DAMAGE CONTROL OR QUANTUM LEAP? STAKEHOLDER COMMENTS ON THE *INTEGRATED PLANNING ACT* (QLD) 1997

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The *Integrated Planning Act* 1997 (Qld) (IPA) represents a major legislative reform of the planning system in Queensland. The IPA came into effect on 30 March 1998. In the period November 1998 to February 1999, a team of researchers at Griffith University conducted a series of interviews with planning and development consultants in an attempt to gauge stakeholders' views of the new Act and its early implementation. This article reports on that feedback. While it is difficult to make recommendations on the basis of such preliminary feedback, the evidence suggests that continued support for administrative restructuring is essential if the goals of the IPA are to be realised.

Introduction

The *Integrated Planning Act* 1997 (Qld) (IPA)[1] is a comprehensive reform of the legislative framework for planning and development control in Queensland. It embodies procedural and substantive reforms and has, from its initial inception as the Planning, Environment and Development Assessment Bill, to the present day, raised considerable controversy. Particular controversies relate to the desirability of reform,[2] the extent of reform,[3] and the feasibility and implications of reform,[4] including environmental

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1 Act no. 69 of 1997.

2 B Moon (1998) 'Reforming the Queensland Land-Use Planning Legislation: An Agenda Driven By Myth and Rhetoric' 35(1) *Australian Planner* 24; K Yearbury (1998) 'The *Integrated Planning Act*: Planning for the New Millennium' 35(4) *Australian Planner* 197.

3 J Humphreys (1998) 'Overview of Planning Implications of IPA' in *The New Queensland Integrated Planning Act*, LAAMC Publications, p 3; P Day (1998) '*Integrated Planning Act*: the Fiction' in *QELA Annual Conference Papers*, 13–16/05/1998, Session 7, Speaker 2, p 76; D Fisher (1998) 'Planning for the Environment under the *Integrated Planning Act*' 4(19) *Queensland Environmental Practice Reporter* 121.

4 M Baker (1997) 'The Draft IPA: What's in it for the Community?' 37(4) *Queensland Planner* 8; G Rinehart (1994) 'Implications on Local Authorities of the New Planning and Development System' in Queensland Environmental Law Association, *Annual Conference Papers, Fraser Island, 12–15/5/1994*, p 7.3.1.

implications.[5] To date, the debates have been largely academic, but practical experience has been accumulating rapidly since the coming into force of the Act in March 1998. In the period November 1998 to February 1999, a team of researchers at Griffith University conducted a series of interviews, primarily with planning and development consultants, in an attempt to gauge stakeholders' views of the new Act, then in its earliest stage of implementation. This article reports on the feedback so obtained and reflects on some of the controversies mentioned above in the light of that feedback. The objective is to add practical experience (however limited, preliminary and confused — and therefore unrepresentative — that may be) to previously academic debate. While it is too early to draw any conclusions about the efficacy of the new Act, the feedback quite clearly indicates some common problems that need to be addressed. A detailed analysis of how these problems should be addressed is, however, beyond the scope of this article.

Research Methodology

Over a period of approximately four months in late 1998 and early 1999, a team of Griffith University students interviewed 30 planning and development consultants based in Logan, Ipswich, Brisbane, the Gold Coast and Cairns. As there was no intention to collect quantitative data or to draw statistically verifiable conclusions or hypotheses, we were not concerned with rigorous sampling beyond a desire to canvass a variety of views. The interviewees worked in firms of various sizes, in a variety of positions and with varying degrees of responsibility and experience. Whilst not every firm we approached was willing or able to talk, all those who were willing were interviewed. If they were willing to talk, we were willing to listen!

The interviewees were asked open-ended questions about their experiences and perceptions of the new Act.[6] Obviously, all experience is limited due to the newness of the Act. This means the relevance of much of the feedback may be short-lived due to rapidly developing circumstances. On the other hand, the feedback provides some interesting insights on the early implementation of major law reform in the planning and development arena. These insights may be instructive to other states considering similar reforms and will hopefully assist the Department of Communication and Information, Local Government and Planning (the Department) in its ongoing review of the IPA.

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5 P England (1999) 'Toolbox or Tightrope? The Status of Environmental Protection in Queensland's *Integrated Planning Act*' 16(2) *Environmental and Planning Law Journal* 124; M Leong (1998) 'Comparative Analysis of Environmental Impact Assessment under the *Integrated Planning Act* 1997 and the *Local Government (Planning and Environment) Act* 1990' 18(4) *Queensland Environmental Practice Reporter* 87.

