



City of Busselton
Geographe Bay

Policy and Legislation Committee Agenda

12 February 2019

ALL INFORMATION AVAILABLE IN VARIOUS FORMATS ON REQUEST

city@busselton.wa.gov.au

CITY OF BUSSELTON

MEETING NOTICE AND AGENDA – 12 FEBRUARY 2019

TO: THE MAYOR AND COUNCILLORS

NOTICE is given that a meeting of the Policy and Legislation Committee will be held in the the Committee Room, Administration Building, Southern Drive, Busselton on Tuesday, 12 February 2019, commencing at 2.00pm.

The attendance of Committee Members is respectfully requested.

DISCLAIMER

Statements or decisions made at Council meetings or briefings should not be relied on (or acted upon) by an applicant or any other person or entity until subsequent written notification has been given by or received from the City of Busselton. Without derogating from the generality of the above, approval of planning applications and building permits and acceptance of tenders and quotations will only become effective once written notice to that effect has been given to relevant parties. The City of Busselton expressly disclaims any liability for any loss arising from any person or body relying on any statement or decision made during a Council meeting or briefing.



MIKE ARCHER

CHIEF EXECUTIVE OFFICER

6 February 2019

CITY OF BUSSELTON

AGENDA FOR THE POLICY AND LEGISLATION COMMITTEE MEETING TO BE HELD ON 12 FEBRUARY 2019

TABLE OF CONTENTS

ITEM NO.	SUBJECT	PAGE NO.
1.	DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS.....	4
2.	ATTENDANCE	4
3.	PUBLIC QUESTION TIME.....	4
4.	DISCLOSURE OF INTERESTS	4
5.	CONFIRMATION AND RECEIPT OF MINUTES	4
5.1	Minutes of the Policy and Legislation Committee Meeting held 22 January 2019	4
6.	REPORTS	5
6.1	REVIEW OF COUNCIL POLICY - DEFECTS LIABILITY BONDS FOR SUBDIVISIONS	5
6.2	REVIEW OF COUNCIL POLICY - EARLY CLEARANCE OF SUBDIVISIONS	12
6.3	REVIEW OF COUNCIL POLICY 218 INVESTMENT.....	19
7.	GENERAL DISCUSSION ITEMS	32
8.	NEXT MEETING DATE	32
9.	CLOSURE	32

1. **DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS**

2. **ATTENDANCE**

Apologies

3. **PUBLIC QUESTION TIME**

4. **DISCLOSURE OF INTERESTS**

5. **CONFIRMATION AND RECEIPT OF MINUTES**

5.1 **Minutes of the Policy and Legislation Committee Meeting held 22 January 2019**

RECOMMENDATION

That the Minutes of the Policy and Legislation Committee Meeting held 22 January 2019 be confirmed as a true and correct record.

6. REPORTS

6.1 REVIEW OF COUNCIL POLICY - DEFECTS LIABILITY BONDS FOR SUBDIVISIONS

SUBJECT INDEX:	Council Policy
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Development Control
ACTIVITY UNIT:	Development Control
REPORTING OFFICER:	Development Control Coordinator - Ronald Wildschut Land and Infrastructure Officer - Andrew Scott
AUTHORISING OFFICER:	Director, Engineering and Works Services - Oliver Darby
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A CP 180 Maintenance Bond for Subdivisions - Current Version ↓ Attachment B Defects Liability Bonds for Subdivisions - Proposed Policy ↓

PRÉCIS

This report presents an updated version of Council Policy 180 'Maintenance Bonds for Subdivisions' (Attachment A). The proposed revised policy 'Defects Liability Bonds for Subdivisions' (Attachment B) (the Policy) is considered to be of continuing relevance and has been moved into the new policy format with a few changes. The Policy is recommended for Council approval.

BACKGROUND

Prompted by a requirement to periodically review Council policies and an initiative to make policy documents consistent with a new policy framework and format, existing Council Policy 180 'Maintenance Bond for Subdivisions' has been reviewed by officers, and a new proposed policy entitled 'Defects Liability Bonds for Subdivisions' is presented for Council's consideration.

In August 2017 the CEO commissioned a high level independent review of the City's governance systems – the Governance Systems Review (GSR). The GSR made the following recommendations with respect to the City's policy and procedure framework:

- 1. There should be a review of the Council Policies with the intent that a Council Policy:*
 - a. Should deal with higher level objectives and strategies;*
 - b. Should not deal with operational matters, employee matters, or other matters which are the responsibility of the CEO; and*
 - c. Should, where appropriate provide sufficient direction to the CEO to develop OPPs which deal with the implementation of the Council Policy or other detailed matters.*
- 2. As part of that review, any existing Council Policy should be deleted where it could, more sensibly, be dealt with by an OPP adopted by the CEO.*
- 3. Consideration should be given to developing a new Council Policy which sets out the 'framework' for Council Policies, OPPs and other procedures. The new Policy would explain the role to be played by each level of document. It could, for example, be called a Policy Framework Policy.*

Apart from transfer to the new policy format, the Policy has only undergone reasonably minor changes.

City officers considered a more major and holistic review of development control policies as per the recommendations of the GSR but found that a major review would need to be undertaken within the broader context of development control and the system of Engineering Technical Standards and Specifications that is in place. This is not currently a scheduled work priority and instead it is the intent that a broader systems wide review of the City's development control policies and procedures, and the Engineering Technical Specifications and Standards be conducted by the business unit at a later stage, likely as part of the next round of organisational policy review.

