

responsibilities of Councillors in regard to their efforts to come to an understanding of matters on which decisions are made, just as the ICAC Act requires that staff properly inform Councillors on all matters such that proper decisions can be made. This is entirely questionable where your Council is concerned, where my every effort to have Councillors understand this matter have been, in the end at least, dismissed. The submission we made to Council's 2010 Management Plan was designed to show you courtesy in helping you to understand the matter of the Sewer Access Charge. Regretfully, you have chosen to dismiss that submission and any influence it may have had in assisting Council's existing Sewer Access Charge to comply with the Local Govt Act 1993.

We are advised, that this action could mean that you are culpable in regard to this matter.

We acknowledge that Council has letter(s) from Minister Costa and/or his office, stating that Council may charge for the peak load put on the sewer system; but this does not mean that Council is condoned in making a charge that does not comply with the Local Govt Act 1993.

Minister Costa's department may, in these letters, have reasons to make such incomplete statements; however, previous Minister, Mr David Campbell, accompanied by his advisors, I understand, the same advisors now to Minister Costa, very clearly told Hydraulics Engineer, Mr John Humphrey's, Bathurst Business Chamber representative, Mr Lachlan Sullivan and myself, to charge Council with "mal administration" in regard to this matter, in a meeting we had with him. Nothing the Minister or the Commissioner, NSW Office of Water says in these letters absolves Council of its responsibility to ensure all rates and charges comply with the law, being the Local Govt. Act 1993.

On discussing the latest letters from Minister Costa office with Gerard Martin MP, which were forwarded to me by Council, Mr Martin MP stated that he considered the information contained in them unsatisfactory, especially in the light of his own discussions with Minister Costa's advisors and would be making this known to Minister Costa.

Please be aware that the law in regard to this matter, that is, the Local Govt Act 1993, is immutable. ie. the matter is not up for grabs by anyone.

Personal ignorance of this matter, especially over such a length of time and the material available to you, is hardly plausible or acceptable.

Tacit approval is not a defence and could well lead to culpability, no doubt more so if a wilful act.

The description of corrupt behaviour is sufficiently described in the ICAC Act for your edification and certainly the NSW Code of Conduct for Councillors requires more of a Councillor than to blithely accept advice from staff.

We recommend that you reflect on how you would personally feel about being charged up to some hundreds of times more than your neighbour on a rate, charge or tax. Untenable, no doubt you would say. No doubt you would not wear such a situation; yet, you, yourself, preside over just such a situation, targeting our business and many other businesses in Bathurst. It is reprehensible that Council has so strongly defended a charge that does not comply with the ever-arching law that governs it.

As ratepayers in the Bathurst Regional Council area, we request that Council seek highly qualified legal advice in regard to this matter and suggest that we are amenable to discussion to paying the reasonable cost of such advice.

Should you wish to speak to a Council that has implemented the Charge as it was meant to be, please contact Orange City Council.

We look forward to your personal, prompt reply and actions in Council in regard to the Sewer Access Charge as applied by Bathurst Regional Council to our non residential properties within this Council area and prompt processing of the invoices in consultation with our representative who is available for that purpose.

Regards
Ray Carter
M 0407258882

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41

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<https://login.mailguard.com.au/report/1BGbduiPS9/7jRfeixAlt89zvfKFAI5dl/0.6>

Message

Message Header

From: ray@carterbros.com
To: paul.toole/bathurstcc@bathurstcc
Subject: Fwd: Sewer Access Charge-overcharge
Delivered: 09/02/2011 09:45 PM
Msg ID: 2304274
Form: memo
Signature: 302d0215009ca2623dce2cc34ed0a97b1a6478a8920140875e0214765c44b4a470dd34

Attachments

[admin.heathce.com.20101125.100543.pdf](#)

Message

Dear Councillor / Mayor Toole
cc Gerard Martin.

I write in regard to the overcharge by Bathurst Regional Council of rates on fourteen (14) of our properties since the Sewer Access Charge was introduced on 1 July 2004.

Council was sent invoices in regard to these overcharges in early Jan 2011. These invoices have been returned to us with a short letter from Council dated 6 January 2011. I do not believe Council had the right to summarily return these invoices.

These invoices were in accordance with calculations made by our Consulting Hydraulics Engineer and contained in our submission to the 2010 Management Plan. (attached is a summation from our Hydraulics Engineer which you may add to your copy of our submission to the 2010 Management Plan). A repeat of these invoices (which may be reworked by Council in accordance with our rights under Council's own Management Plan) will be sent to you in due course. Council should obtain the most recent method of calculation from the NSW Office of Water and promptly pay these invoices.

Council continually refers to the length of time and the amount of correspondence that has gone on in relation to this matter. The matter will continue until Council's rates comply with the Law.

When "Fair User Pays", Sewer Access Charge was introduced in NSW in July 04, NSW Council's were given Guidelines, relating to the matter by the NSW Govt. which were obviously designed to help Local Council's compliance with the law pertaining to this matter, namely the Local Govt Act 1993.

The Guidelines advised that the Sewer Access Charge to non residential properties should reflect the actual load put on the Sewer System (NOT the load that Council ludicrously includes, being the ridiculous possibility of putting all the water from the fire hose reels into the sewer at the same time, as you approve. And, the charge is required to be comparable with the residential sewer charge.) In other words, compliance with the Guidelines issued, would cause the Sewer Access Charge to comply with the Local Govt Act 1993, which requires all rates and charges reflect "actual costs". Council has repeatedly told me that Council does not have to comply with the Guidelines but you should have enough common sense to know that all rates and charges must comply with the very law that the Guidelines were supplied to guide Council into. Common sense should tell you also that where a property is charged up to and over 1000 times that which applies to an average residence to flush the toilet, that this cannot possibly reflect actual costs to that property (or the load put on the sewer system), nor can it possibly be part of an even distribution.

The Local Govt Act 1993 REQUIRES that all rates and charges be evenly distributed over the rate base, which it is obviously not the case where our properties are concerned.

The Local Govt Act 1993, Code of Conduct, also describes the responsibilities of Councillors in regard to their efforts to come to an understanding of matters on which decisions are made, just as the ICAC

Act requires that staff properly inform Councillors on all matters such that proper decisions can be made. This is entirely questionable where your Council is concerned, where my every effort to have Councillors understand this matter have been, in the end at least, dismissed. The submission we made to Council's 2010 Management Plan was designed to show you courtesy in helping you to understand the matter of the Sewer Access Charge. Regretfully, you have chosen to dismiss that submission and any influence it may have had in assisting Council's existing Sewer Access Charge to comply with the Local Govt Act 1993.

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We recommend that you reflect on how you would personally feel about being charged up to some hundreds of times more than your neighbour on a rate, charge or tax. Untenable, no doubt you would say. No doubt you would not wear such a situation; yet, you, yourself, preside over just such a situation, targeting our business and many other businesses in Bathurst. It is reprehensible that Council has so strongly defended a charge that does not comply with the ever-arching law that governs it. As ratepayers in the Bathurst Regional Council area, we request that Council seek highly qualified legal advice in regard to this matter and suggest that we are amenable to discussion to paying the reasonable cost of such advice.

Should you wish to speak to a Council that has implemented the Charge as it was meant to be, please contact Orange City Council.

We look forward to your personal, prompt reply and actions in Council in regard to the Sewer Access Charge as applied by Bathurst Regional Council to our non residential properties within this Council area and prompt processing of the invoices in consultation with our representative who is available for that purpose.

