

1978

PARLIAMENT OF NEW SOUTH WALES

REPORT
OF THE
OMBUDSMAN
OF NEW SOUTH WALES

For the Year ended 30 June, 1978

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THE OMBUDSMAN OF NEW SOUTH WALES

THIRD ANNUAL REPORT

The Honourable Neville Wran, Q.C., M.P.,
Premier of New South Wales.

Sir,

In accordance with section 30 of the Ombudsman Act, 1974, I submit herewith to be laid before both Houses of Parliament, the Third Annual Report on the work and activities of the Ombudsman of New South Wales covering the period from 1st July, 1977 to 30th June, 1978. Attached to the Report are four appendices as follows:

- A—Case Notes
- B—Statistical Summary of Complaints
- C—Schedule of Complaints
- D—Extracts from Ombudsman Act.

Accommodation

I had anticipated that during the current year I would have moved into additional space adjoining my then accommodation at 175 Liverpool Street but following the leasing of a substantial portion of the second stage of that building to the Police Department, it appeared inadvisable for me to remain in those premises.

As a result arrangements were made for accommodation on the 14th Floor of 175 Pitt Street, and I moved to this new accommodation on 10th April, 1978. This is a commercial building with no New South Wales Government departments located in it.

Staff

As foreshadowed, it became necessary for my staff to be increased to handle the additional work and during the year four additional investigation officers were appointed.

As at 30th June, 1978, the staff, apart from the Deputy Ombudsman and myself, totalled 26, consisting of an Executive Officer, a Principal Investigation Officer, an Administrative Officer, three Senior Investigation Officers, ten Investigation Officers, two Interviewing Officers, five Stenographers, a Receptionist/Typist, a Service Officer and a Records Clerk.

Should the foreshadowed widening of my jurisdiction to include complaints against Police occur, there will be need for further additional staff.

Commonwealth Ombudsman

I am constantly in communication with the Commonwealth Ombudsman as many complaints are initially misdirected to one or other of us and need to be forwarded to the correct office. In addition, there have been matters from time to time where an exchange of information has been necessary and beneficial to both of us. At times a complaint will cover both Commonwealth and State authorities in the one document.

Whilst it had been proposed that the Commonwealth Ombudsman would occupy space adjoining my office, the original arrangement was not proceeded with as a result of my own office being moved. Unfortunately there is some distance now between the two offices with resultant inconvenience both to the public and ourselves.

Complaints

During the year a total of 2 923 new written complaints were received and the investigation of 579 carried over from the previous year was continued. Of this total of 3 502, 278 were completely outside my jurisdiction. In addition, a further 174 were excluded from investigation by virtue of the exclusions set out in Schedule 1 to the Act. A further 32 were outside my jurisdiction as the conduct complained of had taken place either prior to 18th October, 1974, or in respect of local government authorities, prior to 1st December, 1976.

I declined to investigate 378 matters exercising the discretions contained in section 13 (4) of the Act. In 37 cases relating to Local Government, there were no special circumstances and a right of appeal or review existed. These were declined. In addition, 80 complaints were withdrawn and 71 were discontinued. A total of 656 still remained under investigation as at 30th June, 1978. Of those investigated, totalling 1 796, 319 were found to be justified.

In many of the cases which I declined to investigate, I did so pending the outcome of concurrent approaches to the authority concerned.

The total number of complaints for the current year increased substantially. This was partly attributable to the fact that my jurisdiction in respect of Local Government authorities operated for a full period of twelve months but also was due to an appreciable increase in the number relating to other public authorities. Those in respect of local government authorities remained proportionately almost the same.

The figures relating to the three year period since my appointment are:

| | Within Jurisdiction | | Bodies outside Jurisdiction | Total |
|---|---------------------|------------------|-----------------------------|-------|
| | Ordinary | Local Government | | |
| 12th May, 1975 to 30th June, 1976 | 1 928 | .. | 453 | 2 381 |
| 1st July, 1976 to 30th June, 1977 | 1 442 | 532 | 235 | 2 209 |
| 1st July, 1977 to 30th June, 1978 | 1 796 | 855 | 278 | 2 929 |

It will be noted in the Schedules that there are various categories of "justified" and "not justified" complaints. A number of complaints classified as "justified" were discontinued after full or partial rectification. Included in the complaints found to be justified there were nine which were the subject of reports under section 26 of the Act to the respective Ministers.

Six of these were in respect of Councils. In three of the cases the recommendation was accepted and no further action was necessary. In two other cases there was partial acceptance of the recommendation and I decided not to take these matters further. In another case action had already been taken by the Council concerned. In a further case, namely, that in respect of the Lismore City Council, which had been the subject of a Special Report by me under section 31 of the Act, the Council pre-empted my decision without waiting for the completion of the investigation and the action complained of could not be rectified, and no recommendation was made. The remaining case is still under discussion with the Minister and the authority concerned.

In addition, a report under section 26 followed by presentation of the report to Parliament under section 27 was made in respect of Colo Shire Council. Unfortunately the recommendation made was not accepted by the Council.

In four further matters which are included in the case notes, I informed the respective Ministers that I proposed to make reports under section 26 but I did not proceed with these after further discussions resulted in my recommendations being adopted.

The office continues to receive a considerable number of telephone calls from persons wishing to make complaints or requesting information. Approximately 4 000 such calls were received. A breakdown of the type of telephone enquiries is as follows:

| <i>Enquiries re:</i> | <i>Per cent</i> |
|---|-----------------|
| Australian Government Departments | 9.0 |
| Local Government Bodies | 18.8 |
| Private Organisations and Persons | 8.0 |
| Preliminary Enquiries prior to writing | 27.9 |
| General enquiries re functions of the office | 2.8 |
| Others—seeking general information, legal advice etc. | 33.5 |

From time to time, whilst no formal written complaint is received originally, complaints are settled by telephone. A recent instance involved a complaint in respect of the Metropolitan Water Sewerage and Drainage Board, the complainant stating that whilst he considered that the rates payable in respect of his business premises had been fully paid, he had received a notice from the Board in respect of outstanding rates involving a quite substantial amount.

He claimed that these rates were paid and wrote to the Board giving full particulars of the cheques and accounts involved. When he rang my Office, there was a Board employee at the premises ready to disconnect the service. The complainant was convinced that his account was paid up-to-date and felt that the arrears may have related to a property in the same street, number 466, whereas his number was 446. A telephone enquiry to the Board elicited the information that in fact the computer had been given the wrong information and, as the complainant contended, the arrears related to the property No. 466 and not his. It was fortunate that he was in touch with this Office and the matter was rectified before the disconnection took place. I subsequently received a formal written complaint to put the matter in order.

A number of persons called at the office and where they had complaints which came within the jurisdiction, they were assisted in preparing such complaints. Many others who did not have matters to be investigated were assisted in other ways.

A total of 932 complaints came from country areas. The percentage of these complaints was approximately 32%, which has been the consistent figure since the office commenced to operate. The areas covered by these extends over most of the country areas of New South Wales.

A graph has been prepared indicating the monthly figures in respect of the total complaints and those in respect of local government authorities.

Jurisdiction

Some matters relating to my jurisdiction which I have mentioned in previous reports still cause me concern.

(a) Employer—Employee

In particular there is the inability to investigate complaints relating to employment by public authorities. I continue to receive, either in writing or by telephone, a number of complaints which are not the subject of any right of appeal to a tribunal and are not matters taken up by a union and which, in my view, should be investigated. There are no means whereby such can be investigated.

In the report prepared by the Review of New South Wales Government Administration, particular mention of this is made and the Review's recommendation is that Item 12 in the Schedule to the Ombudsman Act should be removed leaving the Ombudsman with the power to investigate such matters, subject to the normal discretions contained in the Act where an investigation can be declined where, for example, a satisfactory and/or alternative means of redress is available.

I strongly support the view that this Item in the Schedule should be either deleted or amended so that the Ombudsman at least has the right to investigate such matters where, in his view, injustice might otherwise occur.

(b) Court Officers

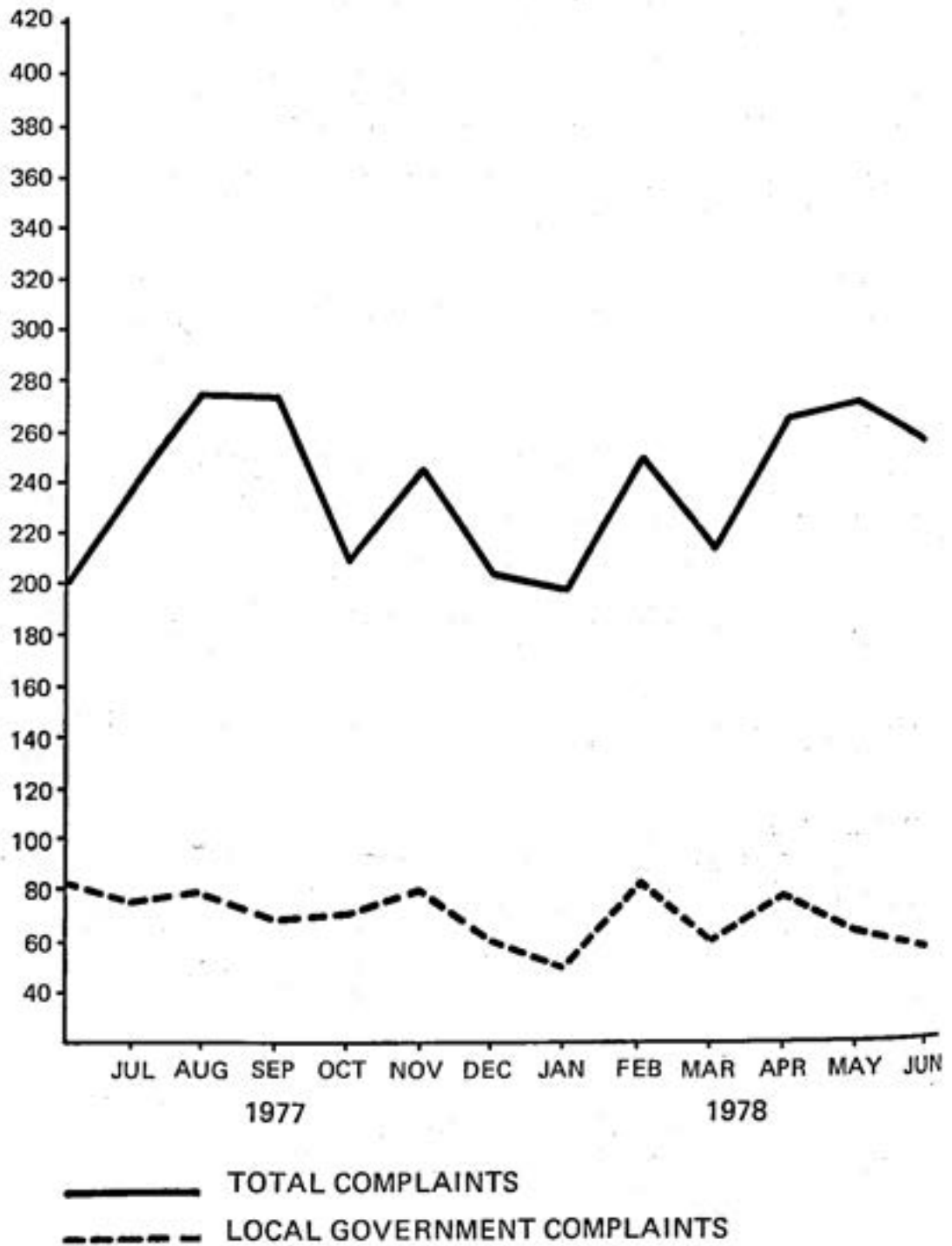
As to Item 2 in the Schedule, namely, the conduct of persons associated with Courts, I have received further complaints during the year relating to such persons which cannot be investigated because of the exclusion. One such complaint involved the payment of money into Court many months prior to the complaint being made with a failure in spite of a number of requests for such to be paid out. This could not be investigated by me.

Another example related to another Court. I was informed that, as a result of proceedings in the Court, a formal order had been made on 23rd May, 1977 ordering that the sum of \$1,400 be paid out to my complainants or their clients. The necessary authorities were prepared and executed under seal on 26th May, 1977 and filed in the Court before the end of the month.

On 26th July, a letter was sent by my complainants to the Registrar of the Court noting the delay and asking that the money be paid as soon as practicable. There was no apparent response to their letter. My complainants noted that they had been sent by the Court Office on 1st June, a request for payment of a fee of \$21.50 on the Order, pointing out that in view of the rule for the collection of court fees, it should be paid without delay. They commented "apparently though, sauce for the goose is not sauce for the gander in this Court".

I informed my complainants that I was precluded from investigating the complaint but I wrote to the Chief Executive Officer of the Court bringing the matter to his attention. He later informed me that, in the intervening period the money had been paid, and that he had spoken to my complainants and explained the circumstances of the delay. He also indicated that as a consequence of my letter there had been a review of the systems operating within the Court Registries to prevent any recurrence of similar delays.

**TOTAL COMPLAINTS RECEIVED BY MONTHS
(SHOWING A BREAKDOWN OF LOCAL GOVERNMENT COMPLAINTS)**



(c) *Commonwealth—State*

Problems have been experienced by the Commonwealth Ombudsman relating in particular to Albury-Wodonga Corporation, where the Commonwealth body can be investigated by him but the New South Wales body is excluded from my jurisdiction by virtue of Item 5 in the Schedule.

As mentioned in my last report, I consider that an amendment to the Schedule should be made and I am of the view that the Item should be deleted. In addition, consequential amendments to the Act may become necessary so that bodies such as this can be investigated, and where necessary, a mutual investigation between the Commonwealth and State Ombudsman take place. There may also be occasions where a mutual investigation by two State Ombudsmen should be undertaken in respect of bodies formed pursuant to an arrangement between this State and any other State.

Discussions have taken place with the Commonwealth Ombudsman with regard to these matters and it is hoped will be brought to finality in the very near future.

(d) *Stay of Action*

Arising out of an investigation into the conduct of the Lismore City Council, which was the subject of a Special Report under Section 31 of the Act made on 24th August, 1977, a recommendation was made that the Act be amended to provide means whereby a stay of action could be sought in an appropriate case against a local government authority pending the conclusion of an investigation carried out under the Act. My suggestion was that there should be power to apply to the Supreme Court where it appeared that action was being taken which might negate the investigation and to seek an order staying action for a period determined by the Court.

Whilst the recommendation was made, no action has yet been taken for the Act to be amended and there have been occasions when it would have been of considerable assistance to have possessed the right to approach the Court to prevent action being taken by an authority which could have been prejudicial to an investigation.

(e) *Review of Government Administration*

In addition to its recommendation with regard to employees of public authorities mentioned earlier, the Review of Government Administration suggested that the Act be amended with regard to the discretion to refuse investigations. The main concern of the Review seemed to be that the discretion was wide enough to allow the Ombudsman to refuse to investigate without having to specify any of the grounds set out in the Act. I feel that the Review overlooked the provisions of Section 15 of the Act whereby when the Ombudsman exercises this discretion to decline an investigation, he is bound to give reasons. I have put this point of view to the Commissioner that the Act should be allowed to remain as it is.

Further matters included in the report of the Review which I support are the proposals for use of contract employment and the need for an adequate campaign to increase public awareness of the Ombudsman.

(f) *Workers Compensation Commission*

A further question of jurisdiction arose when I received a complaint made on behalf of an insurance company relating to the refusal by the Workers Compensation Commission of an application for a licence to carry on the business of Workers Compensation Insurance.

The complaint was directed both to the refusal and to the failure to give reasons. Under the Schedule to the Act Item 2, I am excluded from investigating conduct of a person or body before whom witnesses may be compelled to appear and give evidence and persons associated with such a person or body.

The Workers Compensation Commission appears to be such a body, but the complainant's solicitors put the view strongly that I had jurisdiction and that the licensing powers of the Commission were not the actions of the curial body and that it was exercising an administrative function and not a judicial function.

The Commission supplied me with considerable information but I did not proceed to finality in the matter in view of the doubt as to my jurisdiction.

Where a body carries out two separate functions, one judicial and one administrative, there is a strong argument that the exercise of the administrative function should be subject to investigation by the Ombudsman.

(g) Act of Grace

Item 15 of the Schedule precludes investigation of a complaint as to the conduct of a public authority relating to the payment of any money as an Act of Grace.

Certain stolen property held by the Police Department as an exhibit since late 1973 was extensively damaged in 1975 and subsequently destroyed. The owners claimed compensation. Ultimately, a decision was made to pay compensation at 1973 wholesale prices and not at 1976 prices. The property was trading stock and the company had claimed replacement at 1976 prices.

A complaint was made to me as to the basis of the valuation and that as a result inadequate compensation was being paid. I obtained some information from the Commissioner of Police but he was not prepared to make the relevant departmental papers available to me. The Department's contention was that the complaint was about the conduct of a public authority concerning "the payment of any money as an Act of Grace" and, therefore, precluded from investigation by me by virtue of Item 15 of the Schedule to the Act.

I disputed this contention as this was not the conduct that was the subject of the investigation. My enquiries had disclosed that the payment of compensation was to form a charge against the Treasury-Head Office Item "C.35 to Provide for Payments as Acts of Grace in respect of claims for compensation etc". My understanding is that this Item is used for payment of all claims for compensation against the Department unless otherwise provided for in the estimates.

The fact that a claim that the Department might be legally liable to pay is paid for out of such a fund does not, in my view, make it an *ex gratia* payment and a matter which cannot be investigated by the Ombudsman.

Ultimately the matter was not taken further as the complainant finally decided to accept the amount offered and I discontinued my investigation. However that did not alter my view as to my jurisdiction to investigate the complaint, and inspect the departmental papers.

In my last Annual Report I had mentioned that the exclusion of conduct relating to the payment of any money as an Act of Grace merited further consideration as to whether some suitable amendment might be made. I have since suggested that this item be deleted. The position then would be that any payment made by the decision of a Minister would not be subject to investigation, although the recommendation in regard thereto would be.

Complaints outside jurisdiction

Two hundred and seventy-eight written complaints were rejected as being clearly outside my jurisdiction. This compares with 235 for last year. During the course of investigation and usually after preliminary enquiries, a further 206 complaints were found not to be covered by the Act and investigation ceased.

One hundred and thirty-four of those outside jurisdiction related to Commonwealth departments and were able to be referred immediately to the Commonwealth Ombudsman for his attention.

As previously, where a complaint is outside my jurisdiction, I endeavour to suggest an alternative course of action.

Local Government Authorities

A total of 855 complaints relating to 167 different councils was received during the year. This number is slightly less proportionately to the number for the seven months of last year. The number of local government authority complaints remains at about 30 per cent of the total number received. There were carried over from the previous year 251 complaints still under investigation, making a combined total of 1 106. At the end of the current year a total of 239 were under investigation. Of the balance 135 were declined for various reasons, 24 were outside my jurisdiction and 54 were discontinued or withdrawn. Investigations were completed in 654 matters and of these 79 were found to be justified.

I made some comments on the question of jurisdiction in respect of local government authorities in my last report but as my involvement in this area is still comparatively recent I feel that some of the comments then made should be repeated.

It is important to point out that my jurisdiction under the Act is restricted in effect to matters of administration. Whether in fact a decision is made by the council as a whole or not does not of itself preclude it from investigation. Some matters such as the fixing of general rates I do not regard as being matters to be looked into by me.

As to the provision of section 13 (5) of the Act which precludes me from investigating the conduct of a local government authority if that conduct is subject to a right of appeal or review conferred by or under an Act, I would point out that this is subject to the qualification that I can investigate if I am of the opinion that special circumstances make it unreasonable to expect that right of appeal or review to be or to have been exercised. I do not regard the possibility of an application being made to the Supreme Court for a declaratory order or other similar remedy as being such a right of appeal or review.

Cases which could be regarded as coming within the definition of "special circumstances" are those where the cost involved would be quite out of proportion or where the complainant has been unaware of the right of appeal and the time for appeal has passed.

Again I should emphasise that whilst the Act provides that I am not able to investigate conduct which took place prior to 1st December, 1976, I do find from time to time that the conduct complained of is of a continuing nature carried on after 1st December and, therefore, subject to investigation.

A number of matters peculiar to local government authorities have concerned me during the year.

The first of such matters related to the question of provision of files to me under the provisions of Section 18 of the Act. I learnt through the Local Government Bulletin that advice had been received by the Local Government Association from its solicitors that in their opinion a council was not required to produce the council's files at my office but that to comply with the requirement it need only make its files available for inspection at the council chambers. I do not agree with this interpretation and have found that in fact only two or three councils have not forwarded to me their files when requested. I raised the matter with the Association and also, with the view to any doubt being removed, I have suggested that an appropriate amendment be made to the section to overcome any argument as to its meaning. In cases to date where councils have not been prepared to forward files, I have requested that copies be made and forwarded. This has temporarily overcome the problem although I have found that whilst the whole of the file has been copied and forwarded, there would have been only need to copy a small portion of it if it had been made available in the ordinary way.

Councils are in a somewhat different position to government departments and statutory authorities in so far as ministerial responsibility is concerned. All departments and authorities have a minister who has a direct responsibility over them but in respect of local government authorities, the control of the Minister for Local Government is somewhat remote. Consequently when a report is made under the Act to the Minister for Local Government as required, he has not the same measure of control over the activities of the council unless it might be a matter which would involve consideration of the appointment of an administrator or relate to other financial aspects. Consequently the Council can decide of its own volition to ignore a report. After a report has been tabled in Parliament, apart from the publicity thus engendered, Parliament generally can do little more than express a view and the matter is then left to the Council to decide whether or not it carries out the recommendation. If it will not do so, the matter can only be left to local feeling to convince the council that it should take such action.

One such matter related to the Colo Shire Council and was the subject of a report by me to Parliament under Section 27 of the Act in which I recommended that the Council should reconsider its conduct with regard to an offer of compensation and offer to the complainant proper compensation in other than a nominal sum. Regrettably the Council did not accept my recommendation and I was unable to take the matter further.

Some Councils are not fully aware of the fact that complaints can be made by them as to the conduct of other public authorities. However, I have received some complaints from Councils in this category and one such complaint related to the failure of the Department of Local Government to reimburse the Council the cost of destruction of a crop of cannabis should it be unsuccessful in recovering the cost from the owner. The Council alleged that this had been agreed to by the Department. Ultimate enquiry showed that there had in fact been such an agreement but in error the application was referred to the Noxious Plants Advisory Committee which had treated it as a grant application and which was refused. When the matter was raised by me the Department readily accepted that the chances of recovery were remote and the amount was paid.

From time to time I have been approached by an individual councillor with a complaint relating to the decision taken by a council where the councillor concerned was in the minority on the council. Whilst in many such cases such councillor would have a sufficient interest to warrant the acceptance of a complaint from him, at least as a ratepayer, I am reluctant to accept such complaints and prefer that they should be made by an individual ratepayer rather than from a member of the council.

Some complaints have been received as to the conduct of individual councillors but I do not consider such conduct to be subject to investigation under the Ombudsman Act unless the councillor is acting on behalf of the council.

A considerable number of complaints have been received which really relate to the action of a neighbour where the complainant considers that the Council should have taken some steps to prevent the neighbour acting as he has done. These are generally more matters for decision between neighbours rather than implicating councils and on many occasions I have taken the matter no further than to ascertain that the council appears to have acted properly and have then informed the complainants that they must seek their remedies elsewhere.

Some of these complaints would be eliminated if it were possible for all councils to notify adjoining owners of building applications and make available for inspection the relevant plans. Some already do this.

Problems have arisen with regard to claims against councils where the council is insured with an insurance company. Denial of liability has been made by the insurance company and no consideration as to the matter has been given by the council other than passing the claim on to the insurance company. In my view the council has a greater responsibility than this.

I have referred earlier to the special Report under Section 31 of the Act which I made in regard to the Lismore City Council in which I recommended that the Act be amended to give me power to apply to the Supreme Court in an appropriate case where action was being taken by a local government authority which might negate my investigation and to seek an order from the Court for action to be stayed for a period to be determined by the Court. I still consider that there is a need for such power to apply to the Court.

Other interesting problems relating to local councils are set out in more detail in the case notes.

Publicity

It is clear that in spite of all endeavours, a great number of people are unaware of the existence of the Ombudsman and a considerable number have little knowledge of his function.

As in previous years I have endeavoured to publicise the office of the Ombudsman by appearing on television and speaking on radio and, where able to do so, being interviewed by and providing statements to the press.

I have addressed over 32 different bodies and organisations during the year. These covered a wide range of associations and organisations.

I take the opportunity when in country centres to interview prospective complainants after appropriate publicity is given in the local press and radio and I am sure that a number of complaints received as a result of this would never have been forwarded. Various councils have assisted greatly in making a section of the Council Chambers available for such interviews to be conducted.

In addition, my Deputy has spoken to similar groups on 15 occasions and my Executive Officer on 21 occasions. Other members of the staff have addressed different groups also.

Police

Reported earlier is a matter in which my jurisdiction to investigate was challenged on the basis that the conduct related to the payment of money as an Act of Grace. I did not agree that this was the conduct under investigation but the complainant accepted the amount offered and I did not proceed further.

In some other matters I have been met with a reluctance to make files available for inspection and again the question of my jurisdiction to investigate has been raised. In these cases the question as to whether the member of the police force is "acting as a constable" was in issue. Mostly those matters have been able to be otherwise satisfactorily resolved.

However, in the event of the new foreshadowed legislation with regard to the investigation of complaints against police being enacted, it is hoped that the difficulties will be overcome.

During the year I received 110 complaints against the Police Department as compared with 98 last year. Fifty-one of these were excluded by reason of Item 13 in the Schedule. Of the total of 42 investigated, 10 were found to be justified.

Prisoners

Complaints were received from 439 individual prisoners. In some cases more than one complaint was made and the number of separate items of complaint totalled 525. Four hundred and forty-three of these related to the Department of Corrective Services and 82 to other bodies mostly outside my jurisdiction.

The number of complaints received showed a substantial increase, no doubt in part related to the termination of the Royal Commission. A break-up of the 443 relating to the Department is as follows:

| | | per cent |
|---|------------|---------------|
| Transfers | 53 | 11.96 |
| Medical | 40 | 9.03 |
| Visits and correspondence | 40 | 9.03 |
| Discipline | 39 | 8.80 |
| Loss or confiscation of property | 34 | 7.67 |
| Conduct of prison officers | 33 | 7.45 |
| Use of force | 21 | 4.74 |
| Segregation | 20 | 4.51 |
| Conditions in prison | 19 | 4.29 |
| Request for information (communication) | 17 | 3.84 |
| Earnings and private cash.. .. . | 15 | 3.39 |
| Delay | 15 | 3.39 |
| Day leave and other temporary absences | 11 | 2.49 |
| Sport and recreation | 11 | 2.49 |
| Information on file.. .. . | 9 | 2.03 |
| Education | 9 | 2.03 |
| Remission and release | 8 | 1.80 |
| Food.. .. . | 6 | 1.35 |
| Sentence calculation | 4 | 0.90 |
| Grievance procedures | 4 | 0.90 |
| Discrimination | 2 | 0.45 |
| Conduct of Parole Officer | 1 | 0.26 |
| Miscellaneous | 32 | 7.20 |
| | <u>443</u> | <u>100.00</u> |

Those relating to other bodies were:

| | |
|---------------------------------|-----------|
| Parole Board | 11 |
| Courts | 18 |
| Commonwealth matters | 17 |
| Others including Police | 36 |
| Total | <u>82</u> |

The sharp rise in the numbers is clearly indicated by the following figures:

| | Corrective Services | Others | Total |
|---|---------------------|--------|-------|
| 12th May, 1975 to 30th June, 1976 | 249 | 23 | 272 |
| Year ended 30th June, 1977 | 196 | 40 | 236 |
| Year ended 30th June, 1978 | 443 | 82 | 525 |

In New South Wales there were 31 (now 30) prison institutions situated in 21 different centres. During the year I received complaints from or in respect of 20 of those centres. The only centre from which I did not hear was the Tomago Periodic Detention Centre.

In addition to the 443 complaints, 37 were still under investigation from last year. Of the total of 480, 11 were outside my jurisdiction, 132 were declined for various reasons, 26 were withdrawn or discontinued and 109 are still under investigation. Enquiries and investigations were completed in 202 cases and 21 were found to be justified.

Visits to the gaols by my Executive Officer, Mr Bellenger, and Senior Investigation Officer, Mr Smith, to explain the functions of my office to officers of the Department have continued.

I have followed the general practice adopted in respect of other Departments and authorities and in many cases in the first place request the Department of Corrective Services for a report. Inspections are carried out from time to time and the prisoners are interviewed by one of my officers. The general nature of so many of the complaints received from prisoners does not warrant, in the large majority of cases, a special interview with them. Whilst I am aware that some of the prisoners have expressed dissatisfaction with my efforts, a number have appreciated what has been done and I am sure that the vast majority are well satisfied by the treatment accorded their complaints.

Whilst it is probably due to the substantial increase in the number of complaints received, I regret to say that the adequacy of the information supplied to me by the Department on many occasions leaves a lot to be desired and it has been necessary to go back for further reports and information. In addition, from time to time there has been considerable delay in the supply of information. I have brought these matters specially to the notice of the present Commissioner.

Late in 1977, I received a considerable number of complaints from prisoners at Cooma Prison. All of the complaints related to rather general matters concerning a lack of facilities at the gaol and an alleged harsh enforcement of trivial rules by the authorities there.

Whilst I do not propose to recount details of the complaints, their nature was such as to cause me concern about the atmosphere that obviously existed at Cooma Prison. As well as investigating the individual complaints made to me, I had no hesitation in bringing my general concern to the notice of the Commissioner.

The Commissioner obviously shared my concern for he immediately arranged for the operation of the prison to be investigated by a team of officers under the leadership of one of his Assistant Commissioners.

As a result of that investigation, a considerable number of changes of benefit to inmates were made at Cooma Prison, including:

- the provision of additional sporting equipment and the installation of television sets in the exercise yard and wing;
- the provision of power points in a number of cells;
- prisoners were permitted to have cassette recorders and were allowed increased access to the gaol library;
- contact visits to eligible inmates were introduced and action was taken to up-grade the visiting facilities within the gaol;
- local rules relating to standard of inmate dress and publications allowed in the gaol were relaxed and made more realistic;
- a two-stage programme for inmates was introduced and Reception and Programme Review Committees were established and put into operation on a regular basis.

Further changes are planned and I am keeping in touch with the Commissioner in this regard.

Royal Commission into Prisons

(a) Proposal re Special Prison Ombudsman

The report by the Royal Commission into Prisons includes a recommendation that a Special Prison Ombudsman be appointed.

Summarised the proposals with regard to the Special Prison Ombudsman appear to be as follows:

- A Special Prison Ombudsman should be appointed to be responsible directly to Parliament to which he should report at least once a year.
- Upon appointment he would take over the special function of the Visiting Justice who should no longer exercise any function as an overseer or inspector of gaols.
- He should have full powers of investigation into the Department in respect of its decisions, acts or omissions as outlined in the Report.

- Where complaints are referred to the Superintendent of a gaol by a prisoner and the prisoner is dissatisfied with the decision of the Superintendent and so informs him, the Superintendent is, within a further seven days, to send all documents relating to the complaint to the Special Prison Ombudsman.
- A recommendation of the Special Prison Ombudsman made to the Prisons Commission and/or the Public Service Board can be ignored by those bodies only if there is special dispensation in writing by the appropriate Minister.
- Any prisoner, prison officer, employee of the Prisons Commission or any private citizen to be entitled to lodge a complaint with the Special Prison Ombudsman.
- Prisoners to be entitled to write to him without inspection of their mail.

The Ombudsman already has the above powers with the exception that he has not the supervisory function of the Visiting Justice and his present powers are limited to conduct relating to matters of administration. The proposal as to the recommendation of the Special Prison Ombudsman being ignored only if a special dispensation in writing is obtained from the appropriate Minister is quite different to the provisions of the Ombudsman Act.

I disagree with the Royal Commission in its recommendation that a Special Prison Ombudsman be appointed and I personally do not see the need for such appointment.

As will be seen from this report, a considerable number of complaints are received from prisoners and dealt with. Whilst the Commission seemed to consider that it was necessary for all prisoners' complaints to be dealt with by a personal interview and investigation of the complaint, my experience is that this is certainly not necessary and a large number of the complaints, because of their general nature, do not warrant a special interview with the prisoner. Where necessary, inspections are carried out and prisoners are interviewed by one of my officers.

In my view, the complaints of prisoners can continue to be dealt with perfectly adequately by the Ombudsman, with the possible addition of a widened power as to the type of conduct which can be investigated and there does not appear to be need to appoint a Special Prison Ombudsman.

However, should it be considered that a special appointment should be made to cover the supervisory powers at present exercised by the Visiting Justices, it is my view that it would be more appropriate for a person other than an Ombudsman to be so appointed and the investigation of the normal complaints left to be dealt with as at present.

(b) *Complaints not dealt with by Commission*

At the time of my last report I had only just received from the Royal Commission a list of names of prisoners who had written wishing to give evidence before the Commission following which I wrote to all these to obtain authorities for their submissions to be handed over to me for investigation if they so desired.

These investigations have continued and as at 30th June last were almost completed. Delay occurred in the return of the authorities by the prisoners and also particularly in tracing a number of prisoners who had made submissions and who were no longer inmates. Problems arose also because of the lapse of time since many of the initial complaints were made.

All these will be finalized shortly and the investigation carried out will be made the subject of a Special Report under section 31 of the Act.

In some cases action to rectify matters disclosed by the complaints has already been taken.

Visits

During the year I received visits from other Ombudsmen and others seeking information about the Ombudsman.

Amongst the callers were Sir David Longland of Queensland; Mr Justice Tikaram of Fiji; Mr Ignatius Kilage, Chief Ombudsman of Papua New Guinea; Professor Jack Richardson, the Commonwealth Ombudsman, and Mr Harry Guise, the newly appointed Ombudsman for the Northern Territory.

Whilst overseas on a private trip I took the opportunity of holding discussions with the members of the Austrian Volksanwaltschaft in Vienna, namely Dr Franz Bauer, Dr Robert Weisz and Dr Gustav Zeillinger. Whilst in London I had discussions with Sir Idwal Pugh, the Parliamentary Commissioner and Lady Serota the Commissioner for Local Administration.

Also, the Deputy Ombudsman took the opportunity when overseas to hold discussions with Dr I. E. Nebenzahl, the Israeli Ombudsman, Mr Zvi Ron, the Jerusalem Municipal Ombudsman, Major Zeev Margalit, the Israeli Police Ombudsman and Dr Italo de Vito, the Civic Defender of Tuscany, Italy.

Ombudsmen's Conference

A further conference of Australasian Ombudsmen was held in Perth from 13th to 17th September 1977 and a wide range of topics of common interest was discussed.

The opportunity to hold such discussions and to deal with mutual problems is of great advantage.

The next conference is to be held in Brisbane from 4th to 9th September, 1978. A substantial list of topics for discussion has been prepared.

Overseas

Following the success of the first International Conference of Ombudsmen held in Edmonton, Alberta, in September 1976, an International Steering Committee was formed to plan the next conference. This is scheduled to take place in Jerusalem, Israel, in October 1980.

An International Ombudsman Institute has been established in Alberta, financed in the initial stages by the Alberta Law Foundation to the extent of \$70,000 per annum. Sir Guy Powles, recently retired as New Zealand's Chief Ombudsman, has been appointed Resident Ombudsman for a period of six months. The objects of the Institute are—

- To promote the concept of Ombudsman and to encourage its development throughout the world;
- to encourage and support research and study into the office of Ombudsman;
- to develop and operate education programs for Ombudsmen, their staff and other interested people;
- to collect, store, disseminate information and research data about the institution of the Ombudsman;
- to develop and operate programs enabling an exchange of information and experience between Ombudsmen throughout the world;
- to provide scholarships, fellowships, grants and other types of financial support to individuals throughout the world to encourage the development of the Ombudsman concept and to encourage study and research into the institution of Ombudsman;
- such other matters as are necessary to further the above subjects.

General matters

(a) Use of the word "Ombudsman"

Under the provisions of section 37 of the Act no person is to directly or indirectly, where he is not the Ombudsman, represent that he is the Ombudsman.

During the year I learnt that the University of New England had included in its 1977 Calendar a provision for appointment by the Council of the University of an Ombudsman and in some respects his functions were somewhat similar to mine.

I raised the matter with the Chancellor of the University who pointed out that the word had for some time been an ordinary English word by adoption and appeared as such in standard dictionaries. He was of the view that the exclusively University context for which it was selected for use seemed sufficient to ensure that no one could possibly be led to believe that the Ombudsman appointed by the University was an Ombudsman for any wider sphere of activity than the investigation of student/staff matters of complaint within the University.

He agreed, however, to recommend to the Council of the University that the distinction between the offices be made explicit by altering the title to "The University Ombudsman". I was subsequently advised that this had happened.

Whilst the action taken by the University would seem to have clarified the position in regard to that body, I feel that it is a pity if there is any general proliferation of the use of the word "Ombudsman" as this would tend to confuse people as to the nature of the office and detract to some extent from it.

b) Amendments to Legislation

In my report last year I referred at page 35 to a complaint received in respect of the lack of right of appeal against determination of rental for permissive occupancies. In that I referred to the fact that I had been informed by the Under Secretary for Lands that Cabinet had approved of the proposal to amend the Act to provide for such right of appeal.

This proposal has now been implemented and was embodied in the Crown Lands (Amendment) Act 1978. The Act provides for the determination and redetermination of the rents of permissive occupancies by the Local Land Board instead of by the Minister, with the right of appeal to the Land and Valuation Court. In addition, the Act provides for the holders of existing permissive occupancies to apply within six months of the commencement of the Act to have their rents determined by the Local Land Board.

A further proposed amendment arose from a problem with regard to the imposition of minimum rates where the land is situated on the boundary of two local government areas and portion of the land is rated in each area. Particularly of concern is the position when one portion of small size has to bear a minimum rate far in excess of the rate which would be payable if imposed on the value. Whilst under the present legislation nothing could be done with regard to this, I made a recommendation to the Minister for Local Government that an appropriate amendment might be made. I was subsequently informed by the Minister that he had approved a proposal being placed before Cabinet for the Local Government Act to be amended to provide a system whereby the whole of a parcel of land in such circumstances may be rated by one Council and the proceeds of the rate apportioned in accordance with the recommendation of the Valuer General.

Following investigation of a complaint in respect of the Metropolitan Meat Industry Board in regard to the seizure of meat, I recommended that consideration be given to some amendments to the Meat Industry Act. A report on this matter is contained in the Case Notes. To an extent my recommendations were incorporated in the new Meat Industry Act.

Since my appointment and even before my jurisdiction was extended to local government authorities, I receive many complaints arising from the late payment of rates by instalments under section 160DA of the Local Government Act. On pages 25 and 26 of my last report I referred to the Minister's view that Councils could use their discretionary powers to overcome the problem. I now note that the Minister is referring to Cabinet a proposal to amend the Act so that Councils will clearly have a discretion on whether the closing date for the payment of rates will be extended.

(c) Consumer Claims Tribunals

I continue to receive a number of complaints concerning the conduct of the Consumer Claims Tribunals. It is clear that such Tribunals are not excluded from my jurisdiction and I have dealt with them in the same fashion as I have with numbers of other Tribunals within my jurisdiction. Whilst the Senior Referee has disputed my right to investigate complaints against the Tribunals, he has co-operated in answering any request upon a complaint and has provided any required reports or files. Insofar as any of the conduct of the Tribunals or its officers constitutes an action (or inaction) relating to a matter of administration I will continue to investigate complaints. However, I have made it clear that I do not regard the decision itself of a Tribunal to be a matter which can I investigate. Nonetheless, I have taken the view that brief reasons for decisions ought to be given and noted by the Referees. This is especially so since there is no appeal against the decision which is final. However, as the legislation presently stands, any reasons given do not form part of the written record of the Tribunal.

(d) Metropolitan Water Sewerage and Drainage Board

I have continued to receive a considerable number of complaints with regard to accounts for excess water which have proved difficult to solve. However, some have disclosed incorrect readings and in one instance, at least for some years the accounts had been received in respect of an adjoining property in error. This, of course, resulted in a substantial change in the ratepayer's liability.

(e) Government Insurance Office

It is fair to comment that there was a further appreciable drop in the number of complaints received in respect of the Government Insurance Office. This year 88 such complaints were received as against 138 last year and 208 in my first year of operation. Most have been resolved without difficulty.

(f) Forward Planning

Many complaints relate to problems arising from what may be called forward planning by a number of authorities. The basis of these complaints is that property is unfairly affected where the authority concerned has no immediate plans for the use of the property in accordance with these proposals.

Examples of this are:

- (i) *Planning Schemes*—Proposed zonings for open space and parking.
- (ii) *National Parks and Wildlife Service*—Proposed future establishment of national parks.
- (iii) *Department of Main Roads*—Road widening or resumptions not to take place for many years.
- (iv) *Forestry Commission*—Future proposals preventing conversion of title to land.
- (v) *Coastal Lands Protection Schemes*—Inclusion in Scheme effectively preventing free sale of property.

All these are difficult to solve.

(g) *Find the Authority*

Problems sometimes arise which an Ombudsman, be he Commonwealth or State, finds almost impossible to resolve. One recent complaint involved the State, the Commonwealth and a Council.

The complaint related to the failure of a public authority to keep Store Beach clean. Store Beach is situated near North Head on the foreshores of Sydney Harbour.

The matter was complicated as the beach is included in a substantial area of land which is at present owned by the Commonwealth and which has been subject to lengthy negotiations between the Commonwealth and the State with a view to its ultimate inclusion in a Sydney Harbour National Park. For a number of reasons these negotiations have been prolonged but this did not help in any way in the meantime to ensure that the beach was cleaned and kept clean.

The attitude of the Commonwealth appeared to be that as the land had been made available to New South Wales, the State should assume responsibility for its maintenance. The State, however, through the National Parks and Wildlife Service, took the view that until title to the land had been transferred and the area formally reserved as part of the Sydney Harbour National Park, the Service was not legally empowered to expend funds on the maintenance, improvement or protection of the beach and other similar areas. It considered that the Commonwealth should continue its former responsibility until completion of a formal transfer to the State. The Council, whilst expressing concern at the state of the beach and the adjoining area generally, pointed out that certain areas of this land had been held by it by way of permissive occupancy from the Commonwealth and under the terms of its occupancy the Council had maintained a rubbish removal and road maintenance programme. However, when in January, 1975 the Council was informed by the Commonwealth that this land was to be made available to the New South Wales Government for the purpose of the proposed National Park, it was indicated to it that the permissive occupancy would terminate on 31st January, 1975. Accordingly the Council, whilst for a period continuing minimal maintenance of the roads and removal of rubbish, was only prepared to continue to do so at the cost of the responsible authority.

During the investigation the Commonwealth did arrange for the cleaning of the beach but this was done on the basis that it was not intended to be a regular service. As far as I am aware since then no further cleaning of the beach has occurred and I am still endeavouring to have the problem resolved. The involvement of a Commonwealth Department beyond my jurisdiction made my task of bringing about some satisfactory finality all the more difficult. One can well appreciate the feeling of frustration of the ordinary citizen in these circumstances.

A selected number of cases dealt with during the year are set out in summary form in appendix "A". In these I have endeavoured to ensure that the identity of the complainant is not revealed. I trust that those selected are of general interest.

Appendices "B" and "C" give statistical information.

In conclusion I again thank my staff for the support given in carrying out the functions of the Ombudsman.

K. SMITHERS, Ombudsman.

APPENDIX A

CASE NOTES

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APPENDIX A

CASE NOTES

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DEPARTMENT OF THE ATTORNEY GENERAL AND OF JUSTICE

Failure to accept personal cheques for payment of compensation

The complainant had been sentenced for larceny as a clerk and was released on a recognizance, one condition of which being the payment of compensation. Such payments were to be made to the Office of the Clerk of the Peace.

The complainant approached me because the Office of the Clerk of the Peace refused to accept personal cheques in the payment of compensation, requiring such payments to be by way of bank cheque, cash, money order or postal note.

It was first pointed out that if payment was made by postal note, apart from the time, trouble and expense in obtaining them, the postal authorities destroys its records after thirteen months and the complainant would have no proof of payment apart from the receipts. Moreover, the Clerk of the Peace omits to include on each receipt the total paid, or still owing. The complainant contended that there was no way of knowing whether the receipt or the money had gone astray without going to the further trouble and expense of checking.

The complainant chose to pay by bank cheque which entailed an extra cost of 60 cents per week, the expense of driving to and from the bank once a week and the time and inconvenience of finding parking space.

When I initially raised the matter with the Under Secretary of the Department of the Attorney General and Justice he informed me that it was the overall policy of the Office of the Clerk of the Peace to discourage the tendering of private cheques in payment of compensation.

He went on to say that it had been found necessary, when private cheques had been accepted in payment of compensation, to hold the proceeds for one month as it may take this period for the cheque to be cleared by the bank. The person in whose favour the order for compensation had been made must, therefore, wait an additional month before receiving payment of the compensation. On occasions this delay can cause considerable hardship to the payee. In considering general policy in relation to this matter the Clerk of the Peace was of the opinion that the convenience of the victim must be considered in preference to the convenience of the person ordered to pay compensation.

However, the Clerk of the Peace also pointed out that, while payment cards issued to persons ordered to pay compensation are printed with the endorsement "private cheques will not be accepted", many persons do make payments by private cheque. Unless a cheque from a particular person had not been met on presentation at the bank on a previous occasion, payment by private cheque was accepted and credited accordingly. While the form of receipt used in the Office did not make provision for the inclusion of the outstanding balance this information was included on the receipt when a request for this information was received.

While this information had explained the current procedure and policy at the Office of the Clerk of the Peace, there were several aspects which I took further with the Under Secretary. I was particularly concerned at the length of time that the Clerk of the Peace required to hold private cheques before payment of compensation was made.

The Under Secretary then informed me that the Clerk of the Peace required, in normal circumstances, at least six working days to clear a cheque to be reasonably sure that the money could be paid out to the payee. However, enquiries of the Magistrates Courts Administration had revealed that the proceeds of private cheques received by Clerks of Petty Sessions are kept for ten days in the case of a cheque drawn on banks within the State, fifteen days in respect of cheques drawn on banks in Brisbane, Melbourne and Broken Hill and twenty-one days in respect of cheques drawn on banks outside the State including Brisbane and Melbourne.

The Clerk of the Peace was prepared to instruct his staff to follow similar guidelines with regard to the time allowed before payment was made to the payee. However, he pointed out that the one month period was the time period decided upon in August, 1975 when an autonomous accounting system was introduced into the Office of the Clerk of the Peace.

Accordingly, I asked the Under Secretary to request the Clerk of the Peace to follow the policy adopted by the Magistrates Courts Administration in respect of the time allowed before payment is made to the payee when payment is made by private cheque.

While the complaint appeared to me to be justified in terms of the Ombudsman Act, I decided, at this stage, to conclude my investigations as this particular matter had been rectified and the Department was to change its policy to facilitate other persons in the same position as the complainant.

CORPORATE AFFAIRS COMMISSION

What's in a name?

I received a number of complaints during the year about the registration of business or company names, where the names were felt to be likely to lead to, or allegedly had led to confusion.

Failure to take action to prevent use of similar business name

In this case an employment agency complained about the failure of the Commission to take action to prevent the use of a similar business name by another employment agency.

Although three words comprised one name and two words the other name, they were otherwise identical except for one letter.

However, my investigations of the Commission indicated that the firm complained of was using an abbreviated form of its business name in advertising. The Commissioner informed me that he had drawn the firm's attention to the fact that it was not using its properly registered name at all times and that he had called for a written undertaking that the correct name would be used in future.

In the circumstances, the Commission's action appeared appropriate and I therefore discontinued my enquiries.

Registration of misleading business name

My complainant had operated a business in her district for over 20 years. The business name comprised the word "The" followed by the name of the district and then the nature of the business.

A firm engaged in the same type of business, only a few doors away was operating under a business name comprising the district name and the nature of the business also, but prefixed by the proprietor's own names. This business name had been registered since 1971.

It was alleged that despite the confusion of customers and trade houses the Commission refused to rectify the position.

I took the matter up with the Commissioner and was informed to the following effect:

- the complainant in 1971 had drawn the Commissioner's attention to her competitor's advertising of his business using the complainant's business name;
- the Commission wrote to the competitor's firm stating that use of the complainant's business name should cease. However, by the same letter the competitor was told that there would be no objection to registration of the firm under the name by which it was in fact finally registered. The registration was effected in July, 1971;
- there were no further representations to the Commission from my complainant until October, 1977;
- the registration of a name consisting of words which convey a description of the class of activity carried on does not, in my view, create a right to the exclusive use of that description of that class of activity, in relation to the registration of further names. While the inclusion of place names with such words causes some specificity to be introduced into what might otherwise be regarded as a generally descriptive name, I would not as a general rule regard registration of such a name as creating a right to the exclusive use of that description of activity in that place, in the sense that registration of further names containing that place name and those generally descriptive words should be refused as a matter of course;
- the two business names were considered to be capable of being distinguished and regard has also been had by the Commission to the fact that more than six years had elapsed since the name complained of had been registered.

Although my complainant instanced to me some actual examples of confusion of the two businesses, the Commission felt that some confusion was probably inevitable between two similar businesses in such proximity. Nevertheless it felt that the businesses were sufficiently distinguishable to a person exercising reasonable care. The Commission also indicated that if there were evidence that the competitor's business was not using its correctly registered name it would consider prosecution action.

In the light of the Commission's explanation I considered that it had acted reasonably and found the complaint not justified.

Error in registration of a business name and failure to take action to cancel a business name

Solicitors, acting for the complainant, told me that on 4th June, 1974, their client had registered a single foreign word as the business name. On 29th November, 1976, the business was incorporated as a company and "Pty. Ltd." was added to the existing business name.

Inquiries by the complainants revealed that a second firm had been registered on 12th January, 1976, under a business name consisting of three words and commencing with the same foreign word as that used by my complainant. As a result the complainants had asked the Commissioner to take action under section 10 of the Business Names Act 1962 to cancel the name of the second firm.

The complainant's solicitors indicated that a typographical error had occurred in the Commission's office, when a "V" in the middle of the name applied for by the complainant was incorrectly shown as a "U" on the registration certificate.

The Commissioner indicated that owing to the typographical error, a search of available names did not disclose the correct name of the complainant at the time that the second firm applied for registration and the name of the second firm was therefore registered inadvertently.

However, the Commissioner stated that he was not prepared to take action to cancel the name of the second firm.

I took the matter up with the Commissioner. He advised me that although the certificate of registration was erroneously issued on 4th June, 1974, to the complainants, they had taken no action to bring the error under notice until February, 1976 (i.e. until after registration of the second firm's name).

The Commissioner also informed me that the exercise of his discretion under Section 10 of the Business Names Act 1962, not to take action with a view to cancelling the second firm's name, had regard to three factors, namely:

- (a) consideration had been given to the question of whether inclusion of the foreign word in the name created an entitlement of some additional degree of protection, as would be the case if the word were an invented or coined word. However, this was not felt to be the case as the English equivalent of the foreign word was in effect a word of ordinary usage;
- (b) that having regard to the names of both firms in conjunction with the types of business, the firms were capable of being distinguished. (The complainant firm carried on an occupation and the other firm was a trade supplier to that occupation and included the word "Supplies" as part of the name);
- (c) the expense involved for the second firm if it were required to change its name.

I found the complaint justified in respect of the initial error leading to the inadvertent registration. However, as I felt that the Commissioner had had proper regard to the relevant factors applying to the complainant's position and that of the second firm, in exercising his discretion in not cancelling the second firm's name I did not consider the Commissioner's conduct wrong in this respect.

It should be noted, I think, that the second firm was not at fault in the matter.

Refusal to remove a confusing business name from the Register

In this case, the complainant on 9th March, 1975, registered a business name comprising three words, the first of which was the district name and the others indicated the nature of the services offered.

On 14th June, 1977, a second firm, offering the same services and situated a block away from my complainant, registered a business name also of three words, the last two being identical with those used by my complainant. For purposes of illustration only (the names not being those actually involved) we may assume that the complainant's business name commenced with "Marsfield" and that of the second firm "Marsvale".

The Commission's refusal to remove the second firm's name from the register after representations by the complainant was taken up with the Commission.

The Commissioner commented, in reply, that when searching as to the availability of the name sought by the second firm, that the Commission's internal procedures would not require a search under "Marsfield" (using the above illustration) which is considered sufficiently different to "Marsvale" and other similar names (again using fictitious names for purposes of illustration) for example "Marsview", "Marsway", "Marsford", "Marshaven", etc.

In respect of alleged confusion regarding business names, the Commissioner drew attention to the case of *Bendigo and Country Districts Trustees and Executors Co. Limited v. Sandhurst & Northern District Trustees, Executors & Agency Co. Limited* (1909) Argus Law Reports Vol. XV 565 at p. 566 where it was stated:

"The persons to be considered are persons acting with reasonable care and observation, not unwary, careless or ignorant persons."

The Commissioner mentioned that section 10 of the Business Names Act 1962 provided, *inter alia*, that where a name had been registered through inadvertence or otherwise in contravention of section 9 (1) of the Act, that the Commission may institute action with a view to cancellation of that name. However, he stated that at the time of registration the name of the second firm was not in his view registered in contravention of section 9 of the Act by reason of its being likely to be confused with or mistaken for any name already registered and that having further considered the matter he was still not prepared to have the name cancelled.

Section 9 (1) of the Business Names Act 1962 provides that:

"Except with the consent of the Minister a business name shall not be registered under this Act if the business name is a name that is, in the opinion of the Registrar, undesirable or is a name, or a name of a kind, that the Minister has, for the purposes of this Act, directed the Registrar not to accept for registration."

Thus under the legislation unless the Registrar has been directed otherwise by the Minister he has a complete discretion in deciding whether a name is undesirable or not.

In view of all the circumstances, I did not consider that the exercise of his discretion by the Registrar was unreasonable and accordingly I did not consider the complaint justified.

Cancellation of business name

Contrary to the other cases mentioned, the complaint in this case was that the Commissioner had issued, on 1st December, 1977, a notice under section 10 of the Business Names Act, 1962 indicating his intention to cancel a registered business name on the grounds that it was likely to be confused with or mistaken for the name of another business.

The firms concerned operated local newspapers. The name of the district featured as the first word of one business name (comprising two words in all) and the second word of the other firm's name preceded by the word "the". The latter firm's name consisted of three words in all.

The Attorney General had been asked by the complainant's solicitors to annul the notice under section 10 (3) of the Business Names Act, but he subsequently advised them that he had decided that the notice should not be annulled.

My inquiries of the Commission showed that registration of the name of the other newspaper involved had been effected on or about 12th March, 1974, whereas registration of my complainant's business name was effected on or about 12th August, 1977.

The Deputy Commissioner reported, however, that a search of the Commission's register as to the availability of the name proposed by the complainant did not disclose the prior registration of the other firm's business name.

After examination of the Commission's relevant papers I asked the Deputy Commissioner why the search conducted at the time of my complainant's application for registration did not reveal the registration of other similar names noted in a subsequent search and also whether the Commission had any liability for damages flowing from the negligent registration of a business name.

The Deputy Commissioner reported as follows:

- it is the Commissioner's practice upon receipt of an application for registration of a business name to search the Commission's Company and Business Name Indices. It is the search clerk's duty to note any name which, in his opinion, is likely to be confused with or mistaken for the name sought to be registered.
- the non-disclosure of the prior registration of the other firm's name at the time of my complainant's application could only be attributed to human error.
- the subsequent search which revealed several similar names was initiated by a complaint received by the Commission. Consequently the search clerk was required to note all names having particular points of similarity and not merely those which, in the opinion of the searcher, might be confused with or mistaken for the name about which the complaint to the Commission was lodged.

- the Commission was of the view that it was not legally liable for any costs incurred as a result of the cancellation of the registration of a business name. However, the Commission had in the past, with the Attorney General's approval, made ex gratia payments to compensate for reasonable out-of-pocket expenses incurred by the proprietor of a cancelled business name and that any application by my complainant would be considered on its merits.

Following advice of the result of my investigation the complainants instructed their solicitor to pursue a claim against the Commission for the recovery of expenses due to the cancellation. The complainant's also registered a new business name incorporating additional words at the beginning of the name.

In the circumstances, I found the complaint justified in that the Commission's search at the time of registration did not disclose the prior registration of the other firm's similar name.

Failure to register business name

An application had been made to the Corporate Affairs Commission by the complainant for the registration of a business name commencing with a word in common usage followed by "Australia".

The Commission had advised that the registration could not be permitted because of possible confusion with another registered business name. The name of the second firm started with the same word as the proposed name, but neither of the remaining two words were similar to "Australia" in any way.

Attached to the Commission's advice was a slip which stated:

"The decision recorded in the attached notice has been made having regard to the directive by the Attorney General pursuant to the relevant Act, various judicial pronouncements and those principles which are ordinarily applied by the Commission in determining whether or not a name is available for registration."

Solicitors for the complainants maintained that there was no likelihood of confusion between the names and that normally they would have made further direct representations to the Commissioner. However, they considered that the note attached to the Commissioner's advice seemed designed to deter such representations.

On review of the matter as a result of my investigation the Commissioner conceded that an objection, to the registration of the desired name on the basis of its similarity to the name of the other firm concerned, could not be sustained. However, he advised me that a further search conducted as to the availability of my complainant's proposed business name had revealed the existence of a further registered name which he considered was too similar. The Commissioner suggested that the proposed name would accordingly need further qualifying to obtain registration.

In amplifying the note attached to the Commissioner's original decision, referred to above, the Commissioner stated:

- "in recent years it has been found that following the despatch of a reply advising an applicant that the name required was not available for registration, there has been an ever increasing tendency for the applicant to seek reconsideration of the name, either verbally or in writing. It was found that a large percentage of these requests were in regard to applications where the decision had been correctly taken and there was no possible way that the required name could be said to be available. On the basis that decisions concerning availability of names are given by officers, who after completing an extensive period of training, are delegated the necessary authority I authorised the issue of the note referred to in my letter.
- The reference to the directive by the Attorney-General relates to the directives issued by the Attorney-General pursuant to section 9 of the Business Names Act, 1962 and section 22 of the Companies Act, 1961, whereby I am directed not to accept certain names for registration without the consent of the Attorney-General. One item in those directives provides that I am not to accept names that are likely to be confused with or mistaken for the name of a company, foreign company, registered association, co-operative society, friendly society or registered business name."

While I considered the Commission was not justified in refusing the name applied for on the grounds stated at the initial stage, as the matter was rectified I did not take that aspect any further.

Following the further search that was conducted and the discovery of a name very similar to the business name requested, I considered the Commission's conduct to be reasonable in that respect.

Unreasonable refusal to register company name

In this case, solicitors acting for the complainant informed me that an application, under section 22 (7) of the Companies Act 1961, and (8A) of the same Act, was made to the Commissioner for the reservation of a name which I shall designate as "Z—Pty. Ltd." for purposes of illustration. (The dash represents a word descriptive of the business carried on.)

The Commission advised that the name was not available as it was likely to be confused with or mistaken for a name which for purposes of illustration I shall call "Z Pty. Ltd."

The complainant's solicitors requested the Commission to reconsider its decision as Z Pty Ltd was not involved in production of the same goods and services as Z—Pty Ltd and did not operate near the proposed area of operations of the latter company. However, the Commission on reconsideration still held to its previous view. The solicitors claimed that they have been aware in the past of a similar name being registered to another person where different businesses were engaged in at removed locations.

The relevant sections of the Companies Act provide as follows:

Section 22 (7) "A person may apply in the prescribed form to the Registrar for the reservation of a name set out in the application as—

(a) the name of an intended company . . ."

Section 22 (8) "If the Registrar is satisfied as to the bona fides of the application and that the proposed name is a name by which the intended company . . . could be registered without contravention of subsection (1) of this section, he shall reserve the proposed name for a period of two months from the date of the lodging of the application."

Section 22 (1) "Except with the consent of the Minister, a company shall not be registered by a name that, in the opinion of the Registrar, is undesirable or is a name of a kind, that the Minister has directed the Registrar not to accept for registration."

In commenting on the matter, the Commissioner indicated that the principle applied was that where a name incorporated an invented, fancy or coined word, it was regarded as being entitled to a greater measure of protection and quoted a legal reference in support of this view.

He stated that he considered the word which I have designated by "Z" (for purposes of illustration) to be an invented, fancy or coined word. However, he pointed out that if the word were used with others, descriptive of the business carried on, and the business was of a different nature the situation may be different. He suggested that he would be prepared to reconsider the matter upon production of some evidence of the type of business in which "Z Pty. Ltd." was engaged together with the consent under seal of that company to the proposed registration.

Following consideration of the Commissioner's report and various legal references, I informed my complainant's solicitors of the position.

As I did not consider the exercise of the Registrar's discretion as an administrative act had been unreasonable, I found the complaint not justified.

DEPARTMENT OF CORRECTIVE SERVICES

Refusal of application for payment of air fare

I received a complaint from a prisoner, only a few days before he was due to be released on parole, that his application to be provided with air fare back to Melbourne (his place of residence) had been refused. The prisoner felt that, as he had been extradited from Melbourne to face charges in this State, the Department had a responsibility to pay his way home and he wanted to go by air.

Because of the time factor, I conducted my investigations by telephone and one of my Officers immediately contacted a senior Departmental Officer as well as the complainant's Parole Officer and the Superintendent of the prison.

On the day prior to his release, I was able to write to my complainant in the following terms:

"In view of your imminent release on parole, I am taking the liberty of writing to you at your home address.

As a result of my inquiries in this matter, I am able to tell you that the Department of Corrective Services has no legal liability to meet the cost of travel for a person released on parole or discharged from prison. However, the Department's policy is to provide a rail warrant to enable the prisoner to return to his place of conviction or to permit him to travel in any other direction for an equivalent distance.

In your case, of course, your place of conviction was Sydney. However, it seemed to me quite obvious that a rail warrant to Sydney would not have assisted you very much.

In this regard, as a result of my discussions with various officers of the Department, you were asked to make a special application to the Commissioner of Corrective Services. I am pleased to be able to say (as you already know) that the Commissioner approved of your being provided with a rail warrant to Melbourne to enable your prompt return home.

So far as your actual complaint about air fare is concerned, I am unable to find the Commissioner's conduct, in refusing your application for air fare, to be wrong in terms of the Ombudsman Act. In reaching my decision, I have in mind that it would be unreasonable to expect the Department of Corrective Services to meet the cost involved in returning, by air, released and discharged prisoners to their places of conviction, particularly where a suitable alternative means of travel exists.

I am further of the view that the action taken by the Commissioner, to provide you with a rail warrant for your journey to Melbourne, was quite reasonable and I now propose, therefore, to discontinue my enquiries."

Inconsistency and Inequality in the granting of Day Leave and Failure to inform of Results of Applications

"A lot of us would rather be ruined by praise than saved by criticism." (W.G.P.)

Fortunately, I am not very often confronted with that attitude in the course of my dealings with public authorities and this case well illustrates, I feel, the willingness of most Departments to accept any criticism I might make in the right spirit.

I received a complaint from a lady prisoner at a minimum security Corrective Centre that the prison authorities were showing favouritism to certain other prisoners regarding the grant of Day Leave and were quite inconsistent in the way in which they were determining applications for such leave.

I do not propose to itemise the large number of sub-complaints which my complainant raised. Suffice to say that, after I had concluded my investigation, I was able to tell the complainant that I was satisfied she had been treated quite fairly and consistently and had been kept adequately informed at all times.

However, my investigation (which involved two of my Officers spending two days at the Centre) did bring to light what I felt were deficiencies in the procedures in force at the Centre for dealing with applications for Day Leave.

In taking up these matters with the Commissioner, I forwarded to him relevant excerpts from the report made to me by my Officers and I reproduce that report, suitably edited and altered where needed to preserve anonymity, hereunder. My complainant, for the sake of simplicity is referred to throughout as "Mrs A":

"Investigation

We, visited the Centre on 4th and 5th July, 1977. During our investigation, we interviewed:

- The Senior Clerk,
- The Deputy Director,
- Officer-in-Charge, Probation and Parole Service,
- Parole Officer,
- The Director,
- Mrs A.

As well, we perused Mrs A's local file, the Parole Service file and the Wing Committee Review Book.

We had asked, in our letter of 23rd June, 1977, that certain information be available to us on our arrival. . . . As it turned out, the information we wanted, to a large extent, cannot be easily provided and we will have more to say in this respect later in this report.

. . . the results of our investigations can be summarised as follows:

- (i) * * * * *
- (ii) The basic, original conditions applying to the grant of day leave were:
- the prisoner must have served at least 9 months of his sentence *and* have been at the Centre for at least 3 months;
 - a minimum period of 3 months must elapse between days spent on day leave.
- (iii) Mrs A complained about the fact that another prisoner was granted day leave "outside" the conditions in that she was granted day leave on 20th March, 1977 after having commenced her sentence on 10th December, 1976 and having arrived at the Centre on 20th February, 1977. This is quite true.
- (iv) However, the decision to grant day leave to the other prisoner was not taken by the Director and he had no control over the situation at all. He did say that, on his own initiative, he had refused to allow the other prisoner to proceed on day leave on 8th May, 1977, as approved elsewhere, because of the considerable unrest in the prison about the matter.
- (v) Our investigations revealed that, in fact, the Director has varied the guidelines for the granting of day leave in that such leave may now be granted as follows:
- 1st day leave—after 9 months of sentence and after 3 months at Cessnock.
 - 2nd day leave—3 months after 1st day leave.
 - Subsequent day leaves—2 months after 2nd day leave and every 2 months thereafter.
- (vi) The Director made the point that leave granted on compassionate grounds for a specific purpose is not regarded as 'day leave'.
- (vii) . . . the Deputy Director (who, in the Director's absence, is responsible for the complete operation of the Centre) . . . was of the view that a prisoner, after serving 9 months of sentence and having been 3 months at the Centre, could be granted 1st day leave and, thereafter, day leave could be granted every two months. *He said that he was 'not sure' how the Director had modified the guidelines.*
- (viii) The Senior Clerk, whose co-operation and assistance is worth noting, extracted some basic information for us relating to female prisoners granted day leave since 1st January, 1977.

Using that basic information, we discovered what we thought to be some inconsistencies but, on further examination, we were satisfied that day leave had been granted in accordance with the present guidelines. Some days shown as having been taken as day leave were not, in fact, taken but were cancelled and taken at a later date and other days involved special compassionate leave.

(b) *Alleged failure to give reply to applications for home detention and Technical College courses.*

Home Detention

- (i) The basis of the 'home detention' or, more correctly, the 'home release' Scheme, is that a prisoner returns to his home each night after working at a Corrective Services establishment (e.g., Parramatta Linen Service) during the day. In this regard, it is completely different to 'work release'.
- (ii) * * * * *
- (iii) Mrs A wishes to be allowed to go home each night (i.e., 'home release') but is ineligible to participate in the Scheme because it is restricted to first offenders only. Mrs A is not a first offender.
- (iv) According to the Director and the Deputy Director, she was so informed on two occasions by the Wing Committee, which considers prisoners' applications in the first instance. As well, the Minister for Services similarly informed her in February, 1977 and this is clearly recorded on her file.

(v) However, our perusal of Mrs A's file revealed the following:

- Application for 'home detention' lodged 1st April, 1977 and referred to Wing Committee for consideration. The Wing Committee endorsed the application as follows:

'Recommend this application be reviewed early in 1978 (February).'

- Application for 'weekend leave' lodged 4th April, 1977 and referred to Wing Committee. The application was endorsed:

'Deferred. To be considered after having had day leave (For Wing Committee of 28th April, 1977). Refer to Director for policy guidelines on this matter.'

There was nothing on the file to indicate that:

- (a) the prisoner had ever been told of the Wing Committee's or Director's decisions in respect of her applications;
 - (b) there was any system of follow-up to ensure that action recommended or requested by the Wing Committee was taken; or
 - (c) that the Wing Committee's recommendations had been either seen or approved by the Director.
- (vi) The Deputy Director told us that, in such cases, the prisoner 'is usually called up and told of decisions by the Assistant Superintendent' but a notation of the prisoner having been told may not be made. The Wing Committee keeps a 'Review Book' and uses this book to bring forward matters for review.
- (vii) The Director, however, assured us that he sees all recommendations from the Wing Committees and takes appropriate action. In Mrs A's case, he had spoken to the Wing Committee and explained that there was no provision for 'weekend leave' and that the application could not be granted. He agreed with the recommendation in respect of the application for home detention as it was conceivable that the conditions of eligibility for placement in the home release Scheme may alter between now and February, 1978.

Technical College Course

- (viii) Our perusal of the files showed that Mrs A's application for enrolment in a shorthand and typing course was considered at the A Wing Committee meeting on 31st March, 1977 in Mrs A's presence. The Parole Officer is a member of the Committee and on that day minuted the Parole file as follows:
- 'Mrs A does not wish to do the one half-day per week typing course from the Centre. She wishes to go 5 days per week and was advised to make application to write to the Commissioner.'

(ix) There is no record, elsewhere, of any application to the Commissioner.

(c) *Failure to inform of decisions re repeated requests for day leave.*

- (i) In this regard, we were able to establish that Mrs A wanted special day leave on either 12 or 13th June, 1977.
- (ii) Our questioning of the Deputy Director on this matter gained us very little information. He, in fact, admitted that he could not tell us whether or not she had been told the result of or the present position in respect of her applications. He said that, whilst he did not know for sure he would 'be surprised if she hadn't been told.'

We felt, and expressed the view, that the Deputy Director should be aware of the procedures in force, if such existed, for conveying such information to the prisoners.

- (iii) Perusal of the Parole file revealed that Mrs A was kept fully informed of the progress of her application and was aware, even before she lodged it, that such application could not be granted, unless investigation revealed the existence of compassionate grounds, until the end of July, (she having had her first day leave on 28th April, 1977).

(iv)

- (v) In the event, Mrs A was granted day leave on 2nd July, 1977.

- (d) * * * *
- (e) *Discrimination and Inequality in respect of conditions under which Day Leave is granted.*
- (i) This complaint relates solely to the condition imposed in Mrs A's case that she be accompanied by an escort. The question of whether an escort is to accompany a prisoner on day leave is one determined solely by the Director, even though he may take into account any recommendation made by the Wing Committee.
- (ii) The Director said that in this regard he feels obliged to consider factors other than a prisoner's behaviour within the Centre and must, for instance, take into account the nature of the offence leading to imprisonment, the 'reputation' of the prisoner locally, the likely community view and the likely view of the Police to unescorted day leave in each particular case. In Mrs A's case, because of her notoriety in the local area and her lengthy record for false pretences, as well as an involvement of her husband and son in her offences, he considers the provision of an escort necessary. Nevertheless, he had approved of Mrs A's brother-in-law, a reputable citizen, acting as escort.
- (iii) In our view, we should not intervene in the Director's exercise of his discretion in regard to the imposition of conditions on the grant of day leave.

Interview with Mrs A

- (i) Mrs A indicated that she was now quite happy as she had been granted day leave on compassionate grounds the previous Saturday had and spent the day with her family. She was full of praise for the Director whom she regards as having 'done a lot for the women' at the Centre.
- (ii) We indicated to Mrs A that we had found no evidence to suggest that she had been discriminated against, victimized or treated unequally to other female prisoners and she said she would have to agree, now she knew the full story.
- (iii) * * * *

Observations—As a result of our enquiries, there are several matters in respect of which some follow-up appears necessary, namely:

- (a) *The absence of any record of the granting and refusal of applications for day leave.*
- The programme of day leave is essentially an experimental one. In the absence of any proper record of the programme and the way it is working, it is impossible to carry out any meaningful investigation of its application to prisoners generally or to particular prisoners on a comparative basis.

The information we sought in our letter of 23rd June, 1977 could only be extracted by examination of every individual prisoner's file (including those of inmates since transferred, discharged, etc.) individual prisoners' Parole files, Wing Committee Review Books and the Day Leave Granted register. The latter is, in fact, not accurate, for it merely records day leave approved, but does not record approved leave cancelled or not taken for some reason.

In our view, arrangements should be made to set up a proper and continuing record of day leave applications and their disposition.

- (b) *Apparant failure of Director to clearly promulgate the criteria relating to the minimum permissible time between day leaves.*

It seems clear that confusion exists in the minds of inmates and staff about how often day leave may be granted. Even the Deputy Director, who is responsible for the running of the Centre when the Director is away, admitted he was 'not sure' about how the criteria had been modified, and his stated understanding (day leave every 2 months after first day leave) was, as it transpired, quite wrong.

Steps should be taken to ensure that all staff are aware of the current criteria and that any subsequent modifications are brought to their notice.

- (c) *The apparent absence of any consolidated procedure for informing prisoners of the result of applications and for recording that this has been done.*

This problem, really, involves the failure to make a simple notation on a prisoner's application when the prisoner is informed of a decision. It would take only a few seconds to do and, if necessary, a pre-printed slip could be completed and attached to the file at the convenience of the office staff.

As well, there does not appear to be any set procedure relating to who should tell a prisoner of the results of applications. In some cases, this is done by the Wing Committee; in others, by the Parole Officer; and, on occasions, according to the Deputy Director, the prisoner is called up and informed by the Assistant Superintendent. In our view, this responsibility should be clearly defined and allocated and arrangements should be made to ensure that the action of informing the prisoner is recorded on the particular application concerned or, at least, on the *prison* file relating to that prisoner.

- (d) *The absence of any definition of 'compassionate grounds' and the way in which the existence of same can affect day leave criteria.*

The situation is that, unless it can be shown that compassionate grounds exist, day leave can only be granted in accordance with the criteria laid down.

It seems quite clear that there is confusion on the part of staff as to what might constitute 'compassionate grounds' and regarding the fact that, where such grounds exist, the day leave criteria can be departed from.

We feel that some effort should be made to define, for staff, the types of circumstances which might be regarded as constituting compassionate grounds, even if this is done only in fairly general terms. By this time, the Centre administration must have some idea of what will be accepted as constituting compassionate grounds. As well, the way in which the existence of compassionate grounds can affect the application of the normal day leave criteria should be made known to staff in clear terms.

Conclusions

- (1) In the absence of adequate records relating to the disposition of day leave applications, it is impossible to determine whether there has been marked inconsistency in the application of the criteria for the granting of day leave to female prisoners (or, indeed, any prisoner) at the Centre.
- (2) Mrs A's complaint relating to 'favouritism' shown to another prisoner appears, on the surface, to have some substance. However, in our view, the Commissioner properly exercised his discretion in that prisoner's case following his consideration of the material placed before him and the allegation of 'favouritism' cannot be sustained. There is certainly no evidence that the Centre authorities failed to apply the normal criteria to that prisoner as the decision, in her case, was an external one imposed on the Director.
- (4) Nevertheless, in the light of our investigation, and particularly bearing in mind the statements made by the Deputy Director of his uncertainty concerning the actual criteria for the granting of day leave, it is possible that some inconsistency has occurred on those occasions when, in the absence of the Director, the Deputy Director has determined day leave applications.
- (4) There is no evidence to support Mrs A's complaint that she has not been informed of the results of her applications for home detention and a technical college course.
- (5) Nevertheless, there appears to be a need to consolidate and rationalise procedures to ensure that a prisoner is informed promptly of decisions in respect of applications and that the fact of informing the prisoner is recorded on the prisoner's file.
- (6) There is no evidence to support Mrs A's complaint of inequality in respect of the conditions under which day leave granted to her was subject (i.e., subject to an escort accompanying her).