6 This research was funded by a grant from the Australian Research Council. The author would like to thank all participants, interviewees and interviewers, who contributed to this survey. All quotes cited in this article have been kept anonymous in order to respect the confidence of survey participants.

If there is one outstanding conclusion to be drawn from the feedback received, it must be that the IPA is by all means controversial. The controversies that dogged discussions prior to the enactment of the IPA have not disappeared and are not likely to for some time. The Act quite clearly has its proponents and adversaries — although at this early stage in the implementation of the Act, none of the interviewees could offer unreserved praise for it. A good indication of the controversial nature of the Act is that some aspects of the Act were criticised by some interviewees and praised by others. Nevertheless, there was a surprising degree of convergence about some of the flaws in the Act and/or its implementation. Likewise, IPA 'proponents' shared some views about what are — or may eventually become — beneficial developments in the new Act.

The IPA in Practice: The Bad News

The most common complaints regarding the early implementation of the IPA related to:

- ◊ time frames and information requests;
- ◊ terminology;
- ◊ resources, staff and training in councils and referral agencies;
- ◊ communication/accountability issues;
- ◊ costs of administrative compliance;
- ◊ strategic planning; and
- ◊ unchanged political/administrative cultures.

Time Frames and Information Requests

One of the major innovations in the IPA is the Integrated Development Approval System (IDAS).[7] The objective of IDAS is streamlined decision-making. To this end, IDAS establishes statutory procedures for 'referring' certain types of development applications to relevant state departments. It also imposes time limits on councils and referral agencies for processing and deciding on applications. An important feature of IDAS is that, after receiving an application for development approval (in the application stage), local councils and referral agencies have a limited time (between 10 and 20 days) in which they can ask for further information (information requests).[8] Applicants can choose whether or not to respond with all the information requested,[9] but

7 IPA, Ch 3.

8 IPA, s 3.3.6.

9 IPA, s 3.3.8(1).

if they do not volunteer the information they may be penalised at a later time with an adverse costs ruling should the matter go to Court.[10]

IDAS has been hailed as one of the most significant reforms in the Act, with the potential to cut through red tape, associated delays and costs.[11] This was certainly not the experience of development consultants at the time of our survey. By far the most common complaints made related to delays in processing and deciding applications. Many (but not all) consultants reported that time frames are not being met and councils are slower than ever to process applications under IDAS. Councils seem to be buying time by automatically seeking extensions, even on quite simple applications. The Brisbane City Council (BCC), for example, has responded to minor applications (e.g. for a shed) with a standard letter requesting a 10-day extension 'due to the complexities in the issues involved'.

There was a feeling among some interviewees that IDAS creates more work for councils and applicants, especially when responding to information requests. There was a degree of scepticism about the time frames set out in the IPA: if Councils cannot meet them, there are no real sanctions in the Act; there are too many opportunities for extensions and, instead of trying to outperform the time frames, councils are 'stretching things out' to use all the time available. At best, they are working to the statutory deadlines instead of well within them.

> In the timing you've got 10 days for this and 40 days for that, etc. Some local authorities are using that as if to say that we can stretch it out. We would hope that if it's 10 days, surely they can get it done in two and if it's 40 days, let's get it done in 20. But not just string it out because the law says I've got 40 days so get stuffed ... If you sort of stretch things out like this you've got big monthly penalties of interest bills and not being able to open even just a shop or a development on time if it's delayed. Somebody is paying for it.

Obviously it may be difficult for councils in the early days of implementing the Act to meet the time lines embodied therein, but it may be worth asking whether there are any real incentives (or sanctions) to encourage Councils to do any better. None is apparent in the Act. Given the increased administrative load on councils, are there sufficient resources to turn last year's performance around and start 'beating the clock' instead of running with or even behind it?

In addition to seeking extensions at every available opportunity, many developers suggested councils are also using information requests to give themselves more time. Developers thought information requests were excessive, sometimes pedantic and sometimes written without reference to the application already submitted.

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10 IPA, s 4.1.23(2)(g).

11 *Planning, Environment and Development Assessment (PEDA) Bill: Exposure Draft for Public Comment*, 1995, Foreword. The PEDA Bill was the precursor to the Integrated Planning Bill 1997.