Regards
Ray Carter
M 0407258882

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44

Message

Message Header

From: graeme hanger/bathurstcc@bathurstcc
To: david sherley/bathurstcc@bathurstcc
Subject: Fw: Sewer Access Charge-overcharge
Delivered: 10/02/2011 09:47 PM
Msg ID: 2307564
Form: memo
Signature: 302d021408c201928c906d4516ea5e539a994c14b1f11f48021500a80ad94d542b539c3

Attachments

admin heathce com 20101125 100543.pdf

Message

Dave,
I'm sure you've seen all this before. I must be dumb, but I can't follow it at all.
Cheers
Graeme.

Graeme Hanger

158 Russell Street Bathurst 2795
Phone:
Fax:
www.bathurst.nsw.gov.au

----- Forwarded by Graeme Hanger/BathurstCC on 10/02/2011 09:47 PM -----

Ray Carter <ray@carterbros.com>

09/02/2011 09:33 PM

To
graeme.hanger@bathurst.nsw.gov.au
cc

Subject
Fwd: Sewer Access Charge-overcharge

Dear Councillor Hanger

I write in regard to the overcharge by Bathurst Regional Council of rates on fourteen (14) of our properties since the Sewer Access Charge was introduced on 1 July 2004.

Council was sent invoices in regard to these overcharges in early Jan 2011. These invoices have been returned to us with a short letter from Council dated 6 January 2011.

These invoices were in accordance with calculations made by our Consulting Hydraulics Engineer and contained in our submission to the 2010 Management Plan. (attached is a summation from our Hydraulics

Engineer which you may add to your copy of our submission to the 2010 Management Plan) . A repeat of these invoices (which may be reworked by Council in accordance with our rights under Councils own Management Plan) will be sent to Mayor Toole. Council should obtain the most recent method of calculation from the NSW Office of Water and promptly pay these invoices.

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We look forward to your personal, prompt reply and actions in Council in regard to the Sewer Access Charge as applied by Bathurst Regional Council to our non residential properties within this Council area and prompt processing of the invoices in consultation with our representative who is available for that purpose.

Regards
Ray Carter
M 0407258882

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- admin_heathce_com_20101125_100543.pdf

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Councillors information.

(a) Bathurst Regional Access Committee

Recommendation: That Council not amend its Management Plan for 2010/2011 in respect of the submission received from Bathurst Regional Access Committee.

Report: Council has received a request in relation to Bathurst Regional Access Committees application for a Section 356 Donation. Bathurst Regional Access Committee have applied for a grant of \$4,410.63 to cover various costs as detailed within their submission shown at attachment 1.

For Councillors information, Council provides the following supporting role to the Bathurst Regional Access Committee:

Provision of administrative support (undertaken by Council's Project Officer) including collation of agenda items, business papers following submissions from committee members, preparation of minutes at meetings
Venue
Limited catering
Councillor Delegate to Committee (currently Cr Westman)
Reimbursement costs for one delegate to attend the Western Regional Access Committee meetings
Assist with agenda distribution for Western Regional Access Committee meetings.

Council has recommended an amount of \$1,000 be granted to the Bathurst Regional Access Committee in respect of this application.

Financial Implications If Council adopts this recommendation, there will be no alteration to the Draft Budget.

(b) G A Crisp

Recommendation: That Council not amend its Management Plan for 2010/2011 in respect of the submission received from Mr G A Crisp.

Report: Council has received a submission from Mr G A Crisp in relation to various matters as shown at attachment 2.

Financial Implications If Council adopts this recommendation, there will be no alteration to the Draft Budget.

(c) Ray Carter

Recommendation: That Council not amend its Management Plan for 2010/2011 in respect of the submission received from Mr Ray Carter.

Report: Council has received a submission from Mr Ray Carter in relation to sewer access charges as introduced by Bathurst Regional Council on 1 July 2004.

There is a long history of submissions and letters in respect to this matter raised by Mr Carter. Mr Carter has been advised on previous occasions that Council has the option to adopt either of two methods in relation to sewer charges.

The first method is the sewer discharge factor method which this Council has adopted. Council has been charging its ratepayers using this method since 2004 as the preferred charge for access to the sewer system.

The second method is the Equivalent Tenement method (ET method) which uses a nominal size of water meter to arrive at a charge for access to the sewer system.



Message

Message Header

From: david.sherley@bathurstcc.bathurstcc
To: brian.wood@ruralpress.com
Subject: Ray carter submission
Delivered: 24/03/2011 08:22 AM
Msg ID: 2412846
Form: memo
Signature: 302e021500a1f2f37d2dad322a3e2d6990be3e9a4651a94e4802150089268a05fe1c488

Attachments

s_dcsf_5_1.pdf, s_dcsf_5_2.pdf, s_dcsf_5_3.pdf, s_dcsf_5_4.pdf, s_dcsf_5_5.pdf

Message

Meeting ORDINARY MEETING OF BATHURST REGIONAL COUNCIL
Meeting Date 16/06/2010
Section: RECEIVE AND DEAL WITH DIRECTORS' REPORTS 9.00
SubSection: Director Corporate Services & Finance's Report 9.02
Created By: Sally Moore Status: Released Security: Standard
Item Number: 5
File Number: (16.00121)
Subject: SUBMISSIONS - DRAFT 2010/2011 MANAGEMENT PLAN

5 SUBMISSIONS - DRAFT 2010/2011 MANAGEMENT PLAN (16.00121)

Recommendation:

That Council consider the submissions individually.

Report:

Council currently has the Draft Management Plan for 2010/2011 on exhibition for the required period of 28 days.

Due to the computer system changeover, the timing of the display period and closing date for submissions has been unavoidably extended to close at 4:00pm on Friday 11 June 2010. Council is required to consider public submissions before adopting the Management Plan.

Submissions will be forwarded to Councillors and be available to the public on Tuesday 15 June 2010 for consideration under this item.

Financial Implications: There are no financial implications at present however, if any submissions are received the implications of each submission will be provided individually.

UPDATED REPORT FOLLOWING CLOSING OF SUBMISSIONS AT 4 PM ON FRIDAY 11 JUNE 2011

Council has received five (5) submissions in relation to the 2010/2011 Draft Management Plan.

Submissions have been made on various matters and are detailed below for

Fax: 02 6333 6115
Mobile: 0418 861 678
www.bathurst.nsw.gov.au

----- Forwarded by Doug Patterson/BathurstCC on 03/03/2011 04:41 PM -----

Russell Deans/BathurstCC
02/03/2011 11:38 AM

To
doug.patterson@bathurst.nsw.gov.au
cc

Subject
Fw: Cr Thompson Re: Water & Ray Carter concerns

Hi Doug,

The Mayor asked me to get confirmation in writing that Orange, & Lithgow charged their non-residential customers exactly the same as Bathurst.

Nick wrote to those three, and only has responded:

A while ago we recommended to Council that we get rid of the exemption from access charges of the fire services. Our report pointed out that it was the fire demands that drove the size of the water reticulation, much more than the residential services and it was entirely reasonable that industrial commercial customers pay access charges on these services. They decided to retain the current exemption. This is what is driving these requests, and why Council must distinguish between fire services and water services.

In the recent past we accepted combined connections, that is a connection supplying a water service (building use) and a fire service. We permitted a hydraulic consultant to assess the size of the water service in the absence of fire demand and we would accept this for payment. In practice many of these had combination meters and the smaller meter size in the combination meter was often adopted without the study. Then combination meters started to disappear, being replaced with newer meters that could register the whole range of flows. The hydraulic study became more important.

However, the idea of a combined connection is nonsense, under the code its either a fire service or it isn't. Under our new policy there are only water services and fire services. We now require separate water and fire services to new properties. We no longer recognise combined services. The old existing combined services are now considered water services, and no longer exempt from access charges. Hope this helps.