Recommendations—We recommend:

That the views of the Commissioner of Corrective Services be sought regarding:

- (a) the desirability of setting up a proper and adequate record of the disposition of applications for day leave;

- (b) the apparent need for the Director to inform all relevant staff under his control, and particularly the Deputy Director, of the current criteria for the granting of day leave and to ensure that any future modifications are brought to their notice;
- (c) the desirability of consolidating and rationalising procedures for informing a prisoner of the result of an application;
- (d) the apparent need to implement a system to record, on the prisoner's file, when a prisoner has been so informed;
- (e) the possibility of the Director defining, for the benefit of staff, the types of circumstances which will be regarded as constituting 'compassionate grounds' and the way in which the existence of such grounds will affect the operation of the normal criteria for the granting of day leave."

I asked the Commissioner to let me have his comments on the recommendations made by my Officers and he subsequently informed me that:

- (a) A record of the disposition of applications for day leave at the Centre would be kept by the Deputy Director.
- (b) The Director would reiterate his instructions in this regard, together with any modifications, and current policy would be available for perusal at any time.
- (c) The responsibility for notifying inmates would rest with the Deputy Director.
- (d) The Deputy Director would endorse all applications in writing when informing the inmate of results. The Senior Clerk had been instructed to ensure that endorsements are complete before filing applications.
- (e) The Director had undertaken to classify visits to relatives on compassionate grounds as "Compassionate Leave" to avert confusion with "Day Leave".

I took the view that there was no need for me to continue my inquiries as I was satisfied that the action taken by the Commissioner would overcome the apparent deficiencies which had been of concern to me.

Failure of Superintendent to take action on complaint

I received a complaint from a prisoner that the Superintendent of the prison in which he was detained had failed to take any action on his complaint that he had been assaulted by a prison officer other than to reject the complaint out of hand.

I informed my complainant that I had considerable doubt that an alleged assault on a prisoner by a prison officer could be considered to be an action related to a matter of administration and, as such, one that I was able to investigate in terms of the Ombudsman Act. However, in view of his claim to have complained to the Superintendent, I was prepared to investigate the alleged refusal of the Superintendent to take any action in the matter.

I referred the matter to the Commissioner of Corrective Services who set up a formal departmental inquiry into the allegations and he subsequently made available to me all of the records relating to the inquiry, including a tape of interviews conducted with my complainant and other prisoners. In addition, reports were forwarded to me by those officers of the Department involved in the matter.

As a result of my enquiries, I was able to inform my complainant in the following terms:

"In the light of all the information available, it seems to me that the position in respect of your complaint can be summarised as follows:

- (a) About mid-day on the 15th of November, 1977, you committed a breach of prison rules and were locked up. About 5 p.m. on the same day, Chief Prison Officer . . . advised the Superintendent that force had been required to remove your shoes but that you had not been hurt or injured on any way.
- (b) On 16th November, 1977 you were brought before the Superintendent on the charges incurred the previous day. You pleaded not guilty on these matters and you were remanded, on bail, to appear before the Visiting Justice on the 29th of November, 1977.
- (c) Whilst before the Superintendent, you alleged that you had been assaulted by officers. The Superintendent, having made a visual observation of you, formed the opinion that you had not suffered any injury. He claims to have asked you whether you suffered any bodily injury under your clothing to which you replied that you had not.

- (d) Having regard to your previous conduct within the prison system, his reliance on the information passed to him by his senior officer, Mr . . . , the previous evening and his personal observation of you on this occasion, the Superintendent formed the view that your complaint was a frivolous one and instructed you that, if you wished to make a formal complaint, you should submit a statement to him.
- (e) On the 18th November, 1977, you informed the Superintendent that you wished to lay an information against officers. The Superintendent, after ascertaining the correct procedure to be followed, contacted the Clerk of Petty Sessions, Goulburn, and arranged that, subject to receipt of a statement from you a hearing would take place on the 24th November, 1977. Regard was had to your removal to Cooma for a court hearing on the 23rd November, 1977 when such arrangements were made.
- (f) You were informed on how to take out an Information against the officers concerned.
- (g) On the 22nd of November, 1977 you were seen, on request, and again informed as to how to take out an Information and, again, Goulburn Clerk of Petty Sessions was contacted by the Superintendent.
- (h) On the 25th November, 1977, following your court appearance at Cooma, the Superintendent again interviewed you and asked whether you still wished to lay an Information as you had not presented a statement formalising your complaint. I understand that you replied in the negative and indicated that the matter was being investigated by the police. The Superintendent did not pursue the matter any further as you had indicated that you did not wish to proceed through the Department or the Clerk of Petty Sessions.
- (i) Your medical card has been examined and the first complaint examination noted on card is dated the 24th November, 1977—whilst undergoing punishment. The only complaint noted was that of a small sore on your foot which was aggravated by thongs.

After considering all of the information available, I am of the view that the conduct of the Superintendent in this case could not be found to be wrong in terms of the Ombudsman Act. In forming this view, I have in mind that the Superintendent extended to you a number of opportunities to consult the local Clerk of Petty Sessions with a view to initiating criminal proceedings against the officers concerned and that, far from impeding you, the Superintendent acted in a responsible and reasonable way."

In the circumstances, I decided that I should discontinue my inquiries and I so informed the complainant.

Failure of Superintendent to comply with Prison Regulations

Sometimes I receive a complaint which raises interesting legal considerations and this particular complaint certainly did that.

A prisoner complained that he had been charged with an offence against prison discipline because of the contents of a letter he had written. The contents of his letter did not comply with the requirements of the Regulations made under the Prisons Act and the Superintendent refused to pass it out of the prison. Not only that, but the Superintendent preferred charges against the prisoner pursuant to section 23 of the Prisons Act.

Section 23 sets out a number of things that "shall be offences by prisoners against prison discipline" and subsection (q) reads:

"disobeying any regulation or any of the rules of the prison . . .".

The requirements relating to prisoners' correspondence are set out in Regulations 77 to 91 of the Prison Regulations. The relevant Regulations, so far as my complainant's case was concerned, read as follows:

"80. No prisoner shall send or receive any letter, telegram, parcel or other form of written communication of any description except through the hands of the governor of the prison, or prison officer authorised by the governor to act in that behalf.

81. The governor of the prison shall open and may examine any such letter, telegram, parcel or other communication, and shall, subject to Regulation 89, retain any such letter, telegram, parcel or other communication which does not comply with these Regulations
....

87. The subject-matter of letters written by or delivered to prisoners shall be confined to matters personally concerning the prisoner, his relatives or friends.

89. When a letter written by a prisoner is not despatched because it does not comply with the requirements of these Regulations, the prisoner shall be so informed and the letter shall be destroyed by the governor of the prison."

The point raised by my complainant was that the Superintendent had not complied with regulation 89 in that the offending letter had not been destroyed and had not only been retained but had been used as evidence in the hearing of the charge against him.

I decided to investigate the complaint because it seemed to me that the question raised by the complainant ought to be clarified, particularly as the terms of the Prisons Act relating to offences by prisoners and the requirement imposed on the Superintendent pursuant to regulation 89 appeared to me to be in conflict. I therefore, took up the matter with the Commissioner of Corrective Services, who replied to me, *inter alia*, as follows:

"When evidence is being assembled for the prosecution of a complaint before the Visiting Justice, it is kept in mind that the Visiting Justice may exercise his prerogative under the Act (Section 25) and have the matter dealt with in an ordinary court of law.

It would seem that the principles of this matter are covered by the thought that the removal or destruction of things which may be produced in evidence against the accused is questionable practice, and perhaps of some significance.

I have instructed the Legal Officer of the Department of Corrective Services to seek an opinion from the Crown Solicitor on this matter in view of the obvious conflict which may arise."

The Commissioner subsequently made available to me a copy of the advice he had received from the Crown Solicitor and relevant excerpts from that advising are reproduced hereunder:

"... The letter's destruction is provided for, no doubt, to ensure it is not despatched to the addressee, or perhaps also to protect the prisoner's privacy. The interval of time between the formation of the opinion that the letter does not comply with the requirements of the Regulations, and the actual destruction by the governor, is of course not stated. A literal construction of the regulation may lead, I think, to the letter being required to be destroyed as soon as the view has been formed by the governor that it does not comply with the Regulations. On this construction, proceedings taken against a prisoner, as I have earlier indicated, would probably not fail if the original letter was not available for tender, but nevertheless would be impeded to some extent owing to the complainant having to rely upon secondary evidence to support his case.

I think a more reasonable interpretation of Regulation 89 should be adopted when one has regard to the aims and objects of the Prisons Act and Regulations, and to the responsibilities thereby imposed on the governor of a prison. In *Engineering Industry Training Board v. Samuel Talbot (Engineers) Ltd.* (1969) 2 Q.B. 270, Lord Denning said, at p. 274—"we no longer construe acts of Parliament according to their literal meaning. We construe them according to their object and intent." In *Shannon Realties Ltd. v. Ville de St. Michel* (1924) A.C. 185, Lord Shaw, at pp. 192, 193, said—

'Where alternative constructions are equally open, that alternative is to be chosen which will be consistent with the smooth working of the system which the statute purports to be regulating; and that alternative is to be rejected which will introduce uncertainty, friction or confusion into the working of the system.'

It is clear that if Regulation 89 is construed literally, in the narrowest possible sense, a letter would be required to be destroyed by the governor as soon as he became aware that it did not comply with the requirements of the Regulations. In such case, the original letter would not be available for evidentiary purposes and, as I have earlier indicated, a complainant would have to adduce some kind of secondary evidence to prove the letter and its contents. I would not expect that the prison authorities would be making a copy of the letter if they were acting on the view that the letter had to be destroyed almost immediately. The preamble to the Act states it to be 'An Act to make provision for the establishment regulation and control of prisons and for the custody of prisoners.' Section 40 provides that every governor of a prison shall have the charge and superintendence of the prison for which he is appointed. The maintenance of discipline in a prison is, of course, a matter of prime responsibility for a governor; in proceedings against a prisoner for breach of that discipline, where it becomes necessary to prove a particular letter was written by the prisoner, the most convenient course for the complainant would be for him to tender the original letter together with evidence as to the prisoner's handwriting or that it was sent with his authority. The alternate course, if a literal construction of the regulation is adopted, is for the letter and its contents to be proved by secondary evidence. The latter course of action would not be, in my view, to use the words of Lord Shaw, *supra*,—"consistent with the smooth working of the system which the statute purports to be regulating."

I think a reasonable construction of Regulation 89 would allow the governor to delay destruction of a letter until it was no longer required in connection with proceedings for a breach of prison discipline.

In this particular case, as it appears, (the prisoner) was charged under Section 23 in connection with the offending letter, so that there was no question that the letter had been preserved, and not then destroyed, for some reason other than the bringing of a charge. As I have said, the Regulation is silent as to when the letter must be destroyed, and I think that there is no reason why it should not be kept until necessary proceedings against the prisoner, if they are instituted, have been finalised.

There are ample authorities to the effect that enactments should be construed, where possible, so as to avoid unreasonable and inconvenient results. The courts prefer to adopt, where alternative views are open, the more reasonable construction (Maxwell, Statutes, 12th ed., pp. 199-205). I would add, that even if the relevant Regulations had required the letter to be destroyed *forthwith*—and it does not so stipulate—it would not necessarily require *immediate* action of that kind. In such case the destruction would need to be done as soon as practicable, depending on the circumstances: see, Stroud's Judicial Dictionary, 4th ed., Vol. 2, pp. 1087-8."

In the light of the advice given by the Crown Solicitor, I took the view that the Superintendent's conduct in failing to destroy the complainant's letter immediately could not be found to be wrong in terms of the Ombudsman Act. I informed the complainant of my view and discontinued my inquiries.

Failure to compensate for loss of personal property at time of riot at Bathurst Gaol

A prisoner complained that certain items of his personal property had been lost following the riot at Bathurst Gaol in February, 1974. He had made several applications to the Department seeking compensation but had been informed that, as he had "signed for" his property, he alone was responsible for it.

The circumstances surrounding the loss of the prisoner's property were somewhat unusual and are, perhaps, best explained in the prisoner's own words:

"I was not involved in any manner with any of the destruction that occurred at Bathurst, not one accusation has been made against me in this matter. I proceeded to my cell at the outbreak of trouble and remained there until my position became untenable owing to the building being set on fire, I then collected my personal property and moved it to a place of safety. When the opportunity arose, I surrendered myself to the gaol officers, still carrying my personal property. I was held in the yards at the rear of the gaol for some time and was then told to march to the yards at the front of the gaol, on the way to the front yards I was accosted by senior officers . . . together with other officers. Officer . . . ordered me to leave my belongings at that point and I objected, Officer . . . then levelled a shot-gun at me and informed me that he would blow my . . . head off if I did not do as I was told. I then complied with the order, because I had already seen inmates deliberately shot. I was then escorted to the front yards without my private property. During the acts of reprisal on the following morning I made several requests of various officers about my property and was informed that it was still at the place where it was left and was still undamaged. Later in the morning I was transported from Bathurst gaol without my property. After a period of about six weeks I was returned to Bathurst gaol and found that my property could not be produced.

I made inquiries regarding my property and as a result of these inquiries I have the names of at least two prison officers that will attest that my property was still at the position it had been left at by myself four days after the gaol had been cleared of rioters.

I feel that the prison authorities are responsible. I was ordered to surrender my property, that I had saved at some risk to my welfare, under the threat of death and I believe that in obeying that order, the department of prisons accepted responsibility for the safety of my property."

I took up the matter with the Commissioner of Corrective Services and he replied along the following lines:

- (i) property belonging to inmates is recorded and secured in the clothing stores at establishments and the Department assumes responsibility for such property;
- (ii) however, from time-to-time, some property, including educational, musical, sporting and hobby equipment, is issued to inmates for use and retention in their cell. Such issues are made on the clear understanding that the inmate assumed responsibility for such articles and that the Department has no liability;
- (iii) this policy was reconsidered following the extensive damage by inmates to property in cells during the Bathurst disturbances in February, 1974. The policy was reiterated that the Department could not assume liability for loss or damage of such property and this had been adhered to in all cases;
- (iv) as it appeared that the articles referred to by the prisoner were articles on issue to him, the Commissioner was unable to assist the complainant in this matter.

I again wrote to the Commissioner and said that I appreciated the Department's policy of declining liability in respect of property issued to and in the possession of a prisoner. However, it seemed to me that the situation may be somewhat different in this case if it was true, as the prisoner claimed, that he was ordered by custodial officers to relinquish possession of his property. I sought the Commissioner's further comments.

Later the Commissioner informed me that, as a result of my inquiries, the Department's earlier decision to decline any form of reimbursement to the complainant was being reviewed and my complainant had been interviewed by a departmental officer and told of the position.

In March, 1978, the Commissioner wrote to me and said:

"I have agreed that the question of compensation to (the prisoner) should be submitted to the Treasury for provision of \$200.00 for loss of property."

Finally, in June, 1978, I was able to confirm that a cheque for \$200 had been sent to my complainant and would be placed to his credit in his private cash.

I considered that the complaint made to me had been justified but that the action taken by the Department had satisfactorily resolved the matter.

COUNCILS

BELLINGEN SHIRE COUNCIL

Unjust Dismissal of Community Centre Management Committee

A complaint was received from the Honorary Secretary of the Bellingen Community Centre Management Committee concerning:

- The alleged unjust dismissal by the Council of the Management Committee; and,
- Council's failure to provide toilet facilities at the Community Centre.

Bellingen Community Centre was established towards the end of 1975 in premises known as "the old primary school". Use of these premises as a school ceased about March 1972, and subsequently the site and buildings were acquired by the Council, but remained unused. The buildings became dilapidated until Council adopted a report which recommended that community activities be permitted in the largest building, the other buildings on the site having been dismantled. A Public Meeting convened by Council was held in October 1975, to allow interested citizens to nominate suitable persons to Council for appointment to a Management Committee. Subsequently Council appointed the citizens so nominated together with four other persons (including three councillors) as the Bellingen Community Centre Management Committee for a period of two years (being the remainder of Council's term of office) in accordance with Section 527 of the Local Government Act. (Section 527 provides as follows:

"The Council may appoint in respect of any work park reserve cemetery or undertaking under the control of the council, a committee of local citizens, and delegate to the committee the care control and management (subject to the council and the ordinances) of the work park reserve cemetery or undertaking, and the expenditure of such moneys as the council may vote.")

My investigation revealed that the Management Committee began to renovate and repair the fabric of the premises by voluntary effort and with funds raised by the Committee from the community. Minutes of its meetings were kept and copies forwarded to the Shire Clerk.

It would appear from Council records that the Community Centre Management Committee operated reasonably successfully and efficiently during 1976 and without opposition, and, implicit in Council papers is the inference that Council did not regard the Community Centre as a temporary or short term project.

Early in 1976 arrangements were made with Council's approval for the Health Commission to establish a Community Health Centre in the Centre. At its July meeting in 1976, Council resolved that the Council's Library be moved to occupy portion of the Community Centre. On the other hand, Council continued to consider various proposals for the future development of the old primary school site.

At its meeting on 28th July, 1976, Council resolved that painting and minor improvements for the building be listed for consideration in the 1977 estimates. At a subsequent meeting in February, 1977, \$200 was voted for the purchase of paint to be used by volunteers to paint the front of the Community Centre building. With this exception, and prior to mid-April, 1978, it would appear that Council did not expend any of its funds on the property.

It seems that support for the Community Centre was not forthcoming from certain sections of the community including some of the well-established commercial interests. On the other hand, it would seem that enthusiastic involvement in the activities of the Centre was associated with more recent settlers in the area, some of whom embraced an alternate and non-conforming life-style.

The basis of opposition to the Community Centre apparently lay in the suspicion felt by some of the more established residents towards the values and life-style of the more recent residents. Newcomer's more casual dress and appearances was associated with marihuana use, their state of unemployment appears to have been seen as a denial of the work-ethic and their presence was apparently regarded by some as a threat to the traditional way of life of the area. Views on conservation were regarded as a threat to the local timber industry. The continued existence of the Community Centre became the focal point for the growing dispute.

Following the triennial Council elections in September, 1977, the Shire Clerk wrote on 28th September to the Honorary Secretary of the Management Committee in the following terms:

"Re-appointment of Management Committee

Council, at its meeting to be held on 24th October, 1977 proposes to formally re-appoint a Bellingin Community Centre Management Committee in accordance with the provisions of Section 527 of the Local Government Act and accordingly I should be pleased if your Committee would, on or before the 18th October, 1977, recommend the names and addresses of persons to be so appointed."

The Honorary Secretary responded as requested and at its Meeting on 24th October, Council resolved to act accordingly. The Shire Clerk then informed her by letter dated 27th October, that the nominated persons had been appointed "members of the Bellingin Community Centre Management Committee for the ensuing *three* year term" (my emphasis added).

Prior to that Council Meeting, a Market Day had been held at the Community Centre on 23rd October, 1977, and the Bellingin Chamber of Commerce later complained to Council about certain alleged activities relating to the Market Day. Council also recieved two other letters of complaint concerning the activities of this Market Day.

A special Meeting of the Council was held on 2nd November, 1977, when the complaints about alleged activities were discussed, and it was resolved to invite two members of the Chamber of Commerce and also the President and Honorary Secretary of the Community Centre Management Committee to the Works Committee Meeting on 14th November, 1977.

In inviting the President and Secretary of the Management Committee to attend the meeting, the Shire Clerk intimated that, although he was unable to predict all the matters to be discussed at the meeting, it was anticipated that questions likely to be raised would include:

- "(1) the extension of the Committee's activities outside the original area over which the Committee was delegated powers of management;
- (2) the Committee's request for approval of and assistance towards the construction of toilet and other amenities;
- (3) the holding of market days;
- (4) the administration of the Community Youth Support Scheme grant of \$16,000; and
- (5) such other matters as Council and/or the Committee may consider relevant."

The President, and the Honorary Secretary of the Committee, attended this Special Meeting of Council as invited, and answered questions asked by councillors. They explained that the Market Day had been arranged to enable local handicraft and farm produce to be displayed in order to test a possible market. They pointed out that it was most unfortunate that some commercial interests from outside the Shire had intruded into the Market Day. Council minutes note that they refuted statements made by representatives of the Chamber of Commerce in connection with the apparent lack of management of the Centre.

Subsequently, after the visitors left the Council Meeting, a motion was carried—

"The Bellingin Community Centre Management Committee Secretary be informed that in accordance with a resolution of Council, dated 29th September, 1975, the Committee ceases to exist from this date;" and

"Council at its meeting scheduled for 21st November, 1977, consider the future of that part of the building and adjacent ground presently managed by the above Committee".

Notice of intention to move for the rescission of part (1) of this motion was immediately given.

It was also resolved at this same meeting—

"That the Rain Forest and Natural History Display organised by the Bellinghen Community Centre Management Committee during the week commencing 21st November, 1977, be approved *provided that suitable arrangements can be made for toilet facilities and provided that the principles of the Theatres and Public Halls Act are adhered to; and* That the proposed holding of a Market Day on Sunday, 20th November, 1977, be not approved." (my emphasis added)

Council met again on 21st November, 1977, when the rescission motion was carried, confirming the Management Committee in its former role.

At this same Meeting further resolutions were passed relating to—

- the appointment of three additional councillors to the Management Committee; (taking the number of councillors again to four);
- a decision not to spend further funds on the Community Centre until the question of development of new Council Chambers be considered in the 1979 estimates;
- that "Council supply the necessary materials for the construction of male and female toilets to be erected by the Bellinghen Community Centre Management Committee under the supervision of the Health Surveyor on the site of the toilets recently demolished."

A Public Meeting, also referred to as a Meeting of Ratepayers, was convened by one of the Shire Councillors who had previously sought the dismissal of the Management Committee, and was held in Bellinghen on 29th November, 1977. At this Meeting it was proposed to discuss three motions, namely—

- "The dismissal of the Bellinghen Community Centre Management Committee and the future of the building and land presently managed by the Committee.
- Necessary arrangements to enable Council Officers to inspect and report on illegal dwellings and other abodes within the Shire.
- Letter to the Minister and Shadow Minister for Social Security requesting a visit to the area for investigation of local unemployment phenomena."

Much unfavourable comment was made concerning this Meeting partly relating to alleged partisan conduct of the Chairman and his supporters who, it was said, sought to prevent the participation of their opponents in speaking or voting at the meeting.

After the Meeting, certain councillors who sought the dismissal of the Management Committee requisitioned for a Special Meeting of Council to consider the resolutions allegedly passed at the Public Meeting. As a result another Special Meeting of Council was held on 12th December, 1977, in conjunction with a Works Committee Meeting.

It is the conduct of Council on 12th December, 1977, at these meetings at which the Management Committee of the Bellinghen Community Centre was dismissed as from 28th February, 1978, that formed the basis of the complaint made to me by the complainant.

At the Works Committee meeting of 12th December, 1977, it was resolved to recommend that—

- the Bellinghen Community Centre Management Committee be dismissed on 28th February, 1978;
- provision be made on a week to week basis for the continuation of the Youth Support Scheme; and
- consideration be given to the immediate construction of new premises for the Library, Health and Welfare, and a moderate size meeting room, toilets included".

The Special Meeting of Council later that day adopted the recommendation.

The Honorary Secretary of the Management Committee complained to the Ombudsman on 24th January, 1978, stating, *inter alia*, "we have not been informed of any valid complaint which Council has about our administration of the Community Centre or Youth Support Scheme". The complaint also noted that the Committee had not been informed of their dismissal or reasons for it but that Council's action was public knowledge.

It should be noted that on the 14th November, 1977, the President and Secretary of the Management Committee had provided detailed information to Council concerning the activities of the Community Centre and the proposals for the Youth Support Scheme.

The Community Youth Support Scheme, administered by the Community Centre Management Committee, was a programme designed to assist with the problems encountered by young people in the current high unemployment situation. It provided an opportunity for those who do not wish to continue their formal education at tertiary level to take part in practical work and development of their future within the general community. Such Schemes are funded by a Commonwealth Grant administered by the Commonwealth Employment Service. A sum of \$16,000 was made available in August, 1977, and taken up on 24th October, 1977. It should be noted that the Management Committee sought this funding after being informed of the Scheme by officers of Council and were provided with an application form by one of the Shire Councillors.

After the requested Council's files and papers had been sent for my examination, the Shire Clerk wrote to me on 15th February, 1978, providing a copy of part of the minutes of Council's Special Meeting of 13th February, 1978, which related to a resolution of the Council, carried on the casting vote of the President, that the Bellingen Community Centre Management Committee continue in office until such time as Council had the opportunity of considering the report in connection with the proposed development of the Hyde Street and Oak Street sites.

It was part of the original complaint that the toilet facilities at the Community Centre had been partly removed and what was left had been destroyed on the night of 14th November, 1977, the same night that the Council had just resolved to dismiss the Management Committee and to approve of the specific use of the premises for the week commencing 21st November, 1977, "provided that suitable arrangements can be made for toilet facilities..." Naturally, the absence of toilet facilities caused inconvenience and hardship to the users of the premises including persons using the Council library facilities, and the Health and Welfare Clinic run by the Health Commission. As a result the Health Commission wrote to the Shire Clerk on 5th December, 1977, stating that all toilet accommodation had been recently removed and drawing the Clerk's attention to the requirements of ordinance 46, clause 156, relative to the obligation of the owner of premises to provide closet accommodation, and to section 64, clause (h) of the Public Health Act, 1919 as amended, and it was requested that immediate steps be taken to provide adequate closet accommodation. Despite Council's resolution to provide toilet facilities and its undertaking to the Health Commission of 20th December, no action had been taken to provide toilets as late as 17th April, 1978, more than five months later.

It may be noted that in a Report dated 3rd April, 1978, after his inspection of Accounts, Internal Organisation and Management of Bellingen Shire Council, Mr. Inspector Day of the Department of Local Government stated, *inter alia*—

"Concern must be expressed at the events of the evening of 14th November, 1977, when the toilet block at the rear of the Community Centre was demolished and the pedestals and fittings wantonly destroyed..."

Of greater concern is the failure of the Council to take action to provide an elementary health facility such as toilets to a Council owned building in which is located the Bellingen Branch of the Grafton Regional Library, the Community Health Centre as well as the accepted use as a craft centre."

On completion of my enquiries I wrote to Council stating that I had formed the opinion that there were grounds for adverse comment on Council's conduct and, as provided under section 24 of the Ombudsman Act, I was providing opportunity to Council to make submissions to me on the matter and/or to alter or modify its conduct prior to my deciding whether to take further action in accordance with sections 25 and 26 of the Act.

The relevant conduct to which I referred was Council's resolution of 12th December, 1977, to dismiss the Management Committee of the Community Centre in that *prior* to the passing of the resolution, Council:

- (1) formulated no charges of misconduct nor did it furnish any specific criticisms to the members of the Committee;
- (2) gave no notice (formal or informal) nor any warning to the members of the Committee of its proposed action;
- (3) provided no opportunity to any member of the Committee, or the Committee as a whole, to answer or otherwise rectify any matters complained of by the Council;

- (4) failed to formulate, investigate and/or establish any material or substantial facts relating to misconduct by the members of the Committee before resolving to dismiss it.

I should say in respect of (3) above that I make this comment notwithstanding Council's assertion to me in its letter of 7th March, 1978, that it gave the Management Committee the opportunity to attend and address Council at its Special Meeting of 12th December, 1977. That answer to me was demonstrably incorrect."

In my letter I informed Council that in so resolving as it did, Council had insufficient or no evidence before it of any improper conduct of the Management Committee which could have justified the action of dismissal. This is to be seen in the context that only seven weeks earlier Council had apparently resolved that the Members of the Management Committee of the Community Centre be appointed for a period of *three years*.

It should be added that after so resolving to dismiss the Committee, Council failed to notify the members of the Committee of the resolution to dismiss it. In this respect its reasons for not so giving notice were unsatisfactory.

In my opinion, Council breached the *audi alteram partem* rule thereby denying natural justice to the members of the Management Committee.

I told Council that its above conduct could be seen to be wrong within Section 5 (2) of the Ombudsman Act as:

- (b) "unreasonable, unjust, oppressive or improperly discriminatory";
- (c) "based partly on improper motives, irrelevant grounds or irrelevant considerations"; and
- (e) "conduct for which reasons should be given but are not given".

My letter continued;

"Additional to the question of the dismissal there is another feature which provides further ground for adverse comment, viz., Council's continuing failure to provide any or any adequate toilet accommodation as owner of the old school premises, also occupied by the Council Library and the Health and Welfare Centre, after the coincidental and most unfortunate removal of the previous toilet facilities in November, 1977. This appears to be in breach of the requirements of Clause 156 of Ordinance 46 of the Local Government Act and also of Section 64 (h) of the Public Health Act, 1919. In this respect it is noted that the Regional Director (North Coast Region) of the New South Wales Health Commission wrote to Council on the 5th December, 1977, drawing Council's attention to these legal requirements and requesting immediate steps to be taken to provide adequate closet accommodation. The Shire Clerk's reply of the 20th December, 1977, stated that Council resolved 'to erect one male and one female toilet as quickly as possible'. My investigation has revealed that as late as early this month (April) no such toilets have been installed, notwithstanding the terms of Council's resolution of 21st November, 1977, subsequent resolutions and the passage of some five months."

I added that: "The above adverse comments relating to the toilets could be seen to be 'wrong' conduct as:

- (a) 'contrary to law';
- (b) 'unreasonable, unjust, oppressive or improperly discriminatory';
- (c) 'based partly on improper motives, irrelevant grounds or irrelevant considerations'.

I would be pleased if you would notify me of Council's intentions and provide me with any submissions desired as soon as possible but by no later than the 27th April, 1978."

The Council met on 17th April, when it considered my letter. Subsequently, the Shire Clerk wrote to me and provided me with his personal opinion that the facts did not support my position and he attached various Council documents. A copy of the minutes of Council's meeting of 17th April revealed that *Council, at that meeting, had dismissed the Management Committee forthwith, again without informing them of the reasons.* However, I was informed that construction of toilets had commenced on 19th April.

After perusal of the Shire Clerk's letter and the annexures thereto, further consideration was given by me to the matters contained in them in the context of all the information available to me as a result of my investigation, and the Acting Ombudsman then wrote to the Shire President on 21st April in the following terms:

"I have assumed that the Shire Clerk's letter, referred to above, is Council's reply to the Ombudsman's abovementioned letter, although earlier information received by me indicated that Council had resolved to reply to the Ombudsman's letter by sending merely a copy of the Shire Clerk's report to Council received at the meeting of Council on 17th April.

The Ombudsman's purpose in sending the letter of 12th April was twofold:

- (1) to delineate what was considered to be the grounds of adverse comment on Council's conduct; and
- (2) to give the opportunity to Council to reply and to take appropriate action to rectify the situation.

I have considered the contents of the Shire Clerk's letter, and also the annexures thereto of various documents relating to Council's meeting of 17th April (delivered to me at my request of the President on 18th April).

At this stage I must say that I am not satisfied with the answers concerning the matters raised by the Ombudsman on 12th April. Furthermore, I am deeply disappointed and astounded that, at the very same meeting that Council considered the Ombudsman's letter it resolved once again to dismiss forthwith the Management Committee, without communicating to that Committee beforehand any charges or providing to them (or their representative(s)) any opportunity to be heard in answer to any such charges, nor giving to them any notice of intention to consider such a motion to dismiss. In all of the circumstances I consider that Council's latest action is reprehensible.

In my opinion some of the reasons set forth by Council for its action in so dismissing the Committee are inaccurate, inadequate, ambiguous, lacking particularity, and, in certain respects, irrelevant.

I propose, therefore, to issue a Report indicating that I have found the conduct of the Council to be wrong. In accordance with Section 26 of the Ombudsman Act, this Report will be forwarded both to the Minister of Local Government and yourself as Head of the Authority."

It was incomprehensible to me that notwithstanding my request to withhold implementation of the resolution of 12th December, 1977, and Council's initial response to my request, and, in the light of the known facts and my continuing investigation (in particular the contents of my letter to Council of 12th April), that Council on 17th April, 1978, without indication or warning to me or the Management Committee, resolved once again to dismiss that Committee and, as before, did not render to them the basic elements of natural justice. Again, its purported reasons were unsatisfactory and departed from the proven facts. It appeared to me that the taking of such a decision in such circumstances was also both provocative and precipitative.

A Report was prepared and forwarded to the Minister for Local Government on 3rd May, 1978, in accordance with section 25 of the Ombudsman Act and informing him that it was proposed to make a Report in terms of section 26. In the Report, the findings were as follows:

"Bellingen Shire Council's failure to alter or modify its conduct after their receipt of the Ombudsman's letter of 12th April, 1978, leaves me without any real alternative but to act in accordance with section 26 of the Ombudsman Act and bring the facts to the attention of the Minister for Local Government and the Head of the Public Authority concerned. I find that the conduct of Bellingen Shire Council in its dismissal of the Bellingen Community Centre Management Committee on 12th December, 1977, is "wrong" in terms of the Ombudsman Act, in that prior to the passing of the resolution, Council *failed*:

1. to formulate any specific charges of misconduct or to furnish any detailed criticism to the Committee;
2. to give notice (formal or informal) or any warning to the Committee of its proposed action;
3. to provide any opportunity to the Committee or any member thereof to answer or otherwise rectify any matters complained of by the Council; and
4. to formulate, investigate and/or establish any material or substantial facts relating to misconduct by the members of the Committee before resolving to dismiss it.

In making this finding I would reiterate that Council's letter to the Honorary Secretary of the Management Committee dated 3rd November, 1977, does not relate *directly* to Council's decision of 12th December nor does Council's assertion in answer to Question (j) on 2nd March, 1978, relate to the specific conduct in question.

As stated in the Ombudsman's letter to Council of 12th April, 1978, and for the same reasons, I consider that Council's conduct is wrong in terms of section 5 (2) of the Ombudsman Act as:

- (b) 'unreasonable, unjust, oppressive or improperly discriminatory';
- (c) 'based partly on improper, irrelevant grounds or irrelevant considerations'; and
- (e) 'conduct for which reasons should be given but are not given'.

Similarly, I find that Council's continued failure to provide toilet accommodation as owner of the premises at Hyde Street, Bellingen occupied partly by the Community Centre, and by the Bellingen branch of the Grafton Regional Library, as well as the Health and Welfare Centre conducted by the New South Wales Health Commission, after the unfortunate removal under what remains strange circumstances of the previous toilet facilities on or about 14th November, 1977, is 'wrong' conduct under the Ombudsman Act. As previously stated in the Ombudsman's letter to Council of 12th April and for the same reasons, I consider that Council's conduct is wrong in terms of section 5 (2) as:

- (a) 'contrary to law';
- (b) 'unreasonable, unjust, oppressive or improperly discriminatory';
- (c) 'based partly on improper motives, irrelevant grounds or irrelevant considerations'.

As provided for in the Ombudsman Act, I made the following *recommendations* which I considered would remedy the situation:

1. That satisfactory facilities and accommodation should be provided by Bellingen Shire Council to enable the activities previously carried out under the auspices of the Bellingen Community Centre Management Committee to continue.
2. That, in order to allay any doubt or suspicion within the local community as to the credentials and integrity of the Committee, the Council should widely publish in the community a statement that its former actions in dismissal of the Committee should not be interpreted as in any way reflecting adversely upon the integrity, character and conduct of any members of the former Management Committee.
3. That a new Management Committee be appointed to manage the Bellingen Community Centre and that it include all members of the former Committee who wish to remain, but its activities should remain confined to the management of the premises used for the Community Centre.
4. That Council in future avoid such conduct relating to the Management Committee of the Bellingen Community Centre which would have a divisive effect upon the general community."

Consequent upon the Acting Ombudsman's letter of 21st April, 1978, to the Shire President, informing Council of the intention to proceed by way of section 26 of the Ombudsman Act and forward a Report to the Minister for Local Government, advice was received from the Shire President that a delegation of Councillors wished to consult with the Acting Ombudsman on 9th May. This meeting took place at my office when five councillors and the Shire Health Surveyor attended and discussed the above recommendations. Subsequently, at a meeting of Council on 15th May, 1978, Council adopted the report of the Shire President that my four recommendations be adopted and that immediate action be taken to implement them. I informed the Minister for Local Government of the altered circumstances and that as a consequence I did not propose to proceed to make a Report in terms of section 26 of the Act.

I reported similarly to my complainant in detail and also informed her that if Council did not carry out its stated intentions to implement the recommendations I would re-open my investigation and proceed to publish a Report in terms of section 26.

BLUE MOUNTAINS CITY COUNCIL

Diversion of Storm Water into Private Watercourse

This complaint concerned the deviation of the flow of storm water from adjacent roads into a drainage easement which followed a line along the inside of my complainant's side boundary but then diverted away from the easement into a watercourse running across his backyard. This situation had resulted from major road and drainage works in that area which had concentrated the storm water run-off through my complainant's property. The result was that the watercourse carried away the storm water from the adjacent road system and in times of heavy rain damaged the complainant's property causing an interference with his use and enjoyment of it.

My complainant had approached Council on several occasions in an effort to remedy the situation and Council's officers had inspected the site of the drainage easement and watercourse. Whilst they agreed that some work would be carried out to prevent scouring of the drainage easement, it was indicated that finance was not available to pipe the easement through the property. He was also informed that Council considered that it had no obligation to maintain or obtain an easement over the watercourse.

I took this matter up with the Council who provided me with a short history of the easement from its creation in 1960 and Council's action in regard to it. Council reiterated that it considered the depression across the backyard to be a natural watercourse.

After considerable investigation I suggested two possible solutions to Council.

Council replied, after it had considered my suggestions, that it was of the opinion that it could accept neither solution, and it was unable to do anything more in this matter than it had originally proposed.

I did not accept this and I wrote to Council again, notifying that I had taken the view that its refusal to intervene could be seen to constitute wrong conduct but also providing Council with the opportunity to reconsider the matter prior to my deciding on whether to proceed to make a report under Section 26 of the Act. In that letter I referred to *Rudd v. Hornsby Shire Council* (31 LGRA 120) and the more recent case of *Stevens & Anor. v. Council of the Municipality of Bowral* (unreported) when Helsham, C.J. in Eq. on 5th August, 1977, said:

"Council cannot solve a problem by doing an unlawful act and then complaining that to solve it by lawful means would cost it a lot of money."

As a result council gave further consideration to the matter, and decided that the line of the natural watercourse through the subject property be acquired as a drainage easement of overall width 2.5 metres and that the present watercourse be piped for its length through the property at an approximate cost of \$4,000 to the Council.

I was gratified to hear of this response from Council and whilst the complaint was found to be justified, because of the action agreed to by Council to rectify the situation, I decided not to take the matter any further and concluded my investigation.

BRISBANE WATER COUNTY COUNCIL

Spoilage of Food and Appliances due to Disconnection of Electricity

The basis of this complaint was that while on holidays the electricity supply to the complainant's house was disconnected leading to spoilage of a considerable amount of food and possible irreparable damage to a refrigerator and a freezer.

It was stated by the complainant that an attempt was made by a relative to pay the outstanding account (which led to the disconnection) but that this payment was refused by the County Council involved as both the branch and head office informed the relative that the account had already been paid.

On taking up the matter with the Council I was informed that it had been referred to Council's insurers but was later informed that the Council tended to accept responsibility due to—

- (1) The complainant's claim of having offered payment which was not accepted.
- (2) The outstanding balance having been acquired at a past address and not part of account at the new service.
- (3) An awareness by Council of the "prevailing community feelings on consumerism and protection of the individual from the actions of big organisations".

Whilst the matter was finally settled between the parties concerned, and I was not advised of the actual terms of settlement, I was pleased to note the Clerk's comments to the Committee in regard to possible future disconnections as follows:

"Pending more complete examination of the subject with supervisors of meter records, customers inquiry section, and computer programming I have issued interim instructions that unattended premises must not be disconnected for non-payment. Unless there is certainty that the customer has been informed of the intention to disconnect, the matter is to be referred by the Disconnection Officer back to Credit Control for further investigation. It will be necessary to prepare instructions which both clerical and field staff can follow which will provide reasonable credit control while avoiding the possibility of customers incurring hardships which are disproportionate to the circumstances."

This appeared to me to be most gratifying as it should always be borne in mind that the disconnection of an essential service, whilst perhaps merely an administrative matter to the authority concerned, can indeed be a matter of great and even disastrous moment to the recipient of the disconnection.

CANTERBURY MUNICIPAL COUNCIL

Refusal to approve removal of Camphor Laurel Trees

I received complaints from the Bodies Corporate of two blocks of home units in separate streets in the same area that the Council had refused permission for the removal of camphor laurel trees which were, in quite different ways, affecting each of the properties.

The first complaint was a little complicated in that the offending tree was situated on the property next door to the complainants who claimed that the roots of the tree were causing cracking and lifting of their concrete driveway. The Secretary of the Body Corporate claimed that the Body Corporate had been trying for some years to obtain Council's approval for the removal of the tree but Council had, on several occasions, refused approval. It was claimed, too, that the Body Corporate of the adjoining property, on which the tree stood, had made an application to Council, supported by a petition, from my complainants, for the trees removal but Council had refused that application as well. The Secretary, in her letter to me, said:

"We are very concerned about our driveway as the sewer water and drainage pipes are situated beneath."

Before deciding whether I should investigate the complaint, I arranged for one of my Officers to inspect the two properties involved and to attend at Council's Office to peruse the relevant file. I also arranged for an Officer of the Department of Agriculture to inspect the tree and its environs.

Following the receipt of that Officer's advice and after considering the report made to me by my own Officer, I wrote to Council and, *inter alia*, said:

"... it seems to me that the position in this matter can be summarised as follows:

- (a) There appears to be considerable doubt that the roots of the tree have, in fact, caused the damage, to the driveway, in evidence at a point adjacent to the tree, but the possibility cannot be entirely ruled out. This view appears to accord with the view expressed in Council's letter of 4th February, 1974 to the Secretary of the Body Corporate ...;
- (b) There is a possibility that the roots of the tree may have contributed to and/or exacerbated the problem caused by settlement of the driveway at the point adjacent to the trees;
- (c) Should the sewerage lines in the (complainants') property ... develop leaks, the tree roots will almost assuredly cause blockage of the pipes. Remedial action will be repetitive and costly, should this occur;
- (d) The tree is situated well within the distances from structures, etc., recommended by the Department of Agriculture for the planting of Camphor Laurel trees. Those recommended distances are:

| | | |
|----------------------------|-------|------------|
| Walls of buildings | .. .. | 9 metres |
| Driveways or paths | .. .. | 9 metres |
| Sewerage or drainage pipes | .. .. | 12 metres; |
- (e) There could be some substance in the claim that leaves from the tree cause blockages of the gutter at (the complainants' property). The branches of the tree are, at present, overhanging the gutter;
- (f) It seems reasonable to assume that Council will receive continuing requests for permission to prune or lop the tree and that each such request will need to be the subject of investigation and report by Council's Officers, at some cost to the ratepayers.

In all the circumstances, I wonder whether Council might give consideration to reviewing its decision in this case. I say this bearing in mind that there does seem to be some doubt about the effect the tree is having on the (complainants') property, and some cause for concern about its future possible effects, and after considering the terms of the final paragraph of the Chief Engineer's report to Council on 14th April, 1977.

You might also let me know whether, in fact, the owners of (the property on which the tree stands) have ever made an application for removal of the tree, as (my complainants) claim."

The Chief Engineer's report to Council, to which I referred in my letter, read as follows:

"This matter was the subject of a previous petition to Council in January, 1974. At that time it was reported that the complaint referred to a refusal by Council to allow the removal of a Camphor Laurel tree, approximately 25 feet high, located ... adjacent to the common boundary for the above property.

An inspection at that time revealed that the concrete driveway at (the complainants' property) had cracked adjacent to the tree but was also cracked in several other places. It was considered that the cracking was mainly due to differential settlement because of poor preparation of the foundation material prior to pouring the concrete driveway.

The tree was a healthy specimen and although some minor leaf fall would be associated with the tree this was not considered serious. At that time a new Residential Flat Building was being erected at (the property next door) and the owner of the property did not want the tree removed.

Council granted approval for the tree to be pruned to approximately 1 metre from the building at (the complainants' property) but refused permission for it to be removed.

The property was again inspected on 2nd April, 1977, when it was noted that conditions had not materially changed since the previous report. No evidence could be found of any cracking in the exterior wall of the units nor would it be likely that branches of this tree could hit the windows of units at (the complainants' property). The residential flat building has been completed at (the property next door) and the subject tree has been included in the landscaping of that property. It is also noted that a concrete path has been constructed in (the property next door) adjacent to the tree and no cracking is apparent in that footpath.

It is, therefore, considered that the tree in its present condition does not constitute a danger to the health or property of (the complainants' property). However, it would appear that the residents of these units are extremely concerned regarding the tree and if the residents could come to some agreement with the owners or residents of the units at (the property next door) and they indicate no objection to the removal of the tree Council may feel inclined to grant approval for its removal."

The Town Clerk subsequently informed me that a report was to be submitted to the next Meeting of Council on 28th July, recommending that approval be granted for the removal of the tree. He pointed out, however, that removal of the tree, provided Council approved, would still require the concurrence of the owners of the property on which the tree stood. The Town Clerk added that Council had no record of ever having received an application for the tree's removal from the owners of that property.

The Town Clerk later wrote in the following terms:

"Council resolved to advise the (complainants) that it has no objection to the removal of the tree, subject to its replacement with a tree of a more suitable species. It was noted, however, that the removal of the trees is a matter for determination by the owners of (the property next door) and it will be necessary, therefore, for the Body Corporate to make any necessary arrangements direct with those owners.

The owners of both properties have been advised in the terms of this correspondence."

I, therefore, wrote to my complainants and said that, as the matter had been satisfactorily resolved so far as Council's action was concerned, I proposed to discontinue my enquiries.

The second complaint was a different "kettle of fish." In this case, the offending trees were situated on my complainants' property and the Body Corporate were able to produce evidence, in the form of written reports from a firm of licensed Plumbers and Drainers, that the roots of the trees were apparently contributing to blockages of the sewerage mains.

My complainants said that they had first approached Council in December, 1975 about the possibility of removing or pruning the trees, although, at that time, they were concerned about blockages of gutters and other nuisance caused by the trees as the problem with the sewerage mains had not then arisen. Council, in January, 1976, informed the complainants that "approval is declined both as regards removal or the pruning of the subject trees." In February, 1976, the complainants asked Council to reinvestigate the matter and on 20th May, 1976, Council wrote to the Secretary of the Body Corporate and, inter alia, said:

"Council's Parks Supervisor has again inspected the trees and has re-affirmed his recommendation that the trees should remain but approval is granted to prune the lower branches of the trees to a height of 2.5 metres above ground level."

Finally, in early June, 1977, after the sewerage mains had to be cleared on two occasions, my complainants again wrote to Council, enclosing copies of the plumbing firm's reports, and requesting further and urgent consideration of the matter.

On 12th July, 1977, after the complainants had approached me and one of my officers had carried out an inspection at the site, I wrote to Council and said:

"I have received a complaint from (the complainants) that ... Council has failed to deal promptly with an application for approval to remove camphor laurel trees which are causing damage to a sewer line.

I understand that details of the matter were conveyed to Council in the Secretary's letter of 6th June, 1977, with which were enclosed documents supporting the claim of damage to or blockage of the sewer line. In her letter to me the Secretary has commented as follows:

'You will note that we asked in our letter to Council for urgent attention in this matter and to this date we have not had any reply.

Our (Treasurer) rang the Council on Friday, 24th June, 1977 and was told that they would ring back that day, we are still waiting.

We would mention that the claim of a complete breakdown of the sewer was given to us by the firm . . . , who have cleared the sewer twice in the last six months. It would be a bit silly to have the sewer renewed with the same hazard being present.'

"Before deciding whether I should investigate (the Secretary's) complaint, I arranged for one of my officers to inspect the property . . . and to attend Council's Office to peruse the relevant file. My officer spoke to the Treasurer of the Body Corporate who made available to me copies of the reports prepared by . . . following that firm's attendance at the property on 21st December, 1976 and 4th June, 1977 for the purpose of clearing blocked sewer lines. The Treasurer also provided me with a copy of the Sewerage Diagram for the property.

This case raises certain of the issues already mentioned in the matter concerning the property at . . . , about which I wrote to you on 28th June, 1977. In this case, however, it would appear that the tree roots have already found their way into the sewer line. I note, too, that the trees are situated well within the distances from structures, drains, etc., recommended by the Department of Agriculture for the planting of camphor laurel trees.

In all the circumstances, I would appreciate your comments about this matter as soon as possible and, in any case, no later than 2nd August, 1977."

On 5th August, 1977, the Town Clerk informed me that Council had approved the request for removal of the trees, subject to them being replaced with mature trees of a more suitable species. I informed my complainants accordingly and discontinued my enquiries.

COLO SHIRE COUNCIL

Offer of nominal compensation for acquisition of land

This investigation occasioned me to present a Report to Parliament under section 27 of the Act since I was not satisfied that sufficient action had been taken by Council to comply with recommendations that I had made in a Report to it and to the Minister for Local Government under section 26.

It is disappointing to note that since the presentation to Parliament by the Premier, the Council has seen fit to take no action to carry out my recommendations. In fact, the only reaction of Council known to me was that reported in a local newspaper wherein the Shire President (Councillor Brown) was reported, *inter alia*, in the following terms:

" . . . this complaint he (the Ombudsman) hasn't handled correctly."

Another Councillor (Mr Knight) was reported as saying that the Ombudsman was insulting the professionalism of Council's Valuer. "I would much prefer to trust the Valuer's judgment than the Ombudsman's", he added.

The fact that I was not attempting to impose my own valuation was apparently overlooked.

It is naturally of great concern to me that a public authority would not accept my recommendations even after the matter had been drawn to the attention of Parliament. However, such an attitude amongst councils appears to be extremely rare and this isolated failure to carry out a recommendation is no doubt connected in part with the fact that the extension of my jurisdiction into local government was still then in its infancy with consequent misunderstandings of the concept on the part of some local authorities.

The facts of the complaint are relatively simple:

- Council had resumed some 2 680 square metres of my complainant's land for road purposes.
- The complainant had indicated no objection but sought compensation of \$1,750.
- Council's valuers valued the land and recommended compensation of \$1 which was adopted by Council and consequently rejected by the complainant.
- Council argued that nominal compensation was appropriate because:
 - * A public road was to be opened over that part of the land acquired which previously was a right of way.
 - * There was no severance of the complainant's residue land.
 - * The loss of the area was of a minor nature.
 - * Betterment accrued because the right of way was extinguished and the complainant's financial burden of maintenance was thereby removed.

During subsequent correspondence between the Council and myself, Council contended that "a substantial betterment accrued" from the resumption because the right of way was extinguished and, furthermore, the President's own real estate experience, it was submitted, added weight to the Valuer's opinion.

It appeared to me that against the Council's arguments the following could be stated:

- (a) The complainant lost forever some 2 680 square metres of his land.
- (b) The proposed new public road would add nothing in value to the residue of the land which already had extensive frontages to another public road.
- (c) Not all of the resumed land was subject to the right of way.
- (d) The right of way did not restrict the complainant's use of the resumed land.
- (e) The complainant did not appear to have any responsibility by agreement or otherwise to maintain the right of way and, therefore, the resumption did not relieve him of any financial burden.
- (f) Council's Valuers (and later Council) had made an incorrect assumption that a Deed existed which imposed legal and physical restrictions on the use by the owner of the land and a cost for maintenance to the owner. The latter had been regarded by Council as "a significant valuation factor."
- (g) The valuation of Council had been made partly on irrelevant or inaccurate considerations.
- (h) Construction of a public road on the resumed land could intrude on the complainant's privacy of the residue.

I came to the conclusion that the Council's conduct in offering \$1 compensation was wrong as being unreasonable conduct (section 5 (2) (b)) and conduct based in part on irrelevant grounds or considerations (section 5 (2) (c)). I, therefore, recommend that Council reconsider its conduct and offer to the complainant "proper compensation in other than a nominal sum".

As mentioned in the opening of this summary, Council choose not to follow my recommendation and I proceeded to report to Parliament.

Two further matters should be mentioned in connection with this complaint:

Firstly, whilst it did not appear to me that section 13 (5) of the Ombudsman Act was necessarily relevant, I gave due consideration to the fact that the complainant did have a right to approach the Local Land Board to determine compensation, nevertheless, it appeared to me on a consideration of all the facts, and especially the offer of \$1 compensation, that special circumstances existed which would enable me to investigate.

Secondly, it will be seen from my recommendation that I did not specify a figure, nor even a range of figures, that Council should offer as compensation. I merely suggested that Council reconsider offering "proper compensation in other than a nominal sum."

HORNSBY SHIRE COUNCIL

Failure to pipe drainage easement

I received a number of complaints from residents in one suburban street concerned with stormwater drainage passing through their properties causing considerable damage and nuisance. Essentially, they were concerned that the Council was proposing to construct an open channel through their land to carry the water away instead of a pipe line. It can be said that I continue to receive large numbers of complaints concerning drainage problems from all corners of the State and I readily appreciate that it is beyond the available means of many local authorities to rectify all of their drainage problems, particularly in more precipitous areas.

I shall endeavour to abbreviate the somewhat lengthy and complicated history as well as the relevant facts. Apparently, prior to any substantial residential development in the area a watercourse ran through land at the back of a particular road. With progressive development upstream the watercourse had, by 1965, become a substantial nuisance problem because it formed, in this particular area, a point of concentration and discharge for an extensive catchment area.

Over the ensuing years it deteriorated further bringing about some quite extensive slippage of land as well as flooding. It was then that Council resolved to acquire a drainage easement and construct an open channel. However, at that time the residents preferred the water to be piped and Council asked them for contributions towards the cost. Not all residents agreed to the proposal and Council thereafter took no steps to resume an easement. This apparent impasse continued until 1970 by which time severe damage had been occasioned to the property of one of the owners to such an extent that he commenced proceedings against the Council seeking injunctive relief to remedy the nuisance. Council, however, continued to maintain that it would not pipe the watercourse. The Equity suit dragged on and was not finally heard until 1973 and judgment not delivered until July, 1975. In his judgment Mr Justice Holland found against the Council and ordered it to pipe the stormwater through the plaintiff's property (*Rudd v. Hornsby Shire Council* 31 LGRA 120). His Honour stayed the injunction for six months to enable Council to complete the work. It may be mentioned that the Court clearly accepted the evidence of the residents (who included some of my complainants) of the extent of the nuisance and damage.

Towards the end of 1975 Council resolved to pipe the watercourse through Mr Rudd's property; to acquire drainage easements through the balance of the affected properties, and, to construct an open drain. Council was not prepared to pipe through these properties because of "the enormous cost involved." However, progress was still slow and the resumption of the easement for drainage was not finally effected until January, 1977 by which time Council's solicitors had indicated concern that Council could be in contempt of court for failing to carry out the terms of the injunction.

My complainants, all suffering varying degrees of damage to their properties, were naturally upset that their land was not to be piped as was Mr Rudd's. This was understandable for, while the suit was not a "test case", the residents were in quite similar situations. However, by the time they complained to me, work was already progressing on the project, giving rise to a number of other peripheral complaints which were troublesome to the complainants but, for brevity sake, will not be referred to in this summary.

An inspection of the area confirmed that indeed serious problems existed which could only be ultimately resolved by piping the watercourse. It was also obvious that some deleterious substance, almost certainly septic sullage run-off, was flowing in the channel and emitting a foul odour which could be considered a health hazard. It was also clear that, as a result of years of slippage and flooding, a considerable portion of the affected properties was rendered unusable to the owners if not dangerous.

Having completed extensive inquiries into all aspects of the complaints, and, carefully considering all that was put to me by the Council, I came to the conclusion that the best course to be followed was to pipe the easement through the complainant's properties. However, Council did not accept this conclusion and, therefore, I published a Report under section 26 of the Ombudsman Act to the Shire President and Minister for Local Government. I found the Council's conduct to be wrong in failing to pipe the drainage easement through the complainant's land as constituting unreasonable conduct and also as improperly discriminatory since it was piping the adjacent land of Mr Rudd. I recommend that Council reconsider its decision to refuse to pipe the easement.

Subsequently, my Report was considered by Council and it resolved to pipe the drainage easement through the complainants' properties at an estimated cost of \$35,000.00. I expressed my appreciation to Council for its attitude, particularly, as I remarked, I was fully aware of the very pressing difficulties faced by many councils in relation to drainage problems and the high costs involved in piping.

KU-RING-GAI MUNICIPAL COUNCIL

Refusal to allow inspection of development plans

I received a complaint regarding the refusal of a council to allow the inspection of plans of a neighbour's development application or to disclose the nature of special conditions imposed on the applicant by council.

Council subsequently informed me that it had refused to make these documents available or to reveal such information because it was considered that the council was precluded from so doing by section 312 (2) of the Local Government Act, which reads "One copy of such plans and specifications shall become the property of the council, but shall not be used for any purpose other than giving effect to the provisions of this Act or of any Act relating to local government or public health".

In my reply to Council I stated that whilst I realised that council is not obliged to advertise all building and development proposals, I believed it to be obvious that the public should be made aware of any proposal which may adversely affect them. I also stated:

"However, if a genuinely interested person such as a neighbour becomes aware of a proposal and requests the Council to peruse a building or development plan he should be permitted to do so in order that he may lodge an objection for Council's consideration before a decision is made by the Council (to be able to object properly he would need to see the plan of the proposals). This should be to the advantage of the council as it enables it to be in possession of the full facts. Section 312 (2) of the Local Government Act would not prevent such action as it would be consistent with giving effect to the provisions of the Act. Such a document would not be confidential in respect to such a genuinely interested person.

Even more so, such an interested person should be permitted to inspect a building or development plan after it has been approved by the Council, as such a document would have already been discussed at an open council meeting which approved the plan. If an approval was given by delegated authority to a council officer under section 530A of the Local Government Act this should not materially alter this principle. It could be argued that the conduct of one officer acting alone should be more open to public scrutiny.

In relation to such an interested person being permitted to have access to the conditions of approval imposed by the Council it is apparent that he should be able to do so for the following reasons:

- (a) planning schemes including the Ku-ring-gai planning scheme contain a provision that Council shall keep a Consents Register of development application approvals (including approvals for the erection of buildings and use of land) which is available to the public for inspection. There is no reason why building approvals under Part XI of the Local Government Act could not be similarly inspected.
- (b) Ordinance 1, paragraph 38 (e), made under the Local Government Act, provides that a person is entitled to inspect the Council minutes. Such minutes would contain Council's building and development approvals and any conditions imposed. If the approval was given under delegated authority, the specific approval would be reported to a later Council meeting, even if in a Schedule listing such approvals over a given period, and obviously the conditions of approval even if not listed in the Schedule would not be confidential and would be available to an interested person.
- (c) the council officer's report to the council on the building and development approval would appear in the agenda of a council meeting and thus be available to the public at that time. The agenda would show the recommended conditions of approval which then become the conditions of approval if accepted by the council at that meeting. If approved under delegated authority the same principle applies and it is even more desirable that the information be available to the public.

Allowing an interested person to inspect building or development applications or take a copy of conditions of approval would not be a breach of the Local Government Act and a failure to do so could be unreasonable and therefore wrong conduct of the Local Government authority in terms of section 5 (2) (b) of the Ombudsman Act."

I was subsequently pleased to receive a further letter from the Council which stated:

"The information supplied to you, particularly in relation to your interpretation of section 312 (2) of the Local Government Act, has been most useful and will form a basis for Council's policy on matters of this nature on all future occasions."

LISMORE CITY COUNCIL

Destruction of a valued street scene and pre-emption of the Ombudsman's investigation

About six months after my jurisdiction was expanded to include local government, I received complaints from a number of Lismore residents who were concerned at a decision taken by the Lismore City Council to widen and seal Dalley Street, Lismore, to the width of 11 metres, necessitating the destruction of a widely noted and highly regarded street scene which featured a large number of long established and spectacular flowering trees.

The details of my investigation have been fully covered in two Reports, one under Section 31, and one under Section 26 of the Ombudsman Act, and I will not repeat that exercise here. However, the case was particularly significant in that it demonstrated an unfortunate combination of shortcomings on the part of the Council, and emphasised also a weakness in my own legislative machinery which, I regret to record, remains to cause me continuing concern.

The Deputy Ombudsman and a Senior Investigation Officer visited Lismore immediately after my receipt of the complaint and were surprised to learn from the Mayor that Council was anxious to commence the project for the precise purpose of committing its successor to completion of the work. The Council then in office was a constituted, that is appointed, Council, and not a Council elected by the people of Lismore in the usual sense. It was comprised of Aldermen from the former elected Lismore City Council and appointees from the disbanded Terania and Gundurimba Shire Councils which covered areas outside the City proper. The local government elections were scheduled for later in the year.

Although Council's documentation of its consideration of the position in Dalley Street was, to quote my Report under Section 26, both scant and scattered, it was soon established that there was no evidence to justify either the priority accorded the widening of the street, the destruction of the trees or, indeed, the destruction itself. In fact, the evidence indicated quite the opposite.

The National Trust of Australia had indicated an interest in the future of the trees, and Council's own City Engineer had advised Council that "the trees are an asset to the City and an undoubted tourist attraction".

Council's argument for the widening to 11 metres requiring the destruction of the trees had as a recurring feature the traffic expected to be generated by the proposed Northern Rivers College of Advanced Education. However, an expert report prepared for the College by a highly reputed firm of consultants, in association with the Department of Public Works, took it for granted that the "Garden City of the North" as it once liked to be called, would wish to retain the trees, and recommended widening of the carriageway to 7.3 m. This report had been made known to Council.

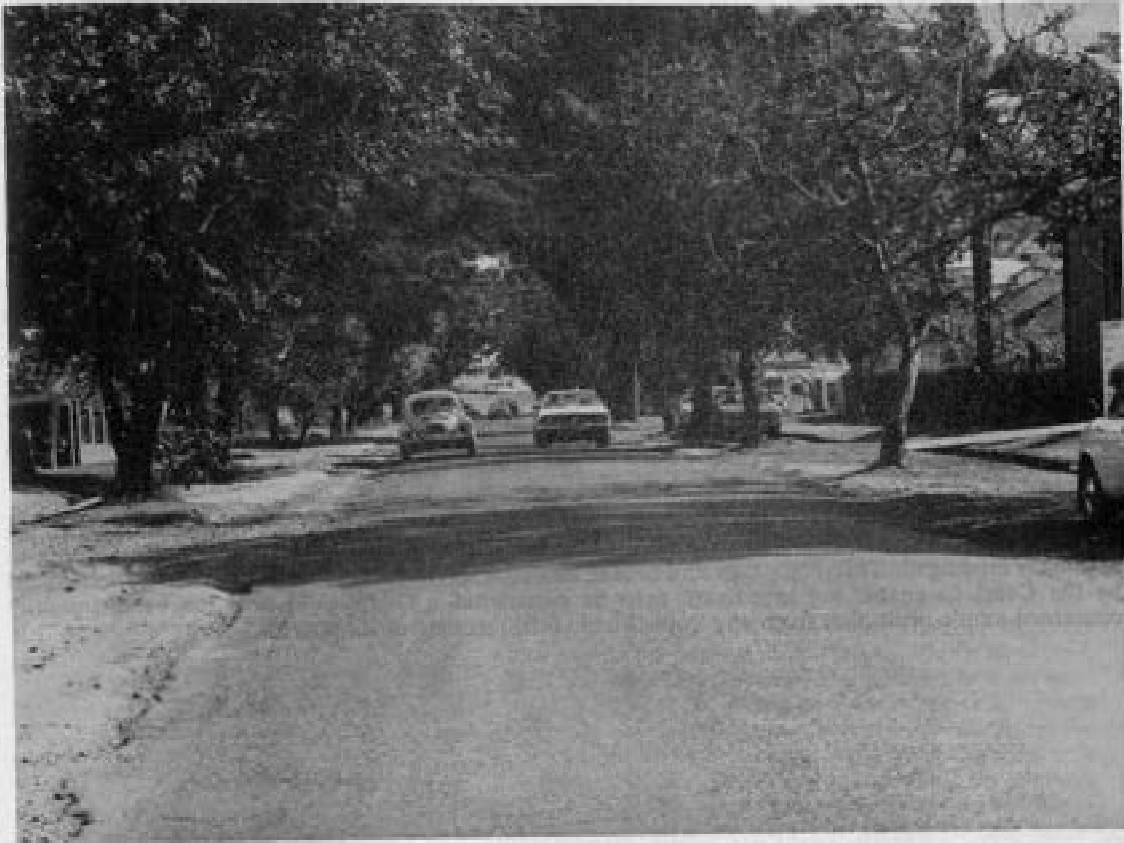
Council had also maintained that the proposed widening had been decided upon as a result of public pressure. My examination of Council papers failed to disclose the slightest evidence of any such pressure from Police, transport operators, citizen organisations or individual motorists.

Nevertheless, despite the fact that my investigation was then well advanced but still not concluded, a special Council Meeting was held at which, by a majority of two, Council resolved to proceed with the implementation of the road widening as planned. On my receipt of advice that Council intended to commence work within a few days I telegraphed a message emphasising the importance of deferring action until my investigation was completed. The Department of Local Government, of its own volition, also sent a telegram which noted that the final decision would rest with Council—as, indeed, was always clearly understood by me—but suggested, in view of strong local opposition to Council's proposal, that action be deferred pending my final report.

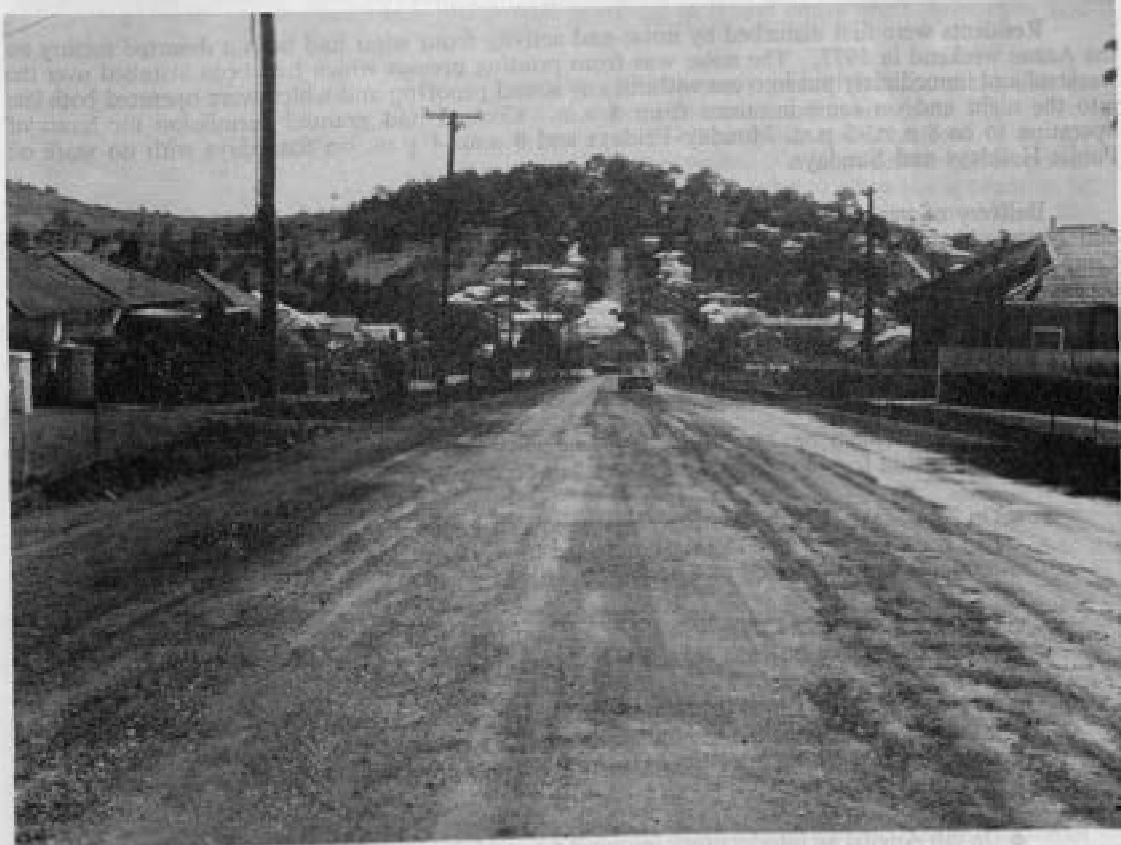
Notwithstanding the point which had been reached in my investigation; the views of the Department of Local Government, and representations received from the National Trust to the effect that it was impressed by the quality of the street as a whole and, at that stage, considered it to be a potential conservation area, Council proceeded with the destruction of the trees.

In so doing it demonstrated a total disregard for the intentions of the State Parliament in extending my jurisdiction to the area of local government. As stated in my subsequent Report to Parliament under Section 31(2) of the Ombudsman Act, Council's conduct was a completely unjustified and wilful act which cannot be reconciled with a proper appreciation of the obligations of public office.

It is well known that the office of Ombudsman has been created by the State Government because of the need felt over recent years for an independent and impartial mechanism for the review of decisions made by public authorities. The same need was felt in the area of local, as well as State, government, and the State Government extended my jurisdiction accordingly, no doubt anticipating that I would receive at the local government level, the same degree of responsible co-operation as I receive at government level needed to ensure the full realisation of its intentions.



Before



After

Within twelve months of the enactment of the relevant legislation by the State Parliament, the appointed Lismore City Council deliberately flouted the concept of an impartial review which Parliament sought to establish. Council pre-empted my decision, negated the complainants' right of complaint and removed the issue from the effective procedures of investigation and recommendation provided by the Ombudsman Act. As Parliament was later informed, this was done in the total absence of any urgency or any other conceivable justification, and in the context of extensive publicity.

And there was absolutely nothing I could do about it.

The practical outcome of my detailed, exhaustive, and impartial investigation is depicted in the two photographs of the classic before and after genre. The Garden City of the North will have to wait many years for what many regarded as its most spectacular street scene to be restored.

In view of the implications for the effectiveness of Parliament's intention as expressed in the Ombudsman Act, I recommended appropriate amendments of that legislation in anticipation of similar conduct by a local government authority in some future circumstance of even more serious consequence.

In my opinion the most appropriate amendment would be to give me power to apply to the Supreme Court where it appeared that action was being taken by a local government authority to negate my investigation of a complaint and to seek an order staying action for a period to be determined by the Court to enable my investigation to be completed. This would give the local authority concerned ample protection from any unjustifiable infringement of its powers.

MARRICKVILLE MUNICIPAL COUNCIL

Failure to prevent extended use of commercial premises in residential area

This complaint was from a group of residents concerning the failure of the local Council to prevent the operation of a printing factory situated near their homes outside normal business hours and to take action to control the noise emanating from the premises.

Residents were first disturbed by noise and activity from what had been a deserted factory on the Anzac weekend in 1977. The noise was from printing presses which had been installed over the weekend and immediately put into use without any sound proofing and which were operated both late into the night and on some instances from 4 a.m. Council had granted permission for hours of operation to be 8 a.m.-5 p.m. Monday-Fridays and 8 a.m.-1 p.m. on Saturdays with no work on Public Holidays and Sundays.

Delivery of paper for the presses and the receipt of completed work by large trucks again at odd hours added to the discomfort of the residents. They made numerous verbal complaints to Council and as no action appeared to take place on Council's part a Petition was forwarded to Council on 10th May, 1977. (This was after residents had been disturbed by the machinery and vehicle noise outside the approved hours of operation for a period of some two weeks). The Petition requested Council to direct the company to operate within the time limits imposed by the Council.

The following events then took place:

- Council replied on 24th May, 1977 agreeing and at the same time advised that the application for an extension of hours had been rejected.
- On 26th May, 1977 the company again requested extended hours claiming certain problems had been solved. The factory continued to work outside hours and a further Petition by residents was forwarded to Council on 28th May, 1977.
- On 11th July, 1977 Council in reply advised that an inspection of premises by Aldermen would take place on 16th July, 1977.
- By letter of 2nd August, 1977 Council asked the complainants if they would be witnesses in legal proceedings against the factory owner. They agreed and swore affidavits to support Council's case for an injunction to restrain the company from using the premises outside the permitted hours.
- On 9th August an interlocutory injunction restraining the company from using the premises outside the permitted hours, was granted by Mr. Justice Waddell in the Supreme Court.

- The next day 10th August, 1977 the company made application for the injunction to be dissolved and that application was heard and refused by the Court.
- On 12th August, 1977 the matter came before the court again. At that time the company consented to a permanent injunction against it in the terms set out above.
- The Judge however, indicated that, in order to protect the defendant's customers who were relying on the company for certain work that he would vary the injunction allowing operations till 11.00 p.m. on nine specific days only, with the hours of operation then to revert to those initially approved by Council.
- The residents by letter of 26th August, 1977 were requested by Council to appear before the Local Government Appeals Tribunal, which they did, to give evidence on behalf of Council opposing an appeal by the factory owner against Council's refusal to extend the hours of operation.
- At Council meeting on 6th September, 1977 the Chief Planning Officer reported on the Supreme Court judgment noting that the Judge had made rather "caustic comments" with respect to the defendant company.

The Judge had remarked that it seemed to him that "the defendant had adopted a tactic not unknown as a procedure of getting council consent to a development which is likely to cause opposition among nearby residents. That tactic is to apply for and get consent to a development which is innocuous. Having then established the development and having committed a substantial amount of capital to it, the applicant for development then presses on the Council financial reasons why the development should be permitted, as in this case, extra hours of operation or should be allowed to extend in some other way. In most cases, and it is particularly so in this case the ultimate extent of the development was almost certainly known at the time the application was made and there is no reason shown in the present case why the extended hours could not have been applied for in the very first instance. That would have been the honest way of approaching the Council. The way adopted by this defendant is, I think, as it nearly always is in the type of application I have mentioned, the dishonest way.

What happens is that, in a sense, a pistol is held at the head of the court or at the head of the Local Government Appeals Tribunal saying to the court or tribunal, "If this application is refused then it will create hardship to the appellants"—in this case in the matter before this court, of course, the defendant.

What is said to the court or tribunal is, "If you do not accept this application you are going to wreck the lives of the people involved in it and cause great dislocation and financial ruin.

Well, for my part, and I say this simply to make clear my general attitude to this sort of situation, if people choose to conduct their businesses in the way in which this application has been conducted, if the legitimate demands of planning considerations or of the enforcement of the local government law result in financial ruin to the people involved, that is not a matter upon which the court should rely in order to allow the application in question. These applications should be dealt with purely on the merits of the application and, in my view, courts and tribunals should not allow themselves to be diverted from taking the proper course by financial hardship of the kind here in question which is really self inflicted."

The Local Government Appeals Tribunal then heard the appeal on 12th, and 13th September, 4th and 5th October, 1977.

- By letter of 12th October, 1977 (received by residents on the 15th October, 1977) Council advised that following a *special meeting* of Council on 11th October, 1977 it had resolved to agree to the suspension of the injunction until 11th April, 1978.
- This was a complete reversal of all Council's earlier actions and led to me receiving the complaint.
- On 4th November, 1977 I wrote to Council asking why it had acted contrary to the spirit of the Court's and Tribunal's decisions.
- By letter of 22nd November, 1977 Council replied advising that it was arranging a conference of residents, the Company and Council.
- The residents declined (30th November, 1977) to attend such a conference because of the experience they had suffered following the Court hearings.
- By letter to Council dated 2nd December, 1977 the Company sought a further extension of hours which was considered at the Council meeting of 6th December, 1977 where it was not only agreed to extend the hours but to take off the six months proviso previously imposed.

