Regional IDAS Implementation Issues

Due to the current expansion of the mineral and natural gas sectors, a number of small regional Councils are experiencing an unprecedented rate of development and an associated rise in the number and complexity of Development Applications. While IDAS was established to streamline development assessment processes, it simultaneously introduced a level of complexity and non-compliance risk into the assessment process. With limited professional planning services available to assist Applicant’s in regional areas and a Local Government policy position and economic imperative to generally support development, the responsibility for guiding proponents, undertaking key stages of IDAS, assessing development and is some cases delivering development falls to the Council.

This paper examines the roles, responsibilities, risks and pressures placed on a small regional Council as the Assessment Manager under IDAS, within an area experiencing rapid economic growth associated with the North West Mineral province. Case studies examining regional IDAS implementation issues have been drawn from experience working as a consultant town planner with Cloncurry Shire Council.

Potential improvements to IDAS will be identified for consideration as well as suggested strategies for Regional Council Planners to assist Applicants, manage the assessment process and facilitate development outcomes.
1 INTRODUCTION

As outlined under Section 230 of the Sustainable Planning Act 2009 (SPA), the Integrated Development Assessment System (IDAS) is the system for integrating State and Local government assessment and approval processes for development. Established under the superseded Integrated Planning Act 1997, while successful in integrating approval processes, IDAS simultaneously introduced a greater level of complexity for Assessment Managers and non-compliance risks for Applicants.

With limited professional planning services available to assist Applicant’s in regional areas and a Local government policy position and economic imperative to generally support development, the responsibility for guiding proponents, undertaking key stages of IDAS, assessing development and in some cases delivering development often falls to Council.

This paper examines the roles, responsibilities, risks and pressures placed on a small regional Council as the Assessment Manager under IDAS, within an area experiencing rapid economic growth associated with the North West Mineral province. Case studies examining regional IDAS implementation issues have been drawn from experience working with Cloncurry Shire Council (CSC).

2 CONTEXT

2.1 Cloncurry Shire Council

Cloncurry Shire is located in north-west Queensland approximately 770 kilometres west of Townsville. The Shire has an area of 48,113.3km² and includes the Town of Cloncurry, Kajabbi, Djarra and Duchess. The Town of Cloncurry is administrative centre of the Shire and has a current population of 3800. It is noted that this population figure is subject to fluctuation depending on the inclusion of “Fly In Fly Out” workers.

2.2 North West Mineral Province

North-west Queensland is globally recognised as a strong and competitive mineral producing region with high-quality copper, silver, lead, zinc, gold and phosphate deposits. The North West Queensland Mineral Province (NWQMP), centred on the Mount Isa-Cloncurry region, boasts a significant portion of the world’s known lead and zinc resources as well as large resources of silver, copper and gold (ibid).

Cloncurry is located in immediate proximity to large reserves of copper, zinc and lead, all base mineral resources targeted by mining sector. Magnetite, gold and silver are also produced in the area via the processing and smelting of base minerals. The major existing mines in immediate proximity to Cloncurry employ almost 1500 workers and include the following:

- Xstrata Ernest Henry Copper Mine.
- BHP Cannington Mine.

A number of additional mining operations in the region are proposed which are contributing to rapid employment growth (potentially over 2000 additional jobs) and creating strong demand for supporting industrial services, logistics and accommodation. These proposed mining operations include:

- Exco Resources Cloncurry Copper Project.
- Cudeco - Rocklands Copper Project.
- Mt Eloise MMG - Dugald River Lead and Zinc mine.
- Ivanhoe Australia’s Osbourne copper mine.
- Altona Mining - Roseby Copper Mine.
- Xstrata Ernest Henry magnetite mine.
2.3 Development Applications

The expansion of the mineral sector in and around Cloncurry has resulted in stimulation of the development sector, particularly industrial development and land provision, residential development and accommodation to support the growing “Fly in Fly Out” workforce.

Concurrently, the complexity of Development Applications (DAs) has also increased with recent applications lodged with CSC including:

- A Preliminary Approval for a Material Change of Use (Overriding the Planning Scheme) for a Industrial Estate and Rural Residential Estate and Reconfiguration of a Lot to create 2 master lots.
- A Preliminary Approval for a Material Change of Use (Overriding the Planning Scheme) and Development Permit for Reconfiguration of a Lot for a 44 Lot Industrial Estate.
- Development Permits for a Material Change of Use for Short Term Accommodation (Workers Camps), Industrial Uses, Telecommunications Infrastructure and Multiple Dwellings.
- Development Permit’s for Reconfiguration of a Lot for subdivisions ranging in size from 1 into 2 - 44 lots.

