

IDAS IMPLEMENTATION NOTES

Note 19

When a development application lapses

To ensure that incomplete applications do not stay valid forever, the *Integrated Planning Act 1997* (IPA) provides for applications to lapse in certain circumstances where a necessary action is not taken by the applicant.

1.0 The circumstances in which a development application will lapse [s3.2.12 of the IPA]

An application will lapse if the applicant fails to undertake any of these actions within the specified timeframes -

- refer the application to all relevant Integrated Development Assessment System (IDAS) referral agencies – 3 months;
- respond to an information request – 12 months (or 3 months if the application is required by an enforcement notice or in response to a show cause notice);
- commence public notification of the application; - 20 business days; or
- give a notice of compliance with notification requirements – 3 months.

2.0 Referring the application to IDAS referral agencies [s3.2.12(2)(a) & 3.3.3 of the IPA]

If an application triggers referral to an IDAS referral agency and the applicant is responsible for undertaking the referral¹, the applicant must, within **3 months** of the assessment manager giving the applicant the acknowledgment notice, refer the application to each applicable IDAS referral agency.

In making the referral, the applicant must include copies of the application and the acknowledgment notice, and must advise the assessment manager in writing of the day the application was referred to each referral agency.

This referral timeframe **cannot** be extended by the assessment manager, even at the request of the applicant.

3.0 Responding to the information request [s 3.2.12(2)(b) & 3.3.8 of the IPA]

If an information request is made by the assessment manager or a concurrence agency (requesting authority), the applicant has **12 months** (or **3 months** for an application required by an enforcement notice or in response to a show cause notice) from the day the request was received, to respond to the request.

The application will lapse if the applicant's response is not received within this period and the requesting authority has not agreed with the applicant to extend the period.

Because multiple information requests can be issued for a single development application (i.e. one from the assessment manager and one from each applicable concurrence agency), the last day to respond to each information request for an application may vary depending on the day the information request was given by the entity.

4.0 Commencing public notification of the application [s 3.2.12(2)(c) and 3.4.4 of the IPA]

If an application is required to be publicly notified, notification must commence within **20 business days** of the following—

¹ The assessment manager may provide this service, for a fee (if applicable).

Note: There are 2 instances referral is not required-

1. if the referral agency has already responded to the application, & the response states that the agency does not require referral & the application does not trigger referral coordination; or
2. if the concurrence agency is also the assessment manager for the application.

Note: At the applicant's request, the requesting authority may extend this timeframe **but** the extension cannot be given after the application has lapsed.

Note: The notice must be in the approved form (Form 7), which is available on the IPA website.

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- The day the acknowledgment notice is given, if there are no concurrence agencies and the assessment manager states in the acknowledgment notice that the assessment manager does not intend to make an information request;
- The day the last information request period ends if no information requests have been made during the last information request period; or
- The day the applicant responds to all information requests and gives copies to the assessment manager.

All of the following actions for the public notification must be completed by the applicant within **5 business days** after the first of the actions—

- Publish a notice in a newspaper circulating generally in the locality of the land;
- Place a notice on the land; and
- Give notice to the owners of all land adjoining the land.

The application lapses if notification is not started within the 20 business day period or the above actions are not completed within the timeframe. These timeframes **cannot** be extended by the assessment manager, even at the request of the applicant.

5.0 Giving the notice of compliance [s3.4.7 of the IPA]

When the notification period ends, the applicant has **3 months** within which to give the assessment manager a notice of compliance, stating that they have undertaken public notification in accordance with the prescriptive requirements of the IPA.

The application lapses if the notice of compliance is not given to the assessment manager within the timeframe. This timeframe **cannot** be extended by the assessment manager, even at the request of the applicant.

It is an offence to give the assessment manager a notice under this section that is false or misleading [s 4.3.7 of IPA]. [A recommended standard notice of compliance is available on the IPA website at www.ipa.qld.gov.au.]

Commonly Asked Questions

1. What happens when the application lapses?

The application becomes null and void. If the application lapses and the applicant wishes to proceed with the proposal, a new application must be made. The original lapsed application **cannot** be reactivated.

2. Can the specified timeframes be negotiated or extended?

The timeframes for referring the application to referral agencies, undertaking public notification actions of the application and giving the notice of compliance **cannot** be extended by the assessment manager, even at the request of the applicant. However, the timeframe for the applicant to respond to an information request may be extended by the requesting authority at the request of the applicant. The extension must be granted prior to the information response period lapsing.

3. Whose responsibility is it to keep track of whether the application has lapsed?

It is the applicant's responsibility to manage their application and ensure that the application does not lapse. However, the local government should also keep track of the status of applications to ensure the next applicable actions are undertaken within the IDAS timeframes and to ensure that a decision notice is not issued for a lapsed application.

4. Is the assessment manager required to notify the applicant that the application has lapsed?

There is no formal requirement to notify the applicant, however the assessment manager may inform the applicant, any submitters and referral agencies as a matter of courtesy.

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**Queensland Government**Department of Local Government, Planning,
Sport and Recreation