

Domestic waste management charges - Discussion Paper

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Question	Response
Feedback and Submission Form	
Industry	Local Government
Review	Review of domestic waste management service charges
Document Reference	c1e253a1-4210-41d3-97de-3be8f315fce7
1. Are there concerns with the prices councils charge for domestic waste management services? Why/why not?	<p>Yes. Please see attached submission. Tweed Shire Council is charging SP 76024 residential ratepayers:</p> <ul style="list-style-type: none"> - a domestic waste admin charge (via their rates notice), while refusing to provide a domestic waste management service to those ratepayers. - both a domestic waste admin charge (via their rates notice) and a commercial waste management charge (via their Owners Corporation) . - commercial waste charges (via their Owners Corporation) for collection and disposal of their domestic waste. - commercial waste charges (via their Owners Corporation) for collection and disposal of the domestic waste of another separate Owners Corporation. - commercial waste charges (via their Owners Corporation) for collection and disposal of the commercial waste of another separate Owners Corporation.

<p>2. If there are concerns, how should IPART respond? For example, if IPART was to regulate or provide greater oversight of these charges, what approach would be the most appropriate? Why?</p>	<p>Please see attached submission. Councils should be regulated so that they are prohibited from:</p> <ul style="list-style-type: none"> - refusing to provide a domestic waste services to collect domestic waste; - charging residential ratepayers an admin fee for a domestic waste service while refusing to provide a domestic waste service to those ratepayers; - charging residential ratepayers an admin fee for a domestic waste service while those ratepayers are already paying (through their Owners Corporation) another management fee which is included in commercial waste charges ; - charging residential ratepayers (through their Owners Corporation) commercial rates for the collection of their domestic waste; - charging residential ratepayers (through their Owners Corporation) the cost of the collection of domestic waste generated by another property at either domestic or commercial rates; and - charging residential ratepayers (through their Owners Corporation) the cost of the collection of commercial waste generated by another property at either domestic or commercial rates
<p>3. Would an online centralised database of all NSW councils' domestic waste charges allowing councils and ratepayers to compare charges across comparable councils for equivalent services (eg, kerbside collection), and/or a set of principles to guide councils in pricing domestic waste charges, be helpful? Why/why not?</p>	<p>Yes</p>
<p>4. Do you have any other comments on councils' domestic waste management charges?</p>	<p>Please see attached submission. The residential ratepayers of SP 76024 are shouldering a huge financial burden as a result of the Tweed Shire Council waste management charging policy. This burden far exceeds the Council's normal domestic waste management charges for residential ratepayers, as SP 76024 residential ratepayers are paying commercial rates for their domestic waste and are also paying for waste generated by other entities.</p>
<p>5. Which Council do your comments relate to?</p>	<p>Tweed Shire Council</p>
<p>Your submission for this review:</p>	<p>Please see attached</p>

If you have attachments you would like to include with your submission, please attach them below.	20201015 SP 76024 IPART submission.pdf
Your Details	
Are you an individual or organisation?	Organisation
If you would like your submission or your name to remain confidential please indicate below.	Publish - my submission and name can be published (not contact details or email address) on the IPART website
First Name	Peter
Last Name	Elliot
Organisation Name	The Owners Corporation Strata Plan 76024
Position	Chairperson and Treasurer
Email	
IPART's Submission Policy	I have read & accept IPART's Submission Policy

THE OWNERS CORPORATION STRATA PLAN 76024

CURTIS STRATA

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PO Box 551, Yamba NSW 2464

15 October 2020

Review of Domestic Waste Management Charges
Independent Pricing and Regulatory Tribunal
PO Box K35 Haymarket Post Shop
Sydney NSW 1240

Dear Tribunal Members

Submission to IPART Review of Domestic Waste Management Charges

1. This submission is made on behalf of the Owners Corporation Strata Plan 76024 (SP 76024), located at [REDACTED] in the Tweed Shire Council (the TSC).
2. SP 76024 was established in 2005. SP 76024 comprises 166 lots, made up of 165 apartments and a Caretaker's lot, which includes a function centre. The Ministerial consent for DA 477-11-2003¹ approved the development as a tourist resort. The property is within an SP3 tourist zone.
3. SP 76024 believes its waste collection experience with the TSC provides a compelling and real time example of how the system of charging for domestic waste management is not delivering good value, or any value, and certainly not any fairness, for SP 76024 ratepayers.

History of SP 76024 waste collection arrangements

SMS

4. SP 76024 is a party to a Strata Management Statement (SMS) which also includes two separate strata plans (Bale SP 76023 and Retail SP 77925). Bale SP 76023 comprises 42 lots, made up of 41 apartments and a Caretaker's lot. Retail SP 77925 comprises 2 lots, made up of a restaurant and a Spa.
5. The SMS established a shared garbage area in the SP 76024 basement which Bale SP 76023 and Retail SP 77925 are entitled to use for so long as they pay their required shares of expenses of the garbage area. Waste is deposited into and collected via a large roll on roll off refrigerated compactor in the garbage area.
6. There is also an easement over the garbage area, under which Bale SP 76023 and Retail SP 77925 have rights of vehicular access and obligations to pay their required shares of expenses of the garbage area.
7. There are substantial outstanding monies owed to SP 76024 in relation to the required contributions of both Bale SP 76023 and Retail SP 77925 for the garbage area. In particular, Bale SP 76023 has not contributed to the costs of the garbage area since May 2014. Retail SP 77925 has not contributed to the costs of the garbage area since mid 2016.

Solo waste collections

8. At an EGM held on 5 May 2006, it was resolved that SP 76024 enter a Deed with Solo Waste Australia Pty Ltd under which Solo was granted the sole right to empty the compactor in the SP 76024 garbage area. Solo provided a waste collection service under this Deed until the end of 2015.

¹ http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7200

TSC advises the TSC IS providing a domestic waste management service

9. In December 2015, the TSC wrote the **attached** letter to SP 76024 lot owners/ratepayers (ratepayer details deleted), advising them:

“Under State Government legislation, from 1 July 2016 Council is required to charge all garbage and recycling services directly to each individual unit”

“The standard collection service charges (charges for the garbage and recycling collected from your property) are additional to these above and will be the charges soon sent directly to you”

“Legal obligations

Under Section 496 of the Local Government Act, all Councils are required to charge annual domestic waste management charges (including garbage and recycling collection) for every parcel of rateable land in which waste management services can be provided.

Your individual unit is a rateable property for which Council can provide garbage and recycling services, and accordingly we will need to charge the minimum domestic waste management charge”.

10. By the **attached** letter dated 16 June 2016, the TSC advised SP 76024:

“Council is obligated to charge for domestic waste management services that they are able to provide and it is Councils belief that this is the case with the Bale [SP 76023] and Peppers [SP 76024] residential rated properties, despite the mixed nature of the development.”

11. In this letter the TSC estimated, based on statistical tonnage information for the Shire:

- a) residential SP 76024 ratepayers contributed 26.7% of the waste deposited in the compactor;
- b) residential Bale SP 76023 ratepayers contributed 6.6% of the waste deposited in the compactor, and
- c) the commercial lots in the Complex contributed 66.7% of the waste deposited in the compactor.

