

MURRAY RIVER COUNCIL
COUNCIL POLICY

DRAFT
BORROWING
POLICY

POL-217.V#2



murray river
council

1. INTRODUCTION

Murray River Council (Council) recognises that borrowings for capital works are an important funding source for Local Government. When used prudently, it provides the opportunity to undertake projects early and maintain inter-generational equity on long life assets.

Borrowings may be an appropriate source of funding for the following reasons.

- ▶ Land acquisitions;
- ▶ Asset acquisitions for strategic property holding or commercial opportunities (e.g: projects that generate an income that can be used to service the borrowing);
- ▶ New assets constructed (e.g: roads, sports/aquatic centre, sporting field, arts centre etc);
- ▶ An asset upgrade (e.g: a footpath widening); and/or
- ▶ A specific and significant one-time asset renewal or replacement, (e.g: replacement or refurbishment of significant asset components).

Borrowings should not be used to fund general operations and maintenance projects as subsequent repayments will reduce funds otherwise available.

Wherever possible, Council will look to fund repayments from the revenue generated from the asset or the service provided using the asset. For example, servicing of borrowings to build a landfill will be, to the extent possible, be funded from waste related revenue streams.

2. OBJECTIVES

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

- ▶ Complies with the applicable Ministerial Revised Borrowing Order(s);
- ▶ 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 framework.

Council's power to borrow funds arises from Section 621 of the Local Government Act 1993 (The Act). 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 beyond its ability to meet future repayments and budgetary obligations.

Council, in implementing this Policy, is required to also adhere to the Office of Local Government (OLG) Borrowing Order pursuant to Section 624 of The Act, notify the Office of Local Government (OLG) of borrowing undertaken pursuant to Section 230(1) of the Local Government (General) Regulation 2021 (The Regulation) and the reporting requirements around debt service ratio as part of the quarterly budget review process and year-end financial statements.

3. SCOPE

The policy applies to all Councillors and Council Officers who are delegated responsibility, or involved in, the decision making and management of Council's loan portfolio.

4. LEGISLATION

- ▶ Local Government Act 1993 (NSW)
- ▶ Local Government (General) Regulation 2021 (NSW)

5. POLICY STATEMENT

5.1 RESPONSIBLE OFFICER

- ▶ Authority for the implementation of this Policy is delegated by Council to the Chief Executive Officer (CEO).
- ▶ Under Section 378 of The Act, the CEO delegates the Council Officer responsible for Council's overall loan portfolio as the Responsible Accounting Officer (RAO).

5.2 BORROWING GUIDELINES

The following guidelines have been set to provide a clear framework for management and staff to follow when considering a loan borrowing (whether external or internal):

- ▶ Establishing and monitoring of borrowings is the responsibility of the ~~Manager Finance~~ **Responsible Accounting Officer (RAO)** in conjunction with input from those Council Officers delegated with management of department budgets;
- ▶ Evaluating the financial impact of the proposed borrowing on Council's Long-Term Financial Plan, Delivery Program and Operational Plan must be considered. This includes reviewing the impact of the loan over the life of Council's plans/ programs and the impact of the of the capital projects funded by the proposed borrowings (for example, public benefit of undertaking the project);
- ▶ Compiling a Business Case for the project to be funded by borrowings, in keeping with Project Management Framework;
- ▶ Ensuring the total amount of borrowings (including proposed new borrowing) is sustainable in terms of Council's ability to meet future repayments and budgetary obligations;
- ▶ Assessing the Debt Service Ratio (DSR) impact. This ratio measures the availability of operating cash to service total debt including interest payments & principal, repayments;
- ▶ Identifying the proposed structure of the borrowings and the how Council will procure the borrowings to achieve competitive and favourable terms; **and**
- ▶ Aligning to the extent possible the term of borrowings to the life of the underlying asset where ~~possible~~ **appropriate**.

