

Council Meeting**AGENDA NO. 1/10**

Meeting Date: Tuesday 9 February 2010
Location: Council Chambers, Level 6
Time: 7.30pm

NOTICE OF BUSINESS

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PRECIS OF CORRESPONDENCE FOR CONSIDERATION

There are no Precs of Correspondence for Consideration

NOTICES OF MOTION

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NOTICES OF RESCISSION

There are no Notices of Rescission

1 ITEMS DETERMINED BY EXCEPTION METHOD**File No.:** GRP/10/3/001/6 - BP10/37

In accordance with Council's Code of Meeting Practice, Council can determine those matters on the agenda that can be adopted without the need for any discussion.

RECOMMENDATION:

THAT the recommendations in respect of items 2 to 10 inclusive, as submitted to Council Meeting 01/10, be adopted with the exception of items as determined by the Council.

2 REGISTERS - Common Seal

Report prepared by: Executive Assistant - General Manager

Report dated: 26 January 2009

File No.: GRP/10/5/001/6 - BP09/951

REPORT SUMMARY

There have been no updates to the Common Seal register since the last Council Meeting.

RECOMMENDATION:

That the report of the Executive Assistant - General Manager, dated 26 January 2009 on REGISTERS - Common Seal, be endorsed.

ATTACHMENTS

There are no attachments for this report.

Report Prepared By:

Angela Steinke
Executive Assistant - General Manager

Report Approved By:

John Neish
General Manager

3 REGISTERS - State Environmental Planning Policy No. 1

Report prepared by: Manager Assessment

Report dated: 28/01/2010

File No.: GRP/10/4/001/6 - BP10/24

Report Summary

Please find attached DAs approved in the period 21 November 2009 to 22 January 2010 with a variation using State Environmental Planning Policy No. 1 (SEPP 1).

Five applications were determined in this timeframe; four under delegation and one by Council.

RECOMMENDATION:

That the report of the Manager Assessment dated 28 January 2010 on REGISTERS - State Environmental Planning Policy No. 1 be endorsed.

ATTACHMENTS

There are no attachments for this report.

Report Prepared By:

Liz Coad

Manager Assessment

Report Approved By:

Dominic Johnson

Group Manager Environment & Planning

ITEM 3 (continued)

| Date and method of Determination | Property Address | DA No. | Description | Description of variation | Amount of variation & what was the variation for |
|----------------------------------|------------------------------------|--------------|---|--|--|
| 27/11/09 (By Council) | 297-307 Victoria Road, Gladesville | LDA 2009/124 | Erection of a 5 storey mixed use complex containing shops and commercial premises on top of the existing basement car park. | Variation to the Ryde Planning Scheme Ordinance in relation to floor space ratio. The zoning of the subject site allows for a floor space ratio of 1:1, whereas the proposal is for 2.3:1. | Variation of 130% to floor space ratio (Approved by Council 24 November 2009. Floor space is consistent with Draft LEP Gladesville Town Centre and Victoria Rd Corridor). |
| 7/12/09 (Delegated Authority) | 39 Douglas Street, Putney | LDA 2009/460 | Demolition, construct two storey dwelling, 1.05m high front fence & swimming pool. | Variation to the Ryde Planning Scheme Ordinance in relation to in relation to allotment width. The subject site has a width of 12.8m at 7.5m from the alignment of public road. | Variation of 16.26% to allotment width. |
| 8/12/09 (Delegated Authority) | 22 Aitchandar Road, Ryde | LDA 2009/401 | 2 lot land subdivision. | Variation to the Ryde Planning Scheme Ordinance in relation to allotment size and width. The proposed allotment fronting the road has an area of 512m ² and the battle-axe block has an area of 647m ² . The front lot has a frontage of 13.74m and the width of the access to the battle-axe block is 1.5m. | Variation of 11.72% to allotment size of front lot, and 12.57% to battle-axe lot. Variation of 8.4% to allotment width of front lot, and 50% to width of battle-axe access. |
| 8/1/10 (Delegated Authority) | 8 Forster Street, West Ryde | LDA 2009/539 | New two storey dwelling. | Variation to the Ryde Planning Scheme Ordinance in relation to in relation to allotment width. The subject site has a width of 13.41m at 7.5m from the alignment of public road. | Variation of 10.6% to allotment width. |
| 14/1/10 (Delegated Authority) | 61 Falconer Street, West Ryde | LDA 2009/301 | New two storey dwelling. | Variation to the Ryde Planning Scheme Ordinance in relation to allotment size. The subject lot has a size of 537.5m ² . | Variation of 7.33% to allotment size. |

4 COUNCILLOR WORKSHOPS

Report prepared by: Group Manager - Corporate Services

Report dated: 10/12/2009

File No.: GRP/10/3/001/6 - BP09/973

REPORT SUMMARY

This report provides Council with a summary of Council Workshops held in December 2009, detailing topics discussed at each individual Workshop.

RECOMMENDATION:

That the report of the Group Manager - Corporate Services, dated 10/12/2009 on COUNCILLOR WORKSHOPS detailing the topics discussed at the workshops be endorsed.

ATTACHMENTS

There are no attachments for this report.

Report Prepared By:

Roy Newsome
Group Manager - Corporate Services

Report Approved By:

John Neish
General Manager

ITEM 4 (continued)**REPORT**

In accordance with Council's resolution of 26 June 2001, I wish to report on the Councillor Workshops held on 8 December 2009.

| | |
|----------------|---|
| Date: | 8 December 2009 at 4.40pm |
| Subject: | SMALL CENTRES – Masterplan options for Cox's Road Shopping Precinct Presentation by Consultants |
| Present: | Councillors Etmekdjian, Maggio, O'Donnell, Perram, Petch, Tagg |
| Apologies: | The Mayor, Councillor Butterworth and Councillors Campbell, Li, Pickering and Salvestro-Martin |
| Staff Present: | Acting General Manager, Acting Group Manager – Community Life, Group Manager – Corporate Services, Group Manager – Environment & Planning, Manager Urban Planning, Acting Team Leader Urban Planning, Senior Strategic Planner and City Urban Designer |
| Summary: | The landowners of 203, 144-148 and 191 – 195 Cox's Road, North Ryde have commissioned a master plan study of the Cox's Road business district. A representative of the landowners presented an overview to Councillors on the master plan and briefly highlighted the key components of the study for Councillors' information. |

| | |
|----------------|---|
| Date: | 8 December 2009 at 5.00pm |
| Subject: | RYDE 2030 |
| Present: | Councillors Campbell, Etmekdjian, Maggio, O'Donnell, Perram, Tagg and Yedelian OAM |
| Apologies: | The Mayor, Councillor Butterworth and Councillors Li and Salvestro-Martin |
| Staff Present: | Acting General Manager, Acting Group Manager – Community Life, Group Manager – Corporate Services, Group Manager – Environment & Planning, Chief Financial Officer, Manager Human Resources, Media & Community Relations Officer. |
| Guests: | Mr John Neish |
| Summary: | A presentation on the current status of Ryde 2030 was provided to Councillors. Feedback was provided by |

ITEM 4 (continued)

Councillors in respect of key projects to be considered in the Plan. Councillors also received a presentation on the assumptions that underpin Council's Long Term Financial Strategy and discussion/clarification on the proposed assumptions was provided in the session.

| | |
|----------------|---|
| Date: | 8 December 2009 at 6.00pm |
| Subject: | MANAGEMENT PLAN – Workshop No 1 |
| Present: | The Mayor, Councillor Butterworth and Councillors Campbell, Etmekdjian, Maggio, O'Donnell, Perram, Petch, Pickering, Salvestro-Martin, Tagg and Yedelian OAM |
| Guests: | Mr John Neish |
| Apologies: | Councillor Li |
| Staff Present: | Acting General Manager, Acting Group Manager – Community Life, Group Manager – Corporate Services, Group Manager – Environment & Planning, Chief Financial Officer, Manager Human Resources, Media & Community Relations Officer. |
| Summary: | Acting General Manager presented feedback from Councillors in respect of the upcoming Management Plan. Councillors provided feedback and comments in respect of each item to staff in preparation for the next workshop. |

5 AUDIO RECORDING OF MEETINGS

Report prepared by: Business Services Co-Ordinator

Report dated: 24 November 2009

File No.: GRP/10/3/001/6 - BP09/900

Report Summary

This report provides the results of the trial period of the audio recording of Council and Committee of the Whole Meetings and confirms that the recordings have been accessed on a number of occasions in verifying the accuracy of the minutes of these meetings. The report recommends that the audio recording of Council and Committee of the Whole Meeting continue for the purpose of verifying the accuracy of the minutes of these meetings.

RECOMMENDATION:

- (a) That Council continue to undertake audio recording of Council and Committee of the Whole meetings for the purpose of verifying the accuracy of the Minutes, excluding closed and confidential sessions.
- (b) That audio recordings of meetings be destroyed after three months in accordance with the State Records Act.

ATTACHMENTS

- 1 Council Report - 24 February 2009

Report Prepared By:

Shane Sullivan
Business Services Co-Ordinator

Report Approved By:

Roy Newsome
Group Manager - Corporate Services

ITEM 5 (continued)**Background**

At the Council Meeting held 24 February 2009, Council resolved as follows:

- (a) That the report of the Group Manager – Corporate Services, dated 18/02/2009 on Audio Recording Of Meetings , be received and endorsed.
- (b) That Council undertake audio recording of all meetings of Council and Committee of the Whole on a trial basis, excluding closed and confidential sessions, for a six (6) month period as soon as possible.
- (c) That all data recorded at these meetings not be made publicly available in the trial period.
- (d) That the data be retained for the six (6) month trial period and then destroyed.
- (e) That a further report be provided back to Council at the conclusion of the trial period

A copy of the report which was considered by Council is ATTACHED.

Since 24 March 2009, all Council and Committee of the Whole Meetings have been recorded, excluding closed and confidential sessions.

