

# New Energy Jobs Fund

Industry Stream  
Application Guidelines  
Round Three



Renewable Energy Division



Environment,  
Land, Water  
and Planning

© The State of Victoria Department of Environment, Land, Water and Planning 2016



**Disclaimer**

This publication may be of assistance to you but the State of Victoria and its employees do not guarantee that the publication is without flaw of any kind or is wholly appropriate for your particular purposes and therefore disclaims all liability for any error, loss or other consequence which may arise from you relying on any information in this publication.

**Accessibility**

If you would like to receive this publication in an alternative format, please email [new.energy@delwp.vic.gov.au](mailto:new.energy@delwp.vic.gov.au). This document is also available on the internet at [www.business.vic.gov.au/futureindustries](http://www.business.vic.gov.au/futureindustries)

# Contents

<b>Industry Application Guidelines</b> .....	<b>2</b>
<b>1. The Program</b> .....	<b>2</b>
1.1 Background.....	2
1.2 Objectives.....	2
1.3 Round Three Program Design.....	2
1.4 Program Timetable .....	2
1.5 Industry Stream Overview .....	3
1.5.1 Manufacturing .....	3
1.5.2 Sustainable Transport.....	3
1.5.3 Technology.....	3
1.5.4 Skills and Capacity Building .....	3
<b>2 Funding</b> .....	<b>3</b>
<b>3 Eligibility</b> .....	<b>4</b>
3.1 The Applicant .....	4
3.2 The Project .....	4
<b>4 Assessment Criteria</b> .....	<b>5</b>
4.1 Detailed Assessment Criteria.....	6
<b>5 Application Process</b> .....	<b>11</b>
5.1 Application .....	11
5.2 Questions .....	11
5.3 Meetings with the Department .....	11
<b>6 Administration and Assessment of Applications</b> .....	<b>12</b>
6.1 Assessment.....	12
6.2 Clarifications.....	12
6.3 Funding Agreement.....	12
<b>7 Reporting and Publicity</b> .....	<b>12</b>
7.1 Reporting.....	12
7.2 Publicity.....	12
7.3 Confidentiality.....	12
7.4 Contacts and Further Information .....	12
<b>8 Attachments</b> .....	<b>14</b>
8.1 Attachment A – Terms and Conditions of the Guidelines.....	14
8.2 Attachment B – Expenditure Guidelines.....	14
8.3 Attachment C – Funding Agreement Compliance.....	14
8.4 Attachment D – Financial Security .....	14
<b>10</b> .....	<b>26</b>

# Industry Application Guidelines

## 1. The Program

### 1.1 Background

The New Energy Jobs Fund, an initiative under the Future Industries Fund, supports high growth, as part of the Victorian Government's *Back to Work Plan* to create 100,000 jobs and get Victoria back to work.

The New Energy Jobs Fund (Program) has been designed to run over three annual rounds, with round one completed in 2016 and round two completed in 2017.

The purpose of these Guidelines is to set out the objectives, assessment criteria and application process for the **Industry Stream** of round three of the New Energy Jobs Fund.

### 1.2 Objectives

The New Energy Jobs Fund (the Program) assists Victorian based new energy technology projects that:

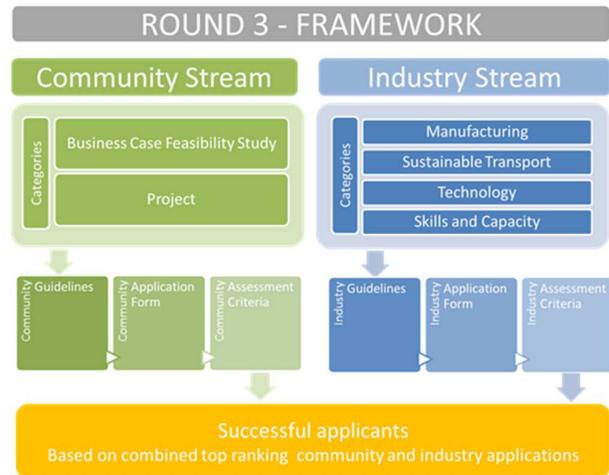
- create long-term sustainable jobs;
- drive economic development;
- promote community participation;
- increase the uptake of renewable energy generation;
- reduce greenhouse gas emissions;
- drive innovation of new energy technologies; and
- build new energy technology capability and capacity in the State.

**The New Energy Jobs Fund will support generation projects that deliver energy from renewable sources only.**

### 1.3 Round Three Program Design

Round three will have separate streams for new energy technology community and industry applications with categories that focus on manufacturing, technology, community and skills.

Whilst each stream will need to demonstrate economic, social and environmental outcomes, the industry stream will have a focus on jobs and economic development outcomes and the community stream a focus on social and environmental outcomes.



### 1.4 Program Timetable

Applicants will have approximately three months to apply. Assessment of applications will be concluded approximately three months after Applications close. It is anticipated that funding agreements will be executed within two months from the date of the Ministerial Letter of Offer.

<b>Applications Open</b>	<b>12 December 2017</b>
<b>Applications Close</b>	<b>2 pm, Thurs 1 Mar 2018</b>
Assessment and Approval	May 2018
Successful Applicants Notified	June 2018
Announcement of Successful Projects	July/August 2018
Completion of Projects	June 2021

*Note: This is an indicative timetable and may be subject to change.*

## 1.5 Industry Stream Overview

The Industry Stream will support new energy technology projects under the following categories:

### 1.5.1 Manufacturing

This category will support the manufacture of new energy technology components/systems.

### 1.5.2 Sustainable Transport

This category will support innovative new energy technology projects that apply to sustainable transport, including projects that support the shift to sustainably sourced fuels and electric vehicles.

### 1.5.3 Technology

This category will support innovative and unique projects that enable industry to optimise, adapt or integrate commercially available new energy technologies.

The types of projects supported may include; renewable energy generation projects; renewable heating and cooling projects; energy storage projects that alleviate grid constraints and that advance learnings from already completed and existing storage installations and trials; and projects incorporating demand management technologies.

