

# **Enhancing IPA Outcomes through Adaptive Management: A Call to Get Real!**

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## **Introduction**

The *Integrated Planning Act 1997* (IPA 97) introduced a performance-based approach to the statutory planning scene in Queensland when it came into effect in April 1998.

The aim of this paper is to explore the ability of this approach to achieve the desired and publicly stated outcomes that its proponents seek. It may be argued that it is premature to make this judgment as it has only been 6 years since the state's first IPA scheme was gazetted and to date there are only 15 IPA schemes in existence. Whilst it is still early days in terms of implementation, the intentions of the IPA approach are clear and its introduction represented a very radical departure from the traditional planning approach that was established by Queensland's first statutory town planning requirements in the *Local Government Act 1936*.

Consequently this paper does not seek to review actual case studies of IPA scheme implementation or achievements, but instead, address a potential flaw in the conceptual aspects of the implementation phase for IPA schemes that will become evident in the years ahead. This flaw has only become obvious with the recent amendments to the original IPA 97 legislative intent.

## **The Concept of Performance-Based Planning**

Performance based planning approaches have their origins in the United States in the early 1950s with the intention to standardise industrial land use regulations (Porter et al, 1988). They also note that the popularity of performance based standards increased during the 1970s with attempts to address environmental impacts of developments.

A performance based approach differs from conventional 'command and control' planning approaches in that it seeks to achieve a higher quality of outcome through the encouragement of greater innovation, use of technology and response to consumer demands. It also promotes a higher degree of flexibility and simplicity to the regulation and decision-making processes of landscape management (Porter et al, 1988; Leung et al, 2000). Whereas conventional 'command and control' planning based on zoning attempts to regulate development through controlling the use of the land, performance based planning attempts to do so by regulating the actual physical characteristics and functions (performance) of the land use activity measured against predetermined standards. Leung et al (2000) note that these standards are quantitative measures of development impact that are required to be administered without discretion. Under these arrangements it is conceivable that any land use could be located adjacent to any other land use provided it could satisfy the standards. This application of standards has the potential to require a

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higher reliance on accurately measured and interpreted technical data thus adding to the administrative, technical and enforcement requirements (Leung et al, 2000).

Importantly however, the whole thrust of a performance-based approach is underpinned by the necessity to establish at some future time/s that the original intentions of the plan (the development) that was approved for implementation, have been achieved. This involves a commitment to monitor the future state of the changed environment and to assess these changes against the original anticipated outcomes.

Goldin (1995) argues that performance based plans are one alternative which provides greater flexibility for developers as well as requiring higher skills and understanding amongst designers and regulators. For high quality design to be encouraged in planning system, planning schemes will need to be reviewed to accommodate performance-based requirements.

Leung et al (2000: 41/42) conclude that the success of performance based planning “relies on careful design, marketing and administration of the approach (*and in administering it, to*) accept the incremental nature of innovation ... keep reviewing, monitoring and adjusting”.

### **The Changing Queensland Planning Scene**

The genesis of formal consideration of embracing a performance based planning approach in state planning legislation came with the 1993 Discussion Paper titled: “New Planning and Development Legislation” (Q.DHLGP, 1993). This document set the scene for moves towards a performance based planning approach when it was stated that the then planning and development system was “unable to keep pace with changing community needs and expectations”. It was argued that the community should be involved in planning process for their local areas and that there was a need for “greater decision-making flexibility once planning strategies had been established”. To this end, it is argued that proposals should “.... be assessed on the basis of their impacts and their quality, rather than merely on the basis of compliance with prescriptive standards ....” (Q.DHLGP, 1993: 11).

The Discussion Paper claimed that these proposed new initiatives had the support of the development industry as well as Local Government with the latter being at the forefront of development assessment in the state. Local government it was claimed saw the (then) current planning legislation as “stifling their desire to move away from prescriptive development controls towards performance-based standards which focus on outcomes and encourage innovation” (Q.DHLGP, 1993: 15).

