Local Government (Planning and Environment) Act 1990

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The Local Government (Planning and Environment) Act (Qld) commenced operation on 15 April, 1991. This law now replaces the town planning provisions of the Local Government Act and City of Brisbane Town Planning Act. The Act governs the procedure for development applications, town planning schemes and the new Planning and Environment Court. The Act has important implications for developers, consultants, local authorities, resident action and conservation groups.

Key changes introduced by this Act are:

Development Applications

Under the Act any person may apply to amend a town plan by:

- Zoning or rezoning of land.
- Amending conditions of rezoning (eg. to reduce a car parking requirement).
- Amending a use within a zone, e.g. Special Facilities (Tourist Resort with 120 rooms) can be amended to Special Facilities (Tourist Resort with 300 rooms) zone.
- Amending a Development Control Plan Map.
- *Rezoning in stages* (a concept plan showing all of the stages is lodged with the initial application for Stage 1; it is advertised and subject to objection and appeal rights; the applications for all later stages must be lodged within 5 years of gazettal of the first stage; there are no objection and appeal rights on the second and subsequent stages).
- Combined applications are now permitted.

Concurrent applications are now permitted (an application for subdivision may be lodged at the same time as an application for rezoning and determined at that same time).

To limit purely *speculative applications* where an application is approved subject to a condition requiring the provision of a bond or security for completion of works, if the bond is not provided within two years, the approval automatically lapses.

Environment

The definition of environment under the Act has been expanded to include natural and physical resources (including flora and fauna) and social, economic, aesthetic and cultural matters. The scope of the *Environmental Impact Statements* required by local authorities will now be necessarily wider to cover all aspects of the expanded definition of "environment".

An EIS will be compulsory for "designated" developments and places including extractive industry, marinas, sawmills, tourist development having resort populations greater than 2,000 people, fishery reserves, tidal wetlands.

An applicant for rezoning can be required to submit a *site contamination report* prepared at the applicant's costs and at the direction of the director of the Chemical Hazards and Emergency Management Unit. So that the local authority can assess the risk of contamination, an applicant for rezoning must now provide a site history.

Planning and Environment Court

The Planning and Environment Court replaced the Local Government Court.

The appeal process to this Court has been simplified and appeal periods altered.

Each party to an appeal is to bear its own costs unless the appeal is frivolous or vexatious or in other very limited circumstances set out in the Act.

Any person may, whether or not a right of theirs has been infringed, apply to the Planning and Environment Court for an injunction or declaration against another who has breached a provision of a town plan or development conditions.

The Court will have power to make determinations on the interpretation of town plans and development conditions.

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