



MEDIA RELEASE

2 September 2019

Report provides history of Council's CDO investments

A full account of Huon Valley Council's lost collateralised debt obligation ("CDO") investments and action to recover the funds was provided in a public report at an Ordinary Meeting of Council held on Wednesday 28 August 2019.

Council has recovered a total of \$3,754,149.48 of its original investment of \$4 million as a result of the sale of its OASIS investment and legal action. This is a net amount after all costs of the legal action have been accounted for, with the total lost amount being \$245,850.52. The Council is unable to give specific detail on settlement amounts due to confidentiality requirements.

In 2006 Council invested \$4 million, set aside for a number of water- and sewer-related projects including the Regional Water Scheme developed by Southern Water (now run by TasWater) into CDOs, structured financial products which generate cash flow by pooling together corporate debts to be sold on to third-party investors.

Prior to 2006, the Council had been approached by a number of investment brokers (Grange Securities, etc.) offering investment products such as CDOs which Council declined. CDOs when offered by the Commonwealth Bank of Australia ("CBA") were accepted on the basis of the Council's long association and trust of the Bank.

A large number of organisations globally invested in CDOs that year, and Huon Valley Council was among three Tasmanian Councils to be sold "Very Strong" AA-rated CDO investments which at the time operated within government investment guidelines with Council giving financial delegation to the General Manager of the time.

An unexpected softening of America's housing market between 2007 and 2009 led to a drop in investor confidence which resulted in the value of CDOs plummeting, an event which is partly to blame for the 2008 global financial crisis.

As a result Huon Valley Council lost \$3,760,000 of its CDO investments:

- The entirety of the \$3 million PURE CDO investment was lost on 25 March 2010. This investment was authorised on 9 June 2006 by Council management and placed into an interim investment by the CBA until the Note Issue Date of 6 July 2006. The Scheduled Maturity Date was 20 June 2011 but it was recorded to Council on 1 September 2009 that the actual maturity date was 20 June 2014, being the Extension Option date that gave the issuer the right but not the obligation to extend the Scheduled Maturity Date of the Notes from 20 June 2011 to 20 June 2014.

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- \$760,000 was lost on its \$1 million OASIS CDO investment and the balance of \$240,000 was sold to minimise losses on 11 February 2011. This investment was authorised on 24 August 2006 and placed into an interim investment by the CBA until the Note Issue Date of 4 September 2006. It was publicly reported that the Scheduled Maturity Date was 4 September 2010 and it was recorded to Council on 1 September 2009 that the actual Scheduled Maturity Date was 4 September 2014.
- Whilst all investments were shown on the 2005/2006 Financial Statements and included in the Annual Report, they were not itemised into individual investments. However in the 2007/2008 Financial Statements of the Annual Report it included an impairment relating to Council's investment in CDOs. At the time the impairment was reported the impairment was \$3,218,100. This represented just over 80% of the total CDO investment.

Huon Valley Council joined many other councils, charities and organisations around Australia in taking class actions against the Commonwealth Bank and ratings agency Standard and Poor's ("S & P") to recover lost CDO funds through a Sydney-based legal firm that specialised in investment law. Huon Valley Council received:

- A net total of \$1,161,866.61 when the class action against the Commonwealth Bank was settled in 2015
- Funds of \$2,371,181.24 on 1 July 2019 from the settlement of the class action against S & P

"Action was taken on the basis of breach of trust, breach of contract, negligence and misleading and deceptive conduct," said Huon Valley Council Mayor Bec Enders. "By taking class action as part of a group of other affected councils and organisations, Council was protected against legal costs in the case that the claim was unsuccessful on a no win – no fee basis. Taking legal action also meant that Council was not free to provide meaningful updates to their community."

The issue of the failed CDO investments was raised as part of the Board of Inquiry into the Council in 2016. The Board did not make any findings on the matter for the following reasons:

- The issue relates to a historical decision made in 2008 by a group of individuals most of who are no longer in the Council
- The matter of Tasmanian councils' involvement has been the subject of an Auditor-General's report which contained no adverse findings or breach of investment guidelines in the *Local Government Act 1993*
- Public commentary is not appropriate until current legal action undertaken by Council to recover the invested money is complete

However, the Board recommended that the community be provided with a full account of the details of the lost investments once legal proceedings were over.

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“This has been a matter of concern for the Huon Valley community over a decade and now that the legal proceedings and Board of Inquiry have come to a close we have a responsibility to provide the community with all the information about the CDO investments that we can,” said Cr Enders.

The full report discussed at the 28 August Ordinary Meeting provides an update on the CDO investment matters and finalises the issue. The report can be found on Council’s website at huonvalley.tas.gov.au/council/meetings and includes further links to documents relating to the legal proceedings and settlement.

Attachments to the report include previous reports brought to Open Council in 2009 and 2010 that provide further background information on the CDO investments, including the reasons why the Council chose to use them as a form of investment in 2006 and the actions it took to recover the lost funds after the global CDO collapse.

Cr Enders said significant improvements to Council’s investment management processes have been made since the CDO losses were first identified: “In 2009 Council adopted a policy to provide guidance for future investments and a Finance and Risk Management Committee was formed. This Committee was merged with the Governance Committee in 2014 and the Council’s Audit Panel started up in early 2015. Council’s current Investment of Funds Policy ensures that all of Council’s investments are made on a low-risk basis.

“Council’s recovered CDO funds have been put into savings for future stormwater projects, and this is due to the change in focus from water and sewerage to stormwater obligations under the *Urban Drainage Act* 2013 and our current large capital works program which includes the Huonville Main Drain diversion project.

“The subject of qualifying the loss of interest on the amount of \$4 million has been raised by the public and considering we are talking about investments, we need to be realistic and acknowledge that there would be multiple calculations that could apply between the years of 2006 to 2019. I think we just need to agree that interest on the \$4 million will never be recovered.

“Regardless of the decisions made by the Council and the officers that were delegated to make the CDO investments, the Huon Valley Council was successful in their class action because the Commonwealth Bank and Standard and Poor’s settled the claims made against them.

“This has been a very difficult journey for our community, Council staff and elected members. The hard work Council staff have put in over many years and the persistence they have shown in getting the funds back are deeply appreciated. The CDO investments form part of the history of Council and as such we respect and value the lessons that have been learned and the policies that guide council in their decision-making now and into the future.

