



ENVIRONMENTAL DEFENDERS OFFICE (QLD) INC.

An Introduction to the Integrated Planning Act 1997 (“IPA”)

Factsheet 1

This fact sheet, the first in a series of 12, introduces the Integrated Planning Act 1997 (“IPA”). The Integrated Planning Act 1997 (IPA) is Queensland’s most important planning and land use legislation that sets out the process for when and how development can occur.

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SUMMARY

The Integrated Planning Act 1997 (IPA) is Queensland’s principal planning legislation that coordinates planning at the local, regional and State levels. IPA also manages the processes by which development occurs and includes laws relating to:

- a) The preparation of a council’s planning scheme;*
- b) What is development and when does it require council approval.*

- c) *How development applications must be lodged, notified and assessed. This is known as 'IDAS', short for: Integrated Development Assessment System.*
- d) *Appeals to the Planning and Environment Court.*

Why does planning matter?

The purpose of planning is to bring some order to the process of development. Ideally, planning systems balance economic imperatives with community and individual rights to maintain and enhance the environment they live in.

Can and should I be involved?

Legislation provides mechanisms, some adequate and some not, for individuals and groups to involve themselves in the planning process. You may also have opportunities to make submissions on individual development applications.

What are the key differences between the new and previous planning systems?

IPA essentially replaces land use planning (zones and prescribed uses) with planning that focuses on outcomes (Figure 1-1 sets out the differences between the old and new schemes).

More emphasis has been placed on planning schemes and there are enhanced opportunities for public involvement in drawing up **IPA planning schemes**.

The stated purpose of the Integrated Planning Act 1997 is to seek to achieve **ecological sustainability**, which is defined as achieving a balance integrating ecological, economic and social objectives (see Factsheet 2 for a detailed analysis of ecological sustainability).

Many formerly separate planning and approval processes (i.e. for building and environmental permits) have been brought together under the IPA scheme.

IPA includes a new concept of development, which includes building, plumbing, drainage or other work, the re-configuring (i.e. subdivision) of lots and changes in the use of premises.

The IPA introduces an **Integrated Development Assessment System (IDAS)**, which establishes a new, and common assessment system to be followed by all State and local agencies involved in assessing development applications. Assessment is usually coordinated at the local government level with procedures to safeguard State interests.

There are four different levels of development assessment under the IPA

- Exempt development - no assessment required;
- Self-Assessable development - must comply with relevant codes;

- Code assessable development - development permit required, normally no public notification or submission rights; and
- Impact assessable development- development permit required, public notification, submission and appeal rights.

There are no prohibited land uses or developments under IPA planning schemes. However the achievement of desired environmental outcomes (DEOs) of planning schemes may not be compromised by decisions on development applications. IPA Planning Schemes should include measures to achieve DEOs and establish performance indicators to assess whether or not they are being achieved.

An Introduction to IPA

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.

Why does planning matter?

The process whereby owners develop and make use of parcels of land does not necessarily recognise or defer in any way to the needs and aspirations of any broader community. Planning legislation exists to redress this imbalance; in effect giving the community an input into and sometimes a say over the development decisions that affect the community.

For instance, development can have impacts (both negative and positive) on:-

- neighboring properties;
- the amenity or pleasantness of place of the locality in general;
- the natural or built environment;
- the safety or convenience of the transport network;
- the orderly provision of services for the community; and
- the economy generally.

Planning seeks to direct development so that it occurs in a way that benefits the community. It does so by a mixture of:-

- planning controls which, for example, require development to be carried out in a way which observes certain standards; and
- statements of criteria and planning intent which set out, in a public statutory document (planning schemes), the intentions of the planning authority about the way in which future development should occur and the criteria against which applications for development approvals will be considered.

Can and should I be involved in planning processes?

By far the most important, though often missed, opportunity for community action to protect the environment is when planning schemes are being prepared or amended. This is the time for lobbying council, as anything that is not recognised and protected in the planning scheme is unlikely to be protected by the council or the Planning and Environment Court. Think ahead about what areas will need protection and write submissions to your council seeking that protection.

