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Queensland: Beautiful One Day, IPA-ised the Next

But is it the Planners or the Legislation?




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Introduction

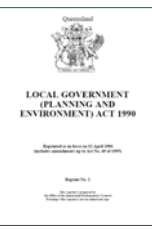
- Given an open brief
- Review the circumstances of the IPA and the planning response
- Try to help your Institute better understand where we are and perhaps why we are there - with the question:
 - Queensland: Beautiful One Day, IPA-ised the Next, but is it the Planners and Legislation?
- Preliminary points:
 - Sunshine Coast and Noosa base
 - Use of Noosa's planning scheme - one LGA but applies to all and more so in many places
 - Use of one location in the LGA - around Cooroy
 - Support the general thrust of the IPA

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Halcyon (?) Days to 1998

- Local Government (Planning & Environment) Act - 173 pages
- Commenced in 1990, after a 4-year gestation period
- Written in Greek - at least for most lay people
- Amended every now and then, the last time in 1995
- Its content:
 - Dealt simply with local government planning
 - Stipulated zones and associated regulatory regime
 - Stipulated the application regime: rezonings, consents and subdivision
 - Unsophisticated and did not seek to integrate with the myriad of State legislation



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Characteristics of Pre-IPA Plans

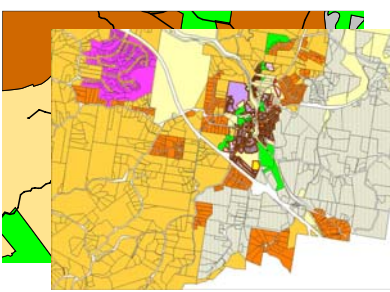
- Little bit of art, not much science.
- Where there was vision - it was often of the rear-view mirror variety:
 - Looked at where we had been - reflected the zoning scheme (the development control system).
 - Rarely was serious consideration given to where we were going, where we wanted to be or how we were to get there.
- Rudimentary development control systems.
- Rudimentary tools with which to carry out the task.
- The operational parts of Noosa's plan in the mid 90s were around 130-odd pages (inc. maps)
- So in combination with the LG (P&E) Act, there were just over 300 pages of material with direct control on development

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The Mapping

- Simple framework:
 - Overarching Strategic Plan
 - Zoning, cadastrally aligned
 - Sometimes development control plans



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Assessment Tables

- Simple framework
- Typical schemes had 20-25 zones and therefore tables
- Generally a *one stop shop* situation for your information

COLUMN 1 Zone	COLUMN 2 Colour on Zoning Maps	COLUMN 3A Permitted Development	COLUMN 3B Permitted Development Subject to Conditions	COLUMN 4 Consent Development	COLUMN 5 Prohibited Development
T, Commercial A	Dark blue	Parks	Caravans/ residences buildings	Accommodation buildings	Agist persons homes
			Carports	Ball games	Agriculture
			Commercial premises	Child care centres	Airports
			Commercial services	Display homes	Aquaculture
			Function rooms	Display dwellings	Animal husbandry
			General stores	Educational establishments	Food and beverage accommodation
			Medical centres	Fast food premises	Bulk stores
			Professional offices	Group housing developments	Caravan parks
			Restaurants	Hotels	Catania
			Service shops	Hotels	Domestic animal husbandry
			Shops	Industrial	Dwelling houses
			Veterinary surgeries	Multiple dwellings	Estate sales offices
				Nightclubs	Extractive Industries
				Nurseries	Forestry
				Outdoor entertainment	Funeral parlours
				Public houses	General industries
				Service stations	Home-based businesses
				Special purposes zones and recreation	Hospitals
				Tourist facilities	Host farms
				Vehicle hire premises	Institutions
					Junk yards
					Kennels
					Light industries
					Liquid fuel depots
					Lot feeding of stock
					Marine
					Marine industries
					Nonxious, offensive or hazardous industries
					Piggery
					Poultry farms
					Residential apartments
					Rotatable homes parks
					Retirement communities
					Roadside stalls
					Stables
					Stockyards
					Vehicle sales premises
					Warehouses

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The Provisions

- For most development that was consistent with the intent of the plan:
 - Simple provisions
 - Usually located in one place in the document
 - Sometimes had a performance base, but once again a simple measure
- For inconsistent development, the process was more difficult and less transparent – for many reasons, but often driven by the fact that plans did not take a long-term strategic view

Class 1 Criteria	
Objective: To provide opportunities for businesses to operate from residential and rural areas, where there will be no impact on the amenity of the area.	
Performance Standards	Acceptable Measures
The scale of the business is consistent with that of the dwelling unit.	In general, not more than 1 room of the dwelling unit is used for the business. Including residents, generally not more than 2 persons associated with the business are on the lot at any time. Not more than 1 registered vehicle associated with the business is parked at the site.
No visible evidence of the business operation is discernible.	No goods are offered for sale from the site. Customers or clients do not generally attend the site. Commercial deliveries or collections are limited to 1 per day. No vehicle servicing is conducted from the site.

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Did we Cope?


