

Submission  
No 40

**INQUIRY INTO REGULATION OF BUILDING  
STANDARDS, BUILDING QUALITY AND BUILDING  
DISPUTES**

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Partially  
Confidential

## **Submission to the NSW Parliamentary Inquiry into the Regulation of Building Standards, Building Quality and Building Disputes**

This submission falls into the “other related matters” category. However, it may provide an insight into how false and misleading information is currently being allowed to go unchecked. It concerns that lack of action by multiple authorities over the past 17 months since the matter was first reported in respect of two development applications with a combined value of \$15 million.

The principal issue is the apparent provision of false and misleading information by an applicant and their planner in two development applications about the existence of a site master plan. Briefly, the applicant and their planner asserted on multiple occasions that a site master plan had not been prepared. This assertion was provided to a Council in the preparation of the DA Assessment Report, and also to two separate planning panels.

The applicant’s assertion was made despite multiple references in the applicant’s publications that a master plan had been in existence for at least two years prior to the DA, and despite the applicant’s architects proclaiming the existence of the master plan on the architect’s website.

The apparent provision of false and misleading information was raised in submissions during at least four separate DA notification periods and in addresses to two planning panels, both local and regional.

The matter was reported to Planning NSW in February 2018, which then referred the matter to Georges River Council in March 2018. No action has been taken by either Planning NSW or by Georges River Council to date.

I raised this issue directly with the offices of the Minister for Planning and the Minister for Local Government through their email webforms on 21 May 2019, and again on 30 May 2019. The response from the Ministers’ staff gave every indication that the Ministers had no intention of taking any enforcement action for the provision of false and misleading information, nor in respect of the continuing lack of enforcement action by Planning NSW and Council officers.

None of the authorities which have the power to enforce penalties relating to the provision of false and misleading information are willing to act. That is, Planning NSW, Georges River Council, NSW Police, together with two planning panels which each have the status of a NSW Government agency.

A Fairfax Media article on 22 December 2018 titled “The submissions declared it 'a prime location' for development - but they were fake” states that the then Planning Minister, Mr Anthony Roberts, was instigating a crackdown on the provision of false and misleading information in development applications. This was stated as being done in conjunction with the Police. At the time of that announcement, the NSW Police

were already in possession of information about the alleged provision of false and misleading information in respect of these two DAs, yet there has been no investigation by the Police. The Crime Stoppers reference for that referral is

From my experience, the various authorities and the relevant Ministers are unable or unwilling to enforce the legislation that already exists in respect of false and misleading information. In particular, the provisions of Section 10.6 of the Environmental Planning & Assessment Act 1979. It is hardly surprising that false declarations and dubious sign-offs may be being provided in respect of building work when persons can apparently engage in that conduct, at least in the planning phase, with impunity.

I suggest that the relevant Ministers may wish to ensure that the agencies and authorities forming part of their portfolio enforce the existing legislation, and that they do so on a consistent basis. At present, it is simply not happening - at least not in respect of planning matters.

If the Committee requires access to any documentation or information held by an agency, authority or Minister containing my personal information, I have no objection to that information being provided to the Committee. If there is any information that the Committee requires from me in respect of this submission, please contact me.

Neale Murden  
22 July 2019