“It is time now for your Councillors and Council staff to focus on delivering the strategies and plans that will progress our municipal area socially, economically and environmentally,

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ensuring that good governance always remains the strong pillar that supports us and our people no matter who is representing you on the Huon Valley Council.”

For more information: Mayor Bec Enders (03) 6264 0300

Title	COLLATORALISED DEBT OBLIGATIONS
Agenda Number	14.005/19*
Strategic Plan Reference	5
File Reference	10/02
Author	Director Legal and Governance Services
Responsible Officer	General Manager
Reporting Brief	The General Manager presenting a Report from the Director Legal and Governance Services presenting a report on the Council investments made in collateralised debt obligations in 2006
Attachments	<p>A. Council Report 15.016/09 at the ordinary meeting of 9 September 2009</p> <p>B. Council Report 15.021/09 at the ordinary meeting of 11 November, 2009</p> <p>C. Council Report 16.002/10 at the ordinary meeting of 20 January, 2010</p> <p>D. Council Report 16.006/10 at the ordinary meeting of 14 April, 2010</p>

Background

In 2006 \$4 Million of Council funds were invested in Synthetic Collateralised Debt Obligation Investments (CDOs).

As a result of the Global Financial Crisis, between mid-2007 and early 2009, losses to the investment principle were incurred in the amount of \$3,760,000.

The loss of the invested monies has created considerable interest and concern in the community. This has been the subject of many questions at Council meetings and was raised as part of the Board of Inquiry into the Council in 2016 which was considered as follows:

4.4.6. Collateralised Debt Obligations

Issues

The Mayor and some members of the public raised concerns about the lack of information provided by the Council to explain the circumstances surrounding the Council's decision to invest approximately \$4 million in Collateralised Debt Obligations (CDOs) and the subsequent loss of this investment, with the Mayor calling for an independent investigation into this issue.

Observations

The issue of CDOs and the Council's role in investing in these financial products was raised in a number of public submissions.

CDOs are a complex financial product that a large number of organisations invested in around the world. These were sold as AAA rated investments, and their collapse was one of the triggers for the 2008 global financial crisis.

The Board considered the material provided to it through the submission process and other relevant information. It holds the view that it is not appropriate for it to make any findings on this matter for the following reasons:

- This issue relates to an historical decision made in 2008 by the Huon Valley Council and a number of other Tasmanian councils, well before the current Mayor and GM's appointments. The decision was made by a group of individuals most of whom are no longer in the Council.
- The matter of Tasmanian councils' involvement has been the subject of an Auditor-General's report which contained no adverse findings.
- There is current legal action being undertaken by the Council as they seek to recover the monies invested. It is therefore not appropriate for commentary to occur until that matter is resolved.

However, given the level of interest in the community on this matter it is recommended that once the legal action is resolved, a full account of the detail should be provided publicly by the Council to inform the community on this issue.

Recommendations

- R53. The Board recommends that, subject to confidentiality requirements, once the legal action is resolved, a full account of the detail behind the failed investment in collateralised debt obligations (CDOs) be made public by the Council to inform the community on this issue.

It is noted that public information was provided by the Council with Reports to Open Council in 2009 and 2010 which are included as Attachments to this Report.

As the Council then participated in legal action for the recovery of the lost monies the Council has not been in a position to respond to community questions due to the nature of the legal proceedings.

The legal proceedings have now been completed and the purpose of this report is to provide an update on and finalise the CDO investment matters.

This Report provides a narrative to the matters associated with the CDOs to inform the community. The Report does not seek to justify or argue the history of the matter which was considered in the context of the time, not judged by current standards and reflection upon subsequent events to the investments.

Various links are provided within this Report to Court decisions and judgements that are publicly available and have not been reproduced or included as Attachments to this Report due to the Volume of materials.

Council Policy

The Council did not have any Policy relating to investments of funds at the dates that the CDO investments were taken out. The decision to invest the funds was made under a delegated authority from Council to the General Manager.

Subsequent to the losses first being identified the Council adopted a Policy relating to investments in January 2009 and established a Finance and Risk Committee of the Council also in 2009. This Committee was merged with the Governance Committee in 2014 and the Council's Audit Panel commenced operation in early 2015.

Council's *Investment of Funds Policy, GOV-FIN 001* now applies to all investments <https://drive.google.com/file/d/0BzULslhVdqfNDJ2ajNENmVtRzA/view> and ensures that investments are distributed across a number of investment portfolios on a low risk basis.

Council's investments are reported to Council on a monthly basis.

Legislative Requirements

Section 75 of the *Local Government Act 1993* provides for investments as follows:

A council may invest any money –

- (a) in any manner in which a trustee is authorised by law to invest trust funds; and*
- (b) in any investment the Treasurer approves.*

Council's legislative requirements were best described in the first note of the impact of the US Sub-prime Market Downturn which impacted upon the CDO investments in the Tasmanian Audit Office Report of the Auditor-General to Parliament on Local Government Authorities of 2007-08. Concerns were highlighted in this report regarding investments in CDOs for three Council audits (Huon Valley Council, Circular Head Council and Sorell Council) where it was stated:

“While the above councils were negatively impacted by investing in CDOs, we note they did not contravene the broad investment guidelines in the Local Government Act 1993. In addition, councils must comply with the Trustee Act 1898, which also provides broad guidelines and criteria that a trustee should take into account when investing. As part of a compliance audit we plan to assess whether council investment policies have due regard for these factors.”

This also considered in subsequent reports for 2008-2009, 2009-2010, 2010-11, 2011-12, 2012-13 the losses incurred by three Councils in the State (Huon Valley Council, Circular Head Council and Sorell Council) were specifically noted with the following comment:

“While the above councils were negatively impacted by investing in CDOs, we again note they did not contravene the broad investment guidelines in the Local Government Act 1993. In addition, councils must comply with the Trustee Act 1898, which also provides broad guidelines and criteria that a trustee should take into account when investing.”

Risk Implications

There were a number of risks associated with the recovery of CDO investment losses. The greatest risk was the exposure to the potential for legal costs in the event that any such claim would be unsuccessful. In that respect an individual action run by the Huon Valley Council was not viable. In this instance Council participated in a class action with action costs underwritten by a litigation funder. Details of this will be described below.