Subsequently, the option of a performance based planning approach was incorporated into the *Planning, Environment and Development Bill 1995* (PEDA 95) – an intended major reform to the State’s statutory planning system. PEDA 95 summarised the responses to the State Government’s 1993 Discussion Paper. It is here that there are the first hints of concern for local government that were to play themselves out in later years to ultimately affect the original intent of IPA 97. It was reported that some professional bodies expressed the concern that “a performance-based approach to development assessment is desirable but costly, complex and time consuming (*and that*) it may be beyond the ability of smaller Local Governments” (PEDA,

1995: xi). The State Government's response to these concerns was that whilst the Bill encouraged and facilitated performance-based planning and development assessment, it did not preclude a prescriptive approach. It concluded, "a planning scheme cannot prohibit development but can categorise it rigorously" (PEDA, 1995: xi).

## **The Intentions of IPA**

The enactment of the *Integrated Planning Act 1997* radically refocused Queensland statutory planning from the conventional prescriptive zone-based approach to an outcome-oriented approach based on performance based planning. The Act outlined the key elements of an IPA planning scheme to include:

- a) coordination and integration of core and other matters;
- b) identified desired environmental outcomes (DEOs);
- c) measurements that facilitate the achievement of the DEOs;
- d) performance indicators to assess the achievement of the DEOs; and
- e) a benchmark development sequence (BDS) where necessary. (Section 2.1.3(1), IPA 97)

The Explanatory Guide for IPA 97 reinforced the mandatory nature of these key elements and sought to distinguish IPA from its predecessor the *Local Government (Planning and Environment) Act 1990* as amended [LG (P&E)] when it stated, "the intention behind these provisions is to promote a certain function for planning schemes rather than a formal structure" Q.DLGP (1997: 18).

From the outset, IPA 97 contained a number of essential elements designed to ensure that there were checks and balances on its revolutionary approach to landscape and environmental management. In its non-prescriptive development assessment environment it provided tools and a process as a mechanism to follow up its management and development intentions. This mechanism sought to provide the community and its decision-makers with a degree of confidence that its scheme intentions were being achieved. The mechanism revolved exclusively around the performance indicators and IPAs intention to use then as the final check.

IPA 97 stipulated that each local authority was to review its planning scheme every 6 years. This requirement highlighted the importance of performance indicators and the intent of IPA 97 in this regard. Section 2.2.1(2) stated, "the review must include an assessment of the achievement of the desired environmental outcomes stated in the planning scheme having regard to the performance indicators stated in the scheme".

Again, IPA 97s Explanatory Guide reinforced the requirement and noted that this revised 6 year period was designed to coincide with two periods of a local authority's corporate plan – a mandatory requirement under the *Local Government Act 1993* (Q.DLGP (1997: 31/32)). This would have the effect of integrating the various statutory and policy mechanisms available to Local Government for the proper management of their areas.

Clearly there was a definite intent to ensure that, in the performance based approach that IPA 97 presented, there was some way to ensure that anticipated outcomes were monitored and intentions reviewed. In essence this had the effect of closing the loop on the decision and

commitment cycle. Kingham (1999: 39) concludes, “it is reasonably clear therefore that the performance indicators are intended to assess the performance of the scheme”.

### **The Nature of Performance Indicators**

In order to fulfill its role as a means of reviewing a planning schemes move towards achieving its stated DEOs, performance indicators need to be carefully crafted. To this end, a number of authors have highlighted the importance of performance indicators in this regard.

Kingham (1999) cautions that there is some confusion surrounding whether performance indicators should monitor environmental outcomes or the level of corporate activity towards achieving those outcomes. Clearly the latter would be of concern to many local authorities especially in the political environment in which planning occurs. She concludes, “make sure the performance indicator assess environmental performance not the level of activity of the local government” (Kingham, 1999: 57)

Interestingly, Kingham (1999) also suggested that performance indicators might be relevant to consider when development applications are assessed in as much as the decisions on development applications must not compromise the achievement of DEOs. In suggesting this approach she does however make the point that “it may also only be useful if the local government is progressively tracking the performance indicator” Kingham (1999: 39).

