



# Development Assessment Rules

## Guidance for development assessment

September 2021



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# 1.0 Introduction

## 1.1 What are the development assessment rules?

These rules are set out in the Development Assessment Rules (the DA Rules) document, which is a statutory instrument made under section 68(1) of the *Planning Act 2016* (the Planning Act). It sets out the Minister's rules for the development assessment process in Queensland, including the processes and procedural requirements of the planning system.

Note: All section and schedule references in this document refer to the Planning Act, unless otherwise specified.

## 1.2 Who is this guidance document for?

This guidance document is designed to be used by anyone who has a role in the development assessment system, or anyone who is interested in development assessment.

For this reason, this document aims to provide a broad range of information about the development assessment process as well as the DA Rules.

Further information may be sought from:

- » planning officers in the State government department administering the Planning Act (Planning Group)
- » local government planners
- » planning professionals.

## 2.0 The Planning Act

### 2.1 Development assessment in the Planning Act

The planning and development assessment system established under the Planning Act is focused on achieving:

- » an efficient land-use planning and development assessment system that is responsive and not overly prescriptive
- » an effective land-use planning and development assessment system that facilitates the outcomes that the state, local government and their communities are seeking to achieve
- » a transparent land-use planning and development assessment system that has highly visible policy making and assessment processes that the community and users of the system can understand
- » an integrated land-use planning and development assessment system that facilitates consistent policies and decision-making and allows the planning system to respond quickly to emerging issues at all levels
- » a coordinated land-use planning and development assessment system that ensures the maximum opportunities for coordination with other systems
- » an accountable land-use planning and development assessment system that enables explicit decision making and establishes opportunities for community involvement.

### 2.2 How the Planning Act establishes the DA Rules

The Planning Act establishes the framework for Queensland's planning system and provides the foundation for various elements of this system – namely, plan-making, development assessment and dispute resolution. The planning legislation also establishes the rights, roles and responsibilities necessary for the system to work effectively.

The planning framework is succinct and practical. It does not include much of the descriptive detail and processes that can be found in previous planning legislation. Instead, it provides for other tools such as the Planning Regulation and statutory instruments (including the DA Rules) to establish these details and processes.

This approach makes the legislation easier to navigate and understand. It also establishes a transparent and accountable way of providing a planning system that can be more responsive to contemporary or emerging circumstances, informed by communities as they change and grow.

As a statutory instrument, the DA Rules contains the rules about the development assessment process. Section 68(1) prescribes that the Planning Minister must include rules about:

- (a) how and when notification is to be carried out under section 53, including re-notifying the application if:
  - (i) the applicant changes the application under section 52; and
  - (ii) the notice under section 53(1) has been given; and
  - (iii) the change is not a minor change; and
  - (iv) the assessment manager is not satisfied that the change would be unlikely to attract a submission about the matter that is the subject of the change; and
  - (v) the assessment manager is not satisfied the change only addresses a matter raised in a properly made submission; and
- (b) the consideration of properly made submissions.

Section 68(2) prescribes that the DA Rules may provide for:

- (a) when a development application may be taken to be properly made for section 51(5); or
- (b) the effect on a development application of the expiry of a time limit under, or of a contravention of, the rules (the lapsing of the application, for example); or

- (c) the revival of lapsed applications; or
- (d) how and when a referral agency may change its response before a development application or change application is decided; or
- (e) any matter in relation to part 5, divisions 2 to 4; or
- (f) the effect on a process under this chapter of taking action under the *Native Title Act 1993* (Cwlth), part 2, division 3.

Section 68(2) also includes examples of what the rules may provide for, including:

- » the effect, for section 52, of different types of changes on a development application
- » the period for making referral agency's responses, including when the responses may be made late
- » matters to be considered when deciding whether a change to a development application or development approval would result in substantially different development
- » matters to be considered when deciding if an action is a material change of use
- » the periods for taking actions under the process
- » the effect of not taking the actions within the periods
- » provisions for information requests, and when and how the information can be sought.

It is important to note that examples given in section 68(2), and which are mentioned above, are not to be taken as exhaustive or exclusive. The examples do not limit but may extend the meaning of what the DA Rules may provide for.

This means that the DA Rules may or may not include some of the examples and may provide for aspects of the process that are not listed in the examples.

## 2.3 Relationship between the Planning Act and the DA Rules

The Act retains some important elements of the development assessment process in the primary legislation. These include:

- » decision rules – these are the rules that tell the assessment manager for a development application how the application should be assessed.
- » public notification timeframes – these are the minimum timeframes a development application is required to be open for consultation and during which anyone may make a submission about the application.
- » requirements for a development application to be considered 'properly made'.
- » all aspects of the development assessment process that relate to a development application after an approval has been issued, including changes, extensions and appeals.

The DA Rules cannot prescribe matters that are in the primary legislation. Rather, the DA Rules are complementary to the primary planning legislation. This means that, for some aspects of the development assessment process, both the legislation and the DA Rules need to be consulted to gain a full picture of the process.

For this reason, the DA Rules include, where appropriate, references to the relevant sections of the Planning Act that complement the DA Rules or contain information that is important to know.

This guidance document can also be used to clarify links between the DA Rules and the planning legislation.

## 2.4 Guiding principles

The development assessment process is underpinned by a set of guiding principles.

These principles are intended as a guide to the development assessment process for all development application parties and sets the tone for the expected behaviours throughout the process.

These principles are set out in table 1 as follows.

**Table 1**      **Guiding principles for development assessment**

<b>Applicant-driven process</b>
Reinforce the role that the applicant plays in streamlining the development assessment process.
<b>Process efficiencies</b>
Emphasis on undertaking pre-application discussions with the assessment manager and with each referral agency to create process efficiencies.
<b>Holistic assessment</b>
Enable a holistic assessment to be undertaken of the development application.
<b>Open communications</b>
Encourage and facilitate open communications between the assessment manager, referral agencies and the applicant.
<b>Public notification</b>
Facilitate effective public notification in the development assessment process for development applications that require public notification.
<b>User-friendly</b>
A more user-friendly, navigable and transparent system that facilitates quality development outcomes.

## 2.5 Roles and responsibilities

The state government, local government, community, developers and applicants all play a role in the development assessment system and it is important to understand the roles and responsibilities of the main parties who may be involved in the process of making, assessing and deciding a development application.

These are set out below. Definitions of these parties are also contained in schedule 4 of the DA Rules and in schedule 2 of the Planning Act.

