



INVESTMENT POLICY

Adopted: (25 August 2021)

TRIM (255741.2021)



INVESTMENT POLICY

DIRECTORATE: Corporate Services
BUSINESS UNIT: Financial Management

1. PURPOSE/ OBJECTIVES

- 1.1 Council will seek to maximise earnings from authorised investments within agreed levels of risk, return and exposure.
- 1.2 This policy establishes the framework within which investment principles are to apply to the investment of Council funds at the most favourable term available to Council at the time, to maximise returns, while paying due consideration to matters of risk, liquidity and security for its investments.
- 1.3 This policy sets out:
- a) Council's objectives for its investment portfolio;
 - b) How investments are to be undertaken;
 - c) The applicable risks to be managed;
 - d) Any constraints and other prudential requirements to apply to the investments of funds, having regard to the applicable legislation and regulations governing Council investments;
 - e) The manner in which compliance with the policy and strategy will be monitored and reported;
 - f) Appropriate benchmarks for each category of investments.
- 1.4 While exercising the power to invest, consideration needs to be given to preservation of capital, liquidity and the return on investments. Council, therefore, has several primary objectives for its investment portfolio:
- a) Compliance with legislation, regulations, the prudent person tests of the *Trustee Act* and best practice guidelines;
 - b) The preservation of the amount invested;
 - c) Ensuring that there are sufficient liquid funds to meet all reasonably anticipated cash flow requirements; and
 - d) Generating income from investments that exceeds the performance benchmarks mentioned later in this document.

2. DEFINITIONS

Authorised Deposit Taking Institutions

ADIs (Authorised Deposit-taking Institutions) are financial institutions which are authorised under the *Banking Act 1959* and are subject to the prudential standards set out in the Act and regulated by APRA.

Australian Prudential Regulation Authority

APRA (Australian Prudential Regulation Authority) is the prudential regulator of the Australian financial services industry. APRA enforces prudential standards and practices (e.g. capital adequacy and other risk management issues) of banks, credit unions, building societies, insurance companies and friendly societies.

Bill of Exchange

A bill of exchange is an unconditional order in writing, addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand, or at a fixed or determinable future time, a sum certain in money to or to the order of the specified person, or to the bearer. These can be underwritten by banks, to become “bank bills” on which the benchmark return is calculated.

Bloomberg UBS Bank Bill Index

UBS Australia calculated a daily Bank Bill Index representing the performance of a notional rolling parcel of bills averaging 45 days. This is the main performance benchmark that is widely used in the local government industry. The UBS Australia index family has been acquired by Bloomberg from Q3 2014, and while branding changed the benchmark is unaltered.

Code

Code means the *Local Government Code of Accounting Practice and Financial Reporting* published by the Office of Local Government (as in force from time to time).

Credit Rating

Credit Rating refers to a short- or long-term summary assessment of the credit worthiness of a debt issuer or of a specific issue.

Credit Risk

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

Direct Deposits

Direct deposits refer to investments made by Council (or on behalf of Council) directly with financial institutions.

Fitch Ratings

Fitch Ratings is a credit rating agency that assigns credit ratings to corporate issues based on the prospects of default.

Investment Portfolio

The total pool of Council's investments.

Minister's Order

Minister's Order refers to the Order of the Minister for Local Government relating to Investments made by Councils dated 12 January 2011, and its successors.

Moody's Investor Services

Moody's Investor Services is a credit rating agency that assigns credit ratings to corporate issues based on the prospects of default.

Prudent Person Standard

Council's investments will be managed with the 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.

Responsible Accounting Officer

Responsible Accounting Officer (RAO) of a council means a member of the staff of the council designated by the Chief Executive Officer. Liverpool City Council's designated RAO is the Chief Financial Officer (CFO)

Standard & Poor's

Standard & Poor's is a credit rating agency that assigns credit ratings to corporate issues based on the prospects of default.

Surplus Funds

Surplus Funds refers to money that is not, for the time being, required by the council for any other purpose.

Current Account

Cash invested on an overnight basis. Funds can be recalled or re-invested any time on the following business day.

Term Deposit

Funds invested with a financial institution at a predetermined rate that applies to 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. It is not a tradeable security - the investor may well be penalised if funds are prepaid; increasingly, term deposits are declared "non-breakable" instruments.

Bank Bill

Bank-accepted bills are bills of exchange drawn by a company or individual (borrower) usually for periods between 30 and 180 days. The bill is accepted by the bank, which in turn accepts the liability for payment at maturity. It is a short-term investment issued at a discount to the face value and is of a very high credit standing, consequently trades at the lowest yields of all commercially issued bills.