### 1.5.4 Skills and Capacity Building

This category will support projects which strengthen capabilities and capacity to innovate in the new energy technology sector. Supported projects could include;

- Projects that support the attraction of new energy technology businesses to Victoria.
- Projects that create new energy technology jobs through education and upskilling where there are current identified skills gaps.
- Projects that address clearly defined sector skills shortages and meet the demand for new and additional skills.

## 2 Funding

Funding of up to \$3 million is available in round three. Applications must meet the Program criteria.

The minimum funding limit for individual projects is \$50,000 and the maximum \$1 million.

Applicants must provide a cash co-contribution for all Industry Stream projects. As a guide, a typical ratio for private funding to public funding for projects of this nature is 3:1. Although there is **no minimum funding ratio** for this Program, **a higher ratio will be viewed more favourably**.

Where appropriate and in line with the Program objectives, the Program will consider various forms of co-contribution proposed by applicants.

Funding allocation will be based on the assessment of applications and will typically be made available to successful Projects up until June 30, 2021 under a signed Funding Agreement.

Funds will be paid in arrears on satisfaction of agreed project milestones.

Important information regarding **eligible and ineligible expenditure** can be found in the Expenditure Guidelines at Attachment B.

## 3 Eligibility

To be eligible for consideration under the Program, Applicants must satisfy **all** of the mandatory eligibility requirements below. Provision of supporting information may be required.

### 3.1 The Applicant

Applications under the Industry Stream are open to a broad range of organisations and can include single entities or a consortium of Participants. However all Applications, whether single entities or a consortium, must nominate a 'Lead Organisation' to:

- endorse the Application;
- verify any commitment of funds for the Project; and
- be authorised to enter into a Funding Agreement with the State if successful.

The Application must be approved by a duly authorised representative of the Lead Organisation.

Individuals are not eligible to apply as a Lead Organisation under the Program.

#### **Lead Organisation requirements: Industry Stream**

Under the Industry stream, the Lead Organisation must:

- be incorporated under the Corporations Act 2001;
- have an Australian Business Number
- be able to demonstrate that either the Lead Organisation or the Lead Organisation's parent company has at least three years' operating history by way of financial reports (which shall preferably be audited).

Participants (as part of a consortium) do not have to meet the Lead Organisation requirements above.

### 3.2 The Project

Applicants must also be able to demonstrate they can meet the following criteria:

- the Project must take place in Victoria\*;
- the Project activities for which funding is sought have not previously been funded by the Commonwealth or Victorian Governments\*\*;
- the technology proposed for the Project is commercially-ready new energy technology;
- the Lead Organisation and any Participants must not have any unresolved issues with the Environment Protection Agency or WorkSafe Victoria
- Is not a Victorian Government body or agency.

Applicants must also be able to state whether there are any actual or perceived conflict of interest issues in relation to the proposed project for the Applicant, Lead Organisation and any Participants.

\* Applicants may be able to purchase services, supplies and technology from overseas, provided that the expenditure on overseas sourced purchases is agreed to by the Department.

\*\*However, Applicants may apply for project activities that are a significant evolution of or development upon projects that previously obtained support from the Commonwealth or Victorian Governments. The Program will also consider funding project activities currently receiving support that meet the Program objectives and contribute to the broader development of the new energy technology industry by:

- helping to establish new entrants into the Victorian market;
- demonstrating innovative business or financing models that can be replicated by other market participants; or
- addressing challenges that limit production or deployment of new energy technologies.

## 4 Assessment Criteria

The tables below provide an overview of the Assessment Criteria and their relative weightings. Full Assessment Criteria are detailed in Section 4.1.

Table 1: Assessment Criteria Weighting

Criteria No.	Assessment Criteria	Industry
1	The Project	30
2	Capability and Capacity of the Applicant and Participants	30
3	The Benefits of the Project	40

Table 2: Assessment Criteria

### 1. THE PROJECT

1.1 Merit, validity and readiness of the Project.

1.2 Key risks and challenges for the Project.

1.3 Evidence of community acceptance / support for the Project.

1.4 Appropriateness of the proposed budget, the amount of funding sought from Government and its leverage compared to other sources of Project funding.

1.5 The Project delivery strategy and timeline is well articulated, sensible and realistic.

### 2. THE CAPABILITY AND CAPACITY OF THE APPLICANT AND PARTICIPANTS

2.1 Track record demonstrating the necessary experience and capability of the Applicant, Participants and key personnel to deliver the Project and achieve its objectives.

### 3. THE BENEFITS OF THE PROJECT

3.1 The Project's benefits to Victoria and the local community.

3.2 The Project's knowledge sharing strategy.

## 4.1 Detailed Assessment Criteria

Applicants should refer to this section whilst completing the online Application Form. Applicants must respond to all required Assessment Criteria in their Application. The “guidance notes” provided are intended to provide guidance to Applicants towards answering the Assessment Criteria but may not be relevant to all Applicants.

### Assessment Criteria 1: The Project

Criteria	Application Questions	Guidance Notes
1.1 Merit, validity and readiness of the Project.	Describe the project and its objective/s.	Under separate headings, clearly and succinctly describe the project and its key objective/s. <i>(max 500 words)</i>
	Why is this project needed?	Describe why there is a need for this project. <i>(approx 1 paragraph)</i>
	Describe the technologies / models that will be used in the project and evidence that they are commercially ready.	Supporting documentation can be attached as evidence of commercial-readiness. <i>(approx 1 paragraph)</i>
	How is the project or the technologies proposed innovative or unique?	May include proven overseas projects or technologies which are new to Australia. <i>(approx 1 paragraph)</i>
	Describe why this project is ready for implementation.	<p>May include details of;</p> <ul style="list-style-type: none"> <li>work done to date on the project, particularly business cases and other studies;</li> <li>agreements with partner organisations;</li> <li>the extent to which the project site has been secured;</li> <li>status or progress of any discussions regarding grid connections and any electricity Network Connection Agreements and/or offtake agreements, where relevant</li> </ul> <p>Supporting documentation such as a business case or other evidence of project implementation readiness can also be attached. Extracts of documents (such as executive summaries) are preferred in place of full length reports and large documents. Full length documents will be requested if required. <i>(max 300 words)</i></p> <p>Where relevant applicants could consider the issues outlined on page 13 of the Guide to Community Owned Renewable Energy for Victorians. A copy of the guide can be found at: <a href="http://www.business.vic.gov.au/support-for-your-business/future-industries/new-energy-technologies">http://www.business.vic.gov.au/support-for-your-business/future-industries/new-energy-technologies</a></p>

