



New South Wales

David Campbell

Minister for Water Utilities
Minister for Small Business
Minister for Regional Development
Minister for the Illawarra

MO Ref: W0602124
DEUS Ref: 06/1410

- 9 AUG 2006

Mr Ray Carter
3 Toronto Street
BATHURST NSW 2795

Dear Mr Carter

I refer to your recent letter concerning the basis for sewer access charges at Bathurst Regional Council.

The sewer access charge recovers a portion of the annual capital cost of the sewerage system. The major assets within that system, including trunk and rising mains, pumping stations and the treatment works are sized to cater for peak loads. As such, each customer's contribution towards the annual capital cost of these assets should be based on their potential peak discharge – that is, the loads for which the system is designed.

This methodology is widely accepted and has been endorsed and implemented by the Independent Pricing and Regulatory Tribunal for Sydney, Hunter, Gosford and Wyong.

The annual capital cost is the annual cost of amortising the capital cost of the sewerage system. This cost is met by the sewerage access charges, part of the sewer usage charges as well as the developer charges from new developments.

In my letter to you of 9 May 2006, I outlined the detailed hydraulic assessment undertaken on your properties by Bathurst Regional Council together with Council's reductions to your sewer discharge factors and meter downsizing. I support the consultation process undertaken between yourself and Council and am advised that Council has taken appropriate steps to ensure businesses such as yours are treated fairly.

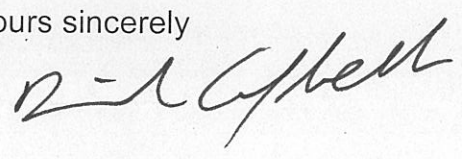
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MO Ref: W0602124
DEUS Ref: 06/1410

If you require further information on this matter, please contact Scott Chapman, Manager Best Practice at the Department of Energy, Utilities and Sustainability on 8281 7335.

Thank you for bringing this matter to my attention.

Yours sincerely



David Campbell
Minister for Water Utilities
Minister for Small Business
Minister for Regional Development
Minister for the Illawarra

16/08/2007

Mayor Norm Mann

cc General Manager Mr David Sherley
Bathurst Regional Council

Record of meeting held at Bathurst Regional Council chambers 3pm 15/08/2007

Present Mayor Norm Mann (NM)

General Manager David Sherley (DS)

Ray Carter (RC)

Topic of discussion

Content of Carters letter dated 30/7/07 and attachments, being a rebate Carters believe is due from BRC in regard to the downsizing of water meters after the introduction of the Sewer Access Charge by BRC in July 2004.

In the meeting

NM,DS & RC agreed that the SDF and the issue of a rebate were two separate issues.

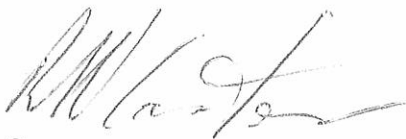
RC indicated that there was confusion on the two issues indeed in Councils letter dated 10 April 2007 which refers to Section h) being a clause dealing only with the SDF in a Council letter dated 5th November 2004. RC pointed out that this is identified in Carters letter dated 30/07/2007.

RC pointed out the number of times the rebate had previously been referred to in letters from Council as a separate issue.

DS said that letters referring to any rebate due to Carters could be illegal. When asked by RC how this could be the case when Minister David Campbell referred in his letter dated 9 May 2006, to the same rebate being due and backdated to July 2004. DS said that Mr Campbell had probably repeated what Council had told him.

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Ray Carter

Fax 63322576

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Bathurst NSW 2795	www.bathurst.nsw.gov.au

20 August 2007

Mr Ray Carter
3 Toronto Street
Kelso Industrial Park
BATHURST 2795

Dear Mr Carter

Meeting concerning meter sizes – 15 August 2007

Council acknowledges receipt of your correspondence dated 16 August 2007 concerning the above.

Council also notes your comments, but clarifies the issue about the content of the letters "referred to" by you. The context of my comment was that I would need to investigate the matter, as the interpretation of a Council letter(s) appears to be at the heart of the issue.

The issuing of the letter/s by Council is legal, however your interpretation of what it means, in the context of Council's adopted position, requires that I consider the legality of that interpretation.

With respect to Minister Campbell's comments, the discussion was based on your letter dated 30 July 2007, which states:

"On page 1 in the last line, Minister Mr David Campbell states as a result of correspondence from BRC, "All costs for meter downsizing would be met by Council and the resulting rebate backdated to July 2004"."

I am not in a position to say what prompted the statement from the Minister as I have not been involved in discussions with him.

Ray, let me assure you I will address this matter as soon as practicable, to allow this issue to be resolved.

