



**FINANCE | COMMERCIAL LEGAL | BUSINESS STRUCTURES**

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**MCP GROUP NEWS**

**Careers and Opportunities**

Our Group is currently seeking to increase the size of our business, both organically and through acquisition, and are interested in purchasing a loan book that corresponds to our core values. All loans books will be considered on a 'case by case' basis. Further information is available from our office.

**QUOTE OF THE MONTH**

"The thing always happens that you believe in; and the belief in things makes it happen."

**- Frank Lloyd Wright**

**CURRENT MARKET DATA**

26 September 2005

Official Cash Rate: 5.50% p.a.  
U.S. Federal Rate: 3.75% p.a.

90 Bank Bill Dealers Rate: 5.62%  
10 Year Bonds Rate: 5.24%

All Ordinaries: 4514.1  
Aust. Dollar (US Cents): 75.69

Source: Australian Financial Review (26/9/05)

We are also seeking to employ finance brokers who have a proven customer sales record.

The role is to be largely autonomous and may suit a person with an established loan book who seeks to end their involvement with its direct financial management, while simultaneously keeping and/or maintaining their customer relationships. The role would also suit a person who wishes to concentrate on sales while allowing for a dedicated and experienced support team to undertake all bank liaison and administration.

An extensive position description is available on our website under the 'contact and enquiry' section which is located on the left hand side of our homepage (under the subheading 'careers and opportunities').

**QUESTIONS AND ANSWERS**

The MCP Group team will answer a selection of our clients' queries in each edition of our monthly newsletter. To submit your query to our office please contact our Group by phone on (03) 9620 2001 or via email at [enquiries@mcpgroup.com.au](mailto:enquiries@mcpgroup.com.au).

**Finance**

**How can I pay off my loan quickly?**

Many methods may be utilised to repay your mortgage sooner. These include making additional lump sum repayments, switching from monthly repayments to a fortnightly repayment schedule, establishing an offset account and making standard repayments that are above the minimum required.

Many customers question why fortnightly repayments are far superior to monthly loan repayments. The simple rationale for making half-monthly repayments paid fortnightly is the ability to squeeze in an extra monthly repayment per year (e.g. there are 26 fortnights in one year compared to 12 months).

There are also several other methods that may be utilised to repay your mortgage loan in the shortest timeframe possible. Please contact Jade Webster, Erin Lawlor or Adam Maciejewski for further information.

**Legal**

**I have purchased a property in which the swimming pool has not been fenced. Do I have any rights?**

The fact that the vendor has not complied with these laws doesn't aid, or improve your position.

The vendor may be liable for the fine, but this is just like any other illegal structure situation as the purchaser is not entitled to require the vendor to comply with the regulations prior to settlement.

The purchaser should fence the pool within 30 days of settlement, or the purchaser will be in breach of safety regulations.

## INTEREST RATE ANALYSIS

The Reserve Bank of Australia has decided to leave the official cash rate at 5.50% per annum for the month of September.

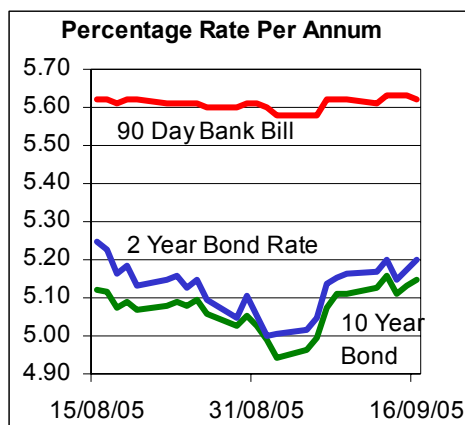
The outlook for our domestic economy seems robust due to a variety of factors. One of these factors includes a predicted increase in world economic growth, particularly within Asian economies such as Japan, Singapore and, most importantly, China. The recent appreciation of the Chinese currency against the U.S. dollar has been good news for Australia, as this resulted in two positive outcomes for our 'neck of the woods'.