1.2 Key risks and challenges for the Project	Risk Table Template has been completed and is attached?	<p>The risk table should be used to outline the key risks and challenges likely to affect the success of the project and the strategies and actions that will or have been undertaken to mitigate them.</p> <p>Risks may be related to:</p> <ul style="list-style-type: none"> <li>• Regulations</li> <li>• The potential costs to the applicant of constraints in the power system affecting the Connection Agreement Costs</li> <li>• Key structural or market challenges/barriers (including economic, logistic and technical) for commercialisation that would need to be resolved</li> <li>• Emissions</li> <li>• Issues relating to the cost competitiveness of the proposal</li> <li>• Issues of concern to the community</li> <li>• Governance</li> <li>• Government approvals</li> <li>• Access to IP</li> <li>• Personnel recruitment</li> <li>• Site access / availability</li> <li>• Equipment ordering and delivery</li> <li>• Seasonal testing requirements</li> <li>• Any other risks</li> </ul> <p><b>The Risk Table Template can be found in the “Mandatory Application Attachments” document located at: <a href="http://www.business.vic.gov.au/sup-port-for-your-business/future-industries/new-energy-technologies">http://www.business.vic.gov.au/sup-port-for-your-business/future-industries/new-energy-technologies</a></b></p>
1.3 Evidence of community acceptance / support for the Project	Describe how the Project has or will obtain relevant community support.	<i>(max 300 words)</i>
1.4 Appropriateness of the proposed budget, the amount of funding sought from Government and its leverage compared to other sources of Project funding.	Describe the expected Project funding sources (including grants), the status of any financing agreements and the leverage of Government funding compared to other sources of Project funding.	<p>Include list of expected funding sources and amounts of grants, including if applicable any planned off-take agreements (attach off-take agreement copy if relevant).</p> <p>For each funding source, provide brief details of stage of discussion and any financing agreements entered into.</p> <p>Indicate the ratio of private and other public co-contributions to the requested funding from the New Energy Jobs Fund. <i>(max 500 words)</i></p> <p>Applicants must provide a cash</p>

		<p>contribution for all Industry Stream Projects. As a guide, a typical ratio for private funding to public funding for projects of this nature is 3:1. However, there is <b>no minimum funding ratio</b> for this Program and <b>a higher ratio will be viewed more favourably.</b></p> <p>Attach any relevant supporting documents as evidence of funding commitments (letters of support, MOUs, funding agreements etc)</p> <p><b>Applicants are also required to complete the Project cash flow template in the online application form and attach the completed Project cash flow template (see below). Refer Attachment B for the Expenditure Guidelines.</b></p>
	<p>Project cash flow template, projecting expenditure over the term of the Project is attached?</p>	<p><b>The Project Cash Flow Template can be found in the “Mandatory Application Attachments” document located at:</b>  <a href="http://www.business.vic.gov.au/support-for-your-business/future-industries/new-energy-technologies">http://www.business.vic.gov.au/support-for-your-business/future-industries/new-energy-technologies</a></p>
<p>1.5 The Project delivery strategy and timeline is well articulated, sensible and realistic.</p>	<p>What is the Project commencement date?</p>	
	<p>What is the Project finish date?</p>	<p>Project finish date must be before June 30, 2021</p>
	<p>How will the project be delivered?</p>	<p>Provide a brief description of how the project will be delivered including the project governance and a list of key milestones, deliverables and associated timelines for the Project.  <i>(max 750 words)</i></p> <p>Applicants <b>must</b> also complete and attach the <b>Project Delivery Schedule Template.</b></p> <p><b>The template can be found in the “Mandatory Application Attachments” document located at:</b>  <a href="http://www.business.vic.gov.au/support-for-your-business/future-industries/new-energy-technologies">http://www.business.vic.gov.au/support-for-your-business/future-industries/new-energy-technologies</a></p> <p>The completed schedule should outline all of the tasks required to complete the project and the expected timing for each task.</p> <p>The intent of the schedule document is</p>

		<p>to demonstrate awareness of all the key tasks required to deliver the project and that the proposed project timeline is realistic and achievable.</p> <p>The completed template should be attached as a supporting document.</p>
--	--	---

### Assessment Criteria 2: The Capability and Capacity of the Applicant and Participants

Criteria	Application Questions	Guidance Notes
Track record demonstrating the necessary experience and technical, commercial and financial capability of the Applicant, Participants and key personnel to deliver the Project and achieve its objectives.	What are the roles of the Project Participants and who are the key personnel for the Project and why?	<p>List the Project Participants and the role each organisation will play in the project. Where appropriate, include the status of any relevant cooperation/collaboration agreements.</p> <p>List the names and/or positions of all key Project personnel and the amount of each person's time which will be devoted to the project. Why are they key to the project's success?</p> <p>Also indicate personnel that will be specifically recruited for this project.</p> <p>Attach short form resumes for key personnel. <i>(max 750 words)</i></p>
	List the previous projects in this field delivered by the project team and their outcomes.	List any similar projects completed and the outcomes demonstrating the technical, commercial and financial capability and describe how this experience will contribute to delivering this Project on time and on budget. <i>(max 300 words)</i>
	Three years of financial reports (preferably audited) for the Lead Organisation or the Lead Organisation's parent company are attached?	The Department may request during the Assessment Process that unaudited financial reports be audited and resubmitted.

