



# Corporate & Works Committee

**Agenda:** *Corporate & Works Committee*

**Date:** *Monday 15 August 2011*

**Time:** *6.00pm*

### **Outline of Meeting Protocol & Procedure:**

- The Chairperson will call the Meeting to order and ask the Committee/Staff to present apologies or late correspondence.
- The Chairperson will commence the Order of Business as shown in the Index to the Agenda.
- At the beginning of each item the Chairperson will ask whether a member(s) of the public wish to address the Committee.
- If person(s) wish to address the Committee, they are allowed four (4) minutes in which to do so. Please direct comments to the issues at hand.
- If there are persons representing both sides of a matter (eg applicant/objector), the person(s) against the recommendation speak first.
- At the conclusion of the allotted four (4) minutes, the speaker resumes his/her seat and takes no further part in the debate unless specifically called to do so by the Chairperson.
- If there is more than one (1) person wishing to address the Committee from the same side of the debate, the Chairperson will request that where possible a spokesperson be nominated to represent the parties.
- The Chairperson has the discretion whether to continue to accept speakers from the floor.
- After considering any submissions the Committee will debate the matter (if necessary), and arrive at a recommendation (R items which proceed to Full Council) or a resolution (D items for which the Committee has delegated authority).

### **Recommendation only to the Full Council (“R” Items)**

- Such matters as are specified in Section 377 of the Local Government Act and within the ambit of the Committee considerations.
- The voting of money for expenditure on works, services and operations.
- Rates, Fees and Charges.
- Donations
- Matters which involve broad strategic or policy initiatives within responsibilities of the Committee.
- Matters not within the specified functions of the Committee.
- Asset Rationalisation.
- Corporate Operations:-
  - Statutory Reporting;
  - Adoption of Council's Community Strategic Plan, Delivery Program and Operational Plan;
  - Delegations; and
  - Policies.
- Tenders as per Regulation requirements.
- Leases.
- Matters reserved by individual Councillors in accordance with any Council policy on "safeguards" and substantive changes.

### **Delegated Authority (“D” Items)**

- General financial and corporate management of the Council, except those specifically excluded by statute, by Council direction or delegated specifically to another Committee.  
Note: This not to limit the discretions of nominated staff members exercising Delegated Authorities granted by the Council.
- Statutory reviews of Council's Delivery Program and Operational Plan;
- Finance Regulations, including:-
  - Authorisation of expenditures within budgetary provisions where not delegated;
  - Quarterly review of Budget Review Statements;
  - Quarterly and other reports on Works and Services provision; and
  - Writing off of rates, fees and charges because of non-rateability, bad debts, and impracticality of collection.
- Auditing.
- Property Management.
- Asset Management.
- Traffic Management - Works Implementation.
- Works and Services - Monitoring and Implementations.
- Legal Matters and Legal Register.
- Parks and Reserves Management.
- Infrastructure Management, Design and Investigation.
- To require such investigations, reports or actions as considered necessary in respect of matters contained within the Business Agenda (and as may be limited by specific Council resolution).
- Confirmation of the Minutes of its Meetings.
- Any other matter falling within the responsibility of the Corporate and Works Committee and not restricted by the Local Government Act or required to be a Recommendation to Full Council as listed above.

**Committee Membership:**

7 Councillors

**Quorum:**

The quorum for a Committee meeting is 4 Councillors.

# WOOLLAHRA MUNICIPAL COUNCIL

## Notice of Meeting

11 August 2011

To: Her Worship The Mayor, Councillor Isabelle Shapiro ex-officio  
Councillors Andrew Petrie (Chair)  
Ian Plater (Deputy)  
Anthony Boskovitz  
Sean Carmichael  
Susan Jarnason  
Greg Medcraft  
David Shoebridge

Dear Councillors

### **Corporate & Works Committee Meeting – 15 August 2011**

In accordance with the provisions of the Local Government Act 1993, I request your attendance at a Meeting of the Council's **Corporate and Works Committee** to be held in the **Council Chambers, 536 New South Head Road, Double Bay, on Monday 15 August 2011 at 6.00pm.**

Gary James  
General Manager

# **Additional Information Relating to Committee Matters**

**Site Inspection**

**Other Matters**

## Meeting Agenda

<b>Item</b>	<b>Subject</b>	<b>Pages</b>
1	Leave of Absence and Apologies	
2	Late Correspondence Note Council resolution of 27 June 2011 to read late correspondence in conjunction with the relevant Agenda Item	
3	Declarations of Interest	

### **Items to be Decided by this Committee using its Delegated Authority**

D1	Confirmation of Minutes of Meeting held on 1 August 2011	1
D2	Monthly Financial Report – July 2011 – 349.G	2

### **Items to be Submitted to the Council for Decision with Recommendations from this Committee**

R1	9 Burrabirra Avenue, Vacluse – Road Reserve Encroachment – 68.9	17
R2	Statutory Review of Policy – Payment of Expenses & Provision of Facilities to The Mayor, Deputy Mayor & Councillors Policy - 18.G	25
R3	Hopetoun Avenue, Vacluse – Acquisition of Roadway for Public Use – 240 part 9	38
R4	Alleged Illegal Removal of a Palm Tree	49

**\*Note: Confidential Report Circulated Under Separate Cover**

**Item No:** D1 Delegated to Committee  
**Subject:** **Confirmation of minutes of meeting held on 1 August 2011**  
**Author:** Les Windle, Manager – Governance  
**File No:** See Council Minutes  
**Reason for Report:** The Minutes of the Meeting of Monday 1 August 2011 were previously circulated. In accordance with the guidelines for Committees' operations it is now necessary that those Minutes be formally taken as read and confirmed.

**Recommendation:**

That the Minutes of the Corporate and Works Committee Meeting of 1 August 2011 be taken as read and confirmed.

Les Windle  
Manager – Governance

**Item No:** D2 Delegated to Committee  
**Subject:** **Monthly Financial Report - July 2011**  
**Author:** Don Johnston, Manager Finance  
**File No:** 349.G  
**Reason for Report:** To present the monthly financial report for July 2011

**Recommendation:**

That the monthly financial report be received and noted.

**Background:**

The monthly financial report for July 2011 is submitted to the Committee for consideration and includes the following:

- Investment Transactions for the Month
- Summary of Receipts, Payments and Bank Balance
- Summary of Investments
- Details of Investment Portfolio
- Charts:
  - ◆ Weighted Average Maturity and Weighted Average Returns
  - ◆ Weighted Average Returns v Australian 90 day Term Deposit Index
  - ◆ Actual Interest Earned v Original Budget & Revised Forecast
  - ◆ Maturity Profile Chart
- Movements in Book Value of Investments

**Investment Transactions for the Month**

Date	Transaction	Description	Amount (\$)
30 Jun		Book Value of Investments Held	34,593,833.42
30 Jun	Decrease	Fair value adjustment of CDOs and Managed Funds (net)	(699,088.22)
11 Jul	Maturity	Rock Building Society, 152 days @ 6.16%	(1,000,000.00)
11 Jul	Maturity	My State Financial CU, 152 days @ 6.21%	(1,000,000.00)
11 Jul	Purchase	My State Financial CU, 91 days @ 6.05%	1,000,000.00
14 Jul	Maturity	SGE CU, 150 days @ 6.15%	(1,000,000.00)
14 Jul	Maturity	Sutherland CU, 150 days @ 6.15%	(1,000,000.00)
26 Jul	Maturity	St George Bank Floating Rate Note	(1,000,000.00)
26 Jul	Adjustment	Fair Value adjustment for St George FRN (Book Value \$999,470)	530.00
28 Jul	Maturity	Hunter United Employees CU, 150 days @ 6.20%	(1,000,000.00)
28 Jul	Purchase	Hunter United Employees CU, 60 days @ 5.90%	1,000,000.00
Various	Purchase	Net Movement in Online Savings Cash Account	561,135.70
Various	Purchase	Net Movement in UBS Cash Management Trust Account (Coupon payments + UBS interest + Deposits - UBS Fees - Withdrawals)	22,142.37
Various	Deposit	Net Movement in Macquarie Cash Trust (Macquarie interest - Macquarie Fees - Withdrawals)	8.68
		Net Change in Portfolio	(4,115,271.47)
31 Jul		Book Value of Investments Held	30,478,561.95

Commentary:

The transaction summary above notes five term deposits and one floating rate note maturing during July and two new term deposits invested for 91 and 60 days attracting deposit rates of 6.05% and 5.90% respectively.