Negotiable Certificate of Deposit (NCD)

These are short-term bearer securities issued by banks, usually for up to 180 days although they can be for longer terms. They are often sold at a discount to face value and are highly liquid securities; representing the bank's debt. Creditworthiness of the bank will determine where the bank's NCD trades, relative to the BBSW. Also "Transferable Certificate of Deposit" (TCD).

Floating Rate Note/Bond (FRN)

The FRN is a longer-term debt security issued for a fixed period of time but has a variable (floating) coupon on a monthly or quarterly basis. The coupon reflects current interest rates, which is determined as a margin over the BBSW rate set. FRNs appeal to investors who are reluctant to commit funds to fixed rates for longer periods in times of fluctuating interest rates. Typical issuers are banks, corporates, financial institutions and securitised vehicles. Only Senior FRNs issued by an Australian Authorised Deposit Taking Institution such as a bank, credit union or building society are an eligible form of FRN investment.

Fixed Interest Securities (Bonds)

Securities issued by Commonwealth, State, trusts or corporate institutions that pay a fixed rate of interest (coupon) and mature at a fixed point in time. The interest (coupon) is paid at regular intervals (semi-annually, but can be paid monthly, quarterly, or annually). These securities are generally issued for a period of greater than one year. Currently, only the senior bonds issued by an Australian Authorised Deposit Taking Institution such as a bank, credit union or building society are an eligible form of FRN investment.

Covered Bonds and FRNs

In some cases, bank securities are secured by an external pool of assets. They are senior obligations of the bank, and therefore compliant with the Order, but command a higher credit rating – potentially AAA – due to the additional credit support.

Pooled Managed Funds

- **Sector Specific Funds**

These funds invest in one particular asset sector. A Cash Management Fund is an example of Sector Specific Funds as they predominately invest in the single asset sector of fixed/floating income securities with the aim of outperforming the Bloomberg AusBond Bank Bill Index benchmark. They are designed to enhance returns on short-term holdings as an alternative to short-dated bank bill and term deposit portfolios. They provide easy access to holdings and are usually redeemable within 24 to 48 hours.

These types of funds tend to have no fixed maturity date. Only funds managed by NSW Treasury Corporation are currently eligible pooled managed fund investments.

- **Diversified Funds**

These funds invest in a pre-determined range of asset classes including one or more of cash, fixed interest, property, and Australian & international shares. The weighting among the various asset classes will differ depending upon the type of diversified fund chosen, e.g. Conservative Funds (TCorpIM's Medium Term Growth) have a higher weighting in cash and fixed interest than Balanced Funds (TCorpIM's Long Term Growth) that have higher weightings in growth assets such as property and shares. These types of funds tend to have no fixed maturity date. These types of Funds are however eligible investments under the Ministerial Order.

3. POLICY STATEMENT

3.1. Authorised Investments

3.1.1 All of Council's investments must be denominated in Australian dollars. Council may only invest money in the following forms of investment, as taken directly from the *Local Government Act 1993 – Order (of the Minister) Circular No: 11/01*, gazetted on 11 February 2011, and its successors. (*The complete document is included in Schedule 3.*):

- a) Any public funds or securities issued by or guaranteed by, the Commonwealth, any State or Territory of the Commonwealth
- 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 (Cth)*, 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 (NSW TCorp) or investments in NSW TCorpIM funds;
- f) Existing investments "grandfathered" under the Ministerial Investment Order.

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

3.2 Transitional Arrangements

3.2.1 Subject to clause 3.2.2 of this policy, nothing in the Order affects any investment made before the date of the Order which was made in compliance with the previous Ministerial Order dated 31 July 2008 and such investments are taken to be in compliance with the Order.

3.2.2 Clause 3.2.1 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 the Order.

3.3 Risk Management: Credit and Maturity Guidelines

3.3.1 Investments are to comply with three key criteria relating to:

- a) Overall Portfolio Credit Framework: Limit overall credit exposure of the portfolio;
- b) Institutional Credit Framework: Limit exposure to individual ADIs, based on their credit ratings; and
- c) Term to Maturity Framework: Limits based upon maturity of securities.

3.3.2 All references to credit ratings refer by default to that applied by ratings agency Standard and Poor’s (S&P) or in the absence of an S&P rating, the lower of any rating assigned to the entity by either Moody’s or Fitch ratings agencies.

3.3.3 Overall Portfolio Credit Framework

To control the credit quality on the entire portfolio, the following credit framework limits the percentage of the portfolio exposed to any credit rating category. (Refer to Appendix F for Standard and Poor’s ratings definitions).