2.4 Council Resources

Council’s DA assessment team consists of 2 technical staff, a Planning Officer and Manager of Water, Sewer and Environmental Health Services. Due to budgetary constraints, the roles of officers is wide and varied as the Planner Officer is also responsible for Building and Plumbing Permits and Inspections, Compliance Inspections as well as assisting in the delivery of Council projects and Strategic Planning. The DA assessment team is also supported by active involvement of the Chief Executive Officer.

The increase in the number and complexity of DAs has significantly stretched Council’s resources to a point where external support from planning and civil engineering consultants is required to assist CSC to fulfil their role and meet all statutory requirements as an Assessment Manager under IDAS, placing an additional cost on Council’s budget.

The following sections of this paper examine the roles, responsibilities and risks on a small regional Council as Assessment Manager under IDAS. The issues will be highlighted by drawing on the following DA Case Studies from Cloncurry:

- **Case Study 1:** Borrow Pits for a Mine Access Road – This application involved a Development Permit for a Material Change of Use for General Industry (Extraction), Operational Works (Excavation), Environmentally Relevant Activity (#16 Screening and Extraction), and Works inside a Water Course within the Rural Zone.

- **Case Study 2:** 1 into 3 Residential Subdivision – This application involved a Development Permit for a Reconfiguration of a Lot (1 into 3 Lots) within the Residential Zone.

- **Case Study 3:** Industrial Estate – This application involved a Preliminary Approval for a Material Change of Use (Overriding the Planning Scheme) for a General Industrial Estate and Development Permit for Reconfiguration of a Lot (1 into 44 Lots).

It is important to note that CSC is supportive of economic growth and development within the Shire. Accordingly, it is in Council’s interests to guide, assist and support Applicant’s throughout the IDAS process to ensure the potential economic growth associated with the current expansion of the minerals sector in the region delivers the best outcomes for the local community. In this regard, CSC invests significant time and resources into supporting local Applicants to achieve development outcomes for the Shire in legally compliant manner.

3 KEY STAGES OF IDAS

3.1 Preparation of a Development Application

While, the statutory requirements associated with the preparation of a DA typically require input or assistance from consultant town planners, engineers or architects, a majority of the DAs lodged with CSC are prepared by the Applicant with little or no professional support.

The ability of a local applicant’s to engage consultant restricted by the limited local presence of technical professionals and the smaller margins on development projects which are often insufficient to accommodate additional consultant fees. For example, a newly created block of residential land within Cloncurry (~1000m²) can be purchased for around
Regional IDAS Implementation Issues

$90,000. The potential cost of consultant planners, surveyors and assessment fees in relation to a 2 lot residential subdivision could potentially equate to approximately 10% of the ultimate purchase price being paid prior to and a Development Approval being issued.

The result of this situation is that most local applicant’s tend to rely on Council to provide preliminary advice in relation to development opportunities for a site, identify planning controls including zoning, use rights and code requirements, outline necessary supporting material, application forms and assessment fees that should be provided with submission of a DA.

The supporting role which Council plays in assisting Applicant’s to prepare a Development Application place significant time burdens on Council officers and are generally not included or recovered in Council’s Fees and Charges. Further, where a high level of involvement of the Assessment Manager in potentially controversial development applications may create unrealistic expectations for applicants, and raise probity issues.

3.2 IDAS Application Forms

The IDAS Development Application Forms are identified as a mandatory requirement under Section 260 of SPA. Due to the complexity of the current forms, DAs are often lodged with CSC without forms and assistance to complete them is requested “at the counter.”

Completion of the IDAS Forms can be a time consuming as a number of data sources, mapping requests, title searches and research is often required. This complexity is demonstrated by the DA in Case Study 1 (Borrow Pits) which generated 86 pages of IDAS Forms and Checklists which were ultimately completed with input from the Applicant, Council and Council’s consultant planners.

The submission of incorrect IDAS forms may result in a DA being classified as “not properly made,” missed referral agency triggers, require an application to be re-started at some stage of the IDAS process or open the applicant up to a risk of statutory non-compliance should the application be appealed.

