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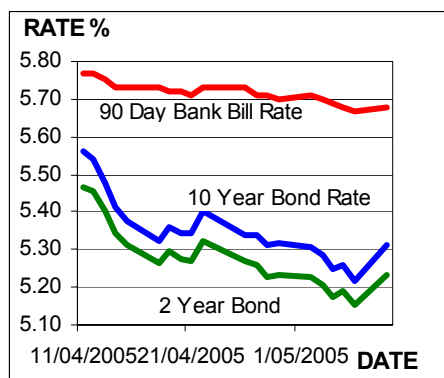
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INTEREST RATE ANALYSIS

Many financial economists believe that the existing rate of 5.50% pa. will remain unchanged throughout 2005. However, the Reserve Bank of Australia – our national monetary policy maker - has indicated that future interest rate rises remain a possibility.

Despite the recent decrease in Westpac's business sentiment index, profitability continues to be above

Fig 1: Interest Rate Movements
(from the 11 April to the 10 May 2005)



Many economists believe that the official cash rate will remain unchanged throughout 2005.

"If you can find a path with no obstacles, it probably doesn't lead anywhere."

- Frank Clark

Current Market Information

As at the 11 May 2005

Official Cash Rate: 5.50%
U.S. Federal Funds Rate: 2.75%

90 Bank Bill Dealers Rate: 5.69%
10 Year Bonds (Indicator): 5.405%

All Ordinaries: 3949.1
Aust. Dollar (US Cents): 77.32

Source: Australian Financial Review (11 May 2005)

the long term average, while production and employment figures are extremely healthy relative to previous years.

Any rate movements are likely to be data dependent due to the uncertainty of international markets. In particular, many experts question China's ability to import Australia's base metals at existing rates. Future rises seem likely to be influenced by credit lending, housing finance approvals, inflation and gross domestic production figures, all of which are subject to a time lag effect.

Credit lending figures for the March quarter have just been received. The result of the recent interest rate rise may not have an influence on data for another few months.

Although a June interest rate increase looks unlikely the RBA has stated that "the likelihood of further monetary tightening has increased". It may be another few months before any thought of interest rate rises permeate through the RBA and the Australian economy.

But then again, the RBA has a history of surprising the market.

QUESTIONS AND ANSWERS

The MCP team will answer a selection of our clients' questions from our legal, corporate and finance divisions in each issue of our monthly

newsletter. Should you wish to ask our team any questions please contact our office on (03) 9620 2001 or enquiries@mcpgroup.com.au.

Legal

My client has inspected a property prior to settlement and has discovered the vendor has removed the curtains, which were a part of the purchase contract. Settlement has been scheduled for today. Can I deduct the cost of their replacement from the contract price?

A general condition of the contract of sale (Section 2.1) requires the vendor to deliver the property and chattels in the same condition as when the contract was signed. However, this does not entitle the purchaser to make a deduction at settlement, as the failure to deliver any chattels is a compensation right only.

You may endeavor to negotiate the deduction of an agreed amount after settlement. If this is not agreed your client's only right is to sue for compensation after settlement.

Finance

My brother is an accountant and has purchased a property under a professionals package. I am not a professional but was wondering if I would be able to receive any benefits under a professionals package?

Professional packages were originally designed and targeted towards high income professionals (i.e. lawyers, accountants, stockbrokers) borrowing large loan amounts. However, as the mortgage market has become more competitive, the banking policy has since relaxed, allowing for a greater range of employment positions and borrowing thresholds.

Other benefits include offset accounts, interest only repayment options, portability and the ability to redraw additional loan repayments. An application fee is still applicable.

THE VENDOR'S STATEMENT

Before a property can be sold in Victoria, the seller must provide the buyer with a vendor's statement which is also called a Section 32 statement. This is because Section 32 of the Sale of Land Act stipulates what must be disclosed to a purchaser. This document is prepared by the vendor, or the vendor's solicitor, in advance of the sale or auction date. It is signed and dated by the vendor and given to the agent who makes it available to prospective buyers.