### Applicant

The applicant for a development application is the person who made the application. The applicant may be the owner of the premises, about which the application is made, or a planning consultant or agent acting on behalf of the owner.

It is important to note that in most cases the consent of the owner is required for a development application to be properly made.

### Assessment manager

The entity responsible for assessing and deciding a development application is called the assessment manager. For the majority of development applications, the local government will be the assessment manager and they assess and decide a development application against the requirements of the local planning scheme.

However, there are particular development types that the state government has responsibility for assessing and deciding, such as a development application for:

- » building works on a Queensland heritage place
- » a major hazard facility
- » clearing native vegetation.

The assessment manager assesses, decides and issues a decision notice for a development application stating whether the application is approved, approved in part or refused. Where a development application requires public notification, the assessment manager is also responsible for reviewing any submissions made about the application during the notification period. The assessment manager may also include conditions on a development approval.



## Referral agency

Particular types of development applications require additional assessment by other agencies during the development assessment process. These agencies are called referral agencies. Section 54(2) sets out who may be a referral agency for a development application.

A referral agency may be either a concurrence agency or an advice agency. These terms are defined in the DA Rules.

## Concurrence agency

A concurrence agency is a type of referral agency that can direct an assessment manager to carry forward certain conditions on a development approval or refuse an application.

This role is often undertaken by the State Assessment and Referral Agency (SARA).

## Advice agency

An advice agency is defined as a referral agency that only has the power to give advice. An advice agency cannot direct the assessment manager to carry forward certain conditions on a development approval or refuse an application.

This role is often undertaken by utility providers, such as Powerlink, Ergon and Energex.

## Submitter

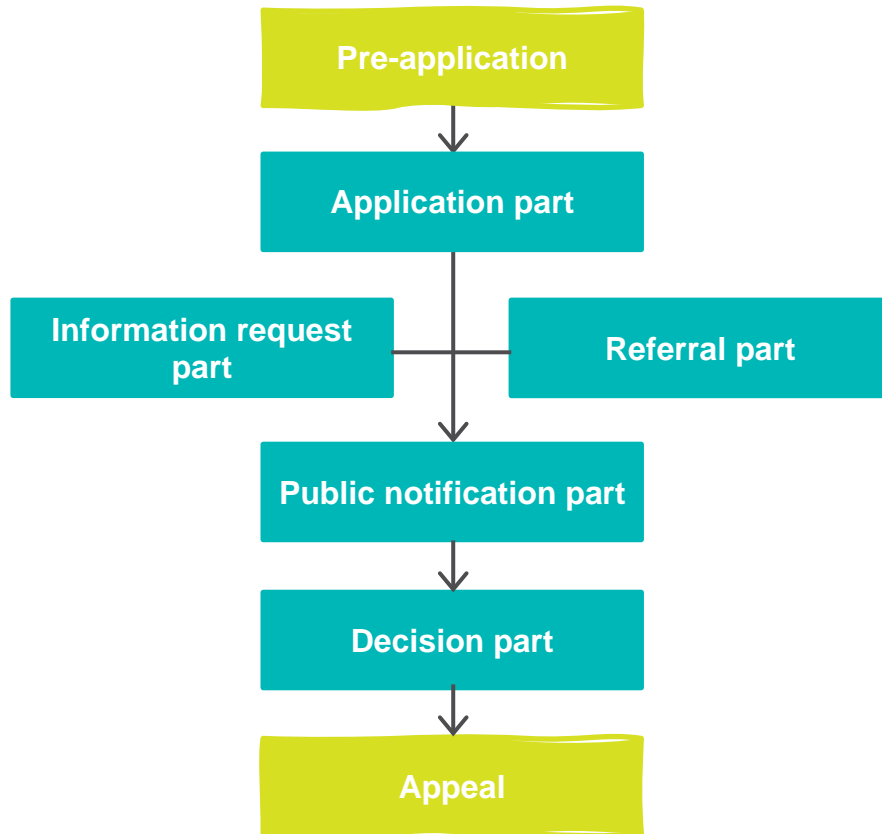
Certain development applications require public notification to be undertaken as part of the development assessment process. During public notification, submissions can be made on the development application.

A submitter is a person who makes a properly made submission about a development application during the public notification period. A submitter who makes a properly made submission is afforded third-party appeal rights to appeal the assessment manager's decision on the development application.

## 3.0 The development assessment process

### 3.1 Overall process

The development assessment process under the DA Rules is a straightforward process, as shown in figure 1 below. The parts shown in the blue boxes are those that are contained in the DA Rules.



**Figure 1 The development assessment process**

Pre-application and appeal processes (not shown in blue) are not part of the DA Rules. Pre-application happens before a development application is lodged, and therefore the development assessment process has not commenced when this happens.

The DA Rules also do not accommodate the process to change an approval during an applicant's appeal period or to change or extend an approval after appeal periods have ended.

Appeals also happen after a development decision is issued and the process for an appeal is therefore retained in the planning legislation.

A short description of these aspects of the development assessment process is provided as follows.

### Pre-application

Applicants play a key role in ensuring their development application is well made. Pre-application is a tool that supports and assists applicants in making well-made development applications. For this reason, a pre-lodgement meeting or written pre-lodgement advice from the assessment manager and any relevant referral agency before a development application is made is encouraged.

The purpose of a pre-lodgement meeting is to identify the planning views of the assessment manager or referral agency on the proposed development. It may also identify particular requirements or other information that may be required to assess the application before a development application is actually made. This will help applicants make a well-made development application and help streamline the development assessment process.

The planning legislation also provides the ability for a referral agency to give a referral agency response before the application is made. In some instances, the applicant may not have to refer their development application to that referral agency during the development assessment process.

As pre-application processes such as pre-lodgement are not captured in the DA Rules, the assessment manager and each referral agency can establish operational requirements to best suit their circumstances.

## Changing or extending an approval

All post-approval processes remain set out under the Planning Act, and so these processes will not be found in the DA Rules. They can be found in chapter 3, part 5, and include processes for:

- » changing a development approval during the appeal period (negotiated decision) — see division 2, subdivision 1
- » changing a development approval after the approval has effect (change application) — see division 2, subdivision 2
- » cancelling an approval — see division 3
- » extending the currency period for a development approval (extension applications) — see division 4.

However, it should be noted that, while these processes remain in the legislation, some of the provisions that relate to a change application will still use some of the processes and periods that are established in the DA Rules.

## Appeals

After a development application has been decided, the legislation specifies certain instances where a decision may be appealed by an applicant or other party to the development application.