12. In a further letter to SP 76024 lot owners/ratepayers dated 2 August 2017, the TSC confirmed the annual waste management charges for 2016/17 will be distributed to the individual properties and the portion of charges that would be attributed to each residential property in SP 76024 will be approximately \$177.

13. However, for reasons unknown to SP 76024, the TSC did not charge SP 76024 ratepayers a waste collection charge in their rates notices. During 2016-2019 the TSC supplied a domestic waste management service without charging SP 76024 ratepayers in their rates notices.

TSC advises SP 76024 the TSC IS NOT providing a domestic waste management service

14. By the **attached** email to SP 76024 dated 15 August 2019, the TSC announced a major change in its position. The TSC referred to our SP3 tourist zoned property as being a “mixed residential and commercial” property and asserted it would have no further involvement in waste services to the property. The TSC email stated:

“The provision of a service for compactor bin such as this for mixed residential and commercial properties is not something Council generally provides” and

“Council would have no further involvement in the service delivery.”

15. The TSC did not and has never advised SP 76024 lot owners/ratepayers of its sudden change of position that:

- a) Its previous advice that the TSC was providing a domestic waste management service to the property is now incorrect;
- b) At some time between 2017 and 2019, the legal obligation in section 496 of the *Local Government Act 1993* become inapplicable to the property, for unspecified reasons; and
- c) Contrary to Council’s previous advice to SP lot owners/ratepayers in 2015 and 2017, SP 76024 ratepayers would not be charged approximately \$177 for waste collection and disposal services in their rates notices.

16. SP 76024 responded to the TSC on 6 September 2019 stating:

"Council enforced a takeover of the garbage service some years ago. Back then you advised then it was on legal advise (sic) that the council had a legal obligation to provide the service. Based on your previous advice it is Councils responsibility to provide a garbage service to All Lot Owners in SP76024 and charge each Lot Owner accordingly in accord with standard rates".

TSC views

17. By the **attached** letter dated 5 November 2019, the TSC advised:

- a) *"After careful consideration of the matter, including consideration of further legal advice, Council is of the view that the service provided is **not** [emphasis added] a domestic waste management service and therefore the proper approach is to levy a fee under s608 of the LG Act."*
- b) *"Council has no obligation to provide a waste management service. There is nothing in the LG Act that requires Council to provide such a service."*
- c) *"The development consent is silent on how and by whom the waste would be collected from the receptacle."*
- d) *"As the consent for the whole development covered by SP76024, SP76023 and SP77925 requires waste to be directed to the central receptacle beneath Peppers Residential, it would be contrary to the terms of that consent for SP 76024 to not allow the other strata plans to direct waste to the receptacle."*

[Note: Contrary to the statement above, the TSC has been unable to refer SP 76024 to any requirement in the Ministerial consent for DA 477-11-2003² that waste for the 3 Strata Plans must be diverted to the central receptacle in the SP 76024 basement. The TSC referred in its **attached** letter dated 20 April 2020 to the Report on Parking and Loading/Service Matters by Eppell Olsen & Partners submitted with the DA. However, this Report made no reference to the 3 strata plans depositing their waste in the receptacle. Further, the Ministerial consent did **not** authorise the construction of the Retail health spa and restaurant, and specifically required that separate Development Applications be lodged for the construction of the health spa and restaurant.]

- e) *"Council takes the view that as the waste receptacle is on land covered by SP 76024, the service is being provided to SP 76024 and therefore the fees can be charged to SP 76024. Council cannot charge otherwise as it does not know what volume of waste is generated by each strata plan."*

[Note: Contrary to the TSC's claim that it does not know the volume of waste generated by each strata plan, the **attached** TSC letter to SP 76024 dated 16 June 2016 included a detailed evidence based estimate of the amount of waste generated by SP 76024 (26.7%), Bale SP 76023 (6.6%) and the commercial lots in the Complex (66.7%).]

- f) *"If SP 76024 were to decommission the current compactor and not replace it with another central receptacle there would be a breach of the development consent in respect of which Council could take enforcement action. Council is not responsible for providing a replacement receptacle."*

SP 76024 views

18. By letter dated 26 November 2019 SP 76024 informed the TSC:

- a) The TSC's vacillation on this important matter is a matter of serious concern, particularly as the TSC should reasonably be expected to have a high level of familiarity and expertise on such matters.
- b) One of the TSC's core functions is waste removal and disposal. The TSC's position that it has no obligation to continue to provide a collection and disposal service for SP 76024 domestic waste is inconsistent with the clear intention of the LG Act.
- c) It is not appropriate for the TSC to adopt an unsubstantiated and artificial position that domestic waste management services are not being provided to the Complex. This position is inconsistent

² http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7200

with the LG Act, longstanding Council policy, the Department of Local Government Council Rating and Revenue Raising Manual and the longstanding imposition by the TSC of an annual Domestic Waste admin charge on over 200 residential ratepayers in the Complex.

- d) SP 76024 rejects the TSC's assertion that it may levy a fee on SP 76024 under section 608 of the LG Act. This is because section 608 of the LG Act prohibits Council from charging a fee for a service that is provided, or proposed to be provided, on an annual basis for which it is authorised or required to make an annual charge under section 496 of the LG Act (domestic waste management services) or under 501 of the LG Act (waste management services other than domestic waste management services).
- e) In 2015 and 2017 individual SP 76024 ratepayers were informed by the TSC they would be charged for domestic waste management services. This advice to ratepayers stands and Council has not informed ratepayers otherwise. The TSC's delay in levying an annual charge for the provision of domestic waste management services pursuant to section 496 of the LG Act has deprived the Shire of significant funds.
- f) The TSC should implement the charges for domestic waste management services as required by section 496 of the LG Act without further delay and continue to provide a domestic waste management service for SP 76024 ratepayers.
- g) The TSC should liaise with the Retail lots to make suitable arrangements for charging for their waste services. The TSC letter dated 16 June 2016 [**attached**] included a detailed statistical evidence based estimate that the amount of waste generated by the commercial lots is 66.7% of the waste generated at the Complex.

SP 76024 proposal to resolve issue

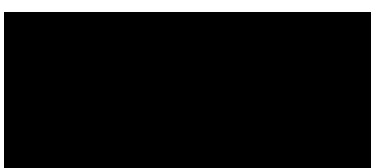
- 19. Please see the **attached** letter from SP 76024 to the TSC dated 20 January 2020 which proposes a way forward whereby:
 - a) Waste continues to be collected by Solo Resource Recovery (or another contractor of the TSC's choice) from the compactor in SP 76024 basement;
 - b) Pursuant to section 496 of the LG Act, the TSC levies a fair and reasonable charge as determined by the TSC on individual SP 76024 and Bale SP 76023 residential ratepayers for the provision of domestic waste management services;
 - c) The TSC pays Solo Resource Recovery for the cost of the domestic waste service using the income derived from the charge on individual SP 76024 and Bale SP 76023 residential ratepayers for the provision of a domestic waste service; and
 - d) Solo invoices the two commercial lots directly and equally for any waste charges in excess of the amount paid by the TSC.
- 20. The TSC did not respond to this proposal.

