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ID 1756 | LOCAL PLANNING INSTRUMENTS - IF ONLY WE KNEW HOW TO PLAY

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ABSTRACT: We know little about how the implementation of planning instruments are communicated to the members of the community by the planning profession in terms of complexity of language and process, power relationships and how this impacts upon an individual's ability to engage as an active citizen in the development assessment process. In order to create more value for community engagement in the development assessment process, we need to better understand how local planning instruments are perceived by members of a community in terms of ease of navigation, interpretation and application to development proposals. It is particularly in the role of community as submitters to a development application that these perceptions may be best explored as it is an opportunity for non-planners to interact with planning instruments perhaps for the first time. This paper will discuss the type and nature of submissions made by non-planners to development applications within two case studies and identify barriers to non-planners effectively participating in planning discussions and decision-making about development applications. The research will undertake data collection and content analysis of six (6) submissions from each case against development proposals within a regional city context. The content analysis will aim to match the de-identified public submissions with what the planning profession considers valid urban and regional planning grounds expressed in local statutory planning instruments. This will help to ascertain the submitters' effectiveness in understanding and applying the local planning instrument to the site specific issue that has ignited the active citizenship response. The paper will seek to answer questions about what is the engagement framework within which submitters can participate in planning, how are planning schemes navigated, applied and interpreted by non-planners lodging submissions to proposed development and what knowledge and skills do community members need to participate in the development assessment process as submitters ?

1 INTRODUCTION

In order to build trust many local governments and Local Government Acts are based on values and codes of conduct that include transparency and accountability. This is no less important for the planning profession if it is to be seen as legitimate, open, honest and fair in the way it communicates issues around development proposals and development assessment.

In Queensland the Statutory Instruments Act 1992 (Queensland, 1992) defines the meaning of an Instrument and identifies that a local government planning scheme is a statutory document prepared under the planning act applicable at the time.

The Integrated Planning Act and Sustainable Planning Act provides for community consultation relating to development proposals in Queensland. It transfers appeal rights in the Planning and Environment Court to those submitters that have made properly made submissions within a required timeframe.

2 CONTEXT

Two case studies have been selected for this research. The cases are based in a regional city in Queensland, Australia with a population of 165 000 people. The first case is referred to as Maridhadi and the second is referred to as McDonalds. The cases were selected using the criteria that the development applications were to have been decided by the Local Government between 2009 and 2013, they must have drawn more than ten submissions following public notification, they must have drawn media attention and they must have involved a development that had been approved and one that had been refused. This comparative case study approach seeks to determine if the submissions made to the development application are considered to contain knowledge with validity and therefore are material matters to consider in development decision-making.

Maridhadi was an impact (not preferred) assessable application for a secondary school (educational establishment) located in a residential neighborhood proposing reuse of a heritage listed building on the edge of the Great Dividing Range escarpment. A group calling themselves CASE Citizens Against School Establishment secured the assistance of a planning consultancy to write a submission against the proposal and this submission formed the basis of the 74% pro-forma submissions received against the proposal. Twelve different pro-forma letters are evident in the total number of submissions. 681 submissions were received over two advertising periods against the proposal. 25% of these were from people living outside of Toowoomba. There were 32 not properly made submissions. There were also 212 submissions received in support of the proposal. The Council overturned the assessment managers recommendation in this instance and refused this application.

McDonalds was an impact (not preferred) assessable application for a number of café/restaurants and supermarket in a Residential Mixed Housing zone. Thirty two submissions were received opposing the proposal of which 31 were properly made under the legislation. Six of the properly made submissions took the form of a petition. The assessment manager provided responses to the submissions and also sought responses to the submissions from the applicant's consultancy team. There is clear evidence of knowledge validity testing in the submissions and the "experts" responses. The Council approved this application.

Both of these cases were heard in the Queensland Planning and Environment Court and both matters were dismissed. In the case of Maridhadi the applicant appealed the decision and the proposal did not proceed. In the case of McDonalds the submitters appealed the decision and the proposal was built and is operating today.

3 APPROACH

The research method used for this paper involved content analysis, using nVivo software, of both the planning officers reports to the Local Government and twelve (12) of the submissions received from submitters during the public notification period. Content analysis has also been conducted on various media and social media publications and posts.

