



Guarantee of Community Loans Policy

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POLICY TYPE	Council: adopted by Council resolution	
APPROVAL	Council	
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DIRECTORATE	Corporate and Commercial Services	
POLICY OWNER	Manager Financial and Integrated Planning	
NEXT REVIEW	April 2030	
REVISION RECORD	VERSION	REVISION DESCRIPTION
23 September 2019	1.0	Initial
	2.0	Revised version

1. Purpose

This policy is intended to clarify the rules and methodology which Council will apply when considering whether it should act as bank guarantor for loans taken out by community organisations.

Its objective is to provide a mechanism whereby Council may provide material (but not direct financial) support for local communities and sporting organisations to fund capital asset projects that will ultimately vest in or be controlled by Council and will provide measurable community benefit.

2. Scope

This policy will apply to all Council and Council officers. This policy will also apply to community and sporting organisations within the municipality seeking Council to act as a guarantor on a loan secured to self-fund capital asset projects on land that is owned or controlled by Council.

Council will not act as guarantor to loans for:

- Individuals, businesses or any other entities or groups.
- The purchase of new equipment or facility maintenance.

Council will not directly lend money to Community groups or provide short term credit for contributions.

3. Governance Principles and Council Plan Alignment

3.1. Governance Principles

A Council must, in the performance of its role, give effect to the overarching governance principles (*Local Government Act 2020 (Act)* s9). In accordance with the Act, this Policy aligns with the following governance principle/s:

Principle (g) the ongoing financial viability of the Council is to be ensured;

Principle (i) the transparency of Council decisions, actions and information is to be ensured.

3.2. Council Plan Alignment

Strategic Outcome 4: Council Performance and Leadership – A forward-thinking and responsive council that values community input, committed to optimising services, ensuring robust governance and making sustainable decisions.

4. Policy

4.1. General principles

- 4.1.1. Council will not undertake to provide guarantees for loans or other borrowings taken out by community or sporting groups within the municipality of Frankston City Council unless there are demonstrated exceptional reasons and benefits to the broader Frankston community in doing so. In all circumstances, Council will only consider provision of a guarantee where Council has and will retain ownership and / or control of the asset subject to the arrangement.
- 4.1.2. The offering of loan guarantees to community and sporting groups will only be considered as a last resort, once all other funding options have been fully exhausted, and compliance with the requirements of the policy have been met. Other funding options may include:
 - The provision of assistance from Council staff in the preparation of funding applications
 - Government grants
 - Sponsorship
 - Fundraising
- 4.1.3. The community or sporting group will be responsible for interest and principal repayments.
- 4.1.4. Consideration must be given to Council's commitment to responsible gambling. In principle, loan guarantees will not be provided to support the establishment or enhancement of gaming facilities.
- 4.1.5. Where an asset is to be constructed on Council owned or controlled land, Council Officers must oversee the construction to ensure adherence to all relevant standards and policies.

- 4.1.6. The loan guarantee is to be included in Council's annual financial statements as a contingent liability. In the event of a default, Council would be required to report the loan as an expenditure item and as a liability, and this would increase Council's debt level.
- 4.1.7. Loan guarantee applications (applications) can only be approved by Council resolution.
- 4.1.8. Council may seek to be listed as a "secured creditor" against the Applicant to assist in the mitigation of Council's risk exposure.
- 4.1.9. Council reserves the right to take security over the assets of the Community group
- 4.1.10. Council expects that the loan procedures will show that the lender will exhaust all legal rights against the borrower before calling on the Council guarantee.
- 4.1.11. All costs in relation to the guarantee are to be paid by the applicant.

4.2. Criteria

- 4.2.1. Loan guarantees will only be considered when all the following criteria have been met:
 - i. Where is it demonstrated that the project will provide essential services or a clear benefit to the wider community, Council's Council and Wellbeing Plan or other strategic planning documents endorsed by Council.
 - ii. Applications will only be considered by groups who reside in the Frankston Council municipality or provide a significant benefit to the Frankston City Council community
 - iii. Borrowings are only to be used for the construction and/or acquisition of capital assets on Council owned or controlled land that will be vested in and ultimately controlled by Council.
 - iv. The applicant is a not-for-profit organisation and has a legal status (incorporated or a company) and is the current lessee of the land.
 - v. The applicant has no outstanding debts to Council.
 - vi. The loan guarantee shall not exceed fifty per cent of the final value of the asset.
 - vii. The useful life of the asset exceeds the life of the loan guarantee.
 - viii. The term of the loan shall not exceed the term of the existing lease agreement. The lease agreement refers to the agreement between Council as landlord and the community organisation.
 - ix. The loan must be from a bank, building society or credit union.
 - x. The loan must not include a redraw facility.
 - xi. The loan must not be an interest only loan.
 - xii. Guarantees will not be provided where works have already commenced, unless the Council resolves that extenuating circumstances exist.