Given the complexity of the current IDAS Forms, CSC has adopted a flexible and pragmatic approach to dealing with Applicant’s and provides assistance in completing the forms, at the time of lodgement and often after submission to ensure statutory compliance is achieved.

3.3 Application Stage

3.3.1 Properly Made Development Applications

Under s260 of SPA lodgement of a Development Application must be:

- made to the assessment manager;
- be in the approved form and be accompanied by any mandatory supporting information;
- include the relevant development assessment fees; and
- be accompanied by the required land owner consent and state resource entitlements (where required).

In accordance with s261 of SPA, a DA is considered to be “properly made” if it accords with the above requirements. The introduction of “mandatory supporting information” under SPA places a statutory requirement on Applicant’s to submit certain information with the Development Application, otherwise it is not considered properly made. Under s266 of SPA the Assessment Manager must notify the Applicant of any deficiencies and request the situation is rectified within 20 Business Days otherwise the application will lapse.

The scale of mandatory requirements with respect to DA places a higher level of responsibility on the Applicant to submit more detailed and complete information to assist Council’s in making it’s assessment. For example, the Mandatory Requirements for a Reconfiguration of Lot Application (as specified in IDAS Form 7) include:

1. Site plans drawn to scale (1:100, 1:200 or 1:500 are the recommended scales) which show the following:
   - the location and site area of the land to which the application relates (relevant land)
   - the north point
   - the boundaries of the relevant land
   - any road frontages of the relevant land, including the name of the road
   - the contours and natural ground levels of the relevant land
   - the location of any existing buildings or structures on the relevant land
Regional IDAS Implementation Issues

- the allotment layout showing existing lots, any proposed lots (including the dimensions of those lots), existing or proposed road reserves, building envelopes and existing or proposed open space (note: numbering is required for all lots)
- any drainage features over the relevant land, including any watercourse, creek, dam, waterhole or spring and any land subject to a Q100 flood event
- any existing or proposed easements on the relevant land and their function
- all existing and proposed roads and access points on the relevant land
- any existing or proposed car parking areas on the relevant land
- the location of any proposed retaining walls on the relevant land and their height
- the location of any stormwater detention on the relevant land
- the location and dimension of any land dedicated for community purposes
- the final intended use of any new lots

2. A statement about how the proposed development addresses the local government’s planning schemes and any other planning documents relevant to the application.

An example of a recently approved subdivision plan in Cloncurry and a similar plan approved in Brisbane is provided in Figure 1.

**Figure 1 Recently Approved Subdivision Plans in Cloncurry and Brisbane**

As shown in Figure 1, small subdivision applications lodged with CSC often fall short of the mandatory requirements. Similarly, the supporting documentation required to be submitted with DAs is often not included or lacks sufficient information addressing the relevant statutory instruments.

The ability of local applicants to prepare a comprehensive DA package which meets all mandatory requirements is limited and as indicated above, as engaging professional consultants to prepare this material would place significant expense on the Applicant potentially making some smaller projects unviable. These projects such as small residential subdivisions,
duplexes, short term accommodation and small warehouses or industrial sheds are crucial to support the growth associated with the current North West Mineral Province.

Accordingly, CSC is often placed in a situation where it can enforce the mandatory requirements, potentially resulting in the withdrawal or lapsing of the DA, or it can exercise a level of discretion and proceed to assess the application provided the submitted material is considered sufficient to enable an appropriate assessment to be made. For example, with Case Study 2, the subdivision plan (shown in Figure 1) was approved as the dimensions of the original allotment were known and the proposed lots significantly exceeded the minimum lot size prescribed for the residential zone, providing Council with a sufficient level of certainty to ensure that a compliant outcome would be delivered. It is important to note that a level of discretion is not explicitly provided for under SPA.

3.3.2 Land Owner Consent

Obtaining appropriate land owner consent can also be a significant issue in Western Queensland where large tracts of land are lease hold land (99 Year Leases) requiring consent from the State for lodgement of a Development Application. Due to the importance of obtaining consent, Council will accept a Development Application as Properly Made unless correct consent has been obtained.

