

Dear Sirs and Mayor,

This week letters were sent out to "Residents" of the Central Coast region dated 8 October 2018. The letter received by each resident was signed off by Jay Spare and quoted a rates assessment number. I assume, therefore, that the purpose of the letter was to serve notice to each ratepayer of proposed changes to council's water supply, sewerage services and storm water drainage charges.

The letter sent out by Mr Spare certainly provided that information to whomever would have opened the letter. Addressing such a letter to "**The Resident**" of each property subject to the assessment does not, however, in anyone's legal universe constitute serving notice of such changes on the ratepayer - the person who is actually affected by these changes because they are the one who pays the rates.

I have long held the belief that it is the **property owner** who is liable for rate charges in the Central Coast Council region. Am I wrong here? Why would the letters be addressed to "The Resident" who could be a tenant for example? Given that the letters are addressed to "The Resident" there is no legal or moral obligation for a resident who is not the property owner to pass the letter on to the actual owner/ratepayer of the property. Some people, particularly in rural areas also live with extended family on their farms. If, for example, an adult child of a property owner was a resident of a property and s/he opened the letter s/he would be under no legal obligation to pass the letter on to the potentially absent parent who is the actual property owner/ratepayer.

Two things come to mind here. The first is that some members of senior management in council's administration seem to have **no** grasp whatsoever of the legal framework of a council's statutory right to enforce the payment of rates by property owners. That is a real concern at the best of times, but particularly when council is proposing such wide sweeping changes to its rate system.

The second thing that comes to mind is that the Central Coast Council administration must have a blinkered view of its constituency that is entirely urban focused, residential focused and owner/resident focused. Clearly senior members of council's administration have demonstrated by this letter that they have no grasp of the fact that substantial numbers of properties within the Central Coast Council region are owned by landlords (either residential or commercial), farmers with extended family living on their properties and also property owners/ratepayers whose properties are either standing vacant, or not built on at all to provide some random person with a "residence" but no obligation to pay rates.

I do not have a legal background but my common sense understanding of the law is that in terms of serving notice on actual ratepayers of council's proposed changes to their rating structure, this letter is completely void of any legal effect. I also consider that it is insulting to all ratepayers/property owners that their legal status has been completely over-ridden by the Central Coast Council and these letters have been sent out simply to whomever may be living on their properties, or not, as the case may be.

Yours faithfully,

Marilyn Wood

**A.W.J. & M.J. WOOD**

**“Riverwood” Angus Cattle Farm**

[REDACTED]

[REDACTED]

[REDACTED]

19<sup>th</sup> October, 2018

**Addendum to our comments lodged with IPART 12 October 2018: Reference W18/2614**

*Re: Central Coast Council Submission to IPART Review of Prices for Water, Sewerage and Stormwater Drainage Services Central Coast Council – Price Path from 1 July 2019-30 June 2023*

### **Reason for lodging an Addendum**

Property owners such as ourselves were given only limited notice by Central Coast Council that it had submitted a proposal to IPART to increase our water, sewerage and stormwater drainage charges with a closing date of 12 October, 2018. This closing date for comments was increased by IPART allowing us more time to look more closely at Central Coast Council’s actual submission, rather than the “Price submission summary” that Central Coast Council sent out to us by mail with there letter dated 8 October, 2018. Reading the actual submission has raised further issues for us that we would like to comment on. These include:

1. **Inconsistencies in Council representations:** Information given in the “Price submission summary” is different in at least one respect from the contents of the actual submission:

The summary states on p. 3 that “[t]he proposed pricing for most non-residential customers is provided in **Table 2**.” However, Table 2 in the **summary** is not the same as **Table 2** in the **submission**. In the actual submission the “unit of measure” for “Non-residential properties” is **“dwelling”**. The “unit of measure” for “Non-residential properties” in the summary is **“/property”**. We assume this

change has been made because Council has realised that to make “dwelling” a “unit of measure” for “Non-residential properties” is nonsensical. However, instead of openly addressing this issue Council appears to be amending their own submission on the run, possibly without amending it formally with IPART.

