



INVESTMENT POLICY P3.0162.6

INVESTMENT POLICY

DIVISION: Customer and Corporate Strategy

BRANCH: Finance and Property Services

CATEGORY: 2

Glossary of Terms	3
1. PURPOSE OF THIS POLICY	7
2. POLICY OBJECTIVE	7
3. POLICY GUIDELINES.....	8
3.1 Legislative Requirements	8
3.2 Delegation of Authority	8
3.3 Prudent Person Standard	8
3.4 Ethics and Conflicts of Interest	8
4. APPROVED INVESTMENTS	9
5. CURRENCY	9
6. PROHIBITED INVESTMENTS	9
7. RISK MANAGEMENT GUIDELINES	10
7.1 Credit and Maturity Guidelines	10
8. INVESTMENT STRATEGY	13
9. LIQUIDITY REQUIREMENTS	13
10. INVESTMENT ADVISORS	13
11. MEASUREMENT	13
12. PERFORMANCE BENCHMARKS	13
13. REPORTING AND REVIEWING OF INVESTMENTS	14
14. REVIEW AND VARIATION TO INVESTMENT POLICY	14
15. AUDIT REQUIREMENTS	14
16. SCHEDULES	14

Glossary of Terms

Authorised Deposit Taking Institutions (ADI) - these are either a Bank, Credit Union or Building Society that is authorised under the *Banking Act 1959* (Cwth) to take deposits from customers. These institutions are monitored by the Government's financial regulator the Australian Prudential Regulatory Authority (APRA).

Approved Investments - Investments limited to those allowed by the Ministerial Investment Order, or as otherwise further restricted by this Policy. These include:

- *Commonwealth/State/Territory Government securities e.g. bonds:-*
These are interest paying securities which are issued by one of the above Australian government bodies and are guaranteed by that issuer. As such, these securities carry the same credit rating as the issuing government body.
- *Interest bearing deposits or senior bonds issued by an authorised deposit taking institution (ADI):-*
These are interest paying deposits such as term or at-call deposits and the senior bonds of an authorised deposits taking institution such as a bank, building society or credit union. The interest paid may be of a fixed and/or a variable/floating nature. Senior bonds are also commonly referred to as senior fixed or senior floating rate notes.
- *Bills of exchange, (<200 days duration), guaranteed by an authorised deposit taking institution (ADI):-*
These are short term investments guaranteed by the issuing ADI and are purchased at a discount to the final price to be paid on maturity. These securities generally provide better accessibility than term deposits and carry the same credit rating of the comparable term deposit from the same issuing financial institution. These investments may also be known as "bank bills".
- *Debentures issued by NSW Local Government;*
Debentures are income paying securities issued and guaranteed by a NSW Local Government entity.
- *Deposits with NSW Treasury &/or Investments in NSW Treasury Corporation's Investment Management Funds (ex-Hour Glass Facility):-*
NSW Treasury Corporation Investment Managed (NSW TCorpIM) Funds are managed funds that invest in a range of pre-approved investments – the funds are not guaranteed by the NSW Government. Whilst some NSW TCorpIM Funds eligible under NSW Local Government Ministerial Investment Order allow for investment in the share market, under Camden Council's Investment Policy only those options that are solely invested in the cash and fixed interest sectors are eligible.

Bank Bill Swap Rate (BBSW) - BBSW is the average of mid-rate bank bills and is calculated daily. It is used as an independent reference. Floating rate securities are most commonly reset quarterly to the 90 day BBSW.

Basel III - The Basel Committee for Banking Supervision initially met in 2008 in Basel, Switzerland to devise new global liquidity regulations in reaction to banking weaknesses uncovered during the Global Financial Crisis. The area most relevant to Council is that any obligation a bank has maturing in the next 30 days is treated as if it was cash maturing in 1 day and the bank must have sufficient assets on hand to cover every obligation maturing in the 30 day timeframe. Banks need to keep highly liquid assets that attract lower yields and these costs are passed on in the form of lower interest rates. Consequently, banks do not allow clients to “break” term deposits without a 31 day notice and then with a likely steep reduction in the interest rate being paid on the deposit.

Bloomberg Ausbond Index - This Index is the NSW Local Government industry standard benchmark formerly known as the UBS Australia Bank Bill Index. This is the generally accepted benchmark for short term, conservative cash and fixed income investors and allows benchmarking against a notional rolling parcel of bank bills averaging 45 days which is calculated by portfolio of 90 day bank bills over a specified period.

Credit Risk - The risk that a party or guarantor will fail to fulfil its obligations. In the context of this document it relates to the risk of loss due to the failure of the institution/entity with which an investment is held to pay the interest and/or repay the principal of an investment.

Debenture - A debenture is a document evidencing an acknowledgement of a debt, which a company has created for the purpose of raising capital. Debentures are issued by companies in return for medium and long-term investment of funds by lenders.

Diversification - The requirement to place investments in a broad range of products and counterparties so as not to be over exposed to a particular sector of the investment market.

FRN - A Floating Rate Note (FRN) is a medium to long term fixed interest investment where the coupon is a fixed margin (“coupon margin”) over a benchmark, also described as a “floating rate”. The benchmark is usually the BBSW and is reset at regular intervals – most commonly quarterly.

