

Independent Pricing and Regulatory Tribunal (NSW)

Level 15, 2-24 Rawson Place

SYDNEY NSW 2000

Port Stephens Council Special Rate Variation Submission against approving the application

From the IPART site:

How special variation applications are assessed

IPART requires councils to actively engage residents in discussions about the proposed increase above the rate peg. Councils can do this with public hearings and other community engagement tools that suit their population. IPART will consider how effective each council's community inclusion has been before determining its application to increase charges above the set rate.

Councils need to show IPART there is:

- community awareness of their plans
- a demonstrated need for higher increases to charges
- a reasonable impact on ratepayers
- a sustainable financing strategy
- a history of well-documented council productivity improvements

From PSC SRV Proposal Information Booklet:

Port Stephens Council is facing increased pressure to provide enhanced services and facilities to meet the high standards our community expects. In recent years, Council has implemented a range of productivity savings, reduced costs across our operations and been assessed as financially sustainable by the NSW Government.

As a ratepayer I am opposed to a SVR for the following reasons.

1. "community awareness of their plans"

You can take it the ratepayers have been duly informed that the cost of owning a rateable property will double in seven years in the Port Stephens Local Government Area, according to the plan outlined in its SRV proposal.

The 'plans' (for the 'works' to be) provided the community in different areas (eg the Karuah Plan) are 'concepts' for which an estimate of the cost was given. There is no detail of any proposed works on which the communities can form an opinion as to the adequacy of that estimate to be accurate, under or over the figure provided, or whether the plan is acceptable to the local residents and ratepayers in provision of "enhanced services and facilities to meet the high standards our community expects".

Several examples of this are to be found in Karuah, where “enhanced services and facilities to meet the high standards our community expects” was ignored. (See 5 below)

2. “a demonstrated need for higher increases to charges”

The old ‘small piece of sandpaper’ in the pocket trick. “Spin” bowling.

In the PSC SRV Proposal Information Booklet, page 4 it is stated “Council has reduced its infrastructure backlog to \$14.1m.

In the PSC Strategic Asset Management Plan is the Investment Property Portfolio, total \$(CRC) 19,316,000.

The interrelationship of the two sums is a consideration in cause and effect. As is the legislative requirement of ‘Investing until the sum is required’. It is to be noted that in the SAMP, in terms of the Legislative Requirements for management of the portfolio, the Local Government Act is not included, and would be the most relevant, particularly S436.

That returning the ‘Investment’ to the revenue stream would significantly reduce the sum required to fund the ‘forward’ plan raises the question as to the adequacy of the current proposed variation and what would be a reasonable variation follow investment by PSC in “enhanced services and facilities to meet the high standards our community expects” according to its Charter. This is to be considered in terms of the 3. “a reasonable impact on ratepayers”.

Therefore, it is to be considered, in terms of “a demonstrated need for higher increases to charges”, errors and omissions have occurred. See PSC SRV Proposal Information Booklet, page 4, Funding Sources for Assets, point 7 - Sale of Council owned investments. In the information provided to residents and ratepayers regarding the current financial position of PSC, in its ability to fund works, no mention was made as to the nett present value of its investments, nor was a proposal was put forward to residents and ratepayers to dispose of any or all of them, before this, or any SVR need be considered.

3. “a reasonable impact on ratepayers”

See PSC SRV Proposal Information Booklet, page 4, Funding Sources for Assets, point 7 - Sale of Council owned investments.

It is noted elsewhere that a permanent rate rise is a default tax increase, and particularly affects the socio-economically disadvantaged, such as those on low incomes, pensioners and the retired.

4. “a sustainable financing strategy”

See PSC SRV Proposal Information Booklet, page 4, Funding Sources for Assets.

It is to be questioned, in my opinion, why Council maintains an Investment Property Portfolio, principally located outside the LGA, solely for Commercial (leasing) purposes when there is a ‘backlog’ as well as items in the forward plan requiring funding. S436 LGA 1993, ‘due diligence’.

5. “a history of well-documented council productivity improvements”

You can take it the following picture is not productive, according to contemporary standards. That is the opinion of a Retired Scientific Officer – Systems and Compliance, Section Quality Coordinator and Management System Auditor (ISO:9001), NSW Public Service. (details available on request)

This picture is to be considered in terms of PSC SRV application Attachment 1, Focus areas Two Three and Four. For example E3 – Climate change mitigation and response, P3 Perception of Safety and L1.5 Reduce risk across Council. (enhancement of Public Safety?)



There are three Council managed projects which I would cite in consideration of a lack of a history of well-documented council productivity improvements in Karuah.

