP) exterior cladding used on public and privately owned buildings which may lead to harm in the event of a fire.

The Aluminium Composite Panel Cladding Loan Scheme (ACP Cladding Loan Scheme) has been established to assist corporations replace ACP cladding on the External Walls of eligible privately owned buildings to bring fire safety standards to a compliant level.

The Treasurer will offer concessional loans of up to \$15 million for a ten-year term to corporations to undertake corrective measures including the removal and replacement of ACP cladding with an alternative product and other associated works necessary to ensure compliance with the *Planning, Development and Infrastructure Act 2016* and other relevant regulatory requirements.

Eligible buildings are those that have been assessed under the South Australian Life Safety Assessment (SALSA) tool as posing an extreme or high risk of fire safety issues resulting from the use of ACP cladding on the External Walls of buildings. Buildings assessed as a moderate risk will be assessed for eligibility on a case-by-case basis.

The ACP Cladding Loan Scheme is only available to owners in aggregate through their corporations. Any individual or entity that is not a corporation is not eligible to apply.

The South Australian Government Financing Authority (SAFA) is administering the ACP Cladding Loan Scheme on behalf of the Treasurer and in cooperation with the Department for Trade and Investment (DTI).

Before applying, potential applicants must read and understand these Guidelines to determine their eligibility and suitability for a concessional loan under the scheme.

2. Eligibility Criteria

2.1 Who is eligible to apply?

To be eligible to apply for a concessional loan, an applicant must be:

- a corporation that has received a SALSA assessment risk rating of extreme or high in relation to a privately owned building; or
- a corporation that has received a SALSA assessment risk rating of extreme or high for a privately owned building that has an existing commercial loan for the completed remediation works to remove ACP cladding and wish to re-finance that loan with a concessional loan with the Treasurer.

Applications will be accepted for up to two years from the commencement of the ACP Cladding Loan Scheme. All remediation works must be completed within five years of commencement of the ACP Cladding Loan Scheme.

2.2 What if you don't meet the eligibility criteria?

Corporations which do not meet either of these categories may apply for access to the ACP Cladding Loan Scheme if they have a SALSA assessment report or other evidence which indicates that the ACP cladding on their building poses a moderate fire safety risk. Applications will be assessed on a case-by-case basis.

2.3 Who is not eligible to apply?

Any individual or entity that is not a corporation.

2.4 What types of Eligible Works can be funded with a concessional loan?

The following are Eligible Works that may be funded by a concessional loan:

- works necessary to remediate the ACP cladding of an Eligible Building, including removing the ACP cladding and replacing it with non-combustible material which is compliant with the National Construction Code;
- works which are incidental to and only required because of the need to replace ACP cladding (for example the provision of scaffolding, retiling, repainting and fixing garden beds); and
- works in or on an External Wall which are necessary for certification under the National Construction Code.

Refer to the glossary for a definition of an Eligible Building and an External Wall.

2.5 What types of expenses are eligible?

Concessional loan advances can be spent on the following categories of expenses:

- tender costs (up to \$100,000);
- the cost of undertaking Eligible Works;
- Administration Costs (up to \$10,000) to assist a corporation administer the loan; and
- fees associated with regulatory approvals.

2.6 What types of expenses are ineligible?

Expenses that are not eligible to be funded by the concessional loan include, but are not limited to:

- Pre-existing building conditions which are not in, or on, the External Wall, such as:
 - structural issues;
 - roofing materials;
 - building features found to be non-compliant with the National Construction Code;
 - or
 - the fixing of windows, including poorly fitted windows or replacing glass.
- Additional works not related to ACP cladding, such as a general re-paint of the building, new carpets, or other building improvements. A corporation must demonstrate that it has additional funds or credit available equal to 10% of the concessional loan to be able to fund any works required for these pre-existing conditions.
- The cost of an already completed tender process to replace ACP cladding on an Eligible Building. Corporations that have already undertaken the tender process and paid for these works will not be able to use the concessional loan to pay for these costs unless they form part of a commercial loan.

2.7 How much is the available loan amount?

Corporations can borrow up to a maximum amount of \$15 million.

For corporations that have already undertaken a tender process the loan amount will include:

- the cost of undertaking Eligible Works;
- Administration Costs (up to \$10,000) to assist a corporation administer the loan;
- fees associated with regulatory approvals; and
- 10% for cost variations on Eligible Works.

2.8 When must the loan be repaid?

Whilst the Eligible Works are in progress, a corporation will pay interest on the amounts drawn under the loan agreement. When the works have been completed, a corporation must make principal and interest payments over the loan repayment period.