The decrease in the investment portfolio for July is consistent with a non-instalment month and a period of high expenditure. This period included payments for insurance renewals, ongoing expenditure on Gap Park, other capital works at McKell Park and in Bellevue Road and a quarterly grant payment.

**Investments Working Party Update**

The Investments Working Party last met on 18 July 2011. The Minutes of the meeting are attached as **Annexure 1**.

Since that meeting advice from both IMF and Piper Alderman has been circulated to the Working Party. Pricing updates have also been circulated. Working Party members have expressed interest in selling Glenelg at no less than 38 cents. Work is continuing in an effort to secure a bid in the high 30's, although this has been made difficult given recent market volatility. The working party will continue to be provided with pricing updates as they come to hand.

Also since the meeting the 30 June 2011 valuations were re-issued along with the wording from the accounts relating to valuation methodology. The effect of continuing to take a conservative approach, consistent with previous years, was included and is attached as **Annexure 2**. The resulting \$699,088 write down in value is offset by the write up over the course of the year in the quarterly revaluation of Floating Rate Notes (\$216,330) and three CDOs that have been sold (\$445,250). This results in a fair valuation adjustment for 2010/2011 being a net write down of \$37,508.



**Summary of Receipts, Payments and Bank Balance**

Cash Book Balance as at 30 June 2011 271,930.08

**Receipts**

Rates 1,113,008.23  
Investment Maturities 8,289,912.77  
Other 3,300,368.34

12,703,289.34

**Total Receipts**

Description	Amount
Sundry Debtors Control	1,146,314.35
S/Dr's-Rates	1,113,008.23
GST Clearing Balance Account	444,530.00
Parking Fines	439,158.71
Deposits & Bonds Control Account	174,063.67
Trade Waste Debtors Control	152,561.41
Parking Meter Charges	134,880.85
Disposal (Asset) Clearing A/C	57,282.78
Other Developer Contributions	39,719.90
GST Clearing Account - Supplies	39,440.54

**Payments - Cheque**

Cheque Payments -429,220.77  
Cancelled Cheques 448.16  
Total Cheque Payments for period -428,772.61

Cheque No	Cheque Date	Payee	Description	Amount
211405	15/07/2011	State Debt Recovery Office	Infringement processing fees - Jun'11	-97,138.00
211414	21/07/2011	Energy Australia	Street lighting - Jun'11	-88,049.57
211417	21/07/2011	Selby's Pty Ltd	Fabric banners	-19,593.20
211327	07/07/2011	Harleigh Pty Ltd	RCD protection of light and power - various	-14,487.00
211460	28/07/2011	Never Stop Irrigation Pty Ltd	Turf irrigation - Rose Bay promenade	-12,970.10
211413	21/07/2011	Coatex Painting Solutions Pty Ltd	Painting of community hall - Cooper Park	-10,560.00
211419	21/07/2011	Vaucluse Yacht Club	Fendering work on W'Bay Baths catwalk	-9,900.00
211423	21/07/2011	Lambert & Rehbein NSW Pty Ltd	General works - Powell Rd	-9,900.00
211386	14/07/2011	Work Com	Manual task safety analysis	-8,734.00
211387	14/07/2011	Withheld	Risk and insurance settlement	-8,256.60

**Payments - EFT**

EFT Payments -5,168,543.46  
Returned EFT Payments 110,800.80  
Total EFT Payments for period -5,057,742.66

Reference	EFT Date	Payee	Description	Amount
31955	14/07/2011	Statewide Mutual	Property insurance premium 30/6/11-30/6/12	-284,740.50
31917	14/07/2011	Kings Security Systems	General works - Gap Park	-268,582.50
WK 2	15/07/2011	Australian Taxation Office	PAYG Wk 2	-207,855.14
31912	14/07/2011	Holdsworth St Community Centre	Grant funding - 1st qtr	-198,000.00
31914	14/07/2011	Jardine Lloyd Thompson	Mveh,Councillors/Officers Liab insur to Jun12	-189,146.57
32123	28/07/2011	Stone Mason & Artist Pty Ltd	General works - McKell Park	-184,701.00
32033	21/07/2011	Melhemcorp Pty Ltd	General works - Bellevue Rd	-160,931.08
31851	07/07/2011	WSN Environmental Solutions	Garden/green waste tipping - 16/5-31/5	-148,851.18
32129	28/07/2011	Wardrope and Carroll Engineering	General works - Gap Park	-143,246.10
32058	21/07/2011	WSN Environmental Solutions	Garden/green waste tipping - 1/6-15/6	-136,667.38

**Payments - Direct Debits From Bank A/c**

Payroll -1,838,700.44  
Bank Charges -8,562.74  
Investment Purchases -4,800,000.00  
Councillors' fees -85.46  
Total Direct Debits for period -6,647,348.64

**Total Payments**

-12,133,863.91

**Cash Book Balance as at 31 July 2011**

841,355.51

Unpresented Cheques No of Cheques: 112 Value: 72,215.05  
Outstanding Deposits & Miscellaneous Items 408,634.33

**Reconciled Cash Book Balance as at 31 July 2011** 1,322,204.89

**Bank A/c Balance as at 31 July 2011** 1,322,204.89

**Unpresented Cheques > \$30,000.00**

Cheque No.	Cheque Date	Payee	Amount
	Not any		

Commentary:

This statement presents Council's bank reconciliation as at 31 July 2011. The top ten receipt and payment items are provided in the report. Excluding investment transactions, payments exceeded receipts for the month by some \$2.9m, consistent with a non-instalment month and a period of higher than usual expenditure.

INVESTMENTS AS AT 31 JULY 2011

							FACE VALUE \$	BOOK VALUE \$		
CATEGORY										
<b>1. LEHMAN BROTHERS (formerly Grange Securities Ltd)</b>										
Funds previously under management							12,090,319	5,107,059		
<b>2. OAKVALE CAPITAL Limited</b>										
Funds previously under management							6,247,114	2,059,736		
RATING	CATEGORY	PURCHASE DATE	MATURITY DATE	TOTAL TERM (DAYS)	REMAINING DAYS TO MATURITY	%	FACE VALUE \$	BOOK VALUE \$	GOV'T GUARANTEE	
<b>3. WMC DIRECT INVESTMENTS</b>										
<b>TERM DEPOSITS: (in order of Maturity)</b>										
AAA*	<b>IMB</b> TERM DEPOSIT	11/08/2010	11/08/2011	365	11	6.35	1,000,000	1,000,000	Guaranteed	
AAA*	<b>QUAY CREDIT UNION</b> TERM DEPOSIT	21/02/2011	21/08/2011	181	21	6.25	1,000,000	1,000,000	Guaranteed	
AAA*	<b>LAIKI BANK</b> TERM DEPOSIT	05/09/2010	05/09/2011	365	36	6.30	1,000,000	1,000,000	Guaranteed	
AAA*	<b>MEMBERS EQUITY BANK</b> TERM DEPOSIT	09/06/2011	07/09/2011	90	38	6.10	1,000,000	1,000,000	Guaranteed	
AAA*	<b>NSW TEACHERS CREDIT UNION</b> TERM DEPOSIT	19/05/2011	19/09/2011	123	50	6.22	1,000,000	1,000,000	Guaranteed	
AAA*	<b>HUNTER UNITED EMPLOYEES CU</b> TERM DEPOSIT	28/07/2011	26/09/2011	60	57	5.90	1,000,000	1,000,000	Guaranteed	
AAA*	<b>VICTORIAN TEACHERS CREDIT UNION</b> TERM DEPOSIT	05/09/2010	05/09/2011	365	36	6.30	1,000,000	1,000,000	Guaranteed	
AAA*	<b>BANK OF CYPRUS</b> TERM DEPOSIT	27/04/2011	26/09/2011	152	57	6.20	1,000,000	1,000,000	Guaranteed	
AAA*	<b>QUEENSLAND COUNTRY CREDIT UNION</b> TERM DEPOSIT	03/05/2011	30/09/2011	150	61	6.30	1,000,000	1,000,000	Guaranteed	
AAA*	<b>BANANA COAST CREDIT UNION</b> TERM DEPOSIT	04/04/2011	03/10/2011	182	64	6.30	1,000,000	1,000,000	Guaranteed	
AAA*	<b>POLICE CREDIT UNION SA</b> TERM DEPOSIT	03/06/2011	04/10/2011	123	65	6.10	1,000,000	1,000,000	Guaranteed	
AAA*	<b>MY STATE FINANCIAL CU</b> TERM DEPOSIT	11/07/2011	10/10/2011	91	71	6.05	1,000,000	1,000,000	Guaranteed	
AAA*	<b>INVESTEC AUSTRALIA LTD</b> TERM DEPOSIT	26/11/2009	12/10/2011	685	73	6.61	1,000,000	1,000,000	Guaranteed	
AAA*	<b>ELDERS RURAL BANK</b> TERM DEPOSIT	24/11/2009	24/11/2011	730	116	6.60	1,000,000	1,000,000	Guaranteed	
AAA*	<b>BENDIGO ADELAIDE BANK</b> TERM DEPOSIT	31/05/2011	28/11/2011	181	120	6.20	1,000,000	1,000,000	Guaranteed	
AAA*	<b>POLICE &amp; NURSES CREDIT UNION</b> TERM DEPOSIT	31/05/2011	28/11/2011	181	120	6.25	1,000,000	1,000,000	Guaranteed	
AAA*	<b>CREDIT UNION AUSTRALIA</b> TERM DEPOSIT	31/05/2011	28/11/2011	181	120	6.27	1,000,000	1,000,000	Guaranteed	
AA	<b>COMMONWEALTH BANK</b> TERM DEPOSIT	16/12/2008	16/12/2011	1095	138	6.03	1,000,000	1,000,000		
AAA*	<b>RABO DIRECT</b> TERM DEPOSIT	28/02/2011	01/03/2012	367	214	6.60	1,000,000	1,000,000	Guaranteed	
AAA*	<b>ING DIRECT</b> TERM DEPOSIT	28/02/2011	28/02/2013	731	578	6.74	1,000,000	1,000,000	Guaranteed	
<b>AT CALL:</b>										
AA	<b>COMMONWEALTH BANK</b> ONLINE SAVER A/C					4.75	2,311,772	2,311,772	1st \$1m Gteed	
AAA*	<b>AMP BANK</b> CASH MNGMT ACCT	11/06/2009				4.75	999,995	999,995	Guaranteed	
Total WMC Direct Investments							23,311,767	23,311,767		
Weighted Average Days to Maturity of WMC Direct Investments					102.30					
Weighted Average Return of WMC Direct Investments						6.28				
% Government Guarantee of WMC Direct Investments									80%	
<b>PORTFOLIO TOTALS</b>							41,649,200	30,478,562		