STATUTORY ENVIRONMENT

In accordance with Section 2.7(2)(b) of the *Local Government Act 1995* it is the role of the Council to determine the local government's policies. The Council does this on the recommendation of a Committee it has established in accordance with Section 5.8 of that Act.

RELEVANT PLANS AND POLICIES

The City has a policy framework which was developed and endorsed by Council in response to the recommendations of the GSR. The framework sets out the intent of Council policies, as opposed to operational documents such as Staff Management Practices and operational procedures.

Specific to the Policy, the following documents are applicable: (a) Institute of Public Works Engineers Australia (WA) 'Local Government Guidelines for Subdivisional Development', October 2017, and (b) City of Busselton Engineering Technical Specifications and Standards.

FINANCIAL IMPLICATIONS

There are no financial implications associated with the officer recommendation.

LONG-TERM FINANCIAL PLAN IMPLICATIONS

There are no long term financial plan implications associated with the officer recommendation.

STRATEGIC COMMUNITY OBJECTIVES

The Policy links to the Key Goal Areas 2 and 3 of the City's Strategic Community Plan, in particular Community Objectives 2.1: Planning strategies that foster the development of neighbourhoods that meet our needs as we grow; and 3.1: Development that is managed sustainably and our environment valued.

RISK ASSESSMENT

A risk assessment of implementing the officer recommendation was undertaken using the City's risk assessment framework and no risks of a medium or greater level were identified.

CONSULTATION

No external consultation was undertaken in relation to the review of the Policy.

OFFICER COMMENT

The purpose of the Policy is to set out Council's requirement that a bond be taken with respect to the developer's liability for the repair of all defects of subdivision works, for a minimum period following the practical completion of the works.

The Policy is a review of existing Council Policy 180 'Maintenance Bonds for Subdivisions', which is still considered relevant. The main changes from the existing policy are that the Policy better aligns with Western Australian Planning Commission endorsed document 'Local Government Guidelines for Subdivisional Development' and to the City of Busselton 'Engineering Technical Standards and Specifications. The calculation of the bonds has also been removed from the Policy and replaced with a reference to the City's adopted schedule of fees and charges. Other changes relate to the policy title, formatting and improved wording, and do not significantly alter the intent of the existing policy.

CONCLUSION

A review of the Policy was undertaken, with only minor changes proposed in accordance with the City's new policy framework and format. The Policy continues to be of relevance and is recommended for adoption.

OPTIONS

Council may decide to not adopt the Policy and instead choose to take a different position or approach.

Council might also require further amendments to the Policy.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Policy will be effective as of adoption by Council.

OFFICER RECOMMENDATION

That the Council adopts the Policy 'Defects Liability Bonds for Subdivisions' as per Attachment B, to replace the current policy (Attachment A).

Last updated 13/04/2016

180	Maintenance Bond for Subdivisions	V3 Current
------------	--	-------------------

1. PURPOSE

This policy is to provide a framework for maintenance bonds to be held to ensure the adequate and appropriate completion of any subdivision work.

2. SCOPE

The maintenance bond required under this policy shall be applied to the value of roads and drainage, and associated earthworks, landscaping, footpaths, dual use paths and all works incidental to these items for any subdivision undertaken in the City of Busselton.

3. POLICY CONTENT

A maintenance bond will be applied to subdivision work and held for 12 months from the date of practical completion of a minimum of 95% of the works, excluding final sealing. Maintenance bonds shall not be refunded until the expiration of 12 months and refund is subject to repair, maintenance correction, adjustment, re-alignment and/or clean up of works deemed to be the responsibility of the contractor or the developer.

The bond shall be applied to the value of roads and drainage, and associated earthworks, landscaping, footpaths, dual use paths and all works incidental to these items at the following rate:

\$0-\$100,000 work value	5%
\$100,001 - \$200,000 work value	4%
\$200,001 - \$400,000 work value	3.5%
\$400,001 - \$600,000 work value	3%
\$600,001 and over work value	2.5%

If the required works are not carried out, Council may complete the required work, drawing on the maintenance bond following the expiration of a reasonable time to allow the contractor or the developer to carry out the work.

4. APPLICATION OF THE POLICY

The policy shall be applied by Planning and Development Services and Engineering and Works Services.

Policy Background

Policy Reference No. - 180
Owner Unit – Planning and Development Services, Engineering and Facilities Services
Originator – Historical
Policy approved by – Council
Date Approved – 13 April 2016
Review Frequency – As required

Last updated 13/04/2016

History

Council Resolution	Date	Information
C1604/077	13 April, 2016	Reviewed by Council and adopted without content change Version 3
C1206/155	27 June, 2012	Update to new policy format Version 2
		Version 1

COUNCIL POLICY		
		
Council Policy Name:	Defects Liability Bonds for Subdivisions	
Responsible Directorate:	Engineering and Works Services	Version: Proposed

1. PURPOSE

1.1. The purpose of this Policy is to set out Council’s requirement that a bond be taken with respect to the developer’s liability for the repair of all defects of subdivision works.

2. SCOPE

2.1. This Policy applies to works for new subdivision developments relating to roads, drainage, paths, and associated earthworks; and all other associated incidental works.

2.2. The Policy does not apply to landscaping.

3. DEFINITIONS

Term	Meaning
Policy	this City of Busselton Council Policy entitled “Defects Liability Bonds for Subdivisions”
Defects Liability Period	The period of time after Practical Completion of the works wherein the contractor or developer remains responsible for the maintenance and repair of defects of subdivision works.
Practical Completion	An inspection of the completed works by the City to confirm that all the relevant construction has been completed as per the approved drawings; meets the minimum construction requirements as set out in the City’s Engineering Technical Specifications and Standards; and meets related conditions of subdivision approval.