### Assessment Criteria 3: Benefits

Criteria	Application Questions	Guidance Notes
3.1 The Project's benefits to Victoria and the local community.	What are the economic benefits to Victoria and the local community of this project?	<p>How does the Project:</p> <ul style="list-style-type: none"> <li>• Create long-term employment</li> <li>• Result in new investment</li> <li>• Create long-term economic benefits that remain after funding has ceased</li> </ul> <p><i>(max 300 words)</i></p>
	Does this project create any new jobs?	Y/N
	If yes, how many jobs does this project create?	This refers to on-going full time equivalent jobs created through implementation of the project.
	Will the project create any short terms	Refers to any short-term jobs created

	jobs?	<p>directly by the project, including construction jobs.</p> <p>Response should include the number, type and duration of any short terms jobs created.</p>
	How many in-direct jobs does this project create?	<p>Indirect jobs are created by other businesses due to the economic growth of your business/project.</p> <p>Consultants are generally independent contractors and do not count as direct or indirect jobs.</p>
	What are the social and environmental benefits to Victoria and the local community of this project?	<p>Could include:</p> <ul style="list-style-type: none"> <li>• How the project provides adequate social return to the community.</li> <li>• How the project complements other investments and/or government policy objectives.</li> <li>• How the project contributes to the overall reduction in greenhouse gas emissions intensity and positions Victoria for a low emission future?</li> </ul> <p><i>(max 300 words)</i></p>
3.2 The Project's knowledge sharing strategy.	What is the Project's knowledge sharing strategy?	<p>Issues could include;</p> <ul style="list-style-type: none"> <li>• How the data, information and lessons learned from the Project be collected, stored, analysed and disseminated so that it reaches the target audiences.</li> <li>• The extent to which data, information and lessons learned from the project will be made publicly available. Applicants must clearly identify what data, information and lessons learned could be released into the public arena.</li> <li>• Any constraints that may prevent the Applicants from sharing knowledge and information, such as intellectual property (IP) protection processes and rights of any third parties including third party materials and IP.</li> </ul> <p><i>(max 500 words)</i></p>

# 5 Application Process

## 5.1 Application

Applications must be made using the electronic form and submitted online. Applications will be assessed according to the process detailed below. Applicants will be notified of their success or otherwise accordingly.

Details relating to conditions, specifications, mandatory eligibility requirements and assessment criteria are described in this document. It is the responsibility of the Applicant to **read and understand the Application Guidelines and Terms and Conditions at Attachment A**. Applicants cannot submit their own terms and conditions.

## 5.2 Questions

If you are having difficulty downloading information or technical difficulties with the online application, please **contact the grants info helpline** at the Department of Environment, Land, Water and Planning on **1300 366 356**.

Questions regarding the Program can be made in writing via the email address: [new.energy@delwp.vic.gov.au](mailto:new.energy@delwp.vic.gov.au).

**Questions must be lodged up to seven days prior to the closing date.**

Applicants acknowledge and agree that:

- If the Department provides additional information to a potential applicant, it may issue a copy this additional information to other potential applicants (such information will be deemed to form part of these Application Guidelines); and
- Any information provided by the Department in response to any question raised by the potential Applicant the Department may provide that information to all Applicants via Program specific "Frequently Asked Questions" web page.

## 5.3 Meetings with the Department

The Department will offer all Applicants the opportunity to meet before the Closing Date to

discuss any clarification queries in relation to the Application Guidelines, the Application Process and the broader Program.

These meetings:

- are intended to clarify any issues about the Program;
- will be available via tele conferencing to Applicants unable to meet face-to-face;
- must occur at least **seven days** prior to the Closing Date; and
- will not form part of the Department's evaluation process.

Nothing discussed during a meeting between the Department and an Applicant may be relied on by the Applicant unless subsequently confirmed in writing by the Department.

## 6 Administration and Assessment of Applications

All applications will be assessed against the eligibility and assessment criteria and their ability to meet the objectives of the Program.

### 6.1 Assessment

The Department will review Applications for completion and to check they meet the mandatory eligibility requirements. Applications that meet the requirements will be considered “eligible applications” and those that don’t, won’t be considered further in the assessment process and will be notified by the Department in writing.

All eligible applications will be assessed against the assessment criteria (a panel of independent industry and technology experts will assist in project assessment).

The Minister for Energy, Environment and Climate Change will make the final decision on the Projects to be approved for funding.

### 6.2 Clarifications

Applicants may be contacted to provide additional supporting documentation or to provide clarifications. Applicants may also be required to attend an interview to discuss their application. Interviews may be conducted via telephone or video conferencing to Applicants unable to meet face-to-face.

The Department reserves the right, in its absolute discretion, to enter into any discussion or written communications with any Applicant to seek clarifications and additional information to enable evaluation of an application without undertaking similar discussions or written communications with any other applicant.

Applicants must provide any additional information within a reasonable time period as specified by the Department. The Department may in its absolute discretion reject an application from an Applicant that fails to provide the additional information within the required time period.

### 6.3 Funding Agreement

Subject to acceptance of the offer by the Applicant, a legally binding Funding Agreement will be prepared reflecting the project, proposed outcomes,

milestones and conditions of payment. Applicants must indicate their compliance or otherwise with the applicable funding agreement template in the electronic application form. It is expected that the Funding Agreement will be signed within two months of receiving the offer.

Funding Agreement templates are available at:

- [www.business.vic.gov.au/futureindustries](http://www.business.vic.gov.au/futureindustries)

Further important detail about funding agreement compliance can be found in Attachment C.

## 7 Reporting and Publicity

### 7.1 Reporting

All recipients of grant funds must agree to:

- Comply with performance monitoring requirements, including written reports and face-to-face meetings with the Department; and
- Participate in formal evaluations of the program by the Department

### 7.2 Publicity

All recipients must agree to:

- Cooperate with the Department in the preparation of materials used to promote the benefits of the program, such as media releases or case studies; and
- Consult the Department prior to the publication of any project promotional materials.

### 7.3 Confidentiality

The Department will, to the extent permitted by law, treat all information as strictly confidential and commercial-in-confidence where relevant. Any personal information will be managed in accordance with the published Privacy Policy, which can be found at [www.business.vic.gov.au/privacy](http://www.business.vic.gov.au/privacy).

