

**From:** [REDACTED]  
**To:** [EGC](#)  
**Subject:** Submission - Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Bill 2018  
**Date:** Sunday, 18 March 2018 4:19:44 PM  
**Attachments:** [REDACTED]

---

Dear Sir/Madam,

Please accept our submission for consideration in material regarding the Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Bill 2018.

A few issues of concern regarding our Local Government area: Mareeba Shire Council (MSC)

- A. **The process for assessing development applications and the method of making recommendation to Councillors, needs an urgent overhaul.** The balance of information from all parties ,i.e. Council, the proponent and the public, is not currently assured. There is a dire lack of 'expert' information to represent the public view, and the public's opportunity to challenge the Council's and the proponent's information and facts, is denied. The only appeal mechanism is via cost prohibitive court action.
1. In the MSC process, a development application goes to Council accompanied by the required supporting information and Council can make further requests for additional expert reports, i.e. [REDACTED] (DA170029) – a request for an acoustic report from the proponent.
    - a. For an impact assessable DA, the public can send in properly made submissions to 'have their say' on the DA
    - b. Internally within Council, the DA is assessed against the MSCPS and the planner reports on the project
    - c. The additional information is assessed by another Council officer, who produces a report and executive summary recommending an approval, conditions or other decision
  2. The method in (1) is heavily biased towards the developer's supply of information. The public as a collective group, do not have an opportunity to present a critique of their own submissions or to critique the additional 'expert' reports. These reports can be biased towards the developer, because it is the developer who has engaged and paid the 'expert' after all.
    - a. In the case of the [REDACTED], the public submissions were not critiqued and reported upon, they were broken up into geographical locations and some locations were arbitrarily excluded from consideration.
  3. A legislated process is required which sets out a balanced approach to review and critique of all information association with the DA. Only after this review and critique by Council officer and by a public representative, should a recommendation to Councillors be made.
    - a. Council officers should also be experienced and educated in the processes of review, critique and report writing. Their reports should be robust and factual and a right of reply afforded to the public (to challenge the facts).
    - b. The current DA process within MSC is not transparent. The reports, which are presented to Councillors to aid in their decision process at Council meetings, are not challenged or are the facts checked.
    - c. It is reported that Councillors often do not read the supporting material, but

read only the executive summary from Council's officer. This makes it very important that Council's officer presents a factual and unbiased executive summary.

**B. MSC Council meetings process does not allow proper consideration of material by Councillors or the public.**

1. MSC holds a once monthly Council meeting. Previously, until February 2017, Council held twice monthly Council meetings.
2. The agenda for the Council is available to Councillors on the Friday before a 9am meeting on Wednesday. This restricts Councillors to Sat, Sun and Mon to review the large volume of reports and information. Tuesday is a busy preparation day for the Wednesday meeting.

Councillors are afforded one working day to do further research on report material or to contact staff or members of the public for further discussion. The sheer volume of material, squeezed into a tight time frame, allows for little proper consideration of any recommendations other than those provided by Council's own officer.

3. The agenda for Council's meeting is available to the public in the afternoon of the Monday before a 9am Wednesday meeting. There is simply no reasonable timeframe afforded to the public to review material and contact Councillors before decisions are made on their behalf.
4. The lack of a divisional system of voting within the MSC further removes representation of affected publics in the decision process.

**C. MSC has a complaints system which does not function effectively.** Please refer to the above attachment, which sets out the DA submission process. There appears to be no written process by which Council must consider the public submissions. The method of consideration is not open to the public. In the event of a Council officer making an error in the review or critique of the information or if the Council officer should have a biased view of the DA proposal, there is no transparency in the process for the public. In order to minimise the risk of corruption, and for the Council to be seen to be acting properly, the submission process should be clearly stated and be available for review and appeal.

1. Again, in the case of the [REDACTED] previous complaints regarding the proponent, are not recorded within the Council's filing system. Yet there is much evidence amongst the community of complaints being made. It would appear that the only valid complaints are those which can be retrieved from within Council's filing system. Again, in the case of [REDACTED], much of the complaints which may exist would be buried in the change of IT systems between TRC and MSC amalgamations.
2. The lack of complaints may be because:
  - a. Council's filing system is not retrieving the information effectively or
  - b. that the difficult process of lodging a complaint and getting a resolution is too much effort, thus no recorded complaints
3. A further example of this complaints systems not functioning, was in the local laws area. For many years, a complaint about a wandering or barking dog required the complainant to spend a week recording issues in writing before action was taken. The record of the issue would then be buried and unable to be retrieved at the end of a 3 month good behaviour period. Any subsequent complaint with the same dog, or owner, started the process all over again with no history of previous behaviour. The process was biased in favour of errant dog owners.

