HOW THE *INTEGRATED PLANNING ACT* CONTROLS DEVELOPMENT

The key thing that the *Integrated Planning Act* seeks to achieve is **ecological sustainability**. This is a balance that integrates

(a) protection of ecological processes and natural systems at local, regional, State and wider levels; and
(b) economic development; and
(c) maintenance of the cultural, economic, physical and social wellbeing of people and communities.

Ecological sustainability is achieved by doing three things. The first is the coordination and integration of planning at local, regional and State levels. The second is by managing the process by which development occurs. The third is by managing the effects of development on the environment.

The Act recognises five forms of **development**:

(a) carrying out building work, which includes construction of a building or structure, renovations, alterations or additions, certain excavation or filling, some landscaping work and certain work on heritage buildings;
(b) carrying out plumbing or drainage work;
(c) carrying out operational work, which includes extracting rock or gravel, conducting a forest practice, certain excavation or filling, clearing vegetation, or work connected with taking water;
(d) reconfiguring a lot, including subdividing or re-subdividing a lot, creating long term leases, or creating community (or strata) titles;
(e) making a material change of use, which means the start of a new use or the re-establishment of an old use that was abandoned, or making a significant change in the intensity or scale of a use.

Aspects of some of these forms of development have separate legislation relating to them, such as mining and extraction, ports, brothels, forestry and others have Acts of Parliament that relate specifically to them. These other Acts are gradually being linked to the *Integrated Planning Act* so that it is truly an integrating act, and the State Government intends that this integration process will continue, providing for common application forms, common processes of referral, and so on.

The *Integrated Planning Act* provides for State planning policies to control certain matters on a State-wide basis, and regulations about certain procedures. It also provides for local authorities to develop planning schemes and other planning instruments (such as policies). Each one of these can specify requirements for development, but the most comprehensive of them is the local planning scheme.

The community is consulted in the making of a **planning scheme**. Esk Shire's draft planning scheme is soon to go on public notification to give the community an opportunity to consider it before it is adopted. People will be able to make submissions which the Council will take into account before finally adopting the scheme, possibly with amendments, and making it law.

The core matters to be dealt with by a **planning scheme** are the use and development of land, provision of infrastructure (like roads, parks, water, sewerage etc) and valuable features (like wildlife habitats, scenic areas, heritage places, economic resources etc). In dealing with these matters, the scheme identifies the outcomes it

aims to achieve, and provides for ways that those outcomes can be achieved and for ways of measuring that achievement.

Often the ways of achieving the desired outcomes of planning schemes are in the form of **codes**. For each area, or sometimes for each type of development, a code will set out a set of specific outcomes to be achieved, and some acceptable or probable solutions for each one. Development that complies with the code is allowable. Any other development requires that the local government assess the development on its merits and, if necessary, impose conditions on the development. In some cases requiring local government assessment, there is a requirement that the community be notified and consulted.

The Act lays down strict rules about assessments that involve **public consultation**. First, copies of the application and related documents must be available for inspection (and for sale if wanted) at the Council's offices. Second, members of the public are entitled to lodge submissions expressing their views about the application, and Council must consider these submissions when considering the application. Finally, submitters as well as applicants have the right to appeal to the Planning and Environment Court if they don't agree with Council's decision on the application.

Development matters referred to the **Planning and Environment Court** are heard before a District Court judge who has gained special experience and expertise in planning matters and the operation of the *Integrated Planning Act*. The parties involved in the hearing, usually including the original applicant for development and the local government, are generally represented by a barrister. The Court is assisted by expert witnesses, such as planners or traffic experts, who give evidence about the development proposal. Finally the Court gives an impartial decision based on law and the evidence, and that is the end of the matter (unless one of the parties appeals to a higher court, in which case the matter is decided on purely legal grounds).

Finally, the Act gives the **Minister for Local Government** the power to call in a development application and determine it, provided the application involves a matter of State interest. The Minister may do this at any time from when the application is made until 10 business days after any appeal periods end. The Minister decides the application, irrespective of what stage the decision process had reached before the application was called in, and there is no appeal against the Minister's decision.