> I know a lot of Councils are using the information request as a way of stopping the clock. That was what I have experienced at Logan. I have written books of comprehensive assessments and you get an information request right on the deadline. And it will actually restate everything that you've had in your application. And you say did they bother to read it?

> You talk to people and they'll say that they didn't have the time to be reading the report before the information request had to go out.

In these circumstances, one interviewee had made a logical choice to withhold information in the initial application stage:

> We're getting to the point now on a couple of jobs where further information requests are that ridiculous and petty that we are writing back and saying no. On some jobs we are even withholding obvious information because we know that they'll come back and ask that obvious question for which we have all the information on file. We can then give it to them straight away. It's a way of guaranteeing that we don't go off on ridiculous tangents.

Obviously councils that are strapped for time and anxious to be working to the statutory time limits are not entirely to blame for using whatever leeway the law allows, but the evidence suggests the new time frames are a double-edged sword. If or when they start working well, they will provide a degree of certainty for the development industry. In the meantime, councils often view the deadlines as minimum, not maximum, time frames — a view more consistent with the old 'regulatory control' way of doing things. Further, they add to the inefficiencies of processing applications if, in an effort to meet statutory deadlines, council officers who are unable to read the application in the available time simply make unnecessary information requests.

Although processing times should reduce as officers become more comfortable with IDAS, the problems identified by our consultants may not relate solely to the novelty of IDAS procedures. Some consultants hinted at a more fundamental cause:

> We've received information requests that have been totally irrelevant to the application just because it is the *standard thing to do and Council thinks that it is gospel that these thing be done.* (Author's italics)

> There's not one person that I've spoken with who hasn't had an absolute gutful of information requests. They are a blight, a pain in the neck. They've gone mad with them. The information request has become *a de facto processing of the application* which it was not intended to ... It's exactly the same sort of issues that you would have canvassed sitting down in a meeting and talking it through anyway. I

> think that my major beef with the information request is that a lot of the stuff is pretty standard and can be handled by way of conditions. Often it has no bearing on the planning and land-use merits of the application. (Author's italics)

Fundamentally, there appears to be an underlying unwillingness to loosen the public sector's regulatory control over planning and development. If this is the case, then only a fundamental change of mind set — towards client-focused, performance-based management in local councils — may reverse the trends complained of by many developers. Other programs, such as the Local Approvals Review Program (LARP), have been designed to do this. Continued support for these programs seems essential if the IPA is really to succeed.

The second statement exposes another unresolved issue pertaining to IDAS: the role of information requests *vis-à-vis* conditions. Is it necessary, for example, to make a detailed information request covering issues that can be adequately dealt with by the imposition of standard conditions once the essential planning concerns have been determined? Is this a chance for developers effectively to write their own conditions, or should the two tasks of assessing the merits of an application and determining the fine details (including appropriate conditions) be kept quite separate? Should information requests be standard across similar applications or tailored to particular applications after a careful reading of the information already submitted? If the former, it seems logical — perhaps desirable — that applicants submit the minimum amount of information required at the application stage, but then what is the purpose of a separate application stage? Why not simply make the information request another standard form to be submitted with the initial application? If the latter, the statutory time frame for making an information request (between 10 and 20 days) is probably unrealistic and should be extended. Why not let councils and/or referral agencies ask for more information at any time prior to decision-making? After all, developers can always refuse to supply information requested.[12] Perhaps there is a halfway house — for example, local councils could develop checklists of information requirements for different types of application against which each application is assessed before a tailored information request is written. But who has the time and money to develop and apply these lists? Are councils simply duplicating the work/responsibility of private consultants at the expense of the public purse when they make detailed information requests?

Terminology is Difficult to Understand

> IPA says it's a plain English legislation. It probably just means that they use big words instead of Latin words I'm not quite sure but it's bloody hard to understand it from where I sit.

12 IPA, s 3.3.8(1).

There were contrasting views about the complexity of the new Act for professional users. While some interviewees felt the Act was unnecessarily complicated and unfriendly to use, others felt they were now getting on top of it, at least to a workable degree.

> Well it's much more straightforward. It's spelled out. Everybody knows what everybody's got to do and how to do it and when to do it and how long you've got to do it. So it's easily understood once you've done half a dozen or a dozen.