4. STRATEGIC CONTEXT

4.1. This Policy links to Key Goal Areas 2 and 3 of the City’s Strategic Community Plan 2017 and specifically the following Community Objective/s:

- a. 2.1 – Planning strategies that foster the development of neighbourhoods that meet our needs as we grow;
- b. 3.1 – Development that is managed sustainably and our environment valued.

5. POLICY STATEMENT

5.1. A defects liability bond is to be applied to subdivision works and will be held for a minimum Defects Liability Period of 12 months.

5.2. The defects liability bond shall be applied to the value of roads, drainage, paths, and associated earthworks; and all other associated incidental works, and will be calculated using the rates as set out in the City’s adopted schedule of fees and charges.

6.1 Attachment B Defects Liability Bonds for Subdivisions - Proposed Policy

- 5.3. The bond may be in the form of cash to be held in trust by the City, or an unconditional bank guarantee from a financial institution approved by the City.
- 5.4. Refund of the bond is subject to repair, maintenance correction, adjustment, re-alignment or clean-up of works deemed to be the responsibility of the contractor or the developer.
- 5.5. The Director of Engineering and Works Services may extend the Defects Liability Period for an additional 12 months or more where defects have occurred that may affect the integrity of the design or infrastructure.
- 5.6. Where identified defects have not been completed by the contractor or developer within a reasonable timeframe, the City may draw on the defects liability bond to complete required works. If the end of the Defects Liability Period has not been reached the contractor or developer will be required to top up the bond to the original value.

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. City of Busselton Engineering Technical Specifications and Standards.
- 6.2. Institute of Public Works Engineers Australia (WA) 'Local Government Guidelines for Subdivisional Development', October 2017.

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE		Resolution #	
Previous Adoption	DATE	13/04/2016	Resolution #	C1604/077

6.2 REVIEW OF COUNCIL POLICY - EARLY CLEARANCE OF SUBDIVISIONS

SUBJECT INDEX:	Council Policy
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Development Control
ACTIVITY UNIT:	Development Control
REPORTING OFFICER:	Development Control Coordinator - Ronald Wildschut Land and Infrastructure Officer - Andrew Scott
AUTHORISING OFFICER:	Director, Engineering and Works Services - Oliver Darby
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A CP 144/3 - Early Subdivision Clearance and Charges - Current Version ↴ Attachment B Early Clearance of Subdivisions - Proposed Policy ↴

PRÉCIS

This report presents an updated version of Council Policy 144/3 'Early Subdivision Clearance and Charges' (Attachment A). The proposed revised policy 'Early Clearance of Subdivisions' (Attachment B) (the Policy) is considered to be of continuing relevance and has been moved into the new policy format with a few changes. The Policy is recommended for Council approval.

BACKGROUND

Prompted by a requirement to periodically review Council policies and an initiative to make policy documents consistent with a new policy framework and format, existing Council Policy 144/3 'Early Subdivision Clearance and Charges' has been reviewed by officers, and a new proposed policy entitled 'Early Clearance of Subdivisions' is presented for Council's consideration.

In August 2017 the CEO commissioned a high level independent review of the City's governance systems – the Governance Systems Review (GSR). The GSR made the following recommendations with respect to the City's policy and procedure framework:

- 1. There should be a review of the Council Policies with the intent that a Council Policy:*
 - a. Should deal with higher level objectives and strategies;*
 - b. Should not deal with operational matters, employee matters, or other matters which are the responsibility of the CEO; and*
 - c. Should, where appropriate provide sufficient direction to the CEO to develop OPPs which deal with the implementation of the Council Policy or other detailed matters.*
- 2. As part of that review, any existing Council Policy should be deleted where it could, more sensibly, be dealt with by an OPP adopted by the CEO.*
- 3. Consideration should be given to developing a new Council Policy which sets out the 'framework' for Council Policies, OPPs and other procedures. The new Policy would explain the role to be played by each level of document. It could, for example, be called a Policy Framework Policy.*

Apart from transfer to the new policy format, the Policy has only undergone relatively minor changes. City officers considered a more major and holistic review of development control policies as per the recommendations of the GSR but found that a major review would need to be undertaken within the broader context of development control and the system of Engineering Technical Standards and Specifications that is in place. This is not currently a scheduled work priority and instead it is the intent that a broader systems wide review of the City's development control policies and procedures, and the Engineering Technical Specifications and Standards be conducted by the business unit at a later stage, likely as part of the next round of organisational policy review.

STATUTORY ENVIRONMENT

In accordance with Section 2.7(2)(b) of the *Local Government Act 1995* it is the role of the Council to determine the local government's policies. The Council does this on the recommendation of a Committee it has established in accordance with Section 5.8 of that Act.

RELEVANT PLANS AND POLICIES

The City has a policy framework which was developed and endorsed by Council in response to the recommendations of the GSR. The framework sets out the intent of Council policies, as opposed to operational documents such as Staff Management Practices and operational procedures.

Specific to the Policy, the following documents are applicable: (a) City of Busselton Engineering Technical Specifications and Standards, and (b) City of Busselton Council Policy – 'Defects Liability Bonds for Subdivisions' (pending Council approval).

FINANCIAL IMPLICATIONS

There are no financial implications associated with the officer recommendation.

LONG-TERM FINANCIAL PLAN IMPLICATIONS

There are no long term financial plan implications associated with the officer recommendation.

STRATEGIC COMMUNITY OBJECTIVES

The Policy links to the Key Goal Areas 2 and 3 of the City's Strategic Community Plan 2017, in particular the Community Objectives 2.1: Planning strategies that foster the development of neighbourhoods that meet our needs as we grow; and 3.1: Development is managed sustainably and our environment valued.