Follow up telephone call to Orange indicated they are generally the same as Bathurst, and charge for the size of the meter present (even if it has capacity for fire protection), however they do allow some bypass meters to be installed in newer areas, which effectively allows the owner to obtain a lower access charge for water and sewer. They have not provided any written response, and neither has Lithgow.

Council has set water and sewer charges in accordance with the State Government guidelines. Other Councils have allowed the option of using a nominal meter size, which would reduce both the water and sewer access charge, however, the whole rationale behind going to the current system from the land value rates system was to eliminate the cross subsidy from residential to business. The nominal meter approach reintroduces this as the drop in business income would need to be made up from residential.

Message

Message Header

From: david sherley/bathurstcc@bathurstcc
To: wendy macdougall/bathurstcc@bathurstcc
Cc: russell deans/bathurstcc@bathurstcc, david sherley/bathurstcc@bathurstcc, doug patte
roach/bathurstcc@bathurstcc, mayor/bathurstcc@bathurstcc
Subject: Cr Thompson Re: Water & Ray Carter concerns
Delivered: 04/03/2011 01:42 PM
Msg ID: 2364129
Form: memo
Signature: 302d0215008bdc37c3ea4ae5b698236aed3248b3ecc84d1f9021401099fb6c73201b8f1

Message

Wendy

Please organise meeting next week with Mayor GM, DCSF, DES & Russell to discuss this.

Bob we need to have something for council at the Working Party on the 23 March 2011, where we are doing next years management plan.

David Sherley
General Manager
Bathurst Regional Council
158 Russell Street Bathurst 2795
Phone: 02 6333 6201
Fax: 02 6331 7211
www.bathurst.nsw.gov.au

----- Forwarded by David Sherley/BathurstCC on 04/03/2011 01:42 PM -----

Doug Patterson/BathurstCC
03/03/2011 04:43 PM

To
David Sherley/BathurstCC
cc
Bob Roach/BathurstCC
Subject
Fw: Cr Thompson Re: Water & Ray Carter concerns

Dave

Here is the information that Russell has received from and Orange.

This may not necessarily be exactly what was expected but none the less as advised.

Doug Patterson
Director Engineering Services
Bathurst Regional Council
158 Russell Street Bathurst 2795
Phone: 02 6333 6232

52

nicholas.lavoipierre---17/02/2011 04:42:46 PM---Hi All We are looking for some help to solve a problem!

From: nicholas.lavoipierre@bathurst.nsw.gov.au
To:
Date: 17/02/2011 04:42 PM
Subject: Sewer and Water access Charges

Hi All

We are looking for some help to solve a problem!

The Situation

We have a rate payer who owns several commercial properties. Bathurst Regional Council charges for water availability, consumption, sewer access and user pays for sewer. No properties have a trade waste component.

Sewer charges are based on an access charge and a consumption charge based on Sewer Discharge factor and usage.

So in the case of 50mm water service with a Sewer discharge factor of 0.95 Bathurst will charge $0.95 \text{ (SDF)} \times \2186 (2010/2011 access charge for 50mm service) = \$2076.70 for Sewer Access. (Bathurst Council has a policy of one water meter per lot) 20mm meter = \$349 and all sizes are based on the ratio of the square area of the service size.

Council would then apply a user pays sewer charge of \$0.89 per kilolitre of water passing through the water meter.

Consider the example of a 50mm service required for fire hose reels and commercial consumption. Council will charge as set out above.

However in one situation here in Bathurst the rate payer in this case has had a hydraulic consultant assess his business and determine that of the 50mm service supplied 32mm is for commercial use and the remainder for hose reels.

Naturally the rate payer is contesting that Council should only charge him for the 32mm size for access. He contends that this should be for the water access charge and the sewer access charge. BRC would use the 50mm size for both the water and sewer to determine the charge.

Bathurst Council has based its charging on the December 2002 Land and Water Conservation guideline for water and sewer charges.

We have been told that other Councils operate differently - Can you confirm what you would do in this situation and advise me by email ASAP. Please call me to discuss if required.

Nicholas Lavoipierre
Senior Water & Sewer Engineer
Bathurst Regional Council
158 Russell Street Bathurst 2795
Phone: 02 6333 6238
Fax: 02 6333 6115
Mobile: 0408267833
www.bathurst.nsw.gov.au

53

Message

Message Header

From: nicholas.lavoipierre/bathurstcc@bathurstcc
To: russell.deans/bathurstcc@bathurstcc
Subject: Fw: Sewer and Water access Charges
Delivered: 21/02/2011 11:22 AM
Msg ID: 2331102
Form: memo
Signature: 302c02146cdf380f834c0e47b9cd24029a502bfede39474f02145168dd21c33115beaf6c2

Message

Nicholas Lavoipierre
Senior Water & Sewer Engineer
Bathurst Regional Council
158 Russell Street Bathurst 2795
Phone: 02 6333 6238
Fax: 02 6333 6115
Mobile: 0408267833
www.bathurst.nsw.gov.au

----- Forwarded by Nicholas Lavoipierre/BathurstCC on 21/02/2011 11:22 AM -----

18/02/2011 10:07 AM

To
nicholas.lavoipierre@bathurst.nsw.gov.au

Subject
Re: Sewer and Water access Charges

A while ago we recommended to Council that we get rid of the exemption from access charges of the fire services. . Our report pointed out that it was the fire demands that drove the size of the water reticulation, much more than the residential services and it was entirely reasonable that industrial commercial customers pay access charges on these services. They decided to retain the current exemption. This is what is driving these requests, and why Council must distinguish between fire services and water services.

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45 Item 10 USER PAYS BEST PRACTICE SEWER CHARGES (26.00010)
MOVED:AdministratorK Knowles

RESOLVED: That Council:

- (a) Engineering Staff be made available to provide on-site preliminary assessment and consultation;
- (b) That Finance Staff be made available to explain the principles of best-practice pricing;
- (c) That Council provides a Hydraulic Engineer in the first year of best-practice sewer pricing to assess requests for downsizing and rationalizing of meters;
- (d) That the cost of downsizing or removing meters be met by Council;
- (e) That nominal sizing of meters is not used for calculating access charges due to the common practice of using fire hose reels;
- (f) That no community service obligation be provided for non-rateable properties as most of these are state government bodies (e.g. schools, hospitals) and by doing so it will re-introduce cross-subsidies that will result in Council not meeting the Best Practice Guidelines;
- (g) That if it is determined by the Chief Financial Officer that the increase in sewer prices (including trade waste fees) is substantial and would create financial pressures, an agreement may be entered into to introduce the charges over a three year period. This will be done by individual application.
- (h) carry out a review of Sewerage Discharge Factors. This review will be carried out on request by Council's Engineering Department provided that sufficient information is given to warrant that review. In the first year of best-practice sewer pricing any adjustment will be effective from 1 July 2004. Reviews requested in following years that result in an adjustment from the date of receipt of the initial request.

Would you please discuss this with DCS&F and the GM & Mayor as appropriate, and advise me if you require anything further to be done with this matter.

