



<b>POLICY NO</b>	<b>CP/FIN-3215</b>	
<b>POLICY</b>	<b>Self-Supporting Loans</b>	
<b>RESPONSIBLE DIRECTORATE</b>	Corporate Services	
<b>RESPONSIBLE OFFICER</b>	Director Corporate Services	
<b>COUNCIL ADOPTION</b>	Date: 27 August 2014	Resolution No: 10505
<b>REVIEWED/MODIFIED</b>	Date: 24 November 2015	Resolution No: 11174
	Date: 28 November 2017	Resolution No: 117840
	<b>Date: 27 October 2020</b>	<b>Resolution No: TBC</b>
<b>REVIEW DUE</b>	<b>Date: October 2025</b>	
<b>LEGISLATION</b>	<i>Local Government Act 1995 – Sections 6.20 and 6.21</i>	
<b>RELATED POLICIES</b>	<ol style="list-style-type: none"> <li>1. CP/FIN-3211 Fees and Charges Pricing</li> <li>2. Code of Conduct for Council Members, Committee Members and Employees</li> <li>3. Audit (Finance and Risk) Committee Terms of Reference</li> </ol>	
<b>RELATED ORGANISATIONAL DIRECTIVES</b>	Not Applicable	

#### **PURPOSE:**

This Policy will establish the principles, constraints, criteria and administrative guidelines for the allocation and utilisation of Shire borrowings to finance self-supporting loans for community based organisations that lease/occupy land or buildings owned or vested in the Shire of Wyndham East Kimberley for the purposes of capital asset acquisition or development.

This Policy will establish the framework within which the Council may consider provision of self-supporting loans to community based organisations, subject to the financial position of the Shire, prevailing budget circumstances, forecast funding requirements for municipal requirements and capital projects, competing demands for funds, debt financing structure and the capacity of the Shire to borrow.

#### **DEFINITIONS:**

**Community Based Organisation** is an incorporated, not for profit, service group or association.

#### **POLICY STATEMENTS:**

This Policy applies to all requests received from community based organisations for financial support by way of self-supporting loans. The Policy limits the availability of self-supporting loans and provides a guide to the eligibility and assessment criteria for each request.

Self-supporting loans will only be considered for capital asset acquisition or development and will not be approved by the Council for operational equipment or operating expense purposes.

The Council will only consider applications where the applicant has exhausted all other financial avenues, such as grants, sponsorship, fundraising or application for credit from a lending institution.

The Shire will only provide access to self-supporting loans in exceptional circumstances and when financial circumstances permit. There must be compelling evidence of positive benefits to the community if the Shire was to provide a self-supporting loan.

This Policy establishes a framework aligned to financial standards and indicators in the determination of the Shire's capacity to provide financial assistance to community based organisations by way of self-supporting loans.

Self-supporting loans are loans taken out by the Shire of Wyndham East Kimberley on behalf of community clubs or community organisations who undertake to meet the capital, interest and loan guarantee payments as and when they fall due.

#### 1. Application Requirements

- 1.1. The applicant must lease/occupy land or buildings owned or vested in the Shire of Wyndham East Kimberley.
- 1.2. The loan can only be used for the construction and/or acquisition of capital assets.
- 1.3. All Self-Supporting Loan applicants shall provide the following information for assessment:-
  - 1.3.1. The Shire's Self-Supporting Loan Application (Appendix A to this Policy) completed in full.
  - 1.3.2. Audited financial statements for 3 (three) years to demonstrate the ability to repay the loan.
  - 1.3.3. Statement demonstrating alternative funding options have been investigated prior to seeking the Shire's assistance and the reasons why they weren't successful.
  - 1.3.4. Statements demonstrating the need for the loan together with a business plan for the construction and/or capital acquisition which is to include detailed costings and an overall budget.
  - 1.3.5. Forward financial plans to cover the term of the loan which are certified by a Certified Practising, Chartered or similarly qualified and experienced Accountant.
  - 1.3.6. Certificate of incorporation.
  - 1.3.7. Statements of satisfactory past payment history from at least three (3) principal suppliers, the Shire may be included where such history exists.
  - 1.3.8. Minutes from the meeting that the motion for a self-supporting loan was put to.
  - 1.3.9. Any additional information that will assist the Council with consideration of the application.