Risks and results of monopoly power in providing and setting charges for domestic waste services

- 21. Granting monopoly powers to a local Council to provide and set charges for domestic waste services carries inherent risks for ratepayers. This is especially the case given that domestic waste services are essential services. When monopoly providers of domestic waste services refuse to provide this essential service, ratepayers are left with few options, none of which result in good value or equity for ratepayers.
- 22. In this case, the refusal of the TSC to supply domestic waste services to SP 76024 ratepayers has resulted in an inordinate and unreasonable burden being placed on 165 SP 76024 individual residential ratepayers:
 - a) The TSC asserts it is under no obligation to provide waste management services.
 - b) The TSC reversed its position due to unspecified legal advice and refuses to provide a domestic waste management service to collect the domestic waste generated by SP 76024 and Bale SP 76023.

- c) Despite refusing to provide a domestic waste management service, the TSC continues to charge SP 76024 ratepayers an annual "DOMESTIC WASTE ADMIN CHARGE".
 - d) SP 76024 had no option but to accept an alternative waste management service with higher commercial rates.
 - e) The TSC is charging SP 76024 for the collection of domestic waste from Bale SP 76023 and commercial waste from Retail SP 77925, which are completely separate legal entities to SP 76024.
 - f) The TSC deemed that it is up to SP 76024 to recover the cost of the waste management services the TSC provides to collect domestic waste generated by Bale SP 76023 and commercial waste generated by Retail SP 77925.
 - g) The TSC foreshadowed enforcement action if SP 76024 does not provide a central receptacle for waste for all three strata plans.
23. It seems highly unlikely that legislators would have anticipated that granting powers to local Councils to provide domestic waste management services and set charges for those services would result in a Council:
- a) refusing to provide a domestic waste services to collect domestic waste;
 - b) charging residential ratepayers an admin fee for a domestic waste service while refusing to provide a domestic waste service to those ratepayers;
 - c) charging residential ratepayers an admin fee for a domestic waste service while those ratepayers are already paying (through their Owners Corporation) another management fee which is included in commercial waste charges³;
 - d) charging residential ratepayers (through their Owners Corporation) commercial rates for the collection of their domestic waste;
 - e) charging residential ratepayers (through their Owners Corporation) the cost of the collection of domestic waste from another property at commercial rates; and
 - f) charging residential ratepayers (through their Owners Corporation) the cost of the collection of commercial waste from another property at commercial rates.
24. This is an intolerable and unfair situation and is placing severe financial strain on SP 76024 lot owners.
25. Please contact me should you require any further information.

Regards



Peter Elliot
Chairperson and Treasurer
The Owners Corporation SP 76024



³ The TSC website states: "Waste management administration charge Applies to residential and farmland properties that receive a waste service. (The charge does not apply to business rated properties.) Commercial waste charges are higher than residential charges and include a management cost. Commercial waste is subject to GST."
<https://www.tweed.nsw.gov.au/Rates/ChargesExplained>

Council Reference: Garbage - Charges
Your Reference:



TWEED
SHIRE COUNCIL

Customer Service | 1300 292 872 | (02) 6670 2400

039 / 2053

tsc@tweed.nsw.gov.au
www.tweed.nsw.gov.au

Fax (02) 6670 2429
PO Box 816
Murwillumbah NSW 2484

Please address all communications
to the General Manager

ABN: 90 178 732 496

Dear Resident

Waste Management Charges

We apologise if you have received this letter twice due to an administrative error. These letters cover general information only. If you have received this previously, it would have come to your address with the incorrect name and no other personal details.

The letter and FAQ enclosed refer to a review that Council is conducting of all residentially rated properties within the Tweed Shire, to ensure the correct waste charges are being applied to each rateable property, and that each has an equal opportunity to access the required garbage and recycling services.

At present, these Council services and fees are managed by and charged to the Body Corporate / Strata of your complex, which in turn passes these charges on to the individual owners of each unit.

Under State Government legislation, from 1 July 2016 Council is required to charge all garbage and recycling services directly to each individual unit and will no longer be sending these charges to the Body Corporate / Strata.

If you are currently paying service charges to the Body Corporate / Strata, they should be offset by the Council charges which will come direct to you on your rates notice.

You should already be paying fees and charges that apply to all properties for the provision of communal waste services throughout Tweed Shire, to cover landfill management and public waste services. These charges are explained further in the enclosed Frequently Asked Questions (FAQ) sheet or on Council's website www.tweed.nsw.gov.au/BinServices. These charges for the 2015-16 financial year are:

- \$62.40 – Annual waste management fee, and
- \$50.40 – Annual Landfill management charge
- Annual total - \$112.80

The standard **collection service** charges (charges for the garbage and recycling collected from your property) are additional to these above and will be the charges soon sent directly to you rather than through your body corporate/strata. Please see the enclosed FAQ sheet for details on what these charges are, and options available to your property.

Where applicable, the provision of collection services will still be organised by Council through the Body Corporate or Strata as the property's managing agent, to ensure the service is provided efficiently. If you do not have a managing agent, please see the FAQ sheet on how your services can be organised.

There are a number of reasons behind this change:

Equity among all ratepayers

This charge is part of an ongoing process by Council to standardise garbage and recycling collection services and charges, to ensure they are applied equitably to all residential properties and that each residential property has an equal opportunity to access garbage and recycling services.

A shared contribution to recycling

The provision of standard garbage and recycling services to all rateable properties is vital to achieve goals to reduce the amount of waste going to landfill. The State Government's Waste Avoidance and Resource Recovery Strategy has set each NSW council area a target of 75 per cent of all waste to be diverted away from landfill by 2021/22. Tweed Shire is currently diverting less than 50 per cent of all household waste, with significantly lower levels diverted from some multi-unit properties.

Ensuring all multi-unit properties are providing sufficient recycling services for each unit / townhouse is one way complexes can contribute to Tweed Shire meeting the 75 per cent target of waste diversion from landfill.

Planning requirements

Your property was approved under the Tweed Development Control Plan, Section A15 – Waste Minimisation and Management, which requires minimum amounts of garbage and recycling collection to be supplied per unit / townhouse. The amount varies according to the type of multi-unit complex you live in. Please refer to the enclosed Frequently Asked Questions (FAQ) sheet for definitions of properties, minimum garbage and recycling collection requirements and proposed annual minimum collection charges for these services.

All residential properties within the Tweed Shire must be charged for both garbage and recycling collection services. Many properties require more than the minimum amounts and pay for these accordingly. However, the minimum amounts listed in Table 1 on the FAQ sheet are the lowest capacities and fees that can be applied for each unit or townhouse.

Legal obligations

Under Section 496 of the Local Government Act, all Councils are required to charge annual domestic waste management charges (including garbage and recycling collection) for every parcel of rateable land in which waste management services can be provided.

Your individual unit is a rateable property for which Council can provide garbage and recycling services, and accordingly we will need to charge the minimum domestic waste management charge outlined in Table 1 of the FAQ sheet.

Should your property require more than the minimum garbage and recycling requirements, each property will pay for these additional volumes accordingly.

Food organics service

In mid 2017, Council will be introducing the Food Organics and Garden Organics (FOGO) bin, where the current optional green waste service will become compulsory for all residentially rated urban properties, where possible. The FOGO bin will accept both garden waste and household food waste, which will be processed at a composting facility soon to be built at Stotts Creek Resource Recovery Centre.