In Queensland, the community has the benefit of statutory rights to participate in the process of making planning schemes. Significant community participation in those processes is vital if they are to be responsive to the community's needs and produce outcomes which benefit the community. Unfortunately, however, you do not have the right to appeal the council's approval of its planning scheme regardless of how many people lodged written submissions regarding the draft scheme.

Once planning schemes have been finalised, the way that land is development is governed primarily by the scheme.

What legislation is relevant to planning?

The *Integrated Planning Act 1997* (IPA) is the principal Act concerning planning and development in Queensland. IPA is the main Act that will be discussed in this series of factsheets. Amongst other legislative changes, it replaced the *Local Government (Planning and Environment) Act 1990* but the old Act still has some practical relevance, which will be discussed later.

What is so different about the *Integrated Planning Act 1997* planning system?

Queensland's old planning system was structured around land use planning - cities, towns and shires were divided into zones where certain land uses and development types were either permitted, permitted with the appropriate approvals, or prohibited.

The *Integrated Planning Act 1997* introduces a system where planning establishes performance objectives, called desired environmental outcomes, which have to be met by proposed new developments. In theory, there is no class of prohibited development anywhere.

Central to the new planning system in Queensland is the new *Integrated Development Assessment System* (IDAS) which sets out a common scheme to be adhered to by all public authorities in assessing development applications (with the exception of designated "significant projects").

The assessment processes in other legislation may now follow the processes under IPA. For example, the *Environmental Protection Act 1994* has been amended so that the IDAS process applies to most activities requiring approval under the *Environmental Protection Act*. However, the agency administering the *Environmental Protection Act 1994* still assesses the application according to the criteria set out in that Act (plus some new criteria) when following the IDAS process.

Key features of the *Integrated Planning Act 1997*

Purpose

The purpose of the *Integrated Planning Act 1997* is to seek to achieve ecological sustainability. Ecological sustainability is defined as a balance that integrates: -

- protection of ecological processes and natural systems at local, regional, State and wider levels;
- economic development; and
- maintenance of the cultural, economic, physical and social wellbeing of people and communities.

Decision makers under the *Integrated Planning Act 1997* are under a duty to seek to achieve ecological sustainability, including carrying out defined duties such as applying the precautionary principle in decision making (*see factsheet 2 for more information on ecological sustainability*).

State/Crown

The *Integrated Planning Act 1997* binds the Crown or State. It provides for a new process called 'designation' (including public submissions but no appeals) whereby community infrastructure (eg. a road) can be included in planning schemes.

Concept of 'Development'

Development is the key concept of planning assessment of applications and offences under the *Integrated Planning Act*. The Act defines 'development' as:

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- Carrying out building work;
- Carrying out plumbing or drainage work;
- Carrying out operational work;
- Reconfiguring a lot (i.e. a subdivision); and
- Making a material change of use of premises.

Material Change of Use includes a new use, reestablishing an abandoned use or a significant change in the intensity or scale of the use.

Development Assessment Categories

There are four different types of development assessment categories under IPA: exempt development; self assessable development; code assessable development and impact assessable development.

The table below compares the assessment categories under IPA with the assessment categories under the old *Local Government (Planning and Environment) Act 1990*.

Figure 1-1 Comparing development assessment categories

Development Assessment Categories	Must comply with codes	Application and development permit required	Right of public submission	Access to information	Submitter can appeal council's decision
INTEGRATED PLANNING ACT 1997					
Assessable Impact Assessment	Yes, and consider environmental effects	Yes	Yes	Yes	Yes
Assessable Code Assessment	Yes	Yes	No, unless local scheme requires it	Yes	No
Self Assessment	Yes	No	No	No	No submitters
Exempt	No	No	No	No	No submitters
LOCAL GOVERNMENT (PLANNING AND ENVIRONMENT) ACT 1990					
Amend a Planning Scheme (rezoning)	N/A	Yes	Yes	Yes	Yes
Town Planning Consent	N/A	Yes	Yes	Yes	No
Notification of conditions	N/A	Yes	No	No	No submitters
As of right	N/A	No	No	No	No

Integrated Development Assessment System (IDAS)

This system is a common assessment process to be used when assessing development. There are four stages to the IDAS process:-

1. Application stage

This sets out how a development application is to be made. An application is made to an 'assessment manager', the body or individual responsible for assessing the development application.