The statement contains information about the land. It does not contain information about the quality and condition of buildings and appliances, conformity of buildings with building regulations, any land wrongly included in the fences, or any land in the title that is left out of the fences.



The vendor must always provide the purchaser with a vendor's statement (Section 32), which provides the buyer with information about the land.

The statement must be carefully prepared. The purchaser can avoid the contract if the material is incomplete or inaccurate. If there is a dispute about this information and the purchaser attempts to avoid, the vendor may challenge the avoidance in court.

A Court will prevent the avoidance if satisfied that the vendor acted honestly and reasonably and ought to fairly be excused for the wrong information, and that the buyer is in substantially as good a position as if all the information had been provided.

Contents of a Vendor's Statement

The Vendor's Statement contains the following details:

- Easements, covenants and similar restrictions;
- Warnings about planning control;
- Planning information;
- Planning prohibitions on building a dwelling house (e.g. outside the metropolitan area);
- A statement about road access;
- Rates, taxes and outgoings charged on the land or a statement that the charges do not exceed a specified amount;
- Necessary services connected or not connected to the land;
- A warning about the cost of providing services not already connected to the land;
- Statutory charges on the land;
- Building approvals or permits obtained in the previous 7 years;
- Any notice, order or approved proposal affecting the land that the vendor could be reasonably expected to have knowledge;
- Body corporate notices, liabilities and maintenance fund payments;
- Restrictions due to land contamination;
- Insurance if the contract does not provide that the property is to remain at the risk of the vendor until the purchaser gets possession; and
- Title and plan of subdivision information.

If the land is sold under a terms contract (a contract requiring four or more periodic payments) or is sold subject to a mortgage not discharged by settlement, additional information is required. This includes:

- In a terms sale, the amount of the price which will be required as final payment, assuming payments are made when the contract specifies;
- Details of any mortgages that will not be paid out of the settlement, and the seller's defaults on the loans; and a
- Title Search for a Vendor's Statement.

The vendor's statement must include a recent search of the title held at the Land Registry.

If the land has a general law title, a copy of the document by which the vendor acquired the land should be included.

Title Reference

Before land can be sold it must be a saleable parcel identified in the Sale

of Land Act 1962, section 8A. Usually a saleable parcel is land in a registered title which is a lot on a plan or an allotment or portion in a Crown survey.

Registered titles are identified by volume folio numbers. Usually only one parcel of land or lot is on a title, however some titles can include a number of parcels or lots. Land in a title is often identified by a plan reference, usually lot and plan of subdivision numbers. Some older titles refer to parish plans, Crown portions and allotments.

If the land is general law, the title reference is to the book and memorial numbers which records the last transaction.

Copy of Plan and Title

The Vendor's Statement must include copies of the original title and plan registered at the Land Registry. If the land is in process of being subdivided, the statement should include a copy of the proposed plan.

BARRISTERS REMAIN IMMUNE FROM NEGLIGENCE CLAIMS.

In March, the High Court confirmed the existence of barristers' immunity in Australia, in the decision of *D'Orta v Victorian Legal Aid*.



Australian barristers have retained their immunity from negligence claims, ensuring finality amongst cases and

The High Court affirmed its view that a barrister and solicitor cannot be sued by his/her client for negligence in the conduct of a case, in court or in work out of court which leads to a decision affecting the conduct of a case in court. The Court agreed with earlier statements of justification for immunity which were to the effect that:

- The immunity is sustained on considerations of public policy because of the injury to the public interest that would arise in the absence of immunity; and

- There'd be adverse consequences for the administration of justice from the re-litigation, in collateral proceedings for negligence, of issues determined in the principal proceedings.

It was acknowledged that immunity allows certainty and finality of decision.

The High Court recognised that barristers' immunity no longer exists in other jurisdictions, such as the UK, Canada and New Zealand. However, this did not affect its decision to uphold the immunity in Australia. Nor did the Court limit the application of the principle of immunity to criminal proceedings. It was recognised that the principle also applies to civil proceedings.

Insurers of barristers and solicitors will welcome the *D'Orta* decision.

