26.00010-03/025



Civic Centre

Cnr Russell & William Sts

Private Mail Bag 17

Bathurst NSW 2795

Telephone 02 6333 6111

Facsimile 02 6331 7211 council@bathurst.nsw.gov.au

www.bathurstregion.com.au

13 January 2009

Ms Noelene Mashman Carter Bros Properties Pty Ltd 3 Toronto Street BATHURST NSW 2795

Dear Ms Mashman

I refer to your letter of 19 December 2008 in respect to Council correspondence dated 3 October 2007.

An examination of Council's records (refer to <u>attachments 1-8</u>, marked in yellow) indicate that an amount of \$30,699.55 has been credited to the appropriate accounts.

You will also note that on the letter of 3 October 2007, your Mr Ray Carter signed that he accepted the calculations.

Would you please review your letter of 19 December 2008 and advise Council of where you consider this discrepancy may have occurred.

Yours faithfully

Bob Roach DIRECTOR CORPORATE SERVICES & FINANCE

Reference: RR:SM:26.00010-03/024 Enquiries: Mr Bob Roach 6333 6257 _dcsf_carterbros130109.doc

BATHURST REGION... FULL OF LIFE

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BATHURST REGIONAL COUNCIL

- 3 MAR 2009

Cartes Sep. 26:00010-03/028

ACN 002 244 411 3 Toronto St Bathurst NSW 2795 **Phone 02 6331 6811** Facsimile 02 6332 2576

Email ray@carterbros.com

02/02/09 Mayor Paul Toole Bathurst Regional Council

Dear Paul

re the Sewer Access Charge

Carter Bros Engineering Pty Ltd

I attach a copy (attachment A) of the report done by Mr John Humphreys for the Bathurst Chamber of Commerce, dated 15 February 2005. It was Mr Frank Sartor, Minister, who suggested to me that this report be carried out. Mr Humphreys presented this report, I believe four times to Councillors.

You will have noted that it is obvious Mr Humphreys was totally unaware of the first alternative that is available involving the use of ET s.(attachment B) Obviously it was not known to himself or any non residential ratepayer at the time, otherwise his report would have been totally different in scope. The fact is that Council at the time heard and received this report and <u>still</u> did not see fit to reveal the fact that there is an alternative available by way of determining the load in Equivalent Tenaments.

Equally disapointing is that Mr Humphreys laboured in doing this report and presented it faithfully while in receipt of admonision from Council, noted at the time by him as "you mentioned your disapointment at my doing such a report after doing work for Council re meter assessments"

Q1 Why did Council not see fit to advise that the use of ET's were available at the time of the presentations of Mr Humphreys report let alone at the introduction of the Sewer Access Charge?

I sent you by email, a copy of the manner in which Shoalhaven Council administers the Sewer Access Charge (attachment C). It is evident that this Council administers this charge in a fair and open manner which I sincerely hope BRC might emulate. The reasonable approach used in Shoalhaven is already acknowleged in Attachment B, Bathurst Councils own document!

Q2 Would Council consider implementing Sewer Access Charging in the fair manner that the Shoalhaven Council has done including the reasonable approach mentioned in Councils Report 21/07/04?

In Councils Report 21/07/2004 Page 14 cl (e), (attachment D) Council attempts to justify the non use of the nominal sizing of water meters "due to the practise of using hose reels" I attach (attachment E) for your edification, being photos of the numerous ways in which a hose reel can be used. I defy you to sensibly justify the non use of nominal sizing of water meters where calculating the Sewer Access Charge for any of these use reasons. None of theses uses demonstrate a sensibly thought out justification for claiming that use of a fire hose will, by inference, increase the load put upon the sewer system, upon which Council bases the Sewer Access Charge.

Q3 How does Council justify its contention that the "using of hose reels" allows Council to not use nominal sizing?

O4 Would Council allow fire hose reels to be sealed such they would not be used for any purpose other than fire fighting as implemented by other Councils, thereby removing that portion of the meter size from the Access Charge?

