



EDO Qld.

Environmental Defenders Office

*Using the law to protect
our environment.*

Making submissions on development applications

This Factsheet is for general information purposes and is not legal advice. Important legal details have been omitted to provide a brief overview of this area of the law. If you require legal advice relating to your particular circumstances you should contact the EDO or your solicitor.

Factsheet 7

This Factsheet describes how to make an effective submission on a development application under the *Sustainable Planning Act 2009* (“SPA”).

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SUMMARY

How do I find out if I can make a submission on a development application?

Normally public notification is required and submissions are invited only for impact assessable development.

You should be able to find out if a development proposal is impact assessable from Schedule 3 of the *Sustainable Planning Regulation 2009* ("SPR") or from the planning scheme for your area.

Can I make my views known even if I can't make a submission?

You may make your concerns known on any development proposal but assessment authorities may not be required to take them into account.

In some circumstances submissions are invited on preliminary approvals. It is important to be aware that preliminary approvals can be used to eliminate the need for later public notification and impact assessment.

What time limit do I have to make a submission?

Either 15 or 30 business days, depending upon the type of development.¹ The time for submissions should be specified in advertisements.

Does it cost anything?

It costs nothing to lodge a submission. There may be costs if you engage an expert or commission reports to assist with the submission. There would also be court costs and fees if you decided to appeal the assessment manager's decision.

What documents should I see before making the submission?

The development application, the planning scheme and related documents for the area, relevant codes and any current and relevant studies of the area. The SPA refers to 'relevant instruments' when assessing development applications. Relevant instruments include:²

¹ Section 298 *Sustainable Planning Act 2009*

² Section 397 and Dictionary of *Sustainable Planning Act 2009*

- state planning regulatory provision;
- a structure plan;
- a master plan;
- a preliminary approvals;
- a temporary local planning instrument;
- a planning scheme.

A **properly made submission** must:³

- be in writing (unless electronic);
- be received during the submission period;
- state the name and address of every person making the submission;
- be signed by all persons making the submission;
- state the grounds of the submission and the facts and circumstances relied on to support those grounds; and
- be made to the assessment manager for the development application.

Electronic Submissions are permitted where the notice provides for this method.⁴ Submission may now be made electronically under the e-IDAS process where the chief executive has approved an electronic system to send and receive electronic communications for carrying out actions involved in IDAS.⁵

Individual submissions tend to be much more effective than either petitions or form letters.

Anyone (including groups, even if unincorporated) can make a submission. You do not have to be a resident of the area where the development will be located.

Grounds for making submissions can include the impact of a development on amenity, urban design and character; traffic; noise; water pollution; air pollution; waste management; land contamination; need and economic factors; property values; ecological impacts; cultural impacts and social impacts.

You should be aware of what assessment managers are required to consider in making a decision.

If you have made a “properly made submission”, you will be notified of the assessment manager's decision on the development application.⁶

In certain circumstances, assessment managers and development proponents can reach a negotiated decision on a development application.⁷ Submitters have

³ Dictionary of Sustainable Planning Act 2009

⁴ Section 756 Sustainable Planning Act 2009

⁵ Section 262 Sustainable Planning Act 2009

⁶ Section 337 Sustainable Planning Act 2009

⁷ Section 363 Sustainable Planning Act 2009

no rights to be included in this negotiation process. However, as a submitter you will be advised of this decision and can appeal an approval of the development.

In all cases, your rights to appeal a decision are tied to your having made a “properly made submission” on a development application for impact assessable development.⁸

Making effective submissions on development applications

FULL TEXT

This factsheet is for general information purposes and is not legal advice. Important legal details have been omitted to provide a brief overview of this area of the law. If you require legal advice relating to your particular circumstances you should contact the EDO or your solicitor.

Submissions and objections

Under the *Integrated Planning Act 1997* (“IPA”) regime, the previous zonal system of as of right uses and prohibited developments was abandoned in favour of a system where “development” – broadly defined to include all activity on and with land - must further objectives set out in planning schemes. In an effort to allow more flexibility for developers to meet the requisite requirements, IPA removed prohibited development. SPA has reintroduced prohibited development, though the categories of development that are banned remain narrow.