RISK ASSESSMENT

A risk assessment of implementing the officer recommendation was undertaken using the City's risk assessment framework and no risks of a medium or greater level were identified.

CONSULTATION

No external consultation was undertaken in relation to the review of the Policy.

OFFICER COMMENT

The purpose of the Policy is to provide guidelines for the provision of the early clearance of a subdivision. It includes information on fees, bonds and legal agreement requirements to achieve approval of an application for early clearance from the City.

The Western Australian Planning Commission (WAPC) is responsible for giving final endorsement of a subdivision after the conditions imposed on a subdivision application approval have been met. Where those conditions relate to local government matters, the City is normally responsible for *clearing* those conditions by advising the WAPC. For subdivision works, the City normally requires that *all* the works are complete (to practical completion stage) before clearing the condition.

There are however occasions when the developer seeks early clearance of conditions and this is acceptable to the City. With early clearance, the developer may lodge a Deposited Plan (of the subdivision) with Landgate, and with the WAPC's endorsement of the Deposited Plan, property titles may be created and sold. This is advantageous to the developer, but introduces risks that subdivisional works are not completed to a standard that is acceptable by the City. The Policy aims to minimise that risk through an agreement with the developer and bonds being applied to the outstanding works.

The Policy is a review of existing Council Policy 144/3 'Early Subdivision Clearance and Charges'. The Policy better lays out: (a) when the City might consider an application for early clearance, (b) the format of an application for early clearance, and (c) the conditions that must be met by the developer before the City will clear subdivision application conditions.

CONCLUSION

A review of the Policy was undertaken in accordance with the City's new policy framework and format. The Policy continues to be of relevance and is recommended for adoption.

OPTIONS

Council may decide to not adopt the Policy and instead choose to take a different position or approach.

Council might also require further amendments to the Policy.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Policy will be effective as of adoption by Council.

OFFICER RECOMMENDATION

That the Council adopts the Policy 'Early Clearance of Subdivisions' as per Attachment B, to replace the current policy (Attachment A).

6.2 Attachment A CP 144/3 - Early Subdivision Clearance and Charges - Current Version

Last updated 10/05/2017

144/3	Early Subdivision Clearance and Charges	V4 Current
-------	---	------------

The Council will approve early clearance of subdivisions subject to the payment of the adopted percentage (in the current year's schedule of fees and charges) of estimated value of outstanding construction of roads, footpaths, drains, landscaping, water allocation and rehabilitation works, or a minimum of the adopted fee (in the current year's schedule of fees and charges) whichever is the greater, and the payment of bonds to cover the value of all outstanding works and conditions plus a 100% contingency on the value of outstanding works - as per table 1.

Table 1.

Description	
Outstanding Works Bond determined by the Chief Executive Officer	
If the number of works items outstanding =<5	Value + 50%
If the number of works items outstanding =>5	Value + 100%

Maintenance bond and supervision fees shall also be paid at the time of clearance with the whole of contract maintenance bond held for 12 months from practical completion of the outstanding works. The outstanding works will be as determined and valued by the Chief Executive Officer, from a submission by the Consultant Engineer and are to be completed by an agreed date. The agreed date shall be within a reasonable time of Titles being available.

Early clearance fees will apply to all requests where the works are less than 95% complete, excluding the value of the final seal where prime and seal of roads is used.

Early clearance will only be issued for developments which are completed to a stage representing not less than 65% of the estimated total cost as determined by the Chief Executive Officer, excluding final seal. Roads must be completed to base stage including installation of road crossings for drainage and services.

The agreement which indemnifies the Council from litigation shall include an undertaking to advise all purchasers that Council will not issue a Building Licence, prior to issue of titles, unless a copy of plans and diagram for the lot proposed to be built on is attached, with the Building Licence Application. Such a plan/diagram shall be endorsed by the Titles Office as being "in Order for Dealings." This information must be conveyed to all purchasers via the contract of sale.

No draw down will be allowed on individual items of the outstanding works bond. The Council requires that all outstanding works are completed before release of the outstanding work bond.

Guidelines - Early Subdivision Clearance

Any application for early clearance must be accompanied by:

6.2 Attachment A CP 144/3 - Early Subdivision Clearance and Charges - Current Version

Last updated 10/05/2017

- * Estimated value of outstanding works (provided by consulting engineer).
- * Schedule for completion and a completion date for all works.
- * Requisite fees letter.
- * The pro-forma/legal agreement/undertaking signed by all land owners, contractors, developers and mortgagees and others with an interest in the land.

History

Council Resolution	Date	Information
C1705/102	10 May 2017	
C1005/153	12/05/2010	Need to correctly align the policy with the schedule of fees and charges. Version 3
C0606/199	14/06/2006	Removal of fees payable to replace with reference to current schedule of fees and charges and change from "total value of" to "estimated value of outstanding". Version 2
		Version 1

The banner features a green and blue background with the City of Busselton logo. It contains the following text:

COUNCIL POLICY

Council Policy Name: Early Clearance of Subdivisions

Responsible Directorate: Engineering and Works Services Version: Proposed

1. PURPOSE

1.1. The purpose of this Policy is to provide guidelines for developers for the provision of the early clearance of a subdivision.

2. SCOPE

2.1. This Policy applies to new subdivision developments where the developer seeks clearance of a subdivision prior to the practical completion of subdivisional works.

3. DEFINITIONS

Term	Meaning
Policy	This City of Busselton Council Policy entitled "Early Clearance of Subdivisions".
Early Clearance	The sign off by the City of subdivision conditions <i>prior</i> to completion of all subdivisional works.

