



INVOICE SENT  
TO ACCOUNTS



Our ref: Out - 24746

6 May 2016

Mr Paul Hickey  
General Manager  
Ballina Shire Council  
PO Box 450  
BALLINA NSW 2478

Dear Mr Hickey

**Request for Legal Assistance approved**

The Local Government New South Wales (LGNSW) Board approved an application made by Bathurst Regional Council for legal assistance under the LGNSW Legal Assistance Policy & Guidelines in August 2015. The matter has now been resolved in the courts. The LGNSW Board considered the matter to be of importance to local government throughout the State, as the proceedings related to the ability of councils to enter into contracts that include fees for services.

Bathurst Regional Council defended the matter before the NSW Court of Appeal. The proceedings challenged Council's jurisdiction to fix fees for services under long-term contracts. The NSW Court of Appeal found against Bathurst Regional Council, identifying that:

*'even when the Local Government Act confers a power in terms upon councils to reach an agreement or arrangement with a landowner, the price it can charge for work performed by it remains subject to Part 10 of Chapter 15. To that extent at least, the 'general power to contract' cannot permit a Council to escape the statutory restrictions upon it'.*

LGNSW is considering the implications of this decision for NSW councils, and is likely to seek feedback from councils in the future to enable the issue to be adequately addressed in the next phase of the review of the *Local Government Act 1993*.

Financial contributions are now sought from councils as the costs of the proceedings have been determined as set out in the **enclosed** invoice.

You are reminded that there is no obligation for a council to provide assistance.

Please do not hesitate to contact me on (02) 9242 4125 if you have any questions on this matter.

Yours sincerely

Donna Rygate  
Chief Executive

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