



## Policy Register

### Loan Policy and Procedure

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#### **1. Purpose of Loans Policy**

External loans are an important funding source for Local Government and recognise that the full cost of major capital infrastructure should not be borne entirely by present-day ratepayers but be contributed to by future ratepayers, who will also benefit.

As a custodian of public funds, Council must exercise the reasonable care, transparency and due diligence that a prudent person would exercise when borrowing money for public purposes.

The objective of this policy is to provide a structured and disciplined approach to the borrowing of funds for the purpose of funding new infrastructure and/or renewal of existing infrastructure. This policy aims to ensure that all borrowings are in accordance with legislative requirements and that the total amount of loan borrowings is sustainable in terms of Council's ability to meet future payments and budgetary obligations.

This policy does not relate to

- the use of a commercial credit card facility or
- bank overdraft approved by Council or
- minor equipment lease/rentals as approved by the General Manager

that are allowed for and in accordance with ministerial guidelines and council policy.

## **2. Authority for Borrowing Money?**

The Local Government Act 1993 vests Council with the authority to undertake loan borrowings. No officer of Council is authorised to undertake the establishment of a new loan facility without the authorisation of Council. This authorisation is obtained following the conduct of an ordinary or special meeting of Council to discuss the proposed borrowing.

### **2.1. Legislative Authority**

*Local Government Act 1993 –Loans Section 621: When and for what may a council borrow?*

A council may borrow at any time for any purpose allowed under this Act.

*Section 622: What form may a council borrowing take?*

A council may borrow by way of overdraft or loan or by any other means approved by the Minister.

*Section 623: Security for borrowings*

1. A council may give security for any borrowing in such manner as may be prescribed by the regulations.
2. All such securities rank on any equal footing, despite any other Act.

*Section 624: Are there any restrictions on a council borrowing?*

The Minister may, from time to time, impose limitations or restrictions on borrowings by a particular council or councils generally despite the other provisions of this Part.

*Local Government (General) Regulation 2021 Section 229: Loans to council to be charged on the council's income.*

The repayment of money borrowed by a council (whether by way of overdraft or otherwise), and the payment of any interest on that money, is a charge on the income of the council.

*Section 230: General Manager to notify borrowings to Secretary*

1. Within seven (7) days after a Council borrows money under a loan contract, the *General Manager* must notify the Secretary of the borrowing
2. This clause extends to further advances made to a Council under an existing loan contract but does not apply to a borrowing by a Council by way of overdraft.

Council must comply with the Ministers Borrowing Order (as per Section 624 of the Local Government Act 1993) and is restricted by the Ministerial Revised Borrowing Order dated 13 May 2009, to source the borrowings from Australia and in Australian currency.

### **3. TCorp loan Facility**

NSW Treasury Corporation (TCorp) has been authorised by the NSW Government to provide loan facilities to general purpose local councils that have:

- Been deemed 'fit for the future' or
- Been assessed as meeting the financial benchmarks set by the NSW Government or
- Submitted and had approved an improvement plan showing how they plan to meet the financial benchmarks set by the NSW Government

TCorp offers loan facilities to New South Wales local councils seeking funding for projects which make up part of their annual expenditure programme. Loan facilities, at competitive rates, are available to local councils who qualify, or have an approved plan in place to qualify, under the NSW Government's financial sustainability benchmarks and satisfy TCorp's credit criteria.

Whilst Council is not restricted to utilise TCorp for new loans, the Council must ensure that it has met strict transparency and prudential requirements for establishing a loan as well as establishing that it has and will raise sufficient revenue to meet future repayments.

### **4. Consideration of eligible projects**

Council will only consider loans that provide for long-term community assets that have a recognised community benefit, a detailed business case and a long-term financial plan to fully fund the loan repayments. New loans for general purposes must not reduce the available unrestricted working capital or utilise funds allocated for general purposes to cross subsidise other funds.

Examples of the loans that would be considered under this policy include renewal, acquisition or replacement of buildings, general public infrastructure and waste, water or sewerage infrastructure. Also, whilst generally not encouraged, the short-term financing of

specific major plant purchases, where there is an identified revenue stream from hire charges.

The following policy rules are to be applied when considering undertaking borrowings or other asset financing:

#### **4.1. Capital vs Operating Expenditure**

Borrowings should only be considered for major capital projects that are not able to be funded from revenue and which have been identified as a priority within Council's Delivery Program / Operational Plan. Under no circumstances should borrowings be used to fund operating expenditure. This type of expenditure should be funded through operating revenue streams such as rates, fees and charges or operating grants. Council will also not borrow money to fund recurrent capital works, that is works that are generally programmed to be undertaken over many years. e.g., annual road sealing or footpath renewal program. The reason being that such a program would inevitably lead to a situation in which the debt servicing cost may exceed the annual cost of the programmed works.

#### **4.2. Utility Service Infrastructure**

Where a capital project for a service that is funded by utility or user charges (e.g. Water, Sewer or Waste) is determined to be funded by way of loans, the user charge should reflect the cost of providing the service including the loan servicing.

#### **4.3. When to consider Borrowing**

Borrowing will be considered as an appropriate funding source in the following circumstances:

##### **4.3.1. In the context of the strategic objectives of Council.**

In circumstances where the Council has considered and specifically approved a strategic community objective to deliver a specific capital project by way of loan borrowing.

##### **4.3.2. In the context of long-term financial forecasts and objective.**

The proposed borrowing has been included in the long-term financial forecasts of the Council. Further the Long-Term Financial Plan has identified that Council has the financial capacity to fund the future loan commitments and that the Council's General Manager and Responsible Accounting Officer, have recommended that the loan be approved and attested to the Council's financial capacity to meet future loan repayments.

