

Guidelines for Local Government

Maturing the Infrastructure Pipeline Program 2, MIPP 2

February 2018

The Department of State Development, Manufacturing, Infrastructure and Planning is responsible for driving the economic development program for Queensland by creating a diverse and thriving economy, and generating new jobs.

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Background

The State Infrastructure Plan (SIP) was released in March 2016 and outlines the Queensland Government’s commitment to addressing infrastructure needs across the state in a timely, sensible and cost effective way while working within a fiscally constrained environment.

The Maturing the Infrastructure Pipeline Program (MIPP) was established to support the development of a robust pipeline of local and state government infrastructure projects, by investigating and documenting the potential viability and feasibility of each proposal. It focusses on the planning stages of infrastructure and does not provide funding for delivery of projects. MIPP was originally allocated \$20 million from the State Infrastructure Fund to support the progression of projects along the infrastructure pipeline. Through the 2017—18 State Budget, the Queensland Government announced a \$10 million boost to this initial \$20 million allocation. As a result, a second phase of the MIPP has been developed for local governments (MIPP 2).

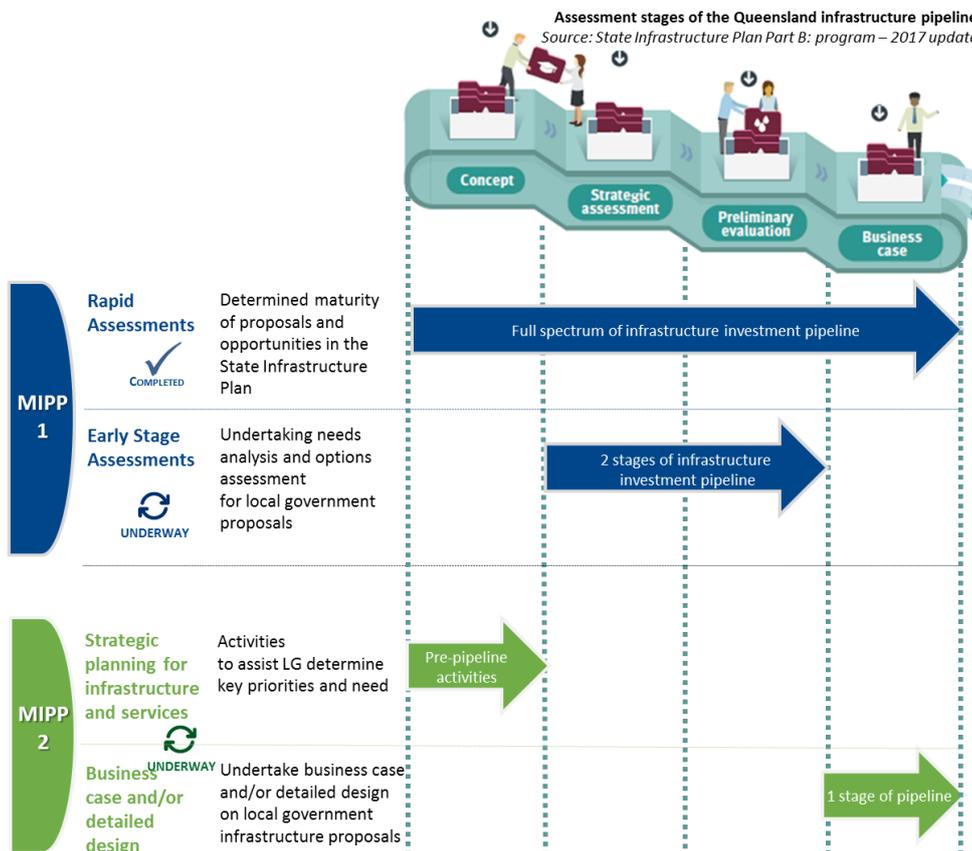
This document sets out the guidelines for MIPP 2.