4. STRATEGIC CONTEXT

4.1. This Policy links to Key Goal Areas 2 and 3 of the City's Strategic Community Plan 2017 and specifically the following Community Objectives:

- a. 2.1 – Planning strategies that foster the development of neighbourhoods that meet our needs as we grow;
- b. 3.1 – Development that is managed sustainably and our environment valued.

5. POLICY STATEMENT

5.1. Early Clearance of a subdivision allows a developer to apply to the Western Australian Planning Commission for approval of a Deposited Plan of the subdivision, and the creation of titles from the Deposited Plan.

5.2. The City may consider an application from a developer for Early Clearance of a subdivision but only when a minimum of 65% of the value of subdivisional works have been completed; and, as a minimum, all of the following works have been completed:

- a. all stormwater drainage works,
- b. all trafficable roads completed to primer seal standard, and
- c. all underground road crossings for irrigation and utility services are installed.

6.2 Attachment B Early Clearance of Subdivisions - Proposed Policy

- 5.3. An application for Early Clearance of a subdivision from a developer shall include the 'Information Required' as detailed in the City's Engineering Technical Standards and Specifications Section 1, subsection 4.2.
- 5.4. An Early Subdivision Clearance application fee is payable with the application, as set out in the City's adopted schedule of fees and charges.
- 5.5. The City will require the following prior to approving an Early Clearance:
 - a. a legal agreement to be entered into with the landowners, developers and all persons with legal interest in the land, and
 - b. receipt of payment of related bonds, fees and charges as set out in the City's adopted schedule of fees and charges or otherwise, specifically:
 - i. Outstanding Works Bond to cover the value of all outstanding works and conditions, plus a 100% contingency to the value of the outstanding works; or
 - ii. The Chief Executive Officer may, at his or her discretion alter the contingency percentage. The responsible City officer must request such a waiver in writing, providing sufficient justification therefore, by way of a waiver to the Early Clearance of Subdivisions Policy ;
 - iii. Outstanding Works Supervision fees
 - iv. Early Subdivision Clearance fee
 - v. Defects Liability Bond
- 5.6. The defects liability period for the subdivision will commence after practical completion of *all* outstanding works (see Council Policy 'Defects Liability Bonds for Subdivisions').

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. City of Busselton 'Engineering Technical Standards and Specifications'.
- 6.2. City of Busselton Council Policy – 'Defects Liability Bonds for Subdivisions'.

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE		Resolution #	
Previous Adoption	DATE	10/05/2017	Resolution #	C1705/102

6.3 REVIEW OF COUNCIL POLICY 218 INVESTMENT

SUBJECT INDEX:	Council Policy
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Governance
REPORTING OFFICER:	Manager Governance and Corporate Services - Sarah Pierson
AUTHORISING OFFICER:	Director Finance and Corporate Services - Tony Nottle
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Proposed Policy ↓ Attachment B Current Policy ↓

PRÉCIS

This report presents a revised Council Investment Policy (Attachment A) (the Policy) for Council approval, with the current policy having been amended as part of the City's overall review of its Council policies, having regard to the recommendations of the Governance System Review (GSR) carried out by Mr John Woodhouse in 2017.

The Policy, which has been moved into the new policy format, is considered to be of continuing relevance and importance and is therefore recommended for Council approval.

BACKGROUND

A policy in relation to the investment of City funds was originally adopted in February 2007 and was most recently reviewed in April and then again in June 2017, post an amendment to Section 19C(2)(b) of the Local Government (Financial Management) Regulations 1996 that extended the permitted maximum term of term deposit investments from 12 months to 3 years.

In August 2017 the CEO commissioned a high level independent review of the City's governance systems – the Governance Systems Review (GSR). The GSR made the following recommendations with respect to the City's policy and procedure framework:

- 1. There should be a review of the Council Policies with the intent that a Council Policy:*
 - a. Should deal with higher level objectives and strategies;*
 - b. Should not deal with operational matters, employee matters, or other matters which are the responsibility of the CEO; and*
 - c. Should, where appropriate provide sufficient direction to the CEO to develop OPPs which deal with the implementation of the Council Policy or other detailed matters.*
- 2. As part of that review, any existing Council Policy should be deleted where it could, more sensibly, be dealt with by an OPP adopted by the CEO.*
- 3. Consideration should be given to developing a new Council Policy which sets out the 'framework' for Council Policies, OPPs and other procedures. The new Policy would explain the role to be played by each level of document. It could, for example, be called a Policy Framework Policy.*

Prompted by a requirement to periodically review policies and an initiative to make policy documents consistent with a new policy framework and format, the Policy has been reviewed by officers and, being considered of continuing importance, is presented for the Council's consideration.

STATUTORY ENVIRONMENT

In accordance with Section 2.7(2)(b) of the *Local Government Act 1995* (the Act) it is the role of the Council to determine the local government's policies. The Council does this on the recommendation of a Committee it has established in accordance with Section 5.8 of the Act.

In accordance with Section 6.14 of the Local Government Act 1995 Council has the power to invest surplus funds held in a municipal or trust fund that are not immediately required for any other purpose.

Subsequent to recent amendment, in accordance with *Regulation 19C of the Local Government (Financial Management) Regulations 1996* Council is limited to invest surplus funds in Term Deposits with Authorised Deposit-Taking Institutions as defined in the *Banking Act 1959 (Commonwealth) section 5* or the Western Australian Treasury Corporation established by the *Western Australian Treasury Corporation Act 1986* for terms of no more than 3 years. Council is also limited to only investing surplus funds in Government Guaranteed bonds and for terms of no more than 3 years.