The structure of CDOs is complex and it was also necessary to determine the relevant parties for liability and responsibility. In this instance the Commonwealth Bank (the Bank) was identified for its representation and marketing of the CDOs and Standards and Poors' (S & P) for the financial ratings given to the investments. This was based upon legal direction by solicitors for the class action lead litigants.

It is also noted that, as a class member, the Council was not in any position to undertake separate or independent negotiation or action against either the Bank or S & P otherwise it would have been subject to payment of its own costs.

Engagement

Engagement associated with this decision will be undertaken at Inform Level by inclusion within the Council meeting Minutes that will be available to the public on the Council's website and at the Customer Service Centre.

A page relating to CDOs with relevant links will also be placed on the Council website for a three month period following the Council meeting.

Human Resource and Financial Implications

The original total investment was \$4 million. \$3 million was in the PURE CDO investment and \$1 million in the OASIS CDO investment.

Interest was paid from the date of the investment through to various credit events occurring after September, 2009

The entirety of the \$3 million PURE investment was lost on 25 March 2010 and \$760,000 was lost on the OASIS investment when the balance was sold for mitigation of losses on 11 February 2011.

A total amount of \$3,754,149.48 has been recovered both as a result of the sale of the OASIS investment and the legal action. This is detailed below.

The total amount lost from the principal was \$245,850.52 after conclusion of legal action. It is not possible to determine lost interest in respect of investment potential during the period.

Council's recovery under the legal action fully compensated for loss of capital and interest to the date of judgement however the loss of capital reflects the litigation funder contribution to support the class actions.

With respect to litigation funding it is noted that this takes a large, 40% portion of settlement funds. The fees recovered by the litigation funder represent the financial risk taken by the funder that they may not receive any settlement amount as the case is pursued on a "no win, no fee basis". If the claim was unsuccessful the litigation funder would be out of pocket in excess of \$20million for the Plaintiff legal fees as well as the defendants' costs which would have been likely to be a similar amount.

There has also been considerable Council Officer time associated with participation in the class actions despite the Council only being a class member and the case being run by Solicitors in Sydney. It is not possible to quantify this time however this has been a substantial redirection of activities over a 10 year period to provide support to Solicitors in the action.

Discussion

In 2006 the Council had accrued significant reserves predominantly from its water and waste water accounts. These reserves had accrued for the purpose of “saving” for larger projects to this end the predominant amount accumulated was toward a Huon Valley regional water scheme as a future project for the Council. This project was subsequently developed by Southern Water following transfer of water and sewerage functions on 1 July 2009 and now operated by TasWater.

A comprehensive background to the Council CDOs is set out in Attachment A to this Report. This Report is an extract from the Council’s minutes of 9 September 2009 provided at that time to give information to the community in relation to the investments.

The history will not otherwise be repeated within this Report.

Under the CDO investment arrangement the Bank purchased the CDO investment notes as principal and distributed them by way of on-sale to investors. The terms of the CDO investments were presented under the Bank header.

The Bank would receive a distributor margin between the purchase price and on-sale of the notes.

The investments were presented with a portfolio manager who was able to vary the portfolio, and did during the period of the investment, in relation to reference entities.

The investments taken out by the Council were rated AA by Standard and Poors’ Rating Agency (S & P).

Ratings as defined at the time were set out as follows:

AAA	<i>The obligor’s capacity to meet its financial commitment to the obligation is EXTREMELY STRONG</i>
AA	<i>The obligor’s capacity to meet its financial commitment to the obligation is VERY STRONG</i>
A	<i>The obligor’s is somewhat more susceptible to the adverse effects of changes in circumstances and economic conditions, however the obligor’s capacity to meet its financial commitment to the obligation is STRONG</i>
BBB	<i>The obligor exhibits ADEQUATE protection parameters. Adverse economic conditions or changing conditions may lead to the obligator</i>

having a weaker capacity to meet the financial commitment on the obligation.

Lower ratings An obligor rated lower than BBB is considered to have predominantly SPECULATIVE characteristics in their capacity to repay interest and principal. They may exhibit some protective characteristics, although these may be outweighed by uncertainties or major exposures to adverse conditions.

D The obligor is in payment DEFAULT on the obligation or filed for bankruptcy.

Ratings from AA to CCC may be modified by addition of a plus or minus sign to show relative standard standing within the major rating categories.

Based upon the offers the Council took out the following investments:

- \$3million in PURE Portfolio AA Investment taken out 6 July 2006. The investment had a scheduled maturity date of 20 June 2011*. The AA tranche was established to sustain seven “credit events” before any loss to principal of the coupon. These losses were to be established across 150 reference entities.

The investment was presented as a security where the return and the redemption amount are affected by the occurrence of credit defaults of Reference Entities within the Total Reference Portfolio. A “credit event” included: bankruptcy; failure to pay and restructuring by the reference entity.

- \$1million in OASIS Portfolio AA Investment taken out 4 September 2006 with a scheduled maturity date for 4 September 2010*. The AA tranche was established to sustain credit events across lower tranches first before any loss to the AA investments. These losses were to be established across 120 reference entities.

* It was later identified that the actual maturity dates were 20 June 2014 (PURE) and 4 September 2014 (OASIS) and the above dates were call dates over which Council had no control.

In the 2007/2008 financial year the CDOs began to be affected by credit events as a consequence of the Global Financial Crisis.

As at September 2009 the credit events had not affected the principal in either investment however the following credit events impacted upon the principal which was reduced at a proportion of the investment as a result. At this time interest payments reduced in proportion to the reduction in the principal.

The entirety of the PURE investment was lost on 25 March 2010.

On recommendation from Council’s solicitors to mitigate loss, the Council took the opportunity to sell the balance of the OASIS investment for \$240,000 on 11 February 2011.

As a consequence of the losses the Council approached the Bank in September, 2009 expressing Council's strong dissatisfaction with the circumstances relating to the CDO portfolio and including a direct request that in light of the, then, current situation the Bank provide a guarantee to the Council that the value of the principal of the original investments held in the portfolio would be underwritten by the Bank.

The Bank was not forthcoming with a satisfactory response and Council joined in a group of Councils, charities, associations and other organisations across Australia that were affected by the losses. This group was facilitated by Piper Alderman Barristers and Solicitors in Sydney who had developed some expertise associated with investment law and losses arising from the Global Financial Crisis.