The appreciation has had a flow on effect, increasing the value of several domestic currencies in neighboring Asian nations. By implication, this increases their ability to purchase our raw materials such as steel and aluminum which are crucial for the establishment of infrastructure.

The appreciation is also evidence that China is becoming more financially independent. The appreciation may be followed by further regulatory changes and, in time, it is thought that the currency may be floated and valued on its own accord. This would allow the Chinese government to engage in monetary tightening to gain greater control over their economy, extending the run of growth so that no internal overheating occurs.

Furthermore, the American economy has been growing (excluding the effects of the recent natural disaster), having recorded a solid gross national production result for the June quarter.

## INTEREST RATE MOVEMENTS



*Long-term interest rates have been extremely volatile over the past month.*

Domestically, our economy is still growing, albeit at slower rates this year than in 2004. Households are now borrowing less and saving more as they try to consolidate their balance sheets and, once again, ensure the protection of their net asset position in the face of declining property prices.

Our inflation rate remains stable and the official cash rate should remain steady for the immediate future. Inflationary concerns are not as strong as they were a year ago, and with the interest rate rise earlier in the year there seems to be no requirement to restrict spending.

However, we must always state that our economic circumstances may change at any moment. The Reserve Bank of Australia may decide, or be forced to either increase or decrease the Official Cash Rate at any moment: the future is uncertain.



## GOVERNMENT TO ACT ON BANKRUPTCY AVOIDANCE

The Australian government has proposed an overhaul of Bankruptcy legislation to combat high income earners who use bankruptcy to avoid debts that they can afford to pay. The announcement, which was made by Attorney-General Philip Ruddock, will strengthen the anti-avoidance provisions within the Act.

"These proposals confirm the Government's determination to bring to account bankrupts who actively seek to avoid paying their debts by adopting practices to undermine the equity and integrity of the bankruptcy system," Mr Ruddock said.

The changes will allow bankruptcy trustees to recover all property that was sold in the lead up to bankruptcy (up to four years). This includes transfers to related parties and will give creditors wider scope to recover property that was disposed of with the intention of using the Bankruptcy Act to defeat efforts to recoup all invested funds.

The changes will also allow trustees to recover property that is held in the

name of a non-related third party to the bankrupt, assuming that the third party in the lead up to the bankruptcy holds the property asset. However, there is a notion that the bankrupt party must continue to enjoy the benefits associated with the asset, even though it is held by the third party.



*Under the amended Bankruptcy Act, creditors will have greater scope to retain funds through the disposal of assets which were transferred to a relative or third party leading up to the declaration of bankruptcy.*

Mr Ruddock has stated that, "The proposed measures will provide an appropriate balance between the rights of debtors and creditors."

Despite the clamp down on the inappropriate use of the Bankruptcy Act, Mr Ruddock said care had been taken to ensure the amendments recognised the legitimacy of asset protection arrangements and the freedom of people who are not about to become insolvent to arrange their taxation affairs.

## AMENDMENTS TO THE CORPORATIONS ACT (2001)

As outlined in the Corporations Act Section 197(1), directors will be liable to pay for all debts incurred by the business while it is acting as a trustee, if the debts cannot be discharged from the assets held by the business in question.

**Section 179** — Background to duties of directors, other officers and employees.

(1) A person who is a director of a corporation when it incurs a liability while acting, or purporting to act, as trustee, is liable to discharge the whole or a part of the liability if the corporation: (a) cannot discharge the liability or that part of it; and (b) is not entitled to be fully indemnified against the liability out of trust assets.

Until recently it was thought that the above section only has application where the trust assets had been lost due to misconduct of the transfer or where the trust deed specifically excluded access to trust assets. However, the South Australian case of *Hanel v O'Neill* (2004) altered the way in which the section is to be interpreted.

The South Australian Supreme Court broadened the application through its interpretation, extending the section to include situations where the trust traded without the right of indemnity or whether this indemnity right has been lost or where there was insufficient trust assets. Consequently, directors of companies acting as trustees have been potentially exposed to much greater liability than directors of other, similar companies.

