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COMMENCEMENT OF THE INTEGRATED PLANNING AND OTHER LEGISLATION AMENDMENT ACT 1998 (IPOLA)

Purpose

This information has been issued to building certifiers and the building industry to summarise the *Integrated Planning and Other Legislation Amendment Act 1998 (IPOLA)*, which contains the amendments to the *Integrated Planning Act (IPA)*, *Building Act*, *Environmental Protection Act* and a number of other acts, that were assented to on 3 September 1998. The majority of the amendments commence on 12 October 1998, and others are retrospective or commence from a specified date yet to be set by proclamation.

Reasons for amendments

The IPA was debated and passed by Parliament in November 1997. For the most part, this Act commenced on 30 March 1998. Building and environmental management systems were integrated into IDAS in April and July 1998, respectively. Because of the scope and magnitude of the reform introduced by the IPA, it was expected difficulties would be encountered with the operation of the new system in its early stages. Monitoring of the Act's implementation suggested that some of the difficulties experienced could be quickly overcome by clarifying certain provisions and improving some of the procedures. The amendments are intended to do this. They are operational in character and do not affect the policy intent of the IPA.

Objectives of the IPOLA

The objectives of the IPOLA are to -

- clarify the intended operation of the IPA and related legislation, in particular the IDAS system, private certification and transitional arrangements;
- simplify aspects of the IDAS, in particular for routine applications;
- remove anomalies in the legislation; and
- correct typographical and other minor errors in the text of the legislation.

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Department of
COMMUNICATION & INFORMATION,
LOCAL GOVERNMENT & PLANNING

BUILDING STANDARDS
12TH FLOOR 111 GEORGE STREET BRISBANE QUEENSLAND 4000
PO BOX 187 BRISBANE ALBERT STREET QUEENSLAND 4002

TELEPHONE (07) 3237 1706 FACSIMILE (07) 3235 4586
E-MAIL rjcowley@qdlgp.qld.gov.au

Sections of the IPOLA relating to private certification and changes to Form 6 - Development Application Decision Notice

The following sections of the IPOLA relating to private certification and changes to Form 6 - Development Application Decision Notice are as follows:

PRIVATE CERTIFICATION:

Amendment of s 5.3.3 (What is a private certifier?)

The amendment is to clarify that a private certifier may be an individual, a corporation, or a public sector entity acting through an individual. The current wording limits private certifiers to being an individual. It is not the intent of the legislation that public sector entities or private corporations be prevented from being private certifiers. The main purpose of the legislation is to ensure that those people performing the functions of a private certifier are either themselves appropriately qualified and/or accredited, or are acting through entities that fulfil those requirements. Confusion has been expressed as to when a local government is considered to be undertaking private certification. The receipt of an IDAS application is not intended to be considered as a written contract for the purposes of the IPA. A new subsection (5) has been inserted to clarify that receipt of an IDAS application form is not a written contract, and additional written engagement is required to undertake private certification.

Amendment of s 5.3.5 (Private certifier may decide certain development applications and inspect and certify certain works)

This amends the section to require a private certifier to not decide a development application until other aspects of development prescribed under a regulation have been approved and the approval has taken effect.

Many development proposals involve different types of assessable development (e.g. change of use, building work, reconfiguration, etc.). Because private certifiers in many cases will have jurisdiction to deal only with an aspect of the overall proposal, the IPA requires that certifiers not decide their component of a proposal ahead of any other assessable components.

These earlier approvals are likely to set parameters for the application made to the certifier. Because the private certifier enters the assessment process after the assessment manager has finalised the assessment of other aspects of the proposal, it is important that the certifier ensure the application is consistent with the earlier approvals given. However, some aspects of a development (such as landscaping and car parking) could be assessed and approved by the assessment manager without influencing the approval of the building work [\(the number of spaces and the layout being assessed previously as part of the material change of use\)](#). In those instances a private certifier could be permitted to issue a development permit in advance of the completion of other assessments, on condition those other assessments were approved prior to commencement of building. Such aspects would include certain aspects of plumbing and drainage work and operational works.

Using a regulation to prescribe the aspects of development that must be approved before a private certifier may decide a development application, enables the requirements to be specifically documented according to the type of development assessment which may be undertaken by private certifiers. (To date this is only building work assessed under the Building Act, but there is the potential under the IPA to extend private certification to other code assessments). This section will not be commenced until the regulation is also commenced. The date will be set by proclamation.

Subsection (3) delays the commencement of the decision stage for applications being assessed by private certifiers to when the private certifier is entitled to make a decision.

New subsection (4) clarifies that in addition to deciding a development application, a private certifier may also decide subsequent changes to an approval.

Omission of s 5.3.7 (Entities (including local governments) may undertake private certification)

This amendment repeals the existing provision as the proposed amendments to section 5.3.3 now deal with entities undertaking private certification.

Amendment of s 5.3.9 (Engaging private certifiers)

This amendment transfers existing section 5.3.5(2) to a new subsection (3) to improve readability of the Act.

CHANGES TO APPROVED FORM 6 - DEVELOPMENT APPLICATION DECISION NOTICE:

The IPOLA amends s 3.5.15 of the IPA which prescribes the content of a decision notice. The amendment takes effect from the 12 October. As a result, approved Form 6 has been amended to include two new items (items 6 & 7 on the approved form).

Item 6 - Compliance with codes for self-assessable development requires the assessment manager to advise of any codes the applicant may need to comply with for self-assessable development related to the development approved.

Item 7 - Properly made submissions (for applications subject to impact assessment) requires the assessment manager to advise whether or not there were any properly made submissions about the application.

A copy of the amended form will be available on the IPA web site and on the LGAQ-net (in MS Word).

Sections of the IPOLA relating to private certification and the amendments to the Building Act, will not commence on 12 October 1998

Those sections of the IPOLA relating to private certification and the amendments to the Building Act, will not commence until the consequential amendments to the Standard Building Regulation have commenced. The date of commencement for these sections has yet to be set.

Further Information

Available on the Internet at site address: www.qdlgp.qld.gov.au/ipa are the following publications:

- IPOLA Explanation Notes (under the 'IPA News' section)
- IPOLA Implementation Notes (under the 'IPA Guideline and Notes' section):

No 9 Integrated Planning and Other Legislation Amendment Act (IPOLA)

This note describes the key amendments and provides a checklist to assist local governments prepare for the IPOLA commencement.

No 10 Amended Requirements for Acknowledgement Notices

This note provides specific advice on how section 3.2.3 dealing with acknowledgement notices has been amended.