

Borrowing Policy



BITOU MUNICIPALITY

("the Municipality")

BORROWING POLICY AND GUIDELINES

Borrowing Policy

1. Purpose

The purpose of this policy is to establish a borrowing framework for the Municipality and to set out the objectives, policies, statutory requirements and guidelines for the borrowing of funds, in order to:

- 1.1. Manage interest rate and credit risk exposure;
- 1.2. Maintain debt within specified limits and ensure adequate provision for the repayment of debt;
- 1.3. ensure compliance with all Legislation and Council policy governing borrowing of funds.

2. Legislative Framework

All borrowings made by the Municipality shall be subject to the requirements of the Local Government: Municipal Finance Act, 2003 ("the MFMA") and the Municipal Regulations on Debt Disclosure ("the Disclosure Regulations") made thereunder and published under GN R 492 in Government Gazette 29966 of 15 June 2007.

3. Definitions

Any word or expression used in this policy shall, unless the context clearly requires a different interpretation, bear the same meaning attached to it in the MFMA or the Disclosure Regulations, as the case may be; provided that if there is any conflict between a definition contained in the MFMA and a definition contained in the Disclosure Regulations, then the definition contained in the MFMA shall prevail.

4. Types of Debt

4.1. This policy applies to the debt incurred by the Municipality through the issue of municipal debt instruments or in any other way.

4.2. Without derogating from the generality of the preceding subparagraph, this policy will apply:

- 4.2.1. To any debt, whether short-term or long term;

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- 4.2.2. To any debt incurred pursuant to any financing agreement, which includes any of the following agreements under which the Municipality undertakes to repay a long-term debt over a period of time:
- 4.2.2.1. Loan agreements;
 - 4.2.2.2. Leases;
 - 4.2.2.3. Instalment purchase contracts;
 - 4.2.2.4. Hire purchase arrangements;
- 4.2.3. To any debt created by the issuance of municipal debt instruments, including:
- 4.2.3.1. Any note;
 - 4.2.3.2. Bond; or
 - 4.2.3.3. Debenture; and
- 4.2.4. To any contingent liability such as that created by guaranteeing a monetary liability or obligation of another.

5. Principles Guiding Borrowing Practices

The following principle shall guide the borrowing practices of the Municipality, namely:

- 5.1. Risk Management: The need to manage interest rate risk, credit risk exposure and to maintain debt within specified limits is the foremost objective of the borrowing policy. To attain this objective, diversification is required to ensure that the Chief Financial Officer prudently manages interest rate and credit risk exposure;
- 5.2. Cost of Borrowings : The borrowings should be structured to obtain the lowest possible interest rate, on the most advantageous terms and conditions, taking cognisance of borrowing risk constraints, infrastructure needs and the borrowing limits determined by Legislation;
- 5.3. Prudence: Borrowings shall be made with care, skill, prudence and diligence. To this end, officials of the Municipality are required to:
- 5.3.1. adhere to this policy, and other procedures and guidelines;
 - 5.3.2. exercise due diligence;
 - 5.3.3. prepare all reports in a timely fashion;
 - 5.3.4. ensure strict compliance with all Legislation and Council policy.

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6. Factors to be taken into account when borrowing

6.1. The Municipality shall take into account the following factors when deciding whether to incur debt:

- 6.1.1. the type and extent of benefits to be obtained from the borrowing;
- 6.1.2. the length of time the benefits will be received;
- 6.1.3. beneficiaries of the acquisition or development financed by the debt;
- 6.1.4. the impact of interest and redemption payments on both current and forecast income;
- 6.1.5. the current and future capacity of the Municipality's revenue base to pay for borrowings;
- 6.1.6. other current and projected sources of funds;
- 6.1.7. likely movements in interest rates for variable rate borrowings;
- 6.1.8. competing demands for funds;
- 6.1.9. timing of money market interest rate movements and the long term rates on the interest rate curve.

