



ENVIRONMENTAL DEFENDERS OFFICE (QLD) INC.

Making Effective Submissions on Planning Schemes

Factsheet 5

This factsheet discusses how to make effective submissions on the preparation and amendment of planning schemes, statements of proposals and planning scheme policies under the Integrated Planning Act 1997. This factsheet should be read in conjunction with factsheet 3, which provides a full description of the planning process and the various planning instruments under the IPA.

Factsheets in this series:

- 1 An introduction to the Integrated Planning Act 1997 ("IPA")*
- 2 Ecological sustainability: the purpose of IPA*
- 3 Planning schemes and other planning instruments*
- 4 The South East Queensland Regional Plan and the new planning regime*
- 5 Making effective submissions on planning schemes*
- 6 Development approvals*
- 7 Making submissions on development applications*
- 8 Public access to information on planning and development applications*
- 9 The Planning & Environment Court*
- 10 Appealing and enforcing development approvals*
- 11 Environmental impact assessment*
- 12 The structure and operations of local government*

SUMMARY

Why should I make a submission on a planning scheme?

Planning schemes are critical in determining the future use and development of communities, areas and regions, often for generations.

If you have participated in planning processes, it may enhance your ability to have your say on individual development applications.

When should I consider making submissions on planning schemes or planning scheme policies?

You can - and should - seek to make your opinions on the future shape of your immediate or wider community known at any and every opportunity. However, IPA provides specific opportunities for making submissions on planning schemes and planning scheme policies. For new planning schemes prepared entirely under IPA, the public must be invited to make submissions on:

- the statement of proposals for preparing a planning scheme; and
- the draft planning scheme.

Anyone (including a group incorporated or unincorporated) may make a submission. There are no limitations on more than one submission from any one family nor any requirements based on where you live.

A "properly made submission" must be in writing, must have the name and address of each person making the submission, must be signed by the person/s making the submission, must be received by the body proposing the planning scheme by the due date and must state the grounds of the submission and the facts and circumstances relied on.

Grounds for submission can include impact on individual or community amenity, adverse traffic, noise air and water quality impacts, land and soil quality, and energy usage. Submission could seek regulation of Vegetation clearing on freehold land (in addition to State controls).

Individual submissions are much more effective politically than petitions or form letters.

Local government must advertise the preparation and availability of draft planning documents and must notify the time allowed for public consultation as follows:

- Draft statement of proposals for preparation of a planning scheme (minimum 40 business days);
- Draft planning scheme (minimum 60 business days); and
- Draft amendment to a planning scheme (minimum 30 business days)

Local government can allow more time than the statutory minimums for public consultation on planning schemes and planning scheme policies. Lobby your council for sufficient time frames. Be sure to lodge your submission on time. Financial and other assistance is sometimes available to community groups to study planning issues and formulate responses to planning proposals.

Seizing the initiative and trying to influence the way councils consult with you on planning schemes is highly worthwhile. Well informed and organised community and environmental groups can influence the process employed by council and have input into draft documents even before they are released for public consultation. Consider lobbying councillors and officials directly and putting issues before the media.

Note that in preparing or amending planning schemes, decision makers must "seek to achieve ecological sustainability" (*see factsheet 2*).

Local government must prepare a report explaining in general terms how it dealt with the submissions received. It must provide at least the relevant sections of that report to each submitter.

Making Effective Submissions on Planning Schemes

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 - your opportunity to get involved in the planning process

The Integrated Planning Act 1997 (IPA) to some extent extends the rights of citizens to comment upon and potentially shape the planning process and the future plans for their communities. It is extremely important that interested individuals and community groups appreciate the importance of planning schemes in regulating future development.

- **REMEMBER, when you are faced with undesirable development you may find yourself unable to object or find that it is too late to change anything. GET INVOLVED IN PLANNING.**

The IPA provisions on public consultation should ideally be regarded as the statutory minimum obligations on applicants and decision makers under the Act. Nothing prevents councils from exceeding the requirements or the time allowed.

Seize the initiative.

We suggest that you will be more successful if you seize the initiative and try to shape the way that council consults with you on its proposed planning scheme. Remember, the IPA sets out what Councils must do in relation to public participation - no limit is set on what councils can do, and some enlightened councils already have established more innovative and more extensive pre-planning, planning and planning review mechanisms. You should try to encourage your council to follow best practice, not just legally required practice.

Some ideas are-

- find out the timetable for preparation of a planning scheme for your local government area (see Department of Local Government and Planning website <http://www.ipa.qld.gov.au> or ask your local council);
- get in early and ask for the opportunity to comment on early draft documents, especially broad strategies and codes in planning schemes, before they are formally released for public submissions;
- ask (early) for a council planner to explain the *Integrated Planning Act 1997* to your group;
- ask (early) for council to grant your group some funds so that you can employ a consultant planner or lawyer to help you respond in detail to draft documents;
- discuss the importance of the planning schemes with your group and marshal your volunteers and financial resources;
- ask (early) for your council to formally decide to allow extra time for receipt of public submissions than the bare minimums set out in the *Integrated Planning Act 1997*; and
- talk to key councillors, council public servants and the media to convince them of the merits of your submissions.