Signs have been placed outside the Council Chambers and Committee of the Whole Meetings advising members of the public that Council and Committee of the Whole meetings are recorded by Council staff for the purposes of verifying the accuracy of the minutes only and that the recordings are not available to members of the public.

Report

Since undertaking audio recording of Council and Committee of the Whole Meetings, the recordings have been accessed by staff on a number of occasions to check the accuracy of the minutes. While this is a minimum number of occasions, having the recordings has assisted staff to ensure that the Minutes of these meetings are accurate. Due to Council utilising the 'live' minute system this has generally limited the need to refer to the recordings of the meetings.

In accordance with Council's resolution, the recordings have been retained for the six (6) months of the trial period and will now be managed under the disposal schedule. This is in accordance with the State Records Act which requires that any audio recordings be destroyed as soon as their original purpose is served, or three months after their creation, whichever is the later.

Consultation

Internal Council business units consulted included:-

- Not Applicable.

Internal Workshops held:-

- Not Applicable.

ITEM 5 (continued)

City of Ryde Advisory Committees consulted included:-

- Not Applicable.

External public consultation included:-

- Not Applicable.

Critical Dates

There are no critical dates or deadlines to be met.

Management Plan Budget / Linkages**Relationship to Key Outcome Areas**People

This matter has no direct relationship to this key outcome area.

Assets

This matter has no direct relationship to this key outcome area.

Environment

This matter has no direct relationship to this key outcome area.

Governance

This project meets the following **key outcomes** for Governance (set out on page 79 of the Management Plan 2009-2013):

- G1 Improved awareness and understanding of Council's decisions by the community.
- G3 Review of best practice approaches on Governance to enhance the delivery of services to the community.
- G5 Compliance with all legislative requirements and statutory obligations.

The provision of accurate minutes of Council and Committee meetings is essential for carrying out resolutions of Council effectively and efficiently.

Financial Impact

There will be no on-going costs of maintaining this practice.

Policy Implications

Council's Code of Meeting Practice reflects the current practice of recording Council and Committee of the Whole Meetings.

ITEM 5 (continued)**Other Options**

If Council opted to cease audio recording of Council and Committee of the Whole Meetings, it is recommended that the report be received and noted and that the practice of audio recording meetings be ceased, effective from the date of Council's resolution.

Conclusion

Since audio recording of meetings has commenced, access to the audio recordings has occurred on a number of occasions to ensure the Minutes of the meeting are accurate. Whilst this was a minimal number of times, having the recordings of Council and Committee of the Whole meetings is seen to be useful.

Further, if the audio recordings of Council and Committee of the Whole Meetings continue, it is recommended that the recordings be destroyed three months after the Council or Committee Meeting.

Additionally, it should be noted that Council's procedure with regard to the audio recording of Council and Committee Meetings will be reviewed once the Government Information (Public Access) Act 2009 (GIPA Act) is implemented.

ITEM 5 (continued)**Attachment 1****AUDIO RECORDING OF MEETINGS**

Report prepared by: Group Manager – Corporate Services**Report dated:** 18/02/2009**File No.:** COR2009/411 - BP09/32

Report Summary

To consider the options for audio recording of Council and Committee meetings and potential implications of Council adopting this practice.

Background

At its meeting on 18 July 2008, Council considered a Notice of Motion in the name of Councillor Perram regarding audio recording of Council meetings and resolved as follows:

THAT THE GENERAL MANAGER REPORT TO COUNCIL REGARDING THE POSSIBILITY OF AUDIO RECORDING COUNCIL AND COMMITTEE MEETINGS, WITH COPIES OF THE RECORDING BEING AVAILABLE TO THE MEDIA AND ANY INTERESTED MEMBER OF THE COMMUNITY AS SOON AS POSSIBLE AFTER THE MEETING

Report

Councils who have adopted the audio recording of its meetings, mainly Council meetings, has been for the main purpose of verifying the accuracy of minutes. However, as the recording is regarded as a Council record, Councils also need to confirm any other purposes that the information will be used, noting this needs to be directly related to a function of the Council.

The main issues and concerns with the audio recording of meetings relates principally to complying with the Privacy and Personal Information Protection Act 1998 (PPIPA).

To assist Councils consideration of this matter, Privacy NSW issued a user manual for "The tape recording of council meetings" in 2004 which is ATTACHED.

The key considerations outlined in this manual are;

- i) Collection of personal information
- ii) Use of personal information
- iii) Disclosure of personal information
- iv) Retention and destruction of personal information

As indicated in this manual, the audio recording of meetings must comply with the information protection principles of the PPIPA Act as personal information is likely to be collected at Council Meetings. Such personal information may include:

- The identities of any speakers and personal opinions held by them that they express at the meeting – this includes Councillors, staff and members of the public

ITEM 5 (continued)**Attachment 1**

- Information or opinions about other people – this is where a speaker talks about a third party whose identity is apparent or is reasonable ascertainable.

A key premise of the PPIPA Act is that agencies should only collect information that is 'reasonably necessary' for the purposes of the function of the agency. In the case of audio recordings of Council meetings, the purpose of the data collection is primarily to ensure the accuracy of the minutes. Council's minutes essentially record the final resolution and record of voting on each matter. A significant amount of audio content from a Council meeting (such as open debate) is, therefore, not necessary to be recorded for the purposes of minute taking.

As expressed by Privacy NSW in their manual, the Local Government Act and Regulations do not place an obligation on Councils to record their meetings. As such, Privacy NSW does not support a view that recording of meetings is 'reasonably necessary' in terms of the PPIPA Act. This decision however, is for Council's determination and to justify its decision in order to comply with the PPIPA Act.

A potential argument to justify the recording of meetings is that the data is being collected for the purpose of producing accurate minutes. If Council endorses this purpose, the PPIPA Act then limits the use of that information for the purpose it was collected ie. the production of accurate minutes. For this reason, a live broadcast of the minutes via the web or unedited distribution of a CD-ROM to the local media could lead Council to be in breach of the PPIPA Act for which substantial fines apply.

It should be noted, no recordings of closed or confidential sessions would be undertaken.

If recordings were made of council meetings and there was a subsequent request from the media or member of the public for access these recordings, it would be recommended that staff provide only an extract of the relevant section of the recording (except where the information may have been collected during a confidential session of the meeting in which case the data would not be provided). This extract could then be checked for any content which may contain personal information. If the extract did not contain personal information, the data could be released, however, if there was personal information, the staff would need to:

- Confirm whether each person, whose personal information was mentioned in that part of the meeting, was present at the meeting and therefore, informed (by way of public announcement or visible signage at the meeting) that their information may be disclosed
- If a person was not present, assess whether or not they would be likely to object to their information being further disclosed by Council (this may require contact being made with the person/s involved).

ITEM 5 (continued)**Attachment 1**

To satisfy the requirements of the State Records Act, any audio recordings should be destroyed as soon as their original purpose is served or 3 months after their creation, whichever is the later, except where retention is required for a longer period or as recommended under this Act.

It is also important to note that Councillors do not receive any “privilege” in respect of comments made at a Council or Committee meeting in the same way that State and Federal parliamentarians receive “parliamentary privilege”. With this in mind, any data records of meetings would not be able to be disposed, if officers were aware of any current or pending legal action, where these records may be required.

Provision of Equipment to support recordings

Council’s recent purchase of its new sound/voting system accommodates the audio recording of Council/Committee of the Whole meetings. This also includes the capability to upload the information to Council’s website.

Council’s Code of Meeting Practice

Any resolution by Council to record meetings would need to be an amendment to Council’s Code of Meeting Practice that addresses;

- the purpose the recordings are being undertaken
- the statement of how the recordings will be made available to the public or third parties
- the period for which the recordings will be held
- that appropriate signage/statements are provided/made in the Council chamber

Summary

- 1) The audio recording of Council and Committee of the Whole meetings is supported by Council’s sound/voting system.
- 2) For the reasons outlined in the report and as detailed in Privacy NSW manual, audio recordings of Council and Committee meetings should only be taken for the purpose of verifying the accuracy of the minutes
- 3) Any audio recordings of meetings should not be live broadcasts or supplied unedited to any member of the public (or media) as it may contain personal information as defined by the PPIPA Act and its release in such a manner could result in a breach of the PPIPA Act.
- 4) Any audio recordings of meetings should only be provided to a member of the public (or media) where the recording is first checked by an officer of Council to establish whether that part of the recording contains personal information (or was part of a confidential session of the meeting and cannot be supplied).

ITEM 5 (continued)**Attachment 1**

If there is no personal information within the recording, the data can be supplied however, if there was personal information, Council staff would need to;

- a. Find out whether each person, whose personal information was mentioned in that part of the meeting, was present at the meeting and therefore, informed (by way of public announcement or visible signage at the meeting) that their information may be disclosed
 - b. If a person was not present, assess whether or not they would be likely to object to their information being further disclosed by Council (this may require contact being made with the person/s involved).
- 5) Any audio recordings of meetings should be destroyed as soon as their original purpose is served (for the recording of accurate minutes) or three months after their creation (whichever is the later), except where retention for a longer period is otherwise required or recommended under the State Records Act.
- 6) As indicated in part (3) above, appropriate signage would be required to be displayed in the public gallery or at the entrance to the meeting venues, or verbal statements made at the start of each meeting, to notify the public of the fact that personal information may be collected during a meeting and the purposes for which it is being collected.

Proposed Implementation Plan

It is proposed if Council supports the audio recording of Council meetings, that Council consider the following implementation plan and resolution;

- (a) That, for the purpose of verifying the accuracy of minutes, audio recordings be taken of Council meetings on a 6 month trial basis commencing 24 March 2009, subject to no recordings of closed or confidential sessions of Council.
- (b) That all data recorded at these meetings not be made publicly available unless first edited to ensure compliance with Section 10A of the Local Government Act concerning closed sessions of meetings, and the requirements of the Privacy and Personal Information Protection (PPIPA) Act 1998.
- (c) That all data recordings be destroyed as soon as the minutes of the subject meeting are duly confirmed or within 3 months of their creation (whichever is the later), except where retention for a longer period is otherwise required or recommended under the State Records Act.
- (d) That appropriate signage be displayed in the Council Chamber, and verbal statements be made at the start of each meeting to inform members of the public that personal information may be collected at a meeting subject to the PPIPA Act.
- (e) A further report be provided back to Council at the conclusion of the trial period for Council's review and determination

ITEM 5 (continued)**Attachment 1****Consultation**

Internal Council business units consulted included:-

- General Counsel

Internal Workshops held:-

- Not Applicable

City of Ryde Advisory Committees consulted included:-

- Not Applicable

External public consultation included:-

- The User Manual for “the tape recording of council meetings” was downloaded from the Privacy NSW website

Critical Dates

There are no critical dates or deadlines to be met.