During the above course of events one of the local newspapers reported extensively on Council's actions.

As part of my investigation I called for and perused Council's files. In addition one of my officers inspected the area and interviewed the local residents one evening.

In my letter to Council I advised it that it was my opinion that Council's conduct in suddenly (and without notice to affected residents) reversing the effect of the Equity Court granting Council injunctive relief and of the Local Government Appeals Tribunal not to permit extended hours of operation of the factory, was wrong in terms of the Ombudsman Act.

I went on to say that the decision of 11th October, 1977 in the light of the immediate preceding history, was quite surprising and taking into consideration the very strong language used by the Judge in the Supreme Court and the terms of the instrument of decision of the Tribunal, appeared even more so. I also remarked that the sheer waste of the Council's officers' time and energy associated with the investigations, the preparation of the litigation and giving of evidence, as well as the quite considerable costs to Council (and to ratepayers) of the litigation made the reversal of its attitude very difficult to comprehend.

The effect that such a complete "volte face" had on residents, whose complaint Council had previously championed and whose evidence was material to Council's stand in Court, must have been quite incredulous.

In informing Council that I considered its conduct to be "unreasonable and unjust" in terms of section 5 (2) (b) of the Ombudsman Act, I went on to say that as the then current operation of the factory was reasonably satisfactory to the residents that at that stage I did not intend to proceed towards a section 26 report to the Minister.

However, I did warn Council that should the situation deteriorate in that the factory did not comply with the conditions imposed by Council or if it again commenced to unreasonably disturb the peace of the residents that I would consider re-opening my investigation.

MOSMAN MUNICIPAL COUNCIL

Damage to Water Pipes Caused by Trees on Footpath

From time to time I have received complaints in respect of a number of Councils where damage has occurred to either sewerage pipes or water pipes due to the roots of trees, some of these relating to pipes within the boundaries of properties others to pipes outside the boundaries.

Where such damage occurs within the boundaries of a property and is caused by a tree growing on a footpath outside the position seems to be that liability is generally accepted, subject to establishment of the facts.

However, difficulties arise where the tree is growing on the footpath and the damage is caused outside the boundaries of the property but between the Water Board's pipeline and the property of the complainant.

One such matter involved the following facts:

- (1) Damage to the water pipe leading into the complainant's property was caused by the roots of a tree growing on the footpath.
- (2) An officer of the Council was present when the area was excavated and confirmed this.
- (3) The damaged pipe was outside the boundary of the owner's property.
- (4) A claim was made by the complainant for \$103.70, being the cost of repairs to the damage but this was rejected by the Council on the basis of its solicitor's somewhat ancient advice that where such damage is caused by trees outside the owner's property the Council is not legally liable as it is the owner's responsibility to ensure that the pipes are adequately protected from possible damage by trees growing on a public footpath.
- (5) The general principle on which this is based is the fact that the public road, which includes the footpath, is vested in the Council in fee simple and that the owner who lays a water service or sewer line under the road is merely a licensee and Council's obligations to such persons are limited. Further, Section 240 (1) (f) of the Local Government Act confers power on Councils to plant trees on the road and provided that it does not exercise its powers in a negligent manner it cannot be held liable in damages arising out of the proper exercise of its powers.

In the course of my investigations I raised with the Council queries as to the legal position and requested the Council's comments with regard to the following:

"The opinion is limited to the question as to the liability of the Council on the basis of negligence. No consideration has been given in applying it to the present matter as to when the water pipes were laid, when the tree was planted, whether an oleander tree is more likely to cause such damage than other types of trees and whether in fact the Council was not negligent. In addition, no consideration was given in the opinion as to whether in such matters as this Council might be liable on the ground of nuisance."

In reply the Council advised that its solicitors had reconsidered the opinion and considered that the general principles expressed to the Council in the past were still applicable. They further stated that, in their view, it is the property owner's responsibility to ensure that the pipeline is adequately protected against possible damage by trees growing on the footpath.

As to the other matters, the Council did not consider them to be relevant but had given them consideration and replied as follows:

- The water pipe in question was copper and the question arises as to whether this is the original service pipe. If it was not the original pipe, was it replaced before or after the oleander trees were planted?
- The leak occurred in the pipe at a joint. Was this joint adequately sealed when initially installed?
- Who planted the oleander trees? Council's records do not reveal whether Council planted the oleander trees; however, as there were only four oleander trees on the footpath in the Avenue, and these were outside No. 9, then it is perhaps not inconceivable that either a previous owner or the present owner of this property may have planted the trees.
- Council's Engineer has advised that oleander trees have strong root systems, however, it has been Council's experience that tree roots of any type have rarely caused damage to water services. The trees causing most problems in relation to sewer pipes are poplar trees, willow trees, palm trees and oleander trees."

The question raised as to liability in nuisance was not answered until the Council's letter of 24th October in which the following views were expressed—

"Your letters of 28th April and 30th September last refer to nuisance, but are silent as to whether the nuisance to which you refer is private or public in its character. If the former is intended, it is difficult to see how any liability could exist in Council. Private nuisance is concerned with the protection of an occupier's interest in the beneficial use of his land and is actionable only at the suit of the person in possession of the land injuriously affected. The road in question is vested in and occupied by the Council and no invasion of Mr X's land occurred.

If the latter is intended, it is equally difficult to find any basis for liability in Council. Public nuisance is an act or omission which affects the reasonable comfort and convenience of life of a class of the public in the exercise or rights which are common to all Her Majesty's subjects. No general right exists in Her Majesty's subjects to place or maintain pipes in a public roadway. That this is so is recognised by the provisions of sections 420 and 421 of the Local Government Act.

Council's solicitors, having further considered the matter, are of the opinion that Council is not liable to Mr X on the ground of nuisance."

Whilst agreeing that there is no invasion of Mr X's land, I pointed out that the pipes appear to be his property and therefore there could be liability.

I was also concerned that Council's actions could have led Mr X to believe that his claim would be met. Amongst other things, the Council advised me of the terms of notification included in its 1977 "Report to Ratepayers", with regard to sewer pipes to the following effect:

"Blockages of Sewer Pipes by Street Trees"

From time to time, Council receives claims from ratepayers alleging that the roots of street trees have caused damage to sewer pipes serving their properties.

In general terms, Council has no legal responsibility where the pipes affected are on a public road, but in some cases, depending on the circumstances, Council may make an ex gratia payment to the property owner.

However, it is imperative that Council be informed at the time when the blockage is being cleared, in order that the necessary inspections and investigations may be made by a Council official to ascertain the cause of the blockage.

If this is not done, any subsequent claim will not be considered by Council".

I have noted that the same wording is included in the 1978 "Report". I was aware that the Council in at least one case recently had made an ex gratia payment to the owner of a property but the circumstances were to some extent exceptional in that whilst the blockage occurred outside the property boundaries, the owner had on two previous occasions suffered damage as a result of roots from the trees and had not made a claim on the Council. The Council made an ex gratia payment of one half of the claim.

However, in my view, the form of the notification could mislead ratepayers into believing that there was a reasonable chance of receiving payment and I suggested that the Council might give some consideration to altering the wording and including also reference to water pipes.

I added that I was also aware from other matters investigated by me that the Council's attitude was not shared by at least some other Councils. These look more to the same criteria as are set out in my letter to him of 28th April last, as the basis for determining the question of the Council's liability.

These criteria were:

When were the water pipes laid?

When was the tree planted?

Whether an oleander tree was more likely to cause such damage than other types of trees.

Whether in fact the Council was not negligent.

I readily accept that the state of the law is by no means clear and it is perhaps regrettable that in matters such as these the amount involved is comparatively small and does not warrant the matter being tested legally.

I advised the complainant and the Council that I had considered the matter carefully and whilst I had doubts as to whether the Council's view with regard to the legal position was correct, I could not see that I could find its conduct to have been wrong in refusing payment. Therefore I concluded my investigation.

MUMBULLA SHIRE COUNCIL

Payment of Rates by Instalments

My complainant in this case was a ratepayer who was placed in an awkward situation by the late levy by the Council of the 1977 rate notices. Quite a number of 1977 rate notices including my complainant's were levied in October, 1977 after receipt of further valuation information from the Valuer General.

My complainant elected to pay rates by instalments under the provisions of section 160DA of the Local Government Act and paid the first instalment in November, 1977 with the further instalments of his 1977 rates becoming due in January, March and May, 1978.

The 1978 rates were levied by the Council in January, 1978 and provided for instalment payments under section 160DA to become due in February, April, June and August, 1978. This resulted in an overlapping of instalment dates in the case of my complainant who was required to pay his 1977 and 1978 rate instalments as follows:

| | | | | | | | | | \$ |
|----------------|----|----|----|----|----|----|----|----|-------|
| November, 1977 | .. | .. | .. | .. | .. | .. | .. | .. | 78.08 |
| January, 1978 | .. | .. | .. | .. | .. | .. | .. | .. | 78.08 |
| February, 1978 | .. | .. | .. | .. | .. | .. | .. | .. | 96.50 |
| March, 1978 | .. | .. | .. | .. | .. | .. | .. | .. | 78.08 |
| April, 1978 | .. | .. | .. | .. | .. | .. | .. | .. | 96.50 |
| May, 1978 | .. | .. | .. | .. | .. | .. | .. | .. | 78.08 |
| June, 1978 | .. | .. | .. | .. | .. | .. | .. | .. | 96.50 |
| August, 1978 | .. | .. | .. | .. | .. | .. | .. | .. | 96.50 |

In response to my initial approach the Council indicated that it was not possible to vary the instalment dates in accordance with section 160DA of the Local Government Act apart from allowing my complainant to pay combined instalments each of \$155 and payable by the end of February, April, June and August.

The Council pointed out that the only way relief could be provided to my complainant would be for the Act to be amended to provide:

"That where a ratepayer is paying any previous year's rates under the provisions of section 160DA he must give written notice of his intention to pay the current rates within one month from the date of levy of such rates but the first instalment for the current rates be payable two months after the payment of the last instalment of the previous year's rates and the second, third and fourth instalments to be paid at two monthly intervals after the first such instalment is paid."

I then approached the Council again drawing attention to section 160D of the Local Government Act which enabled a Council upon approach by a ratepayer to agree to accept payment of rates by instalments and where the ratepayers complied with the terms and conditions of the agreement, the Council may write off or reduce extra charges in respect of these rates.

I also pointed out that in reply to an approach by me about a proposed amendment to section 160DA, the Minister for Local Government advised that despite the fact that a person may forfeit his right to pay instalments under section 160DA of the Act, it would still be competent for the Council concerned to permit payment of the remainder of the rates by instalments under the provisions of section 160D of the Act on any basis as appears to Council to be appropriate and to write off or reduce extra charges where the terms and conditions of any agreement under the section are met.

In view of the wide discretionary powers at present available under the provisions of section 160D, I therefore suggested that Council may consider allowing my complainant to pay his 1977 and 1978 instalments under that section along the lines suggested in the Council's suggested amendment to the Act, i.e. that the first instalment of the 1978 rates be payable two months after the last instalment of the 1977 rates and that the second, third and fourth instalments be paid at two monthly intervals after the first instalment is paid.

Following my further approach I was advised by the Council that it had adopted the policy which provided that where a ratepayer was paying rates by instalments under section 160DA and the final instalment is due in February or later of the following year Council will allow such ratepayer to pay the current year's rates by four equal instalments the first to be paid two months after the last instalment of the previous year's rates and provided all rates are paid by the due dates extra charges will be written off under the provisions of section 160D.

I was pleased to be able to advise my complainant of the revised policy adopted by the Council, the effect of which in his case was to provide for the instalment payments of his 1978 rates to become due at successive two monthly intervals after the due date of the last instalment of his 1977 rates.

RYDE MUNICIPAL COUNCIL

Failure to accept liability for damage to pipes and to maintain a road

Early in October, 1977 the complainants found that they were having sewerage problems. When they employed a plumbing firm to check their sewerage pipes it was discovered that the pipes in the road at the rear of their property had been smashed due to heavy vehicles passing over them. As a consequence the complainants took action to have the damage repaired and incurred costs of almost \$1,000.

The complainants learnt that Council had granted permission to a neighbour in August, 1975 to use the rear access to his property subject to certain work being done to the road to make a satisfactory surface. They felt that as Council had granted permission for the road access the responsibility lay with Council. The road concerned was a grass track and at no time had any attempt been made to surface it. The neighbour concerned had been moving heavy trucks on the road.

When the complainants approached Council they were informed that any damage caused to the sewer line, and future protection to prevent further damage, was a matter to be resolved between themselves and their neighbour. Moreover, Council stated that the letter of August, 1975 was an approval to construct the rear access following the neighbour's request.

The complainants and their neighbour maintained that had Council made a careful study of the stability of the road before permitting its use by heavy vehicles the damage would probably never have occurred. While Council was not prepared to accept liability for the damage they were now considering doing some work to the road. In the complainant's view this indicated that Council was accepting some responsibility.

They then complained to me about the matter and to the Minister for Local Government, through their local Member.

When I raised the matter with Council, it informed me, amongst other things, that the matter had been referred to Council's insurers for consideration.

When I spoke with the local Member his feelings were that Council was responsible for the damage. However, after I had looked into the matter I told him that there was some doubt as to the liability of Council, nevertheless, I had decided to inspect the property concerned.

After inspecting the property it seemed to me that Council's current actions appeared to relate more to the provision of a suitable crossing and not to any question of acceptance or non-acceptance of liability for the damage. I informed the complainants that their legal position was doubtful but the aspect I would inquire into was whether there was any moral responsibility on the Council sufficient to warrant suggesting to Council that it should pay the plumber's account.

At this point in time Council wrote to me and indicated that following discussions with the solicitors involved, Council had been informed by them that no legal liability attached to Council. However, a "without prejudice" offer was to be made to the complainants as a gesture of good faith and public relations. I informed the complainants of this and, in due course, Council advised me that the offer of fifty per cent of the costs involved was accepted.

I, therefore, discontinued my inquiries.

SHOALHAVEN SHIRE COUNCIL

Reversal of Attitude to Subdivision Drainage

On the 16th June, 1977 I received a complaint about a decision by Shoalhaven Shire Council to allow the subdivision of an area of land with a known drainage problem, with the use of an absorption pit drainage system to which Council had apparently previously been rigidly opposed over a period of years.

The matter was raised with the Council, with particular reference being made to the complainant's concern at the use of an absorption area for the disposal of stormwater drainage. Following consideration of Council's initial advice I sought details of any technical assessments which Council had taken into account, including any reports relating to environmental/health implications, absorption capacity and insect/vermin breeding potential, and also requested the submission of all of Council's relevant papers.

The material submitted by Council was carefully examined and it was evident that Council had been resolutely opposed over a number of years to the use of an absorption pit, or sump, when that method of drainage was opposed for a smaller subdivision envisaged before the land was acquired by the successful applicant for Council approval.

Indeed, Council had been adamant that subdivision could not proceed unless and until the land could be drained to a nearby road, and that road could itself be satisfactorily drained. Council's position was defended before the Board of Subdivision Appeals and upheld by the Board.

Council's opposition to the absorption pit drainage was based on the recommendations of the Shire Engineer and, later in the same year in which the abovementioned appeal had been decided in its favour, Council conveyed the views of the Engineer to the owner's representatives, indicating that "for these reasons the proposal is impractical and would not be acceptable to Council, which is already faced with rectifying drainage problems in Shoalhaven Heads at considerable expense to the rate-payers".

Later, when early in the course of the following year experiments were carried out to test absorption pit disposal, Council re-affirmed that it would "appear that the only suitable method of disposal of drainage is by means of piping". A further report by the Shire Engineer in the same year indicated that, as the area involved was a basin, flooding could be expected from absorption drainage, that the useful life of that system was uncertain, and that another developer in the area had been required to provide piped drainage in similar ground. The recommendation accepted by Council was that "an alternative method be adopted by the subdividor such as a piped drain".

Towards the end of the year an officer of Council viewed a field test of an absorption pit to act as storm water drainage disposal for the proposed subdivision, and reported that "observations indicate this method to be unsuitable for storm water disposal".

Council adhered to its opposition to the system and the land was then sold by the applicant who apparently did not feel prepared to undertake drainage on any other basis.

The new owner discussed the problem of drainage with the Council's Shire and Subdivisional Engineers and drainage systems were proposed which would carry stormwater out of the area of the subdivision. However, subsequent Council discussion led to the adoption of a motion that "the Shire Engineer negotiate with the subdividor concerning other possibilities for the disposal of drainage water from the subdivision including the establishment of a soakage pondage area within the subdivision area and submit a report to Council at its next meeting".

The Shire Engineer, acting apparently solely on the basis of Council's resolution, obtained the agreement of the owner to the use of an allotment within the subdivision as a soakage area for stormwater drainage, and Council adopted his ensuing recommendation that that method of drainage be accepted.

My close examination of Council's papers disclosed no evidence whatsoever of any technical re-assessment at the time which could conceivably have justified the adoption of a method of drainage which Council had considered repeatedly in the past, and consistently found to present serious difficulties and to be inimical to the public interest.

The only change which appeared to have taken place was in the ownership of the land.

Accordingly, I detailed the outcome of my investigation to that point in a report addressed to the Shire President, in which I also indicated that, having regard entirely to the evidence presented on Council's own papers, I was of the view that the conduct of Council resulting in the approval of the soakage pit disposal of stormwater within the subject subdivision could be found to be wrong in terms of section 5 (2) (c) of the Ombudsman Act, inasmuch as it was based on motives, grounds or considerations which did not take sufficiently into account the implications of the scheme for the general public interest, and the evidence to which I have referred.

In conveying this tentative view to the Shire President, I commented that:

"Council's apparently inexplicable adoption of a course it previously adamantly opposed was bound to give rise to some disquiet. Having regard to the tenor of the recorded consideration of just this method of stormwater drainage over a number of years, which forms the larger part of Council's sizeable file, it is surprising to note that Council is informing concerned parties that "the soakage pit is an experiment and its performance will be closely observed over a long period and if it is not satisfactory an underground pipeline system will be introduced".

On the evidence of Council's own papers, there appears to be little need for any experimental approach: it appears inevitable that the problems discussed in the correspondence and reports quoted above will manifest themselves soon enough".

Indeed, Council's approval encompassed a possibility of failure and the installation of an underground pipeline system if necessary—presumably at public expense, the very possibility that Council had sought so assiduously, over a number of years, to avoid.

The Shire President replied that the reports to Council following the change in ownership of the land were made orally by a new Shire Engineer who had favourable experience of soakage pits in similar terrain during his employment by another council. The President pointed out that the soakage pit which had been approved by Council was so much larger than those contemplated previously as to place the matter in a completely new perspective. The President emphatically denied my assertions in regard to the question of wrong conduct on the part of Council.

In view of the concern expressed by the President I emphasised in my reply that the direction of my thinking was governed entirely by the material submitted at that time by Council. Relevant extracts of my final letter to the President are as follows:

"As you will recall, my letter dealt exclusively with the evidence Council had presented, and for a greater part was simply a resume of Council's recorded extensive involvement with the question of the practicability of using an absorption pit to drain a subdivision of the subject land.

At no time during the course of Council's protracted consideration was there any suggestion that any modification including, in particular, amplification, would make the concept of an absorption pit acceptable to Council, which had had unfavourable experience which argued against its use, according to the Shire Engineer's report dated 13th June, 1972. The then owner had no recorded reason to believe that he was confronted with anything other than firm Council opposition to the principle of the only solution to the drainage problem which would, in his view, allow an economically viable subdivision. As you know, the then proposed subdivision was not proceeded with, and the undeveloped land was sold to the present owner. This latter change of ownerships was, as stated in my previous letter, the only documented change in the position.

No indication was given, prior to your letter under reply, that the Council's subsequent reversal of the opposition to the absorption pit system it had vigorously maintained over a period of years reflected an increase in absorption capacity and rate sufficient to alleviate Council's apprehension about the long term efficacy of the method itself. In the absence of guiding advice the difference in physical dimensions was related to the change in the size of the area to be drained.

Nor was any indication given that the issue had received fresh consideration by a new Shire Engineer with previous favourable experience with soakage pits of the different scale now involved. The evidence indicated only that the review leading to the acceptance of the absorption pit was wholly an initiative of Councillors, and no material was furnished to demonstrate that the matter had subsequently received the careful consideration it warranted.

* * * * *

As you will know, the independent investigation of the conduct of any public authority has as an important function the vindication of the authority's decisions and actions, and the re-assurance of the public that any misgivings are unfounded, where this is the case—as it is in the greater majority of matters placed before me.

It is, of course, essential that my decisions are made on the basis of a thorough understanding of the position and, in this regard, I do feel that my earlier assessment of the subject case would have been very much improved had I been made aware that Council's seemingly inexplicable reversal of approach had arisen from a fresh appraisal by a new Shire Engineer, with previous favourable experience of the absorption pit drainage system, and a change in scale which had substantial significance for the operation of the system, beyond the expansion of the size of the subdivision".

Enquiries established that soakage pits of the dimensions proposed by the new owner were operating satisfactorily in other areas and in the circumstances my investigation was discontinued.

SYDNEY CITY COUNCIL

Imposition of interest charges following late payment of rates

It is sometimes the case that, in the course of investigating a complaint against a public authority, matters of a more general and far-reaching nature arise which need to be clarified or investigated.

I received a complaint from a widow who felt that Council's action in imposing interest charges in relation to the late payment of her 1976 rates was unfair, particularly as Council had informed her that it was not Council's policy to waive interest charges.

It is not necessary to relate details of my complainant's circumstances except to say that the death of her husband and the resultant action needed to finalize his estate had probably contributed to the late payment of her rates. She expressed to me the view that Council's policy of not waiving interest charges appeared to be inflexible and to take no account of individual circumstances.

I took up the matter with the Lord Mayor who subsequently told me that my complainant had informed Council in mid January, 1976 that she would be unable to pay rates due on 5th February, 1976 until certain assets in her late husband's estate had been realized. The complainant had been formally advised that statutory interest would accrue on any rates outstanding after 5th May, 1976, at the rate of 10 per centum per annum from the due date (5th February) until payment was made.

The rates were eventually paid on 16th September, 1976, by which time interest charges of \$38.42 had accrued.

The Lord Mayor went on to say:

"It is not Council's policy to forego interest charges on overdue rates, and I am informed that although section 158A of the Local Government Act provides that Council may write off extra charges if it is of the opinion that the rateable person was unable for reasons beyond his or her control to pay the rates when they became due and payable, the circumstances of the present case are such as to preclude waiver of these charges".

Section 158A of the Local Government Act states:

"The council may write off extra charges in respect of rates levied for any year on any land within its area or within such part of its area as the council may determine, or upon any rateable person, if it is of opinion that—

- (a) payment of those extra charges would cause hardship to the persons rateable in respect of that land or to that rateable person as the case may be; or

- (b) the persons ratable in respect of that land, or that ratable person, as the case may be, were or was unable for reasons beyond their or his control to pay those rates when they became due and payable”.

The terms of the Lord Mayor's reply clearly inferred that the complainant's individual circumstances had been considered but, as details of those circumstances were not revealed, I asked that Council's file be made available for my perusal. Examination of the file revealed that the complainant's individual circumstances had not really been considered.

In an attempt to clarify the intent of the Legislature in adding section 158A to the Local Government Act, I considered the comment made by the then Minister when introducing the relevant Bill. The Minister had this to say:

“A further amendment relating to rates is one which will give any council, without entering into an agreement to accept payment of rates by instalments, the power to waive or reduce extra charges in respect of rates levied for any year on land within its area or within any particular part of its area where it is of opinion that payment of these extra charges would cause hardship or where for reasons beyond the control of a ratepayer or a section of ratepayers it is not possible for rates to be paid within the time allowed. This amendment is designed to assist those, for example, who may meet financial difficulty because of a drought such as that which is so seriously affecting parts of the State at the present time. It also, perhaps, will meet the case of a deceased estate where it is sometimes impracticable until probate or administration is granted, for any person to pay rates due on land of that estate.”

In due course, I again wrote to Council pointing out that there was nothing on Council's file to show that my complainant's individual circumstances were looked at in any meaningful way to determine whether or not she was a person who should be afforded the relief offered in terms of section 158A of the Local Government Act or that her application for waiver of the extra charges was ever considered by Council itself. I sought further comments in this regard.

In addition, I said that it seemed reasonable to assume that the intent of section 158A was to enable persons, who find themselves in the situation described in sub-paragraphs (a) and/or (b) of the Section, to seek some relief from the automatic operation of the provisions of section 158 and to give Councils a discretionary power to afford such relief to its ratepayers.

I went on to say:

“The exercise of a discretionary power requires, I am sure you will agree, that the circumstances of each individual case be considered and that a decision be reached as a consequence of that consideration. This concept seems to me to be embodied in the terms of section 158A which enables a Council to take certain action if it forms the opinion that particular circumstances exist in an individual case. I suggest that it would be extremely difficult for an informed opinion to be arrived at unless all of the available, relevant material in each case, was examined.”

I asked Council to let me have further information about the following aspects:

- (a) the procedures adopted to ensure that applications for waiver of extra charges are properly considered, bearing in mind the provisions of sub-paragraphs (a) and (b) of section 158A; and
- (b) the particular circumstances that would need to exist before Council would be prepared to favourably consider such an application and, in this regard, whether Council had formulated any guidelines for its administrative staff to assist them to deal with such applications.

Council subsequently replied as follows:

“... it is advised that Council has maintained a consistent attitude in relation to the discretionary powers given to it under section 158A of the Local Government Act, in relation to the writing off of extra charges, since the inception of the section.

If a ratepayer has been correctly and legally issued with a rate notice and experiences difficulty paying the outstanding rates sympathetic consideration is always given to the extension of the time allowed for payment according to the circumstances, with the proviso that the provisions of section 158 of the Local Government Act, relating to extra charge on overdue rates, will be enforced.

It should be noted that the rate of interest charged by Council, 10 per cent per annum, compares favourably with bank overdraft interest rates.

It is pointed out that notwithstanding the possible intent of section 158A as outlined in your letter the wording of the section does indicate that ‘The Council may write off extra charges . . .’.

The only exception to Council's policy in relation to extra charges on overdue rates as outlined above is in respect of rates due by 'eligible pensioners'. Council resolved on 4th January, 1977—

'That Council's policy in relation to the reduction of rates due by an "eligible pensioner" as defined in section 160AA of the Local Government Act, 1919, be continued in respect of rates due by pensioners in the year 1977, as follows:

- '(i) following the mandatory reduction of rates due by an "eligible pensioner" "under section 160AA of the Local Government Act, 1919—
 - (a) in respect of "eligible pensioners" "whose total rates before reduction do not exceed \$100, the reduced amount of the rates shall be written off, and
 - (b) in respect of "eligible pensioners" "whose total rates before reduction exceed \$100 the reduced amount of the rates shall remain as a charge upon the land until such time as the land is no longer in the ownership of the" "eligible pensioner" ".
- (ii) Statutory extra charges accruing on the balance of rates due by an "eligible pensioner" " , be written off to Revenue in respect of the year 1977 under the provisions of section 158A of the Local Government Act, 1919;
- (iii) in cases where an "eligible pensioner" "considers that the adoption of the procedure referred to in the foregoing sub-paragraph (i) would cause hardship, application may be made to the Council for the balance of the rates to be written off and each application will be dealt with on its merits.' "

I informed Council that, in my view, the position could be summarized as follows:

- (a) Council had always adopted the practice of not granting, except to eligible pensioners, the relief provided for in section 158A of the Local Government Act.
- (b) Council's practice in this regard appeared to have the effect of restoring the situation that existed before the legislature added section 158A to the Act and, moreover, the practice appeared to operate in such a way (i.e., by "blanket" application) as to eliminate the possibility of any ratable person, other than an eligible pensioner, having his particular circumstances examined in relation to section 158A or benefiting from the relief provided in that section.
- (c) It seemed to me reasonable to expect that there would be ratepayers in Council's area who were not eligible pensioners but, nevertheless, whose circumstances would warrant some examination by Council in relation to the imposition of extra charges.

I noted that Council had not commented regarding the lack of evidence pointing to any meaningful examination of my complainant's circumstances, even though I asked that further comments be made and, this, I felt supported my view that Council's practice in this regard was applied in "blanket" fashion.

I went on to say:

"I am, therefore, of the view that Council's conduct in this regard, both in the case of (the complainant) and generally, could be found to be wrong in terms of section 5 (2) (b) of the Ombudsman Act. In saying this, I do not dispute that in terms of section 158A of the Local Government Act, Council has a discretionary power. At this stage, however, I am of the view that Council is not acting properly in the exercise of that discretionary power, bearing in mind what appears to be the intent of the section.

In the circumstances, I wonder whether Council ought not alter its practice so far as the general application of section 158A is concerned and, in the case of (the complainant) take steps to properly consider the circumstances which, in her contention, constitute hardship.

Before I reach any final conclusion in this matter I would appreciate your further comments about the matters I have raised.

The Town Clerk later informed me that the case had again been fully investigated and that every possible opportunity had been given to produce evidence of hardship to enable Council to make a decision in terms of section 158A. However, the complainant had not produced any evidence to support a claim of hardship and Council had, therefore, decided that no action to waive the extra charges raised should be taken.

I informed my complainant that, as she had not availed herself of the opportunities extended to her by Council, I was unable to take her complaint any further.

After many months and several reminders from me, the Town Clerk, on 27th February, 1978, informed me that Council had decided that, in future, all applications under section 158A of the Local Government Act would be considered on their individual merits. In the circumstances, I decided to take no further action in the matter.

WARRINGAH SHIRE COUNCIL

Failure to enforce Council's policy relating to the keeping of horses

I received a complaint that the Council had failed to take appropriate action to enforce compliance with its own policy relating to the keeping of horses, insofar as it related to the keeping of two horses on a block of ground adjoining my complainant's residence.

In approaching me about the matter my complainants stated that their approaches to Council over a period of about six months had met with little success. They pointed out that:

- (1) Due to the slope of the land, manure was washed into their yard during wet weather.
- (2) Cockroaches were becoming an ever increasing problem and breeding in the grass.
- (3) The ever increasing incidence of flies was becoming a health problem.
- (4) An offensive odour emanated from the paddock.
- (5) The paddock in which the horses were kept was fenced by wire and posts only and the horses had broken the fence and strayed into the complainants' back garden.

I ascertained that, as a result of complaints made by my complainants to Council in mid-July, 1977, an inspection was carried out by Council Officers. Subsequent to this inspection a letter was forwarded to the owners of the horses advising them that a further inspection would be made in a month's time and that, should conditions not be satisfactory, the matter would be referred to Council for determination.

A further inspection after expiration of the time given indicated that unsatisfactory conditions still prevailed. Nevertheless, the Inspector discussed the matter with the owners of the horses who undertook to regularly clean the property.

A further inspection was then carried out in October, 1977, when it was reported that two horses were on the site together with an accumulation of manure and the presence of flies, etc. Following this inspection, the matter was considered by the Community Services Committee of Council on 16th November, 1977. The Committee recommended:

"That the matter be deferred and that the parties concerned be invited to address the Committee at the next appropriate meeting."

This recommendation from the Community Services Committee was placed before an Ordinary General Meeting of the Council on 28th November, 1977. A motion:

"That Council exercise its powers under section 289 (e) of the Local Government Act to control and regulate the premises to prohibit the keeping of horses thereon and the owner to be advised and given 21 days within which to comply, failing which the matter be referred to Council's solicitors for appropriate action."

was defeated and subsequently Council adopted the Committee's recommendations to it.

Accordingly, the parties concerned were advised of Council's decision and invited to attend a meeting to be held on 15th February, 1978.

A perusal of Council papers in this matter revealed that, as the horses had been kept on the subject property for a period of up to three years, apparently without any adverse effect on the adjoining residents, it was considered that a further delay in an endeavour to resolve the matter to the satisfaction of all concerned was not unreasonable in the circumstances. I was assured by the President of the Council that he would instruct a senior member of the Health and Building Department to call on the owners of the horses in an endeavour to ensure that the property was maintained in a condition as hygienic as possible.

I obtained a copy of Council's code relating to the keeping of horses on premises within the Shire which is set out hereunder.

POLICY RE KEEPING OF HORSES ON PREMISES WITHIN THE SHIRE

- (1) Implementation of the powers conferred by section 289 (e) of the Local Government Act, the Public Health Act and Clause 12 of Ordinance 39.
- (2) That Council agrees on a general policy in zonings other than Non-Urban and unless special circumstances exist that horses be limited to one per allotment.
- (3) No horse to be kept closer than 30 ft to any dwelling or other specific building or such greater distance as the Council may by resolution require in the circumstances.

- (4) Provision of a stable be not insisted upon and that reasonable alternative shelter be accepted, but that where a stable is provided, such to be provided with impervious floor drained to Council's satisfaction and be the subject of a building application.
- (5) Provision of a space approximately in dimensions and area to 50 ft x 25 ft for each animal.
- (6) Yard and premises to be sufficiently fenced to prevent the escape of animals and to be drained to Council's satisfaction.
- (7) Provision of a waterproof and flyproof manure receptacle.
- (8) All manure to be removed from the yard and paved areas daily, and from the premises once at least in every seven consecutive days.
- (9) All feed receptacles to be verminproof and flyproof.
- (10) Premises to be maintained at all times free from nuisance, flies, vermin and offensive odour.

This code came into being following a Meeting of Council on 11th January, 1971, when it was resolved that the code as outlined be adopted and implemented.

Following receipt of advice from Council about the proposed meeting on 15th February next, my complainants again approached me and stated that any further delay in Council implementing its policy was considered unreasonable in view of the summer months and other factors involved. In addition, because of the imminent birth of her child, one of my complainants did not know whether she would be in a position to attend the meeting and as the husband worked shift work it might not be possible for him to be in attendance either.

Accordingly, an inspection of the area was then carried out on 29th December, 1977, by one of my senior officers. The position was as set out by the complainants although, at the actual time of inspection, there was no great accumulation of manure because the owner of the horses was cleaning the block at the time.

However, there was no shelter provided for the horses and the fence around the block was of such a construction that it appeared that it could be broken quite easily without any great effort. There was no flyproof manure receptacle and the presence of flies was rather noticeable.

I was of the opinion that having adopted a general policy relating to the keeping of horses on premises within the Shire, it was then the responsibility of Council to ensure that such policy was strictly complied with. It did not seem to me that the presence of complaints by affected persons really had relevance on Council's responsibilities in matters such as this. There was no doubt that in this particular case the policy of Council insofar as it related to the keeping of horses on the subject premises was not being complied with and I could see no valid reason for Council deferring the taking of action merely to allow further discussions between the owners of the horses, Council Officers and persons who may be affected by the presence of the horses. Indeed, very little effort seemed to have been made by the owners to comply with the standards set down by Council, and in the circumstances I was of the opinion that the conduct of Council, in failing to take appropriate action to ensure compliance with its own code relating to the keeping of horses on premises within the Shire, was wrong in terms of the Ombudsman Act.

I therefore formally found that the Council's conduct in the matter was wrong in terms of the Ombudsman Act in that it had failed to enforce its own policy in regard to the keeping of horses in the Shire, and I made a report accordingly, pursuant to section 26 of the Ombudsman Act.

In that report I recommended that Council take immediately steps to ensure compliance with its stated policy on the keeping of horses.

The Shire President replied in the following terms:

"In view of the recommendation in your Report and a further discussion I have had with Council's Shire Health Surveyor, I am placing the matter before Council at the next available meeting which will be on 8th February, 1978, with the following recommendation—

'That Council exercise its powers under section 289 (c) of the Local Government Act to control and regulate the premises to prohibit the keeping of horses thereon and that the owner of the property and the owner of the horses be advised of this decision and be given twenty-one days within which to comply, failing which the matter be referred to Council's Solicitors for appropriate action.'

I anticipate that Council will resolve as recommended and trust that compliance with the orders to be issued will bring this matter to a satisfactory conclusion."

One week later the Shire Clerk advised me as follows:

"Further to the President's letter to you dated the 6th February, 1978 it is now advised that his recommendation was adopted by Council and the Health and Building Department has been instructed to implement the resolution.

Council thanks you for your interest in this matter."

I presented copies of my report to the Shire President, the complainants and the Minister for Local Government.

WILLOUGHBY MUNICIPAL COUNCIL—DEPARTMENT OF MAIN ROADS

Denial of liability for damage to water pipe in roadway

The complainant was a war widow living beside a declared Main Road in the metropolitan area. She complained that her copper water service which ran under the main road, had started to leak and caused a large pothole to form in the roadway and that she had been forced to have it repaired at a cost of \$142.90.

She alleged that the cause of the damage to the copper pipe was the corrosive action of the ashes in the road base, in which the pipe was laid.

The lady informed me that the Department of Main Roads, Metropolitan Water Sewerage and Drainage Board and Council had all denied liability for the cost of the repairs. In addition, the Department of Main Roads would not waive the road opening and closing fee.

She did inform me that a year or so previous to her complaint, a neighbour who suffered similar damages to his water pipe for the same reason, had been granted an ex gratia payment by the Council for the cost of repairs.

I took up the matter with Council, making reference to the previous payment.

Initially Council, on the advice of its insurers, denied liability. However, after I had pointed out that an officer of the Department of Main Roads, who was present when the roadway was opened, had confirmed that the pipe was surrounded by an ashes-like material, Council reconsidered the matter and again referred it to their insurers.

The insurers subsequently wrote to me agreeing to meeting 75 per cent of my complainant's plumber's fee, a sum of \$108.

I did pursue the waiving of the road opening and closing fee with the Department of Main Roads but without success. It is interesting to note that since the 3rd April, 1978, the Metropolitan Water Sewerage and Drainage Board have decided to repair all broken copper water pipes (not more than 50 mm in diameter) between its mains and the customers meter free of charge, and provided the work is done by the Board's employees.

WOLLONDILLY SHIRE COUNCIL

Refusal to allow transfer of development consent

I received a complaint on behalf of a trustee appointed under a Deed of Assignment following a meeting of Creditors under the provisions of the Bankruptcy Act.

The basis of the complaint was that an applicant had obtained a development approval from the Council for the establishment of a caravan park and had transferred the assets to the trustee. However, the Council had informed the trustee that it could not permit the development to be transferred; that a fresh application would be required to be lodged by the new owner and that the original applicant had not agreed in writing to the conditions of approval within 30 days as required by a condition in that development approval.

I specified the areas of the complainant's grievance to the Council and indicated that I took the view that the original development approval was still current as the period of two years allowed under the Planning Scheme Ordinance to commence the use had not expired. Therefore, in view of this current valid approval, no further development application or approval was necessary. Additionally, development approvals are given in respect to land use and erection of buildings for a specific site and although the consent may be issued to a nominated person, the approval passes with the transfer of ownership of the land. It is the land use and not the current ownership which is the relevant issue at any time.

Further, an applicant is not required to inform Council as to whether or not the conditions of approval are accepted. An applicant is required to comply with the conditions of approval if the land is used for the approved purpose. However, if the applicant does not proceed with the development he automatically does not accept the conditions and it is only if the applicant commenced operations prematurely without complying with the conditions of approval that a breach of the conditions would occur.

The actions of the Council were considered by me to be *ultra vires* and it was clear that, in accordance with the current valid development approval, the trustee could commence to establish a caravan park on the subject land, subject to compliance with the previous conditions of approval and any necessary building approval complying with Ordinance 70.

Although an appeal was lodged with the Local Government Appeals Tribunal to protect the trustee's position I informed the Council that the particular facts of the complaint constituted special circumstances which justified my investigation despite the appeal. I felt that the appeal did not involve planning or development principles or issues but merely matters of a procedural nature. In addition, Council's action related to matters which may not have been aspects for determination by the Tribunal since they did not all relate to the actual conditions of the development consent. Also, the complainant would be put to unnecessary expense and inconvenience in proceeding to appeal and the Tribunal does not usually award costs to a successful party.

I gave the Council an opportunity to furnish submissions in reply to my adverse comments but, in the meantime, the parties attended a conciliation conference before the Town Planning member of the Tribunal and Council rectified the complaint by withdrawing the restriction on the transfer of the development approval.

The complaint was clearly justified as Council was acting contrary to law, but as it had been satisfactorily resolved I did not pursue the matter further and concluded my investigation.

WOOLLAHRA MUNICIPAL COUNCIL

Denial of Liability by Council—Reference to Insurer

The complaint that I received in this instance concerned flooding of a residence, with resultant damage to furnishings and appliances, following an overflow of the Council drainage system caused by a blockage from a large piece of plastic. Council has denied liability, but the denial had been made by the Council's insurer, and Council had merely adopted the insurance company's stand without further comment or reason for such denial. I should mention that the problem raised by this complaint was one of somewhat general application applying to a number of Shires and Municipal Councils.

I pointed out to Council that in terms of section 5 (2) (e) of the Ombudsman Act, failing to give grounds or reasons for the denial could constitute wrong conduct. The claim made was against the Council itself, and the fact that an insurance company was involved did not relieve Council of its direct responsibility.

It appeared that normal practice for Council in such instances was to forward the claim to its insurance company and not take any further direct action nor make any statement except through its insurance company.

The relationship that exists between Ombudsman and Council however does not admit of any relationship with a private insurance company, but places the need for reasons to be given directly upon Council.

The problem facing Council is that if it admits liability such action may invalidate its insurance protection. However, there may be considerable difference between the blank denial of liability and the reasons given for the conduct. In this case my investigation revealed that Council was not acting unreasonably in denying liability for the claim and I was able to provide the complainant with the reasons for Council's conduct. It would, of course, have been preferable for Council to have supplied these reasons in the first instance.

In an earlier matter which was somewhat comparable, one of the recommendations made by me was that the Public Authority should conduct a preliminary investigation including inspection and preliminary assessment as to the cause of the damage the subject of the claim and thereby form some opinion itself. This procedure may prove to be part of the solution to this problem which will undoubtedly be manifest again in future complaints related to insurance matters. It is felt that such a procedure would ameliorate against a Public Authority denying liability and failing to give reasons for such action.

DEPARTMENT OF EDUCATION AND N.S.W. BURSARY ENDOWMENT BOARD

Alleged incorrect action in relation to Certification of School

I received a complaint, in April, 1976, from the Principal of a non-Government School, that the Central Metropolitan Directorate of the New South Wales Department of Education and the New South Wales Bursary Endowment Board had acted wrongly in regard to certification of the School in terms of the Public Instruction (Amendment) Act. As well, the Principal claimed that she had been unable to obtain details of the action the Department required to be taken to enable the School to be granted full, as distinct from provisional, certification.

In this summary, for the sake of clarity, and at the same time to preserve the anonymity of my complainant and the organization employing her, I have taken some liberties when quoting from correspondence and other material. I hasten to add that no material facts have been omitted or altered.

The complaints made may be summarised as follows:

- (a) On 8th December, 1975, the Department's Central Metropolitan Office forwarded to the School a subsidy cheque in the sum of \$1,927.00, but payment on the cheque was later stopped. The Principal claimed that she had not been able to discover why this action was taken.
- (b) Full certificate registration of the School appeared to hinge on the rectification of certain deficiencies outlined in a letter dated 29th January, 1976, from the Regional Director. The Principal claimed that these deficiencies had only ever been stated in very general terms and that, as she was unable to ascertain the exact nature of the alleged deficiencies, she was not able to take measures to correct them.
- (c) The Bursary Endowment Board had failed to answer satisfactorily the matters contained in submissions made by the Principal on 20th March, 1976 or to provide details of the additional evidence it required in order to be satisfied that efficient and regular instruction was being provided at the School.
- (d) The action of the Area Director, in issuing a Provisional Certification on 9th March, 1976, when the question of certification was the subject of an appeal to the Bursary Endowment Board, was, in my complainant's view, wrong.

The matter was somewhat urgent so far as the School was concerned, as the Principal had been informed by the Minister for Education, in a letter dated 15th April, 1976, following the unsuccessful appeal to the Bursary Endowment Board, that "the Scheme must achieve full certificate registration by 30th June, 1976 or the pupils will be required to enrol elsewhere immediately after that date".

In deciding whether I should make the conduct complained of the subject of an investigation under the Ombudsman Act, I considered the provisions of the Public Instruction (Amendment) Act, 1916, relating to the registration, inspection and certification of non-state schools. Those provisions are contained in Part III of the Act entitled "Certified Schools", and the relevant Sections are quoted hereunder:

- "10. (1) The proprietor or principal teacher of any school other than a State school, attended by children between the ages of six years and the school leaving age, may apply to the Minister for registration of the school under this section, and he shall cause it to be registered on a list to be kept for that purpose, and upon registration the school shall be a provisionally certified school from the time of registration to the thirty-first day of December next ensuing.

- (2) Any person desirous of establishing any school to be attended by children between the age of six years and the school leaving age, other than a State school, after the date of the commencement of this Act may apply to the Minister for registration of such school, and if the Minister is satisfied from evidence submitted by the applicant that the premises in which it is proposed to conduct such school are provided with proper access, drainage, light, ventilation, and sanitary conveniences, and that the school will provide regular and efficient instruction he shall cause it to be registered on a list to be kept for that purpose, and upon registration the school shall be a provisionally certified school for a period of six months dating from the time of registration.

(2A) * * * *

- (3) The Minister shall before the expiration of the period for which provisional registration has been given under subsection one, subsection two or subsection (2A) of this section, cause every school so registered to be inspected by an inspector of schools, and where the inspector reports that efficient and regular instruction is being given in any school, the Minister may issue a certificate to that effect, and such school shall then be a certified school or a certified special school, as the case may be, during a term to be stated in the certificate.

- (4) If the inspector upon inspection of any school is of opinion that efficient and regular instruction is not being given he shall so inform the Minister, and shall state the reasons for his opinion. Notice shall be sent to the proprietor or principal teacher of such school informing him of the said reasons, and requiring him to make the changes necessary to the efficiency of his school. The inspector thereafter may make a further inspection, and if he reports that efficient and regular instruction is then being given the Minister may issue the certificate mentioned in the next preceding subsection:

Provided that if at the expiration of that period the school has not obtained a certificate, the proprietor or principal teacher may appeal to the Bursary Endowment Board constituted under the Bursary Endowment Act, 1912, and if the Board advises the granting of a certificate such certificate shall issue.

- (5) In any case, where a school registered under subsection one, subsection two or subsection (2A) of this section has not obtained a certificate under the third or fourth subsection, the Minister may extend to the thirtieth of June next ensuing the time for obtaining a certificate, and in such case the school shall until that date continue to be a provisionally certified school.

(6) * * * *

- (7) Certified schools and certified special schools may be by direction of the Minister inspected from time to time, and any certificate issued under this section may be cancelled by the Minister if he is satisfied upon inquiry and report that efficient and regular instruction is not being given in the school named in the certificate, or if the proprietor or principal teacher is guilty of any breach of this Act:

Provided that notice of the intention to cancel such certificate shall be given to the proprietor or principal teacher who may within one month of such notice appeal to the Bursary Endowment Board, and if the board advises the continuance of the certificate such certificate shall not be cancelled.

(8) * * * *

11. (1) Any inspector or medical officer appointed by the Minister may at any time enter any building and premises in which a school is held for the purpose of ascertaining whether such building and premises are provided with proper access, drainage, light, ventilation, and sanitary conveniences.

- (2) If the Minister considers that such building or premises are not so provided or are in disrepair, he may give the proprietor or head teacher notice to provide proper access, drainage, light, ventilation, or sanitary conveniences, or to place the building or premises in proper repair; and if within one month or such further time as the Minister may direct such notice has not been complied with to the satisfaction of the Minister, it shall be unlawful to conduct a school in such building or premises, and such school, if certified, shall cease to be a certified school or a certified special school, as the case may be:

Provided that such requirements of the Minister shall not be of a higher standard than those generally provided in a State school or a special school, as the case may be, similarly situated and circumstanced."

On 4th May, 1976, I informed the Director-General of Education of my decision to investigate the complaint and asked him to let me have his comments about the matters the Principal had raised. In addition, I asked that no action be taken regarding closure of the School until I had finalised my enquiries.

There was some delay before I received a reply from the Director-General and, during this period, on 22nd July, 1976, the complainant visited my office and informed me that Inspectors from the Department had inspected the School and full certificate registration had been granted.

On 26th July, 1976, the Director-General replied to me in the following terms:

"I have delayed replying to your letter of 4th May, 1976, because a further inspection of the . . . School had been arranged and I wished to let you know the result of that inspection.

I am now informed that certification has been granted the school from 1st July, 1976, and this will mean that eligibility for per capita grants is established from that date.

Turning to the question of the cheque which was forwarded in error . . . in the sum of \$1,927, I am able to assure you that the school was not entitled to this payment, since schools which are provisionally certified do not qualify for subsidy payment. The Principal is well aware of this requirement, in fact she has been so informed in writing and during several long interviews, but she has refused to accept the fact that at that time the school was provisionally certified only.

The merits of the Principal's case have already been considered at some length by the Bursary Endowment Board, which is the statutory authority prescribed in the Public Instruction Act as the avenue of appeal against a decision that a school is not eligible for certification. The Minister accepted the advice of the Board that the school should not be certified and the Principal was informed to this effect on 15th April, 1976.

A solicitor representing the School has already been in touch with the Department and is aware of the position as it now stands. The unsuccessful appeal to the Bursary Endowment Board is the last avenue of appeal available to the Principal under the Public Instruction Act."

On 4th August, 1976, I wrote to the Director-General and said:

"Whilst I have considered all that you have said, it does seem to me that there are some matters that still require resolution. For example, from material made available to me by the complainant it would appear that, in fact, full certification of the school was given in terms of the certificate issued by the Area Director (apparently undated) which states inter alia:

'The School, therefore, has been registered by the Minister for Education as a Certified School under the provisions of the Public Instruction Act, 1916, until the 30th June, 1975.'

A copy of the certificate is enclosed. Presumably, the only way that situation could have been changed was for the Minister to cancel that certificate as provided in section 10 (7) of the Act, notice of his intention to do so having first been served on the Principal."

In addition, as well as requesting the file relating to the matter, I asked the Director-General to let me have further information about the following matters:

- (a) When the school was first registered in terms of section 10 (1) or section 10 (2) of the Act.
- (b) On which dates the school was inspected as required pursuant to section 10 (3).
- (c) When the certificate, giving the school the status of a Certified School until 30th June, 1975, was cancelled.
- (d) The basis on which the certificate of Provisional Certification was issued by the Area Director in March, 1976.
- (e) Whether, if the school was given full certification in early 1975, as appeared to be the case, it was not then eligible for per capita grants.

In his later reply to me, the Director-General said:

"The facts in this case are as follows:

- (1) The school was first granted full certification in terms of the Public Instruction Act on 12th July, 1976, the certification to be effective for 12 months commencing 1st July, 1976.

- (2) The 'Certificate of Efficiency' issued on 3rd January, 1975, should have indicated Provisional Certification only in accordance with the terms of the Public Instruction Act. The simple fact is that the first certificate was issued in error and the opportunity was taken on 25th March, 1975, to inform the Principal of the error.
- (3) The Principal has chosen to ignore the information contained in that letter and, indeed, in all subsequent correspondence from the Regional Director, the then Minister for Education, a subsequent Minister for Education and the Secretary of the Bursary Endowment Board.

In all of this correspondence the fact that the school had Provisional Certification only was consistently mentioned.

The deficiencies which existed at the time of the recent inspection have again been drawn to the attention of the school Principal and it is expected that these will have been remedied by the time the school is re-inspected during the first half of the 1977 school year."

However, my examination of the Department's file revealed a somewhat unusual sequence of events and raised the question of whether certification granted to a school situated at one location could, in terms of the Public Instruction Act, be transferred with the school when it moved to a different location.

The question also arose of whether anyone other than the Minister for Education could take the various actions provided for in terms of Part III of the Act.

The Department's file revealed that the following events had occurred:

- (a) On 3rd January, 1975, the Regional Director of the Central Metropolitan Region issued to the School, in error, a Certificate of Efficiency which indicated, again in error, that the School was a "Certified School", that is, was fully certified, until 30th June, 1975. The School was then functioning at location 'A'. Whilst an attempt had been made, by letter of 25th March, 1975, to explain the error in issuing the wrong Certificate, the contents of that letter were quite inadequate and, in fact, made no reference to the fact that an error had occurred.
- (b) In February, 1975, the Principal informed the Regional Director that the school would be moving to new premises at location 'B'. Following two inspections by officers of the Regional Office, the Regional Director, on 11th April, 1975, informed the Principal that because of certain accommodation deficiencies existing there, "it is not proposed to grant registration of the proposed School in the subject premises." The terms of the Regional Director's letter appear to me to clearly recognize that a new application for registration and, consequently, certification, would be necessary in respect of the new premises at location 'B'.
- (c) So far as I was able to determine the School eventually occupied the new premises on 2nd June, 1975. I would have thought that the certification granted on 3rd January, 1975, to the School at its former location ceased to have effect from that date. However, after several further inspections, the Regional Director, on 12th November, 1975, wrote to the President of the School Council and, inter alia, said:

"I wish to inform you that the Provisional Certification granted under the Public Instruction (Amendment) Act, 1916, has been transferred to the . . . School in its new location . . . from 1st July, 1975."

In my view, this is where the matter was initially incorrectly dealt with and, as a result, became exceedingly confused. I am of the view that, in terms of the Public Instruction (Amendment) Act, "certification" cannot be transferred from one location to another and that the School at location 'B' should have been registered and provisionally certified from whichever date the Regional Director chose, be it 1st July, 1975, or otherwise.

- (d) On 27th November, 1975, Departmental Inspectors visited the School and recommended that the School be granted a further period of provisional certification from 1st January to 30th June, 1976. Eventually, on 29th January, 1976, the Regional Director informed the Principal, by letter, that he proposed "to extend the period of provisional certification for a further six months, namely, 1st January, 1976, to 30th June, 1976". However, the actual certificate was not issued until 9th March, 1976.

It seems to me that the Inspectors' recommendation was incapable of implementation and the Regional Director's decision was wrong and quite contrary to the provisions of the Public Instruction (Amendment) Act. The period in which the School could achieve full certification expired on 31st December, 1975, and, thereafter, the provisions of section 10 (4) of the Act applied. The terms of the Act seemed quite clear in that only the

Minister, and nobody else, could extend the period of provisional certification and there appeared to be nothing in the Act to enable the Minister to delegate his powers. As well, notice of the defects found on inspection on 27th November, 1975, was not given to the Principal prior to 31st December, 1975, as required by section 10 (4).

- (e) On 8th December, 1975, a subsidy cheque for \$1,927 was forwarded to the School but payment on the cheque was later stopped.
- (f) In a submission prepared on 29th January, 1976, the Regional Director said, inter alia: "The Principal's argument for the payment of per capita grants rests mainly on the Certified School Form S5/63 issued by me and effective from 1st January, 1975. At that time and following enquiries to Head Office, I understood that the Form S5/63 was the only form available for use in the situation. I now find that there is in fact a Form S5/58 that provides properly for provisional certification. When it came to my notice that the Principal regarded the first certificate issued as granting full certification I wrote to her to advise her of the requirement under the Act for an initial period of provisional certification, namely, 1st January, 1975, to 30th June, 1975. She argues that the period from May, 1974, to December, 1974, when the school did not hold a certificate at all was the period of provisional certification. That period was one of some confusion . . . when application forms were not returned as requested and delays were experienced. In retrospect I understand that I did not make the position clear at the time of issuing the first certificate.

A further complication arose when the Secretary of the Department drew to my attention the contents of a circular distributed in 1968. This followed receipt of an enquiry from the Ombudsman. The circular contained the following policy statement:

'a school provisionally certified under the Act shall not be eligible for subsidy whilst provisional certification holds.'

This policy was not known to me or to any officer in the Regional Office. The circular was not in records at the Regional Office. Because the policy was not known per capita grants were paid for the first half of 1975, a total amount of \$2,460.00. Per capita grants for the second half of the year were calculated and a cheque for the amount involved, namely \$1,927.00 was drawn and handed to the Principal. It was at this time that the Secretary advised me of the policy and indicated that I should ask the Principal to return the cheque. It was not possible for her to do this because she had already banked the cheque. The Bank was then advised to stop payment of the cheque. The Principal's letter presents an argument that the cheque should have been paid on the basis that the School held full certification as I have previously described.

The initial per capita grant thus becomes a case of overpayment and the Secretary has advised that the provisions of Audit Regulation 31 should be fulfilled.

From the outset dealings with the Principal have been involved and time consuming. It has been difficult to have her understand and accept basic requirements. At the same time my own lack of knowledge of two important issues has compounded the problem."

- (g) On 2nd March, 1976, the Acting Secretary of the Department interviewed the Principal and explained the situation to her. I note that the Regional Director had also interviewed her on 20th December, 1975, and minuted the file that he had explained the situation. The matter had also been explained in a letter forwarded by the Minister on 23rd February, 1976, to the Principal. In any case, on 2nd March, 1976, the Principal informed the Acting Secretary of her intention to appeal to the Bursary Endowment Board.
- (h) On 9th April, 1976, the Acting Chairman of the Board reported in the following terms:

"In hearing the Appeal by this school under the provisions of the Public Instruction Amendment Act (1916) it was necessary for the Board to give careful consideration to the chronology of and nature of actions which had occurred, in order that the Board might clearly isolate matters which were properly of concern to it and to the Appeal.

The following is a brief resume of the Board's considered opinion of these events:

1. On 19th May, 1974, the school advised Regional Director that it wished to apply for Certification.

2. On 20th May, 1974, it began operation as a school. This was not in accord with Section 10 (2) of the Act. The children attended illegally.
3. On 1st November, 1974, the school premises were inspected, as required under Section 10 (2). This inspection also concerned itself with instruction and operation of the school. Following this inspection a Certificate was issued, for six months to June, 1975, from 3rd January, 1975. Subsequently the Regional Director advised the school that this six months period should have been 'provisional certificate'. In the opinion of the Board this certificate was without force, in terms of the Act, quite apart from it being issued in error. The Board accepted that the school was a provisionally certificated school for January-June, 1975.
4. Contrary to Section 10 (3) of the Act the School was not inspected before June, 1975, during its period of provisional certification. (However, proposed alternative premises were inspected in June.) Also, this inspection of the regularity and efficiency of instruction was not carried out until 27th November, 1975. The school was not advised of the outcome of this inspection until 29th January, 1976.
5. In the opinion of the Board, from 1.7.75 the school had no registration status under the Act. The Regional Director advised on 12th November, 1975, that 'from 1st July, 1975, the provisional certificate has been transferred . . .' to the new premises. Following the inspection on 27th November, 1975, the advice to the school on 29th January, 1976, advised that the provisional certificate would be extended for a further six months from 1st January, 1976, to 30th June, 1976.

In relation to this school, the Regional Director should have arranged for the school to be inspected before 30th June, 1975, and then extended the provisional certificate to June, 1976. Section 10 (5) of the Act provides for one extension of provisional status only; to the June next ensuing. Consequently, this school must achieve Certificate status before June, 1976, or the children must enrol elsewhere.

6. In the opinion of the Board, the School had reason to believe that as it had been allowed to continue to function up to and after June, 1975, until perhaps November, 1975, without advice as to changes required to the efficiency of instruction (see 10 (4) of the Act) they were considered satisfactory and a Certificate had been or would be issued.
7. The Board drew a distinction between—
 - (a) whether the school was, on the evidence, providing regular and efficient instruction in 1975; and
 - (b) whether the school had reason to believe that it was operating efficiently.

The Board decided the appeal in relation to (a).

8. The Board requested the Acting Chairman to confer with the Chairman, as its views concerning (6) above might be relevant to the Department's and Minister's interest in per capita payments made to the school. For example, on its analysis, the school clearly held provisional status during the first half of 1975 and could not receive per capita payments but, in view of the uncertain status during that second half of 1975, the question of an ex gratia payment might be considered.

9.”.

- (i) On 12th April, 1976, the Departmental Secretary made a submission to the Minister, concerning the overpayment of subsidy which had occurred, wherein he said, inter alia:

“An appeal from the School to the Bursary Endowment Board against the decision that it does not meet requirements for certification has been rejected but the Board has indicated, quite properly, that the school had reason to believe that it was a satisfactory school for the period 1.7.75 until almost the end of the 1975 school year and that an expectation of some income by way of per capita grants was not unreasonable. The amount of \$2,460 which was received by the school is clearly an overpayment, but in the circumstances it would seem that a gesture should be made that recovery of that sum should not be pursued. The Director-General, in his dual role of Permanent Head and Chairman of the Bursary Endowment Board, agrees with this approach.

The approval of the Minister is now sought to the proposition that recovery of the overpayment of \$2,460 from the . . . School be not pursued."

The Minister approved this recommendation.

On 1st September, 1976, after considering all of the material then available to me, I wrote to the Director-General in the following terms:

"Whilst I have carefully noted all that you have said in your letter, my examination of the material on the Departmental file seems to me to indicate that the action taken by the Regional Director of Education, in this case, was not in accordance with the provisions of Part III of the Public Instruction (Amendment) Act, 1916, even assuming that he has the authority to make the various decisions that he made in this matter. This aspect is dealt with later in my letter.

For this reason, I am of the view that the Department's conduct in this case could be found to be wrong in terms of the Ombudsman Act. However, before I come to any final conclusion in this regard, I would appreciate your further comments on the matters set out hereunder:

(a) *Incorrect issue of 'Certificate of Efficiency' on 3rd January, 1975*

- (i) I certainly agree that, assuming the school was "registered" in terms of Section 10 (2) of the Act with effect from 1st January, 1975 (which appears to be the case), the School at location 'A' could only be provisionally certified for the ensuing six months, that is, to 30th June, 1975.
- (ii) However, in my view the Regional Director's letter of 25th March, 1975, which allegedly informed the Principal of the error, made no mention, in fact, that an error had been made and whilst the letter's meaning may have been quite clear to the Regional Director, this may not have been the case so far as the recipient was concerned.

(b) *Transfer of provisional certification from premises at Ballast Point Road to premises at Rose Street*

- (i) Section 10 (2) of the Act seems to me to clearly require the Minister to be satisfied on two matters before he causes registration of a school, namely:
 1. that the premises in which it is proposed to conduct the school are provided with 'proper access, drainage, lighting, ventilation and sanitary conveniences'; and
 2. that the school will provide 'regular and efficient instruction'.

In other words, the Minister has to be satisfied that both the physical and the academic aspects are satisfactory.

- (ii) I am of the view, therefore, that certification granted to a school located in particular premises cannot be transferred to other premises should the school be subsequently relocated. It follows, then, that the Regional Director's actions on 12th November, 1975, in informing the Principal that the provisional certification, granted to the school at location 'A', had been transferred to the school at its new location 'B', were wrong.

It seems to me that the Regional Director should have called for a fresh application for registration from the school at its new premises and issued fresh provisional certification with effect from the date of registration of the school (probably 1st July, 1975).

(c) *Failure to serve Notice of defects or to advise of right of appeal to Bursary Endowment Board*

- (i) Section 10 (4) of the Act requires that after initial registration of a school, and within the initial six month period of provisional certification, an inspection of the school shall be made and where the inspector is of the opinion that efficient and regular instruction is not being given he shall 'so inform the Minister and state the reasons for his opinion'. As well, the Act provides that notice 'shall be sent' to the school informing the school of the reasons given to the Minister and requiring the school to 'make the changes necessary'. The terms of the Act appear to me to require all of this action, as well as any further follow up inspection to see if the necessary changes have been made, to be taken in the initial period of provisional certification, in this case prior to 31st December, 1975.
- (ii) Although an inspection of the school was made on 27th November, 1975, notice of the defects found on that inspection was not forwarded to the school prior to 31st December, 1975.

- (iii) The Regional Director finally informed the Principal, in his letter of 29th January, 1976, of the matters needing to be changed but it appears to me that he did not at any stage inform her of the right of appeal to the Bursary Endowment Board given by the Act.

On the material available to me it seems that, had the matter been dealt with correctly in terms of the provisions of Part III of the Act, the final result would have been exactly the same as has actually occurred. Attached is a brief resume of the action that, in my view, should have been taken in this matter. The resume is in two parts:

- (i) on the basis that it is not possible to transfer certification from one location to another; and
- (ii) on the basis that it is possible to transfer certification.

It will be seen that, irrespective of the basis adopted, the school would not have been able to achieve full certification at any date earlier than 1st July, 1976."

(The resume to which I refer is attached to this report and marked "Appendix I").

"I now turn to the question of whether the Regional Director was able to make the various decisions he made in this case. You will recall that I recently raised with you questions relating to the authority of persons other than the Minister to take decisions in terms of the Public Instruction (Amendment) Act. This case raises those same issues.

It seems to be that there does not appear to be any specific power of delegation by the Minister contained in either the Public Instruction Act, 1880 or the Public Instruction (Amendment) Act, 1916. In terms of Part III of the Act, the Minister appears to be the only person who is able to cause registration of a school; issue a certificate of efficiency, provisional or otherwise; or extend a period of provisional certification. There is no evidence on the Departmental file to indicate that decisions in respect of those matters were taken by anyone other than the Regional Director. In the absence of any legal authorisation for the Regional Director to take such decisions, it seems to be that the decisions were not valid and were, in fact, *ultra vires*.

Before I make any decision regarding the Department's conduct in this matter, and whether a report in terms of Section 26 of the Ombudsman Act should be made, an opportunity is extended to you, in accordance with Section 24 of that Act, to make any further submissions to me that you may wish in relation to the matters that I have raised."

On 20th October, 1976 the Director-General replied as follows:

"In response to your specific requests I advise as follows:

- (a) (i) I agree that the school at location 'A' could only be provisionally certified from the time it was registered, with effect from 1st January, 1975, until 30th June, 1975.
- (ii) I agree that the Regional Director's letter to the Principal, dated 25th March, 1975, informing her of the error in the issuing of a Certificate, could have been clearer and more explicit.
- (b) (i) I concur with your interpretation of the Act and the need for both requirements to be met. However, as 'the evidence' concerning instruction may rest heavily upon the educational qualifications of staff, which it is proposed to employ, this criterion may not be as significant at that time as the premises.
- (ii) I do not agree with your interpretation that *certification* granted to a school *cannot* be transferred to other premises should the school be relocated. Further, I do not agree that *registration* of a school, either provisionally certified or certified, cannot be transferred.

The implication of your interpretation is that a school would have to be *established* again, whenever new premises were to be occupied. In practice over many years, certified schools have moved into new premises and have had their registration status transferred.

I am of the view that the wording, in the future tense, of Section 10 (2) of the Public Instruction (Amendment) Act, 1916 clearly supports my interpretation. Further, I am of the view that Section 11 of the same Act provides adequate protection to the public through the Minister for such changes in locations of schools.

- (c) (i) ...
- and
- (ii) I agree with your interpretation.

- (iii) I consider that the Regional Director's advice to the Principal concerning the matters needing to be changed should have been forwarded earlier, but I do not consider that it is the formal obligation of the Regional Director to advise schools concerning their rights of appeal.

I concur with your general conclusion that irrespective of the basis adopted it would not have been possible for the school to achieve full certification at any date earlier than 1st July, 1976. The issue raised in your letter concerning the validity of actions taken by officers of this Department, and specifically by Regional Directors of Education, as agents acting for the Minister, is a broad issue and is to be seen against the quite rapid decentralisation of this Department's activities over recent years, the long-standing nature of the legislation now under discussion and the fact that Parliamentary action to revise all legislation affecting this Department was deferred in 1975 and has again been deferred until 1977. Also, as you may have noted from your perusal of the Department file on this matter, successive Ministers have been directly involved in the matters of concern to you."

On 23rd November, 1976, I wrote again to the Director-General and said that there seemed to be remaining three basic areas in which we were in disagreement to one extent or another, namely:

- (a) whether certification or registration of a school could be transferred from one location to another;
- (b) the obligation placed on Departmental officers to inform schools of their right of appeal to the Bursary Endowment Board; and
- (c) whether the Regional Director was able to make the various decisions he made in this case in the apparent absence of any legal authorisation to do so.

So far as the last matter was concerned, I was aware that the Director-General had sought advice from the Crown Solicitor regarding this question in another case. I said that I would await the Crown Solicitor's advising before taking that particular matter any further.

In regard to the first two matters, I commented as follows:

" (a) *Transfer of Certification/Registration*

- (i) I cannot agree that the implication of my interpretation is that a school would have to be 'established' again if it moves to new premises. The only implication is that such a school would need to apply for registration at its new premises to enable the Minister to satisfy himself about the suitability of those premises, as the Act requires him to do.
- (ii) It would seem to me that, where an already established and fully certified school moves to new premises, taking its existing programme (and, probably, its staff) with it, no fresh evidence would be needed so far as the matter of 'instruction' is concerned. Provided the new premises were satisfactory (and there is no reason why this could not be determined *before* the move occurs), the Minister would be able to grant full certification immediately (i.e., at any time within the six month period of provisional certification automatically conferred by registration).
- (iii) Whilst it is appreciated that, in terms of current Departmental policy, a provisionally certified school is not entitled to subsidy, there appear to be two alternatives that would overcome that problem:
 - (a) the Minister is able, in terms of the Act, to grant full certification *at any time* within the six months following registration; or
 - (b) Departmental policy could be modified to make provision for the continued payment of subsidy in those special cases (and there would probably be very few of them) where a fully certified school moves to new or different accommodation, as distinct from a newly established school seeking to achieve full certified status.
- (iv) I do not dispute your claim that 'in practice' over many years certified schools have moved into new premises and have had their registration status transferred. The fact that this has been the practice does not, of course, confer legality upon the practice, and this question, in my view, needs to be clearly determined. The Act does not, I feel, irrespective of the tense of the wording used in section 10 (2), deal with the removal of a school from one place to another and makes no provision for transfer of certification or registration. It seems to me that there should be some provision in the Act to enable retention of certification and provide some continuity of certification for a school moving to new premises, rather than have such procedures dependent on Departmental practice.

(b) *Obligation to Inform of Right of Appeal*

I am rather surprised that you appear to be relying on the absence in the Act of any formal requirement to inform schools of their right of appeal to the Bursary Endowment Board in the event that full certification is refused. It seems to me rather well accepted throughout public administration that a public authority has a moral and ethical duty to inform the person or organization concerned of any right of appeal which lies from a decision of the authority.

I am aware, for example, that a number of government departments do, as a matter of course, inform affected persons of their right of appeal where such a right exists, and the need to do so has, in one case at least, found expression in statutory terms (section 342N (4) of the Local Government Act).

I am confident that you will agree with me that it is a matter of natural justice to inform persons of their right of appeal against decisions affecting them where, in fact, such right exists".

The Director-General subsequently provided me with a copy of a Crown Solicitor's advising that he had obtained regarding the question of whether officers of the Department could lawfully exercise the powers conferred on the Minister in terms of the Public Instruction (Amendment) Act. Without traversing the whole of that advising, it is of interest to note the questions which are relevant to this matter, posed by the Department, and the answers to those questions in terms of the advising, namely:

Question (1)—"Whether it is necessary, in terms of the Public Instruction Act, for the Minister to delegate authority specifically . . .".

Advising—"Yes".

Question (2)—"Whether amendment to the Public Instruction Act . . . is necessary to permit such delegation".

Advising—"No.".

In his later reply to me, the Director-General said that he had sought delegated authority from the Minister to enable his officers to act. He went on to say:

"Regarding the question of transfer of certification/registration when a school moves to new premises, I adhere to my previously expressed view that nothing in the Act implies the need for a fresh application for registration.

In your letter of 15th September, 1976, regarding the transfer of provisional certification to the premises at location 'B' you expressed the view that 'the Minister has to be satisfied that both the physical and academic aspects are satisfactory'. Certainly I would require that the Regional Director satisfy himself that new premises were of the required standard before they were occupied.

In this case, the building at location 'B' was inspected on a number of occasions by the Department's inspectors prior to its occupation on 10th June, 1975 and the issue of a town planning permit by the local Council. I do not consider, therefore, that it can justifiably be claimed that the requirements of the Act have not been met. In other words, the Department took appropriate action in terms of section 11 of the Act to cover the situation of a relocated school and thereby safeguard the interest of pupils.

On the matter of appeal to the Bursary Endowment Board against refusal of full certification, I have directed that any organisations so affected are to be informed of their rights of appeal in terms of the Act."

As a result of my investigation in this case, I took the view that the Principal's complaint to me had considerable justification in that the matter of registration and certification of the School was poorly handled and, in some respects, incorrectly dealt with. However, I was satisfied that, had the matter been dealt with correctly, the same result, in respect of the date from which full certification was granted and the school's eligibility for subsidy commenced, would have been achieved. As well, I took the view that the Bursary Endowment Board acted reasonably when determining the appeal lodged by the Principal.

Nevertheless, after carefully considering all that the Director-General has had to say, as well as all the other material available to me, I found that the conduct of the Department of Education and of the Regional Director of Education, Central Metropolitan Directorate, was wrong in terms of the Ombudsman Act, in the following respects:

- (i) the letter forwarded to the Principal on 25th March, 1975 by the Regional Director, which purported to inform her of the issue of an incorrect Certificate of Efficiency on 3rd January, 1975, was deficient in that the letter made no mention of the fact that an error had occurred and its meaning was, therefore, quite unclear to the Principal;

- (ii) the Regional Director's action, in attempting to "transfer" provisional certification granted to the school at location 'A' to the school's new location at 'B', was wrong in that such conduct was contrary to law;
- (iii) the failure of the Regional Director to inform the Principal, before 31st December, 1975, of the changes needed to enable the school to achieve full certification, was wrong in that such conduct was contrary to law;
- (iv) the failure of the Regional Director to, at any time, inform the Principal of her right of appeal to the Bursary Endowment Board was wrong in that such conduct was unjust;
- (v) all of the actions and decisions taken by the Regional Director in terms of Part III of the Public Instruction (Amendment) Act were taken in the absence of any proper delegation from and without reference to the Minister for Education and were, therefore, taken without adequate authority;
- (vi) the practice of the Department, of transferring the registration or certification status of schools when such schools move to new premises, was wrong in that such conduct was contrary to law.

Having said this, I took the view that no further action was needed in respect of (i), (iii), (iv) and (v), in that the Department had taken appropriate action to rectify the matters raised therein. In particular, the material available to me clearly showed that the issue, in error, on 3rd January, 1975 of the Certificate of Efficiency in respect of the School was fully explained to the Principal in interview on two occasions and by letter on one occasion. As well, I was confident that the Director-General would ensure that the provisions of the Public Instruction (Amendment) Act, relating to the need to give notice to a school of the reasons for refusal of full certification, would, in future, be adhered to. The Director-General had informed me that he has directed that organisations affected be informed of their rights of appeal, in terms of the Act, to the Bursary Endowment Board and that he had sought delegated authority from the Minister to enable Departmental officers to exercise the Minister's powers relating to the registration and certification of schools.

Accordingly, I made no recommendation in respect of those matters.

However, I recommended that the Director-General initiate action to have the Public Instruction (Amendment) Act suitably amended to enable a certified school moving from one location to another to retain its certification, in order to provide a continuity of certification for a school in such circumstances.

On 2nd August, 1977, in accordance with section 25 (2) of the Ombudsman Act, I wrote to the Minister for Education, informed him of my intention to make a report in terms of section 26 and enclosed a copy of the draft report that I proposed to make. I indicated to the Minister that, in accordance with the Act, I would consult with him if he so requested.