I understand that this process issue has since been addressed.

Please accept the above as our submissions to the Bill.

Regards,

*John and Kathryn Edwards,*



# Development assessment—making a submission about a development application

This fact sheet outlines when an application needs to be publicly notified and how submissions can be made about an application.

## Summary

A submission is a written comment about a development application made by any interested member of the community (for example, person, group or organisation) 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 the impact assessable parts of a development application, or the code assessable parts, if it is an application that is required to be publicly notified.

A submission that is received by the assessment manager in the first three stages of the integrated development assessment system (IDAS) forms part of the common material for the development application and therefore must be considered by the assessment manager when assessing the application.

## Which applications must be publicly notified?

A development application must be publicly notified if:

- any part of the application requires impact assessment, or
- the application applies to section 242 of the *Sustainable Planning Act 2009* (SPA) (i.e. it is an application for a preliminary approval to vary the effect of a local planning instrument).

## Requirements for a submission

In order to be considered a properly made submission, the submission must:

- be in writing and, unless the submission is made electronically, be signed by each person who made the submission
- be received during the notification period
- state the name and residential or business address of each person who made the submission
- state the grounds of the submission and the facts and circumstances relied on in support of the grounds, and
- be made to the assessment manager.

A person who makes a properly made submission about an application is called a submitter. By making a properly made submission about an application, a submitter gains the right to appeal to the Planning and Environment Court (the court) about any decision made by the assessment manager about the application. However, if an application involves both code and impact assessable components, the right to appeal applies only in the case of the impact assessable components.

An assessment manager may accept a submission that is not properly made, however, the person who made the submission will not have the right to appeal to the court.

## Grounds for a submission

When stating the grounds of a submission and the facts and circumstances relied on, it is important to focus on planning issues.

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
- any potential traffic and car parking issues associated with the development
- hours of operation (for commercial activities)
- how the development may impact on drainage patterns in the area
- how the development fits with any 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.

## 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 proposed development. For each development application, the assessment manager must keep the following documents available for inspection and purchase:

- the application, including any supporting material
- any acknowledgement notice
- any information request
- any properly made submission
- any referral agency's response.

Many local governments now provide this information online. To find out where this information is held for a particular application, contact the relevant assessment manager.

## Availability of submitter details

Submissions are not confidential. Until such time as the application is finalised, assessment managers are required to keep copies of all properly made submissions available for inspection or purchase by members of the public.

The assessment manager may remove the name, address and signature of each person who made a submission before making the submission publicly available.

When the assessment manager gives the applicant the decision notice for the application, the decision notice must state whether or not there were any properly made submissions about the application and the name and address of the principal submitter for each properly made submission.

## Changing or withdrawing a submission

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:

- amend the submission during the notification period, or
- withdraw the submission at any time before a decision about the application is made.

## Submitters to be given notice of the decision

After the application is decided, the assessment manager must give a copy of the decision notice to each principal submitter.

## Appeal rights for submitters

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 under section 314, or
- the part of the approval relating to the assessment manager's decision under section 327 for a preliminary approval to vary to effect of a local planning instrument.

The appeal may be against the giving of the approval or a provision of the approval including:

- the conditions, or lack of conditions, for the approval, or
- the length of the relevant period for the approval.

## Further information

Further fact sheets on related matters are available on the department's website.

Disclaimer: This publication has been compiled for your information. While the Department of State Development, Infrastructure and Planning (DSDIP) believes this information will be of assistance to you, it is provided on the basis that you are responsible for making your own assessment of the topics discussed. DSDIP expressly disclaims all liability (including but not limited to liability for negligence) for errors or omissions of any kind whatsoever or for any loss (including direct and indirect losses), damage or other consequence which may arise from your reliance on the material contained in this publication. This information is issued on the understanding that DSDIP is not, through the issue of this information, giving any legal or other professional service. Readers are encouraged to seek independent advice if they have any concerns about the material contained in this publication.