6.2. The Municipality will, in general, seek to minimise its dependence on borrowings in order to minimise future revenue committed to debt servicing and redemption charges.

7. Sources of Borrowings

7.1. Subject to any particular determination of the Council of the Municipality, the Municipality may enter into financing agreements with:

- 7.1.1. Registered South African Banks;
- 7.1.2. The Development Bank of Southern Africa;
- 7.1.3. Vendors or suppliers of goods acquired under leases, instalment purchase contracts or hire purchase arrangements;
- 7.1.4. Any other institution approved by the Council from time to time.

7.2. Unless the Council of the Municipality specifically determines otherwise, the Municipality shall not incur any debt by the issuance of any municipal debt instruments.

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8. Short-term Debt

8.1. The Municipality may incur short-term debt only in accordance with and in the circumstances contemplated in Section 45 of the MFMA.

8.2. In particular, the provisions of section 45 (1) of the MFMA must be noted, these requiring that the Municipality may incur short-term debt only when necessary to bridge:

8.2.1. Shortfalls within a financial year during which the debt is incurred, in expectation of specific and realistic anticipated income to be received within that financial year; or

8.2.2. Capital needs within a financial year, to be repaid from specific funds to be received from enforceable allocations or long-term debt commitments.

8.3. Furthermore, as required by section 45 (4) of the MFMA, the Municipality must pay off short term debt within the financial year.

9. Overdraft Facility

9.1. Overdraft facilities are regulated by Section 45(3) of the MFMA.

9.2. The current policy of the Council of the Municipality is that the Municipality shall not have an overdraft facility.

10. Long Term Debt

10.1. The Municipality may incur long-term debt only in accordance with and in the circumstances contemplated in Section 46 of the MFMA.

10.2. Long-term debt may be incurred only for the purposes contemplated in Section 46(1) of the MFMA, namely:

10.2.1. Capital expenditure on property, plant or equipment to be used for the purpose of achieving the objects of local government, as set out in Section 152 of the Constitution; or

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10.2.2. Re-financing existing long term debt, subject to section 46(5).

11. Council approval

Sections 45(2) and 46(2) require that short-term debt and long-term debt respectively may be incurred only if:

- 11.1. A resolution of the Council, signed by the Mayor, has approved the debt agreement;
- 11.2. The accounting officer has signed the agreement or other document which creates or acknowledges the debt.

12. Refinancing

- 12.1. Short-term debt may not be renewed or refinanced where that would have the effect of extending the short-term debt into a new financial year.
- 12.2. The Municipality may borrow in order to refinance long-term debt subject to the conditions contained in Section 46(5) of the MFMA.

13. Early repayment of loans

- 13.1. No loans will be repaid before due date unless there is a financial benefit to the Municipality.
- 13.2. The Municipality shall therefore assess the nature and extent of any benefits of early repayment before it makes any such early repayment.
- 13.3. Cognisance must be taken of any early repayment penalty clauses in the initial loan agreement, as part of the assessment.

14. Debt Repayment Period

- 14.1. As far as is practical, cognisance must be taken of the useful lives of the underlying assets to be financed by the debt for purposes of determining the duration of the debt.
- 14.2. Should it be established that it is cost effective to borrow the funds for a duration shorter than that of the life of the asset, the Municipality should endeavour to negotiate terms for the loan agreement on a shorter duration.

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15. Provision for Redemption of Loans

- 15.1. The Municipality may set up sinking funds to facilitate loan repayments, especially when the repayment is to be met by a bullet payment on the maturity date of the loan.
- 15.2. Such sinking funds may be invested directly with the Lender's Bank.
- 15.3. The maturity date and accumulated value of such investment must coincide with the maturity date and amount of the intended loan that is to be repaid.

