

E10/1130

The following is an index associated with the information on the history of the Sewer Access Charge since 2002 as implemented by Bathurst Regional Council.

On the pages noted are items that back our claims of corrupt conduct in regard to this matter.

The numbering for this index is at the bottom right hand corner.

2009

Page 3. Questions put to BRC

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 acknowledged 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 these 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?

Q4 Would Council allow fire hose reels to be used such they would not be used for any

Page 5. Submission re exercise of right to use ET's

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"

Page 7. Council deflects our right to use ET's by trying to make out that (b) is allowable by ignoring the qualifier. **"In the absence of such a report"**. Council at last acknowledge that they disallow the ET option for us. Effectively this ends all chance of fairness in regard to the issue.

(a) 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 (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.

Page 9. Again Council disallow their own adopted policy i.e. the ET method

8) 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.

Page 17. Councils adopted policy is not (should not) to be broken ie **separated** into (a) and (b) as Councils attempts.

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.

Page 21. It cannot be realistically claimed that water from fire hose reels enters the sewer. In a latter internal email Mr Roach tells Councilors that Carter will not be successful in this matter because the Minister is in agreement with him in regard to the use of hose reels. In reality this demonstrates the length that Mr. Roach has gone to in order to achieve his goal and most likely his influence on those people. Regardless of this piece of hypothetical non sense, other rules, in fact LAW, take precedence and those are to do with fairness, load put on the sewer and comparability with the residential rate.

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.

Page 27. Water from any hose whether fire or garden is not going to enter the sewer. How can Council justify the rip off Sewer Access Charge on this?

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.

Page 29-30. Response to Councils rejection of our study

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.

3 This really is a nebulous statement Paul ! Yours is the only Council in NSW that makes such a claim in order to justify a 400% overcharge. Of course the sewer system is designed to take the maximum load for any given subdivision or suburb that it services! This claim is no doubt unique because what you are saying here infers in addition to that piece of common sense that Bathurst Regional Council has since day one for its sewer system, allowed in addition to this, for every hose reel in town to be turned on and squirted (simultaneously I might add) down the sewer system ! And to achieve this achieve this don't forget this exercise has to take place at 7-8am to catch peak load time! Really Paul ! **This** is what you are saying here !! Do you understand the enormity of this statement , let alone the logistics of such a far fetched illogical contention !! That is some "potential" , as you say. I say this contention needs to be tested. Unreal Paul ! Never in any venue could you explain how this could woven into a user pays Sewer charge.

4 Paul , with all due respect, what you speak here is absolute piffel. Indeed !! Council has considered putting "seals on the meters"!! ?? If you have "considered" this, then you are absolutely correct in "not agreeing to impliment this process" for assessing a sewer load. It would have been a world first , causing wry amusement in the engineering world. Thank goodness Council did not do this as it has no doubt saved Council from untold embarrassment where it could have been seen to have no understanding whatsoever of engineering matters ! But then again, perhaps it explains great understanding in matters of revenue gouging.

5 Could you please clarify the method that Council is to consider for the Management Plan for 2009/10

I have highlighted the questions I have in this letter in the copy attached. Could you please ensure they are answered.

Yours faithfully



Ray Carter

Page 35. Council duplicitously argues that they have made no overcharge and indeed levy the charge in accordance with the Management Plan while simultaneously not allow us to use the ET method contained in that Management Plan. Is this duplicity? Is it not intentional ? How can it possibly be justified ? Is it not then corrupted behavior with a view to extract a charge that is out of all proportion with that which is warranted ?

3. There has been no overcharge of sewer charges made to your property. Charges have been levied in accordance with Council's Management Plan which has been adopted by Council.

Page 41. Council presents the ET method as an "alternative" method of their adopted policy when in fact it is the non residential ratepayers **FIRST** option. The Council introduces (invents) a brand new term "actual access" which serves to justify the method Council uses. "ACTUAL ACCESS" is a Council invented term , no doubt invented to sound like "ACTUAL LOAD" on which the charge is supposed to be made. No doubt this phrase has been introduced to confuse the issue.

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 .

Page 43. Council admits that to adopt “a new charging structure would require recalculation of the entire sewerage user pays system”. **And so it should** because what has been happening is entirely wrong.