Overall Portfolio Credit Limits	
Long-term Credit Ratings	Direct Investments Maximum
AAA Category	100%
AA Category / Major Bank Category	100%
A Category or below	60%
BBB Category or below	45%
Unrated	10%
Specific Ministerial Approved Forms of Investment	
NSW TCorp Deposits and TCorpIM Funds	100%

For the purpose of this Policy, “Major Banks” are currently defined as the deposits or senior guaranteed principal and interest securities issued by the major Australian banking groups being:

- Australia and New Zealand Banking Group Limited
- Commonwealth Bank of Australia
- National Australia Bank Limited
- Westpac Banking Corporation

including any ADI subsidiaries which are both wholly owned and explicitly guaranteed (e.g. St George Bank).

3.3.4 Institutional Credit Framework

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

Long-term Credit Ratings	Direct Investments Maximum
AAA Category	45%
AA Category/ Major Bank Category	35%
A Category or below	25%
BBB Category	15%
Unrated	5%
Council Approved NSW Treasury Corporation Deposits and TCorpIM Funds	
Cash Fund	45%
Strategic Cash Fund	45%
Medium Term Growth Fund	20%
Long Term Growth Fund	20%

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

Overall Portfolio Term to Maturity Profile		
Portfolio % <1 year	Min 30%	Max 100%
Portfolio % >1 year	Min 0%	Max 70%
Portfolio % >3 years	Min 0%	Max 35%

3.3.6 Council’s risk profile for the purposes of investing surplus cash funds can generally be described as *conservative, risk averse and defensive*, and has the following characteristics:

- a) A requirement for a secure income stream, and
- b) A requirement for capital protection.

3.3.7 Section 14C of the *Trustee Act 1925* sets out requirements for trustees to have regard to, when exercising the power of investments. These guidelines (Attachment D) are considered appropriate for Council and underpin the formulation of this investment policy and are in accordance with legislative requirements.

3.4 Risk Management – Additional Guidelines

3.4.1 Investments obtained are to be considered in light of the following key criteria:

- a) **Preservation of Capital:** The requirement for preventing losses in an investment portfolio’s total value.
- b) **Credit Risk:** The risk that a party or guarantor to a transaction will fail to fulfil its obligations. In the context of this policy, it relates to the risk of loss due to the failure of an institution/ entity with which an investment is held to pay the interest and/or to repay the principal of an investment when due;

- c) **Diversification:** The requirement to place investments in a broad range of products and issuers so as not to be overly exposed to a particular entity or sector of the investment market
- d) **Liquidity Risk:** The risk that a tradable security cannot be sold in a timely manner for a fair market price due to a lack of buyers
- e) **Market Risk:** The risk that fair value or future cash flows will fluctuate due to changes in market prices, or that benchmark returns will unexpectedly overtake the investment's return;
- f) **Maturity Risk:** The risk relating to the length of term to maturity of the investment. The longer the term, the greater is the length of exposure and risk to market volatilities and eventual default
- g) **Rollover Risk:** The risk future income will not meet expectations or budgeted requirements because monies available at maturity of an investment must be re-invested at a lower interest rate due to market movements.

3.4.2 The following Risk Management Strategies will apply, where appropriate:

- a) Investment credit rating and maturity percentage limits will be applicable as at the time of making the specific investment, and retested for compliance at least annually, taking into consideration reasonable cash flow expectations;
- b) Investments that fall outside of the above eligibility rules post initial investment shall be divested as soon as practicable whilst being cognisant of prevailing market conditions;
- c) This policy does not mandate a minimum credit rating for any single investment. If the credit ratings profile in aggregate falls outside the credit rating limits, as set within this policy, Council will review investments of the non-complying category. Divestment of some investments to conform to this policy should be evaluated, while Council should be cognisant of transaction costs, any extenuating circumstances and the time taken to rebalance through scheduled maturities.

3.5 Liquidity

3.5.1 Cash flows must be monitored daily and Council will ensure that it maintains a minimum level of liquid funds available to finance day-to-day requirements.

3.6 Performance Benchmarks

- 3.6.1 The performance of Council's investment will be assessed against the Bloomberg Ausbond Bank Bill Index (BAUBIL)
- 3.6.2 It is Council's expectation that the performance of each investment will be equivalent to the applicable benchmark to justify the investment, taking into account its risks, liquidity and other benefits of the investment.
- 3.6.3 It is also expected that Council will take due steps to ensure that any investment is executed at the best pricing reasonably possible.
- 3.6.4 "Grandfathered" investments are allocated to the appropriate horizon based on expected or average maturity date and should be considered when allocating the rest of the portfolio.
- 3.6.5 The decision on when to exit "grandfathered" investments is based on a range of criteria specific to the investments, including but not limited to factors such as:
- a) Returns expected over the remaining term;
 - b) Fair values;
 - c) Competing investment opportunities;
 - d) Costs of holding;
 - e) Liquidity and transaction costs;
 - f) Outlook for future investment values, and
 - g) Risk of defaulting payment
- 3.6.6 In general, it is expected that professional advice will be sought before transacting in any investments that become "grandfathered" by regulatory or policy changes.