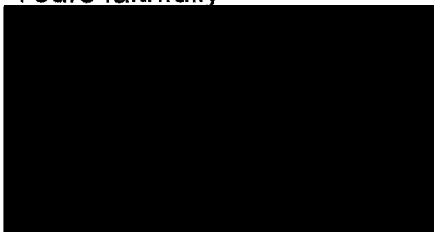
Council understands the space limitations for many multi-unit complexes and therefore will not be introducing the FOGO bin as a compulsory service to large scale unit blocks. Instead, it will remain optional and complexes that wish to introduce the service will be able to contact Council to negotiate their options.

Further information

For more information, including how these changes affect your property:

- see the enclosed FAQ sheet
- visit the website www.yoursaytweed.com.au/unit-waste-charges
- email waste@tweed.nsw.gov.au
- phone our dedicated waste and recycling hotline on (02) 6670 2260 (the hotline will operate between Monday to Friday, 8.30am-4.30pm until 29 January, 2016).
- register your interest in attending an information session (dates for sessions in your area will be confirmed soon. To register, please phone (02) 6670 2260 or email waste@tweed.nsw.gov.au.)

Yours faithfully



Rod Dawson
Unit Coordinator - Waste Management



Multi-unit Waste Management Charges

FAQs - Frequently Asked Questions – Residential Flat Buildings



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Question 1. Why is Council changing the way we will be charged for waste?

All residentially rated properties within the Tweed need to be charged a compulsory waste service charge to provide the minimum amount of garbage (waste for landfill) and recycling to be collected per property.

The requirement, stated in Section 496 of the Local Government Act, requires all Councils to charge annual domestic waste management charges for every parcel of rateable land in which waste management services can be provided. **These are the garbage and recycling services that are collected from your property.**

Your property was approved under the Tweed Development Control Plan, Section A15 – Waste Minimisation and Management, which requires minimum amounts of garbage and recycling collection to be supplied per property. The amount varies according to the type of property, as explained in Question 2.

Currently, 30 per cent of multi-unit properties are not being correctly charged this residential garbage and recycling service charge. This is either because the charges have been directed to the property's Body Corporate / Strata, which then passes on a waste charge, or the property has no Council waste services and related charges because they are provided by a commercial contractor.

Question 2. What is the minimum amount of garbage and recycling services I should have per week and what should I expect to pay for these services?

Volumes of garbage and recycling:

Under the Tweed Development Control Plan, Section A15 – Waste Minimisation and Management, Tweed Shire Council requires provision for minimum residential garbage and recycling volumes as outlined in Table 1.

Please note these amounts are indicative only of the minimum volume that needs to be collected per week, per unit (not actual bin sizes required).

Where properties have space issues, services to collect these volumes will be determined by the Body Corporate / Strata and may be in the form of shared bins or bulk bins depending on the space limitations of each complex.

Proposed charges:

Each property is currently paying for garbage and/or recycling services, however, there will be a change in the way these are charged.

Your current charges would include those that apply to all properties for the provision of communal waste services throughout Tweed Shire, to cover landfill management and public waste services (these should already be coming to you through your rates). For the 2015/16 financial year, these include:

- \$62.40 – Annual waste management fee, and
- \$50.40 — Annual Landfill Management Charge

Multi-unit Waste Management Charges

FAQs - Frequently Asked Questions – Residential Flat Buildings

(Total - \$112.80 per year based on 2015/16 fees and charges)

See Question 3 for further explanation on how these funds are used.

However, charges for your garbage and recycling services (those collected from your property) would currently be passed on from your Body Corporate / Strata (some properties might have also ordered their own additional services).

From 1 July 2016, Council will instead send these service charges directly to each unit owner. If unit owners are currently paying waste charges to the Body Corporate / Strata, they should be offset by the service charges that will be charged directly to each individual owner in their rates.

A standard waste management charge for garbage and recycling per unit will be calculated based on the minimum required volumes for garbage and recycling collection, similar to the charge applied to all other residential properties in the Tweed.

If you or your complex requires a higher volume of garbage or recycling services, then you will need to pay for that additional volume accordingly.

This charge is yet to be formally confirmed and approved by Council. However, see below for an indication of what this might be, based on the 2015/16 fees and charges.

Table 1: Multi-unit Complexes (large scale unit blocks) / Residential Flat Buildings

Definition	WEEKLY Garbage volume required per unit	WEEKLY Recycling volume required per unit
<ul style="list-style-type: none">• A building containing three or more dwellings.• Don't have to have ground level access for each dwelling.• Each unit is located within the one building.• Usually three storeys or more.	80 litres per week 201/16 cost: \$148.60 per unit per year	40 litres per week 2015/16 cost: \$22.60 per unit per year
TOTAL annual waste services charge based on 2015/16 Fees and Charges: \$171.20 per unit/year		

Question 3. What does the Annual Waste Management Charge and Annual Landfill Management Charge cover?

Waste Management Charge:

The Waste Management Charge is applicable to all residential and farmland properties that receive a waste service. The fee for 2015/2016 is \$62.40.

This charge helps meet the cost of:

- Land rehabilitation
- Roadworks relating to garbage collection
- Acquisition of land for future garbage depots

Multi-unit Waste Management Charges

FAQs - Frequently Asked Questions – Residential Flat Buildings



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- Financial assurance
- Provision of landfill environmental management
- Waste disposal technology - software and capital equipment
- Planning for future waste strategies - eg. management plans, bin systems, collection strategies, e-waste recycling (computer, electronic equipment)

Landfill Management Fee

All rateable properties in the Tweed pay a Landfill Management Fee of \$50.40 (2015/16 Fees and Charges), in accordance with Section 501A of the Local Government Act.

The Landfill Management Fee helps meet the costs of:

- establishing future landfills
- current landfill operations
- remediating former landfill sites
- minimise their environmental impact

Question 4. How do I organise my waste services?

If a complex has a Body Corporate or Strata Manager, Council will continue to organise the garbage and recycling collection services through this managing agent, to ensure the services are provided efficiently and take any space limitations and other factors into consideration.

If your complex isn't managed by either of the above, please contact Council's Waste Management Unit on (02) 6670 2260 to discuss your service options.

Question 5. Can I have more or less recycling / garbage collected per week?

The proposed fee is for the minimum volume of garbage and recycling you are required to have and pay for. Those properties who do not have a managing agent can order larger bin services for both recycling and garbage.

Properties with a managing agent will need to speak with the agent to increase services, because the provision and organisation of services will still be controlled through the Body Corporate / Strata.

Additional services or volumes will incur additional charges, depending on what is ordered. Charges for current services can be found under Council's Fees and Charges at www.tweed.nsw.gov.au/feesandcharges

Question 6. I rarely use garbage or recycling services. Can I opt out of receiving the collection services?

Bins can be shared, however, you will still need to pay the minimum garbage and recycling service charge (see Table 1) in line with all residential properties in Tweed Shire.

Multi-unit Waste Management Charges

FAQs - Frequently Asked Questions – Residential Flat Buildings



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The Annual Waste Management Fee and Annual Landfill Management Fee (listed in Question 2) are also compulsory for all residentially-rated properties.

Question 7. I don't have space to store bins at my property. What services do I get to cover these minimum requirements?

Where services to properties are restricted by available space, the Body Corporate / Strata will determine the services to collect these volumes. This may be provided by shared bins or bulk bins, depending on the space limitations of each complex.