4.3. Maximum exposure

4.3.1. The total loan guarantee commitments will be considered upon each new application received to ensure the total loan guarantee commitments and Council's external borrowings do not exceed the following Victorian Auditor General Office sustainability guidelines and Borrowing Prudential indicator thresholds:

- Liquidity: VAGO > 1.5
- Indebtedness: VAGO < 40%
- Debt management: VAGO < 25%
- Debt commitment: VAGO < 5%

4.3.2. Council's maximum exposure to loan guarantee commitments shall be capped at an amount no greater than one percent of Council's annual rate revenue. Council's loan guarantee commitment is measured based on the outstanding balance of loans guaranteed by Council.

4.4. Guarantee term

4.4.1. The Guarantee term will only be considered within the following benchmark terms:

Guarantee Amount (\$)	Maximum Term of Guarantee
Up to 49,999	5 years
50,000 – 99,999	10 years
100,000 – 499,999	15 years
500,000 and above	20 years

4.5. Documentation

4.5.1. All requests for Council loan guarantee support or joint funding arrangements must be completed on the Loan Guarantee Application Form in consultation with Council officers. Any other requests will not be considered.

4.5.2. The Council reserves the right to request and receive any information that may be required in its consideration of the guarantee request.

4.5.3. For a loan guarantee application for greater than \$20,000 the Organisation must provide audited Financial Statements for the past four years, a Business Plan and Projected Cash Flow Statement for the next five years.

4.5.4. For a loan guarantee application for less than \$20,000 the Organisation must provide Financial Statements for the past three years as presented at the Organisation's Annual General Meeting, a Business Plan and Projected Cash Flow Statement for the next five years.

4.6. Review panel

4.6.1. Each application will be assigned to the Director Corporate and Commercial Services (the "Responsible Director"). The Responsible Director is charged with the duty of forming the review panel.

- 4.6.2. The Review Panel shall comprise of a minimum of at least three Council officers being:
- Responsible Director
 - Manager Financial and Integrated Planning
 - Director or a Manager (from the Directorate from which the application relates to).

4.6.3. The assessment of an application will require a considerable amount of professional judgment by officers. Should the relevant officers believe they do not have sufficient skills and experience to form an opinion, they should seek third party expert assistance. Before any third party assistance is sought, approval **must** be first received from the applicant in writing.

4.7. Conditions of application and offer

4.7.1. Should Council resolve to act as Guarantor of the Loan, the community organisation will be required to:

- i. Notify Council of any legal action they enter or are joined to, and any intention to take out further borrowings.
- ii. 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 to “generic” loan guarantee documents issued by lending institutions.
- iii. Enter into an agreement with Council that should the loan guarantee be called upon by the lending institution, that the community group relinquishes all usage right/access to the asset. It should be noted that this agreement will supersede any previous ground allocations made.
- iv. Provide Council with bi-annual loan statements that demonstrate the status of loan repayments.
- v. Immediately notify Council in the event of any default in loan repayments.
- vi. Provide Council with minutes of the annual general meeting plus annual audited financial statements, and any other information the Council may reasonably require to assure itself of the status of the loan

5. Roles and Responsibilities

Role	Responsibility
Councillors	Responsible for approving or denying applications in-line with this policy.
Director Corporate and Commercial Services	Responsible for receiving applications, forming the review panel and assessing applications.
Directors / Managers	Responsible for being a member of the review panel, where the application relates to their directorate.
Manager Financial and Integrated Planning	Responsible for being a member of the Review Panel and assessing applications in-line with this policy.

6. Policy non-compliance

Non-compliance with this Policy has the potential to negatively impact on the reputation of Council.

In the event that the organisation does not meet its financial obligations, and the Council is called to account for the loan guarantee, then the tenancy of the organisation of the Council's property will be reviewed.

7. Definitions

Term	Definition
<i>Community group</i>	Is a not for profit organisation that is run by volunteers to provide benefits to the community. This includes clubs and not for profit community groups that use or predominantly use the premises to provide cultural, sporting and recreational activities and services to their members who pay subscriptions, registration fees or usage fees and charges and so have some capacity to generate revenue from use of the premises or other activities. For the purpose of this Policy, community group also includes not-for-profit community based health and wellbeing organisations. They have the capacity and opportunity to derive income from the use of the premises and the service they provide
<i>Not for profit</i>	Is an organisation that is not operating for the financial profit or personal gain of its members or associates. Not for profits can raise money but money raised is spent to benefit the public or further the cause of its intended purpose.
<i>Incorporated association</i>	Is a process whereby a not-for-profit community group or club becomes its own legal entity. This means that members of the group have legal protection against personal liability for the organisation. When a group becomes incorporated it becomes a legal person – that is a legal entity that stays the same even if its members change. This protects the individual members of the association from legal liabilities. The group can also enter into contracts, sign a lease or acquire and deal with property. Council will only enter into a loan guarantee with a community group that is incorporated.
<i>Loan guarantee</i>	is a contractual agreement with a financial institution whereby the guarantor will service the loan ie pay interest and principle in the event that the person/group responsible for the loan is not able to service the loan.

8. Related documents

8.1. Legislation

- *Local Government Act 2020*
- *Corporations Act 2001*

8.2. Documents and resources

- *Local Government Financial and Reporting Regulations*

9. Implementation of the Policy

This policy will be implemented immediately following its adoption by Council and will be available on Council's website.