RELEVANT PLANS AND POLICIES

The City has a policy framework which was developed and endorsed by Council in response to the recommendations of the GSR. The framework sets out the intent of Council policies, as opposed to operational documents such as Staff Management Practices and operational procedures.

FINANCIAL IMPLICATIONS

Adoption of the Policy has no budget implications.

LONG-TERM FINANCIAL PLAN IMPLICATIONS

Adoption of the Policy has no long term financial plan implications.

STRATEGIC COMMUNITY OBJECTIVES

The officer recommendation primarily aligns with the following Key Goal Area/s and Community Objective/s of the City of Busselton's Strategic Community Plan 2017:

RISK ASSESSMENT

There are no risks identified of a medium or greater level associated with the officer recommendation, with the Policy acting as a risk mitigation in relation to the loss of Council funds.

Legislative requirements have been established which outline very clear restrictions regarding which investment options are available to Councils. The Council's Investment Policy complies with these legislative requirements.

This policy also requires funds to be spread across a number of institutions and limits exposure to individual institutions based upon performance benchmarks and associated reporting requirements thereby further mitigating risk. In addition, a statement of invested funds is presented to Council each month via the Finance Committee where compliance with this policy is monitored by the Committee.

CONSULTATION

No external consultation was required or undertaken in relation to this matter.

OFFICER COMMENT

The purpose of the Policy is to provide risk management guidelines in relation to the investment of surplus funds with the principal objective being the preservation of capital. Notwithstanding this, the maximisation of returns within the confines of the Policy is also encouraged, with investment earnings augmenting reserve balances and supplementing other general revenue streams.

The Policy applies to all investments made by the City of Busselton with the exception of deposits held in accordance with a grant funding agreement, and details the relevant authorities for investment, the nature and type of investments that can be entered into, institution exposure limits, and associated reporting requirements.

It is considered by officers that the policy has been operating efficiently and effectively for the City's current needs and therefore it is not proposed that significant or substantive changes are made to the policy content other than to, as stated above, explicitly exclude deposits held in accordance with a grant funding agreement from the scope of the policy. This is to reflect instances where we are instructed by government funding agreements to hold the funds with the Western Australian Treasury Corporation, and therefore outside the limits of the Policy.

Outside of this the changes are formatting in nature to streamline the policy, remove operational level detail and align it to the new format.

CONCLUSION

The Policy updates the current Investment policy and in doing so maintains an important Council risk management policy.

OPTIONS

Council could require further amendments to the Policy.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The policy will be effective immediately upon adoption

OFFICER RECOMMENDATION

That the Council adopts the Investment Policy as per Attachment A, to replace the current policy (Attachment B).

COUNCIL POLICY



City of Busselton
Geographic Bay

Council Policy Name: Investment

Responsible Directorate: Finance and Corporate Services Version: Proposed

1. PURPOSE

- 1.1. The purpose of this Policy is to provide risk management guidelines in relation to the investment of surplus funds with the principal objective being the preservation of capital.
- 1.2. This Policy authorises the Chief Executive Officer to invest surplus funds in accordance with this Policy.

2. SCOPE

- 2.1. This Policy applies to all investments made by the City of Busselton with the exception of deposits held in accordance with a grant funding agreement and details the relevant authorities for investment, the nature and type of investments that can be entered into, institution exposure limits, and associated reporting requirements.

3. DEFINITIONS

Term	Meaning
ADI	Authorised Deposit-Taking Institutions authorised under the Banking Act 1959 to take deposits from customers.
Austraclear	The Austraclear System, which is regulated by the Reserve Bank, simplifies settlement complexities and enhances straight-through-processing (STP), office integration and cross border opportunities to facilitate the registering, bookkeeping, clearing and settlement of a broader range of derivative, security and cash asset classes.
Big Four Bank	One or more of the Commonwealth Bank, the National Australia Bank, Westpac or ANZ Bank.
Counterparty	The legal and financial term that refers to the other individual or institution to an agreement or contract.
Safe Custody Custodian	A brokerage or other financial institution that holds and manages securities, or other assets, on behalf of an investor.
Policy	This City of Busselton Council policy entitled "Investment"
Rating Agency	Credit rating agency Standard and Poors (S & P)

4. STRATEGIC CONTEXT

- 4.1. This Policy links to Key Goal Area 6 - Leadership of the City's Strategic Community Plan 2017 and specifically Community Objective 6.1: Governance systems, process and practices are responsible, ethical and transparent.

5. POLICY STATEMENT

- 5.1. The principal objective of Council with respect to the investment of surplus funds is the preservation of capital and investment decisions must primarily align with this objective.
- 5.2. While a conservative approach is to be adopted, the maximisation of returns within the confines of this Policy is also encouraged, with investment earnings augmenting reserve balances and supplementing other general revenue streams.
- 5.3. The nature of funds available for investment includes reserves, other restricted funds (e.g. contributions and bonds and general revenue funds in excess of immediate cash-flow requirements).
- 5.4. The following four factors are to guide investment decisions:
 - a. the use of Rating Agency credit ratings (Security);
 - b. the maintenance of adequate levels of diversification (Security);
 - c. the ability to have ready access to funds for day-to-day requirements (Liquidity); and
 - d. compliance with appropriate legislative requirements (Compliance).