Yours faithfully

D J Sherley
GENERAL MANAGER

Reference: DS:WM : 26.000010-03
Enquiries: Mr D J Sherley 02 6333 6201
Ray Carter Meeting 15 August 07

20 October 2006

The Director
Carter Bros Engineer
3 Toronto Street
BATHURST NSW 2795

Attention: Mr Ray Carter

Dear Sir

Replacement of Water Meter

With reference to your letter dated 8 October 2006, you are advised that the list of water meters are progressively being replaced as requested. I am advised that this work will continue and be completed by 3 November 2006. I am also advised that 9 Adrienne Street is already complete and further the meter in Adrienne Street is to be replaced today.

Please note that as the meters at the properties in Littlebourne Street are encased in concrete, replacement work will be difficult. Further, Council is awaiting the delivery of special fittings for the property in Zagreb Street and accordingly this replacement can only be done once these fittings are available.

Yours faithfully



Neil Allen
DIRECTOR
ENGINEERING SERVICES

Carters

181
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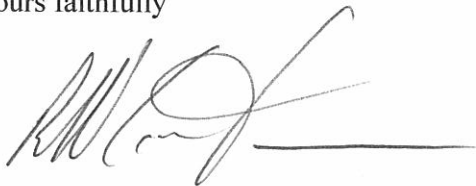
8/10/06
Mr David Shirley
General Manager
Bathurst Regional Council

Dear David

The original of the attached form and copy of Councils letter TD:AL:26.00010 was handed in at the Rates Dept over two months ago for action by Council. Could you please see that the matter is attended to in accordance with your correspondence.

Could you please acknowledge this correspondence by return fax.
Thank you.

Yours faithfully



Ray Carter
Director
Mobile Phone 0407 258882

Carter Bros Engineering Pty Ltd
5 April 2005

WORKS REQUEST/ADVICE

The General Manager
Bathurst Regional Council
Private Mail Bag 17
BATHURST NSW 2795

File Reference 26.00010

I, Ray Carter of Carter Bros Engineering Pty Ltd, acknowledge that I have received a copy of the Hydraulic Engineers Report prepared by John Humphreys and Associates Pty Ltd for the properties listed in Council's letter dated 5 April 2005.

I WISH TO PROCEED with the recommendations of this report and authorise the following work on my properties:

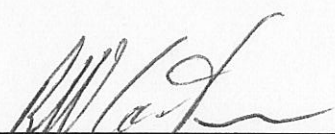
1. Replace the existing water service connections listed below with the recommended downsized new water service connection.

ADDRESS	EXISTING METER SIZE	DOWNSIZE TO NEW METER SIZE
9 Adrienne Street	50mm	32mm
11 Adrienne Street	40mm	32mm
13 Adrienne Street	40mm	32mm
15 Adrienne Street	40mm	32mm
2 Littlebourne Street	40mm	25mm
6 Littlebourne Street	50mm	32mm <i>40</i> <i>R</i>
10 Littlebourne Street	40mm	32mm
5 Zagreb Street	80mm	40mm

OR

I DO NOT wish to proceed with the recommendation of these reports.

Yours faithfully



Ray Carter
For Carter Bros Engineering P/L

Date: 16 Aug 2005



5 April 2005

Mr Ray Carter
Director
Carter Bros Engineering Pty Ltd
3 Toronto Street
KELSO NSW 2795

Dear Mr Carter

Implementation of Best Practice Sewer Charges

Council has now completed the requested assessment of your properties.

During this assessment the Sewerage Discharge Factors (SDFs) estimated for each of your properties was reviewed and the changes are listed below.

As requested, Council also engaged John Humphreys and Associates Pty Ltd in the capacity of Hydraulic Engineer to assess your requests for downsizing or rationalizing your water meters. The reports suggest the following changes to your meters. The reports are **attached** for your information.

ADDRESS	ORIGINAL SDF	REVISED SDF	METER	DOWNSIZE (Y/N)
1 Adrienne Street	95%	50%	50mm	N
9 Adrienne Street	95%	50%	50mm	Y (32mm)
11 Adrienne Street	95%	75%	40mm	Y (32mm)
13 Adrienne Street	95%	75%	40mm	Y (32mm)
15 Adrienne Street	95%	50%	40mm	Y (32mm)
2 Littlebourne Street	95%	75%	40mm 32mm	Y (25mm) N
6 Littlebourne Street	95%	75%	50mm	Y (32mm)
10 Littlebourne Street	95%	95%	40mm	Y (32mm)
22 Hampden Park Rd	95%	95%	40mm	N
3 Toronto Street	95%	50%	32mm	N
5 Zagreb Street	95%	50%	80mm	Y (40mm)
369 Stewart Street	95%	95%	100mm	N

Please complete and return the **attached** Works Request form indicating your preference on how you wish to proceed with the recommendations in the report. When this form is received by Council, the requested work will be scheduled. The cost of downsizing or removing meters will be met by Council. When the work is completed your sewer charges will be adjusted to reflect the changes from 1 July 2004.

