

Review of prices for water, sewerage and stormwater services for Gosford City Council and Wyong Shire Council

From 1 July 2013

SUBMISSION

Provision of adequate stormwater drainage services for residents at Watanobbi.



Background:

During the 1980's Wyong Shire Council and the NSW Department of Housing (LandCom), developed a subdivision in North Wyong which was later named Watanobbi.

Wyong Shire Council was actively involved in the development of this subdivision, making recommendations concerning roads, facilities and drainage. Initially Council required LandCom comply with Part 12 of the Local Government Act, with regard to drainage provisions. LandCom advised Council these requirements *"did not bind the Crown, and therefore irrelevant as conditions"*.

In subsequent correspondence Council agreed to a *'piped drainage system'*, and stage one of the subdivision commenced in 1989/1990. Council and LandCom were involved for a number of years with the release of further stages.

Following localised heavy rain in 2007, a number of residential properties at Watanobbi were flooded and Wyong Shire Council was contacted.

In a letter dated 23rd April 2008, Council subsequently blamed the developer, LandCom, for installing the local interallotment drainage system. Mr Andrew Pearce, Council's Drainage Manager further commented on page two of his letter about the attached Easement Schedule, concerning who is responsible for *'releasing', 'varying' or 'modifying'* the easement. *"This being, FIRSTLY and SECONDLY "The NSW Land and Housing Corporation" or "Wyong Shire Council."*

Mr Pearce continued, *"The Authorities mentioned are the governing bodies to release, vary or modify the easement. The property owners are restricted in any modifications to the easement. This is to ensure that the property owners burdened do not impede or restrict any part of the easement."*

Mr Pearce further stated, *"Where stormwater pipes are within private property and not functioning and are causing damage to adjoining property", Section 124 of the Local Government Act relates"*.

This comment does not relate to the easements installed by NSW Land and Housing Corporation and consented to by Wyong Shire Council. It relates to Section 124 (12) *'To do such things as are necessary to control the flow of surface water across land'*. The flow of water is not the result of poor control by adjoining land owners. It is being caused by surges from the Interallotment Drainage System. A system which Mr P Barclay, Registered Surveyor stated *".... will not meet Council's current design standards."*

In subsequent communications Mr Pearce repeatedly states that Wyong Council did not consent to this Interallotment Drainage System. Mr Pearce also stated that Council does not hold drawings

depicting the installed services. This is clearly incorrect, as the size of the easement was obtained from viewing these plans at Council during 2011.

Wyang Shire Council clearly consented to the installation of this interallotment drainage easement, as indicated in the documents obtained from Council in the attached DVD. These are listed in the file; *Watanobbi Development*.

During heavy rain in November 2010, a number of residents were again flooded. LandCom was contacted and they sent out a local consultant surveyor. The surveyor stated this drainage system would not comply with current Council requirements.

LandCom disregarded this consultant's report, obtained internal legal advice and stated, *"flooding is the result of residents installing hard surfaces, which increases the overland flow of water"*.

Comment:

The interallotment drainage system installed by LandCom, and consented to by Wyong Shire Council is just 225mm in diameter.

Wyang Shire Council was actively involved with the developer, consenting to the installation of this drainage easement, a system that would not comply with current Council requirements. This resulted in Watanobbi residents suffering flooding to their premises, as the drainage system was never big enough to cope with the increased development.

How can Wyong Shire Council justify any increases in Council Drainage Rates for the properties in the Watanobbi subdivision, when they refuse to take ownership of an inadequate drainage system? A system they clearly consented to.

The attached DVD also contains copies of video footage depicting flooding at Watanobbi. Stormwater can be seen surging from I.A.D. pits on adjacent properties, forming small streams.

Recommendation:


Investigate this matter to determine if ownership of the interallotment drainage easements were transferred to Wyong Shire Council during handover from the developer.

Determine if Wyong Council is entitled to request increases in drainage rates for properties affected by this inadequate stormwater drainage system.

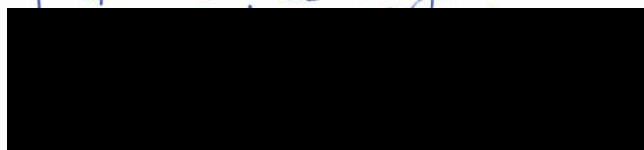
Yours sincerely



Donald BUCHANAN



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