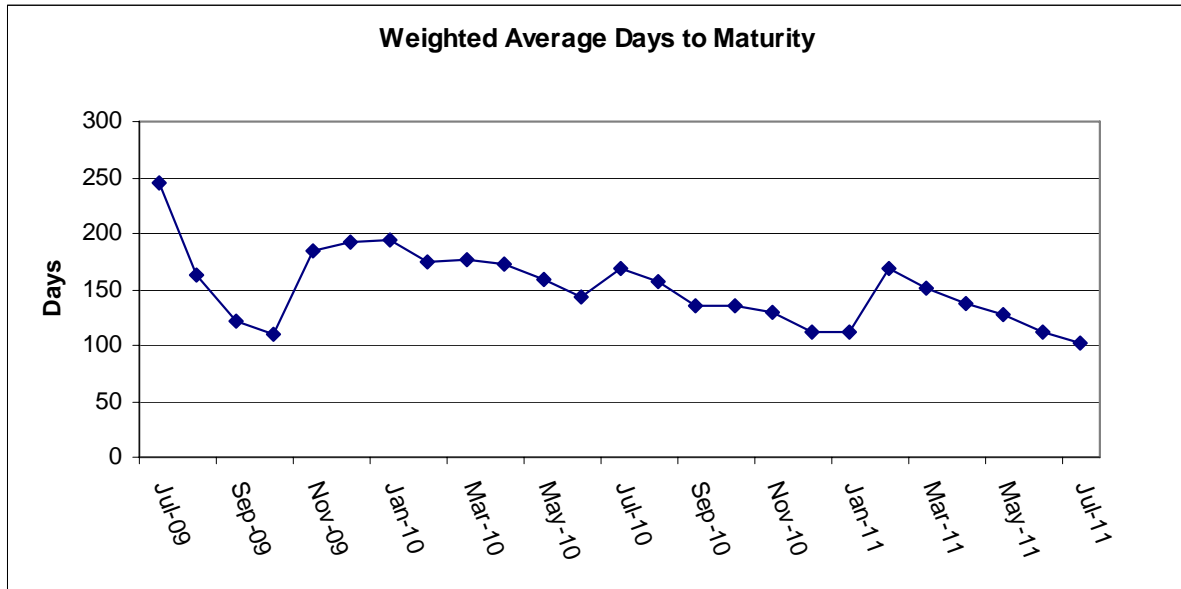
\* Government Guaranteed deposits have been rated AAA

I hereby certify that the above investments have been made in accordance with Section 625 of the Local Government Act 1993, Clause 212 of the Local Government (General) Regulation 2005 and Council's investment policy.

D. Johnston  
MANAGER FINANCE

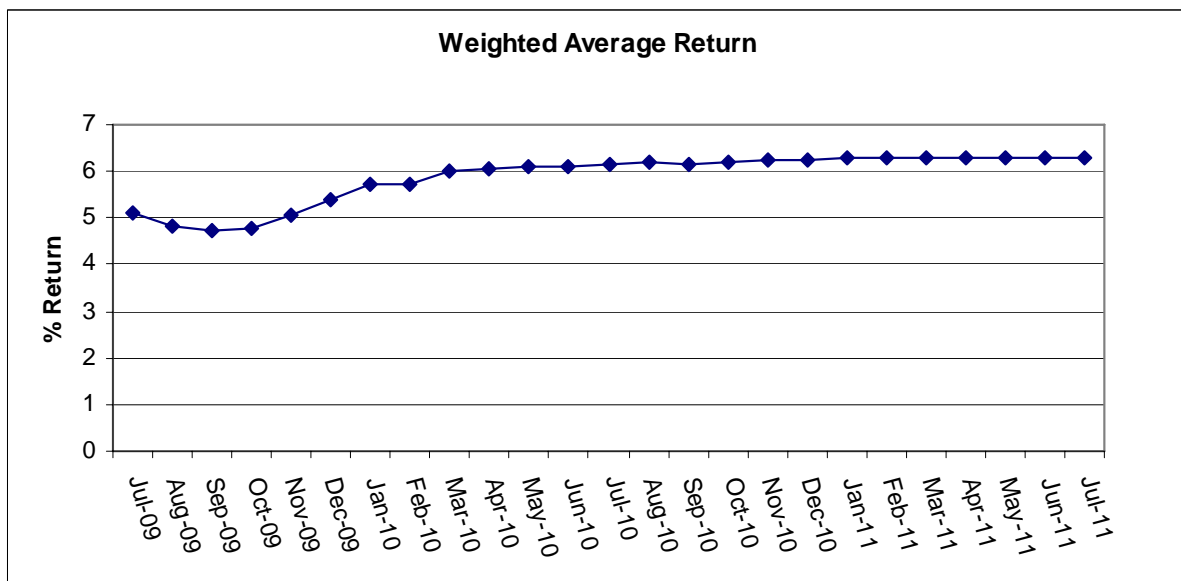
INVESTMENTS PORTFOLIO AS AT 31 July 2011							
Security	Classification	Purchase Date	Final Maturity Date	Face Value (FV)	Total Purchase Price	Current Book Value	Notes
<b>1. LEHMAN BROTHERS (formerly GRANGE SECURITIES)</b>							
<b>Issued by non-ADIs</b>							
Lehman Global Property Note	Other	13/06/2007	15/06/2009	60,000	60,000	0	1
Magnolia (Flinders AA)	CDO	08/06/2007	20/03/2012	500,000	513,670	0	1
Helium (Esperance AA+)	CDO	04/07/2007	20/03/2013	500,000	501,565	0	1
Zircon (Merimbula AA)	CDO	06/06/2007	20/06/2013	250,000	250,000	100,000	1
Corsair (Torquay AA)	CDO	04/07/2007	20/06/2013	500,000	501,860	0	1
Start (Blue Gum AA-)	CDO	08/01/2007	22/06/2013	400,000	402,768	0	1
Corsair (Kakadu AA)	CDO	22/01/2007	20/03/2014	500,000	503,300	0	1
Helium (Scarborough AA)	CDO	17/01/2007	23/06/2014	400,000	402,620	0	1
Helium (Scarborough AA)	CDO	04/07/2007	23/06/2014	500,000	502,270	0	1
Helium (Scarborough AA)	CDO	23/07/2007	23/06/2014	500,000	503,310	0	1
Zircon (Coolangatta AA)	CDO	20/03/2007	20/09/2014	500,000	500,000	200,000	1
Beryl (AAA Global Bank Note)	Other	03/04/2007	20/09/2014	100,000	100,000	60,000	1
Zircon (Coolangatta AA)	CDO	04/07/2007	20/09/2014	500,000	501,430	200,000	1
Beryl (AAA Global Bank Note)	Other	04/07/2007	20/09/2014	350,000	350,917	210,000	1
Aphex (Glenelg AA-)	CDO	10/01/2007	22/12/2014	500,000	501,960	0	1
Aphex (Glenelg AA-)	CDO	04/07/2007	22/12/2014	500,000	501,405	0	1
MAS6-7 (Parkes IIA 'AA-')	CDO	13/06/2007	20/06/2015	450,000	461,687	0	1
MAS6-7 (Parkes IIA 'AA-')	CDO	04/07/2007	20/06/2015	500,000	504,315	0	1
Zircon (Miami AA)	CDO	16/04/2007	20/03/2017	50,000	50,137	20,000	1
				7,560,000	7,613,714	790,000	
<b>Issued by ADIs</b>							
			Call Date				
Royal Bank of Scotland (AA)	FRN	04/07/2007	28/10/2009	500,000	508,290	442,385	2
HSBC FRN (AA-)	FRN	07/02/2007	22/09/2011	500,000	505,470	499,435	2
CBA FRN (AA)	FRN	19/01/2007	28/09/2011	500,000	503,640	499,175	2
CBA FRN (AA)	FRN	31/01/2007	28/09/2011	500,000	504,785	499,175	2
CBA FRN (AA)	FRN	04/07/2007	28/09/2011	500,000	502,360	499,175	2
Westpac FR Sub Debt (AA)	FRN	07/02/2007	24/01/2012	500,000	501,590	497,205	2
Royal Bank of Scotland (AA)	FRN	31/01/2007	17/02/2012	1,000,000	1,014,560	852,110	2
Adelaide Bank FRN (BBB+)	FRN	04/07/2007	28/03/2012	500,000	501,445	498,080	2
				4,500,000	4,542,140	4,286,740	
Macquarie Cash Trust (AAA)	Cash			2,161	2,161	2,161	5
UBS Cash Management Trust	Cash			28,158	28,158	28,158	5
				30,319	30,319	30,319	
<b>Total Lehman Brothers</b>				<b>12,090,319</b>	<b>12,186,172</b>	<b>5,107,059</b>	
<b>2. OAKVALE CAPITAL</b>							
Emeral Reverse Mortgage Series 2007-1 Class B	Mortgage Backed	06/07/2007	06/07/2011	1,000,000	1,000,000	450,000	1
Momentum (Calyon Nickel) Credit Linked Note	CDO	15/05/2007	30/06/2012	1,000,000	1,000,000	0	3
Aramis (Merrill Lynch) Clear 40 - ABS	CDO	02/04/2007	20/12/2012	1,000,000	1,000,000	0	3
Blackrock (Merrill Lynch) Diversified Credit Fund	Managed Fund	05/01/2007		3,247,114	3,247,114	1,609,736	4
<b>Total Oakvale Capital</b>				<b>6,247,114</b>	<b>6,247,114</b>	<b>2,059,736</b>	