Interest Rate Risk - Interest rate risk is the risk that the fair value or future cash flow of an investment will fluctuate because of changes in market interest rates.

Investment Portfolio - The total pool of Council’s cash and fixed income investments.

Liquidity Risk - The risk that Council runs out of cash, is unable to redeem the investments at a fair price within a timely period, and thereby incurs additional costs (or in the worst case is unable to execute its spending plans) – either due to its own liquidity management, or through changes in the liquidity profile of an investment.

LGGR - Local Government (General) Regulation 2021 NSW.

Market Risk - The risk that fair value or future cash flows of an investment will fluctuate due to changes in market prices or benchmark returns will unexpectedly overtake the investment's return.

Maturity Risk - The risk relating to the length of term to maturity of the investment. The longer the term, the greater the length of exposure and risk to market volatilities from changes in interest rates, market conditions and deteriorating credit.

NCD - (Negotiable Certificates of Deposit) are similar to Bank bills and are issued by institutions for a fixed amount (usually for a period of 185 days or less but sometimes for longer terms). They are sold at a discounted face value i.e an NCD for \$100,000 with a 180 day maturity @ 3% would be purchased for approx. \$98,520. The difference is the interest earned. They can also be traded in the secondary market and are therefore more liquid than term deposits. Sometimes referred to as "Transferable Certificate of Deposit" (TCD).

Official Cash Rate - This is the rate set by the Reserve Bank of Australia and is seen as the "risk free rate" for cash investments.

OLG - NSW Office of Local Government

Prohibited Investments - Investment classes that have been noted by the OLG in its guidelines for NSW Local Government Investment Policy and draft policy document following the Global Financial Crises. These include, but are not limited to, any investment carried out for speculative purposes, such as:

- *Derivative based instruments:-*
Derivatives is a wide ranging category of investments whose value is tied to the fluctuations of an underlying asset. Derivatives are used to hedge investment risk or for speculative purposes. Derivatives include futures contracts, forward contracts, swap agreements, and options. Refer below for definitions.
- *Principal only investments or securities that provide nil or negative cash flow:*
This is in reference to a popular type of pre-GFC investment where the capital of a derivative based instrument was "protected" by an underlying zero coupon bond which would eventually provide an investor's capital upon maturity if the product itself defaulted. A zero coupon bond is issued at a deep discount to par and pays out a known rate upon its maturity with no interest payments along the way.
- *Standalone securities issued that have underlying futures, options, forward contracts and swaps of any kind:-*
Futures and Forwards are agreements between two parties for the exchange of an asset at an agreed-upon price and date. Futures are standardized and done on a market and forwards are done "over-the-counter" with little or no regulation.
- *Options are similar to futures, except the buyer/seller has an option, not an obligation, to sell/buy at the stated price.*
- *Swap agreements are made between two parties to trade their loan, currency or commodity arrangements. For example, a holder of a fixed rate loan may enter an interest swap with the holder of a floating rate loan whereby the parties take onboard each other's obligation to the benefit of their specific needs.*

- *Leveraging, or borrowing to invest, is also prohibited.*
- *Subordinated bonds issued by an ADI: these bonds rank below an ADI's covered bonds, term deposits and senior bonds in terms of wind-up obligations. Subordinated bonds may be converted to shares in the case of a bank's cash constraints.*

Preservation of Capital - Preservation of capital refers to an investment strategy with the primary goal of preventing losses in an investment portfolio's total value.

Prudent person standard - Prudent person standard is a legal standard restricting the investing and managing of a client's account to what a prudent person seeking reasonable income and preservation of capital might exercise for his or her own investment.

Responsible Accounting Officer - Responsible Accounting Officer (RAO) of a council means a member of the staff of the council designated by the General Manager, or if no such member has been designated, the General Manager. (LGGR, clause 196).

Rollover Risk - The risk that income will not meet expectations or budgeted requirements because future interest rates are lower than expected. As deposits and bank securities mature and need to be reinvested, margins may contract thereby resulting in a reduction of income over time.

Securities - For financial markets these are the many types of financial instruments (i.e., documents) that are traded in financial markets (except derivatives & contracts), e.g., bonds and shares.

Term Deposit - Funds invested with a financial institution at a predetermined rate that applies for the duration of the deposit. The principal is held on deposit for a fixed term with interest payable at set periods during the term and/or on maturity. Increasingly banking regulation requires term deposits to be issued on "unbreakable" terms or at a minimum funds cannot be withdrawn for a minimum period of 31 days.

At-call deposits - Cash invested on an overnight basis. Funds can be recalled or re-invested before 11am on the following business day.

1. PURPOSE OF THIS POLICY

The purpose of this Policy is to ensure that Council and its representatives exercise care, diligence and skill that a prudent person would exercise in investing Council's funds in seeking to first minimise the risk of loss or liquidity constraints, and secondly to receive the appropriate returns. It details:

- Council Funds covered by this Investment Policy Statement;
- Council's objectives for its investment portfolio/s;
- how investments are to be undertaken;
- the applicable risks to be managed;
- any constraints and other prudential requirements to apply to the investments of funds having regard to the applicable legislation and regulations governing Council investments;
- the manner in which compliance with the Policy & Strategy will be monitored and reported; and
- appropriate benchmarks for each category of investment.