If a submitter made a properly made submission during the public notification period for a development application, that submitter is afforded appeal rights and may, within the submitter's appeal period, lodge an appeal against the decision.

Further information about appealing a decision and the appeal rights that are established under the legislation can be found in chapter six of the Planning Act.

## 4.0 The DA Rules

### 4.1 Structure of the DA Rules

The development assessment process in the DA Rules involves the following parts:

- » Part 1 – Application
- » Part 2 – Referral
- » Part 3 – Information request
- » Part 4 – Public notification
- » Part 5 – Decision.

As each development application is different, the required steps in that assessment will vary. Not all parts apply to every development application. Similarly, not all of the actions within each part may apply.

In addition to these parts, the DA Rules also includes the following parts:

- » Part 6 – which provides the process to change an application or a concurrence agency response before the application has been decided
- » Part 7 – which is a miscellaneous section that details all of the ‘by exceptions’ provisions that may affect any or all of the other parts of the DA Rules.

The DA Rules also includes the following schedules:

- » Schedule 1 – Substantially different development
- » Schedule 2 – Referral agency’s assessment period
- » Schedule 3 – Public notice requirements
- » Schedule 4 – Definitions.

### 4.2 How to read the DA Rules

Each development application will start with part 1, which is when a development application is lodged, and, unless the development application is withdrawn or lapses, it will finish with part 5, which is when a decision notice is issued by the assessment manager.

To understand the development assessment process, we recommend starting with part 1. Each part has a defined end, and this will tell you when the development application can proceed to the next relevant part.

The relevance of some parts to a particular development application can only be determined by looking at other documents. For example:

- » In most cases, it is the local planning scheme or the Planning Regulation that establishes whether a development application is code or impact assessable. Only impact assessable applications (i.e. those that seek to vary the planning scheme) are subject to part 4 – public notification.
- » The Planning Regulation sets out which matters for which referral of an application to a referral agency are required and for which part 2 – referral is applicable.

### 4.3 DA Rules process flow charts

To find out which parts of the DA Rules might apply to your development application, you can use the ‘Map your development application’ tool available on the department’s [website](#). By answering the questions about whether or not your development application will require public notification, referral or an information request you will be able to generate a flow chart that will give you an indicative process and timeline for your development application. Appendix 1 also includes examples of these process flow charts to illustrate scenarios that may occur under the DA Rules.

## 4.4 Use of headings in parts 1 to 7 in this guidance document

Parts 1 to 7 of this guidance document are to be read in conjunction with the DA Rules. To support this, the headings used here are equivalent to those within the DA Rules.

## 4.5 Terminology

Some phrases and terms used in the DA Rules have a specific meaning in the context of the development assessment process. While these are generally defined in schedule 4 of the DA Rules, below are a few key terms that will help when reading the DA Rules and this guidance document.

- » **Give** – this is taken to include the time taken for the notice to be received by the recipient and is consistent with the definition under the *Acts Interpretation Act 1954*.
- » **Act** – refers to the *Planning Act 2016*. This guidance document uses the terms Act and Planning Act interchangeably.
- » **Rules** – refers to the DA Rules. This guidance document uses the terms rules and DA Rules interchangeably.
- » **Day** – means business day. This guidance document uses the terms day and business day interchangeably.
- » **Current period** – means the period that is active at the time notice is given under this section. It does not include any period that has already ended or any period that is yet to commence.
- » **Further period agreed** – any agreement for a further period under these rules must be made before the end of the relevant period, by notice between the parties and must identify the section of these rules to which the agreement relates and a copy must be given to any other party to the development application.
- » **Assessing authority** – means an assessment manager, concurrence agency or advice agency.



# Part 1: Application

## General

For every development application, this part:

- » sets out the timeframes and steps the assessment manager must take to determine whether a development application is a properly made application; and
- » sets out the steps the assessment manager must take for development applications that are not properly made.

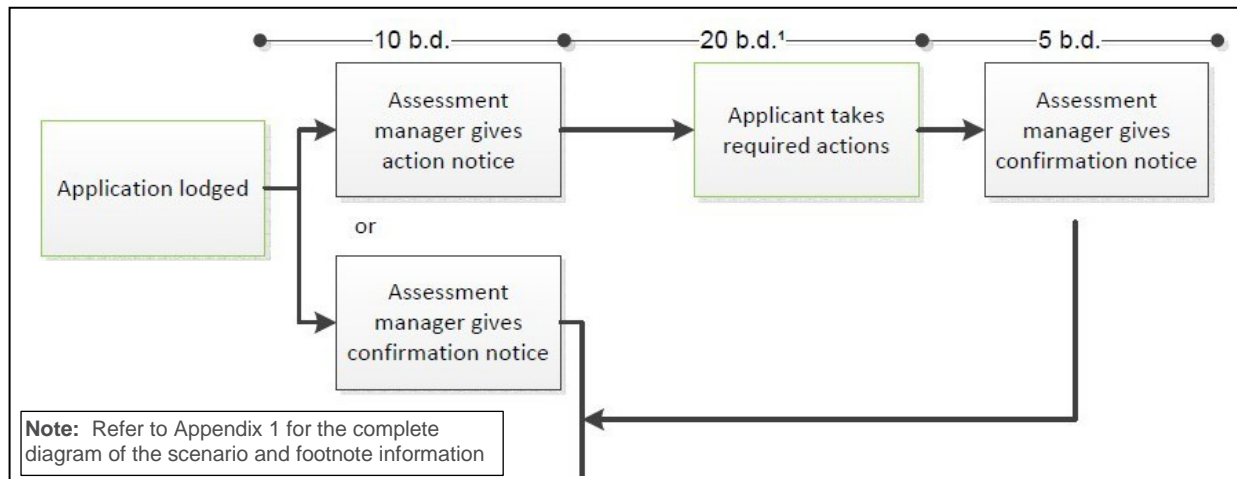


Figure 2 Part 1 – Application process

## Properly made application

- » What is required to make a properly made application is set out in section 51 of the Planning Act. To make a properly made development application it must be:
  - in the approved form to the assessment manager
  - accompanied by the documents under the form to be attached to, or given with, the application
  - accompanied by the required fee
  - accompanied by written consent of the owner, if required. For further information about owner's consent, refer to the [owner's consent factsheet](#) on the department's website.
- » In accordance with section 51(4) of the Planning Act, the assessment manager may accept an application that does not comply in certain circumstances. For example, where it is not in the approved form the assessment manager may still choose to accept the development application.
- » The development application may be received electronically or in hard copy.
- » The assessment manager has 10 business days to determine whether the development application is properly made. This is called the confirmation period, as the assessment manager is confirming whether or not the development application it has received is properly made.
- » Where the assessment manager gives a confirmation notice or an action notice during the confirmation period, the confirmation period is taken to have ended on the day the notice is given to the applicant.