Council subsequently participated in a class action against the Bank. Council participation was as a member of the class action only, the lead litigants to the actions in respect to the Council's PURE and OASIS investments were Clurname Pty Ltd and Gloucester Shire Council in Federal Court proceedings No. 778/2012.

Action was taken on the basis of breach of a fiduciary duty, breach of contract, negligence and misleading and deceptive conduct.

As stated above, the Council was not in a position to take on the individual risk associated with legal action for recovery of the losses due to the risk of incurring legal costs.

As a result, Council's participation was based upon the action being funded by a Litigation Funder. Council would then be protected against cost orders should the action be unsuccessful. The basis of the litigation funding agreement was that the litigation funder would take up to 40% of any judgement or settlement of the action based upon time taken to complete. Apportionment of legal costs and project management fees would also apply to any judgement or settlement.

As a result, Council's final return in any successful claim would be reduced by those amounts, reflecting the risk taken in, and the costs of, the action.

In December 2014 the principal solicitor and legal team undertaking the action moved from Piper Alderman to law firm Squire Patton Boggs and that firm continued the action on behalf of the parties.

The class action against the Bank was settled in 2015. It is estimated that the Bank paid out a total of \$50,000,000 in that class action. Council is bound by the terms of the confidential settlement which was not published by the Court however funds received from the settlement were reported in the Financial Statements of the 2014/2015 and 2015/2016 financial years as that reporting is a requirement at law.

A net total of \$1,161,866.61 was recovered by the Council from the Bank following apportionment of all costs.

Whilst there was no published judgement in relation to the settlement, background to the action and settlement can be viewed in the Federal Court of Australia case *Clurname Pty Ltd and Gloucester Shire Council v Commonwealth Bank*, at

http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2015/153.html?context=1;query=gloucester;mask_path=au/cases/cth/FCA

Council subsequently joined a further class action against the rating agency S & P to recover the remaining losses. As with the case against the Bank, the Council's participation was as a class member and subject to the protection of the litigation funding agreement. Clurname Pty Ltd, Goulburn Mulwaree Council and Circular Head Council were the lead litigants with respect to the Council's PURE and OASIS investment claims.

The claim against S & P was on the basis that the credit ratings applied to the financial products misrepresented the security and quality of the products.

The case against S & P commenced in late 2015 and progressed with strong opposition from S & P.

There were a number of interlocutory applications made which the Court had to deal with including S & P seeking to have the pleadings struck out and Squire Patton Boggs seeking to amend the pleadings. Published decisions are available for viewing at the following links:

http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2016/559.html?context=1;query=clurname;mask_path=au/cases/cth/FCA

http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2017/248.html?context=1;query=gloucester;mask_path=au/cases/cth/FCA

http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2017/553.html?context=1;query=gloucester;mask_path=au/cases/cth/FCA

http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2016/587.html?context=1;query=gloucester;mask_path=au/cases/cth/FCA

S & P resisted disclosure of all relevant information and documents until mid-2017 when they were forced to disclose every document properly relevant to the claim. This included documents that were previously redacted by S & P on the basis of "relevance". The information was in fact relevant and indicated that there was deceit involved. The resistant approach of S & P contributed to significant legal costs being incurred for the class action.

As a result of the disclosure of documents made by S & P, on 10 November 2017 the Court allowed the Plaintiff's to amend Court documents to include actions in the Tort of Deceit and Equitable Unconscionability against S & P. That meant that the actions in the case against S & P were:

- The ratings applied by S & P to the SCDO products purchase by the Plaintiffs were false and misleading or deceptive;
- S & P made an independence Representation (as follows) that was false and misleading or deceptive:
 - *“the credit ratings of the SCDOs was objective, independent, uninfluenced by any conflicts of interest that might compromise [S & P's] true current opinion regarding the credit risks that SCDOs posed to investors”.*
- S & P committed the tort of deceit because S & P were aware there were difficulties with the new version of the model used to arrive at the ratings, version 3 of the CDO Evaluator, or issues with some of the assumptions and inputs used in the model;
- Equitable Unconscionability which are principles concerned with the setting aside of transactions where unconscientious advantage has been taken by one party of the disabling condition or circumstances of the other. A special disadvantage in equity is where a party has been unable to make a worthwhile judgement as to what is in the best interests of that party;
- That S & P did not have reasonable grounds to assign the ratings.

The decision can be viewed at the following link:

<http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2017/1319.html>

The matter was set for trial commencing on 12 March 2018.

Two interlocutory decisions were made during that time in relation to evidence that S & P sought to rely upon. This evidence was rejected by the Court in the following decisions:

http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2018/686.html?context=1;query=clurname;mask_path=au/cases/cth/FCA

http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2018/685.html?context=1;query=clurname;mask_path=au/cases/cth/FCA

The trial went for 38 sitting days and on the 38th day (the second day of closing submissions) all proceedings were conditionally settled pursuant to a heads of agreement. It was estimated that a further five days of oral closing submissions was required to complete the trial.

On 9 August 2018 a judgement was provided confirming the settlement of the class action claims totalling \$215 million had been reached. The Court considered in the judgement whether the settlement could be approved as a fair and reasonable settlement in the interests of group members. The judgement explored the issue of whether the proposed 40%, \$92million proposed deductions to litigation funders and

\$20 million to lawyers was fair and reasonable and whether the Court had any power to amend the litigation funding agreement.

The decision is informative in relation to the nature of CDO investments, litigation funding agreements and costs and can be viewed at the following link:

http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2018/1289.html?context=1;query=clurname;mask_path=au/cases/cth/FCA

The Court approved the settlement subject to a review of the costs by a costs referee. On 12 April 2019 the costs were approved. However further costs had been incurred which then also required approval which has not been done.

Council is otherwise bound by some confidential terms of the settlement however copies of the deed of settlement are available for uplift from the Federal Court of Australia by the general public by making a non-party document request to the Court. See as follows: <https://www.fedcourt.gov.au/services/access-to-files-and-transcripts/court-documents/non-party-access>

Settlement was based upon 90% of all losses plus interest to the date of judgement. As with settlement against the Bank this was discounted by, the amount recovered from the Bank, 40% litigation funder contribution and project management fees.

Funds from the settlement of \$2,371,181.24 were received 1 July 2019 and will be reported in the 2019/2020 financial statement.