3.7 Investment Strategy

- 3.7.1 Council's Investment Strategy will run in conjunction with its Investment Policy and will set out:
- a) Council's current cash flow expectations and the implications for deviations from a long-term liquidity profile;

- b) Diversification: allocation of investment type, credit quality, counterparty exposure and term to maturity profile;
- c) Market conditions and the appropriate responses, particularly relative positioning within the limits outlined in this policy;
- d) Relative return outlook, risk-reward considerations, assessment of the market cycle and hence constraints on risk; and
- e) Appropriateness of overall investment types for Council's portfolio.

3.7.2 The Investment Strategy will fully comply with legislative requirements and the investment policy. The strategy will operate within the investment policy limits such that there are sufficient "buffers" to minimise the possibility of a breach of any policy limits. Any investment strategy will operate conservatively within policy limits which are to be viewed as maximum rather than target exposures.

3.8 Direct Investments

3.8.1 Third Party Suppliers and Dealers

Council will structure its affairs in order to be economical in its investment management costs, favouring dealing direct in its fixed interest (or, where intermediated, arrangements that result in a rebate of brokerage) where possible.

When dealing with third party suppliers of investment product, Council will have regard to the:

- a) Administrative cost savings;
- b) Ability to access higher (retail) rates where these exceed the direct transaction costs;
- c) Access to ADIs that would not normally have an institutional direct channel;
- d) Limited access or other secondary market opportunities that are only available from specific sources; and
- e) The costs of other distribution channels that do not involve transaction remuneration.

Council will take steps to ensure that:

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

3.8.2 Minimum Investments

Face value of individual investments should generally be a minimum of \$500,000, but typically a larger parcel should be purchased.

3.9 Environmental, Social and Governance (ESG) Investing

- 3.9.1 Where financial institutions are offering equivalent investment returns with the same credit rating and assessed financial risk and the investment fits within the provisions of this Investment Policy, consideration will be given to placing funds with institutions identified as having the higher ESG standards, which may include but not limited to, investing with institutions not financing fossil fuel companies.

3.10 Trading Policy

- 3.10.1 It is not Council's intention to trade instruments within the portfolio to seek capital gains, rather Council will be a hold to maturity investor, excepting for circumstances where monies are held in tradable securities for the purposes of providing a contingent liquidity buffer as an alternative to using the overdraft facility or where monies have been invested as part of a long term liability defeasance strategy and a rebalancing is necessary due to changes in the assessed value of either the liabilities or the investments used to hedge those liabilities
- 3.10.2 For the avoidance of doubt this is not a restrictive clause that prevents Council from trading securities rather it outlines an aim that in the first instance investments are purchased with the intention of holding them to maturity unless other circumstances dictate it would be more favourable to sell them prior to maturity

3.11 Long Term Liability Defeasance

- 3.11.1 Council may seek to invest monies in the appropriate TCorp funds in line with the restrictions outlined in the Diversification section of this policy for the purpose of defeasing long term liabilities held by Council. Council may have long term liabilities which may be better matched (the risks hedged) by longer term investments which contain a capital growth as well as an income component.

3.12 Independent Investment Advisors

- 3.12.1 Council will appoint an independent investment advisor and obtain advice as may be required.
- 3.12.2 Council's investment advisor is appointed by the Chief Executive Officer and must be licensed by the Australian Securities and Investment Commission. The advisor must be independent and must confirm in writing that they have 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 the investment policy. Independence includes receiving no commissions or other benefits in relation to the investments being recommended or reviewed, except as fully rebated to Council.
- 3.12.3 In making an appointment, Council shall give regard to selection criteria provided in the Office of Local Government Investment Guidelines.
- 3.12.4 The above shall not prevent Council from seeking investment advice from NSW TCorp.

3.13 Responsibility for implementing this policy and reporting obligations

- 3.13.1 The Chief Financial Officer is responsible for implementing this policy and providing the following reports:
- a) A monthly report to Council showing:
- 1) Confirmation of compliance with legislation and policy limits;
 - 2) The market value of investments, as provided by Council's designated third party reporting provider;
 - 3) Investment portfolio performance; and
 - 4) Monthly investment income earned versus budget.