The Federal Government has now proposed to amend the section to limit the broad interpretation of the statute in a court of law. The new section 197(1) will be limited in application to where the trustee company cannot be indemnified out of the trust assets wither because of a breach of trust by the corporate trustee in either of the following circumstances; they act outside their powers or a term within the trust deed denies or limits the corporate trustees right to be indemnified against the liability.

For the purpose of clarification, the new legislative bill will extend to state "the person will not be liable under this sub-section merely because there are insufficient trust assets out of which the corporation can be indemnified."

Consequently, the new section will prohibit all company directors from becoming effective guarantors of trust liabilities, relegating the decision of *Hanel v O'Neill* to be an ineffective case precedent for any future court proceeding.

## LAW SNIPPETS

### ATO to focus on Property

The Australian Taxation Office (ATO) has announced that large corporations, medium-sized businesses, property-related tax issues, outstanding debt and low documentation home loans will come in for close attention this year. In a

release issued on 4 August 2005 the ATO warns it will be focusing on ensuring the correct reporting of rental deductions is made, checking income from property and share sales is declared and capital gains tax paid.

### Retirement Villages

Amendments to the *Retirement Villages Act* 1986 have now been passed by State Parliament. The amendments follow the Government's review of that Act in which the LIV has been actively involved. Changes to the Act focus on improved dispute resolution, limitations on operators of retirement villages to make decisions on behalf of residents, clearer rules regarding exit arrangements and regulation of contract terms.



*Rules and regulations relating to the contractual arrangements between retirement village residents and managers are set to be refined under new government amendments to the Retirement Villages Act (1986).*

### Anti-money laundering

Proposals for the new anti-money laundering laws are expected to be introduced into parliament in early 2006. According to *The Australian*, the proposed changes include requiring cash transactions involving assets such as jewellery and real estate valued over \$20,000 to be reported to federal authorities. The changes would also reportedly require lawyers and accountants to report suspicious transactions involving clients.

### Removal of stamp duty exemption

The *State Taxation Acts (General Amendment) Act* 2005 now repeals ss49 and 50 of the *Duties Act* 2000. The provisions previously allowed an exemption from stamp duty on a transfer of dutiable property from a company to a shareholder arising from a reduction in capital or from a

winding-up. The repeal of ss49 and 50 is effective from 29 June 2005.



## INTRODUCTORY RATE PRODUCTS (HONEYMOON) REVIEWED

Borrowers of Introductory (or Honey Moon) rate loans are often tempted by advertised rates which can be as low as 1.5% off the standard variable rate for a period of 6 months to 1 year. Whilst in fact during the introductory period you can save a substantial amount of interest, the fact is, unless you plan to make a significant payment of principal in the Introductory Rate period, the product may not be suitable in terms of savings. The things to look out for in such product offerings are:

- At the end of the honeymoon period, what rate / product does it revert to? Is it competitive?
- What are my exit costs – what period is subject to "early termination" fees?
- Can I make extra repayments in addition to the repayment stated in the contract?
- What is the introductory Rate referenced to? Is the margin fixed or can it change?
- What is the Comparison Rate?
- What other features are included – is it flexible (can I redraw and if so, at what cost)?
- Do I have an offset account?
- What am I compensating for the Introductory Rate?

Generally the comparison rate will give a good indication of whether the Introductory Rate product is competitive, as this factors the actual interest rate charged (and ascertainable fees) over the term of the loan. In fact, this is where the comparison rate is often most useful, but you must take into account it will not calculate the benefit for making a significant repayment of principal in the introductory period.

If you or your client have been offered an Introductory Rate loan, or are looking at one, MCP Group can review this for you and help you determine if this product is suitable for you and if not, offer competitive alternatives.

## BENEFITS FOR VICTORIAN FIRST HOME BUYERS

Just to reiterate the broad range of benefits available to all first home-buyers, we would like to outline the benefits available to the purchasers as per outlined in the July edition of the State Revenue Bulletin. These benefits include:

- The \$7000 First Home Owner Grant;
- The Victorian First Home Bonus of \$5000 (until 31 December 2005 whereupon it becomes \$3000);
- Off the plan Duty concessions;
- Duty benefits for eligible pensioners;
- Duty benefits for first home buyers with families; and
- Abolition of mortgage Stamp Duty.