Scope of MIPP 2

As shown in Figure 1 below, MIPP 2 will support local government applications for:

- strategic planning studies or investigations that inform infrastructure planning and development of the pipeline
- business case and/or detailed design stages of proposed infrastructure projects.

Figure 1 Comparative scope of MIPP 1 and MIPP 2



Participation in:

- the first phase of MIPP (MIPP 1), is not a pre-requisite for MIPP 2.
- MIPP 2 is not a pre-requisite for consideration of future Queensland Government funding.
- MIPP 2 does not prioritise local government proposals and does not commit the Queensland Government to progress or fund further planning or provide funding for the delivery of infrastructure projects.

Aims and objectives

The aim of MIPP 2 is to provide funding assistance to support:

- the strengthening of local governments' strategic infrastructure planning functions and subsequently inform future investment decisions and grant applications
- the development of the necessary documentation for infrastructure projects that have the potential to contribute to economic growth and jobs, or enhance liveability
- informed infrastructure investment decision making by both local governments and the Queensland Government.

Under MIPP 2, the Queensland Government, acting through the Department of State Development, Manufacturing, Infrastructure and Planning (Department), proposes to provide funding to successful local government applicants to engage an appropriately qualified professional service provider/s (provider) to undertake relevant work on approved activities.

Local governments are encouraged to apply for funding under MIPP 2 for the following two broad categories of activities:

- strategic planning for infrastructure
- development of a business case and/or detailed design for an infrastructure project.

Strategic planning for infrastructure

This component of MIPP 2 focuses on the strategic objectives, rather than delivery of projects, that will help local governments form a strategic view on their key infrastructure priorities and needs. The linkage between service delivery needs and infrastructure requirements also provides clear direction to the management of assets, is essential to the long-term financial sustainability and resilience of local governments and contributes to economic development and jobs growth.

The objective is to support local governments to focus on or improve their strategic planning for infrastructure to provide a strong basis for future informed investment decisions. Some examples of activities that would be eligible in this area of MIPP 2 include:

- planning of 'non' Local Government Infrastructure Plan (LGIP) infrastructure e.g. infrastructure for libraries, waste/refuse management, playgrounds
- analysis of the existing local government infrastructure portfolio against future capacity or community expectations

- identification of existing strategic need or service gap, future service needs, potential service levels, supporting infrastructure requirements
- development of a prioritisation process or framework to identify local government infrastructure priorities including renewal or repurposing of existing assets.

Potential local government submissions should not be limited by this list of examples.

Business case and/or detailed design

This component of MIPP 2 will focus on business cases and/or detailed design for infrastructure projects, which is the last assessment stage of the Queensland infrastructure pipeline (Figure 1). The objective is to support:

- business case development (and development of supporting documentation) for local government infrastructure projects to provide better clarity about investment decisions
- detailed design work for infrastructure projects with the goal of reducing the time between an investment decision and commencement of construction.

Requests to refresh or update previous analysis undertaken are also encouraged.

Eligibility and submission criteria

Applicant eligibility

The program is open to all local government bodies constituted under the *Local Government Act 2009* or the *City of Brisbane Act 2010*.

Submission criteria

For submissions seeking funding for strategic planning for infrastructure

Local governments should seek to articulate how the funding sought will support, enhance or accelerate existing (or developing) strategic planning activities. These activities should support the local government to form a strategic view of infrastructure requirements or inform infrastructure planning.

Submissions will be assessed on the following criteria:

- how the proposed activity meets strategic needs and priorities. This includes:
 - alignment with local, state or regional infrastructure priorities, policies or initiatives
 - whether it addresses any issues identified through previous reviews or audits
- how the proposed activity satisfies identified service and capability gaps for the local government
- whether the proposed activity covers multiple assets/classes
- the timeframes associated with the proposed activity, including whether there is an urgent need and whether the proposed activity will address a short, medium or long-term priority.