The public has a formal entitlement to make “submissions” in relation to the initial and final preparation of planning schemes,⁹ and in relation to some development applications.

A submission is the name for a specific type of letter written to an authority considering a development application which is referred to in the Queensland planning legislation. A submission sets out the submitter’s reasons for why a specific development application should be refused or made subject to conditions, essentially addressing the submitter’s concerns. A submission can also set out reasons why the submitter believes an application should be approved.

⁸ Section 481 *Sustainable Planning Act 2009*

⁹ 7.4 Statutory Guideline 02/09 - Making or amending local planning instruments

The definition of development

Under the *SPA*, development must be within the definition of "development" in the Act to require a development application.¹⁰

Development comprises the following:¹¹

- building work
 - building, repairing or altering, underpinning or moving or demolishing a building; and
 - excavating or filling of land for building purposes.
- plumbing and drainage work
 - installing, repairing, altering or removing any system (or part of a system) for supplying water to or conveying sewage from premises.
- operational work
 - extracting gravel rock etc from where it naturally occurs;
 - conducting a forestry business;
 - excavating or filling or carrying out other work if it materially affects premises or their use (but which is not building or plumbing and drainage work);
 - placing an advertising device on premises;
 - an installation or construction that allows taking or interfering with water; or
 - clearing vegetation on freehold land.
- reconfiguration of a lot
 - a new term for subdivision (includes amalgamation of lots)
- material change of use
 - starting a new use (or restarting an abandoned use); or
 - a material increase in the intensity or scale of the use of the premises.

SPA then draws a distinction between "assessable development", "self-assessable development", prohibited development and "exempt development". Only code and impact assessable development require a development permit. Compliance assessable development requires a compliance permit. The *SPR* and local planning documents will prescribe what forms of development are assessable development

¹⁰ Section 7 *Sustainable Planning Act 2009*

¹¹ Section 10 *Sustainable Planning Act 2009*; *Plumbing and Drainage Act 2002*, Schedule.

Public submissions are invited only for impact assessable development.

Public notification is required and submissions are invited only for impact assessable development as distinct from code assessable development.¹² The planning documents and regulations under SPA determine what forms of development are impact assessable.

However, it should also be noted that it is possible also for a preliminary development approval to specify that subsequent stages of the development, that would otherwise have required impact assessment, only require code assessment and therefore are not open to submissions.¹³

Therefore, a development application must fall into the following categories for it to be open to submissions:

- within the definition of development;
- assessable development (not self-assessable, exempt development, compliance assessable or prohibited development); and
- impact assessable (not code assessable).

Applications for impact assessable development must be publicly advertised (see below) and it is usually the public advertising which prompts submissions to be made.

If I have no rights for submission, how can I make my concerns known?

Even if development does not require impact assessment and is not open to submissions, the developer must still show that the development complies with any codes relevant to the development in conjunction with the relevant instruments (discussed above).¹⁴ The code assessment is broader under SPA than it was under IPA as there are now additional instruments that are required to be taken into account in the code assessment process.

The relevant codes may include, depending on the nature of the development and its location, building codes, landscaping codes and character protection codes. Although the assessment manager is not required to give official recognition to submissions made about development which does not require impact assessment, if you have concerns that the development will not be able to comply with any relevant codes, an informal submission could be made to the assessment manager. Additionally, your local councillor may be able to assist in

¹² Section 305 *Sustainable Planning Act 2009*

¹³ Section 242 *Sustainable Planning Act 2009*

¹⁴ Section 313 *Sustainable Planning Act 2009*

having your concerns made known and considered. You can still inspect the application and supporting material (see *factsheet 8*).¹⁵

However, you should note that if an application does not require impact assessment, any submission made does not result in any rights to appeal to the courts against the assessment manager's decision. You do still have the right to seek a declaration from the Courts that the development does not comply with the relevant codes (see *factsheets 9 and 10*).¹⁶

Sometimes for code assessable development council seeks submissions; those cannot be ignored but no appeal rights follow.