A particular feature of the new Act is the use of some radically different terminology — material change of use, impact and code assessable development, desired environmental outcomes, for example. A good understanding of these terms is a prerequisite to fully comprehending the new system, yet not all the terms are defined in the Act. Some have been deliberately left open for local councils to expand upon in their planning schemes but, as yet, no council is operating a planning scheme developed and made under the IPA. A common concern among consultants was the uncertainty associated with interpreting the new legislation. Interviewees complained there were inconsistent interpretations, not only between different councils and between councils and the department, but even between individuals within the same councils:

> A classic example was my application for an extension to a prawn farm. The first issues there was whether it was a material change of use or not. We spent around $10 000 arguing about whether or not it was a material change of use because council had no bloody idea. Then there were the issues of which components were operational works. Which parts were classified as an as-of-right use for the property. Was the extension of facilities an environmentally relevant activity? What components needed licensing? These were all questions that council couldn't answer.

Some interviewees felt that progress was being made and there was increasing consistency in interpretation. There was general approval of the Department's series of Implementation Notes and a heartfelt request for more. At least one interviewee felt they had contributed to greater consistency between councils.

There was also a general consensus that, despite the use of plain English, the IPA is a formidable document for lay people.

> For a minor application the process that someone has to go through is just onerous. This Act seems to be fine for a major development with people that are experienced in the process but if you've got mum and dad wishing to make a duplex application they just look at this and just say well why bother? ...
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> [It] means, and the guys over at Cairns City have told me, they spend a lot of their time filling out application forms. Now for a process or an

> Act that's supposed to make the process more simple at the grass roots, it's not.
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> It's taking the resources away from assessing applications and doing town planning. And secondly it's placing the council officers in a difficult position — for example, if they get something wrong on the form, where do they stand?

With the help of time and central guidance, concerns about inconsistent interpretations and 'fuzzy definitions' will no doubt reduce. Perhaps more could have been done or should now be done to ensure uniformity across the state. At least one interviewee lamented that an important opportunity to create greater consistency between councils had been lost. The increasing number of Guidelines and Implementation Notes should alleviate some of these problems.[13] Despite progress in this area, it appears the IPA has failed to deliver a user-friendly legislative framework easily accessible to the lay person. Departmental directions and/or court precedents may make life easier (or at least more certain) for professionals over time, but in many respects they will only add to the complexity of the law for the lay user. Once again, it is a scenario that seems to increase the workload of local government officers and constrain them in a 'regulatory control' mode of operation.

Lack of Resources, Staff and Training in Councils and Referral Agencies

> Everyone was confused. Really there was not enough assistance from the state government. They had a few forums, but everyone was still really confused. It's taken time to work out how to actually lodge an application. We've basically had to figure out the Act ourselves.
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> I spoke to around seven people, including the adviser to the manager of regulatory services, about which form I was supposed to fill in for a particular application and no one had any idea. It wasn't until I got a young guy who'd helped to train the staff on IPA that someone was able to answer my question, or even know what I was talking about. It's a mess.

Most interviewees felt that councils were poorly prepared to do business under the IPA when it first came into effect. Council staff were not uniformly incompetent but there were wide variations in knowledge and often it was counter staff who were least well informed. For many it was a matter of muddling through and working it out, sometimes at the expense of developers. There were some training schemes for council staff but again, the problem is one of wide disparities between different councils. Over time, some of these

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13 As of August 1999, there were six Guidelines (draft and final versions) and 17 Implementation Notes available on the IPA Web page at http://www.dcilgp.qld.gov.au/ipa.

problems should diminish — Council staff will presumably learn by trial and error. However, the legislation places increasing demands (administrative, interpretational, fact finding, etc.) on local councils in a financially constrained environment. In this environment, best practice — as opposed to mere competence — may be hard to attain.

Communication and Accountability Issues (Public and Referral Agencies)

The IPA retains public notification and objection (now 'submission') rights for all members of the public, although it does limit them to impact assessable types of development. Until planning schemes show us more clearly what developments are or are not impact assessable development, it will not be possible to assess the effects of this change. However, some of our interviewees made some general comments about notification and submission rights. Some consultants had experienced difficulties finding out the identity of submitters. On other occasions, council officers summarised the submissions received so that consultants could respond to them but the summaries were too bare to be really helpful. Recourse to the public 'scrutiny file' does not always help if submissions are not filed in a timely fashion. Further, a recent amendment to the IPA allows officers to withhold from the public information that is 'not reasonably necessary for a third party to access for the purpose of evaluating or considering the effects of the development'.[14] Comments from our interviewees make it clear that it is not only members of the public who want easier and greater access to applications and associated documents.