Regards
Russell

Russell Deans
Manager Water and Waste
Bathurst Regional Council
158 Russell Street Bathurst 2795
Phone: 02 6333 6225
Fax: 02 6331 7211
Mobile: 0418 453 602
www.bathurst.nsw.gov.au

----- Forwarded by Russell Deans/BathurstCC on 02/03/2011 10:54 AM -----

David Sherley/BathurstCC

21/02/2011 10:21 AM

To
"W & D Thompson" <rossthompson@bluemaxx.com.au>
cc
David Sherley <david.sherley@bathurst.nsw.gov.au>, Maryann
Oshea/BathurstCC@BathurstCC, Bob Roach/BathurstCC@BathurstCC, Doug
Patterson/BathurstCC@BathurstCC, Russell Deans/BathurstCC@BathurstCC
Subject
Cr Thompson Re: Water & Ray Carter concernsLink

Ref from Ray

Message

Message Header

From: russell deans/bathurstcc@bathurstcc
To: doug patterson/bathurstcc@bathurstcc
Subject: Fw: Cr Thompson Re: Water & Ray Carter concerns
Delivered: 02/03/2011 10:54 AM
Msg ID: 2356641
Form: memo
Signature: 302c02144bcbeb9fbd712afe3da2356590c9346ee0d9ab1402142c72ad020be8c042847

Message

Hi Doug,

The Mayor asked me to get confirmation in writing that Orange, & Lithgow charged their non-residential customers exactly the same as Bathurst.

Nick wrote to those three, and only has responded:

A while ago we recommended to Council that we get rid of the exemption from access charges of the fire services. . Our report pointed out that it was the fire demands that drove the size of the water reticulation, much more than the residential services and it was entirely reasonable that industrial commercial customers pay access charges on these services. They decided to retain the current exemption. This is what is driving these requests, and why Council must distinguish between fire services and water services.

In the recent past we accepted combined connections, that is a connection supplying a water service (building use) and a fire service. We permitted a hydraulic consultant to assess the size of the water service in the absence of fire demand and we would accept this for payment. In practice many of these had combination meters and the smaller meter size in the combination meter was often adopted without the study. Then combination meters started to disappear, being replaced with newer meters that could register the whole range of flows. The hydraulic study became more important.

However, the idea of a combined connection is nonsense, under the code its either a fire service or it isn't. Under our new policy there are only water services and fire services. We now require separate water and fire services to new properties. We no longer recognise combined services. The old existing combined services are now considered water services, and no longer exempt from access charges. Hope this helps.

Follow up telephone call to Orange indicated they are generally the same as Bathurst, and charge for the size of the meter present (even if it has capacity for fire protection), however they do allow some bypass meters to be installed in newer areas, which effectively allows the owner to obtain a lower access charge for water and sewer. They have not provided any written response, and neither has Lithgow.

Council has set water and sewer charges in accordance with the State Government guidelines. Other Councils have allowed the option of using a nominal meter size, which would reduce both the water and sewer access charge, however, the whole rationale behind going to the current system from the land value rates system was to eliminate the cross subsidy from residential to business. The nominal meter approach reintroduces this as the drop in business income would need to be made up from residential.

Also, there are two components to both water and sewer charges, being access (which is to reflect the load that CAN be placed on the system - which is how the systems were design, built, operated and maintained), and consumption (which charges for ACTUAL usage).

The actual resolution of Council from July 2004 is (bold done by me):

Message

Message Header

From: russell deans/bathurstcc@bathurstcc
To: doug patterson/bathurstcc@bathurstcc, bob roach/bathurstcc@bathurstcc
Subject: Fw: Sewer Access Charge-overcharge
Delivered: 16/02/2011 10:05 AM
Msg ID: 2319442
Form: memo
Signature: 302d02143cdfacae67960b5032ace7405ca04448b8a7c3fd0215009771dbe122eb94f29c

Attachments

admin heathce com 20101125 100543.pdf

Message

Hi Doug,

This is the email that I mentioned to you, that Ray Carter sent to the Mayor on 9 February.

Please advise what if any action you would like me to take.

Regards
Russell

----- Forwarded by Russell Deans/BathurstCC on 16/02/2011 10:05 AM -----

Heather Ornek/BathurstCC
16/02/2011 09:59 AM

To
Russell Deans/BathurstCC@BathurstCC
cc

Subject
Fw: Sewer Access Charge-overcharge

Heather Ornek
Mayor's Assistant
Bathurst Regional Council
158 Russell Street Bathurst 2795
Phone: 02 6333 6205
Fax: 02 6331 7211
www.bathurst.nsw.gov.au

----- Forwarded by Heather Ornek/BathurstCC on 16/02/2011 09:59 AM -----

Ray Carter <ray@carterbros.com>
09/02/2011 09:45 PM

To
paul.toole@bathurst.nsw.gov.au, gerard.martin@parliament.nsw.gov.au
cc

Subject
Fwd: Sewer Access Charge-overcharge

Dear Councillor / Mayor Toole
cc Gerard Martin.

I write in regard to the overcharge by Bathurst Regional Council of rates on fourteen (14) of our properties since the Sewer Access Charge was introduced on 1 July 2004.

Council was sent invoices in regard to these overcharges in early Jan 2011. These invoices have been returned to us with a short letter from Council dated 6 January 2011. I do not believe Council had the right to summarily return these invoices.

These invoices were in accordance with calculations made by our Consulting Hydraulics Engineer and contained in our submission to the 2010 Management Plan. (attached is a summation from our Hydraulics Engineer which you may add to your copy of our submission to the 2010 Management Plan). A repeat of these invoices (which may be reworked by Council in accordance with our rights under Council's own Management Plan) will be sent to you in due course. Council should obtain the most recent method of calculation from the NSW Office of Water and promptly pay these invoices.

Council continually refers to the length of time and the amount of correspondence that has gone on in relation to this matter. The matter will continue until Council's rates comply with the Law.

When "Fair User Pays", Sewer Access Charge was introduced in NSW in July 04, NSW Council's were given Guidelines, relating to the matter by the NSW Govt. which were obviously designed to help Local Council's compliance with the law pertaining to this matter, namely the Local Govt Act 1993.

The Guidelines advised that the Sewer Access Charge to non residential properties should reflect the actual load put on the Sewer System (NOT the load that Council ludicrously includes, being the ridiculous possibility of putting all the water from the fire hose reels into the sewer at the same time, as you approve. And, the charge is required to be comparable with the residential sewer charge.) In other words, compliance with the Guidelines issued, would cause the Sewer Access Charge to comply with the Local Govt Act 1993, which requires all rates and charges reflect "actual costs". Council has repeatedly told me that Council does not have to comply with the Guidelines but you should have enough common sense to know that all rates and charges must comply with the very law that the Guidelines were supplied to guide Council into. Common sense should tell you also that where a property is charged up to and over 1000 times that which applies to an average residence to flush the toilet, that this cannot possibly reflect actual costs to that property (or the load put on the sewer system), nor can it possibly be part of an even distribution.

The Local Govt Act 1993 REQUIRES that all rates and charges be evenly distributed over the rate base, which it is obviously not the case where our properties are concerned.

The Local Govt Act 1993, Code of Conduct, also describes the responsibilities of Councillors in regard to their efforts to come to an understanding of matters on which decisions are made, just as the ICAC Act requires that staff properly inform Councillors on all matters such that proper decisions can be made. This is entirely questionable where your Council is concerned, where my every effort to have Councillors understand this matter have been, in the end at least, dismissed.

The submission we made to Council's 2010 Management Plan was designed to show you courtesy in helping you to understand the matter of the Sewer Access Charge. Regrettably, you have chosen to

dismiss that submission and any influence it may have had in assisting Council's existing Sewer Access Charge to comply with the Local Govt Act 1993.

We are advised, that this action could mean that you are culpable in regard to this matter.

We acknowledge that Council has letter(s) from Minister Costa and/or his office, stating that Council may charge for the peak load put on the sewer system; but this does not mean that Council is condoned in making a charge that does not comply with the Local Govt Act 1993.

Minister Costa's department may, in these letters, have reasons to make such incomplete statements; however, previous Minister, Mr David Campbell, accompanied by his advisors, I understand, the same advisors now to Minister Costa, very clearly told Hydraulics Engineer, Mr John Humphrey's, Bathurst Business Chamber representative, Mr Lachlan Sullivan and myself, to charge Council with "mal administration" in regard to this matter, in a meeting we had with him. Nothing the Minister or the Commissioner, NSW Office of Water says in these letters absolves Council of its responsibility to ensure all rates and charges comply with the law, being the Local Govt. Act 1993.

