

**From:** Paul Van Drunen [REDACTED]  
**Sent:** Monday, 14 March 2016 3:55 PM  
**To:** Local Government Mailbox  
**Subject:** Re: RE: Great Lakes Council Special Rate Variation objection

Hello

With reference to my submission in September last year.

I trust you still have my submission on file and will consider the contents of that submission in relation to the Special Rate Variation which is not under consideration by iPart.

I have attached a copy of my covering letter which

I would like to reiterate my concern that Great Lakes Council has not followed due process and consulted with the community in relation to the land it purchased at the corner of Lake and West street Forster. The land was purchased for \$3.0m.

Subsequent to that first decision, a further \$6.0m was allocated to developing the site.

Neither the land purchase or the development occurred with any community consultation. Furthermore, no due diligence was undertaken to ensure the money would be spent appropriately.

This one project has caused a large shortfall in the Councils budget and it is not fair to ask ratepayers to increase their contribution until such time as Council completes its studies to determine what net benefit will be provided to the community.

In relation to your email to me dated 18 September 2015 (attached below).

Please note the following:

In November last year I received a Great Lakes Council Flyer in the mail (copy attached). The flyer invited member of the LGA to attend community consultation meetings in relation to the proposed SRV.

I traveled to Tea Gardens on the evening of the 5th November 2015. During the meeting I raised my hand and was given an opportunity to stand and ask questions/raise concerns. I decided to ask questions about why there had to be a Special Rate Variation when the Council had been spending money on the Old School Site without first assessing the benefit. I also asked why we have to have a special rate variation when the Council had approximately \$59million dollars invested. (These are reasonable questions and it seems very odd that they can continue accumulating investment money whilst at the same time telling the rate payers that there is a shortfall).

Anyway, what happened next was quite disturbing. One of the Councillors, that was sitting at the back of the room, got up and strode to the front whilst proclaiming in a loud voice that I was not from the Tea Gardens/Hawkes nest area and that I should not be allowed to address the

meeting. Other Councillors stood up and joined in. She also claimed that the only reason I was there was to promote myself because I wanted to run at the next election.

Clearly, anyone from the LGA is entitled to attend the meeting. That restriction is preposterous and certainly not specified on the attached flyer. Secondly, whether I had decided to run in the next local government election (and I certainly have not) was irrelevant. I was asking completely reasonable questions.

[REDACTED]

I repeatedly asked if I could continue with my question and was told "absolutely not". I was advised to go to a meeting at Forster if I wanted to hear about the SRV process. As I walked out of the meeting totally humiliated, [REDACTED] I left the meeting with a friend [REDACTED], who can verify the details.

On the 6th November I attended the meeting at Great Lakes Council Chambers at Forster.

[REDACTED]

[REDACTED]

[REDACTED]

I only asked one question at the meeting and decided not to continue because I felt that I would somehow wind up in court with a law suit or something.

As you can see, the Council did not run the meetings in a way that allowed me to ask questions or provide feedback and I believe the process was not followed. I also note that at both meetings, people asked questions about the SRV and the consultation meetings to find out whether the Council was running the meetings to get feedback. At both meetings the General manager confirmed that the SRV application was going to go ahead in any event.

[REDACTED]

[REDACTED]

Paul Van Drunen

[REDACTED]

The Office of Local Government  
Locked bag 3015  
Nowra NSW 2541

CC: [olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au)

iPart  
P.O Box K35  
Haymarket Post Shop  
NSW 1240

CC: [ipart@ipart.nsw.gov.au](mailto:ipart@ipart.nsw.gov.au)

ICAC  
Submitted online.

**Author:**

Paul Van Drunen

[REDACTED]  
[REDACTED]  
[REDACTED]

**Cover letter**

**14 September 2015**

**To whom it may concern**

**Introduction**

Great Lakes Council is without doubt operating outside the requirements of The Local Government Act ("The ACT").

It has embarked upon a large scale, commercial development project without first undertaking a proper due diligence and evaluation process. In order to progress the project quickly, it has failed to properly inform the community of its intentions.

The project is not supported by a pre-prepared Strategy or Plan. In fact, the project is inconsistent with at least two previously adopted plans *and* its own DCP.

Under the circumstances, it seems likely that its decisions are unlawful. The Council has committed \$9.0m of public funds so far. Given the risky nature of the project, it is very likely that these funds are at risk of loss or reduction, in contravention of The Act.

The Council has avoided detection by withholding important information from the public and conducting their business in closed meetings. This submission is based on information obtained under GIPA over the last four months. It should be noted that The Council have made it very difficult to obtain this information and are still refusing to hand over an important report.

### **Outline of the issue**

Since 2007, Great Lakes Council (“The Council”) and local community have taken steps to ensure two important parcels of land at Forster NSW (The Old School of Arts site and The Old School site) would be developed as a Civic Precinct and high density Residential Apartments, respectively.

In order to ensure those outcomes would occur, the two sites were formally assessed by The Council and a Master Plan was prepared for each site.

- The Master Plan for the Old School site, which now forms part of The Councils DCP is attached as: **Item 1 – DCP16.12 Lake and West Street Development Controls**
- The Master Plan for the Old School of Arts Site is attached as: **Item 2 – Attachment C to Report Ordinary Council Meeting 28042015’.**

The importance of these Master Plans should not be underestimated. Both plans required the use of considerable public funding and community consultation.

The first plan (for the Old School site) forms part of the Development Control Plan as DCP 16.12. The plan has been relied upon by at least one developer who obtained a DA to build 120 units.