Further technical questions should be directed to Russell Deans on 6333 6225. Other enquiries can be directed to Toni Dwyer on 6333 6291.

Reference: TD:AL:26.00010

Enquiries: Mrs Toni Dwyer (02) 6333 6291

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Carter Bros Engineering Pty Ltd
5 April 2005

Thank you for your input, patience and co-operation in this matter.

Yours faithfully

FR R Roach

R Roach
DIRECTOR
CORPORATE SERVICES & FINANCE

185

Carters

Carter Bros Engineering Pty Ltd

ACN 002 244 411
3 Toronto St
Bathurst NSW 2795
Phone 02 6331 6811
Facsimile 02 6332 2576
Email ray@carterbros.com

22/02/07
Gerard Martin
Member for Bathurst

Dear Gerard

There has been a few issues that I have brought up with you over the last couple of years and which have still not been resolved.

The first is the issue of Bathurst Regional Councils interpretation of the Access Charge in relation to User Pays Sewer.

Council continues to charge this on the full size of the water meter for the simple reason that they assert that Fire hose reels are used to put water into the sewer system, even though, if a hose reel is indeed used, the water would only go into the storm water system, unless the fire hose is deliberately put into the sewer; a ridiculous suggestion or situation. On top of this, if any water other than toilet, shower or sink goes into the Sewer, it is a trade waste issue to be dealt with there. When we were invited to put questions to the State Cabinet when they visited Bathurst, we did so on this issue and when Minister David Campbell heard us out he advised us to charge BRC with mal administration. We found this unreal. Do you agree that we should have to go to this extreme?

As you know we want a nominal size of water meter used where the Access Charge is concerned.

I did have some properties where the water meter was sized larger than that required to service our hose reels and had these downsized. Council assured ourselves and also Mr Sartor that when this was done we would be given a refund back to the date of implementation of User Pays. We have yet to hear from Council on this or receive this refund as promised. Please advise what we should do about this?

According to the Guidelines for User Pays Sewer, Council is supposed to annually assess the SDF (sewer discharge factor) but do not do so. This is part of the user pays system you would have to agree, so why is Council not doing this?

The second issue I have discussed with you is to do with our land and Grabhams land on Sydney Rd Kelso.

You gave me a very sympathetic hearing on the issue of the definition of a river extending to the ditches that pass through these properties. Then nothing Gerard! I know you are well acquainted with these properties and that what we propose does not present the dire consequences that some may conjure. That is good, but what is happening?

The third issue is the one of building entitlement on rural land in the BRC area. My mother in law was told in writing by the then Evans Shire, that her land on the Oconnell Rd had building entitlement. This land was earmarked for her incapacitated daughter.

Along with others this written right has been stripped away by BRC along with its value, even though it has been owned for years before 1968. Is this matter being reconsidered by the Government?

All of the above are distressing to me and to others I know and so I would be pleased to hear from you.

Yours faithfully

Ray Carter

Mobile Phone 0407 258882



PARLIAMENT OF NEW SOUTH WALES • LEGISLATIVE ASSEMBLY

Gerard Martin, M.P.

Member for Bathurst

Electorate Offices:
State Office Block
140 William Street
BATHURST

8 March 2007

Ref: CBE:07
Your Reference:

Mr Ray Carter
Carters Bros Engineering Pty Ltd
3 Toronto Street
BATHURST NSW 2795

Dear Mr Carter

Thank you for your letter dated 22 February 2007, in regards to some outstanding matters that you have been discussing with me on environmental issues.

In relation to the Bathurst Regional Council's interpretation of the access charge in relation to user pay sewer. Whilst on the surface it does not appear that the council is doing anything illegal, it is more a matter of whether it is an appropriate charging regime.

I could not agree with Minister Campbell's advice to charge the BRC with mal-administration. There is the opportunity to make complaints to the Department of Local Government as to Councils handling of this matter and whether it is entirely in line with the Local Government Act. I am not sure that you have done this and would like to discuss that matter with you further.

In relation to the definition of any rumor in particularly to the Grabham's land on Sydney Road Kelso. I have been in regular contact with the Ministers office on this matter and have been frustrated in the delay in getting a decision. I have been told that because of statewide implications it may well mean that they need changes to the legislation or at the very least, regulations. I am currently pressing the Minister on this matter.