### 7.4 Contacts and Further Information

For more information:

- Future Industries Fund webpage: [www.business.vic.gov.au/futureindustries](http://www.business.vic.gov.au/futureindustries)
- Email the Program team at [new.energy@delwp.vic.gov.au](mailto:new.energy@delwp.vic.gov.au)

- Phone the Business Victoria Help Line on:  
13 22 15

## **8 Attachments**

**8.1 Attachment A – Terms and Conditions of the Guidelines**

**8.2 Attachment B – Expenditure Guidelines**

**8.3 Attachment C – Funding Agreement Compliance**

**8.4 Attachment D – Financial Security**

# Attachment A - Terms and Conditions of the Guidelines

## 1. Definitions and Glossary

- a) "ATO" means the Australian Taxation Office;
- b) "Applicant" means an entity which submits an Application;
- c) "Application" means the documents constituting an offer (in response to these Application Guidelines) to undertake a Project, including the Application Form as developed by the Applicant;
- d) "Application Form" means the Application Form as set out online;
- e) "Application Guidelines" means this document;
- f) "Application Process" means the process for requesting and assessing Applications as described in this document, and includes selecting successful Applicants and finalising and executing a Funding Agreement with each successful Applicant;
- g) "Assessment Criteria" means the criteria in section 4.1 of this Application;
- h) "Assessment Process" means the process for the assessment of Applications in section 5 of this Application Guidelines;
- i) "Business Day" means a day that is not a Saturday, Sunday or public holiday in Melbourne, Victoria;
- j) "Closing Date" means the closing date set out in this document;
- k) "Closing Time" means the closing time set out in this document;
- l) "Community-Based Organisation" means a not-for-profit organisation that is representative of all, or a significant segment of, the community in which the Project will be undertaken;
- m) "Corporations Act" means the *Corporations Act 2001* (Cth);
- n) "Department" means the Victorian Government Department of Environment, Land, Water and Planning and its successor Government departments, and all references to the Department shall be read and construed as references to the Crown in Right of the State of Victoria;
- o) "Funding Agreement" means the funding agreement between the Department and a successful Applicant;
- p) "In-kind" or "In-kind Contribution" means a non-monetary contribution in the form of Project resources to the Project including personnel, equipment or such other items agreed by the Department from time to time. The value of In-kind Contributions must be expressed in terms of their reasonable cost or monetary value directly attributable to the Applicant. In-kind Contributions do NOT include sunk costs of background intellectual property or previous research and development / demonstration phases of the technology being brought to the Project.
- q) "Information Privacy Act" means the *Information Privacy Act 2000* (Vic).
- r) "Intellectual Property" or "IP" means all types of intellectual property rights whether registered or not and includes all copyright and neighbouring rights (including rights in relation to phonograms and broadcasts), all rights in relation to inventions (including patent rights), plant varieties, registered and unregistered trade marks (including service marks), registered and unregistered designs, and circuit layouts, rights to have confidential information kept confidential and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields including as defined in Article 2 of the Convention Establishing the World Intellectual Property Organisations of July 1967;
- s) "Lead Organisation" means the entity nominated in the Application that possesses the characteristics, and accepts the obligations in respect of the Project, as set out in section 3.1 of these Application Guidelines;
- t) "Mandatory Eligibility Requirements" means the requirements set out in section 4 of this Application Guidelines;
- u) "Minister" means the Victorian Minister for Energy, Environment and Climate Change;

- v) “Minister’s Letter of Offer” means a letter from the Minister to an Applicant notifying the Applicant that it has been selected for funding under the Program;
- w) For the purposes of this Program, “New Energy Technologies” include (but are not limited to): technologies related to micro grids, decentralised generation; better use of data from advanced metering infrastructure; demand management; energy storage; hardware and software development (e.g. development of smart appliances); renewable energy transport solutions and renewable energy generation technologies;
- x) “NEJF” means the \$20 million New Energy Jobs Fund, a grants program as one of the initiatives under the Government’s \$200 million Future Industries Fund (FIF), a key part of the Government’s Back to Work plan;
- y) “Ombudsman Act” means the *Ombudsman Act 1973* (Vic).
- z) “Participant(s)” means a person or entity who undertakes to participate in the submission of an Application and to participate in a Project;
- aa) “Program” means the \$20 million New Energy Jobs Fund Grant Program (NEJF), run over three years as annual rounds, which is the subject of this Application Guidelines;
- bb) “Program Manager” means the manager of the Program;
- cc) “Project” means the development by an Applicant of a proposal that details an activity that meets the Mandatory Eligibility Criteria and can be assessed according to the Assessment Criteria;
- dd) “Renewable Energy” means energy which is obtained from natural resources that can be constantly replenished.
- ee) “Renewable Energy Technologies” include technologies that use, or enable the use of, one or more renewable energy sources, such as solar, wind, geothermal, ocean, hydropower and bioenergy.
- ff) “State” or “Victorian Government” means the Crown in Right of the State of Victoria;
- gg) “VIPP” means the **Victorian Industry Participation Policy (VIPP)** which seeks to maximise opportunities for Australian, New Zealand and Victorian suppliers to compete for government business on the basis of best value for money over the life of the goods or services.

## 2. Representations and Warranties

The Department does not make any representations or provide any undertakings to Applicants other than to invite them to submit an Application.

The Department does not warrant the accuracy of the content of this Application Guidelines and the Department shall not be liable for any error or omission or any inaccurate or misleading information provided by the Department during the Application Process.

The information in this Application Guidelines has been compiled by the Department for the purpose of inviting Applications and must not be relied on for any other purpose.

These Application Guidelines do not contain all the information that Applicants may require in reaching decisions in relation to submitting an Application. Applicants should form their own views as to what information is relevant to such decisions, and make their own independent investigations in relation to any such information.

No representation made by or on behalf of the Department in relation to this Application Guidelines or the Application Guidelines subject matter, including in connection with any meetings conducted, shall be binding on the Department unless that representation is in writing and is expressly incorporated into the Funding Agreement.

## 3. Termination or Alteration of the Application Process

The Department may for its convenience at any time and in its absolute discretion terminate the Application Process, alter the Application Process or alter the scope of the Program. The Department

will endeavour to notify Applicants of material changes to the Application Process or scope of the Program, or the termination of the Application Process, but is under no obligation to do so. The Department does not bind itself, and the Applicant agrees that the Department is not bound, to accept any application.

The Department may accept or reject (in whole or in part) any application.

