

POLICY

Policy name	Interest Free Advances To Sporting And Cultural Organisations
Responsible manager(s)	General Manager
Contact officer(s)	Chief Financial Officer
Directorate	Finance and Business Development
Approval date	27 August 2013

Purpose

Eurobodalla Shire Council's Community Strategic Plan (CSP) recognises the important roles of social, cultural and sporting groups within the community to achieve key strategic objectives. Council will make interest free loans available to these groups subject to criteria and conditions at a reasonable cost to ratepayers. These loans provide a positive incentive for qualifying organisations to assist their operations and undertake special projects. This policy covers criteria for eligibility, sources and limits on funding, risk, security, default/recovery and links to a Standard Basic Agreement. It replaces the previous policy and any other related amending or clarifying policies or codes of practice.

Policy statement

1	<p>Application</p> <p>This policy applies to all requests for Interest-Free Advances to Sporting and Cultural Organisations within the Eurobodalla Local Government Area (LGA).</p>
2	<p>Legislation</p> <p>Eurobodalla Shire Council will comply with the <i>Local Government Act (NSW) 1993</i>.</p>
3	<p>Eligibility</p> <p>Interest free loans may be available to either incorporated societies or unincorporated groups.</p> <p>An eligibility criteria exists for groups seeking an interest free loan, which includes:</p> <ul style="list-style-type: none"> a) It must not be operated for private or pecuniary profit. b) An ability to demonstrate the public benefit derived from the loans application. c) Benefits may include infrastructure, social, sporting and cultural opportunities, or environmental and economic development outcomes. d) The group, its project and the associated benefits must be based within the Eurobodalla LGA boundaries. e) Membership of the applicant group must be reasonably available to the public. f) Applications must be approved by the Council. g) The group is to provide a minimum of 20% of the capital cost of the project, either in cash or other acceptable assets. h) Eligibility and applications may be scored or weighted to establish priorities. i) Must be able to prove they can repay debt within terms.
4	<p>Sources of Funding</p> <p>Funds will be sourced for these loans from either:</p> <ul style="list-style-type: none"> a) A revolving fund named "Council Funded Loan Pool" totalling \$200,000, limit may be amended by Council from time to time e.g. could be increased by transferring budget from the restriction within the Draft Operational Plan, at a quarterly budget

	<p>review or as a result of a separate report to a public meeting of Council.</p> <p>b) A revolving fund named "Crown Reserves Interest Free Loans Fund" totalling \$150,000 (subject to external legal restrictions), available in relation to benefits for Crown Land administered by Council and activities thereon, e.g., suitable for inclusion in Crown Land works plan or meets requirements for utilisation of Crown Lands funds. (The Council needs to be aware of the basis for dealing with revenues gained from Crown Lands activities and this could affect this aspect of the interest free loans policy. Council should be wary of adding to this fund and the way it is utilised until these matters are clarified.)</p>
5	<p>Limits on Interest Free Lending</p> <p>a) Each application is limited to a maximum of \$60,000 (subject to annual indexation).</p> <p>b) Applications will also be limited to the amount available within the revolving fund. The Council may approve additional funding through a budget variation application if necessary.</p> <p>c) The maximum term will be 5 years from the date of uplifting funds.</p> <p>d) Funds must be uplifted within 12 months of the Council approval, it will be necessary to reapply if 12 months is exceeded.</p> <p>e) Uplifting of funds is subject to evidence demonstrating the appropriate amount of progress has been made with the proposal (may require copies of invoices or other equivalent arrangements).</p> <p>f) Noting in appropriate cases Council may be willing to pay tax invoices made out to it.</p>
6	<p>Risk and Security</p> <p>a) All applications are to be considered in relation to Council's strategic objectives for public service delivery, as detailed in the Community Strategic Plan outcomes. Pursuant to the investment policy such lending is considered to be high risk, but justified on the basis of the abovementioned outcomes.</p> <p>b) Where the applicant occupies privately owned or leased land and is affiliated or financially responsible to a parent body loans shall be conditional on the parent body underwriting repayments to Council.</p> <p>c) For lending above \$25,000 the Council will consider the applicability or otherwise of a mortgage over assets or some other form of security.</p> <p>d) Where possible agreements will be with external legal entities rather than other parts of the Council (such as Management Committees) although internal arrangements are permitted.</p>
7	<p>Repayments and Recovery of Default Advances</p> <p>a) Repayments are to be made quarterly. Council may vary this based on the applicants' particular cash flow situation.</p> <p>b) Agreements may include penalty interest on late payment or default (3% per annum, intended to cover CPI).</p> <p>c) The General Manager is to be notified as soon as practicable, of an actual default (instalment overdue by 30 days) or the possibility of default.</p> <p>d) Council to be briefed by the next quarterly budget review if default occurs.</p> <p>e) Divisional Manager – Finance and Governance to seek sufficient information to assist Council consideration of default/advice. This includes the preparation of an initial report for Council on any default/advice within 3 months of the event, covering options such as trading out, deferment and as a last resort legal recovery or write off. The same report will also specifically consider whether any unwarranted precedents might be set.</p> <p>f) The Council will not seek personal recovery from individuals or officials that have</p>

	<p>acted in good faith but reserve the right to take legal action against any persons that may have committed a fraud or some other act of bad faith (which may also require advice to Council's insurers, ICAC and the Police).</p> <p>g) None of the above requirements detract from, or affect any other delegations to the General Manager, nor those from the General Manager to any other staff in respect of debt recovery, financial arrangements and writing off of debts etc, and these may be exercised in addition to the above.</p>
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Implementation

