



# Council Policy

## Community Group Loan Guarantee Policy and Procedures 2020

<b>Department:</b> <i>Business &amp; Performance</i>	<b>First Implemented:</b> 15 December 2015 <b>Reviewed:</b> December 2018 <b>Effective From:</b> 22 January 2019 <b>Version:</b> 2 <b>Trim Reference:</b> E698 <b>Policy Implementation:</b> 22 January 2019	<b>Origin:</b> Responsible Officer: <i>Manager Business &amp; Performance</i> Authorising Officer: <i>Endorsed by Council</i>
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### PURPOSE/OBJECTIVE

This Policy outlines the process and criteria to be met when Council is considering requests from community groups for Council to act as a Guarantor for a bank loan taken out by the group.

### POLICY STATEMENT

Council does not provide loans to Community Groups.

Council will, in the limited circumstances outlined by this Policy, consider acting as Guarantor in the form of a bank guarantee for a bank loan sought by the Community Group.

Council will consider being Guarantor for capital works that create new infrastructure/ buildings or that upgrade existing facilities. Each Guarantee will relate to a specific project and cannot be amended to include additional facilities or projects.

Should the application be successful the Community Group shall pay any fees and charges incurred by the establishment of the Guarantee.

Council will not consider being Guarantor on loans for;

- refinancing of existing capital projects; or
- operational expenses.



## Policy Criteria

A Loan Guarantee can only be approved by Council resolution.

The Manager Business & Performance will prepare a report to Council once the Review Panel has reviewed the application and is satisfied all of the following criteria is met;

1. The application has been submitted on the Loan Guarantee Application Form (see the Community Group Loan Guarantee Procedures);
2. The project will result in demonstrable benefits to the broader community (ie, beyond those that are members of the Community Group);
3. The project's aims align with the Council Plan and other relevant Council Policies;
4. The Community Group has demonstrated that all reasonable efforts to secure funding from alternative sources have been made and that a loan guarantee application to Council is a last resort;
5. The Community Group has provided independently audited financial statements for the previous three (3) years and cash flow projections for the guarantee term sought to demonstrate there is a capacity to meet all loan repayments;
6. The maximum guarantee sought by the Community Group is less than \$100,000;
7. The guarantee term is no longer than 10 years;
8. The Community Group is willing to agree to all terms specified by the Loan Guarantee Agreement (see the Community Group Loan Guarantee Procedures); and
9. The asset, which is the subject of the loan guarantee, will be owned either by the Community Group or by Council.

If the Review Panel finds that one or more of the above criteria cannot be met the Community Group must immediately be advised in writing which of the criterion were not met and that its request has been declined.

## Monitoring of the Community Group's Financial Position

Council will monitor the viability of the Community Group's financial position over the term of the Guarantee by requiring the Community Group to submit the following to Council's Manager Business & Performance in an agreed format:

- an annual independently audited financial report; and
- the annual operating budget within thirty (30) days of its adoption by the Community Group.

## DEFINITIONS

A '**Community Group**' is defined as being:

- A Not for Profit organisation registered with the Australian Charities and Not-for-Profits Commission that;
  - Is a non-political organisation;
  - predominantly provides services and/or facilities to the Mansfield Shire community;and



- is preferably registered either under the *Corporations Act 2001* (administered by the Australian Securities and Investment Commission) or the *Associations Incorporation Reform Act 2012* (administered by Consumer Affairs Victoria).

As **Guarantor**, Council would be responsible for the repayment of the outstanding balance should the Community Group default on the loan.

A **Guarantee** is the legal agreement between the Community Group, Council and the financial institution providing the loan to the Community Group that sets the terms and conditions of Council's guarantee for the loan, as well as the procedures to be followed should a default on the loan be imminent or occur.

A **Review Panel** is comprised of the Manager Business & Performance, relevant Departmental Manager/Senior Coordinator and the Coordinator Governance and Risk, and is responsible for the assessment of the Loan Guarantee Application in accordance with this Policy and its Procedures.

## SCOPE

This policy applies to all requests to Council from community groups for Council to act as a Guarantor for a loan to construct a new, or to upgrade a facility or infrastructure.

## RESPONSIBILITIES

Councillors, managers and employees are to be familiar with, and adhere to the requirements of this Policy.

Adherence to this Policy will be overseen by the Manager Business and Performance, as the owner of the Policy.

