

Name of policy:	Loan Borrowing Policy		
Adoption by Council:	22 March 2023	Minute number:	96/2023
Last review date:			
Review timeframe:	2 Years		
Next scheduled review date:	December 2024		
Related legislation:	Local Government Act 1993 Local Government (General) Regulation 2021		
Associated policies/documents:	Nil		
Responsible division:	Corporate Services		

Policy objective

The objective of this policy is to ensure that the use and management of Council borrowings:

- Complies with the Ministerial Revised Borrowing Order dated 13 May 2009;
- Is undertaken with due regard for Council's role as a custodian of public funds;
- Is undertaken with the care, diligence and skill that a prudent person would exercise in managing the affairs of other persons; and
- Complies with Council's overall risk management philosophy.

The Council's power to borrow funds arises from Section 621 of the Local Government Act 1993. As a custodian of public funds, Council must exercise the reasonable care and diligence that a prudent person would exercise when borrowing funds.

This policy provides a framework for Council to borrow funds while ensuring the ongoing viability of the Council by not permitting overall borrowings to extend Council beyond its ability to meet future repayments and budgetary obligations.

Policy statement

Council recognises that loan borrowings for capital works are an important funding source for Local Government. It provides the opportunity to bring unfunded projects forward and ensures the full cost of infrastructure is not borne entirely by present-day ratepayers.

Loan borrowings may be an appropriate source of funding for the following:

- Land acquisitions
- Asset acquisitions for strategic property holding or commercial opportunities.
- New assets constructed, e.g. roads, sports/aquatic centre, sporting field, arts centre etc.
- An asset replacement, e.g. a road reconstruction.
- An asset upgrade, e.g. a footpath widening.

- A specific and significant one time asset renewal, i.e. replacement or refurbishment of significant asset components.

As a point of principle, borrowings should not be used to fund general operations and maintenance projects as subsequent loan repayments will reduce funds otherwise available.

Wherever possible Council will look to fund loan repayments from non-rate revenue streams e.g. rental income streams, special rate variation income etc. This will lessen the impact of additional borrowings on general revenue which funds Council services.

Coverage of the policy

The Policy applies to all Councillors and Council officers who are involved in the decision making and management of Council's loan and debt portfolio.

Strategic Plan link

This Policy supports Community outcome 4: Strong leadership and good governance

<i>4.2 Council demonstrates good governance and financial management to ensure decisions and transactions are ethical, efficient, safe and fair.</i>	<i>4.2.1 Use governance frameworks and processes to guide our decisions and to ensure council is accountable to the community</i>
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Policy content

Legislative requirements

All borrowings must comply with the following:

- Local Government Act 1993;
- Local Government (General) Regulation 2021;
- Ministerial Revised Borrowing Order;
- Local Government Code of Accounting Practice and Financial Reporting;
- Australian Accounting Standards; and
- Office of Local Government Circulars.

External Borrowings

Council can borrow funds under section 621 of the Local Government Act 1993. All borrowings must be approved by Council resolution and included in Council's annual draft Operational Plan.

Council must complete and lodge with the NSW Treasury Corporation (TCorp) a Proposed Loan Borrowing Return in July each year. If there is an increase in the proposed amount to be borrowed, Council must re-submit an amended Loan Borrowing Return, including the updated amounts, to TCorp.

If, during the year, Council is required to increase its proposed borrowings or change the purpose of the initial request, a council resolution must be passed prior to drawing down of any funds.

Council must include details of proposed borrowings of new money and renewal of existing loans within the Statement of Revenue Policy, being part of the annual Operational Plan.

The General Manager, under section 230 of the Local Government (General) Regulation 2021, must notify the Director-General within seven days after borrowing money under a loan contract.

Security for borrowings is provided under Clause 229 of the Local Government (General) Regulation 2021 where 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.

Council is restricted, by the Ministerial Revised Borrowing Order dated 13 May 2009, to source the borrowings from Australia and in Australian currency.

Long-term Borrowing Considerations

To assist with making the decision on whether to undertake long-term borrowings, Council should consider:

- The financial impact of the proposed borrowing on Council's Long-Term Financial Plan, Delivery Program and Operational Plan including:
 - Scenario analysis in the case of changes to market interest rates; and
 - Any positive impact of the capital works funded by the proposed borrowing;
- Ensuring the total amount of loan borrowings is sustainable in terms of Council's ability to meet future repayments and budgetary obligations. This should be considered from an individual Fund perspective and a Consolidated perspective.
- The Debt Service Cover Ratio. This ratio measures the availability of operating cash to service debt including interest, principal and lease payments. At the time of borrowing financial projections for this ratio should be above 2.
- The cost-benefit analysis of the capital works to be funded and the works alignment with Council's strategic planning and capital program; and
- The proposed structure of the borrowings and the proposed way in which the Council will procure the borrowings to achieve competitive and favourable terms.
- The term of borrowings which should be matched with the life of the underlying asset. The following terms are considered to be an appropriate guide:
 - Roadworks – 10 years
 - Buildings – 20 years
 - Water and Sewer Infrastructure – 20 – 40 years

Expression of Interest Process

All borrowings will be subject to Council Approval. Proposed borrowings outlined within the adopted annual Statement of Revenue Policy are considered to be approved for the purposes of obtaining quotations from Authorised Deposit-Taking Institutions (ADI). Borrowings not disclosed in the adopted Statement of Revenue Policy must be approved by Council prior to seeking quotations.