On discussing the latest letters from Minister Costa office with Gerard Martin MP, which were forwarded to me by Council, Mr Martin MP stated that he considered the information contained in them unsatisfactory, especially in the light of his own discussions with Minister Costa's advisors and would be making this known to Minister Costa.

Please be aware that the law in regard to this matter, that is, the Local Govt Act 1993, is immutable. ie. the matter is not up for grabs by anyone.

Personal ignorance of this matter, especially over such a length of time and the material available to you, is hardly plausible or acceptable. Tacit approval is not a defence and could well lead to culpability, no doubt more so if a wilful act.

The description of corrupt behaviour is sufficiently described in the ICAC Act for your edification and certainly the NSW Code of Conduct for Councillors requires more of a Councillor than to blithely accept advice from staff.

We recommend that you reflect on how you would personally feel about being charged up to some hundreds of times more than your neighbour on a rate, charge or tax. Untenable, no doubt you would say. No doubt you would not wear such a situation; yet, you, yourself, preside over just such a situation, targeting our business and many other businesses in Bathurst. It is reprehensible that Council has so strongly defended a charge that does not comply with the ever-arching law that governs it.

As ratepayers in the Bathurst Regional Council area, we request that Council seek highly qualified legal advice in regard to this matter and suggest that we are amenable to discussion to paying the reasonable cost of such advice.

Should you wish to speak to a Council that has implemented the Charge as it was meant to be, please contact Orange City Council.

We look forward to your personal, prompt reply and actions in Council in regard to the Sewer Access Charge as applied by Bathurst Regional Council to our non residential properties within this Council area and prompt processing of the invoices in consultation with our representative who is available for that purpose.

Regards
Ray Carter
M 0407258882

Click here to report this message as spam:
<https://login.mailguard.com.au/report/1BGbduiPS9/7jRfeixAlt89zvfKFAI5dl/0.6>

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BLANK

BLANK

BLANK

MEMORANDUM

TO: GENERAL MANAGER

CC: MAYOR, DIRECTOR ENGINEERING SERVICES, MANAGER
WATER & WASTE

FROM: DIRECTOR CORPORATE SERVICES & FINANCE

DATE: 22 MARCH 2011

SUBJECT: SEWERAGE CHARGES

FILE: RR:MO:26.00010

In response to Ray Caters inquiry I wish to advise the following:

- **Orange City Council**
[REDACTED] Rates Clerk advises Orange City Council charges in the same way as Bathurst Regional Council. REMOVE
AGMS
- **Dubbo City Council**
[REDACTED] Rates Clerk advises Dubbo City Council uses the following method.

Where a fire services is required for a shed Dubbo City Council allows owners to have 2 separate water supply points. One for general water and sewer waste, results in the ratepayer being charged using the same method as Bathurst Regional Council.

The second supply point is for the fire service only and the size of the meter is based on BCA requirements.

Dubbo City Council only charge for water consumed through this meter. There is no access charge for this service.

However, Cassie Muller advised that where excess amounts of water are used through this service the ratepayer is required to explain. Continued use of this service may result in a sewerage charge being introduced to deter the usage of this service.

Bathurst Regional Council policy is reviewed annually at the Management Plan process time.

Yours faithfully

Bob Roach 
DIRECTOR
CORPORATE SERVICES & FINANCE

BLANK

BLANK



BLANK

BLANK

Subject: R. Carter Re: Sewer Access Charge

Tracey

Bob will talk about it at next wednesday's working party. I would note the request for review has occurred regularly as part of council's management plan considerations for a number of years. It is also understood that representations have been made by Mr Carter to DLG, Office of Water, Ombudsman (see his email below). It would appear Mr Carter has not received the answer he wants. Council has not been told that what it is doing is wrong, and non-compliant.

Council will consider all submissions on any issue as part of the management plan deliberations for this year. Where Mr Carter makes a submission this will be referred to the council. It is up to council to determine its pricing policy.

David Sherley
General Manager
BathurstRegional Council
158 Russell StreetBathurst2795
Phone: 02 6333 6201
Fax: 02 6331 7211
www.bathurst.nsw.gov.au

"Tracey Carpenter" <havannah@bigpond.net.au>

25/03/2011 09:40 AM

To

<david.sherley@bathurst.nsw.gov.au>, "Bobby Bourke"
<bobby.bourke@bathurst.nsw.gov.au>, <graeme.hanger@bathurst.nsw.gov.au>,
<greg.westman@bathurst.nsw.gov.au>, "Ian North"
<ian.north@bathurst.nsw.gov.au>, <monica.morse@bathurst.nsw.gov.au>, "Paul
Toole" <paul.toole@bathurst.nsw.gov.au>, "Ross Thompson"
<wwtangus@lisp.com.au>, "Warren Aubin" <warren.aubin@bathurst.nsw.gov.au>

cc

Subject

FW: Sewer Access Charge

Message

Message Header

From: david.sherley@bathurstcc@bathurstcc
To: wwtangus@lisp.com.au
Subject: RE: R. Carter Re: Sewer Access Charge
Delivered: 30/03/2011 07:23 AM
Msg ID: 2427817
Form: reply
Signature: 302c021440e14ffe49f7e498d0688bb2b2c7bb6dc1b72f7d021422c93aedc89984e3df8e1

Message

I'll put a copy in your tray.

David Sherley
General Manager
Bathurst Regional Council
158 Russell Street Bathurst 2795
Phone: 02 6333 6201
Fax: 02 6331 7211
www.bathurst.nsw.gov.au

"Ross Thompson" <wwtangus@lisp.com.au>

29/03/2011 05:31 PM

To
<david.sherley@bathurst.nsw.gov.au>
cc

Subject
RE: R. Carter Re: Sewer Access Charge

Tracey...this 9MB attachment...what is it in fact? RT

From: david.sherley@bathurst.nsw.gov.au
[mailto:david.sherley@bathurst.nsw.gov.au]
Sent: Friday, 25 March 2011 10:14 AM
To: Tracey Carpenter
Cc: Bobby Bourke; graeme.hanger@bathurst.nsw.gov.au;
greg.westman@bathurst.nsw.gov.au; Ian North; monica.morse@bathurst.nsw.gov.au;
Paul Toole; 'Warren Aubin'; Ross Thompson; bob.roach@bathurst.nsw.gov.au; David
Sherley; david.shaw@bathurst.nsw.gov.au; doug.patterson@bathurst.nsw.gov.au;
annabell.miller@bathurst.nsw.gov.au

Message

Message Header

From: david.sherley@bathurstcc.bathurstcc
To: havannah@bigpond.net.au
Cc: david.shaw@bathurstcc.bathurstcc, david.sherley@bathurstcc.bathurstcc, doug.patters
roach@bathurstcc.bathurstcc, paul.toole@bathurstcc.bathurstcc, bobby.bourke@bathurs
north@bathurstcc.bathurstcc, wwtangus@lisp.com.au, warren.aubin@bathurstcc.bathu
morse@bathurstcc.bathurstcc, greg.westman@bathurstcc.bathurstcc, graeme.hanger/b
miller@bathurstcc.bathurstcc
Bcc: mayor@bathurstcc.bathurstcc
Subject: R. Carter Re: Sewer Access Charge
Delivered: 25/03/2011 09:58 AM
Msg ID: 2417131
Form: reply
Signature: 302c021466022a92de0ef6443928d026f21d232653530fb502142e6dcc9fdac6b2cceda