## REFERENCES/RELATED POLICIES

*Corporations Act 2001*

*Associations Incorporation Reform Act 2012*

Mansfield Shire Council Community Initiated Projects Policy 2018

## IMPLEMENTATION

This policy is effective immediately.

## REVIEW DATE

This Policy is to be reviewed by 30 November 2024.



## AUTHORISATION TO IMPLEMENT POLICY

Signed: \_\_\_\_\_

Councillor

Witnessed: \_\_\_\_\_

Chief Executive Officer

Date: 15 December 2020

**Mansfield Shire Council reserves the right to review, vary or revoke this Policy at any time.**



## **COMMUNITY GROUP LOAN GUARANTEE POLICY PROCEDURES**

*The following procedures are designed to ensure that all decisions relating to this policy are made in a consistent and open manner.*

### **AIM**

The procedures outlined in this document are designed to implement the Community Group Loan Guarantee policy in a consistent and transparent manner.

### **APPLICATION**

These procedures must be followed whenever a community group submits a Loan Guarantee request to Council.

Compliance with these Procedures will be audited by the Manager Business and Performance and any deviation from process reported to the Chief Executive Officer.

### **APPLICATION PROCEDURE**

The Application process is outlined in Figure 1 and must be followed at all times.

All applications must be submitted using the Loan Guarantee Application Form (Attachment 1). Should an application be submitted in another form, the relevant Departmental Manager must provide the community group with a copy of the Application Form and request the application to be resubmitted.