Management Plan Budget / Linkages**Relationship to Key Outcome Areas**People

This matter has no direct relationship to this key outcome area.

Assets

This matter has no direct relationship to this key outcome area.

Environment

This matter has no direct relationship to this key outcome area.

Governance

This project meets the following **key outcomes** for Governance (set out on page 75 of the Management Plan 2008-2012):

- G1 Improved awareness and understanding of Council’s decisions by the community.
- G3 Review of best practice approaches on Governance to enhance the delivery of services to the community.
- G5 Compliance with all legislative requirements and statutory obligations.

The provision of accurate minutes of Council and Committee meetings is essential for the carrying out of Council resolutions by officers.

ITEM 5 (continued)**Attachment 1****Financial Impact**

Adoption of the option(s) outlined in this report will have no financial impact. The new audio system in the Council Chamber and Committee Rooms already has the in-built capacity to audio record meetings and only minor staff costs are involved in activating this option. Depending on the level of demand for recordings to be supplied, considerable staff time may be involved in providing edited recordings of meetings.

Policy Implications

If Council resolved to implement audio recording of Council and Committee meetings the Code of Meeting Practice would need to be revised accordingly.

Other Options

If Council opted to maintain the status quo, it is recommended that the report be received and noted.

RECOMMENDATION:

- (a) That the report of the Group Manager – Corporate Services, dated 18/02/2009 on Audio Recording Of Meetings , be received and endorsed.
- (b) That this matter now be determined by Council.

Report prepared by:

Roy Newsome
Group Manager – Corporate Services

6 INVESTMENT REPORT - NOVEMBER - DECEMBER 2009

Report prepared by: Chief Financial Officer**Report dated:** 12/01/2010**File No.:** GRP/10/5/001/6 - BP10/3

Report Summary

This report provides details of Council's performance against the benchmark for returns of its investment portfolio for the month of November & December 2009, the financial year to date and the rolling 12 month period. The report details that Council's year to date return to December is 4.51%, which is 0.65% above the benchmark. The report also provides details of anticipated credit events that will impact on a number of Council's structured products, which have been included in previous reports to Council.

RECOMMENDATION:

That the report of the Chief Financial Officer, dated 12/01/2010 on INVESTMENT REPORT - NOVEMBER - DECEMBER 2009, be endorsed.

ATTACHMENTS

There are no attachments for this report.

Report Prepared By:

Richard Nankivell
Chief Financial Officer

Report Approved By:

Roy Newsome
Group Manager - Corporate Services

ITEM 6 (continued)**Background**

This report provides details of Council's performance against the benchmark for returns of its investment portfolio for the month of November & December 2009, the financial year to date and the rolling 12 month period.

Council's return to December 2009 is as follows:

| | December 2009 | 12 Months | Fin YTD |
|-----------------------|--------------------------|------------------|----------------|
| Council Return | 4.51 | 3.67 | 4.26 |
| Benchmark | 3.86 | 3.47 | 3.39 |
| Variance | 0.65 | 0.20 | 0.87 |

Council's year to date return of 4.51% is 0.65% above benchmark, with income from interest on investments being approximately \$200K above budget projections as per the 2009-2013 Management Plan.

During December 2009 Council's ELD 2 investment of \$500K matured and Council has received full payment of its principal.

Since the last Investment Report to Council, the following investments have been downgraded during the period:

- Titanium AAA CDO Originally AAA now A+
 Downgraded from AAA to A+ as Standard and Poors updated criteria and assumptions used to rate CDOs. This investment has 5 credit events it can sustain before principal is impacted.
- Lehman / Grange IMP
 Flinders CDO Originally AA now NR
 Downgraded from BB to NR as Standard and Poors are of the view they lack adequate information to continue to provide opinions on the creditworthiness of this investment. This investment can withstand approximately 9 further credit events before principal is impacted.

This report also provides details of anticipated credit events that will impact a number of Council's structured product investments (CDOs) in the Lehman/ Grange IMP as well as the Covent Garden CDO. These investments have been previously reported to Council.

Detailed in the report is an estimated market valuation of Council's investment portfolio with a commentary on significant events in the global financial markets.

ITEM 6 (continued)

All Council's investments complied with the Minister for Local Government's Investment Order dated 15 August 2008 and Council's Investment Policy when acquired, however the following investment's credit ratings are now below the Minister's Order:

| Investment | Rating | Maturity |
|---------------------------|---------------|-----------------|
| • Grange IMP - Quartz CDO | CCC- | 20/12/2010 |
| - Flinders CDO | N/R | 20/03/2012 |
| - Merimbula CDO | N/R | 20/06/2013 |
| - Torquay CDO | CCC- | 20/06/2013 |
| - Scarborough CDO | CCC- | 23/06/2014 |
| - Global Bank Note CDO | N/R | 20/09/2014 |
| - Glenelg CDO | CCC- | 22/12/2014 |
| • Alpha CDO | CCC | 20/03/2012 |
| • Covent Garden CDO | C | 20/09/2012 |
| • Oasis CDO | CCC- | 04/09/2014 |

All the above investments have been previously reported to Council through the Investment Report and the weekly Councillor Information Bulletin and Councillor Workshops / Briefings.

Under the Minister's Order, Council is required to divest itself of these investments as soon as practicable. With the exception of the investments in the Lehman / Grange IMP, these investments were purchased with the intention of holding them to maturity.

Whilst Council officers continue to work closely with Oakvale Capital Limited to manage Council's Investment Portfolio and to seek viable options to exit the above investments, options remain severely limited.

The report also details Council's current loan liability, and the current interest rate applying to Council's loans compared to the average return being achieved from term deposits in the monthly Investment Report.

Report

The Chief Financial Officer as Council's Responsible Accounting Officer is required to report to Council on a monthly basis on Council's Investment Portfolio and to certify that the Investments are held in accordance with Council's Investment Policy and Section 625 of the Local Government Act.

ITEM 6 (continued)**Investment Performance Commentary**

Council's investment portfolio as at 31 December 2009 was as follows:

| | December 2009 | |
|----------------------------|----------------------|-------|
| Cash/Term Deposits | \$51.3M | 62.4% |
| Floating Rate Notes | \$ 3.0M | 3.6% |
| CDOs | \$ 6.0M | 7.3% |
| Managed Funds | \$ 0.8M | 1.0% |
| Other Financial Products | \$ 6.0M | 7.3% |
| Total Cash Investments | <u>\$67.1M</u> | |
| Property | <u>\$15.1M</u> | 18.4% |
| Total Investment Portfolio | <u>\$82.2M</u> | |

Council has been advised of the following ratings downgrades within its Investment Portfolio

- **Titanium CDO AAA now A+**
Macquarie Bank

This investment was rated AAA when purchased in June 2005 and has a maturity of 14 December 2010. Titanium is a balance sheet CDO whose underlying reference portfolio includes senior debt obligations originated by Deutsche Banks internal lending and credit business.

Standard & Poors (S&P) downgraded the security from AAA to A+ as a result of S&P updating the criteria and assumptions it uses to rate CDOs including; introducing additional quantitative and qualitative tests, increasing default rate assumptions in extreme economic stress and stricter assumptions on correlation between securities and recovery rates of defaulted entities.

This investment has sustained 3 credit events since inception in June 2005 and it is estimated that this investment can sustain a further 5 credit events before capital is impacted.

Council invested \$2 million in Titanium and the current indicative market value of this investment is \$1.93M.

Council's Investment Advisors, Oakvale Capital Finance have advised in part "that with less than 12 months to maturity and a reasonable amount of subordination remaining, at this stage the investment appears to be on track to reach maturity without capital loss."

ITEM 6 (continued)

- **Flinders CDO** **AA now NR**
Lehman / Grange IMP

Standards & Poors downgraded this investment from BB to B- then NR advising that the ratings actions reflects S&P's view that they lack adequate information to provide opinions on the creditworthiness of Flinders.

Advice had been previously received that the investment can withstand approximately 9 further credit events before principal is impacted.

Further information has been requested from Council's Investment Advisor Oakvale Capital Limited on this investment.

A number of companies which are reference entities in Council's structured products investments have undertaken debt restructuring. It is anticipated that this will give rise to credit events with the following investments affected:

| Investment Portfolio | Rating | Reference Entity |
|-----------------------|--------|------------------|
| • Lehman / Grange IMP | | Cemex |
| - Torquay CDO | CCC- | Aiful |
| - Scarborough CDO | CCC- | Aiful |
| - Glenelg CDO | CCC- | Aiful |
| • Covent Garden CDO | C | FGIC |
| | | Aiful |

The impacts of the above credit events are detailed below in the overview of key investments.

Overview of Key Investments

The key investments to note are as follows:

ELD2 **\$500K** **AA**
Commonwealth Bank

This investment was purchased on 22 December 2006 and matured on 22 December 2009. The note provided Council with a variable return based on the performance of a reference basket of stocks selected from the ASX100. Council received an average 4.64% return over the term of this investment. Council received full repayment of its \$500K principal on maturity of this investment.

ITEM 6 (continued)**Covent Garden CDO \$2 million AA now C
Société Generale**

This investment was rated AA when purchased and has a maturity of 20 December 2012 and has been extensively reported to Council due to the ongoing impact of the Global Financial Crisis. The investment is covered by Council's Financial Security Reserve.

The indicative market value of this investment is \$125K.

