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6 February 2010

COMPLAINT AGAINST PORT STEPHENS COUNCIL – ACCESS TO INFORMATION

Minister

We wish to draw your attention to the repeated failure of Port Stephens Council to respond to enquiries from this Association about access to information about development applications and consents.

I attach two letters, dated 12 May 2009 and 7 December 2009, together with email correspondence dated 7 & 23 December between our chairman and Council officers.

This correspondence refers to a number of related issues concerning public availability of information about Council operations. The 12 May letter focussed on information relating to development applications and consents, while the 7 December letter repeats that request but also requests information about the Council's wider compliance with access to information legislation, including Council's preparation for the new requirements of the Government Information (Public Access) Act 2009, which is expected to commence soon.

Our May letter was mentioned incidentally in a meeting with Council staff on a specific DA, and we were given assurances that the matters raised were being looked into. However, we have yet to receive formal acknowledgement or a substantive response to either letter. This fails to comply with Council's own policy on acknowledging and responding to correspondence, as set out in its Customer Service Charter (<http://portstephens.local.nsw.gov.au/council/1633/1636.html>), which commits to "Acknowledge your letter or fax within 7 working days * Reply to your letter or fax within 21 days * Forward you an interim letter updating progress, where your letter or fax requires detailed investigation".

In the interests of efficiency and timeliness, the Association often uses email, as well as posting most letters. In an email dated 1 November 2005 (responding to earlier enquiry from

one of our members) the Council's governance officer confirmed that "Whilst Council's published Service Charter does not specifically list emails and other forms of communication, Council would apply the same standard of service to all communication with the community." Our experience since forming the Association is that Council regularly fails to acknowledge or reply to correspondence.

Mr Broyd's email of 7 December (attached) refers to resource constraints preventing improvements in information availability. We submit that this is not an acceptable excuse for not even addressing the issues we have raised. Many of the practice changes we suggest in our letters could be implemented without major resource implications. We give several examples of other councils which make more and better information about development applications and consents available on line.

We are particularly concerned about Port Stephens Council's failure to routinely make all DAs available for inspection at a physical location on the Tomaree peninsula, where a significant proportion of the population live and/or work. Limited information appears in the public library at Salamander Bay, but on an apparently random basis and with no system or explanation – interested parties have to 'self serve' from a mass of documentation – much of it out of date. Council appears to expect anyone wanting 'full service' to travel - a 70 km round trip - to the PSC Council offices in Raymond Terrace. This is a major inconvenience and effectively constrains community debate on important planning issues.

We request that you take up with Port Stephens Council both their failure to comply with their own Customer Service Charter and the substantive matters raised in our letters of 12 May and 7 December. We also request that you let us know whether in your view Port Stephens Council complies fully with the legislative requirements, including under the Environmental Planning and Assessment Act, pertaining to public information about development applications and consents.

I am copying this letter to the principal officer of your department as well as to the Department of Planning and the Ombudsman, and to Port Stephens Council.

Yours faithfully

Robert Young
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