2. POLICY OBJECTIVE

The purpose of this policy is to provide a framework for the optimum investment of Camden Council's funds at the most favourable rate of interest available to it at the time to maximize returns whilst having due consideration of risk tolerance, liquidity and security for its investments.

While exercising the power to invest, consideration needs to be given to the preservation of capital, liquidity and the return on investment. Council therefore has several primary objectives for its investment portfolio:

- Compliance with legislation, regulations, the "prudent person" tests of the Trustee Act and best practice guidelines.
- Preservation of capital is the main priority of the investment portfolio. Investments are to be placed in a manner that seeks to ensure security and safeguarding of the investment portfolio. This includes managing credit and interest rate risk within identified thresholds and parameters.
- Investments should be allocated to ensure there is sufficient liquidity to meet all reasonably anticipated cash flow requirements, as and when they fall due, without incurring the risk of significant costs due to the unanticipated sale of an investment.
- Investments are expected to maximize returns in line with Council's risk tolerance, having taken due care to ensure that Council deals on the most efficient terms reasonably possible.

3. POLICY GUIDELINES

3.1 Legislative Requirements

All investments are to comply with the following:

- *Local Government Act 1993; S142 & S625;*
- *Local Government (General) Regulation 2021; Clause 212;*
- *NSW Trustee Act 1925; S14A(2), S14C(1)(2);*
- Ministerial Investment Order 2011;
- Local Government Code of Accounting Practice and Financial Reporting;
- Australian Accounting Standards;
- Office of Local Government Circulars; and
- Office of Local Government Investment Guidelines.

3.2 Delegation of Authority

Authority for implementation of the Investment Policy is delegated by Council to the General Manager in accordance with the *Local Government Act 1993*.

The General Manager may in turn delegate the day-to-day management of Council's investments to the Responsible Accounting Officer or senior staff, subject to regular review. The Responsible Accounting Officer is the Chief Financial Officer.

Delegated staff will have the appropriate level of skills to undertake the investment functions of Council.

Officers delegated to manage Council's investments shall be recorded and are required to acknowledge that they have received a copy of this Policy and understand their obligations in this role.

3.3 Prudent Person Standard

Council has a fiduciary responsibility when investing. Council's investments will be managed with care, diligence and skill that a prudent person would exercise. As trustees of public monies, officers are to manage Council's investment portfolio to safeguard the portfolio in accordance with the spirit of this Investment Policy, and not for speculative purposes.

3.4 Ethics and Conflicts of Interest

Officers shall refrain from personal activities that would conflict with the proper execution and management of Council's investment portfolio. This policy requires officers to disclose any conflict of interest to the General Manager.

Independent advisors are also required to declare that they have no actual or perceived conflicts of interest.

Third Party suppliers and dealers - Council will structure its affairs to minimise costs, favouring dealing directly with other institutions with the assumption of better net terms. Where intermediation is necessary, ideally, arrangements should result in a rebate of brokerage.

At times, it will be advantageous to deal with third parties that are remunerated on a transaction rather than retainer basis. Council will use such suppliers where favourable, and have regard to obtaining the most favourable terms. Specifically, Council will have regard to:

- Administrative cost savings;
- Ability to access higher (retail) rates where these outweigh any additional direct transaction costs;
- Access to ADIs that would not normally have an institutional direct channel i.e. Cominvest; and
- Limited access or Initial Public Offering (IPO) deals, or other secondary market opportunities that are only available from specific sources.

Council will take steps to ensure that:

- Any suppliers used are appropriately licensed, reputable and capable;
- Funds and identification data are sufficiently secured;
- Third party arrangements do not materially worsen Council's credit risks by creating exposure to the dealer as counterparty; and
- Remuneration arrangements are reasonable and transparent, whether paid by Council or by the issuer directly.

4. APPROVED INVESTMENTS

Investments are limited to those allowed by the Ministerial Investment Order as further restricted to include:

- Commonwealth/State/Territory Government securities e.g. bonds;
- Interest bearing deposits or senior bonds issued by an authorised deposit taking institution (ADI);
- Bills of exchange, (<200 days duration), guaranteed by an authorised deposit taking institution (ADI);
- Debentures issued by NSW Local Government; and
- Deposits with NSW Treasury &/or Investments in NSW Treasury Corporation's Investment Management Funds - currently the Cash Fund and Short Term Income Fund.

5. CURRENCY

All investments must be made in Australian dollars only.

6. PROHIBITED INVESTMENTS

This investment policy prohibits but is not limited to any investment carried out for speculative purposes, including;

- Derivative based instruments;
- Principal only investments or securities that provide potentially nil or negative cash flow;
- Stand-alone securities issued that have underlying futures, options, forwards contracts and swaps of any kind; and
- Other investments excluded by the Investment Order.

This policy also prohibits the use of leveraging (borrowing to invest) of an investment.