For submissions seeking funding for business case and/or detailed design

There should be sufficient development of previous planning stages to support the submission. For:

- business cases—include documented evidence of the preceding stages being completed (e.g. needs assessment, options analysis etc).
- detailed design—include evidence that concept planning has been undertaken for the proposed infrastructure project

Submissions will be assessed on the following criteria:

- how the proposed activity meets strategic needs and priorities. This includes:
 - alignment with local, state or regional infrastructure priorities, policies or initiatives
 - whether it addresses any issues identified through previous reviews or audits
- whether the previous options analysis considered both infrastructure and non-infrastructure solutions
- how the project will contribute to economic growth and jobs, or enhance liveability
- whether the project has the capacity to attract funding from outside the Queensland Government for the delivery stage
- the timeframes associated with the project, including whether there is an urgent need and whether the project will address a short, medium or long-term priority.

Ineligible submissions

Ineligible submissions include those where:

- funding received would develop deliverables directly required by existing legislation e.g. LGIP or long-term asset management plan¹
- the project is based outside of Queensland
- the proposed activity is already being fully funded from another source (including the State or Commonwealth Government). Please note partial funding or co-contribution from the Commonwealth Government is acceptable.

Eligible activity costs

MIPP 2 funding may only be applied to the following costs incurred after the execution date of the relevant funding agreement between the State and the local government:

- professional third party service provider's (provider) fees (excluding administrative or overhead costs), where such provider has been engaged by the local government to provide advice or services in relation to the funded activity, but excluding:
 - marketing and advertising advice or services
 - legal advice
 - work or advice in relation to the local government's compliance with legislation or regulations
 - financial advice

¹ Note – Activities that would inform legislative requirements are considered eligible.

- administrative or operational advice
- operational or business planning advice
- where the local government has no more than 1,000 full time equivalent employees², the cost (or part thereof) of additional internal resources required to undertake procurement and initiation activities associated with MIPP 2; and
- any other costs deemed eligible by the Department.

The local government will be required to provide documentary evidence to substantiate that its claim for funding constitutes eligible activity costs (e.g. provider’s contracts including a detailed scope of work, receipts for payment of provider’s fees)

Payment schedule

Under MIPP 2, funding will be administered on an 80:20 model. In particular circumstances, an alternate payment schedule may be approved³.

Table 1 MIPP 2 Payment schedule

Commencement of Contract	80% of total funding amount	The local government must provide a copy of the engagement contract with the selected provider, current project management plan associated with the funded activity and any other documentation as reasonably requested by the Department (e.g. certificates of insurance).
Finalisation of Contract	20% of total funding amount	The local government must provide a copy of the final deliverable received from the engaged provider and full acquittal of funds paid to the provider (including evidence of payments).

Each claim for payment must be made on the prescribed form, with certification that the work has been completed satisfactorily, and that expenditure for the amount stated has been properly incurred on eligible activity costs in accordance with the program guidelines and the funding agreement.

Certification must be made by an appropriately delegated officer of the successful applicant, or other persons as agreed.

² Those local governments with a workforce of no more than 1,000 full time equivalent employees are less likely to have the necessary in-house skills and capabilities on hand to develop procurement and activity initiation documentation.

³ Local governments that are approved for procurement and activity initiation funding may seek an alternate payment schedule.

All final reporting and claims for payment are to be submitted within one month of the approved completion date.

The prescribed forms for claiming payments will be made available on the Department's website at: <http://www.dsdmip.qld.gov.au/>.

Expectations through delivery

Ongoing reporting

Monthly progress reporting by local governments will be expected in accordance with the formal agreement between the parties.

State government involvement

Local governments will work with relevant state government agencies (including Building Queensland) where required in the delivery of the business case and/or detailed design work. This will be confirmed on a case by case basis and be dependent on the nature and cost of the proposed activity.

How to apply

Eligible applicants may apply by completing the submission form for the relevant activity provided in Appendix 1, which is also available on the department's website at <http://www.dsdmip.qld.gov.au/>.

Submissions should address the Eligibility and Submission Criteria described in this guideline and provide any necessary supporting documentation.