Authorised Deposit Taking Institutions (including T-Corp) may be invited to submit written quotations to meet Council's borrowing requirements. A minimum of three written quotations will be obtained for Council's approved loan borrowing from Authorised Deposit-Taking Institutions.

Appropriate and acceptable documentation must be provided to Council by any prospective lender during the EOI process. Written quotations must include the:

- Interest rate
- Term of the loan
- Repayment intervals (monthly, quarterly etc)
- Repayment instalment amount and

- Any applicable fees.

To ensure that Council is informed of the most current interest rate pricing, ADIs will be requested to provide updated pricing as near as possible to the date and time of the Ordinary Meeting.

The outcome of the EOI process (including updated interest rate pricing) will be reported to an Ordinary Meeting of Council with a recommendation to accept the most advantageous quotation. A Council resolution is required to accept and enter into the loan contract with the successful ADI.

The Council resolution is to include the specific details required to ensure the proper execution of loan documentation e.g. affixing the Common Seal of Council if required.

Internal Borrowings

Borrowings from external restrictions

The Local Government Act acts to restrain and control the way Council raises and uses money for its operations. Section 409(3) of the Local Government Act 1993 states:

- a) *money that has been received as a result of the levying of a special rate or charge may not be used otherwise than for the purpose for which the rate or charge was levied, and*
- b) *money that is subject to the provisions of this or any other Act may be used only for that purpose, and*
- c) *money that has been received from the Government or from a public authority by way of a specific purpose advance or grant may not, except with the consent of the Government or public authority, be used otherwise than for that specific purpose.*

In reference to part (a) above, special rates or charges, Council may be able to utilise externally restricted funds by way of internal loan if it receives Ministerial approval to do so in accordance with subsections 410(3) and (4) of the Local Government Act.

410 Alternative use of money raised by special rates or charges

3. *Money that is not yet required for the purpose for which it was received may be lent (by way of internal loan) for use by the Council for any other purpose if, and only if, its use for that other purpose is approved by the Minister.*
4. *In granting such an approval, the Minister must impose conditions as to the time within which the internal loan must be repaid and as to any additional amount, in the nature of interest, that is to be paid in connection with that loan.*

In reference to parts (b) and (c) above Council may be able to utilise externally restricted funds by way of internal loan if it receives Ministerial approval (in the case of developer contributions), or approval from the Government or public authority providing the funding (in the case of specific purpose grant funding).

Borrowings from internal restrictions and unrestricted cash

Council may borrow from internal restrictions within each Fund and requires a resolution of Council to do so.

Borrowings from the Water and Sewer Fund restricted and unrestricted cash to Council's other Funds requires Ministerial Approval as stated above in accordance with section 410 of the Local Government Act.

Borrowings from General Fund internal restrictions and unrestricted cash to Council's other Funds can be approved by Council resolution.

The full impact of the borrowings must be disclosed in the Council resolution and the agreement must set out:

1. The reason for the borrowing.
2. The basis of calculating the amount of the borrowing.
3. The permitted use/s of the borrowed funds.
4. The internal restriction that will be borrowed from.
5. If borrowing cost (interest) is to be applied to the borrowing, then the interest rate to be used.
6. Loan repayment period.

A repayment schedule to repay internal borrowings will be drafted to ensure repayments to internal restrictions can be funded.

Definitions

Debt Service Cover Ratio – *The Debt Service Cover Ratio is calculated as:*

$$\frac{\text{Operating result before Capital excluding interest, depreciation, impairment, amortisation}}{\text{Principal repayments plus borrowing costs}}$$

Variable Rate Loan – *a loan that attracts an interest rate linked to a variable benchmark. In Australia variable rate loans are normally priced at a fixed margin over the Ausbond Bank Bill Rate which is the market benchmark three-month interbank rate.*

Fixed Rate Loan – *A loan that attracts a fixed pre-determined interest rate throughout the term of the loan.*

Amortising / Credit Foncier Loan – *A loan that is repaid over the term of the loan, normally by equal instalments due quarterly or semi-annually. Interest payments and capital repayments are normally combined and paid on the instalment date.*

Interest Only Loan – *A loan repaid in full on the final maturity date. The loan can be either a variable rate loan or fixed rate loan with interest payments normally payable quarterly for a variable rate loan and semi-annually for a fixed rate loan.*

References and related documents

Nil

Responsible officer (position)

Manager Finance

Attachments

Nil