2. **Low Impact rate:** The explanation given of the “**non-residential Low Impact rate**” given on page 2 of the Council’s 8 October 2018 letter attached to the “summary” is inconsistent and potentially misleading when compared with Council’s approach in its actual submission:

In the **letter** Council states: “The proposal also includes a **non-residential Low Impact rate** of \$110.77 per year, which will be assessed following application to Council. The application process will consider the amount of built areas compared to natural areas and take into account on-site stormwater management measures including detention storages, rainwater tanks and farm-dams as well as stormwater treatment options such as vegetated swales.”

In Council’s actual **submission “Defining Low Impact Properties”** p. 160 states: “Developed properties are, in most circumstances, be able to absorb stormwater flows due to extensive impervious areas, so rainwater flows into the stormwater drainage network. However, underdeveloped properties such as parks, reserves, sport fields etc. have greater ability to absorb the rainwater. Properties that are able to reduce run-off into the stormwater network, and thus the impact on the drainage network, may be classified as low impact properties.”

The first sentence in Council’s submission doesn’t even make sense because “impervious” means that water is unable to pass through, and so the idea that “[d]eveloped properties are, in most circumstances able to absorb” stormwater flows is nonsensical. This looks like a “cut and paste” exercise gone wrong.

Moving on to the submission's limited examples of "underdeveloped properties" as "**parks, reserves, sport fields etc.**" the submission implies that those underdeveloped properties which will attract a "low impact rate" are primarily those properties that fall within "Community land" in Part 4 of the Local Government (General) Regulation 2005, which provides guidelines for categorisation of land as "a natural area", "a sportsground" and "a park".

Therefore, Council's claim in their letter that "many **Farmland** customers may be eligible for a Low Impact rate given the underdeveloped nature of their properties and widespread use of farm dams" gives farmers the impression that their farm situation was closely considered in Council's submission, but in reality Council was primarily concerned with quarantining land owned by state and local governments from any stormwater charges.

The extent to which Central Coast Council was not planning for the widescale application of the low impact rate on farmland can be seen from pp 8-9 of Council's submission which states:

"Former Wyong LGA ... on average, prices will decrease. However approximately **400 customers** will receive an increase in price ... (p. 8). Non-residential customers in the former Gosford LGA are currently charged a flat rate ... The proposed changes will see approximately 2,500 customers receive a reduction in charges. However, a further **2,000 customers** will receive an increase. A small number of these may see an increase in these prices (p. 9)  
*Clearly a word like "large" has been left out of the last sentence.*

Hence the projected increase of **2,400 customers** receiving an increase in stormwater drainage charges must include farmers on farmland because farms are amongst the largest commercial land usage categories in the Central Coast region. Other large land uses would include large retail complexes and large manufacturing or industrial sites. Of retail complexes over 4.5 Ha in size there

would probably be less than 10 and there would probably be a similar number of large commercial/industrial land holdings. There may be around 100 smaller retail, commercial and industrial properties between 1.1 Ha in size and 4.5 Ha in size, but probably less. Most commercial and industrial properties would be under 1.1 Ha in size.

Therefore, it is easy to deduce that Council planned for the vast majority of the 2,400 customers who would receive an increase in non-residential stormwater charges to be the owners of **farmland**. Council's belated assurances to farmland owners that they would *probably* be entitled to a low impact rate is not therefore consistent with Council's *actual* submission and looks more like a public relations exercise created on the run when Council staff realised that kicking farmer's to the kerb would not be either an equitable or a popular move.

3. **Non-urban land:** Council's proposal to impose stormwater drainage charges on property owners who do not live in an urban area goes against the directives of the Local Government (General) Regulation 2005, Section 125A (1) where it is stated:

“For the purposes of section 496A of the Act, a council may make or levy an annual charge for stormwater management services **only in respect of urban land** that is categorised for rating purposes as residential or business”.

