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SCC CORRESPONDENCE



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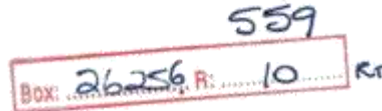
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Your ref: 120117HOS
Our ref: 2012/10722

17 January 2013

Mr John Knaggs
Chief Executive Officer
Sunshine Coast Regional Council
Locked Bag 72
Sunshine Coast Mail Centre
NAMBOUR BC QLD 4560



Dear Mr Knaggs

I refer to a complaint raised with this office by Mr Colin Host (the complainant) about the Sunshine Coast Regional Council (Council) concerning the removal of traffic calming devices (known as "speed cushions") in Sir Joseph Banks Drive (SJBD) and Lamerough Parade (LP), Pelican Waters.

The complainant is concerned that:

- the roads were not designed to carry the amount of traffic that Council has indicated, as they are too narrow
- Council changed the way the roads are categorised (i.e. the amount of traffic they can carry) without consulting the community
- the people who voted to have the speed cushions removed were residents of adjoining streets who are not directly affected. He claims that these residents speed through the affected streets
- Council recognised that there is a problem with excess traffic and speed, but installed removable speed cushions as it does not have any intention of fixing the problem
- Council's response did not mention safety and noise issues as a result of removing the speed cushions.

The complainant stated that while the speed cushions were in place, both the speed and number of vehicles accessing the two streets were reduced to an acceptable level. He also advised that since the speed cushions were removed, there have been speed related incidents, including:

- (a) a fatality at the SJBD and Pelican Waters Bvd North intersection
- (b) a serious road rage incident in front of his house.

The complainant advised this office that Council told him that at this point it does not plan to reinstall the speed cushions, and that speeding issues are the responsibility of the Queensland Police Service (QPS).

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The complainant is dissatisfied with Council's internal review and response and wants the speed cushions reinstated until Council is in a position to install roundabouts, which he states was discussed with his local member.

ISSUE

On the basis of this complaint, this office identified the following complaint issue for review:

Whether the Council's decision to remove the speed cushions was reasonable in the circumstances.

PRELIMINARY INVESTIGATION

This office has undertaken a preliminary investigation of the above issue. The purpose of this letter is to:

- advise Council of the preliminary findings of the investigation of this matter
- advise Council of the proposed opinion and recommendation that are likely to be made should this matter proceed to a final report
- give Council an opportunity to comment on this material.

During the preliminary investigations, we sought information from both the complainant and Council, including reviewing significant correspondence between the complainant and Cr Dwyer.

BACKGROUND

This summary of events was largely drawn from information provided by Council to the complainant in Council's internal report dated 27 February 2012.

The internal report noted that a number of requests were received from residents of SJBD and LP for traffic calming devices to be installed in these streets. Speed cushions were installed at multiple locations along SJBD and LP in May 2010.

The internal report also noted that "the nature of the devices installed was such that they could be installed and removed with minimal cost to Council, when compared with alternatives which would have involved costly works."

In August 2008, a traffic count was requested by Cr Dwyer following requests from residents. The Transport and Engineering Services Branch (TESB) subsequently reviewed the road usage for SJBD and LP. The results of the traffic count, when interpreted in line with the Manual of Uniform Traffic Control Devices (Queensland) (MUTCD), suggested that the vehicle use of the road from a speed perspective was at the upper end of the acceptable range. Council has asserted that the majority of the traffic represented local residents.

In May 2010, in response to complaints from residents, Cr Dwyer requested that TESB consider implementing a traffic calming scheme. TESB officers advised while the traffic count information from 2008 did not require intervention from an infrastructure perspective, the speed of the vehicles was at the higher range of acceptable. Therefore, the Council was willing to install traffic calming devices to address residents' concerns about vehicle speed.

The internal report stated on page 3 that the decision made to install speed cushions in May 2010 was based on a number of considerations including:

- maintaining access for emergency and service vehicles

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- minimising the impact on property access
- speed and volume reduction targets
- the device's effectiveness in reducing vehicle speeds
- the noise impact
- ease of removal and minimising damage to council infrastructure associated with removal
- recommended spacing to discourage motorists accelerating between devices
- cost of installation and removal.