Applications will open on **12 March 2018**, and close at 12:00pm (midday) on **9 April 2018** (Due Date), Australian Eastern Standard Time (Submission Period).

During the Submission Period, applicants may submit questions, requests for clarification and requests for further information to the department via the following email address: MIPP@dsdmip.qld.gov.au. Questions and responses to general questions about the MIPP 2 or the guidelines will be published at <http://www.dsdmip.qld.gov.au/>. The department may in its discretion, determine not to publish questions and responses where they are project or submission specific or do not have general application.

Applications must be submitted by 12:00pm (midday) on the Due Date by emailing the completed submission form to MIPP@dsdmip.qld.gov.au.

If you have any questions regarding how to apply, please contact the department via email at MIPP@dsdmip.qld.gov.au.

Assessment process

All eligible submissions will be assessed against the submission criteria outlined in these guidelines (Submission Criteria) in a competitive, merit based approach by a panel of assessors (the Panel).

Each of the Submission Criteria will be weighted equally. While a submission may not satisfy all the listed criteria, doing so will increase the likelihood of the submission being funded.

Following this assessment, the Panel will make a recommendation to the Minister for State Development, Manufacturing, Infrastructure and Planning (or the relevant Minister with delegated authority over this program) (Minister) about successful applicants and final approval of grant amounts for successful applicants. The Minister will consider the recommendations, and other factors that are relevant, such as the State's objectives and the amount of funding available, in making a decision regarding the applications.

While applicants are requested to provide an indication of total costs for the proposed activity, the amount of funding provided is entirely at the discretion of the Minister.

Funding levels for successful local governments may be capped if the program is over subscribed.

Successful and unsuccessful applicants will be advised (in writing) of the decision.

Applicants may be contacted during the assessment process to clarify information provided in the application and/or request further information to enable a comprehensive due diligence and probity assessment to be undertaken.

The department is committed to prompt and effective resolution of issues that may arise following the assessment process and subsequent awarding of grant funding, on a case by case basis. In the event that an applicant believes that the assessment process outlined in this document has not been adhered to, you may raise your concern at MIPP@dsmip.qld.gov.au and this will be considered.

Conditions of funding

Minister retains rights and powers

The Minister retains all rights and powers to make all decisions and take any actions that the Minister sees fit in order to achieve the priorities and objectives of MIPP 2, in the Minister's absolute discretion.

The Minister will have the discretion to approve funding for activities that may not meet the criteria.

The Minister may require funding recipients to provide all such documents or to remedy irregularities, as deemed necessary, to demonstrate the appropriate management and use of State funds.

The Minister may authorise officers, either generally or in specific cases, to perform the powers and duties of the Minister under this program, where appropriate.

This section does not limit, and is not limited by, the Submission Terms and Conditions.

Funding agreements

Successful applicants will be required to execute a funding agreement with the State of Queensland (State).

The funding agreement will outline the terms of the proposed grant and detail the obligations of the successful applicant. It will set out the specific terms and conditions

associated with an approved submission, including payment milestones. It is intended that funding agreements will be executed within six (6) months of the funding announcement.

All unspent funding must be returned to the State in accordance with the funding agreement.

In no event will the final terms and conditions of the funding agreement be deemed to have been agreed between the parties, or will the State be obliged to provide funding to an applicant, until such time as the funding agreement has been executed by all relevant parties.

More information on the funding arrangements, including conditions of funding, for this program is available upon request.

Submission Terms and Conditions

Submission Terms and Conditions are set out in Appendix 3 to this document.

Appendices

Appendix 1—Submission form for **strategic planning for infrastructure**

Appendix 2—Submission form for **business case and/or detailed design**

Appendix 3—Submission Terms and Conditions

Appendix 1—Submission form for strategic planning for infrastructure

Maturing the Infrastructure Pipeline Program 2

Submission form for strategic planning for infrastructure

Submitted by [insert local government] (Applicant)
[Insert date]

The following questions relate to submissions seeking funding for **strategic planning for infrastructure**.

