

# Guide to using the IDAS development application forms

## Guide 20—Fisheries matters v1.4 January 2009

This guide has been prepared to assist in determining if an application requires assessment by the Department of Primary Industries and Fisheries (DPI&F) in relation to matters regulated under the *Fisheries Act 1994* (Fisheries Act).

Further information is available by contacting the Department of Primary Industries and Fisheries (DPI&F) on 13 25 23.

### The Queensland legislative framework

In Queensland, there are numerous Acts that regulate development by setting out minimum standards aimed at managing and protecting the environment. These Acts are usually topic specific e.g. the Fisheries Act which aims to manage and protect fisheries resources and fish habitats.

*The Integrated Planning Act 1997* (IPA) provides these Acts with a framework for the regulation of land use and associated development.

Under the IPA, an aspect of development may be assessable, self-assessable or exempt from assessment. Assessable development requires the lodgement of an IDAS development application which is assessed and decided using the integrated development assessment system (IDAS). Self-assessable development does not require the lodgement of an application but must comply with applicable development standards.

An aspect of development that is exempt from assessment does not require the lodgement of an IDAS application and is not required to comply with any development standards.

### The Fisheries and the IPA

The Fisheries Act, which has regulated fisheries resources and fish habitats since its commencement in 1994, was 'rolled-in' to the IPA and IDAS framework on 1 March 2005.

The Fisheries Act regulates development:

- for aquaculture
- for constructing or raising waterway barrier works
- for the removal, destruction or damage of marine plants; and
- in a declared Fish Habitat Area.

### What is aquaculture?

For the purposes of the Fisheries Act:

- aquaculture—means the cultivation of live fisheries resources for sale
- fisheries resources—includes fish and marine plants, and
- fish—means animals that throughout their life cycle live in either fresh or saltwater, or in or on foreshores, or in or on land under water. They include but are not limited to crustaceans such as prawns, crayfish, rock lobsters and crabs, molluscs such as scallops, oysters and pearl oysters, sponges, annelid worms, beche-de-mer, trochus and green snails (see Section 5 of *the Fisheries Act 1994*).

However fish does not include crocodiles, animals protected under the Nature Conservation Act 1992 such as edgbaston goby and honey blue eye, and animals prescribed as not to be fish under a regulation.

## What is a waterway barrier?

For the purposes of the Fisheries Act, waterway barrier works include dams, weirs or other barriers constructed across waterways and limits fish stock access and movement along a waterway. They block the waterways completely or partially and interfere with the movement of fish upstream or downstream of these barriers. Where movement of fish is important for the distribution of fish populations along the waterways, it is necessary to construct fish passages.

## What is a marine plant?

Marine plants are protected under the Section 123 of the Fisheries Act and are defined for the purposes of that Act as:

1. Including –
  - i. a plant (a tidal plant) that usually grows on, or adjacent to, tidal land, whether it is living, dead, standing or fallen
  - ii. material of a tidal plant, or other plant material on tidal land
  - iii. a plant or material of a plant, prescribed under a regulation or management plan to be a marine plant
2. But not including a plant that is a declared pest under the *Land Protection (Pest and Stock Route Management) Act 2002*

Example of removing a marine plant—removing seagrass from a beach or foreshore

Example of destroying a marine plant—burning saltcouch

Example of damaging a marine plant—pruning or trimming mangroves

## What are declared fish habitat areas?

For the purposes of the Fisheries Act, a declared Fish Habitat Area is a spatially defined area of fish habitats containing values important to sustaining local and regional fish stocks and fisheries.

These Areas are declared and managed under the Fisheries Act to ensure their natural values are not eroded or lost by development impacts. Any development proposed within a declared Fish Habitat Area requires both:

1. a resource allocation authority under the Fisheries Act, and
2. a development approval under *the Integrated Planning Act 1997 (IPA)*.

## Assessable and self-assessable development assessable against the Fisheries Act

The following activities are assessable development under the IPA for the purposes of the Fisheries Act (unless they are declared to be self-assessable):

- material change of use for aquaculture;
- operational works:
  - that is constructing or raising of a waterway barrier work,
  - that is the removal, destruction or damage of a marine plant, and
  - that is completely or partly in a declared Fish Habitat Area; and
- building work in a declared Fish Habitat Area.

This development requires the lodgement of an IDAS development application for assessment against the relevant provisions of the Fisheries Act. This assessment is undertaken by DPI&F.

The following development is self-assessable under the IPA for the purposes of the Fisheries Act:

#### **Aquaculture**

- native Queensland freshwater fish in ponds or in above ground tanks in accordance with schedule 6 of the *Fisheries (Freshwater) Management Plan 1999* with total water surface area used for aquaculture not exceeding 5 hectares
- native Queensland freshwater fish farmed in above ground tanks housed in a facility with a roof impervious to rain water and with a gross floor area not exceeding 50 square metres (excluding storage water areas)
- exotic freshwater fish species, for aquarium display purposes, as listed in the *Fisheries Regulation 2008* – (Schedule 6, Part 2 Particular nonindigenous Fish), using above ground tanks housed in a facility with a roof impervious to rain water and with a gross floor area not exceeding 50 square metres (excluding storage water areas), and
- native Queensland marine fish species, for aquarium display purposes, using above ground tanks and with a gross floor area not exceeding 50 square metres (excluding storage water areas).

Note: In all of the above aquaculture activities, no untreated water or effluent can be released from the facility to waterways.