Question 8. How can I get more information or ask questions?

- visit the website yoursaytweed.com.au/unit-waste-charges. Detailed information including linkages to relevant legislation, State targets for waste diversion and Tweed Development Control Plan requirements, will all be provided
- email waste@tweed.nsw.gov.au to ask questions or provide comments
- phone our dedicated waste and recycling hotline (02) 6670 2260 (the hotline will operate between Monday to Friday, 8.30am-4.30pm from 4 December to 24 December
- register your interest in attending an information session (dates for sessions in your area will be confirmed soon. To register, please phone (02) 6670 2260 or email waste@tweed.nsw.gov.au.)

Council Reference: SP 76024 Peppers Resort
Your Reference:



TWEED
SHIRE COUNCIL

16 June 2016

Customer Service | 1300 292 872 | (02) 6670 2400

tsc@tweed.nsw.gov.au
www.tweed.nsw.gov.au

Fax (02) 6670 2429
PO Box 816
Murwillumbah NSW 2484

Please address all communications
to the General Manager

ABN: 90 178 732 496

Mr Peter Elliot
PO Box 769
Tweed Heads, NSW, 2485

Dear Peter

**Mixed Development Bale, Peppers Resort and Retail
Waste Management Services**

Thanks you for allowing me to attend and discuss the provision of waste services to the mixed development at the Peppers and Bale complexes where representatives from the various body corporates were present. I will forward a copy of this response to all parties involved to ensure there are no misunderstandings as to the communications.

Your correspondence raises a number of issues which I will firstly clarify. I will also seek to simplify the issues involved in the takeover of the waste service for the domestic rated property by Council from the contractors and to provide some clarification of the issues you have raised from Council's perspective, particularly in relation to equity and charging.

In paragraph 2 you reference the letter sent to individual lot owners and the proposed change to the waste services whereby the waste charges would be levied on the rates rather than on the body corporate. This is a change which is being introduced to bring the charging for services provided to domestic rateable lots back in line with what is regulated in Section 496 of the Local Government Act. The Act says that if Council can provide the service they **must** charge for the service. All other domestic waste services that can be provided by Council within the shire are paid for by residents through their rates.

The obligation is to charge, not to provide the service, although it is unlikely that a customer who is being charged for the service would elect to not have the service provided. Council can only charge for the service if they can provide the service.

In Paragraph 3 you have noted the charges that I tabled at the BMC meeting as being \$82,000. This amount was actually \$80,583 which reflected the historical waste disposal tonnages for 2015 along with the cost for 68 services provided to the compactor, cleansing of the compactor monthly and maintenance and upkeep on the compactor. The cost is an estimate of the annual service cost as provided by the contractors for the service. Based on discussions with you it would appear these charges mirror the fee currently paid.

If the service level increases or decreases and or the tonnages of waste increase or decrease the overall charge will be also need to increase or decrease. The Local Government Act includes provision in Section 504 which requires that only waste related charges are levied through the Domestic Waste Management Charge (DWMC), that is Council cannot use the General Rate to support the waste service cost or the DWMC to support the general rates. This means that Council is obligated to recover the full cost of providing the service, but not to recover more than the fair and reasonable cost.

In Paragraph 5 you discuss the break-up of charges and Council's request that the BMC provide an allocation of percentages for the breakup of this charge to allow these costs to be divided across the various Strata plans involved in the service.

As a rule Council does not determine relationship issues within a body corporate arrangement or inside a property. Your arrangement for the Peppers/ Bale/mixed commercial arrangement is somewhat unique. Generally waste services are shared by or at a single address, even when they involve mixed development including commercially and residentially rated properties. There are also internally agreed conditions within the property that determine how costs are to be divided.

As I understand it you have an internal agreement to deal with the disbursement of costs which is administered through the BMC.

Council cannot require non-residential rated property owners to use Council based waste services, but in the case of your development, with the current arrangements in place, it would be hard to see how the commercially rated properties could be serviced without varying the methodology of delivery substantially. As stated previously, Council is obligated to charge for domestic waste management services that they are able to provide and it is Councils belief that this is the case with the Bale and Peppers residential rated properties, despite the mixed nature of the development.

In considering the various points you raise relating to the cost and allocation of the waste charges I undertook an analysis of waste quantities and potential waste generation. Our records indicate that your property is disposing of a relatively high amount of waste when compared with what would be expected to be generated at a residential unit complex.

Development guidelines require a typical residential unit complex to make provision for the disposal of up to 80l of waste and 40 litres of recycling per property per week. This means that with your domestic property (Bale and Peppers residential) you should have access to approximately 16.5 cubic metres of uncompacted general waste (206 units @ 80l), and 8.25 cubic metres of recycling (206 units @ 40l) per week. In my experience these capacities work for all residential multi-unit developments with none that I am aware of requiring more, and some significantly less.

Peppers currently have a 19 cubic metre compactor bin. This is equivalent to around three times the capacity of an uncompacted bin, so effectively you have access to approximately 57 cubic metres of uncompacted capacity every time the bin is full and serviced, or over 100% more total waste capacity, inclusive of an allocation for recycling space per service, than would be generated per week by 206 residential units. If the bin is serviced more regularly this increases the ratio for the worse.

This relatively simple evaluation would appear to indicate that the commercial properties placing waste in the compactor are generating a significant amount of waste and the question to be determined is how much waste they generate and how much they should contribute toward the cost of services. The commercial properties include the retail strata (SP77925) as well as the conference centre on the Peppers site (Unit 166) as I understand it. There is also a smaller commercial property on the Bale property which is very small and would not likely contribute to waste.

It would appear that based on these estimates at least 50%, and possibly as much as 67% of the waste generated at the site is associated with the commercial services.

The table below shows the basis for this estimate;

Waste Type	Quantity per property per week – uncompacted	Total
Total mixed waste	All properties – all waste types based on 68 services for the 19m compactor bin	3876 cubic metres per annum - uncompacted, 1292 cubic metres compacted
Domestic waste Bale, 41 units @ .08 cubic m per property per week over the full year	Waste per week – 3.28 cubic metres	Waste per annum – 171.3 cubic metres uncompacted
Domestic waste Peppers, 165 domestic units @ .08 cubic m per property per week over the full year	Waste per week – 13.2 cubic meters	Waste per annum – 689 cubic metres uncompacted
Recycling estimate Bale 41 Units @ .04 cubic metres per property per week per annum	Recycling per week – Bale 1.64 cubic metres per week	Recycling per annum 85.6 cubic metres uncompacted
Recycling estimate Peppers 165 units @.04 cubic metres per week per annum	Recycling per week – 6.6 cubic metres	Recycling per annum - 344.5 cubic metres uncompacted
Commercial estimate of waste metres per week/annum		2586 cubic metres per annum – based on residual waste collected
% Bale residential – including recycling and waste		6.6%
% waste Peppers domestic rateable including recycling and waste		26.7%
% waste commercials including Peppers conference centre and SP 77925		66.7%

Whilst the cost of waste charges may not be able to be divided easily because of the arrangements that have been put in place by the BMC, the effect of the agreement that currently exists means that the charge to each party is not based on waste generation alone and the domestic properties appear to be subsidising the cost of waste collection and disposal for the commercial properties.