## 2. Assessment of Applications

2.1. The assessment of applications will be undertaken by the Coordinator Financial Management and the Director Corporate Services who will then put a recommendation to the Audit (Finance and Risk) Committee for consideration by the Council on the outcome.

2.2. Matters that are to be considered include:-

- a) The current number of self-supporting loans the Shire may have.
- b) The Shire's Long Term Financial Plan and forecast debt financing capacity across the prospective life of a requested loan.
- c) Regulated borrowing limits as determined by WA Treasury Corporation.
- d) Debt Service Coverage Ratio (calculated as annual surplus before interest expense and depreciation divided by annual debt service payments) meets the required Department of Local Government Standard. Below is the indicator which is used by the WA Treasury Corporation in considering loan applications from the Shire:-
  - i. Standard is NOT met if ratio is less than two (2).
  - ii. Basic Standard if ratio is between two (2) and five (5)
  - iii. Advance Standard if greater than five (5)
- e) Annual budget and current financial position of the Shire.
- f) Compliance with legislative requirements associated with borrowing monies in accordance with section 6.20 of the *Local Government Act 1995*.

2.3. Assessment of Applications will be based on:-

- 2.3.1. Perceived ability for the loan repayments to be made on time and for the loan to be paid in full at the end of the loan period.
- 2.3.2. Benefit to the wider community.
- 2.3.3. The community organisation that is applying for the loan must have been in existence for 5 years and can clearly demonstrate a stable and / or increased membership.
- 2.3.4. The life of the capital asset acquisition or development exceeds the life of the self-supporting loan.
- 2.3.5. Whether all other funding options have been fully exhausted.

## 3. Term of Loan

3.1. Shall not exceed the term of any existing lease agreement.

- 3.2. The term of the loan should be less than or equal to the half-life of the capital asset acquisition or development being undertaken. This enables the community base organisation sufficient time to set aside a cash reserve for future refurbishment or replacement. If the term of the loan is longer than half-life of the capital asset acquisition or development being undertaken the organisation is to demonstrate how it will fund future refurbishment or replacement whilst still servicing the loan.
- 3.3. The term of the loan can be less than the maximum if the Applicant has the ability to repay the loan over a shorter timeframe.

<b>Self-Supporting Loan Amount</b>	<b>Maximum Term of Loan*</b>
Up to \$50,000	5 years
\$50,000 - \$99,999	10 years
\$100,000 and above	15 years
<i>*Note that these are indicative only and will be dependent upon each application</i>	

#### 4. Approval Requirements

- 4.1. The final decision on the granting of a Self-Supporting Loan will be by resolution of the Council.
- 4.2. A 'Deed of Loan' for the period of loan repayments is to be prepared and executed as contractual evidence for repayment of the loan.
- 4.3. For each year of the loan an independently audited end of year financial statement must be supplied to the Shire.
- 4.4. If requested by the Shire, a profit and loss statement must be produced within three (3) weeks of the request being made.
- 4.5. No community based organisation can have more than one (1) self-supporting loan at any one time.
- 4.6. The loan will not include a redraw facility.

#### 5. Administration Costs and Loan Guarantee Fees

The following costs incurred by the Shire of Wyndham East Kimberley will be recouped from clubs or organisations applying for self-supporting loans:

- 5.1. Actual advertising costs (including GST);
- 5.2. Costs associated with the preparation and stamping of the 'Deed of Loan';
- 5.3. Loan Application Fee as determined by the Council when setting the fees and charges;
- 5.4. Stamp duties or other duties or taxes applicable to the self-supporting loan application or documentation, will be on charged to the applicant at actual cost;

5.5. Any additional charges associated with the self-supporting loan.

6. Loan Default

6.1. Any default of loan repayments will incur penalty interest as determined by the Council when setting the fees and charges, unless arrangements have been made with Council, prior to the re-payment being defaulted.

6.2. If the community base organisation defaults on a loan, it will not be permitted to receive any further self-supporting loans from the Council until the outstanding loan is repaid in full.