On 5th September, 1977, the Minister replied in the following terms:

"Since receiving your informative letter of 2nd August, 1977, I have had the opportunity to peruse the relevant files and to discuss with the Director-General some of the problems which have emerged in this particular case.

A number of criticisms which you have advanced are accepted without reservation, indeed both the Director-General and I would find it difficult to defend the issue of an incorrectly worded certificate and the inadequacy of the correcting letter, the error in payment of subsidy, the delay in inspection of the school and the subsequent tardiness in issue of written advice to the Principal.

At the same time I believe that your criticism of the administrative action flowing from section 10 (4) of the Act is somewhat harsh. While I agree that the words in section 10 (4) of the Act—"notice shall be sent"—require that written advice should issue, I am mindful of the many hours which senior officers of my Department spent advising the Principal of the many educational deficiencies which were evident in the school and the means by which she could overcome these weaknesses and bring the educational level of achievement to a satisfactory standard.

It is a matter of concern that the Regional Director did not comply with the legal terms of the Act. Nevertheless my discussions with the Director-General have left me in no uncertain mind that the Principal was at all times aware of the deficiencies which existed in the school and, while it is a matter of regret that these weaknesses were not detailed quite specifically in written reports, I have accepted without reservation the assurances of the Regional Director that in all of the discussions, both at the school and in the Regional Office, the Principal was very clearly aware of the many improvements which had to be effected before the school would gain full certification. In this regard you may be assured that the Director-General is taking steps to ensure that in similar cases the Principal will be given a fully documented statement of all deficiencies which are evident at the time of inspection of the school.

The matter of transfer of registration in those rare cases where a school changes location is, as you have suggested, a matter of law and if my Department's conduct has been contrary to law the position will be rectified without delay. You will appreciate that I must seek the opinion of the Crown Solicitor in this instance but you have my assurance that, if his view coincides with your interpretation of the Act, prompt action will be taken towards amendment of the legislation.

Finally, I appreciate your offer to confer with me on the matter but as agreement seems to have been reached on all issues such a discussion does not appear to be necessary. May I say that the Director-General joins with me in expressing appreciation of your conclusion that, despite the administrative inadequacies which were revealed in this particular case, the end result would have been the same in that the school should not have qualified for full registration until 1st July, 1976."

In the light of the Minister's advice, I decided to abide by whatever advice was tendered by the Crown Solicitor, so far as the need to amend the Public Instruction (Amendment) Act was concerned.

In due course, the Director-General forwarded to me a copy of the Crown Solicitor's advising and I felt somewhat vindicated that the Crown Solicitor, in fact, agreed with my interpretation of the Act. In this regard, the Crown Solicitor said, inter alia:

"The Act is silent as to the effect which removal of the school to other premises has upon the registration granted under s. 10 (2). However, I incline to the view expressed by the Ombudsman that if such removal takes place during the period of provisional registration, then that registration ceases to have effect and it becomes necessary to make a fresh application for registration to the Minister. I say this because one of the two grounds on which registration is granted under sub-s. (2) is that the school will be conducted in those premises in respect of which satisfactory evidence has been furnished to the Minister. If therefore the school moves to other premises in respect of which no evidence has been submitted, then it seems to me that one of the grounds upon which registration was granted is destroyed. It also seems to me that a certificate issued to a school under sub-s. (3) is closely linked to the premises in which the school was conducted at the time of issue of the certificate and, in the absence of an appropriate provision in the Act, I am unable to see how its certification or registration can be transferred if it moves to new premises".

In addition, the Crown Solicitor supported the view I had earlier expressed, namely, that the Minister may issue a certificate under section 10 (3) of the Act at any time during the period of provisional certification under section 10 (2).

The Director-General, in his letter to me, went on to say:

"As a certificate under s. 10 (3) of the Act can be issued at any time during a period of provisional certification I consider, and I trust you will agree, that the existing legislation will permit a school moving to new premises to be accorded certification, provisional or otherwise as may be appropriate. Where the principal of a certified school advises that the school will move to new premises the Minister will be able to register the school at the new address and grant full certification effective from the date of transfer, provided:

- (a) the new premises are satisfactory (to be determined before the move); and
- (b) the school does not lose its identity, i.e. the existing programme of instruction is to continue.

Certification would be for the remainder of the term stated in the certificate in force before the transfer.

Where a school is provisionally certified, the provisional certification would cease on transfer to new premises. The school would be registered at the new location and provisionally certified for a period of six months. Subject to inspection the school could be granted full certification at any time during the period of provisional certification.

I am arranging for revised instructions regarding the machinery leading to, and factors relative to the certification of non-government schools to be issued. Unless you consider there to be some substantial objection to the processes detailed above, which are consistent with the Crown Solicitor's advising, the instructions will be distributed to all personnel involved in administering this facet of the Act".

I informed the Director-General that, in my view, the instructions he proposed to issue in relation to the certification of non-government schools would satisfactorily resolve the issues about which I had been concerned and that I proposed taking no further action.

In addition, I informed my complainant of the satisfactory resolution of the matter.

Action that should have been taken if it is not possible to "transfer" certification

| Location 'A' | Section of Act |
|---|----------------|
| 1. School registered from 1st January, 1975 and, therefore, provisionally certified until 30th June, 1975 | 10 (2) |
| Location 'B' | |
| 2. Upon receipt of advice on 8th February, 1975 of proposed move of school, invite Principal to apply for registration as a certified school at new premises. Previous certification at location 'A' ceases from date new premises occupied (2nd June, 1975). | 10 (2) |
| 3. Register School from 1st July, 1975, thereby conferring provisional certification until 31st December, 1975. | .. |
| 4. Arrange for initial inspection of school during period of provisional certification (Inspection of 27th November, 1975 could be regarded as fulfilling this requirement). | 10 (3) |
| 5. (i) Serve notice informing Principal of reasons advanced by Inspector for holding the opinion that regular and efficient instruction was not being given. | 10 (4) |
| (ii) Require Principal to rectify defects. | 10 (4) |
| 6. Arrange further inspection and report before 31st December, 1975 (when provisional certification expired) to see if defects rectified. .. | 10 (4) |
| 7. If, after that inspection, certification not possible: | |
| (i) inform Principal of right of appeal to Bursary Endowment Board; .. | 10 (4) |
| (ii) extend period of provisional certification to 30th June, 1976. | 10 (5) |
| 8. Arrange further inspection(s) prior to 30th June, 1976 and either: | |
| (i) refuse to certify; or | |
| (ii) certify. | |

Action that should have been taken if it is possible to transfer certification

| Location 'A' | Section of Act |
|--|----------------|
| 1. School registered from 1st January, 1975 and, therefore, provisionally certified until 30th June, 1975. | 10 (2) |
| Location 'B' | |
| 2. Provisional certification <i>current to 30th June, 1975</i> transferred to Location 'B' from date those premises occupied (apparently 2nd June, 1975)... .. | |
| 3. Arrange inspection of location 'B' <i>before 30th June, 1975</i> when provisional certification expires. | 10 (3) |
| 4. (i) Serve notice informing Principal of defects and reasons advanced by Inspector for holding the opinion that regular and efficient instruction was not being given. | 10 (4) |
| (ii) Require Principal to rectify defects. | 10 (4) |
| 5. (i) <i>If time permits</i> , arrange further inspection before 30th June, 1975 to see if defects rectified. | 10 (4) |
| (ii) In any case, if certification not possible: | |
| (a) inform Principal of right of appeal to Bursary Endowment Board; | 10 (4) |
| (b) extend period of provisional certification to 30th June, 1976. .. | 10 (5) |
| 6. Arrange further inspection(s) prior to 30th June, 1976 and either: | |
| (i) refuse to certify; or | |
| (ii) certify. | 10 (5) |

DEPARTMENT OF EDUCATION

Refusal to Pay Dependent Spouse Allowance for Husband.

I received a complaint from a student teacher in the Metropolitan area, that the Department of Education would not pay her a dependent spouse allowance in respect of her husband.

In her letter, she raised the following matters:

- She was the holder of a Teacher Scholarship at the University of Sydney and would be completing her Diploma in Education that year.
- She was married in 1975 and since that time had been receiving the married rate of pay under the conditions of her Teacher Education Scholarship.
- Her husband was a student who had been receiving assistance from the Tertiary Education Assistance Scheme. He had completed two years of his Bachelor of Science degree but failed his third year thus making him ineligible for any further assistance. Her husband obtained paid employment during 1975 and was repeating his third year Science course in 1976.
- The only income coming into the household during 1976 was from her Scholarship.
- She had applied in November, 1975 for a dependent spouse allowance for 1976 but was refused by the Department on the ground that under the terms of its policy a dependent spouse allowance could not be paid to her.
- She felt that as a male teacher student is eligible for an allowance in respect of a dependent wife, her application was refused solely on the grounds that she was a female.

I raised the complaint with the Director-General of Education and requested his comments. He replied in the following terms:

"it is the policy of this Department to pay the same allowance rates to both male and female scholarship students irrespective of their marital status. However, while an additional allowance is paid to a male student in respect of a dependent wife, the Department does not accept responsibility for supporting the husband of a female student in the circumstances outlined by your correspondent".

I then asked the Director-General for full details which lead to the decision being made by the Department not to accept responsibility for supporting the husband of a female student.

In his reply to me the Director-General enclosed a copy of the Department's Policy Summary. The summary, in part, read as follows:

- (i) Where male and female Scholarship students become man and wife, the married rate of allowance is to be paid to each student. Neither student in this category can claim a dependent spouse allowance.
- (ii) The male Teacher Education Scholarship student who marries other than a Teacher Education Scholarship student shall be paid the married rate of allowance, plus dependent spouse allowance, if applicable.
- (iii) The female Teacher Education Scholarship student who marries other than a Teacher Education Scholarship student, shall be paid the married rate of allowance. In general, dependent spouse allowance should not be paid. Cases which might require special consideration are to be submitted to the Director of Teacher Education for decision.
- (iv) Where husband and wife are both Teacher Education Scholarship students and one of these is required to repeat part of a course without allowance, then:
 - (a) The student who has experienced failure may, on application, be granted leave of absence for one year before undertaking the required repetition of course.
 - (b) Consideration will be given to the payment of dependent spouse allowance to the student (husband or wife) who is proceeding on allowance, only for the period of time when the student who has failed is actually undertaking the repetition without allowance. Decision will be made by the Director of Teacher Education after consideration of the circumstances of each individual case.

The terms of the Director-General's reply were as follows:

"In explaining the circumstances surrounding the Department's policy on this matter, reference should be made to the fact that from the beginning of 1975, a female Scholarship student married to a non-Scholarship holder has been paid allowance at the normal 'married' rate. However, having regard to the fact that in general the husband would have an income and would claim dependent's allowances separately, the wife would not normally be paid any allowance from this Department for a dependent spouse and/or child.

It follows from the wording of the Policy Summary, that the circumstances of each individual case are considered before a decision is made.

In the case of your complainant, it was noted that her husband secured paid employment in 1975 in order that he might finance his repetition of course in 1976. Under these circumstances, the Department does not believe that its dependent spouse allowance should be paid to her for the further support of her husband.

It is also relevant to draw attention to the Department's policy summary which deals with payment of allowances to married students. Within this policy summary it will be noted that paragraph 3 refers specifically to the 'non-Scholarship husband' situation.

It will be further noted that even when both husband and wife are Departmental Scholarship holders, it does not follow that repetition of a course after failure will mean automatic payment of the dependent spouse allowance to the partner who remains on normal scholarship benefits. Again, each case is considered on its merits, with due regard to the fact that in this latter situation both students are bonded to the Department."

I then wrote to the Director-General requesting advice as to whether this type of spouse allowance has previously been paid by the Department, and, if so, the circumstances surrounding the decision being made for payment of the allowance. I also stated that I was unable to agree with the reasoning of the Department as I would have thought that the reason for him obtaining paid employment would have been for the purpose of supporting himself during 1975 unless, of course, he has advised the Department otherwise.

I received the following reply from the Director-General:

"The type of special circumstances which the Department's policy is intended to cover is where the husband is forced into unemployment through, for example, illness or injury. Obviously, this is not so in your complainant's case and there is no record of payment of the dependent spouse allowance in circumstances such as hers.

While the Department does not possess evidence as to her husband's intention when he undertook employment in 1975, it is not unreasonable to assume that it was not only to support himself during 1975 but to save towards his repeat year. This practice is fairly common in the Teacher Education Scholarship Scheme, as indicated in the policy statement."

I then advised the Department that I was of the opinion that there were grounds for making adverse comments in respect of its decision in the matter. I advised the Department that the substance of the grounds of adverse comment were:

- The policy of the Department in paying a dependent's spouse allowance to a male teacher student with a dependent wife and not, in general, to a female teacher student with a dependent husband was discriminatory and unreasonable.
- there had been no evidence put forward by the Department to support its assumption that the complainant's husband obtained paid employment during 1975 in order that he might finance his repetition of his Science course in 1976.

The Department replied in the following terms:

"the Department has examined all the issues in this matter but is not prepared to vary policy to permit of the payment of a dependent spouse allowance to a student in circumstances similar to those of your complainant.

Her husband failed his university year which resulted in the withdrawal of assistance from the Commonwealth Tertiary Education Assistance Scheme. It is not the Department's policy to redeem any part of the situation which followed.

Scholarship students who fail are required to repeat without allowance. The failed spouse should not therefore gain an advantage automatically that is not open to all students. Such an advantage would occur if his Teacher Education Scholarship wife were to receive a dependent spouse allowance for him.

In any event she is now employed as a teacher by this Department. As the matter occurred some years ago grounds do not exist for the matter to be reviewed nor on compassionate grounds.

The decision was not discriminatory as the approach adopted was that which applied to all married women in similar circumstances. The case could not be regarded as coming under the Anti-Discrimination Act of 1977 which had effect from 1st July, 1977."

However, I was unable to agree with the Department's contention that my complainant's husband had secured paid employment in 1975 in order that he might finance his repetition of course in 1976 and that it was for this reason that the Department did not believe that its dependent spouse allowance should be paid to her for the further support of her husband. I would have thought the reason that he secured employment during 1975 would have been for the purpose of supporting himself during this period, unless the Department had evidence to the contrary. The Department was unable to produce any such contrary evidence.

I was also unable to agree with the Department that its policy in this regard is not discriminatory. The Department's policy is to pay the same allowance rates to both male and female scholarship students irrespective of their marital status. Scholarship students who fail are required to repeat without allowance and therefore, the Department has stated, he should not gain an advantage that is not open to all students and such an advantage would occur if his Teacher Education Scholarship wife were to receive a dependent spouse allowance for him.

However, in the case of a female student who failed, a student husband would be able to claim a dependent spouse allowance in respect of her.

The Department's statement that this particular policy could not be regarded as coming under the Anti-Discrimination Act, 1977, is irrelevant as the Act does not purport to cover all aspects of discrimination.

The Department's references to my complainant being employed as a Teacher and there being no grounds for review on compassionate reasons are regarded as being largely irrelevant to the issues in question.

I, therefore, formally found the conduct of the Department of Education to be wrong in terms of section 5 (2) (b) of the Ombudsman Act in that in paying a dependent's spouse allowance to a male teacher with a dependent wife and not to a female teacher student with a dependent husband, its conduct is discriminatory and unreasonable. In the absence of evidence to the contrary, I was unable to accept the reasoning of the Department that he had secured paid employment during 1975 in order that he might finance his repetition of the course in 1976 and it would seem more probable that this employment would have been for the purpose of supporting himself during 1975.

On 5th April, 1978, I wrote to the Minister and informed him that in accordance with section 26 (2) of the Ombudsman Act, I recommended that the Department of Education review its attitude on Teacher Education Scholarship allowances by generally approving payments of a dependent spouse allowance to a female teacher student in respect of a dependent husband; and in particular, review the refusal of the payment to my complainant.

On 4th May, 1978, the Minister replied and informed me "that during 1977 a major review of the overall Scholarship scheme was conducted by the Government following the abolition of the bond. In the scale of allowances which applies to students who commenced their courses in 1978, it has been determined that special 'married' rates and dependent allowances will no longer be paid. Therefore, the question of payment of a dependent spouse allowance to these scholarship students will not arise.

However, the matter continues to be relevant to those students who are completing their course of study under the terms of the former scholarship system, and that the policy relating to these students should be amended to read as follows:

'The female teacher education scholarship student who marries other than a teacher education scholarship student will be paid the married rate of allowance. Dependent spouse allowance will be paid, if applicable (i.e. if the non-scholarship husband is dependent on the scholarship allowance of his wife). Cases which might require special consideration are to be submitted to the Director of Planning Services for decision.'

The Minister also advised that he had directed that the dependent spouse allowance claimed by my complainant for 1976 be paid.

I was pleased to pass on this information to my complainant and to advise the Minister that I did not intend to proceed to the publishing of a report under section 26 and that I had concluded my investigation.

Loss of Confiscated Property

I received a complaint from the father of a high school pupil, that a teacher had taken a gold birthstone ring from his daughter and told her that it could be collected at the end of the term. Some two months later when his daughter went to collect the ring, the teacher was unable to find it as it had disappeared from the teacher's desk drawer. The father rang the Education Department on five occasions but obtained no satisfactory response.

The father asserted that the ring was illegally taken by the teacher but wanted to avoid legal action because he did not want to cause bad publicity for the school.

I took the matter up with the Department of Education who later responded by offering an *ex gratia* payment of \$45 by way of compensation but stressed that the offer was made without acceptance by the Department, or by any teacher or employee at the school, of any liability in regard to the loss of the ring. This offer was accepted by my complainant.

Although my complainant was satisfied in relation to his particular involvement with the Department of Education, I considered that it was necessary that the general principle of teachers confiscating pupil's private property be examined. Consequently, I informed the Director that I was not satisfied that the Department's procedures in connection with the confiscation of private property were appropriate for a public authority.

Whilst I did not dispute the grounds for the prohibition of certain types of ornaments or jewellery, the need for retaining any item past the end of the school day was questioned. If the practice of confiscation of pupil's private property followed by retention for any greater period than the end of the particular day, was to be justified, then I was of the opinion that a receipt should be issued and that the article should be stored in a secure repository such as the school safe.

Subsequently, the Director General of Education provided me with a copy of a letter he had sent to all Regional Directors of Education. The Director General agreed with my comments and informed the Regional Directors that principals in the regions be advised of the need to institute adequate safeguards to ensure that there is no retention of private property beyond the day of confiscation.

I found that my complainant was justified in bringing this matter to my attention but because of the action taken by the Director General in rectifying the situation I did not take the matter any further and discontinued my investigation.

Compensation for the loss of an Amplifier while on loan to a school.

I received a complaint in November, 1976 from the parent of a High School student that, following a fire at the school, he had loaned the family amplifier to the school as a replacement for use at school assemblies and other activities. While on loan this amplifier had also been destroyed in a second fire at the school.

The basis of the complaint was that the New South Wales Department of Education had rejected the parent's request for an *ex gratia* payment as compensation for the loss of the amplifier.

The Department's reasons for rejecting the claim for compensation revolved around its two major criteria in examining such claims. Those were:

- (1) the item lost/damaged/stolen could be regarded as a teaching aid; and
- (2) the owner is a member of the school staff—almost invariably a teacher.

This policy of the Department precluded the payment of compensation to private persons who lost equipment that was on loan to schools.

Following any approach to the Department it agreed that while it was not a normal practice for it to make compensation for property lost or destroyed while on loan to a school, in this case, it would make an *ex gratia* payment of \$100, because of the unusual features of the case.

As my complainant was satisfied with the amount of compensation paid I discontinued my investigation.

ELECTRICITY AUTHORITY OF NEW SOUTH WALES

Prohibition of Retail Sale of Power Supply Units

On the 2nd February, 1978 I received a complaint from a well known electrical appliance retailer about a decision by the Electricity Authority of New South Wales to prohibit the retailing of a particular line of imported power supply units primarily intended for hobby or other amateur use in the home.

The retailer complained that the Authority's decision threatened to cause the Company considerable loss, as they had large stocks of the appliance in store, including a supply imported during the period in which the Authority had the question of the safety of the appliance under review.

Section 21 of the Electricity Development Act provides that certain types of electrical articles must not be sold or hired unless they have been approved by the Electricity Authority of New South Wales, or the Approvals Authority in another State. In this case the retailer had obviously not bothered to establish whether the subject units were covered by the Act, or whether they met the required safety standards set out in a series of Approval and Test Specifications published by the Standards Association of Australia, before placing his orders with the overseas supplier.

The Company was first made aware of official concern at the safety of the appliances in 1976, when officials in another State informed the Company's Branch Manager that the appliances were unsatisfactory and were not to be sold in that State. Official advice was given to the Electricity Authority of New South Wales which then approached the Company's Sydney Office.

The Company disputed the application of the abovementioned legislation to its appliances and this led to an exhaustive official examination of the issue. Eventually, in September, 1977, the Company was informed that the appliance was prescribed and must not be sold in New South Wales until it satisfied Australian safety standards.

Assurances were given to the Authority that no further units would be sold except with the Authority's concurrence. However, despite repeated assurances to that effect the appliances were still displayed for sale on the Company's premises during December, 1977 and January, 1978, and other appliances for which approval had not been obtained were also seen to be on sale.

The Authority contended that any person engaged in the manufacture or sale of electrical articles to the public has a responsibility to ensure that the equipment meets Australian safety standards. Whilst the review which followed the action of the other State was longer than usual, this was due to the need to obtain and examine a considerable volume of technical and other pertinent information, and the pressure of other work. The Authority was of the opinion that the Company might advisedly have consulted with it before committing itself to the importation of further stocks of an article known to have raised official concern in regard to public safety.

That was my opinion also. In informing the complainant of my decision to discontinue my investigation I also noted that the Authority had the question of prosecution action under consideration.

ELECTRICITY COMMISSION OF NEW SOUTH WALES

Delay in Payment of Compensation

Blame is sometimes placed on public authorities as a matter of convenience when it lies elsewhere. There is a ready willingness to believe, that if a delay is being experienced or mistakes occur in matters where private as well as government agencies are involved, the fault lies with the government agency.

This attitude to government agencies is on occasions exploited by private agencies to conceal their own mistakes. I should add that my inquiries reveal no evidence to support this attitude, that in such circumstances one should "*cherchez la femme*" in the guise of a government agency.

I received a complaint concerning delay in a compensation payment being finalised, through the failure of the Electricity Commission of New South Wales to reply to correspondence.

My complainant stated in his letter that he and his solicitors had written to the Commission, but neither had received any reply.

Investigations revealed that my complainant had indeed written to the Commission, who in turn had written to his solicitor seeking settlement as their client had sought expedition of the matter. My complainant had written to the Commission again three months later when settlement had not taken place. The necessary documents were later forwarded by the solicitors to the Commission and settlement ensued.

I was able to inform the complainant of the prompt and systematic procedures of the Commission on its part and of the inconvenience experienced by them in these delays. He wrote to me stating *inter alia* "I am very glad I wrote to you re the matter as certain information contained in your letter makes very interesting reading and would not have been known to me otherwise. It is quite apparent the fault was entirely my solicitors'."

GOVERNMENT INSURANCE OFFICE

Refusal to accept Insurance without assigning reasons

In November, 1977, I received a complaint concerning the refusal of the Insurance Office to accept insurance in respect of a motor vehicle without the Office giving any reasons for such refusal.

The complainant informed me that her son had recently purchased a motor vehicle and the vendor of the vehicle has made insurance arrangements with a Government Insurance Branch Office.

Shortly afterwards, her son was advised by the Insurance Office that it was not prepared to accept the insurance and no explanation was given for the refusal. The complainant was unable to understand the reason for the refusal as her son had never had an accident and, therefore, had never made any claim on any insurance company. The complainant was understandably disturbed at the difficulty that her son could experience in obtaining insurance with another company in view of the refusal of the Government Insurance Office.

I took the matter up with the Government Insurance Office explaining that normally I would decline under section 13 (4) (b) (iii) to investigate a complaint concerning the refusal of the Government Insurance Office to accept insurance as I consider this to be a trading or commercial function of the Office, but in this instance, I was concerned at the alleged refusal of the Office to give any reason for its decision in the matter.

The General Manager explain that it was current office practice to decline comprehensive motor vehicle insurance where a proposer had had less than twelve months driving experience and the vehicle is subject to a hire purchase agreement. The Office pointed out that the reason for declining was readily available to the proposer on request and that no such approach had been made to the Office in this regard.

Although I was unaware if the complainant or her son had approached the Office to ascertain the reason, I sought its advice as to whether there would be any administrative difficulty in the Insurance Office advising proposers of its reasons for not accepting insurance proposals in cases such as this one, and thereby obviating the necessity for the proposer to canvass the reason from the Office. In doing this I had in mind the provisions of section 5 (2) (c) of the Ombudsman Act, where conduct of an authority is wrong if reasons should have been given but were not.

Soon afterwards, I heard from the Insurance Office that it had considered the matter and that in future, in cases such as this, clients would be advised of the reasons for declining insurance.

Although I found the complaint justified, I was pleased with the review of the Insurance Office practice.

MARITIME SERVICES BOARD

Financial loss as a result of delay in answering correspondence

I received a complaint in August, 1977 from a representative of an investment company, which had purchased an ex-naval minesweeper in July, 1976, for the purpose of refitting the vessel for use in the Pacific Islands. It was the intention of the company to move the vessel from the Navy wharf in the Pacific Islands. It was the intention of the company to move the vessel from the Navy wharf to the Maritime Services Board wharf at Balmain, where the necessary work was to be done. In late June, 1976, my complainant made verbal enquiries of the Board, as to their requirements for the use of their Balmain wharf, and the lessees of the wharf formally requested permission from the Board for the company to tie up at the wharf. In early September the Board replied to the lessees indicating the conditions to be met by my complainant's firm before approval could be given to the use of the wharf. These conditions included a bond of \$20,000 against the possible deterioration and abandonment of the vessel and the provision of a 24 hour watch. My complainant found these two conditions in particular to be burdensome and visited the Board's Harbour Masters Office on 21st September, 1976 to discuss alternatives; he was advised to put his proposals in writing to the Board, which he did on 5th October, 1976, suggesting a bond of \$2,000 only, and no watch on the vessel. It was not until my complainant's partner 'phoned the Board on 10th March, 1977, that any attention was given to replying to his correspondence. It is clear that the conditions imposed by the Board on wharf use have been necessitated by experience over the years, and it was not really those conditions, stringent though they appeared, which were the subject of this complaint. Rather the complainant claimed that the long delay in receiving an answer from the Board, on the question of his proposed conditions for wharf use led to his financial loss, chiefly in the form of moorage fees paid for the Navy wharf, a sum of \$3,405. Shortly after learning of the Board's rejection of their proposals, the company sold the minesweeper at a loss.

Whilst I could not conclude that the Maritime Services Board could be held directly responsible for the company's loss, I did consider that, had the company received a prompt answer from the Board, they might well have been able to make other arrangements for the vessel, and saved themselves some expense. On this basis therefore, I suggested to the Board that the company be considered for an ex-gratia payment. In reply, the Board advised me that it was prepared to offer the company \$1,250 as an ex-gratia payment towards expenses, provided that the company release the Board from further claims, and take no additional action against the Board for any other costs or charges, etc. Following some negotiation, the company agreed to the Board's offer and conditions, and so the complaint was resolved to the apparent satisfaction of both parties.

METROPOLITAN MEAT INDUSTRY BOARD

Seizure of Meat

The original complaint I received concerned an alleged unfair seizure of meat by inspectors of the Meat Board. The complainant's solicitors also maintained that two letters they had sent to the Board had received no reply. The Board answered my initial inquiries by admitting that the letters had been mislaid and thus unanswered. The reply also indicated, *inter alia*, that the meat was seized for expert examination because it bore no inspection brands and was suspected of being illegally slaughtered. The report added that it was difficult to understand the complaints about the conduct of the officers because the complainant had signed a statement that he had "no complaint regarding any aspect of their visit or the manner in which they conducted themselves whilst on my premises." I was further advised that the Meat Industry Act provided a remedy for any person aggrieved by seizure to make a complaint to a Justice of the Peace within 48 hours of seizure and this was not done.

I continued my investigation and the Board subsequently indicated that, in the circumstances, it was prepared to return the meat and offer the complainant an apology for the delay and misunderstanding that had been occasioned. Whilst this would have partly satisfied the complaint I remained concerned about the following aspects of the matter:

- (a) The seizure of the meat may have been made contrary to law or based on a mistake of law—though undoubtedly the inspectors believed they were acting lawfully.
- (b) An apparent failure to bring to the complainant's notice procedures to be followed and time limits involved in seeking the return of the meat.
- (c) The obtaining from the complainant of his signature on a "no complaints" form and the failure to leave a copy of this document with him.

It further appeared to me that there was an obvious unfairness in certain provisions in the Meat Industry Act, 1915, (and also in parallel legislation) providing that the onus of proof for the return of the meat was on the complainant and also a quite restrictive time limit of only 48 hours in which to complain. It also seemed to me that provision should be made for notice to be given to a person from whom meat was seized setting out the relevant provisions. I took the view that the Act, whilst no doubt appropriate to the circumstances in 1915 when enacted, was not necessarily completely apposite to 1977. I put my views, with various alternative suggestions, to the Board for its consideration.

Later my Deputy and I had the opportunity of detailed and fruitful discussions with the Chairman and the Secretary of the Board when it was generally agreed that my suggested amendments to the Act be put to the Minister with the intimation of general concurrence from the Board.

However, some time later I received advice from the Board that a new Bill had been prepared to replace the existing legislation and, whilst the drafting committee had accepted my suggestions, the Parliamentary Counsel could only act within the terms of the relevant Cabinet Minute which did not include my suggestions. The Chairman, therefore considered that it was unfortunately out of his hands, though he did inform me that the use of the "no complaints" document had been discontinued and an appropriate notice placed prominently on receipts for seized meat drawing attention to the provisions and procedures for recovery of meat under the Act.

I then took the matter up with the Minister for Primary Industries and suggested that consideration be given to amending the Meat Industry Bill (then before Parliament) to extend the period of complaint from 48 hours to 10 days and to add an additional sub-clause providing for mandatory notice to be given by inspectors at the time of seizure. I was pleased that the Bill was amended in the committee stages and the relevant clause varied from 48 hours to 7 days. Since I took the view that it would also have been preferable to provide for statutory notice to be given I suggested to the Minister that when Regulations were drawn my recommendation be kept in mind. I was glad to hear from the Minister that steps were taken to include such a requirement in the Regulations to be made under the Act.

I was gratified that the combination of the additional time to complain to a Justice of the Peace, the proposed Regulation and the new administrative procedures implemented would make the system fairer to the individual and that a complaint in similar terms to this one would be unlikely to recur.

METROPOLITAN WATER SEWERAGE AND DRAINAGE BOARD

Unfair levying of rates on land zoned for Open Space to which services are provided irrespective of whether or not connection is made to those services

A property owner complained to me that she had been charged rates by the Metropolitan Water Sewerage and Drainage Board for services to her property, zoned for open space, even though she had not asked for such services to be provided but allowed the Board to cross her land with sewerage lines after she had been requested by the Board to do so.

The complaint I received made the following points:

- An approach was made by representatives of the Board seeking permission to put sewerage lines across the land and this involved clearing bushland to make a road which was to have a locked gate at its entrance.
- The road and the sewerage line had no benefit whatsoever to the owner except for a small compensation for manholes construction.
- Permission was granted in order to assist the Board to provide sewerage service to other properties.
- No mention was made at any time of any disadvantages and it was not until accounts for sewerage rates were received did it become known that by granting the permission rates were to be levied.

I took this matter up immediately with the Board and was informed that at the time my complainant was advised that sewerage rates were chargeable on her property even though it was zoned "open space," this advice was correct.

However, as a result of similar cases which had come to the Board's notice, the whole question of the charging of sewerage rates on such properties had been reviewed and the Board had decided that sewerage rates would not be levied on them in the future unless, of course, connection was made to the service.

My inquiries disclosed that, although this decision had in fact been made, it had not actually been promulgated throughout the Board's administration in the short time available before my complainant was told of her position under the, as yet, unchanged ruling.

This had the effect that my complainant was caught up in the lapse of time between the decision to make a change and the necessary administrative processes to implement the variation in policy.

In the circumstances, the Board acted promptly to remedy the situation and informed me that it had withdrawn the sewerage rates previously charged in the case and amounting to \$72.69.

Although I could not reasonably find the conduct of the Board to be wrong in the matter, I was, as a result of the Board's rectification of the situation, able to tell my complainant of the position.

As the problem appeared to have been satisfactorily resolved, I told her that I was to conclude my inquiries.

Failure to accept liability for damage

In April, 1977 I received a complaint from an Association which owned several houses on a metropolitan main road. The complaint was that the Metropolitan Water Sewerage and Drainage Board had refused to accept liability for damage caused to these several homes after a watermain had burst in the roadway.

In addition, my complainant had stated that despite warnings both from one of the residents and from the Association that the main was leaking before it burst, the Board failed to take action to prevent the damage occurring.

The particular resident mentioned above also complained to me previously concerning the same matter and my investigations on his behalf had been progressing when the complaint was received from the Association.

He also had in particular complained about the delay on the Board's part in replying to his claim for damages and regarding the Board's refusal to accept liability for the damages caused to his home.

After making enquiries of the Board concerning the first complaint I subsequently called for and examined the Board's relevant files.

The file revealed, amongst other things, the possibility of deficiencies occurring in the type of restraints used for the end cap of the water main, and the fact that the Board itself may have been negligent in the way in which the main was laid.

It was also my opinion that in view of the number of telephone complaints by residents made to the Board in respect of the leakages and the type of end cap restraint used, that the Board appeared to be liable for the damage caused by the break in the water main.

I put this to the Board and, in the case of my first complainant, the Board reconsidered its stand and agreed to pay the sum of \$610.00 claimed by him in full settlement of all claims he may have had against the Board in the matter.

Insofar as the remaining complaint was concerned, the Board also reconsidered this matter and negotiated settlements with the claimants in respect of each property on the basis of an "act of grace" payment, subject to the signing of a suitable release.

Delay in answering correspondence about erroneous issue of excess water account

A complaint was lodged with me that, despite a number of personal calls and written advices to the Metropolitan Water Sewerage and Drainage Board explaining that there seemed to be a mistake in the accounts received because the rate number shown was different to that on other accounts he had received, he could not obtain finality.

Over a period of seven months all he received were acknowledgements to his letters saying that a reply would be forwarded as soon as possible except that he was sent a further account, again with the incorrect number on it.

I instituted inquiries in the matter and was subsequently informed by the President of the Board that water consumption accounts of \$212.26 and \$140.34 a total of \$352.60 for the period from 18th January, 1977 to 8th December, 1977 were found to have been based on consumptions recorded on a meter at another property.

The President informed me that the accounts had, of course, been withdrawn and that a letter of regret had been sent to the ratepayer, explaining the position that the delay in dealing with his original correspondence had been due to a heavy work load being experienced by the relevant staff and that there had also been the need to carry out several on site inspections to finalise the matter. However, the Board had taken steps to ensure that such delays as experienced by my complainant were avoided in the future.

In the circumstances, I was able to inform the person concerned that I considered his complaint was justified but, in view of the action taken by the Board to rectify the situation, that there did not appear to be anything I was able to do to take the matter further and I, therefore, concluded my enquiries.

N.S.W. PLANNING AND ENVIRONMENT COMMISSION

Planning can be torture

A complaint was made to me by a land owner concerning the refusal of the Planning and Environment Commission to recommend to the Minister an alteration of an Interim Development Order, which would have the effect of allowing him a right of appeal to the Local Government Appeals Tribunal from the failure of a Council to approve the completion of a residential flat building.

The complainant considered that he should be permitted to carry out the development and raised the following with me:

He was not a developer but merely desired to build the flats for his retirement; he felt that in view of an unfortunate chain of circumstances he should be entitled to some favourable consideration and special treatment by the Commission and particularly because of the previous (but since ruled invalid) approvals of the Council and the Minister. He desired to regularise the matter and be allowed to develop in accordance with previous approvals. He contended that the decisions were made and received in good faith and in accordance with the policies of the Council, the then State Planning Authority and Minister at that time; and he was especially concerned that the Council in July, 1964 confirmed that the original development consent of February, 1963 was valid until February, 1965; that the Council also in December, 1964 had indicated that no further development consent was required for the second stage development; that only a building application was necessary as the development application had been superseded by the application for Stage 1 of the development. He felt that he was prejudiced by this erroneous information in view of subsequent events and alleged that he has suffered a substantial loss in architects fees, footings, construction costs, construction of a seawall, and legal costs.

The site was purchased in 1963, and was then zoned as open space (foreshore reservations and places of nature beauty or advantage) under the County of Cumberland Planning Scheme.

In February, 1963, the Council granted a development consent for the erection of Class "B" or "C" flats (the application of January 1963 involved at least eight flats and four garages). However, only Class "A" flats were permitted by the Residential District Proclamation affecting the site. The approval was given in anticipation of the prescription of the Local Planning Scheme in June, 1963 which permitted Class A, B and C flats and which suspended the Residential District Proclamation. The Council then approved the sketch plans subject to suitable building plans being approved; in February, 1964 the Council granted building approval for six flats as the first stage of development, and in February, 1964, the Council approved amendments to the building application.

In July, 1964, Council confirmed, in reply to the complainant's letter that the original development consent was valid until February, 1965. Construction work on the first stage was completed in October, 1964. Council in December, 1964 indicated that no further development consent was required for the second stage development, and only, a building application was necessary, as the development application had been superseded by the building application for Stage 1. Council could have issued a valid development consent to the complainant between June, 1963 and January, 1965 but misinformed him by stating that no further development consent was necessary. (Later a court judgment in 1974, the Court referred to these multiple assurances by Council, and the complainant's allegations that he was misled by the erroneous information Council).

The complainant having completed the erection of the original six flats (3-storey flat building), desired to build four of the additional flats previously approved, but was unable to do so due to a chain of complex and unfortunate events hereafter recounted.

In January, 1965 the beach front areas were suspended (from the Local Planning Scheme) under section 342v of the Local Government Act. By Interim Development Orders of January, 1965, the erection of residential flat buildings were prohibited. This suspension revived the Residential District Proclamation prohibiting Class B and C flats.

The complainant made application to Council in February, 1965 for six further flats as the second stage of the building project, but the State Planning Authority, although prepared to approve the proposal in August, 1965, refused the application in September, 1965 under section 342v (3) of the Local Government Act. However, in December, 1965, the then Minister allowed an Interim Development Appeal for the proposal, which was in accordance with the State Planning Authority's policy at that time of permitting in appropriate cases, prohibited uses, when it determined interim development appeals, for which it was responsible under section 342v (5) of the Local Government Act. Subsequently, the Minister's approval was held to be valid in the Supreme Court in 1974.

However, following an appeal to the Court of Appeal in April, 1976 all the abovementioned approvals were held to be invalid by the Court. The essential reasons for the decision were that the building approvals were not preceded by a valid development approval, as the latter had been given in anticipation of the prescription of the Local Planning Scheme of June, 1963 which permitted A, B and C Class flats, but only Class A flats were permissible under the Residential District Proclamation of September, 1947 which affected the site. In addition, the Council, Planning and Environment Commission and Minister were bound by the prohibition against the erection of flats under the Interim Development Orders of January, 1965 and July, 1965. (As the State Planning Authority for many years had allowed prohibited interim development on appeal, the complainant felt that he was misled by the Minister's approval).

The Shire Varying Scheme (Amendment No. 1) was prescribed in March, 1966 and flats were permissible but with greater boundary clearances than Stage 1 of the subject development. Both this Varying Scheme and the Planning Scheme of June, 1963 had suspended the Residential District Proclamation.

In November, 1966, Council approved amended building plans for the Stage 2 development (five additional flats in lieu of six), but now considered the consent invalid, as there was no preceding valid development consent (Court decisions of 1974 and 1976). In June, 1972 the complainant had submitted amended building plans to Council, reducing the number of flats from five to four, but this was refused by Council in January, 1973. It should be pointed out that he resided overseas from 1968-70. The sewerage service was connected in 1971, but the Stage 2 project was not completed between the period November, 1966 to 1968.

Varying Scheme No. 6 was exhibited in 1973 and again re-exhibited from March to May, 1976 as Amendment No. 10, but as the complainant's land was not affected he had no statutory right of objection. However, Council afforded him an opportunity of a hearing on his objection, and in June, 1976, recommended that the objection be disallowed as the site was on the ocean front and further flats would be contrary to Council's policy. This recommendation was forwarded to the Planning and Environment Commission and in March, 1977 the Minister disallowed the objection.

In August, 1975 Interim Development Order No. 69 prohibited flats on the site. The Residential District Proclamation was also revived.

The complainant alleged he suffered considerable financial loss by acting on the invalid approvals and incurred architects' fees and costs for construction of footings, involving \$3,750; costs of constructing a seawall of \$4,000 also legal and other costs of not less than \$10,000. In this regard the complainant had protected his legal rights. The Council in January, 1976 and the Planning and Environment Commission in February, 1977 in their files referred to the existence of financial loss by the complainant.

Council did not further raise the issue of a valid consent between 1963 and 1973, but the proceedings in the Supreme Court resulted in the building approvals of February, 1964 being held invalid.

Six of the seven owners in the vicinity who were granted such invalid approvals by the then Minister had erected buildings. In July, 1976, Council sought advice from the Planning and Environment Commission on the proper method of legalizing the buildings, which had received invalid approvals by the Minister in about 1965, but refused to take action to regularize my complainant's previous consent as it does not want further flats on the ocean front. (The Planning and Environment Commission had not suggested any alternate or suitable remedies to alleviate the situation).

The Council and the Commission were opposed to the complainant's proposals as the site is not within the area contained in Exhibited Varying Scheme No. 6 (nor Amendment No. 10 which prohibited flats, or in any other land in the Shire adjoining a beach); the potential property damage in this locality due to storms (loss of land to the sea, on the subject site in the May 1974 storms); the weight of public opinion in the 1965 and 1973 objections to the Varying Scheme which precludes residential flat development in the beach front area, and, as the complainant's objection to this Scheme was disallowed by the Minister in March, 1977; and also that further flat development would conflict with Council's policy not to approve such flats adjoining the ocean beach foreshore area from an environment/aesthetic viewpoint.

The Commission recognized that the complainant had acted properly at all stages of the proposed development, although it considered that he had contributed to the situation by a long delay in completing Stage 2 of the project (between November, 1966 and 1968), but decided that it should not seek action to allow further development. The Commission also felt that the proposal would create an undesirable precedent and encourage further approaches for approval by other owners. However, in my view no precedent was involved in this case which appeared to be in quite a different category as the Supreme Court ruled in another case, involving nearby land, that no substantial commencement had taken place. The complainant stated that substantial commencement of the building occurred in February/March, 1967, but this was disputed by Council. However, the footings and brickwork existed for the uncompleted state, and the Court in its judgment referred to the excavation and laying of the foundations; there was no dispute that these were in accordance with approved plans and also referred to the question of an approved structure being substantially commenced within one year of Amendment No. 1 of 1966 coming into effect.

The prescription of Amendment No. 10 in 1978 did not alleviate the complainant's problem, as his objection had been disallowed and flats were prohibited, although the Residential District Proclamation again was suspended. The Planning and Environment Commission did not rectify the situation in the Interim Development Order of 8th August, 1975, in the re-exhibition of the Varying Scheme in 1976, or, on the recommendations on the objections to that Scheme.

The Commission was given an opportunity by me in February and May, 1977 to recommend a rectification of the complaint but declined to do so. In this regard, I suggested that the Commission could either alter the Interim Development Order prior to prescription of Amendment No. 10 or recommend suspension action under section 342y of the Local Government Act after prescription of Amendment No. 10 to permit the desired residential flat development with Council consent. In addition, in both cases, either a clause in the Interim Development Order or section 342u (2) action under the Local Government Act would be required to suspend the residential District Proclamation in respect to this particular lot, but not all the land mentioned in the proclamation.

The Commission in April, 1977 advised me that the matter had been given very careful consideration at high level and whilst there may not be a serious technical objection to the taking of suspension action after gazettal of Varying Scheme No. 10 to permit the erection of one flat, it was felt that action under section 342u (2) would be undesirable. Consequently the Commission declined to take any action.

I wrote to the Commission in May, 1977 requesting information as to why the proposed development should not be allowed to proceed from a planning viewpoint; why the applicant should not be permitted to appeal to the Local Government Appeals Tribunal being an independent authority established to deal with development problems of this nature on their merits; why the action under section 342u (2) would be undesirable, and whether the Commission could suggest some other suitable method of rectifying the complaint.

The Commission replied that the proposal would create an undesirable precedent; the Council's firm policy of not allowing further flats on the beach frontage land has been incorporated into the principles of Amendment No. 10 and has been endorsed by the State Planning Authority

and Planning and Environment Commission; the long delay in completing Stage 2 of the building by the complainant, enabled Council to implement a changed policy by 1970; the applicant should not be allowed a right of appeal to the Local Government Appeals Tribunal as the case should be treated "as a matter of policy and not on its merits"; and, that section 342u (2) action would be undesirable. The Commission suggested that after prescription of Amendment No. 10 that suspension action could be considered to permit the erection of one flat. The Commission in February, 1977 had stated that if a 15 metre setback from the beach was imposed the impact of further development on the site would not be marked. Previously and in March, 1977, the Commission had not opposed my suggestion to the extent that one further flat should be permitted, but envisaged problems with the overriding of the Residential District Proclamation, although a previous precedent existed in respect of a Council.

However, what I had sought from the Commission was a right of appeal to the Local Government Appeals Tribunal in order that the matter could be dealt with, *on the merits*, by an independent authority. In my opinion, the Commission was being unreasonable when it regarded the subject case as "not a matter which should be treated on its merits, but one which should be treated as a matter of policy" and that "the applicant should not have a right of appeal". The right of appeal had been removed by the gazettal of the Interim Development Order on 29th January, 1965, and the complainant has no right of appeal under the Interim Development Order of 8th August, 1975 nor would there be a right of appeal for the prohibited use when Amendment No. 10 (Varying Scheme) was prescribed.

Although the Council in April, 1973 indicated that the complainant had a right of appeal to the Local Government Appeals Tribunal, this was incorrect and, in fact, the Council in April, 1973 had refused to agree to the Tribunal hearing an objection under section 342NA of the Local Government Act on the merits of the case and non-compliance with Schedule 9 under the Varying Scheme (Amendment No. 1) of 2nd March, 1966.

In my investigation the critical question was whether the conduct of the Commission is wrong in terms of the Ombudsman Act in refusing to recommend to the Minister that action be taken to amend the Interim Development Order of 8th August, 1975, to permit the owner to have a right of appeal to the Local Government Appeals Tribunal, especially in view of the previous approvals given to the complainant in 1963, 1964, 1965, and 1966, but which he was later prevented from completing his modest project. The tortuous history had in my opinion worked an injustice upon the complainant. He had not contributed to the unfortunate chain of circumstances to any significant extent and had received unfair treatment.

The continual change in the planning of the Shire by the Planning Schemes of 1951, 1963, and 1966; the Interim Development Orders of 1965 and 1975; the Exhibited Schemes of 1973 and 1976, as well as the suspension and revival of the Residential District Proclamation of 1947 on numerous occasions, has complicated and frustrated his development proposals.

I was of the opinion that the complainant's case involved special circumstances and that he had been placed in an invidious position by being unable to complete the residential flat development through favourable decisions of 1963 and 1965 by the Council and the then Minister respectively being held invalid by the Court in 1976 after a lapse of many years.

I did not consider that an approval would create any adverse precedent. I was strongly of the view that the complainant should have available a right of appeal to the Local Government Appeals Tribunal to have the matter determined on the merits.

I found that, in view of the circumstances of the history of the proposed development, the conduct of the Planning and Environment Commission to be wrong in terms of section 5 (2) (b) of the Ombudsman Act, in that its refusal to recommend action which would permit a right of appeal to the Local Government Appeals Tribunal was unreasonable.

Under section 25 of the Ombudsman Act I informed the Minister for Planning and Environment of my intention to make a report under section 26 of the Act and to recommend that the Planning and Environment Commission review the matter and agree to rectify the situation by recommending to the Minister that appropriate action be taken to effect an alteration of Interim Development Order No. 69 of 8th August, 1975, and if necessary, action be taken under section 342u (2) of the Local Government Act to suspend the Residential District Proclamation in respect to the subject land. This action would allow the proposed development to be permissible, with Council consent, and thus give a right of appeal to the Local Government Appeals Tribunal if Council refused consent.

The Minister then advised me that he had noted the extensive investigation carried out; that he had reached the conclusion that in the light of the information obtained some action was justified; and that my action was quite right to bring the matter to his attention in the discharge of my appointed duty.

Consequently, the Minister instructed the Planning and Environment Commission that as soon as the Varying Scheme No. 10 was gazetted it was to initiate action to suspend the provisions

of the Varying Scheme and introduce an Interim Development Order which would permit the erection of one additional flat on the subject site, with the consent of Council; and also to take action under section 342u (2) of the Local Government to exclude the subject land from the Proclaimed Residential District.

As the matter appeared to have been resolved I discontinued my investigation and advised the Minister, Commission, and complainant accordingly. The complainant would have the opportunity to raise with me any problem experienced with the Council after the alteration of the Interim Development Order is gazetted.

PLANNING AND ENVIRONMENT COMMISSION

WARRINGAH SHIRE COUNCIL

Unreasonable refusal to allow development

I received a complaint from the Chairman of the Management Committee of a Nursing Service and Welfare Association about the refusal of a Council to recommend an alteration of an Interim Development Order to permit the erection of a nursing home.

The basis of the complaint was:

- The Council in 1977 declined to recommend to the Planning and Environment Commission that an Interim Development Order be amended to permit the original development approval to be implemented.
- The land was zoned non-urban 1 (a) (5 acre minimum) under the prescribed Planning Scheme and as a permissible use the Council approved a development consent for the nursing home/convalescent rest home in 1974.

The Planning and Environment Commission did not object to the proposal at that stage but requested that the Council ensure that the development did not adversely affect the Lagoon or its catchment area. The applicant then proceeded to purchase the site in January, 1974.

- The Council and the Planning and Environment Commission were aware at the time the development approval was given that the gazettal of the Interim Development Order was pending, which prohibited the proposal. However, neither the Planning and Environment Commission nor the Council advised the applicant of the consequences of purchasing a site upon which development would shortly be prohibited and, therefore, withheld vital information to the detriment of the applicant.
- The Interim Development Order when made did not contain any provisions to permit an applicant to erect a building already validly approved under the provisions of the prescribed planning scheme.
- As the use was prohibited under the Interim Development Order, the applicant had no right of appeal to the Local Government Appeals Tribunal against Council's refusal to allow the development to proceed.
- There were no valid planning grounds for refusing to alter the Interim Development Order to permit the proposal to proceed.
- The site did not front a main road and was at least 800 feet from a Main Road. The subject road was not a through road and although sealed to the site it was then untrafficable with a gravelled surface past the subject land in an easterly direction. There could be no traffic hazard or traffic congestion and any increase in traffic generation at the site would be negligible. The side street in question would require some construction of sealed access in accordance with a condition of Council's 1974 approval.
- There would be no environmental problems involved if the site was developed as desired by the owners. No injury to the amenity of the neighbourhood could be involved. The P.M.G. exchange building is situated in the locality. The proposal would have no adverse visual impact from an aesthetic viewpoint.
- The subject site was an ideal one for a nursing home, in a bushland setting with a suitably designed building, and it would be landscaped to comply with a condition of Council's previous approval.

- The nursing home/convalescent rest home, as being within the definition of a hospital in planning terms, was of little difference in character to an educational establishment which was permissible with Council consent under the Interim Development Order.
- Clause 7 of the Interim Development Order was designed to prevent siltation of the Lagoon; to protect the landscape and landform especially in the environs of the Lagoon, and prevent pollution of the Lagoon and its waterways by way of drainage disposal. However, the land was not near the lagoon and the site was at least 25 chains from the Creek and, therefore, on the very extremity of the Lagoon's catchment area. Siltation from such a small development on a 5-acre site would be negligible, but the applicant would be prepared to reduce or eliminate this affect. In addition, Council's garbage tip was in close proximity to the subject site where Council apparently did not consider that a siltation problem existed. An alteration of the Interim Development Order would not interfere with the general aims of the original order in respect to environmental and pollution matters.
- Septic run-off would create no problem as conditions in Council's 1974 approval would ensure that a "pump-out tanker service" would be necessary and an "on site" septic tank disposal was not envisaged.
- The Council had made no attempt to justify its grounds of objection and had not substantiated its reasons for such objection. The council had not furnished any evidence to support the rejection of the application for amendment of the Interim Development Order.

From my investigations I ascertained that:

- No objections were received when the landowners in the locality were notified of the proposed development. The application was approved in December, 1973 and a land use consent was then issued by Council in January, 1974.
- An approval had previously been given prior to the Interim Development Order and the applicant was completely unaware of the pending gazettal of the Interim Development Order. A senior Council officer in January, 1976, had stated, "It is recognized that this charitable organization has been disadvantaged by the gazettal of the I.D.O. No. 51 particularly since a land use consent had already been given".
- Council had pointed out that, "Council's consent is not statutorily required to enable a variation of Interim Development Order No. 51 gazetted in March, 1974. In fact the Minister has, on occasions, varied this I.D.O. without prior referral to Council."
- Council indicated that the land was immediately on top of the escarpment which overlooks the Falls Valley and Council was required to be satisfied that development will not mar the landscape or landform especially in the environs of the lagoon. (However, the State Planning Authority in January, 1974, indicated that the nursing home would not be large). The applicant in July, 1976 dealt with the blending of the single storey construction into the bushland setting so as to prevent any visual intrusion.
- A Senior Council officer in December, 1973, reported that, "The site is included in the designated Lagoon catchment area and the intention of the proposals for this area is to keep intensity of development to a minimum. It is considered that this small proposal on its own is not contrary to the current proposals under review." The former State Planning Authority did not object to the proposal in January, 1974, but requested the Council to ensure that the development did not have an adverse effect on either the lagoon or the catchment area. (A Senior Council officer in January, 1974 commented that "the proposal is a small scale and will have little or no effect" on the lagoon or catchment area).
- A Senior Council officer in January, 1976 commented, "I do feel, however, that this proposal is rather low key and that provided safeguards are taken regarding pollution (i.e. effluent discharge specifically) that there should be no real problems" and "Personally I think it would be equally difficult to prove the proposed development is completely undesirable." (The State Planning Authority in January, 1974, had commented, "This site is at the limit of the catchment area and would not be likely to have any effect on it."
- Council had stated that "a number of independent scientific studies have shown that the Lagoon is ecologically dying. Any additional development which will increase run off and subsequent siltation within the lagoon is totally undesirable." (However, the consideration of the merits of this particular site appears to have little or no relevance to the general planning and environmental considerations for the preservation of the Lagoon and its catchment area from pollution. The site is on the edge of the catchment area and a very considerable distance from the Lagoon, and the applicant in July, 1976 indicated the methods of preventing septic run-off and siltation.

- Council did not desire to set an undesirable precedent and did not support the proposal. (However, the Council was invited to give planning reasons why the proposed development should not be allowed to proceed; why the alteration of the Interim Development Order should not be supported, and why, in view of the previous development approval by Council, the proposed use should not be permissible with Council consent and thus give a right of appeal to the Local Government Appeals Tribunal in the event of a further Council refusal.) Council had been unable to supply any satisfactory evidence to me to support or corroborate its refusal. The Planning and Environment Commission in 1976 stated that "no attempt had been made (by Council) to quantify these effects (of septic run-off, siltation, visual and traffic intrusion).

The Commission in June, 1977 indicated that "if Council cannot substantiate its opposition to the proposal, to both the satisfaction of the Ombudsman and the Commission, then the Commission would then be prepared to make a recommendation to the Minister that Interim Development Order No. 51 should be altered in order to permit the proposed development to proceed with Council consent and hence allow the applicant the right of appeal to the Local Government Appeal Tribunal in the event of an adverse decision."

I noted that the Commission in July, 1977 commented that "the Commission should not overrule Council's wishes in this matter." However, I was of the opinion that the council was being unreasonable in not recommending that the applicant be given a right of appeal. In this regard if the Commission supported the Council's action, when the Council was unable to sufficiently and adequately support its action to the Commission and was unable to produce any technical evidence to corroborate its stand, then the Commission's decision would also be wrong conduct in terms of section 5 (2) (b) and (c) of the Ombudsman Act, by being unreasonable and based on irrelevant considerations.

I was concerned as to why the proposed development should not be allowed to proceed; why the alteration of the Interim Development Order should not be supported; and why, in view of the previous development approval by the Council, the applicants should not be given the right of appeal to the Local Government Appeal Tribunal in the event of a further Council refusal.

The Planning and Environment Commission in October 1977, gave consideration to the issues which I raised and my suggestion that the Interim Development Order be altered accordingly, and consequently recommended to the Minister for Planning and Environment that the Interim Development Order be varied to allow a Nursing Home on this site as a use permissible with Council consent. This also gave the right of appeal against any Council refusal of a development application.

As the matter appeared to have been satisfactorily resolved, I concluded my investigation.

Delay in amendment of Interim Development Order

During a country visit which I made in May, 1977 I interviewed a member of a firm of solicitors, together with his clients. They complained to me as to delay in the amendment of an Interim Development Order, such proposed amendment being with the agreement of the local council.

The proposed amendment related to certain land which was to be redeveloped as a shopping centre. In anticipation of the variation being dealt with expeditiously, the complainants had already called tenders for the development and delay was naturally enough causing additional cost.

I took the matter up with the Planning and Environment Commission and I received a reply from the Commission in which I was informed that whilst general agreement existed between the Council and the Commission that some amendment to the relevant clause was desirable, there was not at that time any agreement as to the precise terms of the amendment. On examining the files of the Commission I found that after some early correspondence with regard to the matter it came to a head on 17th November, 1975, when the Council sought the introduction of a clause which would, in effect, permit the proposed commercial development on 6 per cent of the total site area of the subject land. Discussions subsequently took place between officers of the Commission and the Council and eventually on 21st July, 1976, the Council renewed its earlier application for the modification of the relevant clause and submitted this to the Commission. I found that in fact nothing further occurred with regard to the matter until a report was prepared on 10th May, 1977 recommending that the development should proceed as proposed and that the necessary variation to the Interim Development Order should be made. This was in fact after I had raised the matter with the Commission.

Shortly after the Council was advised of the suggested amendments, subject to the public exhibition of the proposed changes, and an opportunity being given for objections.

The proposed amendment did not appear to me to be very involved and eventually with a subsequent variation to the proposal the amendment was duly advertised, agreed to, and the Interim Development Order Amendment published on 14th October, 1977.

I was concerned at the considerable delay which had occurred in dealing with the matter, particularly the period from July, 1976 to May, 1977, but was unable to obtain any adequate explanation as to the reasons for this occurring.

However, the matter had now been rectified and as the amendment had been made I, whilst finding the complaint to be justified, discontinued my investigation further.

Disclaimers on Zoning Certificates

For many years a form of certificate has been provided, firstly by the Cumberland County Council, then by its successor the State Planning Authority, and then by its further successor the Planning and Environment Commission in response to enquiries made on behalf of purchasers of land and others as to the zoning of properties. This has been part of the normal enquiries made on the purchase of a property, and commonly known as a 342AS Certificate. Whilst no fee was originally charged for this, at the relevant time a fee had been imposed and was then \$5.00.

In July, 1976 the Commission adopted as a policy the inclusion in all zoning certificates issued by the Commission of a suitable endorsement disclaiming liability in respect of the particulars contained therein. Steps were taken to prepare the wording of an appropriate endorsement. It might be noted that, as far as I am aware, no other Department from whom enquiries are made on the purchase of a property have in fact adopted a form of disclaimer.

After receiving advice the Commission decided in February 1977 to endorse on the replies to the inquiries a disclaimer in the following form:

"Any person relying on the information herein does so at his own peril and the Commission is not to be regarded, in any way, as holding out or warranting or advising that the information contained herein is accurate, or that such information is supplied without negligence. No officer, agent or employee of the Commission is to be liable for any negligence in preparing or supplying the information herein."

No foreknowledge of this was given and the action taken resulted in a storm of protest by members of the legal profession and others direct to the Commission and a considerable number made complaints to me. Doubt was expressed as to whether the words endorsed by the rubber stamp had any legal effect at all, and the view was taken that the Commission could not avoid its responsibility *ex post facto* by attempting to exclude itself from liability in a contractual way without the consent of the other party to the contract.

What in fact was happening was that the forms were being submitted in duplicate in the normal way and when the reply was forwarded the endorsement was placed on the copy forwarded by a rubber stamp.

It was further pointed out that if the practice was adopted generally, the value of any enquiry made to the Commission must be placed in some doubt as it was stressed that whether or not there was any statutory duty on the Commission to supply the information, the fact was that the Commission did undertake to supply such information as to zoning and then apparently purported to add its own conditions.

I raised the matter with the Planning and Environment Commission. From information received by me it was clear that the action was prompted by concern as to the liability of the Commission in respect of the supply of such information, particularly as there was no statutory requirement to do so.

Consideration was then given by the Commission as to whether such information should continue to be supplied but in the meantime, the issue of the form of disclaimer on the duplicate forms was continued in spite of further protests.

After some delay awaiting definite information from the Commission I obtained its files and wrote to the Commission in the following terms and sought comments on the following matters:

- "1. The disclaimer adopted by the Law Foundation does not appear relevant to the question of the enquiry forms, as this relates to publications and is used by a body which is merely protecting itself in respect of any statements that might be made by members of its staff or other persons whose work it is publishing.
2. There appears no doubt that the endorsement by the Commission on the form with the disclaimer is ineffective.
3. The disclaimer may be more effective if it was endorsed on the form when submitted by the enquirer, but apparently no steps have been taken to do this at this stage.
4. It is noted that enquiries were made before the form of disclaimer was adopted as to whether any other Government Departments used a form of disclaimer and it was found not to be so. In spite of this, the Commission proceeded.

5. No information was given prior to the adoption of the disclaimer and I note that a press release was prepared but this was not proceeded with.
6. The present proposal, as submitted to the Treasury, is that the supply of the information be discontinued and I note that the Law Society has been consulted in regard to this. Please let me have a copy of the advice received from the Society in this regard."

I continued in such letter as follows:

"In considering the matter, it does appear to me that the conduct of the Commission in commencing to endorse the disclaimer without any notice at all could be considered to be wrong, and its action in continuing to do so after protests were received and in view of the doubts as to its effectiveness was also wrong.

No other department does so, and if the certificate is to continue the department should take all steps to ensure that the information supplied is accurate, as the public is entitled to rely on a Government department for accurate information.

If it is now contemplated that the supply of the information be discontinued, I cannot see that the endorsement of the disclaimer should be continued.

I therefore recommend that the Commission consider the withdrawal forthwith of the use of the form of disclaimer until the position is clarified as to whether the supply of the information is to proceed."

In reply I was informed by the Commission by letter dated 15th September, 1977, that following the views of the Treasury being obtained it had now been further discussed and decided to discontinue the issue of zoning certificates as from 19th September, 1977.

Such letter was accompanied by a copy of the notice issued by the Commission which was in the following terms:

"Discontinuance of zoning certificates issued by the Planning and Environment Commission.

1. The question of the Commission continuing to issue zoning certificates has been under review. As you will be aware, the certificates have no statutory significance and give information supplied by Councils under Section 342AS of the Local Government Act.
2. A decision has been made to discontinue the issue of the zoning certificates as from Monday, 19th September, 1977. This decision is in accordance with Government policy to reduce the cost and time in conveyancing matters, and has been taken after careful consideration of all aspects, including the views to the Law Society of New South Wales.
3. From 19th September, 1977, the Commission will return applications received and refund the fee of \$5.00. Those certificates on hand and received prior to that date will be processed as expeditiously as possible. Stamps on hand may be returned for refund or retained for use with Section 56 certificates (Land Development Contribution Management Act) which are still issued at present in respect of some local government areas."

In these circumstances there was no point in me continuing the matter further and I therefore discontinued my enquiries, but expressed the view that I considered the conduct of the Commission to have been wrong in commencing to endorse the disclaimer without any notice at all and, in addition, its action in continuing to do so after protests were received and in view of the doubts as to its effectiveness. I was of the view that the complaints made to me were justified.

Unreasonable Denial of Right to Use Land

I received a complaint from a company in respect to the failure of the Commission to recommend suspension action for a caravan and marine centre on the Great Western Highway.

The complainant raised the following aspects:

- The Council in 1950 approved the erection of a workshop for the construction of caravans on the site which is thus an existing use of such manufacture. Prior to that date caravans had been built in a large garage on the site; such building approvals in 1950 were also deemed to be development consents and were not in specific terms. At that time, manufacturers of caravans also automatically conducted sales of caravans from construction sites as an ancillary use, and this was the common method of disposal of the manufactured articles. The question of distinguishing between manufacture and sales was not raised by the Council until 1964. The Council in July, 1958 approved the erection of an illuminated sign advertising the sale and hire of caravans from the site and in the past five years the Council has approved a sign used by the Centre advertising caravans, boats and motor homes.

- The Council supported the objection to the exhibited Planning Scheme and resolved in December, 1968 that car and caravan sales be a permissible use; the erection of a workshop for the repairs and servicing of motor vehicles and caravans was approved by Council on part of the land in 1973.
- Application would have been made for approval from Council for an extension of an existing use onto adjoining land, as provided in the local Planning Scheme Ordinance, if Council had recognized the existing use of caravan sales in the original site at an earlier date.
- There has been no manufacturing of caravans on the site for the past 14 years but alterations and repairs to caravans have been carried out. Display and sales of caravans have been conducted from the site since 1946, and existing use rights for the sale and display of caravans from the site have prevailed for the past 30 years. Statutory Declarations from two independent persons proved conclusively that sales occurred as far back as 1946, and had shown that such sales of caravans not built on the site were an existing use before the Interim Development period from 12th July, 1946 to 27th June, 1951, when no planning consent was required. It was unfortunate that no evidence of sales was given by the previous owner at the time of the Interim Development section 342v (3) hearing in March, 1968.
- Council in March, 1974 and April, 1974 supported suspension action to allow the use of the land for the retailing of caravans, boats, and trailers in the Local Industrial Zone. Council also supported suspension action in February, 1976 to permit the retailing of caravans, boats and trailers within the Local Industrial 4 (3) zone on the site. The Council has consistently supported the use of the site for the sale of caravans.
- The display and sale of boats is a logical extension of an ancillary use to caravans in accordance with modern technological advances. Many retailers have changed their products, as sale of caravans is uneconomic without sale of boats. Boats have been sold by the company for more than 15 years when traded in, and there is a trend towards amphibians caravans. Boat trailers and caravans carry the same motor vehicle classification and are registered as motor vehicles.
- The Police Department and the Department of Main Roads previously had not opposed the proposed development on traffic or planning grounds. The site is safe and has a very low degree of activity from a traffic generation viewpoint. An adequate off-street parking area has been provided on the site. There are commercial and business uses in the locality.
- Clause 3 of the Interim Development Order of 15th October, 1976, restricted the use of the land to only the manufacture, display and sale of caravans. This had extinguished the owner's permissible land use rights as previously provided in the Local Industrial 4 (c) zone of the Planning Scheme. Mr Pym and the Council did not intend for the permissible uses of the land use tables of that Planning Scheme to be abandoned. It was intended that those uses would remain with the addition of the uses proposed by the complainant and the Council and action was requested to rectify this error. Clause 4 of the Interim Development Order of 15th October, 1976, restricting the display and sale of caravans to those manufactured on the site was required to be deleted as this conflicted with the existing use rights of the property to display and sell caravans as furnished by the complainant. No reason had been given for the restriction.
- The sale of boats and trailers should have been added as a permissible use with Council's consent to clause 3 of the Interim Development Order, in view of the documentary material submitted by the complainant in respect to ancillary charge of use in the caravan retailers industry. A reconsideration of the decision on this aspect was requested, especially as the Council supports the continuation of this type of use which has existed on the site for many years. No specific reasons had been given to the complainant for the refusal to allow the sale and display of boats and trailers from the site and he was at a loss to understand the restrictive provisions of the Interim Development Order of 15th October, 1976, and any error should be rectified in the light of the new documentary evidence now furnished to the Commission by the complainant.

The Commission did not accept the view that the sale of boats and trailers was a logical extension of the sale of caravans and was an ancillary use. It also believed that further intensification of traffic generating potential should be restricted on the highway, which is a main traffic artery to the expanding western suburb.

During my investigation the following information was obtained:

- The complainant had been using the site for the display and sale of boats, as an unauthorized use, for many years, without complaint from neighbours or the general public. As the site may be used, with Council consent, for the uses set out for the Industrial Local 4 (c) zone of the Planning Scheme, there had been no suggestion that there could be any potential injury to the amenity of the neighbourhood involved by the proposed use.

- The only reason advanced by the Commission for its refusal to recommend an alteration of the I.D.O. to permit the proposed use with Council consent, was one of traffic grounds. However, the complainant stated that no use is made of semi-trailers, at the site.
- I appreciated the Commission's policy in respect to restricting traffic generation on main roads and highways, and these general principles are fully supported by the Police Department and the Department of Main Roads. However, I did feel that they have little relevance to the current complaint, as the use of the subject site should be dealt with, on its merits as to the volume of traffic which would be generated by the proposed use.
- The Commission in its reply of July, 1977 did not give a satisfactory answer to a query as to what actual volume of additional traffic would be generated by the use of the property for the display and sale of boats as compared with the display and sale of caravans. In reply to another question in June, 1977 as to what studies had been made by the Commission to establish the traffic position at the subject site, the Commission in its reply replied "none".
- The table of uses for the Industrial Local 4 (c) zone appeared to contain many traffic generating uses of no less magnitude than the proposed use.
- As the Council is required under the provisions of the Local Planning Scheme Ordinance to consult with the Department of Main Roads and Police Traffic Branch concerning traffic aspects, determining a development application, I consequently made inquiries from those two traffic authorities, in order to obtain the opinion of the experts on traffic matters in relation to the subject site.
- The Department of Main Roads in September, 1977 informed me inter alia that "The Department is not aware of any reasons why the use of the land for the display and sale of boats rather than caravans would lead to any significant change in traffic generation at this or any other similar site".
- The Police Department was unable to furnish any evidence of any serious traffic accidents, hazards, or congestion at this specific location due to the present use of the site. The Department in October, 1977 stated inter alia that "with regard to the actual volume of additional traffic generated by such a development, to be specific in that direction would require substantial investigation on a scale not normally undertaken by this Department. It is understood that the Traffic Authority of N.S.W. will be conducting a survey into the amount of off street parking required for various traffic generating uses". I realized that the Commission already has a published Code in respect to the standards desirable for off street parking as required for various types of development and traffic generating uses. In addition the complainant had furnished me with a plan of his site, showing the proposed caravan and boat spaces, as well as the off street parking facilities on the land.

The Commission had not produced any evidence to me to corroborate its statements on the traffic aspects and had not rebutted the complainant's claim that the substitution of some of the caravans spaces for use as boat spaces had not had any adverse effect on the traffic situation at the subject site. It was of the opinion that the Commission might be unreasonable in not recommending that the use of the land for the display and sale of boats, should be a permissible use, with Council's consent. In this regard the Commission had not produced satisfactory technical evidence to sufficiently and adequately support its stand in respect to the refusal on traffic grounds.

The Commission felt that, if approval was given for the display and sale of boats on the site in question, other properties in the vicinity could expect to receive similar treatment. In this regard the situation between the subject land and other properties in the locality appeared to be different for the following reasons:

- The subject land is under I.D.O. No. 18 having been suspended from the provisions of the Planning Scheme and this has a different zoning to the surrounding land zoned Industrial Local 4 (3) in that Planning Scheme.
- The land use survey of the Commission in respect to the present type of occupancies in the Industrial Local 4 (c) zone reveals a number of businesses which probably involve trading of a wholesale or retail nature. This Industrial zone is a small one leaving little scope for possible commercial development.
- The land use tables of this industrial zone in the Planning Scheme contain a number of permissible uses involving the supply of goods and services and the zoning is not strictly a manufacturing one.
- The owner furnished Statutory Declarations as to his "existing use" rights for the manufacture, display and sale of caravans. It is very common for land in Planning Schemes to have "existing uses" which are non-conforming in respect to the table of permissible uses in the zone. Other property owners in the locality cannot use this fact, as a precedent, in order to be allowed a prohibited use, if there is no evidence that the surrounding land owners would have such "existing use" rights.

- It is also a common practice for sites to be suspended from planning scheme zonings and made permissible uses, although previously prohibited in that zone. Such applications resulting in "non-conforming" uses give no precedent rights to surrounding land owners, where different circumstances exist. The subject land had already been suspended and the Commission had agreed to the manufacture, display and sale of caravans being a permissible use, although this use is prohibited in the surrounding industrial zone. Because the surrounding properties do not have this right they would have no right in respect to ancillary boats if such right attached to the subject land.

However, I was not investigating the planning principles involved. The merits of the case as to why the use of a space on the land for the use of a boat in lieu of a caravan (by interchanging individual spaces with ancillary uses) could be determined by the Local Government Appeals Tribunal as an independent authority established for that purpose.

My concern was the real issue of no right of appeal to the complainant who was not requesting the Commission to approve his proposal but was requesting a right of appeal to the Local Government Appeals Tribunal. If the I.D.O. was amended to allow the display and sale of boats, with Council consent, and the concurrence of the Commission, then the Commission could withhold its concurrence to the proposed development.

In all the circumstances, I was investigating whether the actions of the Commission in declining to recommend this course of action would be unreasonable; and therefore under section 5 (2) (b) of the Ombudsman Act would be wrong conduct.

The Commission agreed that a clause in the Local Planning Scheme continued restricting the total floor space and area of the site no longer was applicable in view of the previous suspension action. In addition, the Commission made a recommendation to alteration of the I.D.O. which was approved by the Minister removing the restriction on caravan sales not manufactured on the site and restoring its uses permissible with Council consent similar to the Industrial Local 4 (c) zone of the Planning Scheme.

However, before my investigation in respect to the boats was finalized the complainant decided to sell his property for the purpose of storage and retailing of building materials, general carrying and growing and selling of plants which were permissible uses.

I therefore decided to discontinue my investigation.

PUBLIC TRANSPORT COMMISSION OF N.S.W.

Inadequate investigation of damages claim

A complaint was made to me by a Secretary of a Body Corporate for a Strata Plan concerning delay by the Public Transport Commission in finalising a claim for damages alleged to have been caused by blasting during work on the Eastern Suburbs Railway. The claim arose from the discovery of cracking in the residential flat building during blasting and the damage affected the units of two other owners.

The complainant stated that one of the owners made a complaint to the then Department of Railways in 1973, but was referred to the contractor; and, that the contractor inspected the unit but took no further action. In March, 1974, the managing agents of the building, wrote to the contractors, and to the Public Transport Commission in August, 1975 but in both cases received no reply, although the Commission referred the letter to the contractor. The complainant further wrote to the Commission in November, 1975 and requested that appropriate action be taken to rectify the damage. The Commission again referred the letter to the contractor, and in December, the contractor informed the Commission that "the question of claims for alleged damage to properties under the contract are currently under review to determine the acceptance or rejection of the claims as such". The Commission in February, 1976, conveyed the contractor's advice to the complainant.

