

## IDAS IMPLEMENTATION NOTES

*Note 11*

# Making a submission about a development application

A submission is a written comment about a development application made by any interested member of the community (i.e. person, group or organization) about a development application.

A submission may -

- object to all or part of the development; and/or
- support all or part of the application.

A submission may be made in relation to either impact assessment components or code assessment components of a development application.

## 1.0 Commenting on a code assessable application [s3.2.8 of the IPA]

Under the public scrutiny provisions of the *Integrated Planning Act 1997* (IPA), interested community members may inspect and provide comments on a code assessable application.

For these applications, the submission forms part of the “common material” for the application and helps inform the assessment manager’s decision making. The extent to which a submission may influence the assessment manager’s decision is affected by whether or not the proposed development complies with the applicable codes.

For code assessable applications, the assessment manager must assess whether the development complies with the applicable codes for the development. If the development complies the assessment manager is obliged to approve the application, whether or not conditions are required to achieve compliance.

An assessment manager may approve code assessable development if the application does not comply with the applicable codes but only if there are sufficient grounds to justify the decision having regard to the purpose of the code, any State Planning Policies, the SEQ Regional Plan (if applicable) and any submissions received about the application.

Submissions about code assessable applications do not attract appeal rights.

## 2.0 Commenting on an application involving impact assessable development or an application to which s3.1.6 applies

An application is required to be publicly notified under Chapter 3, part 4 of the IPA if -

- any part of an application requires impact assessment.;
- the application is made under a ‘transitional planning scheme’ or interim development control provision and would have required public notification had it been made under the repealed *Local Government (Planning and Environment) Act 1990* (P&E Act); or
- the application was lodged on or after 4 October 2005 and the application is an application to which s3.1.6 of the IPA applies

In deciding an impact assessable application, the local government must assess the planning impacts of the development and have regard to -

- the common material, including the planning issues raised in any properly made submissions;
- its planning scheme;
- the requirements of any referral agencies;
- any State Planning Policy; and

*Note: For more information about public notification refer to IDAS Implementation Note 9.*

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*Note: If a development application is required to be re-advertised, properly made submissions (or if not properly made, submissions accepted by the assessment manager) received during the initial notification period are valid for the later notification period [s 3.4.9A of IPA].*

- if applicable, the SEQ Regional Plan.

### 3.0 What constitutes a “properly made submission” [schedule 10 of the IPA]

A properly made submission must -

- be in writing;
- state the grounds of the submission and the facts and circumstances relied on in support of the grounds;
- be made to the assessment manager and received **during** the notification period if in relation to impact assessment components of the development application;
- state the name and address of each person who made the submission and be signed by each person who made the submission.

A person who makes a properly made submission about an application is called a “submitter”. By making a “properly made submission” about an application requiring public notification a submitter gains the right to appeal to the Planning and Environment Court (the Court) about any decision by the local government to approve the impact assessment component of the application (including the imposition of any conditions).

### 4.0 The grounds for a submission

In stating the grounds of a submission and the facts and circumstances relied on, it is important to focus on planning issues, as these are the only factors that can be taken into account in decision making<sup>1</sup>.

Planning issues include matters such as -

- whether the proposed use is consistent with the intent for the area as expressed in the planning scheme;
- whether the scale and design of the proposed development is compatible with surrounding development;
- how the development addresses the street and interfaces with adjoining properties;
- how potential traffic and car parking issues associated with the development have been mitigated;
- hours of operation (for commercial activities);
- how the development may impact on drainage patterns in the area;
- how the development fits with the objective of the planning scheme to protect and enhance the natural environment.

To assist the assessment manager in understanding the views of the submitter, the submission should also include any relevant evidence and/or documentation in support of the grounds raised in the submission.

### 5.0 How to find out the details of a development application

Commenting on an application requires a basic understanding of the nature and extent of the development application. Details of a development application are made available through the following IPA provisions -

1. **public scrutiny** - for all development applications; and
2. **public notification** - for development applications involving impact assessment; or an application to which the IPA section 3.1.6 applies; or assessed as development following the impact assessment process under a transitional planning scheme.

The information available for public scrutiny includes the application form, the acknowledgment notice, the information request and any other material about the application (including site plans, elevations and supporting technical reports, referral agency responses) in the possession of the assessment manager at the time the public scrutiny request is made [s 3.2.8 of IPA].

<sup>1</sup> The relevant statutory documents that a development may be assessed against could include the planning scheme, any relevant local planning instrument, any relevant State planning policy, the SEQ Regional Plan and any development approval and any matters prescribed under a regulation to the extent they apply to a particular development.

*Note: For more information about lodging an appeal, refer to IDAS Implementation Note 20.*

Public scrutiny information is available for purchase (at a reasonable cost) and/or inspection. To find out where this information is held for a particular application, contact the relevant assessment manager.

#### **6.0 Availability of submitter details** [s 3.2.8(2A) of IPA]

Submissions are **not** confidential. They form part of the “common material” for an application and therefore are available for viewing or purchase through the public scrutiny process. It is necessary for this information to be made available to an applicant so they have the opportunity to adequately address the issues raised.

While IPA enables the names and addresses of submitters to be withheld from public scrutiny, the decision to do so is at the discretion of the assessment manager.

#### **7.0 Changing or withdrawing a submission** [s3.4.9(4) of the IPA]

If the assessment manager has accepted a submission (even if it is not a properly made submission) the person who made the submission may, by written notice –

1. during the notification period – amend the submission; or
2. at any time before a decision about the application is made – withdraw the submission.

#### **8.0 Receiving notice of the decision** [s3.5.15(3) of the IPA]

A submitter will be formally notified of the assessment manager’s decision on the application. If the application is approved, the notice will include details of any conditions applied to the approval. Advice about lodging an appeal on a decision involving an impact assessment component of a development approval is also forwarded to relevant submitters.

#### **9.0 Appeal rights for submitters** [s4.1.28 of the IPA]

A submitter for a development application may appeal to the Court only against the part of the approval relating to the assessment manager’s decision on the part of the application requiring impact assessment.

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