England (2004: 77) argues that “performance indicators should be measurable, either quantitatively or qualitatively or both ... (*in order to*) ... provide tangible evidence of how well DEOs are being implemented”.

C & B Consultants Pty Ltd (2003: 26) in their review of IPA plan making identified a number of commonly occurring statutory and drafting deficiencies. In terms of performance indicators they noted the “inconsistency between elements of Codes (ie Purpose Statement, Performance Criteria, Acceptable Solutions)”. They argued that in order to achieve broad legislative compliance, performance indicators for a planning scheme should be clearly identifiable. Specifically, in terms of the key requirement of IPA 97 Section 2.1.3(1)(d) previously discussed, requiring planning schemes to include performance indicators to assess the achievement of the DEOs, they found that some of the schemes reviewed did not satisfy this mandatory requirement. There were no specific recommendations to address this deficiency as the consultant’s work focused on the immediate aspects of IPA scheme implementation and they also noted that performance indicators were soon to become redundant under IPOLAA 03.

Performance indicators are used to assist in the charting of progress towards achieving operational targets and policy objectives. These indicators are basic inputs into a variety of decision processes and provide a way of reinforcing a legitimate emphasis on performance through the establishment of a monitoring and evaluation process of DEOs.

## **The Adaptive Management Link to Performance Based Planning**

The traditional planning process has commonly focused on a linear short-term process involving the steps of:

*survey ⇒ analysis ⇒ plan.*

This view of planning sees the activity as a short-term, isolated project task. Once the plan has been produced then that is the end of the task and there is no follow up until it is time to revise or redo the plan. One common criticism of this traditional form of planning is that it promotes an over-reliance on static, end-state 'blueprint/master' approaches to planning (Low Choy, 2002 & 2004a)