Attachments

[img_0003.jpg](#)

Message

Tracey

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David Sherley
General Manager
Bathurst Regional Council
158 Russell Street Bathurst 2795
Phone: 02 6333 6201
Fax: 02 6331 7211
www.bathurst.nsw.gov.au

"Tracey Carpenter" <havannah@bigpond.net.au>
25/03/2011 09:40 AM

To
<david.sherley@bathurst.nsw.gov.au>, "Bobby Bourke"
<bobby.bourke@bathurst.nsw.gov.au>, <graeme.hanger@bathurst.nsw.gov.au>,
<greg.westman@bathurst.nsw.gov.au>, "Ian North"
<ian.north@bathurst.nsw.gov.au>, <monica.morse@bathurst.nsw.gov.au>, "Paul
Toole" <paul.toole@bathurst.nsw.gov.au>, "Ross Thompson"
<wwtangus@lisp.com.au>, "Warren Aubin" <warren.aubin@bathurst.nsw.gov.au>
cc

Subject

65

FW: Sewer Access Charge

Dear Dave,
Can we please get advise on this submission very soon.
Thank you

Tracey
Tracey Carpenter
Councillor
Bathurst Regional Council
Phone: 02 6331 8305
Mobile: 0408 228946
havannah@bigpond.net.au

-----Original Message-----

From: Ray Carter [mailto:ray@carterbros.com]
Sent: Wednesday, 23 March 2011 9:58 PM
To: paul.toole@bathurst.nsw.gov.au; gerard.martin@parliament.nsw.gov.au;
LOP@parliament.nsw.gov.au; ian.north@bathurst.nsw.gov.au;
monica.morse@bathurst.nsw.gov.au; warren.aubin@bathurst.nsw.gov.au;
bobby.bourke@bathurst.nsw.gov.au; tracey.carpenter@bathurst.nsw.gov.au;
graeme.hanger@bathurst.nsw.gov.au; ross.thompson@bathurst.nsw.gov.au;
greg.westman@bathurst.nsw.gov.au
Subject: Sewer Access Charge

Mayor Paul Toole
Bathurst Regional Council
cc BRC Councillors
Gerard Martin MP
LOP Barry O'Farrell MP

Dear Mayor Toole

This email is a follow up on the email sent to you and your fellow Councillors on the 9/2/2011 to which neither you or any of your fellow Councillors has replied.(except for one acknowledgement)

In the early days of my complaining to Council about the unfairness of charging my Companies excessively for the Sewer Access Charge, I referred many times to the Guidelines that were issued on the matter by the State Government. Council told me on many occasions that the Guidelines did not have to be followed (of course if they had been, my complaining would have ceased years ago or never begun, as the fairness issue is adequately addressed in that original 2004 and the 2007 updated document)Your Council told me that it was entitled to make the charge in the manner it has.

This is demonstrably false, as under Section 409 of the Local Government Act 1993 the Minister administering that Act together with the Minister for Water and Energy has always had the right to instruct Council to comply with the Guidelines. My enquiries through Gerard Martin MP have revealed that such instruction was indeed issued to Council. This leaves you and your Council, in a position of responsibility for the non compliance. I have no doubt you are complicit, seeing that you have experts in these matters at your service.

However this does not surprise me as I did speak to one Councillor about the matter in some depth about two years ago as you know because I made the following known to you at the time. At the end of the conversation that Councillor simply responded by asking first "How long have have you been in business?" When I responded that I had been in business in Bathurst some thirty three years, I was then asked "How honest have you been in that time?" I guess that just about sums up the treatment that I have recieved from the Council that you lead. Not only have I been in business in Bathurst some thirty three years, my

Numerous reports to Councillors for their information and decisions have been made in detail over a long period of time.

The submission received from Mr Ray Carter is shown at attachment 3. The attachments referred to in the submission will be provided to Councillors under separate cover and tabled at the meeting.

Financial Implications If Council adopts this recommendation, there will be no alteration to the Draft Budget.

(d) Bruce & Elizabeth Irvine - Eusdale Road

Recommendation: That Council not amend its Management Plan for 2010/2011 in respect of the submission received from Bruce & Elizabeth Irvine in relation to Eusdale Road..

Report: Council has received a submission from Bruce & Elizabeth Irvine in relation to funding for Eusdale Road requesting that \$120,000 be shown in the 2011/2012 column to demonstrate a continuation of the 2010/2011 Work Program.

Council has allowed an amount of \$120,000 for Eusdale Road under the Roads to Recovery Program in the 2010/2011 Management Plan. This work will be carried out throughout the year. Council will review expenditure on this Road again during the preparation of the 2011/2012 Management Plan.

Financial Implications If Council adopts this recommendation, there will be no alteration to the Draft Budget.

(e) Management Plan - additional information - water charges

Recommendation: That Council include information on comparative water charges in the adopted 2010/2011 Management Plan.

Report: Councillors would be aware of the recent issues regarding the third quarter water invoices. In order to assist the community to understand the issues involved, a comparison document (shown at attachment 5) has been developed that compares Bathurst Regional Council water charges to other Councils.

It is recommended that Council include this information as part of the adopted 2010/2011 Management Plan.

Financial Implications

Nil

Attachments:

David Sherley

General Manager
Bathurst Regional Council
158 Russell Street Bathurst 2795
Phone: 02 6333 6201
Fax: 02 6331 7211
www.bathurst.nsw.gov.au
- S_DCSF_5_1.pdf - S_DCSF_5_2.pdf - S_DCSF_5_3.pdf - S_DCSF_5_4.pdf -
S_DCSF_5_5.pdf

Message

Message Header

From: ray@carterbros.com
To: paul toole/bathurstcc@bathurstcc, bobby bourke/bathurstcc@bathurstcc, ian north/bathurstcc@bathurstcc, warren aubin/bathurstcc@bathurstcc, monica morse/bathurstcc@bathurstcc, ross thompson/bathurstcc@bathurstcc, graeme hang
Subject: Sewer Access Charge
Delivered: 23/03/2011 10:10 PM
Msg ID: 2412477
Form: memo
Signature: 302c02143337e6aac35f5a580f15f448f13abdf7aff6039002141efc6376df24c3d9e3f1d71

Attachments

img_0003.jpg

Message

Mayor Paul Toole
Bathurst Regional Council
cc BRC Councillors
Gerard Martin MP
LOP Barry O'Farrell MP

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Could you please read the attachment to this email. It is a press release from your Council at the time of the introduction of the Sewer Access Charge and shows that Council knew from the beginning how to make this Charge fair as instructed by the State Government (Section 409 L G Act) but has chosen, most probably for financial gain, to pursue the present method. Most likely your Council has done this because the only non-residential ratepayer possibly remaining complaining, is myself and though you may find it wearysome, I am still here. Perhaps I could be forgiven for thinking that Council has allowed a vendetta against me and perhaps I will. What sort of organisation would put out this press release and then act contrary to it ? (The unfortunate thing is that no media took it up) Certainly the publicity leaflet that Council put out at the time did not reveal this matter.

Let me also tell you that in the time that this Sewer Access matter has gone on, my Engineering business has suffered due to the stress caused by it upon myself, to the extent that it contributed substantially to the demise and closure of that business in June 2010 together with the loss of some thirty jobs.

Section 409 of the Local Govt Act requires that Council show "substantial compliance" with the Guidelines. If you consider that I, perhaps being the only remaining complainant among some eight hundred non-residential ratepayers, that therefore Council can claim "substantial compliance", you have misread the intent of the Act. The non-compliance with the Guidelines by Council in regard to this matter is very substantial to my Companies and a court would no doubt view the matter that way.