During my investigation the Commission informed me as follows:

The relevant contract contains a provision that "the contractor shall be responsible for and shall indemnify the Commission against any liability for all damages to persons or property . . . caused by the contractor, his sub-contractors or his or their employees". It has been the practice of the Commission to refer to the contractor all claims in respect of alleged damage resulting from the contractor's operations, as this practice has advantages as the contractor is aware of the facts and is in a position to investigate the claims expeditiously and any ultimate responsibility rests with the contractor. The Commission is unable to accept any liability in respect of the subject claims, as to do so at this stage would in light of

the provisions of section 12 of the City and Suburban Electric Railways Act, 1915, seriously prejudice the Commission's right to indemnity under the contract. The Commission itself did not conduct any investigation. It is the conduct of the contractor on the site which is in question, as he is the only one who is entitled to demand detailed information or statements from the staff involved and he has readily available the expertise in the way of employees skilled in mining operations and in the use and effect of explosives to carry out the necessary investigations. This is a course which has been followed for a considerable time and despite its acknowledged failure in the present contract, appears to have proved generally satisfactory.

However, the complainant no longer had an alternative and satisfactory means of redress mentioned in section 13 (4) (b) (v) of the Ombudsman Act, as under section 12 of the City and Suburban Electric Railways Act, the claim must be served upon the constructing authority within 12 months from the date of the damage arising.

Although the cause of the conduct arose in 1973 the complaint made to me related to delay in finalising the claim for damages and the conduct is a continuing matter if the Commission fails to correct the cause of the complaint, and I considered that I had jurisdiction as the delay and failure was still in existence after the 18th October, 1974.

Mr Dillon, the Victorian Ombudsman, in an annual report dealt with a similar type of case concerning a claimant and the Melbourne and Metropolitan Board of Works. He said:

"It appeared to me that the conduct indicated that the Board (Melbourne and Metropolitan Board of Works) had sought to take refuge behind its contract with the contractor and so abdicate its own responsibilities—the Board should have inspected for itself the damage, caused appropriate inquiries to be made concerning the likely origin of that damage—merely passing on to the contractor (the complaint) without independent inquiry before passing it on or thereafter, was I thought wrong. The consultant loss assessor may be directed (by the Board) to negotiate a settlement or to furnish a report on the claim. In the event of the contractor's failure to attend to a claim where liability is clearly established, settlement is arranged by the Board and the expenditure involved is charged to the contractor."

I took a similar view and so advised the Commission which was given the opportunity under section 24 of the Act to make any further submissions in view of the grounds for adverse comment by me and it advised that the contractor was making arrangements for a Loss Assessor to interview the complainants in an effort to settle their claims. The Commission later advised me that the assessor acting for the construction company had been instructed by the contractor to arrange immediate settlement of the claims for the amounts requested. Therefore, the claim was finalised.

The Commission was advised that consideration was being given by me to the making of a recommendation that the Commission adopt as a general policy a procedure whereby it investigates claim, then passes it on to the contractor for appropriate action and, additionally, takes adequate steps to ensure that the contractor does, in fact, carry out his obligations to the full, and does not, as had apparently occurred in this case, merely defer remedial action for a lengthy period. The Commission as a public authority has a legal and moral obligation to deal with claims and complaints made to it, in a reasonable, expeditious and equitable manner.

My investigation revealed that the Commission had not taken sufficient action from 1973–1976 to ensure that the claims were settled expeditiously. The action of the Commission in allowing the question of liability for damages to be determined solely by the contractor is regarded as being quite unsatisfactory. The contractor did not investigate the claims in a reasonable or expeditious manner, and the procedures adopted by the Commission could not be considered to be adequate. When the Commission received the complaint its officers should have made an early inspection of the property and caused appropriate enquiries to be made concerning the origin of the damage with a view to finalising the claim at an early date. The Commission has a responsibility to ensure that the finalisation of claims is not unduly delayed by the contractor, and that the claimant be advised as soon as possible of the acceptance or otherwise of liability in order that a claimant could take appropriate legal action to establish any claim and seek expert assistance in respect to the cause of the damage if liability is denied.

The Commission considered that ultimate responsibility rested with the contractor. However, in my opinion the Commission cannot abdicate its own responsibilities and rely wholly on the contract, and that its obligations remain, despite the existence of the contractor or any insurance company of the Commission or the contractor. An indemnity to the Commission from the contractor does not absolve it from responsibility to investigate claims and complaints.

The Commission later replied that the Ombudsman's views would be taken into consideration in the event of contracts involving work of a similar nature being entered into in the future.

Under section 5 (2) (b) of the Act conduct of a public authority is wrong if it is unreasonable or unjust, whether or not in accordance with any law or established practice.

In my opinion the conduct of the Public Transport Commission was wrong within the meaning of section 26 of the Ombudsman Act in respect to an inaction relating to a matter of administration on the following grounds:

- Failure of the Commission itself to investigate the original complaints received by it.
- Failure of the Commission to inspect the damage.
- Failure of the Commission to make appropriate inquiries as to the likely origin of the damage.
- Failure of the Commission to advise the complainant within a reasonable time of the result of the inquiries, in order that the affected owners could, if so desired, commence any appropriate action to establish a claim at law.
- Action by the Commission in passing on the complaint to the contractor, without independent inquiry, before or after.
- Failure to give a substantive answer in respect to the original complaints, thus placing the complainant in an adverse position for a lengthy period and possibly delaying the complainant from taking action to obtain expert advice as to the cause of the damage.

I was concerned that such an inordinate delay in dealing with the claim did occur. I therefore informed the Minister for Transport and the Chief Commissioner that although I did not propose to make a report on the complaint in accordance with section 26 (2) (a) and (b) of the Ombudsman Act, I suggested that the Public Transport Commission adopt the following procedures for this type of claim in order to overcome the possibility of any re-occurrence:

- (1) The Commission to conduct a preliminary investigation of a claim or complaint quite independently of the contractors, including an inspection of the property and preliminary assessment as to the cause of the damage.
- (2) Inclusion in any contract entered into with the contractors of methods by which claims are to be dealt with without undue delay and to ensure the speedy completion of such claims.

As a result the Public Transport Commission in August, 1977, advised me that in future contracts in relation to the performance of work of a similar nature to that involved in the contract out of which the complaint arose, procedures along the lines suggested would be adopted in respect of the drafting of the contract and its supervision.

In view of the fact that the complaint had been satisfactorily resolved I decided to conclude my investigation.

DEPARTMENT OF PUBLIC WORKS

Refusal to permit extension of business development on fringe of flood plain

A complaint was made to me by a company at East Maitland, that the Department of Public Works had refused to recommend to the Minister approval of alterations and additions to the company's existing business premises.

The land was situated in an area which was declared as a flood plain on 19th May, 1961, and under section 16 of the Hunter Valley Flood Mitigation Act, 1956 the approval of the Department of Public Works is required to the construction or alteration of any structure on the land.

The complainant considered that it should be permitted to carry out a minor extension of the motor showroom beyond the arbitrary line imposed by the Department, as the site was zoned Automotive Business 3 (b) under the Maitland Interim Development Order No. 6 of 14th April, 1972; as the land was purchased for this purpose in December, 1972; and, as the Maitland City Council was willing to grant development approval subject to the concurrence of the Department of Public Works. The distance of the proposed building beyond the arbitrary line was approximately 5.5 metres and the frontage of the building 14.5 metres.

In addition, the company indicated that such minor development of the property would have a negligible effect on the flood situation at East Maitland as the site was not affected by the 1971 and 1977 floods. The Department agreed that only moderate velocities were experienced in floods of a frequency of 50 years (1971 flood); the flow caused few problems; and, the 1977 flood, which had an 18 year recurrence interval, did not reach the subject site.

The complainant had stated that the site was on the edge of the flood plain and in an area of relatively still water in flood periods. This view was supported by the former City Engineer of the Council, who had a detailed knowledge of flood conditions in the locality. However, the Department considered that the edge of the flood plain was some 250 metres south east of the subject property, although it conceded that high velocities of flow occurred in the deeper sections of the flow channel away from the site.

The site was within (but on the boundary of) an area shown on the Department's plan where each application was to be considered on its merits, and was not within an area where no new developments or the replacement of old buildings with new was to be permitted. However, the Department had advised me that these are "only guidelines for the Department's benefit. They are not binding and are not drawn as flood contours, but along property boundaries. Hence there are inconsistencies."

The Department had stated as follows:

"it is the Department's policy that efforts should be made to clear the floodways of obstructions and development, basically by the non-replacement of old buildings and the prohibition of new development. This policy has been adopted because during large floods, flood water will discharge from the swamp areas across this flood plain at velocities which could endanger lives and are of magnitude sufficient to threaten structural damage to buildings. The policy criteria now being formulated for the cleared floodway is the area covered by the 1 in 20 year flood. This has been determined to allow smaller floods up to about 1 in 50 year frequency to pass easily and with minimum damage and greater floods of 1 in 100 years to pass with ease. It is desired that buildings within the adopted floodway be allowed to deteriorate, fall down and no approval is envisaged for reconstruction or extension. If a structure is demolished voluntarily or by flood, fire etc. it is intended that it should not be renewed. It has been the departmental policy to oppose alterations or extensions of buildings which will extend their life and to oppose the replacement of buildings in critical areas. This should lead to a very gradual clearing of the floodways as buildings reach the end of their lives and are removed."

Further, it had pointed out that a flood of major proportions, such as the 1955 flood, would cover the complainant's block to a depth of around 3 metres. However, the Department agreed that "a single development such as the complainants' is not of sufficient size to produce a large effect on flood flows" and also that "the complainants' development alone will not noticeably effect the flood behaviour in the East Maitland flood plain, but it would take only six similar developments across floodway A and the flow would then occur only through Melbourne Street and floodway B. Whilst the effect of a single development is small, the total of many of these is large if they are permitted to occur."

Following the complaint to me, the Department was given an opportunity to reconsider the complainants' request, but stated that it was not persuaded that it should recommend to the Minister that the original application be approved, nor was it able to suggest any other measure which would enable a further relaxation of its policy in this case. The Minister did subsequently agree that the building could be constructed up to the boundary of the arbitrary line referred to earlier. This line was drawn between two existing substantial buildings erected sometime ago on the flood plain.

The Department replied that it considered that an approval of the proposal would be contrary to the objectives of the Hunter Valley Flood Mitigation Act, 1956; would represent a dereliction of the Department's advisory responsibility to the Minister; and, would be unfair to other developers who had been compelled to abide by such decisions in accordance with established policy. In addition, the Department considered that a concession has been granted to the complainant in allowing him to rebuild up to the arbitrary line, as normal policy was not to allow replacement of any buildings demolished.

It seemed to me that the Department, when implementing flood prevention and mitigation under the Hunter Valley Flood Mitigation Act should not advise the Minister in such a way as to restrict development which reasonably could be carried out. It was realised that some areas at Maitland are within the flood levee and others are not within a declared flood plain. However, development had been approved on the advice of the Department in the declared flood plain such as a garage for a fruit storage depot in High Street, Maitland, in 1976 (which was originally established about 1974 as a change of use of an existing building); at a fruit stall at Newcastle Road, East Maitland, in 1967; and at a fruit market stall in Newcastle Road, Maitland, in 1964.

Additionally, several developments between 1973 and 1976 had been erected in the declared flood plain without approval. I understood from the Department that at this stage, no action has been taken to seek to demolish these structures in accordance with section 16 (4) of the Act, and this also could be regarded as being unfair to other developers who had been required to adhere to decisions in accordance with the Department's policy.

To my investigation the crucial question was whether the Department was acting reasonably in dealing with the complainant's application in accordance with its development policy for flood areas; in its desire not to create a precedent, and its contention that a number of approvals could add up to a possible effect on the flood waters, although an individual approval would not affect the flow of water. I was not convinced that to allow this small development will involve any significant precedent. Every application will still be dealt with on its merits and on an examination of all of the relevant circumstances. To withhold approval because of an uncertain effect of a possible 20 year flood would be a harsh action.

I found the conduct of the Department of Public Works to be wrong in terms of section 5 (2) (b) of the Ombudsman Act, in that the minor extension of the building would, as accepted by the Department, have a negligible impact on the flood flows. In my opinion the Department had not clearly demonstrated that the proposal should not be allowed to proceed. I was of the view that to refuse such a minor development as this is, in all the circumstances, unreasonable.

In the original notification of the decision on his application no grounds of refusal were supplied by the Department to the complainant. I suggested that, although the Department later supplied the grounds at my request, in future the Department should ensure that sufficient and adequate reasons and grounds be given to applicants when it recommends that proposals be refused. In this regard wrong conduct is defined in section 5 (2) (e) of the Ombudsman Act as conduct for which reasons should be given but are not given and I so found in this instance.

I therefore made a Report under section 26 of the Ombudsman Act to the Minister for Public Works and to the Department. In the Report, I recommended that the Department of Public Works reconsider the application and thereupon rectify the situation by recommending to the Minister that the proposed development be approved; and that steps be taken to ensure that applicants in similar circumstances are furnished with sufficient and adequate reasons, should their applications be not approved.

However, the Minister informed me that the Department had carefully reconsidered the matter but had confirmed its previous advice that the original application should not be approved. It did not appear to me on a consideration of all of the circumstances that I should proceed to a Report to the Premier for presentation to Parliament under section 27 of the Ombudsman Act.

However, as a result of the complaint the Department implemented a policy to provide applicants with sufficient and adequate reasons for decisions under similar circumstances.

STATE LOTTERIES OFFICE

Payment of prize to wrong person

I received a complaint in early 1978 from a person who stated that a lottery ticket he had purchased won a minor prize but because of an error, the prize had been forwarded to the wrong address (the complainant's house was number 64 and the prize was posted to number 69).

After making enquiries at the Lotteries Office the complainant was advised that the missing cheque had been endorsed in his name and cashed at a corner shop, and that if he wished to pursue the matter he should request the Police to make enquiries on his behalf.

He did approach the local Police Station where the Detectives, after checking the facts, advised him that they could not help recover the money and suggested he seek Legal Aid.

At this stage the complainant called in to my office where the details of his complaint were taken.

I arranged for enquiries to be made of the Police who had been involved. It appeared that while the Police had interviewed a suspect who had apparently presented the cheque to the shopkeeper, a charge was not pursued since the offence could not be proved beyond reasonable doubt.

I then took the matter up with the Director of the State Lotteries Office. He advised that the error had occurred due to the street number taken from my complainant's application form being indistinct, and, from an examination of a copy of the form, I agreed that interpretation of the office was reasonable.

However, the Director went on to say that because of the circumstances, he had arranged for a replacement cheque for \$20 to be forwarded to the complainant at the correct address.

In due course the complainant expressed his appreciation for the action taken.

STATE SUPERANNUATION BOARD

Refusal to accept as contributor because of failure to disclose medical history

I received a complaint in late July, 1977, from a psychiatrist, on behalf of one of his patients who had recently been retired from the New South Wales Public Service, because of mental ill-health.

The Patient (hereinafter referred to as Mr X) was originally admitted to the State Superannuation Fund in 1970, for limited benefits, and had served the necessary five year period required to qualify him for pension benefits. However, because Mr X had failed to disclose his history of psychiatric treatment at his initial medical examination for Superannuation purposes, the Superannuation Board decided that he would not be eligible for pension benefit, but would receive a lump sum at retirement equivalent to his own contributions.

In making this decision, the Board relied upon one of the courses of action provided in section 11AA of the Superannuation Act, which section was designed to cover such situations. Under these legislative provisions, the Board had the discretion to decide, in the event that a contributor was later found in the opinion of the Government Medical Officer to have suppressed information, either that the person should have been rejected as a fund contributor, or accepted as a contributor for limited benefits only. In the course of its consideration of Mr X's case, the Board sought to determine whether or not he had deliberately withheld information about his psychiatric history and requested the Government Medical Officer's thoughts in this respect. This officer replied that it was an impossible question to answer, as it was "purely hypothetical to express any opinion concerning Mr X's awareness of his prior history and hospitalization when he was assessed . . . in 1970". Earlier reports from the Government Medical Officer had indicated that he was unable to "state whether the withholding of information (by Mr X) was deliberate or due to his lack of insight, but it is quite clear that relevant information was withheld at the time of his assessment in 1970". The complainant's own psychiatrist was of the firm opinion that his patient lacked insight, was quite incapable of deliberate deceit, and the Board had been presented with his findings via earlier representations on Mr X's behalf. However, the Board apparently made its decision solely on information provided by the Government Medical Officer, who, in fact, could not give an unequivocal opinion on the matter.

As a result of my investigation, which included an examination of relevant documents, I asked the Superannuation Board to review the complainant's case, as I considered that the Board might well have applied the discretionary power available to it, in light of the aura of doubt surrounding Mr X's motivation and the particular circumstances of his case.

Subsequently, the Board did review his case, after canvassing several outside sources of information about his medical history, and reversed its earlier decision. Accordingly, in April, 1978, Mr X was granted a limited benefits pension (90 per cent of normal retirement pension) effective from 17th June, 1976. The receipt of this benefit greatly improved the circumstances of Mr X and his family, and both he and his wife expressed their pleasure to me at the outcome of my investigation.

Refusal to commute part pension

I received a complaint from a pensioner member of the State Superannuation Fund about the refusal of the State Superannuation Board to commute part of his pension to a lump sum because his election to commute had been received by the Board after the stipulated closing date.

The circumstances as related by my complainant were as follows:

- he retired on 18th January, 1974, on a pension of 47 units amounting to \$258.50 per fortnight;
- as he and his wife were leaving for a holiday in U.K. on 30th June, 1975, he arranged for future payments of pension to be made through the New South Wales Government Offices in London and also gave two forwarding addresses;
- on 10th August, 1976, he applied to commute his pension in excess of \$34.00 per fortnight to a lump sum from the address at which he was then staying in England;
- up to the time of leaving for Australia on 16th October, 1976, he had not received a reply from the Board;
- on that date he received a copy of "Red Tape" forwarded by his son in which it was stated that pensioners wishing to commute had only to the end of July to do so;
- this was the first indication he had that the pensioners' right to commute had been withdrawn;
- he visited the Board's office on 19th October, 1976, and was shown a copy of the Board's letter dated 6th October, 1976, stating that the Act had been changed to provide for pensioners at 15th January, 1976, having a once-only right to commute provided it was done by 15th July, 1976, and that circulars had been sent to all pensioners;
- although he had given the Board two forwarding addresses, at no time was such a circular received by him;

- he and his wife had planned to use the lump sum to buy a home near Sydney, but when it was not forthcoming they decided to return to U.K. on 17th November, 1976, after arranging for his pension to be paid in London;
- if the circular regarding the changed commutation provisions had been sent to him through the New South Wales Government Offices in London or to either of the two forwarding addresses he had given to the Board, he would have taken action to ensure that his election to commute was made in time.

Following my approach to the State Superannuation Board I was informed that:

- the 1975 amendment to the Superannuation Act, 1916, introduced provisions restricting the period in which an election to commute fortnightly pension may be made. The Act also provided for those in receipt of pension as at 15th January, 1976, a once-only right to make a final election to commute provided this was done by 15th July, 1976.
- A circular regarding this change in the Act was sent to all pensioners;
- In the case of Fund members such as my complainant residing in the United Kingdom and whose pension was being paid through the Agent-General of New South Wales in London, a list of those persons, together with copies of the circular was forwarded in January, 1976, to that office, in London, for issue to them at their United Kingdom address;
- The reply from the N.S.W. Government Officers in London stated that my complainant was on the mailing and there was no indication that he never received his copy;
- The Board had no discretion within the terms of the legislation to accept an election out of time and to afford the complainant a right of election it would be necessary to amend the Superannuation Act;
- However, the Board undertook to review the problem illustrated by his case in its implications both for individuals and in the context of the stability of the Fund.

In the course of further correspondence with the Board I was subsequently informed that a proposed amendment to the Superannuation Act had been approved in principle by Cabinet which would, if effected, enable my complainant to commute pension as desired by him.

I was pleased later to be able to advise the complainant that the Superannuation Act, 1977, assented to on 21st December, 1977, granted the Board discretionary power to accept an election to commute pension made out of time where the delay resulted from the Fund member being unaware of the requirements governing elections or other circumstances beyond his control. I was also able to inform him that the Board would be writing to him direct about the changed circumstances at an early date.

SYDNEY COLLEGE OF THE ARTS/N.S.W. HIGHER EDUCATION BOARD

Incorrect information issued about course of studies

My complainant was a 2nd year Diploma student in Design at Sydney College of the Arts.

He alleged that, following the publication of an information sheet by the College in February, 1977, he and other 2nd year design students were led to believe that they were being offered an option to re-enrol in either a Diploma or a Degree course. Therefore, he and a number of others indicated at enrolment time that they wished to enrol for the Degree course, but were advised later, in November, 1977, that a decision had been made not to accredit their Diploma course with degree status.

My enquiries with the N.S.W. Higher Education Board and with the College itself disclosed that the situation was more complex than first appeared. The history and background of the complaint was as follows:

- It was clear that the authority to accredit courses with degree status rested with the Higher Education Board of New South Wales. In turn, the Board's decisions are based on the policy applied by the Commonwealth Government in regard to funding, through the Tertiary Education Commission in Canberra and the Advanced Education Council, which is responsible to the Commission.

- It was evident that all design students at the College, including my complainant, who commenced in 1976, were enrolled in a Diploma programme. During 1976 the College prepared a new course curriculum and submitted this to the Higher Education Board for accreditation at a Degree level. This course was assessed in October and November, 1976, and subsequently approved by the Board for students commencing in 1977 and thereafter as a Degree course. The Board stated that it was not their policy to grant retrospectivity in accreditation so there was no question of the degree approval applying to the 1976 intake.
- However, apparently, there was a good deal of informal discussion at the College, which resulted in the hope on the part of staff and students that the 1976 group of students would become eligible for a degree. In February, 1977 the College in fact sought the approval of the Board to have the accreditation back-dated to include students from the 1976 intake who had demonstrated a capacity to work at the degree level. In the meantime, the Tertiary Education Commission had advised the Board that it was not prepared to provide funds to allow all of the 1978 student intake to proceed to a degree, but would only fund on the basis that most of the students would do a 3 year Diploma, while a small proportion would go on to a fourth year and receive a degree. Given this uncertainty of funds the Board could not accede to the College's request, and so informed it in May, 1977 and again in June, 1977.
- Nevertheless, prior to this, the College had assumed that approval would be forthcoming, and consequently included the relevant advice to 2nd Year Design students in the 1977 Information Sheet, which was mailed to all students at the end of 1976. The College agreed that the Information Sheet was clearly at fault in this respect, but that it reflected the general anticipation about the developments which would result when the course proposals were approved, and was based on the best information available at the time. It is also worth noting that the information which led students to believe they could enrol in the Degree course in 1977, in fact stated that only those students who were highly successful in their previous studies would be selected at the end of Stage III (i.e. in 1978). Thus the students themselves misunderstood the information, to add to the confusion.

Following correspondence and discussion about the complaint, the College advised me that considerable efforts had been made to clarify the situation with staff and students, and that discussion was continuing between the College, the Board and the Advanced Education Council concerning the provision of a Degree conversion course for Diploma graduates, and the general issue of a 4 year Degree course as opposed to a 3 year course. However, unfortunately there was nothing within the power of the College which could be done to enable the 1976 students to be offered that limited degree option which was initially envisaged. The College simply does and did not have the authority to make a decision to change a Diploma course into a Degree.

I advised the College that the complaint was justified in that misinformation was issued to my complainant, but I could not recommend that any steps be taken to rectify the error, other than continued efforts by the College to seek approval for the conversion course mentioned above, and to engage in discussion with the Commonwealth authorities on the degree/diploma issue. It is to be hoped, however, that future errors of this nature, albeit committed in good faith at the time, will be avoided.

UNITED DENTAL HOSPITAL OF SYDNEY

A painful problem

One of the more unusual complaints to come to me during the year was against the Sydney Dental Hospital and whilst basically a complaint against the length of time necessary to wait for a denture, it was also a complaint against the treatment the complainant received. In essence, the complainant said that after seven years of procrastination he had reluctantly agreed to an extraction, but following this extraction claimed that pain still persisted and he was unable to chew food because of the pain and the gap in his mouth.

A 'phone call to the Dental Hospital revealed that the pain was undoubtedly caused by another unsavable tooth, which the claimant, as he had in the previous instance, was refusing to have extracted. Additionally, if a denture was to be supplied it could only be affixed to this tooth which was overdue for extraction.

When confronted by these facts, which apparently strengthened the same points which had been made by the staff of the Hospital, the complainant finally agreed to the further necessary extraction.

Through the co-operation of the Superintendent of the Hospital a speedy appointment was made for the extraction before the temptation to change his mind became too strong for my complainant. He left my office and as I have not heard from him further, I can only hope that the pain and the problems were both soon alleviated.

APPENDIX B

STATISTICAL SUMMARY OF COMPLAINTS

FOR THE PERIOD ENDING 30TH JUNE, 1978

Explanatory notes to statistics

No Jurisdiction

- *Not Public Authority* under the Ombudsman Act e.g. Private Entity, Australian Government Department.
- *Conduct of a class described in schedule to Ombudsman Act*—
i.e., excluded by schedule e.g., courts, employer/employee, Parole Board, etc.
- Conduct took place before 18th October, 1974.
- Complaint lodged out of time.
- Conduct of local government authority took place before 1st December, 1976.

Declined

- *General discretion* e.g., complaint premature or concurrent representations made to the public authority.
- *Insufficient interest*, trading or commercial function, alternate and satisfactory means of redress, complaint trivial, frivolous, vexatious or not in good faith.
- *Local Government Authority*—right of appeal or review and no special circumstances.

Withdrawn

- 1 *Prior to investigation* complaint withdrawn by complainant.
- 2 *During investigation* complaint withdrawn by complainant.

Not Justified

- 3 *After preliminary inquiries* complaint found not justified.
- 4 *Following investigation* complaint found not justified.

Justified (after investigation)

- 5 Enquiries discontinued after full or partial rectification.
- 6 Justified—not covered by 5, 7, 8 or 9.
- 7 Complaint sufficiently rectified but no recommendation made.
- 8 Recommendation made and complied with.
- 9 Recommendation made and not complied with.

Discontinued by Ombudsman.

This often involves a grey area where the investigation of the complaint is discontinued because it has been rectified, although it is not clear whether or not there has been any wrong conduct by the public authority.

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APPENDIX C

SCHEDULE OF COMPLAINTS

| No. | Complaint | Result |
|---|--|---|
| AGRICULTURE—DEPARTMENT OF | | |
| 5989 | Unfair closing of park gate | Declined section 13 (4) (a). |
| 6482 | Misleading advertisement <i>re</i> rates of pay | No jurisdiction section 12 (1) (a) 12a. |
| 6607 | Failure to pay wages for public holidays | No jurisdiction section 12 (1) (a). |
| ALEXANDER MACKIE COLLEGE OF ADVANCED EDUCATION | | |
| 5911 | Refusal of admission to College | Justified (5). |
| AMBULANCE BOARD—N.S.W. | | |
| 2719 | Issue of account for services | Not Justified (4). |
| APPRENTICESHIP DIRECTORATE | | |
| 5157 | Decision concerning employment of apprentice | Declined section 13 (4) (a). |
| ARMIDALE LAND BOARD | | |
| 4998 | Refusal of conversion of crown lease | Declined section 13 (4) (a). |
| ATTORNEY GENERAL AND JUSTICE | | |
| 4071 | Failure to acknowledge petition to Governor | Discontinued. |
| 4072 | Failure to acknowledge petition to Governor | Not justified (3). |
| 4431 | Prior sentence to stop running whilst appeal on new sentence unheard. | Not justified (3). |
| 4499 | Failure to refer application for inquiry to Minister | Not justified (3). |
| 4697 | Delay in replying to correspondence | Not justified (3). |
| 4882 | Failure to provide information on circumstances of death | No jurisdiction section 12 (1) (b) (2). |
| 5176 | Delay in disposal of charges and of reply to No Bill Application. | No jurisdiction section 12 (1) (a) 7. |
| 5212 | Failure to re-open inquest | No jurisdiction section 12 (1) (a) 1b. |
| 5290 | Failure to set date for trial | No jurisdiction section 12(1) (a) 7. |
| 5322 | Delay in decision on re-hearing | Justified (5). |
| 5357 | Delay in replying to correspondence | Not justified (3). |
| 5571 | Exemption from jury duty on conscientious grounds | Declined section 13 (4) (a). |
| 5613 | Delay in payment by suitors fund | Discontinued. |
| 5680 | Failure to refund bail after dismissal of charge | Not justified (3). |
| 5719 | Failure to properly investigate complaint | Not justified (3). |
| 5757 | Failure to accept personal cheques for payment of compensation. | Justified (5). |
| 6054 | Failure to supply reference | No jurisdiction section 12 (1) (a) 12b. |
| 6371 | Failure to reply to application | No jurisdiction section 12 (1) (a) 1b. |
| 6636 | Inability to obtain copy of depositions | Not justified (3). |
| 6654 | Refusal to provide copy of depositions | Not justified (3). |
| 6715 | Delay in payment of compensation | Under investigation. |
| 6806 | Delay in finalising compensation payment | Not justified (3). |
| 7014 | Delay in bringing matter to trial | No jurisdiction section 12 (1) (a) 7. |
| 7073 | Delay in paying costs | Withdrawn (1). |
| 7216 | Failure to remit penalty for fine incorrectly imposed | Under investigation. |
| AUSTRALIAN GAS LIGHT COMPANY | | |
| 4526 | Excess gas accounts | Discontinued. |
| 4653 | Unfair gas account | Not justified (4). |
| 4793 | Excess gas account | Not justified (3). |
| 4919 | Excess gas bill | Not justified (3). |
| 5295 | Excessive gas bill | Not justified (4). |
| 5442 | Excess gas account | Not justified (4). |
| 5730 | Disputed gas account | Justified (5). |
| 5982 | Failure to restore footpath | Under Investigation. |
| 6029 | High gas bill | Not justified (4). |
| 6195 | Failure to rectify gas leak in street | Not justified (3). |
| 6676 | Failure to remove odour from street | Not justified (3). |
| 6788 | Excessive gas bill | Not justified (3). |
| 6828 | Method of issue of accounts | Under investigation. |
| 6980 | Charging of excessive deposit | Under investigation. |
| 7310 | Excess gas bill | Under investigation. |
| AUSTRALIAN MUSIC EXAMINATION BOARD | | |
| 4721 | Delay in notifying exam results causing refusal to re-entry | Not justified (4). |
| BATHURST/ORANGE DEVELOPEMNT CORPORATION | | |
| 7034 | Failure to rectify faults in house | Under Investigation. |
| BUILDERS LICENSING BOARD | | |
| 3005 | Failure to refund fees | Justified (5). |
| 3031 | Failure to accept complaint <i>re</i> septic installation | Not justified (3). |
| 3851 | Failure to compensate for expenses incurred in respect of faulty work. | Not justified (4). |
| 3992 | Refusal of claim under house purchasers agreement | Not justified (4). |
| 4050 | Failure to approve of house claim | Justified (5). |
| 4079 | Failure to meet claims | Not justified (4). |
| 4129 | Failure to take action to remedy faults | Not justified (3). |
| 4180 | Failure to refund moneys paid inadvertently | Justified (5). |
| 4293 | Failure to advise basis for quotation to be included in claim | Under investigation. |
| 4474 | Failure to fully accept arbitration award | Justified (5). |

| No. | Complaint | Result |
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| BUILDERS LICENSING BOARD | | |
| 4533 | Refusal of claim | Not justified (4). |
| 4540 | Failure to take action on complaint | Not justified (4). |
| 4621 | Unreasonable license fees and invasion of privacy inquiry asked. | Declined section 13 (4) (a). |
| 4663 | Failure to pay claim | Not justified (4). |
| 4670 | Delay in issuing license | Justified (5). |
| 4755 | Delay in claim | Not justified (4). |
| 4771 | Failure to investigate unsatisfactory work | Not justified (3). |
| 4839 | Delay in replying to correspondence | Justified (5). |
| 4868 | Failure to return certificates | Not justified (3). |
| 5019 | Delay in payment of compensation | Not justified (3). |
| 5022 | Delay in finalising issue of building license | Justified (5). |
| 5163 | Delay in investigation of claim | Under investigation. |
| 5238 | Delay in issuing license | Justified (5). |
| 5331 | Failure to refund fees | Justified (5). |
| 5371 | Conduct of Inspector | Not justified (3). |
| 5393 | Delay in issuing of license | Not justified (3). |
| 5430 | Delay in refunding application fee and returning documents | Justified (5). |
| 5474 | Delay in issue of license | Declined section 13 (4) (b) (v). |
| 5522 | Delay in claim under Home Purchasers Agreement | Not justified (4). |
| 5537 | Delay in issue of license | Not justified (3). |
| 5814 | Failure to give reasons | Justified (5). |
| 5827 | Delay in issue of license | Under investigation. |
| 5977 | Unsatisfactory handling of complaint | Not justified (3). |
| 6000 | Delay in claim | Not justified (3). |
| 6067 | Delay in decision on claim | Discontinued. |
| 6077 | Failure to refund long service leave to employee | Not justified (4). |
| 6286 | Delay in investigation of complaint | Under investigation. |
| 6307 | Unfair refusal of claim | Not Justified (4). |
| 6417 | Failure to see that repairs carried out | Declined section 13 (4) (a). |
| 6483 | Failure to refund application fee | Under investigation. |
| 6599 | Failure to take action on complaints | Not justified (3). |
| 6698 | Failure to take action against builder | Under investigation. |
| 6857 | Incorrect determination of number of days credit for Long Service Leave. | Justified (5). |
| 6868 | Failure to ensure orders complied with | Under investigation. |
| 6878 | Failure to accept claim | Under investigation. |
| 6891 | Failure to provide information | Under investigation. |
| 6920 | Delay in issue of license | Not justified (4). |
| 6957 | Failure to accept claim | Under investigation. |
| 6990 | Delay in finalising claim | Under investigation. |
| 7043 | Unsatisfactory pre-purchase report | Under investigation. |
| 7110 | Requirement for payment of fee before investigating complaint. | Under investigation. |
| 7129 | Delay in finalising claim | Under investigation. |
| 7171 | Failure to refund surrendered licence fee | Under investigation. |
| BURSARY ENDOWMENT BOARD | | |
| 1970 | Failure to properly consider appeal against refusal of certification. | Not justified (4). |
| CAMDEN DISTRICT HOSPITAL | | |
| 5121 | Proposed termination of employment | No jurisdiction section 12 (1) (a) 12a. |
| CLERK OF THE PEACE | | |
| 5578 | Access to committal proceedings records by Solicitor allegedly not representing either of accused persons. | Not justified (3). |
| 5886 | Delay in provision of committal depositions | Not justified (3). |
| COAL AND OIL SHALE MINE WORKERS' SUPERANNUATION TRIBUNAL | | |
| 3957 | Suspension of allowance paid for wife and demand for repayment. | Not justified (3). |
| CONSUMER AFFAIRS DEPARTMENT | | |
| 2150A | Failure to issue dealers license | Not justified (3). |
| 3790 | Handling of complaint | Not justified (3). |
| 4105 | Failure to reply to complaint | Justified (6). |
| 4179 | Manner of handling complaint | Justified (5). |
| 4772 | Failure to properly proceed with investigation of complaint | Not justified (4). |
| 4788 | Delay in replying to correspondence | Justified (5). |
| 4792 | Refusal to issue second-hand motor dealers license | Not justified (4). |
| 5047 | Failure to reply to correspondence | Justified (5). |
| 5060 | Failure to reply to correspondence | Justified (5). |
| 5256 | Delay in investigating complaint | Justified (5). |
| 5663 | Delay in action on complaint | Not justified (4). |
| 5869 | Failure to resolve complaint | Declined section 13 (4) (a). |
| 6006 | Delay in processing applications for motor dealers license.. | Not justified (3). |
| 6400 | Delay in issue of dealers license | Not justified (3). |
| 6408 | Failure to investigate complaint | Not justified (3). |
| 6527 | Delay in investigation of complaint | Not justified (3). |
| 6970 | Failure to advise result of complaint | Justified (5). |
| 7061 | Delay in handling complaint | Under investigation. |
| 7167 | Failure to investigate complaint | Withdrawn (1). |
| 7250 | Incorrect advice re advertising | Not justified (3). |

| No. | Complaint | Result |
|--|--|---|
| CONSUMER CLAIMS TRIBUNAL | | |
| 2745 | Failure to notify lodgement of claim | Under investigation. |
| 4662 | Conduct of referee | No jurisdiction section 12 (1) (b) (2). |
| 4840 | Erroneous decision of tribunal | Under investigation |
| 5138 | Unfair decision by tribunal | Declined section 13 (4) (a). |
| 5144 | Incorrect decision of tribunal | Not justified (3). |
| 5266 | Conduct of referee | Under investigation. |
| 5530 | Conduct of referee | Under investigation. |
| 6033 | Delay in finalising case | Justified (5). |
| 6089A | Failure to give proper notice of hearing | Under investigation. |
| 6089B | Failure to give reasons for decision | Under investigation. |
| 6785 | Unfair hearing of appeal | Under investigation. |
| 6835A | Method of operation of tribunal | Under investigation. |
| 6835B | Conduct of referee | Under investigation. |
| 6875 | Failure to properly handle claim | Under investigation. |
| 6903 | Incorrect handling of claim | Under investigation. |
| 6933 | Decision based on incorrect consideration of claim | Under investigation. |
| 7281 | Method of proceedings | Under investigation. |
| 7297 | Incorrect decision given in case | Under investigation. |
| COONABARABRAN DISTRICT HOSPITAL | | |
| 4392 | Failure to pay worker's compensation | Not justified (3). |
| CORPORATE AFFAIRS COMMISSION | | |
| 4904 | Refusal to refund fee paid for dealers licence | Discontinued. |
| 4951 | Error in registration of business name | Justified (6). |
| 5025 | Incorrect exercise of discretion re company registration | Not justified (3). |
| 5118 | Failure to take action to prevent use of similar company name. | Not justified (3). |
| 5140 | Unfair prosecution | Not justified (3). |
| 5170 | Increase in fees | No jurisdiction section 12 (1) (a) 4. |
| 5750 | Unreasonable refusal to register company name | Not justified (3). |
| 5751 | Refusal to remove confusing business name from register | Not justified (3). |
| 5881 | Cancellation of business name | Justified (6). |
| 5931 | Registration of misleading business name | Not justified (4). |
| 6062 | Failure to register business name or alternatively refund fee | Not justified (3). |
| 6141 | Delay in refund of fee | Justified (5). |
| 6825 | Failure to register business name | Not justified (3). |
| 7220 | Failure to cancel business name | Under investigation. |
| 7298 | Registration of similar company name | Under investigation. |
| CORRECTIVE SERVICES | | |
| 2521A | Interference with mail | Not justified (3). |
| 2521B | Failure of Superintendent to comply with Reg. 89 of prisons regulations. | Not justified (4). |
| 3019A | Unlawful charges of assault preferred against | Not justified (4). |
| 3019B | Assault by prison officers | Not justified (4). |
| 3294 | Failure to withdraw warrant | Not justified (3). |
| 3380 | Failure to provide information regarding land acquisitions | Not justified (3). |
| 3513 | Proposed acquisition of land | Not justified (3). |
| 3526 | Failure to provide information regarding land acquisitions | Not justified (3). |
| 3546 | Acquisition of property in area | Not justified (4). |
| 3772A | Inconsistency in granting of day leave | Discontinued. |
| 3772B | Failure to inform of results of applications for home detention and technical college course. | Not justified (4). |
| 3772C | Failure to inform of decision following repeated requests for day leave. | Not justified (4). |
| 3772D | Alleged biased attitude of parole officer | Not justified (4). |
| 3772E | Discrimination and inequality in conditions subject to which day leave granted. | Not justified (4). |
| 3772F | Use of an ex-prisoner as escort | Discontinued. |
| 3838 | Refusal to consider for works release programme | Not justified (3). |
| 3847A | Recording of incorrect sentence. | Not justified (3). |
| 3842B | Failure to transfer to minimum security prison | Not justified (3). |
| 3883 | Failure to remove from protection | Not justified (3). |
| 3917 | Provocation, unjust treatment and assault by prison officer | Not justified (3). |
| 3935 | Failure to allow TV in cell | Not justified (3). |
| 3949A | Inability to obtain necessary medical treatment to rectify spinal condition. | Not justified (4). |
| 3949B | Failure of Commissioner to forward on statements made to Ministers of the Crown. | Not justified (4). |
| 3967 | Failure to place in medium security wing | Discontinued. |
| 4006 | Failure to lodge appeal on behalf of prisoner in custody | Justified (5). |
| 4069A | Refusal to transfer to Long Bay for dental treatment | Not justified (4). |
| 4069B | Failure to inform of results of applications | Justified (5). |
| 4069C | Incorrect advice given by male nurse | Not justified (4). |
| 4082 | Failure to receive parcels | Not justified (3). |
| 4182 | Abuse by prison officer | Declined section 13 (4) (a). |
| 4183 | Repeated abuse by prison officer | Declined section 13 (4) (a). |
| 4189 | Abuse by prison officer | Declined section 13 (4) (a). |
| 4214 | Assault by officers in presence of superintendent | Not justified (3). |
| 4244 | Alleged victimisation by prison officers | Not justified (3). |
| 4287 | Refusal of superintendent to allow perusal of telephone book | Not justified (3). |
| 4288 | Loss of property | Not justified (4). |
| 4300 | Failure to supply tinted spectacles | Not justified (4). |
| 4385 | Loss of property | Justified (5). |
| 4437 | Refusal to transfer to minimum security | Under investigation. |
| 4438 | On being taken ill, accused of having received drugs from visitor and then not given adequate attention. | Under investigation. |

| No. | Complaint | Result |
|-------------------------------|---|-------------------------------------|
| CORRECTIVE SERVICES—continued | | |
| 4448 | Delay in granting prisoners release and wrong information given to him in this regard. | Not justified (3). |
| 4459 | Refusal of permission to write to Ombudsman | Not justified (3). |
| 4470 | Inadequate medical treatment | Declined section 13 (4) (a). |
| 4471 | Inadequate medical attention | Under investigation. |
| 4477 | Failure to give reasons for refusal of parole | Under investigation. |
| 4500 | Refusal to allow attendance at relatives funeral | Not justified (3). |
| 4508 | Provision of unsuitable psychiatric services | Declined section 13 (4) (a). |
| 4521 | Confiscation of stuffed snake from cell | Not justified (3). |
| 4539 | Unfair transfer of | Declined section 13 (4) (a). |
| 4551 | Failure to provide medical treatment ordered by Court | Not justified (3). |
| 4567 | Transfer to maximum security | Not justified (3). |
| 4569 | Delay in decision on application for release on licence | Withdrawn (2). |
| 4580 | Failure to provide adequate psychiatric treatment | Not justified (3). |
| 4597A | Assault on prisoner | Declined section 13 (4) (b) (vi). |
| 4597B | Unfair transfer of prisoner | Declined section 13 (4) (b) (vi). |
| 4597C | Administration of drug against prisoners will | Declined section 13 (4) (b) (vi). |
| 4609 | Unfair transfer to Maitland making legal defence difficult | Not justified (3). |
| 4611 | Unfair notation as a security risk | Justified (5). |
| 4612 | Action of Special Operations Division in transfer of prisoner to Katingal. | Declined section 13 (4) (b) (vi). |
| 4625 | Refusal to pay for cost of dental plate | Not justified (3). |
| 4626 | Refusal to allow prisoner to go on medical parade | Justified (5). |
| 4627 | Failure to carry out superintendent's recommendation for transfer. | Not justified (3). |
| 4648 | Unfair transfer to maximum security | Not justified (3). |
| 4649 | Failure to render proper medical treatment | Not justified (3). |
| 4660 | Failure to permit buy-ups from bonus earnings | Not justified (3). |
| 4661 | Unfair transfer to another institution | Declined section 13 (4) (a). |
| 4665 | Failure to render medical assistance | Not justified (3). |
| 4669 | Requirement to work whilst on remand and punishment for refusal. | Not justified (3). |
| 4673 | General complaint about administration of Cooma Gaol | Not justified (3). |
| 4678A | Failure to meet medical request | Not justified (3). |
| 4678B | Transfer to Maitland Gaol and classification in absence of interview. | Not justified (3). |
| 4681 | Assault by prison officers on two prisoners | Declined section 13 (4) (b) (vi). |
| 4684 | Transfer of brother to Grafton | Declined section 13 (4) (a). |
| 4703 | Discrepancy in private cash of prisoner and bonus earnings | Under investigation. |
| 4712 | Refusal to allow interview with deputy superintendent | Not justified (3). |
| 4729 | Disappearance of cigarettes from private property | Not justified (3). |
| 4730 | Sentence of visiting Justice not observed and general victimisation by prison officers. | Not justified (3). |
| 4739 | Locked up for refusal to work as appellant | Under investigation. |
| 4745 | Alleged intimidation by prison officer | Declined section 13 (4) (a). |
| 4757 | Persecution by prison officers | Discontinued. |
| 4804 | Transfer required | Not justified (3). |
| 4805 | Failure to return property | Not justified (3). |
| 4806 | Unfair publication re: pending charges | Not justified (3). |
| 4809 | Delays with mail | Under investigation. |
| 4815 | Transfer to observation section after alteration concerning appeal rights. | Not justified (4). |
| 4829 | Failure to advise on legal aid and appeal times | Declined section 13 (4) (a). |
| 4848 | Failure to advise re non forwarding of mail | Not justified (3). |
| 4879 | Reason why fellow prisoner in observation section | Declined section 13 (4) (b) (vi). |
| 4889 | Sentence carried out pending appeal | Not justified (4). |
| 4890A | Deliberate slamming of cell door | Not justified (4). |
| 4890B | Failure of deputy superintendent to act on complaint | Not justified (4). |
| 4890C | Disruption to education course following transfer to another wing. | Justified (5). |
| 4895A | Failure to provide proper medical attention while on remand. | Not justified (3). |
| 4895B | Failure to permit attendance at out-patients for post operative physiotherapy. | Not justified (3). |
| 4916 | Refusal of superintendent to see inmate | Not justified (3). |
| 4946 | Incorrect P.A.Y.E. tax deduction | No jurisdiction section 12 (1) (a). |
| 4953 | Refusal to place on work release | Not justified (3). |
| 4989 | Non-grant of weekend leave | Declined section 13 (4) (a). |
| 5007 | Failure to provide adequate medical treatment | Not justified (3). |
| 5031 | Failure to grant outside warrant | Not justified (3). |
| 5034 | Unfair confinement in administrative segregation | Not justified (3). |
| 5067 | Failure to investigate allegations of assault | Not justified (3). |
| 5083 | Intimidation by prison officer | Declined section 13 (4) (a). |
| 5089 | Refusal of superintendent to allow legal representation during interrogation. | Declined section 13 (4) (a). |
| 5090 | Refusal of superintendent to allow legal representation during interrogation. | Declined section 13 (4) (a). |
| 5091 | Refusal of superintendent to allow legal representation during interrogation. | Declined section 13 (4) (a). |
| 5092 | Refusal of superintendent to allow legal representation during interrogation. | Declined section 13 (4) (a). |
| 5093 | Refusal of superintendent to allow legal representation during interrogation. | Declined section 13 (4) (a). |
| 5094 | Refusal of superintendent to allow legal representation during interrogation. | Declined section 13 (4) (a). |
| 5095 | Refusal of superintendent to allow legal representation during interrogation. | Declined section 13 (4) (a). |
| 5096 | Refusal of superintendent to allow legal representation during interrogation. | Declined section 13 (4) (a). |
| 5106A | Placement in segregation | Not justified (4). |
| 5106B | Refusal of access to Gaol Library | Not justified (4). |
| 5119 | Manner in which interview conducted | Under investigation. |

| No. | Complaint | Result |
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| CORRECTIVE SERVICES—continued | | |
| 5131 | Failure to grant day leave | Declined section 13 (4) (a). |
| 5137 | Recording of incorrect non parole period | Not justified (3). |
| 5148 | Failure to transfer to tailor's shop | Declined section 13 (4) (a). |
| 5149 | Conduct of hearing | No jurisdiction section 12 (1) (a) 2. |
| 5150 | Cessation of snooker playing | Declined section 13 (4) (b) (ii). |
| 5187 | Victimisation by deputy superintendent | Under investigation. |
| 5188 | Refusal to transmit letter to Attorney-General | Not justified (3). |
| 5189 | Discrimination in facilities at Cooma Gaol as compared to other prisons. | Withdrawn (2). |
| 5190 | Failure to transfer to prison farm | Not justified (3). |
| 5202 | Provocation by prison officer | Declined section 13 (4) (a). |
| 5203 | Abuse and threats by officer | Declined section 13 (4) (a). |
| 5204 | Proposed transfer to Parramatta despite letter to contrary | Not justified (3). |
| 5205c | Conduct of Magistrate at hearing | No jurisdiction section 12 (1) (a) 2. |
| 5205D | Conditions under which being detained in N.S.W. | Declined section 13 (4) (a). |
| 5213A | Inability to ascertain time to be spent in segregation | Not justified (3). |
| 5213B | Desire to obtain copy of criminal record | Declined section 13 (4) (a). |
| 5214 | Unfair transfer | Declined section 13 (4) (a). |
| 5219 | Conduct of prison officers | Declined section 13 (4) (a). |
| 5226 | Threats by prison officer | Declined section 13 (4) (a). |
| 5227A | Unfair removal from technical college course | Not justified (4). |
| 5227B | Failure to reply to statement | Justified (5). |
| 5232 | Missing private cash | Not justified (4). |
| 5234 | Taking of clock from prisoner's property by officer | Not justified (3). |
| 5235 | Failure to place items in private property | Discontinued. |
| 5244 | Failure to compensate for loss of personal property | Justified (5). |
| 5253A | Confined to punishment yard without hearing | Not justified (3). |
| 5253B | Refusal of permission to write to Commissioner of Corrective Services. | Not justified (3). |
| 5277 | Failure to provide adequate medical treatment | Not justified (4). |
| 5285 | Incorrect handling of charge by deputy superintendent | Not justified (4). |
| 5292 | Failure to allow legal visit in private | Discontinued. |
| 5297A | Assault by officers at Grafton and failure of Department to take any action on complaint. | Not justified (4). |
| 5297B | Alleged treatment by officers on reception at Maitland | Declined section 13 (4) (a). |
| 5298A | Delay in processing application for legal aid re: divorce.. | Not justified (3). |
| 5298B | Apparent non-despatch of letters written to Ombudsman.. | Declined section 13 (4) (a). |
| 5306A | Missing section of prison rules | Declined section 13 (4) (a). |
| 5306B | Questions put to him at Royal Commission | No jurisdiction section 12 (1) (a) 10. |
| 5307A | Unfair transfer to Cooma | Declined section 13 (4) (a). |
| 5307B | Non provision of medical services | Not justified (3). |
| 5307C | Unfair trial | No jurisdiction section 12 (1) (a) 2. |
| 5317 | Allegations regarding assault and unfair treatment of two other prisoners. | Declined section 13 (4) (b) (vi). |
| 5329 | Failure to transfer to institution where access can be had to child. | Declined section 13 (4) (a). |
| 5342A | Alleged persecution of other unnamed prisoners | Declined section 13 (4) (b) (vi). |
| 5342B | Alleged attitude towards prisoners attending classes, courses and therapy sessions. | Declined section 13 (4) (a). |
| 5345 | Victimisation of because of race | Declined section 13 (4) (a). |
| 5350A | Loss of personal property | Not justified (3). |
| 5350B | Type of vehicle used in transfer | Not justified (3). |
| 5351A | Loss of personal property | Not justified (4). |
| 5351B | Type of vehicle used in transfer | Not justified (4). |
| 5373A | Threat by officer not to write to Ombudsman | Withdrawn (1). |
| 5373B | Requirement of Superintendent to name prisoners who beat complainant. | Withdrawn (1). |
| 5373C | Failure to transfer to Protective Custody at Grafton | Withdrawn (1). |
| 5373D | Blackmail to give information of no visits by relatives | Withdrawn (1). |
| 5376A | Unfair refusal of day leave | Not justified (3). |
| 5376B | Attitude of prison officers | Declined section 13 (4) (a). |
| 5376C | Refusal of officer to permit application for special remission | Not justified (3). |
| 5376D | Refusal of visits on days seen by doctor | Discontinued. |
| 5382 | Loss of guitar when transferred | Not justified (3). |
| 5383 | Refusal of request for change of labor | Not justified (3). |
| 5398A | Victimisation by prison officer | Not justified (4). |
| 5398B | Stealing of prison rations by officer | Not justified (4). |
| 5421 | Time ceasing to run on sentence when appeal against separate accumulative sentence. | Under investigation. |
| 5422A | Failure of programs committee to hear application for transfer. | Not justified (3). |
| 5422B | Refusal of permission to write to Minister for services and others. | Not justified (3). |
| 5437A | Refusal of visiting rights | Not justified (4). |
| 5437B | Refusal of permission to check property | Not justified (4). |
| 5438 | Detention in prison rather than Child Welfare institution.. | Not justified (3). |
| 5445 | Detention in prison rather than Child Welfare institution.. | Not justified (3). |
| 5470A | Enforcement of harsh rules as to clothing | Justified (5). |
| 5470B | Failure to accept elected committee | Not justified (4). |
| 5476A | Refusal to accept representatives elected to prisoner committee. | Withdrawn (2). |
| 5476B | Enforcement of harsh rules re clothing | Withdrawn (2). |
| 5497 | Failure to give reasons for refusal of discharge on licence.. | Not justified (3). |
| 5504 | Harsh enforcement of trivial rules | Justified (5). |
| 5516 | Loss of remission pending appeal | Not justified (3). |
| 5521 | Refusal to allow sunglasses to be worn | Justified (5). |
| 5541 | Unfair refusal to transfer | Not justified (3). |
| 5560A | Seizure by prison authorities of case notes and failure to return. | Declined section 13 (4) (a). |
| 5560B | Suspected failure of prison authorities to forward letters to barrister. | Declined section 13 (4) (a). |
| 5563 | Incorrect charges made against | Declined section 13 (4) (a). |

| No. | Complaint | Result |
|-------------------------------|--|---|
| CORRECTIVE SERVICES—continued | | |
| 5570 | Delay in medical hold | Not justified (3). |
| 5573A | Harsh enforcement of prison rules | Justified (5). |
| 5573B | Obligated to go "on request" for trivial matters | Justified (5). |
| 5582 | Interference with mail | Declined section 13 (4) (b) (i). |
| 5583A | Failure to inform of result of request to take part in athletics meeting. | Justified (5). |
| 5583B | Unreasonable refusal of above request | Not justified (4). |
| 5598 | Conditions at Katingal | Declined section 13 (4) (a). |
| 5610A | Inadequate transport for medical escort | Not justified (4). |
| 5610B | Inadequate medical facilities | Not justified (4). |
| 5628 | Denial of visits to prisoner | Declined section 13 (4) (a). |
| 5632 | Failure to inform of reasons for administrative segregation | Not justified (3). |
| 5642 | Failure of superintendent to take action on allegation of assault by prison officer. | Under investigation. |
| 5643A | Improper sentence by superintendent | Not justified (4). |
| 5643B | Refusal of application for compassionate remission | Not justified (4). |
| 5646 | Discrimination on grounds of race by prison officer | Declined section 13 (4) (b) (i). |
| 5648 | Refusal to allow use of power for electronic calculator | Justified (5). |
| 5654 | Refusal of air fare home to Melbourne | Not justified (3). |
| 5667 | Allegedly false evidence given at Royal Commission | No jurisdiction section 12 (1) (a) 2. |
| 5671 | Failure to transfer personal property | Not justified (3). |
| 5672 | Incorrect accusation of connection with escape causing transfer. | Justified (5). |
| 5678 | Anticipated attitude of departmental report to Parole Board. | Declined section 13 (4) (a). |
| 5721 | Alleged interference with letter and documents sent to Clerk of the Peace. | Not justified (3). |
| 5722 | Arbitrary transfer to maximum security | Declined section 13 (4) (a). |
| 5740 | Alleged failure of Commissioner to properly consider recommendation of classification committee. | Not justified (4). |
| 5741 | Reasons for refusal of parole | Withdrawn (1). |
| 5753 | Missing personal property | Under investigation. |
| 5758 | Failure to answer inquiry re husband's transfer | Not justified (3). |
| 5760 | Failure to give reasonable notice of transfer | Declined section 13 (4) (b) (vi). |
| 5766 | Alleged incorrect notation on prison file. | Declined section 13 (4) (a). |
| 5770 | Unfair transfer whilst imprisoned | Declined section 13 (4) (a). |
| 5772 | Suspected failure to forward letters | Declined section 13 (4) (a). |
| 5785 | Refusal to provide free spectacles | Declined section 13 (4) (a). |
| 5819 | Legal visits not in accordance with regulations | Declined section 13 (4) (a). |
| 5824 | Alleged assault and illegal transfer | Not justified (4). |
| 5825 | Censoring of cartoon sent to wife | Not justified (3). |
| 5826 | Unfair transfer | Not justified (3). |
| 5855 | Failure to advise of return of parcel to sender and to allow parcel to be viewed by prisoner. | Not justified (3). |
| 5856 | Failure to advise reasons for transfer | Not justified (3). |
| 5860 | Falsely charged with offence by prison officers | No jurisdiction section 12 (1) (a) 8. |
| 5885 | Refusal to allow access to tarot cards | Declined section 13 (4) (a). |
| 5887 | Refusal to supply copies of prisoners applications | Declined section 13 (4) (a). |
| 5898 | Erroneous report on file | Declined section 13 (4) (a). |
| 5907 | Unfair transfer from camp to maximum security | Not justified (3). |
| 5908 | Alleged illegal administrative segregation | Not justified (3). |
| 5926 | Unfair recommendation to classification committee | Declined section 13 (4) (a). |
| 5934 | Loss of guitar | Not justified (3). |
| 5935 | Failure to provide exercise when at Cooma for Court hearings. | Not justified (3). |
| 5936 | Failure to provide physiotherapy in prison hospital | Not justified (3). |
| 5941 | Failure to give reasons for transfer | Not justified (3). |
| 5942A | Discrimination in wages | Declined section 13 (4) (a). |
| 5942B | Failure to hand over magazines | Not justified (4). |
| 5943 | Discrimination in wages between gaols | Under investigation. |
| 5950 | Unfair placement in administrative segregation | Not justified (3). |
| 5951 | Unfair placement in administrative segregation | Not justified (3). |
| 5957 | Assault on fellow prisoner | Declined section 13 (4) (b) (vi). |
| 5958 | Assault on fellow prisoner | Declined section 13 (4) (b) (vi). |
| 5959 | Assault on fellow prisoner | Declined section 13 (4) (b) (vi). |
| 5960 | Assault on fellow prisoner | Declined section 13 (4) (b) (vi). |
| 5961 | Assault on fellow prisoner | Declined section 13 (4) (b) (vi). |
| 5962 | Assault on fellow prisoner | Declined section 13 (4) (b) (vi). |
| 5963 | Assault on fellow prisoner | Declined section 13 (4) (b) (vi). |
| 5964 | Assault on fellow prisoner | Declined section 13 (4) (b) (vi). |
| 5968 | Conduct of parole officer | Justified (5). |
| 5969 | Refusal to employ on medical grounds | No jurisdiction section 12 (1) (a) 12a. |
| 5970 | Unfair transfer preventing visits | Declined section 13 (4) (a). |
| 5974 | Inadequate medical attention | Declined section 13 (4) (a). |
| 5975 | Discrimination by prison officers at Emu Plains | Declined section 13 (4) (a). |
| 5984 | Alleged double jeopardy | Not justified (3). |
| 5991 | Failure to give reasons for removal of privileges and transfer to Metropolitan Reception Centre. | Not justified (3). |
| 5992A | Delay in arranging appointment with Doctor | Discontinued. |
| 5992B | Delay in providing physiotherapy | Discontinued. |
| 5993 | Failure to give reasons for removal of privileges | Not justified (3). |
| 6001 | Unjustified removal from ball and chain | Under investigation. |
| 6008 | Refusal to allow wearing of sunglasses for medical reasons | Not justified (4). |
| 6009 | Inadequate rates of pay | Declined section 13 (4) (a). |
| 6011 | Refusal to allow wearing of surgical socks | Not justified (3). |
| 6019 | Unfair placement in administrative segregation | Declined section 13 (4) (a). |
| 6037 | Unfair transfer following riot | Declined section 13 (4) (a). |
| 6038 | Failure to take appropriate action to eradicate cockroaches | Not justified (3). |
| 6039 | Failure to return money | Not justified (3). |
| 6040 | Destruction of property | Not justified (3). |
| 6046 | Failure to process social security application | Not justified (3). |
| 6047 | Refusal to transfer to minimum security | Declined section 13 (4) (a). |

| No. | Complaint | Result |
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| CORRECTIVE SERVICES—continued | | |
| 6048 | Loss of private property | Under investigation. |
| 6051 | Unfair transfer following riot | Declined section 13 (4) (a). |
| 6056A | Placement in Katingal and isolation from other unconvicted prisoners. | Not justified (4). |
| 6056B | Inadequate and/or unsatisfactory visiting facilities at Katingal. | Declined section 13 (4) (a). |
| 6056C | Denial of access to co-accused | Not justified (4). |
| 6063 | Failure to provide fire escape | Not justified (3). |
| 6070 | Failure of superintendent to listen to explanation for non-attendance at work. | Not justified (3). |
| 6071 | Failure to provide psychiatric treatment | Declined section 13 (4) (a). |
| 6078 | Unfair transfer | Declined section 13 (4) (a). |
| 6079 | Refusal to disclose address of son | Declined section 13 (4) (a). |
| 6080 | Alleged assault | Declined section 13 (4) (a). |
| 6083 | Alleged unfair transfer | Declined section 13 (4) (a). |
| 6097 | Unfair charges preferred against | Declined section 13 (4) (a). |
| 6117 | Error in monies in private cash | Not justified (3). |
| 6118 | Transfer because of alleged involvement in disturbance | Not justified (3). |
| 6119 | Failure to place items in private property | Declined section 13 (4) (a). |
| 6120 | Failure to transfer prisoner on compassionate grounds | Declined section 13 (4) (a). |
| 6121 | Refusal to allow outgoing letters | Declined section 13 (4) (a). |
| 6122 | Assault by prison officer | Not justified (3). |
| 6134 | Missing private property | Declined section 13 (4) (a). |
| 6142 | Unfair termination of employment | Not justified (3). |
| 6143 | Refusal of medical treatment | Declined section 13 (4) (a). |
| 6144 | Proposed appearance before visiting Justice | Under investigation. |
| 6159 | Unfair treatment whilst awaiting hearing before visiting justice. | Not justified (3). |
| 6160 | Delay in availability of doctor | Declined section 13 (4) (a). |
| 6168 | Unfair transfer following alleged undertaking by Commissioner. | Declined section 13 (4) (a). |
| 6175 | Provocative conduct by prison officers | Declined section 13 (4) (a). |
| 6188 | Delay in investigation of complaint by superintendent | Not justified (3). |
| 6189A | Alleged discrepancy in private cash | Declined section 13 (4) (a). |
| 6189B | Assault and threat from officer at Cooma | Justified (5). |
| 6196 | Missing personal property following transfer | Not justified (3). |
| 6197 | Re-imposition of restrictions on number of outgoing letters | Declined section 13 (4) (a). |
| 6200 | Conduct of prison officers | Declined section 13 (4) (a). |
| 6201A | Refusal of application for project survival and lack of reason for refusal. | Declined section 13 (4) (a). |
| 6201B | Censoring of correspondence with legal advisor | Declined section 13 (4) (a). |
| 6216A | Placement within prison of brother-in-law | Declined section 13 (4) (a). |
| 6216B | Delay by Minister in replying to representations | Declined section 13 (4) (a). |
| 6217 | Apparent non-acceptance for course at Malabar Training centre. | Not justified (3). |
| 6218 | Attitude of officers and lack of work at Goulburn Gaol | Declined section 13 (4) (a). |
| 6219 | Failure to review classification | Declined section 13 (4) (a). |
| 6220 | Failure to give decision on application for training on compassionate grounds. | Declined section 13 (4) (a). |
| 6232 | Conduct of superintendent | Declined section 13 (4) (a). |
| 6238A | Conduct of officer on project survival course | Not justified (4). |
| 6238B | Failure of officer to act on complaint | Declined section 13 (4) (a). |
| 6246 | Unfair locking-up by prison officer | Not justified (3). |
| 6257 | Unfair confiscation of ape mask | Under investigation. |
| 6259 | Delay in preferring charge | Not justified (3). |
| 6266 | Failure of welfare officer to forward on applications | Not justified (3). |
| 6268 | Alleged incorrect accusation by superintendent | Not justified (3). |
| 6271 | Unfair accusation | Declined section 13 (4) (a). |
| 6279 | Refusal to allow sufficient time to study | Not justified (3). |
| 6280 | Refusal of contact visit without assigning reasons | Not justified (4). |
| 6304 | Refusal to allow wearing of sunglasses | Not justified (3). |
| 6309 | Failure to carry out medical treatment | Declined section 13 (4) (b) (ii). |
| 6324A | Unfair accusation of making threatening telephone call | Declined section 13 (4) (a). |
| 6324B | Unfair removal from Milson Island | Declined section 13 (4) (a). |
| 6324C | Failure of parole officers to take action on complaint | Not justified (3). |
| 6328 | Unfair punishment prior to visiting Justice hearing | Declined section 13 (4) (a). |
| 6329 | Failure to transfer to another prison | Under investigation. |
| 6343 | Refusal to place on protection at Grafton | Declined section 13 (4) (a). |
| 6346 | Alleged unfair charges before visiting Justice | Not justified (3). |
| 6352 | Allegedly unjustified segregation by superintendent | Not justified (3). |
| 6354A | Failure to properly investigate complaint of assault by prison officers. | Not justified (3). |
| 6354B | Treatment since return to Grafton Gaol | Discontinued. |
| 6382 | Letter from ombudsman allegedly held by superintendent | Declined section 13 (4) (a). |
| 6393A | Failure to give reasons for transfer | Declined section 13 (4) (a). |
| 6393B | Missing property | Declined section 13 (4) (a). |
| 6405 | Alleged persecution by prison officer | Under investigation. |
| 6412 | Conduct of prison officer | Justified (5). |
| 6418 | Failure to provide details of basis of calculations of release date. | Under investigation. |
| 6444 | Refusal to allow return of desk lamp | Under investigation. |
| 6500A | Condition of punishment cells at Mulawa | Under investigation. |
| 6500B | Unfair punishment | Under investigation. |
| 6510 | Removal from minimum security after issue of deportation order. | Declined section 13 (4) (a). |
| 6550 | Failure to explain reasons for segregation | Not justified (3). |
| 6566A | Alleged double punishment by placement in segregation | Not justified (3). |
| 6566B | Loss of private property | Not justified (3). |
| 6566C | Refusal to permit interview with welfare officer | Not justified (3). |
| 6566D | Unfair censoring of outgoing letter | Declined section 13 (4) (a). |
| 6596 | Alleged victimization by prison officer | Under investigation. |
| 6609A | Inability to complete trade course | Under investigation. |

| No. | Complaint | Result |
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| CORRECTIVE SERVICES—continued | | |
| 6609a | Unjust placement in segregation | Under investigation. |
| 6614a | Alleged breach of s. 12 Prisons Act | Under investigation. |
| 6614a | Refusal to forward petition to M.P. | Under investigation. |
| 6614c | Routing of letters to M.P. through legal officer | Under investigation. |
| 6614d | Censorship of mail relating to prisoners legal co-operative | Under investigation. |
| 6623 | Alleged persecution by prison officer | Under investigation. |
| 6629 | Alleged harassment and victimization by prison officer | Under investigation. |
| 6630 | Unfair charge of refusing to obey an order | Under investigation. |
| 6652 | Missing private property | Withdrawn (2). |
| 6653 | Unfairly accused of lighting of fires | Under investigation. |
| 6657b | Refusal of Chamber Magistrate to issue summons | No jurisdiction section 12 (1) (a) 2. |
| 6678 | Alleged victimization in refusal to transfer from maximum security | Declined section 13 (4) (a). |
| 6694 | Failure to return prisoner to Cooma Gaol after found not guilty by magistrate | Not justified (3). |
| 6703 | Refusal to allow wearing of watch | Under investigation. |
| 6719 | Unjustified removal from employment | Under investigation. |
| 6726 | Impurities in food | Declined section 13 (4) (a). |
| 6738 | Classification as security risk | Under investigation. |
| 6739a | Unjustified removal from position as cook | Under investigation. |
| 6739b | Alleged theft of rations by officers | Under investigation. |
| 6747 | Loss of newspapers | Declined section 13 (4) (a). |
| 6751 | Incorrect endorsement on papers | Declined section 13 (4) (a). |
| 6761 | Having to share cell | Declined section 13 (4) (a). |
| 6768a | Failure to reply to applications | Under investigation. |
| 6768b | Unjust and unwarranted transfer to Maitland | Under investigation. |
| 6768c | Existence of false and prejudicial report | Under investigation. |
| 6768d | Failure to return missing property | Under investigation. |
| 6801a | Preferal of unwarranted charge | Not justified (3). |
| 6801b | Refusal to allow participation in sport | Discontinued. |
| 6802 | Difficulty in obtaining course material | Not justified (3). |
| 6818a | Inadequate medical treatment for shoulder | Under investigation. |
| 6818b | Failure to transfer to Silverwater for medical treatment | Under investigation. |
| 6823 | Failure to give reasons for segregation | Declined section 13 (4) (a). |
| 6826 | Failure to provide medical treatment (operation) | Under investigation. |
| 6842a | Failure to place on work release | Under investigation. |
| 6842b | Failure to grant day leave | Under investigation. |
| 6848a | Refusal of day leave | Under investigation. |
| 6848b | Failure to provide medical treatment | Under investigation. |
| 6849a | Quality of food | Not justified (3). |
| 6849b | Tension within the prison | Declined section 13 (4) (a). |
| 6850a | Conduct of prison officers | Under investigation. |
| 6850b | Inadequate food, clothing and laundry facilities | Under investigation. |
| 6851 | Insufficient time for evening meal | Under investigation. |
| 6858a | Wrongful segregation | Under investigation. |
| 6858b | Failure to inform of reasons for segregation | Under investigation. |
| 6858c | Removal of lecture and case material | Under investigation. |
| 6858d | Rejection of letter to Ombudsman | Under investigation. |
| 6859a | Detention in front yards at Cooma over weekend | Not justified (3). |
| 6859b | Segregation at Goulburn | Not justified (3). |
| 6859c | Refusal of superintendent to return to ordinary discipline | Not justified (3). |
| 6860a | Theft of case notes in 1975 | Under investigation. |
| 6860b | Inaction by department in dealing with complaint made on 21st July, 1975. | Under investigation. |
| 6861 | Reason for refusal of special remission | Under investigation. |
| 6862a | Unjustified transfer from Cessnock | Not justified (3). |
| 6862b | Failure to classify for Milson Island | Not justified (3). |
| 6862c | Fears that parole will not be granted | No jurisdiction section 12 (1) (a) 3. |
| 6876 | Failure to reply to correspondence | Under investigation. |
| 6913a | Refusal to grant day leave without escort | Declined section 13 (4) (a). |
| 6913b | Failure to provide medical treatment | Declined section 13 (4) (a). |
| 6913c | Failure to transfer to Cessnock | Declined section 13 (4) (a). |
| 6914a | Loss of personal property | Under investigation. |
| 6914b | Failure to reply to application | Under investigation. |
| 6915 | Refusal to classify for minimum security | Not justified (3). |
| 6916a | Attitude of prison officers | Declined section 13 (4) (a). |
| 6916b | Unjustified charge preferred against | Withdrawn (1). |
| 6916c | Refusal of "buy-ups" | Withdrawn (1). |
| 6916d | Conduct of officer in refusing to open gate | Withdrawn (1). |
| 6916e | Failure to open showers at designated times | Justified (5). |
| 6916f | Failure to provide cleaning materials | Not justified (3). |
| 6916g | Quality of meals | Withdrawn (1). |
| 6917a | Unauthorized placement in administrative segregation | Under investigation. |
| 6917b | Conduct of officers at Goulburn on 7th May, 1978 | Under investigation. |
| 6940a | Quality of food | Under investigation. |
| 6940b | Non issue of winter clothing | Under investigation. |
| 6940c | Difficulty in passing through gates | Under investigation. |
| 6940d | Practice of confining to cell | Under investigation. |
| 6940e | Searching of cells | Under investigation. |
| 6940f | Attitude of officer Silas | Under investigation. |
| 6940g | Inadequate laundry facilities | Under investigation. |
| 6949a | Security of mail | Declined section 13 (4) (a). |
| 6949b | Interference with letters to the Ombudsman | Declined section 13 (4) (a). |
| 6949c | Lack of telephones | Declined section 13 (4) (a). |
| 6950 | Failure to provide medical treatment | Under investigation. |
| 6973 | Failure to supply dentures | Declined section 13 (4) (a). |
| 6974a | Unfair removal from C.I.P. to M.R.P. | Under investigation. |
| 6974b | Loss of personal property | Under investigation. |
| 6974c | Failure of security unit to investigate matter properly | Under investigation. |
| 7001 | Failure to credit money to private cash | Under investigation. |
| 7006 | Failure of doctor to provide medical treatment | Not justified (3). |
| 7007 | Inadequate contact visits | Under investigation. |