2.9 When does the loan need to be drawn down?

The loan needs to be drawn down in full within 24 months of the date of loan approval.

3. Application, assessment, approval and payment

3.1 Applications

Applications can be submitted using the Application Form.

A member of a Management Committee (also called 'body corporate managers') can apply on behalf of an eligible corporation.

The Application Form details the information that must be submitted, including the following:

- evidence that the corporation is authorised to apply to the ACP Cladding Loan Scheme on behalf of the owners of the corporation;
- where the remedial works require development approval under the *Planning, Development and Infrastructure Act 2016*, evidence that development approval has been granted;
- evidence that the corporation has satisfied any Building Fire Safety Defect Notice issued in accordance with s 157 (3) of the *Planning, Development and Infrastructure Act 2016*;
- a project plan that provides an overview of the proposed project including a scope of work, expected outcomes, the current status of any works already commenced, key milestones, activities associated with each milestone and the estimated completion date for these milestones;
- information on project costs and details of other sources of funding to undertake the works;
- a projected cash flow budget for the term of the Eligible Works; and
- independently prepared audited financial statements for the previous three years.

3.2 Assessment

Once an application is submitted it will be assessed to ensure:

- the application has been made by an appropriate representative; and
- all relevant documentation has been submitted as outlined in the Application Form.

If a corporation has been assessed as eligible to apply for a concessional loan, a SAFA representative will contact the nominated representative to seek further information in relation to the financial assessment which will include undertaking financial due diligence and credit checks to assess a corporation's capacity to meet the obligations of the concessional loan under the ACP Cladding Loan Scheme.

3.3 Approval

An assessment panel conducted by SAFA and DTI will evaluate applications to ensure:

- the building is eligible;
- the application has been made by an appropriate representative of the corporation; and
- the relevant documentation has been submitted.

A decision on the loan application will be made after receipt of all information. Where an application is successful, the corporation must enter into a Loan Agreement with the Treasurer to progress.

SAFA will notify unsuccessful applicants and provide reasons for applications being denied. The decision will be final and there will be no opportunity to appeal this decision.

3.4 Milestone Payments

SAFA will disburse loan funds into the corporation's bank account in accordance with the Loan Agreement. Corporations may use the loan funds to pay service providers directly.

The building contract between the corporation and the builder must include a milestone schedule for payments for approval by the Treasurer. SAFA can only process disbursements from the loan facility on the achievement of agreed milestones and all work must be billed in arrears by the suppliers to the corporation.

For corporations that have undertaken a tender process in relation to qualifying remediation works, their first milestone payment will be made in accordance with the scheduled payments set by the builder in the building contract.

The final 10% of the loan will not be disbursed until a duly completed Statement of Compliance is provided in accordance with section 104 of the Planning, Development and Infrastructure (General) Regulations 2017.

3.5 Repayment of the Loan

During remediation, the corporation will pay monthly interest on the amount drawn under the Loan Agreement. Once the remediation works are completed, the corporation will be advised of its Total Repayment Amount which must be paid over the remaining term of the loan.

3.6 Interest Rate

Upon completion of the Eligible Works and following the final drawdown, the current interest rate will be fixed and apply for the remaining period of the Loan Agreement.

Interest rates on loans will be determined by the cost of government borrowing, which, like any loan, is subject to change if market interest rates change.

4. Additional Information

- 4.1 The Government of South Australia reserves the right to amend these Guidelines and application terms as required.
- 4.2 Any information contained in, or relating to, an application or conditions of payment entered into, including information identified by an applicant as confidential information for the purposes of applying for and/or receiving funding under the ACP Cladding Loan Scheme, may be disclosed by SAFA and DTI:
- to employees, advisers, local government authorities or third parties to manage the ACP Cladding Loan Scheme (including, but not limited to, for the purposes of evaluating and assessing the applications and administering payments)
 - within the South Australian Government where this serves the legitimate interests of SAFA and DTI
 - in response to a request by a House or Committee of the Parliament of the Commonwealth of Australia or South Australia
 - where information is authorised or required by law to be disclosed, and under Premier and Cabinet Circular (PC) 027 – Disclosure of Government Contracts
 - where the information is already in the public domain.
- 4.3 SAFA and DTI do not provide any advice on tax and recommend that recipients of financial assistance under the ACP Cladding Loan Scheme seek independent professional advice on their taxation obligations.