The front page of the local paper the Western Advocate, on the 1 July 2004, the first day of the introduction of the Sewer Access Charge, ran the headline "Sewer Stinks" and by implication, seeing your Council has changed nothing substantial in regard to this charge, it still does and is so entrenched (endemic) you apparently think I should just wear it (a near \$30,000 a year rip off of our Companies).

The Advocate, in a recent editorial noted that this present Council is the most "compliant" that Bathurst has had in recent times. This astute observation, by a body that observes Council closely, does not do Council or Bathurst any favour. It was no surprise to me then, when I was told that Councillors voted unanimously to dismiss my submission to the 2010 Management plan without being given timely opportunity to read it and acted only as advised by staff.

When I went to the Ombudsman on this matter, the end result was that that office advised that this issue was a political one. This flies in the face of the fact that Council has been told to comply with the Guidelines by NSW Govt Ministers and has chosen not to do so. That makes it an administrative issue and therefore one that you have presided over. Perhaps the Ombudsman's office did not delve sufficiently into the matter to find this out, or at least no one in a position of authority bothered to reveal it to him, so how would he know that Council had been given lawful direction in regard to the compliance with the Guidelines (under Section 409) issued on the Fair user Pays, Sewer Access Charge as made known to me unfortunately only earlier this year by MP Gerard Martin.

I look forward to your attention to this matter

regards
Ray Carter

Public Notice

Open letter to Bathurst Regional Councilors.

In regard to Bathurst Regional Council's application of the Sewer Access Charge to Commercial rate payers, Council's publicity on the matter when this Charge was introduced in July 2004 states –

“Non Residential (Commercial) customers with higher land values but small connection sizes and/or small water consumption discharged into the sewer will most likely face lower sewer bills.”

COMMENT – No such thing happened here in Bathurst. The Sewer Charge actually increased by several hundred percent even though Council adopted the following.

“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.”

Council imposes the charge in accordance with the second part of this policy “on the basis of the square of the service connection size times the discharge factor”. Council ignores the qualifier of that method which is, “In the absence of such a report”. To achieve this Council has simply refused to acknowledge our “expert reports” as per the Commercial rate payer's right expressed in the first part of the policy. Council maintains that this avenue is not available to us.

In Orange where the Guidelines for this matter were properly comprehended, the Sewer Access Charge was implemented in accordance with the lawful Guidelines. The result was that the Commercial Sewer Rate in Orange did in fact decrease. The same was predicted and advertised in 2004 by Bathurst Regional Council for Bathurst Commercial rate payers! This decrease in the Sewer Charge was to have been a natural consequence of the NSW Government's Fair User Pays system and the Guidelines issued on the matter. These Guidelines state that the Sewer Access Charge for Commercial Ratepayers should be comparable to the Residential Charge, reflect the actual load put on the sewer system and also reflect Council's actual cost of providing the service.

Councilors, please explain how it can be lawful to refuse the Commercial ratepayer's access to the right to have an expert's report accepted by Council, as per Council's adopted policy.

Ray Carter

0407 258 882

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Dear Dave,
Can we please get advise on this submission very soon.
Thank you
Tracey
Tracey Carpenter
Councillor
BathurstRegional Council
Phone: 02 6331 8305
Mobile: 0408 228946
havannah@bigpond.net.au

-----Original Message-----

From: Ray Carter [mailto:ray@carterbros.com]
Sent: Wednesday, 23 March 2011 9:58 PM
To: paul.toole@bathurst.nsw.gov.au; gerard.martin@parliament.nsw.gov.au;
LOP@parliament.nsw.gov.au; ian.north@bathurst.nsw.gov.au;
monica.morse@bathurst.nsw.gov.au; warren.aubin@bathurst.nsw.gov.au;
bobby.bourke@bathurst.nsw.gov.au; tracey.carpenter@bathurst.nsw.gov.au;
graeme.hanger@bathurst.nsw.gov.au; ross.thompson@bathurst.nsw.gov.au;
greg.westman@bathurst.nsw.gov.au
Subject: Sewer Access Charge

Mayor Paul Toole
BathurstRegional Council
cc BRC Councillors
Gerard Martin MP
LOP Barry O'Farrell MP

Dear Mayor Toole

This email is a follow up on the email sent to you and your fellow Councillors on the 9/2/2011 to which neither you or any of your fellow Councillors has replied.(except for one acknowledgement)

In the early days of my complaining to Council about the unfairness of charging my Companies excessively for the Sewer Access Charge, I referred many times to the Guidelines that were issued on the matter by the State Government. Council told me on many occasions that the Guidelines did not have to be followed (of course if they had been, my complaining would have ceased years ago or never begun, as the fairness issue is adequately adressed in that original 2004 and the 2007 updated document)Your Council told me that it was entitled to make the charge in the manner it has.

This is demonstrably false, as under Section 409 of the Local Government Act 1993 the Minister administering that Act together with the Minister for Water and Energy has always had the right to instruct Council to comply with the Guidelines. My enquirys through Gerard Martin MP have revealed that such instruction was indeed issued to Council. This leaves you and your Council,in a position of responsibility for the non compliance. I have no doubt you are complicit, seeing that you have experts in these matters at your service.

However this does not suprise me as I did speak to one Councillor about the matter in some depth about two years ago as you know because I made the following known to you at the time. At the end of the conversation that Councillor simply responded by asking first "How long have have you been in business?" When I responded that I had been in business in Bathurstsome thirty three years, I was then asked "How honest have you been in that time?" I guess that just about sums up the

treatment that I have recieved from the Council that you lead. Not only have I been in business in Bathurstsome thirty three years, my Company , Carter Brothers Engineering Pty Ltd was awarded the inaugural "Bathurst Business of the Year" on merit , if that means anything to you. It is incumbent upon you to deal with that matter if the inference made by that Councillor is not your own view, especially at this time when you stand a substantial chance of becoming a NSW MP and will no doubt, it time,relinquish the position of Mayor. This situation would become intolerable as you may become the Member of Parliament to whom I would continue to raise this matter and the Councillor I complained to you about could well become Mayor.

Could you please read the attachment to this email. It is a press release from your Council at the time of the introduction of the Sewer Access Charge and shows that Council knew from the beginning how to make this Charge fair as instructed by the State Government (Section 409 L G Act) but has chosen, most probably for financial gain,to pursue the present method. Most likely your Council has done this because the only non-residential ratepayer possibly remaining complaining, is myself and though you may find it wearysome, I am still here. Perhaps I could be forgiven for thinking that Council has allowed a vendetta against me and perhaps I will. What sort of organisation would put out this press release and then act contrary to it ? (The unfortunate thing is that no media took it up) Certainly the publicity leaflet that Council put out at the time did not reveal this matter.

Let me also tell you that in the time that this Sewer Access matter has gone on, my Engineering business has suffered due to the stress caused by it upon myself, to the extent that it contributed substantially to the demise and closure of that business in June 2010 together with the loss of some thirty jobs.

Section 409 of the Local Govt Act requires that Council show "substantial compliance" with the Guidelines. If you consider that I, perhaps being the only remaining complainent among some eight hundred non-residential ratepayers, that therefore Council can claim "substantial compliance", you have misread the intent of the Act. The non-compliance with the Guidelines by Council in regard to this matter is very substantial to my Companies and a court would no doubt view the matter that way.

The front page of the local paper the Western Advocate , on the 1 July 2004 , the first day of the introduction of the Sewer Access Charge ,ran the headline "Sewer Stinks" and by implication, seeing your Council has changed nothing substantial in regard to this charge, it still does and is so entrenched (endemic) you apparently think I should just wear it (a near \$30,000 a year rip off of our Companies).