The content analysis of the planning officer reports adopted a process to create categories or codes of words and phrases within the text used by Weston and Weston in previous research with some additional codes added for emotive submissions (Weston & Weston, 2012). The codes should then be able to be replicated.

The research also used a readability tool to analyse the complexity of text within the planning officer reports and assign it a rating equivalent to schooling age. The Gunning Fog Readability Index will be used to measure reading difficulty rather than reading ease. The Gunning Fog Index counts words and divides by the number of sentences to find an average sentence length. Rather than counting syllables, as compared to Flesch's Reading Ease and Human Interest Formula, Gunning's method counts the number of long words with three or more syllables. All proper nouns, verbs in which the third syllable is an –ed or –es and compound words made from two short words like workable are excluded. To apply the formula the author will use Readability-Score software programmes that take the average sentence length and add it to the number of long words per 100 words and then multiply the total by 0.4. The resulting score is roughly equivalent to the grade level of difficulty. A score of 12 for example indicates that an average high-school senior should be able to read the material. In practice, no general–audience newspaper or magazine would rate above 12 on the Gunning Fog Index. Time magazine rates 11, Readers Digest scores about 5 and comic books score 6 (Readable.IO, 2017).

To overcome some of the limitations identified in the literature with computerised readability indices the Readable IO software takes an average across the material to use several different readability formulas. This enabled a range of readability scores to be produced providing more confidence in the results. Other determinants outside the scope of this paper may include legibility, motivation of the reader, learnability of the text, usability, relationship among words, sentences and sentence parts and the level of abstraction of the reader by the material (Hiebert, 2011).

The submissions were subject to analysis that involved a coding approach to determine if submissions were made about material planning matters referred to in the local planning instrument or if they were not relevant to the tool against which the applications could be assessed. This has led to discussion in the conclusions part of this research in regard to questions about the validity of knowledge and particularly what non planners need to know in order to be able to enter the field of contestation as it relates to decision making on development applications (McClymont, 2011).

4 READABILITY AND TRUST

Even local government elected officials with experience in discussing and deciding on planning matters can find themselves at a disadvantage when reading through planning documents. During a recent meeting at a Council within the case study area in Australia a discussion regarding the adoption of amendments that would see a transfer of authority over development assessments was met with confusion. (Backhouse, 2017)

Calls for a 'layman's reference' to help elected officials (without planning qualifications) understand the policy changes were made by one Councilor who stated he would have to 'take a leap of faith' that the proposed change would be in line with previous decisions. Throughout the exchange the technical expert in the meeting – the manager of the council's development assessment branch – advised that a more detailed report could result in 'hundreds of pages being produced that might not result in the document being any clearer.' Despite the misgivings aired by the elected officials the Council endorsed the motion and the amendment was recorded (Backhouse, 2017).

This paper primarily looks at how accessible planning documents are to members of the general public, and given the difficulties described above it is not hard to form an opinion that even those non-town planners who work in government may still occasionally have trouble discerning meaning.

To this end, when considering this it should be noted the various employment streams involved in the drafting of a planning report. Town planners obviously are involved in the process and provide the bulk of the content, however other specialisations within the local government structure play key roles; legal experts, for example, provide guidance on interpretations of the relevant Act and on more specific matters as required, environmental specialists may be called on to provide data used to recommend certain courses of action and politicians themselves may call for adjustments to aspects of a report.

Each actor in the process of delivering a planning report uses language and knowledge specific to their particular field, and in the course of doing so provide further depths of encoding that members of the general public need to navigate, to interpret and to understand before being able to respond. All of this is

completed in what Tait (2012) notes as a 'contested societal activity, characterized by fractious processes and disputed outcomes.' The use of complex language in the form of jargon and industry-specific terms can make, to the layman, the reading of a planning report an arduous process (Tait, 2012).

