



Hawkesbury City Council

Attachment 1
to
item 82

Investment Policy

date of meeting: 28 April 2009
location: council chambers
time: 5:00 p.m.



PROCESS: INVESTMENT POLICY
PROCEDURE:
NUMBER:

ISSUE DATE: 28/04/2009
LAST UPDATED: 27/11/2007
REVIEW DATE: 28/04/2010

DIVISION: SUPPORT SERVICES
BRANCH: FINANCIAL SERVICES

RESPONSIBLE OFFICER: CHIEF FINANCIAL OFFICER
AUTHORISED BY: COUNCIL

1.0 PURPOSE

The purpose of this policy is to establish the framework that Hawkesbury City Council adopts in investing its surplus funds having due consideration of all legislative requirements. All investment decisions must recognise the overall responsibility of Council under its Charter *“to bear in mind that it is the custodian and trustee of public assets and to effectively account for and manage these assets for which it is responsible.”* (Chapter 3 – Local Government Act 1993).

The objectives of this policy are:

1. To maximise returns to Council consistent with all requirements of the policy;
2. To comply with the legislative requirements and regulations relevant to the management of Council’s investments;
3. To preserve the capital of the investment portfolio. Investments are to be placed in a manner that seeks to ensure the security and safeguarding of the investment portfolio. This includes managing credit and interest rate risk within identified thresholds and parameters;
4. To ensure the investment portfolio has sufficient liquidity to meet all reasonably anticipated cash flow requirements, as and when they fall due, without incurring significant costs due to the unanticipated sale of an investment;
5. To establish a framework for monitoring the investments. The investment portfolio is expected to achieve a predetermined market average rate of return that takes into account Council’s risk tolerance. Any additional return target set by Council will also consider the risk limitation and prudent investment principles; and
6. To confirm delegations and other relevant governance matters in relation to Council’s investments.

2.0 LEGISLATIVE REQUIREMENTS

All investments are to be made in accordance with:

1. The Local Government Act 1993 – Section 625 (Attachment A)
 2. The Local Government (General) Regulation 2005 – Clause 212 (Attachment B)
 3. The Local Government Act 1993 - Order (of the Minister) dated 31 July 2008 and gazetted 15 August 2008 (Attachment C)
 4. The Trustee Amendment (Discretionary Investments) Act 1997 – Sections 14A(2), 14C(1) & (2) (Attachment D)
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- 5. Recommendations from the Review of NSW Local Government Investments – Final Report - Michael Cole, April 2008 (Attachment E)
- 6. The Local Government Code of Accounting Practice and Financial Reporting
- 7. Department of Local Government Circulars
- 8. Australian Accounting Standards
- 9. Council resolutions

3.0 DELEGATION OF AUTHORITY

Authorised Officer	Roles & Responsibilities
General Manager	Authority to invest surplus funds and may delegate this function, subject to various dollar limits and restrictions as stated in this investment policy.
Director of Support Services	Per Delegation
Responsible Accounting Officer	Per Delegation
Chief Financial Officer	Per Delegation
Senior Financial Accountant	Per Delegation

4.0 AMENDMENTS

The General Manager is hereby authorised to approve a variation to this policy if the General Manager in his/her opinion the variation is to the advantage of Council and in the spirit of this policy and/or due to changes in legislation. Any such variations to this policy are to be reported to Council within 30 days.

5.0 PRUDENT PERSON STANDARD

The 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.

6.0 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.

7.0 APPROVED INVESTMENTS



All investments must be denominated in Australian Dollars and must be in accordance with the current Local Government Act 1993 - Order (of the Minister).

Council at its meeting on 3 February 2009 resolved, in part, as follows:

"That:

- 1. In respect of Council funds invested with acknowledged tier one major Australian trading banks (ANZ, CBA, NAB and Westpac) that Council accept the coverage available, without cost, from the Federal Government's "Guarantee Scheme" and not optionally guarantee additional funds.*
- 2. Council's investments in other banking institutions not referred to in 1 above, and authorised under the current Ministerial Investment Order and Council's Investment Policy, be limited to an amount equivalent to the level of funds that receive coverage under the Federal Government's "Guarantee Scheme" without additional cost to Council."*

8.0 PROHIBITED INVESTMENTS

This Investment Policy prohibits 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, forward contracts and swaps of any kind; and
- The use of leveraging (borrowing to invest) of an investment.