Key contact

Key contact	
Name	
Role	
Phone	
Email	

What is your proposed activity?

Details	
Name of Applicant	
Description <i>(1-2 paragraphs)</i>	
Location	
Geocode (latitude and longitude) <i>(Include Council address if activity is not relevant to a specific location)</i>	
Asset class <i>(Tick as appropriate)</i>	<input type="checkbox"/> Arts, Culture and Recreation <input type="checkbox"/> Cross-government <input type="checkbox"/> Digital <input type="checkbox"/> Education and Training <input type="checkbox"/> Energy <input type="checkbox"/> Health <input type="checkbox"/> Justice and Public Safety <input type="checkbox"/> Social Housing <input type="checkbox"/> Transport <input type="checkbox"/> Water <input type="checkbox"/> Other (please provide)

Background

Background	
How does the proposed activity relate to infrastructure planning for your local government?	
Indicate what need or service gap the proposed activity seeks to identify for your local government?	

Scope

Scope	
What studies/investigations do you anticipate will be undertaken as part of this activity?	
In what form do you anticipate the desired outputs to be? e.g. A plan, analysis report, a developed framework, a developed service model etc.	

Criteria

Criteria	
How does the proposed activity meet the submission criteria outlined on page 3 (three) of the MIPP 2 guidelines	

Funding

Funding	
What is the estimated cost for undertaking this activity?	
Are you seeking to recover the cost of additional resources required to undertake procurement and initiation activities?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, does your council employ less than 1,000 FTEs? Please attach evidence of this.	<input type="checkbox"/> Yes. Evidence attached <input type="checkbox"/> No

Benefits

Benefits	
How will this activity support the local government's strategic view of infrastructure?	

<p>Will the activity provide a sustained benefit or a strategic foundation for your local government to build upon? <i>(please detail)</i></p>	
<p>What will you do with the outputs of this activity? How will they be used? <i>(next steps)</i></p>	

Acceptance

By submitting this application, the Applicant:

- warrants to the State that the information contained in this application is accurate and complete as at the date on which it is submitted and not by omission misleading, and may be relied on by the State in determining whether or not to select the Applicant for the MIPP 2
- undertakes to promptly advise the State if it becomes aware of any change in circumstances which causes the information contained in this application to become inaccurate or incomplete in a material respect
- acknowledges that the State will rely on the above warranty and undertaking when evaluating this application
- acknowledges that the State may elect to remove the Applicant at any stage as a result of material changes to the information presented in this application
- acknowledges that the State may suffer loss or damage if the Applicant breaches the above warranty and undertaking
- is taken to have accepted the MIPP 2 guidelines, including the submission terms and conditions.

Appendix 2—Submission form for business case and/or detailed design

Maturing the Infrastructure Pipeline Program 2
Submission for business case and/or detailed design

Submitted by [insert local government] (Applicant)
[Insert date]

The following questions relate to submissions seeking funding for **business case and/or detailed design**

Key contact

Key contact	
Name	
Role	
Phone	
Email	

What is your proposed activity?

Details	
Name of Applicant	
Description <i>(1-2 paragraphs)</i>	
Location	
Geocode <i>(latitude and longitude)</i>	
Asset class <i>(Tick as appropriate)</i>	<input type="checkbox"/> Arts, Culture and Recreation <input type="checkbox"/> Cross-government <input type="checkbox"/> Digital <input type="checkbox"/> Education and Training <input type="checkbox"/> Energy <input type="checkbox"/> Health <input type="checkbox"/> Justice and Public Safety <input type="checkbox"/> Social Housing <input type="checkbox"/> Transport <input type="checkbox"/> Water <input type="checkbox"/> Other (please provide)

Background

Background	
How was the proposed infrastructure project identified as a priority for local government?	