As you have indicated the cost allocation needs to take into consideration factors such as power use on the compactor, pest control, as well as operation, maintenance and repairs of Shared Area G. and it is understandable why it is so difficult to reach agreement with the group.

If the breakup and allocation of cost was left to Council to determine it is likely that waste generation would be the most significant factor considered. This would make the actual cost to the residential ratepayers similar to the one originally advertised by Council for domestic Multi Unit Development with a standard waste service.

The service at your property is not however comparable to a normal service. You have a bin that is worth in excess of \$60,000 and which costs over \$8,000 per year to maintain. If the service were provided only to the domestic rated properties only an estimate of the waste charges would likely be;

Service cost 26 services @ \$270	\$7,020
Disposal cost @ 125 tonnes	\$22,050
Maintenance @ \$5,000	\$5,000
Cleaning	\$1,500
Total Waste charges 2016/17	\$35,570
Cost per unit 206 units	\$173 (approx.)

This cost is indicative and Council would be compelled by the waste legislation to recover the full cost of providing the service.

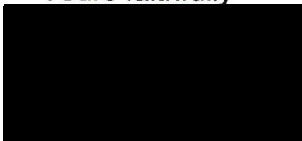
As indicated at the various meetings that Council has been invited to and attended, there are other considerations involved in the breakup of cost that do not allow us to transfer the cost of waste services purely based on tonnages of waste. It is for this reason that Council believe we should not be involved in the breakup of cost as we are not in a position to control or change the arrangement as it exists between the parties involved in the BMC.

Council is however prepared to attend a meeting of all parties involved to outline the basis of the above calculations and to discuss options, but are not in a position to compel commercial operators to take up the provision of waste services from Council.

Whilst the agreement of the internal parties is regulated by the BMC agreement and the Freehold Development Act 1973 this does not compel or regulate Council. Council is regulated by the Local Government Act and would therefore be looking purely from the outside based on the factors and information included above.

Should you require any further information regarding this letter or if you would like Council to assist with this discussion further, please contact me on (02)6670 2659.

Yours faithfully



Rod Dawson
Unit Coordinator - Waste Management

From: Rod Dawson [REDACTED]
Sent: Thursday, 15 August 2019 4:39 PM
To: Paul Curtis
Cc: Yvette van Amstel
Subject: FW: Waste Services for Strata Plan 76024 - Peppers Residential Development

Hello Paul,

Thank you for returning my call to discuss the provision of waste services to the Peppers Resort's 166 residential units which is currently provided in a 19 m refrigerated compactor bin.

Tweed Shire Council has been providing the waste collection service using the compactor bin for the past three years using our contractor Solo Resource Recovery. The bin is located in the basement of the Peppers Resort (SP76024). Prior to this the service was provided by Solo Resource Recovery as a direct billed service, with the charges distributed through the BMC.

The compactor bin is approaching the end of its life having been in service for approximately 12 years. The cost of replacing this compactor could be in the vicinity of \$80,000. Council is not in a position to fund the purchase of a new compactor bin as we have not been recovering costs for the replacement or indeed for the service of this bin. The provision of a service for compactor bin such as this for mixed residential and commercial properties is not something Council generally provides.

We have had preliminary discussions with Solo Resource Recovery who provided the bin and service prior to Council, and they have indicated a preparedness to take over the provision of the service which would include supply of the compactor bin. As the client you would have the opportunity to negotiate this service provision and to use any provider you chose. Council are not in a position to recommend one supplier over another.

This will however mean you will need to reengage with the BMC group at the site to discuss arrangements for the disbursement of costs and the management of the service as Council would have no further involvement in the service delivery.

I have distributed similar communications to both Sean Dumigan at Mantra (SP77925) and the Bale Owners Corporation reps (SP 76023).

Sean Dumigan from Mantra indicated there was a BMC meeting scheduled for next week however as the chair of the BMC you seemed surprised as you have no plans to have a meeting. Sean was proposing to add the waste services and cost disbursements for charging to the agenda and I was happy to talk to the meeting or meet with you to discuss the matter prior to outline Council's position. If there is not a meeting we will need to come to some arrangement as Council is currently not recovering the cost of providing the service for the compactor bin, and we are not able to continue doing this.

Can you please provide a written response within 14 days to allow us to resolve the current position.

Regards,

Rod Dawson

Rod Dawson

Unit Coordinator
Resource Recovery

[REDACTED]

[REDACTED]

Council Reference: Garbage - Bulk Bin
Your Reference:



TWEED
SHIRE COUNCIL

RECEIVED
18/11/19

5 November 2019

Customer Service | 1300 292 872 | (02) 6670 2400

The Secretary
The Owner Corporation Strata Plan 76024
Mr Paul Curtis
PO Box
KINGSCLIFF NSW 2487

tsc@tweed.nsw.gov.au
www.tweed.nsw.gov.au



PO Box 816
Murwillumbah NSW 2484

Please address all communications
to the General Manager

ABN 90 178 732 496

Dear Mr Curtis

**Waste Services for Strata Plan 76024
Peppers Residential Development**

Council refers to our previous correspondence in respect of the above, and in particular Council's letter of 10 October 2019 and your response of 15 October 2019.

As foreshadowed in Council's letter of 10 October 2019, on 24 October 2019 Council resolved to exhibit a proposal to amend its 2019/2020 Fees and Charges to provide for a charge for servicing the compactor located in the basement car park at Peppers Residential. If Council formally adopts the fees, they will be levied under s608 of the *Local Government Act 1993 (LG Act)*.

We will advise further when Council considers the outcome of any public submissions in respect of the proposed fee.

Council responds to your letter using your headings below:

Legal requirement for Council to charge individual ratepayers

Your letter of 15 October refers to Council's earlier correspondence in 2015 to the effect that individual lot owners would be charged a fee for domestic waste management services under s496 of the LG Act.

After careful consideration of the matter, including consideration of further legal advice, Council is of the view that the service provided is not a domestic waste management service and therefore the proper approach is to levy a fee under s608 of the LG Act. The obligation to levy individual lot owners only relates to domestic waste management services under s496.

As you know, Council has never levied any charges under s496 of the LG Act on individual lot owners and in fact has not been charging at all for the service provided over the past few years. There can therefore be no disadvantage to the Owners Corporation and individual lot owners as a result of Council's current position.

Legal requirement for provision of waste collection services

Council has no obligation to provide a waste management service.

There is nothing in the LG Act that requires Council to provide such a service.

Despite the provisions of the development control plan applying at the time the Peppers and Bale developments were granted development consent, the development consent did not authorise a waste management plan which required Council to provide waste management services, and, as you know, for some time Council did not provide those services.

The development consent for the development requires that waste from all individual lots be directed to a central receptacle located in the basement of the Peppers Residential part of the development from where waste would be collected. The development consent is silent on how and by whom the waste would be collected from the receptacle.

SP76024 refusal to pay waste collection costs of other entities

As the consent for the whole development covered by SP76024, SP76023 and SP77925 requires waste to be directed to the central receptacle beneath Peppers Residential, it would be contrary to the terms of that consent for SP76024 to not allow the other strata plans to direct waste to the receptacle.

How the costs of the waste service are to be allocated between the strata plans is a matter for the strata plans.