Security	Classification	Purchase Date	Final Maturity Date	Face Value (FV)	Total Purchase Price	Current Book Value	Notes
<b>3. WMC INVESTMENTS</b>							
IMB (6.35% 365d)	TD	11/08/2010	11/08/2011	1,000,000	1,000,000	1,000,000	5
Quay CU (6.25% 181d)	TD	21/02/2011	21/08/2011	1,000,000	1,000,000	1,000,000	5
Laiki Bank (6.30% 365d)	TD	05/09/2010	05/09/2011	1,000,000	1,000,000	1,000,000	5
Members Equity Bank Pty Ltd (6.10% 90d)	TD	09/06/2011	07/09/2011	1,000,000	1,000,000	1,000,000	5
NSW Teachers CU (6.22% 123d)	TD	19/05/2011	19/09/2011	1,000,000	1,000,000	1,000,000	5
Hunter United Employees CU (5.90% 60d)	TD	28/07/2011	26/09/2011	1,000,000	1,000,000	1,000,000	5
Victorian Teachers CU (6.15% 123d)	TD	19/05/2011	19/09/2011	1,000,000	1,000,000	1,000,000	5
Bank of Cyprus (6.20% 152d)	TD	27/04/2011	26/09/2011	1,000,000	1,000,000	1,000,000	5
Qld Country Credit Union (6.3% 153d)	TD	03/05/2011	30/09/2011	1,000,000	1,000,000	1,000,000	5
Banana Coast CU (6.30% 182d)	TD	04/04/2011	03/10/2011	1,000,000	1,000,000	1,000,000	5
Police Credit Union SA (6.10% 123d)	TD	03/06/2011	04/10/2011	1,000,000	1,000,000	1,000,000	5
My State Financial CU (6.05% 91d)	TD	11/07/2011	10/10/2011	1,000,000	1,000,000	1,000,000	5
Investec Bank (6.61% 685d)	TD	26/11/2009	12/10/2011	1,000,000	1,000,000	1,000,000	5
Elders Rural Bank (6.6% 730d)	TD	24/11/2009	24/11/2011	1,000,000	1,000,000	1,000,000	5
Bendigo Adelaide Bank (6.2% 181d)	TD	31/05/2011	28/11/2011	1,000,000	1,000,000	1,000,000	5
Police & Nurses Credit Society (6.25% 181d)	TD	31/05/2011	28/11/2011	1,000,000	1,000,000	1,000,000	5
Credit Union Australia (6.27% 181d)	TD	31/05/2011	28/11/2011	1,000,000	1,000,000	1,000,000	5
CBA TCD (90day BBSW + 1.6% - 3yrs)	TD	16/12/2008	16/12/2011	1,000,000	1,000,000	1,000,000	5
RaboDirect (6.60% 366d)	TD	01/03/2011	01/03/2012	1,000,000	1,000,000	1,000,000	5
ING Direct (6.74% 731d)	TD	28/02/2011	28/02/2013	1,000,000	1,000,000	1,000,000	5
AMP Cash Management Account	Cash	16/06/2009		999,995	999,995	999,995	5
CBA Online Saver	Cash			2,311,772	2,311,772	2,311,772	5
<b>Total Direct Investments</b>				<b>23,311,767</b>	<b>23,311,767</b>	<b>23,311,767</b>	
<b>Total Portfolio</b>				<b>41,649,200</b>	<b>41,745,053</b>	<b>30,478,562</b>	
<b>PORTFOLIO SUMMARISED BY CLASSIFICATION</b>							
CDO				9,050,000	9,102,797	520,000	
FRN				4,500,000	4,542,140	4,286,740	
Mortgage Backed				1,000,000	1,000,000	450,000	
Managed Fund				3,247,114	3,247,114	1,609,736	
TD				20,000,000	20,000,000	20,000,000	
Cash				3,342,086	3,342,086	3,342,086	
Other				510,000	510,917	270,000	
				<b>41,649,200</b>	<b>41,745,053</b>	<b>30,478,562</b>	
1. Book Value (Fair Value) as at 30 June 2011							
2. Mark-to-Market Valuation 30 June 2011							
3. Defaulted							
4. Current Value. Fund Closed - Assets being sold and repaid							
5. Face value of deposit / bank bill							
CDO - Collateralised Debt Obligation	CDOs are constructed from a portfolio of assets. These assets are divided by the issuer into different tranches: senior tranches (rated AAA), mezzanine tranches (AA to BB), and equity tranches (unrated). Losses are applied in reverse order of seniority and so junior tranches offer higher coupons (interest rates) to compensate for the added default risk.						
FRN - Floating Rate Note	Floating rate notes (FRNs) are bonds that have a variable coupon, equal to a money market reference rate, plus a spread. The spread is a rate that remains constant. Almost all FRNs have quarterly coupons, i.e. they pay out interest every three months.						
Managed Fund	Managed Funds are a way of investing money with other people to participate in a wider range of investments than those feasible for most individual investors, and to share the costs of doing so.						
Mortgage Backed Security	A mortgage-backed security is an asset-backed security whose cash flows are backed by the principal and interest payments of a set of mortgage loans. Payments are typically made monthly over the lifetime of the underlying loans.						
Term Deposit	Term Deposit is a money deposit at an approved deposit taking (ADD) institution for a fixed term at a fixed interest rate. When the term is over it can be withdrawn or it can be held for another term.						



