

Submission to the ALRC review into Copyright – Dec 2012

Recently I have discovered that local Councils use the Copyright legislation to deny land owners, or their agents, such as me, a copy of Council approved plans unless the owner/agent gets the original plan drawers permission in writing.

Imagine this:

A land owner wants to build a structure on his/her land. He commissions a plan drawer/architect to prepare the plans which are submitted to Council and subsequently approved – and the building is completed. The approved plans are now on the public record and some Councils such as Lake Macquarie City Council have an excellent DA tracker where such plans are easily available to the public.

But this site is not in the LMCC area.

The next land owner of the land wants a copy of the approved plans and lodges a request for a copy of the approved plans. The Council refuses to provide the copy until the owner, or his agent, gets permission from the original plan drawer/architect, in writing – which is absurd, costly and time consuming.

Some years ago Councils **would** provide copies to the new land owners but some official re-read the Copyright Act and decided Councils could not continue to supply such plans any more without permission from the owner of the copyright.

I subsequently wrote this letter:

My letter to the Sydney Morning Herald – published on 5/12/12

I'm a town planner in Newcastle and I was driving to my local Council for a meeting. On the radio the RBA boss was calling for a lift in our national productivity.

I had asked the Council for details of past approvals on a property I was investigating and after lodging some paperwork was advised I could inspect the file and get copies of relevant documents.

All went well until I asked for a copy of a 20 year old building plan. I was told it was protected by copyright and that I would need the building designers permission before Council could give me a copy.

With a deep sigh I took the details of the company who prepared the plans, hoping they still exist and are compos mentis.

I then asked the Council planner to advise if the site was mapped as bushfire prone land in their mapping system. The Bright Young Thing on the counter uploaded the relevant plan on her computer screen to confirm it was bushfire prone. I asked if she could email that map to me, to save me struggling through the Councils impenetrable website. She smiled sweetly and advised that the

maps were under copyright to the Rural Fire Service and so she could not provide a copy – even though anyone with a Masters in Understanding Council Websites (MUCW) could download their own copy of the plan. This is patently ridiculous – as if the RFS would want to prevent Council from promoting their bushfire mapping – common sense says they would welcome it!

Once back in the office I called up the company who designed the building 20 years ago. The company owner said that many Councils take a similar position regarding copies of old plans. They agreed to give me permission, but pointed out that they are not, technically, the same company as the one 20 years ago. They have a similar name and occupy the same premises, but technically they are not the owners of the copyright. We lodged the permission letter and hoped Council would not notice. Fortunately they didn't - this time.

Of course there are so many questions that should arise from this infuriating, situation. What if the company does not exist anymore? Are plans prepared by a now defunct company still subject to copyright anyway? Why would the RFS, a State Government authority, claim copyright over such information? Could not the RFS issue a general directive to all Councils that it is OK to forward copies of their maps etc.

Which brings me to the issue of productivity. Could we not tackle some of the structural impediments to increasing productivity, such as our archaic copyright legislation, for starters. Who do I talk to – the RBA boss maybe?

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