

## IDAS IMPLEMENTATION NOTES

*Note 17***When approvals take effect and relevant periods****1.0 When development may start [s3.5.20 of the IPA]**

While development that is exempt or self-assessable under the *Integrated Planning Act (IPA)* may commence at any time, assessable development may only start when the development application is approved and the development permit takes effect. It is therefore important to understand –

- (i) when an approval “takes effect”; and
- (ii) the concept of “relevant period” in relation to a development approval..

**2.0 When an approval takes effect [s3.5.19 of the IPA]**

When a development approval takes effect depends largely on whether appeal rights are exercised either by the applicant or any submitters. The concept is explained based on the following two scenarios.

***Scenario 1: Application with no submitters [s3.5.19(1)(a) of the IPA]***

For a code assessable application or an impact assessable application with no submitters, the approval takes effect if -

- the applicant does **not appeal** the decision - from the day the decision notice or negotiated decision notice is given; or
- if the applicant **appeals** the decision - when the appeal is decided (and subject to the decision) or the appeal is withdrawn.

***Scenario 2: Application with submitters [s3.5.19(1)(b) of the IPA]***

For an impact assessable application involving submitters, the approval takes effect -

- if there is **no appeal** lodged by the applicant - from the day the submitter’s appeal period ends, or the day the last submitter advises the assessment manager in writing that the submitter will not be appealing ; or
- if either the applicant or a submitter lodges an **appeal** - when the appeal is decided (and subject to the decision), or withdrawn.

**3.0 The relevant period for an approval**

Once an approval is given, it remains relevant for a specified period (i.e. the relevant period).

Day one of the relevant period for an approval is the day the approval takes effect. The last day of the relevant period is either –

- (i) the day stated in the decision notice; or
- (ii) if the approval does not state a relevant period - the default relevant periods provided for in the IPA.

The default relevant periods provided for in section 3.5.21 of the IPA are -

- 4 years - for a material change of use or reconfiguring a lot requiring operational works; or
- 2 years - for other development.

*Note: If an applicant or submitter appeals the decision to the Court, the applicant may seek permission from the Court to start the development. Development may be started prior to the appeal being decided if the Court is satisfied the outcome of the appeal would not be affected if the development or part of the development were started. [S4.1.47(2)]*

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#### 4.0 When an approval lapses [s.3.5.21 of the IPA]

A development approval lapses at the end of the relevant period unless -

- **for a material change of use** - the first change of use happens before the end of the relevant period (4 years), unless an application for related works is made within 2 years of the start of the relevant period, in which case the relevant period restarts or “rolls forward” from the date of the related approval<sup>1</sup>. Further applications for related works must also be made within 2 years of the start of the new relevant period for the relevant period to roll forward again;
- **for reconfiguring a lot** - the plan for the reconfiguration to be effected must be given to the local government for approval before the end of the relevant period (reconfiguring involving operational works – 4 years, not involving operational works – 2 years) unless an application for related works is made within 2 years of the start of the relevant period, in which case the relevant period rolls forward from the date of the related approval. Further applications for related works must also be made within 2 years of the start of the new relevant period for the relevant period to roll forward again; or
- **for other development** - development under the approval substantially starts before the end of the relevant period.

The longer period for material changes of use accommodates the need to obtain and act upon subsequent related works approvals. “Roll forward” provisions apply to relevant periods for material change of use and reconfiguration approvals, as detailed above. If an application for related works is not made within 2 years of the start of the relevant period, the default relevant periods in the IPA apply.

An applicant should apply to the assessment manager before the end of the relevant period to extend the relevant period (or rolled forward relevant period) if—

- the change of use cannot happen before the end of the relevant period; or
- the plan of reconfiguration cannot be given to the local government before the end of the relevant period; or
- the building work or operational work does not substantially start before the end of the relevant period.

An approval can no longer be acted upon if it lapses. If the applicant chooses to pursue the development, a new development application must be made.

Refer to Implementation Note 18 for more information about extending the relevant period.

<sup>1</sup> A related approval may be a development permit for a material change of use or reconfiguration where the earlier approval is a preliminary approval; or a development permit for necessary building work or operational work where the earlier approval is a development permit for a material change of use; or a development permit for necessary building or operational work where the earlier approval is a s3.1.6 preliminary approval that states the material change of use is exempt or self-assessable development; or a development permit for related operational work where the earlier approval is a development permit for reconfiguration [s3.5.21(7) of the IPA].

## 5.0 Commonly Asked Questions

### 1. *Does a change to the approval restart the relevant period?*

The issuing of a changed approval or changed conditions **does not restart or extend the relevant period for the original application**, as the relevant period applies from when the approval takes effect, which relates to when the original decision notice or negotiated decision notice was given.

### 2. *Can the relevant period be extended?*

At any time before the relevant period (or the restart of the relevant period from the date of the latest related approval) of the approval expires, a person may request an extension from the assessment manager.

### 3. *What happens if the relevant period ends while a request for extension is being considered?*

Provided the request to extend the relevant period is made to the assessment manager before the relevant period ends, the development approval does not lapse (despite s.3.5.21 of IPA) until the assessment manager decides the request.

### 4. *Do the relevant periods apply equally to preliminary approvals?*

Yes, the relevant periods apply to both development permits and preliminary approvals.

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