With the exception of the Somersby Industrial Estate, which is located at the Gosford end of Wiseman's Ferry Road near its access and egress to the Pacific Highway and M1 interchange, virtually all privately-owned land west of the M1 from the north of the former Wyong LGA to the southern end of the former Gosford LGA consists of rural farmland, rural residential land or other forms of commercial and industrial properties. Very little, if any, of this rural property is connected either to town water, town sewer or the Central Coast's stormwater drainage pipeline services.

The rural hinterland west of the M1 is clearly not “urban” land otherwise it would not be zoned either **Rural** or **Environmental Conservation**. Moreover, Council’s recognition of a “**farmland**” category for rates also demonstrates Council’s distinction between its urban districts primarily to the east of the M1 and its rural hinterland primarily to the west of the M1.

“**Urban land**” is defined within the Local Government (General) Regulation 2005 125A (5) as “**land within a city, town or village**”. There are no city, town or village centres in these communities west of the M1. Instead there is a range of government and non-government services dispersed throughout the district.

4. **Vacant Land:** Council’s proposal to impose stormwater drainage charges on vacant land goes against the directive of the Local Government (General) Regulation 2005, Section 125A (2) where it is stated:

“A council may not make or levy an annual charge for the provision of stormwater management services in respect of a parcel of land if:

- (a) The parcel of land is **vacant land** ...

We would point out here that **much farmland is “vacant” land** if by “vacant” the legislation means that it has **no dwelling** on it. If the need for a “**dwelling**” is the reason why that was provided as the unit of measure in Table 2 of Council’s submission discussed above in point (1) then it should have been made clear in both Council’s actual submission and their summary that where there is no “dwelling” on a rateable property then the proposed charge will be \$0.

Furthermore, the conventional meaning of “dwelling” is a residence or a house/townhouse/apartment or some other kind of home construction where a person, or members of a household, can potentially have their domicile. It does

not mean a structure designed to shelter or control the movement of animals, for example, cattle stockyards or chicken sheds.

5. **Fairness:** Council's letter relies on the concept of "fairness" to justify imposing stormwater drainage charges of \$1,716.96 on non-residential farmland properties from just over 1 Ha to 4.5 Ha and of \$5,427.81 on non-residential farmland properties over 4.5 Ha. Council's letter states:

"Council's proposal includes a non-residential stormwater drainage charge applied based on land size. This is considered a fairer approach as the volume of stormwater generated by a property is more closely related to the land size rather than the size of the water meter." The size of the water meter was the unit of measure for stormwater drainage charges in the former Wyong LGA.

What Council's letter fails to mention when discussing the "fairness" these proposed stormwater drainage charges is that in the rural hinterland of the former Wyong LGA, as in the rural hinterland of the former Gosford LGA hardly any farmland properties are actually attached to any stormwater drainage pipe system of any size.

The only stormwater drainage services provided in the rural hinterland west of the M1 is basic roadwork drainage, not connecting any individual farmland properties to a stormwater drainage pipe system. Hence rather than properties generating stormwater drainage run-off stormwater that flows into Council's stormwater system, the opposite is what occurs. Stormwater from Council's roads runs off onto farmland properties adjacent to those roads. Certainly, there are drainage ditches and the occasional culverts and levees in the rural hinterland, however stormwater from these rural roadways is then discharged by this system onto private properties at low points where private property owners are forced to deal with stormwater flowing through culverts or overflowing drains onto their land.



The actual stormwater drainage system in the Central Coast's rural hinterland west of the M1 is the natural gravity feed system whereby stormwater run-off from roads and natural highpoints flows into the natural creek system that forms part of the Hawkesbury confluence region. By way of illustration, in the former Gosford LGA rural hinterland, Bucketty Creek and Boomerang Creeks flow into Mangrove Creek north of the Mangrove Creek Dam and Kymdura, Tinguamaja, Parry, Kooree, Warre Warren, Dubbo, Newman's, Ten Mile Hollow, Worley's, Craft's, Sugee Bay, Bedlam, Ironbark, Screech Owl, Dinner, Popran, Tarby, Scotchman, and No-Name Creeks run into Mangrove Creek which then runs into the Hawkesbury River at Spencer. Breakfast, Allen's, Cohen's, Gunderman, Mill and Roses Creeks run directly into the Hawkesbury River south of Spencer. This is the natural stormwater drainage system flowing from the Mountains District Plateau area (which includes Somersby, Peat's Ridge, Kulnura, Central Mangrove and Mangrove Mountain) onto the Mangrove Creek/Hawkesbury River area from Upper Mangrove through Mangrove Creek/Greengrove, Lower Mangrove, Spencer and Gunderman.

