

# Parrearra Lock and Weir – Att 1 Lock & Weir Systems History

## Pelican Waters

- Pelican Waters was developed in stages by Pumicestone Passage Developments Pty Ltd, with the lock and weir included in stages 5A and 5B (approved by Caloundra City Council 17 March 2003 with a Negotiated Decision Notice issued 27 October 2003).
- Caloundra City Council endorsed a Lake Management Plan for the Pelican Waters Northern Lake by way of resolution 05/378, dated 27 October 2005.
- In accordance with the agreed conditions, the Developer was required to establish a sinking fund to provide for whole of life costs for both operations and maintenance and infrastructure renewal and refurbishment of the Lake area over a period of 25 years – after an initial 5 years “on maintenance” period. The sinking fund received contributions from the Developer over the five years and as at 30 June 2011 the reserved balance of this fund totalled \$2,462,198.
- Clause 3.8.5 of the Lake Management Plan states:
  - *“The fee schedule for Lock Access Card issue (and for the issue of any replacement cards) is to be based on the actual cost, plus a nominal administration fee. No additional fee or levy is to be sought by Council.”*
- It is noted that the basis of the original calculations for the Pelican Waters Northern Lakes system is referenced in a report (Cardno MBK – April 2003 page 2) as follows: *“The maintenance schedule for the Lock and weir is based on information obtained from Noosa Shire Council on the **actual** operation of a similar facility....”*
- Further, in correspondence dated 9 August 2005 to Caloundra City Council received from Pumicestone Passage Developments Pty Ltd over the question of lease fees and commerciality, it was noted *“Our offer of \$2.5 million... to cover the cost of the operation and maintenance of the lake and associated infrastructure, and included the full lifecycle and replacement costs for the lock, weir and salinity interchange systems. Therefore no charges over and above Council’s cost for administration of the card/access scheme.... can or should apply. Should Council wish to maintain a consistent fee structure with that for the Parrearra system, then Pelican Waters would be pleased to review its proposed contribution amount accordingly.”*
- In that same letter, parity issues were summarised as follows: *“Whilst we acknowledge that Council may wish to pursue the principle of parity of fees and charges across the City’s major developments, it bears reiteration that process, land titling, tenure, funding and maintenance issues associated with the Loch Lamerough development differ considerably from that applicable to Lake Parrearra.... Most notably, a \$2.5 million contribution was not made by the developers of the Lake Parrearra system.”*
- The resolution of council endorsing the Pelican Waters Northern Lake Management Plan included the following provisions regarding lease fees payable for pontoon/jetty areas:
  - *“4. Lease rental after 1 January 2011 being at market rental being determined by an independent valuer appointed by the President of the Queensland Law Society;”*
- As required by Lease Clause 3.4 of the standard terms document for the abovementioned leases, council approached the Queensland Law Society to appoint

# Parrearra Lock and Weir – Att 1 Lock & Weir Systems History

an independent valuer to conduct the Market Review for the Pelican Waters Northern Lake leases effective from 1 January 2011.

- The valuation for all lease areas in the Pelican Waters Northern Lake Precinct received from the appointed valuer and dated 13 December 2010 indicates:
  - Prior to the construction of any approved Marine Structure (ie pontoon, jetty or deck) on the lease site – the Market Rental is assessed as \$1.00 per annum; and
  - Upon construction of an approved Marine Structure (ie pontoon, jetty or deck) on the lease site – the Market Rental is assessed at \$12.50 per square metre of the area of the structure, with a Minimum Charge of \$300 per annum (GST exclusive).
- As required by Lease Clause 3.3, lease rent will be increased annually by the applicable Index Number (CPI) for the quarter immediately before the relevant Index Review Date.
- There are currently 134 lease sites at Pelican Waters, 44 of these sites have improvements and are being charged lease fees. To date, council has elected not to issue invoices for lease rent of \$1.00 pa.
- The budgeted revenue for 2011/2012 is \$22,063.00 however this will change as lessees apply to erect structures within the lease site adjacent to their dry lot.

## Noosa Waters Lock and Weir<sup>1</sup>

The development of Noosa Waters Estate commenced in 1990. The Estate was developed in stages with the operational responsibility for the Estate being handed to council by the developer on 5 May 2000.

The site was originally flood plain heavily timbered in Melaleuca and Casuarina trees.

The development was the subject of environmental impact assessment with State Government agencies involved in the process.

The development approval included requirements for the developer to construct significant external works including 2 road bridges over the entrance channel to the Noosa River; and road works including construction of Gibson Road, part of Reef Street and the section of Noosa Parade between Weyba Road & Howard Street (this part of Noosa Parade was formerly known as Durramboi Drive).

The canal system is Crown Land dedicated as reserve and under the control of council as trustee. While council is responsible for the canal system generally, the responsibilities for some activities lie with the State.

The water in the canal is from the river system.

It is pumped via an underground salinity line from the jetty on the Noosa River just off Chaplin Park (about 75 m north of the western bank of the Noosa Waters entrance channel).

