



Will The Port Stephens Ratepayers Ever Get the



'Cabbage' from the Cabbage Tree Road Sand Mine? Part 2



This story just keeps evolving as we research it. The Cabbage Tree Mine has now been on the agenda for the Council Meeting 28 July 2015, so this a continuation of the story from [Part 1](#). However it now requires some more background on CQP from further evidence that has recently emerged.

The Castle Quarry Products Story and its Many Re-Incarnations....

- In **2008** Darren Williams, CEO of Buildev, commenced a sand extraction operation at 5 Zircon Lane, Fullerton Cove, to supply the Kooragang Island coal loader project with 70,000 tonnes of sand. This operation did not have approval from Council or the required extraction licence, so was essentially an illegal operation.
- In response to complaints from neighbours Council took action in the Land and Environment Court and Buildev was ordered to cease operations, rehabilitate the site, pay Council's costs and apply for the appropriate approvals if they wished to operate the mine in the future.
- A deal was also done on estimated royalties lost to Council, (but there is some doubt if this was ever paid) and to issue a joint press release to say that everything was hunky dory, nothing illegal to see here! No other details were ever released to the public.
- The operation finally emerged as Castle Quarry Products, (CQP) a subsidiary of Buildev, but doubts began to surface about its financial viability with the demise of all the Tinkler related companies and the revelations in the ICAC Spicer investigation.

- In 2013 Council completed a tender process to operate their Cabbage Tree Road sand mine on a royalty basis. CQP was one of nine companies including the Mayors own sand mine Macka's Sands, to submit a tender.
- In an extremely controversial process, the Mayor withdrew his own tender at the last minute and with other Councillors, who despite former connections with Buldev, had failed to declare any non-pecuniary or pecuniary interest, granted the lease to CQP against the recommendations of the properly constituted tender evaluation panel.
- CQP was specifically singled out as not meeting the operational or financial criteria by the panel in its report.
- The required Bank guarantee of \$250,000.00 arrived in cash instead, well past the tender requirement date and Council will not reveal who actually paid it or where it came from.
- Despite viability concerns raised by several Councillors and damaging press reports, the Council Staff continued to report that all milestones had been met, but allowed an extension of time for the Environmental Impact Statement (EIS) because of bushfires on the site.
- In August 2014 when the press reported that CQP had gone into receivership, the directors asked if the lease could be transferred into another company, Benelli Holdings. Investigations revealed that the directors of this Company were none other than Nathan Tinkler's father and Darren Williams's wife.....
- Council still acceded to this request and following legal advice, drew up the deed of assignment but included the conditions that Benelli was required to demonstrate that it had control of extraction projects at Fullerton Cove, Eagleton and the site. The conditions required were never met by Benelli therefore the Deed of Assignment was not executed by Council. Not surprising really, CQP was in receivership!
- In July 2015 Council was approached by the proponents to re assign the lease again to Williamtown Sand Syndicate, a company associated with Newcastle Accountant, race horse owner and sports promoter Chris Sneddon. Once again our investigations revealed that the other directors were Daren Williams and Murray Towndrow, a former CQP employee who had already been involved in the implementation of the Cabbage Tree lease with Council staff.
- **This would mean that this valuable lease, originally awarded in controversial circumstances, would be handballed off to another Buldev related company for a third time, without a fresh tender**

being called. For this to occur, despite the failure of all the previous companies to demonstrate the financial viability or operational capability required in the original lease criteria, must raise serious concern.

- If this lease was to return \$26 mill in royalties to Port Stephens Council over 15 years, what will it return to the Buildev operators? And why is this Council so determined, regardless of circumstances, or failure to meet requirements, to ensure that these particular people benefit from it?
- TRRA would like to know if the \$250,000.00 that keeps popping up in all the reincarnations of this lease, is the same mystery cash deposit, or is it paid out to the creditors as each deal falls over and a fresh cash deposit is made as a surety? If this is still the original \$250,000.00, wouldn't the Council be complicit in allowing the funds rightfully due to the creditors of these failed operations, including the potential future earnings from the lease to be transferred to another entity away from the receivers and creditors?