Advice had been previously received from the Société Generale that the investment can withstand approximately 1 further credit event before principal is impacted.

It is understood that the reference entities of FGIC and Aiful for this CDO, due to their recent debt restructuring will be deemed to be credit events against this investment. These credit events will result in incurring a capital loss on this investment.

Council is yet to receive official notification of these credit events and their associated impact on the investment. Whilst the extent of the loss is dependant upon the recovery rate, it is most probable that this will be a full loss of this investment. This investment is covered by Council's Financial Security Reserve.

Lehman/Grange IMP

The Lehman/Grange IMP has been valued on a mark to market basis with the current valuation being \$835K.

Torquay CDO AA now rated CCC-

This investment which is part of the Lehman / Grange IMP was rated AA when purchased and has a maturity of 20 June 2013.

Advice had been previously been received that the investment could withstand approximately 1 further credit event before principal is impacted.

Cemex and Aiful are reference entities for this CDO and their recent debt restructuring will be deemed to be credit events and as a result, Council will incur a capital loss on this investment

Council has a nominal \$1K current written down value for Torquay and as a result, any capital loss will have a negligible impact on Council's financial position.

Glenelg CDO AA now rated CCC-

This investment which is part of the Lehman / Grange IMP was rated AA when purchased and has a maturity of 22 December 2014.

Aiful is a reference entity for this CDO and it is anticipated that its recent debt restructuring will be deemed to be a credit event.

ITEM 6 (continued)

It is estimated that this investment can withstand approximately 4 further credit events before principal is impacted.

Council has a nominal \$1K current written down value for Glenelg.

Scarborough CDO AA now rated CCC-

This investment which is part of the Lehman / Grange IMP was rated AA when purchased and has a maturity of 23 June 2014.

Advice had been previously been received that the investment could withstand approximately 1 further credit event before principal is impacted.

Aiful is a reference entity for this CDO and its recent debt restructuring will be deemed to be credit events and as a result, Council will incur a capital loss on this investment.

Council has a nominal \$1K current written down value for Scarborough and as a result, any capital loss will have a negligible impact on Council's financial position.

Oasis CDO \$1 million AA now CCC-
Commonwealth Bank

This investment was rated AA when purchased and has a maturity of 4 September 2014. Advice has been received from the Commonwealth Bank that the investment can withstand approximately 1 further credit event before principal is impacted based on an average weighting of 1%.

The indicative market value of this investment is \$81K.

Alpha CDO \$1 million AA now CCC
ABN AMRO

This investment was rated AA when purchased and has a maturity of 20 March 2012. Advice has been received that the investment can withstand approximately 6 further credit events before principal is impacted.

The indicative market value of this investment is \$146K.

As more information is received on these investments, further updates will be provided to Council.

The above investments remain at risk due to the ongoing volatility in the financial markets, particularly with structured product investments. The net exposure of these "at risk" investments is approximately \$3.7 million.

Council's Financial Security Reserve (FSR) which was created to protect Council from the impact of the Global Financial Crisis has a balance of \$4.1 million and is still regarded as adequate in meeting any potential loss of these investments.

ITEM 6 (continued)**Economic Commentary**

The RBA increased the official cash rate in December by 25 basis points to 3.75%. Having judged the risk of serious economic contraction in Australia to have passed, the RBA is now moving towards a more restrictive monetary policy.

The Australian economy continues to display resilience. While consumer spending has moderated after the stimulus-boosted surge in the first half of the year, other economic indicators have been more robust. Consumer confidence remains optimistic despite consecutive interest rate increases. House auction clearance rates also remain strong.

Legal Issues

As previously reported to Council, Piper Alderman have been engaged to provide advice on legal options available to Council in relation to its investments.

Councillors received a confidential update on proceedings against Lehman Brothers Australia at the Council meeting of 24 November 2009, with legal action continuing in respect of a number of investments.

A memorandum from Council's General Counsel providing an update on legal issues is **ON FILE** and **CIRCULATED UNDER SEPARATE COVER – CONFIDENTIAL**. Pursuant to Section 10A(2)(g) of the Local Government Act 1993, this document is listed as confidential as it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

Council's Property Investment Portfolio

The following properties were held as part of Council's Property Investment portfolio:

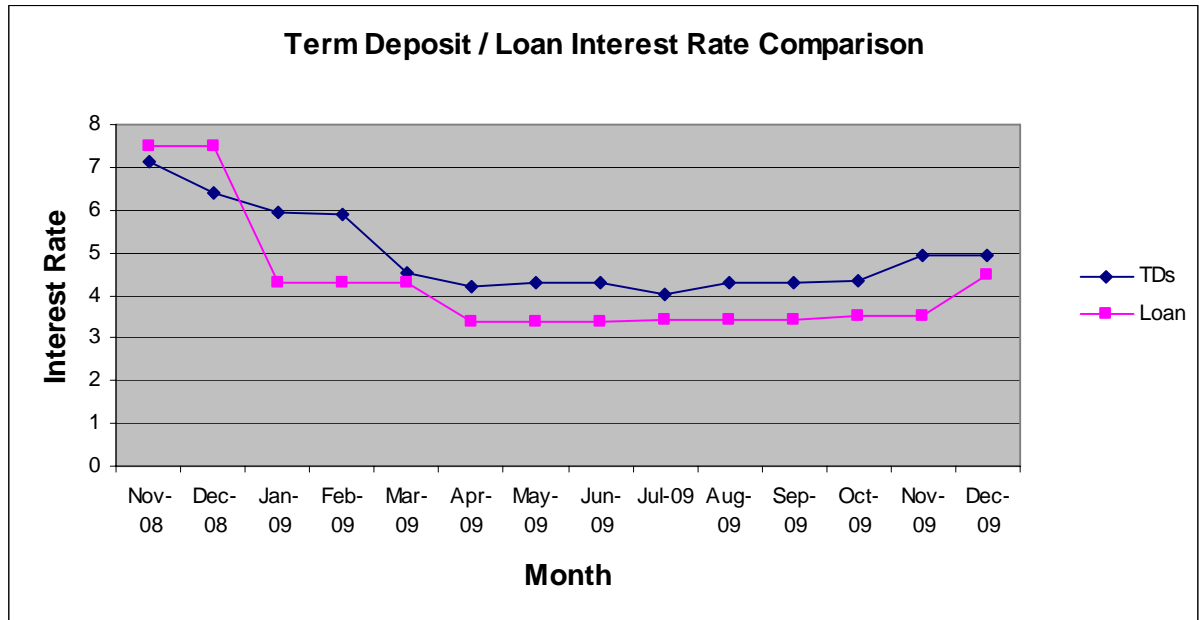
2 Dickson Avenue, West Ryde
1a Station St, West Ryde
8 Chatham Road, West Ryde
202 Rowe St, Eastwood (commercial)
226 Victoria Rd, Gladesville (commercial)
West Ryde Car Park Site
Herring Road Air Space Rights

Loan Liability

Council's loan liability as at 31 December 2009 was \$4.98 million which represents the balance of one (1) loan taken out in 2004 for the Civic Centre Redevelopment and refinancing the West Ryde Tunnel. This loan was for 15 years and was negotiated at a very attractive rate for Council at BBSW + 20 basis points and is reset every 90 days.

ITEM 6 (continued)

The following graph shows the average interest rate earned on Council term deposits compared to the interest rate applying to this loan.

**Comparative Financial Data****Council Loan Current interest rate**

| | |
|-----------------------|-------|
| Current interest rate | 4.48% |
|-----------------------|-------|

Term Deposit

| | |
|-------------------------------|-------|
| Current average interest rate | 4.95% |
|-------------------------------|-------|

Debt Service Ratio

| | |
|-----------------------------|-------|
| Category 3 Councils 2007/08 | 3.13% |
| City of Ryde 2009/10 | 0.90% |

Due to the favourable terms negotiated with this loan, and the current economic climate, Council is earning a higher rate of return in investing these funds than it is paying as loan interest – i.e. it produces a positive cash inflow to Council.

On this basis, there is no advantage to Council in changing these arrangements or repaying this loan earlier than planned.

ITEM 6 (continued)**Types of Investments:**

At Call refers to funds held at a financial institution, and can be recalled by Council either same day or on an overnight basis.

A **Floating Rate Note (FRN)** is a longer term investment issued by a financial institution with a variable interest rate. The adjustments to the interest rate are usually made quarterly, and are tied to a certain money market index such as the Bank Bill Swap Rate.

A **Floating Rate CDO** or **Collateralised Debt Obligation (CDO)** is an investment backed by a diversified pool of one or more classes of debt. These investments are for longer terms and offer a higher rate of interest. Credit ratings are assigned to these investments as detailed in the portfolio.

A **Constant Proportion Debt Obligation** or **CPDO** is an investment in an index of debt securities, similar in theory to a CDO. The investment index is periodically rolled, whereby the Special Purpose Vehicle buys protection on the old index, and sells protection on the new index.

Credit Rating Information

Credit ratings are generally a statement as to an institution's credit quality. Ratings ranging from AAA to BBB- (long term) are considered investment grade.