Background	
<p>How does the proposed infrastructure project meet strategic needs or priorities? Please include details of whether it:</p> <ul style="list-style-type: none"> - aligns with local, state or regional infrastructure priorities/ policies/ initiatives - addresses any issues identified through previous reviews or audits. 	
<p>What is the next stage of planning for the proposed infrastructure project? (i.e. what stage are you seeking funding for?) <i>(Choose one)</i></p>	<input type="checkbox"/> Business case <input type="checkbox"/> Detailed Design
<p>Please provide a summary of work completed to date, including key dates, and documented evidence of need and options analysis. <i>(Relevant documents should be included as attachments)</i></p>	
<p>Does the proposed infrastructure project impact on state government infrastructure, an existing infrastructure network, or a state government service? <i>(Please confirm that you have consulted with relevant state agencies, and that they are supportive of this submission. Include contact details of state agency officers consulted)</i></p>	

Criteria

Criteria	
<p>How does the proposed activity meet the submission criteria outlined on page 3 (three) of the MIPP 2 guidelines</p>	

Funding

Funding	
<p>What is the estimated cost of the next stage of planning? (i.e. how much funding is being sought?)</p>	
<p>What is the total estimated cost of construction (if available)? <i>(If these estimates are available using P50 and P90, that should be noted here. A range can be provided if the scale of the project is unclear at this stage)</i></p>	

Funding	
Has an investment strategy been developed that would enable the proposed infrastructure project to proceed? <i>(If yes, please provide details)</i>	
Does the proposed infrastructure project have the capacity to attract funding from outside the Queensland Government? <i>(Please be specific and clearly identify funding sources. Clear differentiation should be made between Commonwealth, State and private sector funding. Also, please be clear about whether funding sources are subject to a competitive process).</i>	
Are you seeking to recover the cost of additional resources required to undertake procurement and initiation activities?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, does your council have no more than 1,000 FTEs? Please attach evidence of this.	<input type="checkbox"/> Yes. Evidence attached <input type="checkbox"/> No

Potential solutions

Potential solutions	
Is there an identified solution? <i>(If yes, please provide details)</i>	
Have alternate solutions been considered? If so, why are they not suitable?	
Is the proposed infrastructure project being addressed through another Queensland or Commonwealth government initiative?	

Benefits

Benefits	
What economic benefits will the proposed infrastructure project bring to the community (including enhancing economic growth, job creation)?	
How will the proposed infrastructure project contribute to the liveability of the community, and the broader local government area?	

Benefits

Will the proposed infrastructure project attract further investment in the region?

(If yes, please describe)

Acceptance

By submitting this application, the Applicant:

- warrants to the State that the information contained in this application is accurate and complete as at the date on which it is submitted and not by omission misleading, and may be relied on by the State in determining whether or not to select the Applicant for the MIPP 2
- undertakes to promptly advise the State if it becomes aware of any change in circumstances which causes the information contained in this application to become inaccurate or incomplete in a material respect
- acknowledges that the State will rely on the above warranty and undertaking when evaluating this application
- acknowledges that the State may elect to remove the Applicant at any stage as a result of material changes to the information presented in this application
- acknowledges that the State may suffer loss or damage if the Applicant breaches the above warranty and undertaking
- is taken to have accepted the MIPP 2 guidelines including the submission terms and conditions.

Appendix 3—Terms and Conditions

1. Reservation of Rights

Notwithstanding any provision of these guidelines to the contrary, the State reserves the right to administer the MIPP 2 and conduct the process for the assessment and selection of applicants in connection with the MIPP 2 in such manner as it thinks fit, in its absolute discretion.