The first is historic. The Culvert Crossing of Mustons Gully upon Mustons Road. From at least the mid-1990s, Council has known that this section of road has “pedestrian at high risk to their safety”. That quotation comes from one of several applications for Government Grants and Contributions. They all failed. They did nothing to make safety improvements. After nearly cleaning up a two adults both with prams and young child walking, I undertook to see improvements were made by Petitioning Council to do so. They did, they turned the only access we have from a two lane two way road into a one lane two way road. They neglected to inform the Local Traffic Committee that as Bushfire Prone Lands, the RFS would have a two way road. That the Bushfire Prone Land LEP is 14 years out of date in certification, and does not meet current legislation in the number of categories land is zoned. Legislative Conformance. (map available PSC Website) In terms of a “Safety Focused Workplace Culture” as stated in the PSC ‘Vision’, that the Roads Policy states ‘a safe road system’ the action undertaken by Council is a noncompliance. It is to be noted in the Audit Committee’s Annual Report 2016-2017 noted that for the section of Council responsible, “There are no formal procedures or directives on how to conduct risk assessments for projects carried out by Facilities & Services”, such as Treasury NSW has available, and has for a long time, for all Councils to make use of.

The second is medium to short. The Boat Ramp Karuah. Under the RMS Boat Ramp Guidelines it is classed as ‘Region’. Council has recently tended, for the third time, to rearrange the pontoons in an endeavour to make what was described as a ‘state of the art facility’ safe for launch and retrieval operations, following numerous complaints and incidents. The RMS Guidelines provide for this, even given the ‘less than ideal’ location of siting of the ramp. This ramp is to be compared to other facilities in the LGA, such as Soldiers Point, and mitigation of condition at that site. Again a lack of Risk Management throughout the process. The question is why, and how much of the ‘productivity improvement’ (over \$1m, provided principally by the NSW Government Better Boating Programme) went down the drain.

The third is recent. At the end of last year Council, provided \$130,000 of Federal Funding, Stronger Communities Program (Round 3), to replace the existing seawall at the Longworth Park Tidal Pool (T18-2018). As they say a picture -Management and Mitigation of the Climate Change Risk.



“Rubble revetments and similar structures have a permeable and fairly steep slope; normally a 1:2 slope is used. This slope is suitable neither for recreational use nor for the landing or hauling of small fishing boats. Consequently, this kind of structure should not be used at locations, where the beach is used for recreation or fishing activities. For such locations, other types of protection measures must be considered, but if a revetment is required, a more gently sloping structure with a smooth surface is recommended.” (Section 17, Shoreline Management Guidelines, Mangor et al, 2017 DHI ISBN 978-87-90634-04-9)



Limiting Liability Claims according to Policy and “Best Practice”.



The Safework Australia ‘reasonable person’ test. Picture from section 17, Shoreline Management Guidelines, Mangor et al

If you go back to the first picture and compare it to the second picture you can observe large rocks have been placed on top of the wall as constructed, two goes. It took 3 goes to reinstate the netting to preclude entry of sharks into the pool (pictures of 'progressive staging' available on request.)

In the tender it states "Careful rock selection and placement is required to ensure mechanical interlock of the amour". Having looked, Noncompliance, loose rock is found, and accessible.

This project again demonstrates "a history **and current practice** of well-documented council productivity improvements" failure. That, for the funds available, Council could have replaced one of the walls, but elected to do neither properly, according to contemporary construction, safety and climate risk management standards, is a 'cause for concern'.

As to why three examples of a failure to do so contemporary construction, safety and climate risk management standards can be demonstrated at Karuah needs to be explained in terms of 5. "a history of well-documented council productivity improvements". In my opinion planning for all these projects as well preparation of provision of the SRV put forward by PSC does not demonstrate "*Every councillor, member of staff of a council and delegate of a council must act honestly and exercise a reasonable degree of care and diligence in carrying out his or her functions under this or any other Act*".

What do we get for a doubling of our rates in Karuah? From the Proposal:

Karuah - \$2m one off cost aligned with the Karuah Growth Strategy, to widen Mustons Road Culvert to provide a pedestrian walkway and create a main street vista with:

- town signage
- formalised parking
- gardens on road blisters and footpaths.

\$2m? Unless its valet parking, I can't see it costing that much, based on what has been spent elsewhere in Karuah (improved parking at the boat ramp for example). Maybe if there was a detailed plan on the table, it would be easier to assess its worth and merit to the community, and myself.

There is much more that I have encountered in review of Council's Management System and observed Practices, which a Best Practice Organisation would not have on the books, as far as thing go, in my Qualified (enough) opinion. It does not demonstrate either a commitment or intent to address 'Continuous Improvement' of Policy and Procedure, such that, at this time they can satisfy demonstration of "a history of well-documented council productivity improvements" to anyone.

And on that basis, I hope this SVR is not approved.

"Good Governance" is not relative, a part time practice, or limited in its application within an LGA.

Respectfully