#### **4. No Legal Relationship**

No contract is formed between the Department and any person by reason of these Application Guidelines, an Application, and any part of the Application Process or the lodgement of an Application (other than the execution of a Funding Agreement).

#### **5. Ownership**

All documents submitted by Applicants in connection with the Application Process become the property of the Department on submission.

These Application Guidelines and any supporting material provided by or on behalf of the Department are, and shall remain, the property of the Department.

#### **6. Communication about this Application**

Applicants must not contact, communicate or discuss this Application Guidelines, the Application Process or their proposed Application with:

- any member of the Victorian Government's departments and agencies except as expressly permitted by these guidelines;
- any of the State's advisers in relation to the Program, including assessment panel members; or
- Members of Victorian Parliament or their staff.

The obligations on Applicants not to contact communicate or discuss these Application Guidelines, the Application Process or their proposed Application will not be taken to have been breached to the extent that the contact, communication or discussion occurs:

- to, and in response to a request by, a house or a committee of the Parliament of Victoria; or
- With the Victorian Auditor General, Ombudsman or Privacy Commissioner.

Applicants may contact other agencies, such as the Environment Protection Authority and the relevant industry regulator, in order to complete the due diligence element of their Application. The Department will facilitate these contacts if required and on request.

**Unauthorised contact, communication or discussion by Applicants may be considered grounds for the rejection of their application.**

#### **7. Confidentiality, Intellectual Property, Privacy and Publicity**

Applicants must keep confidential any confidential information concerning the Department, received as a result of, or in connection with, it preparing and submitting an Application and any negotiations between itself and the Department during the Application Process. Applicants must not disclose such information to a third party except as may be required by law.

Applicants agree that the Department may disclose their Applications, along with any other information disclosed by the Applicant to the Department during the Application Process to the State and their departments, management, consultants and advisers or otherwise and if required by law to do so.

The State does not seek any ownership rights in any Intellectual Property owned or developed by Applicants or Participants during the Application Process. Applicants license the State to reproduce, communicate, adapt or modify the whole or any portion of their Applications for the purpose of the Application Process and, if the Applicant is successful, for use in connection with the Project or the funding of the Project.

Any personal information collected as part of the Application Process will be handled in accordance with the Information Privacy Act.

Applicants must not make any public statements or communications, or publish any media releases, in relation to the Application or Application Process, other than disclosures that the Applicant is required to make under the rules of any applicable stock exchange, without first providing a copy of the statement, communication or media release to the Department and obtaining the prior written approval of the Department.

Applicants must not, in connection with the Application Process, do or omit to do anything which may:

- damage, bring into disrepute or ridicule the Department or State's, name, messages or reputation; or
- attract public or media attention which may be prejudicial or otherwise detrimental to the Department or State's name, messages or reputation.

The Department may in its absolute discretion reject an Application from an Applicant who fails to comply with the confidentiality, Intellectual Property, Privacy or Publicity requirements of the Program.

#### **8. Proprietary Information**

The Program Manager will implement clear rules and procedures to protect proprietary business information that does not bind the State unreasonably, but does protect an Applicant's legitimate trade secrets. These procedures must be clearly understood by all parties.

The State generally regards as "proprietary", information of a business nature which is unknown to persons outside the relevant business and which would cause substantial harm to the competitive position of that party if disclosed.

If an actual or potential Applicant wishes to provide information in respect of the Program which it regards as proprietary, that Applicant/potential Applicant will be required to notify the Program Manager in writing of its intention to do so, outlining the type of information involved and its reasons for believing it to be proprietary. The Program Manager will respond to the Applicant indicating if the State also regards that information as proprietary information.

The Applicant/potential Applicant will then be able to decide, in the light of the Program Manager's response, whether to share the relevant information with the State, and, if so, on what terms.

#### **9. Negotiations**

The Department may, in its absolute discretion, request or allow an Applicant to amend, alter or otherwise change its Application at any time during the Application Process.

The funding offer in the Minister's Letter of Offer is subject to execution of a Funding Agreement anticipated within a period of two months from the date of the Minister's Letter of Offer..

The Department may negotiate with an Applicant on any matter in the Department's absolute discretion, at any time during the Application Process.

#### **10. Application Documents**

By submitting an Application, the Applicant:

- warrants the truth and accuracy of all information contained in its Application;
- acknowledges and agrees that it is bound by the terms and conditions of the Program and contained in these Application Guidelines; and
- acknowledges and agrees that it is bound by its Application.

The Applicant's Application must use the online Application Form and the Applicant must ensure its Application contains information and details required by the Application Guidelines and Application for questions and any other information necessary to make the Application Form complete and enable assessment by the Department.

If the Application does not conform to the form required by the Application Form, does not respond to each component of the Application Form or is incomplete in any way, the Department may, in its

absolute discretion, exclude the Application from consideration. Unnecessarily elaborate Applications or other presentations beyond that which is sufficient to present a complete and effective proposal are not desired or required.

#### **11. Late Applications**

The Department may accept or reject any Application received after the Closing Time on the Closing Date in its absolute discretion.

#### **12. Validity of Applications**

An Application shall be valid for 180 days from the Closing Date and may be extended, in writing, by mutual agreement between the Department and the Applicant.

#### **13. Cost**

The Department is not liable for any costs, expenses, losses, claims or damages that may be incurred by Applicants in connection with the Application Process, including in preparing or submitting an Application, providing further information to the Department, or participating in negotiations with the Department.

#### **14. Change in Circumstance**

The Applicant must inform the Department promptly, in writing, of any material change to any of the information contained in its Application, and of any material change in circumstances that may affect the truth, completeness or accuracy of any of the information provided in, or in connection with, its Application.

#### **15. No Collusion**

The Applicant warrants and agrees that it is in all respects independent and that no collusion has taken place or will take place between the Applicant and any other Applicant or interested party in connection with the Application Process, including the preparation of any part of the Applicant's Application.

#### **16. Conflict of Interest**

Any Applicant or Participant with a real or perceived conflict of interest must declare that interest to the Department as soon as the conflict is identified. Where a conflict of interest arises, it must be assessed and be resolved in favour of the public interest by the relevant parties.