If anyone is free to make a submission and thus become an actor in the progress of a development application, and the language of the supporting documents create a barrier to effective communication and subsequent understanding does it 'create opportunities for mistrustful relationships to emerge, as groups with different interests cannot always come to a compromise' as Tait (2012) suggests? Interestingly, Goldthorpe (1982) noted a greater level of trust between professionals and society in the past 'emanating in part from social respect for the specialist knowledge and expertise of the former.' In the modern interconnected world perhaps Rydin's statement that 'knowledge now has a variety of sources and takes a variety of different forms' is truer than ever. ((Goldthorpe, 1982)Rydin, 2007)

With greater access than ever before in human history to a global repository of knowledge, albeit unregulated, the modern person is able to seek information faster and, increasingly, from more locations as the use of mobile handheld devices increases. Pre-Internet stakeholders in a certain scenario would seek information from subject matter experts and would, usually, trust that advice to be accurate. The plethora of information available online today makes it difficult for individuals to not search for answers before consulting with a subject matter expert, so much so the wider medical profession is credited with coining the term 'Webchondriac' to describe patients who enter a consultation with their own diagnosis, courtesy of any number of professional and amateur medical websites (Austin, 2014). The sheer volume of information available on the Web, including University-level lectures and presentations, means that virtually anyone can access information similar to that used in a recognised degree course but with the significant difference that this information is not placed within a pedagogy of a considered structure of learning with formal assessment criteria thereby earning the participant a qualification. In short, the Internet lays the world of information at our feet, but not necessarily the ability to adeptly use it in a professional context.

This brings the argument neatly back to the question of trust; what is it and why is it crucial to the relationship between town planners and the public they serve? The second part of that question is simple – without trust there is no comprehension, no receipt of offered information let alone action taken on it. At the core of comprehension are three factors – accessibility, readability and trust.

Accessibility is accomplished through standardised procedures according to local law. In the case study area it is a requirement that information pertaining to town plans as well as development applications are made public for consideration by all stakeholders. Readability refers to level of education required by an individual to read and comprehend a document. Professional report writing styles typically, and in the case of town planning reports almost always, require a high level of education to understand and apply various terms and wider concepts. Underpinning readability is trust – perhaps defined as 'one party's willingness to be vulnerable to another party based on the belief that the other party is (a) competent, (b) open, (c) concerned, and (d) reliable.' (Mishra, 1996) The need for this trust to be evident and true is highlighted by the many number of stakeholders in a typical round of submissions to a development application, and of the differing roles of submitter, applicant, facilitator, technical expert and politician, amongst others. In the post-modern approach to planning Rydin (2007) notes the planner takes on a number of roles where, for example, 'a community report on the experience of living in a village will be different to an expert assessment of the quality of life or natural capital in that village.'

Rydin (2007) further outlines the need for engagement forums 'engaging expert with expert, lay perspective with lay perspective and lay and expert perspectives in examination of each others' claims' in a process that effectively initiates discussion, acknowledges differences and defines essential facts as part of a decision-making cycle, and without trust this cycle cannot be completed. In terms of this paper we looked at two particular development applications and the subsequent submissions in terms of readability and barriers to comprehension (Rydin, 2007).

Tennoy & others (2015) identify five different types of knowledge necessary in planning:

1. Expert knowledge including the theoretical, empirical and methodological
2. Knowledge of project/objectives
3. Knowledge of context, including lay knowledge;
4. Process knowledge includes knowing about laws, regulations and procedures of planning and

5. Other kinds of knowledge (Tennoy, Hansson, Lissandrello, & Naess, 2015)

Rydin (2007) goes further to identify a typology of knowledge claims in planning. These include current state, predicted state, societal process, planning process, outcomes state, planning –societal interaction and normative knowledge. Planning is by its very nature a normative process (Rydin, 2007). For the purpose of this paper we will focus on both typologies identifying process knowledge and planning process as important knowledge types and knowledge claims. This type of knowledge is fundamental to learning how to play the local planning instrument and all of the associated and hidden processes that go with that instrument in a field of contestation relating to development decision.

4 RESULTS AND ANALYSIS

4.1 CODING

This paper adapts the coding developed by Weston & Weston (2012) to reflect the aspects of language within written documents that are unclear or appear coded (Weston & Weston, 2012). They provide us with examples of exclusionary language. The codes used in the nVivo software against the two case study planning reports and six submissions from each case are as listed in Table 1.