Investment Guidelines – Credit Quality, Diversification and Term to Maturity Constraints

- 5.5. Investments are limited to those permitted by the appropriate legislation, being:
 - a. with an ADI; or
 - b. a bond guaranteed by the Commonwealth Government, or a State or Territory Government.
- 5.6. All investments must be denominated in Australian Dollars.
- 5.7. The portfolio credit guidelines to be adopted will be based on the Ratings Agency ratings system criteria. The maximum available limits in each rating category is reflected in Table 1 (point 5.10).
- 5.8. Exposure to individual Counterparties/financial institutions will be restricted by the Rating Agency rating so that single entity exposure is limited, as detailed in Table 1 (point 5.10).
- 5.9. Table 1.

Long Term Credit Ratings	Short Term Credit Ratings	Maximum Percentage With One Financial Institution	Maximum Weighting as % of Total Investment Portfolio
AAA (All Aus. ADI)	A-1+	40%	100%
AA (Aus. Big Four Bank)	A-2	40%	100%
AA (Other Aus. ADI)	A-2	20%	100%
A (All Aus. ADI)	A-2	15%	60%
BBB (All Aus. ADI)	A-3	10%	20%

- 5.10. Legislation restricts the term to maturity for a deposit with an ADI to a maximum term of three years, and a bond to a maximum term of 3 years. The investment portfolio is to be invested with the following term to maturity constraints:

Duration	Maximum
Portfolio % < 1Year	100%
Portfolio % > 1 Year < 3 Years	20%

- 5.11. Investments which are downgraded and no longer fall within the investment guidelines outlined in this Policy will be divested as soon as is practicable.
- 5.12. From time to time financial assets may be acquired at a discount or premium to their face value. Any such discount or premium is to be taken into account in line with relevant Australian Accounting Standards.
- 5.13. The value of any funds held in an 11am type account, being one that offers higher interest rates than a standard cheque account but maintains same day access to funds; shall be excluded when verifying compliance with this policy.

Safe Custody Arrangements

- 5.14. Where necessary, investments may be held with a Safe Custody Custodian, as long as the following criteria are met:
- a. the City must retain beneficial ownership of all investments.
 - b. adequate documentation is provided, verifying the existence of the investments.
 - c. the Safe Custody Custodian conducts regular reconciliation of records with relevant registries and/or clearing systems.
 - d. the Safe Custody Custodian recording and holding the assets will be:
 - i. Austraclear or;
 - ii. An ADI with an investment grade Rating Agency or Moody’s rating or;
 - iii. An ADI with adequate insurance, including professional indemnity insurance and other insurances considered prudent and appropriate to cover its liabilities under any agreement.

Reporting

- 5.15. A report will be provided to the Council on a monthly basis as a minimum, detailing the performance of the investment portfolio and Counterparty percentage exposure of total portfolio. The report will also detail investment income earned versus budget year to date and confirm compliance of the City’s investments within legislative and policy limits.

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. Local Government Act 1995 (Section 6.14)
- 6.2. Local Government (Financial Management) Regulations 1996 (Regulation 19C)
- 6.3. Trustees Act 1962

7. REVIEW DETAILS

Review Frequency	3 yearly		
Council Adoption		Resolution #	
Previous Adoption	28 June 2017	Resolution #	C1706/001

| Last Updated 28 June 2017

218	Investment	V11
------------	-------------------	------------

STATEMENT

The principal objective of the Council in respect of the investment of surplus credit funds is the preservation of capital. Whilst a conservative approach is to be adopted with regards to investment decisions, the maximisation of returns within the confines of the policy guidelines is also encouraged.

This policy details the relevant authorities for investment, the nature and type of investments that can be entered into, institution exposure limits, investment performance benchmarks and associated reporting requirements.

PURPOSE

This policy provides specific guidelines for the Council, Chief Executive Officer and relevant employees of the City of Busselton in respect of the investment of surplus funds that are not immediately required for any other purpose.

Compliance with this policy will ensure prudence in the preservation of capital, whilst promoting the maximisation of investment returns within the policy guidelines.

SCOPE

As part of its core financial operations, the City of Busselton is positioned to invest surplus funds not immediately required for any other purpose; in order to add value through increased investment returns. The nature of funds available for investment includes Reserves, other restricted funds (e.g. contributions, bonds etc) and general revenue funds in excess of immediate cash-flow requirements. Investment earnings assist in augmenting reserve balances and also supplementing other general revenue streams.

Whilst the revenue associated with investment earnings represents an important component of the City's funding sources, the Council has identified the preservation of investment capital as a principal objective; and as such, investment decisions must primarily align with this objective.

Whilst this policy reflects the Council's capital preservation objective, it also provides sufficient flexibility to assist in the maximisation of investment returns within the defined investment types and associated exposure limits.

DEFINITIONS

"ADI" – Authorised Deposit-Taking Institutions (ADI's) are corporations that are authorised under the Banking Act 1959 to take deposits from customers.

"APRA" – Australian Prudential Regulation Authority (APRA) is the prudential regulator of

| Last Updated 28 June 2017

the Australian financial services industry. It oversees banks, credit unions, building societies, general insurance companies and most members of the superannuation industry.

“Austraclear” - The Austraclear System, which is regulated by the Reserve Bank, simplifies settlement complexities and enhances straight-through-processing (STP), office integration and cross border opportunities to facilitate the registering, bookkeeping, clearing and settlement of a broader range of derivative, security and cash asset classes.

“Big four” Bank – For the purposes of this policy, the Australian “Big four” banks comprise the Commonwealth Bank, the National Australia Bank, Westpac and ANZ Bank.

“Counterparty” – A counterparty is both the legal and financial term that refers to the other individual or institution to an agreement or contract.

“Custodian – Safe Custody” - A custodian is a brokerage or other financial institution that holds and manages securities, or other assets, on behalf of an investor.