Pumping generally occurs for approx 10 hours a day (between 9 pm and 7 am) with almost 17 Million Litres of Water pumped through the system. At this rate the water in the canal

---

<sup>1</sup> Extract from the *Information Sheet – Noosa Waters Estate, Noosaville*

# Parrearra Lock and Weir – Att 1 Lock & Weir Systems History

system is turned over approx every 38 days. Pumping is confined to these periods to minimise electricity costs and greenhouse emissions.

If necessary, pumping could occur 24 hours per day, which would result in the all the water being turned over in approx 16 days.

The function of the lock and weir is to maintain a constant water level in the canal system (approx 400mm above mean sea level) independent of the high and low tides which occur in the river, and to provide for travel by marine vessels between the river and canal system.

(Noosa) Council's Local Law No 5 – Parks, Reserves & Foreshores, manages access to the lock & weir system.

Access is via an electronic card with a reader located near the lock gates. The largest vessel that the lock can safely accommodate is 12m (35 ft) in length and 3.6m (12 ft) wide.

Waterfront property owners pay a special rate to council to cover the cost of administration, operation and maintenance of the lock & weir.

For practical reasons, the only persons who can reasonably gain access through the lock & weir are owners of waterfront property.

However, as the canal is public land, any member of the public wishing to use the waterway for private recreational activities, can obtain access through the lock & weir system **provided** they pay all special levies or rates to cover the cost of the administration, operation and maintenance of the lock, weir and Noosa Waters canal system, together with any additional fees and charges apply to the provision of an access card to the lock.

The special rate levied on waterfront properties is used to maintain the lock & weir and associated infrastructure for pumping water from the river to the canal.

A total asset management plan was developed to identify the costs and timelines for maintenance events and the plan is reviewed approximately every 5 years in conjunction with the Residents Association.

Funds raised from the special rate are placed in trust to provide for major capital replacements and maintenance events (e.g. replacement of pumps).

The revetment wall forms part of the property title and is the responsibility of the property owner to maintain.

Council has a "Partnering" Charter with the Noosa Waters Residents Association Inc that is primarily aimed at establishing a co-operative approach in dealing with matters of mutual interest relating to the management and control of issues within the Estate.

The Charter was approved in July 2000.

At least one meeting per annum is held to review any issues. Councillor Russell Green has attended these meetings and invited council officers when required.

- At the time of amalgamation, there were 349 pontoon/jetty leases within the Noosa Waters area, however all charges are raised by way of the Special Levy rather than recovery through lease fees.

# Parrearra Lock and Weir – Att 1 Lock & Weir Systems History

## Parrearra Lock and Weir

- Notice of Motion to 14 September 2011 meeting from Councillor Chris Thompson seeking the removal of the levy.
- Report to council 16 May 2011 resulting in approval for the introduction of the Parrearra Lock & Weir levy to recover \$36,400 towards the operation and maintenance of the Parrearra lock and weir system; and to *“undertake a comprehensive communication program.”*
- Earlier presentation to council 28 April 2011 at which it was resolved:
  - “That Council request the Chief Executive Officer to provide to the 16 May 2011 Special Meeting (Budget) a detailed outline of the current Noosa Waters Lock and Weir levy, how it is calculated and to whom it applies and an examination of the circumstances of a proposed benefited area for the properties upstream of the Parrearra lock and weir.”
- Initial report to council 08 June 2010 (item 5.1.3) recommending implementation for the 2010/2011 rating period.
- However, council resolved to defer for implementation with the 2011/2012 financial year (SM10/39).
  - The amount originally proposed was for recovery of \$121,000 to cover “whole-of-life” costs, whereas the resolution addressed only “operation and maintenance”.
  - The matter of a benefited area levy for Placemaking work in Coolum was rejected at this same meeting.
- This report made reference to an earlier resolution of council from 18 March 2010 at which council had adopted a Services and Benefited Areas Enhancement Framework.
  - This resolution of council requested “the Chief Executive Officer to prepare a report for consideration by Council as part of the 2010/2011 budget process on the costs/benefits of benefited area levies being applied with particular reference to the economic development and presentation of the region and the financial sustainability of Council” (OM10/053).
- Both the above reports to council referenced the outcomes of the Rating Reference Group as presented to council in February 2009. The actual report to council did not address Special Levies however there had been discussion of these issues during deliberations within the Group.
- The Services and Benefited Areas Enhancement Framework contains specific actions to be undertaken in respect of the implementation of a proposed new levy, including:
  - Initial introduction between council (Councillors and staff) and community
  - Charter drafted and reviewed by community
  - Boundaries defined, assets mapped and extent of levy assessed
    - Survey of community level of interest
    - Discussions with community to determine expectations
    - Feedback from community

