



THE ENTRANCE PENINSULA

COMMUNITY PRECINCT

ENCOMPASSING: THE ENTRANCE; THE ENTRANCE NORTH; LONG JETTY TOOWOON BAY; BLUE BAY & SHELLY BEACH

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11 July, 2011

Michael Whittaker
General Manager
Wyong Shire Council,
PO Box 20,
Wyong 2259

Subject: D. A. PLANS BEING SUBJECT TO COPYRIGHT

Dear Michael,

TEPCP is writing to express our concern with the information regarding access to information which may have copyright, such as building plans in DAs.

The issue was drawn to our attention by Ray Raucher, Chair of the Lakes Community Precinct Committee who had received notification from Melanie Domingo, Senior Administration and Public Officer, Legal and Risk – viz.

"the NSW Information Commissioner recently put out a Knowledge Update advising that Councils should no longer be providing access to public (or open access) information under the Government Information (Public Access) Act 2009 (GIPA Act), that is subject to copyright by way of copy"

Apparently, from 1 July 2010, new Right To Information Legislation came into effect, replacing the former freedom of information law. Our understanding is that the new law:

- ❖ creates new rights to information that are designed to meet community expectations of more open and transparent government
- ❖ encourages government agencies to proactively release government information.

It therefore seems that the new law contradicts Wyong Shire Council's aim to be transparent and open. In the WSC Community Strategic Plan (2011) the Vision Principles are stated as :

"Government is conducted with openness and transparency involving the community in the decisions that affect it."

TEPCP supports Wyong Shire Council 's adoption of the Community Strategic Plan and its commitment to openness and transparency involving the community in the decisions that affect it.

That being the case TEPCP requests that Council puts this into practice when dealing with community access to the drawings that make up Development Applications. It is not acceptable for the community to only have access by way of personal inspection of drawings at the Council Offices. There is the difficulty of getting to the Council Offices in working hours, combined with having the time available to examine proposals thoroughly.

The current practice of denying access to copies of drawings for examination purposes only is against the spirit of the Right To Information Legislation and Council's Community Strategic Plan.

RECOMMENDATION:

TEPCP requests that Council adopts a policy of requiring development applicants to sign a waiver to the copyright of all material submitted for the purposes of development approval. That the waiver states that the applicant agrees that copies of the material are available on line for the sole purpose of the community assessing the proposal only, with any other use being considered a breach of copyright.

Thanking you in anticipation.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'Douglas Darlington', written in a cursive style.

Douglas Darlington

Secretary

The Entrance Community Precinct Committee

Phone/Fax: 4332 5593

Email: doug@darlington.id.au

Dear Mr. Rauscher,

Thank you for clarifying. The DA number is DA/3140/2004. The information is subject to copyright, so again I can provide you with access by way of inspection, however not by copy unless you have the copyright owner's written consent.

I should explain that the NSW Information Commissioner recently put out a Knowledge Update advising that Councils should no longer be providing access to public (or open access) information under the Government Information (Public Access) Act 2009 (GIPA Act), that is subject to copyright by way of copy, unless the Council has the copyright owner's written consent. Access by way of inspection is however OK. This is the reason I am unable to supply the Association with access to a copy of the information, without consent of the copyright owner.

Please let me know if you would like details of the copyright owners for any of these documents; or in the alternative if you would like to attend Council to inspect the documents.

Yours faithfully,
Melanie Domingo
Senior Administration and Public Officer
Legal and Risk
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