TWO POPULAR CONTRACT CONDITIONS FOR BUYERS

The two conditions that are the most commonly sought by buyers in a private sale situation are the 'Subject to Finance' and 'Subject to Builder's Inspection' clauses.

Subject to Finance

If the condition is included that the contract is subject to you getting approval for finance, it is usually worded so that a particular bank or finance provider is named and the loan amount you intend applying for.

You then have a set amount of time, often around seven days, to obtain approval from that bank or finance provider, for the amount nominated.

Be aware you are required to notify the seller or agent in writing within the set time if you are unable to obtain approval from that bank/finance provider, for that amount. If you do not do so, the contract becomes 'unconditional', and you must proceed or pay compensation (like losing your deposit) even if you haven't been able to obtain finance.

If you need more time to find out the bank's decision, you should ask for it in writing from the agent, and obtain the agent's written consent on behalf of the seller.

If you are unable to obtain approval and properly notify the seller or agent in writing within the required time,

usually with evidence such as a letter from the bank, you can get out of the contract and obtain a refund of your deposit.

Subject to Builder's Inspection

As for the finance condition above, you can insert another condition allowing you to have a builder or architect, paid for by you, inspect the property within an agreed amount of time.

As for the finance condition, if the builder or architect declares a structure unsound, and you properly notify the seller or agent in writing within the required time, you can get out of the contract and obtain a refund of your deposit.



WHY THE CHEAPEST MORTGAGE LOAN IS NOT ALWAYS THE BEST

Some financiers, including Wizard and Resi Mortgage, promote low interest rate mortgage products that claim to be among Australia's cheapest. They are targeted at home buyers, and offer a low interest rate by compromising flexibility; in particular the ability to make extra loan repayments.

While these products are genuine, they are really only suited to a small percentage of the home loan market (in particular those on a strict budget, who cannot foresee a change in their financial circumstances).

MCP warns that any potential borrower should consider the following issues when assessing these products:

1. *Will I be in a position to make extra repayments over the loan term?*
2. *Are my income prospects set to increase over the short to medium term?*
3. *Do I seek comfort in knowing I have a flexible loan product which will adapt to my changing circumstances?*

If this applies, we are of the view that considering a more flexible product option more suited to your goals is worthwhile. Generally, MCP always encourages clients to look beyond

(but not ignore) price, and think how loan inflexibility could ultimately represent a greater cost over the loan term.

MCP is able to assist clients in determining the most appropriate loan product for their individual situation. Please contact our Mortgages & Conveyancing team and ask for Adam, Jade, Erin, Sharon or Nicole.

MORTGAGE INSURANCE PRODUCTS

The market currently caters for a range of different Mortgage Insurance products (each with their own premium rate cards) tailored to suit the differing needs of borrowers. These common products generally would be utilised to lend in excess of 80% for a standard property purchase. These include:

90% Lend (Non Genuine Savings)

Also called the "90/10" product. The applicant(s) needs to show a contribution for 10% of the purchase price. There are no restrictions on where the contribution comes from (e.g. First Home Owner Grants, Gifted Funds, Funds from sale of assets etc). Generally this will attract a higher premium as the applicant hasn't been required to demonstrate the ability to save a deposit.

97% lend (3% Limited Savings)

The applicant can obtain finance for 97% of the property value by demonstrating a six (6) month genuine saving history of 3% of the property value or contract price (whichever is lower).

95% Lend (5% Genuine Savings)

This is the traditional form of mortgage insurance whereby finance for 95% of the property value can be obtained by demonstrating a six (6) month genuine savings history of 5% of the property value or contract price (whichever is lower). This form generally attracts the lower premium as opposed to the other two products (due to the reduced perceived risk).

Whilst demonstrating a 10%, 5% or 3% deposit may seem relatively easy, borrowers still need to allow for acquisition costs when purchasing property.

These costs include land stamp duty and registration, the mortgage

insurance premium, mortgage registration, bank application & legal fees, conveyancing fees and adjustments as well as any other costs which may apply.