Mayor R DESF-R

```
> Councillor
> Bathurst Regional Council
> *"Ray Carter" <ray@carterbros.com>*
> 30/11/2009 12:46 PM
>
> To
             <paul.toole@bathurst.nsw.gov.au>
> Subject
>
>
>
> Dear Paul
> hope you keep well.
> attached is a report on the sewer access charge by consultant Roger
> Heath. I put this report in to Council yesterday for consideration
> in regard to the 09 Management Plan. The report encapsulates the
> inequities inherent in Councils interpretation of the charge. You said
> to me that
> when we met one time at he Visitors Information Center that you would
> "like to see me go up against Mr Roach" so I guess that is what I have
> done.
> This report is also before the NSWOmbussman. Hopefully it will be
> brought to a head that way or prehaps you may oversea a proper revision
> of the Charge that sees th
> first alternative properly and fairly assessed and allowed.
> I would like for you to distribute this to the other Councillors.
> you let me know on that please. You will find the report succinct in
> every respect.
> look forward to hearing from you
> regards
> Ray Carter
> *******************
> "This message is intended for the addressee named and may contain
> confidential information. If you are not the intended recipient,
> please delete it and notify the sender. Views expressed in this
> message are those of the individual sender, and are not necessarily
> the views of Bathurst Regional Council, unless otherwise stated.
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BATHURST REGIONAL COUNCIL

1 8 MAR 2009

REF 22.01972/016

233 College Rd Bathurst

10/02/09 Mayor Paul Toole Bathurst Regional Council

Dear Paul

In accordance with Cl 2) (a) (being from Councils method of adoption of the Sewer Access Charge, attached) I submit a report (attached) in accordance with my option of "providing for Councils's consideration, an expert report to establish the peak load in equivalent tenements (ET's) their operations place on the sewerage system"

I acknowlege that in Cl 2) (b) that Council is able "In the absence of such a report the Council can determine the access charge on the basis of the square of the service connection size times the discharge factor"

The report by Roger Heath, Hydraulics Engineer of Heath Consulting Engineers concludes that the water meter at the subject property could be downsized from DN40 TO DN25 and that the peak load in Equivalent Tenaments is assessed to range between 0.05 and 1.49 ET"s.

Therefore in the presence of the report attached I request that Council down size the meter at this property appropriately and adjust the Sewer Access Charge in accordance with the expert report supplied. This report quantifies the actual "load put on the sewer System" being in accordance with Fair User Pays in NSW.

Yours faithfully

Ray Carter

Director

Cambrune Pty Ltd.

Mobile Phone 0407 258882

DESY RY CM Mayory

5



HEATH CONSULTING ENGINEERS

HENGCON PTY LTD ACN 103 488 348 Postal Address: PO BOX 250 I ORANGE NSW 2800

Office Location: 35 | SUMMER STREET ORANGE NSW

Our Ref: L01_08_064.doc

2 December 2008

Cambrune Pty Ltd 233 College Road BATHURST NSW 2795

Attention:

Mr Ray Carter

Dear Sir

RE. ASSESSMENT OF WATER & SEWER FOR 16 VALE ROAD, LOT 2 DP815734, SOUTH BATHURST, ORANGE

1.0 INTRODUCTION

As requested Heath Consulting Engineers has carried out an assessment of the above property with regard to the water supply requirements and required water meter size to determine the appropriate water access charge. An assessment has also been made of the sewer disposal for the site in relation sewer access charges.

The existing site is serviced by a DN40 water meter (Meter No. MK71028) located near the north west corner of the site.

This water meter is supplied from Council's water main in Vale Road.

Examination of the 2008/2009 Rates & Charges Notice for the property shows that the property was charged is paying \$943.00 for the Water Availability Charge and \$1338.00 for the Sewer Access Charge which was then reduced by 5%. It is assumed that the 5% reduction is due to the property having a Sewer Discharge Factor (SDF) of 95%. These charges are both based on the water meter size for the property in accordance with Council's Revenue Policy.