| No. | Complaint | Result |
|--|--|---------------------------------------|
| CORRECTIVE SERVICES—continued | | |
| 7022 | Censorship of mail | Declined section 13 (4) (a). |
| 7024 | Refusal of superintendent to allow expenditure of private cash. | Under investigation. |
| 7055A | Alleged assault by officer | Under investigation. |
| 7055B | Refusal of officers to stop escort van when fire occurred .. | Under investigation. |
| 7055C | Placement in segregation | Under investigation. |
| 7056 | Refusal of visit with de-facto husband | Under investigation. |
| 7057 | Refusal to compensate for damaged property | Under investigation. |
| 7063 | Failure to provide diet recommended by specialist | Under investigation. |
| 7064 | Refusal to allow attendance at technical college | Under investigation. |
| 7081 | Lack of interest in sporting activities by activities officer, Cooma Prison. | Under investigation. |
| 7082 | Lack of facilities for exercise and sport at Cooma Prison | Under investigation. |
| 7083 | Refusal to return table tennis net | Under investigation. |
| 7084 | Lack of interest in sporting activities by activities officer, Cooma Prison. | Under investigation. |
| 7085 | Lack of sporting facilities at Cooma Prison | Under investigation. |
| 7086 | Lack of sporting facilities at Cooma Prison | Under investigation. |
| 7101 | Inability to ascertain reasons for altered date of release .. | Justified (5). |
| 7104A | Inaccurate recording of private cash and bonus earnings | Under investigation. |
| 7111 | Wrong information leading to loss of right to appeal | Under investigation. |
| 7137 | Conditions at and treatment of prisoners at Goulburn Gaol | Under investigation. |
| 7139 | Refusal to grant change of labour | Under investigation. |
| 7146 | Alleged theft of tobacco indulgence | Under investigation. |
| 7159 | Refusal to allow Minister to operate bank account | Under investigation. |
| 7160 | Revocation of parole | No jurisdiction section 12 (1) (a) 3. |
| 7161 | Unfair transfer | Declined section 13 (4) (a). |
| 7184A | Failure to send letters to Ombudsman | Under investigation. |
| 7184B | Conduct of officer in opening letter to Ombudsman | Under investigation. |
| 7200 | Unjustified confinement to cell | Under investigation. |
| 7227 | Unlawful use of force | Declined section 13 (4) (a). |
| 7239 | Unsatisfactory conditions of grant of day leave | Under investigation. |
| 7240 | Alleged unsatisfactory medical treatment | Under investigation. |
| 7244 | Failure to provide treatment for eye condition | Under investigation. |
| 7247 | Failure to reply to applications for transfer | Under investigation. |
| 7249 | Deliberate delay in dispatch of letters | Under investigation. |
| 7263 | Imposition of unjust bar on use of hobby room | Under investigation. |
| 7278A | Loss of applications regarding compensation for lost property. | Under investigation. |
| 7278B | Failure to reply to application to Minister for Services .. | Under investigation. |
| 7278C | Failure to reply to applications to Departmental Officers | Under investigation. |
| 7278D | Interference with mail | Under investigation. |
| 7289 | Conduct of prison officer | Under investigation. |
| 7294 | Refusal of visit | Under investigation. |
| 7300 | Alleged assault by officers | Under investigation. |
| 7324 | Refusal to grant special remission because of unfair report | Under investigation. |
| COUNCIL OF AUCTIONEERS AND AGENTS | | |
| 5729 | Unsatisfactory investigation of complaint | Justified (5). |
| 5762 | Failure to properly investigate complaint | Not justified (4). |
| 5998 | Refusal to exempt from requirements of Act | Withdrawn (1). |
| COURTS | | |
| 4552 | Unfair sentence imposed by magistrate | No jurisdiction section 12 (1) (a) 2. |
| 4608 | Imposition of unfair sentence | No jurisdiction section 12 (1) (a) 2. |
| 4915 | Length of sentence | No jurisdiction section 12 (1) (a) 2. |
| 4958 | Conduct of magistrate | No jurisdiction section 12 (1) (a) 2. |
| 4979A | Decision of courts | No jurisdiction section 12 (1) (a) 2. |
| 4979B | Actions of court in disposing of exhibits | No jurisdiction section 12 (1) (a) 2. |
| 5045 | Delay in payment of monies | No jurisdiction section 12 (1) (a) 2. |
| 5771 | Delay in handling down decision | No jurisdiction section 12 (1) (a) 2. |
| 5870 | Failure to issue writ of execution | No jurisdiction section 12 (1) (a) 2. |
| 5878 | Delay in hearing of damages claim | No jurisdiction section 12 (1) (a) 2. |
| 6072 | Failure to pay hospital accounts | No jurisdiction section 12 (1) (a) 2. |
| 6369 | Amount of penalty for parking offence | No jurisdiction section 12 (1) (a) 2. |
| 6372 | Conduct of court in refusing bail | No jurisdiction section 12 (1) (a) 2. |
| 6379 | Unfair decision of judge refusing compensation | No jurisdiction section 12 (1) (a) 2. |
| 6459 | Hearing of case in absence of complainant | No jurisdiction section 12 (1) (a) 2. |
| 6656 | Time not counting whilst on appeal | No jurisdiction section 12 (1) (a) 2. |
| 6714 | Failure to waive unnecessary requisitions | No jurisdiction section 12 (1) (a) 2. |
| 6779 | Conviction on incorrect evidence | No jurisdiction section 12 (1) (a) 2. |
| 6799 | Incorrect conviction and excessive sentence | No jurisdiction section 12 (1) (a) 2. |
| 6863 | Failure of visiting justice to take action re desire to charge officers. | No jurisdiction section 12 (1) (a) 2. |
| 6874 | Imposition of different penalties | No jurisdiction section 12 (1) (a) 2. |
| 6926 | Conduct of court case | No jurisdiction section 12 (1) (a) 2. |
| 6941 | Failure of magistrate to inform of alteration to non parole period. | No jurisdiction section 12 (1) (a) 2. |
| 6991 | Failure to enforce maintenance order | Under investigation. |
| 7003 | Refusal to grant bail or grant change of venue | No jurisdiction section 12 (1) (a) 2. |
| 7131 | Failure to deliver reserved decision | No jurisdiction section 12 (1) (a) 2. |
| 7183 | Conduct of magistrate in refusing adjournment of hearing | No jurisdiction section 12 (1) (a) 2. |
| 7197 | Conduct of trial | No jurisdiction section 12 (1) (a) 2. |
| 7199 | Conduct of trial | No jurisdiction section 12 (1) (a) 2. |
| 7222 | Failure to serve summons | No jurisdiction section 12 (1) (a) 2. |
| CROWN LANDS OFFICE—ORANGE | | |
| 5567 | Unfair refusal to consider application to convert special lease | Not justified (4). |

| No. | Complaint | Result |
|---|---|--|
| CROWN SOLICITOR | | |
| 5491 | Delay in advice on compensation for resumption | .. No jurisdiction section 12 (1) (a) 6. |
| 6110 | Unfair requisitions before compensation to be paid | .. Under investigation. |
| DAIRY INDUSTRY AUTHORITY | | |
| 5326 | Refusal to deliver milk to home | Not justified (3). |
| 7008 | Failure to adequately reimburse following quota imposition | No jurisdiction section 12 (1) (b). |
| DECENTRALISATION AND DEVELOPMENT—DEPARTMENT OF | | |
| 4587 | Refusal to honour undertakings to provide assistance | .. Not justified (4). |
| DENTAL BOARD OF NEW SOUTH WALES | | |
| 6971 | Delay in finalizing investigation of complaint | .. Under investigation. |
| 7187 | Failure to properly examine complaint | .. Not justified (3). |
| EDUCATION DEPARTMENT | | |
| 1672 | Non-payment of dependents allowance | Justified (5). |
| 1970a | Failure to inform of reasons for cancellation of subsidy payment. | Not justified (4). |
| 1970b | Failure to properly inform reasons for non-grant of certification. | Justified (7). |
| 1970c | Failure to correctly process certification of school | .. Justified (8). |
| 2673 | Failure to pay per capita grants | .. Under investigation. |
| 2750 | Failure to provide reports on children | .. Not justified (3). |
| 2794 | Failure to compensate for property destroyed by fire | .. Justified (5). |
| 3191 | Failure to compensate for damage to fence | .. Not justified (3). |
| 3648 | Issue of circular demanding payment of school fees | .. Not justified (3). |
| 3771 | Proposed construction of access road through school property. | Justified (5). |
| 3879 | Proposed acquisition of property for school extension | .. Not justified (3). |
| 3909 | Failure to return ring | .. Justified (5). |
| 4000 | Terms of compensation for resumption of land for school | .. Not justified (4). |
| 4157 | Keeping child in after school causing transport difficulties | .. Not justified (3). |
| 4181 | Delay in erection of fence | .. Justified (5). |
| 4327 | Failure to correct a situation involving ineligibility of provisionally certified schools to receive subsidy. | Under investigation. |
| 4422 | Refusal to issue bus pass for school child | .. Justified (5). |
| 4818 | Inadequate compensation for resumption | .. No jurisdiction section 12 (1) (a) 2. |
| 4841 | Conduct of servants | .. No jurisdiction section 12 (1) (a) 12b. |
| 4878 | Failure to provide receipts | .. Not justified (3). |
| 4949 | Failure to reply to correspondence re noise from playground | .. Not justified (3). |
| 4980 | Amount of long service leave entitlement | .. No jurisdiction section 12 (1) (a) 12b. |
| 4983 | School bullying | .. Declined section 13 (4) (a). |
| 4991 | Placement of child at inconvenient school | .. Not justified (3). |
| 4993 | Alleged victimization | .. No jurisdiction section 12 (1) (a) 12. |
| 5540 | Deduction of superannuation without authorization | .. Under investigation. |
| 5574 | Employment as teacher | .. No jurisdiction section 12 (1) (a) 12a. |
| 5607 | Failure to pay compensation | .. No jurisdiction section 12 (1) (a) 12b. |
| 5645 | Delay in replying to correspondence | .. Not justified (3). |
| 5723 | Refusal to change school bus route | .. Not justified (3). |
| 5734 | Failure to reimburse for stolen property | .. Justified (5). |
| 5858 | Unfair examination and incorrect result | .. Not justified (3). |
| 6109 | Decision to acquire homes for school purposes | .. Not justified (3). |
| 6127 | Refusal to allow attendance at particular high school | .. Declined section 13 (4) (a). |
| 6180 | Delay in payment of long service leave | .. No jurisdiction section 12 (1) (b). |
| 6230 | Unfair decision on school uniforms and lack of guidelines from department. | Declined section 13 (4) (a). |
| 6237 | Refusal to allow enrolment at particular high school | .. Not justified (3). |
| 6348 | Denial of liability | .. Under investigation. |
| 6367 | Unfair refusal of school bus pass | .. Not justified (3). |
| 6381 | Erection of portable classrooms in school grounds | .. Under investigation. |
| 6441 | Refusal to allow enrolment at same school as sister | .. Declined section 13 (4) (a). |
| 6442 | Refusal to pay long service leave | .. No jurisdiction section 12 (1) (a) 12b. |
| 6452 | Refusal of bus pass | .. Not justified (3). |
| 6528 | Inadequate offer of compensation | .. Not justified (3). |
| 6587 | Refusal to move child from remedial class | .. Withdrawn (1). |
| 6590 | Withdrawal of school bus subsidy | .. Under investigation. |
| 6640 | Alleged inconsistency in allocation of school bus passes | .. Under investigation. |
| 6706 | Failure to accept liability | .. Not justified (3). |
| 6834 | Placement of as teacher | .. No jurisdiction section 12 (1) (b). |
| 6865 | Extension of school bus service | .. Under investigation. |
| 6888 | Failure to reply to correspondence | .. Under investigation. |
| 7065 | Failure to accept liability for damage to car | .. Under investigation. |
| 7097 | Proposed alteration of school bus route | .. Under investigation. |
| 7251 | Delay in settlement of purchase | .. Under investigation. |
| 7280 | Non issue of bus pass | .. Under investigation. |
| 7293 | Failure to reply to correspondence | .. Withdrawn (2). |
| EGG MARKETING BOARD | | |
| 3634 | Incorrect determination of priority for purchase of grader | .. Not justified (4). |
| 5161 | Errors in accounts of Board | .. Not justified (3). |
| ELECTRICITY AUTHORITY OF NEW SOUTH WALES | | |
| 5335 | Refusal of electrician's licence | .. Not justified (4). |
| 6154 | Delay in refusing approval of sale causing loss | .. Not justified (4). |

| No. | Complaint | Result |
|---------------------------------------|--|---|
| ELECTRICITY COMMISSION | | |
| 4297 | Refusal to approve of sale of gravel in river | Not justified (4). |
| 4377 | Failure to pay compensation | Not justified (4). |
| 4999 | Delay in payment of compensation | Not justified (3). |
| 5000 | Unreasonable offer of compensation | Not justified (3). |
| 5302 | Unfair consideration assessed for extinguishment of easement. | Declined section 13 (4) (a) |
| 5313 | Unfair route of transmission line | Under investigation. |
| 5397 | Refusal to consent to domestic swimming pool under transmission easement. | Not justified (4). |
| 5441 | Quantum of costs of deviation of transmission line .. | Under investigation. |
| 5449 | Delay in agreement on compensation | Under investigation. |
| 5564 | Failure to allow additional benefit retirements | No jurisdiction section 12 (1) (a) 12b. |
| 5839 | Denial of overtime | No jurisdiction section 12 (1) (a) 12b. |
| 5925 | Failure to allow continuity of employment | No jurisdiction section 12 (1) (a) 12b. |
| 5976 | Delay in payment of long service leave | No jurisdiction section 12 (1) (a) 12b. |
| 6493 | Proposed siting of sub-station and transmission line .. | Not justified (3). |
| 6956 | Delay in payment of compensation | Under investigation. |
| 6995 | Delay in finalising acquisition of property | Under investigation. |
| 7169 | Resumption of property | Under investigation. |
| ETHNIC AFFAIRS COMMISSION | | |
| 5727 | Failure to notify receipt of employment application .. | No jurisdiction section 12 (1) (a) 12a. |
| FIRE COMMISSIONERS—BOARD OF | | |
| 4195 | Refusal to pay consulting engineer's fee | Under investigation. |
| 6555 | Order to cease burning-off of vineyard | Not justified (4). |
| FISHERIES N.S.W.—DEPARTMENT OF | | |
| 4398 | Failure to return seized items | Under investigation. |
| FORESTRY COMMISSION OF N.S.W. | | |
| 4974 | Failure to renew special licence | Under investigation. |
| 6833 | Failure to refund royalty overpayment | No jurisdiction section 12 (1) (b). |
| GOVERNMENT INSURANCE OFFICE | | |
| 2676 | Failure to reply to correspondence | Justified (5). |
| 3169 | Delay in finalizing claim | Not justified (3). |
| 3494 | Delay in payment of accounts | Not justified (3). |
| 3550 | Delay in finalizing claim | Justified (5). |
| 3701 | Failure to accept liability for damages to vehicle .. | Declined section 13 (4) (b) (iii). |
| 3730A | Delay in replying to correspondence | Justified (5). |
| 3730B | Delay in making workers compensation payments .. | Justified (5). |
| 3756 | Delay in finalizing claim | Not justified (4). |
| 3907 | Delay in re-imbusement of excess | Declined section 13 (4) (b) (iii). |
| 4186 | Delay in repairs to motor vehicle | Not justified (3). |
| 4209 | Delay in settlement of claim | Not justified (3). |
| 4225 | Incivility of officers | Not justified (4). |
| 4251 | Delay in finalizing household insurance claim | Not justified (3). |
| 4380 | Failure to refund premium on cancelled policy | Not justified (3). |
| 4381 | Refusal to supply copy of policy | Discontinued. |
| 4407 | Failure to allow no claim discount on renewal | Not justified (3). |
| 4426 | Incivility of officer | Not justified (3). |
| 4446 | Delay in handling claim | Not justified (3). |
| 4505 | Delay in settlement of compensation claim | Not justified (3). |
| 4512 | Delay in issuing policy | Justified (5). |
| 4513 | Delay in motor vehicle claim | Under investigation. |
| 4534 | Refusal to pay claim | Not justified (3). |
| 4590 | Refusal to refund payment by transfer to outstanding premium. | Declined section 13 (4) (b) (iii). |
| 4656 | Delay in payment of claims | Not justified (3). |
| 4680 | Possible loss of no claim bonus | Not justified (3). |
| 4696 | Delay in claim | Not justified (3). |
| 4709 | Refusal to meet claim under sickness policy | Not justified (3). |
| 4724 | Delay in settlement of claim | Justified (5). |
| 4749 | Failure to pay medical expenses because of loss of file .. | Not justified (3). |
| 4758 | Refusal to accept liability for claim | Declined section 13 (4) (b) (iii). |
| 4778 | Failure to finalize claim | Not justified (4). |
| 4803 | Inordinate delay in dealing with claim | Justified (5). |
| 4828 | Failure to re-instate no claim bonus | Declined section 13 (4) (b) (iii). |
| 4835 | Failure to amend policy | Not justified (3). |
| 4925 | Unauthorized erection of workshop | Not justified (3). |
| 4954 | Delay in claim | Not justified (3). |
| 4955 | Failure to reply to correspondence | Not justified (3). |
| 4968 | Denial of liability | Declined section 13 (4) (b). |
| 5006 | Failure to effect insurance cover following payment .. | Justified (5). |
| 5033 | Delay in pursuing recovery action | Under investigation. |
| 5064 | Failure to issue renewal of policy | Not justified (4). |
| 5065 | Delay in finalizing claim | Not justified (3). |
| 5115 | Failure to accept claim for damages | Declined section 13 (4) (b) (iii). |
| 5122 | Delay in refund of cancelled insurance premium | Justified (5). |
| 5134 | Delay in replying to correspondence | Justified (5). |
| 5177 | Unfair imposition of two excesses | Justified (5). |
| 5216 | Delay in finalizing claim | Justified (5). |
| 5217 | Delay in recovering excess | Not justified (4). |
| 5236 | Failure to answer correspondence | Justified (5). |
| 5247 | Failure to reduce workers' compensation premium upon reduction of industry rate. | Not justified (3). |

| No. | Complaint | Result |
|--|--|---|
| GOVERNMENT INSURANCE OFFICE—continued | | |
| 5280 | Delay in payment of excess | Not justified (3). |
| 5291 | Delay in recovery of excess | Declined section 13 (4) (b) (iii). |
| 5358 | Delay in recovery of excess | Declined section 13 (4) (b) (iii). |
| 5407 | Delay in finalizing claim | Justified (5). |
| 5483 | Delay in finalizing claim | Justified (5). |
| 5512 | Delay in payment of settlement cheque | Declined section 13 (4) (a). |
| 5515 | Delay in effecting repairs | Not justified (3). |
| 5572 | Refusal to insure without assigning reasons | Justified (5). |
| 5584 | Refusal of motor vehicle claim | Declined section 13 (4) (a). |
| 5612 | Failure to reply to correspondence and refund premium | Not justified (3). |
| 5614 | Failure to reply to inquiries | Not justified (3). |
| 5660 | Delay in claim | Discontinued. |
| 5746 | Delay in recovery of no claim discount | Not justified (3). |
| 5749A | Delay in claim | Declined section 13 (4) (a). |
| 5749a | Refusal to allow demurrage | Declined section 13 (4) (b) (iii). |
| 5761 | Unjust practice of advising changed policy conditions after renewal | Declined section 13 (4) (b) (iii). |
| 5792 | Delay in forwarding cheque in settlement | Discontinued. |
| 5952 | Delay in claim | Discontinued. |
| 5966 | Incorrect charge for stamp duty on household policy | Not justified (3). |
| 6045 | Failure to restore no claim discount | Declined section 13 (4) (b) (iii). |
| 6084 | Delay in payment of witness expenses | Justified (5). |
| 6108 | Delay in payment of medical fees | Not justified (4). |
| 6172 | Delay in claim | Not justified (3). |
| 6187 | Delay in forwarding policy | Under investigation. |
| 6278 | Failure to re-imburse hospital fees | Not justified (3). |
| 6353 | Loss of surrender value due to failure to take action on telephone surrender | Declined section 13 (4) (a). |
| 6478 | Misplacement of file delaying claim | Not justified (3). |
| 6481 | Delay in payment of fees | Justified (5). |
| 6520 | Delay in payment of compensation | Not justified (3). |
| 6531 | Delay in claim | Not justified (4). |
| 6568 | Delay in making medical appointment | Not justified (3). |
| 6569 | Delay in payment of costs | Not justified (3). |
| 6610 | Delay in payment of claim | Under investigation. |
| 6633 | Delay in claim | Declined section 13 (4) (b) (iii). |
| 6641 | Delay in refund of premium | Withdrawn (1). |
| 6711 | Failure to honour agreement | Justified (5). |
| 6740 | Failure to recover excess and damages | Under investigation. |
| 6756 | Delay in finalizing claim | Justified (5). |
| 6866 | Method of employment of assessors | Under investigation. |
| 6906 | Delay in payment of workers compensation payments | Discontinued. |
| 6908 | Failure to pay amounts claimed | Declined section 13 (4) (b) (iii). |
| 6934 | Delay in paying claim | Not justified (3). |
| 6935 | Failure to pursue re-imbursement of damages | Under investigation. |
| 6972 | Delay in payment of claim | Withdrawn (1). |
| 6987 | Refusal to accept claim | Declined section 13 (4) (b) (iii). |
| 7050 | Delay in finalizing claim | Not justified (3). |
| 7066 | Delay in finalizing claim | Under investigation. |
| 7070 | Delay in finalizing claim | Under investigation. |
| 7262 | Amount proposed for insurance | Declined section 13 (4) (b) (iii). |
| 7284 | Cancellation of house insurance | Under investigation. |
| GOVERNMENT PRINTING OFFICE | | |
| 3855 | Procedures adopted in respect of supply of goods | Not justified (3). |
| 5041 | Non-supply of regulations | Not justified (3). |
| 7288 | Delay in printing of solicitors admission certificates | Under investigation. |
| GOVERNMENT STORES DEPARTMENT | | |
| 5704 | Delays in payment of accounts | Justified (5). |
| 6458 | Unfair dismissal | No jurisdiction section 12 (1) (a) 12b. |
| 6753 | Failure to re-employ as cleaner | No jurisdiction section 12 (1) (a) 12b. |
| GRAIN ELEVATORS BOARD | | |
| 4705 | Circumstances of resignation of employee | No jurisdiction section 12 (1) (a) 12. |
| GRAIN SORGHUM MARKETING BOARD OF N.S.W. | | |
| 5949 | Unfair system of payment to growers | Under investigation. |
| GRANVILLE TECHNICAL COLLEGE | | |
| 5228 | Termination of employment | No jurisdiction section 12 (1) (a) 12a. |
| GREYHOUND RACING CONTROL BOARD | | |
| 5891 | Refusal to provide information on scratching | Under investigation. |
| HEALTH COMMISSION | | |
| 3916 | Compulsory chest X-rays | Not justified (4). |
| 4001 | Failure to review limited benefits for superannuation because of non-receipt of medical report | Not justified (4). |
| 4141 | Failure to give reasons for wife's committal to mental hospital | Not justified (3). |
| 4235 | Refusal to extend tenancy on staff cottage | No jurisdiction section 12 (1) (a) 12b. |
| 4527 | Failure of doctors to reply to correspondence | Not justified (4). |
| 4615 | No interview for hospital position | No jurisdiction section 12 (1) (a) 12a. |

| No. | Complaint | Result |
|---------------------------|--|--|
| HEALTH COMMISSION | | |
| 4633 | Failure to take action against take-away food bar | Not justified (4). |
| 4853A | Failure to advise patient of diagnosis | Not justified (3). |
| 4853B | Delay in replying to request for information | Justified (5). |
| 4982 | Overcharging for service | Not justified (3). |
| 5002 | Conduct of officers at Drug Referral Centre | Justified (6). |
| 5254 | Unfair charges for ambulances | Not justified (3). |
| 5283 | Delay in replying to correspondence | Justified (5). |
| 5466 | Unfair restrictions on licence of nursing home | Not justified (3). |
| 5593 | Failure to accept mantoux's test | Under investigation. |
| 5609 | Inadequate medical attention during escort | Not justified (4). |
| 5625 | Failure to review dental charge | Not justified (4). |
| 5845 | Requirement to have compulsory X-ray or skin test | Declined section 13 (4) (a). |
| 5874 | Proposed replacement of full-time nurse with part-time nurse. | Not justified (3). |
| 5875 | Nurse reduced to part-time work | Not justified (3). |
| 5876 | Nursing assistance reduced to part-time | Not justified (3). |
| 5877 | Proposed reduction of nursing assistance to part-time | Not justified (3). |
| 6030 | Placement of daughter | Not justified (3). |
| 6107 | Discriminatory ambulance charge | Declined section 13 (4) (a). |
| 6136 | Delay in processing complaint | Not justified (3). |
| 6170 | Failure to take action to destroy cockroaches | Withdrawn (1). |
| 6190 | Failure to give proper notice to terminate lease | Under investigation. |
| 6620 | Refusal to provide details of inquiry findings | Under investigation. |
| 6672 | Failure to reply to correspondence | Withdrawn (1). |
| 6699 | Failure to take action to prevent keeping of fowls | Under investigation. |
| 6841 | Failure to advise result of investigation | Declined section 13 (4) (a). |
| 6969 | Failure to provide adequate medical treatment | Under investigation. |
| 7089 | Failure to employ full-time | No jurisdiction section 12 (1) (a) 12. |
| 7120 | Unfair request to install hand basin | Under investigation. |
| HOUSING COMMISSION | | |
| 3358 | Failure to allow purchase of house | Not justified (4). |
| 3881 | Assessment of goodwill payable on sale of business | Under investigation. |
| 4164 | Delay in decision on offer of accommodation | Not justified (3). |
| 4202 | Failure to refund rental paid for accommodation later refused. | Justified (5). |
| 4256 | Proposed construction of houses | Not supported (3). |
| 4280 | Proposed construction of houses | Not supported (3). |
| 4285 | Denial of liability | Not justified (3). |
| 4339 | Delay in effecting repairs | Not supported (3). |
| 4361 | Refusal to allow purchase of dwelling | Not supported (3). |
| 4440 | Refusal to meet claim for work done | Not justified (4). |
| 4549 | Unreasonable requirement to restore tenanted flat | Not justified (4). |
| 4630 | Administrative delays causing loss of ability to purchase commission home. | Not justified (4). |
| 4640 | Delay causing loss of right to buy Housing Commission home at old price. | Not justified (4). |
| 4657 | Threatened eviction | Not justified (3). |
| 4687 | Failure to reduce rental | Not justified (3). |
| 4715 | Dispute as to arrears of rental | Not justified (3). |
| 4774 | Termination of tenancy | Not justified (3). |
| 4896 | Failure to replace damaged fence | Not justified (3). |
| 4902 | Refusal to pay for repositioning of meters | Not justified (3). |
| 4926 | Refusal to sell to tenants on previous terms | Declined section 13 (4) (a). |
| 4961 | Delay in payment of compensation | Not justified (3). |
| 4986 | Refusal to sell on old terms | Not justified (4). |
| 5001 | Delay in allocation on unit near inner city | Discontinued. |
| 5020 | Failure to arrange repair of footpath | Justified (5). |
| 5336 | Failure to take action to stop parakeet screaming | Under investigation. |
| 5344 | Failure to grant separated persons tenancy of houses | Not justified (3). |
| 5535 | Approval of sale of shop business | Not justified (4). |
| 5575 | Refusal to allow purchase of home | Not justified (4). |
| 5677 | Failure to give written apology | Not justified (4). |
| 5801 | Loss of position on waiting list due to failure to note change of address. | Not justified (3). |
| 5882 | Removal of name from priority list | Withdrawn (1). |
| 6007 | Unfair rejection of tender | Not justified (3). |
| 6090A | Failure to allow purchase of dwelling | Not justified (4). |
| 6090B | Failure to answer correspondence | Not justified (4). |
| 6178 | Unfair rejection of tenders | Under investigation. |
| 6193 | Delay in erection of dividing fence | Not justified (3). |
| 6255 | Unfair refusal to install hot water service | Not justified (3). |
| 6503 | Failure to backdate application for housing | Not justified (4). |
| 6554 | Failure to abate noise nuisance from adjacent flat | Under investigation. |
| 6588 | Claim for compensation for damage to property | Not justified (3). |
| 6622 | Delay in replying to correspondence | Not justified (3). |
| 6664 | Alleged arrears of rental | Under investigation. |
| 6690 | Denial of liability | Under investigation. |
| 6707 | Destruction of trees | Not justified (3). |
| 6737 | Failure to reply to correspondence | Not justified (3). |
| 6798 | Delay in arranging transfer | Not justified (3). |
| 6839 | Delay in allocating suitable house | Under investigation. |
| 6854 | Delay in allocation of house | Not justified (3). |
| 6989 | Delay in installation of heater | Justified (5). |
| 7039 | Delay in registration of sub-division plan | Under investigation. |
| 7090 | Failure to allow purchase of house | Not justified (3). |
| 7150 | Delay in construction of dividing fence | Under investigation. |
| 7164 | Failure to repair fences | Under investigation. |
| 7172 | Incorrect amount of rental | Not justified (3). |
| 7173 | Failure to pay balance of moneys due | Under investigation. |

| No. | Complaint | Result |
|--|--|--|
| HOUSING COMMISSION—continued. | | |
| 7267 | Failure to carry out repairs | Under investigation. |
| 7287 | Tendering procedures | Under investigation. |
| 7292 | Failure to carry out repairs. | Under investigation. |
| HUNTER DISTRICT WATER BOARD | | |
| 4139 | Failure to take action to prevent discharge of effluent into property. | Not justified (4). |
| 4466 | Excess water account | Not justified (3). |
| 5021 | Cost charged for sewer main diversion | Under investigation. |
| 5257 | Overpayment of rates | Not justified (3). |
| 5375 | Issue of incorrect rate notice | Not justified (3). |
| 5447 | Failure to fill land | Under investigation. |
| 6229 | Discrimination in selection of apprentice | No jurisdiction section 12 (1) (a) 12. |
| 6606 | Failure to remedy defective sewerage | Declined section 13 (4) (a). |
| 6728 | Excess water account | Not justified (3). |
| 6838 | Excess water account | Justified (5). |
| 7112 | Requirement to encase sewer main | Under investigation. |
| 7209 | Flooding of property by sewerage | Under investigation. |
| 7264 | Failure to take action to alleviate flooding | Under investigation. |
| HUNTER REGIONAL COUNCIL OF SOCIAL DEVELOPMENT | | |
| 6425 | Failure to pay account | No jurisdiction section 12. |
| HUNTER VALLEY CONSERVATION TRUST | | |
| 5520 | Failure to carry out appropriate conservation measures .. | Not justified (4). |
| KORALEIGH IRRIGATION TRUST | | |
| 5938 | Failure to allow inspection of minute books | Discontinued. |
| LABOUR AND INDUSTRY DEPARTMENT | | |
| 3464 | Failure to take action on breach of award | Not justified (3). |
| 3497 | Manner of handling complaint | Not justified (3). |
| 3524 | Delay in replying to inquiry | Not justified (4). |
| 3566 | Unfair harassment | Not justified (3). |
| 3703 | Failure to handle complaint correctly | Not justified (3). |
| 3815 | Directions issued concerning payment of allowances to former employee. | Not justified (4). |
| 3974 | Failure to take action to recover wages due on termination of employment. | Not justified (4). |
| 4292 | Delay in investigating complaint | Not justified (3). |
| 4607 | Unfair prosecution | Declined section 13 (4) (a). |
| 4816 | Refusal to take action on complaint | Not justified (4). |
| 4914 | Delay in investigation | Justified (6). |
| 5111 | Inability to contact Inquiries section after 4.30 p.m. | Not justified (3). |
| 5127 | Delay in finalising complaint | Justified (5). |
| 5413 | Delay in investigation of complaint | Not justified (3). |
| 5471 | Alleged discourtesy | Not justified (4). |
| 5697 | Delay in investigation of complaint | Not justified (3). |
| 5821 | Failure to take action on breach of agency's licence | Not justified (3). |
| 6015 | Delay in advising progress of complaint | Justified (5). |
| 6389 | Delay in investigation of complaint | Not justified (3). |
| 6433 | Incorrect issue of letter of demand | Under investigation. |
| 6438 | Failure to test for fork lift licence | Not justified (3). |
| 6473 | Failure to set off counter claim against wages due .. | Not justified (3). |
| 6665 | Unfair refusal of theatrical agents licence | Not justified (3). |
| 6936 | Unfair determination on annual leave payments | Not justified (4). |
| 7079 | Failure to properly advise re complaint | Under investigation. |
| 7236 | Wrong advice re: Superannuation Fund | No jurisdiction section 12 (1) (b). |
| 7313 | Delay in dealing with complaint | Under investigation. |
| LANDS—DEPARTMENT OF | | |
| 2166A | Failure to prevent filling of creek | Under investigation. |
| 3829 | Termination of canteen lease | Not justified (3). |
| 3874A | Refusal to reduce rental on closer settlement blocks .. | Not justified (4). |
| 3874B | Refusal to waive arrears of rent and interest thereon .. | Not justified (4). |
| 4127 | Failure to clean beach | Under investigation. |
| 4371 | Determination of property boundary | Not justified (3). |
| 4538 | Charge of rental and rates on reserve road | Not justified (4). |
| 4643 | Delay in decision on application to enter and take wood chips. | Justified (5). |
| 4956 | Failure to take action to ensure removal of dredged spoil .. | Not justified (3). |
| 5102 | Issue of account for dues outstanding on permissive occupancy. | Not justified (3). |
| 5143 | Failure to backdate forfeiture of lease | Not justified (4). |
| 5178 | Refusal of building application | Not justified (4). |
| 5179 | Unfair requirements of building approval | Withdrawn (2). |
| 5327 | Unfair survey fees for land grants | Under investigation. |
| 5330 | Delay in consent to transfer Crown Lands | Not justified (4). |
| 5338 | Issue of notice for payment of backdated rental increase .. | Not justified (3). |
| 5356 | Unfair sale of blocks to Housing Commission | Not justified (4). |
| 5409 | Decision to sell land to Housing Commission | Not justified (4). |
| 5424 | Sale of Crown Land to Housing Commission for welfare housing. | Not justified (4). |
| 5452 | Condition attached to purchase conflicts with requirement of Mines Department. | Not justified (3). |

| No. | Complaint | Result |
|---|--|---------------------------------------|
| LANDS—DEPARTMENT OF | | |
| 5550 | Failure to clear fire hazard on Crown Land | Justified (5). |
| 5601 | Sale of Crown Land to Housing Commission | Not justified (4). |
| 5611 | Delay in application for floating pontoon | Justified (5). |
| 5622 | Unfair imposition of interest | Not justified (4). |
| 5812 | Threat of court proceedings | Not justified (3). |
| 5850 | Refusal to convert lease to conditional purchase | Justified (5). |
| 6209 | Discriminatory rental for permissive occupancy | Not justified (4). |
| 6310 | Unfair forfeiture of lease | Not justified (3). |
| 6443 | Failure to rectify discharge of water from Dept. Road onto property. | Under investigation. |
| 6529 | Sand mining activities on public reserve | Under investigation. |
| 6551 | Refusal to allow monument on grave | Under investigation. |
| 6899 | Proposed lease on part of park | Under investigation. |
| 7033 | Terms and conditions of permissive occupancy | Under investigation. |
| 7054 | Failure to allow conversion of lease | Under investigation. |
| 7132 | Damage to headstone of father's grave during burial of mother. | Under investigation. |
| 7233 | Proposed road closure and purchase | Under investigation. |
| LAND TAX OFFICE | | |
| 2841 | Incorrect imposition of land tax | Not justified (3). |
| 2923 | Use of incorrect valuations for land tax assessment | Not justified (3). |
| 4208 | Refusal to waive tax because of hardship | Not justified (4). |
| 4585 | Refusal to give reasons for assessment of tax | Under investigation. |
| 4642 | Unfair assessment of Land Tax | Not justified (3). |
| 4748 | Unfair issue of summons | Not justified (3). |
| 4886 | Imposition of late payment penalties | Not justified (3). |
| 5029 | Imposition of land tax on property | Not justified (3). |
| 5263 | Delay in recovering land tax preventing settlement of purchase. | Not justified (3). |
| 5547 | Imposition of Land Tax | Not justified (3). |
| 5631 | Unfair amount of Land Tax | No jurisdiction section 12 (1) (b). |
| 5823 | Delay in issuing assessment | Not justified (3). |
| 5910 | Delay in replying to correspondence | Not justified (3). |
| 6049 | Incorrect imposition of Land Tax | Declined section 13 (4) (a). |
| 6087 | Unfair assessment of land tax | Not justified (3). |
| 6420 | Unfairness of penalty for non-payment of land tax | Declined section 13 (4) (a). |
| 6546 | Delay in refund of overpaid Land Tax | Justified (5). |
| 6684 | Failure to refund | Under investigation. |
| LANE COVE RIVER STATE RECREATION AREA TRUST | | |
| 6985 | Failure to provide information requested | Not justified (3). |
| LAW COURTS LTD | | |
| 4969 | Refusal to pay account | No jurisdiction section 12 (1) (a) 5. |
| LEGAL AID COMMISSIONER | | |
| 5237 | Failure to grant separate legal representation | Not justified (3). |
| 5579 | Access to committal proceedings records by solicitor allegedly not representing either of accused persons. | Not justified (3). |
| LIBRARY BOARD OF NEW SOUTH WALES | | |
| 6669 | Failure to reply to correspondence | Withdrawn (2). |
| LIVERPOOL DISTRICT HOSPITAL | | |
| 4574 | Treatment at casualty section of hospital | Not justified (4). |
| 5507 | Failure to reply to correspondence | Justified (5). |
| LOCAL GOVERNMENT BOUNDARIES COMMISSION | | |
| 4779A | Breach of terms of reference | Withdrawn (1). |
| 4779B | Commission as presently constituted not the proper authority to examine and report. | Withdrawn (1). |
| 6721 | Proposed amalgamation of Councils | Declined section 13 (4) (a). |
| LOCAL GOVERNMENT DEPARTMENT | | |
| 4283 | Delay in investigating complaint | Not justified (3). |
| 5222 | Refusal to pay costs of destruction of Indian hemp | Justified (5). |
| LOCAL GOVERNMENT (BUILDING INSPECTORS) EXAMINATION COMMITTEE | | |
| 4786 | Delay in dealing with application for building inspectors certificate. | Not justified (4). |
| LOCAL GOVERNMENT SUPERANNUATION BOARD | | |
| 4519 | Delay in payment of superannuation | Not justified (3). |
| 4586 | Refusal to pay sickness benefits and contributions to fund | Not justified (3). |
| 4787 | Delay in finalizing superannuation payments | Not justified (3). |
| 4783 | Delay in payment of superannuation benefits | Not justified (3). |
| 5005 | Inadequate disablement payment | Not justified (3). |
| 5250 | Delay in payment of benefits | Justified (5). |
| 5465 | Discriminatory provisions of fund | Not justified (3). |
| 5777 | Delay in payment of refund | Not justified (3). |

| No. | Complaint | Result |
|--|--|---------------------------------------|
| 6287 | Delay in refund of contributions | Not justified (3). |
| 6378 | Failure to answer correspondence | Under investigation. |
| 6589 | Refusal to accept naturalization certificate in lieu of Birth and Marriage Certificates. | Under investigation. |
| 6800 | Delay in advising entitlements due | Under investigation. |
| 7299 | Payment of incorrect entitlement | Under investigation. |
| 7312 | Refusal to allow entry into fund | Under investigation. |
| LOCAL LAND BOARD (LISMORE) | | |
| 6796 | Decision made by Board in regard to rate levy | No jurisdiction section 12 (1) (a) 2. |
| LOCAL LAND BOARD (METROPOLITAN) | | |
| 4944 | Discrimination in allocation of Crown land | No jurisdiction section 12 (1) (a) 2. |
| 5748 | Alignment of retaining wall causing encroachment .. | Under investigation. |
| MACARTHUR DEVELOPMENT BOARD | | |
| 4307 | Status of town planning proposals | Not justified (3). |
| 4676 | Failure to adequately consult on planning of shopping centre and delay in decision. | Withdrawn (1). |
| 4789A | Refusal to give option to re-purchase land | Not justified (4). |
| 4789A | Purchase price offered too low | Not justified (4). |
| 5158 | Unfair plans for shopping centre development | Not justified (4). |
| MAIN ROADS—DEPARTMENT OF | | |
| 2195 | Delay in finalizing claim for damages | Under investigation. |
| 2850 | Retention of fees on purchases of properties | Under investigation. |
| 2869 | Proposed disposal of road | Under investigation. |
| 3054 | Delay in answering correspondence | Justified (5). |
| 3195 | Purported cancellation of contract and failure to pay balance of monies due. | Not justified (3). |
| 3251 | Failure to pay for work done | Under investigation. |
| 3267 | Proposed sale of surplus land | Not justified (3). |
| 3536 | Refusal to accept liability for damages | Under investigation. |
| 3572 | Demand made for payment of compensation | Not justified (3). |
| 3784 | Failure to advise of proposed court proceedings | Under investigation. |
| 3797 | Refusal to grant access | Not justified (3). |
| 3846 | Failure to offer adequate compensation | Not justified (3). |
| 3860 | Delay in resumption of property | Under investigation. |
| 3895 | Delay in advising requirements for land | Justified (5). |
| 3910 | Delay in replying to correspondence | Not justified (3). |
| 4025 | Failure to accept liability for damage | No jurisdiction section 12 (1) (c). |
| 4037 | Failure to permit access from main road | Justified (5). |
| 4040 | Delay in payment for goods supplied | Not justified (3). |
| 4203 | Delay in advising council of attitude to building application | Declined section 13 (4) (a). |
| 4316 | Alteration of river flow causing loss of irrigation .. | Not justified (4). |
| 4324 | Delay in payment of compensation for resumption .. | Justified (5). |
| 4357 | Failure to deduct garnishee from wages | Under investigation. |
| 4418 | Failure to acquire properties | Under investigation. |
| 4419 | Delay in acquisition of land | Not justified (4). |
| 4528 | Refusal to restore access | Not justified (4). |
| 4578 | Failure to pay proper compensation | Not justified (3). |
| 4671 | Vibration and noise nuisance from road widening .. | Not justified (4). |
| 4694 | Failure to accept exchange of land for county road .. | Under investigation. |
| 4700 | Delay in acquisition of property | Not justified (3). |
| 4702 | Loss caused by work only available for short period .. | Justified (5). |
| 4827 | Unfair amount of compensation sought for damage to bridge | Not justified (3). |
| 4992 | Diversion of stream | Justified (5). |
| 5017 | Damage to property entrance | Not justified (4). |
| 5018 | Failure to acquire property | Justified (5). |
| 5023 | Delay in acquisition of property | Not justified (4). |
| 5114 | Proposed charges for opening of road | Under investigation. |
| 5164 | Delay in advising council of decision to acquire property .. | Not justified (4). |
| 5267 | Design of bridge | Under investigation. |
| 5304 | Delay in replying to correspondence | Under investigation. |
| 5305 | Failure to honour agreement for access | Not justified (4). |
| 5400 | Unfair offer of compensation for property | Not justified (4). |
| 5431 | Refusal to acquire affected property | Justified (5). |
| 5435 | Denial of liability for ambulance account | Withdrawn (1). |
| 5479 | Failure to provide access to property | Not justified (3). |
| 5595 | Proposed relocation of main road | Not justified (4). |
| 5615 | Proposed widening of highway | Not justified (3). |
| 5621 | Unreasonable contribution required to road works .. | Not justified (3). |
| 5647 | Delay in acquisition of property | Not justified (3). |
| 5656 | Delay in acquisition of land | Justified (5). |
| 5739 | Unfair proportion of rates payable by tenant | Not justified (3). |
| 5806 | Failure to kerb and gutter street | Declined section 13 (4) (a). |
| 5820 | Proposed widening of street affecting property | Under investigation. |
| 5844 | Unfair increases in rent | Under investigation. |
| 5896 | Closure of street | Justified (5). |
| 6012 | Delay in finalizing claim re traded in vehicle | Declined section 13 (4) (a). |
| 6106 | Delay in decision on acquisition of property | Under investigation. |
| 6111 | Refusal to pay compensation ordered by Court | Justified (5). |
| 6139 | Delay in investigating drainage complaint | Justified (6). |
| 6316 | Damage to vehicle due to road condition | Declined section 13 (4) (a). |
| 6345 | Motorway construction causing inadequate vehicular access | Not justified (3). |
| 6377 | Effect of proposed road works on property | Not justified (3). |

| No. | Complaint | Result |
|---|---|--|
| MAIN ROADS—DEPARTMENT OF—continued. | | |
| 6399 | Proposed road widening and development affecting property | Not justified (3). |
| 6450 | Delay in decision on route of freeway | Under investigation. |
| 6574 | Delay in responding to fencing quotes | Justified (6). |
| 6713 | Unsatisfactory offer for resumed land | Withdrawn (1). |
| 6771 | Refusal to accept liability for damage to clothing | Justified (5). |
| 6937 | Proposed eviction for non payment of rent | Not justified (3). |
| 6993 | Failure to seal roadway | Under investigation. |
| 7051 | Incorrect issue of summons | Under investigation. |
| 7121 | Failure to take action to alleviate flooding | Under investigation. |
| 7122 | Failure to allow entry to motel | Declined section 13 (4) (b) (v). |
| 7136 | Failure to reply to correspondence | Under investigation. |
| 7181 | Failure to arrange clearing of property | Under investigation. |
| 7232 | Inadequacy of compensation offered | Under investigation. |
| MARITIME SERVICES BOARD | | |
| 0558 | Excessive cost of land to be added to property | Under investigation. |
| 2166m | Failure to prevent pollution of creek | Under investigation. |
| 2222 | Failure to prevent pollution of creek | Under investigation. |
| 2776 | Proposed cancellation of lease | Under investigation. |
| 3803 | Granting of mooring to neighbouring property | Not justified (4). |
| 4457 | Refusal to allow construction of tidal bath | Not justified (3). |
| 4482 | Failure to certify vessel | Justified (5). |
| 4486 | Refusal to allow operation of seaplanes from Narrabeen lagoon. | Not justified (4). |
| 4488 | Delay in reply to correspondence | Not justified (3). |
| 4639 | Re-location of mooring | Not justified (3). |
| 4810 | Loss as result of delays in answering correspondence | Justified (5). |
| 5897 | Unjust selection procedures for employment | No jurisdiction section 12 (1) (a) 12a |
| 5909 | Selection procedures for employment | No jurisdiction section 12 (1) (a) 12a |
| 6318 | Delay in permission to extend private wharf | Not justified (4). |
| 6445 | Failure to abate noise nuisance | Declined section 13 (4) (a). |
| 7031 | Proposed granting of lease for marina | Under investigation. |
| 7211 | Conduct of Board in relation to boat and mooring | Under investigation. |
| MEDICAL PRACTITIONERS INVESTIGATION COMMITTEE | | |
| 4152 | Failure to take action on complaint of medical treatment .. | Not justified (3). |
| METROPOLITAN MEAT INDUSTRY BOARD | | |
| 2070 | Seizure of meat | Justified (8). |
| METROPOLITAN WASTE DISPOSAL AUTHORITY | | |
| 4903 | Delay in acquisition of property | Withdrawn (1). |
| 6769 | Failure to control tipping operations | Not justified (3). |
| 7178 | Actions in relation to establishment of waste disposal depot | Under investigation. |
| METROPOLITAN WATER SEWERAGE & DRAINAGE BOARD | | |
| 2126b | Insufficient drainage | Under investigation. |
| 2166c | Failure to remove access road | Under investigation. |
| 2223 | Failure to remove access road | Under investigation. |
| 2394 | Route of sewer line | Justified (6). |
| 2419 | Failure to reply to correspondence | Under investigation. |
| 2451 | Delay in provision of sewerage facilities | Under investigation. |
| 2785 | Failure to accept liability for damage | Justified (5). |
| 2796 | Excess water charges | Not justified (4). |
| 2893 | Excess water bill | Not justified (3). |
| 2977 | Payment of additional rates on retrospective basis | Not justified (3). |
| 3136 | Special conditions imposed on building application | Not justified (3). |
| 3276 | Failure to accept liability for damage | Not justified (3). |
| 3389 | Excess water rates | Not justified (4). |
| 3568 | Excess water rates | Not justified (3). |
| 3727 | Issue of account for monies already paid | Not justified (3). |
| 3782 | Failure to restore property | Not justified (4). |
| 3845 | Issue of notice for increased rates | Discontinued. |
| 3892 | Failure to accept liability for damage | Justified (5). |
| 3943 | Failure to adjust rates | Not justified (3). |
| 3981 | Quality of water supplied to home | Not justified (3). |
| 3990 | Method of rating in re-zoned areas for single dwellings .. | Not justified (3). |
| 3999 | Separate rating of house as two flats when used only as single dwelling. | Not justified (3). |
| 4007 | Failure to reply to correspondence | Justified (5). |
| 4022 | Excess water charges | Not justified (4). |
| 4095 | Incorrect water account | Not justified (3). |
| 4123 | Requirement of installation of meter | Not justified (3). |
| 4124 | Retrospective imposition of rates | Justified (5). |
| 4143A | Failure to explain excess water account | Not justified (3). |
| 4143m | Attitude of Board's Officer on telephone | Justified (5). |
| 4148 | Unfair positioning of sewer line | Not justified (4). |
| 4162 | Unfair water charges | Justified (7). |
| 4188 | Imposition of re-connection fee and failure to reply to correspondence. | Justified (5). |
| 4192 | Delay in replying to correspondence | Justified (5). |
| 4219 | Refusal to accept liability for damage | Justified (7). |
| 4295 | Incorrect excess water account | Justified (5). |
| 4325 | Excess water rates | Not justified (3). |
| 4333 | Excess water account | Not justified (3). |
| 4355 | Threat to cut off water for non-payment of drainage rate delayed by error of Board. | Not justified (3). |

| No. | Complaint | Result |
|--|--|------------------------------|
| METROPOLITAN WATER SEWERAGE & DRAINAGE BOARD— <i>continued</i> | | |
| 4378 | Issue of notice for court costs | Not justified (3). |
| 4412 | Restrictions placed on building near sewer mains | Justified (5). |
| 4423 | Excess water account | Under investigation. |
| 4442 | Incorrect water rating | Not justified (4). |
| 4450 | Failure to replace drainage pipe with durable type pipe | Justified (5). |
| 4465 | Excess water account | Not justified (3). |
| 4506 | Excess water bill | Justified (5). |
| 4520A | Excess water account | Not justified (3). |
| 4520B | Failure to record meter readings on accounts | Not justified (3). |
| 4536 | Failure to correct dirty water supply | Not justified (4). |
| 4581 | Incorrect issue of disconnection notice | Justified (5). |
| 4596 | Failure to reinstate property | Declined section 13 (4) (a). |
| 4624 | Failure to reply to correspondence re claim for reimbursement. | Not justified (3). |
| 4652 | Failure to refund monies already paid | Justified (5). |
| 4654 | Requirement of installation of meter | Under investigation. |
| 4679 | Excess water account | Not justified (3). |
| 4704 | Excess water account | Not justified (3). |
| 4727 | Excess water account | Not justified (4). |
| 4740 | Denial of liability to pay compensation | Not justified (3). |
| 4764 | Unfair rate accounts | Justified (5). |
| 4775 | Issue of notice of discontinuance of water supply | Not justified (4). |
| 4776 | Nuisance at sewerage treatment works | Declined section 13 (4) (a). |
| 4777 | Excess water account | Not justified (4). |
| 4785 | Excess water account | Not justified (3). |
| 4790 | Failure to replace suitable material after excavation | Discontinued. |
| 4825 | Failure to adjust rates to reduced valuation | Not justified (3). |
| 4851 | Unfair water account | Justified (5). |
| 4912 | Excess water account | Withdrawn (1). |
| 4913 | Failure to provide receipt and to adjust address | Withdrawn (1). |
| 4917 | Delay in issue of certificate | Withdrawn (1). |
| 4942 | Failure to restore property | Not justified (3). |
| 4943 | Excess water account | Not justified (3). |
| 4981 | Unfair rate account | Not justified (3). |
| 4987 | Incorrect names on rate notices | Justified (5). |
| 5101 | Failure to provide water supply | Not justified (3). |
| 5112 | Excess water account | Not justified (3). |
| 5117 | Failure to adjust rates | Not justified (3). |
| 5155 | Delay in providing sewer line extension | Justified (5). |
| 5191 | Refusal to allow pensioner rebate | Not justified (3). |
| 5193A | Failure to reply to correspondence | Justified (5). |
| 5193B | Provision of incorrect information | Justified (5). |
| 5193C | Failure to reveal existence of drain | Not justified (3). |
| 5218 | Incorrect rate account | Justified (5). |
| 5233 | Excess water account | Not justified (4). |
| 5242 | Unfair water account | Justified (5). |
| 5260 | Unfair assessment of rate following malfunction of meter | Not justified (3). |
| 5264 | Denial of liability for damage to property | Justified (5). |
| 5271A | Account issued for outstanding rates | Not justified (4). |
| 5271B | Delay in replying to letter | Justified (5). |
| 5301 | Siting of sewerage facilities on land | Not justified (3). |
| 5324 | Failure to restore property | Under investigation. |
| 5328A | Delay in replying to correspondence | Not justified (3). |
| 5328B | Excess water account | Not justified (3). |
| 5415 | Excess water account | Not justified (3). |
| 5439 | Failure to notify drainage work | Not justified (3). |
| 5455 | Failure to properly repair hydrant | Not justified (3). |
| 5460 | Refusal to allow extension of time to pay rates and threatened disconnection. | Declined section 13 (4) (a). |
| 5489 | Excess water account | Justified (5). |
| 5499 | Unfair imposition of commercial rate retrospective to 1975 | Not justified (3). |
| 5508 | Delay in supplying service diagram preventing connection of sewer. | Not justified (3). |
| 5511 | Unfair charge for availability of sewer when land being resumed. | Not justified (3). |
| 5519 | Unfair requirement to repair water pipes outside property | Under investigation. |
| 5532 | Threatened disconnection for non-payment of excess water account. | Justified (5). |
| 5585 | Excess water account | Not justified (3). |
| 5599 | Failure to base rate on reduced valuation | Not justified (3). |
| 5637 | Amount of account | Under investigation. |
| 5652 | Unfair demand to remedy broken junction | Declined section 13 (4) (a). |
| 5655 | Excess water account | Not justified (3). |
| 5657 | Positioning of sewer work on property | Justified (5). |
| 5664 | Excess water account | Not justified (3). |
| 5669 | Incorrect rate notice | Justified (5). |
| 5688 | Delays in issuing rate notice | Not justified (4). |
| 5747 | Unfair demand for construction of manhole | Declined section 13 (4) (a). |
| 5773 | Excess water account | Justified (5). |
| 5778 | Incorrect rating of property | Justified (5). |
| 5784 | Failure to accept liability for damages arising from incorrect sewerage diagram. | Justified (5). |
| 5805 | Refusal to give time to pay account | Not justified (3). |
| 5816 | Denial of liability | Not justified (3). |
| 5840 | Excess water account | Under investigation. |
| 5852 | Position of sewer main on property | Not justified (3). |
| 5853 | Failure to rate on new valuation | Not justified (3). |
| 5871 | Delay in pensioner rebate | Justified (5). |
| 5844 | Incorrect notice of disconnection of water supply | Not justified (3). |
| 5904 | Excess water accounts | Declined section 13 (4) (a). |
| 5905 | Failure to base rate on reduced valuation | Not justified (3). |
| 5913 | Unfair liability to repair water pipes outside property | Not justified (3). |

| No. | Complaint | Result |
|---|--|-----------------------------------|
| METROPOLITAN WATER SEWERAGE & DRAINAGE BOARD—continued | | |
| 5930 | Unfair requirement to repair leaking pipe | Declined section 13 (4) (a). |
| 5945A | Unfair water accounts | Not justified (3). |
| 5945B | Delay in replying to correspondence | Justified (5). |
| 5946 | Threatened disconnection of water service | Not justified (4). |
| 5983 | Failure to provide pensioner rebate | Not justified (3). |
| 5985 | Failure to reduce rates in accordance with fresh valuation .. | Not justified (3). |
| 6014 | Refusal to pay claim | Under investigation. |
| 6017 | Denial of liability | Not justified (4). |
| 6060 | Excess water account | Justified (5). |
| 6069 | Unfair requirement to repair sewerage pipes | Under investigation. |
| 6081 | Attitude towards control of trade waste | Declined section 13 (4) (a). |
| 6082 | Alleged failure to repair damage to property | Under investigation. |
| 6093 | Excess water account | Not justified (3). |
| 6099 | Issue of notice re: installation of meter | Not justified (3). |
| 6100 | Issue of final account after amount paid | Not justified (3). |
| 6116 | Excess water account | Justified (5). |
| 6140 | Proposed route of sewer | Not justified (3). |
| 6152 | Unfair disconnection notice | Not justified (4). |
| 6163 | Unfair disconnection notice | Not justified (4). |
| 6213 | Failure to provide services to property | Declined section 13 (4) (b) (iv). |
| 6224 | Unfair issue of permit to disconnect services | Declined section 13 (4) (b) (iv). |
| 6247 | Failure to separately meter properties | Not justified (4). |
| 6256 | Failure to restore property | Justified (5). |
| 6263 | Incorrect final notice and threat of disconnection of supply | Not justified (3). |
| 6265A | Threatened disconnection for non-payment of surcharged rates. | Not justified (3). |
| 6265B | Failure to answer correspondence | Not justified (3). |
| 6276 | Issue of notice to occupier notwithstanding owners agreement to pay rates. | Justified (5). |
| 6277 | Failure to repay instalment of rates paid in error | Not justified (3). |
| 6300 | Excess water account | Under investigation. |
| 6363 | Delay in investigation of complaint | Withdrawn (1). |
| 6368 | Unfair notice of proposed legal action | Declined section 13 (4) (a). |
| 6383 | Unfair positioning of sewer line | Not justified (4). |
| 6388 | Failure to reply to correspondence and threat of legal proceedings. | Declined section 13 (4) (a). |
| 6407 | Failure to carry out promised work associated with pumping station. | Justified (5). |
| 6409 | Positioning of sewer line | Not justified (4). |
| 6430 | Failure to grant pensioner rebate | Not justified (3). |
| 6440 | Alleged unfair back dating of rates to correct error | Declined section 13 (4) (a). |
| 6465 | Failure to give pensioner rebate of rates | Not justified (4). |
| 6507 | Excess water account | Not justified (4). |
| 6521 | Incorrect rate assessment | Justified (5). |
| 6543 | Lack of water pressure | Withdrawn (1). |
| 6552 | Failure to rate on residential basis | Under investigation. |
| 6570 | Unfair levying of rates | Not justified (3). |
| 6571 | Unfair excess water account | Not justified (3). |
| 6572 | Unfair divulging of information to press | Under investigation. |
| 6591 | Refusal to adjust rates following correction in error in A.A.V. | Under investigation. |
| 6600 | Levy of rates on old value | Not justified. |
| 6644 | Excess water account | Under investigation. |
| 6677 | Failure to remove odour from street | Discontinued. |
| 6693A | Delay in replying to correspondence | Justified (5). |
| 6693B | Erroneous issue of excess water account | Justified (5). |
| 6709 | Failure to refund overpaid rates | Not justified (3). |
| 6727 | Incorrect issue of rate notices | Under investigation. |
| 6773 | Imposition of contribution towards sewer construction | Not justified (3). |
| 6789 | Issue of final notice | Justified (5). |
| 6837 | Issue of incorrect rate account | Declined section 13 (4) (a) |
| 6844 | Rating of property on unfair basis | Under investigation. |
| 6939 | Excess water bills | Under investigation. |
| 6961 | Failure to provide information about joint drainage systems | Withdrawn (2). |
| 6967 | Excess water bill | Under investigation. |
| 6968 | Issue of incorrect notice of disconnection | Discontinued. |
| 6975 | Assessment of water rates | Under investigation. |
| 7012 | Excess bills | Under investigation. |
| 7017 | Failure to accept responsibility for repair of galvanised water service. | Declined section 13 (4) (a) |
| 7028 | Excess water bill | Under investigation. |
| 7037 | Failure to provide sewerage service | Under investigation. |
| 7038 | Delay in answering conveyancing enquiries | Justified (5). |
| 7053 | Failure to compensate for damage | Under investigation. |
| 7072 | Delay in finalising application | Under investigation. |
| 7098 | Failure to reply to correspondence | Under investigation. |
| 7108A | Excess water account | Declined section 13 (4) (a). |
| 7108B | Conduct of officer | Declined section 13 (4) (a) |
| 7130 | Imposition of sewerage rates when sewer not connected .. | Under investigation. |
| 7140 | Excess water account | Under investigation. |
| 7141 | Excess water account | Under investigation. |
| 7151 | Excess water account | Under investigation. |
| 7174 | Excess water account | Under investigation. |
| 7214 | Excess water bill | Under investigation. |
| 7241 | Excess water rates | Under investigation. |
| 7265 | Excess water bill | Declined section 13 (4) (a). |
| 7271 | Failure to prevent drainage from pipes | Under investigation. |
| 7277 | Excess water bill | Under investigation. |
| 7309 | Delay in terminating joint sewerage service | Under investigation. |
| 7321 | Incorrect issue of account for outstanding water rates .. | Under investigation. |

| No. | Complaint | Result |
|---|--|---|
| MINES DEPARTMENT | | |
| 0384 | Refusal of mining lease application | Under investigation. |
| 2247 | Refusal of exploration license application | Not justified (4). |
| 3247 | Amount of security deposit required | Discontinued. |
| 3723 | Request for payment of royalties for mining of mineral .. | Under investigation. |
| 4411 | Incorrect issue of notice to cease mining operations .. | Not justified (3). |
| 4824 | Delay in mining search | Not justified (3). |
| 5452 | Requirement conflicts with condition imposed by Lands Department. | Not justified (3). |
| 5679 | Failure to supply copy of report | Not justified (4). |
| MINES SUBSIDENCE BOARD | | |
| 6651 | Incorrect approval of footings for dwellings | Under investigation. |
| MITCHELL COLLEGE OF ADVANCED EDUCATION | | |
| 5889 | Refusal to pay long service leave | No jurisdiction section 12 (1) (a) 12b. |
| MOTOR TRANSPORT—DEPARTMENT OF | | |
| 3114 | Incorrect assessment of stamp duty | Not justified (4). |
| 4115 | Unfair issue of defect notice | Not justified (3). |
| 4113 | Refusal to issue new taxi licence | Not justified (3). |
| 4564 | Failure to enforce "No Smoking" regulations on private buses and refusal to provide information. | Not justified (3). |
| 4568 | Refusal to allow Taxi owner/drivers to join radio service .. | Declined section 13 (4) (a). |
| 4601 | Refusal to issue taxi plate | Not justified (3). |
| 4817 | Refusal to renew drivers licence | Not justified (3). |
| 4854 | Restrictions placed on licence | Not justified (4). |
| 4911 | Reversal of decision of licence and failure to answer correspondence. | Not justified (3). |
| 4950 | Disqualification from holding drivers licence | Not justified (4). |
| 4978 | Requirement of surrender of taxi drivers licence upon sale of taxi plate. | Not justified (4). |
| 5042 | Failure to issue tourist vehicle licence | Not justified (3). |
| 5081 | Failure to renew tow truck licence | Not justified (3). |
| 5100 | Delay in finalising issue of licence | Under investigation. |
| 5215 | Failure to adequately reply to correspondence | Justified (5). |
| 5365 | Refusal to allow bus to be used for charter | Not justified (3). |
| 5423 | Delay in issue of tow truck licence. | Not justified (3). |
| 5467 | Refusal to grant taxi licence | Not justified (3). |
| 5472 | Failure to provide details sought | Under investigation. |
| 5490 | Refusal to grant wide loading permit | Justified (5). |
| 5600 | Unreasonable inspection requirements | Justified (5). |
| 5624 | Unfair issue of summons for registration | Not justified (3). |
| 5649 | Refusal to refund licence fee | Declined section 13 (4) (a). |
| 5906 | Refusal to refund difference between business and private registration fees. | Not justified (4). |
| 5929 | Incorrect issue of summonses | Not justified (3). |
| 6058 | Threat of legal proceedings for registration fees | Declined section 13 (4) (a). |
| 6059 | Failure to issue notice of renewal leading to prosecution .. | Not justified (3). |
| 6203 | Failure to issue motor vehicle drivers licence | Justified (5). |
| 6225 | Unfair refusal of learner's permit | Withdrawn (1). |
| 6264 | Delay in re-issue of licence following suspension | Declined section 13 (4) (b) (v). |
| 6281 | Refusal of driver's licence | Not justified (3). |
| 6299 | Refusal to refund part of 3 year licence renewal | Not justified (3). |
| 6350 | Failure to provide renewal of driver's licence | Withdrawn (1). |
| 6416 | Incorrect calculation of registration fee | Not justified (4). |
| 6429 | Failure to adjust registration records | Declined section 13 (4) (a). |
| 6472 | Refusal to give refund on licence | Not justified (4). |
| 6513 | Unsatisfactory search of registration records | No jurisdiction section 12 (1) (a) 12b. |
| 6532 | Refusal to answer inquiries re personal file. | Not justified (3). |
| 6573 | Unfair reregistration of motor bike | Not justified (3). |
| 6626 | Delay in issue of licence | Under investigation. |
| 6650 | Refusal of licence to operate mini-bus tours | Declined section 13 (4) (a). |
| 6767 | Imposition of unfair penalty | Declined section 13 (4) (b) (v). |
| 6810 | Refusal to re-issue taxi licence | Under investigation. |
| 6992 | Incorrect issue of order | Justified (5). |
| 7099 | Delay in issue of licence | Not justified (4). |
| 7149 | Delay in registration of vehicle | Under investigation. |
| 7190 | Refusal to allocate specific number plates | Under investigation. |
| 7204 | Delay in issue of driver's licence | No jurisdiction section 12 (1) (a). |
| 7231 | Disclosure of private information | |
| NATIONAL PARKS & WILDLIFE SERVICE | | |
| 0102 | Proposed resumption of property | Under investigation. |
| 2709A | Failure to promptly complete purchase | Not justified (4). |
| 2709A | Inadequate compensation for resumed land | Not justified (4). |
| 2723 | Refusal to appoint as Honorary ranger | Justified (8). |
| 3757 | Refusal to approve exchange of land for part of reserve .. | Not justified (4). |
| 3947 | Failure to investigate complaint of ill treatment of birds .. | Not justified (4). |
| 3989 | Proposed resumption of property for a National Park | Under investigation. |
| 4023 | Delay in payment of compensation for acquisition of land .. | Not justified (4). |
| 4217 | Objections preventing conversion and sale of property | Under investigation. |
| 4223 | Inability to sell property because of National Park proposals | Under investigation. |
| 4413 | Delay in providing fresh certificate of title | Under investigation. |
| 4668 | Proposed National Park and effect on farms | Discontinued. |
| 4701 | Refusal to appoint as Honorary Ranger | Not justified (3). |
| 5198 | Delay in decision on acquisition | Under investigation. |
| 5200 | Unfair acquisition of land | Not justified (3). |

| <i>No.</i> | <i>Complaint</i> | <i>Result</i> |
|---|--|--|
| NATIONAL PARKS & WILDLIFE SERVICE—continued. | | |
| 5473 | Delay in decision whether to be included in National Park | Under investigation. |
| 5544 | Ban on dogs in National Parks | Not justified (3). |
| 5699 | Failure to exchange land for land required for park | Declined section 13 (4) (a). |
| 5705 | Banning of dogs at Thredbo Village | Not justified (3). |
| 6240 | Unfair decision to establish National Park | Under investigation. |
| 6319 | Proposed resumption of home in National Park | Under investigation. |
| 6829 | Proposed inclusion of property in National Park | Under investigation. |
| 6877 | Failure to reserve sufficient area for National Park | No jurisdiction section 12 (1) (a) 1b. |
| 6895 | Inclusion of property in proposed National Park | Under investigation. |
| NATIONAL PARK TRUST—KOSCIUSKO | | |
| 6786 | Issue of proceedings for parking | Not justified (3). |
| NATIONAL PARK TRUST—WARRUMBUNGLE | | |
| 6754 | Failure to withdraw court proceedings | Under investigation. |
| NEWRYBAR SWAMP DRAINAGE DISTRICT TRUST | | |
| 5863 | Unfair valuations | Declined section 13 (4) (b) (v). |
| 6797 | Imposition of rate levy on incorrect area of land | Not justified (4). |
| NEW SOUTH WALES GOVERNMENT TRAVEL CENTRE | | |
| 4905 | Refusal to refund fare | Under investigation. |
| NEW SOUTH WALES MEDICAL BOARD | | |
| 4880 | Failure to provide list of medical practitioners | Not justified (3). |
| NEW SOUTH WALES PARLIAMENT | | |
| 5506 | Discrimination against non-islanders | No jurisdiction section 12 (1) (a) 1f. |
| NEW SOUTH WALES RETIREMENT BOARD | | |
| 4242 | Alleged insufficient retirement benefits | Not justified (3). |
| 4490 | Delay in payment of entitlements | Not justified (3). |
| 4753 | Supply of incorrect information about pension | Justified (6). |
| 5427 | Delay in forwarding retirement benefits | Justified (5). |
| 7107 | Inadequacy of benefits | Under investigation. |
| 7255 | Inadequate payment on death | Under investigation. |
| NORTH SHORE GAS COMPANY | | |
| 3672 | Excessive gas bills | Not justified (3). |
| 3762 | Excessive gas bills | Not justified (3). |
| 4458 | Incorrect account | Not justified (4). |
| 5223 | Amount of bill | Not justified (4). |
| 5548 | Unfair gas account | Not justified (3). |
| 6918 | Disconnection of gas | Not justified (3). |
| NURSES REGISTRATION BOARD | | |
| 6762 | Failure to accept nursing qualifications for registration | Not justified (3). |
| PAROLE BOARD | | |
| 4610 | Revocation of parole because of intended deportation by Department of Immigration. | No jurisdiction section 12 (1) (a) 3. |
| 4988 | Repeated refusal of parole | No jurisdiction section 12 (1) (a) 3. |
| 5720 | Refusal to allow attendance before Board | No jurisdiction section 12 (1) (a) 3. |
| 5767 | Refusal of release on licence | No jurisdiction section 12 (1) (a) 3. |
| 5837 | Failure to give reasons for revocation of parole | No jurisdiction section 12 (1) (a) 3. |
| 5864 | Unfair refusal of parole | No jurisdiction section 12 (1) (a) 3. |
| 6208 | Unsatisfactory reasons for refusal of parole | No jurisdiction section 12 (1) (a) 3. |
| 6311 | Failure to answer correspondence | No jurisdiction section 12 (1) (a) 3. |
| 6744 | Revocation of parole | No jurisdiction section 12 (1) (a) 3. |
| 6822 | Failure to grant parole | No jurisdiction section 12 (1) (a) 3. |
| 7058 | Failure to release | No jurisdiction section 12 (1) (a) 3. |
| 7301 | Revocation of parole | No jurisdiction section 12 (1) (a) 3. |
| 7325 | Refusal of parole | No jurisdiction section 12 (1) (a) 3. |
| 7326 | Refusal of parole | No jurisdiction section 12 (1) (a) 3. |
| PASTURES PROTECTION BOARD—(ARMIDALE) | | |
| 6359 | Allegation by inspector of threats and lies by complainant | Not justified (4). |
| PASTURES PROTECTION BOARD—CARCOAR | | |
| 7035 | Conduct of rabbit inspector | Under investigation. |
| PASTURES PROTECTION BOARD—HAY | | |
| 5300 | Unfair order for removal of mobile freezer | No jurisdiction section 12 (1) (b). |
| PASTURES PROTECTION BOARD—MOSS VALE | | |
| 4761 | Decision to allocate travelling stock and camping reserve | Not justified (4). |

| No. | Complaint | Result |
|---|--|---|
| PASTURES PROTECTION BOARD—MUDGEES | | |
| 5251 | Failure to include rabbit infestation in certificate | No jurisdiction section 12 (1) (b). |
| PASTURES PROTECTION BOARD—NARRANDERA | | |
| 3576 | Failure to remove cattle from property | Not justified (3). |
| PASTURES PROTECTION BOARD—TAMWORTH | | |
| 7252 | Excessive charge for rabbit eradication | Under investigation. |
| PAY ROLL TAX OFFICE | | |
| 5676 | Unfair penalty provisions | Declined section 13 (4) (a). |
| 6645 | Failure to alter designation of employer | Justified (5). |
| 6887 | Failure to amend records | Withdrawn (1). |
| PETROLEUM PRODUCTS LICENSING BRANCH | | |
| 3381 | Failure to refund overpayment | Not justified (3). |
| PLANNING AND ENVIRONMENT COMMISSION | | |
| 0145 | Long delay in finalizing plans for area | Discontinued. |
| 0954 | Proposed acquisition of property | Justified (6). |
| 1034 | Suspension of zoning of land owned | Under investigation. |
| 1168 | Refusal to grant development application | Under investigation. |
| 1394 | Acquisition of property | Not justified (4). |
| 1514 | Proposed resumption of property | Under investigation. |
| 2150 (b) | Delay in finalizing suspension application | Justified (7). |
| 2582 | Incorrect advice concerning zoning of land | Under investigation. |
| 2655 | Delay in finalizing suspension action | Justified (5). |
| 2849 | Delay in finalization of local road proposal | Justified (5). |
| 3058 | Delay in finalizing planning scheme | Justified (8). |
| 3213 | Failure to allow use of land for nursing home | Justified (7). |
| 3323 | Delay in finalization of objection | Justified (7). |
| 3489 | Manner of replies to land status inquiries | Justified (6). |
| 3695 | Manner of replies to land status inquiries | Justified (6). |
| 3761 | Manner of reply to land status inquiries | Justified (6). |
| 3813 | Manner of reply to land status inquiries | Justified (6). |
| 3965 | Refusal to re-zone residential land as commercial | Justified (5). |
| 4034 | Delay in amending Interim Development Order | Justified (7). |
| 4230 | Delay in application for re-zoning from rural to village area | Not justified (4). |
| 4243 (a) | Delay in acquisition of property | Justified (5). |
| (b) | Delay in amending planning controls | Justified (5). |
| (c) | Failure to reply to correspondence | Justified (6). |
| 4314 | Failure to remove rubbish from land | Justified (5). |
| 4334 | Unfair provisions of Interim Development Order | Declined section 13 (4) (a). |
| 4358 | Refusal to acquire land zoned for public open space | No jurisdiction section 12 (1) (b). |
| 4507 | Failure to consider objections | Not justified (3). |
| 4589 | Refusal of suspension action and delay in rezoning | Not justified (4). |
| 4734 | Delay in planning scheme | Not justified (3). |
| 4754 | Recommendation to Minister on amendment to Interim Development Order | Not justified (3). |
| 5125 | Failure to approve of subdivision | Under investigation. |
| 5208 | Delay in re-zoning | Under investigation. |
| 5209 | Delay in re-zoning | Under investigation. |
| 5210 | Delay in re-zoning | Under investigation. |
| 5211 | Delay in re-zoning | Under investigation. |
| 5539 | Delay in gazettal of Interim Development Order | Not justified (3). |
| 5568 | Delay in consideration of building application referred by Council | Under investigation. |
| 5594 | Delay in re-zoning | Not justified (3). |
| 5675 | Delay in re-zoning | Discontinued. |
| 5698 | Failure to exchange land for land required for park | Declined section 13 (4) (a). |
| 5861 | Delay in effecting varying scheme | Not justified (3). |
| 5890 | Delay in planning affecting sale of property | Under investigation. |
| 5915 | Failure to honour agreement to purchase land | Not justified (4). |
| 6177 | Delay in payment of moneys due | Not justified (3). |
| 6183 | Recommendation by Commission that property be resumed | Not justified (4). |
| 6272 | Lack of pre-planning | Declined section 13 (4) (a). |
| 6358 | Delay in gazettal of varying scheme | Not justified (3). |
| 6402 | Rejection of re-zoning application | Discontinued. |
| 6475 | Failure to notify of intended change of zoning | Not justified (3). |
| 6624 | Failure to withdraw caveat | Under investigation. |
| 6673 | Failure to reply to correspondence | Under investigation. |
| 6931 | Assessment for land development contribution fund | Withdrawn (1). |
| 6948 | Delay in finalising acquisition of property | Under investigation. |
| 7016 | Payment of contribution under Land Development Contribution Management Act | Under investigation. |
| 7322 | Delay in finalising application for suspension | Under investigation. |
| POLICE DEPARTMENT | | |
| 3698 | Incorrect assessment of compensation for exhibits damaged | Discontinued. |
| 3793 | Failure to take action in respect of parked vehicles | Not justified (3). |
| 3832 | Non-return of articles | Not justified (4). |
| 3898 | Incorrect issue of summons | Justified (5). |
| 4094 | Non service of traffic summons | Not justified (3). |
| 4098 | Failure to answer subpoena to produce photograph | Not justified (3). |
| 4468 | Unfair issue of infringement notices | Declined section 13 (4) (a). |
| 4479 | Denial of promotion | No jurisdiction section 12 (1) (a) 12b. |