Some financiers allow the mortgage insurance premium to be financed in addition to the borrowings – for some clients this assists in increasing their overall purchasing power.

MCP can advise which lenders have access to GE's mortgage insurance products, and which can finance the mortgage insurance premium.

STAMP DUTY ON COMMERCIAL PROPERTY PUTS AUSTRALIA OUT OF STEP

Robert Harley, financial commentator for the Australian Financial Review, recently outlined the remarkable differences between commercial stamp duties payable in Australia and the United States.

When the Macquarie CountryWide Trust purchased a \$2.8 billion American property portfolio it was reported that they had to pay \$500,000 in legal costs and negligible government fees. By

contrast, if the same sized purchase was made in Australia, stamp duty alone would be approximately \$154 million.

This is an amazing difference of international variances in world property markets.

According to the government the abolishment of stamp duty on commercial loans was considered when the GST was introduced. However, this debate has been placed on hold for many years due to the general complexities of the abolishment of this duty.

Unhappy with this deferral, Peter Costello had recently reiterated his long term intention to amend this tax, calling for its review.

Despite his efforts, the review of this tax is delayed at federal level, by a vote of six states to one, to an indefinite time as state governments "don't support having two different stamp duties for residential and commercial property purchases".

According to Peter Costello, stamp duty on commercial property purchases has severe economic ramifications which centre around an

internationally uncompetitive property market, leading to economic retardation.

Advocates for stamp duty on commercial property regard it as impossible to differentiate between residential and business stamp duties. The debate continues to be an issue for our federal and state governments with the president of the Real Estate Institute of Australia, Ian Wells, stating that the tax reform issue was "far from finished".

We will provide you with any updates regarding stamp duty reform on commercial loan property purchases as they occur in upcoming issues of the monthly newsletter.

FINANCIER NEWS

ANZ Bank

ANZ will now assess repayments for their base variable loan products (Money Saver Home and Investment Loans) at 1.5% above their base variable rate which is currently 6.72% p.a. instead of the standard variable rate (7.32%). This represents a considerable variance in the calculation of their periodic loan repayments, assisting applicants to service higher loan amounts than previously allowed under the older policy.

Balmain NB

Balmain NB has been established for 25 years and has built up a reputation as one of the leaders in the commercial property market. They have an experienced team of credit lending staff that are capable of providing commercial solutions for business managers who have niche lending requirements.

The group offers a range of products such as residential, investment, construction, mezzanine finance (using debt and equity instruments to raise funds for business expansion), surety bonds as well as a host of other tailored commercial loans products.

They are highly versed with construction related finance products and are able to implement hedging instruments such as rate caps, collars (which allows for the establishment of an interest rate range) and swaps to protect borrowers against adverse interest rate movements.

Table 1: The Advantages and the Disadvantages of Refinancing

REASONS TO REFINANCE	REASONS NOT TO REFINANCE
• Gain access to equity in the security property(ies)	• There is no substantial benefit to you
• Debt consolidation - combine several loans into one lending facility for convenience	• The associated costs (deferred establishment fees etc) are too high and would outweigh and benefits of refinancing
• Switch from a fixed rate loan to a variable rate loan to capture decreasing interest rates	• Existing rate product is the most appropriate solution, despite the interest rate
• Another loan better suits their needs (e.g. additional loan repayments options etc.)	• Unable to access the required amount of equity in the property (valuation has come in under expectations)
• Cheaper loan rates reducing the underlying loan repayments	• Existing loan rates are competitive
• Switch from a variable loan rate to a fixed loan rates to protect against rising interest rates	• Too much effort to provide supporting documentation and go through the loan process
• Existing loan doesn't suit the clients lifestyle	• May have to repay for lenders mortgage insurance

There are many advantages and disadvantages of refinancing, which all have to be considered before an applicant opts to submit their application to switch financiers. These are listed above.

BankWest

BankWest is currently in the process of expanding its presence in the Eastern states including New South Wales and Victoria. These states historically been controlled by the big four banks – National Australia Bank, ANZ Bank, Westpac Bank and the Commonwealth Bank.