2.0 METHODOLOGY

The water supply requirements for the site were determined based on the methodology outlined in AS~3500.1-2003~Water~Supply. Table 3.1 of AS~3500.1 indicates flow rate requirements.

Telephone: (02) 6360 0755

Facsimile: (02) 6360 0766

Email: admin@bigpond.com

0263322125

BELINDAS BUS CENTRE

PAGE 01/02



Civic Centre
Cnr Russell & William Scs
Frivate Mail Bag 17
Bachurst NSW 2795

Telephone 02 6333 6111
Facsimile 02 6331 7211
council@bachurst.nsw.gov.au
www.bachurstregion.com.au

19 February 2009

Mr Peter Sargent Bethurst Business Chamber PO Box 293 BATHURST NSW 2795

Dear Peter

Sewerage Access Charges

I refer to your letter of 20 January 2009, regarding sewerage access charges.

in order to understand Council's position on the matter of sewerage access charges the following information is supplied.

- In May 2004, Council received advice from the NSW Government of Guidelines to be used in determining a method to charge customers for the use of Council's sewerage assets.
- From 2003 onwards, Councillors have been presented with various reports and options for the charging of sewer charges.

Council, at its meeting held in July 2004, chose the option that is currently being charged to each customer. The options available to Council were to charge either of the following:

- (a) Base sewerage access charges on the peak load the discharger places on the sewerage system. Such discharges should therefore have the option of providing for Council's consideration, an expert report to establish the peak lead in equivalent tenements (ET's) their operations place on the sewerage system.
- (b) In the absence of such a report the Council can determine the access charge on the basis of the square of the service connection size times the discharge factor.

Part (b) is the method that has been adopted by this Council.

- As part of establishing a method of charging Council's engineering staff were requested to categorise each business to determine their sowerage discharge factor (SDF).
- Council on 8 June 2004, wrote to all businesses affected by the introduction of this new system requesting them to advise Council if they required a review of

Reference: RR:/AL:26.00010-03/026 Enguisties: Mr. Bob Rosch (02) 6333 6267

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2009 FRI 13:55 FAX 61263312338 Bathurst RSL Club Ltd

Ø004/004

25/02/2009 09:22

8263322125

BELINDAS BUS CENTRE

PAGE 02/02

2

Bathurst Business Chamber 19 February 2009

their business SDF. Council received replies to this request and proceeded to review each property's SDF and where appropriate make the required change.

Council wrote to over 300 landowners who were affected by these proposed changes. Council received replies from 19 landowners and then proceeded to review each of these requests and make any necessary adjustments that were required.

- 5) Council has since 2004 used this method to charge customers for the use of the sewerage assets.
- 6) Each year Council invites submissions from its ratepayers and customers on any aspect of items contained within the Management Plan including the method of charging for sewer as well as the SDF charge contained in the Revenue Policy section of the Management Plan.
- 7) This issue has been raised many times by a member of the Bathurst Business Chamber, and again I would like to reiterate that it was Council's decision to adopt the method they did. That is, the Council determined the access charge on the basis of the square of sewer connection size times the discharge factor.
- As Council has adopted its method of charging then the option you refer to regarding the peak load in equivalent tenements (ET) is not available to Council's customers at the present time. However, as pointed out in item (6) each and every ratepayer has the right to make a submission on the Management Plan including the method of charging for sewer charges.
- Council will invite and consider all submissions made in determining its Management Plan and Revenue Policy for the 2009/10 period.