The second plan (for the Old School of Arts site) has been a long term and costly exercise that involved extensive community support. The Master Plan was developed around a number of fundamental concepts which are mentioned on page 6 (of the Master Plan) under the heading ‘*Vision*’.

As you will read, The Council recently decided to disregard both Master Plans and embark on an entirely new plan. That new plan, a large long term commercial project, which is intended to generate a ‘return on investment’, has been started without any community consultation or the necessary due diligence.

In doing so, The Council has failed to properly assess the risk of the project and more importantly failed to demonstrate what net benefit it will provide to the community (if any). It is therefore in breach of its duty under The Act.

### **The Old School site**

In May last year, during a meeting closed to the public, The Council decided to spend \$3.0m to purchase The Old School site.

Prior to approving the purchase, The Council had not determined how it wanted to use the land. This should have rung alarm bells for the Councillors because, in essence, they were being asked to approve the \$3.0m investment without knowing why.

Documents obtained under GIPA reveal The Council failed to carry out any due diligence before investing in the property.

Whilst the land had a DA to build 120 units, The Council did not attempt to analyse the market in order to understand whether it could actually sell the units nor did cost the proposed development to determine whether it could make a profit.

The Council's decision making process has been so poor that, against its own recommendation, it did not obtain a Valuation prior to purchasing the land. Under the circumstances, it was impossible for The Council to meet its obligation and determine what net benefit (if any) the purchase would provide the Community.

The conduct of The Council is very concerning.

In summary, it invested \$3.0m on a piece of land without first identifying a use, a market value or a net benefit to the community. Furthermore, it did this without reference to a Strategy or Plan. At the very least, The Council should have notified the community so it had a chance to comment on the proposal. The Council failed to consult with the community when it released the agenda on short notice (one full working day before the meeting) and then held the meeting behind doors that were closed to the public. The details of the meeting have been held secret until they were recently obtained under GIPA.

### **The Old School of Arts site**

At the Ordinary meeting, 28<sup>th</sup> April this year, The Council made another concerning decision when it voted to embark upon its new project. In a similar hasty manner, it failed to carry out a proper due diligence and public consultation process. Doing so would have made it possible to identify a net benefit (if any) to the community. Notwithstanding its failure to meet these minimum obligations, The Council committed \$6.0m to get the project started.

The fundamental premise of this highly ambitious project is to 'provide a return on investment' which will require:

- The consolidation of both sites into one huge development site
- Close West street to increase the amount of available land
- Construct a library on land zoned for high density residential
- Construct high density residential on what is currently Community land

The concept plan for the new project can be found attached as: **Item 3 – Attachment A to Report Ordinary Council Meeting 28042015**

Under the circumstances, a reasonable person is entitled to ask: Prior to committing \$9.0m of rate payers funds:

- Why wasn't the public informed about the purchase of the Old School site so it could have input into the decision?
- Why was the agenda for both meetings issued with only one working day before the vote?

- Why wasn't the project assessed to identify the inherent risks associated with large scale commercial projects ?
- Why wasn't the public advised that the Master Plans would be disregarded and given an opportunity to make comment?
- Does the Council have the authority to spend public funds on large scale commercial projects without first establishing a Strategy or Plan?
- Why does The Council believe that building a Library will deliver the highest and best use of land that has a DA for high density residential?
- Why doesn't The Council use less expensive land to build the Library?
- Is The Council entitled to close a street simply so it can create more land for itself to develop?

The Council is required to do a wide range of things **prior to committing public money**. It has not done those things and they are discussed in the attached submission. The most basic requirement (which it has failed to do) **is to determine whether the proposal will provide a net benefit to the community**.

The Council is obliged to operate with the utmost integrity. It is entrusted to spend rate-payers funds in an appropriate manner. The Act stipulates The Council can only collect rates in order to carry out its Functions. Commercial development for the purpose of obtaining 'a return on investment' is not a Function set out in The Act. Assuming for a minute The Council was entitled to 'invest surplus funds' in commercial development – it would be required to do so in a responsible way and (most importantly) in a manner that ensures public funds are protected.

Please note: The purpose of this submission is **not** to complain that The Council has changed its mind about what it wants to do. The purpose of this submission is to demonstrate:

1. The Council, having failed to undertake the required due diligence process and assess the risk associated with large scale commercial development has put public funds in danger of unnecessary loss.
2. The Council has failed in its duty to consult with the community and keep it informed
3. The reckless and improper allocation of funds has contributed to an overall budget shortfall which The Council is now trying to make up by way of a Special Rate Variation.

This is not an all-encompassing account. It does however contain the information required to demonstrate an overwhelming lack of Corporate Governance and a very strong prima facie case worthy of your investigation.

Accordingly, you are hereby requested to consider the details of this submission in order to:

1. Place the project on hold until a determination is made, thereby reducing the risk to public funds
2. Determine whether The Council is in breach of its obligations under The Local Government Act
3. Determine whether The Council should reallocate \$6.0m of project funds to cover the shortfall it is seeking to fund through the Special Rate Variation
4. Determine whether to refuse the application for a Special Rate Variation

5. Determine whether the Council should sell the land known as The Old School site in order to recover \$3.0m of ratepayers funds which are now at risk
6. ICAC determine whether it should make a recommendation under Section 255 (2) and (3) of the Local Government ACT

Please note: The details of this submission are a general summary of the problem. I can be contacted by phone at any time should you require clarification or simply wish to discuss the matter further.

Yours sincerely

Paul Van Drunen