As noted previously, new referral procedures are one of the major innovations of IDAS. Referral procedures enable state departments to advise on (and sometimes determine) relevant applications prior to councils' decision-making. Consultants had some mixed views on this aspect of IDAS. On the one hand, the prospect of greater coordination was applauded but some consultants felt there was a corresponding decrease in their own lines of communication with referral agencies.

> Now council is involved with the referral agencies whereas previously we would go directly to the agencies ourselves. The advantage of that was that you knew who you were dealing with. You can probably still find out now, but at least before when you had a problem you could deal with it directly ... I don't see any advantages when I think about it.

Despite these misgivings, the prospect of bringing relevant parties together in a coordinated fashion was generally seen as one of the strengths of the IPA.

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14 IPA, s 3.2.8(2), inserted by the *Integrated Planning and Other Legislation Amendment Act* 1998 (Qld).

Costs of Administrative Compliance

Proponents of IDAS claim that, by cutting through red tape and integrating decision-making, it will reduce the costs of development. However, an issue that a number of interviewees raised was the increased cost of making a development application. There was a feeling that the IPA has increased the up-front costs for developers and consultants — in application fees and responding to information requests, for example. There is also the cost to developers of delaying development whenever the IDAS clock is stopped (to respond to information requests, for example) and/or extensions are sought. For smaller developers, these costs were said to be prohibitive.

> One client rang and asked what we would expect would be the time frame that he could get approval in. When we told him it could be 10 months he just said that he would go broke in that time. It is as simple as that.
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> Where a developer is involved in the business of development, not just a one-off development, they realise that the resources need to be committed up-front. However, individuals coming in for just one application are often horrified at how much they are expected to put up initially. It is their feeling that if they invest that amount of money in consultants and information they should get their approval as a matter of course. It doesn't always work that way and that creates disappointment. So, yes, it does mean a greater commitment of resources both from the applicant and the consultant.

These reports are consistent with industry complaints in New Zealand, where an integrated approval system first introduced in 1991[15] is currently under review.[16] As IDAS was principally about speeding up and reducing the administrative costs of applying for development, the criticism — if it proves to be a persistent one — is a weighty reproach on the IPA.

Strategic Planning

One of the major reforms in the IPA is a shift towards strategic planning. This is evident in the outcome-oriented planning provisions of Chapter 2 (Planning). In particular, the IPA has abolished prescriptive zoning, the stock-in-trade of Queensland's previous planning regime. Although councils are not prohibited from including zones in their planning schemes, IPA zones are for guidance only; they cannot prohibit particular types of development.[17] The intention is that, in future, development applications will be determined on the

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15 *Resource Management Act* 1991(NZ).

16 J Richardson and K Palmer (1998) 'The Future of the New Zealand *Resource Management Act*' 3(4) *Asia Pacific Journal of Environmental Law* 376, p 380. See further, Ministry for Environment (New Zealand) (1998) *Land Use Control under the Resource Management Act: Analysis of Submissions*, Ministry for the Environment.

17 IPA, s 2.1.23(2). See also s 6.1.2(1) for the relevant transitional provision.

basis of whether or not they meet the applicable desired environmental outcomes stated in the IPA planning scheme. Delivering good planning outcomes is to take priority over ensuring regulatory compliance with simplistic zoning categories. At this early stage, truly IPA-style strategic planning is not possible — it awaits the development of new IPA planning schemes.

Feedback on the IPA's radical shift to strategic planning was very mixed. A number of consultants drew attention to the lack of certainty so created:

> The bottom line is that developers really want certainty, not uncertainty. They'd rather know that the rules are a, b and c. They don't want to know what the odds are of getting their outcome when it may or may not be strictly within the rules. And I think that a performance-based system makes that more difficult to assess up front.

Many other consultants gave the idea of strategic planning notional or qualified support, welcoming the increased flexibility but remaining wary of the prospect of greater discretion being placed in decision-makers' hands. One suggestion was for a 'layered approach' with guidelines indicating 'deemed-to-comply' types of development and offering clear aims or objectives for other applications to meet. This adds an element of predictability to what could otherwise become wholly subjective decision-making. This is the course taken by the BCC in its Draft City Plan.

A good many consultants clearly welcomed strategic planning along with the abandonment of outdated systems of zoning and rezoning.