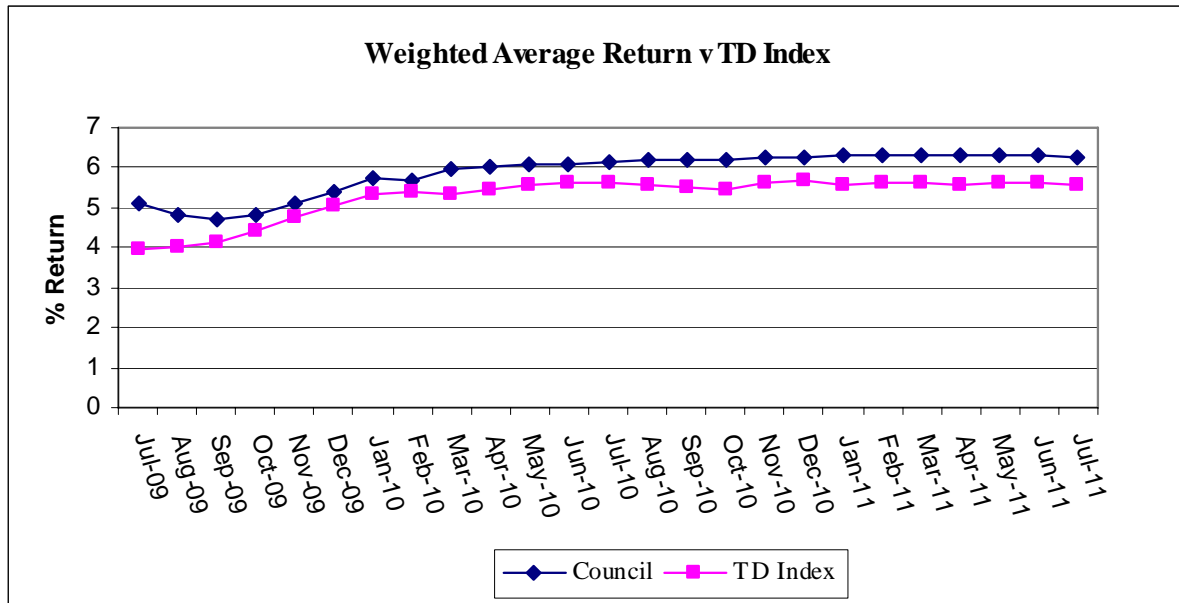
Commentary:

The weighted average is trending downwards as the term deposits progress toward maturity. It is also impacted by keeping investment maturities at close to the Government Guarantee review date in October.



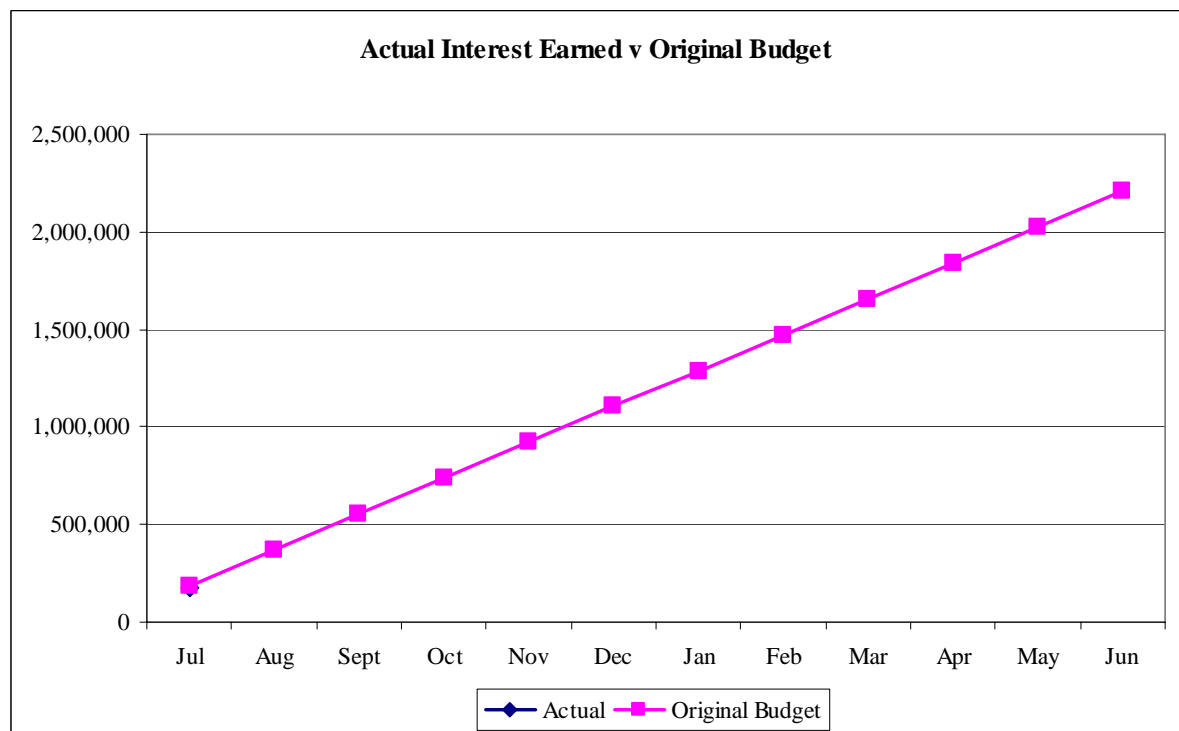
Commentary:

There was little variation in the interest rates of the maturing investments and the re-investment of term deposits. The weighted average return effectively remained unchanged from June.



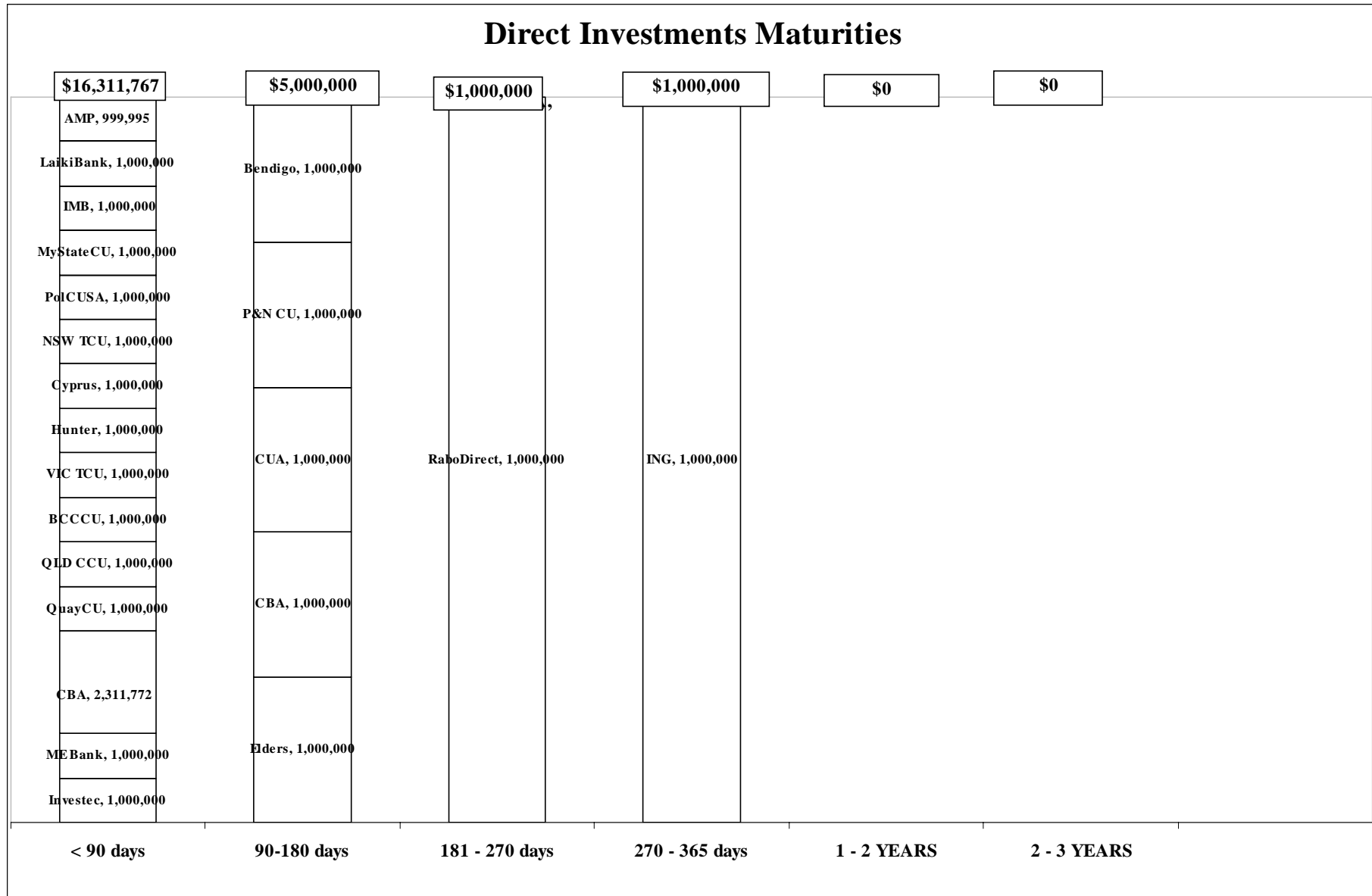
Commentary:

This chart tracks Council’s weighted average return on its direct investment portfolio against a 90 day bank bill index. As Council’s portfolio has become more weighted toward 90 day term deposits as illustrated in the Weighted Average Days to Maturity chart above, the margin Council is achieving above the 90 day term deposit index has contracted. The small margin effectively remained unchanged for July.