A general guide as to the meaning of each credit rating is as follows:

| | |
|------|---|
| AAA: | the best quality companies, reliable and stable |
| AA: | quality companies, a bit higher risk than AAA |
| A: | economic situation can affect finance |
| BBB: | medium class companies, which are satisfactory at the moment |
| BB: | more prone to changes in the economy |
| B: | financial situation varies noticeably |
| CCC: | currently vulnerable and dependent on favourable economic conditions to meet its commitments |
| CC: | highly vulnerable, very speculative bonds |
| C: | highly vulnerable, perhaps in bankruptcy or in arrears but still continuing to pay out on obligations |
| D: | has defaulted on obligations and it is believed that it will generally default on most or all obligations |

ITEM 6 (continued)**INVESTMENT SUMMARY AS AT 30 NOVEMBER 2009**

| Issuer | Investment Name | Investment Rating | Invested at 30-Nov-09 \$000's | Annualised Period Return (%) | 12 Month Average Return on Current Investments (%) | Return since 01 July 2009 | % of Total Invested | Indicative Market Value ** \$000's | % Market Value |
|--------------------------------------|--|-------------------|-------------------------------|------------------------------|--|---------------------------|---------------------|------------------------------------|----------------|
| CBA | 1. Shield Series 21 | AA | 500 | 0.00 | 8.72 | 1.12 | 0.72 | 580 | 116.10% |
| Merrill Lynch | 2. Merrill Lynch & Co | A | 1,000 | 3.90 | 4.17 | 3.91 | 1.44 | 996 | 99.62% |
| Select Access Investments (no 2) Ltd | 3. Titanium AAA | A+ | 2,000 | 4.31 | 4.60 | 4.33 | 2.87 | 1,923 | 96.17% |
| Alpha Financial Products | 4. Alpha | CCC | 1,000 | 2.95 | 5.08 | 2.95 | 1.44 | 146 | 14.60% |
| Helix Capital | 5. OASIS | CCC- | 1,000 | 4.91 | 5.18 | 4.95 | 1.44 | 3 | 0.30% |
| Westpac | 6. FOCUS Note | AA | 500 | 0.00 | 0.00 | 0.00 | 0.72 | 445 | 88.95% |
| CBA | 7. ELD Series 2 | AA | 500 | 3.01 | 3.00 | 3.00 | 0.72 | 489 | 97.84% |
| Westpac | 8. Camelotfund | AA | 500 | 0.00 | 0.00 | 0.00 | 0.72 | 454 | 90.71% |
| Grange | 9. Grange IMP | Unrated | 835 | 0.00 | -38.13 | 0.61 | 1.20 | 835 | 100.00% |
| AB Svensk Exportkredit | 10. Global Protected Property Note VII | AA+ | 1,000 | 0.00 | 0.00 | 0.00 | 1.44 | 876 | 87.65% |
| Longreach | 11. Longreach CPWF | AAA | 2,000 | 2.01 | 2.00 | 2.01 | 2.87 | 1,947 | 97.33% |
| CBA | 12. ELD Series 4 | AA | 500 | 3.01 | 3.00 | 3.00 | 0.72 | 500 | 99.98% |
| Obelisk Trust 2007-3 | 13. Covent Garden | C | 2,000 | 5.15 | 4.59 | 4.69 | 2.87 | 85 | 4.25% |
| ANZ | 14. ANZ 3 YEAR SENIOR | AA | 1,000 | 3.73 | 3.69 | 3.87 | 1.44 | 1,000 | 100.00% |
| Credit Suisse First | 15. Trident | A+ | 1,000 | 7.06 | 19.58 | 17.45 | 1.44 | 1,005 | 100.52% |
| Westpac | 16. Westpac At Call | AA | 10,648 | 3.44 | 3.18 | 2.97 | 15.29 | 10,648 | 100.00% |
| Westpac | 17. Westpac Term Deposit 2 | AA+ | 10,498 | 4.92 | 4.38 | 4.55 | 15.08 | 10,498 | 100.00% |
| CBA | 18. CBA TCD 5 Yr (Floating) | AAA | 1,000 | 4.65 | 4.58 | 4.76 | 1.44 | 1,034 | 103.40% |
| CBA | 19. CBA TCD 5 Yr (Fixed) | AAA | 994 | 6.03 | 6.02 | 6.01 | 1.43 | 994 | 99.98% |
| BoQ | 20. Bank of Queensland TD | AAA | 1,000 | 4.55 | 4.55 | 4.55 | 1.44 | 1,000 | 100.00% |
| AMP | 21. AMP TD | A | 1,000 | 4.55 | 4.55 | 4.55 | 1.44 | 1,000 | 100.00% |
| ANZ | 22. ANZ (Esanda) 365 Day TD | AA | 1,000 | 4.45 | 4.45 | 4.45 | 1.44 | 1,000 | 100.00% |
| Westpac | 23. Westpac Term Deposit | AA | 5,052 | 4.94 | 4.34 | 4.60 | 7.26 | 5,052 | 100.00% |
| Westpac | 24. Westpac Term Deposit | AA | 5,000 | 4.64 | 4.64 | 4.64 | 7.18 | 5,000 | 100.00% |
| NAB | 25. NAB Term Deposit | AA | 3,000 | 4.76 | 4.76 | 4.76 | 4.31 | 3,000 | 100.00% |
| Bankwest | 26. Bankwest TD | AA | 5,017 | 5.25 | 4.77 | 5.09 | 7.21 | 5,017 | 100.00% |
| Bankwest | 27. Bankwest TD | AA | 10,084 | 5.09 | 5.09 | 5.09 | 14.48 | 10,084 | 100.00% |
| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| TOTALS/WEIGHTED AVERAGES | | | 69,628 | 4.26 | 3.35 | 4.29 | 100 | 65,611 | |

*Monthly returns when annualised can appear to exaggerate performance

**Market valuations are indicative prices only, and do not necessarily reflect the price at which a transaction could be entered into.

**Return including Matured/Traded Investments
Weighted Average Return**

4.26 3.55 4.26

**Benchmark Return: UBSA 1 Year Bank Bill Index (%)
Variance From Benchmark (%)**

| | | |
|-------------|--------------|-------------|
| 3.76 | 3.58 | 3.29 |
| 0.50 | -0.03 | 0.97 |

Investment Income

| | \$000's |
|---------------------------|----------------|
| This Period | 239 |
| Financial Year To Date | 1,161 |
| Budget Profile | 998 |
| Variance from Budget - \$ | 163 |

ITEM 6 (continued)**INVESTMENT SUMMARY AS AT 31 DECEMBER 2009**

| Issuer | Investment Name | Investment Rating | Invested at 31-Dec-09 \$000's | Annualised Period Return (%) | 12 Month Average Return on Current Investments (%) | Return since 01 July 2009 | % of Total Invested | Indicative Market Value ** \$000's | % Market Value |
|--------------------------------------|---------------------------------------|-------------------|-------------------------------|------------------------------|--|---------------------------|---------------------|------------------------------------|----------------|
| CBA | 1. Shield Series 21 | AA | 500 | 0.00 | 8.72 | 1.12 | 0.74 | 580 | 116.10% |
| Merrill Lynch | 2. Merrill Lynch & Co | A | 1,000 | 4.43 | 4.06 | 3.91 | 1.49 | 997 | 99.75% |
| Select Access Investments (no 2) Ltd | 3. Titanium AAA | A+ | 2,000 | 4.81 | 4.44 | 4.33 | 2.98 | 1,930 | 96.48% |
| Alpha Financial Products | 4. Alpha | CCC | 1,000 | 2.95 | 4.48 | 2.95 | 1.49 | 146 | 14.60% |
| Helix Capital | 5. OASIS | CCC- | 1,000 | 5.50 | 5.11 | 4.95 | 1.49 | 81 | 8.10% |
| Westpac | 6. FOCUS Note | AA | 500 | 0.00 | 0.00 | 0.00 | 0.74 | 448 | 89.54% |
| Westpac | 7. Camelotfund | AA | 500 | 0.00 | 0.00 | 0.00 | 0.74 | 454 | 90.87% |
| Grange | 8. Grange IMP | Unrated | 835 | 0.00 | -37.05 | 0.61 | 1.24 | 835 | 100.00% |
| AB Svensk Exportkredit | 9. Global Protected Property Note VII | AA+ | 1,000 | 0.00 | 0.00 | 0.00 | 1.49 | 883 | 88.28% |
| Longreach | 10. Longreach CPWF | AAA | 2,000 | 2.01 | 2.01 | 2.01 | 2.98 | 1,885 | 94.25% |
| CBA | 11. ELD Series 4 | AA | 500 | 3.00 | 3.00 | 3.00 | 0.74 | 496 | 99.11% |
| Obelisk Trust 2007-3 | 12. Covent Garden | C | 2,000 | 5.15 | 4.69 | 4.69 | 2.98 | 125 | 6.23% |
| ANZ | 13. ANZ 3 YEAR SENIOR | AA | 1,000 | 4.09 | 3.75 | 3.87 | 1.49 | 1,000 | 100.00% |
| Credit Suisse First | 14. Trident | A+ | 1,000 | 6.82 | 17.45 | 17.45 | 1.49 | 1,005 | 100.52% |
| Westpac | 15. Westpac At Call | AA | 8,685 | 4.35 | 3.38 | 2.97 | 12.93 | 8,685 | 100.00% |
| Westpac | 16. Westpac Term Deposit 2 | AA+ | 10,498 | 4.92 | 4.48 | 4.55 | 15.63 | 10,498 | 100.00% |
| CBA | 17. CBA TCD 5 Yr (Floating) | AAA | 1,000 | 4.99 | 4.65 | 4.76 | 1.49 | 1,033 | 103.29% |
| CBA | 18. CBA TCD 5 Yr (Fixed) | AAA | 994 | 5.93 | 6.01 | 6.01 | 1.48 | 993 | 99.90% |
| BoQ | 19. Bank of Queensland TD | AAA | 1,000 | 4.55 | 4.55 | 4.55 | 1.49 | 1,000 | 100.00% |
| AMP | 20. AMP TD | A | 1,000 | 4.55 | 4.55 | 4.55 | 1.49 | 1,000 | 100.00% |
| ANZ | 21. ANZ (Esanda) 365 Day TD | AA | 1,000 | 4.45 | 4.45 | 4.45 | 1.49 | 1,000 | 100.00% |
| Westpac | 22. Westpac Term Deposit | AA | 5,052 | 4.94 | 4.52 | 4.60 | 7.52 | 5,052 | 100.00% |
| Westpac | 23. Westpac Term Deposit | AA | 5,000 | 4.64 | 4.64 | 4.64 | 7.44 | 5,000 | 100.00% |
| NAB | 24. NAB Term Deposit | AA | 3,000 | 4.76 | 4.76 | 4.76 | 4.47 | 3,000 | 100.00% |
| Bankwest | 25. Bankwest TD | AA | 5,017 | 5.25 | 4.99 | 5.09 | 7.47 | 5,017 | 100.00% |
| Bankwest | 26. Bankwest TD | AA | 10,084 | 5.09 | 5.09 | 5.09 | 15.01 | 10,084 | 100.00% |
| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| TOTALS/WEIGHTED AVERAGES | | | 67,165 | 4.51 | 3.55 | 4.30 | 100 | 63,227 | |

