

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.

2011

Page 1. BRC returns invoices

Dear Ray

Water and Sewer Rate Charges

Thank you for your letter dated 31 December 2010 regarding water and sewer matters relating to your various properties.

Council has on many occasions advised you in detail of Council's position in relation to these charges and Council's method of calculating water and sewer charges.

Council can add no further information to that already supplied. Council have also returned your invoices.

Yours faithfully

R Roach 
DIRECTOR
CORPORATE SERVICES & FINANCE

Carters

Carter Bros Engineering (NSW) Pty Ltd

ACN 107 189 408
ABN 66 107 189 408
3 Toronto St
Bathurst NSW 2795
Phone 02 6331 6811
Facsimile 02 6332 3185
Email Noelene@carterbros.com

TAX INVOICE

Tax Invoice

Bill To:
BATHURST REGIONAL COUNCIL
PMB 17
BATHURST NSW 2795

Invoice #: 00021253
Date: 16/11/2010
Your Order #:

Description	Amount	Amount + GST	Job
Rate overcharges for the periods (financial years) 2004/2005 - 2009/2010 as per expert hydraulic engineers attached report and the Local Govt Act 1993 which requires that every rate and charge should be reflective of actual costs and be evenly distributed across the rate base. Assessment No. 1508-01998-9			
Sewer access charge - overcharge for 22 Hampdon Park Road	\$3,264.91	\$3,264.91	
Water availability charge - overcharge for 22 Hampdon Park Road	\$3,388.00	\$3,388.00	

This claim has been made under the Building and Construction Security of Payment Act 1999

Electronic Banking Details
Account Name: Carter Bros Engineering NSW Pty Ltd
BSB Number: 062-504
Account Number: 10273775

Total: \$6,652.91

GST: \$0.00

Total Sale Inc GST: \$6,652.91

Terms of Payment: Net 30

Amount Applied: \$0.00

*If you have any queries regarding this
invoice please contact Noelene on (02) 6331
6811*

Balance Due: \$6,652.91

And is due on: 16/12/2010

5

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

Message

Message Header

From: david sherley/bathurstcc@bathurstcc
To: bob roach/bathurstcc@bathurstcc, maryann oshea/bathurstcc@bathurstcc
Subject: Ray Carter: Sewer Access Charge-overcharge
Delivered: 14/02/2011 11:06 AM
Msg ID: 2312905
Form: memo
Signature: 302d02144b3b2a271e50d2b719af27b8669b81d9eb995e9a021500aa1389996d0a412a

Attachments admin_heathce_com_20101125_100543.pdf

Message Maryann

Please show Bob. I am getting a number of Cllrs querying this.

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 14/02/2011 11:06 AM -----

Paul Toole/BathurstCC
10/02/2011 07:49 AM

To
David Sherley/BathurstCC@BathurstCC
cc

Subject
Fw: Sewer Access Charge-overcharge

Looks like all Councillors received a copy!!!!!!!

Pages 49. Council changes the two methods around making out that second method has become the first. (Duplicity at its worst.)

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.

Page 51. The methods used by other Councils may appear similar but in practice these Councils correctly utilize the provisions for fairness and reflection of actual costs and load put on the sewer. These provisions are the crux of the matter.

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.

Page 52. If we had minutes of the meeting mentioned here it would explain a lot. Note that junior engineer Russell Deans is invited but not Engineering Director Doug Patterson, whose understanding of the matter is noted on P59 / 2007.

From: david.sherley@bathurstcc.nsw.gov.au
To: wendy.macdougall@bathurstcc.nsw.gov.au
Cc: russell.deans@bathurstcc.nsw.gov.au, david.sherley@bathurstcc.nsw.gov.au, doug.patterson@bathurstcc.nsw.gov.au, bob.roach@bathurstcc.nsw.gov.au, mayor@bathurstcc.nsw.gov.au
Subject: Cr Thompson Re: Water & Ray Carter concerns
Delivered: 04/03/2011 01:42 PM
Msg ID: 2364129
Form: memo
Signature: 302d0215008bdcb37c3ea4ae5b698236aed3248b3ecc84d1f9021401099fb6c73201b8f1

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

Dave

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

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

Page 56. The author of this email, Russell Deans has been asked by the Mayor to prepare this report, bypassing the normal channel of requesting this of the Engineering Director. This person and the Engineering Director Doug Patterson should be questioned as to whether they have been coerced , because in previous material it is clear that the Engineering Director knows exactly why the Sewer Access Charge is so outrageously out of order. P59/2007

Message Header

From: russell.deans@bathurstcc.nsw.gov.au
To: doug.patterson@bathurstcc.nsw.gov.au
Subject: Fw: Cr Thompson Re: Water & Ray Carter concerns
Delivered: 02/03/2011 10:54 AM
Msg ID: 2356641
Form: memo
Signature: 302c02144bcb9fb712afe3da2356590c9346ee0d9ab1402142c72ad020be8c042847

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):

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

Page 65. No doubt the State Government is satisfied that Councils bookwork is in order for it provides for the use of an Hydraulic Engineer to assess the load put on the Sewer such that the Sewer Access Charge may be made fairly. What the State Government will not acknowledge is that Council refuses us the right to use that provision. Hence Council is getting away with their overcharging. 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 ?

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/bathurst north/bathurstcc@bathurstcc, wwtangus@lisp.com.au, warren aubin/bathurstcc@bathurst 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: 302c021466022a92de0ef6443928d026f21d232653530fb502142e6dcc9fdfac6b2cccedae

Attachments [img_0003.jpg](#)

Message 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
Bathurst Regional Council
158 Russell Street Bathurst 2795
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www.bathurst.nsw.gov.au

Page 69. The fairness issue is the overarching problem in Councils charge for Sewer Access

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.

Page 71. Council advertises one thing and then acts to achieve the opposite and we make this clear in a Public notice in the local paper.

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

Page 75. The most equitable method available. We do not think so. It is certainly not equitable to us nor warranted, and probably unlawful.

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)

Page 79. Obviously I have put Councilor Thompson on the spot and he is not happy having to ,(in accordance with his conscience), press the matter in Council.

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

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

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 !!!!!

Page 81. Resolution of Council from July 2004". This is only part of that resolution and it is not clear whether Councilors are aware of the full content of the resolution which included the option for the non residential ratepayer to have the load put on the sewer assessed in Equivalent Tenements by an expert. From the correspondence I have had with Councilors I think not.

Minute - Ordinary Meeting of Bathurst Regional Council - 21/07/2004

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;

Page 82. Council Engineers acknowledges that "Council should distinguish between fire services and water services

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.

Pages 85. The letter to Cr Thompson that prompted him to call for an enquiry.

From:	info@millahmurrah.com
To:	david sherley/bathurstcc@bathurstcc
Cc:	paul toole/bathurstcc@bathurstcc
Subject:	FW: Sewer Access Charge-overcharge
Delivered:	10/02/2011 06:46 AM
Msg ID:	2304571
Form:	memo
Signature:	302c02145e83cb656cffccaa551896931e734c045a8a848302143b0f7727e

[admin heathce com 20101125 100543.pdf](#)

Dave, some pretty serious threats below. I better come in and sit with you to equip myself with a response. In the mean time your comments would be welcome on email...RT

-----Original Message-----
From: Ray Carter [mailto:ray@carterbros.com]
Sent: Wednesday, 9 February 2011 9:38 PM
To: ross.thompson@bathurst.nsw.gov.au
Subject: Fwd: Sewer Access Charge-overcharge

Dear Councillor Thompson

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. 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

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