

## IDAS IMPLEMENTATION NOTES

## Note 6

## Referral coordination

**UPDATE ON REFERRAL COORDINATION**

Referral coordination, as a process for the coordination of information requests by the chief executive of the Department of Local Government, Planning, Sport and Recreation, **no longer applies to development applications made after 31 March 2007**. Instead, applicants are responsible for the referral of applications to any applicable referral agencies, and responding to any information requests made by the referral agencies or the assessment manager.

Impact assessable applications that previously were required to undergo referral coordination, are still required under the IPA to be publicly notified for 30 business days, instead of a 15 business day notification period.

A 30 day public notification period applies if any of the following apply to the application [IPA s6.7.1A]—

- (i) there are 3 or more concurrence agencies;
- (ii) all or part of the development—
  - (A) is assessable under a planning scheme; and
  - (B) is prescribed under a regulation;
- (iii) all or part of the development is the subject of an application for a preliminary approval mentioned in section 3.1.6

The [Integrated Planning Regulation 1998](#), schedules 7 and 8 outline the developments or areas prescribed under a regulation, where a 30 business day notification period is required for development that is subject to impact assessment and is assessable under a planning scheme.

**1.0 What is referral coordination?**

For applications made prior to 31 March 2007, referral coordination is a process by which the Chief Executive of the Department of Local Government, Planning, Sport and Recreation (herein referred to as the Chief Executive) determines whether -

- a State coordinated information request will be made for a development application; and
- the content of the request.

The Chief Executive makes this determination following consultation with the assessment manager and any IDAS referral agencies for the application. Advice from third parties (including other State agencies) may also be sought to assist with the determination.

**2.0 Triggering referral coordination [s3.3.5 (1) & (2) of the IPA]**

Referral coordination may be triggered in three (3) ways -

- if the application involves three (3) or more concurrence agencies; or
- all or part of the application is for –
  - a material change of use (*assessable against a planning scheme*) for a purpose prescribed under schedule 7 of the *Integrated Planning Regulation 1998*; or

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*Note: Referral coordination applies equally for applications following code or impact assessment processes. It also applies to relevant applications seeking preliminary approval or a development permit.*

*Note: It is the environmental effects of the proposal, rather than simply its scale which are the key factors in determining whether referral coordination is appropriate.*

*Note: It is recommended that the assessment manager identify the referral coordination trigger/s in the acknowledgment notice.*

*Note: There is currently no fee for referral coordination.*

- a material change of use (*assessable against a planning scheme*) or reconfiguration, if the premises are prescribed in schedule 8 of the *Integrated Planning Regulation 1998*; or
- all or part of the application is for a preliminary approval mentioned in s3.1.6 of the IPA.

### 3.0 Special circumstances when referral coordination is **not** triggered [s3.3.5(2) of the IPA]

In some special circumstances the assessment manager for an application can waive the requirement for an application to trigger the referral coordination process. This is the case if –

1. the application triggering referral coordination under the provisions of schedules 7 & 8 on the *Integrated Planning Regulation 1998*; and
2. the assessment manager gives the applicant written notice that in their opinion the development would be unlikely to have significant effects on the environment.

The assessment manager must provide this written advice to the applicant in the acknowledgment notice. Therefore this decision must be made **prior to** the acknowledgment notice being given.

If the assessment manager determines that referral coordination is **not** required for the application, the standard IDAS process and timeframes apply (including the standard notification period if applicable).

**Examples:** The following examples provide a guide to the implementation of referral coordination. They are examples of proposals that normally should not trigger referral coordination –

1. Erection of a golf buggy storage shed at a golf course adjoining prescribed land (the application may involve building works only which would not trigger referral coordination, or the storage shed may be considered ancillary to the golf course);
2. Extension of a large shopping centre by the addition of a small number of specialty shops (the material change of use may be considered to be minor in nature);
3. Alterations to a sugar mill to include a cafeteria for staff (the cafeteria is considered ancillary to the operation of the sugar mill);
4. Boundary adjustment to two lots adjoining a wetland (reconfiguration that is minor in nature); and
5. Excision of a lot from a larger parcel of land adjoining a fish habitat area (reconfiguration that is minor in nature).

### 4.0 When referral coordination occurs

If triggered, referral coordination occurs **after** the application has been lodged with the assessment manager and referrals have been made to any relevant IDAS referral agencies.

### 5.0 The referral coordination process [s 3.3.5 & 3.3.7 of the IPA]

Regardless of how referral coordination is triggered, the process followed is the same.

#### *Issuing an acknowledgment notice* [s3.2.3(1)(a) and 3.2.6(2) of the IPA]

Where referral coordination is triggered, the assessment manager has **10 business days**, from the day after receiving the properly made application, to issue an acknowledgment notice. The notice must state –

1. that referral coordination is triggered for the application; and
2. the information that the applicant is required to give the Chief Executive.

If referral coordination would have been triggered under Schedules 7 and 8 and the assessment manager determines that the proposal would be unlikely to have significant effects on the environment, the acknowledgment notice must also state that referral coordination is **not** triggered for the application for this reason.