> I think that one of the great things about IPA (there's a few good things about IPA now that I think about it!) is that town plans have now become policy documents and you can't have held over your head crazy things like clause 4.21 says that you can't have more than 20 units on this site when you want 21 or 22. Previously, it was a categorical no, and that was the end of it. Now you can go to council and they have the power to say that you can have 21 units notwithstanding what the town plan says because its a planning merits issue. The town plans as they are structured today are all full of prescriptive planning. Council mindset has changed under IPA regarding the town plan. They now know that there is a legal authority allowing them to be more flexible in making their decision. They can actually base their decisions upon the merits of the issue rather than what the book says. IPA really has freed up the planning process just by its introduction. As the new schemes come out they will go another step and the whole thing will become more design driven, more planning driven.

As this is exactly what the objectives of IPA are — to make planning more flexible and goal-oriented — it seems desirable that a systematic attempt be made to collect more information about the extent to which councils are now exercising their discretionary powers to ensure that flexibility.

Unchanged Political/Administrative Cultures

Strategic planning certainly offers the development industry the opportunity to start operating outside the straitjacket of planning rules and regulations but one of the most intriguing questions is whether or not, given the opportunity, councils will readily do this. The IPA takes the prescriptive force out of zoning schemes but it does little else to force councils to operate flexibly and/or strategically when deciding on development applications. Perhaps there are few incentives needed if councils have themselves experienced the frustration of being forced to refuse promising applications on minor technical grounds based on their own regulations. On the other hand, as several of the comments in this article have suggested, the old culture of regulatory control is a persistent one:

> The problem at the moment is that you're going in with a performance-based attitude and Council are still very prescriptive in their zoning and the guidelines that they want met. I think that the old school prescriptive mentality is still there. It would, I think, be very difficult to go to the Department of Environment (DOE) and get approved something that was out of sync with what they're used to.

This 'regulatory control' culture may partly explain the proliferation of information requests. It puts at risk the paradigm shift to strategic planning — instead of making the quantum leap into flexible, performance-based planning, some councils may simply turn the IPA into an exercise in damage control. They may be so busy coming to terms with the increased paperwork and administration, complex new terminology and associated uncertainties that the big picture issues — strategic planning, integrated treatment of environmental and development concerns, etc. — are sacrificed as local councils simply muddle through. Happily, this is not uniformly the case. Some interviewees reported improvements in procedural and substantive aspects of decision-making:

> Councils are starting to realise that they can't continue to do things the way that they've been doing them and that the new legislation provides opportunities to do things quicker and better and actually make decisions in the process. Instead of just letting an application simply run its course, councils are now able to make a decision somewhere along the line and say 'We don't have to deal with this application this way, we can do it much quicker and get a result in 10 days rather than going through the whole 30 days, so let's do that.' They are starting to get better, but it is only because of the pressure that has been brought to bear because they are not achieving the deadlines that the legislation sets out. It is starting to work now.

The IPA in Practice: The Good News

In this article I have focused on the problems with the IPA identified by the consultants we interviewed. Not all the criticisms were made unanimously,

and on many issues there were, interestingly, quite contrasting views about the IPA reforms. There was also some good news about the IPA. In particular, many developers praised the newly created statutory opportunities for negotiating outcomes, using private certifiers and for achieving integration and flexibility.

> I have spoken to people who have said that they cannot believe that it is the same Council that they have dealt with before because they are now looking for business just the same as the private certifiers. That is a big step. However, in one of the projects that we are involved with, the certifier certified the whole thing but it didn't get approval so there are still good ones and bad ones. There is going to be a time where we'll need to sort the good ones from the bad ones. It has made councils more competitive, which could lead to better service, but you still have to be careful.

Some people thought the transition had been relatively well managed under the circumstances. The department's willingness to advise was praised and there were requests for more central guidance as well as collaboration between councils to create a more cohesive planning system throughout the state.

Despite many criticisms about delays in the processing of applications, some interviewees felt an important strength of IDAS was that it was 'applicant driven':

> I think what does benefit the applicant is that they can decide how they want to drive the application process. They can chose whether they want the development permits, the preliminary approval or combined approach. They decide what information they put in and so forth.

Another procedural improvement identified by some interviewees was the later time for public notification. Although this can create confusion among the public, a number of consultants felt the public will get more and better information by pushing notification to a later stage in the application procedure.

