

4.1.2 PARREARRA LOCK AND WEIR SPECIAL RATES LEVY

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Attachment: [Att 1 - Parrearra Lock and Weir History](#) (PSC Att Pg 15)

PURPOSE

This report arises in response to the council resolution from the 14 September 2011 meeting, at which council requested the Chief Executive Officer to report on a regional approach where a lock and weir is in operation - giving consideration to all revenues raised via levy, sinking fund, or leasing pontoons.

EXECUTIVE SUMMARY

At the 14 September 2011 meeting, council considered a Notice of Motion from Councillor Thompson aimed at the removal of the Parrearra Lock and Weir Levy for the current 2011/2012 year.

This motion followed a number of complaints received regarding perceived inconsistencies in the application of the levy with earlier decisions of Caloundra City Council and a lack of understanding as to the purpose of the levy.

Three lock and weir systems are currently operating across the council region, being:

1. Noosa Waters Lock and Weir
2. Pelican Waters Lock and Weir; and
3. Parrearra Lock and Weir

The three systems have differences in land tenure, development conditions and processes, and management structures.

This report outlines the history of the three lock and weir systems operating across the council region, and makes recommendations as to the ongoing funding for each system.

Implementation of the current levy was undertaken in accordance with the Revenue Statement 2011/2012 and Overall Plans 2011/2012, as adopted by council at the Special Budget meeting held 28 June 2011.

OFFICER RECOMMENDATION

That Council:

- (a) receive and note the report titled “Parrearra Lock and Weir Special Rates Levy”;
 - (b) agree to continue with the current Parrearra Lock and Weir Special Rate Levy towards the operations and maintenance cost of the identified Parrearra Lock and Weir with an exemption for those properties with restricted access to the lake area; and
 - (c) agree to enter into formal consultation processes with affected land owners in the Parrearra Lake area as to the effectiveness of the administrative arrangements under the Lake Management Plan.
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FINANCE AND RESOURCING

The current Parrearra Lock and Weir levy provides council with an anticipated net yield of \$36,400 towards the operational cost of the Lock and Weir system in the 2011/2012 year. Any relief offered to affected property owners would result in adjustment to the current year budget.

Whilst the *Local Government Act 2009* may permit council to amend the Revenue Statement during the year, council is not permitted to amend the General Rate. Further, as outlined in the Legal section of this report, advice obtained to this point indicates that the *Local Government Act 2009* does not allow for the removal or amendment of a rate other than at the annual budget meeting.

Table 1 in the body of this report outlines all revenue sources for each of the three lock and weir systems in operation throughout the council area. It should be noted that revenue from card access fees for the current year has been minimal following the introduction of the levy and as such has been excluded.

In general terms, the loss of specific funding for the operations and maintenance of the Parrearra Lock and Weir would mean that this is financed from consolidated revenue, with contributions from ratepayers across the whole region.

CORPORATE PLAN

Corporate Plan Theme: *Managing Growth*

Emerging Priority: 7.5 Council's services and assets meet the needs of our growing community
Strategy: 7.5.3 Maintain and renew council assets to agreed standards

Corporate Plan Theme: *Great Governance*

Emerging Priority: 8.3 Strong financial management
Strategy: 8.3.2 Ensure council's financial performance is well managed and leads to a strong financial position

CONSULTATION

Internal Consultation

- Infrastructure Services Department
- Regional Strategy and Planning Department
- Finance and Business Department
- Legal Services
- Councillors

External Consultation

The Local Government Association of Queensland was consulted informally regarding options available to council under the *Local Government Act 2009*.

Community Engagement

There has been no formal community engagement in relation to this report, however, the issues and objections raised by affected land owners have been considered.

PROPOSAL

In reviewing the three different lock and weir systems in place across the council region, it is necessary to consider a brief outline of the actions taken by council in respect of each. Accordingly, outlined below is a summary of the history and issues associated with each of Parrearra Lock and Weir; Pelican Waters Lock and Weir; and Noosa Waters Lock and Weir.