I trust this explains Council's position in relation to sewer access charges.

Yours faithfully

Paul Toole

MAYOR OF BATHURST

Roferenne: RR:AL:28.00010-03/026 Enquiries: Mr Bob Rosch (02) 6333 5257 U:Wmandail.olers/2009/-@rgent.stoc

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Civic Centre
Cnr Russell & William Sts
Private Mail Bag 17
Bathurst NSW 2795

Telephone 02 6333 6111 Facsimile 02 6331 7211 council@bathurst.nsw.gov.au www.bathurstregion.com.au

20 March 2009

Mr R Carter Director Cambrune Pty Ltd 233 College Road BATHURST NSW 2795

Dear Mr Carter

Sewer Access Charge

Reference is made to your letter dated 10 March 2009 advising Council of your option in respect to Sewer Access Charges.

As previously advised, Council's present position is to charge sewer user customers by the sewer access method and not the peak load Equivalent Tenement method.

You are further advised that Council will review its method of charges for sewer services when it considers it's 2009/2010 Management Plan in May/June of this year.

Yours faithfully

P Toole X

MAYOR OF BATHURST

Reference: RR:CW:22.01972/016 V Enquiries: Mr Bob Roach (02) 6333 6257 G:\Carla Winkley\letters\rCarder.doc

//

RATHIIRST RECION

Keeping you informed for 154 years

Thursday, July 1, 2004

your town, your newspaper also online bathurst.yourguide.com.au

\$1.20 Including GST

MULDOON'S TRIPLE

SUCCESS - Page 60



Sewerage bill more than triples for one business under new pricing scheme - PAGES 46 and 47

By Lisa Gervais

SOME business owners think Bathurst Regional Council's new user-pays sewerage scheme pricing stinks.

commercial/industrial property in Mitre Street, said he has received an estimate in the post and he is looking at an increase to \$1849 per annum, up from \$529. "It's just gone through the roof," Mr OWNS who

He said the problem with his building is there is not much water used and there-

Baird said

Commerce Lachlan Sullivan is critical of the new system. fore not much discharged into the sewer so he has written to council general manager David Sherley seeking reconsideration of his new fee.

Bathurst Regional Council administra-

His biggest complaint is that council is For example, Mr Sullivan said, one chamber member has an 80mm access to using an access charge, the meter.

tor Kath Knowles urged disgruntled busi-

"Talk to us about it," she said.

ness owners to come forward

He said the water consumption was a low 88 kilolitres a day, which equates to a daily discharge of around 240 litres (roughly the equivalent of two showers) and yet his fee would increase to over \$4700 from \$1000-a-year, a 340 per cent increase on the previous year. "They can make an appointment with department to discuss the impact of the either myself or the regional treasurer's of Bathurst Chamber The charge is effective from today.

charge on individual businesses.

President

A spokesman for council's treasurer's in the new system, just as there were department said there will be "anomalies" when user-pays water came into place.

The spokesman reiterated that treasury staff want to hear from businesses who dave concerns.

He also emphasised the new system was forced on council by the State Government and it is revenue neutral.

inequities when residents subsidised businesses for sewerage charges. It is also designed to address

From Villa, e store to farmer:

Message

Message Header

From:

ray@carterbros.com

13/02/2009 08:18 AM

To:

paul.toole@bathurst.nsw.gov.au

Recipients:

paul toole/bathurstcc@bathurstcc

Subject:

fairness

Delivered:

Msg ID:

790779

Form:

memo

Signature:

302d021500b5ff7f3c41d62b1a1461c59432a97c416f4a2aea021402ac84a09c9535f19ac

Message

http://www3.shoalhaven.nsw.gov.au/applications/policyindexinternet/docs/1328220.

pdf

Dear Peter Paul

Lachlan

could you read this and perhaps understand that this Access Charge matter is not of my making. This council has actually publically acknowleged the need for fairness to be implimented in the charge and

put it into practice

171

regards Ray Carter 0407258882