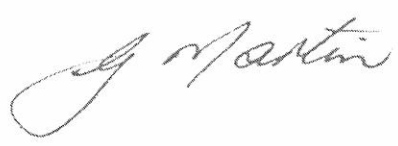
The question on building entitlements is being considered by the Government. You may be aware that the Minister for Planning has instituted an independent review of the rural subdivision policy for the Central West with particular emphasis on Bathurst Council because of criticism over the consideration of the draft LEP.

The enquiry will look at lot sizes, land use pattern etc, and even though the building entitlement that you raise should be considered independently, it will be caught up in the enquiry.

This does not stop a decision in relation to those building entitlements originally given by the Shire that the Bathurst Council office is revoking. I have a number of such issues before the Minister and have asked that he consider them separately.

I am happy to discuss these matters with you in detail.

Yours faithfully



Gerard Martin, MP
MEMBER FOR BATHURST

Carter Bros. pty ltd

ABN 66 107 189 408

3 Toronto St
Bathurst NSW 2795
Phone 02 6331 6811
Facsimile 02 6332 2576
Email ray@carterbros.com

FACSIMILE TRANSMISSION

Attention:	David Sherley	From:	Ray Carter
Company:	Bathurst Regional Council	Date:	29/03/2007
Fax No:	1	Pages:	1
Subject:	Water meter downsizing		

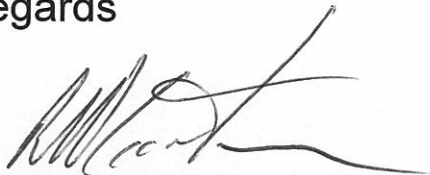
Dear David

BRC has undertaken work to downsize meters on eight of our properties where the water meter size exceeded the capacity needed to service the fire hose reels.

Your ref DS:DS 26.00010-02/071

As per Councils commitment to myself and as reiterated to myself by the State Govt. in discussions in regard to the Sewer Access Charge, reimbursement of excess Sewer Access Charges on our Rates, backdated to the implementation of the Sewer Access Charge , has not as yet been attended to by Council, Could you please, at your earliest convenience, see that this is attended to and remittance made to us.

regards



Ray Carter
M 0407258882

*Forced 29/3/03
at 3.05pm*

10 April 2007

Mr Ray Carter
3 Toronto St
BATHURST NSW 2795

Dear Mr Carter

Council acknowledges receipt of your letter dated 30 March 2007.

Council wishes to advise that the meter downsizes requested on the 16th August 2006 occurred in November with your accounts being adjusted from the start of the 2007 financial year. A letter dated the 24th November with the relevant adjustments was then sent.

As stated in Council's letter of Implementation dated 5th November 2004

Section 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 the initial request.

As this request was not received until 16th August 2006, 2 years after the implementation of Best Practice Sewer Charges it has been backdated to the 1st July 2006.

If you require further information, please contact Council's Rates Department on 6333 6132.

Yours faithfully



R Roach
DIRECTOR
CORPORATE SERVICES & FINANCE

Carter Bros Properties

3 Toronto St Kelso Industrial Park, Bathurst NSW 2795
ph (02) 6331 6811 fax (02) 6332 2576 mobile: 0407258882 email:
ray@carterbros.com

30/07/07

Mr Robert Roach
Director Financial Services
Bathurst Regional Council

Dear Mr Roach

Thank you for your letter dated 10th April 2007. Ref LH:LH-26.00010-03/006 in reply to my fax dated 29/03/2007.

I note that you have confused the issue of reimbursment in regard to the downsizing of eight of our water meters with that of the rebate related to the Sewer Discharge Factors for those same meters. The subject of my fax (Attachment A) of 29/03/2007 is clearly "water meter downsizing" and the remittance I requested is related to this.

In your reply dated 10 April 2007 (Attachment B) you have referred to clause (h) in a letter written to myself by Administrator Kath Knowles, dated 5 November 2004. (Attachment C).

Clause (h) in this letter very clearly refers solely to the Sewer Discharge Factor and is not relevant to the rebate resulting from any water meter downsizing, which is the subject of this letter and my fax.

However, the matter of the rebate due to us as the result of the downsizing of our meters is indeed specifically mentioned and is the subject in the three articles of correspondence referred to below. (with copies attached)

1) BRC ref TD:AL:26.00010 dated 10 December 2004 (Attachment D)

This, your letter, refers to both the "review of Sewerage Discharge Factors" in the first paragraph and to then to "downsizing and removal of meters" in the second.