5.3 BORROWING REGULATIONS

- ▶ Council can borrow funds under Section 621 of the Act. Security for borrowings is provided under Section 229 of the Regulation where the repayment of principal and the payment of any interest, is a charge on the income of Council;
- ▶ 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 additional borrowings and renewal of existing borrowings within the annual Operational Plan;
- ▶ The CEO, under Section 230(1) of the Regulation, must notify the Secretary (**OLG**) within seven (7) days after entering into a contract to undertake borrowings;
- ▶ Council is restricted, by the Ministerial Revised Borrowing Order, to source borrowings from Australia, denominated in Australian dollars;

- ▶ Borrowings must be undertaken in accordance with the Statement of Business Ethics Policy, Procurement Policy and the Fraud and Corruption Policy of Council; and
- ▶ Any contractual arrangements with external contractors/consultants shall obligate such contractors/consultants to abide by the requirements of this Policy.

5.4 EXPRESSION OF INTEREST (EoI) PROCESS

- ▶ Quotations from Authorised Deposit-Taking Institutions (ADI) and NSW Treasury Corporation (TCorp) may be obtained for borrowings outlined within the adopted annual Operational Plan;
- ▶ A minimum of three (3) ADIs (including T-Corp) are to be invited to submit written quotations to meet Council's borrowing requirements;
- ▶ Appropriate and acceptable documentation must be provided to Council by any prospective lender during the EoI process. Written quotations must include the:
 - Interest rate and whether the rate is fixed or variable;
 - 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 Council **Ordinary** meeting, in which the report will go to Council seeking approval to undertake the borrowing.
- ▶ The outcome of the EoI process (including updated interest rate pricing) will be reported to Council with a recommendation to accept the most advantageous quotation. Where the borrowing structure differs between the quotations (e.g., a fixed rate quotation and a variable rate quotation), the report shall examine the risks and benefits of each structure, with reasons for the recommended structure.
- ▶ The Council resolution approving the borrowing is to include the specific details required to ensure the proper execution of loan documentation, for example, affixing the Common Seal of Council if required.

5.5 INTERNAL BORROWINGS (BETWEEN COUNCIL FUNDS)

The Act restrains the way Council raises and uses money.

Section 409(3) of the Act 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.

However, Council may use externally restricted funds by way of internal borrowing, subject to receiving Ministerial approval to do so in accordance with Sub Section 410(3) and (4) of the 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.

- ▶ Council may also use money that has been received from the Government or from a public authority by way of a specific purpose advance or grant, with approval from the Government or public authority providing the funding.
- ▶ Council may also undertake internal borrowing, between the Funds (General, Water, Sewer, and Waste) of Council, subject to a Council resolution to do so.
- ▶ The full impact of the borrowings must be disclosed in the Council resolution and the internal agreement must set out:
 - The reason for the borrowing;
 - The basis of calculating the amount of the borrowing;
 - The permitted use/s of the borrowed funds;
 - The internal restriction that will be borrowed from;
 - Interest rate applicable for borrowing, set at the weighted interest rate return on investments unless another rate is determined and approved by Council; and
 - Repayment period to repay internal borrowings drafted to ensure repayments, taking into consideration internal restrictions, can be funded.

5.6 ETHICS AND CONFLICTS OF INTEREST

Council Officers:

- ▶ Shall refrain from personal activities that would conflict with the proper execution and management of Council's borrowing process. This includes activities that would impair the Council Officer's ability to make impartial decisions.
- ▶ Must immediately upon becoming aware, disclose to the CEO any (perceived or real) conflicts of interest in accordance with Council's Code of Conduct (Employees) Policy.

5.7 FINANCIAL RECORD KEEPING & REPORTING

The Manager Finance is required to maintain a Loan Repayment Schedule.

6. ROLES AND RESPONSIBILITIES

POSITION	RESPONSIBILITY
Mayor	Lead Councillors in establishing this Policy after considering its implications on the financial position of, and risks borne by, Council. Receive, and where required query, reports related to the borrowing process.
Chief Executive Officer (CEO)	Provide the required delegations for Council Officers to fulfill their responsibilities and obligations under this Policy.
Director Corporate Services (DCS)	To lead Council Officers, where so appropriate, in their understanding of, and compliance with, this Policy.
Manager Finance Chief Finance Officer	To communicate and implement this Policy. To put in place appropriate controls to ensure that this Policy is complied with by all staff and in a manner that any breaches will be identified speedily.
Council Officers	To be aware of their responsibilities and obligations under this Policy

7. EVALUATION AND REVIEW

It is the responsibility of the Director Corporate Services in conjunction with the **Manager Finance** **Chief Finance Officer** to monitor the adequacy of this Policy and recommend appropriate changes.