The access charge that Council has adopted reflects the actual access that a property has to the system. Accordingly, it is recommended to continue the existing method for the user pays sewerage charges.

Financial Implications

Adoption of a new charging structure would require recalculation of the entire sewerage user pays system using the new methodology. Council's operating margins in the sewerage system are minimal and a loss in revenue from Mr Carter's property would require the deficit to be recovered from the rest of the community.

Page 44. Council in this report DUPLICIOUSLY speak of the “expert report to establish the peak load” as if it were available for ratepayers use. In the next paragraph Council describes the way they charge that is actually used, which in practice completely denies the use of the peak load (ET) method. Is this duplicity? Is it not intentional ? How can it possibly be justified ? Is it not then corrupted behavior with a view to extract a charge much larger than is warranted ?

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.

Page 47. Engineer's assertion that Council's charges are “in no way a reflection of the sewerage loads placed on the Council's sewerage system”

The above example shows that the sewerage charges paid by this property were in no way a reflection of the sewerage loads placed on the Council's sewerage system by the property. In actual fact they are at odds with DWE's best practice guidelines and also the true principles of pay for use, ie. The property is paying substantial access charges, between 5 ½ and 150 times the sewer usage charge and not actually placing much of a load on the sewerage system.

Mr David Sherley
Bathurst Regional Council
Civic Center

Attached is a submission I make to be considered in regard to the Draft Management Plan 2009/2010- 2012-2013.

The submission is in regard to the method used by Council to implement the Sewer Access Charge. The submission demonstrates that the manner in which Council implements the Sewer Access Charge does not meet the Fairness criteria set out in the User Pays Guidelines for the Sewer Access Charge in the following manner-

- it does not encourage lower water usage as required, as it is predominately a charge on the unrelated water meter size
- it includes the impost of stand by fire service capacity which has no bearing on sewer load
- it does not reflect properly a charge based on the load put on the sewer system as required
- it does not take into account the fact that in non residential situations the hose reels could be sealed as some Councils have done.
- it is based on the false premis that water from fire hose reels is permanently entering the sewer system which is false and very unlikely to occur.
- it is an unfair impost on businesses that use little water. ie in the example case it presently costs 87 cents to flush the toilet.
- Councils charge is up to 400% over what should fairly be charged in some cases
- it has been backed up by option one (never advertised but allowing Council to present its methods as fair to the Local Govt Dept) which allowed the non residential ratepayer to have the load properly assesed in equivalent tenements (ETs) only to become evident that this was a ruse by Council who dismissed this right when presented with just one study.as allowed
- Council has no right to have the Charge done the way it is done where option one is used Now that one study on ETs has been done Council has grandly dismissed my right right to submit this
- The dismissal of the one study done has proved that quite probably option one was never meant to surface or could indeed have been a ruse.
- Council should be fair and genuinely assess the true load put on the sewer system for non residential ratepayers such that the charge compares with residential charges as required by the State Govt.
- Council should compare the manner in which it applies the charge in comparrison with say Orange City Council who have ensured fairness in their charge
- Council should have advertised the option of using ETs which precluded the method which has been used in an above board manner without fear or favour from the beginning ie July 04
- Council has extracted from non residential ratepayers perhaps up to three million dollars over the past five years by its (personally I think ,covert) manner of never making public the first option

Page 73. Council again duplicitously mentions the ET's method as though it were our idea instead of Councils actual adopted policy. "Actual access" is NOT adopted policy NOR is it part of Councils Management Plan

Recommendation: That Council not amend its Management Plan for 2009/2010 in respect of the submission received from Mr Carter.

Report: Council has received a submission from Mr R Carter (attachment 3) to change the already adopted best practice system in regard to non residential sewer access charges. This is a further submission to the Management Plan as his previous submission that was considered by Council at its meeting 15 April 2009 was not successful.

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.

Mr Carter's proposed system is based on nominal meter access charges to compensate for premises where the water meter is 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. Accordingly, it is recommended to continue the existing method for the user pays sewerage charges.

Financial Implications

This is NOT adopted policy @.