Description	Code Name	Code
Reference to a type of application, legislation or policy without an explanation of what that reference means or where an explanation can be found.	Unknown appliction	UNAP
Use of an abbreviation/acronym without explaining its meaning within two pages of its use.	Unknown abbreviation	UNAB
Use of encoded terminology without explaining its meaning.	Encoded terminology	ENTE
Use of unexplained encoded information without referring to the location of the key/code book when one is provided.	No key reference	NOKE
Use of terminology or phrases only used by those familiar with the fields of planning and transport without an explanation for others.	Planning terminology	PLTE
Use of terminology or phrases only used by those familiar with the fields of urban design and architecture without explanation for others.	Design terminology	DETE
Reference specifically directed at committee or council members.	Council exclusivity	COEX
Third party comments rejected without explanation.	Unknown comments	UNCO
Third party comments provided but not commented on.	Unanswered comments	UNAC (Weston & Weston, 2012)
Third party comments that relate to the local planning instrument.	Material Planning Comments	MACO
Third party comments that do not relate to the local planning instrument.	Non-material Comments	NOCO
Emotive comments that do not relate to planning matters.	Emotional Comments	EMCO

Table 1 – Content Analysis Coding

The results from the coding are included in Tables 2 and 3 below in both hits and a percentage of the total.

Codes	UNAP	UNAB	ENTE	NOKE	PLTE	DETE	COEX	UNAC
Total number of hits	32	13	5	11	53	6	11	0
Percent of total hits	24%	10%	4%	8%	41%	5%	8%	0

Table 2 – 2 Planning Reports Results by Code

Codes	MACO	UNCO	EMCO
Total number of hits	17	25	12
Percent of total hits	31%	46%	22%

Table 3 – 12 Submissions Results by Code

The first issue to note is that overwhelmingly the results point to a significant use of Planning Terminology making up 41% of all coded material. An example of PLTE is the location of a residential use on an arterial road is undesirable due to amenity issues. These terms are often used and understood by professional planners not however by those with lay as opposed to expert knowledge. The concept of establishment of need or amenity impacts is not defined categorically in legislation nor in the planning instrument itself. Indeed one submitter went to the Macquarie Dictionary to try and understand the concept.

EXISITING AND CURRENT AMENITY OF STREET

I am concerned about the impacts on the amenity of the area.

a) Amenity is defined in the Australian Macquarie Dictionary as *" features, facilities or services of a district, etc, which make for a comfortable and pleasant life"*.

How will this development impact upon our street?
Will it change our current residential character'? YES!

Figure 1 PLTE Example

The second issue to note is that 24% of coding relates to UNAP or an unknown application. Most of this coding refers to terms or actions that are contained within the legislation or approach to performance based planning. A UNAP example is referring to a proposal as Impact (not preferred) and a Material Change of Use with no reference to the planning legislation and the process knowledge that is inherent in those terms. Another example is reference to a concurrence agency without any explanation of the referral stages within the development assessment process.

This combined application - Impact (Not Preferred) – seeks approval for:

- a Material Change of Use for Food Outlet (Café/Restaurant) 240m^2, Food Outlet (Convenience Restaurant) 1,106.1m^2, Shop 193m^2, and Supermarket 237.5m^2; and
- Operational Works for Advertising Signs (2 x Pole Signs).

Figure 2 UNAP Example

4.2 READABILITY SCORES

Using the Readability IO software available online the two assessment manager planning reports were given an average score relating to the conclusion and recommendation of those reports (Readable.IO, 2017). The findings are represented in the figures below.