*Monthly returns when annualised can appear to exaggerate performance

****Market valuations are indicative prices only, and do not necessarily reflect the price at which a transaction could be entered into.**

Return including Matured/Traded Investments

Weighted Average Return

4.51 3.67 4.26

Benchmark Return: UBSA 1 Year Bank Bill Index (%)

3.86 3.47 3.39

Variance From Benchmark (%)

| | | |
|------|------|------|
| 0.65 | 0.20 | 0.87 |
|------|------|------|

Investment Income

| | \$000's |
|---------------------------|------------|
| This Period | 263 |
| Financial Year To Date | 1,397 |
| Budget Profile | 1,199 |
| Variance from Budget - \$ | <u>198</u> |

ITEM 6 (continued)**Certificate of the Chief Finance Officer**

I certify that as at the date of this report, the investments listed have been made and are held in compliance with Council's Investment Policy and applicable legislation, with the exception of the following investments:

| | |
|-------------------------|------|
| Grange IMP - Quartz CDO | CCC- |
| - Merimbula CDO | NR |
| - Flinders CDO | NR |
| - Glenelg CDO | CCC |
| - Scarborough CDO | CCC- |
| - Torquay CDO | CCC- |
| - Global Bank Note CDO | NR |
| Oasis CDO | CCC- |
| ALPHA CDO | CCC |
| Covent Garden | C |



Richard Nankivell

12/01/2010

Date

Council's Investment Powers

Council's investment powers are regulated by Section 625 of the Local Government Act, which states:

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

Council's investment policy requires that all investments are to be made in accordance with:

- Local Government Act 1993 - Section 625
- Local Government Act 1993 - Order (of the Minister) dated 31 July 2008
- The Trustee Amendment (Discretionary Investments) Act 1997 – Sections 14A(2), 14C(1) & (2)
- Local Government (Financial Management) Regulation 1993
- The Code of Accounting Practice and Financial Reporting
- Investment Guidelines issued by the Department of Local Government

ITEM 6 (continued)

Following the release of the Cole Report on the Review of NSW Local Government Investments, the NSW Government adopted all the recommendations of the report which include:

- Amendments to the Ministerial Order.
- Grandfathering existing investments that are excluded by the proposed changes to the Ministerial Investment Order.
- Excluding the manufacturers and distributors of investment products from acting as investment advisors to councils.
- Suspending investments with specific credit ratings until December 2009.
- Ensuring councils are more fully aware of their obligations under the Local Government Act 1993 and the NSW Trustee Act 1925 and
- Issuing investment policy guidelines for councils.

The Minister for Local Government has issued a revised Order which was gazetted on 15 August 2008 in line with the recommendations of the Cole Report.

The Department of Local Government is currently preparing guidelines aimed at assisting Council's in developing a comprehensive investment policy.

Council Officers will work with its investment advisor, Oakvale Capital Limited to develop a revised draft Investment Policy which will be submitted to the Finance & Audit Committee for consideration following release of the DLG guidelines.

Overview of Investments

A brief overview of all investments held by the City of Ryde is provided;

1. **CBA - Shield Capital Protected Series 21 (AAp):** Council invested in the Shield Capital Protected Hedge Fund Note on 24 March 2004. This is a medium to long term investment (3-7 years) and matures on 28 March 2011. The investment is capital guaranteed by CBA on maturity. The note is linked to the performance of a diversified fund of hedge funds, being Colonial First State Wholesale Global Diversified Strategies Fund. The target return at maturity is anticipated to be over 10% pa annualised. This is a volatile investment that has active market exposure. No fees are payable by Council on this investment.
2. **Merrill Lynch (A+):** Floating Rate Note issued by Merrill Lynch, paying 40bps over 90 day BBSW. This investment was purchased on 9 November 2004. This FRN matures 9 March 2010. No fees are payable by Council on this investment.
3. **Titanium (Originally AAA now A+):** CDO with a portfolio of a minimum of 100 investment grade names, paying 80 bps over 90 days BBSW. This investment was purchased on 14 June 2005. The investment is for 5.5 years and matures on 14 December 2010. No fees are payable by Council on this investment.

ITEM 6 (continued)

- 4. FRN Alpha (Originally AA now CCC):** This is a CDO that pays 250 bps above 180 day BBSW. This investment was purchased on 11 April 2006. The investment is for 6 years and matures on 20 March 2012. The CDO containing 2 separate portfolios, a capital portfolio and an income portfolio. The 2 portfolios are managed to maintain ratings stability. The CDO was previously downgraded to A- on 25 September 2008 and has now been downgraded to BBB watch negative on 31 October 2008, and further downgraded to B+ on 5 February 2009. No fees are payable by Council on this investment.
- 5. OASIS (Originally AA now CCC-):** This is a CDO that pays 140 bps above 90 day BBSW. This investment was purchased on 4 September 2006. The investment is for 8 years and matures on 4 September 2014. This is a CDO that is actively managed by Société Générale. The CDO was downgraded to BBB- on 29 September 2008 with advice being received in early April 2009 that this investment has been further downgraded to CCC-. No fees are payable by Council on this investment.
- 6. FOCUS Note (AAp):** This investment was purchased on 20 December 2006. This is a medium to long term investment (3-7 years) and matures on 20 December 2012. The capital of the investment is guaranteed by Westpac on maturity. This investment consists of a dynamically managed portfolio comprising investments in the BT Focus Australian Share Fund, and aims to outperform the S&P/ASX 300 Accumulation Index by 5% over a 3 to 5 year horizon. This note has had an annualised return of 3.62% since inception, with short term returns anticipated to be volatile. This note also pays a biannual contingent coupon of 180 day Bank Bill swap rate (currently approximately 8.00%). Westpac receive a principal protection fee of 0.90 p.a., an upfront structuring and distribution fee of 2.50%. BT Financial Group receives a management fee of 0.60% p.a., and a performance fee of 15%. The performance fee is only paid if the performance of the fund before fees exceeds the S&P/ASX Accumulation index plus the management fee. Monthly returns, when annualised can appear to exaggerate performance. On 28 October 2008 advice was received that the recent volatility in the global financial markets had triggered the capital protection mechanism in this investment with 100% of the portfolio now invested in a zero coupon bond. Council will not receive any further coupon payments between now and the December 2012 maturity date but will receive the full face value of the investment at maturity.

ITEM 6 (continued)

- 7. Camelotfund (AAp):** This investment was purchased on 1 March 2007. The investment is for 5 years and matures 25 January 2012. This investment is in a fund that provides opportunity to diversify into a foreign exchange strategy with low correlation to other products and asset classes. Short term (i.e. monthly) returns on this note will be volatile. The SPV set up by Westpac receives a distribution fee of 2% of the note value, and the manager receives a management fee of 1% p.a., and a performance fee of 15% above 6M BBSW. Westpac receives a capital protection fee of 1% p.a. times NAV. This investment is capital protected by Westpac.
- 8. Grange (Lehman Brothers) IMP:** This is a portfolio of FRNs, CDOs and Bank issued securities managed by Grange Securities on Council's behalf. Lehman Brothers have cancelled the management agreement, and this portfolio is currently static. The IMP comprises the following investments:

| <i>Investment</i> | <i>Maturing</i> | <i>Call Date</i> |
|-----------------------------------|-----------------|------------------|
| Quartz CDO | 20/10/2010 | 20/12/2008 |
| Flinders CDO | 20/03/2012 | 20/03/2009 |
| Torquay CDO * | 20/06/2013 | 20/06/2009 |
| Merimbula CDO | 20/06/2013 | |
| Scarborough CDO * | 23/06/2014 | 23/06/2009 |
| Glenelg CDO * | 22/12/2014 | 22/06/2009 |
| AAA (Berryl) Global Bank Note CDO | 20/09/2014 | |
| HSBC FRN * | 22/09/2016 | 22/09/2011 |

* If not called an additional margin paid

- 9. Global Protected Property Note VII (AAp+):** This investment was purchased on 13 March 2007. The investment is for 4.5 years and matures on 20 September 2011. It is a capital guaranteed investment which provides Council with a return on maturity based on the performance of three international property funds. It is anticipated that performance at the commencement of this investment will be low, with returns geared heavily towards the end life of the investment. This note was invested in as a result of a swap out of the earlier series VI note, in which Council realised a profit of \$237K capital profit after 9 months. Capital protection fee of 1.1% to Svensk Export Kredit.
- 10. Longreach Capital Protected Wholesale Fund (AAAp):** This investment is in property, infrastructure and utilities. This investment was purchased on 16 May 2007. The investment is for 5 years and matures on 16 May 2012. The Fund Manager's expectation is a target range of 8% to 10% pa over the life of the investment. Council receives a minimum coupon of 2% pa. There is a fee of 0.95% pa payable of the capital protection amount, plus a performance fee of 25% if the fund performs at or above UBS Bank Bill Index + 4%.
- 11. Equity Linked Deposit Series 4 (AAp):** This note is almost identical to the structure of the ELD 2 (No 12) above, except that returns are based on the performance of a reference basket of resource stocks. This investment was purchased on 5 June 2007.