The submission process

In the minimum requirements for public consultation set out in the IPA members of the public may make submissions at specified periods in the planning process, the submissions must be considered by decision makers and a report on how the submissions have been dealt with provided to those making submissions.

Who may make a submission?

Any person may make a submission. A group of persons whether incorporated or not incorporated is entitled to make a submission. A person from outside the local government area may make a submission. There is no rule restricting submissions to 'one per family'.

What is a properly made submission?

The only legal requirement is that the submission be a 'properly made submission'. A 'properly made submission' must:

- Be written (it cannot be a verbal submission, 'written' means that it can be handwritten or typed);
- Contain the name and address of each person making the submission;
- Be signed by each person making the submission;
- Be received by the last day of the consultation period;
- State the grounds of the submission and the facts and circumstances relied on in support of those grounds; and
- Be sent to the local government or Minister, depending on who is proposing the planning scheme.

While a petition might be a properly made submission, it is politically more effective for individuals to put in individual letters that show they have a considered view point.

When may a submission be made?

The public has two opportunities to make a submission:

- on the statement of proposals for preparing a planning scheme (explained below); and
- on the draft planning scheme.

Figure 4.1 highlights the process for preparing a planning scheme, and shows when the public must be notified by council of the opportunity to lodge a submission (see also schedule 1 of IPA)

Figure 4.1 Public consultation during the planning scheme process

Part 1 - Preliminary Consultation and Preparation Stage

1. Resolution to prepare planning scheme
2. Statement of proposals for preparing planning scheme
3. **Public notice of proposal**
4. **Public access to statement of proposal**
5. **Consideration of all submissions**
6. Requirements for priority infrastructure plan
7. Resolution proposing planning scheme

Part 2 - Consideration of State interests and consultation stage

1. Ensuring proposed planning scheme does not adversely affect State interests
2. **Public notice of, and access to, proposed planning scheme**
3. **Consideration of all submissions**
4. Decision on proceeding with proposed planning scheme
5. **Reporting to persons who made submissions about proposed planning scheme**
6. Reconsidering proposed planning scheme for adverse effects on State interests

Part 3 - Adoption Stage

1. Resolution to adopt proposed planning scheme

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|---|
| <ol style="list-style-type: none">2. Public notice of adoption of, and access to, planning schemes3. Copy of notice and planning scheme to chief executive |
|---|

How will I know when I can make a submission?

1. Statements of proposals

A **statement of proposals** is a document prepared by the local government after it has resolved to prepare a new planning scheme. The statement must identify matters the local government anticipates the planning scheme will address and state how the local government intends to address each 'core matter' (including all component parts) in preparing a planning scheme. For a local government in the SEQ region, the proposal must state how the planning scheme will reflect the SEQ Regional Plan.

For **statements of proposals**, the local government publish at least once in a newspaper circulating generally in the local government area a notice stating the following:

- the name of the local government;
- that the local government has prepared a statement of its proposal for preparing the planning scheme;
- that the statement is available for inspection and purchase;
- a contact telephone number for information about the statement;
- that written submissions about any aspect of the proposal may be made to the local government by any person;
- the period (the preliminary consultation period) during which submissions may be made (minimum **40 business days**); and
- the requirements for making a properly made submission under this part.

For all the preliminary consultation period, the council must display a copy of the notice in a conspicuous place in their public offices.

2. Proposed planning scheme or proposed amendment of a planning scheme

For an amendment to a planning scheme or a proposed new planning scheme the same methods and type of advertising is required. However the minimum consultation period is **60 business days** for a proposed planning scheme and **30 business days** for an amendment of a planning scheme.

What information should I have before making a submission?

As a general rule, the more informed your submission is, the more seriously it has to be taken. Decision makers tend to disregard petitions (unless the numbers of those signing are very large or the signatories unusually influential). Form

letters are similarly regarded. Individual submissions, particularly well informed and well argued submissions, require the most attention and are likely to have the most effect.

On a statement of proposals you SHOULD:

- read the statement, being particularly alert to what may not be in it as much as what is (see below: *What must be in a statement of proposals?*);
- consider whether you agree with the proposed direction put forward by council and put forward alternative development options for councils consideration.