## Confirmation notice

- » The purpose of a confirmation notice is to confirm the development details, public notification requirements of a development application requiring public notification and, where applicable, identifying whether referral is required for the development application. The assessment manager can also use the confirmation notice to advise the applicant that they will not be making an information request.

- » The assessment manager must issue a confirmation notice within the confirmation period for all development applications that are properly made and that require referral (part 2) or public notification to be undertaken (part 4).
- » For all other development application types, the assessment manager may give a confirmation notice if they wish to bring forward the end of the confirmation period.
- » The confirmation notice may also be used in certain circumstances by assessment managers to ensure that the development details of the development application they are assessing are clear to all parties at the start of the development assessment process, creating greater transparency in the process.
- » The required content of a confirmation notice is prescribed in the definition of 'confirmation notice' in schedule 4 of the DA Rules.

## If a development application is not properly made

- » Where the assessment manager considers that an applicant has not provided a development application that satisfies the requirements of section 51, the assessment manager must issue an action notice before the end of the confirmation period. This notice must state what actions the applicant must take in order for the development application to be able to meet the properly made requirements
- » The required content of an action notice is prescribed in the definition of 'action notice' in schedule 4 of the DA Rules.
- » Once the applicant has received the action notice they must take the actions to make the development application properly made within 20 business days. This period can be extended by agreement between the applicant and the assessment manager.
- » Once the applicant has taken all the required actions, they must advise the assessment manager that the actions have been completed within the 20 business days provided.
- » Following receipt of this advice from the applicant, the assessment manager, where the development application can now be accepted under section 51, must then issue the applicant with a confirmation notice within five business days.
- » Alternatively, the assessment manager may, after issuing the action notice, decide that the applicant need not comply with particular items that were included in the action notice. To the extent that the assessment manager is still able to accept the development application in accordance with section 51, the applicant need not do all of the actions, and the assessment manager can issue a confirmation notice before the end of the applicant's action notice response period, confirming that the application has been accepted as properly made.
- » The giving of a confirmation notice after an action notice is required because it provides confirmation to the applicant that they have met the requirements of making a properly made application.
- » If none of the above is applicable and the applicant does not take the actions to make the development application properly made within the period provided (or any extension to this period), then the application is taken to have not been made. This means that the application can no longer be progressed through the development assessment process and the assessment manager should return the development application to the applicant.

## End of part 1

- » Part 1 ends where the assessment manager has issued a confirmation notice or, where a confirmation notice is not mandatory, the confirmation period has ended.
- » The ending of part 1 is not directly dependent on the properly made date of the application.
- » The ending of part 1 is also not directly linked to the confirmation period. The confirmation period is included in the DA Rules to provide the assessment manager with a set amount of time to establish whether or not an application is properly made. If an action notice is issued, the confirmation period ends. Part 1 ends only once the actions have been taken to make the application properly made and the assessment manager has issued a confirmation notice to this effect.
- » For development applications that do not require referral or public notification, the DA Rules gives the assessment manager the ability to proceed to issuing either an information request or a decision notice. Where

this option is exercised, it has the same effect of ending the confirmation period. This is intended to ensure that an assessment manager does not have to issue a confirmation notice only for the sake of progressing expediently through the development assessment process.

## Part 2: Referral

This part of a development application sets out:

- » the timeframes and allows each referral agency to determine whether a development application is a properly referred application
- » the actions any referral agency must take for development applications that are not properly referred
- » the timeframes for:
  - when the applicant must refer a development application
  - how long each referral agency has to determine whether the development application is a properly referred application, and to give a referral agency response.

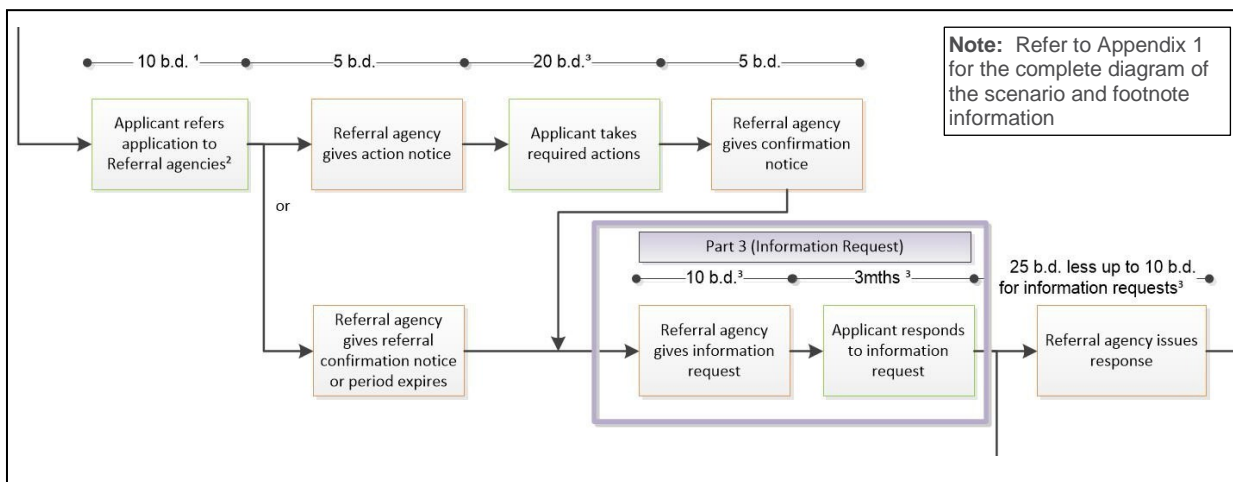


Figure 3 Part 2 – Referral process

## Referral of a development application

- » Referral agencies are identified in the Planning Regulation. The Planning Regulation prescribes the jurisdiction of each referral agency and the 'triggers' for referral. These 'triggers' are identified by comparing the attributes of the development (such as proximity of the site to an important transport corridor) or the likely impact of the development on an identified matter.
- » The applicant has 10 business days to refer the development application to all relevant referral agencies. This period can be extended with the agreement of the applicant and the assessment manager.
- » It is important to note that a referral to a referral agency under this part is only required if a development application triggers the referral matter, and a referral response has not already been provided by the referral agency.