Council takes the view that as the waste receptacle is on land covered by SP76024, that the service is being provided to SP76024 and therefore the fees can be charged to the Owners Corporation for SP76024.

Council cannot charge otherwise as it does not know what volume of waste is generated by each strata plan.

Compactor

As stated above, the development consent for all 3 strata plans requires waste to be directed to a central receptacle beneath Peppers Residential.

If SP76024 were to decommission the current compactor and not replace it with another central receptacle there would be a breach of the development consent in respect of which Council could take enforcement action.

Council is not responsible for providing a replacement receptacle.

Recycling

Council remains open to discuss recycling opportunities. You should have your caretaker contact Rod Dawson on (02) 6670 2659 or via email at RDawson@tweed.nsw.gov.au.

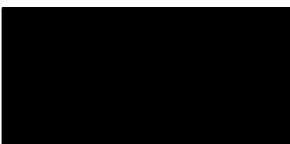
Way Forward

If Council adopts the proposed fee for servicing the existing compactor Council will commence charging SP76024 for the service of emptying the compactor.

However, as noted in Council's letter of 10 October, the owners' corporation can instead contract a commercial waste operator to provide this service.

If it is proposed that waste be dealt with throughout the Peppers and Bale developments other than by directing it to a central receptacle under Pepper Residential, a modification of the development consent will be required.

Yours faithfully



Rod Dawson
Unit Coordinator - Resource Recovery

20 January 2020

The General Manager
Tweed Shire Council
PO Box 816, MURWILLUMBAH NSW 2484
By email: RDawson@tweed.nsw.gov.au tsc@tweed.nsw.gov.au

Copied to:

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RCooper@tweed.nsw.gov.au
kmilne@tweed.nsw.gov.au
JOwen@tweed.nsw.gov.au
wpolglase@tweed.nsw.gov.au

Dear Sir/Madam

**TWEED SHIRE COUNCIL DOMESTIC WASTE MANAGEMENT SERVICE
THE COMPLEX, LOT 172 DP 1075495, DP 1090130**

1. I refer to Council's letter dated 5 December 2019 regarding Council's domestic waste management service for The Complex, lot 172 DP 1075495, DP 1090130. The Complex comprises 3 separate Strata Plans: SP 76024 (165 residential lots and 1 Caretaker lot), Bale SP 76023 (41 residential lots and 1 Caretaker lot), and Retail SP 77925 (2 commercial lots). I am instructed to respond to Council on behalf of SP 76024.
2. I also refer to consultations SP 76024 has conducted with representatives of Bale SP 76023, Retail SP 77925, lot 166 of SP 76024, Solo Resources Recovery and Mr Dawson of your office. As a result of these consultations, and as discussed with Mr Dawson on 16 January 2020, SP 76024 outlines a **proposal to resolve this matter** in paragraphs 10-11 below.

History of this matter

3. In summary:
 - a) Since 2015, Council advised that it was required by section 496 of the Local Government Act 1993 (LG Act) to charge individual ratepayers in SP 76024 for domestic waste management services that are provided by Council at SP 76024, and such costs will no longer be borne by the Owners Corporation SP 76024.
 - b) On 16 June 2016 Council advised:
"Development guidelines require a typical residential unit complex to make provision for the disposal of up to 80l of waste and 40 litres of recycling per property per week. This means that with your domestic property (Bale and Peppers residential) you should have access to approximately 16.5 cubic metres of uncompacted general waste (206 units@ 80l), and 8.25 cubic metres of recycling (206 units @40l) per week. In my experience these capacities work for all residential multi-unit developments with none that I am aware of requiring more, and some significantly less." (emphasis added)

On the basis of this information, Council calculated that based on these estimates at least 50%, and possibly as much as 67% of the waste generated at the site is associated with the commercial services. The following estimates were provided by Council:

% Bale residential - including recycling and waste	6.6%
% waste Peppers domestic rateable including recycling and waste	26.7%
% waste commercials including Peppers conference centre and SP 77925	66.7%

- c) In 2017 individual ratepayers in SP 76024 were advised by Council letters that each individual residential property in SP 76024 would be charged approximately \$177 per year for waste collection services. For reasons that have not been communicated to SP 76024 by Council, Council did not impose such charges.
- d) On 10 October 2019 and 5 November 2019, without any explanation to SP 76024, Council advised a complete reversal of its longstanding policy on charging individual residential ratepayers for domestic waste collection services at SP 76024. Council advised:
- The waste management service provided to SP 76024 is now not a domestic waste management service, and therefore section 496 of the LG Act suddenly became inapplicable.
 - The Owners Corporation SP 76024, rather than individual residential ratepayers, will be charged by Council pursuant to section 608 of the LG Act for waste collection services provided to SP 76024 individual ratepayers;
 - The Owners Corporation SP 76024 will also be charged by Council pursuant to section 608 of the LG Act for waste collection services provided to ratepayers in other separate legal entities, namely Bale SP 76023 and Retail SP 77925.
- e) Council's new position that the waste management service provided to SP76024 residential ratepayers is not a domestic waste management service is inconsistent with the LG Act, longstanding Council policy, the Department of Local Government Council Rating and Revenue Raising Manual and the longstanding imposition by Council of an annual Domestic Waste admin charge under section 496 of the LG Act on individual SP 76024 residential ratepayers.
- f) Domestic waste management services (*services comprising the periodic collection of domestic waste from individual parcels of rateable land and services that are associated with those services*¹) are clearly being provided by Council to residential ratepayers in SP 76024.
- g) Council has a longstanding policy of imposing an annual "Domestic waste admin charge" on individual SP 76024 ratepayers. Council's new position that a domestic waste service is not being provided is clearly inconsistent with the longstanding levying of this charge on SP 76024 ratepayers. Council has confirmed the annual domestic waste management admin charge is levied pursuant to section 496 of the LG Act, which deals with charges for domestic waste management services.²
- h) Section 608 of the LG Act prohibits Council from charging a fee for a service that is provided, or proposed to be provided, on an annual basis for which it is authorised or required to make an annual charge under section 496 of the LG Act (domestic waste management services). The proposed imposition of a fee on SP 76024 pursuant to section 608 of the LG Act for waste management services is therefore considered unlawful.
- i) SP 76024 is unaware of any Council power or authority to charge SP 76024 for services provided to other legal entities.
- j) As explained in the SP 76024 letter to Council dated 26 November 2019, the Building Management Committee for the Complex has the power under the Strata Management Statement to charge members for using the shared garbage facility.
- k) Invoices for outstanding reimbursements to SP 76024 by Bale SP 76023 for Shared Facilities (including the shared garbage area) under the Strata Management Statement total **\$749,357.43** as at 31 December 2019. Invoices for outstanding reimbursements to SP 76024 by Retail SP 77925 for

¹ Dictionary, Local Government Act 1993

² Tweed Shire Council, Revenue Policy, 2019-2020, page 29

Shared Facilities (including the shared garbage area) under the Strata Management Statement total **\$241,589.36** as at 31 December 2019. The combined amount due to SP 76024 as at 31 December 2019 is **\$990,946.79**. Accordingly, the likelihood of Bale SP 76023 or Retail SP 77925 reimbursing SP 76024 for their waste collection costs seems remote.