Commentary:

This chart tracks the Council’s budgeted interest revenue on investments against actual accrued interest to date. Accrued interest for the month of July was slightly below budget, hidden behind the ‘Original Budget’ line above.



Commentary:

The chart reflects Council's position of generally rolling short term investments.

**Movements in Book Value of Investments**

**Formerly managed by Lehman Brothers**

Date	Description	Securities	Cash (Macq Trust)	Grove	Total
				Portfolio Online/UBS Cash Management Trust	
01/07/2011		6,076,210.00	2,152.64	6,015.29	6,084,377.93
08/07/2011	Blackrock cash distribution (all interest) to UBS account			32,381.86	6,116,759.79
11/07/2011	Withdrawal - UBS Cash Management Account			(36,000.00)	6,080,759.79
14/07/2011	UBS Fee - Jun'11 qtr management fee			(532.64)	6,080,227.15
26/07/2011	Maturity of St George FRN	(1,000,000.00)		1,000,000.00	6,080,227.15
26/07/2011	FV Adjustment (BV @ maturity \$999,470)	530.00			6,080,757.15
27/07/2011	Withdrawal - UBS Cash Management Account			(1,000,000.00)	5,080,757.15
Various	July Coupons			26,293.15	5,107,050.30
Various	Macquarie Cash Management Account - interest (net)		8.68		5,107,058.98
		<b>5,076,740.00</b>	<b>2,161.32</b>	<b>28,157.66</b>	

**Formerly managed by Oakvale Capital**

Date	Description	Securities	Blackrock Managed Fund	Total Book Value
		01/07/2011	450,000.00	1,609,736.39
		<b>450,000.00</b>	<b>1,609,736.39</b>	

Commentary:

The table above details any movements in Council's portfolio formerly managed by Lehman Brothers and Oakvale Capital. It typically includes the maturity or sale of securities, quarterly coupon payments and fair value (market) adjustments. It will also include small payments of interest earned on Council's cash management accounts and the deduction of fees associated with Council's current safe custody arrangements.

It should be noted that the opening valuation of Council's investment securities has been updated in line with the conservative valuation approach, consistent with previous years, as discussed by the Investments Working Party.

Council received all expected coupon payments for the month of July.

Don Johnston  
Manager Finance

Stephen Dunshea  
Director Corporate Services

**Annexures:**

1. Minutes of the Investments Working Party meeting of 18 July 2011.
2. Valuation of Investment Securities at 30 June 2011 and resulting movement in Fair Value.



**Item No:** R1 Recommendation to Council  
**Subject:** **9 Burrabirra Avenue Vaocluse – Road Reserve Encroachment**  
**Author:** Zubin Marolia, Manager Property and Projects  
**File No:** 68.9  
**Reason for Report:** To give consideration to the formalisation of an existing encroachment by granting of an easement to permit existing structure to remain on road reserve adjoining the property.

**Recommendation:**

- A. That the encroachment on the road reserve adjoining 9 Burrabirra Avenue Vaocluse, be formalised by granting of an Easement to Permit Existing Structure to Remain.
- B. The Easement to continue for the life of the building, or the redevelopment of the site, or the redevelopment of the structure, whichever occurs first, subject to the payment of easement compensation and all Council's costs related to this matter.

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**Background:**

The owners of 9 Burrabirra Avenue Vaocluse, made application to Council to carry out renovations to their existing residential dwelling. A condition of the development consent 262/2010/1 was that the owners enter into a legal agreement to allow the encroachment on the road reserve adjoining their property to remain. On 12 July 2010 a formal application was received together with the prescribed administration fee.

Research into ownership of Burrabirra Avenue Vaocluse revealed the Council had not acquired ownership of the road, and on 15 November 2010 Council resolved the following;

- A. *That Council proceed with the dedication of Burrabirra Avenue, Vaocluse under Section 16 of the Roads Act 1993 as recommended by HWL Lawyers by undertaking the following actions:*
  - i) *Affixing a notice on Burrabirra Road, Vaocluse in a conspicuous place for 28 days.*
  - ii) *Placing an advertisement in a local newspaper advising of Councils intention to dedicate all of Burrabirra Avenue, Vaocluse as a public road in accordance with Section 16 of the Roads Act 1993.*
- B. *That Council instruct HWL Ebsworth Lawyers to execute the necessary actions to effectively have Burrabirra Avenue, Vaocluse dedicated as a public road.*
- C. *That Council authorise the Mayor and General Manager to execute and affix the Council seal to the documents required for the acquisition of Burrabirra Avenue, Vaocluse for the public use.*

On 29 June 2011 the Land and Property Management Authority confirmed that Council is now the registered proprietor of Lot 1 in DP 1166929 LPMA Folio 1/1166929 this land being dedicated as public road (Annexure 1).

A survey prepared by Denny Linker & Co. Surveyors identified two planter boxes and two low rise block retaining walls extending onto Council road reserve adjoining 9 Burrabirra Avenue Vacluse, which impede public access to the road reserve. The approved DA 262/2010/1 shows removal of the two planter boxes and the outer low rise block retaining wall. Annexure 2 shows the existing encroachments whilst Annexure 3 shows the remaining encroachment pursuant to the consent conditions after removal of the two planter boxes and the outer low rise block retaining wall.

The owner has submitted to Council an application to Formalise an Existing Encroachment, suggesting that Council might consider granting an easement for the life of the structures, citing as reasons for leaving the structures in place that the adjoining property owner is willing to comply with Council's request for an Easement.

In accordance with the DA 262/2010/1 consent conditions it is proposed to formalise the remaining encroachments by granting an Easement, on the grounds that it increased the size of the land developed, decreased the width of the road reserve and footpath, and that Council could not accept any liability arising from the encroachment and would not accept any responsibility for ongoing maintenance of the structure encroaching on the road.

Property staff consider that the extent and circumstances of the encroachment does not warrant removal, but that an easement to permit existing structure to remain on the roadway is appropriate. Legal advice was recently obtained from Dr Lindsay Taylor regarding encroachments which formed the basis of a recent report to Council. As a result, in the case of 279 Edgecliff Road, Council resolved to grant an Easement. The proposed treatment is also in accordance with the adopted Policy for Managing Encroachments on Road Reserves.

The owner was advised that monetary compensation will be payable in respect of such an Easement.

### **Proposed Easement.**

In accordance with the Roads Act, 1993 leases may be granted only in respect of structures which may be easily demolished, or areas of roadway without structures built on them. Based on legal advice, for structures not easily demolished e.g. large retaining walls and fences over 600mm high Council's Policy provides for the granting of an Easement to Permit Existing Structures to Remain.

Monetary compensation is payable to Council for granting an Easement in favour of the adjoining owner for encroaching structures. The compensation amount is determined by a registered Valuer, and all costs in regard the required survey plans, valuation and legal fees are payable by the property owner.

The structure on the road reserve which currently forms the encroachment at 9 Burrabirra Avenue is shown on the attached sketch plan (Annexure 4 ). The exact sizes of the encroachment will be determined by detailed survey

### **Conclusion:**

It is recommended that the encroachment adjoining 9 Burrabirra Avenue Vacluse, along the road reserve, be formalised by granting of an easement to remain for the life of the building, or the redevelopment of the site, or the redevelopment of the structure, whichever occurs first, and that that easement compensation and all Council's costs in this matter be payable by the owners of 9 Burrabirra Avenue Vacluse, to Council.