“Rating Agency” – Credit rating agencies such as Standard and Poors (S & P) are professional organisations that provide opinion on the general credit worthiness of an obligor with respect to particular debt security or other financial obligations.

POLICY CONTENT

1.1 Objectives

- The purpose of this policy is to establish the investment risk management guidelines that the City of Busselton adopts in investing surplus funds that are not immediately required for any other purpose.
- The principal objective of this policy is the preservation of capital (Security).
- To take a conservative approach to investments, but with a focus to add value through prudent investment of funds (Security).
- To achieve a high level of security by using recognised ratings criteria (Security).
- To maintain an adequate level of diversification (Security).
- To have ready access to funds for day-to-day requirements (Liquidity).
- To ensure compliance with appropriate legislative requirements (Compliance).

1.2 Authority for Investment

All investments are to be made in accordance with:

Credit Ratings (Standard and Poor’s or Equivalent)	Individual Institution Limits	Overall Portfolio Credit Limits
---	----------------------------------	------------------------------------

| Last Updated 28 June 2017

- Local Government 1995 – Section 6.14 and any regulations made under that Act including the following:
 - Local Government (Financial Management) Regulations 1996 – Regulation 19C; and
 - The Trustees Act 1962 – Part III Investments as amended by the Trustees Amendment Act 1997.

13 Delegation of Authority

The Chief Executive Officer is authorised to invest surplus funds in accordance with this policy.

14 Authorised Investments

All investments must be denominated in Australian Dollars. Authorised Investments are limited to those permitted by the appropriate legislation, being:

- With an Authorised Institution, being:
 - (a) An Authorised Deposit-Taking Institution as defined in the Banking Act 1959 (Commonwealth) section 5; or
 - (b) The Western Australian Treasury Corporation established by the Western Australian Treasury Corporation Act 1986;
- A Bond that is guaranteed by the Commonwealth Government, or a State or Territory Government.

15 Investment Guidelines – Credit Quality, Diversification and Term to Maturity Constraints

(i) Portfolio Credit Framework

The portfolio credit guidelines to be adopted will be based on the Standard & Poor's (S&P) ratings system criteria. The maximum available limits in each rating category is reflected in the below table.

(ii) Counterparty/Institution Credit Framework

Exposure to individual counterparties/financial institutions will be restricted by their S&P rating so that single entity exposure is limited, as detailed in the below table.

| Last Updated 28 June 2017

Long Term Credit Ratings	Short Term Credit Ratings	Maximum Percentage With One Financial Institution	Maximum Weighting as % of Total Investment Portfolio
AAA (All Aus. ADI)	A-1+	40%	100%
AA (Aus. "Big four" Bank)	A-2	40%	100%
AA (Other Aus. ADI)	A-2	20%	100%
A (All Aus. ADI)	A-2	15%	60%
BBB (All Aus ADI)	A-3	10%	20%

(iii) Term to maturity Framework

Legislation restricts the term to maturity for a deposit with an ADI to a maximum term of three years, and a Bond to a maximum term of 3 years. The investment portfolio is to be invested with the following term to maturity constraints:

Overall Portfolio Term to Maturity Limits	
Duration	Maximum
Portfolio % < 1Year	100%
Portfolio % > 1 Year < 3 Years	20%

1.6 Credit Ratings

If any of the City's investments are downgraded such that they no longer fall within these investment policy guidelines, they will be divested as soon as is practicable.

1.7 Accounting for Premiums and Discounts

From time to time financial assets may be acquired at a discount or premium to their face value. Any such discount or premium is to be taken into account in line with relevant Australian Accounting Standards.

1.8 Base Total Investment Portfolio Value for Percentage Calculations

The value of any funds held in an 11am type account, being one that offers higher interest rates than a standard cheque account but maintains same day access to funds; shall be excluded when verifying compliance with this policy.

| Last Updated 28 June 2017

1.9 Safe Custody Arrangements

Where necessary, investments may be held in safe custody on the City's behalf, as long as the following criteria are met:

- The City must retain beneficial ownership of all investments.
- Adequate documentation is provided, verifying the existence of the investments.
- The Custodian conducts regular reconciliation of records with relevant registries and/or clearing systems.
- The Institution or Custodian recording and holding the assets will be:
 - Austraclear or;
 - An Institution with an investment grade Standards and Poors or Moody's rating or;
 - An Institution with adequate insurance, including professional indemnity insurance and other insurances considered prudent and appropriate to cover its liabilities under any agreement.

1.10 General

The City of Busselton will not make ill-informed or unpredictable investment decisions, be engaged in overly speculative investments, or invest other than in compliance with the relevant legislation.

1.11 Reporting

- (i) A report will be provided to the Council on a monthly basis as a minimum, detailing the investment portfolio in terms of performance and counterparty percentage exposure of total portfolio. The report will also detail investment income earned versus budget year to date and confirm compliance of the City's investments within legislative and policy limits.
- (ii) For audit purposes, certificates must be obtained from the banks/fund managers/custodian confirming the amounts of investment held on the City's behalf at 30th June each year.

| Last Updated 28 June 2017

Policy Reference No. - 218
Owner Unit – Finance
Originator – Manager, Financial Services
Policy approved by – Council
Date Approved – 28 June 2017
Review Frequency – As required Related
Documents – Nil

History

Council Resolution	Date	Information
C1706/001	28 June 2017	Version 11
C1704/081	26 April, 2017	Version 10 (Current)
C1409/225	24 September, 2014	Version 9

7. **GENERAL DISCUSSION ITEMS**

8. **NEXT MEETING DATE**

9. **CLOSURE**