- Extensive commitments, but little understanding of what the commitment really meant:
 - Little serious measurement of environmental capacity to support development.
 - Little serious measurement of the need for various land use commitments.
 - Little serious measurement of the services necessary to provide for those commitments.
 - Little serious measurement of the costs (real or otherwise) of provision of those services.
 - Little serious communication of the real planning outcomes to the community (not sure we really understood them ourselves).
- Focus on development control: leaving all the hard decisions until later.
- Therefore focus on process: less clear on outcomes.
- Sometimes knew what we wanted but often failed to communicate that well through our plans.

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Hell (?) Days 1998-2006

- Integrated Planning Act - 507 pages (up 334 pages)
- Commenced in 1990, after about a 6-year gestation period and a still-born PEDA Bill in 1995
- Written in Plain English (translated means Ancient Greek or perhaps Latin!)
- Amended 69 times since 1998 (that's right - more than 8 times per year)
- Its content:
 - Deals comprehensively with local government and state planning
 - Stipulates the regulatory regime
 - Stipulates the assessment regime: impact, code, self and exempt
 - Integrated very little at commencement but now integrates around half the State approval processes (originally promised to be completed in 3 years - 2001)
- Planning scheme templates



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Characteristics of IPA Plans

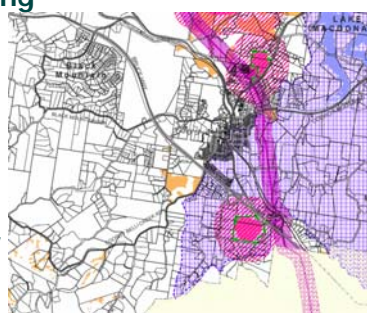
- Almost no art, lots more science, but sometimes poorly implemented.
- Vision can exist, but plays no role in the assessment process
- Plans influenced by the South-East Queensland Regional Plan
- Less frequent use of the rear-view mirror but this method still tends to prevail as we move north and west
- Much more complex development control systems
- Much more sophisticated tools with which to carry out planning – if only everyone could understand them
- The advent of GIS for mapping and digital access for documents - potentially greatly improves transparency, accessibility and navigation
- The operational parts of Noosa's plan today are 1,126 pages (inc. maps) – almost 10 times the mid 90s version
- So in combination with the IPA, there are more than 1,600 pages of material with direct control on development (more than 5 times the mid 90s version) and this excludes the thousands of pages of regional plans, state planning policies, guides, implementation notes, forms, etc.

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The Mapping

- Multi-layered framework:
 - No Strategic Plan, but sometimes simple strategy maps
 - Zoning, cadastrally aligned
 - Myriad of overlay maps, not cadastrally aligned



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Assessment Tables

- Much more complex framework, unless structured on a locality basis
- Sometimes need to carry out an assessment, to determine process
- Mapping can change assessment levels
- SEQRP can change assessment levels
- Multiple check points required to identify the process

Column 1 Defined use or use class	Column 2 Assessment category	Column 3 Relevant assessment criteria - applicable code if development is self-assessable or requires code assessment
AGRICULTURAL USES— Consistent use No Agricultural uses Inconsistent use All Agricultural Uses	Impact assessable All Agricultural Uses	
BUSINESS USES— Consistent use Entertainment and dining business; or Home-based business; Type 1 Limited visibility; or Retail business Type 1 Local Inconsistent use These Business Uses listed in Section 11.26	Self-assessable if Home-based business Type 1 Code assessable if— a) Home-based business Type 1 and not complying with Column 2 of Table 14.2; Acceptable Solutions S21.1 to S26.1 of the Business Uses Code; or b) Retail business Type 1 Impact assessable: a) Commercial business; or b) Entertainment and dining business; or c) Home-based business Types 2 or 3; or d) Industrial business; or e) Retail business Types 2, 3, 4, 5, 6 or 7	If self-assessable— Column 2 of Table 14.7, Acceptable Solutions S21.1 to S26.1 of the Business Uses Code Code assessable— Business Uses Code; AND If Retail business— Noosa Valley Locality Code; and Landscape Code; and Engineering Works Codes
COMMUNITY USES— Consistent use Education Type 4 Information or Wellbeing Type 2 Social Inconsistent use These Community Uses listed in Section 11.26	Code assessable if— a) Education Type 4 or b) Wellbeing Type 2 Impact assessable if— a) Education Types 1, 2 or 3; or b) Emergency service; or c) Open space; or d) Wellbeing Types 1, 3 and 4	If code assessable— a) Noosa Valley Locality Code; and b) Community Uses Code; and c) Landscape Code; and d) Engineering Works Codes

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The Provisions

Development provisions are now:

- Multi-layered – 3 layers used here
- Much more complex often needing legal interpretation
- Almost always located in multiple places throughout the document
- Always have a performance base, very often with multiple probable solutions that often do not deliver the specific outcome

For development that is impact assessable there is almost no guidance

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Landslide hazard areas
 OS Detached houses and associated uses are sited or constructed to maintain the safety of people and property from the risk of landslide.