#### *Giving the application to the Chief Executive* [s3.3.5(3) of the IPA]

After referring the application to all applicable IDAS referral agencies, the applicant must give the Chief Executive -

- a copy of the application material (including the application form and any plans and documents lodged with the application);
- a copy of the acknowledgment notice; and

- written notice of the day the applicant complied with s3.3.3(1) of the IPA for each referral agency (i.e. the day the application was referred to each applicable IDAS referral agency. This date is known as the 'agency's referral day').

The IPA does not prescribe a time period within which an application triggering referral coordination is required to be referred to the Chief Executive. However, the chief executive's information request period does not commence until they have received the notice under s3.3.5(3)(c) of the IPA (i.e. written notice of the day the applicant complied with s3.3.3(1) for each referral agency).

***Preparing the information request [s3.3.7 of the IPA]***

The Chief Executive has **20 business** days, from the day **after** they receive the notice under s3.3.5(3)(c) of the IPA, to give the applicant an information request.

When determining whether an information request is necessary, the Chief Executive is required to consult the assessment manager and any IDAS referral agencies for the application. The IDAS referral agencies are prescribed in the *Integrated Planning Regulation 1998*.

However, the Chief Executive may also seek the views of other entities ("third parties"), including other State agencies. Consulting a third party during the preparation of the information request does **not** make the party an IDAS referral agency under the IPA and the party is not credited with the ability to direct the outcome of the application.

If the Chief Executive does not give the applicant an information request, they **must** advise the applicant, assessment manager and each IDAS referral agency that an information request will not be made.

***Responding to the information request [s3.3.8 of the IPA]***

If the applicant receives an information request from the Chief Executive, they have 12 months to respond to the request (unless the application has been made in response to either a show cause notice or enforcement notice in which case the period an applicant has to respond to an information request is 3 months). If a response is not received within this period, and an extension of the period has not been agreed to by the Chief Executive, the application lapses [s3.2.12 of the IPA].

When responding to the information request, the applicant must give the assessment manager and each IDAS referral agency (but not the chief executive or third parties) a written response to the information request. The applicant is requested to also give a copy to third parties consulted by the Chief Executive.

The applicant may respond to an information request in one (1) of the following ways [s 3.3.8 (1) & (3) of IPA] -

- provide all the information requested;
- provide only part of the information requested and a notice requesting assessment of the application continue; or
- give notice that no information is to be provided and request assessment of the application to continue.

However, there is an expectation that all reasonable and relevant information concerning a development application be provided by the applicant. Section 4.1.23(2)(g) of the IPA allows the Planning and Environment Court to award costs against an appellant if, in responding to an information request, the appellant did not give all reasonably requested information before the decision was made.

Furthermore, assessment managers are required to apply a precautionary approach [s 1.2.3(1)(a)(iii) of IPA] when assessing applications. This means that, in the absence of adequate information, and where there are threats of serious environmental harm, assessment managers must determine applications or condition approvals in a precautionary way.

***Referral agencies' assessment period [s3.3.14(8) of the IPA]***

The statutory time period for an IDAS referral agency to assess the application does not apply to those other State agencies consulted by the Chief Executive during the preparation of the information request (third parties). While these agencies can review the applicant's response to the information request and provide comments to the assessment manager, this must be done within the timeframes applying for the assessment manager's consideration of the application.

*For example, an application is made for a sugar mill. The EPA is an IDAS referral agency for this development for the purposes of IDAS because the sugar mill is an ERA (no. 36 under schedule 1 of the Environmental*

*Protection Regulation 1998). In this case, once the EPA receives the applicant's response to the information request it has 30 business days to assess the application (s 3.3.14).*

***Referral agency's response [s3.3.16 of the IPA]***

If a concurrence agency wants the assessment manager to include concurrence agency conditions in the development approval, or to refuse the application, the agency must give its response to the assessment manager, and a copy to the applicant, during the referral agency's assessment period. If an advice agency wants the assessment manager to consider its advice or recommendations when assessing the application, the advice agency must give its response to the assessment manager, and a copy to the applicant, during the referral agency's assessment period.

If a referral agency does not give a response within the referral agency's assessment period, the assessment manager may decide the application as if the agency had assessed the application and had no concurrence agency requirements.

However, a concurrence agency may, with the written agreement of the applicant and before the application is decided, give a referral agency response or amend its response [s3.3.17 of the IPA].

If a concurrence agency gives or amends its response, the agency must give the response or amended response and a copy of the applicant's agreement to the assessment manager and give a copy of the response or amended response to the applicant.

***Length of the notification period if applicable to the application [s3.4.5(a)(ii) of the IPA]***

Referral coordination in itself does not trigger an application to require public notification. Public notification is triggered if –

1. any part of the applications requires impact assessment; or
2. the application is an application to which s3.1.6 of the IPA applies.

If this is the case, and the application also triggers referral coordination, then the notification period for the application is extended from the standard 15 business days to a minimum of **30 business days**. [s 3.4.5 of IPA]

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