



ACT
Government

ACT SPECIAL DISASTER LOANS

BUSHFIRES GUIDELINES

Chief Minister, Treasury and
Economic Development Directorate

February 2020

SMALL BUSINESS, PRIMARY PRODUCER AND NONPROFIT ORGANISATION CONCESSIONAL LOANS

This assistance is provided through a joint Disaster Recovery Funding Arrangement between states and territories and the Commonwealth Government.

GUIDELINES

1. ABOUT THE PROGRAM

- 1.1 The objective of these loans provided under agreements between the Commonwealth and relevant state and territory governments, is to support small businesses, primary producers and non-profit organisations directly affected by the 2019-2020 bushfire disaster events (*eligible disaster* events commencing August 2019).
- 1.2 The Emergency Bushfire Response for Small Business, Primary Production Enterprises and Non-profit Organisations Concessional Loans are intended for entities which have suffered significant damage to their assets and/or a significant loss of income as a direct result of the *eligible disaster*. The loans are intended to be used for the purposes of restoring and/or replacing damaged assets and/or to meet working capital expenses.

2. LOAN AMOUNT

- 2.1 Concessional loans of up to \$500,000 are available and:
 - a. the amount available is based on an assessment of the applicant's financial position, including any amount recoverable under an insurance policy; and
 - b. cannot be more than the amount reasonably required.

3. HOW FUNDING MAY BE USED

- 3.1 Concessional loans are provided to re-establish the normal operations of the business. The loans are intended to be used for the purposes of restoring and/or replacing damaged assets and/or for working capital expenses that cannot be met due to a loss of income.
- 3.2 Asset replacement: Costs of restoring and/or replacing damaged small business, primary producer or nonprofit organisation assets in accordance with current codes and standards. This includes costs such as:
 - a. repairing or replacing damaged plant and equipment;
 - b. repairing or replacing buildings;
 - c. supplying stock to replace lost stock and maintain liquidity of the business;
 - d. purchasing livestock to replace those that have been lost in a disaster; or
 - e. replanting, restoring, or re-establishing areas that were affected by the disaster (associated with a primary production enterprise).

- 3.3 Working capital: Essential expenses while the business returns to its normal level of trading, such as:
- a. paying bills;
 - b. paying salaries or wages;
 - c. paying rent and rates;
 - d. paying for goods or services, including for example fuel, essential to carry-on the business;
 - e. buying fodder or water for livestock or produce (associated with a primary production enterprise);
or
 - f. transporting livestock or produce (associated with a primary production enterprise).

4. ELIGIBILITY CRITERIA

- 4.1 To be eligible for a loan the applicant must:
- a. be a small business owner, primary production enterprise or a non-profit organisation;
 - b. hold an Australian Business Number (ABN) and have held that ABN at the time of the eligible disaster, or in the case of a non-profit organisation be an incorporated charity or non-profit entity which is registered with the Australian Charities and Not-for-profits Commission (ACNC) or an equivalent State regulatory body at the time of the eligible disaster;
 - c. own a small business, primary producer enterprise or be a non-profit organisation located in the ACT (the defined disaster area for the eligible disaster);
 - d. have been engaged in carrying on the business, farming activity or be a non-profit organisation when affected by the eligible disaster;
 - e. be primarily responsible for meeting the costs claimed in the application;
 - f. be intending to re-establish or continue carrying on the business or non-profit organisation or conducting the farming activity within the same Local Government Area;
 - g. have suffered:
 - i. significant damage to assets as a direct result of the eligible disaster; or
 - ii. significant loss of income as a direct result of the eligible disaster (such as a loss in trade due to evacuation, road closures and reduced visitor numbers);
 - h. demonstrate that the business, primary production enterprise or non-profit organisation has reasonable prospects of long-term viability with the assistance provided;
 - i. use the funds for the approved purpose only;
 - j. demonstrate that the business, primary production enterprise or non-profit organisation has the capacity to repay the loan;
 - k. provide adequate security and loans should generally be secured by:
 - i. a mortgage of land and other assets satisfactory to the ACT Government; or
 - ii. any other security considered necessary, for example – a Specific Security Agreement over plant and machinery or a General Securities Agreement;
 - l. demonstrate the business, primary production enterprise or non-profit organisation has not received another concessional loan for loss or damage that was related to the eligible disaster or where a concessional loan has been received it is replaced with a loan under this offering; and
 - m. demonstrate excessive risks were not taken in carrying on the small business, non-profit organisation or primary production enterprise.

- 4.2 You may also be eligible for a loan if both of the following apply:
- a. the small business, primary production enterprise or non-profit organisation is located outside the defined disaster area for the eligible disaster but is operated at least sometimes on a regular basis in the area; and
 - b. plant or equipment of the small business owner, primary producer or non-profit organisation is situated in the defined disaster area and has been damaged as a result of the eligible disaster.
- 4.3 Applications from businesses that employ 20 or more full time employees but have a turnover of less than \$50 million may also be considered following submission to the National Bushfire Recovery Agency via the ACT Government.