##### **4.3.3. As an alternative funding source for asset additions**

Council can utilise loan funding for long term community asset acquisition, renewal or replacement that might otherwise be funded through the establishment of cash reserves or long-term lease, provided other criteria is addressed.

#### **4.3.4. As a method of spreading the cost of long life (intergenerational) assets.**

Council can utilise loan funding to provide for the upgrade or replacement of essential infrastructure, where the cost is recovered from an annual charge, in circumstances where there is a significant demand and/or unavoidable need for the infrastructure. e.g., renewal/upgrade to water/sewer treatment plant. The use of borrowings is an important funding source and is a useful mechanism for allocating the costs of asset replacement or creation over a time frame that reflects when residents will benefit from the assets.

#### **5. Business Case to support loan proposal**

Where appropriate, borrowings for infrastructure projects will require a fully costed and evaluated business case, with all alternatives considered and outcomes identified. This may also come in the form of a Masterplan or updated strategy. In all cases loan proposals must be supported by a business case that identifies compliance with the policy and justification for utilising loan funding.

#### **6. Borrowing Requirements**

Council shall assess its capacity to repay the loan to ensure that the community is not burdened with unnecessary risk. Council shall then reassess its capacity to pay on an annual basis as part of its budgeting process. As part of this assessment, the following borrowing limitations apply.

- Total unrestricted debt servicing costs must not exceed 10% of general rates and annual Charges. (This maintains the operating revenue capacity to fund loan repayments.)
- In the case of a utility service fund, the debt servicing cost must not exceed 10% of the service rates and charges. (This maintains the operating revenue capacity to fund loan repayments.)
- The Debt Service Cover ratio is to remain above 2.5. (This maintains the cash capacity to fund the loan repayments.)
- The maximum term for all new borrowings shall be matched, where appropriate, to the lower of ten years or the useful life of the asset to which it relates. (This ensures that an asset would always remain in service for the life of the loan and beyond.)
- Any borrowings will be conducted in accordance with relevant statutory requirements as contained in the Local Government Act, Regulations and Ministerial Orders.

#### **7. Procedure to be followed for new loans**

- 7.1. Proposals for Council to consider loan funding for capital works must comply with this policy and should be initiated by Council and referred to the General Manager for the preparation of a detailed business case.

- 7.2. Council will consider a Report from the General Manager that presents a complete business case.
- 7.3. Council may resolve to include advice within its annual budget that it shall seek loan funding to undertake the works detailed in the business case.
- 7.4. If Council resolves to continue to seek a loan, then it shall advertise the proposal to seek loan funding inviting public submissions in accordance with clause 8.
- 7.5. A report shall be prepared by the General Manager following public notification under clause 7.3, to present all public submissions.
- 7.6. The Draft Annual Budget report (Revenue Statement) presented to Council and the Community shall highlight the loan, its expenditure and repayments. The Draft Annual Budget shall be advertised as required under the Local Government Act 1993, regulations thereto and financial guides.

## **8. Public Notification and Community Consultation Process for Loans**

Prior to Council applying for any monetary loan from a financial institution or TCorp the Council shall formally advertise the request to seek a loan to the community.

The advertising of the loan shall be undertaken separately to the draft annual budget process and shall be identified as a separate and distinct advertisement as to Council's intention to seek loan funding.

The public notification shall be for a minimum of 28 Business Days.

As part of the public advertising process, the public shall be advised that they can view the business case and capex statements on Council's website or in its public office and library, that the public can make written submissions that will be presented to Council.

## **9. Business Case and Capex Statement**

Council's General Manager shall ensure that the business case template and capex reports are completed in full and that the details prepared are complete to allow Council to fully understand the project requirements, costs, loan repayments and advertising to the public under clause 8.

A Business case template is attached to this Policy and procedure at Annexure 1.

## **10. Providing Financial Assistance to others.**

The Council can in accordance with the provisions of Section 356 provide financial assistance to others (including charitable, community and sporting organisations and private

Individuals.) This assistance can be by way of a direct contribution, grant, free or subsidised access to council services or facilities or by way of a loan.

Council may also have a specific program to provide assistance to outstanding individuals or groups to facilitate participation in regional, state or national sporting or promotional events as part of its annual management plan, provided however, that the program is uniformly available to all, or a significant group of persons and the guidelines and eligibility is publicly available.

The OLG has issued a circular 06/32 concerning the provision of financial assistance and has highlighted that Councils must comply with the obligations and make considered and transparent decisions, including public notice as required prior to the granting of financial assistance.

#### **10.1.1. Councillor or Employee Loans**

Councillor or Employee loans for housing, cars or other goods shall not be offered or implied as part of this policy.

***No employee or Councillor shall be provided any loan.***

A loan includes the use of council property, materials, IT equipment or facility unless it forms a part of the employees or Councillors work or service obligation and is included under a policy of council e.g., Provision of items to Councillors or a policy for motor vehicle lease.

#### **10.1.2. External Loans Financial Assistance – Personal, business, Not for Profit or Charitable Loans**

Council shall not provide any monetary loan to any person, business, external organisation, not for profit group, company or charitable organisation. This is because the council is not a debt financier.

Council may resolve to rent at concessional rates or not charge for a meeting room, equipment, offer non-financial support or to waive a fee otherwise applicable to not-for-profit community groups or for community events, where a written request has been made to Council.

Council may determine this in a meeting of Council or through delegation of authority to the General Manager. The General Manager must report annually on the amount of financial assistance provided pursuant to this policy.

### **11. Review Loan Policy**

Council will review this loan policy and procedure within 12 months of a general council election.

### **Annexure 1: Business Case Capex Template**