Their gold home loan and their high interest earning deposit accounts are extremely competitive within the Australian lending and deposit markets.

GE

GE is an asset based, non conforming lender that often disregards an applicants' former credit rating history.

GE has an application fee of \$480 and a loan completion fee to be paid at settlement of \$970 (which includes valuation and legal fees). There is no ongoing account keeping fees and defaults under \$500 are disregarded. Please note that deferred establishment fees apply for the first six (6) years of the loan.

ING Commercial

ING's Commercial Finance products have a variety of attributes that make them an attractive lender to the business sector. For example, they offer competitive rates with no ongoing fees and do not require ongoing business financials beyond the initial application (most financiers conduct annual reviews of all business borrowers).

Their variable rate for commercial lending above \$300,000 starts at 7.60% per annum (please note that rates may vary depending on the circumstances of the business application). Please refer to our attached rate table for further information.

Macquarie Bank

The Macquarie Bank has recently introduced their new reverse mortgage loan, called 'Silver Lining', which allows the borrower to access 15 – 40% of the underlying owner occupied security property at 8.12% p.a.

There is no recourse for any shortfall to the borrower's estate unless the borrower defaults with their mortgage payments and additional loan repayments may be made at any

time without charge. Security portability is available.

The Macquarie Bank also has a special offer for a limited time only, initiating discounts off their standard loan products – the Macquarie Saver Home and Investment Loan products. Normally, the Macquarie Saver Home Loan is priced at 6.80% for all loans less than \$500,000 and 6.75% for all loans above \$500,000.

The special offer reduces these rates to 6.74% and 6.69% p.a. for all loans below and above \$300,000 respectively.

Westpac Bank

To repeat the financier news from last month, Westpac are now offering a 0.7% discount for all loan splits when aggregate borrowings exceed \$250,000. The previous discount was 0.5% pa. This equates to an interest saving of \$500 per year based on borrowings of \$250,000.

The initiation of the new discount has resulted in an increase in the Premier Advantage Package fee by \$95 to \$395.

Their serviceability calculator has also undergone minor changes. They will now assess expenditure based on an applicants credit card limit(s) at 2% per annum (this was formerly 3%) which may allow some applications to 'get over the line' in tight servicing situations.

However, it has had to increase their default living expenses to match the Henderson Poverty Index (government indicator which is used as a basis to determine the poverty line).

STATE BUDGET HIGHLIGHTS

The state budget was recently revealed with mixed reception amongst political experts and consumer groups. Healthcare, education and training, property and law and order will receive substantial increases in their budgets over the next few years.

The main beneficiaries of yesterday's budget announcement include:

- Health – Estimated \$1 billion boost over five years to upgrade hospital facilities, hire more staff and reduce hospital waiting lists.
- Education - \$868 million to upgrade school facilities and install broadband access.

- Property - \$823 million in the form of tax relief and the extension of the First Home Owners Bonus.
- Police Stations – Historically large budget to build 34 police stations and construct a further 20.



A \$578 million pledge has been made to increase hospital staff (nurses and surgeons) to reduce elective surgery waiting lists times.

The increase in funding for these often maligned government departments will be supported through increases in gambling taxes and speeding fines, stamp duty (which will decrease by an estimated 7%), GST and also payroll tax.

Land Taxation Incentives

As part of the state tax reform the Victorian government will offer reductions or rebates on land tax payable for properties worth between \$750,000 and \$2.5 million. According to Mandi Zonneveldt, financial reporter for the Herald Sun, the new initiatives will "increase investment into the Victorian economy", which now boasts some of the lowest state land tax rates and Work Cover premiums of any state in the country.

First Home Owners Grant and State Bonus

In the unveiling of the state budget John Brumby, Victorian treasurer, announced that the First Home Owners Grant will be extended until 2007.

The extension means that all successful First Home Owner Grant Applicants will be able to receive some form of the state bonus for all contracts entered into between 1 May 2004 and 30 June 2007.