Papers released for Council Meeting 28 July

On 24 July 2015, 4:00pm: Council papers were released for **Council Meeting on 28 July 2015 – In relation to Cabbage Tree Sand Mine, The Papers contained:**

- Notice of motion, tabled by Clr. Dingle, sec. Clr. Kafer: [Notice Of Motion](#)
- Item No.9: [389 Cabbage Tree Road](#) Williamtown, Report of Glen Bunny – Property Services Manager to rescind the previous motion No 309

RECOMMENDATION IS THAT COUNCIL:

- 1) *Rescind the resolution determined by Council on 25 November 2014, Minute No. 309 (ATTACHMENT 1) described as follows:*
 - 1) *Consent to Assignment of the Agreement for Lease and Lease from Castle Quarry Products Pty Ltd to Benelli Holdings Pty Ltd.*
 - 2) *Authorise the Mayor and General Manager to sign all relevant legal documentation."*
- 2) *Assign the Agreement for Lease to Williamtown Sand Syndicate Pty Ltd (WSS) (ABN 56 606 820 875) subject to the following:*
 - a) *WSS to meet all obligations under the current Agreement for Lease;*

- b) *WSS to provide Council with adequate security including a \$250,000 security deposit or bank guarantee on terms acceptable to Council; and*
 - c) *WSS to undertake to pay any liabilities of Castle Quarry Products Pty Ltd.*
- 3) *Authorise the Mayor and General Manager to negotiate and execute all necessary documents on behalf of Council to enable the assignment to proceed.*
- TRRA disputed some of the information provided in the accompanying report relating to the tender process. We prepared a submission to all Councillors expressing our concerns at the proposed lease transfer to WSS and attached the ASIC Company Extract. We demanded that a fresh tender process be called. We received a response some days later:
 - [150728 TRRA Letter to Councillors Re Cabbage Tree Mine](#)
 - July 2015: Williamtown Sand Syndicate P/L: [ASIC Current Company Extract](#)
 - [150810 PSC Response To TRRA Letter Re Cabbage Tree Mine](#)
- This Story was in the Newcastle Herald the day of the meeting and the links underneath are the result of some further research on the director of WSS.
 - Newcastle Herald 24 July 2015: [Jet may be Tinkler's last straw](#)
 - Maxim Accounting Website: [Chris Sneddon](#) - Maxim Accounting: "[We are like a Jet pilot when it comes to pushing the limits](#)" We hope his jet does not get repossessed like Tinkler's (above).....
- Over The Weekend this story appeared:

Newcastle Herald 26 2015: [Port council seeks to cut ties to Tinkler](#)

The 'Explosive' Council Meeting 28 July

On 28 July 2015: Port Stephens Council Meeting 5:30pm

- TRRA executive and some members attended the meeting and took part in a demonstration outside the chamber organised by Local MP Kate Washington. We reckon 100 people who had been alerted by their various community groups turned up for the meeting.
- The meeting itself was marred by refusal of the Mayor to allow some ratepayers **Public Access** at the meeting without valid reason and some lively interjections from the crowd.
- [Letter from TRRA to Minister re Public Access](#)
- [Letter from Medowie Resident Re Public Access](#)
- The Cabbage Tree Road lease transfer was debated three times in all, in the committee as a whole, formal Council and in the notice of motion. **When the Mayor Closed the meeting for 15 minutes because he did not like an interjection, the motion was rammed through immediately upon resumption with no further debate, with no declarations of interest from the Mayor or other Councillors that supported it.**

Media Reaction to Council Meeting

- [Letter to the Editor](#)
- Newcastle Herald 28 July 2015: [Chaos at Port Council meeting](#)
- Examiner 29 July: [Explosive scenes at Port Stephens Council Port Stephens Council meeting gets heated](#)
- *1233 ABC Radio Interview 29 July 2015:*
 - *This morning, 1233's Paul Turton checked in with Port Stephens Mayor Bruce MacKenzie and Member for Port Stephens Kate Washington, after a rather eventful council meeting last night.*
 - *The Port Stephens Council meeting began with 30 to 40 angry protesters descending on the chambers, moved on to disputes,*

heckling, accusations and shouting matches, and ended with an unsuccessful "no confidence" motion by Cr Peter Kafer.