Advertising requirements for impact assessable development applications

How can I find out if an application must be publicly advertised?

To determine if an application requires public advertising it is necessary to know what type of development is proposed and determine whether it falls into the category of impact assessable development described above.

The **assessment manager** for a development application (usually the relevant local authority) is required to assess the application when it is first submitted and advise the applicant whether public advertising is required. Therefore, the assessment manager will be able to advise whether a development requires advertisement (see *factsheet 8* for more information).

If the assessment manager is unable, or unwilling, to provide that information, a careful review of the form of development and comparison with SPR (Schedule 3), the local planning documents and relevant instruments and any previous approvals or permits for the land will be necessary. It may not be possible to determine the form of development until work has started. If that occurs, to have the development re-assessed, a declaration of the court will be needed to the effect that the development is of the type that required impact assessment (which has not been carried out) and that the development can not commence until the appropriate permit has been obtained (which would require public advertising and consideration of submissions).

How applications must be advertised?

¹⁵ Section 729 *Sustainable Planning Act 2009*

¹⁶ Section 456 *Sustainable Planning Act 2009*

Impact assessable development must be publicly advertised in all of the following ways:¹⁷

- at least once in a newspaper circulating generally in the locality of the land;
- a notice on the land; and
- a notice to the owners of all adjoining land.

An approved form for the advertisements must be used. Details of the form may be accessed at the Department of Infrastructure and Planning website at <http://www.dip.qld.gov.au/development-applications/public-notification.html>.

Once the first form of advertising has been started the other 2 forms must be completed within 5 business days (e.g. notice must appear in a paper and letters to adjoining owners must be sent within 5 business days of a sign being put on the land).¹⁸

Signs on the land must remain in place for the entire advertising period (see next section).¹⁹

What time limit do I have to make a submission?

The submission period varies according to the type of development application in question (see *factsheet 6*). The advertising should specify that the submission period is either:

- **30 business days** (minimum) if:²⁰
 1. there are 3 or more concurrence agencies; or
 2. it is for a preliminary approval; or
 3. it is development listed under schedule 16 of the SPR.
- **15 business days** in any other circumstance.

The submission period starts from the day after the last form of advertising is carried out and can not include any business days between 20 December and 5 January.²¹

Submissions must be received by the assessment manager before the advertised period expires. Therefore, at the latest, your submission must be received by the assessment manager during business hours on the last day of the advertised period.

¹⁷ Section 297 *Sustainable Planning Act 2009*, s16 *Sustainable Planning Regulation 2009*

¹⁸ Section 299 *Sustainable Planning Act 2009*

¹⁹ Section 299(2) *Sustainable Planning Act 2009*

²⁰ Section 298 *Sustainable Planning Act 2009*

²¹ Section 298 *Sustainable Planning Act 2009*

Some local authorities accept faxed submissions. We advise you not to fax in the submission, as it might be invalid. It is worthwhile either ensuring that your submission is delivered before the last day (deliver it yourself and collect a receipt for delivery whenever possible) or at least determine when the office will be open to receive your submission.

SPA has introduced the e-IDAS system which will allow submissions to be submitted electronically where an electronic system has been approved to send and receive electronic communications for carrying out actions involved in IDAS.²²

REMEMBER, if the submission is not received in time, it can be refused or ignored by the assessment manager and you will lose your appeal rights.²³

Will making a submission involve me in court or extra expense?

Does it cost anything to make a submission?

There is no fee for lodging a submission. If you engage an expert or some other person to assist you in making the submission, they may charge a fee and you should discuss any fees before they start work.

If you decide to appeal against the assessment manager's decision, there will be court costs and fees (*see factsheets 9 and 10*).

Will I end up in Court?

You will only end up in court if you decide to appeal against the assessment manager's decision, or if the developer appeals against the decision and you decide to join the appeal as a co-respondent (*see factsheets 9 and 10*).