Tony Myers  
Property Officer (Casual)

Zubin Marolia  
Manager Property and Projects

Tom O'Hanlon  
Director, Technical Services

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**ANNEXURES:**

1. Certificate of Title for Burrabirra Avenue.
2. Plan showing existing encroachments.
3. Approved plan showing encroachments pursuant to the DA consent conditions.
4. Survey plan of existing encroachments
5. Site photo of existing encroachments on 9 Burrabirra Avenue, Vacluse.

**Item No:** R2 Recommendation to Council  
**Subject:** **Statutory Review of Policy - Payment of Expenses and Provision of facilities to The Mayor, Deputy Mayor and Councillors Policy**  
**Author:** Les Windle - Manager Governance  
**File No:** 18.G  
**Reason for Report:** For Council to fulfil its statutory requirement to annually review and publicly exhibit a proposed policy for the Payment of Expenses and Provision of Facilities to the Mayor, Deputy Mayor and Councillors

**Recommendation:**

- A. THAT Council's current Payment of Expenses and Provision of Facilities to the Mayor, Deputy Mayor and Councillors Policy as contained in Annexure 1 of the report to the Corporate and Works Committee meeting on 15 August 2011 be placed on public exhibition for a period of not less than 28 days as Council's proposed policy for the ensuing twelve months.
- B. THAT a further report be submitted to the Committee at the conclusion of the exhibition period.

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**Background:**

Council adopted the current *Payment of Expenses and Provision of Facilities to the Mayor, Deputy Mayor and Councillors Policy* on 15 November 2010. (Annexure 1)

Section 252 of the Local Government Act requires Council to adopt an expenses and facilities policy within 5 months after the end of each financial year. Section 253 of the Local Government Act requires Council to publicly exhibit a proposed Policy for no less than 28 days prior to adopting the policy. The policy must comply with the Local Government Act 1993, Local Government (General) Regulation 2005 and any guidelines issued under section 23A of the Local Government Act by the Division of Local Government (DLG), Department of Premier and Cabinet. Council's current Policy complies with the legislative requirements and DLG Guidelines.

**Proposal:**

Council must now undertake the annual review of the Policy.

Council may propose to exhibit the current Policy without change or it may introduce amendments to the Policy. Whichever option Council chooses it still must undertake the full consultation process.

Council's current Policy has been structured in accordance with the DLG Guidelines and references the payment of expenses and/or provision of facilities to the Mayor, Deputy Mayor and Councillors under the following headings:

- Conferences, seminars, workshops and courses
- Care and other related expenses
- Insurance cover
- Legal expenses and assistance
- Provision of facilities to the Deputy Mayor and Councillors

- Provision of facilities to the Mayor
- Reimbursement of expenses incurred by the Mayor, Deputy Mayor and Councillors
- Funding of additional facilities purchased by the Mayor, Deputy Mayor or Councillors
- Joint Regional Planning Panel (JRPP) Fees

Council should consider whether the scope or level of facilities or expenses provided to Councillors are considered adequate or should be altered.

**Consultation:**

Before Council can adopt or amend an expenses and facilities policy it must give public notice of not less than 28 days of the proposed policy. At the conclusion of the exhibition period the Council must consider any submission made to it and if considered necessary, make appropriate changes to the proposed policy. If the changes to the policy are considered substantial, the proposed amended policy will be required to be re-exhibited. If the proposed changes are in the opinion of the Council not substantial then the amended proposal will not need to be re-exhibited.

Following adoption of the policy by Council, the policy together with details of all submissions received and a statement from Council setting out the response to each submission must be forwarded to the Division of Local Government.

**Identification of Income & Expenditure:**

If Council adopts the current policy no additional expenditure will be incurred by Council. If changes are made to the policy, additional expenditure may be incurred depending on the scope and level of the changes made.

**Conclusion:**

Council must review its Councillors expenses and facilities policy within five months of the end of each financial year and must publicly exhibit any proposed policy, even if it is the existing policy, for a period of not less than 28 days. Should Council consider the existing policy provides a satisfactory scope and level of facilities and expenses to the Mayor, Deputy Mayor and Councillors, the existing policy could be placed on public exhibition and a further report submitted to the Committee following the exhibition period. It is recommended that the current policy be placed on public exhibition as the proposed policy for the ensuing 12 months.

Les Windle  
Manager Governance

Stephen Dunshea  
Director Corporate Services

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**Annexures:**

1. Adopted Policy – Payment of expenses and provision of facilities to the Mayor, Deputy Mayor and Councillors (November 2010)

**Item No:** R3 Recommendation to Council  
**Subject:** Hopetoun Avenue Vacluse – Acquisition of Roadway for Public Use  
**Author:** Anthony Sheedy Property Officer  
**File No:** 240 part 9.  
**Reason for Report:** To formalise the status of Hopetoun Avenue, Vacluse as a public road.

**Recommendation:**

- A. That Council proceed with the dedication of Hopetoun Avenue, Vacluse under Sections 16 & 17 of the Roads Act, 1993 as recommended by HWL Lawyers by undertaking the following actions:
- i) Affixing notices on Hopetoun Avenue, Vacluse in a conspicuous place for 28 days.
  - ii) Placing an advertisement in a local newspaper advising of Councils intention to dedicate all of Hopetoun Avenue, Vacluse as a public road in accordance with Section 17 of the Roads Act 1993.
  - iii) Providing notice of the road dedication in the NSW Gazette, Subject to S17 of the Roads Act, 1993.
- B. That Council instruct HWL Ebsworth Lawyers to execute the necessary actions to effectively have Hopetoun Avenue, Vacluse dedicated as a public road.
- C. That Council authorise the Mayor and General Manager to execute and affix the Council seal to the documents required for the acquisition of Hopetoun Avenue, Vacluse for the public use.

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**Background:**

**Hopetoun Avenue Acquisition**

Following an application from the owners of 90 Hopetoun Avenue Vacluse regarding the imposition of a formal agreement to allow existing encroachments to remain on Council land adjoining this property, a title search was conducted to confirm whether Council is the registered owner of Hopetoun Avenue Vacluse. Property and Projects staff were advised that Council is not the registered owner of that portion of Hopetoun Avenue.

Service First Registrations Pty Ltd were then instructed to investigate and ascertain whether Council is the owner of the balance of Hopetoun Avenue, Vacluse and whether the road has been dedicated as a public road sufficient to allow registration of an easement. The Title search report confirmed the following:

Ownership of Hopetoun Avenue is divided into a number of parts and there is no evidence of formal dedication of Hopetoun Avenue, Vacluse.

There is also a portion of Hopetoun Avenue between Keele Street and the intersection of Russell Street which is owned by the “Minister for Public Works”. On the advice of HWL Ebsworth, Council may make a separate application to have that portion of Hopetoun Avenue transferred to Council.

The balance stands in different ownership for the other seven (7) smaller parts. Each of those parts as identified in the report from Service First Registration Pty Ltd is listed below.

- The part of Hopetoun Avenue, Vaucluse from Salisbury Street to Palmerston Street including part of Gladston Street was created in a private subdivision called the Beaconsville Estate filed as D.P. 975343. The date of this subdivision was circa 1837. Documentary title stands in the name of Francis Mitchell pursuant to Deed of Lease and Release Book M No. 538 (1838). (Attachment plan 1 Shown as Item 1).  
No evidence could be found as to the formal dedication of this part of Hopetoun Avenue as public road.
- The documentary title to the part of Hopetoun Avenue, Vaucluse from Russell Street to the drainage reserve adjoining 119 Hopetoun Avenue is comprised in the Certificate of Title Volume 1730 Folio 42 standing in the names of William Charles Wentworth and Francis William Hixson pursuant to Appointment of New Trustee No.A282653 and Notice of Death No. A337253 and was provided for in a private subdivision of the Vaucluse Estate in D.P. 3915, D.P. 4400 and D.P. 977767 (Attachment plans 2 and 3 Shown as Item 2).  
No evidence could be found as to the formal dedication of this part of Hopetoun Avenue as public road.
- The documentary title to the part of Hopetoun Avenue, Vaucluse from the drainage reserve adjoining 119 Hopetoun Avenue to that part of Hopetoun Avenue at the point in line with the property boundary between 103 and 105 Hopetoun Avenue comprises part of the land remaining in Conveyancing Book 232 No. 348 standing in the name of Fitzwilliam Wentworth and was provided for in a private subdivision of the Vaucluse Estate in D.P. 977767 (Attachment plan 3 Shown as Item 3).  
No evidence could be found as to the formal dedication of this part of Hopetoun Avenue as public road.
- The documentary title to this part of Hopetoun Avenue, Vaucluse from the boundary of 103 and 105 Hopetoun Avenue to the boundary between 95 and 97 Hopetoun Avenue is comprised in the Certificate of Title Volume 1730 Folio 42 standing in the names of William Charles Wentworth and Francis William Hixson pursuant to Appointment of New Trustee No.A282653 and Notice of Death No. A337253 and was provided for in a private subdivision of the Vaucluse Estate in D.P. 977767. ( Attachment plan 3 Shown as Item 4 )  
No evidence could be found as to the formal dedication of this part of Hopetoun Avenue as public road.
- From 95 Hopetoun Avenue to 87 Hopetoun Avenue inclusive the documentary title to this part of Hopetoun Avenue, Vaucluse is comprised in the Certificate of Title Volume 1730 Folio 42 standing in the names of William Charles Wentworth and Francis William Hixson pursuant to Appointment of New Trustee No.A282653 and Notice of Death No. A337253 and was provided for in a private subdivision of the Vaucluse Estate in D.P. 977767. ( Attachment plan 3 Shown as Item 5 )  
No evidence could be found as to the formal dedication of this part of Hopetoun Avenue as public road.
- From 85 Hopetoun Avenue to the intersection with Village Lower Road, this comprises part of the land remaining in Conveyancing Book 235 No. 555 standing in the name of Fitzwilliam Wentworth and was provided for in a private subdivision of the Vaucluse Estate in D.P. 977767. ( Attachment plan 4 Shown as Item 6 )  
No evidence could be found as to the formal dedication of this part of Hopetoun Avenue as public road.