## INTEREST ONLY TERM LOANS VERSUS A LINE OF CREDIT

Many borrowers are attracted to a Line of Credit because they associate it with investment and tax deductibility and do not understand that more competitive alternatives may be available to them, such as an interest only Term Loan.

Line of Credit facilities differ to interest only as they usually offer the following extra features:

- Interest capitalisation (no repayments are necessary until the facility limit is reached);
- Direct transactions on the Line of Credit account;
- Cheque book facility; and
- An evergreen (or revolving) loan term (however the lender can recall funds at anytime – generally where loan conduct is unacceptable).

Unless either of the above features are required, an interest only term loan may suit. These can be priced 0.10% p.a. to 0.50% p.a. below the Line of Credit Rate and represent a further annual saving on facility fees from \$50 to \$200.

Remember a term loan can still offer the following features

- Interest only (pay interest only on what funds you have drawn)
- Ability to make extra repayments at any time;
- Unlimited free redraw facility via Internet Bank, Phone Bank or via

a Branch (funds can be put into a transaction account at call whereby Cheque Access or Direct Transactions can be made);

- Ability to renew the interest only term (generally 5-15 years); and
- If the purpose of the funding is for "Investment" then it most likely is still tax deductible (we recommend you speak to your own accountant with regard to tax effective issues).



*Term loans and lines of credit loans have their benefits for various investment requirements. Please speak to Adam Maciejewski, Erin Lawlor or Jade Webster at our office for further information.*

Please call MCP Group to speak to a Finance Account Manager to review your finance requirements and discuss which facility would be most suitable for you.

## FINANCIER NEWS

Three (3) and Five (5) Year Interest Rates dominate this month's financier update with several lenders reducing these fixed rates, which indicates the market is suggesting the short term threat of a rate rise by the RBA is minimal. Rates economists are speculating no change for some time.

### AMP Bank

The three (3) and five (5) year fixed rates are now 6.59% and 6.69% respectively.

### ANZ Bank

ANZ still offer one of the more competitive line of credit products in the market – the ANZ Equity Manager. When taken as a packaged option, a discount of up to 0.60% p.a. can be obtained with an annual fee of \$150 to \$295 per annum (depending on the package taken). Borrowers seeking only a line of credit facility between \$150,000 - \$250,000 may best be suited with ANZ.

### Bankwest

Bankwest's Lite Home Loan remains their flagship product. With a \$500 application fee, a \$51.25 settlement fee, and a rate of 6.65% p.a. (variable) the product will appeal to both owner occupiers and investors alike. Bankwest will also lend to company borrowers, and interest only terms of five (5) years is available.

In addition, after three (3) years, the application fee of \$500 is rebated back to the borrower in recognition of customer loyalty – an initiative MCP Group widely supports.

### CBA

CBA offer some of the more competitive Mortgage Insurance premiums in the market. CBA also have some unique policies including financing vacant land at 95% plus the mortgage insurance premium (many lenders cap this at 90%).

Under the Wealth Package the Commonwealth Bank 3 Year Fixed Rate Loan is 6.49% p.a.

### Citibank

A reminder that Citibank's basic loan will suit company borrowers or individuals. The application fee is \$590 (includes one free standard valuation) and a \$270 settlement fee. No ongoing fees apply. The rate is 6.62% p.a. for loans over \$250,000.

### ING Bank

A reminder ING will refinance business debt under its retail range of products. ING have a competitive suite of products and will lend to company borrowers. Their 1-3 fixed rate loans are 6.49% p.a. and their 3-5 year offerings are priced at 6.74% p.a.

### Macquarie

Macquarie have recently reduced their three year fixed rate to 6.59% p.a. and their low doc rate is 7.04% p.a. for the same fixed term. Remember under low doc policy Macquarie are able to lend up to 80% of property value for acceptable securities without charging the borrower any mortgage insurance premium. A maximum loan limit applies.