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Message

Message Header

From:

paul toole/bathurstcc@bathurstcc

To:

david.sherley@bathurst.nsw.gov.au

Cc:

bob.roach@bathurst.nsw.gov.au

Subject:

.

Delivered:

793221

Msg ID: Form:

memo

Fw: fairness

13/02/2009 10:51 PM

Signature:

302e0215008e55f1b6441a778d65873a1f8bba4958cd9b185d021500b112aa2553962b1

Message

FYI

Paul Toole

Mayor

Bathurst Regional Council

158 Russell Street Bathurst NSW 2795

Phone: 02 6333 6205

Fax: 02 63317211

Web: www.bathurst.nsw.gov.auPaul Toole

Councillor

Bathurst Regional Council

---- Forwarded by Paul Toole/BathurstCC on 11/02/2009 05:13 PM ----

Ray Carter <ray@carterbros.com>

12/01/2009 08:34 PM

To

Peter Sargent <Peter.sargent@bathurstrsl.com.au>, paul.toole@bathurst.nsw.gov.au, Westpoint Newsagency <wpntg@bigpond.net.au>

CC

Subject fairness

http://www3.shoalhaven.nsw.gov.au/applications/policyindexinternet/docs/1328220.pdf

Dear Peter

Paul

Lachlan

could you read this and perhaps understand that this Access Charge matter is not of my making. This council has actually publically acknowleged the need for fairness to be implimented in the charge and put it into practice

regards Ray Carter 0407258882



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It should be remembered that the initial modelling was conducted on a revenue neutral basis. This means that the anticipated income was the same as that derived from 2003-2004 sewer rates and charges. These were used for estimates in the 2004-2005 budget. Any reductions or subsidies now granted will reduce Council's income.

The following recommended strategies from the Department of Energy, Utilities and Sustainability (DEUS) released on 27 February 2004 were:

· Phase in the increases for such customers over five years

Downsize the connection size for customers with an oversized connection

provided standards are met.

Base sewerage access charges on the peak load the discharger places on the sewerage system. Such dischargers should therefore have the option of providing for Council's consideration, an expert report to establish the peak load (in equivalent tenements (ETs)) their operations place on the sewerage system. In the absence of such a report, the Council can determine the access charge on the basis of the square of the service connection size times the discharge factor. This is the method adopted by Council.

Assist large water users to use water and sewerage services more efficiently

and reduce their demands

Adopt appropriate measures to deal with any hardship cases

Where a large connection size is required for fire fighting purposes a reasonable approach would be to apply a charge based on the connection size required for water supply and to allow nil or a moderate increase over this

charge for provision of the fire fighting capacity.

4175

If Council proposes to provide a community service obligation to non-rateable properties (e.g. schools, hospitals, churches etc) it should only be applied to reduce the access charges. This will provide an appropriate pricing signal for water usage and sewage discharge to encourage efficient use of the services

The modelling presented to Council did not take into account revenue from trade waste fees or Section 64 developer charges. Best –Practice principles were chosen by Council as the alternative to the current rating system.

Chief Financial Officer's Report to the Council Meeting, 21/07/2004.

GENERAL MANAGER_

_ADMINISTRATOR

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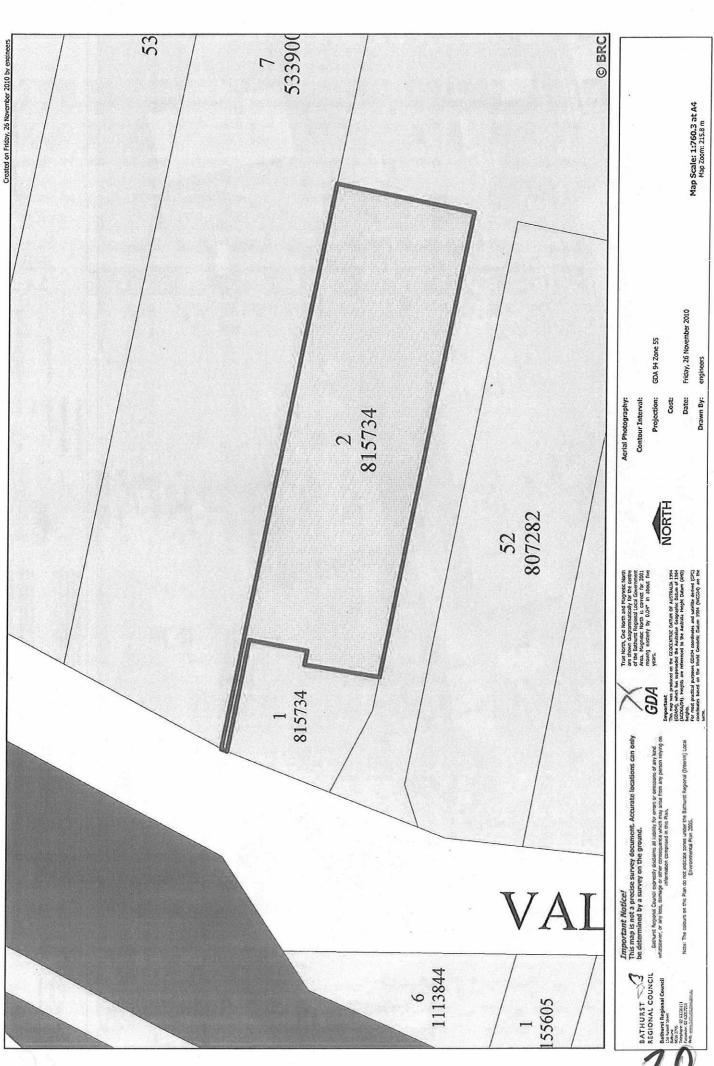
NORTH

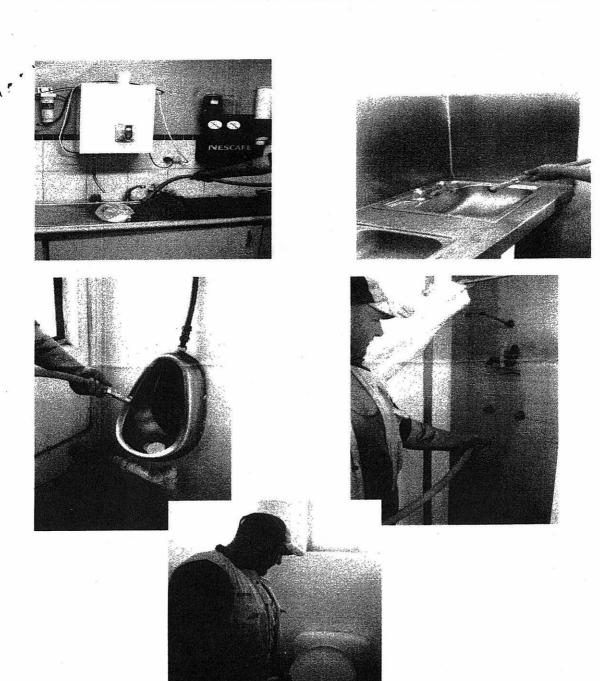
Cost Projection: Contour Interval: Aerial Photography:

Friday, 26 November 2010 engineers Date: Drawn By:

Map Scale: 1:628,4 at A4 Map Zoom: 178,4 m

BATHURST SEGIONAL COUNCIL
Bathurs Regional Cou





These are probably the so called "common practice of using hose reel;" situations referred to by Council, for in all of these unlikely situations the water from the fire hose reels would indeed go into the sewer system. All would prove quite messy though, given the required capacity of fire hose reels.

