

Kyogle Council

Investment Policy



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Introduction

Councils must comply with the Ministerial Investment Order, section 625 of the Local Government Act 1993 and clause 212 of the Local Government (General) Regulation 2005. Clause 212 of the Regulation provides for reporting on council investments by the responsible accounting officer, while section 625 of the Act describes how councils may invest.

Councils are restricted in how they may invest by Section 625 of the Local Government Act 1993. This section specifies that councils may only use forms of investment notified by order of the Minister. The current Ministerial Order was announced on 31st July 2008 and is attached to this policy. In addition, investment guidelines were issued in conjunction with the Ministerial Order (also attached).

All Council investments must satisfy these legislative requirements.

Validity

This policy derives its validity from Council Resolution 190207/38 and 201008/42 101212/30

Effect

The Policy shall be effective from December 10, 2012.

Policy Objective

The purpose of this policy is to provide a framework for making decisions concerning appropriate investment of Council's funds. The policy establishes a series of limits within which Council officers must operate in the planning, and process of investing council monies. In setting these limits Council is determining the general level of risk that is acceptable for monies managed on trust for the community of Kyogle.

Investment Objective

To achieve maximum returns from the investment of council funds while exercising the care, diligence and skill that a prudent person would exercise when investing funds.

Councils must consider the following when considering an investment:

- The purpose of the investment
- The desirability of investment diversification
- The nature and risks associated with investments
- The likely income return and timing of any income return
- The length of the proposed investment
- The costs involved in making the investment
- Other matters as appropriate

The onus for investments is to be on preservation of capital rather than rate of return.

Keeping of Records

Under section 625 of the Local Government Act 1993, councils must maintain a separate record of the money they have invested. The record must specify:

- The source and the amount of money invested
- Particulars of the security or form of investment in which the money is invested and
- If appropriate, the rate of interest to be paid, and the amount of money that the council had earned, in respect of the money invested

Clause 212 of the Local Government (General) Regulation 2005 states:

The responsible accounting officer of a council:

- a) Must provide council with a written report (setting out details of all money that the council has invested under section 625 of the Act)
- 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.

Investment Strategy

The investment guidelines established by the Division of Coal Government requires councils to “exercise the care, diligence and skill that a prudent person would exercise in investing council funds. A prudent person is expected to act with considerable duty of care, not as an average person would act, but as a wise, cautious and judicious person would.”

Kyogle Council believes this requirement will be satisfied if all investments are made subject to the following minimum constraints. Council also expects that the investment strategy process may identify reasons to impose other constraints.

- ❖ All investments must be of “investment grade” credit rating which implies that there is a better than “adequate” or “satisfactory” capacity to meet obligations.
- ❖ All investments should be dealt through reputable institutions with a credit rating of at least “A1” (Moody’s Investors Service Inc) or “A+” (Standard and Poor’s Investors Service, Inc).
- ❖ Investments must be diversified across institutions with no more than 40% of the investment portfolio to be invested with any one institution.
- ❖ All investments must be for a period no longer than the period over which the underlying liability could reasonably be expected to arise.
- ❖ Where there is no identified underlying the average term to maturity of the investments should not exceed 3 years.
- ❖ The investment portfolio must be managed in such a way that Council is able to meet its obligations at all times.
- ❖ Kyogle Council has a preference for short term investments focusing on investment terms of 30 to 60 days.

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

Investment Guidelines

- Councils must comply with clause 16 of the Local Government (Financial Management) Regulation 1999 that provides for reporting on council investments by the responsible account officer.
- The revised Code of Accounting Practice and Financial Reporting will require councils to maintain a separate record of money it has invested under section 625 of the Act. The record must specify:
 - The source and the amount of money invested; and
 - Particulars of the security or form of investment in which the money is invested; and
 - If appropriate, the rate of interest to be paid, and the amount of money that the council has earned, in respect to the money invested.
- The revised Code of Accounting Practice and Financial Reporting will also require a council to maintain a separate record of all quotations that the council has obtained before making such an investment (similar to clause 19 of the Local Government (Financial Management) Regulation 1993).
- A council or entity acting on its behalf should exercise the care, diligence and skill that a prudent person would exercise in investing council funds. A prudent person is expected to act with considerable duty of care, not as an average person would act, but as a wise, cautious and judicious person would. (Ref: Trustee Amendment (Discretionary Investments) Act 1997 section 14A (2)).
- A council should develop an investment strategy as part of its overall financial plan. The strategy should, as a minimum, consider the desirability of diversifying investments and the nature and risks associated with the investments. (For guidance see: Trustee Amendment (Discretionary Investments) Act 1997 section 14c(1) "matters to which trustee is to have regard when exercising power of investment").
- A council should at least once in each year, review the performance (individually and as a whole) of council investments and review its investment strategy.
- An investment adviser or investment dealer acting on behalf of a council, should be licensed by the Australian Securities and Investment Commission.

- Where a council invests in banks; building societies and credit unions it should know that these institutions are regulated as authorized deposit taking institutions by the Australian Prudential Regulation Authority (APRA) under the Banking Act 1959 Note, however, that whilst APRA has power to required financial institutions to observe prudential standards (such as appropriate capitalization, liquidity and governance) and to intercede if it believes that depositors', policyholders' or members' interests are at risk, it provides no guarantee of the performance of the financial institution.