### Westpac

Westpac are now offering a three (3)

year fixed rate loan at 6.49%. This is one of the most competitive medium term rates in the market. In addition if taken under the Premier Advantage package at the end of the fixed term you may be eligible for a variable rate discount of up to 0.70% p.a. when it reverts to the standard variable rate.



**DISCRETIONARY (FAMILY) TRUSTS**

A Trust is composed of three (3) parties:

- The settlor, who creates the Trust by drawing up a Deed and entrusts property or money to a Trustee;
- The Trustee, who then manages the property or money; and
- The Beneficiaries, who receive the benefit for the capital and the income generate of the Trust.

It is generally established for the benefit of a family and its members. It allows the Trustee to obtain discretion as to the distribution of both income and capital for the benefit of a family, to Beneficiaries who can be both specified in the Trust Deed and general. The trust operates according to the Trust Deed and general. The Trust operates according to the trust deed and general law.

**ASIC CORPORATE KEY**

The Australian Security and Investment Commission’s corporate key act much like a PIN numbers on personal transaction accounts. A corporate key is generally associated with your A.C.N. and is mandatory for either of the following activities:

- Registering for access to lodge forms online (only one registration is required); or
- Lodging paper versions of the Forms 362, 370, 484 or 486.

A corporate key is received upon application, or every year as part of the company statement pack, either by a PDF online version or by mail. The corporate keys are posted to the registered office of the concerning company. Please note that there is no fee to obtain a corporate key.

**MCP GROUP FOOTY TIPPING COMPETITION**

Eighty seven hopeful punters, all MCP Group clients, suppliers and referrers, pitted their widely diverse tipping abilities to try and predict the outcome of the 2005 AFL Home and Away Season.

It was a fiercely fought competition with only 1 point separating most of the pack through out the 22 rounds.

A few egos were bruised when it was revealed that the equal 1<sup>st</sup> place getter is 12 years old and outright 2<sup>nd</sup> place is 14 years old.

Congratulations to George and Big Bad (Tim Browne) on 1st place with 122 points and William outright 2<sup>nd</sup> on 121 points. Third place went to Macca (David McCleery) and Mimi (Jimmy our cleaner) on 120 points.

If you have participated in the MCP Group Tipping previously you will be aware that \$5.00 of your entry fee is matched by MCP Group Pty Ltd and donated to charity.



*MCP Group would like to congratulate William and George Willmott for taking out equal first and outright second place in the MCP Group footy tipping competition.*

This season a donation of \$870 will be made to the Smith Family for their Learning for Life Sponsorship Programs. This program aims to assist children by helping them to achieve their full potential through assisting them with their education.

The Learning for Life Sponsorship Program was started by the Smith Family in 1991 and to date 22,000 Primary, Secondary and Tertiary Students have benefited from the sponsorship.

MCP Group’s Tipping Competition donation will be providing sponsorship for a Junior Secondary and Senior Secondary Student.

***MCP Group Pty Ltd is looking forward to another well fought competition in 2006. Keep an eye on our newsletters and website for when registrations for the competition are being taken.***

**DISCRETIONARY (FAMILY) TRUSTS**

ADVANTAGES	DISADVANTAGES
1. The Trustee has decision making power which is at their discretion.	1. May be run in accordance to the rules of the Trust Deed, though the Common Law of Trusts will imply many rules.
2. Very flexible. All of the profits are distributed in accordance with the Trustee’s discretion.	2. A Trust has no separate legal entity from the Trustee (they are liable for all debts within the trust).
3. Confidential. There needs to be no searching of any register.	3. Onerous Trust duties apply.

*While discretionary family trusts are advantageous in a number of ways, onerous trust duties apply as trust must be run in accordance with the trust deed and common law principles.*

The Trustee and the Settlor are in a contractual relationship, whereas the Trustee is in a fiduciary relationship with the Beneficiaries.



**MCP**  
GROUP

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## INDICATIVE 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 - all rates are indicative only. Comparison Rates are available upon request.