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Page 83. Low cost water is enjoyed at the expense of an overcharge on the Sewer Access Charge on non-residential ratepayers

the manner in which BRC administers the Sewer Access Charge. It is obvious from the report that BRC has loaded the Access portion of the two part charge Charge for non residential ratepayers in order that the cost of water be kept low. While everone may enjoy low cost water in Bathurst it should not be at the expense of low load sewer users as demonstrated in in the example used (ie 300-400% overcharge or 87cents

Page 91. Appropriate pricing signals – What is the signal to non-residential toilet flushes who have to pay hundreds of times more than residential users meant to be?

Those guidelines state that:

“Best-practice water supply, sewerage and liquid trade waste pricing requires transparent tariff structures and price levels that:

- *Recover efficient costs of service provision, including an appropriate return on infrastructure capital*
- *Provide appropriate signals to customers about the cost consequences of their service demands, in order to encourage efficient use of resources (both environmental and financial) associated with service provision”*

The long term costs of operation of the Hillview Estate facility have been assessed and the charges have been calculated accordingly. Estimated cost of running Hillview Estate Water Supply for 2010/2011 is *maintenance* - \$13,420. Council's pricing structure reflects the need to "recover efficient costs of service provision" as per the guidelines.

Page 113. Council confirms that it does not intend to amend its practices

Council has received a submission from Mr Ray Carter in relation to Council's method of charging for sewer connection.

Councillors were advised of the methods available for the charging of sewer charges being the Sewerage Discharge Factor method (SDF) and the Equivalent Tenement (ET) method.

Council, at its meeting held on 17 June 2009, considered the SDF and ET methods and on this occasion resolved not to amend its practice of charging for sewerage charges.

Yours faithfully



R Roach
DIRECTOR
CORPORATE SERVICES & FINANCE

Page 115. Dept of Water and Energy contacts BRC Engineering Department direct with suggestions (ignored) to correct the anomaly in the Sewer Access Charge

I have just had a call from Sam Samra in regards to an enquiry from Ray Carter to the Minister about his sewer charges.

I'm not sure why he did not contact Bob about this.

Sam wanted to know if there was a fundamental objection within Council to reviewing the sewer usage charge (\$0.89/kL) and raising it to closer to \$1.50/kL with the necessary change in access charges, and either bringing it in over one hit or over say 3 years. (BPG say the charge should be in the range of 100% to 150% of OMA (\$1.28 for BRC).

Page 145. The Mayor spruiks the line that "if he pays less then someone else is going to pay more"

Message

He will never be satisfied and that is correct "if he pays less, then someone else is going to pay more"

The Bathurst Business Chamber are satisfied with what we do and over the past few years, only one person has a complained.

I will be asking for a pay rise soon!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!! I wish, along with you all!!!!!!!!!!!!!!1

Paul Toole
Mayor

Page 147. Councilors are obviously not concerned about the fairness that using ET's would introduce as intended but only that the larger number of residents would have to pay more. Considering Bathurst has about the lowest cost water in the State where is the fairness in this issue?

Message

Thanks...I do find it hard to understand completely, but recall being satisfied about the ETs as what Ray wants will penalise someone else...Can I have your job please? Thanks for taking the heat on this one for us all!!!
RT

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

From: paul.toole@bathurst.nsw.gov.au [mailto:paul.toole@bathurst.nsw.gov.au]

Page 160. This report to Council makes out that the ET method is an alternative put forward by Carter when in fact it is the first method in Councils adopted Policy. In an act of duplicity Council denies us the use of this option

Mr Carter's proposed system is based on nominal meter access charges to compensate for premises where the water meter is 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. Accordingly, it is recommended to continue the existing method for the user pays sewerage charges.

Page 162. Carters submission thought to be 'bizarre'

Very bizarre!!!!!!
Need to put on file!!!!!!!!!!!!!!
Dates are strange!!!!!!!!!!!!!!1

Paul Toole

Page 178 Council introduces the term "actual access" as though it were the proper term "actual load"

adopted best practice system in regard to non residential access charges. 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 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.

Page 182. BRC takes solace from a letter to BRC from the Planning Minister and accordingly recommend to continue with the "existing Method"

The submission also contains a letter from the then Planning Minister to the ratepayer advising that "Best practice pricing is sometimes a difficult adjustment to make for local water utilities and some of their customers. Bathurst Regional Council has taken a responsible approach in moving to such a tariff".

Page 195. Where "access charge that Council has adopted" is documented as an adopted policy?

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.