## Giving a referral response before making an application

- » Section 57 states that nothing stops a referral agency from giving a referral agency's response on a matter within its jurisdiction before an application for the development is made to the assessment manager. This section allows a person (not yet an applicant as no application has been made) to approach a referral agency seeking its response to a proposal before a formal application is made. This section also makes it clear that if the proposed applicant is asked by the referral agency to pay the required fee for the development application, they must do so.
- » A response provided under this section can be part or all of the referral agency's response when the application is made. A development application is not required to be referred when lodging those matters contained in a response given under section 57(3) if the application, when it is made, is:
  - the same, or is not substantially different from the proposed development application

- is made within the time, if any stated in the response.
- » For an indication of what ‘substantially different’ may include, please see schedule 1 of the DA Rules, which includes the matters that may be considered to determine if an application is substantially different.
- » For the development application not to need formal referral again during part 2, any response from the referral agency must state (in accordance with section 54(4)(b) of the Planning Act) that:
  - the referral agency does not require the applicant to give a copy to the agency
  - the referral agency does not require the applicant to give a copy to the agency if stated conditions (including a time limit within which the development application must be made) are satisfied.
- » The approved forms require the details of any changes to be included as a schedule to the development application. Therefore, to make the development application properly made, an applicant may give each referral agency a schedule of changes in the information provided.
- » Where section 57 of the Planning Act is applicable, and the applicant has already received a valid referral response from the referral agency before making the development application, the applicant is not required to refer the application to that agency again for the matter(s) included in the response.

## Properly referred application

- » Each referral agency confirms whether the development application has been properly referred for all referral requirements that are the subject of that development application.
- » A development application becomes properly referred once:
  - the referral agency gives a referral confirmation notice; or
  - all actions in the referral action notice are undertaken within the period stated; or
  - the referral confirmation period has ended.
- » If a referral confirmation notice or action notice is not given within the confirmation period, the referral agency assessment period (as set out under section 9.1 of the DA Rules) begins the day after the confirmation period has ended and the development application is taken to have been properly referred.

## Referral confirmation notice

- » Unlike an assessment manager’s confirmation notice, there are no circumstances where it is mandatory for a referral agency to issue a referral confirmation notice (unless an action notice has been issued). However, a referral agency may choose to give one in order to end the referral confirmation period earlier than the prescribed five business days.
- » The practice of sending a referral confirmation notice to confirm the triggers relevant to the development application—which will be assessed by the referral agency—ensures the referral agency, applicant and assessment manager are clear as to which matters are being assessed by the referral agency.

## If a development application is not properly referred

- » A development application can only be taken to be not properly referred where the requirements of section 54(1) of the Planning Act and section 5.2 of the DA Rules have not been satisfied.
- » A referral agency has no say in whether a development application is properly made (section 51).
- » Unlike the assessment manager, a referral agency under the Planning Act is offered no discretion to accept an application that is not properly referred.
- » After giving an action notice for a development application that has not been properly referred, the applicant has 20 business days in which to take the required action(s) listed in the notice. This period may be further extended by agreement between the applicant and the referral agency who issued the action notice.
- » If the applicant does not take the action(s) in this period, or before any extended period has expired, then the development application is taken to have not been referred and will have lapsed under section 31 of the DA Rules. If the applicant wishes to revive the lapsed development application, the actions they need to take and the period in which an application can be revived are also outlined in section 31 of the DA Rules.



- » If the applicant does take the required action(s), the referral agency must issue a referral confirmation notice to the applicant and give a copy to the assessment manager within five business days of the applicant complying with the action notice.

## Referral agency's assessment

- » Each referral agency has its own assessment period, which commences when the development application is properly referred to their agency.
- » Some referral agencies have defined assessment periods, which are set out in schedule 2 of the DA Rules.
- » For referral agencies that are not set out in schedule 2 of the DA Rules, a 25 business day assessment period is provided. However, it should be noted that this period includes the time that the referral agency may take to issue an information request. Where the information request is given after the initial 10 business days provided (as a result of an agreed extension), only the initial 10 business days are to be included within the 25 business days assessment period. For example:
  - If a referral agency took five business days to give an information request to the applicant, the referral agency would have 20 business days remaining in their referral agency assessment period.
  - If a referral agency took 17 business days to give an information request to the applicant (as a result of an agreed extension), the referral agency would have 15 business days remaining in their referral agency assessment period.
- » However, if the referral agency information request period is extended but the referral agency does not issue a referral agency information request – despite the extension of time – the referral agency has only 25 business days from the day the assessment period started under section 9.1 of the DA Rules to give their referral agency response.
- » The referral agency assessment period can be extended by agreement between the applicant and the referral agency, but it must be undertaken in accordance with section 33 of the DA Rules to have the effect of extending the period.

## End of part 2

- » This section is intended to start and end all referral agency actions related to the development application.
- » Where there are multiple referral agencies for the development application, part 2 ends once all actions for all the referral agencies to the development application have been taken, or the period to complete them, including any agreed extension, has ended.

## Part 3: Information request

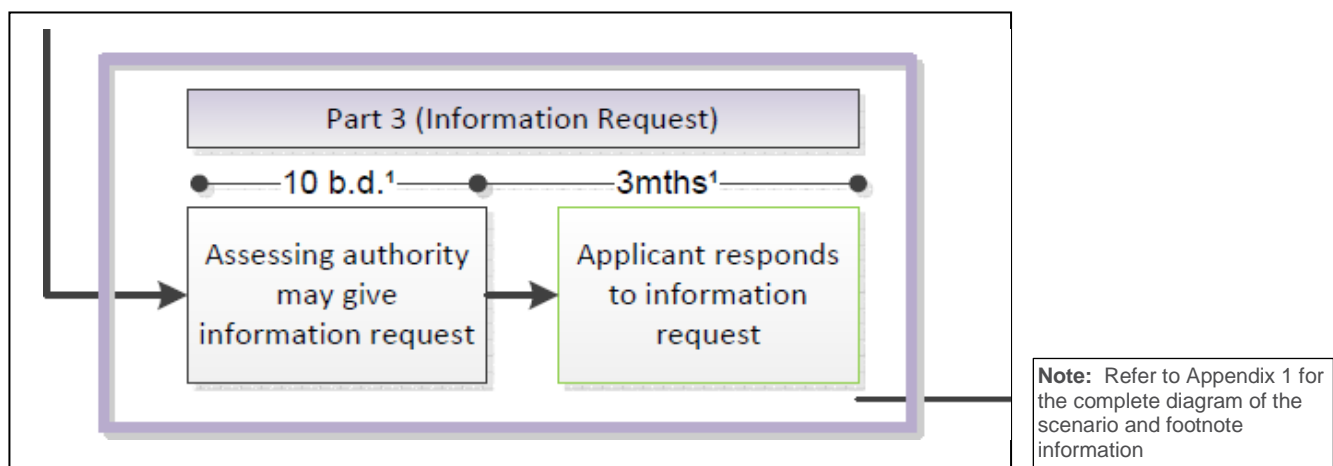
This part provides an opportunity for the assessment manager, concurrence agency and advice agency to ask the applicant for more information. These entities are collectively referred to as 'assessing authorities' throughout this part.