I refer to these considerations as 'objectives'. These objectives had not been previously (or subsequently) provided to residents.

The speed cushions were then installed in May 2010.

The results from the traffic council data in June 2010 indicated that during the time the speed cushions were installed:

- the number of vehicles using both SJBD and LP decreased
- the average speed of vehicles decreased
- the percentage of commercial vehicles increased
- the percentage of vehicles travelling over 50km/hr and 60km/hr decreased.

However, there is no record of any consideration by Council as to whether these results met the objectives.

On 7 July 2010 Cr Dwyer issued a letter to residents inviting them to a meeting on 4 August 2010 to discuss the success of the installation of the speed cushions. Residents from 43 properties in SJBD and LP attended and voted as follows:

- 72 attendees in favour of all devices being removed
- 42 attendees in favour of half of the devices being removed.

I note that the complainant alleges that those who attended the meetings and voted for the devices to be removed reside in adjoining streets and were not directly impacted. We did not make specific inquiries about this allegation.

There is no evidence to suggest that Cr Dwyer discussed with residents at this meeting the objectives or whether the speed cushions had met the objectives, or the traffic count data. In fact, in an email dated 20 September 2012 to this office, Council advised that the purpose of the meeting was to collate community views, not to provide information. Council further stated that Council officers do not generally provide traffic count data, as the information needs work to be appropriately represented and relevant commentary needs to be provided to ensure the data is understood and interpreted within context. The Council advised that had Cr Dwyer or Council officers decided to circulate the data, it would have been provided to all residents in writing.

On 20 September 2010, Cr Dwyer wrote to 308 households seeking feedback on the speed cushions. Over 200 responses were provided to the survey. On 25 November 2010 Cr Dwyer provided the survey results to residents advising that:

- 109 respondents were in favour of all of the speed cushions being removed
- 94 respondents were in favour of half of the speed cushions being removed
- 9 respondents were in favour of neither of these options.

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The survey did not mention the objectives or whether the speed cushions had met the objectives.

Based on the survey results, it was determined that there would be staged removal of the speed cushions, with half being removed in December 2010 and the remainder in January 2011.

In August 2011, Cr Dwyer again requested that TESB collect and analyse traffic count data for SJBD and LP. The results confirmed that after the speed cushions were removed, the number of vehicles and the average vehicle speed had increased to levels similar to those before the speed cushions were installed. However, it was noted that these levels, whilst at the higher end of the spectrum, are in the acceptable speed distributions for a 50km per hour road under the MUTCD.

In various emails between 26 February 2011 and 9 January 2012 Cr Dwyer advised the complainant that the speed cushions would not be replaced and that the QPS are the lead authority for regulating and enforcing speed on roads. However, I also note that in a letter dated 2 May 2010 to the complainant, Cr Dwyer advised that traffic counts conducted by Council officers in SJBD and LP:

...identified that volumes were high for a street of such design and motorists were regularly exceeding the speed limit at between 50 and 60km/h. A smaller percentage of motorists were exceeding the speed limit by 70km/hr or more. As the majority of speeding motorists did not fall into a category that Queensland Police would enforce, and the road environment did not support fixed radars, it was considered unlikely that a Police presence in the area would be regular enough to discourage speeding.

In relation to the allegations raised by the complainant about crashes and road rage incidents on SJBD, on 12 December 2012 Council provided information to this Office demonstrating that the allegations raised by the complainant were not supported by the data provided to Council by the Department of Transport and Main Roads.