Requirements	Responsibility
<p>1 Applications</p> <p>a) Applications must be in writing addressed to the General Manager.</p> <p>b) Applications should be in the groups 'own words' and include sufficient information to enable the Council to assess the merits and risks. Such information should include; legal nature of the applicant (e.g. whether an incorporated society or an unincorporated group etc) full details of project/s proposed, audited financial accounts for the preceding financial year (if available, otherwise unaudited accounts), an assurance from the Committee or appropriate officials that the entity is currently a "going concern" and a forward budget for at least one typical year demonstrating capability to repay.</p> <p>c) No Pro-Forma is required to be completed with written applications.</p>	General Manager
<p>2 Agreement – Pro Forma</p> <p>See Appendix 1 for the Standard Basic Agreement.</p> <p>This Standard Basic Agreement may be varied from time to time in accordance with legal advice or to include special clauses to suit each particular application in accordance with a Council resolution.</p>	Council Officers
<p>3 Staff</p> <p>Under supervision, applicable council staff will be responsible for ensuring that policies are implemented appropriately within their work area, after they have received relevant training to do so.</p>	Council Officers
<p>4 Concerns</p> <p>Concerns received regarding Interest Free Advances will be recorded on council's Customer Service Request (CSR) or records system and handled in accordance with council's Customer Service Requests Policy. They will be used to analyse the history of concerns and to help determine follow up actions.</p>	Council Officers
<p>5 Complaints</p> <p>Complaints received regarding this policy will be lodged with the Public Officer and handled in accordance with council's Complaints Policy.</p>	Public Officer
<p>6 Consultation</p> <p>Consultation regarding this policy will occur as relevant and may include legislative bodies, other relevant legislation, industry guidelines, and public comment. Changes to this policy will be placed on public exhibition for the required period with public submissions encouraged.</p>	As applicable

Review

The policy will be automatically revoked at the expiration of twelve months after the declaration of the poll for the next general NSW local government election, unless council revokes it sooner. **Note:** Automatic revocation of the policy is provided for by section 165(4) of the Local Government Act 1993. The next general local government election is expected to be held in September 2016.

This policy may also be reviewed and updated as necessary when legislation requires it; or council's functions, structure or activities change; or when technological advances or new systems change the way that council manages Interest Free Advances.

Reviews of the effectiveness of this policy could include the following:

Performance indicator	Data source(s)
Public concerns	Council Records
Customer Feedback Survey Responses	Surveys
Internal or external review	Audit

Governance

This policy should be read in conjunction with any related legislation, codes of practice, relevant internal policies, and guidelines.

Related legislation and policies

Name	Link
Community Strategic Plan	www.esc.nsw.gov.au
Investment Policy	
Local Government Act 1993	www.austlii.edu.au/au/legis/nsw/consol_act/lga1993182/

Related external references

Name	Link
Division of Local Government	www.dlg.nsw.gov.au

Supporting documents

Name	Link
Standard Basic Agreement	Appendix 1

Change history

Version	Approval date	Approved by	Min No	File No	Change
1	22 Sep 2009	Council	09/291	E09.3418	Policy commenced G09/99
2	27 Aug 2013	Council	13/246	E13.7095	Updated template, review date, references and links. O13/131.

Internal use

Responsible officer	General Manager	Approved by	Council		
Min No	13/246	Report No	O13/131	Effective date	27 Aug 2013
File no	E13.7095	Review date	Sep 2016	Pages	6

Appendix 1

STANDARD BASIC AGREEMENT – INTEREST FREE ADVANCES TO SPORTING AND CULTURAL ORGANISATIONS

THIS AGREEMENT made the DAY of MONTH Two thousand YEAR **BETWEEN** [ORGANISATION_NAME] in the State of New South Wales (hereinafter called "the Organisation") of the one part and **THE EUROBODALLA SHIRE COUNCIL** of Council Chambers Campbell Street, Moruya (hereinafter called "the Council") of the other part **WHEREAS** the Council is the body having the care control and management of a certain [FACILITY] known as [FACILITY_NAME] **AND** *(delete if not a S355 committee)* [**WHEREAS** if the Council has appointed the Committee to be a Management Committee under the provisions of Section 355 of the Local Government Act (1993) to manage the FACILITY on the said SITE] **AND WHEREAS** the Council has [PROJECT_APPROVAL] **AND WHEREAS** the Organisation has applied to Council for a loan of [PRINCIPAL] to assist in the payment for [PROJECT] **AND WHEREAS** the Council has agreed to the construction of [PROJECT] and has agreed to advance the said sum of [PRINCIPAL] to the Organisation for such purposes **AND WHEREAS** the Organisation has agreed to repay the said sum to the Council.

NOW THIS AGREEMENT WITNESSETH as follows:

1. The Council agrees with the Organisation for the [PROJECT_APPROVAL] on [SITE] under the control and management of the Organisation.
2. In consideration of the Organisation agreeing with the Council to repay the sum of [PRINCIPAL] within a term of [TERM] years from the date of the advance of such money the Council agrees to advance to the Organisation the said sum for the [PROJECT_APPROVAL].
3. The Organisation undertakes and agrees to repay to the Council the said sum of [PRINCIPAL] by way of [INSTALMENT_NO] equal and consecutive instalments of [INSTALMENT] each.



4. The Organisation undertakes that the said sum of [PRINCIPAL] shall be used for [PROJECT_APPROVAL].

IN WITNESS WHEREOF the parties hereto have set their hands and affixed their seals on the day and year first abovementioned.

THE SEAL OF THE COUNCIL
OF EUROBODALLA WAS HERETO	Mayor
AFFIXED ON SEAL_DATE	
PURSUANT TO RESOLUTION OF
COUNCIL DATED MINUTE_DATE	General Manager
SIGNED for and on behalf of
[Name of Organisation]	President/(Equivalent)

	Secretary/(Equivalent)