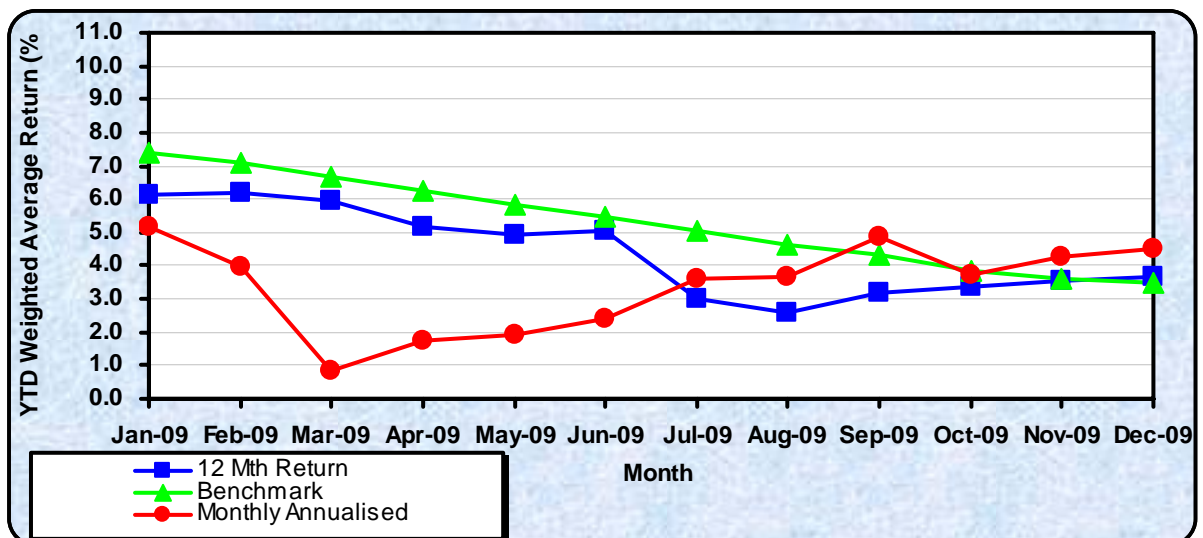
ITEM 6 (continued)

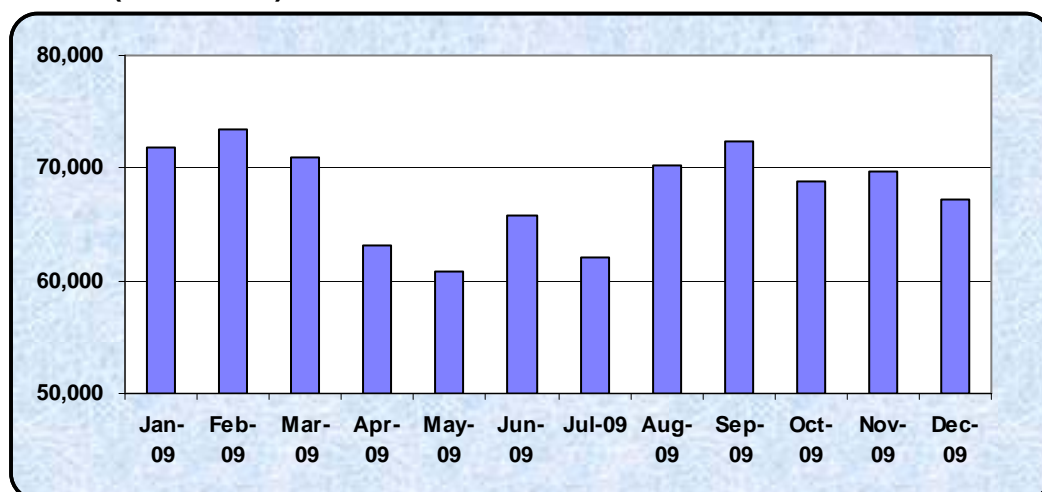
The investment is for 3 years and matures on 5 June 2010. Minimum return is 3.00% pa, and returns are capped at 11.50% with the actual return for each year to be calculated in June. No fees are payable by Council on this investment.

- 12. Covent Garden (Originally AA now C):** This is a managed CDO paying 120 bps over 90 day BBSW. This investment was purchased on 6 July 2007. The investment is for 5 years and matures on 20 September 2012. Advice was received on 11 November 2008 that this investment has been downgraded to CCC and is now C. No fees are payable by Council on this investment.
- 13. ANZ 3 Year Senior Debt (AA):** Floating Rate Note issued by the ANZ bank, paying 32 bps over 90 day BBSW. This investment was purchased on 18 September 2007. The investment is for 3 years and matures on 18 September 2010. No fees are payable by Council on this investment.
- 14. Trident (Originally AA now Ap+):** This investment was purchased on 30 May 2007. The investment is for 4 years and matures on 30 May 2011. The investment which is capital protected has exposure to a basket of bond funds, with a coupon paid 6 monthly of 50% of the positive performance of the funds, with the other 50% being reinvested. There is a distribution fee charged upfront of 2%, plus a principal protection fee of 0.95% p.a. of the portfolio value, plus a leverage charge of USD 30 day LIBOR +0.50% p.a. on any leverage amount.
- 15. Westpac At Call Account (AA):** This investment is an at call account, paying the short term money market rate. These funds are used for operational purposes.
- 16. Westpac Term Deposit (AA):** This investment is a 90 day term deposit, paying 4.83% (4.92% annualised) and matures on 6 February 2010. No fees are payable by Council on this investment.
- 17. CBA TCD 5 Yr (Floating) (AAA):** This is a floating rate note issued at a margin of 120 points above 90 day BBSW, maturing 17 December 2013. Council took up the optional government guarantee on this investment at a fee of 70 basis points.
- 18. CBA TCD 5 Yr (Fixed) (AAA):** This is a fixed rate note issued at 5.75% above 90 day BBSW, maturing 17 December 2013. Council took up the optional government guarantee on this investment at a fee of 70 basis points.
- 19. Bank of Queensland Term Deposit (AAA):** This investment is an 18 month term deposit, paying 4.50% (4.55% annualised) and matures on 29 July 2010, with interest payable semi-annually. No fees are payable by Council on this investment.

ITEM 6 (continued)

- 20. AMP Term Deposit (AA):** This investment is a 180 day term deposit, paying 4.50% (4.55% annualised) and matures on 20 January 2010. No fees are payable by Council on this investment.
- 21. ANZ Term Deposit (AA):** This investment is a 365 day term deposit, paying 4.45% and matures on 26 July 2010. No fees are payable by Council on this investment.
- 22. Westpac Term Deposit (AA):** This investment is a 62 day term deposit, paying 4.84% (4.94% annualised) and matures on 25 Jan 2010. No fees are payable by Council on this investment.
- 23. Westpac Term Deposit (AA):** This investment is a 180 day term deposit, paying 4.59% (4.64% annualised) and matures on 22 February 2010. No fees are payable by Council on this investment.
- 24. NAB Term Deposit (AA):** This investment is a 181 day term deposit, paying 4.70% (4.76% annualised) and matures on 16 March 2009. No fees are payable by Council on this investment.
- 25. Bankwest Term Deposit (AA):** This investment is a 90 day term deposit, paying 5.15% (5.25% annualised) and matures on 11 February 2010. No fees are payable by Council on this investment.
- 26. Bankwest Term Deposit (AA):** This investment is a 90 day term deposit, paying 5.00% (5.09% annualised) and matures on 2 February 2010. No fees are payable by Council on this investment.



ITEM 6 (continued)**Consultation**

Council business units consulted included:-

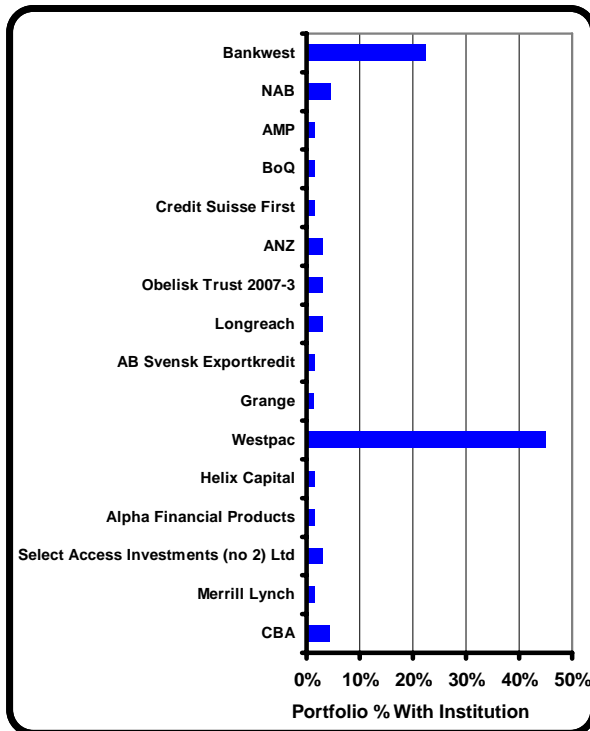
- Finance Unit

Internal Workshops held:-

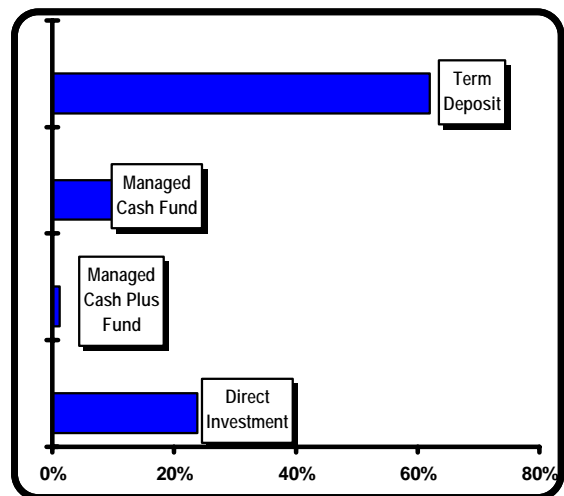
- Nil

ITEM 6 (continued)

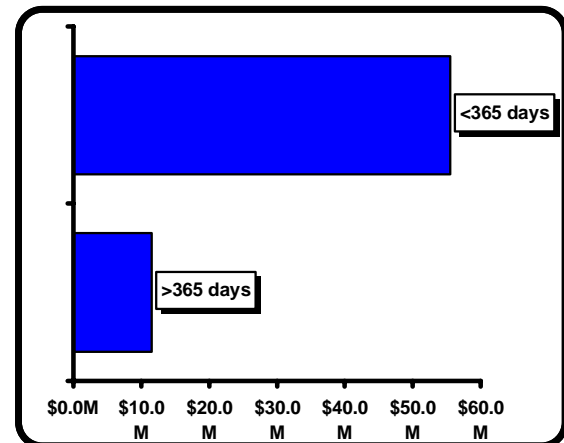
Active Investment Summary By Institution