These unlikely situations however are deemed to provide an assumed copious load on Council's sewer system. They are indeed the basis for the Sewer Access Charge including the fire hose reel component capacity of nor-residential water meters. They are the basis for the inordinate charge for sewer access by Bathurst Regional Council.

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Mr David Sherley General Manager Bathurst Regional Council

Dear Mr Sherley

re section 94 Contributions DA 2007/0650 and the Sewer Access Charge your letter DS:WM:DA2007/0650

You are correct. The amount was paid. I did not mean for it to be paid. It was an error on the part of my staff and made from the wrong Company.

You seem impervious to my real complaints so I will recount some of them here.

Council tried to wrongly claim an amount that would have come to approx \$28,000 by tryng to include the 18m setback in the area calculation of the above. In frustration over that argument and finding late, more evidence for my claim, I paid two weeks late and you pounced on the calculation to be done for the next year. Council agreed with my area calcation in only Nov 08. Why was that? The fire trail was never to be included. What avenue would I have had if someone in my office had slipped up and paid the incorrect amount you were claiming as has happened with the above?

In regard to the matter of the refund for meter downsize refunds; you offhandedly called the three letters from Council promising that, alongside the one from the Minister, "illegal" and refused to repay the \$31000 until ,(I note) a couple days after Mayor Norm Mann lost his position.

When I made known to you that I found in Councils own internal report (which you said must be a public document seeing I had a copy) that non residential ratepayers had the right to have the load put on the sewer assessed in ET s. your written reply avoided the issue and you made it clear when I phoned that in effect Council would find other means to put the non residential rate up if the first option was used. I knew that this was not so as you have another report from your financial director stating in such a case the residential rate would have to rise.

Much the same as the preceding happened when the Bathurst Busuness Chamber wrote to you on the same matter, though the Chamber President was adamant that what you told him also was definitely the case (or rather, "had to be beleived") and for a time refused to take the matter further.

It costs approx. 87 cents at one of my properties to flush the toilet. You apparently think this is fair under Fair User Pays which is calculated supposedly on the "Load put on the sewer system". Council gathers several hundred thousand dollars per annum under a

charge headed "Fair User Pays". A charge that is supposed to be comparable to the residential charge I think not. Hardly fair on the businesses of Bathurst I think.

The use of the first option involving assessment of the sewer load in ET s precludes Council using the second option. Last year I called the then Council Administrator Kath Knowles who was in charge during the changover and implementation of the so called Fair User Pays Sewer Charge and asked did she know of the first option. She did not, until I explained it to her . As you know Council did not volunteer it (let alone advertise it as the only possible way to put fairness into the charge). It only came to light on more careful reading of your reports by myself some three years after the implementation of the "Fair User Pays" system. Kath Knowles ,Administrator , Consultant John Humphreys who did the report for the Chamber as Minister Sartor suggested and everyone else concerned with the unfairness inherent in the charge would have been able to deal with the matter properly at the proper time had they known! You could not show the coutresy of revealing the first option to the Consultant John Humphreys as appropriate; but your staff could find the time to make inappropriate contact with him. How could anyone feel that this is becoming behavior by our local council?