2. Information and referral stage

The assessment manager refers the application to other relevant *referral agencies*. Referral agencies are other government departments, such as the Environmental Protection Agency, that have an interest in the development. Referral agencies are either *advice agencies* (which can offer advice) or *concurrence agencies* (which can direct refusal or impose conditions on the development). During this stage the assessment manager or referral agencies can request further information from the applicant regarding the development.

3. Public notification stage

During this stage the application is publicly notified and any person can make a submission. However, this stage applies for *impact assessable development* only.

4. Decision stage

During this stage the assessment manager makes a decision as to whether to refuse the development or approve the development with conditions. Where a concurrence agency requires conditions on the development, the assessment manager must include those conditions in the final decision. The applicant for the development is then given the opportunity to attempt to negotiate alterations to the conditions imposed by the assessment manager.

Planning Schemes

IPA planning schemes are no longer required to have a table of zones or to include specific maps or plans as were schemes under the *Local Government (Planning & Environment) Act 1990*.

IPA planning schemes may not 'prohibit development' as *Local Government (Planning & Environment) Act 1990* schemes did unless a rezoning was obtained. Instead, development may be stopped indirectly through careful wording of the desired environmental outcomes in the scheme. The *Integrated Planning Act 1997* provides that achievement of a desired environmental outcome may not be compromised by decisions on development applications.

Integrated Planning Act 1997 schemes must:

- Coordinate and integrate matters, including core matters of ecological, social and economic significance, dealt with by the scheme. State and regional dimensions of the matters must be included.
- Identify desired environmental outcomes for the local government area. It is an option to have desired environmental outcomes for particular localities within the scheme area.
- Include measures to facilitate achievement of the desired environmental outcomes. This includes identifying development as assessable development (code or impact), or self assessment development.
- In some cases, identify a benchmark sequence of development.

What happens in the changeover from the Local Government (Planning & Environment) Act 1990 to the Integrated Planning Act 1997?

Planning Schemes

When the *Integrated Planning Act 1997* commenced operation on 30 March 1998, local governments had planning schemes in force that were made under the *Local Government (Planning & Environment) Act 1990*. It was not practical for local governments to prepare the *Integrated Planning Act 1997* planning schemes in the six months that elapsed between the Act going through Parliament on 21 November 1997 and coming into force on 30 March 1998. So, the *Integrated Planning Act 1997* calls these schemes '*transitional planning schemes*' and contains rules about how to interpret the transitional planning schemes when assessing development applications lodged since 30 March 1998. Those transitional rules will not apply to applications lodged after the local government has adopted an *Integrated Planning Act 1997* planning scheme.

A key point of interpretation for transitional planning schemes is that any type of application that required public rights of objection and appeal under the transitional planning scheme still does so, as it is interpreted as *impact assessable development* under the transitional rules. As planning schemes can no longer prohibit development under the *Integrated Planning Act 1997* 'prohibited uses' are now interpreted as the planning scheme having a policy that the use is inconsistent with the intent of the zone in which the use is prohibited, this means it is still difficult for approval of such uses to occur.

Development Applications

At the time the *Integrated Planning Act 1997* commenced operations on 30 March 1998, there were many development applications that had been lodged under the *Local Government (Planning & Environment) Act* and not yet finalised. The *Integrated Planning Act 1997* provides that those applications are to be processed and decided as if the Act did not exist. So effectively the *Local Government (Planning & Environment) Act 1990* is still the law that applies to development applications lodged before 30 March 1998. For applications lodged after 30 March 1998 the *Integrated Planning Act 1997* IDAS processes applies but the substantive consideration of applications and decisions upon them remain as it was under the *Local Government (Planning & Environment) Act 1990*.

Further information and references

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Your local government

Your local non-government environment council

Relevant Laws:

Integrated Planning Act 1997
Local Government (Planning and Environment) Act 1990