5. EVIDENCE

- 5.1 Evidence of direct damage associated with the eligible disaster may include:
- a. a list of bushfire-related damage, supported by photographic evidence of the direct damage; and
 - b. supporting evidence such as quotations.
- 5.2 Evidence of loss of income associated with the eligible disaster may include documentation of a large reduction in income as a result of the disaster, for example cancellation of bookings or comparisons to performance in comparable past periods.

6. INTEREST RATE

- 6.1 The interest rate on concessional loans will be reset on 1 July of every year at 50 per cent of the 10 year Commonwealth bond rate averaged from 1 April to 30 June of the preceding financial year (consistent with the Commonwealth Concessional Loan Interest Rate defined under the Disaster Recovery Funding Arrangements). For the 2019-20 financial year the interest rate is 0.82%.
- 6.2 The ACT Government will not charge any interest rate higher than this rate.

7. TERM

- 7.1 The term of the concessional loan will be determined by the ACT Government up to a maximum of ten years.
- 7.2 There will a repayment holiday for a period of up to two years, during which repayments will not be required and interest will not accrue.

8. REPAYMENTS

- 8.1 After the repayment holiday, repayments of principal and interest are required. Amounts cannot be redrawn.

9. FEES

- 9.1 No fees will be charged to borrowers, such as establishment fees, account maintenance fees or fees for early repayment.

10. LOAN REVIEWS AND REPORTING REQUIREMENTS

- 10.1 Loans will be subject to an annual review and the necessary financial information must be provided when requested each year.
- 10.2 If information in the loan application is found to be untrue or misleading, action may be taken to recover the loan; penalties may also apply and the matter may be referred to law enforcement authorities of the ACT government.

11. DEFINITIONS

Administrating Agency means the responsible agency/department/body for assessing and administrating the loan applications.

Business or businesses for the purpose of these guidelines, are taken to refer to primary producers, small businesses and not-for-profit organisations.

Defined disaster area for an eligible disaster means the area that the appropriate Minister has defined for the purpose of activating the Disaster Recovery Funding Arrangements.

Disaster Recovery Funding Arrangements means the funding arrangements as agreed between the Commonwealth and the State or Territory for providing financial assistance to communities affected by an eligible disaster (available on the Australian Government Disaster Assist Website).

Eligible disaster means bushfires affecting the ACT.

Loss of income means net income which would have been earned if the small business, primary production enterprise or non-profit organisation had not been interrupted by the eligible disaster based on past performance during similar periods. Net income takes into account the costs that would have been incurred to earn the income. Examples of what could result in a loss of income would be cancellation of bookings and where customers cannot physically reach the small business, primary producer or non-profit organisation due to damaged public infrastructure.

Long-term viability means the ability of a small business' or non-profit organisation's or primary producer's operation to continue to operate and be able to meet its liabilities as they become due. Long-term would generally be considered a period greater than three years.

Non-profit organisation means an incorporated charity or non-profit entity which is registered with the Australian Charities and Not-for-profits Commission (ACNC) or an equivalent State or Territory regulatory body.

Primary producer means an individual, partnership, trust or company which:

- a. has a right or interest in a farm enterprise, and
- b. contributes a part of his, her or its labour and capital to the enterprise, and
- c. derives at least 50 per cent of his, her or its income from the enterprise.

Primary producers are defined as those that are listed under the ANZSIC Codes 01 (Agriculture), 02 (Aquaculture), 03 (Forestry and Logging), 04 (Fishing, Hunting and Trapping) and 05 (Agriculture, Forestry and Fishing Support Services).

Primary production enterprise means a business that is carried on by a primary producer and involves primary production, including the agricultural, apicultural, aqua-cultural, commercial wild-catch fishing, forestry, grazing and horticultural industries.

Small business means a business that:

- d. holds an Australian Business Number (ABN); and
- e. is not a *public company*, charitable business (charitable business means a business that does not operate to make a profit) or body corporate under the *Body Corporate and Community Management Act 1997*; and
- f. employs fewer than 20 *full time employees*. That is, the sum total of all standard hours worked by all employees (whether full-time or part-time) is less than the number of standard hours which would be worked by 20 full-time employees, as defined by the Australian Bureau of Statistics; or

- g. if operated by a sole trader and the business has no employees other than the sole owner:
 - a. the sole owner must derive the majority of their income from the business unless the applicant can satisfy the *administrating agency* that the sole trader, immediately before an *eligible disaster*, derived that majority of income from the business and that the majority of income from the business and that the majority of the sole trader's income would have come from the small business again, were it not for the *eligible disaster*; or
 - b. is a *small business* in development.

Small business owner means a sole trader, partnership, private company or trust that carries on a small business who spends the majority of his or her labour on and derives the majority of his or her income from the small business.

Working capital means money that is necessary to continue the normal operations of the small business or primary production enterprise for up to one year.

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