In reference to these items, on page 2 in the first paragraph, this letter states "Any changes to sewer charges that result as an outcome of these reviews will be made from 1 July 2004"

2) BRC ref TD:AL:26.00010 dated 5 April 2005 (Attachment E)

This, your letter, alerted us to the fact that BRC had engaged John Humphreys and Associates Pty Ltd to assess our water meters and in relation to this an invitation to request this work was issued.

This letter states " The cost of downsizing or removing water meters will be met by Council. When the work is completed your sewer charges will be adjusted to reflect the changes from 1 July 2004"

3) This letter is to myself, from Mr David Campbell, Minister for Water Utilities dated 9 MAY 2006. DEUS Ref :06/109 MO Ref: SDO600867 (Attachment F)

On page page 1 in the last line, Minister Mr David Campbell states as a result of correspondence from BRC " All costs for meter downsizing would be met by Council and the resulting rebate backdated to July 2004"

4) In the meeting I had with yourself at Council Chambers, at which Council Engineers Mr David Swan and Mr Russell Deans were present it was made clear between us that the issue of the downsizing of our water meters was indeed a separate matter to that of our protest in regard to the use of the component of water meters meant for the servicing of Fire Hose Reels in the calculation of the Sewer Access Charge. You said that was a matter that I could pursue politically while the matter of raising revenue for Council was your domain.

You will note that in the correspondence in which we requested that the downsizing of eight of our meters be carried out, we requested that it be done in accordance with your correspondence.

In accordance with your correspondence we are due this rebate backdated to 1 July 2004,

Thank you for your attention to this matter and we look forward to your reply.

Yours faithfully



Ray Carter

Attn. Gerrard Martin.

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*from Ray Carter
- result of meeting held with BRC*

16/08/2007

Mayor Norm Mann

cc General Manager Mr David Sherley

Bathurst Regional Council

Record of meeting held at Bathurst Regional Council chambers 3pm 15/08/2007

Present Mayor Norm Mann (NM)

General Manager David Sherley (DS)

Ray Carter (RC)

Topic of discussion

Content of Carters letter dated 30/7/07 and attachments, being a rebate Carters believe is due from BRC in regard to the downsizing of water meters after the introduction of the Sewer Access Charge by BRC in July 2004.

In the meeting

NM,DS & RC agreed that the SDF and the issue of a rebate were two separate issues.

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Ray Carter

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20 August 2007

Mr Ray Carter
3 Toronto Street
Kelso Industrial Park
BATHURST 2795

Dear Mr Carter

Meeting concerning meter sizes – 15 August 2007

Council acknowledges receipt of your correspondence dated 16 August 2007 concerning the above.

Council also notes your comments, but clarifies the issue about the content of the letters "referred to" by you. The context of my comment was that I would need to investigate the matter, as the interpretation of a Council letter(s) appears to be at the heart of the issue.

The issuing of the letter/s by Council is legal, however your interpretation of what it means, in the context of Council's adopted position, requires that I consider the legality of that interpretation.

With respect to Minister Campbell's comments, the discussion was based on your letter dated 30 July 2007, which states:

"On page 1 in the last line, Minister Mr David Campbell states as a result of correspondence from BRC, "All costs for meter downsizing would be met by Council and the resulting rebate backdated to July 2004"."

I am not in a position to say what prompted the statement from the Minister as I have not been involved in discussions with him.

Ray, let me assure you I will address this matter as soon as practicable, to allow this issue to be resolved.

Yours faithfully

D J Sherley
GENERAL MANAGER

Reference: DS:WM : 26.000010-03
Enquiries: Mr D J Sherley 02 6333 6201
RayCarterMeeting15August07

19/4

3 Toronto St
Kelso 2795

5/12/07
Gerard Martin
Member for Bathurst

Dear Gerard

As you aware I have been writing to you , your government and the Bathurst Regional Council for over three years in regard to inequities evident in the implementation of the Sewer Access Charge by Bathurst Regional Council.

The basis of this inequity is the one liner contained in Council policy that “ hose reels are used for other purposes”. An experts report would assess this properly and should be allowed. The two pages of pictures attached, illustrate the “other purposes” that hose reels could be used for and these result in the water going anywhere but down the sewer or show how impractical it is to get water from a hose reel to actually go down the sewer..

Aside fom this , after three years of letter writing and having members of your government agree that the actual load put on the sewer should be taken into account (Mr Sartor pushed for a “nominal” size be used for the water meter rather than the full size which includes fire fighting capacity.) , I have found in Council documents that Council has, in its provisions for making this charge, the capacity to allowing for non-residential ratepayers to have “an expert report to establish the peak load (in equivalent tenements (ETs) their operations place on the sewerage system”. This provision, **never revealed as an option to non-residential ratepayers**, no doubt has made BRC's method of adoption of the Sewer Access Charge acceptable to the State Government (see point 3, Chief Financial Officers report to Council Meeting 21/07/2004.attached) even though it has not been implemented.