All Applicants and Participants are required to ensure that their performance in respect of identifying, declaring and resolving any conflict of interest is beyond reproach. Any Applicant who states that they have an actual or perceived conflict of interest in their online Application Form must contact the Department and complete and submit a conflict of interest declaration stating the nature of the conflict and the management strategy.

#### **17. Impartiality of Specifications**

Any Application Applicant who believes the specification associated with these Application Guidelines to be discriminatory, restrictive or biased in favour of a specific product or service should inform the Department in writing as early as possible but in any event BEFORE the Closing Time on the Closing Date.

#### **18. Probity for Application Procedures**

The Applicant and any of its associates must not offer any incentive to, or otherwise attempt to influence any of the persons who are either directly or indirectly involved in the Application Process, or in awarding any subsequent contract. If the Department determines that the Applicant or any of its associates have violated this condition, the Applicant may be disqualified from further consideration, in the Department's absolute discretion.

By submitting an Application, the Applicant consents to the Department performing probity and financial investigations and procedures in relation to the Applicant or any of its associates. The

Applicant agrees, if requested by the Department, to seek consents from individuals to allow such probity checks.

Should any Applicant consider that the Application Process has failed to accord it a fair right to be considered a successful bidder, the Applicant should provide immediate notice (prior to the Closing Date) to the Program Contact, of the alleged failure or breach so that the matter may be considered and remedied where possible. Notification under this clause 18 must set out the issues in dispute, any relevant background information and the outcome desired.

In addition, Applicants should note that under section 13 of the Ombudsman Act, the Victorian Ombudsman is able to enquire into or investigate any administrative action taken in any government department.

#### **19. Industry Participation Policy**

The Victorian Industry Participation Policy (VIPP) is a Victorian Government initiative designed to ensure that local small and medium enterprises (SMEs) are given a full and fair opportunity to compete for government contracts, while still achieving value for money. The Industry Capability Network (ICN) Victoria facilitates the VIPP on behalf of the Victorian Government.

The VIPP applies to Victorian Government procurement activities, construction activities, major projects, major events, public private partnerships and investment support, business development and community infrastructure grants above the threshold values of \$3 million or more in metropolitan Melbourne and \$1 million or more in regional Victoria.

The Applicant acknowledges that compliance with the VIPP is a condition of this Application Guidelines if the project value is above the VIPP threshold noted above. If successful in obtaining a NEJF grant funding Letter of Offer from the Minister for Energy and Resources, the Applicant is required to visit the <https://www.icnvic.org.au/vipp/login.asp> web page and, using the “Begin Reference # Process” button at the bottom of the page, register their project with the ICN. This process needs to be followed in order to receive the grant.

#### **20. Governing Law**

This document shall be governed by the laws of the State of Victoria. The Applicant irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of Victoria, Australia.

#### **21. Other Matters**

Applicants should note that, since Government funds are being used, government purchasing principles need to be used by the Project. Copies of these principles can be found at <http://www.procurement.vic.gov.au/Home>. An important element of this policy relates to the need to tender most purchases of third party services (including contractors, consultants and asset purchases).

Project timetables should ensure that they have appropriate time allowances to ensure these processes are conducted.

Project costs should be stated as exclusive of Goods and Services Tax (GST). Grants paid will be subject to GST. The amount payable by the Government will be increased by the amount of the GST liability, provided that the funded organisation has a registered Australian Business Number and provides a valid tax invoice.

#### **22. Contract with the State**

Successful Applicants will be required to enter into a binding Funding Agreement with the State. A letter of offer from the Minister for Energy, Environment and Climate Change will be issued to each Applicant selected for funding under the Program. The funding in the Minister’s Letter of Offer is subject to execution of a Funding Agreement anticipated within a period of two months from the date of the Minister’s Letter of Offer.

The Minister's Letter of Offer may also include a requirement that the Applicant secure funding from Participants and other sources over the life of the Project within an agreed period (if not already committed). The Minister's Letter of Offer may also list other conditions of funding.

*Note: A successful Applicant who is issued a Minister's Letter of Offer is not eligible to receive any payment of funds under the Program until the funding from Participants and other sources has been secured to the satisfaction of the Department and a Funding Agreement has been executed.*

The Funding Agreement templates can be found at <http://www.business.vic.gov.au/support-for-your-business/future-industries/new-energy-technologies>.

Details of the successful Applicants and a summary of their Projects will be publically available on State Government websites after the public announcement of the relevant Project by the Government.

# Attachment B – Expenditure Guidelines

## Eligible Expenditure

Eligible expenditure includes:

- unfunded activities part of co-funding for Commonwealth funded projects;
- contract expenditure in relation to contracts entered into by the Applicant with other parties for the purposes of undertaking the activities required for the Project (subject to the ineligible expenditure constraints below);
- labour expenditure (salaries/wages) including reasonable on-costs for personnel directly employed on the Project, but excluding profit mark-ups. Labour on-costs include worker's compensation insurance, employer contributions to superannuation, recreation and sick leave, long service leave accrual and payroll tax;
- administrative expenses including communications, accommodation, computing facilities, travel, recruitment, printing and stationery, where directly related to the Project;
- plant/site expenditure such as rent, light and power and repairs and maintenance directly related to the Project;
- expenditure related to legal, audit and accounting costs related to the Project;
- interest expenditure on Clean Energy Finance Corporation loans for new capital items purchased for the Project for up to four years;
- expenditure such as relevant license fees or intellectual property purchase or licence costs, where the Applicant needs to access specific technology in relation to the Project;
- expenditure related to the obtaining of approvals associated with the Project may be allowable with prior approval from the Department.

## Ineligible Expenditure

Ineligible expenditure includes, but is not limited to:

- expenditure related to the general operations and administration of the Applicant that the Applicant could reasonably be expected to undertake in the normal course of business;
- expenditure related to the raising of funding for the Project, or the implementation of consortia, joint ventures or other partnership arrangements related to the Project;
- expenditure in relation to activities that are part of the Project but are funded by other Government funding, which would lead to the Commonwealth and/or State Government funding the same activity more than once;
- building websites, marketing, sales and promotional activities (without prior approval from the Department);
- Pre-Commercial activities, other than the integration, evaluation and testing of commercial-ready technologies and processes that at the end of the Project will be commercial;
- making donations;
- undertaking commercialisation activities, such as sales promotion;
- intellectual Property protection, maintenance, defence or enforcement and legal fees developed through the Project; and
- expenditure that does not directly support the achievement of the planned outcomes of the Project, or is contrary to the spirit or intention of the Program.