However, nothing in the Policy shall prevent the drawing down of a loan for a specific purpose and the placement of funds on a short-term deposit ahead of their deployment.

7. RISK MANAGEMENT GUIDELINES

Investments are expected to achieve a market average rate of return in line with Council's risk tolerance and are to be considered in light of the following key criteria (see also glossary of terms);

1. Preservation of Capital - the requirement for preventing losses in an investment portfolio's total value (considering the time value of money);
2. Liquidity risk - the risk an investor is unable to redeem the investment at fair price within a timely period;
3. Diversification - setting limits to the amounts invested with a particular financial institution or government authority to reduce credit risk;
4. Credit risk - the risk that an institution/entity Council has invested in fails to pay the interest and or repay the principal of an investment;
5. Market risk - the risk that the fair value of future cash flows of an investment will fluctuate due to changes in market prices;
6. Maturity risk - the risk relating to the length of term to maturity of the investment. The longer the term, the greater the length of exposure and risk to market volatilities.

7.1 Credit and Maturity Guidelines

Investments are to comply with four key criteria relating to:

- **Foreign Owned Banks:** limit exposure to overseas financial markets;
- **Institutional Credit Framework:** limit exposure to individual institutions based on their credit ratings;
- **Overall Portfolio Credit Framework:** limit overall credit exposure of the portfolio. and;
- **Term to Maturity Framework:** limits based upon maturity of securities.

(a) Foreign Owned Banks

Foreign subsidiary banks which are monitored by the Australian Prudential Regulatory Authority (APRA) may be invested in subject to a maximum 25% of the total portfolio.

Those entities listed as a Branch of a Foreign Bank whilst an Authorised Deposit Taking Institution (ADI) and eligible to be invested under the prevailing Ministerial Investment Order are not an approved investment institution under this Policy.

A foreign subsidiary bank may have offshore shareholders, but is separately incorporated in Australia and is covered by the Australian Government Savings Guarantee to the same extent as other Australian banks. Australian depositors are the most senior creditor.

In contrast, a foreign branch is not a separate legal entity, and therefore could be subject to claims if offshore assets of the group became impaired.

(b) Institutional Credit Framework

Exposure to an individual institution will be restricted by their long term credit rating so that single entity exposure is limited, as detailed in the table below:

Long Term Credit Ratings (maturities > 12mos)	Institution Max %
AAA	40%
AA	40%
A	35%
BBB	15%
APRA regulated Foreign Subsidiary Banks	5%

NSW TCorp IM Funds *	Max %
TCorpIM Cash Fund	30%
TCorpIM Short Term Income Fund	20%

Credit ratings are based upon the Standard & Poor's Investment Rating, or equivalent, where a Standard & Poor's Investment Rating does not exist.

If any of the Council's investments are downgraded such that they no longer fall within the investment policy limits, they will be divested as soon as practicable having regard to potential losses resulting from early redemption and subject to minimising any loss of capital that may arise from compliance with this provision.

A resolution of Council is required for the early termination of an investment where a potential loss of capital is to be realised.

* The NSW TCorpIM Cash Fund and Short Term Income Fund are unrated, but the underlying investments are highly rated and the funds are managed to a credit score commensurate with AAA or AA rating respectively.

(c) Overall Portfolio Credit Framework

To control the credit quality on the entire portfolio, the following credit framework limits the percentage of the total portfolio exposed to particular credit rating categories.

Long Term Credit Ratings (maturities > 12mos)	Institution Max %
AAA	100%
AA	100%
A	50%
BBB	35%
APRA regulated Foreign Subsidiary Banks*	25%
NSW Treasury Corp Deposits and TCorpIM Funds	50%

Credit ratings are based upon the Standard & Poor's Investment Rating, or equivalent, where a Standard & Poor's Investment Rating does not exist.

* Exposures to the Foreign Subsidiary Banks must also fit within the banks' rating limit category in the overall portfolio credit limit table.

(d) Term to Maturity Framework

The investment portfolio is to be invested within the following maturity constraints:

Overall Portfolio Term to Maturity Limits		
Portfolio % ≤ 1 year	Min 40%	Max 100%
Portfolio % > 1 year ≤ 3 year	Min 0%	Max 60%
Portfolio % > 3 year ≤ 5 year	Min 0%	Max 30%

8. INVESTMENT STRATEGY

An Investment Strategy will run in conjunction with the Investment Policy. The investment strategy will be reviewed with an independent investment advisor once a quarter. The Strategy will outline:

- Council's current cash flow expectations and the implications for deviations from a long-term liquidity profile;
- Diversification: the allocation of investment type, credit quality, counterparty exposure and term to maturity profile;
- Market conditions and the appropriate responses - particularly relative positioning within the limits outlined in this policy;
- Relative return outlook, risk-reward considerations, assessment of the market cycle and hence constraints on risk; and
- Optimisation of overall eligible investments for Council's portfolio.

9. LIQUIDITY REQUIREMENTS

Liquidity refers to the minimum level of liquid funds available to finance day to day requirements. Cash flow must be monitored daily and Council will ensure that it has access to the required funds to meet liquidity needs.