Requirements for submissions

A submission must:²⁴

- be in writing (unless electronic);;
- be received on or before the last day of the public advertising period;
- state the name and address of every person who made the submission;
- be signed by every person who made the submission;
- state the grounds of the submission and the facts and circumstances relied on to support the grounds; and

²² Section 262 *Sustainable Planning Act 2009*

²³ Section 305(3) *Sustainable Planning Act 2009*

²⁴ Dictionary, *Sustainable Planning Act 2009*

- be made to the assessment manager for the relevant development application.

As mentioned previously, please note that submission may now be made electronically, where the notice provides for this method.²⁵ The submission can only be made where the e-IDAS process has been approved allowing an electronic system to send and receive electronic communications for carrying out actions involved in IDAS.²⁶

What documents should I see before I write the submission?

Before making a submission you should inspect:

- the development application and supporting material, including information requests from advice and concurrence agencies and responses to information requests - The assessment manager is required to keep a copy of the application and any information provided with the application available for public inspection and must provide you with a copy if you request (See *factsheet 8 Public Access to Information on Planning Processes and Development Applications*).²⁷ The assessment manager is permitted to charge you a fee to cover costs for supplying a copy of the application;
- the local government planning documents - including the planning scheme and policies, maps and any relevant local area documents;
- the relevant instruments (outlined above) to the extent they are applicable and relevant;
- any relevant codes the development is required to comply with; and
- any planning, ecological, cultural, traffic or other studies for the area which are relevant given the nature of the application.

These documents should all be carefully reviewed and thought given to the extent to which the development application complies with the provisions of the planning documents. You should also look to see if the issues you have with the application have been addressed in the application or supported in other studies.

Grounds for submissions

The basis of any submission are the grounds on which the submission is made and the facts and circumstances that support those grounds. There are various grounds you can rely on when making a submission. Usually it is best to note down (in dot point fashion) what concerns you have, group the points into logical groups (look at our list below for some examples), put headings for each group and then write out the details of each concern under the relevant heading. If you

²⁵ Section 756 *Sustainable Planning Act 2009*

²⁶ Section 262 *Sustainable Planning Act 2009*

²⁷ Section 728 *Sustainable Planning Act 2009*

believe that any of your concerns can be addressed by imposing certain conditions on the development approval, you should set out example conditions, (or the type of condition you think would be suitable).

Remember, for impact assessable development the council's decision must advance **ecological sustainability** (see *factsheet 2*).²⁸

Impact on amenity, urban design and character

Amenity includes the noise, dust, odour, light and visual factors such as ugliness and bulk that a proposed development will have. This is closely related to urban design and character which relates to what the character or flavour of the existing streetscape in the area is, including the bulk of development (size of development and amount of green space around the development), the setbacks from the road frontages and the height of development in the existing streetscape. Consideration of amenity should also include a consideration of inappropriate neighbouring uses (eg a cemetery located next to a hospital or a school located next to a prison).

If you believe that the proposed development will have a negative impact on the existing amenity, urban design or streetscape of the street or area, you should specify that impact.

Traffic

A development may cause traffic problems on the existing traffic system and either require new roads or an upgrade of the existing facilities. The increase in traffic generated by a development may cause problems by increasing traffic on already congested roads or creating unsafe intersections that will need traffic control devices such as lights or roundabouts to be installed.

Traffic count data is available from local council's and the Department of Transport and Main Roads. The development application may also be supported with a traffic study and report. The Department of Transport and Main Roads will also be able to supply you with the relevant guidelines. You should consider all of the available information and include reference to the material and how that supports your concerns in your submission.

Noise pollution

A development may cause an increase in noise in the area from sources such as machinery, traffic and animals (eg kennels). It is usual to assess the potential

²⁸ Section 4 *Sustainable Planning Act 2009*. Section 4(2) *Sustainable Planning Act 2009* makes it clear that code assessment does not have to advance ecological sustainability.

noise impact a development may have by determining the likely increase in background noise levels the development may have on a specific location.

For more information on noise, see the website of the Department of Environment and Resource Management:

http://www.derm.qld.gov.au/services_resources/item_list.php?category_id=215&opic_id=64. The *Environmental Protection (Noise) Policy 2008* (available from the Department of Environment and Resource Management or Goprint) provides guidelines for acceptable noise limits in Queensland. The Liquor Act 1992 (available from the Liquor Licensing Division of the Department of Employment, Economic Development and Innovation) applies to licensed premises. Additionally, Australian Standards on acceptable noise levels are available from Standards Australia.