This Policy shall be reviewed, at a minimum of every four (4) years or sooner if needed.

8. ASSOCIATED DOCUMENTS, DEFINITIONS AND ACRONYMS

External

- ▶ Office of Local Government - Ministerial Revised Borrowing Orders
- ▶ Code of Accounting Practice and Financial Reporting
- ▶ Australian Accounting Standards

Internal

- ▶ MRC Policy – Asset Accounting Policy (POL-309)
- ▶ MRC Policy – Budget Policy (POL-216)
- ▶ MRC Policy – Code of Conduct (Councillors) Policy (POL-100.1)
- ▶ MRC Policy – Code of Conduct (Employees) Policy (POL 100.2)
- ▶ MRC Policy – Delegations of Authority (Mayor and CEO) Policy (POL-102)
- ▶ MRC Policy – Delegations of Authority (CEO to Employees) Policy (POL-107)
- ▶ MRC Policy – Fraud & Corruption Policy (POL-212)
- ▶ MRC Policy – Risk Management Policy (POL-200)
- ▶ MRC Policy – Statement of Business Ethics Policy (POL-201)
- ▶ MRC Policy – Procurement Policy (POL-205)
- ▶ MRC Plan - MRC Risk Management Framework
- ▶ MRC Plan - Operational Plan, Delivery Program and Long-Term Financial Plan

Definitions:

Term	Definition
Act	Local Government Act 1993 (NSW)
CEO	Chief Executive Officer.
Community Strategic Plan (CSP)	A plan that outlines the community's vision and aspirations for a period of ten or more years.
Council Officer	Employees, including the CEO, and any contactors duly engaged by Council.
DCS	Director of Corporate Services
Delivery Plan	The Delivery program is a four (4) year plan that turns the strategic goals found in the Community Strategic Plan into actions. It is the point where council makes a commitment to the Community Strategic Plan, and act upon those issues that are within its area of responsibility.
DSR	Debt Service Ratio, calculated by dividing the "Operating Result before Capital excluding Interest, Depreciation, Impairment & Amortisation, by the Principal Repayments plus Borrowing Costs.

EOI	Expression of Interest
Interest rate	The interest rate is the amount a lender charges a borrower and is a percentage of the principal—the amount loaned.
Minister	Minister for Local Government of New South Wales
OLG	Office of Local Government.
Ministerial Revised Borrowing Order(s)	The applicable Order as of adopting this Policy is the Ministerial Revised Borrowing Order(s), dated 13 May 2009
RAO	Responsible Accounting Officer, as identified in the register of delegations.
Regulation	Local Government (General) Regulation 2021 (NSW)
Secretary	Office of Local Government Secretary
TCorp	NSW Treasury Corporation, the central borrowing authority for the NSW public sector.

9. DOCUMENT CONTROL

Version No.	Details	Dates	CM9 Reference	Resolution No.
1	Initial policy creation and issue	24 October 2023 to DRAFT	VF/23/1056	091023
2	Policy reviewed and updated	DRAFT	VF/23/1056	

Council reserves the right to review, vary or revoke this policy at any time.

This Policy is scheduled for review in or before 2029.

NOTE:

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DISCLAIMER:

This document was formulated to be consistent with Murray River Council's legislative obligations and within the scope of Council's powers. This document should be read in conjunction with relevant legislation, guidelines, and codes of practice. In the case of any discrepancies, the most recent legislation should prevail. This document does not constitute legal advice.

It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this, such a change may be made administratively. Examples include a change to the name of a Business Unit, position title or a change to the name of a Federal or State Government department, and a minor update to legislation which does not have a material impact. When such changes are made the version number will be amended and an extension added (eg V#1.1)