10. INVESTMENT ADVISORS

Council's investment advisor must be approved by the General Manager and licensed by the Australian Securities and Investment Commission. The advisor must be an independent person who has no actual or potential conflict of interest in relation to investment products being recommended and is free to choose the most appropriate product within the terms and conditions of this Investment Policy.

The independent advisor is required to provide written confirmation that they do not have any actual or potential conflicts of interest in relation to the investments they are recommending or reviewing, including that they are not receiving any commissions or other benefits in relation to the investments being recommended or reviewed. An exception applies where any commission is fully remunerated to Council. The advisor shall also assist Council to ensure that the commercial terms on which Council is offered investments by banks, fund managers, issuers and brokers are fair and reasonable.

11. MEASUREMENT

The investment return for the portfolio is to be regularly reviewed by Council's financial advisor by assessing the market value of the portfolio. The market value is to be assessed at least once a month to coincide with monthly reporting.

12. PERFORMANCE BENCHMARKS

The performance of the investment portfolio shall be measured against the industry standard Bloomberg Ausbond Bank Bill Index and/or the Official Cash Rate.

Monies invested "At Call" should where possible reference the Official Cash Rate.

It is also expected that Council will take due steps to ensure that any investment is executed at the best price possible.

13. REPORTING AND REVIEWING OF INVESTMENTS

Documentary evidence must be held for each investment and details thereof maintained in an investment Register.

The documentary evidence must provide Council legal title to the investment (noting that for some investments, such as NSW TCorpIM Funds, they will be held in safe custody with Council nominated as beneficial owner).

All investments are to be appropriately recorded in Council's financial records and reconciled monthly to the General Ledger.

A monthly report will be provided to Council. The report will detail the investment portfolio in terms of investments currently held by Council, including the investments' maturity dates and interest rate return and the issuing institution.

14. REVIEW AND VARIATION TO INVESTMENT POLICY

This Investment Policy will be reviewed at least once a year or as required in the event of legislative changes or extreme market changes. Should any legislative change occur, any inconsistencies will prevail over the Policy, and Council will immediately initiate a Policy review.

All changes to this Investment Policy are to be reported to Council as soon as practicable with any amendments to the Investment Policy to ultimately be by way of Council resolution.

15. AUDIT REQUIREMENTS

Council's external auditors will require independent certification from the relevant financial institutions (banks, fund managers, etc) to confirm the balance of investments held on Council's behalf at the end of the financial year.

Council's external auditor will also periodically review the adequacy of the investment policy, strategy and management's internal controls as part of their audit review program.

16. SCHEDULES **(twelve pages)**

- Schedule 1 – Standard & Poor's Ratings Description;
- Schedule 2 – Copies of Relevant Legislation.

SCHEDULE 1 (Two pages)

Standard & Poor's Ratings Description

Credit Ratings

Standard & Poor's (S&P) is a professional organisation that provides analytical services. An S&P rating is an opinion of the general creditworthiness of an obligor with respect to particular debt security or other financial obligation - based on relevant risk factors.

Credit ratings are based, in varying degrees, on the following considerations:

- Likelihood of payment;
- Nature and provisions of the obligation;
- Protection afforded by, and relative position of, the obligation in the event of bankruptcy, reorganisation or other laws affecting creditors' rights.

The issue rating definitions are expressed in terms of default risk.

Long-Term Obligations Ratings are:

AAA: An obligation/obligor rated AAA has the highest rating assigned by S&P. The obligor's capacity to meet its financial commitment on the obligation is extremely strong.

AA: An obligation/obligor rated AA differs from the highest rated obligations only in a small degree. The obligor's capacity to meet its financial commitment on the obligations is very strong.

A: An obligation/obligor rated A is somewhat more susceptible to the adverse effects of changes in circumstances and economic conditions than obligations/obligor in higher rated categories. However, the obligors' capacity to meet its financial commitment on the obligation is still strong.

BBB: An obligation/obligor rated BBB exhibits adequate protection parameters. However, adverse economic conditions or changing circumstances are more likely to lead to a weakened capacity to the obligor to meet its financial commitment on the obligation.

Unrated: Financial institutions do not necessarily require a credit rating from the various ratings agencies such as Standard and Poor's and these institutions are classed as "Unrated". Most Credit Unions and Building Societies fall into this category. These institutions nonetheless must adhere to the capital maintenance requirements of the Australian Prudential Regulatory Authority (APRA) in line with all Authorised Deposit Taking Institutions (Banks, Building Societies and Credit Unions).

Plus (+) or minus (-): The ratings from "AA" to "BBB" may be modified by the addition of a plus or minus sign to show relative standing within the major rating categories. Each new investment and investment recall requires two authorised signatories.

CreditWatch highlights an emerging situation, which may materially affect the profile of a rated corporation and can be designed as positive, developing or negative. Following a full review the rating may either be affirmed or changed in the direction indicated.

A Rating Outlook assesses the potential direction of an issuer's long-term debt rating over the intermediate-to-long term. In determining a Rating Outlook, consideration is given to possible changes in the economic and/or fundamental business conditions. An outlook is not necessarily a precursor of a ratings change or future CreditWatch action. A "Rating Outlook – Positive" indicates that rating may be raised. "Negative" means a rating may be lowered. "Stable" indicates that ratings are not likely to change. "Developing" means ratings may be raised or lowered.