# Parrearra Lock and Weir – Att 1 Lock & Weir Systems History

- Cost assessment and further community consultation, including survey of community's agreement to proceed
- None of these implementation steps were undertaken in respect of the Parrearra Lock & Weir.
  - It is noted that the officer recommendation from the original report (06 June 2010) included “...undertake a comprehensive consultation program to include all affected properties”. However this was amended in the finally adopted resolution to read, “undertake a comprehensive communication program.”
- A Fact Sheet was prepared in May 2011 and distributed to affected property holders in early July 2011 at or about the same time as the rate notice was issued.
- The report to council in June 2010 referred to the pre-existing fees for card access holders to navigate the Lock system. There was no reference to lease fees for pontoons/jetties.
- The June 2010 report to council made no reference to the Parrearra Lake Management Plan which had been negotiated between Caloundra City Council, the Developers (Lensworth Kawana Waters Pty Ltd) and the Department of Environment and Resource Management (then the Department of Natural Resources).
  - The Lake Management Plan outlines approved uses, obligations and responsibilities for council and adjoining property holders, and lake users.
  - Section 5.8.8 Commerciality states as follows:
    - “Income from the annual fee for Lock Access Cards and annual lease fee for leased area pursuant to Section 57 of the Land Act 1994, will be retained by Council to assist in the maintenance of the Sport and Recreation Reserve (Lake)  
  
*“The quantum of the fee or charge will be determined annually by Council in association with their normal budgetary considerations..”*
  - Note that “Revetment walls fronting private land are contained within the lot and are the responsibility of the abutting landowner.”(paragraph 5.9)
  - Also, paragraph 9.3 states that “Council will seek comment from time to time on the effectiveness of the Lake Management Plan and its administrative systems and make change if considered necessary for the betterment of the community.”
  - Revenue raised from pontoon/jetty lease fees are not currently offset against operation and maintenance costs but are included as general consolidated revenue.
- Tenure of the Parrearra Lake area is as a Sport and Recreation Reserve, and as such it belongs to the State with council as Trustee. This differs to both the Noosa Waters area (drainage reserve) and Pelican Waters (freehold land owned by council).
  - Caloundra City Council took over Trusteeship of the Reserve 26 April 2002 and took responsibility for the Lock in September 2002.
- Numerous complaints and objections to the current levy have been received, with some of the key issues being:
  - Inconsistent application of the levy on waterfront property.

# Parrearra Lock and Weir – Att 1 Lock & Weir Systems History

- Many properties have a boardwalk fronting the lake rather than direct access (compared to properties in Noosa Waters or Pelican Waters).
  - The Palms currently has an “easement” along the waterfront of their property which restricts their direct access to the waterway and prevents them from making application for a pontoon or jetty. – see below for further discussion.
  - The primary purpose of the weirs is as a flood bypass channel that benefits all properties in that vicinity, including a large number of properties outside the identified benefited area.
  - The recreation reserve is available for use by the wider public, and charging adjoining landowners for the maintenance of this area is inconsistent with the management of other sport and recreation reserves across the council area.
  - It is noted that the current levy addresses only annual operation and maintenance costs and does not cater for the renewal or refurbishment over the life of the assets. This is significantly different to both the Pelican Waters (Sinking Fund) and the Noosa Waters levy which address “whole of life” costs.
  - In accordance with the Lake Management Plan, operations and maintenance includes:
    - Water quality testing
    - Salinity pumping system
    - Lock operation, including signage and associated pontoons
    - Inspection and removal of rubbish and debris
    - Inspection and maintenance of navigational signage
    - Monitoring of structures within the Lake area
    - Maintenance of weir structures
  - The resolution of Caloundra City Council to adopt a lease/fee structure for the pontoons/jetties was adopted 25 July 2002. In that report, under Financial Matters, it was noted that:
    - Under the Land Act 1994, in determining the rate to apply for the pontoon leases (section 63(2) Rent to be charged), council is required to have regard to the use and community benefit and purpose of the pontoon lease.
    - *“The matter of the ongoing maintenance of the Lock Structure and the Lake is not addressed in this report.*
- ...”The shortfall in the costs of maintenance and depreciation of the Lock and Weir in the Parrearra Lake Reserve could however be made up by a benefited rate on the properties adjacent to the reserve...”*
- Accordingly, the concept of a benefited area levy is not new to council. The matter was to have been considered along with a review of the rating structure conducted by Caloundra City Council. The Rating Reference Group reported back to council 20 February 2003 (and again 17 April 2003), but there is no mention of this issue in that resolution.
  - There was a previous resolution of Caloundra City Council addressing the matter of a lease fee, and included in that resolution (24 January 2002 meeting), was the statement that *“the cost of maintenance of the lake will be borne by all ratepayers, as any other park or reserve...”* this resolution appears to have been superseded by the 25 July 2002 resolution adopting the Lake Management Plan.

## Parrearra Lock and Weir – Att 1 Lock & Weir Systems History

- There are a number of properties which have been included in the benefited area that do not currently have direct access to the Lake due to an access restriction strip along the canal frontage of their land. There are an estimated 78 affected parcels within The Palms development area. Note that acceptance of the footpath infrastructure atop the revetment wall in front of these properties will result in the transfer of the subject land into council control as part of the canal. Council has recently commissioned a survey of the affected area to ensure the revetment wall is constructed within the property boundary as required, and that no part of the footpath protrudes into the recreation reserve.
  - Removal of the access restriction strip will allow full access to the lake area, including gaining approval for a pontoon lease (quay line access).