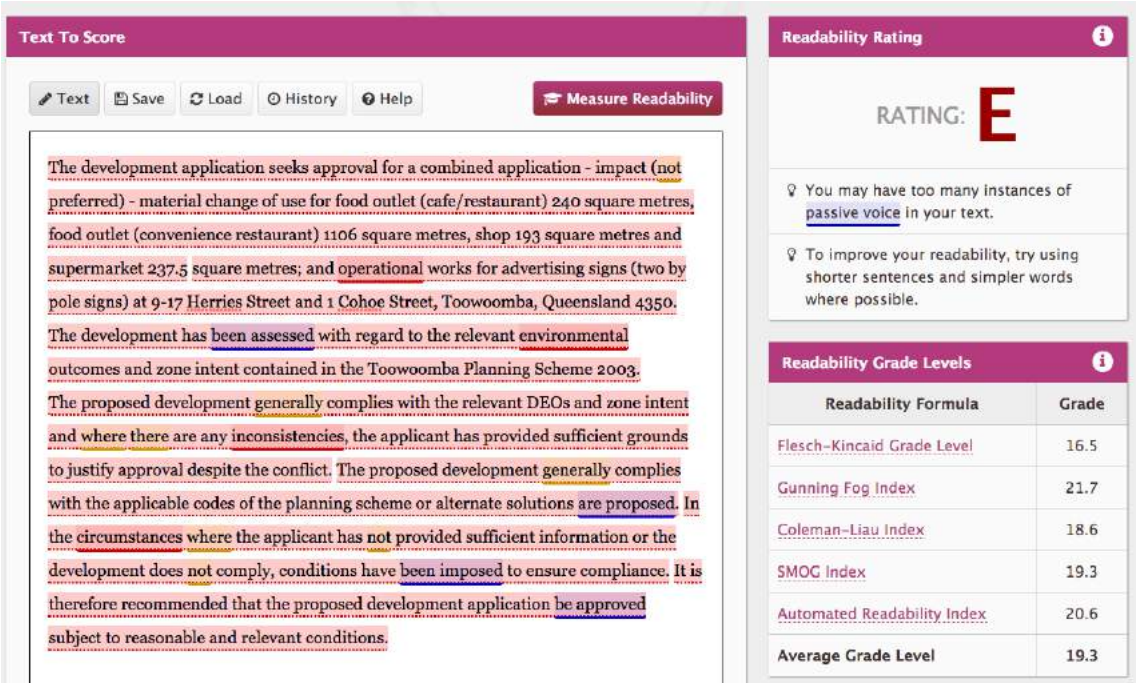


Figure 3 Readability Score Average McDonalds

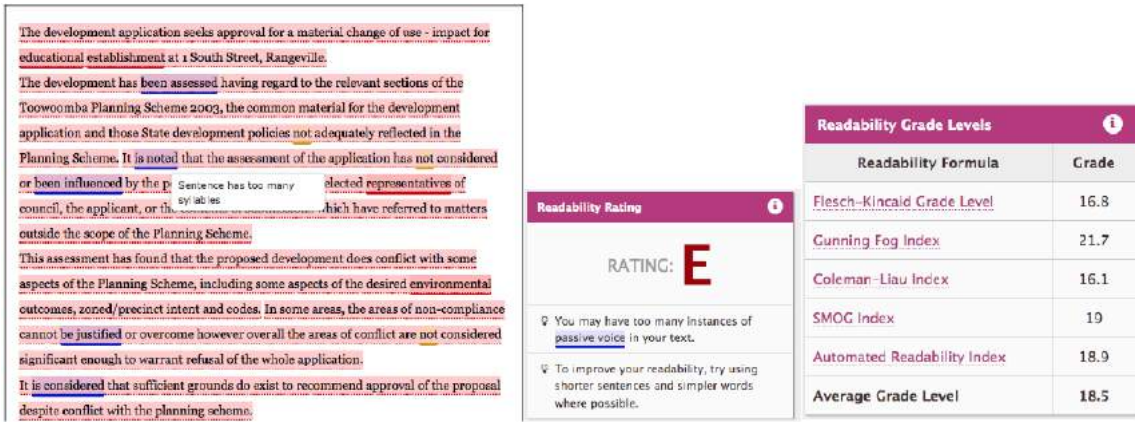


Figure 4 Readability Score Average Maridhadi

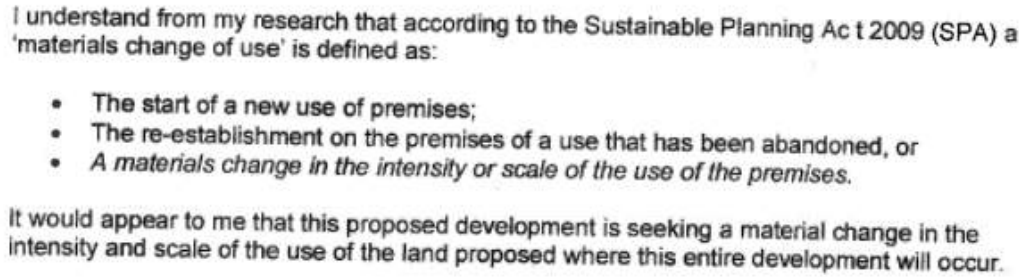
Both planning reports have been scored as an “E” rating according to the Readable.IO software. This represents an averaged readability grade level of 18.5 for the Maridhadi report and 19.3 for the McDonalds report. The scores demonstrate complexity in the planning reports. This exclusivity in communication is clear when the score requires a post graduate qualification and 79% of the case study population has no more than a Year 12 educational qualification (ABS, 2017).