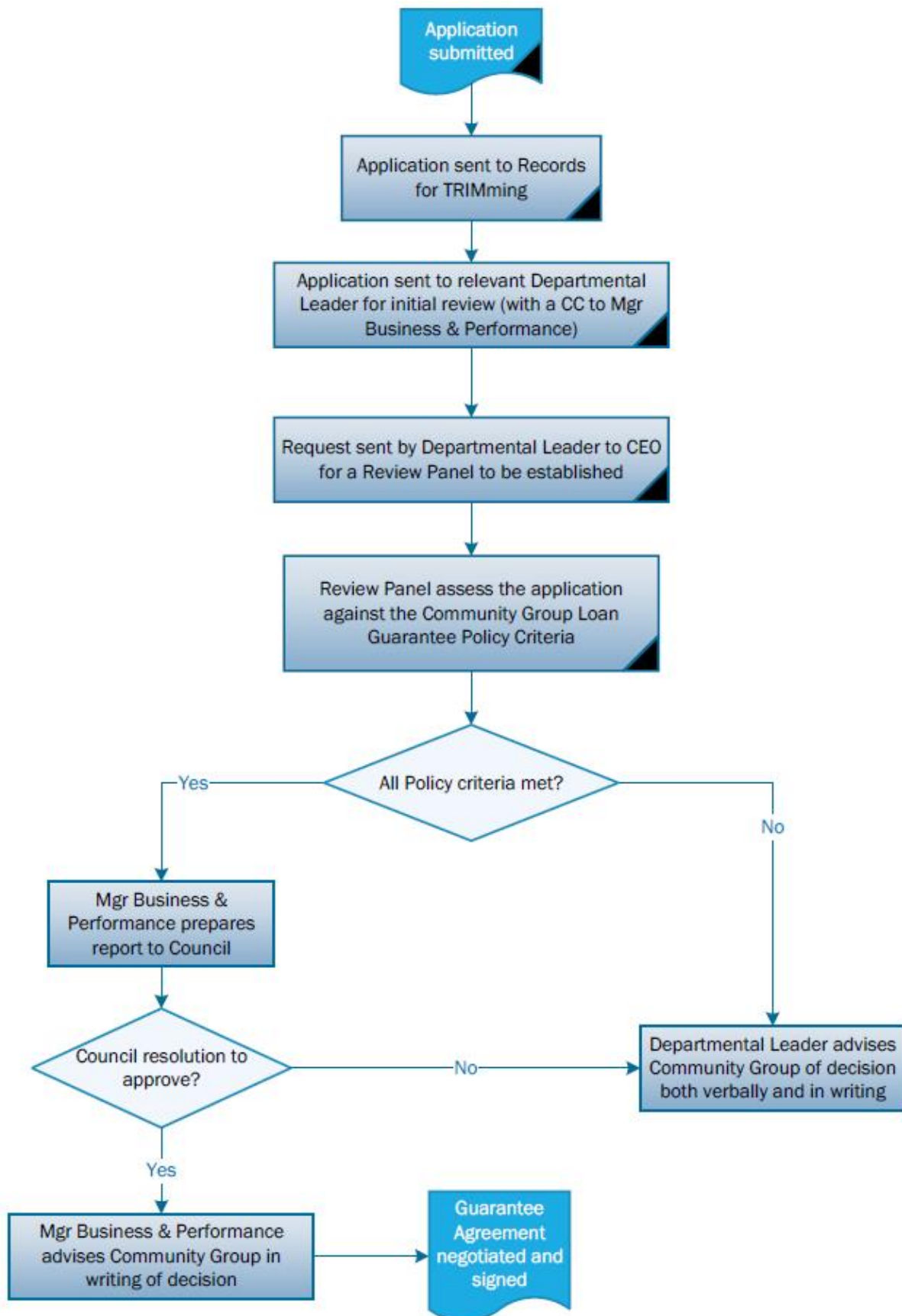
### **LOAN GUARANTEE AGREEMENT**

Should Council resolve to approve a Council Guarantee, the following must be included in the Guarantee's terms:

- A clear statement that the Guarantee only relates to Council standing in the position of the community group (ie, the debtor) in the event of a default. It must not indemnify the debt for any other reason.
- Processes to ensure the community group notifies Council immediately upon knowing there is a possibility of a default on the loan repayments.
- Administrative arrangements identifying how the community group and its assets will be managed in the event of a loan payment(s) not being made and/or the Guarantee being called upon.
- A term stating that the Council guaranteed debt must be repaid prior to any other loan liabilities.
- A clear statement that there is no ability to extend the term of the Guarantee.
- The procedural steps to be followed in the event of a loan default by the community group, including:
  - how the financial institution will notify Council of the community group's failure to pay a loan instalment(s);
  - the right for Council to continue with the loan repayment schedule rather than having to repay a lump sum;
  - the procedure to be adopted by the financial institution to ensure it exhausts all other options to allow the community group to rectify the default on the loan prior to calling on the Guarantee.



FIGURE 1





**ATTACHMENT 1**

**LOAN GUARANTEE APPLICATION FORM**

Name of community organisation: \_\_\_\_\_

ABN: \_\_\_\_\_

Postal address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Key contact name: \_\_\_\_\_

Position held within community group: \_\_\_\_\_

Phone number: \_\_\_\_\_

Alternative contact name: \_\_\_\_\_

Position held within community group: \_\_\_\_\_

Phone number: \_\_\_\_\_

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Name of project for which the guarantee is sought: \_\_\_\_\_

Loan amount: \$ \_\_\_\_\_  
(Note: cannot be more than \$100,000)

Loan term: \_\_\_\_\_  
(Note: cannot be longer than 10 years)

Applicable interest rate: \_\_\_\_\_ %

Fixed or variable loan: \_\_\_\_\_

Repayments per annum: \$ \_\_\_\_\_ (Interest)

\$ \_\_\_\_\_ (Principal)



### PROJECT OVERVIEW

**Total project cost:** \$ \_\_\_\_\_

Funded by:

Cash contribution: \$ \_\_\_\_\_

Loans: \$ \_\_\_\_\_

Government grants: \$ \_\_\_\_\_

In-kind contributions: \$ \_\_\_\_\_

Other: \$ \_\_\_\_\_

Other: \$ \_\_\_\_\_

**Total project funding:** \$ \_\_\_\_\_

(Must add up to total project cost)

I, \_\_\_\_\_, hereby certify that:

- I have the appropriate power/delegation to submit the Loan Guarantee Application on behalf of \_\_\_\_\_;
- the community group has read, and understands the requirements of, the Mansfield Shire Council’s Community Group Loan Guarantee Policy;
- that should Council agree to be Guarantor, we will pay all fees and charges relating to the Loan Guarantee; and
- the information which forms part of this application is true and correct.

Signature of Community Group Representative: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Witness’s Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_





## INFORMATION TO BE PROVIDED WITH THIS APPLICATION

The following information must be provided to Council with the Loan Guarantee Application Form. Incomplete applications will not be processed.

We encourage you to provide as much information as possible so that your application can be assessed in a speedy and informed manner.

- Signed and witnessed Loan Guarantee Application Form.
- A written submission outlining how the project creates demonstrable benefit to the broader community and how the project aligns with the Council Plan and other Council Policies.
- An outline of the community group's attempts to secure funding from alternative sources.
- Independently audited financial statements for the previous three (3) years.
- Cash flow projections for the guarantee term demonstrating there is capacity for the community group to meet all loan repayments.