The Council has recovered a total of \$3,754,149.48 of the capital loss of \$4,000,000. Monies received have been allocated toward the stormwater reserve given the change in focus from water and sewerage to stormwater obligations under the *Urban Drainage Act 2013* and the current large capital works programme including the Huonville Main Drain diversion project.

This resolves all actions available to the Council in relation to recovery of losses arising from the CDO investments and finalises the matter for the purposes of this Report.

Conclusion and Recommendation

The Report is to finalise the matter of the loss of CDO investments by way of a public report. It is therefore recommended to be received and noted.

14.005/19*

RECOMMENDATION

That the report on the Council investments made in collateralised debt obligations in 2006 be received and noted.

Title COUNCIL INVESTMENTS – COLLATERALISED DEBT OBLIGATIONS (CDOs)

Agenda Number 16.006/10

Strategic Plan Reference OA02

File Reference 10/02

Author Manager Corporate Services

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Reporting Brief The Manager Corporate Services presenting a report on Council investments known as Collateralised Debt Obligations or CDOs.

Background

The funds invested were as follows:

Fund	Arranger	Type	Purchase Amount
Oasis – Helix Capital (Jersey) Ltd	Bank of America	CDO	\$1,000,000
Pure Managed - Corsair (Jersey) No. 2 Ltd	JP Morgan	CDO	\$3,000,000

At the November 2009 and January 2010 meetings of Council reports were presented to Council outlining the credit events that had occurred that effected the Council's investment of \$4m in Collateralised Debt Obligations (CDOs).

Highlighted in the November 2009 report was the fact that the Pure Investment (\$3m) had suffered a credit default which resulted in the loss of \$229,122 in principal. The report indicated that any future defaults in the Pure investment would result in a further loss of principal.

A further credit event occurred in January 2010 and was reported at the January Council meeting. This credit event resulted in a reduction in principal of \$1,500,000 which when combined with the previous loss of \$229,122 advised in November brought the total loss of principal to \$1,729,152, leaving a balance of principal remaining of \$1,270,848. Council was advised at that meeting that one further default in the Pure investment would cause a total loss of principal invested and coupons received.

Report

Advice was received from the Commonwealth Bank on 29 March 2010 that there has been a bankruptcy credit event by Ambac Assurance Corp (AAC).

This credit default has resulted in a further reduction in principal of \$1,270,848 which, when combined with the previous losses, leaves a balance of principal of \$0.

In relation to the Oasis CDO investment of \$1m, the above credit default has no impact on this investment and at this point in time the full \$1m remains intact.

As part of Council's resolve to pursue the recover of any losses incurred, discussions have been continuing with a mainland based legal firm specialising in this area of litigation. This firm is also advising other Councils in Australia who made similar investments with the Commonwealth Bank.

As full details of legal actions must be reported in Closed Council, further information regarding Council's legal recourse cannot be provided at this time. Council administration has been very proactive in relation to the recovery of the full value of the principal invested using appropriate means.

Future Advice

As agreed previously each monthly meeting of Council will (in open Council) be provided with a summary of the value and performance of the CDO investments as a component of the financial reports provided.

Consultations

The preparation of this report included consultations with the Council's senior management team and the Finance and Risk Management Committee.

Legislative Requirements

Unlike other jurisdictions within Australia, there is no specific legislative requirement for the Council to provide individualised reporting on its investment portfolio throughout the year. Certainly there is however, a corporate responsibility for Councillors to be fully aware of the financial operations of the Council including details of the Council's investment portfolio.

Local Governments investment in CDOs was the subject of a report by the State Auditor – General to parliament where he stated "that the Councils had not breached the law" and "Councils have not contravened the *Local Government Act 1993* which provides broad investment powers".

Risk Implications

It is a matter of public record that whilst initially referred to the Council as a sound "AA" rated investment, the CDO option has proven to have a level of risk which is not acceptable to the Council.

There remains a significant risk that the Council could suffer further losses on the principal it has invested in the Oasis CDOs, which would result in a most unsatisfactory outcome.

Council management is now working with the Sydney based legal advisors with the aim of mitigating the high level of risk exposure now identified.

Council Policy

In 2006, when the CDO investments were placed, there was full delegation to the Council's General Manager for the investment of Council funds as detailed in Section 75 of the *Local Government Act 1993*.

As a consequence of the notification of the impairment of the value of the Council's CDO portfolio the Council has implemented a policy to provide guidance for the future investment of Council funds.

Human Resource and Financial Implications

The impairment and loss of the value of the CDO investments offers a substantial financial blow to the Council.

16.006/10

RESOLVED

CR WILSON

CR HERON

That the report of March 2010 on the Council's Collateralised Debt Obligation (CDO) investments, particularly the reduction in principal of a further \$1,270,848 in the Pure investment (bringing the balance of that investment to nil), be received and noted.

- *Councillors Armstrong, Heron, Wilson, Paul, Smith, Doyle, Duggan, Gudden & Woodruff voted for the motion & no Councillors voted against the motion.*

Title COUNCIL INVESTMENTS – COLLATERALISED DEBT OBLIGATIONS (CDOs)

Agenda Number 16.002/10

Strategic Plan Reference OA02

File Reference 10/02

Author Manager Corporate Services

Responsible Officer Manager Corporate Services

Reporting Brief The Manager Corporate Services presenting a report on Council investments known as Collateralised Debt Obligations or CDOs.

Background

At the November 2009 meeting of Council a report was presented to Council outlining Council's investment of \$4m in Collateralised Debt Obligations (CDOs).

The funds invested were as follows:

Fund	Arranger	Type	Purchase Amount
Oasis – Helix Capital (Jersey) Ltd	Bank of America	CDO	\$1,000,000
Pure Managed - Corsair (Jersey) No. 2 Ltd	JP Morgan	CDO	\$3,000,000

Highlighted in the November 2009 report was the fact that the Pure Investment (\$3m) had suffered a credit default which resulted in the loss of \$229,122 in principal. The report indicated that any future defaults in the Pure investment would result in a further loss of principal.

Report

As detailed to Councillors by email previously, advice was received from the Commonwealth Bank on 4 January 2010 that there has been another credit default by Japan's third largest consumer lender AIFUL Corporation impacting on the Pure Investment.

This credit default has resulted in a reduction in principal of \$1,500,000 which when combined with the previous loss of \$229,122 advised in November brings the total loss of principal to \$1,729,152, leaving a balance of principal remaining of \$1,270,848. One further default in the Pure investment will cause a total loss of principal invested and coupons received.