Contracts entered into between 1 May 2004 and 31 December 2005 will be eligible to receive the existing \$5,000 state home bonus. Contracts entered into after 31 December 2005 and before 30 December 2007 will receive a home bonus of \$3,000.



MCP
GROUP

Level 7, 520 Collins Street
Melbourne VIC 3000
Phone: (03) 9620 2001
Facsimile: (03) 9620 2002
www.mcpgroup.com.au

INTEREST RATE SCHEDULE

A selection of our financiers' most competitive Interest Rates. Rates displayed are generally discounted - and may not apply to your situation. This is a guide only. Comparison Rates are available upon request.

Retail Lending

	Variable Rates (Inclusive of Discounts)				Fixed Rates					Commission Rates (%)	
	Featured	L.O.C.	Basic	Lo Doc	1 Year	2 Year	3 Years	5 Years	Upfront	Trail	
MAJORS											
ANZ Bank	6.72%	6.72%	6.72%	6.72%	6.85%	6.85%	6.99%	6.99%	0.60%	0.20%	
CBA	6.72%	6.72%	6.81%	6.72%	6.89%	6.89%	6.99%	6.99%	0.70%	0.25%	
NAB	6.82%	7.32%	6.62%	N/A	6.89%	6.89%	7.00%	7.00%	0.60%	n/a	
Westpac	6.62%	6.77%	6.62%	6.62%	6.95%	6.79%	6.99%	6.99%	0.50%	0.25%	
AMP Bank	6.82%	6.82%	6.76%	7.06%	6.89%	6.89%	6.99%	6.99%	0.50%	0.25%	
Adelaide Bank	6.79%	7.42%	6.79%	7.32%	6.75%	6.75%	6.99%	6.99%	0.60%	0.25%	
BankWest	6.65%	N/A	6.65%	7.24%	6.99%	6.99%	6.99%	6.99%	0.50%	0.25%	
Citibank	6.75%	6.75%	6.75%	7.25%	6.89%	6.89%	6.99%	6.99%	0.65%	0.25%	
GE Money	N/A	N/A	8.10%	8.40%	Not Available					1.00%	0.50%
HSBC Bank	6.87%	7.03%	6.69%	6.87%	6.95%	6.95%	6.99%	6.99%	0.60%	0.25%	
ING Bank	6.70%	7.30%	6.70%	7.24%	6.75%	6.75%	6.99%	6.99%	0.60%	0.25%	
Macquarie	6.69%	N/A	6.69%	7.55%	7.05%	7.05%	6.99%	6.99%	0.60%	0.25%	
St George	6.62%	6.72%	6.74%	6.62%	6.94%	6.94%	6.99%	6.99%	0.60%	0.25%	
Suburban Management	6.74%	N/A	6.74%	7.40%	Available Upon Request					0.60%	0.25%

Must be fully secured by Residential Property - Rates are Indicative Only. More lenders available upon Request (Selection provided only).

Commercial Lending

	Variable Base Rates		Fixed Rates				
	Standard	Overdraft	1 Year	2 Year	3 Years	5 Years	
ANZ Bank*	7.67%	7.67%	7.31%	7.28%	7.28%	7.42%	
ING Bank	7.60%	8.70%	7.50%	7.50%	7.55%	7.60%	
Citibank	8.35%	8.45%	7.94%	7.89%	7.59%	7.59%	
BankWest	8.00%	8.24%	Available Upon Request				
Members Equity	7.49%	N/A	Not Available				
St George	8.30%	8.67%	Available Upon Request				
Westpac	7.55%	7.95%	7.25%	7.28%	7.30%	7.42%	

Must be fully secured by Commercial Property - Rates are Indicative Only. More lenders available upon Request (Selection provided only).

* Denotes Rates for Commercial Loans which are Secured by Residential Property

As Comparison Rates may be misleading in some instances (the rates we quote are subject to specific criteria being satisfied). Comparison Rates are provided upon request, tailored to your specific scenario for any number of products. A comparison rate schedule (based on Standard Variable & Fixed Rates only) is provided on our website.

www.mcpgroup.com.au