SS1 If on land identified as a Slip Hazard Area on Overlay Maps OM1.3-9.5, the use does not-

a) involve the removal of vegetation other than grass from use areas; or
 b) involve excavating or filling of more than 50m³ of material (other than placement of topsoil not exceeding 100mm in depth; or
 c) involve cut or fill with a vertical depth of more than 1.5m relative to ground level; or
 d) redirect or impede water flows in an existing watercourse or storm-water drain; or
 e) involve construction of a storm-water effluent disposal system; or
 SS2 A site specific geo-technical report prepared by a registered professional engineer either-

a) certifies that the site is not at risk from landslip emanating from the site or from other land; or
 b) identifies methods of stabilising all buildings, accessways and use areas;

AND
 SS3 A site specific geo-technical report identifies methods of stabilising buildings, accessways and use areas, those methods are implemented.

Are We Coping 1?

- We still have extensive commitments, but:
 - We are measuring environmental impacts and capacity to support development.
 - We are better measuring need.
 - We are finally seriously measuring services necessary to support commitments, but are still not seriously measuring all the costs.
 - We are better communicating planning outcomes, but whether or not we really understand them sure we really understood them ourselves).
- All of the above is being done in the context of direction given in the SEORP – more in the next slide.
- We remain rigidly focussed on development control, though some hard decisions have been taken.
- Many development control staff have little time to learn the policy intent of their IPA schemes, just the mechanics of processing.
- Therefore the focus remains on process.

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South-East Queensland Regional Plan

- Despite the rhetoric, the SEORP committed extensive additional areas for development over and above that then committed by many of the region's planning schemes:
 - It did so without the micro-analysis through land capability assessment that today is carried out with IPA planning schemes in the region;
 - As a result, on the Sunshine Coast many of these new commitments are in areas that flood and conflict with the State Government recommendations in the State Planning Policy *Mitigating the Adverse Effects of Flood, Bushfire & Landslide*;
 - It did not carry out full infrastructure assessments – despite the release of *South East Queensland Infrastructure Plan and Program 2005–2026*;
 - If it had, why are we in such trouble with raw water supply and why did the SEORP commit a 1,000,000 extra people without sufficient supply.

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Are We Coping 2?

- The State thinks not
- Dynamic Planning for a Growing State:*
 - 22 strategies
 - Short-term outcomes (administrative changes to be implemented in 2006)
 - Medium-term outcomes (requiring legislative change and associated administrative reforms and training to be implemented in 2007)
 - Long-term outcomes (changes that require more extensive consultation to be implemented by June 2008).
- Yes, we are faced with another wave of change – and on past performance will it be over by 2008!
- Yes, some of it sounds good, but as with the IPA – the devil will be in the detail and how it is implemented.

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Impact Assessment

- Most IPA Planning Schemes contain:
 - Some strategic Shire- or City-wide vision
 - Little detailed strategic vision for places
 - Few strategic goals or objectives for particular themes.
- The reason:
 - Vision and strategy have no place in development assessment.
 - Codes have no direct role to play in the determination of impact assessable applications.
- Our planning schemes today are therefore much lesser tools in the assessment of impact-assessable applications than they were in the past.
- Yet, the impact-assessment process remains the only process by which community input is mandated.
- Put another way, planners can draft planning schemes that enable community input, but in doing so they enter a policy void.

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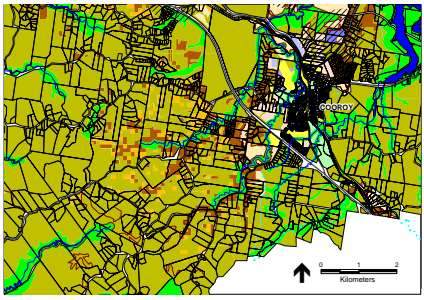
Back to the Halcyon Days Again

Before concluding let's go back to 1997, just before the IPA

- Noosa then examined things like:
 - Geology and soils
 - Slope
 - Vegetation
 - Agriculture
 - Bushfire
- Strategic Plan:
 - Integrated the results to produce one layer (no overlays)
 - If the Act allowed it, we could have added zoning regulations

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Conclusions

- Is it the planners or the legislation?
 - The notion that everything can be codified is flawed. Development and communities are too complex for 100% codification – this is why planning is regarded as both an art and a science – so the planners are at fault here.
 - The loss of vision and guidance for impact assessable development – the IPA does not prevent it – so it is the planners again.
 - The notion that the sum of all the parts (or each of the assessment components) equals a good outcome is flawed – this philosophy is embedded in the IPA– so it is the legislation, but the philosophy rests with the planners.
 - The nature and structure of codes leads to blackmail circumstances where a better solution is harder to achieve because it does not comply with the (barely!) acceptable solutions – this is the planners, but in their defence they have been turned into check-a-box robots and are forgetting how to think.
 - We are getting unexpected court decisions, sometimes squarely in conflict with one another – this is the legislation, but it was initially drafted by planners.
- So my conclusion is that:
 - The legislation is largely sound
 - It is the way the planners are interpreting the legislation that causes the majority of the problem
 - Considerable issues arise from the model planning scheme templates produced by DLGPS and the resultant structure of planning schemes they produce.

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Further Information & Questions

- Web Page: www.paulsummersplanning.com.au
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