The Advocate, in a recent editorial noted that this present Council is the most "compliant" that Bathursthas had in recent times. This astute observation , by a body that observes Council closely, does not do Council or Bathurstany favour. It was no suprise to me then, when I was told that Councillors voted unanimously to dismiss my submission to the 2010 Management plan without being given timely opportunity to read it and acted only as advised by staff.

When I went to the Ombudsman on this matter , the end result was that that office advised that this issue was a political one. This flies in the face of the fact that Council has been told to comply with the Guidelines by NSW Govt Ministers and has chosen not to do so. That makes it a administrative issue and therefore one that you have presided over. Perhaps the Ombudsman's office did not delve sufficiently into the matter to find this out, or at least no one in a position of authority bothered to reveal it to him, so how would he know that Council had been given lawfull direction in regard to the compliance with the Guidelines (under Section 409)issued on the Fair user Pays , Sewer Access Charge as made known to me unfortunately only earlier this year by MP Gerard Martin.

I look forward to your attention to this matter

regards
Ray Carter

Message

Message Header

From: ray@carterproperties.com.au
To: paul toole/bathurstcc@bathurstcc, bobby bourke/bathurstcc@bathurstcc, ian north/bathurstcc@bathurstcc, warren aubin/bathurstcc@bathurstcc, monica morse/bathurstcc@bathurstcc, ross thompson/bathurstcc@bathurstcc, graeme hang
Subject: Sewer Access Charge
Delivered: 31/07/2011 01:15 PM
Msg ID: 2740068
Form: memo
Signature: 302d0214354c41990bce20e32b1566f8029898a822424eed021500b42b131c37da3a9a9

Attachments

[112722750.pdf](#)

Message

Mayor Paul Toole
Bathurst Regional Council

Hello Paul / Councilors
Hope you are keeping well.
Attached is a Public Notice, Open Letter to Bathurst Regional Councilors, I placed in the Weekend edition 30-31/7/2011 Western Advocate (page 7). I attach this with this email so that you will not have missed it and I note here that I want the question I pose at the end of that Notice, (Q1), considered and answered after the meeting of Council on 20/7/2011, along with the questions I pose in this email. Please note that I have received a letter from Council in regard to an intended enquiry into the Sewer Access Charge matter. As this enquiry or decision to hold it is not minuted or noted in Council's record of the meeting held on 16/6/2011 where I assume this decision was made, could you tell me who is to be made aware of this enquiry, who will conduct the enquiry, what is the scope of this enquiry and will there be submissions taken for this enquiry ? (Q2)

The following quotation is from "Director Corporate Services & Finance's Report to the Extraord Meeting 12/05/2010"
Could you please explain to me how your Council can possibly consider in this report how the method used to make the Sewer Access Charge could possibly be the "most equitable methodology available" in light of the material that precedes that statement in the quotation, the Guidelines for this matter and all of the material I have supplied you with over the past seven years ? (Q3)
Please also explain what is the "actual access" as a term that Council uses in the last line of the quotation below, when indeed the whole matter is supposed to be based on "actual load" ? (Q4)

Also could you please reinstate the body of the submission I made to the 2010 Management Plan to Council's "ATTACHMENTS TO THE DIRECTOR ENVIRONMENTAL PLANNING & BUILDING SERVICES' REPORT 16 JUNE 2010" on Council's website.

"SEWERAGE SERVICES

The Sewerage Services budget will have a total expenditure of \$9.776 million this year.

Council's income from Sewerage charges in 2010/2011 has been prepared with a proposed

increase in charges of 4.00% in order to maintain the status quo in service delivery.

Council is now in its sixth year of user pays pricing for sewerage services. The introduction

of the pricing system was completed to comply with "Best-Practice Management of Water

Supply and Sewerage" guidelines issued by the then Department of Energy, Utilities and

Sustainability (DEUS) and the "Water Supply, Sewerage and Trade Waste Pricing

Guidelines" issued by the Department of Land and Water Conservation.

The guidelines state that best practice involves a two part charge, an access charge based

on the size of the meter serving the property and a usage charge based on the water usage

registered by the meter. A Sewerage Discharge Factor (SDF), being an estimation of the

ratio of water returned to the sewerage system compared to total water usage, is then

applied to the charges to create equity across non residential customers. DEUS issued a

standard set of SDF's for categories of businesses which Council used in its

implementation, ranging from 45% to 95%. For example, a hairdressing salon in the CBD

will return nearly all its water consumption to the sewerage system as its water would be

only used for hair washing and toilets and would be allocated a high SDF. A school, on the

other hand, would use a large proportion of its water usage on its grounds and therefore

would have a lower SDF as the water is not being returned to the sewerage system.

Council currently charges an access fee based on the size of the installed meter at a

property, using the same methodology that applies to the water fund. When the system was

introduced, Council agreed to downsize meters at no cost to the ratepayer upon

presentation of a certificate from a hydraulic engineer. The proposed system is based on

nominal meter access charges to compensate for premises where the water meter is

Director Corporate Services & Finance's Report to the Extraord Meeting
12/05/2010

GENERAL MANAGER

MAYOR

Page 11

oversized for the purpose of firefighting. The alternate method proposed is based on

Equivalent Tenements (ET's) and bases the access charges on the peak load that the

discharger places on the sewerage system. Such dischargers therefore have the option of

providing to Council an expert report to establish the peak load that their operations place

on the sewerage system.

The access charge that Council has adopted reflects the actual access that a property has

to the system and is considered to be the most equitable methodology available."

regards
Ray Carter
0407258882
233 College Rd
Bathurst 2795

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Click here to report this message as spam:

<https://login.mailguard.com.au/report/1COQHpywi5/4JJiACVrY56IWvmJbHuNTP/2>

- 112722750.pdf

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Message

Message Header

From: david.sherley@bathurstcc@bathurstcc
To: bob.roach@bathurstcc@bathurstcc, maryann.oshea@bathurstcc@bathurstcc
Cc: david.sherley@bathurstcc@bathurstcc, mayor@bathurstcc@bathurstcc
Subject: Cr Thompson Re Ray Carter & Sewer Charges
Delivered: 30/03/2011 07:30 AM
Msg ID: 2427834
Form: memo
Signature: 302e02150097903a37456f0f47df81473ad1868a71009e8a89021500bac28fb37cac4b4b

Attachments

[ray.carter.8.feb.2011.doc](#)

Message

Maryann

Can you make sure Bob Sees this & is ready for tonight, I have printed copies for Cllrs

David Sherley
General Manager
Bathurst Regional Council
158 Russell Street Bathurst 2795
Phone: 02 6333 6201
Fax: 02 6331 7211
www.bathurst.nsw.gov.au

----- Forwarded by David Sherley/BathurstCC on 30/03/2011 07:30 AM -----

"W & D Thompson" <rossthompson@bluemaxx.com.au>
30/03/2011 07:17 AM

To
<david.sherley@bathurst.nsw.gov.au>
cc
"Paul Toole" <paul.toole@bathurst.nsw.gov.au>
Subject
Water Charges

Dave, I understand Bob is addressing Ray Carter's email with us tonight. I have attached a copy of it here, just in case you have misplaced it, as I think it would be sensible to have a copy of it in front of each Cr, so we can work through what he claims systematically. This is one of the most difficult issues to grasp since I have been on Council. It seems to me, every time we address it, we Crs get one story from Ray and one from Bob, but to date we haven't actually dissected together what Ray is saying in a systematic fashion...ie go through his claims slowly point by point. If as a group we work through his email and address each thing he says, it will make it a lot easier for us to weigh up the pros and cons...I expect to do this properly may take a fair while, so maybe it would be wise to make it a separate WP for another night soon?? In an annoying mood today aren't I!!!!