If you have concerns about the potential noise impacts of a development, you should consider each of the information sources above and any report in the development application before setting out the details of your concerns in your submission. Refer to relevant standards (if applicable) and comments in the developer's report (if relevant) whenever possible.

Water pollution

Development may cause water pollution by either direct release of pollutants to surface waters, stormwater systems or by contamination of groundwater. The *Environmental Protection (Water) Policy 2009* sets out relevant issues to be considered if the proposed development is for an environmentally relevant activity administered under the *Environmental Protection Act 1994*. It also references the relevant standards for water quality including the Queensland Water Quality Guidelines and the Australian Water Quality Guidelines (which can be viewed at the Department of Environment and Resource Management).

Air pollution

Development may cause air pollution from either a point source (eg from a chimney or emission stack) or from a diffuse source (eg from a site generally for a concrete batching plant). The *Environmental Protection (Air) Policy 2008* (available from the Department of Environment and Resource Management) sets out relevant issues to be considered if the proposed development is for an environmentally relevant activity administered under the *Environmental Protection Act 1994*. It also references the relevant standards for air quality which can be viewed at the Department of Environment and Resource Management.

Waste management

A development may produce sizeable volumes of waste as either solid waste which must be disposed of to landfill (if it can not be recycled or reused) or liquid

waste (commonly referred to as trade waste) which may be able to be disposed of to Council sewers (again if it can not be recycled or reused). See the *Environmental Protection (Waste Management) Policy 2000*.

After considering the development application, if you have concerns about the volume of waste which may be produced by the development, you should detail your concerns and specify how you believe the waste should be dealt with (e.g. recycle wash water rather than release it to trade waste).

Land contamination

Land contamination issues arise from two distinct situations. Firstly, when development occurs on land which is contaminated and secondly, when development may cause land to become contaminated. With respect to the first issue, the Department of Environment and Resource Management is a referral agency for applications which have contaminated land implications. The Department is responsible for requiring conditions managing contaminated land to be imposed on development applications. A register of all sites which have been listed on either the Environmental Management Register or the Contaminated Land Register under the *Environmental Protection Act 1994* is maintained by the Department of Environment and Resource Management and can be searched for a nominal cost. If the development site is on contaminated land, it will likely be listed on one of the registers. If you have concerns about the potential development of contaminated land, you should specify your concerns and whether you believe that conditions such as the need to remediate the site before development occurs will address your concerns.

In relation to the second issue (development that may cause contamination), you should specify your concerns and include details of the sensitivity of the surrounding environment (which may be impacted by any contamination) and what conditions (if any) you believe will address your concerns.

Ecology

The Department of Environment and Resource Management provides a list of species likely to be found in a particular area. If you have concerns about the potential impacts development may have on the surrounding ecology, you should first determine what species could be affected. It may also be useful to determine the relative abundance of the relevant species on a local scale as well as at a more wide ranging scale. The Department of Environment and Resource Management will be able to assist you with such information and the *Nature Conservation Act 1992* (and associated regulations under that Act) list protected species of plants and animals throughout Queensland. Again, if you believe the ecological concerns can be addressed by conditions, you should suggest appropriate conditions (eg prevention of development of defined areas of land or

the provision of ecological corridors through or buffer zones around the development).

Cultural

The potential impact on both indigenous and non-indigenous culture, including natural and built elements may be relevant (e.g. Heritage Listed). The Department of Environment and Resource Management has a database of recorded and protected sites and it is possible that the development application contains a report detailing how impacts on such sites will be managed. You should consider all available material and list your concerns.

Social

The social context of development is particularly important for residential and shopping centre developments. If the demographics of an area are not suited for a particular development, that may be a valid ground for submission. The Australian Bureau of Statistics has demographic data available for nominated areas.