MAJORS	Retail Lending		Variable Rates (Inclusive of Discounts)					Fixed Rates					Commission Rates (%)	
	Featured	L.O.C.	Basic	Low Doc	1 Year	2 Year	3 Years	5 Years	Upfront	Trail				
ANZ Bank	6.62%	6.62%	6.72%	6.62%	6.85%	6.79%	6.65%	6.79%	0.60%	0.20%				
CBA	6.62%	6.62%	6.81%	6.62%	6.64%	6.54%	6.64%	6.64%	0.70%	0.25%				
NAB	6.62%	6.72%	6.62%	7.32%	6.85%	6.85%	6.47%	6.99%	0.60%	n/a				
Westpac	6.62%	6.77%	6.74%	6.62%	6.95%	6.89%	6.99%	6.99%	0.60%	0.25%				
AMP Bank	6.67%	6.82%	6.76%	7.06%	6.69%	6.69%	6.59%	6.69%	0.50%	0.25%				
Adelaide Bank	6.79%	7.42%	6.79%	7.42%	6.75%	6.75%	6.89%	6.89%	0.60%	0.25%				
BankWest	6.65%	7.35%	6.65%	7.24%	6.75%	6.75%	6.85%	6.85%	0.50%	0.25%				
Citibank	6.62%	6.75%	6.62%	7.25%	6.85%	6.85%	6.95%	6.95%	0.65%	0.25%				
GE Money	N/A	N/A	7.40%	7.50%	Not Available	Not Available	Not Available	Not Available	1.00%	0.50%				
HSBC Bank	6.87%	7.03%	6.69%	6.87%	6.95%	6.95%	6.85%	6.99%	0.60%	0.25%				
ING Bank	6.70%	7.30%	6.70%	7.24%	6.49%	6.49%	6.74%	6.74%	0.60%	0.25%				
Macquarie	6.69%	N/A	6.69%	7.55%	7.05%	7.05%	6.85%	6.89%	0.60%	0.25%				
St George	6.62%	6.72%	6.74%	6.62%	6.85%	6.85%	6.99%	6.99%	0.60%	0.25%				
Suburban Management	6.74%	N/A	6.74%	7.24%	Available Upon Request	Available Upon Request	Available Upon Request	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	Commercial Lending		Variable Base Rates					Fixed Rates				
	Standard	Overdraft/L.O.C.	1 Year	2 Year	3 Years	5 Years	1 Year	2 Year	3 Years	5 Years		
ANZ Bank*	7.67%	7.67%	7.23%	7.20%	7.19%	7.31%	7.23%	7.20%	7.19%	7.31%		
ING Bank	7.60%	8.70%	7.40%	7.35%	7.35%	7.40%	7.40%	7.35%	7.35%	7.40%		
Citibank	7.70%	8.45%	7.59%	7.59%	7.49%	7.59%	7.59%	7.59%	7.49%	7.59%		
BankWest*	7.40%	8.50%	Available Upon Request	Available Upon Request	Available Upon Request	Available Upon Request	Available Upon Request	Available Upon Request	Available Upon Request	Available Upon Request		
Members Equity	7.49%	N/A	Available Upon Request	Available Upon Request	Available Upon Request	Available Upon Request	Available Upon Request	Available Upon Request	Available Upon Request	Available Upon Request		
St George	8.30%	8.67%	6.85%	6.79%	6.49%	6.99%	6.85%	6.79%	6.49%	6.99%		
Westpac	7.55%	7.95%	6.85%	6.79%	6.49%	6.99%	6.85%	6.79%	6.49%	6.99%		

\* ANZ Bank Commercial Loan Rates (Standard and Overdraft) must be secured by residential property. BankWest Loan Rates are a starting guide only as per BankWest's official website (a buffer may be added to these rates). All rates are based on borrowings of \$500,000. The displayed Citibank commercial rate applies only to new business.

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. Please contact our office for further information regarding comparison rates.

[www.mcpgroup.com.au](http://www.mcpgroup.com.au)