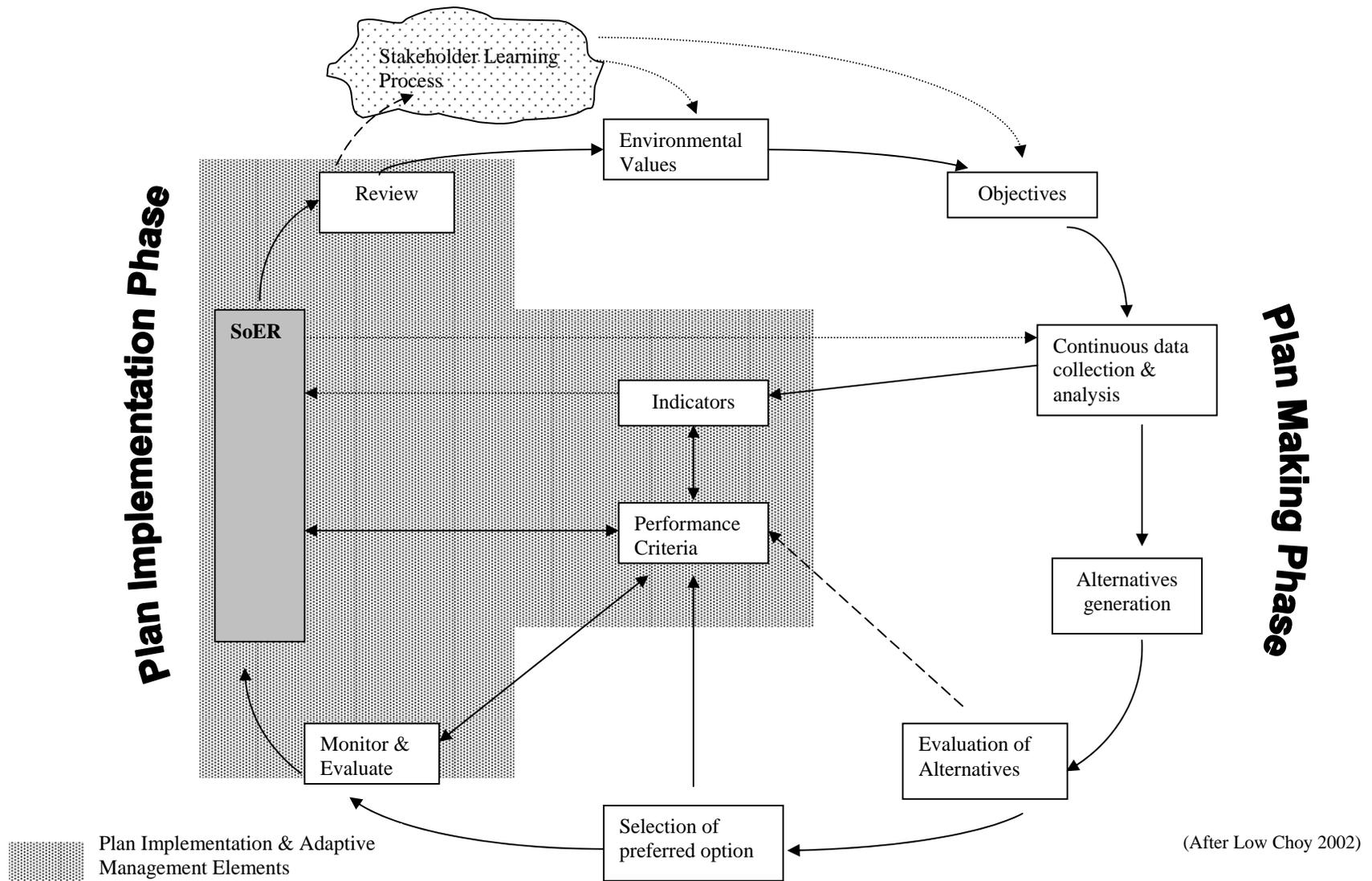
However, planning is not a 'stop-start' process, it continues for the simple reason that the landscape, the environment being managed, is not static, it is constantly changing as a consequence of natural and human induced changes. Consequently planning must also be continuous to be of any service to society. It needs a continuous or cyclic planning process to accommodate these evolving landscape management requirements (Low Choy, 2004a). This philosophical point of difference goes to the very heart of the issue of this paper.

Low Choy (2002 and 2004a & b) has articulated a planning process that incorporates what Hall (1992) has called a cyclic planning process. This is illustrated in Figure 1. This generic sequential, 'rational' cyclic planning process comprises two distinct phases – a plan-making phase and a plan implementation phase. The former includes the steps of decision to plan; identification of the problem(s); formulation of general goals plus specific and measurable planning objectives; identification and analysis of potential constraints and opportunities; research and development of relevant standards; projection of future scenarios; generation of alternative courses of action; evaluation of alternatives; development of the preferred plan, (including policies, programs, procedures and actions). The plan implementation phase comprises the continuous monitoring of the performance of selected indicators; their evaluation and reporting (eg SoER); and their periodic review (Hall, 1992; Low Choy, 2002).

Low Choy (2004a) has identified the advantages of a cyclic planning approach to include its:

- encouragement of the consideration of the implications and potential impacts during the plan making phase;
- provision of a mechanism for the process to be continually informed by additional information and understanding;
- provision of maximum opportunities for public involvement especially in the implementation phase; and
- provision of opportunities for future flexible adjustments to be accommodated as a result of lessons learnt and improved understanding from the in-built monitoring, evaluation and feedback during implementation that in turn facilitates adaptation to change over time.

The most significant feature is the feedback mechanism as this ensures that adaptive management is facilitated in response to changing circumstances, new information and improved understanding. In terms of IPA, it is absolutely essential for there to be the necessary follow through in terms of monitoring, evaluation and reporting during implementation so that we have a measure of the achievement of the desired outcomes.