5. Glossary

Term	Definition
ACP Cladding Loan Scheme	The Aluminium Composite Panel Cladding Loan Scheme, established by the Government of South Australia to assist corporations replace ACP Cladding on the External Walls of eligible private residential buildings to bring fire safety standards to an appropriate level.
Administration Costs	An amount of up to \$10,000 may be accessed as part of the concessional loan to assist with a corporation administering the loan with the owner.
Cladding	Aluminium Composite Panel cladding
Commercial Loan	A loan taken out by a corporation with a private financial institution to fund cladding remediation works.
Common Wall	A wall that is common to adjoining building(s)
Concessional Loan	A loan at concessional interest rates provided by the government.
Corporation	A corporation means a: <ul style="list-style-type: none"> (a) strata corporation established under the <i>Strata Titles Act 1988 (SA)</i>; and (b) community corporation established under the <i>Community Titles Act 1996 (SA)</i>.
Cost Estimate	An estimate of the likely cost of remediation work calculated by a licenced or professional services provider in relation to the ACP cladding on an Eligible Building.
Eligible Building	A building that has received a SALSA assessment risk rating of extreme or high in relation to a privately owned apartment building. Buildings assessed as a moderate risk will be assessed for eligibility on a case-by-case basis.
Eligible Works	Eligible Works include: <ul style="list-style-type: none"> • Works necessary to remediate the cladding of an Eligible Building, including removing the cladding, and replacing it with non-combustible material which is compliant with the National Construction Code. This may include the following: <ul style="list-style-type: none"> - materials and labour - project management costs

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Term	Definition
	<ul style="list-style-type: none"> - costs associated with design and certification including engaging a fire engineer or building certifier, and - any other professional services required to complete the works • Works which are incidental to and only required because of the cladding remediation (for example retiling, repainting, reconnecting sprinkler systems, and fixing garden beds); and • Works in or on the External Wall which are necessary for certification.
External Wall	<p>A building element that is an outer wall (including fixtures that require remediation) of a building which is not a Common Wall. For example, the following elements are part of an External Wall:</p> <ul style="list-style-type: none"> • facade covering (e.g., rendering or external cladding) • balconies • framing • insulation • sarking • spandrels, and • internal lining (e.g., plasterboard) of an External Wall. <p>Replacement of windows in the External Wall is not an Eligible Work.</p>
Guidelines	Aluminium Composite Panel Cladding Loan Scheme Guidelines
Interest Rate	Interest rates on loans will be determined by the cost of government borrowing, which, like any loan, is subject to change if market interest rates change.
Loan Agreement	The successful applicant will be required to enter into a loan agreement with the Treasurer.
Loan Term	Loans will be for a term of up to 10 years, which includes the time for remediation works where interest only will be paid during the remediation period.
Management Committee	<p>Management Committee means a:</p> <p>(a) management committee appointed in accordance with section 35 of the <i>Strata Titles Act 1988 (SA)</i>; and</p>

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Term	Definition
	(b) management committee established in accordance with section 90 of the <i>Community Titles Act 1996 (SA)</i>
National Construction Code (NCC)	Australia's primary set of technical design and construction provisions for buildings that sets the minimum required level for the safety, health, amenity, accessibility and sustainability of certain buildings. The Australian Building Codes Board, on behalf of the Australian Government and each State and Territory government, produces and maintains the NCC.
Owner	An owner means: a) a 'unit holder' as defined in the <i>Strata Titles Act 1988 (SA)</i> ; or b) an 'owner' as defined in the <i>Community Titles Act 1996 (SA)</i>
Pre-existing conditions	Pre-existing building material and/or structural conditions, which may include defects. Often these conditions cannot be identified without removal of all the cladding material or during detailed site observations/investigations.
SAFA	South Australian Government Financing Authority, a Branch of the Department of Treasury and Finance. The organisation that originates the loan, makes the milestone payment to the corporations and receives repayments from the corporations.
Total Repayment Amount	After the remediation period is complete and all drawdowns made, SAFA will calculate the Total Repayment Amount to be repaid by the corporation, comprising of principal and interest. SAFA will provide a loan schedule to the borrower for the quarterly repayment amount.

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Aluminium Composite Panel Cladding Loan Scheme Guidelines

Information current as of March 2023

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The information contained in these Guidelines is for general information purposes and is provided in good faith. SAFA and DTI reserve the right to amend these Guidelines and application terms as required. SAFA, DTI and its employees do not warrant or make any representation regarding the use, or results of the use, of the information contained herein as regards to its correctness, accuracy, reliability and currency or otherwise. SAFA, DTI and its employees expressly disclaim all liability or responsibility to any person using the information or advice.

Enquiries

For all enquiries in relation to the **Aluminium Composite Panel Cladding Loan Scheme** please contact: safaindustryassistance@sa.gov.au.