You COULD:

- read any background studies referred to in the statement or that you can otherwise access that give you basic information about the state of the environment in you area;
- attend any public meetings or contact the council planner to ask questions, including to point out matters not addressed in the Statement;

On a draft planning scheme, you SHOULD

- read the 'How to use this planning scheme' section of the planning scheme;
- read the statement of proposals or key parts of the draft planning scheme with an emphasis on your areas of interest (e.g. protection of the natural integrity of Catts creek) and on any areas opposed to your area of interest (e.g. possible residential development encouraged next to Catts creek under any relevant local area plan);

You COULD

- read key background documents on your areas of interest (e.g. any study into the flora and fauna or a study of public transport needs of residents of the area);
- seek the help of the council planner and ask how the plan would apply to hypothetical case examples of development applications affecting areas of interest to you (see *factsheets* 6 and 7 on the development approvals system under the IPA); and
- attend public meetings and ask questions.

Doing a submission on a statement of proposals

How do I find out that a local government has made a statement of proposals?

The *Integrated Planning Act 1997* (IPA) requires that the public be aware of the proposal to prepare a planning scheme. The local government must:

- publish notice of the statement of proposals at least once in a locally circulating paper; and
- display the notice in a conspicuous place in the local government's public office for all of the preliminary consultation period.
- The preliminary consultation period must last for at least **40 business days** after the initial newspaper publication of the notice. Remember, you can be involved on your own account in lobbying for matters to be included in the statement of proposals and in lobbying for a longer period for submissions.

How do I get a copy of the statement of proposals?

Beside advertising the statement of proposals, the local government must also keep it available for inspection and purchase during the consultation period. This means that the local government:

- Must keep the statement of proposals in its office;
- Make it available for inspection free of charge; and
- Provide a copy or a part of the statement if requested. A fee may be charged to cover the costs of making it available and of postage if relevant.

What must be in a statement of proposals?

A statement of proposals must:

- Identify the matters to be addressed in the planning scheme; and
- State how the local government intends to address each core matter (i.e. land use and development, infrastructure and valuable features
- For a local government within the SEQ Region – state how the local government anticipates the planning scheme will reflect the SEQ regional plan.

The *Integrated Planning Act 1997* does not contain any other requirements about what must be in a statement of proposals. Apart from the core matters, it is up to each local government to decide what is to be contained in the planning scheme. The requirement is that these matters must be identified at an early stage. The public must be given the opportunity to comment on them.

Preparing to write a submission on a statement of proposals

There is no legal requirement for your local government to explain the statement of proposals to you. The minimum requirements are that the local government notify the public and make the statement available for inspection and purchase. However, IPA emphasises that these are only minimum requirements. It is open to the local government to undertake additional consultation.

You COULD:

- organise a meeting of other friends and acquaintances in the area affected by the statement and invite a council officer to address your meeting and explain and clarify the statement; and
- ask if the council has any videos or displays which might assist you to understand the statement.

Before commencing your submission, you should look at other publicly available documents of the local government for background purposes. These include:

- current and previous planning schemes, planning studies and reports relating to those schemes;
- current state planning policies (see *factsheet 3*); and
- The SEQ Regional Plan if relevant, and any regional planning documentation including the terms of reference for the Regional Planning Advisory Committee and any reports it has made.

You could also request copies of:

- other submissions made about the statement of proposals;
- reports about how those submissions are treated; and
- communications with other government agencies, the RPAC and other local governments concerning the planning scheme.
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Refer to *factsheet 8* for more detail about the documents available to the public.

Writing a submission on a Statement of Proposals

When writing your submission, keep in mind that:

- it should be easy to read, i.e. use short sentences and plain English;
- it should be organised, i.e. use headings internally and ensure that it flows from one point to another;
- you should refer to the points of the statement of proposals you wish to address;
- you should highlight your key recommendations and summarise them at the end of the submission;
- for each point of the proposal you wish to discuss, you should set out the concern you have, the information and examples grounding that concern and any alternatives you wish to suggest; and
- try to keep your arguments focused on matters that the planning scheme can actually deal with. (i.e. land use, managing the effects and development of infrastructure standards etc.)

What issues should I address in my submission?

You should address the issues that are most relevant to you. As the statement of proposal is aimed at the more strategic level, submissions should aim to focus on what 'outcomes' they wish to achieve and how planning and development can

contribute towards these outcomes. Examples of issues which you may address are:

- impact on the amenity of the neighbourhood - e.g. does the statement of proposals have the capacity to detrimentally affect the character of your neighbourhood;
- the effects of traffic;
- noise, air, water pollution and other adverse impacts on the natural, built and human environment;
- air quality and energy usage;
- land and soil quality;
- waste management;
- ecology and nature conservation;
- Social and cultural issues;
- economic development; and
- vegetation clearing on freehold land (in addition to State controls);

Consider whether the proposals advance ecological sustainability (see *factsheet 2*)

Doing a submission on a draft planning scheme

The planning scheme sets out the local government's plan for the future development and preservation of its local government area. *Factsheet 3* sets out the elements of the planning scheme and explains how a planning scheme may not prohibit development, but instead may positively use policy and regulatory measures to effect outcomes.