6.3. In exceptional circumstances this may be reviewed, but not until the timeframe allowed for the initial loan expires.

6.4. Defaulting on the loan may result in the lease between the Shire and the applicant for the land or buildings being cancelled.

**EXPLANATORY NOTES:**

In accordance with the *Local Government Act 1995*:-

6.20. Power to borrow

- (1) *Subject to this Act, a local government may —*
- (a) *borrow or re borrow money; or*
  - (b) *obtain credit; or*
  - (c) *arrange for financial accommodation to be extended to the local government in ways additional to or other than borrowing money or obtaining credit,*  
*to enable the local government to perform the functions and exercise the powers conferred on it under this Act or any other written law.*
- (2) *Where, in any financial year, a local government proposes to exercise a power under subsection (1) (power to borrow) and details of that proposal have not been included in the annual budget for that financial year —*
- (a) *unless the proposal is of a prescribed kind, the local government must give one month's local public notice of the proposal; and*
  - (b) *the resolution to exercise that power is to be by absolute majority.*
- (3) *Where a local government has exercised a power to borrow and —*
- (a) *it does not wish to proceed with the performance of the function or the exercise of the power for which the power to borrow was exercised; or*
  - (b) *after having completed the performance of the function or the exercise of the power for which the power to borrow was exercised, any part of the money borrowed, credit obtained or financial accommodation arranged has not been expended or utilized,*  
*the local government may resolve\* to expend the money or utilize the credit or financial accommodation for another purpose if one month's local public notice is given of the proposed change of purpose.*

*\* Absolute majority required.*

- (4) *A local government is not required to give local public notice under subsection (3) —*
  - (a) *where the change of purpose has been disclosed in the annual budget of the local government for the relevant financial year; or*
  - (b) *in such other circumstances as are prescribed.*
- (5) *A change of purpose referred to in subsection (3) is to be disclosed in the annual financial report for the year in which the change occurs.*

#### 6.21. Restrictions on borrowing

- (1) *Where, under section 6.20(1), a regional local government borrows money, obtains credit or arranges for financial accommodation to be extended to the regional local government that money, credit or financial accommodation is to be secured only —*
  - (a) *by the regional local government giving security over the financial contributions of the participants to the regional local government's funds as set out or provided for in the establishment agreement for the regional local government; or*
  - (b) *by the regional local government giving security over Government grants which were not given to the regional local government for a specific purpose; or*
  - (c) *by a participant giving security over its general funds to the extent agreed by the participant.*
- (1a) *Despite subsection (1)(a) and (c), security cannot be given over —*
  - (a) *the financial contributions of a particular participant to the regional local government's funds; or*
  - (b) *the general funds of a particular participant, if the participant is not a party to the activity or transaction for which the money is to be borrowed by, the credit is to be obtained for, or the financial accommodation is to be extended to, the regional local government.*
- (2) *Where, under section 6.20(1), a local government borrows money, obtains credit or arranges for financial accommodation to be extended to the local government that money, credit or financial accommodation is only to be secured by giving security over the general funds of the local government.*
- (3) *The Treasurer or a person authorised in that behalf by the Treasurer may give a direction in writing to a local government with respect to the exercise of its power under section 6.20(1) either generally or in relation to a particular proposed borrowing and the local government is to give effect to any such direction.*
- (4) *In this section and in section 6.23 —*

**general funds** *means the revenue or income from —*

  - (a) *general rates; and*
  - (b) *Government grants which were not given to the local government for a specific purpose; and*

(c) such other sources as are prescribed.

**RISK:**

**Risk:** Failure to comply with legislative requirements leading to damage of reputation and/or financial loss. Failure to develop appropriate, meaningful policies which enable the administration to perform in an effective and efficient way.

**Control:** Review policies and procedures in accordance with review schedule.

**Risk:** Failure to manage the disbursement of funds to meet the needs of the Shires forward planning requirements, including the Strategic Community Plan, Corporate Business Plan, Long Term Financial Plans and Annual Budget.

**Control:** Monthly and quarterly progress and financial reporting against Corporate Business Plan and Annual Budget.