- b) For audit purposes, certificates must be obtained from financial institutions confirming the amounts of investment held on Council's behalf at 30 June each year.
- c) The current month Investment Register, which must be published on Council's website.

3.14 Delegation of authority

3.14.1 The Chief Executive Officer is delegated by Council to invest surplus funds and may sub-delegate this function to appropriately qualified and experienced members of Council staff, subject to financial limits and statutory restrictions, as set out in this policy and in Council's delegations.

3.14.2 This policy is subject to any revision of the Minister's Order.

4. RELEVANT LEGISLATIVE REQUIREMENTS *(where applicable)*

All Council investments are to be made in accordance with:

- a) *Local Government Act 1993*: Section 412 and 625 (Attachment A)
- b) *Local Government Act 1993*: Prevailing Order of the Minister (Attachment B)
- c) *Local Government (General) Regulation 2005*: Clause 212 (Attachment C)
- d) *Trustee Act 1995*: Sections 14A(2) and 14C(1) and (2) (Attachment D)

5. RELATED POLICIES & PROCEDURE REFERENCES

- a) Australian Accounting Standards
- b) Office of Local Government Investment Policy Guidelines.

AUTHORISED BY

Council Resolution

EFFECTIVE FROM

This date is the date the policy is adopted by Council resolution.

REVIEW DATE

The policy must be reviewed every two years or more frequently depending on its category or if legislative or policy changes occur.

VERSIONS

Version	Amended by	Changes made	Date	TRIM Number
1	Adopted by Council	Not applicable	5 September 2005	036623.2005
2	Council resolution	Minor amendments	6 November 2006	113456.2006
3	Council resolution	Complete review	19 April 2010	071463.2010
4	Council resolution	Complete review	28 September 2011	162083.2011
5	Council resolution	Complete review	25 February 2015	028348.2015
6	Council resolution	Minor amendment	26 May 2015	132894.2015
7	Council resolution	Minor amendments plus eligibility of TCorpIM Growth	25 October 2017	356625.2017
8	Council resolution	Minor amendment	25 March 2020	313307.2020
9	Council resolution	Minor amendments and change to new policy template	25 August 2021	255741.2021

THIS POLICY HAS BEEN DEVELOPED IN CONSULTATION WITH

Council's Investment Advisor

Internal Audit unit

Governance Unit

ATTACHMENTS

Attachment A

Local Government Act 1993 – Section 625

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.

Editorial note: See Gazettes No 152 of 24.11.2000, p 12041; No 94 of 29.7.2005, p 3977 and No 97 of 15.8.2008, p 7638.

- (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 or an entity within the meaning of that section is not an investment for the purposes of this section.

Attachment B - Investment Order

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

Attachment C

Local Government (General) Regulation 2005 – 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 specifies the way in which a council may invest its surplus funds.

Attachment D

The *Trustee Act 1925* Sections 14A (2), 14C (1) & (2)

14 Powers of investment

A trustee may, unless expressly forbidden by the instrument (if any) creating the trust:

- (a) Invest trust funds in any form of investment, and
- (b) At any time vary any investment.

14A Duties of trustee in respect of power of investment

(1) This section has effect subject to the instrument (if any) creating the trust.

(2) 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.

Some Acts deem investments under the Acts to be investments that satisfy the prudent person test. See, for example, section 39 of the *Public Authorities (Financial Arrangements) Act 1987*.

(3) A trustee must exercise a power of investment in accordance with any provision of the instrument (if any) creating the trust that is binding on the trustee and requires the obtaining of any consent or approval with respect to trust investments.

(4) A trustee must, at least once in each year, review the performance (individually and as a whole) of trust investments.

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.

(3) A trustee is to comply with this section unless expressly forbidden by the instrument (if any) creating the trust.

Attachment E – Standard & Poor’s Ratings Description

Credit Ratings

Standard & Poor’s (S&P) is a *Nationally Recognized Statistical Rating Organization (NRSRO)* as defined by the US SEC; it 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:

- a) Likelihood of payment.
- b) Nature and provisions of the obligation.
- c) 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 Investment-Grade 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 obligor’s 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.

Speculative Grade: Lower long-term rating bands exist, from BB down to C; these are considered “speculative-grade;” to varying degrees, more vulnerable to default than the “investment-grade” ratings above. Likewise, there are lower short-term ratings. Obligations in default are rated D.

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 “CCC” may be modified by the addition of a plus or minus sign to show relative standing within the major rating categories.

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.

Other NRSROs have comparable rating bands and definitions.