Some fish species with special management provisions are not included in the self-assessable codes. Therefore proponents should carefully read the relevant self-assessable code (number AQUA01) before they begin work under that code.

#### **Waterway barrier works**

- for the construction of minor waterway barrier works (code WWBW01)
- for the construction of temporary waterway barrier works (code WWBW02), and
- for the construction of regularly constructed temporary waterway barrier works (code WWBW03).

#### **Disturbance to marine plants**

- removal of dead wood from unallocated State land for trade or commerce (code MP01)
- for maintenance of existing lawfully constructed infrastructure (code MP02)
- for maintenance of on-farm drains (code MP03)
- for maintenance of powerlines and associated powerline infrastructures (code MP04)
- for education, research and (environmental) monitoring (code MP05), and
- for minor impact (new) works (code MP06).

#### **Works in declared Fish Habitat Areas**

- for maintenance of existing lawfully constructed infrastructure (code MP02)
- for maintenance of powerlines and associated powerline infrastructures (code MP04)
- for minor impact (new) works (code MP06).

Note: In these instances, an IDAS application is not required to be lodged for assessment by DPI&F. However the development is required to comply with the relevant self-assessable codes under the Fisheries Act.

## Approved operational works for marine plants required for certain developments

Section 3.2.2A of the IPA prescribes that an application for a material change of use or reconfiguring a lot lodged after 1 March 2005 is taken to include an application for the operational works for the removal, destruction or damage of marine plants, requiring assessment by DPI&F as a concurrence agency if:

- removal, destruction or damage of marine plants on or near the premises or lot, the subject of the application, is proposed
- there is no valid development approval for the operational works
- approval for the operational works has not been applied for in the application or in a separate application.

For applications for material change of use or reconfiguring a lot lodged prior to the roll in of the Fisheries Act into the IPA on 1 March 2005, involving damage to marine plants, any approval for the material change of use or reconfiguration cannot be acted upon until an application for operational works for the removal, destruction or damage of marine plants is lodged and approval is given.

## Is a resource allocation authority required?

In addition to lodging an IDAS development application and securing a development permit under the IPA, some developments mentioned above may require a resource allocation authority (RAA) under the Fisheries Act.

Note: A RAA is not an IDAS development application. However, when a RAA is required, the IDAS application cannot be accepted as properly made until the RAA is obtained.

An RAA application form can be obtained from [www.dpi.qld.gov.au](http://www.dpi.qld.gov.au) or a Regional Delivery Office.

For further information please contact DPI&F on 13 25 23.

## Is a resource allocation authority evidence of resource entitlement?

A RAA issued under the Fisheries Act 1994 is evidence the chief executive of DPI&F is satisfied the development is consistent with an allocation of, or entitlement to, the resource. This is a form of evidence of resource entitlement for the purposes of IPA.

Details of the RAA should be stated in the relevant question about resource entitlement on Form 1 Part A.

## Completing the IDAS Application Form 1

If development is assessable against the Fisheries Act, an IDAS application is required. This involves completing and lodging the relevant parts of the IDAS Application Form 1 and any other information (including site and development plans) necessary to enable DPI&F to assess the development for compliance with the Fisheries Act.

Part A of the form must be completed for all applications. Part O<sub>1</sub> of the form must be completed if the application involves the assessment of aquaculture against the Fisheries Act. If the application involves the disturbance of marine plants or building or operational works within a declared Fish Habitat Area, Part O<sub>2</sub> of the form must be completed. If building or raising waterway barrier works, Part O<sub>3</sub> of the form must be completed.

The IDAS Assessment Checklist must also be completed and lodged with the application. If the aquaculture also requires assessment against the Council's planning scheme, other parts of Form 1 (e.g. Parts D or E) may also need to be completed. These forms are available from the IPA website.

## DPI&F as assessment manager

Under schedule 8A of the IPA, DPI&F will be the assessment manager for the application in the following instances

1. For an application involving:
  - assessment against the Fisheries Act (i.e. a matter necessitating the completion of Form 1: Part A, Part O<sub>1</sub>, O<sub>2</sub>, or O<sub>3</sub> and the IDAS Assessment Checklist), and
  - no other assessable development.
2. For an application involving:
  - building work in a declared Fish Habitat Area or operational work carried out in a declared Fish Habitat Area under the Fisheries Act
  - operational work that is tidal work other than prescribed tidal work or work carried out completely or partly in a coastal management district under the *Coastal Protection and Management Act 1995* (the Coastal Act), and
  - no other assessable development.
3. For an application involving:
  - aquaculture assessable against the Fisheries Act
  - assessment against the *Environmental Protection Act 1993* for ERA 1 (aquaculture)
  - operational work that is tidal work other than prescribed tidal work or work carried out completely or partly in a coastal management district under the Coastal Act, and
  - no other assessable development (e.g. against the Council's planning scheme)

When DPI&F is assessment manager the application is lodged directly with the agency.

## DPI&F as concurrence agency

If an application involves a Fisheries Act matter and DPI&F is not the assessment manager for the application, they will be a referral agency. This will involve the application being lodged with another entity (e.g. the local government) and referred to DPI&F for their assessment.

## Application fees

Chapter 15, Part 4 of the *Fisheries Regulation 2008*, sets out the fees for that part of an application requiring assessment against the Fisheries Act. For more information, see the 'Guide to assessment fees for fisheries development', available at [www.dpi.qld.gov.au/documents](http://www.dpi.qld.gov.au/documents)

## Contacts

For more information, contact the relevant Departmental office

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