



14 August 2008
In reply please quote: Item 14

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The Hon. Paul Lucas
Deputy Premier and Minister for Infrastructure and Planning
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Dear Minister

Re: Abandoned Uses IPA Applications

At the annual conference of the Urban Local Government Association of Queensland held recently in Gympie members resolved that representations be made to the State Government to review and define the term 'abandoned' as it relates to the determination of a material change of use of premises pursuant to the *Integrated Planning Act 1997* in order to create certainty about whether a use has been abandoned or not.

Under the *Integrated Planning Act 1997*, the re-establishment on a premises of a use that has been abandoned constitutes a material change of use of premises and is therefore development. It is understood from various case law examples that to pass the legal test of being 'abandoned' a use must have ceased, not merely be interrupted or suspended, that it must have been abandoned finally and unconditionally. These terms are open to various interpretations and offer no clarity in determining whether a material change of use has occurred.

In the absence of a clear definition of the term abandonment, it is difficult for Council to test whether uses have been finally and unconditionally abandoned, or whether uses are merely suspended or interrupted.

A review of the practical application of the term abandonment and the insertion of a clear definition for 'abandonment' in Schedule 10 of the *Integrated Planning Act 1997* would assist in minimising the uncertainty of abandoned use matters when determining whether development for the purposes of material change of use has been or is planned to occur.

Your consideration of the matter and advice in due course would be appreciated.

Yours sincerely

**P PISASLE
PRESIDENT**