4 INFORMATION AND REFERRAL STAGE

4.1 Referrals

Once a DA has been accepted by Council as “Properly Made” and an Acknowledgement Notice (under s267 of SPA) has been issued, it is the responsibility of the Applicant for referral to the relevant Referral Agencies falls to Applicant. While DAs within township and the immediate environs tend to trigger few Referral Agencies, applications on larger rural parcels often trigger multiple referrals particular in relation to Remnant Vegetation, Referrable Wetlands, State Controlled Roads and rail corridors which may be not be immediately obvious to the Applicant.

For example, the Case Study 3 DA, triggered referral to DERM due to mapped presence of Remnant Vegetation (see Figure 2) on site, even though the site had been historically cleared (as shown in Figure 3) and was used as a grazing paddock.

Figure 2 Case Study 3 Excerpt From Remnant Vegetation Map

Source: DERM 2010
As shown in Figure 3, the broad scale of mapping of Remnant Vegetation in Western Queensland results creates potential DERM Referral Triggers for most DAs outside of the town boundaries.

The complexity of a referral triggers was also demonstrated the Case Study 1 DA, where discussions with DERM prior to issue of the Acknowledgement Notice, subsequent to referral and during the decision stage identified different triggers and referral agency requirements.

Due to the unfamiliarity of Applicants with the referral triggers and the lack of professional support, a number of DAs have failed to be referred within the Statutory Timeframes (20 Business Days under s272 of the Act), similarly, written notification confirming Referral of DA (under s275 of SPA) is rarely provided without prompting, resulting in lapsing and resubmission.

As a consequence of these non-compliances CSC officers are increasingly taking on board responsibility or following up Applicant’s to ensure compliance with IDAS Referrals and to protect the validity of the Development Application. This places greater pressure and responsibility on Council’s officers beyond their defined role under SPA.

### 4.2 Information Request and Response

In an effort to support development in Cloncurry, Council endeavours to limit information requests to that which is critical to assess and determine the application. Where an information request is made, again the responses are typically prepared by the Applicant with limited professional involvement and are often provided by to Assessment Manager through via phone, brief emails or face to face conversation.

While this method of response may be sufficient to satisfy the requirements under s278 it is difficult for Council to determine if the Applicant has responded to all or part of the request and on what day the statutory timeframes for the next stage of IDAS have commenced. As a consequence, a high level of communication between Council and the Applicant as well as detailed record keeping and files notes are required to protect the application in the event of legal challenge.

### 4.3 Public Notification

Public Notification of Impact Assessable DAs must be undertaken by the Applicant of the Assessment Manager (on the Applicant’s behalf) in the way prescribed under the *Sustainable Planning Regulation 2009*. Notification requires publishing a notice in a newspaper, placing a notice on land and giving notice to adjoining owners in the approved form.

Due to the intricacies of preparing complying public notices, CSC is regularly requested to undertake notification on the Applicant’s behalf, a service for which Council charges $80 per sign and accordingly takes on board the risk of ensuring statutory compliance.

Where public notification is undertaken by Applicants, CSC had frequently identified a number of non-compliances including incorrect descriptions of development, discrepancies between notification boards and newspaper notices, incorrect calculation of business days and failure to erect signs of all road frontages. As an example, an applicant who commenced notification in early 2011, was unable to erect signs on any road frontages of a large and isolated rural property due to the wet season and unpassable dirt roads throughout the notification period.

Unlike, other stages of IDAS, the Assessment Manager is afforded a level of discretion and the ability to decide a DA, even if public notification has not been undertaken in accordance with the requirements provided they are satisfied that any
non-compliance has not adversely affected the awareness of the public of the existence and nature of the application or restricted the opportunity of the public to make properly made submissions (s304 of the Act). CSC is regularly required to exercise its discretion and forgive these inconsistencies.

While the Assessment Manager may forgive inconsistencies with the notification, it cannot assess and decide a DA where it has lapsed as a result of not commencing notification (s302 of SPA), or providing a compliance notice (s301 of SPA) within the 20 business day timeframe. Again, a high level of communication between Council and the Applicant is required during this period to ensure the DA does not lapse.