This part is not compulsory and does not need to be undertaken for all development applications. However, an information request allows the assessment manager or a referral agency to request information that was not included in the original application and which the assessment manager or referral agency believes is necessary for the assessment of the development application.

As well as this formal mechanism for requesting further information from the applicant, nothing prevents the assessment manager or referral agency from informally discussing requirements with the applicant. This may be particularly useful where the requirements are relatively minor to the assessment of the application.

This part of a development application:

- » gives the applicant the ability to advise (on the approved form) that they do not want to receive an information request (i.e. to opt-out of part 3)
- » gives the assessment manager and each referral agency the opportunity to ask the applicant for any further information that they need to assess the application
- » sets out the timeframes for the assessment manager and any referral agency to make an information request
- » sets out how the applicant must respond to an information request, including the timeframes for providing the response.



**Figure 4** Part 3 – Information request process

### When part 3 does not apply

- » Under section 11 of the DA Rules, the applicant is given the opportunity (when lodging a development application) to state that they do not agree to accept an information request from the assessment manager or a referral agency. This is entirely at the applicant's discretion, although any decision to opt- out of receiving an information request should be considered in light of the type and complexity of the development application, feedback from any pre-lodgement discussions and whether professional planning advice on this matter has been sought by the applicant.
- » To be able to use the opt-out provision, the applicant at the time of making the development application must indicate on the approved form (part 6 on DA Form 1 – development application details) that they do not agree to accept an information request from the assessment manager or any referral agencies that are party to the development application.
- » If the applicant elects to use this, the applicant removes part 3 from the development assessment process for all parties to the development application, assessment manager and referral agencies included.

- » There is no ability to elect to receive an information request from one party, but not the other (i.e. the assessment manager but not a concurrence agency). There is also no ability to reverse the decision once the application is lodged. The applicant cannot 'opt-back-in' after choosing to opt-out.
- » The DA Rules also sets out that the applicant cannot use this provision if the development application:
  - is also taken to be an application for an environmental authority; or
  - is also taken to be an application for a decision under section 62 of the *Transport Infrastructure Act 1994*; or
  - includes a variation request; or
  - is for building work assessable against the building assessment provisions.
- » It is important to note that the applicant already has the ability not to respond to an information request if one is given. Section 11 of the DA Rules merely brings forward this ability to the start of the development assessment process.
- » If the applicant does choose to use this provision when making their development application, any assessing authorities will not be obligated to accept any additional information from the applicant during the course of the development assessment process, unless the assessing authority has agreed to accept the information. This is intended to stop applicants intentionally misusing this provision.
- » Should the applicant use this provision and an assessing authority believe that significant information relevant to the assessment of the development application is missing, there is nothing to stop the assessing authority (under section 35 of the DA Rules) from giving further advice in order to inform the applicant of the situation.

## Request for information

- » An information request may be made by an assessment manager, concurrence agency or advice agency.
- » An information request should only be given when the requested information is absolutely necessary for an assessing authority to assess a development application. It should be written by the assessing authority after conducting a thorough review of the application.

## Applicant's response

- » An applicant has a period of three months from the date the information request was made to respond to the information request. This period can be extended if agreed between the applicant and the assessing authority that made the information request.
- » In addition to extending the period by agreement, the applicant is also able to use, at their own discretion, the provisions under section 32.4 of the DA Rules, which allow them to stop their own information response period without the need for agreement by the assessing authority that made the information request. Section 32 of the DA Rules provides further information on how the current period can be stopped.
- » The applicant may respond to each information request by either:
  - providing all of the information requested; or
  - providing part of the information requested; or
  - advising the assessing authority that they will not be providing any of the information requested.
- » If the applicant provides part of the information, or a notice that they will provide none of the information requested, the applicant – in order for the response period to end – must also advise the assessing authority that gave the information request to proceed with their assessment.
- » When responding to a referral agency's information request the applicant must also give a copy of the response to the assessment manager.

## End of the applicant's response period

- » The applicant's response period ends either by:
  - the applicant providing all of the information requested; or
  - the applicant providing part of the information requested; or

- the applicant providing a notice that they will provide none of the information requested and also advising the assessing authority that gave the information request to proceed with their assessment; or
  - the period, including any agreed extension, expires.
- » Section 14.1 sets out that, once the applicant's response period has ended, a referral agency's assessment period will commence from the next day. For an assessment manager, the next action will depend on whether part 3 is completed and whether public notification is required.
- » The development application does not lapse where an applicant fails to respond to an information request – the process simply continues on as if the applicant has elected not to provide any information.

## End of part 3

- » It is necessary to establish the end of this part (as with other parts of the development assessment process), as part 5 (Decision) cannot start until this part has ended.
- » It should be noted that for a code assessable development application where there are no referral agencies, if the assessment manager does not issue an information request during this period, section 21.3 of the DA Rules applies and the decision period is taken to have started the day after part 1 ended.