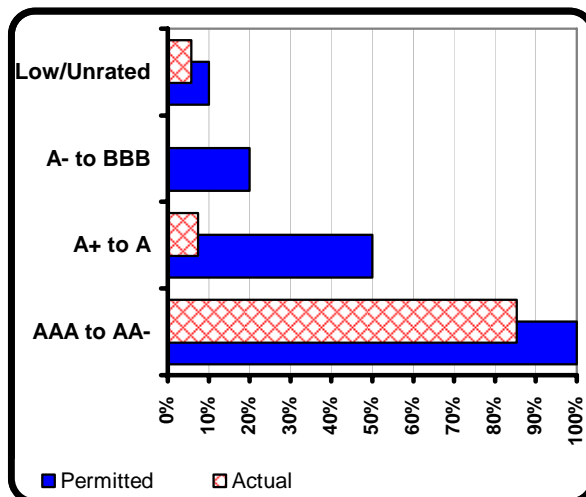
Summary By Investment Type



Summary By Duration



Active Investment Summary By Credit Rating



| | >365 days | <365 days |
|-----------|----------------|----------------|
| FRN's | \$1.0M | \$2.0M |
| CDO's | \$4.0M | \$2.0M |
| Other | \$5.5M | \$0.5M |
| Mgd Funds | \$0.0M | \$0.8M |
| Cash/TDs | \$1.0M | \$50.3M |
| | \$11.5M | \$55.6M |

ITEM 6 (continued)

External public consultation included:-

- Nil

Council officers have regular discussions & meetings with Investment Issuers and Council's Investment Advisor Oakvale Capital Limited to monitor the impact of market conditions on the performance of Council's investments and the economic outlook going forward.

Critical Dates

The Chief Financial Officer as Council's Responsible Accounting Officer is required to report to Council on a monthly basis on Council's Investment Portfolio and to certify that the Investments are held in accordance with Council's Investment Policy and Section 625 of the Local Government Act.

Management Plan Budget / Linkages

This project forms part of the 2009/2010 Operational Budget for the Finance Unit.

Relationship to Key Outcome AreasPeople

This matter has no direct relationship to this key outcome area. However interest on investments represents a significant source of Council's income and contributes to the funding of a range of services and initiatives in the key outcomes for People.

Assets

This matter has no direct relationship to this key outcome area. However interest on investments represents a significant source of Council's income and contributes to the funding of a range of services and initiatives in the key outcomes for Assets.

Environment

This matter has no direct relationship to this key outcome area. However interest on investments represents a significant source of Council's income and contributes to the funding of a range of services and initiatives in the key outcomes for Environment.

Governance

This project meets the following **key outcomes** for Governance (set out on page 80 of the Management Plan 2009-2013):

G3 Review of best practices approaches on Governance to enhance the delivery of services to the community.

G5 Compliance with all legislative requirements and statutory obligations.

ITEM 6 (continued)

The Chief Financial Officer as Council's Responsible Accounting Officer is required to report to Council on a monthly basis on Council's Investment Portfolio and to certify that the Investments are held in accordance with Council's Investment Policy and Section 625 of the Local Government Act.

Council's investment portfolio provides a significant source of Council's income through interest on investments and contributes to the funding of a range of services and initiatives across all Council's key outcome areas.

Financial Impact

Council's income from interest on investments is in line with budget projections and is now expected to generate \$2.4 million for the 2009/2010 year, an additional \$300K over the original estimate.

The ongoing volatility and turmoil in financial markets is continuing to place at risk the principal of some of Council's investments. In particular, Council is likely to incur a capital loss in respect of its investment in the Société Generale AA rated Covent Garden CDO. This investment is covered by Council's Financial Security Reserve which currently has a balance of \$4.1 million.

Policy Implications

There are no policy implications through the adoption of the recommendation.

The recommendation is consistent with Section 625 of the Local Government Act, which deals with the investment of surplus funds by Council's.

Other Options

Not Applicable

Conclusion

This report provides details of Council's performance against the benchmark for returns of its Investment portfolio for the months of November and December 2009 and the 2009/10 financial year.

With rising interest rates, returns are above budget however the impacts and continuing volatility in global financial markets continues to place at risk the principal on some of Council's investments.

ITEM 6 (continued)

Council is likely to incur a capital loss in respect of its investment in the Societe Generale AA rated Covent Garden CDO and this will be offset by Council's Financial Security Reserve has a balance of \$4.1 million and is still considered adequate to meet any future investment losses arising from the Global Financial Crisis.

Council Officers in conjunction with Oakvale Capital Limited are closely monitoring this issue and all developments in the financial markets and keeping Council fully informed of significant developments as they occur through the monthly Investment report, Councillor Information Bulletin and Councillor briefing sessions.

CONFIDENTIAL ITEMS**7 SALE OF LAND**

Confidential

This item is classified CONFIDENTIAL under Section 10A(2)(g) of the Local Government Act, 1993, which permits the meeting to be closed to the public for business relating to the following: (d) (ii) information that would, if disclosed, confer a commercial advantage on a competitor of the council.

This matter is classified confidential because it contains advice concerning legal matters that are:-

- (a) substantial issues relating to a matter to which the Council is involved.
- (b) clearly identified in the advice, and
- (c) fully discussed in that advice.

It is not in the public interest to reveal all details of this matter as it would prejudice Council's position in any court proceedings.

Report prepared by: Manager - Buildings and Property

Report dated: 02/02/2010

8 ADVICE ON COURT ACTIONS

Confidential

This item is classified CONFIDENTIAL under Section 10A(2) of the Local Government Act, 1993, which permits the meeting to be closed to the public for business relating to the following: (g) advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

This matter is classified confidential because it contains advice concerning legal matters that are:-

- (a) substantial issues relating to a matter to which the Council is involved.
- (b) clearly identified in the advice, and
- (c) fully discussed in that advice.

It is not in the public interest to reveal all details of this matter as it would prejudice Council's position in any court proceedings.

Report prepared by: General Counsel

Report dated: 3/02/2010

PRECIS OF CORRESPONDENCE FOR CONSIDERATION

There are no Précis of Correspondence for Consideration

NOTICES OF MOTION**1 LOST ANIMALS - Councillor Pickering****File Number:** CLM/10/01/005/6 - BP10/2**Motion:**

That City of Ryde Council introduce a 'Low Kill' policy that restricts the use of euthanasia to lost animals who are injured or dangerous, and allows lost animals to be held at the Blacktown Animal Holding Facility beyond the statutory time period (currently only seven days) to 14 days to allow the animals a greater chance of being found by their owners or adopted.

2 SWIMMING POOL SAFETY - Councillor Campbell**File Number:** CLM/10/01/005/6 - BP10/17**Motion:**

That Council undertakes a public awareness campaign to highlight the changes to the Swimming Pool Act to improve safety that came into effect in December 2009. This public awareness campaign to include information on Council's website, the mayoral column, City View and a media release for local papers and any other relevant mechanisms.

3 SOCIAL HOUSING PROJECTS - Councillors Pickering and Yedelian OAM**File Number:** CLM/10/01/005/6 - BP10/38**Motion:**

1. That City of Ryde Council write to the NSW Premier, Kristina Kenneally and the Minister for Housing, David Borger, expressing council's concern about the density, lack of car parking and general lack of amenity of social housing projects planned for the Ryde LGA. Specifically, this communication should outline concerns including:
 - (a) Lack of compliance with density restrictions (that would be required under council's DCP) and inappropriate character of these developments in Ryde's low-density suburbs.
 - (b) Grossly inadequate provision of onsite parking (that would be required under the council's DCP) and the impact on local streets.
 - (c) Lack of consultation with affected local residents and consideration of their concerns. This should highlight the notification was provided by letter only to next-door neighbours of the intended developments and not other residents in the affected streets in front, behind and in the development locations. It should also indicate concerns with the timing of the

notification (just before Christmas), limited time for residents to respond (21 days), lack of public display of the intended developments, and general dismissal of all public concerns anyway.

- (d) Lack of notification and formal input from Council and Councillors on these intended developments to ensure these developments were appropriate in terms of local development standards and their actual location.
 - (e) The publicly implied suggestion by Housing NSW that Ryde Council had been engaged in these development approvals. This should specifically respond to assertions made in a letter published in the Northern District Times on Tuesday, February 27, from Housing NSW CEO, Mike Allen.
2. That the City of Ryde Council write to the Member for Bennelong, Maxine McKew, to express concerns about the Federal Government's funding of many of these social housing projects for the reasons already stated. Further, that Ms McKew be requested to seek from the Federal Government an immediate halt to funding of these developments until community and council concerns can be appropriately addressed.
3. That the City of Ryde's position in relation to these developments be publicly notified in the:
- (a) City View (including advice that letters have/would be sent to the Premier, Housing Minister, and Member for Bennelong).
 - (b) Mayoral Column (including advice that letters have/would be sent to the Premier, Housing Minister, and Member for Bennelong).
 - (c) On the City of Ryde website with this website also to contain actual copies of the letters sent to the NSW Premier, Housing Minister and Member for Bennelong.
 - (d) That a City of Ryde media release be prepared stating council's position, and issued to local and metropolitan media as well as placed on the website under media releases.

4 FILLING CASUAL VACANCIES - Councillor O'Donnell**File Number:** CLM/10/01/005/6 - BP10/39

Motion:

That the GM review the terms of reference for advisory committees to include a provision for the filling of casual vacancies.

5 PLAQUES IN PUBLIC PLACES - Councillor O'Donnell**File Number:** CLM/10/01/005/6 - BP10/40

Motion:

That Council develop a policy on plaques in public places.

NOTICES OF RESCISSION

There are no Notices of Rescission