SCHEDULE 2 (seven pages):

Extracts of Legislative Requirements

LOCAL GOVERNMENT ACT 1993 - SECT 412 & 625

Section 412 Accounting Records

- (1) A council must keep such accounting records as are necessary to correctly record and explain its financial transactions and its financial position.
- (2) In particular, a council must keep its accounting records in a manner and form that facilitate:
 - (a) the preparation of financial reports that present fairly its financial position and the results of its operations, and
 - (b) the convenient and proper auditing of those reports.

Section 625 How May Councils Invest?

- (1) A council may invest money that is not, for the time being, required by the council for any other purpose.
- (2) Money may be invested only in a form of investment notified by order of the Minister published in the Gazette.
- (3) An order of the Minister notifying a form of investment for the purposes of this section must not be made without the approval of the Treasurer.
- (4) The acquisition, in accordance with section 358, of a controlling interest in a corporation is not an investment for the purposes of this section.

**THE TRUSTEE AMENDMENT (DISCRETIONARY INVESTMENTS) ACT 1997 –
SECTIONS 14A (2), 14C (1) & (2)**

14A (2) Duties of trustee in respect of power of investment

A trustee must, in exercising a power of investment:

- (a) If the trustee's profession, business or employment is or includes acting as a trustee or investing money on behalf of other persons, exercise the care, diligence and skill that a prudent person engaged in that profession, business or employment would exercise in managing the affairs of other persons, or
- (b) if the trustee is not engaged in such a profession, business or employment, exercise the care, diligence and skill that a prudent person would exercise in managing the affairs of other persons.

14C Matters to which trustee is to have regard when exercising power of investment

(1) Without limiting the matters that a trustee may take into account when exercising a power of investment, a trustee must, so far as they are appropriate to the circumstances of the trust, if any, have regard to the following matters:

- (a) the purposes of the trust and the needs and circumstances of the beneficiaries,
- (b) the desirability of diversifying trust investments,
- (c) the nature of, and the risk associated with, existing trust investments and other trust property,
- (d) the need to maintain the real value of the capital or income of the trust,
- (e) the risk of capital or income loss or depreciation,
- (f) the potential for capital appreciation,
- (g) the likely income return and the timing of income return,
- (h) the length of the term of the proposed investment,
- (i) the probable duration of the trust,
- (j) the liquidity and marketability of the proposed investment during, and on the determination of, the term of the proposed investment,
- (k) the aggregate value of the trust estate,
- (l) the effect of the proposed investment in relation to the tax liability of the trust,

- (m) the likelihood of inflation affecting the value of the proposed investment or other trust property,
 - (n) the costs (including commissions, fees, charges and duties payable) of making the proposed investment,
 - (o) the results of a review of existing trust investments in accordance with section 14A (4).
- (2) A trustee may, having regard to the size and nature of the trust, do either or both of the following:
- (a) obtain and consider independent and impartial advice reasonably required for the investment of trust funds or the management of the investment from a person whom the trustee reasonably believes to be competent to give the advice,
 - (b) pay out of trust funds the reasonable costs of obtaining the advice.

LOCAL GOVERNMENT (GENERAL) REGULATION 2021 - CLAUSE 212

212 Reports on council investments

- (1) The responsible accounting officer of a council:
 - (a) must provide the council with a written report (setting out details of all money that the council has invested under section 625 of the Act) to be presented:
 - i) if only one ordinary meeting of the council is held in a month, at that meeting, or
 - (ii) if more than one such meeting is held in a month, at whichever of those meetings the council by resolution determines, and
 - (b) must include in the report a certificate as to whether or not the investment has been made in accordance with the Act, the regulations and the Council's investment policies.
- (2) The report must be made up to the last day of the month immediately preceding the meeting.

Note. Section 625 of the Act says how a council may invest its surplus funds.

Circular No. 11-01
Date 17 February 2011
Doc ID. A232163

Contact Finance Policy Section
02 4428 4100
dlg@dlg.nsw.gov.au

REVISED MINISTERIAL INVESTMENT ORDER

A revised Investment Order pursuant to section 625 of the *Local Government Act 1993* has been issued. The Minister for Local Government signed the revised Order on 12 January 2011 and it was published in the NSW Government Gazette on 11 February 2011. It replaces the Order dated 31 July 2008. The revised Order is attached to this circular.

Changes to the Investment Order include:

- the removal of the ability to invest in the mortgage of land (part (c) of the Investment Order dated 31 July 2008)
- the removal of the ability to make a deposit with the Local Government Financial Services Pty Ltd (part (f) of the order dated 31 July 2008)
- the addition of "Key Considerations" in the revised Investment Order, which includes a comment that a council's General Manager, or any other staff, with delegated authority by a council to invest in funds on behalf of the council must do so in accordance with the council's adopted investment policy.