Council has enjoyed the revenue based on the full capacity of non-residential water meters as per their ability to do so in point 3 of the attached p19 which states- “In the absence of such a report, the Council can determine the access charge on the basis of the square of the connection size times the discharge factor. This is the method adopted by Council” This amounts to an injustice upon the non-residential ratepayers of Bathurst, especially in view of my three years of letter writing on this very subject.

Please note that the issue raised here is separate and distinct to the Sewer Discharge Factor (SDF) which is assessed by Council themselves and also to the “downsizing of water meters” which was an alternative for non-residential ratepayers. The **proper consideration** of an experts report by Council, would inject the fairness back into this practice and go a long way toward adressing the present inequities in Councils present Sewer Access Charge, which instituted sewer rate charges of in some cases up to 1200%.

I hope that you will take this matter in hand and I look forward to hearing from you.

Yours faithfully

Ray Carter

Mobile Phone 0407 258882

23/11/2007

Mr David Shirley
Bathurst Regional Council
cc Mayor Paul Toole

Dear Sirs,

could you please advise what provision
has been made for the assessment of
load put on the Sewer System in
accordance with the method adopted
by Council (see attached*) in regard
to the Sewer Access Charge.

regards

Ray Carter

Carter Bros

3 Toronto St

Nelso 2795.

m 0407258882



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6 December 2007

Mr Ray Carter
Carter Bros
3 Toronto Street
KELSO 2795

Dear Mr Carter

I refer to your letter of 23 November 2007 in which you raise matters relating to sewer access charges.

During the 2007/08 Management Plan process, Council adopted a schedule of charges shown in the Revenue Policy Section relating to Sewer charges. The Sewer charge is made up of a two part chart as shown on the attached pages (Page 20r & 21r).

In respect to your properties, you have been charged for:


- (a) A Part 1 Access Charge which relates to the water meter size located at your property multiplied by Sewerage Discharge Factor (SDF) as determined by Council;
- (b) A Part 2 Usage Charge which is based on \$/kl \$(currently \$0.81c) x Sewerage Discharge Factor which has been estimated as a percentage of the volume of water discharged into the sewer system from the total water consumption. The SDF will and does vary for individual properties.

As you are aware, Council, at its expense, employed a Hydraulic Engineer to look at all your premises to determine the correct water meter size applicable to each one of your properties.

Council also looked at the SDF applicable to each of your properties and made the necessary adjustments to reflect the amount of water, being charged for, being discharged into the sewer system.

Your accounts for Sewer charges reflect both Part 1 and Part 2 charges accurately.

Council has charged your premises correctly in accordance with Management Plan Revenue Policy and advice tendered to Council on 21 July 2004.

Yours faithfully 

D J Sherley
GENERAL MANAGER

Reference: RR:WM :26.00010-03
Enquiries: Mr D J Sherley 02 6333 6201
Carterseweraccesscharges



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FAXED
7/4 2 10

26 March 2008

Mr Peter Sargent
President
Bathurst Business Chamber
PO Box 293
BATHURST NSW 2795

Dear Mr Sargent

Sewer Access Charges

I refer to your letter dated 12 March 2008, in which you raise matters relating to sewer access charges.

As you are aware, this matter has been under consideration since the introduction of these charges back in 2004. Council received many reports and advice in relation to the introduction of sewer access charges.

but no mention of the alternative

Information contained within your letter is correct in that Council did determine the access charge applicable to sewer access.

In relation to your fourth paragraph, I wish to advise that Council wrote to all businesses within Bathurst to advise them of the Sewerage Discharge Factor (SDF) that would be applicable to their business and to advise them that if they were dissatisfied with the percentage placed on their business they needed to advise Council and a review of this SDF would occur.

Many businesses took up this option and every business was individually categorised and any necessary adjustments were made.

In reply to the four questions raised I wish to advise the following.

- 1) Council elected to determine the access charge based on the square of the service connection size x the discharge factor method.
- 2) Council wrote to all businesses and advised them of their proposed SDF and advised of the appeals process.
- 3) Council wrote to all businesses advising them of the SDF.
- 4) Many businesses took up the option for a review of their SDF and the appropriate adjustments have been made.

Reference: RR:AL:26.00010-03/020
Enquiries: Mr Bob Roach (02) 6333 6257
U:\Amanda\letters\rr-business chamber.doc

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Bathurst Business Chamber
26 March 2008

Thank you for your enquiry and Council is only too happy to assist further should you require additional information.