| No. | Complaint | Result |
|------------------------------------|--|---|
| POLICE DEPARTMENT—continued | | |
| 4510 | Delay in reimbursing expenses incurred | Not justified (3). |
| 4525 | Delay in ascertaining registered owner of vehicle | Not justified (4). |
| 4556 | Failure to answer correspondence | Justified (5). |
| 4600 | Incorrect issue of Parking Infringement Notice | Declined section 13 (4) (b) (v). |
| 4634 | Unfair imposition of fine in absence | Declined section 13 (4) (b). |
| 4641 | Unfair issue of summons after payment of Infringement Notice. | Not justified (3). |
| 4655 | Officiousness of constable | No jurisdiction section 12 (1) (a) 13. |
| 4691 | Enforcement of parking fine in unfair circumstances | Not justified (4). |
| 4692 | Delay in replying to correspondence | Justified (5). |
| 4711 | Failure to release goods seized as evidence | Not justified (3). |
| 4716 | Failure to remind offender of non-payment of Infringement Notice prior to summons. | Not justified (3). |
| 4728 | Unfair parking infringement notice | Under investigation. |
| 4741 | Alleged conspiracy | No jurisdiction section 12 (1) (a) 13. |
| 4821 | Delay in service of warrant | No jurisdiction section 12 (1) (a). |
| 4822 | Failure to review incorrect issue of Parking Infringement | Withdrawn. (1). |
| 4885 | Issue of summons of infringement notice | Not justified (3). |
| 4901 | Convicted of parking offence when not served with summons | Not justified (4). |
| 4952 | Verbals | No jurisdiction section 12 (1) (a) 13. |
| 5044 | Use of violence | No jurisdiction section 12 (1) (a) 13. |
| 5058 | Failure to return naturalisation papers | No jurisdiction section 12 (1) (a) 13. |
| 5084 | Failure to withdraw charges against another person | No jurisdiction section 12 (1) (a) 13. |
| 5085 | Failure to withdraw infringement notice | No jurisdiction section 12 (1) (a) 13. |
| 5088 | Delay in finalising fraud proceedings | No jurisdiction section 12 (1) (a) 13. |
| 5145 | Delay in replying to correspondence | Justified (5). |
| 5166 | Conduct of police officer on taking record of interview | No jurisdiction section 12 (1) (a) 13. |
| 5183 | Issue of summons notwithstanding payment of Infringement Notice. | Not justified (3). |
| 5186 | Delay in receiving information about confiscated shooters licence and gun. | Justified (5). |
| 5195 | False record of interview | No jurisdiction section 12 (1) (a) 13. |
| 5246 | Failure to review parking infringement notice | Declined section 13 (4) (a). |
| 5310 | Failure to proceed for parking breach by way of Infringement Notice. | No jurisdiction section 12 (1) (a) 13. |
| 5341 | Issue of summons for traffic infringement | No jurisdiction section 12 (1) (a) 13. |
| 5349 | Refusal to allow legal aid application | Discontinued. |
| 5354 | Issue of parking infringement notice | Not justified (3). |
| 5372 | Failure to inform of progress of investigation | Not justified (3). |
| 5392 | Decision to proceed by summons rather than infringement notice for parking offence. | No jurisdiction section 12 (1) (a) 13. |
| 5410 | Failure to take action on complaint | No jurisdiction section 12 (1) (a) 13. |
| 5485 | Failure to withdraw issue of parking infringement notice | Not justified (3). |
| 5542 | Failure to pay reward | No jurisdiction section 12 (1) (b). |
| 5559A | Actions of police in relation to arrest and compilation of record of interview. | No jurisdiction section 12 (1) (a) 13. |
| 5559a | Actions of Police in disposing of exhibits | No jurisdiction section 12 (1) (a) 13. |
| 5586 | Unfair acquisition of vehicle | Justified (5). |
| 5597 | Failure to issue receipt | Not justified (4). |
| 5605 | Failure to review issue of infringement notice | Not justified (3). |
| 5641 | Review of infringement notice | Not justified (3). |
| 5644 | Incorrect issue of summons | Declined section 13 (4) (a). |
| 5658 | Delay in bringing charge | No jurisdiction section 12 (1) (a) 13. |
| 5789 | Failure to proceed with investigation | Not justified (4). |
| 5817 | False evidence in court | No jurisdiction section 12 (1) (a) 13. |
| 5822 | Incorrect issue of summons | Justified (5). |
| 5843 | Conduct of detective | No jurisdiction section 12 (1) (a) 13. |
| 5879 | Unfair issue of summons | Declined section 13 (4) (a). |
| 5883 | Refusal to give copies of documents | No jurisdiction section 12 (1) (a) 12b. |
| 5901 | Incorrect issue of parking infringement notice | Not justified (3). |
| 5948 | Unfair booking | No jurisdiction section 12 (1) (a) 13. |
| 5990 | Refusal to review parking infringement notice | Declined section 13 (4) (a). |
| 6002 | Failure to secure car when left at prisoner's home | No jurisdiction section 12 (1) (a) 13. |
| 6086m | Failure to reply to correspondence | Justified (6). |
| 6096 | Failure to notify re hearing of summons | Not justified (3). |
| 6132 | Incorrect issue of summons | Under investigation. |
| 6141 | Failure to police parking laws | No jurisdiction section 12 (1) (a) 13. |
| 6162 | Unfair review of parking infringement notice | Not justified (3). |
| 6184 | Conduct of officers taking complainant to clinic | No jurisdiction section 12 (1) (a) 13. |
| 6233 | Retention of exhibit not required for evidence | No jurisdiction section 12 (1) (a) 13. |
| 6245 | Alleged unlawful arrest and assault | No jurisdiction section 12 (1) (a) 13. |
| 6258 | Alleged untrue evidence | No jurisdiction section 12 (1) (a) 13. |
| 6275 | Failure to return property held on arrest | Not justified (3). |
| 6292 | Failure to extend time for payment of infringement notice when earlier cheque astray in mail. | Not justified (3). |
| 6298 | Issue of unfair infringement notice | Declined section 13 (4) (a). |
| 6308 | Failure to review parking infringement notice | Declined section 13 (4) (a). |
| 6323 | The alleged conduct of members of the New South Wales Police Force in relation to your trials. | No jurisdiction section 12 (1) (a) 13. |
| 6339 | Inaccurate information in Police Report | No jurisdiction section 12 (1) (a) 13. |
| 6357 | Conduct of police motor cyclist | Declined section 13 (4) (a). |
| 6376 | Failure to properly review representations | Declined section 13 (4) (a). |
| 6431 | Failure to properly review infringement notice | Justified (5). |
| 6461 | Failure to return personal papers | Under investigation. |
| 6480 | Failure to return money | Not justified (3). |
| 6506A | Arrest from hospital | No jurisdiction section 12 (1) (a) 13. |
| 6506m | Conditions of detention | No jurisdiction 12 (1) (a) 13. |
| 6506c | Unfair charge | No jurisdiction section 12 (1) (a) 13. |
| 6514 | Unfair issue of traffic infringement notice | No jurisdiction section 12 (1) (a) 13. |
| 6516 | Conduct of investigation | No jurisdiction section 12 (1) (a) 13. |
| 6549 | Loss of prisoner's private property | Discontinued. |
| 6577 | Unfair arrests | No jurisdiction section 12 (1) (a) 13. |

| No. | Complaint | Result |
|---|---|---|
| POLICE DEPARTMENT—continued | | |
| 6615 | Actions of arresting police | No jurisdiction section 12 (1) (a) 13. |
| 6618 | Unnecessary reward | Not justified (3). |
| 6627 | Delay in police report on licence re-issue | Not justified (3). |
| 6635 | Refusal to charge with offence | No jurisdiction section 12 (1) (a) 13. |
| 6663 | Unfair parking infringement notice | Declined section 13 (4) (a). |
| 6745 | Harassment of relatives | No jurisdiction section 12 (1) (a) 13. |
| 6766 | Imposition of unfair penalty | No jurisdiction section 12 (1) (a) 13. |
| 6793 | Failure to return money following arrest | No jurisdiction section 12 (1) (a) 13. |
| 6794 | Disposition of property without consent | No jurisdiction section 12 (1) (a) 13. |
| 6808 | Incorrect issue of summons | Under investigation. |
| 6873 | Issue of infringement notices | No jurisdiction section 12 (1) (a) 13. |
| 6880 | Issue of summons for traffic infringement | No jurisdiction section 12 (1) (a) 13. |
| 6925 | Failure to take action on rape complaint | No jurisdiction section 12 (1) (a) 13. |
| 6947 | Incorrect booking for speeding offence | No jurisdiction section 12 (1) (a) 13. |
| 6954 | Incorrect booking for traffic offence | No jurisdiction section 12 (1) (a) 13. |
| 6994 | Incorrect issue of parking infringement notice | Declined section 13 (4) (a). |
| 7002 | Failure to forward private cash to gaol | Not justified (3). |
| 7013 | Issue of summons after payment of fine | Justified (5). |
| 7025 | Fabrication of unsigned records of interview | No jurisdiction section 12 (1) (a) 13. |
| 7032 | Failure to reply to correspondence | Under investigation. |
| 7059 | Failure to return motorcycle | Under investigation. |
| 7185 | Failure to facilitate appeal | No jurisdiction section 12 (1) (a) 13. |
| 7188 | Issue of summons for traffic infringement | Under investigation. |
| 7253 | Wrongful charge | No jurisdiction section 12 (1) (a) 13. |
| 7260 | Failure to reply to letter | Under investigation. |
| 7290 | Failure to review issue of traffic infringement notice | Under investigation. |
| PREMIER'S DEPARTMENT | | |
| 4877 | Delays in replying to correspondence | Not justified (3). |
| 6525 | Rude conduct of officer | Under investigation. |
| 6615 | Failure to deal with complaints | No jurisdiction section 12 (1) (a) 1b. |
| PREMIER OF NEW SOUTH WALES | | |
| 3763 | Designation of unclad bathing areas | Under investigation. |
| 6615 | Failure to deal with complaints | No jurisdiction section 12 (1) (a) 1b. |
| PRINCE HENRY HOSPITAL | | |
| 5086 | Failure to pay worker's compensation | No jurisdiction section 12 (1) (a) 12b. |
| 6494 | Conduct of nursing sister relating to provision of air ambulance. | Under investigation. |
| 7060 | Delay in finalising complaint about conduct of nursing sister. | Under investigation. |
| PRINCE OF WALES HOSPITAL, RANDWICK | | |
| 7259 | Failure to provide adequate parking | Under investigation. |
| 7323 | Incorrect classification of patient | Under investigation. |
| PRISON MEDICAL SERVICE | | |
| 6717 | Failure of doctor to prescribe correct tablets | Declined section 13 (4) (a). |
| PRIVACY COMMITTEE | | |
| 6668 | Failure to reply to correspondence | No jurisdiction section 12 (1) (a) 16. |
| PROTECTIVE COMMISSIONER | | |
| 4091 | Taking over of husband's affairs | Not justified (3). |
| 4435 | Delay in decision on sale of property | Not justified (3). |
| 6485 | Unfair claim against estate for hospital fees | Under investigation. |
| 6807 | Delay in supplying details of assets | Justified (5). |
| 6889 | Administration of mother's estate | Under investigation. |
| 7092 | Failure to properly administer estate | Under investigation. |
| 7208 | Failure to pay account | Under investigation. |
| PUBLIC SERVICE BOARD | | |
| 5321 | Failure to take action to correct erroneous report to Minister | Not justified (3). |
| 5527 | Sexual discrimination of employment form | No jurisdiction section 12 (1) (a) 12a. |
| 5690 | Undertaking inquiry beyond power | Under investigation. |
| 5713 | Unauthorised inquiry | Under investigation. |
| 5752 | Unfair rule regarding continuity of employment | No jurisdiction section 12 (1) (a) 12b. |
| 6586 | Refusal to employ because of prior conviction | No jurisdiction section 12 (1) (a) 12a. |
| 6984 | Refusal to transfer leave entitlement | No jurisdiction section 12 (1) (a) 12b. |
| PUBLIC SOLICITOR | | |
| 2459 | Loss of documents | Justified (8). |
| 4833 | Delay in granting legal assistance and in settlement | Not justified (3). |
| 5224 | Failure to reimburse legal costs | Discontinued. |
| 5808 | Refusal of legal aid despite Commissioner's recommendation | Under investigation. |
| 5981 | Delay in pursuing damages claim | Not justified (3). |
| 6516 | Unsatisfactory handling of claim | Not justified (3). |
| 7011 | Request for payment of costs | No jurisdiction section 12 (1) (a) 8. |

| No. | Complaint | Result |
|------------------------------------|---|--|
| PUBLIC TRANSPORT COMMISSION | | |
| 1743 | Delay in finalising claim for damages | Justified (8). |
| 2324 | Failure to accept liability for damage | Not justified (4). |
| 2441A | Inability to purchase metal season tickets | Not justified (4). |
| 2441a | Inequitable treatment of season ticket holders in relation to refunds for public holidays and industrial stoppages. | Not justified (4). |
| 2441c | Lack of publicity re availability of refunds | Justified (5). |
| 2846 | Failure to accept liability | Justified (6). |
| 2855 | Non acceptance of tender for refrigeration equipment | Under investigation. |
| 3231 | Failure to rebuild pedestrian bridge | Not justified (3). |
| 3232 | Failure to relocate bus stop | Not justified (4). |
| 3390 | Failure to accept liability for damage | Not justified (3). |
| 3445 | Failure to accept liability | Not justified (4). |
| 3453 | Delay in dealing with correspondence | Not justified (3). |
| 3714 | Conduct of bus conductor | Justified (5). |
| 4027 | Refusal to pay compensation for loss of consignment of lucerne. | Justified (5). |
| 4056 | Failure to take action re noise nuisance | Not justified (3). |
| 4289 | Failure to hold train in time to transfer passengers | Not justified (3). |
| 4315 | Unfair issue of summons for fare evasion | Not justified (3). |
| 4386A | Refusal to allow travel in state on interstate bus service | Not justified (3). |
| 4386a | Failure to notify need to change trains | Justified (5). |
| 4485 | Refusal to re-locate bus stop from shopping area | Not justified (3). |
| 4545 | Failure to accept tender of small change for ticket | Declined section 13 (4) (a). |
| 4577 | Failure to pay claim in full | Not justified (3). |
| 4606 | Refusal to pay claim for damage to goods consigned by rail | Justified (5). |
| 4699 | Lack of heating in train carriages | Declined section 13 (4) (a). |
| 4737 | Failure to maintain open drain | Declined section 13 (4) (a). |
| 4762 | Failure to refund overpaid fare | Not justified (3). |
| 4802 | Failure to compensate for loss | Not justified (3). |
| 4820 | Refusal of claim | Justified (5). |
| 4850 | Denial of full liability | Not justified (3). |
| 4906 | Claim for compensation for injury | Not justified (3). |
| 4945 | Delay in consignment of goods | Justified (5). |
| 4957 | Failure to repair bus shelter | Not justified (3). |
| 4976 | Denial of liability | No jurisdiction section 12 (1) (a) 2. |
| 4995 | Refusal of tender | Not justified (4). |
| 5003 | Failure to refund cost of ticket | Not justified (3). |
| 5046 | Delay in finalising lease agreement | Justified (5). |
| 5052 | Condition of railways | Declined section 13 (4) (a). |
| 5068 | Construction of roadway | Not justified (3). |
| 5103 | Use of Birrell Street as bus route | Not justified (3). |
| 5128 | Delay in dealing with road closure application | Not justified (3). |
| 5162 | Conduct of investigating officer | Not justified (3). |
| 5175 | Despoilation of Centennial Park by construction of roadway | Not justified (3). |
| 5303 | Denial of liability | Justified (5). |
| 5406 | Failure to make refund of weekly ticket at station | Justified (5). |
| 5408 | Loss of Maltese puppy on journey | Justified (5). |
| 5456 | Denial of liability | Not justified (4). |
| 5463 | Refusal of student concession fare | Not justified (4). |
| 5487 | Delay in repairing bridge | Not justified (4). |
| 5551 | Release of land for club car park | Not justified (3). |
| 5556 | Proposed dismantling of Bold street bridge | No jurisdiction section 12 (1) (a) 1b. |
| 5588 | Failure to explain and/or apologise for conduct of inspector | Under investigation. |
| 5702 | Failure to pay for damage to bike in transit | Not justified (3). |
| 5703 | Gross incivility of bus driver | Declined section 13 (4) (a). |
| 5731 | Inadequacies of hired ferry | Declined section 13 (4) (a). |
| 5791 | Publication of misleading information | Not justified (4). |
| 5851 | Failure to allow sufficient time to object to proposed railway route. | Under investigation. |
| 5918 | Denial of liability | Not justified (3). |
| 5919 | Various breaches of regulations by bus drivers | Declined section 13 (4) (a). |
| 5972 | Denial of liability | Justified (5). |
| 6031 | Incorrect finding of Transport Service Appeal Board | No jurisdiction section 12 (1) (a) 12. |
| 6043 | Failure to refund alleged excess payments | Not justified (3). |
| 6057 | Failure to seal road | Not justified (4). |
| 6123 | Failure to rebuild pedestrian bridge | Not justified (3). |
| 6147 | Discriminatory charge for "Ladies" toilet | Declined section 13 (4) (a). |
| 6176 | Refusal to refund price of rail ticket | Not justified (3). |
| 6186 | Refusal to meet claim for damage to vehicle in transit | Under investigation. |
| 6194 | Denial of liability | Under investigation. |
| 6248 | Refusal to pay wages in full because of failure to return uniform. | No jurisdiction section 12 (1) (a) 12. |
| 6362 | Non delivery of parcel | Under investigation. |
| 6410 | Failure to remove fire hazard | Under investigation. |
| 6414 | Failure to allow concession fare | Not justified (3). |
| 6490 | Denial of liability | Declined section 13 (4) (a). |
| 6502 | Refusal to refund cost of lost tickets | Not justified (3). |
| 6598 | Failure to adjust bus service | Declined section 13 (4) (a). |
| 6637 | Unfair maximum compensation to landowners for fire losses caused by trains. | Under investigation. |
| 6649 | Denial of liability | Not justified (3). |
| 6732 | Imposition of unfair charges for electricity | Under investigation. |
| 6805 | Anomaly in rail parcel freight system | Under investigation. |
| 6815 | Rudeness of officer | Declined section 13 (4) (a). |
| 6843 | Failure to provide rail services | Not justified (3). |
| 6879 | Excessive noise at shunting yards | Declined section 13 (4) (a). |
| 6897 | Failure to accept liability for injuries claim | Under investigation. |
| 6953 | Failure to grant travelling concessions | Not justified (4). |
| 7100 | Failure to properly control contract operations | Under investigation. |
| 7109 | Failure to deal properly with complaint | Under investigation. |
| 7142A | Failure to abate noise nuisance | Under investigation. |
| 7142a | Parking of employee's vehicles in streets | Under investigation. |
| 7191 | Standard of service provided | Under investigation. |

| No. | Complaint | Result |
|--|--|--|
| PUBLIC TRANSPORT COMMISSION—continued | | |
| 7192 | Proposed closure of railway overbridge | Withdrawn (1). |
| 7276 | Failure to alleviate drainage problems | Under investigation. |
| 7328 | Failure to keep gully clear of debris | Under investigation. |
| PUBLIC TRUSTEE | | |
| 3866A | Delay in finalising estate | Not justified (4). |
| 3866B | Delay in paying death duties | Justified (6). |
| 4051 | Delay in payment of award monies | Declined section 13 (4) (a). |
| 4201 | Failure to properly administer estate | Not justified (4). |
| 4492 | Delay in administration of estate | Not justified (3). |
| 4542 | Poor management of trust moneys | No jurisdiction section 12 (1) (a) 14. |
| 4565 | Failure to provide sufficient information of estate | Declined section 13 (4) (a). |
| 4613 | Delay in administration of estate | Not justified (3). |
| 4638 | Delay in distribution | Justified (5). |
| 4723 | Delay in administration of estate | Not justified (3). |
| 4732 | Delay in administration of estate | Declined section 13 (4) (a). |
| 4845 | Delay in sale of shares | Justified (5). |
| 4927 | Delay in sale of property | Not justified (3). |
| 4928 | Failure to insure motor vehicle | Justified (6). |
| 4941 | Delay in administration of estate | Not justified (3). |
| 5062 | Unfair distribution of estate | Not justified (3). |
| 5066 | Delay in finalising estate | Under investigation. |
| 5124 | Failure to reply to correspondence re: estate | Not justified (3). |
| 5514 | Delay in providing appropriate statement of accounts | Justified (5). |
| 5797 | Proceeding to probate of forged will | Declined section 13 (4) (b) (v). |
| 5818 | Delay in administration of estate | Not justified (3). |
| 6085 | Delay in completion of will | Justified (5). |
| 6098 | Increasing sale price of home | Declined section 13 (4) (a). |
| 6131 | Delay in distribution of estate | Not justified (3). |
| 6337 | Delay in finalisation of estate | Not justified (3). |
| 6492 | Delay in administration of estate | Not justified (3). |
| 6519 | Unfair charges for administration of estate | Not justified (3). |
| 6541 | Failure to remove motor vehicle | Not justified (3). |
| 6567 | Delay in administration | Not justified (3). |
| 7124 | Proposed auction of mother's property | Under investigation. |
| 7273 | Delay in finalising estate | Under investigation. |
| 7311 | Failure to properly administer estate | Under investigation. |
| PUBLIC WORKS—DEPARTMENT OF | | |
| 0087 | Failure to compensate for damage caused | Justified (7). |
| 2635 | Refusal to permit business development | Justified (9). |
| 2654 | Delay in giving decision on sewerage treatment works extension. | Justified (5). |
| 3638 | Manner of handling tender | Not justified (4). |
| 3735 | Tendering procedures adopted | Not justified (3). |
| 4187 | Proposed entry on land to lay pipes without consultation | Not justified (3). |
| 4461 | Delay in replying to correspondence | Under investigation. |
| 4622 | Delay in payment of claim for motor vehicle damage | Not justified (4). |
| 4990 | Failure to carry out proper remedial work | Not justified (3). |
| 5361 | Failure to re-instate property | Not justified (3). |
| 5405 | Decision on type of construction leading to non-payment of sub-contractor. | Not justified (3). |
| 6584 | Unfair positioning of sewerage line | Under investigation. |
| 6619 | Denial of liability | Not justified (4). |
| 6733 | Failure to accept tender | Under investigation. |
| 7052 | Failure to compensate for flood mitigation | Under investigation. |
| 7071 | Delay in finalising contract | Under investigation. |
| REGISTRAR OF CO-OPERATIVE SOCIETIES | | |
| 5276 | Cancellation of authority to act as valuer for Building Societies. | Not justified (4). |
| 5403 | Delay in registering Society | Not justified (3). |
| 7268 | Incorrect determination of interest | Under investigation. |
| REGISTRAR GENERAL'S DEPARTMENT | | |
| 4575 | Removal of right of access from certificate of title | Not justified (3). |
| 4763 | Failure to remove caveat from title | Not justified (3). |
| 4811 | Delay in issue of certificates of title | Not justified (3). |
| 4826 | Incomplete microfilm of deposited plan | Declined section 13 (4) (a). |
| 4948 | Lodgment of caveat | Declined section 13 (4) (a). |
| 5082 | Conditions imposed on dealing | Withdrawn (1). |
| 5339 | Delay in registration of dealings | Not justified (3). |
| 5486 | Delay in registration of dealing | Not justified (3). |
| 5687 | Refusal to give notice to caveator under section 73A, Real Property Act. | Not justified (4). |
| 5711 | Unjustifiable requisitions preventing registration | Not justified (3). |
| 6174 | Rudeness by officer | Not justified (3). |
| 6269 | Delay in registration of easement preventing settlement | Not justified (3). |
| 6360 | Refusal of refund when birth extract unavailable | Not justified (4). |
| 6390A | Failure to release certificate of title | Justified (5). |
| 6390B | Failure to refund lodgment fee | Justified (5). |
| 6758 | Delay in registration of title deeds | Withdrawn (2). |
| 7147 | Alleged delay on registration of subdivision | Withdrawn (1). |
| 7210 | Delay in finalising registration of documents | Not justified (3). |
| 7217 | Failure to register dealing | Under investigation. |
| REGISTRY OF BIRTHS DEATHS AND MARRIAGES | | |
| 3854 | Failure to register birth of child | Under investigation. |
| 4823 | Refusal to register birth as requested by parents | Under investigation. |
| 5629 | Refusal to provide copies of birth and marriages certificates | Not justified (3). |
| 5838 | Failure to supply copy of death certificate | Not justified (3). |
| 5914 | Delay in supplying extract from birth certificate | Not justified (3). |
| 6902 | Delay in issue of death certificate | Justified (5). |

| No. | Complaint | Result |
|---|--|------------------------------------|
| RENTAL BOND BOARD | | |
| 6597 | Rudeness of officer | Under investigation. |
| 6824 | Delay in refunding deposit | Not justified (3). |
| 7180 | Failure to reply to correspondence | Under investigation. |
| 7286 | Delay in returning bond | Not justified (3). |
| RIVERINA COLLEGE OF ADVANCED EDUCATION | | |
| 3310 | Failure to prevent dust nuisance at car park | Justified (5). |
| ROYAL NORTH SHORE HOSPITAL | | |
| 4464 | Autopsy preventing donation of body to university for research. | Discontinued. |
| ROZELLE HOSPITAL | | |
| 6496 | Unfair charges for involuntary patient | Under investigation. |
| 6611 | Unfair charges by psychiatric hospital | Declined section 13 (4) (a). |
| RURAL ASSISTANCE BOARD | | |
| 3308 | Failure to grant extension of time to repay advances | Not justified (4). |
| 3911 | Unreasonable proposal to sell properties | Not justified (4). |
| 4747 | Mis-management of farm | Not justified (4). |
| 6199 | Threatened sale of property | Under investigation. |
| 7213 | Failure to approve of purchase of property | Under investigation. |
| RURAL BANK | | |
| 4200 | Failure to release document to allow settlement | Not justified (3). |
| 5927 | Unfair rejection of loan | Declined section 13 (4) (b) (iii). |
| 5953 | Unfair conduct re loans | Declined section 13 (4) (b) (iii). |
| 6778 | Failure to grant housing loan | Declined section 13 (4) (b) (iii). |
| 6830 | Failure to give definite advice regarding housing finance | Declined section 13 (4) (b) (iii). |
| 7170 | Failure to acknowledge receipt of money | Not justified (3). |
| SENIOR SCHOOL STUDIES—BOARD OF | | |
| 3814 | Refusal to allow amanuensis for higher school certificate | Not justified (3). |
| 6198 | Request for re-mark of high school certificate exam | Under investigation. |
| 6517 | Method of marking of higher school certificate examination | Under investigation. |
| 6534 | Failure to answer correspondence | Under investigation. |
| 6712 | Failure to reply to correspondence | Under investigation. |
| SERVICES—DEPARTMENT OF | | |
| 4473 | Reduction of assistance to Sydney University settlement | Declined section 13 (4) (a). |
| 4698 | Conduct of department investigation | Not justified (4). |
| 4713 | Failure to pay for use of hall for polling booth | Justified (5). |
| 5241 | Failure to provide copy of investigation report | Not justified (3). |
| 5416 | Requirement of proof of age for registration purposes | Not justified (3). |
| 5692 | Delay in payment of account | Not justified (3). |
| 6032 | Failure to issue licence for crossbow | Not justified (3). |
| 6538 | Unreasonable requirement of solid sheet fence between drive-in and land. | Withdrawn (1). |
| SHERIFF'S DEPARTMENT | | |
| 6736 | Failure to serve writ of possession | Not justified (4). |
| 6855 | Delay in executing writ | Not justified (3). |
| SOIL CONSERVATION SERVICE | | |
| 4036 | Failure to grant agistment right | Under investigation. |
| 4870 | Failure to accept responsibility for repair | Not justified (3). |
| SPORT AND RECREATION | | |
| 4714 | Refusal to consider application for assistance direct from club. | Not justified (3). |
| 4918 | Lease of fitness camp pool to private promoter | Not justified (3). |
| 6583 | Failure to refund fee for swimming instruction | Under investigation. |
| STAMP DUTIES OFFICE | | |
| 4319 | Refusal to waive duty on transfer sought to be cancelled | Not justified (3). |
| 4562 | Refusal to release insurance policies | Justified (5). |
| 4576 | Unfair assessment of stamp duty | Withdrawn (1). |
| 4686 | Delays in refund of pay roll tax | Justified (5). |
| 5004 | Incorrect imposition of duty | Not justified (3). |
| 5053 | Delay in finalising estate | Not justified (3). |
| 5061 | Failure to issue clearance | Not justified (3). |
| 5109 | Amount of duty levied | Declined section 13 (4) (a). |
| 5126 | Unfair assessment of death duty | Declined section 13 (4) (a). |
| 5154 | Delay in refund of overpaid duty | Withdrawn (1). |
| 5320 | Failure to amend records | Justified (5). |
| 5451 | Imposition of penalty interest on death duties | Not justified (3). |
| 5596 | Refusal to refund duty | Not justified (3). |
| 5666 | Incorrect assessment of duty on transfers | Not justified (3). |
| 5685 | Unfair late payment penalty | Declined section 13 (4) (a). |
| 5733 | Refusal to refund duty | Not justified (3). |

| No. | Complaint | Result |
|---|---|-------------------------------------|
| STAMP DUTIES OFFICE—continued. | | |
| 5866 | Loss of documents | Not justified (3). |
| 6068 | Delay in assessment of death duties | Not justified (3). |
| 6370 | Failure to refund death duties | Declined section 13 (4) (a). |
| 6415 | Liability to supply details of requisition | Declined section 13 (4) (a). |
| 6495 | Delay in release of transfer | Declined section 13 (4) (a). |
| 6535 | Unfair requisition holding up estate | Declined section 13 (4) (b) (vi). |
| 6705 | Failure to release documents | Not justified (3). |
| 6790 | Failure to waive payment of interest | Under investigation. |
| 6856 | Delay in issue of certificate | Not justified (3). |
| 6907 | Delay in finalising registration of documents | Not justified (3). |
| 7193 | Imposition of incorrect duty | Under investigation. |
| 7234 | Private valuation required in error | Under investigation. |
| STATE CONTRACTS CONTROL BOARD | | |
| 5546 | Cancellation of contract | Not justified (3). |
| STATE ELECTORAL COMMISSIONER | | |
| 7175 | Failure to allow postal vote | Not justified (3). |
| STATE EMERGENCY SERVICES | | |
| 6582 | Failure to remove leaves | Justified (5). |
| STATE FISHERIES | | |
| 5444 | Unfair impounding of skin diving equipment | Not justified (3). |
| 7091A | Purchase of fingerlings | Under investigation. |
| 7091B | Divulging of information | Under investigation. |
| 7091C | Delay in issue of licence | Under investigation. |
| 7091D | Requests for unnecessary information | Under investigation. |
| 7318 | Refusal to return fishing net | Under investigation. |
| STATE LIBRARY | | |
| 6836 | Closure of cafeteria | Under investigation. |
| STATE LOTTERIES OFFICE | | |
| 5543 | Refusal to pay prize | No jurisdiction section 12 (1) (b). |
| 6104 | Payment of prize to wrong person | Not justified (3). |
| STATE POLLUTION CONTROL COMMISSION | | |
| 2166D | Failure to remedy pollution of creek | Under investigation. |
| 2827 | Failure to take action to remedy pollution | Under investigation. |
| 3066 | Failure to take action to rectify pollution | Not justified (4). |
| 3174 | Failure to take action to prevent pollution | Not justified (3). |
| 4800 | Failure to take appropriate action to abate noise nuisance | Not justified (3). |
| 5043 | Failure to take action to abate noise | Under investigation. |
| 5243 | Failure to answer correspondence | Justified (5). |
| 5696 | Failure to act on noise complaint | Not justified (3). |
| 6325 | Failure to control noise from mill | Under investigation. |
| 6671 | Failure to reply to correspondence | Withdrawn (1). |
| 6710 | Failure to abate noise | Under investigation. |
| 6777 | Failure to take action to abate noise nuisance | Not justified (3). |
| 6869 | Delay in issue of noise control notice | Not justified (4). |
| 7194 | Failure to take action to abate noise nuisance | Under investigation. |
| 7221 | Use of manuscripts | Under investigation. |
| STATE SUPERANNUATION BOARD | | |
| 0749 | Non acceptance for full superannuation benefits | Under investigation. |
| 3184 | Refusal to commute part pension | Not justified (4). |
| 3560 | Amount of superannuation payable to limited benefit members | Not justified (4). |
| 4563 | Question of entitlements | Not justified (4). |
| 4623 | Delays in consent to leases | Not justified (4). |
| 4675 | Refusal to accept as contributor because of failure to disclose medical history | Justified (5). |
| 4773 | Incorrect commencement date of contributions | Not justified (3). |
| 5682 | Refusal to accept as contributor after exemption | Not justified (4). |
| 6181 | Delay in refund of superannuation | Not justified (3). |
| 6303 | Unfair pension | Declined section 13 (4) (a). |
| 6804 | Delay in finalising pension payment | Not justified (3). |
| 6817 | Refusal to allow transfer to fund | Under investigation. |
| 6938 | Unfair conditions of payments to widows | Declined section 13 (4) (a). |
| 6944 | Determination of date of retirement | Under investigation. |
| 7027 | Incorrect handling of application for break-down retirement | Under investigation. |
| 7243 | Refusal to grant exemption | Under investigation. |
| STRATA TITLES BOARD | | |
| 2811 | Failure to properly adjudicate on an application for order | Not justified (4). |
| 4240 | Failure to take action to prevent unauthorised alterations | Under investigation. |
| 5275 | Delay in investigation of complaint | Justified (5). |
| 5665 | Refusal to allow air conditioner in unit | Not justified (3). |
| 6428 | Incorrect determination | Declined section 13 (4) (a). |

| No. | Complaint | Result |
|---|---|---|
| SYDNEY COLLEGE OF THE ARTS | | |
| 5798 | Incorrect information included in information sheet | Justified (5). |
| 7148 | Misinformation about course of studies | Declined section 13 (4) (a). |
| SYDNEY COVE RE-DEVELOPMENT AUTHORITY | | |
| 4550 | Lease of premises for like business in breach of agreement | Not justified (4). |
| SYDNEY DENTAL HOSPITAL | | |
| 5902 | Incorrect treatment | Not justified (3). |
| 6061 | Inordinate delay in supply of dentures | Not justified (3). |
| 7687 | Failure to provide correct dental treatment | Declined section 13 (4) (a). |
| SYDNEY HOSPITAL | | |
| 6811 | Unfair legal proceedings | Under investigation. |
| SYDNEY OPERA HOUSE | | |
| 4651 | Failure of attendant to properly advise regarding concert hall performance. | Declined section 13 (4) (a). |
| 6687A | Non availability of space in Benelong restaurant notwithstanding closed circuit TV advertising. | Not justified (3). |
| 6687B | Failure to provide adequate bar service | Not justified (3). |
| 6759 | Error in allocation of seats | Under investigation. |
| SYDNEY TEACHERS COLLEGE | | |
| 5888 | Refusal of entry to course | Not justified (3). |
| 7135 | Method of conduct of interview | Declined section 13 (4) (a). |
| TECHNICAL AND FURTHER EDUCATION | | |
| 4408 | Failure to provide correct information <i>re</i> course | Justified (5). |
| 4707 | Delay in payment of part-time teachers | No jurisdiction section 12 (1) (a) 12b. |
| 4819 | Delay in payment of part-time teacher | No jurisdiction section 12 (1) (a) 1. |
| 5353 | Refusal to accept enrolment | Not justified (3). |
| 5531 | Staff treatment on course | Not justified (3). |
| 5759 | Partiality in text books and teaching systems in course | Not justified (3). |
| 6212 | Failure to provide examination results | Discontinued. |
| TECHNICAL COLLEGE—COROWA | | |
| 6446 | Rejection of employment application | No jurisdiction section 12 (1) (a). |
| TOTALIZATOR AGENCY BOARD | | |
| 4688 | Failure to record telephone bet | Justified (5). |
| 4717 | Conduct of agent | Not justified (4). |
| 4722 | Conduct of agent | Not justified (4). |
| 4939 | Refusal to refund bet | Not justified (3). |
| 6105 | Unfair refusal to correct error in issue of ticket | Not justified (3). |
| 6646 | Failure to reimburse following agent's error | Not justified (3). |
| TOURISM—DEPARTMENT OF | | |
| 5756 | Refusal of application for guarantee assistance | Not justified (3). |
| TRAFFIC AUTHORITY OF NEW SOUTH WALES | | |
| 3863 | Non use of Parriwi Road, Mosman as a bus route | Not justified (4). |
| 3923 | Non use of Parriwi Road, Mosman as a bus route | Not justified (4). |
| 4731 | Lack of crossing facilities in vicinity of hostel | Not justified (3). |
| 4750 | Refusal to provide marked foot crossing | Not justified (4). |
| 6692 | Proposals for traffic management of river road creating dangers for residents of side street. | Declined section 13 (4) (a). |
| TRANSPORT—MINISTER FOR | | |
| 6749 | Proposed implementation of extended clearway system | No jurisdiction section 12 (1) (a) 1b. |
| TREASURY DEPARTMENT | | |
| 2257 | Failure to refund money seized as exhibit | Not justified (4). |
| 4784 | Alleged delay in payment of moneys from unclaimed moneys fund. | Withdrawn (1). |
| 5589 | Failure to answer correspondence | Justified (5). |
| 7285 | Failure to pay overtime payments | No jurisdiction section 12 (1) (a) 12b. |
| UNIVERSITY OF NEWCASTLE | | |
| 6016 | Refusal to admit to medical course | Discontinued. |
| UNIVERSITY OF NEW ENGLAND | | |
| 5359 | Opening of university squash courts to public | Not justified (3). |

| No. | Complaint | Result |
|--------------------------------------|--|--|
| UNIVERSITY OF NEW SOUTH WALES | | |
| 4677 | Failure to appoint to chair and circumstances surrounding appointment. | No jurisdiction section 12 (1) (a) 12. |
| 5710 | Use of expertise of visiting academics for commercial purposes. | Withdrawn (1). |
| 5793 | Incorrect assessment of marks obtained in course | Not justified (3). |
| 7157 | Failure to employ following medical examination | No jurisdiction section 12 (1) (a). |
| UNIVERSITY OF SYDNEY | | |
| 5683 | Refusal of enrolment | Not justified (3). |
| 6202 | Unfair rejection of place at university on basis of earlier attempt at high school certificate. | Under investigation. |
| 6437 | Failure to admit to course | Under investigation. |
| 7282a | Failure to investigate complaint | Under investigation. |
| 7282b | Failure of student counsellor to give proper advice .. | Under investigation. |
| 7282c | Destruction of document | Under investigation. |
| VALUATION BOARD OF REVIEW | | |
| 2800 | Failure to follow correct procedures | Declined section 13 (4) (b) 2. |
| 4674 | Failure to inform party of appeal rights and to adjourn hearing whilst objector abroad. | Not justified (4). |
| VALUER GENERAL'S DEPARTMENT | | |
| 3477 | Incorrect valuation of property | Not justified (3). |
| 4011 | Failure to have reduction in valuation made retrospective | Not justified (3). |
| 4455 | Delay in valuations | Not justified (3). |
| 4456 | Alleged incorrect valuation | Not justified (3). |
| 4557 | Unfair valuations | Not justified (4). |
| 4770 | Incorrect valuation assessment | Declined section 13 (4) (a). |
| 4781 | Refusal to give proper notice of valuation | Not justified (4). |
| 4869 | Failure to take into account comparable values of neighbouring lots. | Not justified (3). |
| 4920 | Discrimination in valuation | Justified (5). |
| 4966 | Refusal to divulge valuation | Not justified (3). |
| 4973 | Failure to notify amended valuation | Justified (5). |
| 5105 | Value placed on property | Justified (5). |
| 5142 | Incorrect valuation of property | Not justified (3). |
| 5433 | Unfair valuation | Declined section 13 (4) (b) (v). |
| 5513 | Increase in value | Declined section 13 (4) (b) (v). |
| 5566 | Delay in dealing with objections | Not justified (3). |
| 6028 | Value placed on land | Declined section 13 (4) (a). |
| 6044 | Incorrect basis for valuation | Declined section 13 (4) (a). |
| 6173 | Unfair valuation | Declined section 13 (4) (b) (v). |
| 6215 | Unfair increase in valuation | Declined section 13 (4) (a). |
| 6249 | Delay in reference to Valuation Board of Review .. | Not justified (4). |
| 6252 | Unfair valuation | Under investigation. |
| 6631 | Failure to notify revaluation | Under investigation. |
| 6704 | Excessive increases in valuations | Declined section 13 (4) (a). |
| 6716 | Excessive increase in valuation | Declined section 13 (4) (a). |
| 6718 | Incorrect valuation | Declined section 13 (4) (a). |
| 6755 | Failure to advise appropriate authorities of reduction in value. | Not justified (3). |
| 6986 | Basing of valuations on incorrect advice | Under investigation. |
| 7095 | Delay in replying to correspondence | Not justified (3). |
| 7163 | Increase in land value | Under investigation. |
| VETERINARY SURGEONS BOARD | | |
| 3585 | Failure to take action to refer complaints against veterinary surgeons to Disciplinary Tribunal. | Not justified (3). |
| 3586 | Failure to take action to refer complaints against veterinary surgeons to Disciplinary Tribunal. | Not justified (3). |
| 3587 | Failure to take action to refer complaints against veterinary surgeons to Disciplinary Tribunal. | Not justified (3). |
| 3588 | Failure to take action to refer complaints against veterinary surgeons to Disciplinary Tribunal. | Not justified (3). |
| 3589 | Failure to take action to refer complaints against veterinary surgeons to Disciplinary Tribunal. | Not justified (3). |
| 3590 | Failure to take action to refer complaints against veterinary surgeons to Disciplinary Tribunal. | Not justified (3). |
| 3591 | Failure to take action to refer complaints against veterinary surgeons to Disciplinary Tribunal. | Not justified (3). |
| 3592 | Failure to take action to refer complaints against veterinary surgeons to Disciplinary Tribunal. | Not justified (3). |
| WATER RESOURCES COMMISSION | | |
| 4193 | Incorrect decision to grant water licence under Water Act | Under investigation. |
| 4555 | Refusal to pay subsidy | Not justified (3). |
| 4579 | Unfair rentals for farms | Not justified (4). |
| 4947 | Unfair objection to erection of motel | Withdrawn (2). |
| 5270 | Failure to rectify flooding of property | Not justified (4). |
| 5289 | Delay in finalising proposals for water storage facilities | Not justified (4). |
| 5401 | Error in allocating licence | Not justified (3). |
| 5498 | Refusal to grant licence | Not justified (4). |
| 5708 | Unfair licence to irrigate | Under investigation. |
| 5754 | Failure to accept responsibility for cost of equipment and charges. | Under investigation. |
| 5755 | Alleged illegality of pump licence requirement | Under investigation. |

| No. | Complaint | Result |
|--|---|---|
| WATER RESOURCES COMMISSION—continued. | | |
| 5947 | Consideration of application for water licence | Declined section 13 (4) (b) (v). |
| 6436 | Construction of unsatisfactory water projects | Under investigation. |
| 6460 | Delay in provision of water | Not justified (4). |
| 6562 | Refusal to grant additional water rights | Under investigation. |
| 6647 | Failure to advise that loan for irrigation equipment restricted to 50 per cent. | Not justified (4). |
| 6814 | Excessive rental fee | Under investigation. |
| 7078 | Failure to grant subsidy | Not justified (3). |
| WESTERN LANDS COMMISSION | | |
| 3622 | Imposition of conditions on proposed alteration of purpose of lease. | Not justified (4). |
| WORKERS COMPENSATION COMMISSION | | |
| 4766 | Refusal to issue licence | No jurisdiction section 12 (1) (a) 2. |
| 7125 | Failure to give reasons for refusal of legal aid | Under investigation. |
| WORKERS' COMPENSATION (DUST DISEASES) BOARD | | |
| 4255 | Failure to award adequate compensation | Not justified (3). |
| YOUTH AND COMMUNITY SERVICES—DEPARTMENT OF | | |
| 3831 | Conduct of social workers from department of Youth and Community Services. | Under investigation. |
| 4618 | Failure to properly consider application for placement of ward. | Not justified (3). |
| 4710a | Delay in decision on restoration of state ward | Not justified (3). |
| 4710n | Refusal of visits to state wards | Not justified (3). |
| 4844 | Delay in adoptions | Withdrawn (2). |
| 4898 | Denial of adoption by maternal grandparents | Not justified (3). |
| 4921 | Conduct of officers | Not justified (3). |
| 5030 | Non-employment of by Department | No jurisdiction section 12 (1) (a) 12a. |
| 5220 | Delay in adoption | Not justified (3). |
| 5288 | Delay in dealing with request for assistance | Not justified (4). |
| 5484 | Delay in payment for vehicles supplied | Not justified (3). |
| 5496 | Failure to take action on complaint | Not justified (3). |
| 5623 | Unjustified payment of allowance by Department | Not justified (3). |
| 5810 | Alleged failure to pass on gifts | Not justified (3). |
| 5956 | Conduct of social worker | Not justified (3). |
| 5971 | Conduct of social worker | Discontinued. |
| 6036 | Failure to properly assess placement of child | Not justified (3). |
| 6221 | Delay in adoption procedures | Not justified (3). |
| 6267 | Adoption documents not available at Department | Not justified (3). |
| 6293 | Failure to pay allowance for support of child in charitable home. | Justified (5). |
| 6432 | Failure to consent to adoption | Under investigation. |
| 6540 | Refusal of licence for Child Care Centre | Under investigation. |
| 6545 | Conduct of welfare worker | Not justified (4). |
| 6748 | Refusal to provide address of brothers | Not justified (3). |
| 7080 | Failure to pay allowances | Under investigation. |
| 7087 | Failure to disclose whereabouts of wife and family | Under investigation. |

LOCAL GOVERNMENT AUTHORITIES

| No. | Complaint | Result |
|------------------------------------|---|---------------------------------------|
| ALBURY CITY COUNCIL | | |
| 4708 | Delay in acquisition of land | Not justified (3). |
| 4760 | Order to move from caravan park | Not justified (3). |
| 6772A | Rates levied by council | Discontinued. |
| 6772B | Question of ownership of laneway | Discontinued. |
| 7105 | Unlawful cancellation of taxi licence | Under investigation. |
| ABERDARE COUNTY COUNCIL | | |
| 5308 | Refusal to restore regulator removed from premises | Not justified (3). |
| ARMIDALE CITY COUNCIL | | |
| 3997 | Requirement to replace gas cylinders | Discontinued. |
| 4059 | Failure to carry out maintenance to public street | Under investigation. |
| 4135 | Unfair restrictive zonings | Not justified (4). |
| 4199 | Refusal to give credit for alleged overcharge of garbage rates | Justified (5). |
| 4344 | Refusal to pay interest on moneys paid as deposit | Not justified (4). |
| 4373 | Charges made for kerbing and guttering | Declined section 13 (4) (b) (vi). |
| 4522 | Validity of charge for construction under R.E.D. Scheme | Not justified (3). |
| 4523 | Validity of charge for footpath construction under R.E.D. Scheme | Not justified (3). |
| 4553 | Institution of legal proceedings for R.E.D. Scheme charge | Not justified (3). |
| 4593 | Charges made for kerbing and guttering | Declined section 13 (4) (a). |
| 5272 | Failure to accept claim for damages | Not justified (4). |
| 5369 | Issue of summons for footpath construction | Declined section 13 (4) (a). |
| 5865A | Failure to provide effective water supply as promised | Under investigation. |
| 5865B | Failure to compensate for acquired land | Under investigation. |
| 5865C | Threatened resumption of land | Under investigation. |
| 6297 | Failure to clear land of fire and health hazard | Not justified (3). |
| ASHFIELD MUNICIPAL COUNCIL | | |
| 3414 | Failure to accept liability for damage to car | Not justified (3). |
| 3812 | Failure to rectify drainage problem | Under investigation. |
| 4391 | Refusal of building application | Declined section 13 (5). |
| 4807 | Failure to accept application to lop tree | Withdrawn (1). |
| 4861 | Imposition of interest charges | Not justified (3). |
| 5048 | Failure to allow development of block | Not justified (3). |
| 5194 | Denial of liability | Declined section 13 (4) (b) (v). |
| 5355 | Refusal to accept existence of "existing use" rights | Under investigation. |
| 5790 | Refusal to permit yard to be covered | Declined section 13 (4) (a). |
| 6076 | Refusal of development application for two flats | No jurisdiction section 12 (1) (a) 1. |
| 6775 | Failure to take action to prevent illegal use | Under investigation. |
| 7315 | Retention of security deposit | Under investigation. |
| ASHFORD SHIRE COUNCIL | | |
| 6840 | Construction of road through property | Under investigation. |
| AUBURN MUNICIPAL COUNCIL | | |
| 4425 | Failure to allow payment of rates by instalments | Not justified (3). |
| 5014 | Failure to take action to abate nuisance caused by floodlights | Not justified (3). |
| 5536 | Failure to take action on noise nuisance | Not justified (3). |
| 5982 | Failure to restore footpath | Not justified (3). |
| BALLINA SHIRE COUNCIL | | |
| 4487 | Proposed bridge and access road | Not justified (4). |
| 4424 | Proposed construction of new bridge | Not justified (4). |
| 5012 | Adjoining building development | Withdrawn (1). |
| 5156 | Cost of water connection | Withdrawn (1). |
| 5912 | Unfair local loan rate for sewerage | Not justified (4). |
| 6135 | Delay in acquisition of property | Under investigation. |
| 6565 | Siting of new bridge | Not justified (4). |
| BANKSTOWN MUNICIPAL COUNCIL | | |
| 3217 | Failure to accept application for rate rebate | Under investigation. |
| 4222 | Failure to take action to prevent drainage nuisance by neighbour | Not justified (3). |
| 4234 | Failure to take action to prevent unauthorized commercial use | Not justified (4). |
| 4493 | Refusal of building consent | Not justified (3). |
| 4940 | Late instalment of rates because of postal strike | Not justified (3). |
| 5206 | Refusal to allow perusal of plans | Justified (5). |
| 5620 | Failure to remove abandoned dog | Not justified (3). |
| 5973 | Failure to order removal of tree | Declined section 13 (4) (a). |
| 6207 | Unfair issue of notice to cease use | Declined section 13 (4) (a). |
| 6366 | Granting of development approvals | Not justified (3). |
| 6380 | Unreasonable approval for drainage pipes causing damage to property | Not justified (3). |
| 6977 | Issue of notice regarding carport | Declined section 13 (5). |
| 7205 | Issue of notice to connect to sewer | Under investigation. |
| 7269 | Closing of median strip | Under investigation. |
| BARRABA SHIRE COUNCIL | | |
| 6314 | Unfair charge for foot paving | Not justified (4). |

| No. | Complaint | Result |
|-------------------------------------|---|---|
| BATHURST CITY COUNCIL | | |
| 3437 | Incorrect imposition of garbage levy | Justified (5). |
| 6282 | Refusal to support application to Minister for consent to erect country dwelling. | Not justified (3). |
| 6467 | Unfair imposition of rate | Declined section 13 (4) (a). |
| 6559 | Unfair decision to sell land for unpaid rates | Withdrawn (1). |
| 7156 | Excess water charges | Justified (5). |
| BAULKHAM HILLS SHIRE COUNCIL | | |
| 3995 | Delay in finalizing development control plan | Not justified (4). |
| 6285 | Provision of inadequate drainage resulting in flooding of property. | Under investigation. |
| 6306 | Unreasonable proposal for vehicular access in cul-de-sac .. | Not justified (3). |
| 6553 | Failure to rate on residential basis | Under investigation. |
| 6689 | Proposed expansion of restaurant use | Under investigation. |
| 7044 | Construction of drain through property | Under investigation. |
| BEGA MUNICIPAL COUNCIL | | |
| 5347 | Failure to pipe drainage easement | Under investigation. |
| 5602 | Delay in connection of sewer | Not justified (4). |
| BEGA VALLEY COUNTY COUNCIL | | |
| 6497 | Positioning of pole affecting access | Not justified (3). |
| BELLINGEN SHIRE COUNCIL | | |
| 4394 | Interest charge on rates erroneously levied | Not justified (4). |
| 5141 | Failure to restore land | Not justified (4). |
| 5562 | Failure to take action re-growth of vine | Under investigation. |
| 6112A | Unjust dismissal of management committee of community centre. | Justified (8). |
| 6112B | Failure to provide toilet facilities | Justified (8). |
| 6334 | Unfair suspension from work | No jurisdiction section 12 (1) (a) 12b. |
| 7186 | Granting of approval to development applications .. | Under investigation. |
| BERRIMA COUNTY COUNCIL | | |
| 4112 | Imposition of unreasonable charges for connection of electricity. | Not justified (4). |
| 5281 | Excessive costs for connection of electricity | Not justified (3). |
| BLACKTOWN MUNICIPAL COUNCIL | | |
| 3835 | Failure to order demolition of building | Under investigation. |
| 3918 | Account received for payment of kerbing and guttering .. | Not justified (3). |
| 4389 | Failure to take action to force rectification of damage .. | Under investigation. |
| 4561 | Unfair charges for kerbing and guttering under R.E.D. Scheme. | Not justified (3). |
| 4592 | Unfair imposition of rates | Declined section 13 (4) (a). |
| 4932 | Failure to take action to prevent water running into property | Justified (5). |
| 5016 | Issue of notice re sewerage connection | Not justified (3). |
| 5815 | Unfair re-zoning of property and refusal to acquire .. | Not justified (4). |
| 5900 | Unfair decision on occupancy of roller skating rink .. | Not justified (4). |
| 6115 | Unfair intention to carry out road construction prior to negotiation for acquisition. | Not justified (3). |
| 6241 | Inadequate stormwater drainage causing damage to property | Under investigation. |
| 6487 | Proposed caravan park | Not justified (3). |
| 6524 | Planned access road preventing sale of properties | Justified (5). |
| 6592 | Refusal to divulge name of complainant | Not justified (4). |
| 6681 | Objection to caravan park | Not justified (3). |
| 6763 | Failure to control drainage into Street | Under investigation. |
| BLAND SHIRE COUNCIL | | |
| 5013 | Imposition of rates on property | Not justified (3). |
| 6792 | Failure to take action on health nuisance | Under investigation. |
| BLAYNEY SHIRE COUNCIL | | |
| 5554 | Disputed rates | Under investigation. |
| BLUE MOUNTAINS CITY COUNCIL | | |
| 3362 | Proposed zoning of land | Not justified (4). |
| 3448 | Imposition of water rates on block | Under investigation. |
| 3486 | Delay in finalizing objections to planning scheme | Under investigation. |
| 3555 | Payment of insufficient amount for land transferred to Council. | Not justified (3). |
| 3621 | Zoning of property | Under investigation. |
| 4146 | Failure to take action to remove nuisance and unsightly garages. | Not justified (4). |
| 4310 | Threat of legal proceedings for unpaid rates | Not justified (3). |
| 4329 | Excessive contribution for electricity connection | Not justified (3). |
| 4349A | Unreasonable requirement to pay additional fees for subdivision application. | Not justified (4). |
| 4349B | Unreasonable requirement of cul-de-sac in subdivision .. | Not justified (4). |
| 4543 | Failure to contain drainage waters within easement .. | Justified (8). |
| 4690 | Imposition of late payment penalty | Not justified (4). |
| 4726 | Delay in determining objections to planning scheme .. | Not justified (4). |
| 4733 | Delay in planning scheme | Not justified (3). |
| 4768 | Unfair issue of demolition order | Not justified (4). |
| 4808 | Unfair imposition of charges for additional toilets .. | Not justified (3). |

| No. | Complaint | Result |
|---|--|------------------------------------|
| BLUE MOUNTAINS CITY COUNCIL—continued. | | |
| 4858 | Dispute as to compensation for resumption | Declined section 13 (5). |
| 4922 | Unfair imposition of interest on rates | Not justified (3). |
| 4931 | Failure to remedy drainage | Under investigation. |
| 4936 | Change of zoning to non-urban | Declined section 13 (4) (a). |
| 5050 | Rates charged on land zoned non-urban | Not justified (3). |
| 5056 | Rating of property zoned non-urban | Not justified (3). |
| 5184 | Delay in finalization of planning scheme | Not justified (3). |
| 5495 | Unfair minimum rate | Under investigation. |
| 5526 | Denial of liability | Not justified (4). |
| 5538 | Refusal to provide promised access after acquisition | Under investigation. |
| 5545 | Denial of liability | Declined section 13 (4) (a). |
| 5833 | Unfair issue of summons | Not justified (3). |
| 6013 | Excess water account | Not justified (3). |
| 6113 | Private use of Council truck | Justified (6). |
| 6124 | Unfair rating and delay in town planning scheme | Declined section 13 (4) (a). |
| 6125 | Liability for rates when land unusable | Under investigation. |
| 6158 | Use of funds to erect community centre | Under investigation. |
| 6563 | Disputed rates | Under investigation. |
| 6613 | Rates based on wrong valuation | Withdrawn (2). |
| 6701 | Refusal to lease pathway to adjoining owner | Not justified (3). |
| 6723 | Failure to advise of property zone | No jurisdiction section 12 (1) (d) |
| 6741 | Failure to prevent encroachment on public reserve | Under investigation. |
| 6780 | Imposition of excessive rates on non-building block | Declined section 13 (4) (a). |
| 6781 | Imposition of excessive rates on non-building block | Declined section 13 (4) (a). |
| 6803 | Zoning provisions of planning scheme | Under investigation. |
| 6909 | Failure to repair damage | Under investigation. |
| 6951A | Notice to connect to sewer | Under investigation. |
| 6951B | Requirement to contribute to kerb and guttering | Under investigation. |
| 6951C | Failure to restore property | Under investigation. |
| 7237 | Excess water rates | Under investigation. |
| 7270 | Failure to take appropriate action to abate nuisance | Under investigation. |
| BOGAN SHIRE COUNCIL | | |
| 6243 | Unfair demand for repayment of mortgage | Not justified (3). |
| BOTANY MUNICIPAL COUNCIL | | |
| 3601 | Failure to impose correct conditions on building | Not justified (3). |
| 6020 | Failure to abate noise nuisance from barking dogs | Not justified (3). |
| BOWRAL MUNICIPAL COUNCIL | | |
| 4111 | Diversion of drainage water onto complainants land and failure to rectify. | Under investigation. |
| 4888 | Failure to take action on encroachment on property | Not justified (4). |
| 5737 | Excess water account | Not justified (4). |
| BRISBANE WATER COUNTY COUNCIL | | |
| 4099 | Decision to install substation outside property | Justified (5). |
| 4421 | Refusal to refund capital contribution for electricity connection. | Not justified (3). |
| 4997 | Re-siting of sub-station | Not justified (4). |
| 5764 | Failure to carry out repairs | Not justified (3). |
| 5995 | Failure to accept payment and subsequent disconnection of supply. | Justified (5). |
| 7126 | Imposition of connection deposit | Under investigation. |
| BURWOOD MUNICIPAL COUNCIL | | |
| 3382 | Rating of garage allotment in Strata plan | Not justified (3). |
| 4348 | Failure to require stormwater to be properly drained | Not justified (3). |
| 5414 | Closure of street | Not justified (3). |
| 6602 | Delay in replying to correspondence | Not justified (3). |
| 7306 | Failure to allow development of site | Declined section 13 (5). |
| BYRON SHIRE COUNCIL | | |
| 3542 | Grazing of goats | Under investigation. |
| 4570 | Grant of industrial land to developer | Not justified (3). |
| 5340 | Failure to allow perusal of building plans | Under investigation. |
| 5619 | Failure to rectify drainage | Declined section 13 (4) (a). |
| 6025 | Conditions imposed on subdivision application | Declined section 13 (5). |
| 6819 | Proposals relating to operation of caravan park | Withdrawn (2). |
| 6821 | Proposed erection of flats in single residential area | Not justified (3). |
| 7030 | Refusal to allow manufacture of jam | Not justified (4). |
| CAMPBELLTOWN CITY COUNCIL | | |
| 3026 | Imposition of rates on old valuation | Not justified (3). |
| 3457 | Proposed closure of part of road | Not justified (4). |
| 4306 | Status of town planning proposals | Not justified (3). |
| 4605 | Unfair notice to remove bush fire hazard | Under investigation. |
| 5781 | Alleged freeze on development | Not justified (3). |
| 5916 | Failure to give weight to objections | Not justified (3). |
| 5922 | Unfair rates not based on fresh valuation | Declined section 13 (4) (a). |
| 6387 | Refusal to release bank guarantee | Not justified (3). |

| No. | Complaint | Result |
|--|---|---------------------------------------|
| CANTERBURY MUNICIPAL COUNCIL | | |
| 3227 | Failure to seal road | Not justified (3). |
| 4382 | Refusal to approve removal of tree | Justified (5). |
| 4472 | Failure to allow removal of trees damaging sewer line | Justified (5). |
| 4847 | Refusal to pay for services rendered | Not justified (3). |
| 5334 | Payment of rates by instalments | Not justified (3). |
| 5380 | Failure to enforce conditions of development consent of commercial premises. | Not justified (3). |
| 6064 | Interest charged on unpaid rates | Declined section 13 (4) (a). |
| 6094 | Drainage from adjoining premises | Not justified (3). |
| 6167 | Unfair charge for reconstruction of driveway made necessary by change in level of street. | Under investigation. |
| 6296 | Failure to order removal or lopping of tree | Declined section 13 (4) (b) (v). |
| 6398 | Failure to abate noise nuisance | Not justified (3). |
| 7195 | Unfair issue of demolition notice | Under investigation. |
| CASINO MUNICIPAL COUNCIL | | |
| 5396 | Failure to seal laneway | Declined section 13 (4) (a). |
| 5453 | Refusal to pay complainants legal costs | No jurisdiction section 12 (1) (a) 8. |
| 7327 | Charging of interest on overdue rates | Under investigation. |
| CENTRAL NORTHERN COUNTY COUNCIL | | |
| 3745 | Issue of letter of demand for monies allegedly due | Not justified (3). |
| 5832 | Failure to eradicate noxious weed on adjacent land | Justified (5). |
| CENTRAL TABLELANDS COUNTY COUNCIL | | |
| 5555 | Disputed rates | Not justified (3). |
| 7225 | Proposed changeover of water meters | Under investigation. |
| COFFS HARBOUR SHIRE COUNCIL | | |
| 4058 | Unfair condition of building approval | Justified (5). |
| 4350 | Refusal to open public road | Under investigation. |
| 4759 | Decision not to acquire land for public reserve | Not justified (3). |
| 4866 | Failure to remedy drainage problems | Not justified (3). |
| 5374 | Delay in replying to correspondence | Not justified (3). |
| 5517 | Discriminatory order for removal of caravan annexe | Discontinued. |
| 5634 | Delay in acquisition of property | Under investigation. |
| 5681 | Proposed speedway development | Declined section 13 (4) (a). |
| 5695 | Unreasonable decision to maintain canal and channel to estate. | Not justified (3). |
| 6021 | Failure to permit connection to sewer | Not justified (4). |
| 6222 | Refusal to give pensioner concession on rates | Not justified (3). |
| 6335 | Unfair water rates | Not justified (4). |
| 6816 | Delay in paying compensation for easement | Declined section 13 (4) (a). |
| 7020 | Delay in acquiring property | Under investigation. |
| COLO SHIRE COUNCIL | | |
| 3125 | Imposition of sewerage charges | Not justified (4). |
| 3753 | Offer of inadequate compensation for land acquired for road purposes. | Justified (9). |
| 4167A | Establishment by Council of shale pit | Not justified (4). |
| 4167B | Refusal to receive deputation on pollution | Not justified (4). |
| 4367 | Proposed establishment of shale pit | Not justified (4). |
| 4765 | Refusal to approve and conditions imposed on development application. | Declined section 13 (5). |
| 6661 | Unfair refusal of rural rate concession | Under investigation. |
| CONCORD MUNICIPAL COUNCIL | | |
| 4232 | Failure to ensure erection of wall in accordance with conditions of approval. | Not justified (3). |
| 4278 | Failure to replace dividing fence | Not justified (3). |
| COROWA SHIRE COUNCIL | | |
| 5015 | Failure to take action to abate noise nuisance | Not justified (3). |
| COWRA MUNICIPAL COUNCIL | | |
| 7307 | Failure to prevent unauthorized use | Under investigation. |
| CROOKWELL SHIRE COUNCIL | | |
| 4517 | Issue of weed control orders | Justified (5). |
| 6164 | Refusal to rectify footpath levels | Under investigation. |
| 6960 | Issue of account other than in accordance with quotation | Under investigation. |
| DRUMMOYNE MUNICIPAL COUNCIL | | |
| 4229 | Failure to take action to prevent unauthorized alterations | Under investigation. |
| 5782 | Refusal to relocate light pole in reserve | Not justified (3). |
| DUBBO CITY COUNCIL | | |
| 6578 | Refusal of application for supply of water | Not justified (3). |
| 6580 | Alleged failure to preserve access through lane | Under investigation. |

| No. | Complaint | Result |
|---------------------------------------|--|------------------------------|
| EUROBODALLA SHIRE COUNCIL | | |
| 4812 | Refusal to lop trees opposite home | Not justified (3). |
| 5577 | Delay in replying to correspondence | Not justified (3). |
| 6138 | Unfair notice to clear land | Declined section 13 (4) (a). |
| 6660 | Failure to adequately rectify collapse of front of property | Not justified (3). |
| FAIRFIELD MUNICIPAL COUNCIL | | |
| 3868 | Unsatisfactory condition of kerbing and guttering | Not justified (4). |
| 5024 | Failure to clear property | Not justified (3). |
| 5185 | Refusal to order removal of tree damaging drainage | Not justified (3). |
| 5592A | Failure to prevent commercial use of residential premises .. | Under investigation. |
| 5592B | Failure to take noise nuisance | Under investigation. |
| 6003 | Failure to abate noise nuisance | Declined section 13 (4) (a). |
| 6088A | Harassment | Not justified (3). |
| 6088B | Unfair notices to remove blackberry bushes and ki-ku-yu grass. | Not justified (3). |
| 6395 | Unfair decision to remove doctor from centre | Not justified (3). |
| 6404 | Failure to agree to relocation costs of house | Not justified (4). |
| 6526 | Unfair demolition order | Declined section 13 (5). |
| FAR NORTH COAST COUNTY COUNCIL | | |
| 4026 | Issue of weed eradication notices | Not justified (4). |
| 4683 | Actions of inspectors | Not justified (4). |
| GLEN INNES MUNICIPAL COUNCIL | | |
| 4636 | Charge for R.E.D. Scheme work | Not justified (3). |
| 4650 | Insistence on compliance with draft code for caravan parks | Not justified (3). |
| 6273 | Unfair increases in rates | Not justified (3). |
| GLOUCESTER SHIRE COUNCIL | | |
| 4227 | Construction of road preventing escape of floodwaters .. | Under investigation. |
| 4930 | Failure to survey access road | Declined section 13 (4) (a). |
| GOSFORD SHIRE COUNCIL | | |
| 3032 | Refusal to accept liability to repair septic tank installation | Not justified (3). |
| 3732 | Delay in acquisition of land | Not justified (4). |
| 3801 | Excess water rates | Not justified (3). |
| 4107 | Loss of access to land following council works | Not justified (4). |
| 4160 | Failure to reply to correspondence and rectify drainage problem. | Not justified (4). |
| 4282 | Failure to allow concession on rates | Not justified (3). |
| 4320 | Failure to take action to abate noise nuisance | Under investigation. |
| 4332 | Unfair provisions of Interim Development Order | Declined section 13 (4) (a). |
| 4433 | Failure to pipe drain | Not justified (4). |
| 4497 | Change of zoning | Not justified (3). |
| 4554 | Failure to take action to control noise nuisance from buses | Declined section 13 (4) (a). |
| 4751 | Delay in zoning decision | Not justified (4). |
| 5171 | Excess water account | Not justified (3). |
| 5240 | Refusal to allow erection of dwelling on single allotment .. | Not justified (3). |
| 5346 | Failure to refund rates incorrectly levied | Not justified (3). |
| 5464 | Failure to construct and seal road | Not justified (3). |
| 5478 | Failure to provide vehicular access to property | Not justified (3). |
| 5510 | Delay in conveying decision of Council | Justified (5). |
| 5788 | Proposed effluent removal charges | Declined section 13 (4) (a). |
| 5803 | Unsatisfactory sanitary service | Not justified (3). |
| 5804 | Failure to advise policy re effluent removal charges | Justified (5). |
| 5846 | Unfair effluent removal service | Not justified (3). |
| 5847 | Unfair requirement to pay back dated sewerage rate .. | Not justified (3). |
| 5872 | Parking of truck on roadway outside property | Declined section 13 (4) (a). |
| 5899 | Disconnection of new water supply | Not justified (4). |
| 6150 | Unfair water rate | Not justified (4). |
| 6628 | Failure to repair road | Under investigation. |
| 6782 | Proposed resumption of part property | Not justified (3). |
| 7166A | Excessive increase in rates | Under investigation. |
| 7166B | Failure to clear land | Under investigation. |
| 7166C | Failure to clear watercourse | Under investigation. |
| GOULBURN CITY COUNCIL | | |
| 3774 | Refusal to provide break in median strip | Not justified (3). |
| 4173 | Refusal to give building approval until council road formed | Not justified (3). |
| 4432 | Re-zoning from residential to non-urban | Declined section 13 (4) (a). |
| 7168 | Failure to take action to abate noise nuisance | Under investigation. |
| GRAFTON CITY COUNCIL | | |
| 4476A | Failure to take action to correct sewerage | Not justified (3). |
| 4476B | Failure to reply to correspondence | Justified (5). |
| GREAT LAKES SHIRE COUNCIL | | |
| 3599 | Alleged overcharging for garbage/sanitary service | Justified (5). |
| 5481 | Failure to provide access to and allow development of blocks | Not justified (3). |
| 6182 | Installation of public utilities on land preventing use for dwelling. | Under investigation. |
| 6423 | Refusal of subdivision application | Declined section 13 (5). |
| 6998 | Proposed construction of hotel/motel | Not justified (3). |
| 7103 | Proposed development of area | Not justified (3). |

| No. | Complaint | Result |
|---------------------------------------|---|-------------------------------------|
| GREATER CESSNOCK CITY COUNCIL | | |
| 5040 | Failure to reimburse car repair costs | Not justified (3). |
| 6156A | Failure to accept copies of Builders Licensing Board receipts | Not justified (3). |
| 6156B | Unfair security deposits | Not justified (3). |
| 6349 | Failure to apologise for threatening letter | Under investigation. |
| 7094 | Excessive increase in rates | Declined section 13 (4) (a). |
| 7218 | Failure to maintain right of way | Under investigation. |
| GUNDAGAI SHIRE COUNCIL | | |
| 6722 | Failure to provide adequate drainage | Under investigation. |
| GUNNEDAH MUNICIPAL COUNCIL | | |
| 4029 | Failure to refund rates paid in error | Under investigation. |
| GUYRA SHIRE COUNCIL | | |
| 4010 | Alleged unfair charges on subdivision application | Not justified (3). |
| HARTLEY COUNTY COUNCIL | | |
| 5477 | Excessive electricity bill | Justified (5). |
| 6235 | Alleged discriminatory fee for electrical connection | Not justified (4). |
| HASTINGS SHIRE COUNCIL | | |
| 3493 | Failure to allow occupation of cabin on block | Not justified (3). |
| 4062 | Erection of bus shelter and sewer pump head on nature strips adjacent to property. | Not justified (4). |
| 4169 | Sewerage rate rendered where not required | Not justified (3). |
| 6102 | Delay in issue of rate notice | Declined section 13 (4) (a). |
| 6929 | Failure to control operation of heavy trucks | Not justified (3). |
| 6930 | Failure to take action to abate noise nuisance | Under investigation. |
| 7182 | Failure to provide access to property | No jurisdiction section 12 (1) (d). |
| HAY SHIRE COUNCIL | | |
| 5794 | Failure to take action on flooding of property | Not justified (3). |
| HOLROYD MUNICIPAL COUNCIL | | |
| 4396 | Proposed re-zoning of adjacent land | Not justified (3). |
| 4443 | Unfair notice to abate noise nuisance | Not justified (4). |
| 4849 | Refusal of subdivision | Declined section 13 (4) (a). |
| 6091 | Misuse of Community Centre | Not justified (3). |
| HORNSBY SHIRE COUNCIL | | |
| 3344 | Proposed construction of open drain | Justified (8). |
| 3440 | Failure to provide pathway | Not justified (4). |
| 3827A | Construction of concrete access driveway to adjoining block | Not justified (4). |
| 3827B | Conditions placed on construction of roadway | No jurisdiction section 12 (1) (d). |
| 3836 | Proposed construction of open drain | Justified (8). |
| 3837 | Proposed construction of open drain | Justified (8). |
| 3869 | Refusal to refund road opening fee | Not justified (4). |
| 3930 | Proposed construction of open drain | Justified (8). |
| 4136 | Failure to pipe drainage easement | Justified (8). |
| 4406 | Failure to clear gutters and drains | Justified (5). |
| 5160 | Proposed lease of land to Bowling Club | Not justified (3). |
| 5558 | Failure to provide No-Standing signs | Not justified (3). |
| 5636 | Amount of rate | Declined section 13 (4) (a). |
| 5707 | Unfair demolition order | Declined section 13 (5). |
| 5848 | Unfair cash contribution as condition of subdivision approval. | Declined section 13 (5). |
| 6155 | Inadequate stormwater drainage causing damage to property | Under investigation. |
| 6260 | Alleged unlawful approval of alterations | Under investigation. |
| 6476 | Failure to notify of intended change of zoning | Not justified (3). |
| 6537 | Failure to revert premises to single family occupancy | Under investigation. |
| 6696 | Failure to correct damage to boundary fence | No jurisdiction section 12 (1) (d). |
| 6729 | Failure to provide adequate drainage | Discontinued. |
| 6752 | Failure to properly carry out remedial drainage work | Under investigation. |
| 7115 | Refusal to refund fees paid by architect | Under investigation. |
| 7177 | Actions in relation to establishment of waste disposal depot | Under investigation. |
| 7223 | Failure to grant extension of time to vacate flat | Withdrawn (1). |
| HUNTERS HILL MUNICIPAL COUNCIL | | |
| 5362 | Failure to plant tree on nature strip | Withdrawn (1). |
| HUNTER VALLEY COUNTY COUNCIL | | |
| 4388 | Excessive electricity bill | Not justified (3). |
| HURSTVILLE MUNICIPAL COUNCIL | | |
| 3937A | Erection of swimming pool next door | Not justified (3). |
| 3937B | Construction of access roadway | Not justified (3). |
| 4042 | Refusal to pay for damage to front fence and lack of maintenance of stormwater channel. | Justified (5). |
| 4046 | Failure to reply to correspondence | Not justified (3). |