To be fair to the IPA, many consultants qualified their criticisms by saying they relate to the planning system as a whole regardless of the IPA. Time delays, for example, result from internal management and resource issues, not the IPA. This is undoubtedly the case, yet it may be the existence of just those issues — internal management and resource issues, for example — that will put at risk the more effective implementation of the IPA. Nevertheless, it is clear that, at least notionally, the goals and objectives of the IPA have many proponents.

Stakeholders' Recommendations

Some consultants shared their ideas for improving the implementation of the IPA with us. Broadly speaking, their suggestions can be divided into three categories relating to: time frames and IDAS; information and training; and

general recommendations. To its credit, the department has already acted on some of these suggestions.

Time Frames, IDAS, etc.

The bulk of the recommendations under this heading related to clarifying referral agency obligations, penalising councils unable to meet their deadlines and simplifying procedures for small applications. As to the first issue, some of the concerns raised were: What are councils advised to do if referral agencies fail to meet their time deadlines? Are councils negligent if they fail to identify all the relevant referral agencies in an acknowledgment notice? What is the status of any approval given without prior reference to all the requisite referral agencies?

With respect to simplifying procedures for small applications, one interviewee suggested time extensions should not be allowed for code-assessable development. Another argued that levels of assessment generally should correspond to the degree of risk involved. If a proposal is likely to have only minimal impact, assessment, the procedures associated with it should be kept to a minimum. It is to the credit of the department that an early amendment to the Act has already helped to streamline IDAS procedures for small applications.[18] Comments from stakeholders seem to recommend a continuing search for measures that will further reduce the administrative burden associated with small development applications.

Other suggestions were that the appropriate role of information requests *vis-à-vis* conditions be clarified and guidelines for performance-based planning be developed so as to avoid assessment on a case-by-case basis.

Information, Terminology, Training, etc.

The IPA is now in place and the immediate task is to make it work as smoothly as possible by, *inter alia*, improving people's understanding of it. Some of the recommendations of our consultants were to: increase the number of statewide, interpretative guidelines produced by the department; provide more seminars with practical examples to work through; encourage cooperation between councils; and simplify and/or explain the terminology better. Happily the department is addressing these concerns and the number of interpretative guidelines has increased dramatically since the time of our research.[19]

General Recommendations

There were three other recommendations that stood out in the comments from interviewees. Firstly, one interviewee suggested private certification be allowed for all plumbing and operational work. This recommendation is in

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18 The *Integrated Planning and Other Legislation Amendment Act* 1998 (Qld) introduced a new subsection 1A to s 3.2.3, the effect of which is to eliminate the need for an acknowledgment notice in some minor applications.

19 See n 13 above

line with other comments applauding the opportunities for private certification introduced by the Act. Secondly, one interviewee suggested approval processes should be more individualised. The degree to which information requests should — or can, in reality — be specifically tailored to individual applications is yet to be resolved. Perhaps this is an opportunity for more individualised applications to be devised, but earlier comments indicate some repercussions of this approach. One final recommendation was to create a simpler procedure for attaching additional planning documents and minor changes to the planning scheme otherwise than by amendment of the planning scheme.[20]

Conclusion

The IPA introduced both procedural and substantive reforms to Queensland's planning system. At first many of the criticisms levied against the IPA in its earliest days of implementation appeared to be procedural criticisms that one might expect to be both short-lived and irrelevant to the attainment of the higher order, substantive goals of the IPA. Two factors, however, suggest this may not be the case. First, on closer inspection it became obvious that some of the procedural problems may be rooted in more structural problems — lack of resources in local councils, increased administrative burdens and, perhaps more intangibly, a persistent culture of regulatory control and bureaucratic domination of planning. Secondly, procedural and substantive reforms are not isolated goals of the IPA: they are crucially interlinked both conceptually and administratively. Integration and strategic planning, for example, imply substantive as well as procedural reforms. Furthermore, if procedural reforms fail to generate the anticipated administrative efficiencies, what opportunity will resource constrained councils have to focus on achieving the higher order, substantive goals of the IPA?

If these conclusions are correct, achieving the substantive goals of the IPA requires, as a first step, sustained action to remedy the procedural problems (both superficial and more structural ones) identified in this article. Some councils have addressed these issues through complementary administrative reforms, but the evidence from our survey shows that outcomes have varied quite markedly. The conclusion must therefore be that continued support for administrative restructuring is at least as important as direct training and guidance on the IPA itself.

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