SP 76024 position

4. For clarity, the position of SP 76024 is as follows:
 - a) Council is required to continue to provide a domestic waste management service to individual residential ratepayers in SP 76024.
 - i. Any actions by Council to cease its provision of the domestic waste management service to SP 76024 ratepayers will be vigorously opposed by SP 76024.
 - ii. Cessation of Council's domestic waste management service to SP 76024 ratepayers would result in significant loss and damage for which Council will be held accountable.
 - b) SP 76024 will not accept or pay any Council invoices for charges for waste collection services as SP 76024 considers the imposition of such charges would be unlawful. In particular:
 - i. SP 76024 will not pay for the provision of waste services to ratepayers in SP 76024. Council is required to comply with the requirement in section 496 of the LG Act to make and levy an annual charge for the provision of domestic waste management services for each parcel of rateable land in SP 76024. According to Council calculations³, the SP 76024 domestic lots generate 26.7% of waste collected from the Complex.
 - ii. SP 76024 will not pay for the provision of waste services to ratepayers in Bale SP 76023. Council is required to comply with the requirement in section 496 of the LG Act to make and levy an annual charge for the provision of domestic waste management services for each parcel of rateable land in SP 76023. According to Council calculations⁴, the residential Bale lots generate 6.6% of waste collected from the Complex.
 - iii. SP 76024 will not pay for the provision of commercial waste services. According to Council calculations⁵, these entities generate 66.7% of waste collected from the Complex. In 2017 Council proposed charges of approximately \$18,239 for each of the Season Restaurant in Retail SP 77925 and lot 166 in SP 76024⁶.

SP 76024 consultations with relevant parties

5. The Chairperson of SP 76024 spoke with Mr Rob Bishop (BMC representative of Bale SP 76023) on 15 January 2020. Mr Bishop agreed with SP 76024 that individual residential ratepayers should be levied in their rates notices for Council domestic waste management services. I also note that since Council notified lot owners in 2017 that Council will levy such charges, the SP 76024 Committee is not aware of any complaints or expressions of concern from owners regarding these notified charges.
6. Mr Sean Dumigan (BMC Representative of Retail SP 77925 and representative of the owner of lot 166 in SP 76024) informed SP 76024 by email dated 16 January 2020 that *"we have contacted the Council and requested direct invoicing for the refuse services as a rate payer. It was explained to us that this cannot be done as the Council will not bill to a Commercial Lot directly"*.
7. The SP 76024 Chairperson spoke with Mr Dumigan on 17 January 2020. Mr Dumigan stated the **proposal to resolve this matter** outlined in paragraphs 10-11 below could satisfy all parties, but he would like further information/clarification of the costs to the commercial lots. Mr Dumigan referred to the fact that waste costs for Accor restaurants on the Gold Coast appear less expensive. However SP 76024

³ Letter from Tweed Shire Council to Peter Elliot dated 16 June 2016

⁴ Letter from Tweed Shire Council to Peter Elliot dated 16 June 2016

⁵ Letter from Tweed Shire Council to Peter Elliot dated 16 June 2016

⁶ Email from Tweed Shire Council to Sean Dumigan dated 1 August 2017

understands that waste disposal costs in NSW are higher than those applying in Queensland. SP 76024 suggests that Solo could provide an estimate of costs to Mr Dumigan taking account of Council's proposed charges to residential ratepayers in the Complex for the domestic waste service.

8. The Chairperson of SP 76024 spoke with Mr Rod Dawson of your office on 16 January 2020 and outlined the **proposal to resolve this matter** outlined in paragraphs 10-11 below.
9. The Chairperson of SP 76024 spoke with Mr Neil Tobitt of Solo Resource Recovery on 16 January 2020. Mr Tobitt advised that Solo had no objection to splitting invoicing for waste management services between the Council and the commercial lots as outlined in the **proposal to resolve this matter** outlined in paragraphs 10-11 below.

Proposal to resolve this matter

10. SP 76024 proposes that:
 - a) Waste continues to be collected by Solo Resource Recovery (or another contractor of Council's choice) from the compactor in SP 76024 basement;
 - b) Pursuant to section 496 of the LG Act, Council levies a fair and reasonable charge as determined by Council on individual SP 76024 and Bale SP 76023 residential ratepayers for the provision of domestic waste management services;
 - c) Council pays Solo Resource Recovery for the cost of the domestic waste service using the income derived from the charge on individual SP 76024 and Bale SP 76023 residential ratepayers for the provision of a domestic waste service; and
 - d) Solo invoices the two commercial lots directly and equally for any waste charges in excess of the amount paid by Council.
11. SP 76024 fully understands Council's requirement that it be reimbursed for the cost of waste management services by the users of that service. SP 76024 believes the above proposal offers a straightforward solution that would:
 - a) achieve a full reimbursement to Council of waste management costs;
 - b) comply with requirements of the law and the development consent to which Council has referred;
 - c) fairly distribute costs to those who generate waste;
 - d) accord with the principles of ecologically sustainable development under which polluters should pay rather than generate waste pollution and have the cost of dealing with their pollution paid for by others; and
 - e) avoid the necessity for legal action by SP 76024 against Council to resolve this dispute.
12. Information provided in consultations undertaken by SP 76024 indicate that relevant parties would be amenable to the **proposal to resolve this matter** outlined in paragraphs 10-11 above. There is no necessity or justification for Council to charge SP 76024 in order to achieve full cost recovery for waste services to the Complex.
13. SP 76024 would be pleased to have further discussions with Council to resolve this matter. Please contact Peter Elliot, Chairperson of SP 76024 on 0498 526 674.
14. Please respond to this letter by no later than **31 January 2020**.

Regards

Paul Curtis
Strata Manager SP 76024

Council Reference: Peppers Compactor Bin
Your Reference:



TWEED
SHIRE COUNCIL

Customer Service | 1300 292 872 | (02) 6670 2400

28 April 2020

tsc@tweed.nsw.gov.au
www.tweed.nsw.gov.au



PO Box 816
Murwillumbah NSW 2484

Please address all communications
to the General Manager

ABN 90 178 732 496

Mr Peter Elliot
5413/197 King Arthur Terrace
TENNYSON QLD 4105

Peter.elliott@live.com.au

Dear Mr Elliot

Inquiry – 20 April 2020

Thank you for your email.

You have asked on what basis Council has stated that the development consent for the Resort requires waste to be directed to a central receptacle from where it will be collected.

Condition A2 of the development consent granted to the Resort (and attached to your email) provides that the development is to be carried out in accordance with supporting documentation submitted with the application.

A report on Parking and Loading/Service Matters prepared by Eppell Olsen & Partners in November 2003 was submitted with the development application and as a result the development is to be carried out in accordance with that report. It provides for refuse collection in section 5 and states that guest rooms will be serviced daily so that individual refuse provision per room is not required, and a bulk waste solution is considered appropriate. That is proposed by way of a 'receptacle ... which will be stored in the basement in the designated loading/service area'.

A copy of the report is available on the Department of Planning, Industry & Environment's website here:

http://www.majorprojects.planning.nsw.gov.au/index.pl?action=search&page_id=&search=477-11-2003&authority_id=553&search_site_type_id=&reference_table=&status_id=&decision=&from_date=&to_date=&x=37&y=14

Yours faithfully



Rod Dawson
Unit Coordinator - Resource Recovery