In relation to the Oasis CDO investment of \$1m, the above credit default has no impact on this investment and at this point in time the full \$1m remains intact.

As part of Council's resolve to pursue the recover of any losses incurred, discussions have been continuing with a mainland based legal firm specialising in this area of litigation. This firm is also advising other Councils in Australia who made similar investments with the Commonwealth Bank.

As full details of legal actions must be reported in Closed Council, further information regarding Council's legal recourse cannot be provided at this time. It should be understood however that the new Council administration intends to be very proactive in relation to the recovery of the full value of the principal invested using what ever means available and necessary.

Future Advice

As agreed previously each monthly meeting of Council will (in open Council) be provided with a summary of the value and performance of the CDO investments as a component of the financial reports provided.

Consultations

The preparation of this report included consultations with the Councillor holding portfolio responsibility for finance and the Council's senior management team.

Legislative Requirements

Unlike other jurisdictions within Australia, there is no specific legislative requirement for the Council to provide individualised reporting on its investment portfolio throughout the year. Certainly there is however, a corporate responsibility for Councillors to be fully aware of the financial operations of the Council including details of the Council's investment portfolio.

Local Governments investment in CDOs was the subject of a report by the State Auditor – General to parliament where he stated “that the Councils had not breached the law” and “Councils have not contravened the *Local Government Act 1993* which provides broad investment powers”.

Risk Implications

It is a matter of public record that whilst initially referred to the Council as a sound “AA” rated investment, the CDO option has proven to have a level of risk which is not acceptable to the Council.

There remains a significant risk that the Council could suffer further losses on the principal it has invested, which would result in a most unsatisfactory outcome.

Council management is now working with the Sydney based legal advisors with the aim of mitigating the high level of risk exposure now identified.

Council Policy

In 2006, when the CDO investments were placed, there was full delegation to the Council's General Manager for the investment of Council funds as detailed in Section 75 of the *Local Government Act 1993*.

As a consequence of the notification of the impairment of the value of the Council's CDO portfolio the Council has implemented a policy to provide guidance for the future investment of Council funds.

Human Resource and Financial Implications

The impairment and loss of the value of the CDO investments offers a substantial financial blow to the Council.

16.002/10

RESOLVED

CR DUGGAN

CR HERON

That the report on the Council's Collateralised Debt Obligation (CDO) investments be received and noted.

- *Councillors Armstrong, Heron, Wilson, Paul, Smith, Duggan, Gudden & Woodruff voted for the motion & no Councillors voted against the motion.*

Title COUNCIL INVESTMENTS – COLLATERALISED DEBT OBLIGATIONS (CDO's)

Agenda Number 15.021/09

Strategic Plan Reference OA02

File Reference 10/02

Author General Manager

Responsible Officer General Manager

Reporting Brief The General Manager presenting a report on Council investments known as Collateralised Debt Obligations or CDO's.

Background

At the September 2009 meeting of Council a report was presented to Council outlining Council's investment of \$4m in Collateralised Debt Obligations (CDO's).

The funds invested were as follows:

Fund	Arranger	Type	Purchase Amount
Oasis – Helix Capital (Jersey) Ltd	Bank of America	CDO	\$1,000,000
Pure Managed - Corsair (Jersey) No. 2 Ltd	JP Morgan	CDO	\$3,000,000

Highlighted in the September report was the fact that the investments had suffered a number of defaults and that there was a possibility that Council could suffer a loss in principal on the investments.

Report

Advice has now been received from the Commonwealth Bank that the CIT Group Inc, one of the United States main lenders to small and medium sized business had filed for bankruptcy and as such this failure constitutes a default that negatively impacts synthetic collateralised debt obligations which reference to CIT. This default affects the two CDO investments held by Council, Oasis (\$1m) and Pure (\$3m).

In the case of Oasis the default does not result in a loss of capital as the investment can withstand further defaults before any capital is lost. Currently it can stand defaults of two entity weightings of 0.5% or one default with an entity weighting of 1% before principal is lost.

However, the impact on the Pure investment (\$3m) where all the entity weightings are at 0.67% is a loss in principal of \$229,122. Any future defaults will result in a further loss of principal where a total of two defaults will fully extinguish the investment.

Since the report in September 2009 a strongly worded letter was sent to the Commonwealth Bank. The Bank has since replied denying any liability.

Discussions have also been progressing with a mainland-based legal firm specialising in this type of litigation. This firm is also advising other Councils in Australia who made similar investments with the Commonwealth Bank. As part of the process the legal advisors have conducted interviews with Council officers involved with the investments. At this point in time further advice is awaited with a report expected to be tabled at the December 2009 Council Meeting.

As full details of legal actions must be reported in Closed Council, further information regarding Council's legal recourse cannot be provided at this time. It should be understood however that the new Council administration intends to be very proactive in relation to the recovery of the full value of the principal invested using what ever means available and necessary.

Future Advice

As agreed previously each monthly meeting of Council will (in open Council) be provided a summary of the value and performance of the CDO investments as a component of the financial reports provided.

Consultations

Consultations have taken place with the Council's senior management team in the preparation of this report.

Legislative Requirements

Unlike other jurisdictions within Australia, there is no specific legislative requirement for the Council to provide individualised reporting on its investment portfolio throughout the year. Certainly there is however, a corporate responsibility for Councillors to be fully aware of the financial operations of the Council including details of the Council's investment portfolio.

Local Governments investment in CDO's was the subject of a report by the State Auditor – General to parliament where he stated "that the Council's had not breached the law" and "Council's have not contravened the Local Government Act 1993 which provides broad investment powers".

Risk Implications

It is a matter of public record that whilst initially referred to the Council as a sound "AA" rated investment, the CDO option has proven to have a level of risk which is not acceptable to the Council.

There remains a significant risk that the Council could suffer further losses on the principal it has invested, which would result in a most unsatisfactory outcome.

Council management is now taking legal advice in order that reports can be prepared and referred to Council authorising action with the aim of mitigating the high level of risk exposure now identified.

Council Policy

In 2006, when the CDO investments were placed there was full delegation to the Council's General Manager for the investment of Council's funds as detailed in Section 75 of the *Local Government Act 1993*.