| No. | Complaint | Result |
|--|---|-------------------------------------|
| HURSTVILLE MUNICIPAL COUNCIL—continued. | | |
| 4088 | Breach of condition of approval of building on adjoining property. | Declined section 13 (4) (a). |
| 5776 | Failure to ensure fencing of swimming pool | Justified (8). |
| 5809 | Road closure plans | Declined section 13 (4) (a). |
| 5829 | Refusal to share costs of boundary fence | Declined section 13 (4) (a). |
| 6658 | Failure to enforce building regulations | Not justified (3). |
| 6976 | Failure to take action to prevent unauthorized use | Not justified (3). |
| 7257 | Alleged failure to control noise | Under investigation. |
| ILLAWARRA COUNTY COUNCIL | | |
| 5325A | Proposed route of trench | Not justified (3). |
| 5325B | Refusal to supply requested information | Not justified (3). |
| IMLAY SHIRE COUNCIL | | |
| 3412 | Imposition of pedestal tax | Not justified (3). |
| 4254 | Failure to allow conversion of building to flats | Not justified (3). |
| 5059 | Proposed re-zoning of land | Not justified (3). |
| 5933 | Incorrect positioning of crossover access | Under investigation. |
| 6484 | Failure to clear trees and scrub along street | Not justified (3). |
| 6898 | Proposed lease of part of park | Under investigation. |
| INVERELL MUNICIPAL COUNCIL | | |
| 5394 | Route of proposed sewer line | No jurisdiction section 12 (1) (d). |
| 6612 | Inadequate stormwater drainage | Not justified (4). |
| JUNEE MUNICIPAL COUNCIL | | |
| 4544 | Failure to seal road | Not justified (4). |
| 7114 | Levy of commercial area local rate | Under investigation. |
| 7305 | Excessive rates | Under investigation. |
| KEMPSEY SHIRE COUNCIL | | |
| 3931 | Failure to allow payment of rates by instalments | Not justified (3). |
| 4347 | Requirement of consolidation of lots prior to decision on building application. | Discontinued. |
| 4368 | Issue of notice regarding septic installation | Justified (5). |
| 5152 | Failure to allow to dispose of building blocks | Not justified (3). |
| 5742 | Refusal to connect sewer unless alterations made | Not justified (4). |
| 5892 | Refusal to approve septic disposal | Not justified (3). |
| 6608 | Failure to abate noise nuisance from shop | Under investigation. |
| 6959 | Proposed establishment of caravan park | Under investigation. |
| 7040 | Grant of lease over access road | Under investigation. |
| KIAMA MUNICIPAL COUNCIL | | |
| 6488 | Excessive charges for sanitary clearance | Under investigation. |
| 6688 | Failure to clear fire hazard from adjoining property | Under investigation. |
| 6731 | Failure to properly inspect work | Declined section 13 (4) (a). |
| KOGARAH MUNICIPAL COUNCIL | | |
| 3692 | Failure to take action regarding lack of proper drainage | Not justified (4). |
| 3994 | Noise by Council's garbage contractor | Not justified (4). |
| 4309 | Unfair charge for kerb and guttering | Not justified (3). |
| 5057 | Failure to take action re antenna installation | No jurisdiction section 12 (1) (d). |
| 5565 | Erection of change rooms and shop on public reserve | Not justified (3). |
| 6151 | Delay in taking action to enforce clearing of land | Not justified (3). |
| 6166 | Refusal to allow vehicular access to subdivided block | Under investigation. |
| 6911 | Issue of incorrect notice | Under investigation. |
| KU-RING-GAI MUNICIPAL COUNCIL | | |
| 3150 | Failure to maintain stormwater channel | Not justified (3). |
| 3185 | Failure to provide suitable access | Not justified (4). |
| 3594 | Failure to provide adequate drainage | Not justified (3). |
| 3781 | Refusal to pay compensation for damage to block | Justified (6). |
| 3954 | Raising of level of kerb and road causing crossover damage to car. | Justified (5). |
| 4175 | Refusal to refund whole of building fee | Not justified (4). |
| 4245 | Refusal to allow subdivision because of county road proposal. | Not justified (3). |
| 4884 | Failure to accept payment of rates by instalments | Not justified (3). |
| 4963 | Stormwater drainage problem | Declined section 13 (4) (a). |
| 5036 | Failure to reimburse costs incurred | Not justified (4). |
| 5038 | Failure to take action over illegal boundary fence | Not justified (3). |
| 5054 | Delay in finalising building application | Not justified (4). |
| 5311 | Erection of "No right turn" | Not justified (3). |
| 5343 | Failure to reply to correspondence concerning management of council property. | Under investigation. |
| 5557 | Refusal to advise conditions of approval to development application. | Justified (5). |
| 5674 | Delay in rezoning | Not justified (3). |
| 5724 | Denial of liability | Not justified (3). |
| 6137 | Failure to properly drain water from adjacent land | Under investigation. |
| 6315 | Unfair erection of safety fence | Not justified (3). |
| 6457 | Unreasonable approval of carport on adjacent land | Not justified (3). |
| 6463 | Alleged illegal flat development | Under investigation. |
| 6509A | Denial of liability | Under investigation. |
| 6509B | Inadequate drainage system | Under investigation. |
| 6539 | Failure to acknowledge alleged pre-existing approval | Not justified (3). |
| 6638 | Proposed development of net ball court complex | Not justified (3). |
| 6981 | Failure to take action re barking dog | Under investigation. |
| 7041 | Failure to prevent use of footpath for driveway access | Declined section 13 (4) (a). |

| No. | Complaint | Result |
|---|--|-------------------------------------|
| LACHLAN SHIRE COUNCIL | | |
| 5744a | Threatened legal action | Not justified (3). |
| 5744b | Unfair requirement to carry out repairs | Declined section 13 (5). |
| LAKE MACQUARIE MUNICIPAL COUNCIL | | |
| 2959 | Incorrectly levying rates in respect of coal mine | Discontinued. |
| 3798 | Open space requirements in respect of development application. | Discontinued. |
| 3871 | Failure to take action to prevent damage to property | Not justified (3). |
| 4529 | Failure to take action to correct drainage to land from stormwater drainage. | Not justified (3). |
| 4924 | Service of summons while disputes as to liabilities current | Under investigation. |
| 5458 | Discharge of stormwater into property | Under investigation. |
| 5534 | Establishment of hostel adjacent to school | Not justified (3). |
| 5693 | Unfair institution of legal proceedings | Justified (5). |
| 5836 | Incorrect rate notice | Justified (5). |
| 6870 | Failure to issue receipts | Withdrawn (1). |
| 6901 | Imposition of unnecessary conditions on building approvals | Under investigation. |
| 7113 | Failure to vary condition of subdivision | Under investigation. |
| LANE COVE MUNICIPAL COUNCIL | | |
| 3875 | Additional account rendered for garbage charges already paid. | Not justified (3). |
| 4376 | Failure to provide means of access to property | Not justified (3). |
| 4403 | Failure to clear reserve | Under investigation. |
| 4558 | Approval of building plans on adjacent block | Not justified (3). |
| 4933 | Approval of building alterations | Not justified (3). |
| 5779 | Failure to allow transfer of tenancy of shop | Not justified (3). |
| 6666 | Failure to resume land for laneway | Not justified (3). |
| 6734 | Failure to reply to correspondence | Justified (5). |
| LEETON SHIRE COUNCIL | | |
| 3283 | Failure to accept liability for damage to car | Not justified (4). |
| 6024 | Incorrect calculation of interest rates | Not justified (3). |
| LEICHHARDT MUNICIPAL COUNCIL | | |
| 3209 | Failure to take action to enforce cleaning of property | Under investigation. |
| 3371 | Failure to prevent illegal use of property | Not justified (4). |
| 4106 | Failure to take action for breaches of conditions of development consent. | Not justified (4). |
| 4158 | Failure to take action for breaches of development consent | Not justified (4). |
| 4836 | Conduct relating to nuisance from commercial business | Not justified (4). |
| 5258 | Failure to withdraw development application and to refund fees. | Not justified (3). |
| 5273 | Failure to accept claim for damages | Not justified (3). |
| 5529 | Failure to take action on noise nuisance from commercial premises. | Not justified (3). |
| 5999 | Delay in providing information re road-widening proposals | Not justified (4). |
| 6066 | Unfair order to remove scrap from backyard | Under investigation. |
| 6313 | Unreasonable decision to remove poplar trees | Not justified (3). |
| 6455 | Unfair garbage charge | Not justified (4). |
| 6522 | Approval of garage development | Not justified (3). |
| 6604 | Failure to take action on breaches of development approval | Not justified (3). |
| 7153 | Alleged wrongful approval of building application | Not justified (4). |
| LISMORE CITY COUNCIL | | |
| 3224 | Failure to take action to prevent noise | Not justified (3). |
| 4226 | *Failure to reconstruct whole of street | Justified (6). |
| 4343 | *Proposed changes to public street | Discontinued. |
| 4375 | *Proposed widening of street | Discontinued. |
| 4454 | *Reconstruction of street destroying trees | Discontinued. |
| 4664 | Resumption of land for road deviation | No jurisdiction section 12 (1) (d). |
| 4695 | Unfair imposition of interest on rates | Not justified (3). |
| 4862 | *Widening of Dalley Street, Lismore | Discontinued. |
| 4891 | *Removal of trees in Dalley Street | Discontinued. |
| 4899 | *Widening of Dalley Street | Discontinued. |
| 4900 | *Widening of Dalley Street | Discontinued. |
| 4909 | *Widening of Dalley Street pending Ombudsman's investigation. | Discontinued. |
| * It should be noted that all of these complaints related to the same subject matter. | | |
| LITHGOW CITY COUNCIL | | |
| 3109 | Failure to take action to remedy pollution | Under investigation. |
| LIVERPOOL CITY COUNCIL | | |
| 4156 | Proposed rezoning preventing sale of property | Discontinued. |
| 4831 | Unfair condition on subdivision approval | Declined section 13 (5). |
| 5261 | Refusal of application to use land as car park | Not justified (4). |
| 6103 | Excessive increase in rates | Declined section 13 (4) (a). |
| 6454 | Failure to abate noise nuisance from sporting field | Under investigation. |
| 6474 | Failure to abate noise nuisance from sporting field | Under investigation. |
| 7314 | Unauthorized use of premises | Under investigation. |

| No. | Complaint | | | | Result |
|---------------------------------------|---|----|----|----|-------------------------------------|
| LIVERPOOL PLAINS SHIRE COUNCIL | | | | | |
| 6466 | Failure to divert water flooding property | .. | .. | .. | Under investigation. |
| LOCKHART SHIRE COUNCIL | | | | | |
| 6468 | Failure to answer correspondence | .. | .. | .. | Under investigation. |
| 6662 | Refusal to allow relocation of dwelling | .. | .. | .. | Declined section 13 (5). |
| LOWER CLARENCE COUNTY COUNCIL | | | | | |
| 6211 | Failure to check accuracy of water meter | .. | .. | .. | Not justified (3). |
| MACKELLAR COUNTY COUNCIL | | | | | |
| 6397 | Unfair security deposit and excess accounts | .. | .. | .. | Not justified (4). |
| 6922 | Excessive electricity bill | .. | .. | .. | Not justified (3). |
| 7316 | Imposition of minimum charge | .. | .. | .. | Under investigation. |
| MACLEAN SHIRE COUNCIL | | | | | |
| 3449 | Failure to resite retaining wall | .. | .. | .. | Not justified (4). |
| 4039 | Refusal of council to decline slipping works by private vessels on council's slipway. | .. | .. | .. | Not justified (3). |
| 6764 | Unfair prosecution for keeping poultry | .. | .. | .. | Not justified (3). |
| 7018 | Granting of approval to conduct business in residential area | .. | .. | .. | Under investigation. |
| MACQUARIE COUNTY COUNCIL | | | | | |
| 6581 | Unfair imposition of back charges | .. | .. | .. | Discontinued. |
| MAITLAND CITY COUNCIL | | | | | |
| 4752 | Delay in effecting cessation of prohibited use | .. | .. | .. | Justified (5). |
| 6575 | Unfair rezoning of land | .. | .. | .. | No jurisdiction section 12 (1) (d). |
| MANILLA SHIRE COUNCIL | | | | | |
| 4216 | Alleged victimization by council | .. | .. | .. | Not justified (3). |
| MANLY MUNICIPAL COUNCIL | | | | | |
| 3348 | Failure to implement parking restrictions | .. | .. | .. | Not justified (3). |
| 3643 | Issue of notice to install pump out system | .. | .. | .. | Not justified (4). |
| 3825 | Failure to take action to control operations of boat ramp | .. | .. | .. | Not justified (3). |
| 4345 | Unfair impounding of surf board | .. | .. | .. | Not justified (4). |
| 4401 | Failure to take action re drainage problem | .. | .. | .. | Not justified (4). |
| 5868 | Noise and other nuisance from boat ramp | .. | .. | .. | Declined section 13 (4) (a). |
| 6129 | Failure to thin fire hazard and clear watercourse | .. | .. | .. | Not justified (3). |
| 7134 | Proposed closure of vehicular access | .. | .. | .. | Under investigation. |
| 7272 | Failure to remove tree | .. | .. | .. | Under investigation. |
| MANNING RIVER COUNTY COUNCIL | | | | | |
| 6065 | Erection of substation on land preventing use for dwelling | .. | .. | .. | Under investigation. |
| MANNING SHIRE COUNCIL | | | | | |
| 4121 | Refusal to carry on road improvements to facilitate access to property. | .. | .. | .. | Not justified (4). |
| 5192 | Delay in supplying certificate and other information | .. | .. | .. | Not justified (3). |
| 5651 | Unfair contribution to public road | .. | .. | .. | Declined section 13 (5). |
| 6708 | Incorrect issue of certificate of completion | .. | .. | .. | No jurisdiction section 12 (1) (d). |
| 7145 | Non-replacement of bridge | .. | .. | .. | Under investigation. |
| MARRICKVILLE MUNICIPAL COUNCIL | | | | | |
| 3877 | Issue of receipt for incorrect amount | .. | .. | .. | Not justified (3). |
| 4075 | Failure to take action to prevent water entering from adjoining property. | .. | .. | .. | Not justified (4). |
| 5167 | Refusal to pay part compensation pending appeal | .. | .. | .. | Declined section 13 (5). |
| 5459 | Extended use of commercial premises | .. | .. | .. | Under investigation. |
| 5525 | Delay in dealing with application | .. | .. | .. | Discontinued. |
| 6157 | Delay in rezoning | .. | .. | .. | Declined section 13 (4) (a). |
| 6223 | Approval of building too close to common boundary | .. | .. | .. | No jurisdiction section 12 (1) (d). |
| 6270 | Alleged irregularities at council election | .. | .. | .. | Under investigation. |
| 6912 | Failure to prevent unauthorized building | .. | .. | .. | Under investigation. |
| 7116 | Failure to take action to stop prohibited use | .. | .. | .. | Under investigation. |
| 7215 | Failure to take action to abate noise nuisance | .. | .. | .. | Under investigation. |
| MERRIWA SHIRE COUNCIL | | | | | |
| 6128 | Denial of liability | .. | .. | .. | Declined section 13 (4) (b) (v). |
| 6262 | Denial of liability | .. | .. | .. | Declined section 13 (4) (b) (v). |
| MITTAGONG SHIRE COUNCIL | | | | | |
| 3372A | Incorrect levying of rates on church land | .. | .. | .. | Not justified (4). |
| 3372B | Issue of rate notice to wrong person | .. | .. | .. | Justified (5). |
| 3372C | Unfair proposal to auction land for unpaid rates | .. | .. | .. | Justified (5). |
| 3372D | Refusal of development application | .. | .. | .. | Not justified (4). |
| 3884 | Increase in water connection fee | .. | .. | .. | Not justified (4). |
| 3962 | Failure to take action on noise nuisance | .. | .. | .. | Under investigation. |
| 6364 | Council's denial of liability for compensation on account of alteration to I.D.O. causing loss of business. | .. | .. | .. | Declined section 13 (4) (b) (v). |
| 6871 | Proposed rezoning of property | .. | .. | .. | Under investigation. |
| 7067 | Failure to prevent discharge from septic tank | .. | .. | .. | Under investigation. |

| No. | Complaint | Result |
|---------------------------------------|---|-------------------------------------|
| MONARO COUNTY COUNCIL | | |
| 5482 | Unfair increases in electricity tariffs | Declined section 13 (4) (b) (iii). |
| 6095 | Unfair cancellation of offer to provide electricity | Not justified (4). |
| MONARO SHIRE COUNCIL | | |
| 5650 | Unfair demolition order | No jurisdiction section 12 (1) (d). |
| MOSMAN MUNICIPAL COUNCIL | | |
| 3241 | Failure to accept liability | Not justified (4). |
| 3971 | Partial closure of street to traffic | Not justified (4). |
| 4322 | Refusal to erect "No Standing" sign | Justified (5). |
| 4342 | Alleged breach of contract | Under investigation. |
| 4404 | Failure to accept liability for damage | Justified (5). |
| 4439 | Noise nuisance from Town Hall | No jurisdiction section 12 (1) (d). |
| 4591 | Failure to take action to prevent nuisance from pigeons | Not justified (3). |
| 4865 | Failure to return public reserve contribution | Justified (6). |
| 5153 | Granting of approval for building extensions | Not justified (4). |
| 5469 | Failure to take action following removal of privet hedge | Declined section 13 (4) (a). |
| 5587 | Failure to take action on noise nuisance in residential area | Not justified (3). |
| 5763 | Failure to take action to prevent unauthorized use | Under investigation. |
| 5786 | Erection of public toilet | Not justified (4). |
| 5830 | Delay in finalizing building application | Not justified (3). |
| 5880 | Refusal to return security deposit | Discontinued. |
| 6010 | Delay in finalizing planning scheme | Not justified (4). |
| 6274 | Unfair removal of stone blocks from footpath | Not justified (3). |
| 6305 | Approval of development contrary to planning scheme ordinance and code. | Under investigation. |
| 7075 | Lease of Mosman Municipal Baths | Not justified (4). |
| MUDGEES SHIRE COUNCIL | | |
| 4247 | Destruction of trees | Under investigation. |
| 5417 | Issue of s. 5317A certificate conditional on survey | Not justified (4). |
| 5659 | Position of sewerage augmentation and pumping station | Not justified (4). |
| MULLUMBIMBY MUNICIPAL COUNCIL | | |
| 3113 | Failure to enforce fencing of parking lot | Not justified (3). |
| 6130 | Unfair stop order | Declined section 13 (5). |
| 6846 | Imposition of unfair charges for sewerage extension | Not justified (3). |
| MUMBULLA SHIRE COUNCIL | | |
| 6242 | Unfair instalments of rates | Justified (5). |
| 6735 | Incorrect position of road | Not justified (3). |
| MURRAY SHIRE COUNCIL | | |
| 3330 | Failure to levy special rates for fire fighting equipment | Not justified (4). |
| MURRUMBIDGEE COUNTY COUNCIL | | |
| 6210 | Denial of liability for cost of repairs | Discontinued. |
| 6226 | Unfair requirement to pay for repairs | Not justified (3). |
| 6227 | Denial of liability for cost of repairs to electrical equipment | Discontinued. |
| MURRURUNDI MUNICIPAL COUNCIL | | |
| 6774A | Increase in rates | Declined section 13 (4) (a). |
| 6774a | Proposed construction of hostel | Not justified (3). |
| MUSWELLBROOK MUNICIPAL COUNCIL | | |
| 6996 | Failure to take action re road encroachment | Under investigation. |
| NAMBUCCA SHIRE COUNCIL | | |
| 4400 | Issue of account for kerbing and guttering | Not justified (3). |
| 4494 | Condition of road | Under investigation. |
| 4514 | Failure to proceed with promised filling and development of reserve. | Not justified (3). |
| 4629 | Unfair conditions on building approval for holiday home | Not justified (4). |
| 5387 | Unfair issue of demolition order | Not justified (3). |
| 5524 | Refusal to meet deputation of objectors | Not justified (3). |
| 5533 | Failure to note objections to proposed developments | Not justified (3). |
| 5662 | Refusal to release plan of subdivision | Not justified (3). |
| 6498 | Failure to provide buffer reserve from industrial estate | Under investigation. |
| 6674 | Failure to refund rates rendered incorrectly | Justified (5). |
| 6784 | Imposition of charges for construction of guttering | Declined section 13 (4) (a). |
| NAMOI VALLEY COUNTY COUNCIL | | |
| 4397 | Excessive quotation for connection of electricity | Not justified (4). |
| NARRABRI MUNICIPAL COUNCIL | | |
| 4086 | Failure to allow reduction of rates under section 160c of Local Government Act. | Justified (5). |
| 6499 | Failure to give proper weight to objections to flat development. | Not justified (3). |
| 6558 | Failure to approve Interim Development Application | Under investigation. |

| No. | Complaint | Result |
|---|--|------------------------------|
| NARRANDERA SHIRE COUNCIL | | |
| 4689 | Unfair water account | Not justified (4). |
| NEWCASTLE CITY COUNCIL | | |
| 3718 | Issue of order concerning water supply | Not justified (4). |
| 4614 | Failure to give pensioner concessions to rate-payer | Not justified (4). |
| 4972 | Closure of street | Not justified (3). |
| 5287 | Issue of incorrect letter of advice | Not justified (4). |
| 5450 | Failure to provide adequate bus shelter | Not justified (4). |
| 5986 | Refusal to permit wider range of uses for property | Declined section 13 (4) (a). |
| 7023 | Increase in rates | Declined section 13 (4) (a). |
| 7242 | Requirement for licensing of vehicles | Under investigation. |
| NORTHERN RIVERINA COUNTY COUNCIL | | |
| 4317 | Sale of house to engineer | Not justified (4). |
| NORTHERN RIVERS COUNTY COUNCIL | | |
| 5255 | Unfair connection fees for electricity supply | Not justified (3). |
| 5284 | Failure to remove temporary connection | Justified (5). |
| NORTH SYDNEY MUNICIPAL COUNCIL | | |
| 3335 | Issue of parking infringement to incorrect owner | Justified (5). |
| 3559 | Building ratio placed on block | Not justified (3). |
| 4246 | Refusal to allow payment of rates by instalment | Not justified (3). |
| 4647 | Failure to properly consider objections to development | Not justified (3). |
| 4860 | Failure to reduce rate in line with reduced valuation | Declined section 13 (4) (a). |
| 5802 | Imposition of interest charges | Declined section 13 (4) (a). |
| 6169 | Failure to remove garbage without charge | Not justified (3). |
| 6453 | Threatened closure of driveway to home | Not justified (4). |
| 7207 | Failure to waive repayment of repair costs | Under investigation. |
| NORTH WEST COUNTY COUNCIL | | |
| 5468 | Unfair terms of rural customers agreement | Not justified (3). |
| NUNDLE SHIRE COUNCIL | | |
| 4478 | Unfair charge for electricity at Caravan Park | Not justified (3) |
| OBERON SHIRE COUNCIL | | |
| 5509 | Refusal to review charge for construction of footpath | Not justified (3). |
| ORANGE CITY COUNCIL | | |
| 4496 | Requirements of subdivision prior to formal application | Declined section 13 (5). |
| OXLEY COUNTY COUNCIL | | |
| 6148 | Unfair charge for power connection | Not justified (3). |
| PARKES MUNICIPAL COUNCIL | | |
| 6700 | Failure to take action to prevent keeping of fowls | Under investigation. |
| PARRAMATTA CITY COUNCIL | | |
| 4047 | Failure to enforce provisions of resolution | Not justified (4). |
| 4166 | Refusal to reconsider keeping a horse on adjacent property | Not justified (3). |
| 4453 | Unfair decision to proceed with sporting development | Not justified (3). |
| 4532 | Unfair issue of parking infringement notices | Not justified (3). |
| 4767 | Refusal to acquire land | Not justified (3). |
| 5110 | Issue of summons for non compliance with conditions of development | Not justified (4). |
| 5182 | Refusal of application for liquor store | Declined section 13 (5). |
| 5239 | Failure to seal and kerb road | Not justified (3). |
| 5381 | Refusal to close street to through traffic | Not justified (4). |
| 5493 | Refusal to refund overpaid garbage charges prior to 1975 | Not justified (3). |
| 5549 | Failure to tender council rates | Justified (5). |
| 5717 | Delay in acquisition of property for car park | Not justified (3). |
| 5775 | Delay in acquisition of property | Under investigation. |
| 5807 | Failure to properly consider objections | Not justified (4). |
| 6340 | Unfair noise control notice | Not justified (3). |
| 6342 | Failure to reply to correspondence | Not justified (4). |
| 6351 | Failure to keep creek clear of debris | Not justified (3). |
| 6561 | Unfair parking infringement notice | Declined section 13 (4) (a). |
| 6564 | Loss of privacy through approval to adjacent extensions | Not justified (3). |
| 6680 | Unfair interest charge on rates | Under investigation. |
| 7291 | Failure to allow use of building for flats | Declined section 13 (4) (a). |
| PEEL-CUNNINGHAM COUNTY COUNCIL | | |
| 7261 | Supply of power | Under investigation. |

| No. | Complaint | Result |
|---|---|---|
| PENRITH CITY COUNCIL | | |
| 2915 | Digging of trench without permission | Under investigation. |
| 3683 | Failure to prevent erosion of creek banks | Not justified (4). |
| 3716 | Failure to take action to prevent flooding of properties | Not justified (4). |
| 3817 | Failure to rectify erosion at rear of property | Not justified (4). |
| 3952 | Odour from sewerage pumping station | Justified (5). |
| 4405 | Failure to enforce conditions of use | Not justified (3). |
| 4509 | Charging of interest on rate payment | Justified (5). |
| 4631 | Imposition of additional conditions for kindergarten | Not justified (3). |
| 5151 | Failure to grant exemption from rates | Declined section 13 (5). |
| 5165 | Delay in advising council of decision to acquire property | Not justified (3). |
| 5834 | Unfair interest charge | Under investigation. |
| 6966 | Proposed extension of quarrying operations | Under investigation. |
| 7088 | Constructions of kerbing and guttering | Under investigation. |
| 7152A | Failure to answer correspondence | Under investigation. |
| 7152B | Failure to act to prevent nuisance | Under investigation. |
| PORT MACQUARIE MUNICIPAL COUNCIL | | |
| 3238 | Dedication of open space land free of charge | Not justified (4). |
| 3700 | Excess water account | Withdrawn (2). |
| 5828 | Failure to ensure garbage collection at reasonable hour | Not justified (4). |
| 5940 | Unfair conduct re employee | No jurisdiction section 12 (1) (a), 12 (b). |
| 6302 | Unfair excess water charge | Declined section 13 (4) (a). |
| 6312 | Refusal to permit erection of greenhouse | Under investigation. |
| 6477 | Unfair refusal of development application | Declined section 13 (4) (a). |
| 6882A | Failure to maintain road and alleviate drainage problem | Under investigation. |
| 6882B | Failure to stop removal of sand | Under investigation. |
| 6882C | Failure to maintain retaining wall | Under investigation. |
| PORT STEPHENS SHIRE COUNCIL | | |
| 4318 | Failure to take action to prevent flooding | Declined section 13 (4) (b) (v) |
| 4330 | Decision to establish general store at Caravan Park | Not justified (3). |
| 4341 | Unfair conditions attached to development consent and discriminatory conduct. | Not justified (3). |
| 5181 | Unfair development fees | Not justified (3). |
| 5461 | Possibility of closure and sale of unmade road | Declined section 13 (4) (a). |
| 6536 | Unfair offer to acquire land | Under investigation. |
| 6639 | Unfair increase in garbage rate | Declined section 13 (4) (a). |
| 7224 | Failure to take action to prevent property damage | Under investigation. |
| PROSPECT COUNTY COUNCIL | | |
| 3906 | Proposed registration of easements over properties | Not justified (3). |
| 4960 | Acquisition of easement for power | Not justified (3). |
| 5028 | Charging of deposits | Not justified (3). |
| 5501 | Unfair electricity account | Not justified (3). |
| 6695 | Delay in commencement of underground reticulation of electricity. | Not justified (3). |
| 7176 | Electricity account | Under investigation. |
| 7206 | Proposed resumption of easement | Under investigation. |
| QUEANBEYAN CITY COUNCIL | | |
| 4060 | Refusal to allow payment of rates by instalments | Not justified (3). |
| 6617 | Unfair resumption of land | Declined section 13 (4) (a). |
| 6659 | Requirement to pipe drainage easement | No jurisdiction section 12 (1) (d). |
| 7076 | Failure to waive interest charges | Under investigation. |
| RANDWICK MUNICIPAL COUNCIL | | |
| 2126A | Insufficient drainage | Under investigation. |
| 3314 | Failure to meet costs for damage caused by council work | Discontinued. |
| 3733 | Failure to answer correspondence | Justified (5). |
| 3975 | Requirement to remove lantana from land. | Not justified (3). |
| 4197 | Failure to take action to abate noise nuisance | Not justified (3). |
| 4604 | Refusal to construct unmade road and grant permission to construct ramp | Not justified (4). |
| 4856 | Decision not to provide a tray gutter | Not justified (3). |
| 4883 | Demolition of historic home | Under investigation. |
| 5107 | Approval of building extensions to adjoining property | Not justified (3). |
| 5429 | Use of premises in residential area for fuel storage | Not justified (4). |
| 5502 | Denial of liability | Not justified (3). |
| 6312 | Failure to abate noise nuisance from kennels | Not justified (3). |
| 6544 | Approval of an illegal structure | Under investigation. |
| 6557 | Failure to rectify inadequate stormwater drainage | Not justified (3). |
| 6679 | Alleged unfair order to remove hens | Under investigation. |
| 6691 | Denial of liability | Under investigation. |
| 7077 | Failure to control noise nuisance | Under investigation. |
| RICHMOND RIVER SHIRE COUNCIL | | |
| 6900 | Failure to maintain access road | Under investigation. |
| 7026 | Failure to allow construction of motor bypass and public gate. | Under investigation. |
| ROCKDALE MUNICIPAL COUNCIL | | |
| 4572 | Refusal to allow tree-topping | Not justified (3). |
| 5201 | Unfair imposition of rates | Not justified (3). |
| 5404 | Dangerous condition of public boat ramp | Declined Section 13 (4) (a). |
| 5725 | Unfair rejection of use of premises by proposed lessee | Not justified (3). |

| No. | Complaint | Result |
|--|---|-----------------------------------|
| ROCKDALE MUNICIPAL COUNCIL—continued. | | |
| 5783 | Refusal to allow retailing of box trailers | Declined section 13 (5). |
| 6005 | Failure to abate noise nuisance | Under investigation. |
| 6284 | Failure to abate nuisance from barking dogs | Declined section 13 (4) (a). |
| 6365 | Alleged discriminatory refusal to permit retail use | Declined section 13 (5). |
| 7258 | Failure to prevent parking | Declined Section 13 (4) (a). |
| 7266 | Failure to take action re drainage | Under investigation. |
| RYDE MUNICIPAL COUNCIL | | |
| 3985 | Re-numbering of lot numbers in street | Not justified (3). |
| 4857 | Failure to take action on work on neighbouring property | Under investigation. |
| 5168 | Refusal to re-surface street | Not justified (3). |
| 5432 | Unfair charge for kerbing and guttering | Not justified (3). |
| 5700 | Granting of permission to conduct entertainment | Not justified (4). |
| 5712 | Failure to accept liability for damage to pipes and to maintain road. | Discontinued. |
| 6236 | Failure to control hours of work of contractor | Declined section 13 (4) (a). |
| 6347 | Denial of liability | Under investigation. |
| 6439 | Failure to properly develop area | Not justified (3). |
| 6479 | Failure to pipe watercourse | Not justified (3). |
| 6603 | Failure to ensure demolition of unauthorised building | Under investigation. |
| 6776 | Refusal to allow grass skiing on park | Under investigation. |
| 7029 | Proposed removal of trees | Under investigation. |
| 7212 | Delay in replying to correspondence re damages claim | Under investigation. |
| RYLSTONE SHIRE COUNCIL | | |
| 4176 | Alleged victimisation by Council | Discontinued. |
| 5055 | Rating of property | Justified (5). |
| 5132 | Failure to seal portion of roadway | Not justified (3). |
| ST. GEORGE COUNTY COUNCIL | | |
| 4595 | Erection of kiosk sub-station outside home | Not justified (3). |
| 5608 | Location of electricity pillar | Not justified (3). |
| 7021 | Delay in replying to correspondence re damage to property | Under investigation. |
| SCONE SHIRE COUNCIL | | |
| 7045 | Failure to reply to correspondence regarding rates | Under investigation. |
| SHELLHARBOUR MUNICIPAL COUNCIL | | |
| 4100 | Imposition of garbage rate after cancellation of service | Not justified (3). |
| 4484 | Unfair charges for clearing land and threat of legal proceedings. | Declined section 13 (4) (a). |
| 4515 | Erection of boat shed | Not justified (4). |
| 5037 | Failure to issue certificate of compliance | Not justified (3). |
| 6469 | Unfair sewerage loan rates | Not justified (4). |
| SHOALHAVEN SHIRE COUNCIL | | |
| 3463 | Zoning of property | Under investigation. |
| 4370 | Drainage arrangements for proposed subdivision | Not justified (4). |
| 4864 | Failure to accept liability for damage | No jurisdiction Sect. 12 (1) (d). |
| 5221 | Conduct of Health Surveyor | Declined section 13 (4) (a). |
| 5418 | Unfair rental for factory premises | Not justified (4). |
| 5591 | Refusal to allow parking of moveable dwellings on land | Declined section 13 (5). |
| 5735 | Proposed caravan park | Not justified (3). |
| 5736 | Refusal to give pensioner rebate | Declined section 13 (4) (a). |
| 5765 | Unfair account for clearing fire hazard | Not justified (3). |
| 5903 | Insufficient time given for objections | Justified (5). |
| 6023 | Refusal to allow inspection of documents | Under investigation. |
| 6034 | Failure to properly inspect septic system on installation | Declined section 13 (4) (a). |
| 6075 | Access road to garbage tip | Declined section 13 (4) (a). |
| 6234 | Failure to remove bushfire hazard and reply to correspondence. | Withdrawn (1). |
| 6401 | Failure to advertise flat development application | Under investigation. |
| 6508 | Failure to render rate notice | Not justified (4). |
| 6594 | Failure to direct contractor not to park effluent tanker in residential area. | Under investigation. |
| 6765 | Unfair conditions of subdivision approval | Declined section 13 (5). |
| 6791 | Failure to properly consider objections | Not justified (3). |
| 6923 | Proposed erection of unit buildings | Not justified (3). |
| 6955 | Failure to construct kerbing and guttering | Not justified (3). |
| 7042 | Proposed erection of residential flat buildings | Not justified (3). |
| 7303 | Incorrect rating of land | Under investigation. |
| 7304 | Failure to prevent unauthorised use of premises | Under investigation. |
| SINGLETON SHIRE COUNCIL | | |
| 4795 | Display of objectionable book in library | Not justified (3). |
| 5010 | Delay in completion of road works | Not justified (4). |
| SHORTLAND COUNTY COUNCIL | | |
| 4241 | Various difficulties concerning electricity supply | Not justified (4). |
| 4658 | Destruction of trees and bush when power installed | Not justified (4). |
| 5811 | Erection of power poles affecting amenity | Not justified (4). |
| 6146 | Failure to reinstate property | Declined section 13 (4) (a). |

| No. | Complaint | Result |
|---|---|-------------------------------------|
| SNOWY RIVER SHIRE COUNCIL | | |
| 5618 | Unfair valuation | No jurisdiction Section 12 (1) (d). |
| 5661 | Unfair rates | Not justified (3). |
| SOUTHERN RIVERINA COUNTY COUNCIL | | |
| 5787 | Charge for temporary connection | Not justified (3). |
| SOUTH SYDNEY MUNICIPAL COUNCIL | | |
| 3458 | Failure to control prohibited vehicles using street | Not justified (4). |
| 3472 | Failure to prevent unauthorised use of street | Not justified (4). |
| 4445 | Unfair demolition order of brick fence | Declined section 13 (5). |
| 4518 | Issue of demolition order | Not justified (4). |
| 4735 | Failure to take action on nuisance from adjacent public reserve. | Not justified (4). |
| 4875 | Refusal to allow light industrial use | Not justified (4). |
| 5123 | Failure to grant approval for use of factory premises | Not justified (3). |
| 5370 | Order to demolish front wall | Not justified (4). |
| 5553 | Unfair notice to demolish | Not justified (3). |
| 6501 | Failure to clear choked sewerage pipes | Not justified (4). |
| 6883 | Failure to enforce court orders | Under investigation. |
| 6921 | Failure to provide meal | Withdrawn (2). |
| 7317 | Failure to approve building application | Under investigation. |
| 7329 | Failure to keep gully clear of debris | Under investigation. |
| SOUTHERN TABLELANDS COUNTY COUNCIL | | |
| 6419 | Unfair charge for electricity connection | Not justified (4). |
| STRATHFIELD MUNICIPAL COUNCIL | | |
| 3858 | Failure to use reduced land value for rating purposes | Not justified (3). |
| 4970 | Proposed oil pipeline route through residential area | Under investigation. |
| 5265 | Failure to take action on cat nuisance | Not justified (4). |
| 6413 | Increase in rates | Declined section 13 (4) (a). |
| SUTHERLAND SHIRE COUNCIL | | |
| 2854 | Failure to correct drainage problem | Not justified (4). |
| 2950 | Failure to control dogs in area | Not justified (3). |
| 3237 | Imposition of charges for interest on overdue rates | Not justified (3). |
| 3545 | Failure to prevent erection of television antenna | Not justified (4). |
| 3628 | Refusal to allow keeping of goats at premises | Not justified (3). |
| 3653 | Failure to provide proper drainage | Under investigation. |
| 3731 | Failure to answer correspondence | Justified (5). |
| 3741 | Failure to accept liability for flood damage | Justified (5). |
| 3752 | Imposition of garbage rate when no service provided | Not justified (3). |
| 3775 | Failure to remove boat ramp | Not justified (4). |
| 3776 | Failure to remove boat ramp | Not justified (4). |
| 3777 | Failure to remove boat ramp | Not justified (4). |
| 3983 | Failure to take action to prohibit unauthorised industrial use in residential zone. | Discontinued. |
| 4212 | Failure to remove boat ramp | Not justified (4). |
| 4213 | Failure to remove boat ramp | Not justified (4). |
| 4221 | Failure to remove boat ramp | Not justified (4). |
| 4233 | Failure to take action to prevent sand drifts on public road | Under investigation. |
| 4399 | Failure to reply to correspondence | Justified (5). |
| 4444 | Refusal to permit privacy screen wall on property | Declined section 13 (5). |
| 4531 | Refusal of approval in principle to erection of cabana and pool. | Declined section 13 (5). |
| 4571 | Excessive cost of access | Not justified (4). |
| 4637 | Failure to rectify stormwater drainage from road | Not justified (4). |
| 4673 | Failure to amend rate following reduction in valuation | Not justified (3). |
| 4799 | Noise in constructing adjoining building | Not justified (4). |
| 4813 | Delay in offer of compensation for resumed land | Not justified (3). |
| 4863 | Extension of Sunday markets | Withdrawn (1). |
| 4910 | Refusal to contribute to cost of fence adjoining public reserve. | Declined section 13 (4) (a). |
| 4923 | Refusal to allow subdivisions within area | Declined section 13 (5). |
| 4934 | Failure to ensure effluent not flowing in drainage easement | Not justified (4). |
| 4964 | Delay in approval of building plan | Not justified (3). |
| 4994 | Denial of liability for repairs | Under investigation. |
| 5169 | Failure to take action to prevent noise nuisance | Under investigation. |
| 5419 | Failure to pipe drainage easement | Not justified (4). |
| 5576 | Failure to restore property | Under investigation. |
| 5603 | Delay in restoring footpath | Justified (5). |
| 5633 | Failure to provide vehicle access | Not justified (3). |
| 5635 | Failure to pipe drainage easement | Under investigation. |
| 5689 | Failure to abate noise nuisance | Not justified (3). |
| 5738 | Delay in building approval | Not justified (3). |
| 5835 | Unreasonable requirement of set back for fence | Not justified (3). |
| 5965 | Refusal to allow use of premises as flat | Not justified (3). |
| 6018 | Unfair order to remove fill from park | Justified (5). |
| 6042 | Failure to restore road levels | Under investigation. |
| 6074 | Failure to control drainage | Declined section 13 (4) (a). |
| 6206 | Delay in decision on building application | Declined section 13 (5). |
| 6317 | Unfair interest charge on rates | Not justified (3). |
| 6374A | Failure to answer correspondence | Not justified (3). |
| 6374B | Failure to ensure demolition of old Bowling Club building | Not justified (3). |
| 6853 | Erection of high fence at rear of property | Not justified (3). |
| 6958 | Failure to remove loose metal from road | Not justified (3). |
| 7245 | Failure to order removal of alleged illegal structure | Under investigation. |

| No. | Complaint | Result |
|---------------------------------|--|------------------------------|
| SYDNEY CITY COUNCIL | | |
| 3331A | Charging of interest on late payment of rates | Not justified (4). |
| 3331B | Failure to review circumstances of persons seeking relief under S. 158A of Local Government Act. | Justified (5). |
| 4119 | Deprivation of access way | Not justified (3). |
| 4151 | Failure to order owner to control drainage | Not justified (3). |
| 4178 | Refusal to allow payment of rates by instalments | Not justified (3). |
| 4215 | Issue of notice to cease use | Declined section 13 (5). |
| 4573 | Requirement of proof of identity and address | Not justified (3). |
| 4602 | Incorrect calculation of rates | Not justified (3). |
| 4632 | Failure to take action against take-away food bar | Not justified (4). |
| 5249 | Failure to take action to abate nuisance | Under investigation. |
| 5294 | Failure to provide ramps at public baths | Not justified (4). |
| 5475 | Request for submission of development application | Withdrawn (1). |
| 5480 | Request for payment of interest on overdue rates | Not justified (3). |
| 5873 | Refusal to allow erection of rails on balconies | Declined section 13 (5). |
| 5893 | Delay in development approval | Withdrawn (2). |
| 5944 | Failure to take action to abate noise nuisance | Not justified (3). |
| 5994 | Unfair increase in rates | Declined section 13 (4) (a). |
| 6101 | Excessive rates | Declined section 13 (4) (a). |
| 6126 | Failure to maintain road | Not justified (4). |
| 6153 | Unfair issue of summons alleging illegal use of premises | Not justified (3). |
| 6239 | Unfair consideration of development application | Not justified (4). |
| 6504 | Failure to take action on noise nuisance | Under investigation. |
| SYDNEY COUNTY COUNCIL | | |
| 3056 | Failure to accept bank deposit as security deposit | Not justified (4). |
| 3435 | Excessive Bill | Not justified (3). |
| 4074 | Failure to approve dishwasher as qualifying for lower tariff | Not justified (3). |
| 4198 | Failure to adjust incorrect account | Not justified (3). |
| 4335 | Unfair imposition of charge for covering street electricity wires. | Not justified (3). |
| 4369 | Excessive charge for cable repairs | Not justified (3). |
| 4402 | Excessive electricity bill | Not justified (4). |
| 4693 | Threatened resumption of land | Not justified (4). |
| 4798 | Imposition of commercial rates for electricity | Justified (5). |
| 4843 | Electricity levied at commercial not domestic rate | Not justified (3). |
| 4867 | Request to leave premises unlocked | Not justified (4). |
| 4938 | Failure to allow credit for work carried out under guarantee | Not justified (3). |
| 4996 | Failure to reply to correspondence | Withdrawn (2). |
| 5039 | Imposition of charges for electricity connection | Justified (5). |
| 5063 | Payment imposed for relocation of pole | Not justified (3). |
| 5262 | Disconnection of electricity | Not justified (4). |
| 5367 | Unfair disconnection of electricity | Not justified (4). |
| 5446 | Unfair disconnection of power and charges thereafter | Not justified (3). |
| 5492 | Failure to refund amount paid in error | Not justified (3). |
| 5800 | Excess electricity account | Declined section 13 (4) (b). |
| 6375 | Failure of technicians to give dated written maintenance instructions. | Not justified (3). |
| 6486 | Failure to give rebate | Not justified (3). |
| 6576 | Unfair refusal to waive requirement of notice before action | Not justified (3). |
| 6845 | Failure to reply to correspondence | Under investigation. |
| 7144 | Failure to repair street lighting | Not justified (3). |
| 7275 | Retention of part of contract payment | Under investigation. |
| TALBRAGAR SHIRE COUNCIL | | |
| 6579 | Failure to proceed with supply of water to Wongarbow | Not justified (4). |
| TALLAGANDA SHIRE COUNCIL | | |
| 5296 | Failure to re-locate fencing following dedication of new road | Not justified (4). |
| TAMARANG SHIRE COUNCIL | | |
| 5129 | Failure to prevent illegal use of public road | Not justified (3). |
| TAMWORTH CITY COUNCIL | | |
| 4635A | Objection to open space zoning | Not justified (4). |
| 4635B | Intention to lay sewer main through property | Not justified (4). |
| 5069 | Proposed charges for effluent removal | Not justified (4). |
| 5070 | Proposed charges for effluent removal | Not justified (4). |
| 5071 | Proposed charges for effluent removal | Not justified (4). |
| 5072 | Proposed charges for effluent removal | Not justified (4). |
| 5073 | Proposed charges for effluent removal | Not justified (4). |
| 5074 | Proposed charges for effluent removal | Not justified (4). |
| 5075 | Proposed charges for effluent removal | Not justified (4). |
| 5076 | Proposed charges for effluent removal | Not justified (4). |
| 5077 | Proposed charges for effluent removal | Not justified (4). |
| 5078 | Proposed charges for effluent removal | Not justified (4). |
| 5079 | Proposed charges for effluent removal | Not justified (4). |
| 5743 | Refusal to allow removal of cottage to new site | Declined section 13 (5). |
| 6685 | Failure to waive interest on rates | Declined section 13 (4) (a). |
| TAREE MUNICIPAL COUNCIL | | |
| 4985 | Loss of access | Under investigation. |
| TEMORA MUNICIPAL COUNCIL | | |
| 6385 | Failure to abate dust nuisance | Not justified (3). |

| No. | Complaint | Result |
|--------------------------------------|---|------------------------------|
| TENTERFIELD SHIRE COUNCIL. | | |
| 5279 | Imposition of local sewerage rate | Declined section 13 (4) (a). |
| 5552 | Unfair charges for kerbing and guttering | Under investigation. |
| 5616 | Failure to maintain public road | Not justified (3). |
| TUMUT RIVER COUNTY COUNCIL. | | |
| 6730 | Excessive electricity charge | Under investigation. |
| TUMUT SHIRE COUNCIL. | | |
| 4524 (a) | Failure to control noise from squash courts | Under investigation. |
| (b) | Failure to keep informed on objections to proposed interim development. | Under investigation. |
| 4628 | Unfair requirements on subdivision relating to correction of alignment of road. | Not justified (3). |
| 5027 | Imposition of extra charges by council | Under investigation. |
| TWEED SHIRE COUNCIL. | | |
| 4057 | Failure to take account of residents objections to unit development. | Not justified (4). |
| 4303 | Proposed holiday village development | Not justified (4). |
| 4384 | Failure to take action to rectify nuisance | Not justified (3). |
| 4420 | Failure to advertise proposed change of zoning from industrial to residential. | Not justified (4). |
| 4502 | Proposed re-zoning of area | Not justified (4). |
| 5135 | Non provision of access road | Not justified (3). |
| 5386 | Failure to take action to abate noise nuisance | Withdrawn (2). |
| 5388 | Failure to replace council seats on footpath | Declined section 13 (4) (a). |
| 5411 | Threat of legal action if charge for footpath not paid | Not justified (3). |
| 5462 | Alteration to zoning | Declined section 13 (4) (a). |
| 6165 | Discriminatory water connection fee | Not justified (4). |
| 6386 | Unfair increase in rates | Declined section 13 (4) (a). |
| 7062 | Failure to provide access road to property | Under investigation. |
| 7246 | Increase in charge for water meter | Under investigation. |
| ULAN COUNTY COUNCIL. | | |
| 5523 | Discriminatory refusal to reclassify rural consumers | Not justified (3). |
| 6253 | Unfair charges for connection of electricity | Discontinued. |
| ULMARRA SHIRE COUNCIL. | | |
| 6250 | Failure to take action to abate noise nuisance | Under investigation. |
| 7229 | Sale of house to shire clerk | Under investigation. |
| UPPER HUNTER COUNTY COUNCIL. | | |
| 3927 | Proposed schedule of rates and charges for electricity | Not justified (4). |
| 4038 | Alleged overcharge on repair to washing machine | Not justified (4). |
| URALLA SHIRE COUNCIL. | | |
| 4032 | Demand for payment of cost of connection of water and sewer. | Discontinued. |
| 5454 | Unfair interest charge on rates | Not justified (3). |
| 6997 | Failure to waive interest on 1976 rates | Under investigation. |
| WAGGA WAGGA CITY COUNCIL. | | |
| 3311 | Failure to grant extension of time to appeal | Under investigation. |
| 4876 | Failure to purchase property in flood plain | Not justified (4). |
| 6743 | Failure to allow development of block | Declined section 13 (4) (a). |
| 6783 | Imposition of incorrect conditions on sub-division proposal | Declined section 13 (5). |
| WALCHA SHIRE COUNCIL. | | |
| 6283 | Failure to include fencing costs in compensation for road resumption. | Under investigation. |
| WALGETT SHIRE COUNCIL. | | |
| 5379 | Incorrect accusation of failure to vote when ineligible | Not justified (3). |
| 5412 | Claim that election invalid because elections taken from valuation roll. | Not justified (3). |
| 5428 | Complaint about Local Government electoral roll and voting procedures. | Not justified (3). |
| 5686 | Failure to grant temporary sewer connection and prosecution. | Not justified (3). |
| WILLOUGHBY MUNICIPAL COUNCIL. | | |
| 3802 | Failure to take action to enforce conditions of consent | Not justified (4). |
| 4302 | Unfair imposition of extra rate charges | Not justified (3). |
| 4619 | Consent to erection of adjacent building interfering with privacy and delay in approval of screen wall. | Not justified (3). |
| 4725 | Unreasonable conditions of approval to building application | Declined section 13 (5). |
| 4746 | Delay in replying to correspondence | Justified (5). |
| 4837 | Change in use of street | Not justified (3). |
| 4975 | Incorrect rate charges | Not justified (3). |
| 5174 | Failure to take action to prevent noise nuisance | Not justified (4). |

| No. | Complaint | Result |
|----------------------------------|---|-------------------------------------|
| 5368 | Removal of trees to widen street | Not justified (3). |
| 5716 | Failure to order removal of brick wall from drainage easement. | Under investigation. |
| 5718 | Failure to reply to correspondence | Declined section 13 (4) (a). |
| 6251 | Failure to carry out drainage work | Not justified (3). |
| 6625 | Failure to withdraw caveat | Under investigation. |
| 6724 | Unfair issue of notice | Declined section 13 (5). |
| 7004 | Failure to control noise | Justified (5). |
| WINDSOR MUNICIPAL COUNCIL | | |
| 5389 | Refusal to grant rural rate | Declined section 13 (5). |
| 5979 | Unfair increase in rates | Declined section 13 (4) (a). |
| 5996 | Unfair increase in rates | Declined section 13 (4) (a). |
| 6396 | Unfair increase in rates | Declined section 13 (4) (a). |
| 6667 | Failure to reply to correspondence | Withdrawn (1). |
| WARRINGAH SHIRE COUNCIL | | |
| 3057 | Failure to allow the completion of flats | No jurisdiction section 12 (1) (d). |
| 3383 | Rendering of incorrect effluent accounts | Not justified (4). |
| 3578 | Failure to maintain drain | Justified (5). |
| 3603 | Failure to control operations of business | Not justified (3). |
| 3659 | Failure to carry out repairs to driveway | Justified (5). |
| 3905 | Failure to meet part payment of costs of drainage .. | Not justified (4). |
| 3955 | Requirement imposed as condition for strata conversion approval. | Discontinued. |
| 4168 | Refusal to construct turning area for proposed school bus service. | Not justified (3). |
| 4220 | Institution of proceedings to cease use of premises .. | Not justified (3). |
| 4277 | Failure to waive charges for clearing of land | No jurisdiction section 12 (1) (d). |
| 4331 | Issue of notice requiring rate payments in full | Not justified (3). |
| 4351A | Failure to rectify stormwater overflow from drainage pipes.. | Not justified (3). |
| 4351B | Failure to reply to correspondence | Not justified (3). |
| 4390 | Failure to take action to alleviate drainage problems .. | Not justified (3). |
| 4395 | Failure to meet legal costs | Under investigation. |
| 4410 | Failure to take action to prevent unauthorised development | Under investigation. |
| 4449 | Approval of erection of dwelling blocking light and views .. | Not justified (4). |
| 4452 | Removal of soil by council from nature strip property and demand for removal costs. | Not justified (4). |
| 4475 | Failure to take action to prevent retaining wall damaging dividing fence. | Not justified (3). |
| 4483 | Failure to rectify stormwater drain overflow | Not justified (4). |
| 4495 | Denial of liability | Not justified (4). |
| 4498 | Siting of swimming pool on adjoining property | Under investigation. |
| 4503 | Charging of interest on overdue rates | Not justified (4). |
| 4504 | Failure to restore blocks to original condition following roadworks. | Under investigation. |
| 4516 | Delay in replying to correspondence and unauthorised notation on zoning certificate. | Justified (5). |
| 4541 | Misleading advice re: Bats freeze leading to damage .. | No jurisdiction section 12 (1) (d). |
| 4548 | Failure to correct access | Not justified (3). |
| 4560 | Decision to support purchase of property for Police Station | Not justified (3). |
| 4588 | Refusal of suspension action and delay in rezoning | Not justified (4). |
| 4859 | Unfair increase of camping site rent | Not justified (3). |
| 4935 | Failure to control lantana on reserve | Justified (5). |
| 4937 | Failure to take action to abate noise nuisance | Not justified (3). |
| 4965 | Failure to restore access | Not justified (3). |
| 5032 | Charging of interest on overdue rates | Not justified (3). |
| 5130 | Failure to confer on drainage easement as directed by Judge | Not justified (3). |
| 5146 | Increase in caravan and camping site fees | Not justified (3). |
| 5225 | Damage to property by council and request for easement .. | Under investigation. |
| 5332 | Failure to refund full fees on building application | Declined section 13 (4) (a). |
| 5337 | Delay in taking action to stop illegal use of land | Not justified (4). |
| 5364 | Failure to take action to prevent use of Tennis Courts .. | Not justified (4). |
| 5390 | Grant of lease of public park to private club | Not justified (3). |
| 5402 | Refusal to seal road | Under investigation. |
| 5425 | Deferring of development application | Declined section 13 (5). |
| 5440 | Denial of liability | Discontinued. |
| 5604 | Delay in removal of obstruction from footpath | Not justified (3). |
| 5606 | Irregularities in council election | Justified (6). |
| 5639 | Failure to order removal of horses from adjoining property | Justified (8). |
| 5769 | Sand mining activities on public reserve | Under investigation. |
| 5841 | Failure to require proper disposal of stormwater drainage onto property. | Declined section 13 (4) (a). |
| 5980 | Failure to allow development of land | Declined section 13 (4) (a). |
| 6022 | Imposition of penalty for littering | Not justified (3). |
| 6185 | Change in level of road causing defective access | Not justified (3). |
| 6254 | Refusal to agree to seek Ministers consent to vary minimum area for country dwelling. | Under investigation. |
| 6289 | Unfair decision to allow voluntary kiosk to operate | Not justified (3). |
| 6301 | Failure to take action on breaches of building consent. .. | Not justified (3). |
| 6322 | Removal of sand through public reserve | Under investigation. |
| 6341 | Failure to insist on erection of retaining wall | Under investigation. |
| 6384 | Unfair offer to acquire land | Declined section 13 (4) (a). |
| 6422 | Refusal to allow building to proceed | Not justified (3). |
| 6434 | Unfair conditions imposed on building application | Declined section 13 (5). |
| 6462 | Failure to prevent illegal use of premises in residential area.. | Justified (5). |
| 6523 | Refusal of industrial use of property | Declined section 13 (5). |
| 6542 | Defective access to property | No jurisdiction section 12 (1) (d). |
| 6593 | Failure to prevent commercial use in residential area .. | Under investigation. |
| 6595 | Delay in replying to correspondence | Not justified (4). |

| No. | Complaint | Result |
|------------------------------------|---|-------------------------------------|
| 6697 | Failure to enforce council policy on keeping of horses | Under investigation. |
| 6725 | Failure to properly assess Development Application | Not justified (3). |
| 6812 | Refusal to refund parking contribution | Not justified (3). |
| 6896 | Failure to carry out repairs | Under investigation. |
| 7069 | Granting of approval to development application | Under investigation. |
| 7102 | Failure to allow payment of rates by instalments | Not justified (3). |
| 7302 | Failure to allow pensioner rebate | Under investigation. |
| WAVERLEY MUNICIPAL COUNCIL | | |
| 3438 | Failure to take action to abate drainage problem | Not justified (3). |
| 4769 | Incorrect information re location of impounded dogs | Declined section 13 (4) (a). |
| 5503 | Unfair interest charge | Not justified (3). |
| 6191 | Unfair rate increase | Declined section 13 (4) (a). |
| 6809 | Incorrect details on section 160 certificate | Not justified (3). |
| 6820 | Conditions imposed on use of garages | Not justified (4). |
| 6965 (a) | Failure to take objections into consideration | Under investigation. |
| (b) | Granting of drainage easement | Under investigation. |
| 6999 | Proposed establishment of Day Care Centre for the aged | Withdrawn (2) |
| 7019 | Granting of application to conduct Day Care Centre | Withdrawn (1). |
| 7228 | Approval of building application by building inspector | Under investigation. |
| WINGECARRIBEE SHIRE COUNCIL | | |
| 4469 | Alleged incorrect rating of land | Not justified (3). |
| 4491 | Threat of legal action | Justified (5). |
| 5026 | Proposed resumption of part property | Not justified (4). |
| 5395 | Levying of rates after lease surrendered | Not justified (4). |
| 6447 | Threat of legal proceedings for kerbing and guttering charges | Not justified (3). |
| 6742 | Refusal to allow road closure | Not justified (3). |
| 6864 | Failure to allow rural rate concession | Declined section 13 (5). |
| WOLLONDILLY SHIRE COUNCIL | | |
| 5862 | Delay in effecting varying scheme | Under investigation. |
| 6294 | Refusal to permit transfer of development approval | Justified (6). |
| 6585 | Failure to properly consider objections to proposed development of private airport. | Not justified (3). |
| 6750 | Failure to ensure public road being kept open | Under investigation. |
| 6982 | Proposed water supply scheme | Declined section 13 (4) (a). |
| WOLLONGONG CITY COUNCIL | | |
| 4594 | Failure to abate noise nuisance | Withdrawn (2). |
| 4620 | Increase in charge for effluent removal | Not justified (4). |
| 4791 | Failure to restore vehicular access | Not justified (3). |
| 4977 | Erection of brick wall without notice from Council | Not justified (3). |
| 5363 | Refusal of building application because of change of zoning | No jurisdiction section 12 (1) (d). |
| 6192 | Failure to prevent use of Council Depot by trail bikes | Not justified (3). |
| 6952 | Failure to take appropriate action re garage adjoining property. | Under investigation. |
| WOOLLAHRA MUNICIPAL COUNCIL | | |
| 3337 | Failure to clean street | Under investigation. |
| 3794 | Failure to take action in respect of parked vehicles | Not justified (3). |
| 4128 | Failure to police commercial delivery vehicles causing damage to property. | Not justified (3). |
| 4434 | Failure to supervise development of land | Not justified (4). |
| 4460 | Failure to supervise development of land | Not justified (4). |
| 4463 | Alleged improper conduct of Council on building application | Not justified (4). |
| 4511 | Delay in amended building application | Not justified (3). |
| 4646 | Failure to implement residents priority parking | Not justified (4). |
| 4846 | Failure to take action to have trees lopped | Not justified (3). |
| 4887 | Refusal to allow flower stall | Not justified (3). |
| 4908 | Imposition of aesthetic requirements on building application | Withdrawn (1). |
| 5172 | Denial of liability | Not justified (4). |
| 5278 | Failure to replace bus shelter shed | Not justified (3). |
| 5312 | Denial of liability | Not justified (4). |
| 6026 | Failure to credit account with overpayment | Not justified (3). |
| 6073 | Failure to prevent parking in right of way | Under investigation. |
| 6171 | Failure to take action to destroy cockroaches | Withdrawn (1). |
| 6511 | Unfair increase in rates | Declined section 13 (4) (a). |
| 6530 | Unfair interest charges | Not justified (3). |
| 6910 | Issue of incorrect certificate | Not justified (3). |
| WYONG SHIRE COUNCIL | | |
| 3870 | Refusal to allow access through reserve to boat storage area | Not justified (4). |
| 4362 | Charges for paving of footpath | Not justified (3). |
| 4462 | Refusal to allow rebate on sanitary fees paid | Justified (5). |
| 4682 | Positioning of sewerage line affecting building on land | Justified (5). |
| 5245 | Refusal to allow continuation of existing use | Not justified (3). |
| 5448 | Refusal to compensate for destruction of trees | Not justified (3). |
| 5894 | Unfair account for work done | Not justified (3). |
| 5921 | Unfair backdating of sewerage rate | Not justified (3). |
| 6041 | Charges for installation of dish crossings | Under investigation. |
| 6149 | Poor construction of driveway | Not justified (4). |
| 6261 | Unfair offer to acquire land | Under investigation. |
| 6290 | Unfair offer to buy land | Under investigation. |
| 6394 | Unfair scheme for payment of kerbing and guttering | Declined section 13 (4) (a). |

| <i>No.</i> | <i>Complaint</i> | | <i>Result</i> |
|--------------------------------|---|-------|----------------------|
| 6601 | Failure to take action to abate noise nuisance | .. .. | Justified (5). |
| 6670 | Failure to reply to correspondence .. .. | .. .. | Not justified (4). |
| 6720 | Failure to ensure emptying of septic tank .. .. | .. .. | Not justified (3). |
| 6847 | Approval granted to development application .. .. | .. .. | Not justified (3). |
| 6867 | Failure to ensure orders complied with .. .. | .. .. | Under investigation. |
| 7005 | Failure to allow building to proceed .. .. | .. .. | Under investigation. |
| YASS MUNICIPAL COUNCIL | | | |
| 3945 | Refusal to permit installation of septic tank on property | | Justified (5). |
| YOUNG MUNICIPAL COUNCIL | | | |
| 6435 | Operation of lawn cemetery .. .. | .. .. | Not justified (3). |

APPENDIX D

EXTRACTS FROM
THE OMBUDSMAN ACT (1974)
as amended.

SECTION 5. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“conduct” means—

- (a) any action or inaction relating to a matter of administration, and
- (b) any alleged action or inaction relating to a matter of administration;

“local government authority” means a council within the meaning of the Local Government Act, 1919, a county council within the meaning of that Act or an urban committee constituted under Part XXVII of that Act;

“public authority” means—

- (a) any person appointed to an office by the Governor;
- (b) any statutory body representing the Crown;
- (c) any officer of the Public Service;
- (d) any person in the service of the Crown or of any statutory body representing the Crown;
- (e) any person in relation to whom or to whose function an account is kept of administration or working expenses, where the account—
 - (i) is part of the accounts prepared to the Audit Act, 1902;
 - (ii) is required by or under any Act to be audited by the Auditor-General;
 - (iii) is an account with respect to which the Auditor-General has powers under any law;
 - (iv) is an account with respect to which the Auditor-General may exercise powers under a law relating to the audit of accounts where requested to do so by a Minister of the Crown;
- (f) any person entitled to be reimbursed his expenses, from a fund of which an account mentioned in paragraph (e) is kept, of attending meetings or carrying out the business of any body constituted by an Act;
- (g) any holder of an office declared by the regulations to be an office of a public authority for the purposes of this Act;
- (g1) any local government authority; and
- (h) any person acting for or on behalf of, or in the place of, or as deputy or delegate of, any person described in any of the foregoing paragraphs;

(2) For the purposes of this Act, conduct of a public authority is wrong if it is—

- (a) contrary to law;
- (b) unreasonable, unjust, oppressive or improperly discriminatory, whether or not it is in accordance with any law or established practice;
- (c) based wholly or partly on improper motives, irrelevant grounds or irrelevant considerations;
- (d) based wholly or partly on a mistake of law or fact;
- (e) conduct for which reasons should be given but are not given; or
- (f) otherwise wrong.

SECTION 12. (1) subject to this section, any person (including a public authority) may complain to the Ombudsman about the conduct of a public authority unless—

- (a) the conduct is of a class described in Schedule 1;
- (b) the conduct took place more than twelve months before the date of assent to this Act;
- (c) the conduct took place during the period of twelve months that last preceded the date of assent to this Act and the complaint was made more than twelve months after the appointed day; or
- (d) the conduct, being conduct of a local government authority, took place before the day appointed and notified under section 2 (2) of the Ombudsman (Amendment) Act, 1976.

(2) Where a person wishes to make a complaint under subsection (1), the complaint may, with the consent of that person, be made on his behalf by a member of Parliament.

(3) Where a person is detained by, or in the custody of, a public authority and informs the public authority or other person having superintendence over him that he wishes to make a complaint to the Ombudsman, the public authority or other person so informed shall—

- (a) take all steps necessary to facilitate the making of the complaint; and

(b) send immediately to the Ombudsman, unopened, any written matter addressed to the Ombudsman.

(4) A complaint under subsection (1), and a consent for the purposes of subsection (2), must be in writing.

(5) Where a member of Parliament acts for a person under subsection (2) he does not, except for the purpose of section 15, 16, 26 (4) and 29, thereby become the complainant.

(6) Where a member of Parliament publishes to a person for whom he acts under subsection (2) any matter or a copy of any matter, published to him by the Ombudsman, the publication has, for all purposes, the same effect as if it had been published to that person by the Ombudsman.

SECTION 13. (1) Where it appears to the Ombudsman that any conduct of a public authority about which a complaint may be made under section 12 may be wrong, the Ombudsman may, whether or not any person has complained to him about the conduct, make the conduct the subject of an investigation under this Act.

(2) Subsection (1) has effect notwithstanding anything in any Act passed before the passing of this Act.

(3) The Ombudsman may discontinue an investigation.

(4) Where any person has complained to the Ombudsman under section 12 about the conduct of a public authority, the Ombudsman, in deciding whether to make that conduct the subject of an investigation under this Act or whether to discontinue an investigation commenced by him under this Act—

- (a) may have regard to such matters as he thinks fit; and
- (b) without limiting paragraph (a), may have regard to whether, in his opinion—
 - (i) the complaint is frivolous, vexatious or not in good faith;
 - (ii) the subject-matter of the complaint is trivial;
 - (iii) the subject-matter of the complaint relates to the discharge by a public authority of a function which is substantially a trading or commercial function;
 - (iv) the conduct complained of occurred at too remote a time to justify investigation;
 - (v) in relation to the conduct complained of there is or was available to the complainant an alternative and satisfactory means of redress; or
 - (vi) the complainant has no interest or an insufficient interest in the conduct complained of.

(5) Notwithstanding any other provision of this section, the Ombudsman shall not investigate the conduct of a public authority, being a local government authority, if that conduct is subject to a right of appeal or review conferred by or under an Act unless the Ombudsman is of the opinion that special circumstances make it unreasonable to expect that right to be or to have been exercised.

SECTION 15. Where—

- (a) a complaint has been made to the Ombudsman about the conduct of a public authority; and
- (b) the Ombudsman—
 - (i) refuses to investigate the conduct complained of; or
 - (ii) discontinues an investigation of that conduct, the Ombudsman shall inform the complainant in writing of his decision and the reasons for his decision.

SECTION 16. (1) Upon the Ombudsman deciding to make the conduct of a public authority the subject of an investigation under this Act, he shall give notice of his decision—

- (a) where there is a complainant, to him;
- (b) to the head of the public authority and, if practicable, to the public authority; and
- (c) as prescribed.

(2) A notice under this section must be in writing, must describe the conduct the subject of the investigation and must, so far as practicable, identify the public authority.

SECTION 17. An investigation under this Act shall be made in the absence of the public.

SECTION 18. (1) For the purposes of an investigation under this Act, the Ombudsman may require a public authority—

- (a) to give him a statement of information;
- (b) to produce to him any document or other thing; or
- (c) to give him a copy of any document.

(2) A requirement under this section must be in writing, must specify or describe the information, document or thing required, and must fix a time for compliance.

SECTION 24. (1) In an investigation under this Act, the Ombudsman shall give an opportunity to make submissions on the conduct the subject of the investigation—

- (a) if practicable, to the public authority whose conduct it is; and
- (b) to any other person given notice under section 16.

(2) Where, in an investigation under this Act, the Ombudsman considers that there are grounds for adverse comment in respect of any person, the Ombudsman, before making any such comment in any report, shall, so far as practicable—

- (a) inform that person of the substance of the grounds of the adverse comment; and
- (b) give him an opportunity to make submission.

(3) Subsection (2) does not apply in relation to a report under section 28.

SECTION 25. (1) In an investigation under this Act, the Ombudsman shall, on request by the responsible Minister, consult him on the conduct the subject of the investigation.

(2) Before publishing a report under section 26, the Ombudsman—

- 6(a) shall inform the responsible Minister that he proposes to publish such a report; and
- (b) shall, on request by that Minister consult him.

SECTION 26. (1) Where, in an investigation under this Act, the Ombudsman finds that the conduct the subject of the investigation, or any part of the conduct, is wrong, the Ombudsman shall make a report accordingly, giving his reasons.

(2) In a report under this section, the Ombudsman may recommend—

- (a) that the conduct be considered or reconsidered by the public authority whose conduct it is, or by any person in a position to supervise or direct the public authority in relation to the conduct, or to review, rectify, mitigate or change the conduct or its consequences;
- (b) that action be taken to rectify, mitigate or change the conduct or its consequences;
- (c) that reasons be given for the conduct;
- (d) that any law or practice relating to the conduct be changed; or
- (e) that any other step be taken.

(3) The Ombudsman shall give a report under this section—

- (a) to the responsible Minister;
- (b) to the head of the authority whose conduct is the subject of the report; and
- (c) where the public authority is employed under the Public Service Act, 1902, to the Public Service Board.

(4) The Ombudsman may give a copy of a report under this section—

- (a) where the investigation arises out of a complaint to the Ombudsman, to the complainant;
- (b) to the public authority to whose conduct the report relates.

(5) The person to whom a report is given under subsection (3) (b) may, and on request by the Ombudsman shall, notify the Ombudsman of any action taken or proposed in consequence of a report under this section.

SECTION 27. Where the Ombudsman is not satisfied that sufficient steps have been taken in due time in consequence of a report under Section 26, he may make a report to the Minister for presentation to Parliament.

SECTION 31. (1) The Ombudsman may, at any time, make a special report to the Minister for presentation to Parliament on any matter arising in connection with the discharge of his functions.

(2) The Ombudsman may include in a report under subsection (1) or under section 27 a recommendation that the report be made public forthwith.

(3) Where a report under subsection (1) or under section 27 contains a recommendation by the Ombudsman that the report be made public forthwith the Minister may make it public before it is presented to Parliament.

SECTION 34. The Ombudsman shall not, nor shall an officer of the Ombudsman, disclose any information obtained by him in the course of his office, unless the disclosure is made—

- (a) where the information is obtained from a public authority, with the consent of the head of that authority or of the responsible Minister;
- (b) where the information is obtained from any other person, with the consent of that person;
- (c) for the purpose of any proceedings under section 37 or under Part III of the Royal Commissions Act, 1923; or
- (d) for the purpose of discharging his functions under this Act.

Penalty: One thousand dollars.

SECTION 37. (1) A person shall not—

- (a) without lawful excuse, wilfully obstruct, hinder or resist the Ombudsman or an officer of the Ombudsman in the exercise of his powers under this Act;
- (b) without lawful excuse, refuse or wilfully fail to comply with any lawful requirement of the Ombudsman or an officer of the Ombudsman under this Act; or
- (c) wilfully make any false statement to or mislead, or attempt to mislead, the Ombudsman or an officer of the Ombudsman in the exercise of his powers under this Act.

Penalty: One thousand dollars.

(2) A person shall not directly or indirectly—

- (a) where he is not the Ombudsman—represent that he is the Ombudsman;
- (b) where he has not been appointed under section 7 as acting Ombudsman—represent that he has been so appointed;
- (c) where he is not the Deputy Ombudsman—represent that he is the Deputy Ombudsman;
- (d) where he is not a special officer of the Ombudsman—represent that he is a special officer of the Ombudsman;
- (e) where he is not an officer of the Ombudsman—represent that he is an officer of the Ombudsman; or
- (f) where he is not engaged in the administration or execution of this Act—represent that he is so engaged.

Penalty: One thousand dollars.

(3) For the purposes of subsection (2), a person represents that a state of affairs exists if he does or says anything, or causes, permits or suffers anything to be done or said, whereby it is represented, or whereby a belief may be induced, that the state of affairs exists.

SCHEDULE 1.

EXCLUDED CONDUCT OF PUBLIC AUTHORITIES

1. Conduct of—

- (a) the Governor, whether acting with or without the advice of the Executive Council;
- (b) a Minister of the Crown, including a Minister of the Crown acting as a corporation sole, but not so as to preclude conduct of a public authority relating to a recommendation made to a Minister of the Crown;
- (c) Parliament;
- (d) the Houses of Parliament;
- (e) a committee of either House, or both Houses of Parliament;
- (f) either House of Parliament;
- (g) a member of either House of Parliament, where acting as such;
- (h) an officer of Parliament or of either House of Parliament, where acting as such.

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2. Conduct of a person or body before whom witnesses may be compelled to appear and give evidence, and persons associated with such a person or body.
3. Conduct of a body of which one or more of the members is appointed by the Governor or a Minister of the Crown where—
 - (a) at least one member of the body may be appointed by virtue of his being a Judge of the Supreme Court of New South Wales, a member of the Industrial Commission of New South Wales or a Judge of the District Court of New South Wales; and
 - (b) such a person, if appointed as such a member, has a right or duty to preside at a meeting of the body at which he is present.
4. Conduct of a public authority relating to a Bill for an Act or the making of a rule, regulation or by-law.
5. Conduct of a public authority constituted pursuant to an arrangement between—
 - (a) the State of New South Wales and the Commonwealth;
 - (b) the State of New South Wales and any other State;
 - (c) the State of New South Wales, any other State and the Commonwealth.
6. Conduct of a public authority where acting as a legal adviser to a public authority or as legal representative of a public authority.
7. Conduct of the Attorney-General, or of the Solicitor General, relating to the commencement, carrying on or termination of any proceedings before a court, including a coronial inquiry and committal proceedings before a magistrate.
8. Conduct of a public authority relating to the carrying out of any proceedings—
 - (a) before any court, including a coronial inquiry and committal proceedings before a magistrate;
 - (b) before any other person or body before whom witnesses may be compelled to appear and give evidence.
9. Conduct of a public authority relating to an exercise of the prerogative of mercy.
10. Conduct of a public authority where acting as a commissioner under the Royal Commissions Act, 1923, or, by the authority of an Act, exercising the powers of such a commissioner.
11.
12. Conduct of a public authority relating to—
 - (a) the appointment or employment of a person as an officer or employee; and
 - (b) matters affecting a person as an officer or an employee.
13. Conduct of a member of the Police Force when acting as a constable.
14. Conduct of a public authority relating to the investment of any funds.
15. Conduct of a public authority relating to the payment of any money as an act of grace.
16. Conduct of the Privacy Committee constituted under the Privacy Committee Act, 1975.
17. Conduct of a public authority relating to alleged violations of the privacy of persons.