

COUNCIL POLICY

Council Policy Title:	Guarantee of Community Loans
Council Policy ref. no:	16.4
Responsible Department:	Corporate and Community Services
Date of adoption/review:	25 September 2013

1. INTRODUCTION

The intent of this policy is to specify the necessary criteria for approval of loan guarantees for community organisations, whilst limiting Council's exposure to potential loss.

2. PURPOSE

The policy provides a framework for the approval of a Council Loan or for Council to act as a Loan Guarantor for community organisations that wish to self-fund capital asset projects on Council owned or controlled property

3. SCOPE

The policy is applicable to community organisations applying for Council for a loan or for Council to be guarantor on a loan secured to self-fund capital asset projects on Council owned or controlled property

4. OBJECTIVE

- A mechanism to fund community assets on land that is owned or controlled by Council that will vest in or ultimately be controlled by Council.
- A means of supporting local communities and sporting organisations to self-fund capital asset projects.
- A funding solution that enables the community organisation to manage the resultant loan agreement directly with the lending institution.
- Proposals for loan guarantees are required to satisfy the criteria identified in the policy as well as being the subject of a report to Council with a formal decision of Council required. Satisfaction of the criteria does not guarantee approval as all approvals are still at the discretion of Council.

5. POLICY

As a guiding principal, Council will not undertake to provide Guarantees for loans or other borrowings taken out by community or other organisations with Colac Otway unless there are exceptional reasons and benefits to the community in doing so. In all circumstances, Council should only consider provision of a loan, or act to guarantee a commercial loan, where Council has ownership of the Asset that the project for the proposed loan or loan guarantee relates to, as well as the asset being on Council owned or controlled property

5.1 In considering applications or control to guarantee community projects, the following issues and factors are to be considered:

Benefits

- Benefit derived by Colac Otway citizens from the proposal.
- Capacity for the facility to be used by the broader community at times when it is not required for that organisation's purposes.
- Where the proposal satisfies an identified need in the community.

Risks

- Ability of the organisation to meet repayments of any borrowings undertaken and the likelihood of Council having to absorb debt.
 - Any impact the proposal may have on Council's budget in respect of revenue streams or operating expenditure such as grants, building maintenance etc.
 - Ability of the organisation to manage the proposal to ensure effective completion of project.
- 5.2 Council's preference will generally be to provide loan guarantees, rather than to loan funds directly to a community organisation.
- 5.3 Council may set a maximum limit of outstanding loans and/or outstanding loan guarantees in order to ensure that Council does not have excessive debt exposure and potential liabilities.
- 5.4 The provision of loans by Council, or an agreement by Council to act as guarantor for a commercial loan to a community organisation will only be considered where the purpose of the loan is in keeping with the strategic community outcomes identified in the Council Plan.
- 5.5 Council reserves the right to consider each application on its merits taking into account such issues as (but not limited to):
- i) Purpose of loan.
 - ii) Circumstances resulting in the request for Council to lend funds, or to act as a Guarantor for a commercial loan, to a Community organisation
 - iii) Potential impact on community, Council and its ratepayers.
 - iv) Any contributions made by the organisation.
 - v) Past record in terms of payment of debts, rental fees and performance under any agreements with Council.
 - vi) Any other factors considered relevant by Council such as business plans, membership numbers and structure, growth projections and management.

- 5.6 Subject to clauses 5.1 to 5.4 above, Council will only consider an application by a community organisation to loan or guarantee loan funds to that organisation in the following circumstances:
- 5.6.1 The application must clearly detail the aims, objectives, components and value (financial and otherwise) of the relevant project and its compliance with the provisions of this policy.
 - 5.6.2 The application must demonstrate the organisation's capacity to manage the project within the established budget and timeframes.
 - 5.6.3 The purpose of the application must be for the renewal or upgrade of community assets, including the provision of new community infrastructure where Council has ownership of the Asset that the project for the proposed loan or loan guarantee relates to, as well as the asset being on Council owned or controlled property
 - 5.6.4 The assets referred to in clause 5.6.3 must be situated on lands owned and/or managed by Colac Otway Shire.
 - 5.6.5 The assets must have the capacity to deliver a demonstrable financial return to Council and/or the community organisation (and to Council specifically in the event of default).
 - 5.6.6 The application must be for no more than one-third of the total value of the asset improvement works, with the community organisation being able to clearly demonstrate its capacity to meet the remaining project costs as well as loan servicing costs associated with any arrangement entered into with Council.
 - 5.6.7 Where the application is for Council to guarantee a loan from a third-party provider, the community organisation must be able to demonstrate that the third-party provider has approved the loan subject to Council acting as guarantor and that the term of the loan is for a period not exceeding ten years.
- 5.7 In the case of applications for loan funding from Council, any such arrangements agreed to by Council will be strictly on commercial borrowing terms and will be secured against the relevant community asset.
- 5.8 In the case of applications for Council to guarantee a loan for a community organisation from a third-party provider, such an arrangement will be secured against future revenue streams of the improved asset, at least to the value of works and funds outstanding in the event of default.
- Council is to agree to a community organisation entering into any further debt arrangements during the term of the loan. Any other proposed debt arrangements need to be clearly documented as part of the application to Council.
- 5.9 All arrangements agreed to by Council to loan funds to, or guarantee a loan for, a community organisation will also be subject to inclusion in Council's Annual Financial Statements.

5.10 An agreement between Council and the lending authority will be sought regarding procedural steps to be followed in the event of a loan default. Such issues to include:

- Communication between bank/financial institution and Council of any non-payment of loan instalments;
- The right for Council to continue with the loan repayment schedule rather than lump sum payment; and
- The procedure used by the bank/financial institution prior to calling upon the guarantee, including the giving of initial notification of intent and the provision of an agreed time period of rectification.

5.11 Approval Process

The community organisation is to submit a written request to Council. The request should provide the following details:

- a) a detailed project brief;
- b) outline of the benefit being provided to the community;
- c) community support for the project;
- d) governance and membership details of the organisation;
- e) details of the loan amount and proposed loan term;
- f) other funding arrangements;
- g) audited financial statements for the community organisation for the previous three (3) years; and
- h) projected profit and loss, cash flow and balance sheet for the term of the loan.

5.12 Following Council approval for Council to lend funds or to act a Guarantor for a Commercial loan the community organisation is required to:

- Enter into a formal Loan Agreement with Council if the Council lends funds directly to the organisation.
- If Council acts as a Guarantor to a commercial loan then the organisation is to support any necessary amendments to the loan guarantee documentation to the satisfaction of Council. Council reserves the right to review and amend the loan guarantee documentation in order to minimise exposure from “generic” loan guarantee documents issued by lending institutions.
- Provide Council with bi-annual loan statements that demonstrate the status of loan repayments as well as immediately notify Council in the event that any repayments are in default of the loan schedule.
- Provide Council with bi-annual profit and loss, cash flow and balance sheet statements every six (6) months.
- Provide Council with minutes of the annual general meeting plus annual audited financial statements that have been approved by the Organisation Such Minutes and audited financial statements to be provided to Council within two months from the end of the financial year.

6 IMPLEMENTATION AND REVIEW

The Manager, Finance and Customer Services shall be the responsible officer for ensuring applications for Loan Guarantees meet the requirements of this policy and shall be responsible for reviewing this policy and providing advice to Council on the application of this policy.

This policy will be subject to periodic review.

ADOPTED/AMENDMENT OF POLICY

Policy Review Date	Reason for Amendment
25 September 2013	Adopted by Council