	Noosa Waters ¹	Pelican Waters ²	Parrearra Lake
Number of Properties	587	490	444
Lease Sites	349	44	88
Lease Revenue	\$0	\$22,063	\$43,176
Levy Yield	\$55,000	N/A	\$36,400
Commentary	Whole of life asset management plan	Sinking Fund based on whole of life asset management plan	Operations and maintenance only
Tenure	Reserve with Council as Trustee	Freehold Land	Reserve with Council as Trustee (originally leasehold)
Pumping System	Salinity exchange with pumping from Noosa River – major infrastructure	Salinity exchange with pumping from Pumicestone Passage at Golden Beach – major infrastructure	Penstock tidal flow from Mooloolah River at upstream weir

Table 1 – Regional Summary of Lock and Weir Systems

Pelican Waters and Noosa Waters Lock and Weir both include major pumping system infrastructure for the salinity exchange infrastructure and operational costs, with a sinking fund and benefited area levy to cover these costs. However, Parrearra Lake has a lock similar to the others, but no significant pumping infrastructure or related operating costs.

Whilst the primary purpose of the Parrearra Lock and Weir system is to act as a flood bypass channel, the purpose of the lock system is solely to allow boating access between the lake and the river and ocean. Therefore although the lake and weir has a broad community benefit, the benefits accruing from the navigational lock are more focussed.

A detailed history of each system is included as Attachment 1 to this report.

Pelican Waters

In accordance with the agreed conditions for Pelican Waters, 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.

¹ The Noosa Waters Lock and Weir levy has accumulated funds held in reserve to fund future capital renewal and rehabilitation works based on an approved whole-of-life asset management plan – value at 30 June 2011 \$709,888.

² An upfront contribution was required from the Developer to offset the whole-of-life costs for the operation of the Pelican Waters (Northern) lock and weir and tidal exchange pumping system based on an extensive asset management plan – value at 30 June 2011: \$2,462,198.

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

The function of the Noosa Water 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.

Waterfront property owners pay a special rate to council to cover the cost of administration, operation and maintenance of the lock and weir. For practical reasons, the only persons who can reasonably gain access through the lock and weir are owners of waterfront property.

The special rate levied on waterfront properties is used to maintain the lock and 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 held in reserve to provide for major capital replacements and maintenance events (eg replacement of pumps).

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

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).

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.
- 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.

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).

Options for Parrearra Lock and Weir:

1. Retain the current 2011/2012 special levy without changes; or
2. Retain the 2011/12 levy but provide exemption for properties within The Palms until such time as the access restriction strip is lifted (ie acceptance of the provided infrastructure); or
3. Retain the special levy for the current year and incorporate whole of life costs from 2012/2013; or
4. Provide a concession for properties within the benefited area for the current year and undertake an extensive consultation program with affected residents with a view to reviewing the administrative arrangements under the Lake Management Plan, possibly including a future benefited area levy.

Legal

Legal advice was sought from council's Solicitor as to the potential removal of the current levy, including potential wording of any resolution to amend the Revenue Statement.

The opinion of the Local Government Association Queensland was also obtained as to options available should Council wish to discontinue the levy.

Advice obtained indicated that the *Local Government Act 2009* does not allow for the removal or amendment of a rate other than at the annual budget meeting of council.

Policy

Council adopted the Revenue Policy 2011/2012 with the current year budget at the Special Budget meeting held 4 April 2011 in accordance with resolution SM11/14.

The Revenue Statement 2011/2012 and Overall Plans 2011/2012 were adopted at the Special Budget meeting held 28 June 2011 in accordance with resolution SM11/51.

The *Services and Benefited Areas Enhancement Framework* was adopted by council at the Ordinary Meeting held 18 March 2010 with resolution OM10/053.

Risk

Council, as Trustee, has obligations for the ongoing operation and maintenance of the Parrearra Lake recreation reserve in accordance with the provisions of the *Land Act 1994*, and as outlined in the Parrearra Lake Management Plan.

There is a risk that providing concessions to affected property owners in the current year will establish a precedent for other benefited area or special levies where there is an objection raised for what might be an unpopular charge.

Previous Council Resolution

Ordinary Meeting 19 September 2011 - Council Resolution (OM11/225)

That Council:

- (a) *defer consideration of the Parrearra Lock and Weir Levy matter;*
- (b) *request the Chief Executive Officer to report to council in November 2011 on a regional approach where a lock and weir is in operation; and*
- (c) *in respect to (b), such report to council to also consider all revenues raised via a levy, sinking fund or leasing of pontoons, and other financial considerations or circumstances.*

Earlier resolutions are referenced in the attachment to this report.

Related Documentation

- Parrearra Lake Management Plan
- Pelican Waters (Northern) Lake Management Plan
- Noosa Waters Partnering Charter

Critical Dates

The second half-yearly rates notice is due to be issued in January 2012.

Implementation

There are no implementation issues to be considered with this report.