This creek and river system services the rural hinterland of the former Gosford LGA with a stormwater drainage system with little assistance and minimal infrastructure contribution from the Central Coast Council. A similar situation exists within other areas of the Central Coast rural hinterland due to the Wyong and Mooney Mooney Creek systems that flow through rural properties in the Wyong district and the Mount White to Mooney Mooney district. If anything Central Coast Council should be paying rural property owners a fee to take care of Council's stormwater run-off.

6. **Equity:** Council's submission states that "[u]nder this proposal, all rateable properties will pay for stormwater drainage, as the whole community benefits from stormwater drainage infrastructure (1.1, p. 7). A perusal of Council's stormwater drainage capital expenditure 2013-2018 reveals however that overwhelming majority of capital works expenditure related to urban projects (6.4, pp 80-81) and that the same is true for

proposed new and upgrade projects (8.5, p. 132). Council's concept of equity is therefore for non-residential rural property owners, such as farmers, to pay an increase of up to **4,253.5%** in their stormwater drainage rates in order to subsidize Council's reduction in urban residential stormwater drainage charges from **\$128.32** in the former Wyong LGA and **\$124.68** in the former Gosford LGA to \$110.77 across the urban Central Coast district.

To rub salt into the wound of farmers affected by Council's proposed increase in stormwater charges their rural residential neighbours would be rated at the residential rate of \$110.77 regardless of their property size, despite the fact that rural residential properties create the same supposed stormwater run-off as farmland properties do. We are not arguing however that our rural residential neighbours should be charged the same rate as farmland owners are. Our argument is that if Council wants to be "equitable" then all urban residential properties and all rural properties should be rated the same stormwater drainage rate of \$110.77. Alternatively we argue that "farmland" properties should be charged the same stormwater drainage rate as residential properties and only non-farming commercial and industrial properties, whether rural or urban should incur the higher charges, but especially the urban commercial and industrial properties that are actually connected to the Council's stormwater drainage pipe system.

7. **Customer Engagement:** Central Coast Council claims in its submission to IPART that it's "engagement" process has been respectful and transparent, inclusive, clear and accountable (p. 171). Council refers IPART to its consultation process in "We are One Central Coast. A smart, green, and liveable region with a shared sense of belonging and responsibility" (p. 173). The summary provided demonstrates a Council with a blinkered urban focus offset only partly by a vision for "natural" environment and bushland concerns. Nowhere in their "vision" is any acknowledgement whatsoever of the benefits and challenges faced by farmers and other business owners operating on properties in the rural hinterland.

As for community consultation, the “community pop up events” and “workshops” were held exclusively in urban areas (pp. 175-6). The only “information session” to be held in the rural hinterland was at Alison Homestead on 29 September, the October long weekend, well after Council had lodged its submission. No effort was made to alert farmers in the former Gosford LGA until Mr Jay Spare’s letter of 8 October which was received by most property owners around 10 October.

**Summary:** Due to the serious shortcomings in the Central Coast Council’s failure to recognize the infrastructure and community differences between urban and rural districts within their region we submit that IPART should refuse to approve that part of the Central Coast Council’s proposal for stormwater drainage rate increases that applies to farmland. More radically we also submit that IPART should refuse to approve any part of the Central Coast’s proposal for stormwater rate increases that affects any vacant land or land that is outside an urban area, that is, a village, town or city.

Yours faithfully,

John and Marilyn Wood  
Cattle Farmers, Greengrove.