Without limiting the foregoing, State reserves the right, in its absolute discretion and at any time (including after the closing date), to:

- a) change the structure, procedures, nature, scope or timing of, or alter the terms of participation in the process or overall MIPP 2 (including timeframes and submission and compliance of applications)
- b) vary or amend the eligibility or submission criteria set out in these guidelines (Eligibility and Submission Criteria)
- c) take into account any information from its own and other sources (including other Government agencies or other advisors)
- d) accept or reject any application, having regard to these guidelines, the Eligibility and Submission Criteria or any other item, matter or thing which the State considers relevant, including the limitations on the funds available for the MIPP 2
- e) give preference to any one or more of Submission Criteria over other criteria
- f) seek clarifications or request additional information from any applicant at any stage
- g) conduct due diligence investigations in respect of any applicant and subject applications to due diligence, technical, financial and economic appraisals
- h) require an applicant to clarify or substantiate any claims, assumptions or commitment contained in an application or provide any additional information
- i) terminate further participation in the application process by any applicant
- j) terminate or reinstate the MIPP 2 or any process in the MIPP 2
- k) not proceed with the MIPP 2 in the manner outlined in these guidelines, or at all
- l) allow the withdrawal or addition of any applicant
- m) conduct negotiations with any one or more applicants after the applications have been lodged
- n) agree to terms for the delivery of the MIPP 2 that are different from those contained in these guidelines
- o) publish the names of applicants and shortlisted applicants
- p) take such other action as it considers in its absolute discretion appropriate in relation to the MIPP 2 process.

Where, under these guidelines, it is stated that the State or the department may exercise a right or discretion or perform any act or omit to perform any act, then unless stated otherwise the State or the department may do so at its sole and absolute discretion and will not be required to act, or be restrained from acting, in any way or for any reason nor to take into account the interests of any third party (including the applicants).

If the State does exercise any of its rights under this section 1 of the Terms and Conditions (or elsewhere under these guidelines) the State may inform any or all applicants. The State will not, however, be under any obligation to do so.

2. Communication with media

All media enquiries or public announcements relating to MIPP 2 will be coordinated and handled by the department's media team. Where possible, all media and communications will be undertaken jointly with successful applicants.

Applicants must not make any public statements in relation to this process, MIPP 2, or any other matter referred to in these guidelines without the prior written consent of the State.

3. Confidentiality

The State collects information for the purpose of evaluating applications for the MIPP 2. By agreeing to the conditions in these program guidelines and the application documentation, applicants agree that the information supplied as part of the MIPP 2 funding application process may be shared with Queensland Government agencies and other program stakeholders for the purpose of assessment and to ensure the outcomes are consistent with Queensland Government priorities.

The State may also disclose information to promote the program through the release of the recipient's name, the amount of financial assistance and general details of the submission or project.

Non-public details of the funding support will be treated as confidential and commercial-in-confidence and are not to be released to third parties by successful applicants, unless otherwise agreed by the State.

For audit purposes, the Queensland Government is required to retain the applications and other supplied support material. Successful applications will be retained for seven years and unsuccessful applications will be retained for two years.

4. Regulatory requirements

Payments under the program are conditional on the funding recipient observing all relevant laws and Queensland and Australian Government policies. The program provides funding assistance only and does not relieve a funding recipient from:

- a) performing or observing all conditions and duties that may apply to the works under any act, law or regulation
- b) having due regard to any relevant Queensland and Australian Government policies.

5. Disclaimer

The State makes no warranty or representation express or implied, and does not assume any duty of care to the applicants that the information in these guidelines, or supplied in connection with MIPP 2 (Information) is accurate, adequate, current, suitable or complete, or that the Information has been independently verified. The State accepts no responsibility whether arising from negligence or otherwise (except a liability that cannot lawfully be excluded) for any reliance placed upon the Information or interpretations placed on the Information by applicants.

There may also be other information or documents in the knowledge or possession of the State which are relevant to the MIPP 2 but are not disclosed by the State. The State accepts no responsibility or liability whether arising from negligence or otherwise

(except a liability that cannot lawfully be excluded) for any failure to provide the information or documents nor does the State have any obligation to notify an applicant (or provide further information to an applicant) if it becomes aware of any inaccuracy, incompleteness or change which may affect the Information.

To the extent the State is not the author or source of any document provided to an applicant, they merely pass that document on to the applicant and do not adopt the content of it.

The intentions set out in the Information may change at any time without notice. The risk, responsibility and liability connected with an application is solely that of each applicant.