As a consequence of the notification of the impairment of the value of the Council's CDO portfolio the Council has implemented a policy to provide guidance for the future investment of Council funds

Human Resource and Financial Implications

As detailed elsewhere in this report the impairment and potential loss of the value of the CDO investments offers a substantial and critical financial blow to the Council.

This report provides detail on the Council's capacity to withstand a "worst case scenario", however the loss would be of a magnitude which is considered unacceptable.

Given the circumstances, investigations and actions are now being progressed to avoid such losses being incurred.

15.021/09

RESOLVED

CR HERON

CR WILSON

That:

- a) **The report on the Council's Collateralised Debt Obligation (CDO) investments be received and noted.**
- b) **The General Manager continue to investigate all means of recovery to the Council of any losses incurred in respect of the lodgement of the CDO Investments with the Commonwealth Bank.**
 - *Councillors Armstrong, Heron, Wilson, Smith, Doyle, Duggan, Gudden & Woodruff voted for the motion & no Councillors voted against the motion.*

Title	COUNCIL INVESTMENTS – COLLATERALISED DEBT OBLIGATIONS (CDO's)
Agenda Number	15.016/09
Strategic Plan Reference	OA02
File Reference	10/02
Author	General Manager
Responsible Officer	General Manager
Reporting Brief	The General Manager presenting a report on Council investments known as Collateralised Debt Obligations or CDO's.

Background

The intent of this report is to provide information in relation to the Council's Collateralised Debt Obligation investments (CDO).

The report has been structured to provide detail on why the Council has funds for investment, what are CDO's and why the Council (in 2006) opted to utilise this form of investment and what the future might hold in respect of this particular investment.

Report

Why does the Council have funds to invest

The Council budgets for the operations of each financial year to stand alone. This means that the total costs of operating the Council for the year are determined with fees, rates and charges levied within the year to secure the required income.

It is also necessary for the Council to ensure it has adequate cash reserves to cover all requirements such as the following:

- Works not complete
- Employee entitlements
- Reserve accounts for asset management
- Bonds and bank guarantees
- Developer contributions
- Payments for public open space
- Grant projects underway
- Entrance Fee bonds for those in residential aged care

In addition, the Council has accounts in which it effectively "saves" for larger projects. To this end amounts have been accumulated for the Regional Water Scheme, other capital projects and works.

A significant amount of the funds held (at the time the CDO's were made) were in the Council's water and wastewater accounts.

The Council, when investing funds gives consideration to future cash flow requirements, this helps determine the term of proposed investments. Cash flow requirements year to year can provide (at times) opportunities for longer term investments to be made.

What are CDO Investments

A CDO in its simplest form comprises a pool of corporate debt with broadly similar characteristics. A typical CDO reference pool may involve exposure to a variety of borrower types and credit ratings across a number of countries. A CDO will usually have exposures to between 50 and 200 reference entities. The CDO's held by Huon Valley Council are managed Synthetic CDO which is a special purpose vehicle (SPV) which effectively sells credit protection on a portfolio of reference entities.

Having been first introduced in 1987 the CDO concept grew popular through the years following the terrorist attacks of 2001 to a total value in the order of \$486 billion in 2007. As long as the general financial health of US borrowers remained sound, this system worked well.

The first break in investor confidence in the CDO approach came in 2007, when a wave of mortgage defaults among mostly sub-prime borrowers cut more deeply into some CDO tranches than investors had thought probable. As America's housing market and general economy softened investors began to question the health of some CDO instruments.

Ultimately, the loss of investor confidence led to a chill in sales, which, in turn led to large write-offs in asset values and the subsequent value of the CDO's.

Why Does Council invest and why use this form of investment

The Council looks to derive income by investing funds it holds. Such income is credited to the general rate account and helps to provide funding required for the operations of the Council. Whilst there is a push to optimise interest earned, the Council has traditionally been very cautious when considering investment opportunities. Predominantly investments are placed with the banking sector.

Prior to 2006, the Council had been approached by a number of investment brokers (Grange Securities etc) offering investments products such as CDO's which Council declined.

CDO's when offered by the Commonwealth Bank were accepted on the basis of the Council's long association and trust of the Bank.

The CDO's taken out represent a portion of the Council's total investment portfolio. As at 31 August 2009, the Council's total investment portfolio was as follows:

Investments

Institution	Amount	Type of Investment	Maturity date	Interest Rate	% of Total
J P Morgan (through Commonwealth Bank)	3,000,000.00	CDO	20/06/2011*	4.65%	22.50%
Bank of America (through Commonwealth Bank)	1,000,000.00	CDO	4/09/2010*	4.67%	7.50%
Commonwealth Bank	1,000,000.00	Dual Range Accrual	28/06/2012	10.50%	Not in range 7.50%
Bendigo Bank	1,000,000.00	Term Deposit	6/10/2009	4.50%	7.50%
Bendigo Bank	585,829.30	Term Deposit	22/12/2009	4.30%	4.39%
Bendigo Bank	100,000.00	Term Deposit	16/07/2010	4.60%	Bond 0.75%
Bank of Western Australia	850,000.00	Term Deposit	13/10/2009	4.10%	6.37%
TasCorp	4,685,655.78	11am Deposit	24 hour call	Daily Rate	35.14%
AMP	500,000.00	Term Deposit	4/05/2010	4.25%	3.75%
AMP	500,000.00	Term Deposit	4/05/2010	4.25%	3.75%
Community Bank Shares	5,000.00	Shares			0.04%
Committee Balances	109,619.92				0.82%
	13,336,105.00				100.00%

* Denotes Scheduled Maturity Date discussed below.

Specific Detail of the Council's CDO portfolio

At the time of preparing this report the status of the Council CDO portfolio is as follows:

Fund	Arranger	Type	Purchase Amount	Interest	Current Market Value (as at 31.08.09)
Pure Managed - Corsair (Jersey) No. 2 Ltd	JP Morgan	CDO	\$3,000,000	4.65%	Nil
Oasis - Helix Capital (Jersey) Ltd	Bank of America	CDO	\$1,000,000	4.67%	5.7%

The **Pure Managed AA CDO** has a total issue amount of \$46m with a underlying reference portfolio of 150 entities whilst the **Oasis AA CDO** portfolio currently references 113 underlying entities and has a total issue amount of \$20.8m. It is clear that the Council is not alone in this dilemma.

From the total 250+ companies involved in these CDOs eleven have defaulted at this time. This level of default has not resulted on a negative impact on the value of the Council's investments, however further defaults will have impact.