When I did recently present Council with a report as per option one, you now have simply moved the goal posts off the field altogether saying I have no right to even present such a report.

Perhaps this may explain why I feel I have nowhere else to appeal but to the NSW Ombudsman.

Yours faithfully

Ray Carter



Civic Centre Cnr Russell & William Sts Private Mail Bag 17

Bathurst NSW 2795

Telephone 02 6333 6111 Facsimile 02 6331 7211 council@bathurst.nsw.gov.au www.bathurstregion.com.au

25 March 2009

Mr R Carter Director Carter Bros Engineering Pty Ltd 3 Toronto Street BATHURST NSW 2795

Dear Mr Carter

Sewer Access Charges

I refer to your letter received by Council on 3 March 2009 regarding Sewer Access Charges.

The following information is supplied for your attention.

- Council resolved to use the method it currently uses, i.e. the Sewer Discharge 1. Factor method, as it considers this method the most suitable and equitable method.
- 2. Council will consider both methods of charging for sewer charges when it considers its Management Plan for 2009/10.
- Council has designed its sewer system to allow for the maximum potential 3. sewerage discharge into the Sewerage Works.
- 4. Council has considered the use of seals on meters previously and did not agree to implement this process.
- 5. Council will consider this method of charging for sewer charges when it considers its Management Plan for 2009/10.

Yours faithfully

Paul Toole

P Toole

MAYOR OF BATHURST

Reference: RR:KB 26.00010-03/028 Enquiries: Mr P Toole (02) 6333 6257 _brCartersewer18309.doc

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In these unlikely scenarios the water from the hose reels will not be entering the sewer system but rather be soaking into the ground, evaporating or going down the storm water drain. Because of this, the use of fire hose reels for these purposes has no bearing on, or does it provide any "impact" or "load" to the sewer system.

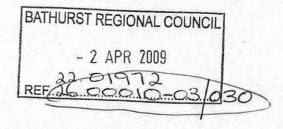
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233 College Rd Bathurst 2795

1/04/09 Mayor Paul Toole Bathurst Regional Council

Dear Paul



In response to your letter dated 25 March 2009 (copy attached)

First, could you please attend to the request in my letter of 10/02/09 to downsize the meter at 16 Vale Rd.

I refer to the points numbered in your letter numbered 1-5

1 If you feel that the current manner in which Council applies the Sewer Access Charge the "most suitable and equitable method" you have, incredulously, taken no account whatsoever of the study on the 16 Vale Rd property that I presented. As far as Council dismissing my study is concerned, Council is way out of line. The method by which Council charges the Sewer Access charge is allowable only as per your very recent letter dated 19 February 2009 "In the absence of such a report" as I have presented to you for my 16 Vale Rd property.

How can you conceivably consider that the method Council uses is "suitable and equitable" where applied to me the ratepayer when I have demonstrated an overcharge of almost 400%!

Please explain to whom you consider the charge suitable !! It is certainly not suitable to me the ratepayer !! By any definition, the method you claim to be "suitable" could only genuinely be considered revenue gouging, for an overcharge of 400% can hardly be considered "equitable" !! Council is culpable in this regard because this has been known by Council since the inception of Fair User Pays. (see newspaper headline W.Adv. 1 July 2004.) I insist you give proper place and consideration to the report that I have submitted or explain why it is dismissed contrary to Councils own policy.

2 Thank you for letting me know that Council will consider the methods of charging the Sewer Access Charge. Could you please keep me informed as to how this will be happening.

Will submissions be taken? If so when?

Will the Sewer Access Charge be made to reflect the actual load that is placed on the sewer system as per the Fair User Pays Guidelines issued by the NSW Govt?

Desk R (for Mayor)

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