6. GST

Grant amounts awarded to successful applicants are expressed to be exclusive of GST. The State does not provide advice on tax and recommends applicants seek independent professional advice on their tax obligations.

7. No relationship

The State's obligations regarding the application process are limited to those expressly stated in these guidelines.

In submitting its application, the applicant acknowledges and agrees that it is bound by these guidelines, including the Terms and Conditions, and warrants for the benefit of the State it will not breach these guidelines or seek to bring any claim, of any kind whatsoever, against the State which is precluded by these guidelines.

Subject to this section 7 of the Terms and Conditions no contractual or legal relationship otherwise exists between the State and an applicant in connection with these guidelines, application process, the MIPP 2 or any further stages of the overall process.

An applicant, or its representatives:

- a) has no authority or power, and must not purport to have the authority or power to bind the State, or make representations on behalf of the State;
- b) must not hold itself out or engage in any conduct or make any representation which may suggest to any person that the applicant is for any purpose an employee, agent, partner or joint venturer with the State; and
- c) must not represent to any person that the State supports any infrastructure project or projects to which the activity relates.

8. No Action

To the extent permitted by law, no applicant will have any claim of any kind whatsoever against the State (whether in contract, tort (including negligence), equity, under statute or otherwise) arising from or in connection with:

- a) any costs, expenses, losses or liabilities suffered or incurred by the applicant in preparing and submitting its application (including any amendments, requests for further information by the State, attendance at meetings or involvement in discussions) or otherwise in connection with the MIPP 2;
- b) the State at any time exercising or failing to exercise, in its absolute discretion, any rights it has under or in connection with the MIPP 2; or
- c) any of the matters or things relevant to its application or the MIPP 2 in respect of which the applicant must satisfy itself under these guidelines.

Without limiting the foregoing, if the State cancels or varies the MIPP 2 at any time or does not select or shortlist any applicant following its assessment of the applications, or does (or fails to do) any other thing referred to under section 1 of the Terms and Conditions of these guidelines, no applicant will have any claim against the State arising from or in connection with any costs, expenses, losses or liabilities incurred by the applicant in preparing and submitting its application or otherwise in connection with or in relation to (whether directly or indirectly) the MIPP 2.

9. Intellectual Property

Any intellectual property rights that may exist in an application will remain the property of the applicant or the rightful owner of those intellectual property rights. Any element of an application considered to contain any intellectual property rights should be clearly identified by the applicant.

The applicant grants to the State (and will ensure that relevant third parties grant) a non-exclusive, irrevocable licence to use and reproduce the intellectual property for the purpose of administering the MIPP 2 program.

10. Non-exhaustive

These guidelines have been prepared to give potential applicants background information in relation to the MIPP 2 program. These guidelines do not, and do not purport to, comprehensively describe the scope of the MIPP 2 program or contain all of the information that applicants may require in reaching decisions in relation to whether or not to submit an application. Applicants must form their own views as to what information is relevant to such decisions.

Applicants must make their own independent investigations of the information contained or referred to in these guidelines and their own appraisal of the opportunity to participate in the MIPP 2 program. Applicants must obtain their own independent legal, financial, tax and other advice in relation to information in these guidelines or otherwise made available to them during the application process.

11. Acceptance

By submitting an application, each applicant:

- a) warrants to the State that the information contained in its application is accurate and complete as at the date on which it is submitted and not by omission misleading, and may be relied on by the State in determining whether or not to select the applicant for the MIPP 2
- b) undertakes to promptly advise the State if it becomes aware of any change in circumstances which causes the information contained in its application to become inaccurate or incomplete in a material respect
- c) acknowledges that the State will rely on the above warranty and undertaking when evaluating the application
- d) acknowledges that the State may elect to remove an applicant at any stage as a result of material changes to the information presented in its application
- e) acknowledges that the State may suffer loss or damage if the applicant breaches the above warranty and undertaking
- f) is taken to have accepted these MIPP 2 guidelines including the Terms and Conditions.



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