Need and Economic Factors

In the case of development applications for a material change of use, it is relevant to have regard to whether there is a public or community need for land to be approved by the proposed use. Generally, public or community need will exist where there is a need for the facilities proposed and there is not sufficient land already approved for the use. Adverse economic impacts from the creation of competition itself, is not a relevant town planning concern. If economic impact were, however, to result in a net public detriment (causing blight in other developments, depriving the community of facilities which are not provided in the new proposal) that may be a relevant consideration.

Therefore, you should consider whether there is a public or community need for the proposal rather than whether it will merely introduce additional competition for existing facilities.

Property values

Sometimes local resident submitters are concerned about the impact of a development on their property values. Such concerns, of themselves, are not relevant town planning concerns and should not form part of a submission. The reason for the submitters' fear for property values however, may be related to the impact which the proposal will have on the amenity of the area or on one of the other relevant concerns which may properly be the subject of a submission. In that case, a proper submission can be made on those amenity or other relevant grounds.

Planning scheme

The planning scheme and supporting documents (including codes, local planning documents such as local area plans and the studies carried out when the documents were created) are of critical importance. Planning schemes establish preferred forms of development for specific areas. In your submission, it is important to highlight any conflicts between the proposed development and the planning scheme.

Strategic outcomes

SPA based planning schemes are required to set out strategic outcomes for areas covered by the scheme. Strategic outcomes should focus on the social, environment and economic outcomes which the local government considers are desirable for the planning scheme area.

A development application must show how the proposed development will comply with the relevant strategic outcomes. You should therefore consider the relevant strategic outcomes and assess whether the development will comply with them. If you believe it will not, you should state what outcome you believe will be compromised and how it will be compromised.

Reasonable expectations

Development may be of a form or nature which is contrary to the reasonable expectations of residents regarding the likely form of development in the area and the maintenance of their amenity. What is reasonable is judged against the provisions of the Planning Scheme. Hence a resident may have an actual expectation that all development in the area would be for detached housing but if the area is designated for higher density housing development then the expectation would not be reasonable.

Therefore, the public's reasonable expectations for development must be considered, but must be considered in light of the planning scheme provisions. If the reasonable expectations are contrary to the proposed development, that may be a relevant ground to include in your submission.

Ecological sustainability

The stated purpose of SPA is to seek to achieve ecological sustainability (see *factsheet 2*). If the development is contrary to achieving ecological sustainability, state the conflicts with achieving ecological sustainability in your submission.

Climate change/sea level rise

The impacts from climate change could include increased temperature, changes in rainfall, increased coastline erosion and flooding, more severe cyclones and storms and sea level rise. The Intergovernmental Panel on Climate Change has found that these impacts have already commenced and should be addressed given that 85 per cent of Australia's population lives on the coastline.

There are a number of vital Queensland planning tools and legislative instruments that make specific mention of climate change impacts, including the State Coastal Management Plan and the South East Queensland Regional Coastal Plan. The SPA expressly includes references to climate change in the key section advancing the purpose of the legislation.²⁹

Submissions that include objections relating to the threat sea level rise (and other associated climate change impacts) could pose to a proposed development are becoming increasingly persuasive and are an important consideration.

Issues that must be considered by assessment manager

You may wish to comment on the issues which Council must consider when determining the application. These issues are set out in the SPA.

Can I appeal to the courts if I disagree with the Council's decision?

Yes. If you disagree with the assessment manager's decision (either the original decision or a negotiated decision), and you made a "properly made submission", you can appeal to the courts.

The assessment manager is required to give each principal submitter notice of its decision (by way of copy of the decision notice)³⁰ in the following circumstances:

- the decision is refused;³¹
- the applicant notifies the assessment manager that the applicant will not make representations about conditions;
- the applicant's appeal period (20 business days after it receives a copy of the decision notice³²) expires;
- the applicant gives the assessment manager notice of the applicant's appeal.