## General Expenditure Principles

The following general principles apply in the consideration of eligible expenditure:

- generally accepted Australian accounting principles are to be followed, and it must be possible to track expenditure relating to the Project through the Applicant's company accounting systems;

- eligible expenditure is expenditure directly related to the undertaking of eligible Project activities – eligible activities are those activities necessary to conduct the Project, as set out in the Project plan, opportunity costs, that is expenditure related to foregone production and downtime arising from the allocation of resources to the Project are not eligible expenditure;
- related party transactions must be treated on an at cost basis, without mark-up, unless it can be demonstrated that the transaction has been calculated on an arms-length basis;
- expenditure is not eligible if undertaken prior to the signing of the Funding Agreement, or after the specified completion date, unless specifically authorised by the Department;
- eligible expenditure is calculated net of GST basis. GST is then added to the grant payment, unless otherwise instructed by the Applicant;
- where there is any inconsistency in relation to whether expenditure is eligible or ineligible, the expenditure will be deemed to be ineligible to the extent of the inconsistency, unless otherwise agreed with the Department; and
- funds will be available for each Project until the completion of the project as stipulated in the Funding Agreement which will be before June 30, 2021.

### Comments on Expenditure Items

#### Labour

Eligible labour expenditure is the gross amount paid or payable to an employee of the Applicant. An employee is a person who is paid a regular salary or wage, out of which regular tax instalment deductions are made.

Eligible salary includes any components of the employee's total remuneration package which are itemised on their Pay As You Go Annual Payment Summaries submitted to the ATO.

It is expected that, in a reporting context, the Applicant be able to demonstrate, by reference to appropriate records such as timesheets, job cards or diaries, the amount of time spent on approved activities by each employee. Labour

costs cannot be claimed based on an estimation of the employee's worth to the Applicant, where no cash has changed hands.

#### Contract Expenditure

Eligible contract expenditure is the cost of any agreed Project activities performed for the Applicant by another organisation. All Project work to be performed must be the subject of a written contract (for example, a letter or purchase order) which specifies the nature of the work to be performed for the client and the applicable fees, charges and other costs payable. The written contract must be entered into prior to commencement of the work undertaken under the contract.

For major items of contract expenditure (for example, purchases of major items of hardware to be incorporated in the Project), Applicants will be expected to have some form of documentary evidence such as written quotes from suppliers, to substantiate the expenditure included in the Proposal.

Where the contractor and the Applicant are not at 'arm's length', the amount assessed for work performed will be an amount considered to be a reasonable charge for the work and contain no unacceptable overheads and no element of 'in-group profit'. Organisations considered not at 'arm's length' include related companies and companies with common directors and/or significant shareholders.

#### Overseas Expenditure

Items of overseas expenditure must be detailed when submitting the Proposal. Following execution of a Funding Agreement, overseas expenditure may be subject to approval by the Department as set out in the Funding Agreement.

#### Accounting Systems

Applicants are required to have in place suitable accounting systems that comply with Australian standards to provide assurance that the system allows for the separate accurate identification of eligible and ineligible Project expenditure and that a clear audit trail is available.

## Attachment C – Funding Agreement Compliance

Opportunities to make variations to the Funding Agreement templates are limited and will only be accommodated in exceptional circumstances.

Any request to depart from the wording of the applicable Funding Agreement template, except for Project specific tailoring (e.g. project plans and milestones), will be considered at the time of application assessment. At any time during the Application Process, the Department may exclude an Application due to a proposed material departure from the wording of the applicable Funding Agreement template.

A Letter of Offer from the Minister for Energy, Environment and Climate Change will be issued to each Applicant selected for funding under the Program. The funding offer in the Minister's letter is subject to execution of a Funding Agreement anticipated within a period of up to two months from the date of the Minister's Letter of Offer.

It is a condition of the Application Process and the Minister's Letter of Offer that no new departures from the applicable Funding Agreement template (i.e. departures not raised with the Department before the Application Closing Date) can be raised by the Applicant after receipt of the Minister's Letter of Offer.

A successful Applicant who is issued a Minister's Letter of Offer is not eligible to receive any payment of funds under the Program until the funding from Participants and other sources has been secured to the satisfaction of the Department\* and a Funding Agreement has been executed.

*\*Note: Program funding is conditional on the securing of co-funding from Participants and other sources over the life of the Project.*

## Attachment D – Financial Security

This list is not exhaustive of the types of security that may be required. For example, a charge over certain assets of the Applicant (on terms and conditions acceptable to the Department) may be required in some cases.

The Department funds projects on the basis that the Project will be completed in accordance with the applicable Funding Agreement and has a right to require the repayment of funds in certain circumstances under the applicable Funding Agreement. Consequently, cash contributions paid by the Department before Project completion may need to be backed by appropriate security.

Applicants will be required to provide evidence of the financial status and viability of the Applicant and Participants as follows:

- I. Current financial statements and prior financial statements (preferably audited) over the previous three years (as per the relevant Lead Organisation criteria set out in section 4.1).

If security is required, please note that:

- a) any bank guarantee would need to be issued by an entity with a AAA (Standard and Poor's) credit rating in an amount of at least the amount of the grant and provide the Department to draw down on the guarantee on demand, with notice being the only condition;
- b) any payment guarantee would need to be on terms acceptable to the Department and provided by an entity or entities which the Department considers to be sufficiently creditworthy to cover the Applicants payment obligations under the Funding Agreement (as a minimum, BBB+ from Standard and Poor's or the equivalent rating from Moody's or Fitch); and
- c) any performance guarantee would need to be on terms acceptable to the Department and provided by an entity or entities which the Department considered to have the capability of performing the Applicants obligations (including the creditworthiness to cover the Applicant's payment obligations) under the Funding Agreement.