Councils are reminded that on 25 May 2010 the Division of Local Government issued Investment Policy Guidelines (Circular to Councils 10-11 refers). It is expected that all councils will by now have adopted an Investment Policy in accordance with the Guidelines.



Ross Woodward
Chief Executive, Local Government
A Division of the Department of Premier and Cabinet

Department of Local Government
5 O'Keefe Avenue NOWRA NSW 2541
Locked Bag 3015 NOWRA NSW 2541
T 02 4428 4100 F 02 4428 4199 TTY 02 4428 4209
E dlg@dlg.nsw.gov.au W www.dlg.nsw.gov.au ABN 99 567 863 195

LOCAL GOVERNMENT ACT 1993 – INVESTMENT ORDER

(Relating to investments by councils)

I, the Hon. Barbara Perry MP, Minister for Local Government, in pursuance of section 625(2) of the *Local Government Act 1993* and with the approval of the Treasurer, do, by this my Order, notify for the purposes of section 625 of that Act that a council or county council may only invest money (on the basis that all investments must be denominated in Australian Dollars) in the following forms of investment:

- (a) any public funds or securities issued by or guaranteed by, the Commonwealth, any State of the Commonwealth or a Territory;
- (b) any debentures or securities issued by a council (within the meaning of the *Local Government Act 1993* (NSW));
- (c) interest bearing deposits with, or any debentures or bonds issued by, an authorised deposit-taking institution (as defined in the *Banking Act 1959* (Cwth)), but excluding subordinated debt obligations;
- (d) any bill of exchange which has a maturity date of not more than 200 days; and if purchased for value confers on the holder in due course a right of recourse against a bank which has been designated as an authorised deposit-taking institution by the Australian Prudential Regulation Authority;
- (e) a deposit with the New South Wales Treasury Corporation or investments in an Hour-Glass investment facility of the New South Wales Treasury Corporation;

All investment instruments (excluding short term discount instruments) referred to above include both principal and investment income.

Transitional Arrangements

- (i) Subject to paragraph (ii) nothing in this Order affects any investment made before the date of this Order which was made in compliance with the previous Ministerial Orders, and such investments are taken to be in compliance with this Order.
- (ii) Paragraph (i) only applies to those investments made before the date of this Order and does not apply to any restructuring or switching of investments or any re-investment of proceeds received on disposal or maturity of such investments, which for the avoidance of doubt must comply with this Order.

Key Considerations

An investment is not in a form of investment notified by this order unless it also complies with an investment policy of council adopted by a resolution of council.

All councils should by resolution adopt an investment policy that is consistent with this Order and any guidelines issued by the Chief Executive (Local Government), Department of Premier and Cabinet, from time to time.

The General Manager, or any other staff member, with delegated authority by a council to invest funds on behalf of a council must do so in accordance with the council's adopted investment policy.

Councils have a fiduciary responsibility when investing. Councils should exercise the care, diligence and skill that a prudent person would exercise in managing the affairs of other persons.

When exercising the power of investment councils should consider, but not be limited by, the risk of capital or income loss or depreciation, the likely income return and the timing of income return, the length of the term of the proposed investment, the liquidity and marketability of the proposed investment, the likelihood of inflation affecting the value of the proposed investment and the costs (including commissions, fees, charges and duties payable) of making the proposed investment.

Dated this 12th day of January 2011


Hon BARBARA PERRY MP
Minister for Local Government

Department of Local Government
5 O'Keefe Avenue NOWRA NSW 2541
Locked Bag 3015 NOWRA NSW 2541
T 02 4428 4100 F 02 4428 4199 TTY 02 4428 4209
E dlg@dlg.nsw.gov.au www.dlg.nsw.gov.au ABN 99 567 863 195

LOCAL GOVERNMENT ACT 1993 - INVESTMENT ORDER
(Relating to investments by councils)

I, the Hon. Barbara Perry MP, Minister for Local Government, in pursuance of section 625(2) of the Local Government Act 1993 and with the approval of the Treasurer, do, by this my Order, notify for the purposes of section 625 of that Act that a council or county council may only invest money (on the basis that all investments must be denominated in Australian Dollars) in the following forms of investment:

- (a) any public funds or securities issued by or guaranteed by, the Commonwealth, any State of the Commonwealth or a Territory;
- (b) any debentures or securities issued by a council (within the meaning of the Local Government Act 1993 (NSW));
- (c) interest bearing deposits with, or any debentures or bonds issued by, an authorised deposit-taking institution (as defined in the Banking Act 1959 (Cwth)), but excluding subordinated debt obligations;
- (d) any bill of exchange which has a maturity date of not more than 200 days; and if purchased for value confers on the holder in due course a right of recourse against a bank which has been designated as an authorised deposit-taking institution by the Australian Prudential Regulation Authority;
- (e) a deposit with the New South Wales Treasury Corporation or investments in an Hour-Glass investment facility of the New South Wales Treasury Corporation;

All investment instruments (excluding short term discount instruments) referred to above include both principal and investment income.

Transitional Arrangements

- (i) Subject to paragraph (ii) nothing in this Order affects any investment made before the date of this Order which was made in compliance with the previous Ministerial Orders, and such investments are taken to be in compliance with this Order.
- (ii) Paragraph (i) only applies to those investments made before the date of this Order and does not apply to any restructuring or switching of investments or any re-investment of proceeds received on disposal or maturity of such investments, which for the avoidance of doubt must comply with this Order.