If you want to appeal against the decision, you must commence an appeal within **20 business days** of being given the copy of the decision notice (see *factsheets*

²⁹ Section 5 *Sustainable Planning Act 2009*

³⁰ Section 337 *Sustainable Planning Act 2009*

³¹ Section 337(2) *Sustainable Planning Act 2009*

³² S461 *Sustainable Planning Act 2009 (Qld)*

9 and 10).³³ If the applicant has appealed against the decision (and if it has you are required to be given a copy of its notice of appeal within 10 business days of the applicant commencing its appeal³⁴) and you want to elect to become a party to the applicant's appeal,³⁵ you must elect within **10 business days** of receiving a copy of the developer's notice of appeal (see *factsheets 9 and 10*).³⁶

Further information

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Web: www.derm.qld.gov.au

Your local government

Your local non-government environment council

Relevant laws

Integrated Planning Act

Environmental Protection Act

³³ 462(4) *Sustainable Planning Act 2009*

³⁴ 482(2)(b) *Sustainable Planning Act 2009*

³⁵ Section 485(8) *Sustainable Planning Act 2009*

³⁶ Section 482(3)(b) *Sustainable Planning Act 2009*

Environmental Protection (Noise) Policy
Environmental Protection (Air) Policy
Environmental Protection (Water) Policy
Environmental Protection (Interim Waste) Regulation
Nature Conservation Act
Sustainable Planning Act 2009
Sustainable Planning Regulation 2009

Example Submission

John and Nicole Roberts
54 Smithton Street
GLADVILLE QLD 4592

5 June 2010

Manager Regulatory Planning Services
Gladville Shire Council
36 Patterson Street
GLADVILLE QLD 4592

Dear Sir

MATERIAL CHANGE OF USE APPLICATION - 72 HUTTON ROAD, GLADVILLE

We refer to the material change of use application made by ABC Pty Ltd in respect of 72 Hutton Road, Gladville.

We have reviewed the material available on public display at the Gladville Shire Council and make the following submission in relation to the application.

ABC Pty Ltd proposes to establish a quarry on the land at 72 Hutton Road. The land adjoins residential areas to the north and east and a national park to the south and west with the border being constituted by a creek forming part of the upper catchment area of the Gladville river.

We are the owners of the house at 54 Smithton Street. Our property adjoins the eastern boundary of the proposed quarry site. We are also members of the Gladville Environmental Protection Society.

Our concerns about the quarry fall within the following major categories:

- Conflict with the strategic plan;
- Conflict with planning scheme;
- Impact on the environment;
- Impact on amenity, urban design and character;
- Traffic; and
- Noise Pollution.

Strategic Plan

The vision statement for Gladville City has as one of its goals, that of being an environmentally responsible city. In particular, the strategic plan seeks to protect and enhance the aquatic ecology of the area's waterways and green areas.

The proposed development conflicts with the intent of the strategic plan because it will do nothing to protect and enhance Glade creek or the adjoining national park area. The economic interests promoted by the development do not justify the degradation which will occur if the proposed development proceeds.

Planning Scheme Conflict

The subject land is designated for rural-residential uses under the Gladville City Plan. The designation indicates a strong preference for development of a type which integrates with the surrounding land uses (such as residential uses and national park as opposed to the proposed industrial use).

The fact that the land adjoins existing residential and nature conservation areas and is not simply vacant land surrounded by more vacant land detracts from the ability of the proposed development to integrate with the surrounding uses. The proposed quarry is not a residential use. It is a highly intensive use that runs contrary to the City Plan designation for the land. We believe that the conflict in land uses that will result from the proposed development being allowed to proceed can not be justified by the City Plan designation.

Impact on the environment

The proposed development will have an unacceptable impact on the environment of the adjoining national park and Glade creek which is part of the upper catchment area of the Gladville river. The biodiversity of these areas depends on viable vegetated water corridors. The development contravenes environmental best practice.

Glade creek and the adjoining national park form an important link in the system of 'green corridors' from the upper catchment of the Glade ranges area to the Gladville river which must be preserved.

The distance from the high bank of Glade creek to the developed area on the south and west boundaries is only 4 metres which is in contravention of Council's waterways policy which states there should be up to a 30 metre setback of development from waterways. This will necessitate clearing of vegetation constituting protective understorey for the creek which will adversely affect the creek's ecological values and viability.

