



Development assessment—lapsed development applications

This fact sheet explains the circumstances under which an application may lapse and explains the actions that may be taken to revive such an application.

Summary

To ensure development applications are processed efficiently, the *Sustainable Planning Act 2009* (SPA) provides for applications to lapse in certain circumstances where a necessary action is not taken by the applicant.

The circumstances in which a development application will lapse

An application will lapse if the applicant fails to undertake any of the actions in column 1 of the table opposite within the time frames specified in column 2.

Making an application properly made (s.266)

If an application is not a properly made application, the assessment manager must give the applicant a notice stating this. The applicant must take the actions stated in the notice to make the application properly made within 20 business days after receiving the notice. The applicant and the assessment manager may agree to extend this period. Failure to undertake this action within this period will cause the application to lapse.

Action	Time frame for undertaking action
Failure to take the action required to make an application properly made	20 business days (or a further period agreed between the applicant and assessment manager) after receiving notice from the assessment manager that the application is not properly made
Failure to refer the application to all relevant referral agencies	20 business days (or the further period agreed between the assessment manager and the applicant) after the applicant receives the acknowledgement notice
Failure to respond to an information request	If the application is required by an enforcement notice or in response to a show cause notice— three months after receiving the information request (or the further period agreed between the applicant and the entity making the request) In all other cases— six months after receiving the information request (or the further period agreed between the applicant and the entity making the request)
Failure to publish a notice in the newspaper, place a notice on the land and give a notice to owners of adjoining land	20 business days after the applicant was entitled to start the notification stage (or the further period agreed between the assessment manager and the applicant)
Failure to give the assessment manager written notice that the applicant has carried out public notification	20 business days after the notification period ends

Referring the application to referral agencies (s.272)

If an application requires referral to a referral agency, the applicant must give the following material to each agency:

- a copy of the application (unless the referral agency already has a copy)
- a copy of the acknowledgement notice
- the relevant fee (for a concurrence agency).

This material must be given to the referral agency within 20 business days after the applicant receives the acknowledgement notice. The applicant and the assessment manager may agree to extend this period. Failure to undertake this action within this period will cause the application to lapse.

This requirement does not apply for an agency if the applicant has already received a referral agency response, complied with any conditions of that response and provided a copy of the response to the assessment manager.

The applicant must also advise the assessment manager in writing of the day the application was referred to each referral agency. However, failure to do this will not cause the application to lapse.

It should also be noted that if the applicant fails to refer the application to a referral agency, the application will be taken not to have lapsed if a party to the application gives a written notice to each other party advising that there has been a missed referral.

Responding to any information requests (s.279)

If an information request is made by the assessment manager or a concurrence agency, the applicant must respond to the request within six months after receiving the information request or the further period agreed between the applicant and the entity making the request.

Where the application is required by an enforcement notice or in response to a show cause notice, the response period is three months or the further period agreed between the applicant and the entity making the request.

Because multiple information requests can be issued for a single development application (i.e. one from the assessment manager and one from each referral 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.

Failure to respond to an information request within the time frames specified above will cause the application to lapse.

Commencing public notification of the application (s.302)

If an application is required to be publicly notified, notification must commence within 20 business days after the applicant was entitled to start the notification stage, or the further period agreed between the assessment manager and the applicant. Failure to undertake these actions within this time frame will cause the application to lapse.

The applicant is entitled to start the notification stage in the following instances (s.296):

- if there are no concurrence agencies and the assessment manager states in the acknowledgement notice that the assessment manager does not intend to make an information request—the day the acknowledgement notice is given
- if no information requests have been made during the last information request period—the day the last information request period ends
- if an information request has been made—the day the applicant gives all information request responses to all information

requests made and gives copies of the responses to the assessment manager.

Giving the notice of compliance (s.301)

After the notification period ends, the applicant has 20 business days within which to give the assessment manager a notice of compliance, stating that they have undertaken public notification in accordance with the requirements of chapter 6, part 4, division 2 the SPA.

The application lapses if the notice of compliance is not given to the assessment manager within the 20 business days. The applicant and the assessment manager may agree to extend this period.

Reviving lapsed applications

It is not possible to revive a development application which has lapsed because the applicant failed to take any actions necessary to make the application a properly made application. If the applicant wishes to proceed with the application, it would need to be re-submitted to the assessment manager.

However, if the application lapses in any of the other circumstances listed above, the applicant may revive the application in certain circumstances.

In order to revive a lapsed application, the applicant must give the assessment manager written notice that the applicant seeks to revive the application. If the relevant action is responding to an information request made by a concurrence agency, the applicant must also give the revival notice to the concurrence agency. This notice must be given within five business days after the application would otherwise have lapsed. The applicant then must undertake the action within five business days of giving the notice. The applicant and the assessment manager may agree to extend this period.

If the applicant undertakes the action within this period, the application will be taken not to have lapsed. If the applicant fails to undertake the action within this period, the application will lapse and cannot be revived.

When a lapsed application is not revived

If an application lapses and is not revived, the applicant would need to make a new development application, if it wishes to proceed with the proposal.

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

If an application lapses, there is no requirement under the SPA for the assessment manager to notify the applicant, however the assessment manager may inform the applicant and any other parties (such as submitters and referral agencies) as a matter of courtesy.

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Further information

Further fact sheets on related matters are available on the department's website, www.dip.qld.gov.au/spa

More information can be found in the *Sustainable Planning Act 2009*, the *Sustainable Planning Regulation 2009* and from:

Department of Infrastructure and Planning

PO Box 15009 City East Qld 4002 Australia

tel +61 7 3227 8548

fax +61 7 3224 4683

info@dip.qld.gov.au

www.dip.qld.gov.au

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