- Mayor McKenzie and MP Washington told Paul their sides of the story, their individual opinions on the protesters, and engaged in a somewhat heated debate about the future of Port Stephens.
- 1233 ABC Radio Interview 29 July 2015: [Port Stephens Council Meeting Gets Heated - Mayor Bruce Mackenzie and MP Kate Washington](#) (Audio File- Turn up your speakers)

TRRA Website: Breaking News, 29 July 2015:

- We now have the [Minutes from the 28 July Council](#). We have just discovered a *Supplementary* document that we were not aware of at the meeting. [Supplementary Information](#) **This effectively parks this major controversy until after the next Council election! How convenient.**
- This mine was supposed to be producing 1.7 million dollars income per year for the rate payers from July 2016. How much more money is this continuing flirtation with *Buildev, Tinkler and Co.* going to cost us in grandiose plans that never get delivered? Whats the betting that we get to 28 Jan 2017 and they will be looking for another extension? How many chances do they get? So much for the [forward estimates for the Council budget](#). and addressing the \$29 Million backlog of maintenance and infrastructure?

Newcastle Herald 30 July 2015: [Mayor votes on sand mine despite conflict of interest](#)

- Clarification: Murray Towndrow was the Development Manager, *Buildev NSW Pty Ltd.* and was the employee of CQP that Council were negotiating the Cabbage tree Mine Lease with.
- Darren Williams was CEO of *Buildev* and the sole Director of *Castle Quarry Products*.

TRRA Website 06 August 2015: [An Evening With 'Macka](#)

Newcastle Herald July 31: [MICHAEL MCGOWAN: Port needs fresh start](#)

Local MP Raises Problems with Council in Parliament

In the continuing backlash from the recent meetings, our local MP has taken the Mayor to task in the Parliament:

TRRA Website 13 August 2015: [Local MP Takes On PSC Mayor](#)

Newcastle Herald August 14 2015: [Council rejects MP's lease claim](#)

Williamtown Community Group

31 July 2015: [Williamtown Community Group Letter to Councillors, Govt](#)

In a letter to the Port Stephens Council General manager, copied to all Councilors and the Minister, the Group made serious allegations about the reaction of the Mayor when perception of conflicts of interest were raised by a Councilor.

They also complained that the Group manager, Corporate Services had misled the Council and Councilors making the decision on the lease transfer in her report. When questioned by Councilor Dingle she asserted that CQP had met all required milestones of their lease and that a completed EIS was sitting with the Department of Planning awaiting action. These statements were witnessed by all the public present in the gallery but with the removal of the recording equipment and webcam can be conveniently denied.

When the Community Action Group checked with the Department Planning the following day they were told that an EIS had been submitted months previously but had been sent back to the proponent as being grossly inadequate and required them to re-submit, but nothing had been heard since. The 'condition precedent' requirement for the EIS completion was extended from 15 July 2014 to 30 March 2015. The precedent has obviously not been met but this is not what was reported to Councilors making this decision or the increasingly concerned ratepayers.

On **19 August 2015** the Williamtown Community Group WSRAG traveled to Sydney and met with representatives of the Department of Planning and the Minister for Local government to discuss their concerns and were assured that both departments were aware of the situation and were monitoring developments.

TRRA is extremely concerned at the serious issues raised in these articles and will be pursuing them with the appropriate authorities and our Parliamentary Representatives.

Meanwhile we will try to keep the ratepayers of Port Stephens reliably informed just what their Council is up to by sharing the information we have with the community through this site.

TRRA wishes to acknowledge the help, information and assistance that other Community Groups, some Councillors and staff and our MP have provided us with and the journalists whose stories we have linked to in these articles. Please feel free to 'have your say' in the comment section below.