A **proposed planning** scheme is a draft of the final scheme. It should be prepared by the local government based on the statement of proposals and after consideration of the submissions received about the statement. It is the basis upon which the final planning scheme is prepared

The statement of proposals provides the framework for the preparation of the proposed planning scheme. Once public comment on the statement of proposals has been received, the local government must resolve to either stop the process of creating a new planning scheme or proceed to the second stage of preparing a draft scheme.

Are the requirements for notification and submissions any different to those for statements of proposals?

The draft scheme must be advertised in the same way as the statement of proposals. The consultation period must be for a minimum of **60 business days**. This is a month more than for statements of proposals.

The proposed planning scheme must be kept available for inspection and

purchase in the same way as the statement of proposals. The local government must consider all properly made submissions. The legal requirements for public consultation set out in IPA are only minimum requirements. After considering submissions, the local government must decide whether to proceed with the proposed planning scheme, modify it or withdraw it.

What must be in a proposed planning scheme?

IPA does not contain any requirements as to what must be in a proposed planning scheme. However, the proposed planning scheme should reflect the matters contained in the statement of proposals and can be expected to contain all the features required in the final planning scheme.

A planning scheme must "seek to achieve ecological sustainability" (see *factsheet 2*). It must address the core matters, identify desired environmental outcomes and include measures for achieving those outcomes and indicators to assess whether they are being achieved (see *factsheet 3*).

If these elements are not present in your draft planning scheme, you should ask your council how they will be addressed and why they are not included in the draft.

If you cannot understand the proposed planning scheme, you should seek the local government's assistance in clarifying and explaining it. You can carry out the actions suggested earlier for clarification of aspects of the statement of proposals.

You should look in the proposed planning scheme for the following features:

- The treatment of areas of special significance, whether for ecological, social or cultural reasons;
- The triggers for assessable development, i.e. what developments require impact assessment (on which you can make submissions and later challenge in court) and which require code assessment (on which you cannot make formal submissions and have no appeal rights) (see *factsheet 6*);
- What information is provided on the assessment process, eg is there any policy on public notice requirements for assessable development whether it be code or impact assessment;
- What information is provided about codes, eg how many are there and how detailed are they, do they require separate public consultation, what impact do they have on how developments are assessed?;
- Are the desired environmental outcomes (DEOs) comprehensive in their coverage? Are there specific DEOs for dealing with the values of specific areas?;
- What measures are there for the achievement of DEOs?

- Is there adequate planning for community and environmental infrastructure?

What issues must I address in my submission on a proposed planning scheme?

The issues should be a refinement of those which you raised on the statement of proposals. Include comments on the features above. However you may wish to focus on more specific aspects on how development is to be treated and assessed.

How do I get feedback on my submission?

The local government must prepare a report explaining in general terms how it dealt with the submissions received. It must provide that report or the relevant part to each submitter. The aim is to provide submitters with feedback on the effect their contributions have had on the outcome of the scheme.

What happens next?

The local government may decide that significant modifications to the draft scheme are necessary. If the modifications make the proposed scheme significantly different to the first draft, the local government is required to repeat the public consultation process.

If the revisions do not make the proposed scheme significantly different, the local government may resolve to adopt the scheme. If it does so, then notification of the adoption must be made and the planning scheme made available for inspection and purchase by the public.

You can also begin to lobby for amendments to be made to any unsatisfactory planning scheme or to prepare for the next review of the planning scheme. You should, if possible, share your experiences and expertise with other interested parties, particularly within your local government area.

How can I make people listen to my views?

The first thing is to make sure that you can articulate your views in a simple and logical manner. What you say must be worth listening to.

You need to identify why the community and the government should be concerned about the issue and what makes it a priority.

You need to lobby people to adopt your views. To be a successful lobbyist, you must:

- know what you are talking about;

- know what you want to achieve;
- speak to the right person;
- use arguments that will be relevant to that person;
- suggest ways they can do what you want;
- try to discuss the issue in a constructive way; and
- follow through.

You should consider whether there are groups with similar interests to your own which you can join or whether there are groups which have similar interests to your group.

You should also consider using the media to assist you. However, you should be careful. You should:

- know what message you are trying to convey;
- ensure that the issue is a simple one which can be easily communicated. If it is more complex, then you will need to provide some background;
- is there a potential 'photo' opportunity that might interest a television station or a newspaper;
- would radio pick it up as a talkback topic; and
- what is it you are trying to achieve.

Further information and references

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Your local government

Your local non-government environment council

Kingham F and Environmental Defenders Office (Qld) - Getting Involved in Planning under the Integrated Planning Act - A guide for the community 1999. (This factsheet includes material from that guide.

Relevant laws

Integrated Planning Act 1997