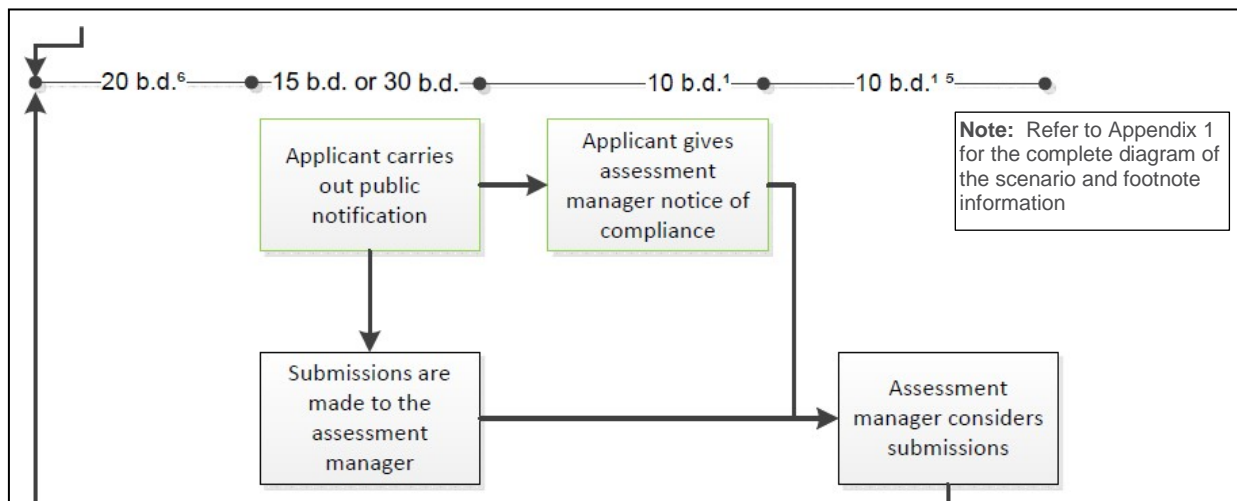
## Part 4: Public notification

This part sets out the public notification requirements and is only applicable to the types of development applications listed under section 53(1), which include applications where:

- » any part of the development application requires impact assessment; or
- » the development application includes a variation request.

For a development application that requires public notification, this part sets out:

- » the public notification requirements for development applications that require public notification under section 53
- » when public notification may occur in the development assessment process, including the timeframes for when public notice must be given
- » how anyone who made a properly made submission, or a submission the assessment manager has accepted, can amend or withdraw the submission
- » a specified timeframe for the assessment manager to consider matters raised in submissions.



**Figure 5** Part 4 – Public notification process

### When this part starts

- » The applicant has the obligation to carry out the public notification. This is consistent with the applicant-driven principle that supports the DA Rules. However, this service may be provided by the assessment manager (see section 53(10) of the Planning Act).
- » When public notification can start depends on the circumstances of a particular application, specifically:
  - if an information request is made under part 3, the applicant needs to wait until all responses have been given before commencing public notification.
  - if there are no referral agencies for the development application and the assessment manager states on the confirmation notice that they will not be making an information request, the applicant must commence public notification within 20 business days of receiving the confirmation notice.
  - if the applicant has elected to opt-out of part 3 in accordance with section 11 of the DA Rules, then public notification must start either:
    - within 20 business days of receiving the confirmation notice – if there are no referral agencies; or
    - within 20 business days after the day the referral assessment period for all referral agencies has started – if there are referral agencies.



## Public notice requirements

- » Section 53(2) of the Planning Act sets out that public notification must be given in the way stated in the DA Rules.
- » Section 17 of the DA Rules prescribes a fixed set of public notice requirements that must be undertaken for all development applications requiring public notification. Public notice must be given by:
  - placing a notice on the premises that must remain on the premises for the period up to and including the stated day
  - giving notice to the owners of all lots adjoining the premises and
  - in at least one of the following ways:
    - where there is a hard copy local newspaper for the locality of the premises the subject of the application, publishing a notice at least once in a hard copy local newspaper circulating generally in the locality of the premises; or
    - where there is no hard copy local newspaper for the locality of the premises the subject of the application notice may be given either:
      - in an online local newspaper for the area; or
      - on the assessment manager's website.
    - Alternatively, notice may be published in a state-wide hard copy newspaper.
- » The applicant must also, in accordance with section 17.2 of the DA Rules, give notice to the assessment manager of their intended start date of public notification.
- » Schedule 3 of the DA Rules provides further information about the way in which each of the above must be undertaken in order for them to be taken to have been given. This schedule also sets out what is taken to be an adjoining lot for the purposes of public notification.
- » Additional guidance for public notification of development applications and change applications is available on the department's website.
- » All public notice requirements listed under this section must be undertaken within the period prescribed under section 17.1 of the DA Rules. The public notification period starts in accordance with section 53(5) of the Planning Act.
- » The public notification period is prescribed in section 53(4) as the period in which submissions can be made by a stated day on the development application. More specifically, 53(4)(b) states:
  - (b) any submission must be made by a stated day that is at least—
    - i. for an application that includes a variation request—30 business days after the notice is given; or
    - ii. for an application of a type prescribed by regulation—the period, of more than 15 business days after the notice is given, prescribed for the application; or
    - iii. for any other application—15 business days after the notice is given.
- » The Planning Act also specifies that the notification period does not include the period immediately before and after Christmas. This is designed to overcome any reduced effectiveness that might result from notification over this significant holiday period. Specifically, the legislation sets out in section 53(12) that a 'business day' as it relates to public notification does not include a day between 20 December of one year and 5 January of the next year. This excludes any days between and including those dates.
- » The Planning Regulation requires the assessment manager to keep a register of all development applications that require public notification and a copy of the written notice to the assessment manager on the assessment manager's website for the period until the end of the last period that an appeal may be made against a decision on the development application, or the development application is withdrawn or has lapsed.
- » Where the applicant does not comply with the actions to publicly notify the development application within the prescribed period, the development application lapses (and may be revived in accordance with section 31 of the DA Rules).

## Notice of compliance

- » For applications requiring notification, the timeframe for giving the assessment manager a written notice of compliance is 10 business days after the notification period ends. This period is provided to ensure the development application is finalised within a reasonable timeframe following public notification.
- » An application will also lapse if the applicant has not complied with this section (and may be revived in accordance with section 31).

## Submissions

- » Section 53(6) states that any person, other than the applicant or a referral agency, may make a submission about the application.
- » For a submitter to have appeal rights under schedule 1 of the Planning Act, the submitter's submission must be a 'properly made submission'. See schedule 2 of the Planning Act, refer to the definition 'properly made submission'.
- » A submission must be made in writing, state the name and address of each person who made the submission and be signed by each person who made the submission. The department has prepared guidance on [how to have a say on a development application](#).
- » An advice agency, in its referral agency's response, may tell the assessment manager to treat the response as a properly made submission. See schedule 2 of the Planning Act, refer to the definition for 'eligible advice agency', paragraph (a).
- » The Planning Act also sets out that submissions made about the application remain effective even if the notice is given again under the DA Rules (s53(7) of the Planning Act).
  - If, within one year of a development application (the original application) lapsing or being withdrawn, another development application that is not substantially different from the original application (the later application) is made, any properly made submission for the original application is taken to be a properly made submission for the later application (s53(8)).
- » The DA Rules provide for a submission to be accepted by the assessment manager whether it is properly made or not. However, it should be noted that in order to become a submitter and to have appeal rights under schedule 1, the person's submission must be a properly made submission.
- » Anyone who made a properly made submission, or a submission the assessment manager has accepted, may by notice:
  - amend the submission before the stated day by which submissions must be received (or stated day in a subsequent public notice where re-notification has occurred); or
  - withdraw the submission at any time before the development application is decided.
- » Where submissions have been accepted under section 19.1 of the DA Rules, the assessment manager has up to an additional 10 business days, or a further period agreed between the applicant and the assessment manager, to consider the submissions, starting:
  - (where the applicant has undertaken public notification), the day after the day the assessment manager receives notice of compliance under section 18.1; or
  - the day after the stated day.