**Figure 1: Cyclic (Continuous) Planning Process highlighting an Adaptive Management Framework**

This 'learning by doing' approach is the essence of adaptive management, a process that involves "... treating economic uses of nature as experiments, so that we learn efficiently from experience ...." (Lessard, quoting Lee, 1998: 81). Essentially this involves a continuous process of action based planning, monitoring, researching and adjusting with the aim of improving implementation in order to achieve to objectives (Low Choy, 2004a). It requires the development of a culture that will accept mistakes – a situation comprised of the making and living with mistakes within cycles of continuous improvement. Such a culture may present problems for the conventional politicians because they need to seek re-election on three to four year cycles and thus tend to largely focus on short-term strategies and outcomes.

Thus it can be seen that there is a crucial link between performance based planning and an adaptive management approach. However, it is this link that has been lost in the IPA debate to date. This finding is directly relevant to local government planning and environment management and can significantly address the requirements of the performance-based approach of IPA.

### **Stepping Back**

Despite the original reliance on performance indicators to provide a degree of safeguard for assessing the achievement of the objectives of a planning scheme, the *Integrated Planning and Other Legislation Amendment Act 2001* (IPOLAA 01) removed them as a key element of planning schemes (Clause 10, IPOLAA 01). Whilst this amendment removed them as a mandatory requirement they were still permitted if a local authority considered them worthwhile in the particular circumstances (Explanatory Notes to IPOLAA 01, 2001: 14). This subsequent legislative amendment also revised the requirement for Local Government to undertake reviews of IPA schemes from 6 to 8 years.

The Explanatory Notes to IPOLAA 01 cite "experience with the development of planning schemes indicates the inclusion of performance indicators in schemes to assess the achievement of desired environmental outcomes is not necessarily achieving any purpose as the tendency is to use general indicators across schemes" (2001: 14). This was reinforced by the Minister for Local Government and Planning in her second reading speech when she claimed, "the changes are designed to improve the day-to-day operation of the act .... although planning schemes are key contributors to environmental outcomes, they cannot be looked at in isolation from broader state and local government programs for which performance measurement is more meaningful" (Cunningham, 2001:4538). The Minister summed up this amendment as relieving "a potentially costly burden on small local governments whose planning schemes have a regulatory rather than a strategic focus".

These reasons are puzzling given that very few schemes had been completed at this time that could have provided the experience upon which it was claimed the amendments were

based on or a reaction to<sup>3</sup>. These circumstances had not changed substantially when the *Integrated Planning and Other Legislation Amendment Act 2003* (IPOLAA 03) reconfirmed the deletion of performance indicators as mandatory key elements of IPA schemes.

The vague and uncertain circumstances associated with these amendments prompt some pertinent questions, viz:

- has there been an undue focus of state government attention on the immediate issues of implementation? – ie the day-to-day implementation aspects of development control;
- has there been an unsubstantiated concern for the cost of long-term implementation especially by small local authorities?
- was local government fully appreciative of the difference between the intended environmental monitoring and a misplaced concern for monitoring of their corporate performance in keeping development on track to achieve their IPA scheme's DEOs?
- has a cooperative implementation approach that shares the responsibility for implementation amongst local government, state agencies, industry and the community been fully explored?
- were the theoretical aspects of the performance based planning approach and its critical link to adaptive management fully appreciated and understood?
- have the uncharted waters of the long-term aspects of implementation just become too complex, too difficult and too daunting for a local authority to tackle alone?
- from an academic standpoint, how does this modified planning approach represented by the amended IPA legislation compare with the theoretical ideals of performance based planning?

### **Missed Opportunities and Challenges for Local Government**

Under the current statutory planning arrangements in Queensland there are limited opportunities to monitor the performance of those processes responsible for the landscape management of changes with the potential to cause impact to the environment. Nor will the claimed sustainability of development proposals be systematically monitored to establish if their claims at the time of their application for development approval have indeed been met in the longer term. There are also no scientific bases for the establishment of a 'report card' type feedback system for the public that can gain their trust in the planning and landscape management processes.