9.0 RISK MANAGEMENT GUIDELINES

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

- Preservation of Capital – the requirement for preventing losses in an investment portfolio's total value
- Diversification – the requirement to place investments in a broad range of products so as not to be over exposed to a particular sector of the investment market
- Market Risk - the risk that the fair value or future cash flows of an investment will fluctuate due to changes in market prices
- Liquidity Risk - the risk an investor is unable to redeem the investment at a fair price within a timely period
- Maturity Risk - the risk relating to the length of term to maturity of the investment. The larger the term, the greater the length of exposure and risk to market volatilities
- Leveraging Risk - the magnification of an investor's risk and return that occurs when the investor takes on financial leverage through an investment product

10.0 INVESTMENT STRATEGY

10.1 LIQUIDITY

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



within 7 days to at least \$3 million or 10% of the value of its total investments, whichever is the greatest amount.

10.2 DIVERSIFICATION

Diversification is used to spread risk through utilisation of maximum percentage investment limits to the following:

- > Individual Institutions (varies per credit rating)
- > Credit Rating Bands (eg AAA v A) – these are Standard & Poors Long Term ratings (or Moody’s or Fitch equivalents)

These limits are detailed in the following schedule:

	Maximum Percentage limits of the Total balance of Investments			
Credit Rating of Institution		Institutions		
	Direct Investments	Max % With 1 Institution	Eligible Institutions under the Guarantee Scheme	T-Corp and LGFS
AAA An extremely strong capacity to pay	100%	40%	Yes	Yes
AA+, AA, AA- A very strong capacity to pay	100%	35%	Yes	Yes
A+, A A strong capacity to pay	60%	30%	Yes	Yes
A- and below For example – non-rated Credit Unions and Building Societies that are Approved Deposit taking Institutions and which have a Government Guarantee of deposits	30%	15% or the Government Guarantee limit, whichever is the lesser	Yes	Yes



11.0 INVESTMENT ADVISOR

The Council's investment advisor must be approved by the General Manager and be 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 the 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.

12.0 MEASUREMENT

A monthly report will be provided to Council by the Responsible Accounting Officer. The report will detail the investment portfolio in terms of performance, percentage exposure of the total portfolio, maturity date and any changes in market value.

The following performance benchmarks will be used:

- Cash – 11am Cash Rate
- Enhanced and direct investments – UBS 90 day Bank Bill index

The investment return for the portfolio is to be reviewed quarterly by Council's independent financial advisor by assessing the market value of the portfolio. Within one month of the end of each calendar quarter Council's independent financial advisor is to certify Council's investments are compliant with Council's Investment Policy.

13.0 ETHICAL AND SOCIALLY RESPONSIBLE INVESTMENTS

Ethical and socially responsible investments (SRI's) are a means for investors to support their values in terms of socially responsible investments. In addition to normal risk assessment, investments can be further evaluated in terms of environment, social and governance issues. A number of independent organisations have been established to evaluate and rate companies according to these criteria.

Subject to legislative compliance and investment policy objectives, Council supports investments in Ethical or Socially Responsible Investments, but only where all other investment criteria are met and the performance outlook is not disadvantageous to Council.

14.0 SECURITY

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.



Certificates must be obtained from the financial institutions confirming the amounts of investments held on the Council's behalf as at 30 June each year and reconciled to the Investment Register.

All investments are to be appropriately recorded in Council's financial records and reconciled at least on a monthly basis

15.0 POLICY REVIEW

This investment policy will be reviewed at least yearly or as required in the event of legislative requirements.



Attachment A

Local Government Act 1993 - Section 625

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.*

Note: See Gazette No 152 of 24.11.2000, p 12041.

- (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.*



Attachment B

Local Government (General) Regulation 2005 - Clause 212

Clause 212 of the Regulation provides for reporting on council investments by the responsible accounting officer.

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 C

**Local Government Act 1993 - Order (Of The Minister) Dated 31 July 2008 And
Gazetted 15 August 2008.**

Local Government Act 1993 – Investment Order

(Relating to investments by councils)

I, the Hon. Paul Lynch 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 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) Mortgage of land in any State or Territory of the Commonwealth (restricted to first mortgages over land with a Loan to Value ratio of no greater than 60%);
- (d) Interest bearing deposits with, or any debentures or bonds issued by, an authorized deposit-taking institution (as defined in the *Banking Act 1959* (Cwth)), but excluding subordinated debt obligations;
- (e) 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 authorized deposit-taking institution by the Australian Prudential Regulation Authority;
- (f) A deposit with the Local Government Financial Services Pty Ltd;
- (g) 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 Order dated 15 July 2005, 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.

Dated this 31st day of July 2008

**Hon PAUL LYNCH MP
Minister for Local Government**



Attachment D

**The Trustee Amendment (Discretionary Investments) Act 1997
- Sections 14A(2), 14C(1) and (2)**

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.
- Note:** 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

**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)