- The portion of Hopetoun Avenue from the intersection with Village Lower Road to the end where it intersects with New South Head Road is comprised in the Certificate of Title Volume 1730 Folio 42 standing in the names of William Charles Wentworth and Francis William Hixson pursuant to Appointment of New Trustee No.A282653 and Notice of Death No. A337253 and was provided for in a private subdivision of the Vaocluse Estate in D.P. 977767.( Attachment plans 4, 5 and 6 Shown as Item 7 )  
No evidence could be found as to the formal dedication of this part of Hopetoun Avenue as public road.

The Title search investigation disclosed that Hopetoun Avenue, Vaocluse was provided for in a private subdivision possibly known as the 7<sup>th</sup> Vaocluse Estate and filed as DP 977727. The date of this road is circa 1908 and documentary title to this area is contained in Certificate of Title Volume 1730 Folio 42. This title is subject to Caveat 279864 and has not been dedicated as public road.

HWL Ebsworth Lawyers were provided with a copy of the title search report and instructed to provide comments as to how Council could obtain title ownership. HWL Ebsworth advised the following:

“Given that the area is provided in DP 977727 (which we understand was registered before 1920), it is open to Council to dedicate this area as public road in accordance with S16 & 17 of the Roads Act, 1993.

The steps to achieve this are as follows:

1. Council must advertise Council's intention to dedicate the land as public road. The method of such advertisement should be as adopted by Council for other recent dedications including Wentworth Road, Vaocluse.
2. If following this, no declaration is made by the Land and Environment Court in accordance with S17 of the Roads Act, Council must formally resolve to dedicate the land as public road.
3. Council must then provide notice of the dedication in the NSW Gazette.
4. Following gazettal, Council must request the LPMA to register the dedication and issue to Council a new Folio for the land. However, the Caveat 279864 will not prevent such registration (the same Caveat applied to the recent dedication of Olola Avenue, Vaocluse).”

### **Acquisition Options:**

After looking into the available alternatives to successfully acquire ownership of Hopetoun Avenue, Vaocluse, the Council could adopt one of the following methods:

1. Application under Section 16 & 17 of the Roads Act, 1993.
2. Possessory Title.
3. Compulsory Acquisition.

HWL Lawyers advised Council that acquisition by compulsory acquisition would expose Council to a claim for compensation in accordance with the Land Acquisition (Just Terms Compensation) Act 1991.

Possessory Title was also considered less effective than an application under Section 16 & 17 of the Roads Act 1993 because Section 45D (5) of the Real Property Act may require evidence, for example, searches on the deceased estate of the registered owner resulting in notices being served on these owners who are long deceased and further delaying acquisition by Council.



Dedication pursuant to Section 16 & 17 of the Roads Act, 1993 was considered to be the most beneficial to Council. Section 16 applies to land that is set aside for the purposes of a road left in a subdivision of land effected before 1 January 1907, or in a plan of subdivision that was registered by the Registrar General before 1 January 1920.

Under Section 16, but subject to Section 17 of the Roads Act 1993:

- Council may by notice published in the NSW Gazette, dedicate the land as a public road.
- On such publication, the land is dedicated as a public road.
- No compensation is payable arising from the operation of Section 16; and
- Land may not be dedicated as a public road if the Land and Environment Court makes a declaration under Section 17.

Under Section 17:

- Before dedicating land as a public road under Section 16, the Council must cause at least 28 days notice of its intention to do so to be served on the owner of the land.
- During that period, the owner of the land may apply to the Land and Environment Court for a declaration that the land should not be dedicated as a public road; and
- The Court may make such decision as it sees fit with respect to the application.

The present owners are deceased. Council can secure title by affixing a notice on Hopetoun Avenue, Vaucluse in a conspicuous place for 28 days and place an advertisement in a local newspaper advising of Council's intention to dedicate all of Hopetoun Avenue, Vaucluse as a public road in accordance with Section 17 of the Roads Act 1993.

### **Conclusion:**

Pursuant to the Title search report which identified that Council is not the documented owner of Hopetoun Avenue, Vaucluse it is recommended that Council proceed with acquiring title to Hopetoun Avenue and dedicating these roads for public use under Section 16 & 17 of the Roads Act 1993, as recommended by HWL Lawyers by undertaking the following actions:

- i) Affixing a notice on Hopetoun Avenue, Vaucluse in a conspicuous place for 28 days.
- ii) Placing an advertisement in a local newspaper advising of Councils intention to dedicate all of Hopetoun Avenue Vaucluse, as public roads in accordance with Section 17 of the Roads Act 1993.
- iii) Council provide notice of the road dedication in the NSW Gazette, Subject to S17 of the Roads Act, 1993.

Further, that Council instruct HWL Ebsworth Lawyers to execute the necessary actions to effectively have Hopetoun Avenue, Vaucluse dedicated as a public road, and authorise the Mayor and General Manager to execute and affix the Council seal to the documents required for the acquisition of Hopetoun Avenue, Vaucluse for the public use.

Anthony Sheedy  
Property Officer

Zubin Marolia  
Manager -Property & Projects

Tom O'Hanlon  
Director, Technical Services

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**Annexures:**

- 1) Plan of Hopetoun Avenue, Vaucluse showing the road not dedicated and marked Item 1 and the part of the road recorded as owned by the Minister for Public Works.
- 2) Plan of Hopetoun Avenue, Vaucluse showing the road not dedicated and marked Item 2.
- 3) Plan of Hopetoun Avenue, Vaucluse showing the road not dedicated and marked Items 3, 4 and 5.
- 4) Plan of Hopetoun Avenue, Vaucluse showing the road not dedicated and marked Item 5, 6 and 7.
- 5) Plan of Hopetoun Avenue, Vaucluse showing the road not dedicated and marked Item 7 in part.
- 6) Plan of Hopetoun Avenue, Vaucluse showing the road not dedicated and marked Item 7 the remainder.

**Item No:** R4 Recommendation to Council  
**Subject:** **Alleged Illegal Removal of a Palm Tree**  
**Author:** Tom O'Hanlon - Director Technical Services  
**File No:** 450.4  
**Reason for Report:** To report on options for possible prosecution relating to the alleged illegal removal of a palm tree.

**Recommendation:**

- A. THAT the Committee resolve to enter into closed session with the press and public excluded to consider the confidential report on this matter in accordance with the provisions of Section 10A(2)(g) of the Local Government Act 1993.
- B. THAT in accordance with Council's policy of confidentiality, the confidential report remain confidential for a period of six (6) months or until the completion of any prosecution action taken by Council, whichever occurs last.

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**Background:**

At the Council Meeting held on 8 August 2011 it was requested that a report be submitted in relation to an alleged illegal removal of a palm tree.

It is recommended that the Committee enter into closed session with the press and public excluded to consider the confidential report and legal advice on this matter in accordance with the provisions of Section 10A(2)(g) of the Local Government Act 1993.

Tom O'Hanlon  
Director Technical Services

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**Annexures:**

Nil

**POLITICAL DONATIONS DECISION MAKING FLOWCHART  
FOR THE INFORMATION OF COUNCILLORS**