5 DISCUSSION

Many of the submitters were able to identify material grounds for their submission e.g, intent of the zone, demonstration of need and impact on amenity. The barrier for the submitters appears to be translating that into evidence. This lack of evidence and indeed an ability to interpret the application of that to proposals e.g. the intent of the zone particularly seemed to relate to an absence of expert knowledge or understanding of the performance based planning system upon which the legislation is based. This points to a lack of process knowledge and expert knowledge. Most of the indignation and mistrust came from an assumption that zoning meant certainty in terms of land use. Indeed the performance based system aims

for flexibility over certainty and this appeared to be an important expert and process knowledge gap when the submitters were trying to grapple with what appeared to be inconsistent with the intent for the locality (Tennoy, Hansson, Lissandrello, & Naess, 2015).

There are a number of examples where submitters have clearly done a great deal of research to try to place this development proposal within the context of the legislation and the planning system in which it is situated:



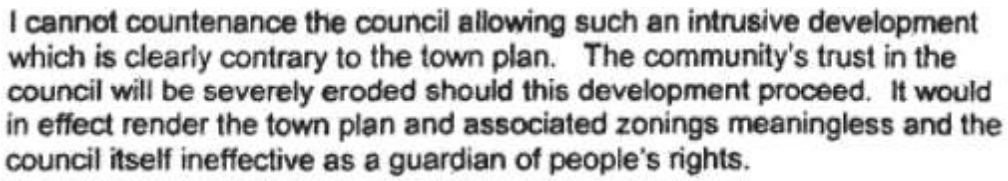
I understand from my research that according to the Sustainable Planning Ac t 2009 (SPA) a 'materials change of use' is defined as:

- The start of a new use of premises;
- The re-establishment on the premises of a use that has been abandoned, or
- *A materials change in the intensity or scale of the use of the premises.*

It would appear to me that this proposed development is seeking a material change in the intensity and scale of the use of the land proposed where this entire development will occur.

Figure 5 UNAP Example

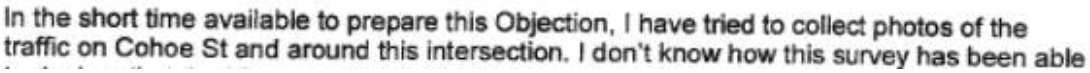
The connection between seeing zoning as certainty and the feelings of loss of trust within a performance based planning system is evidenced in the extract from a submission below:



I cannot countenance the council allowing such an intrusive development which is clearly contrary to the town plan. The community's trust in the council will be severely eroded should this development proceed. It would in effect render the town plan and associated zonings meaningless and the council itself ineffective as a guardian of people's rights.

Figure 6 Intent of the Zone and Trust Example

In addition to the complexity of language, process and context properly made submissions must be made within the statutory timeframe. This means that submitters have only a compressed amount of time in which to identify, gather and understand the material issues. This is an added barrier to non-planners entering the field of contestation legitimately in development decision making.



In the short time available to prepare this Objection, I have tried to collect photos of the traffic on Cohoe St and around this intersection. I don't know how this survey has been able

Figure 7 Statutory timeframes Example

6 CONCLUSION

Throughout the examination of the case studies a recurring theme was the confusion generated by hidden and unexplained reference to the relevant legislation and the principles of 'Performance Based Planning underpinning it. By reading a planning report alone it is not evident how the legislation affects the recommendations and this gap in a non-planners' knowledge makes higher-level consideration and comprehension a particularly difficult feat. It is this process knowledge gap that makes entering the field of contestation for development decisions very difficult for the lay person. Within the wider planning approach, however, the content appears to be accessible even if the concepts are not.

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