ANALYSIS AND PRELIMINARY FINDINGS

On the basis of the above information and the documents we reviewed, in my preliminary view the Council's decision to remove the speed cushions is open to an opinion about unreasonable administrative action for the following reasons:

- There is no record of any consideration or analysis of the success of the June 2010 traffic count data to determine the success of the speed cushions in meeting the objectives.
- Although Council states that it consulted the community, Council did not, at meetings or in the survey material, provide adequate information to residents about the objectives and whether the speed cushions were meeting the objectives to allow them to make an informed decision on whether or not the devices should be removed or kept, for example by reference to the traffic count data or an explanation of the data.
- The effect of not providing adequate information was that residents were likely to respond to the survey on the basis of their perception or experience of the amenity of the speed cushions rather than an understanding of whether the objectives had been achieved.
- Notwithstanding residents not having the benefit of that information, 94 residents were in favour of half of the speed cushions being removed and nine did not choose

either option. Cr Dwyer advised the complainant in a letter dated 25 November 2010 that the residents of SJBD and LP "voted by majority for every second hump to be retained". This means that almost half the residents surveyed wanted to keep half of the speed cushions. Further, the survey or "feedback form" sent by Cr Dwyer to residents on 20 September 2010 shows that residents were not given the option of keeping all of the speed cushions.

The small number of residents supporting some retention of the speed cushions may have been increased if residents were more informed about the objectives and whether the speed cushions were meeting the objectives, or if the additional option of keeping all of the speed cushions had been put to them.

- Council noted in its internal review report that during the time the speed cushions were installed the average speed of vehicles and the number of vehicles using both streets decreased, suggesting that the trial was a success. When the speed cushions were removed, the speed and volume returned to their original levels. However, no risk analysis was undertaken by Council of the proposed removal of the speed cushions based on the June 2010 traffic survey results

PROPOSED ACTION

Should this matter proceed to a final report issued by the Ombudsman (pursuant to s.50 of the *Ombudsman Act 2001*) it is proposed that the report would include an opinion and recommendation to the effect that:

Proposed Opinion

The Council's decision to remove the "speed cushion" devices in Sir Joseph Banks Drive and Lamerough Parade was unreasonable administrative action for the purposes of s.49(2)(b) of the *Ombudsman Act 2001*, in that:

- (a) it was not based on an adequate consideration of traffic count data obtained in June 2010 and analysis of this data in terms of the objectives
- (b) the residents did not receive adequate information to enable them to make an informed decision about whether to retain the speed cushions
- (c) no risk analysis was conducted on the likely effects of the proposed removal of the speed cushions, based on the June 2010 traffic survey results.

Proposed Recommendations

1. Council conduct a traffic count survey to ascertain current speed and volume distributions for SJBD and LP.
2. Following implementation of recommendation 1, a report be submitted to Council by its officers incorporating:
 - (a) the road category and vehicles per day for SJBD and LP under Council's road hierarchy
 - (b) background to the decision to install and remove the speed cushions
 - (c) analysis of the traffic survey results before and after the trial of speed cushions in SJBD and LP
 - (d) analysis of the results of the traffic survey obtained in response to recommendation 1
 - (e) analysis of whether the speed cushions met the objectives listed on page 3 of Council's letter to the complainant dated 27 February 2012

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- (f) a risk analysis by a traffic engineer of the risks in not taking action to address any current speed and volume issues
- (g) if appropriate, options to address the risks identified, for example, reinstallation of the speed cushions or alternate traffic calming devices
- (h) the process and timeframe for implementing any preferred option.

RESPONSE

Should you be agreeable to taking the above action without the need for a report to be issued by the Ombudsman under s.50 of the Ombudsman Act, please confirm this by return correspondence by **15 February 2013**. Following this, I would be grateful if you could provide advice by **31 May 2013** regarding steps that have been taken to implement this action.

If you are of the view that factual errors have been made in the investigation, you dispute the proposed opinion and/or consider the proposed recommendation is unnecessary then I seek submissions from you by **15 February 2013** in relation to this matter, including evidence to support your view.

The Ombudsman will then consider your submission and decide whether to proceed with a s.50 report. The Ombudsman may decide to publicly release such a report (pursuant to s.54 of the Ombudsman Act with the Speaker's approval).

Should you have any queries in relation to this matter please feel free to contact me on 3005 7040 or investigations@ombudsman.qld.gov.au or alternatively Investigator Edyta Tramell can be contacted on 3005 7081 or etramell@ombudsman.qld.gov.au.

Thank you for your consideration of this matter.

Yours faithfully



Jessica Wellard
A/Assistant Ombudsman
Investigation and Resolution Unit