Key Considerations

An investment is not in a form of investment notified by this order unless it also complies with an investment policy of council adopted by a resolution of council.

All councils should by resolution adopt an investment policy that is consistent with this Order and any guidelines issued by the Chief Executive (Local Government), Department of Premier and Cabinet, from time to time.

The General Manager, or any other staff member, with delegated authority by a council to invest funds on behalf of a council must do so in accordance with the council's adopted investment policy.

Councils have a fiduciary responsibility when investing. Councils should exercise the care, diligence and skill that a prudent person would exercise in managing the affairs of other persons.

When exercising the power of investment councils should consider, but not be limited by, the risk of capital or income loss or depreciation, the likely income return and the timing of income return, the length of the term of the proposed investment, the liquidity and marketability of the proposed investment, the likelihood of inflation affecting the value of the proposed investment and the costs (including commissions, fees, charges and duties payable) of making the proposed investment.

Dated this 12th day of January 2011

BARBARA PERRY MP

Minister for Local Government

Recommendations from the Review of NSW Local Government Investments **-Final Report - Michael Cole, April 2008**

Recommendation 1: All investment instruments (debentures, securities, stocks and deposits, but excluding discount instruments such as bills of exchange) in the Investment Order be defined to include both principal and investment income.

Recommendation 2: All existing investments by NSW Councils that may be excluded by any proposed changes to the Investment Order are to be grandfathered. For the avoidance of doubt, existing securities that become ultra vires under the proposed amendments to the Investment Order can continue to be held to maturity, redeemed or sold, but new investments must comply with the amended Investment Order. Note that investment portfolio restructurings / switches currently being offered by product manufacturers or advisors are specifically excluded from consideration if the switch investments are outside the amended Investment Order. If the proposed switch investment is within the amended Investment Order all transactions must be on a market value basis. Book value transactions are explicitly prohibited.

Recommendation 3: Product manufacturers / distributors should be excluded from being appointed investment advisors to Councils.

Recommendation 4: Investments specified in k) and l) of the Investment Order be suspended for the period to 31/12/2009 and be subject to a further review after this period to determine the relevance of using a credit ratings based approach to determining authorised investments, particularly in light of the current CDO credit experience. It should consider whether to restore the current investment powers under k) and l). Any such review should have specific regard to the trade-off between the cost of Government monitoring and Council compliance which would be required, and the prospective incremental investment return.

Recommendation 5: It is recommended that the current partial deregulation model operating in New South Wales be retained with the modifications suggested in Points 4.13, 4.15, 4.18 and 4.30 of this report, as well as the minor modifications set out in Points 4.39 and 4.41. Consistent with the existing Investment Order, interest income and capital growth investment options will continue to be available through the TCorp Hour-Glass Investment Facilities. This outcome provides a number of the advantages highlighted in the centralised model in section 6.19.

Recommendation 6: It is most important that the Councils' fiduciary responsibility in relation to investment activities under the Local Government Act 1993, should be reinforced strongly. All participants should be made explicitly aware of the obligations under the NSW Trustee Act 1925, and be requested to sign to acknowledge the same. Inclusion of the relevant sections of the Trustee Act in the Investment Order may also assist in this regard. In particular, it is important that long term assets including Section 94 funds are invested in a manner consistent with meeting future liabilities, on the basis that the nominal return sought is consistent with an acceptable level of investment risk.

Recommendation 7: With regards to the Investment Order section (m), permitted investments in securities should explicitly exclude subordinated obligations. The permitted investments under (m) must rank pari passu with deposits of the same group entities; under (f) mortgages over land should be restricted to first mortgages with a Loan to Value ratio of no greater than 60%, and under (g), permitted land investments are to explicitly exclude ASX listed property trust investments.

Recommendation 8: The NSW Department of Local Government should give consideration to releasing a document, similar in content to the Western Australian Department of Local Government and Regional Development, Investment Policy – Local Government Operational Guidelines- Number 19, February 2008 (refer Appendix C). Further as noted in this document, there are deemed to be significant benefits from external monitoring: “a well constructed investment policy with clear objectives will facilitate an external review. The review should act as an intermediary to confirm that the investments explicitly align with the investment policy.”(7-3/92)

□ * * *

**RELEVANT LEGISLATIVE
INSTRUMENTS:
RELATED POLICIES, PLANS AND
PROCEDURES:
RESPONSIBLE DIRECTOR:**

Local Government Act 1993

Director Customer and Corporate
Strategy

APPROVAL:

Council

HISTORY:

Version	Approved by	Changes made	Date	EDMS Number
1	Council	Minor amendments	March 2012	15/167586
2	Council	Minor amendments	28/11/2017	17/384785
3	Council	No changes	27/08/2019	17/384785
4	N/A	Reviewed without change	28/10/2020	17/384785
5	Council	Reviewed without change	07/12/2021	17/384785
6	Council	Minor amendments	13/09/2022	17/384785