16. Non-Repayment or Non-Servicing of Loan

- 16.1. The Municipality must honour all its loan obligations.
- 16.2. Failure to effect prompt payment may jeopardise the Municipality's credit rating and adversely affect the ability of the Municipality to raise loans in the future at favourable interest rates.
- 16.3. In addition to ensuring the timely payment of the loans, the Municipality must adhere to the covenants stipulated in the loan agreements, including, in particular, the following where applicable:
 - 16.3.1. furnishing audited annual financial statements;
 - 16.3.2. maintaining long-term credit rating;
 - 16.3.3. reporting of material changes in financial position of the Municipality.

17. Borrowing for Investment Prohibited

The Municipality shall not under any circumstances borrow funds for the purposes of investing them.

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18. Security

- 18.1. Section 48 of the MFMA provides that the Municipality may provide security for any of its debt obligations in any of the forms referred to in Section 48(2).
- 18.2. Such security shall be given only pursuant to a resolution of the Council, which resolution must comply with the provisions of Section 48(3), (4) and (5) of the MFMA.

19. Disclosure

- 19.1. Section 49 of the MFMA requires that any person involved in the borrowing of money by a municipality must, when interfacing with a prospective lender or when preparing documentation for consideration by a prospective investor, disclose all relevant information in that person's possession or within that person's knowledge that may be material to the decision of that lender or investor, and take reasonable care to ensure the accuracy of any information disclosed.
- 19.2. In addition the Disclosure Regulations establish detailed requirements for the disclosure of information to prospective lenders and investors. Regulations 2, 3, 4, 5, 15, 16 and 17 are of particular importance to the Municipality, given the nature of the borrowings which it intends to make.

20. Guarantees

The Municipality may issue guarantees only in accordance with the provisions of Section 50 of the MFMA.

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21. Internal Control

The accounting officer shall ensure that mechanisms, procedures and systems are put in place to ensure that:

- 21.1. Duties are separated in order to prevent fraud, collusion and other misconduct;
- 21.2. loan agreements and contracts are kept in proper safe custody;
- 21.3. there is a clear delegation of duties relating to the borrowing process;
- 21.4. senior officials check and verify all transactions;
- 21.5. transactions and repayments are properly documented;
- 21.6. a Code of ethics and standards is established and adhered to;
- 21.7. procedures relating to the borrowing process are established.

22. National Treasury Reporting and Monitoring Requirements

The Municipality shall promptly submit all returns and reports relating to borrowings as required by National Treasury, including reports on the Municipality's external interest paid each month, and the quarterly itemization of all of its external borrowings.

23. Other Reporting and Monitoring Requirements

- 23.1. The Municipality shall on a monthly basis perform the following control and reporting functions relevant to borrowings:
 - 23.1.1. Reconciliation of bank accounts;
 - 23.1.2. Payment requisition verification and authorization;
 - 23.1.3. Completion of South African Reserve Bank returns;
 - 23.1.4. Maintain schedule of payment dates and amounts;
 - 23.1.5. Complete National Treasury Cash Flow returns;
 - 23.1.6. Submission of particulars of borrowings as required by Section 71 of MFMA;
 - 23.1.7. Perform analysis of ratios;
 - 23.1.8. Scrutinise loan agreements to ensure compliance with loan covenants.

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23.2. The Municipality shall on a quarterly basis perform the following control and reporting functions relevant to borrowings:

23.2.1. Submit National Treasury Borrowings return

23.2.2. Prepare debt schedules for reporting to the Executive Committee.

24. Related Policies

This policy must be read in conjunction with the following other policies of the Municipality:

24.1. Budget Process Policy;

24.2. Cash Management and Investment Policy;

24.3. Virement Policy.

25. Municipal Manager to Implement Policy

The Municipal Manager, as accounting officer of the Municipality, shall be responsible for implementing this policy, provided that he or she may delegate in writing any of his or her powers under this policy to any other official of the Municipality.

26. Commencement

27. This policy shall come into force on a date to be determined by Council of the Municipality.