4.4 Decision Stage

The key issue facing Council’s within the Decision Stage of IDAS is the preparation of a compliant Decision Notice and Conditions of Approval which address all relevant issues. As a result of the large and complex nature of Development Applications now being submitted in Cloncurry, Decision Notices have progressed from relatively simple packages to requiring conditions addressing the manner in which a Preliminary Approval overrides the Planning Scheme, staged requirements, infrastructure agreements, major infrastructure construction and environmental management of operations. Due to the necessity of delivering comprehensive conditions of approval and the potential long term implications, CSC has sought professional town planning support and on occasion specific legal input.

5 RECOMMENDATIONS

Based on the experienced working with and assisting CSC fulfil their statutory requirements as an Assessment Manager under SPA the following improvements to IDAS are identified for consideration and suggested strategies for Regional Council Planners are made to assist Applicants, manage the assessment process and facilitate development outcomes.

5.1 Recommended Changes to IDAS

5.1.1 Increased Assessment Manager Discretion Regarding Non-compliance and Lapse Dates

It is recommended that IDAS be amended to allow a greater level of Council discretion with respect to excusing non-compliances or reviving lapsed development applications (for example within 1 month) to provide a greater ability for Council’s to assist Applicants who have lodged DAs without professional assistance.

In particular, the lapsing provisions under SPA associated with the referral of DAs (s272) commencement of public notification (s302) and submission of a compliance notice (s301) should be amended. It is noted that the opportunity to revive DAs within 5 business days introduced by SPA could potentially be extended to 1 month to provide the Assessment Managers greater scope to excuse genuine errors.

5.1.2 Assessment Manager Discretion – Properly Made Application

Similarly, it is considered that a higher level of Assessment Manager discretion in relation to the submission of mandatory supporting information should be afforded by the legislation (s260 and 261 of SPA). This would enable Council to deem an application “Properly Made” provided the submitted information is sufficient to enable an appropriate assessment to be undertaken.

5.1.3 Simplification of Referral Triggers and IDAS Application Forms

A comprehensive review of the IDAS Referral Agencies is recommended to simplify referral triggers and assessment processes as well as the IDAS Application Forms. The complexity of the IDAS Forms and Referrals is highlighted when comparing Development Application requirements in other Australian States. For example, a recent Development Application lodged in a New South Wales seeking Development Consent for a major abattoir extension, while classified as Designated Development (requiring an Environmental Impact Statement), and triggering referral to the Road and Transport Authority (RTA) and Department of Environment Climate Change and Water (DECCW) required 4 Pages of Development Application Forms. These forms include identification of all possible Integrated Authorities that may be triggered by any Development Application.
5.2 Strategies for Regional Assessment Managers

To assist Applicant’s in reducing cost associated with the preparation of DAs, it is recommended that regional Councils adopt a pragmatic and risk based approach to the level of detail required to be submitted with a Development Application and to make their assessments accordingly. While this may be difficult and require additional time to be spent on each assessment, it will in the long term reduce the stress and workload associated with re-submitted DAs.

5.2.1 Adopt a Proactive Approach to IDAS

To ensure development applications are protected from non-compliances and lapsing, regional council’s should adopt a proactive approach to development assessment and provide regular guidance and updates to applicants to ensure key IDAS Stages and lapse dates are met.

5.2.2 Find a Mentor

Town planners within small regional council’s should develop relationships with experienced planners in larger Council’s or within consulting firms to allow a high level of communication, questions and assistance to be provided with respect to complex situations and DAs.

5.2.3 Referral Agency Contacts

Similarly, the development of working relationships with the key development assessment staff within each of the Referral Agencies to enable referrable triggers, and assessment requirements to be proactively discussed during the Acknowledgment Notice Stage and reduce the risk of non-compliance or re-submission later in the IDAS Process.

6 CONCLUSION

Due to the current expansion of the mineral and natural gas sectors, a number of small regional Councils are experiencing an unprecedented rate of development and an associated rise in the number and complexity of Development Applications.

The complexity of IDAS processes, risk of non-compliance, lack limited professional planning input and a Council imperative to generally support development, the responsibility for guiding proponents, undertaking key stages of IDAS and assessing development is increasingly being borne by Council. This stretches Council’s resources and can add complexity and risk to the role of Assessment Manager.

To overcome these issues, Planning Officers in small regional Council’s are encouraged to develop a support network with other professionals and state departments and adopt a proactive, pragmatic and risk based approach to dealing with local development applications.

Changes to IDAS, to enable more discretion of Assessment Managers are also recommended to reduce the risks of non-compliance with statutory processes.