It will result in the deposit of sediments and chemicals in the creek and will have adverse affects on the waterway system of the creek and the Gladville river. It will also adversely affect the ability of wildlife to survive in the creek surrounds.

Development so close to a waterway will have an adverse effect on the creek's ability to cope with flood events which will impact on the surrounding areas and the hydraulic flows of the creek itself.

Amenity

The land uses surrounding the proposed quarry site are semi-rural residential areas and nature conservation areas. The operation of a quarry in close proximity to such uses will unacceptably impact on the amenity of the area.

The currently peaceful semi-rural atmosphere will be destroyed by noise created by constant blasting and crushing activities at the quarry and greatly increased traffic volumes from the trucks servicing the quarry and the visual amenity will be destroyed by the area being deforested and the topography being radically altered.

We do not believe that buffer zones around the quarry or any other such development conditions will be sufficient to satisfactorily eliminate the negative amenity impacts the quarry will produce on our community. The material change of use application should therefore be refused.

Traffic

The applicant's traffic report identifies that the quarry will generate in the order of 50 - 60 trips by trucks to the quarry and that the existing road system will be able to safely handle the increase with only minor improvements required. The traffic is intended to enter the quarry by an entrance to be constructed in the northeastern corner of the site. The additional traffic will therefore need to travel through the fringes of the residential estate to the east of the site to reach the major service road, Cranford Road.

The applicant has not considered return trips by trucks.

The report describes the number of trucks that will visit the site, but does not consider that each truck must make 2 trips through the surrounding residential areas to be able to complete the visit. It is more important to consider traffic movements. A more correct representation would be that the quarry may generate between 100 and 120 additional heavy vehicle movements in the surrounding roads.

The residential streets are not adequate to accommodate truck traffic. As it is, 2 cars passing on the roads must slow considerably in order to pass safely. In some places, at least one car is required to travel on the road shoulder due to the tarmac not being sufficiently wide. Therefore, at the very least, major improvements will need to be made to the residential streets to allow trucks to safely travel on the roads.

The fact that local school buses travel the same roads that the trucks are intended to travel further highlights our concerns about the impact the proposed quarry will have on traffic safety. Children currently wait at property boundaries to be collected by school buses. We do not consider it at all safe to have large volumes of heavy vehicles travelling the same roads when our children are waiting by the roadside to be collected by a bus that will need to stop on the road shoulder.

Obviously, more than minor improvements will be required to be made to the residential streets to ensure safety for all concerned. Unless the council imposes conditions requiring the roads to be significantly improved, the application should be refused on a traffic basis.

Noise

The quarry will involve the use of explosives to blast sections of rock from the rock faces on the site. Once the rock has been blasted loose, it will then be transported to a crushing facility and crushed on site to generate the required grade of gravel material.

All of these activities will generate large quantities of sound, which will impact greatly on the surrounding residential areas and the neighbouring conservation areas.

The applicant suggests that by restricting its blasting and crushing operations to between 9 am to 5 pm Monday - Friday and 9 am to 1 pm Saturday, the noise generated will not have any significant effect on the receiving environment.

We assume that the rationale for that statement is that most residents will either be at work or at school during those times. The applicant has not considered the effect of noise pollution on those residents who remain at home during those times (including shift workers).

The applicant also suggests that by leaving a 40 metre buffer strip on the southern and western boundaries of the site, the noise generated will not affect the nature conservation areas. They have not produced any noise modelling data or expert reports to justify their assumption.

We disagree with the assumption. We do not believe that a 40 metre buffer strip will be sufficient buffering to reduce the intensity of noise attenuations affecting the conservation areas, particularly given that the land on the relevant property boundaries is essentially flat with no ridges or other topographical features to buffer the noise.

We do not believe that the site can adequately provide sufficient buffer zones to limit noise effects, nor do we agree that by limiting operation times the noise impacts on residents can be adequately mitigated.

Conclusion

For all of the above reasons, we oppose the proposed quarry and ask that the Council refuse the application.

Yours faithfully,

Cc

Local Councillor

State MP