Yours faithfully



Paul Toole
MAYOR OF BATHURST

Bathurst Business Chamber Inc

ABN 38 778 619 246

President: Peter Sargent

Secretary: Loretta Blake

Facsimile Transmission

To:	Ray Carter	From:	Peter Sargent
Company:		Fax No:	02 6332 2576
Date:	17 March 2008	No. of pages (including this page)	3

Message:

Ray

Please find following correspondence from the Bathurst Business Chamber to Bathurst Regional Council concerning sewer access charges.

Regards

Peter Sargent
President
Bathurst Business Chamber

PO Box 293, Bathurst NSW 2795
Telephone: 02 6332 4522 Facsimile: 02 6332 2125

Email: bathurstchamber@belindas.com.au
ABN 62 099 034 769

President: Peter Sargent



Secretary: Loretta Blake

1. Was the option to have an expert report prepared which establishes the actual peak load on the sewer advertised/communicated to the business community prior to or during the implementation of the user-pays sewerage system?
2. If so, what specific methods were used to ensure the information was received by businesses affected?
3. If not, will Bathurst Regional Council write to businesses advising them of the availability of this option?
4. Have any businesses already taken up this option and had an expert prepare a report establishing their actual peak load, if so how many?

We thank you in anticipation of your specific responses to these questions, which will assist us to more adequately respond to questions posed by our membership in relation to this issue.

Yours sincerely

A handwritten signature in black ink, appearing to read "P. Sargent", is written over a faint circular stamp.

Peter Sargent
President
Bathurst Business Chamber

President: Peter Sargent



Secretary: Loretta Blake

12 March 2008

Cr Paul Toole
Mayor
Bathurst Regional Council
Private Mail Bag 17
Bathurst NSW 2795

CC: Mr. David Sherley, General Manager, Bathurst Regional Council

Dear Cr Toole

Re: Sewer Access Charge

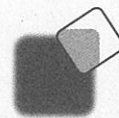
Recently one of our members raised some questions relating to the Sewer Access Charges. I am aware that there has been previous correspondence between the Council and Bathurst Business Chamber on this issue, however it appears a couple of issues remain unresolved.

The issues raised relate to an excerpt from the Chief Financial Officers Report to the Council meeting 21/07/2004 at page 19, containing recommended strategies from DEUS as follows:

"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. 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."

We note your letter to the Chamber dated 20 June 2006 cites resolutions made by Council on 21 July 2004 to assist in the implementation of user-pays sewerage. However, I note in these resolutions there is no specific mention of any steps taken to advise businesses of the option available to them to have an expert report prepared which establishes their actual peak load, and have their charges adjusted accordingly. Further, I understand that letters providing usage charge estimates were issued to businesses who would experience an increase of greater than \$100 per annum, however it is not clear if this option was explained to businesses addressed by that letter.

We therefore respectfully request your specific response to the following questions on behalf of our membership:



Our reference: C/2009/4530
Contact: Ms Veronica Brogden
Telephone ☎: 02 9286 0933

Level 24 580 George Street
Sydney NSW 2000
Phone 02 9286 1000
Fax 02 9283 2911
Tollfree 1800 451 524
TTY 02 9264 8050
Web www.ombo.nsw.gov.au
ABN 76 325 886 267

30 June 2009

Mr Ray Carter
3 Toronto Street
BATHURST NSW 2795

Dear Mr Carter

Your complaint about Bathurst Regional Council (the Council)

I refer to a bundle of documents that you forwarded to this office seeking a review of your complaint C/2009/2105. It was inadvertently all filed together however during the course of the review, it has been discovered that a separate complaint was made in relation to the sewer access charges set by Council. This portion of your complaint has been separated, reassessed and allocated to me for a response. I apologise for the initial error in filing this matter; you will receive a separate response relating to your review request, R/2009/68.

There does not appear to be evidence of the type of conduct that would warrant formal investigation by this office. The following information is provided to assist you with understanding the reasons for my decision.

You say that you disagree with the method adopted by the Council because “it was not fair as there was no relationship or fairness involved where Sewer Charges had no comparison that could be described as such between residential and non residential”.

The level of rates and charges is an important resource issue for councils which the Ombudsman believes is for councils to decide. The *Local Government Act 1993* requires that before a rate or charge can be made and levied, it must be detailed in a management plan. The Act requires councils to produce annual management plans that set out the estimates of income and expenditure for the coming year as well as the ordinary and special rates and the charges the council proposes to levy.

The draft plans are usually put on public exhibition in May /June each year. The public exhibition is notified in the local newspaper and on the Council’s website, and the public has the chance to comment on the draft plan before it is finalised. Council must consider all submissions received on the draft plan, which ensures a reasonable level of accountability by councils to electors in determining the levels of rates and charges. As a ratepayer, you have an opportunity to participate in public debate on this issue each year.