However, a degree of assistance may be feasible from an area external to statutory planning. This opportunity may be established informally if the local authority is separately undertaking State of the Environment Reporting (SoER). This process has the potential to provide a degree of long-term oversight but at best it would be ad hoc,

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<sup>3</sup> as of May 2004 only 15 local authorities from the 125 councils had an IPA scheme in force – there was even considerably fewer in 2001.

uncoordinated and be achieved only on an opportunity basis. Based on current evidence it would appear that this completely voluntary activity is only being achieved in the larger wealthier local authorities, especially those that have an environmental management function. In almost all cases, those areas of councils that are undertaking the SoER functions are not mainstream to town planning and their efforts are unassociated from any IPA requirement. Monitoring is undertaken by an array of council branches and agencies external to the local authority's statutory planning areas. In the case of all of these non-planning agencies, the planners have little or no influence over the monitoring, evaluating and reporting processes.

Interestingly, State of Environment reporting can and should be linked to the statutory planning process where the State of the Environment Report (SoER) becomes a statutory planning document that also has the ability to link a local authority's functions of statutory town planning with corporate planning. However, many local councils would not have the resources to complete State of Environment reporting. Plan and strategy implementation should ideally be an integrated approach and involve a wide range of stakeholders and therefore monitoring and evaluation and reporting on plan implementation should be explored from a cooperative approach. Opportunities to achieve the original intent of IPA 97 in regard to performance indicators but within the context of broader environmental and sustainability reviews are thus possible. England (2004: 76) has however cautioned, "performance indicators should sufficiently isolate the contributions made by the scheme towards achieving the DEOs".

This also raises other concerns and challenges which will need to be explored elsewhere. They include the problems of the science-planning interface and the communication and conceptual hiatus between the planning and scientific professions.

### **Future Challenges & A Way Ahead**

This review of the planning initiatives of the State Government since the early 1990s has clearly demonstrated an overemphasis on the plan-making phase of the planning process and very little focus on the plan implementation phase. In terms of implementation, the focus has almost exclusively been on the immediate day-to-day aspects of development control. The long-term strategic issues that go to the heart of the sustainability debate have been lost in the process.

Addressing these deficiencies present a number of options for the State Government which include:

1. do nothing – however this is not a real option if a sustainable future is genuinely being sought;
2. amend the legislation to reintroduce the mandatory requirement for performance monitoring and provide better guidance for Local Government on implementation; or
3. monitor the achievement of IPA outcomes through other means outside of the statutory planning framework such as the SoER process.

A satisfactory solution would be to retain the concept of performance monitoring as a mandatory requirement but to achieve the ends of environmental performance monitoring within a cooperative framework involving the many external statutory and non-statutory planning areas that also seek similar ends to IPAs performance based planning approach. This would also have the effect of developing and retaining a transparent culture of accountability for achieving publicly stated desired environmental outcomes that were publicly derived in the first place. Whilst this course of action would not be without its challenges, it does offer a way ahead for local government.

This paper has also presented a serious argument to overarch these changes by promoting a culture of adaptive management within the planning process.

There is an obvious need to better integrate the major landscape and environmental management elements available to Local Government. In this regard, the State of the Environment Reporting process including its essential input requirements can provide a powerful process and set of tools for long-term IPA management.

This has the potential to provide a means to **GET REAL** through a process where the means will justify the ends and where long-term sustainability goals and objectives will not be undermined by the short-term goals that have dominated past traditional approaches to planning.

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## **Legislation**

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*Integrated Planning and Other Legislation Amendment Act 2001* (Act No 100 of 2001) [IPOLAA 01]

*Integrated Planning and Other Legislation Amendment Act 2003* (Act No 64 of 2003) [IPOLAA 03]

## **Other**

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Explanatory Notes: *Integrated Planning and Other Legislation Amendment Bill 2003*.

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