



11th December 2014

By email: nswombo@ombo.nsw.gov.au

The NSW Ombudsman

RE: Complaint – Port Stephens Council Annual Financial Statement.

We request a full investigation into the actions of Port Stephens Council in relation to the production of their Annual Financial Statements.

In 2013, Port Stephens Council published their 2013 General Purpose Financial Statements. At the back of the statements was a set of Special Purpose Financial Statements which gave vital information to the community on the Council's various Business Units. For example, they showed that PSC lost \$856,000 running their Holiday Parks in 2013. This is a vital piece of information as was the other information contained in these accounts.

This information and similar data from previous Annual Reports has been scrutinised by the Tomaree Ratepayers and Residents Association Inc leading to detailed submissions which queried the commercial strategies of PSC and called for specific actions to improve returns to the Port Stephens community from these Businesses. We believe we succeeded in prompting the closure of Samurai Beach Resort which had been losing up to \$700,000 per annum for a number of years and a restructure of the financial arrangements of the Newcastle Airport Corporation which has resulted in a more favourable delivery of dividends to the Council. We also believe that TRRA's queries in 2010 also secured major reforms in the management of Holiday Park profits to ensure that the associated Trust Funds were made available for improvements on Crown Reserves and not channelled into Council's general accounts.

On 8 April 2014, PSC voted to no longer produce Special Purpose Financial Statements. All of the vital information in these Statements is now hidden in the General Purpose Financial Statements and, as there was no media coverage of the 8th April decision, TRRA Inc and the community did not ascertain the implications of this decision until the 2014 annual financial statements were put out recently for public comment.

The 8 April 2014 Agenda Paper (copy attached) on this matter advised Councillors that "one of the main reasons for preparing the Special Purpose Financial Reports is to satisfy the disclosure requirements under "competitive neutrality" considerations." Council was also reminded it had previously determined under the various guidelines for this obligation to classify the following activities as a "Category 2 business".



- Property Development
- Holiday Parks
- Civil works
- Newcastle Airport

The 8 April business paper for Council on competitive neutrality drew attention to the fact that there was some degree of discretion to be exercised by councils in determining whether to provide Special Purpose Financial Statements for its business units. The advice did not provide any analysis of changes in circumstances relating to the criteria for these earlier determinations made by Council.

Having avoided serious discussion of the definitions of “business units,” the inadequate advice to Councillors supported its recommendation to dispense with annual reporting on Business Unit finances on the grounds that “the information provided was manual by nature, time consuming to prepare, confusing to the users of the financial statements and when assessed on the whole adds no benefit to the users of Councils Financial Statements”.

We dispute each of these reasons for not producing the statements:-

- *Manual by nature and time consuming to prepare.* Any decent modern accounting program will produce the base information from which to prepare these statements. They may be time consuming to prepare but this is a responsibility of running a Council. Many other Councils with comparable Business Units produce this information for users and PSC must not be allowed to abdicate their responsibility to produce full and fair accounts. Most importantly TRRA would expect that PSC would, in the interests of its own prudent commercial practice, produce separate annual financial statements for each of its business units and submit these to their auditor.
- *Confusing to users.* The Special Purpose Financial Statements are easy to understand by anyone with a good general knowledge. They include individual Profit and Loss and Balance Sheets for the Business Units . Without these, this information is hidden in the General Purpose Financial Statements and lacks transparency.
- *Adds no benefit to the users of Council's Financial Statements.* Council's executive, all councillors and the community at large should have the opportunity to scrutinise the performance of each Business Unit to ensure that it is making a worthwhile contribution to the financial viability of the council as a whole and if not, to ask why.

The Port Stephens Council's 2014 Financial Statements have now been produced and no longer contain the Special Purpose Financial Statements. We note that PSC changed auditors in 2014 from Price Waterhouse Coopers to Pitcher Partners. The new auditor's

report makes no reference to the performance or financial management of its Business Units. No comment is offered on Council's decision to dispense with Special Purpose Financial Statements.

The 2014 Financial Statements were approved at Council's meeting on 9th December 2014 at which time the only submission received by the closing date relating to these statements was from our organisation. This was emailed by Council to Councillors at 10.30 am on the day of the meeting in the form of a Mayoral Minute. Our submission was not included with the agenda papers for the meeting which would have been available to Councillors at 5 pm on the preceding Friday. This would have given Councillors more time to make a more informed judgement regarding the financial statements. The minutes record that our submission was "noted" (Extract attached)

We request that the Ombudsman intervene and inform PSC that the accounts cannot be approved in their present format and that instructions be given to produce and publish a set of Special Purpose Financial Statements as a matter of urgency.

We ask that PSC not be allowed to abdicate their responsibility to users of their Financial Statements. By allowing PSC to act in this manner sets a dangerous precedent for other Councils to act in this manner. Valuable information that the community is entitled to see will be hidden from public scrutiny. Lack of transparency leads to corruption and we have seen enough of this from elected representatives in recent times, particularly in the Hunter.

We have also made representations to the Minister for Local Government and the Shadow Minister for Local Government relating to this matter.

Your early investigation and response would be appreciated.

Yours sincerely

Via email
Margaret Wilkinson
Hon Secretary
Tomaree Ratepayers & Residents Association Inc.

ATTACHMENT:

Extract - Port Stephens Council minutes of 8.4.14 – Item 10 P140-142

Extract – Port Stephens Council minutes of 9.12.14 – Mayoral Minute