Councils are independent democratically elected bodies accountable to their ratepayers. If the Council adopts policies on rates and charges that you disagree with, you can lobby councillors to change these policies or support candidates for election with more acceptable policies.

Where a Council complies with its statutory obligations and there is no evidence of wrong conduct, the Ombudsman will not tell the Council to use its discretion to set its own fees and charges differently.

For these reasons, this office rarely investigates complaints about the level of rates and charges.

Accordingly, I will take no further action on your complaint.

Yours sincerely



Veronica Brogden
**A/Senior Investigation Officer
for the Ombudsman**

3 Toronto St
Bathurst
NSW 2795
9/7/2009

Ms Veronica Brogden
A/Senior Investigating Officer
for the Ombudsman

Dear Ms Brogden

re your ref C/2009/4530 and your letter dated 30 June 2009

I have read your letter of the above date . You said in our phone conversation that you would call me before you made a judgment.

You impress on me that “ The Local Government Act 1993 requires that before a rate or charge can be made or levied , it must be detailed in a management plan”

Councils Management Plan states - “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 experts report to establish the peak load (in equivalent tenements (ETs) their operations put 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.”

On this invitation Contained in Councils Management Plan I submitted such a report. You have a copy of that report. My report was invited in the Management Plan and clearly precludes Council implementing the charge by the second method as clearly Council acts outside their own Management Plan once my report has been presented.

You have said that Council has to comply with its statutory obligations. Clearly the Councils Management Plan comes under the Local Govt Act 1993 and is a statutory obligation. In that Management Plan I am invited to have the said study done for my property and I have done so. That study that demonstrates the unfairness inherent in the second method of charging has been rejected by Council. Why have I, as a ratepayer, been invited in a document binding under the Local Government Act 1993, to do such a study if it is to be rejected out of hand?

In rejecting the study I had done Council has indeed acted outside their Management Plan required before rates and charges can be levied and therefore the statutory requirements under the Local Govt Act 1993 . I request that you please review this section of your judgment.

Yours sincerely



Ray Carter

0407258882



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THE HON. BARBARA PERRY MPMinister for Local Government
Minister Assisting the Minister for Health (Mental Health)

Mr Ray Carter
233 College Road
BATHURST NSW 2795

Ref:
MIN:
Doc ID: A184246

- 9 JUL 2009

Dear Mr Carter

I am writing in response to issues you raised with the Acting Director General of the Department of Local Government, Mr Ross Woodward, and Mr Luke Aitken from my office at the Public Forum of the Bathurst Community Cabinet Meeting on 10 June 2009, regarding your concerns about sewerage charges imposed by Bathurst Regional Council.

As you may be aware, over recent years there has been an increased emphasis on improving the management of water usage. The Department of Water and Energy has issued Best Practice Pricing Guidelines to encourage the effective and efficient delivery of water supply and sewerage services and to promote sustainable water conservation practices and water demand management throughout New South Wales. Councils are required to adopt best practice management and charging policies when determining water and sewerage charges.

The Department of Local Government has advised me that it made enquiries with Council, which advised that it adopted a two stage program to meet the guidelines determined by the Department of Water and Energy. In developing its annual access pricing policy for water supply in 2001 and sewerage services in 2004, Council considered two options. The first option would allow ratepayers to seek certification of the maximum load demand on the system and apply a charge accordingly. With the second option, Council would simply apply an annual charge based on the meter size serving the property.

I am advised that in 2001 Council decided to base its pricing policy on the second option of applying an annual access charge based on the meter size. Having already adopted this policy in 2001 for water supply, the same policy was applied to sewerage services in 2004. The first option was not adopted by Council.

Under the *Local Government Act 1993*, councils are established as autonomous bodies with rights and powers conferred by law. They are ultimately accountable to their electors for their actions. This legislation does not give me as Minister or the Department of Local Government wide-ranging powers to intervene in the affairs of individual councils.

The issue you have raised is essentially one falling to Council to deal with in its discretion. I suggest that you continue to pursue the matter with Council, possibly by writing to the General Manager or your local councillors. As members of the governing body, the councillors have a responsibility to review the performance of the Council and its delivery of services, and the management plans and revenue policies of the Council.

With regard to the detail contained within the Best Practice Pricing Guidelines, this is a matter for the Minister for Water, the Hon Phillip Costa MP. I have therefore forwarded a copy of the information you provided at the Public Forum for Minister Costa's consideration and any appropriate action.

I trust this information is of assistance.

Yours sincerely



Barbara Perry MP
Minister