Given the circumstances the Council continues to receive interest on the full value of the investments and interest payments to date have been as follows:

Oasis	\$1,000,000.00	Pure Managed	\$3,000,000.00
4/12/2006	18,923.01	20/09/2006	45,937.80
5/03/2007	19,421.64	20/12/2006	57,018.10
5/06/2007	19,334.38	20/03/2007	57,809.59
5/09/2007	19,542.56	20/06/2007	59,421.66
5/12/2007	20,751.24	20/09/2007	59,081.39
4/03/2008	21,578.22	20/12/2007	61,680.79
4/06/2008	23,634.42	20/03/2008	65,058.51
4/09/2008	23,054.69	20/06/2008	69,440.84
4/12/2008	21,428.63	24/09/2008	71,208.47
4/03/2009	14,745.20	24/12/2008	65,594.79
4/06/2009	11,993.52	24/03/2009	40,858.05
		22/06/2009	34,071.78
	\$214,407.51		\$687,181.77

Total Interest Received \$901,589.28

At the date of lodging the investments it was the Council's very clear intention and understanding that the investments be held to 20/6/2011 (Pure Managed) and 4/9/2010 (Oasis) and these were the maturity dates Council has been working toward.

It has now been established that the actual maturity dates are 20/6/2014 (Pure Managed) and 4/9/2014 (Oasis) respectively and that the above dates were Call Dates (Scheduled Maturity Dates) over which it now appears Council has no control.

The continuation of the investment beyond the Call date brings with it an interest penalty (payable by the holder of the investment) to the Council. In the case of the Pure Managed CDO the rate will rise from the coupon margin plus 1.4% to the coupon margin plus 2.8 % per annum. Whilst in the case of the Oasis CDO the rate will rise from the coupon margin plus 1.4% to the coupon margin plus 1.95% per annum.

A meeting was held 1 September 2009 between Senior Council Staff and representatives of the Commonwealth Bank where advice was provided that given current market conditions it was highly likely that the step up option would be taken up, which would extend the maturity dates to the 20/6/2014 (Pure Managed) and 4/9/2014 (Oasis) respectively.

It was noted that due to market conditions the option to on-sell was not viable unless the credit spread returns to 2006/2007 levels to enable the CDO's to be traded and avoid the step option taking effect.

Given the circumstances it became clear that for the Council to receive back the full value of the principal invested it would have to delay the redemption of the investments to the full maturity dates. The return of the full value of the principal will also be dependant on there being no further defaults by the Companies involved in the CDO arrangement.

It was strongly argued by Council's management that this was a totally unsatisfactory situation and that the Council does not and never has intended for it's investment to be continued past the Scheduled Maturity Dates.

Consultations

Consultations have taken place with the Council's senior management team in the preparation of this report.

Legislative Requirements

Unlike other jurisdictions within Australia, there is no specific legislative requirement for the Council to provide individualised reporting on its investment portfolio throughout the year. Certainly there is however, a corporate responsibility for Councillors to be fully aware of the financial operations of the Council including details of the Council's investment portfolio.

Local Governments investment in CDO's was the subject of a report by the State Auditor – General to parliament where he stated "that the Council's had not breached the law" and "Council's have not contravened the *Local Government Act 1993* which provides broad investment powers".

Risk Implications

It is a matter of public record that whilst initially referred to the Council as a sound "AA" rated investment, the CDO option has proven to have a level of risk which is not acceptable to the Council.

There remains a significant risk that the Council could suffer real losses on the principal it has invested, which would result in a most unsatisfactory outcome and a substantial and serious financial blow to the Council.

Council management is now taking legal advice in order that reports can be prepared and referred to Council authorising action with the aim of mitigating the high level of risk exposure now identified.

Council Policy

In 2006, when the CDO's were placed there was full delegation to the Council's General Manager for the investment of Council's funds as detailed in Section 75 of the *Local Government Act 1993*.

As a consequence of the notification of the impairment of the value of the Council's CDO portfolio the Council has implemented a policy to provide guidance for the future investment of Council funds

Options

What happens now?

To date there has been no formal representation to the Commonwealth Bank by the Council. To that end it is recommended that a strongly worded letter be sent to the Commonwealth Bank voicing concerns regarding the current situation in respect of the Council's CDO's.

In addition to the above it is recommended to Council that legal avenues of recovery be explored. Such action will require the allocation of funds by the Council however it is considered appropriate that all avenues of legal recourse to recover any losses incurred be explored to the fullest.

As full details of legal actions undertaken by the Council and matters directly impacting on those actions must be reported in Closed Council this report is unable to offer further information in that regard. It should be understood however that the new Council administration intends to be very proactive in relation to the recovery of the full value of the principal invested using what ever means available and necessary.

Future Advice

From this point on each monthly meeting of Council will (in open Council) be provided a summary of the value and performance of the CDO's as a component of the financial reports provided.

Human Resource and Financial Implications

As detailed elsewhere in this report the impairment and potential loss of the value of the CDO's offers a substantial and serious financial blow to the Council.

This report provides detail on the Council's capacity to withstand a "worst case scenario", however the loss would be of a magnitude which is considered unacceptable.

Given the circumstances, investigations and actions are now being progressed to avoid such losses being incurred.

Whilst considering the content of this Report the General Manager provided information, having been received from the Commonwealth Bank, identifying minor variances with the report as originally circulated with the Agenda papers.

The Report as detailed above has been amended taking into account the information received from the Bank, the extent to which has been considered appropriate by the Council.

That:

- a) **The report on Council investments known as Collateralised Debt Obligations or CDO's be received and noted.**
 - b) **The Mayor be authorised the prepare urgent correspondence addressed to the Commonwealth Bank:**
 - **expressing the Council's strong dissatisfaction with the current circumstances relating to the Council's Collateralised Debt obligation (CDO) portfolio; and,**
 - **including a direct request that in light of the current situation the Commonwealth Bank provide a guarantee to the Council that the value of the principal of the original investments held in this portfolio will be underwritten by the Commonwealth bank.**
 - c) **The General Manager be authorised to investigate all means of recovery to the Council of any losses incurred in respect of the lodgement of the CDO Investments by the Council.**
- *Councillors Armstrong, Dillon, Heron, Wilson, Paul, Doyle, Duggan and Richardson voted for the motion & no Councillors voted against the motion.*