## End of part 4

- » It is necessary to establish the end of this part (as with other parts of the development assessment process), as part 5 (Decision) cannot start until this part has ended.
- » If no submissions are received, part 4 ends the day after the assessment manager receives a notice of compliance from the applicant, or, if the public notification is undertaken by the assessment manager, the stated day on the public notice.
- » Alternatively, if submissions are received, part 4 ends when the submission review period has expired or the day the assessment manager decides to end the submission review period. To do this, the assessment manager must give notice to the applicant advising that it is ending the period.

## Part 5: Decision

This part of a development application:

- » sets out the period for making a decision, including the timeframe for making the decision and the timeframe for giving notice of the decision
- » provides the effect on the decision stage of changes to a development application
- » provides the effect on the decision stage of the assessment manager taking action under the *Native Title Act 1993* (Cwlth).

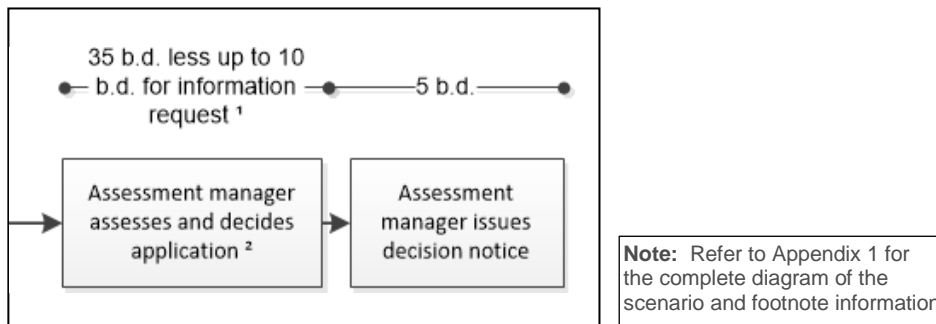


Figure 6 Part 5 – Decision process

### When this part starts

- » Depending on the nature and type of the development application being assessed, there are a number of ways in which the decision part may start.
- » Generally, the assessment manager cannot decide the development application until parts 1, 2, 3 and 4, as relevant to the development application, have ended.
- » However, the DA Rules also provide that if parts 2, 3 and 4 are not relevant to the development application, the assessment manager may end the confirmation period by giving a decision notice. This is to allow code assessable applications, which do not require referral, to continue to be processed expeditiously by assessment managers.
- » In the instance where a development application is code assessable and where there are no referral agencies, the DA Rules also set out that if the assessment manager does not make an information request under part 3, part 5 is taken to have started the day after part 1 ended.

### Decision period – generally

- » The DA Rules provide the assessment manager with a 35 business day decision period. This period is for both code and impact development applications and includes the assessment manager deciding the application.
- » In addition, this decision period includes the time that the assessment manager may take to issue an information request. However, where the information request is given after the 10 business days provided to make an information request (as a result of an agreed extension or an extended period resulting from an applicable event extension notice), only the initial 10 business days will be included within the 35 business day decision period (under section 22.4 of the DA Rules). For example:
  - If the assessment manager took five business days to give an information request to the applicant, the referral agency will have 30 business days remaining in the decision period to decide the development application and give the decision notice.
  - If the assessment manager took 17 business days to give an information request to the applicant (as a result of an agreed extension), the assessment manager will have 25 business days remaining in the decision period to assess, decide and give notice of decision about the development application.
  - If the assessment manager did not issue an information request, the assessment manager has 35 business days from the start of part 5, as relevant to the development application.

- » To clarify, where an applicant has opted-out of receiving an information request when making their development application, there is no reduction to the time provided in the decision period as a result.
- » A five business day period is provided after the decision period for the assessment manager to give the decision notice to the applicant and any other required parties.
- » Section 22.5 is only applicable to development applications involving concurrence agencies. It states that the decision must not be made before 10 business days after the day the information and referral stage ends, unless the applicant gives the assessment manager written notice that they do not intend to make representations.
- » The decision period can be extended by agreement between the applicant and the assessment manager in all circumstances except where:
  - the assessment manager has been given direction by the Planning Minister under section 95(1)(c) of the Planning Act to decide the development application; or
  - section 105(7) applies in relation to deciding a called in development application.
- » The *Building and Construction Industry (Portable Long Service Leave) Act 1991*, sections 77(1) and 77(2) provide that an assessment manager must not give a development permit for certain development types without sighting an approved form showing payment or an exemptions of the payment for the long service leave levy.

## Decision period – changed circumstances

- » This section sets out the particular circumstances that may affect the decision period of a particular development application.
- » For the most part, these circumstances relate to a changed referral agency response where the decision period generally restarts after a late, new or amended referral response is received by the assessment manager during the decision period.
- » If re-notification and/or referral are required as a result of the changed application, and the assessment manager's decision period has already commenced, the assessment manager cannot decide the application and the decision period will restart in accordance with section 23.2 of the DA Rules.
- » This section also describes the effects of actions taken under part 2, division 3 of the *Native Title Act 1993* (Cwlth).

## Notice of decision to submitters

- » This section sets out when the assessment manager must give notice of the decision to all the principal submitters for the development application.
- » It is intended that the timeframe provided for the assessment manager to do this action also aligns with the requirements (under section 37 of the DA Rules) for the assessment manager to publish the reasons for the decision.

## End of part 5

- » It is necessary to establish the end of this part in order to clearly distinguish the point where the DA Rules end in their effect on the development assessment process. This is particularly important to ensure the post-approval processes now take place in accordance with the Planning Act.

## Part 6: Changes to a development application and referral agency responses

This part sets out:

- » the effects on the development assessment process where an application is changed before the development application has been decided, depending on the type of change made
- » the rules for when and how a referral agency that is a concurrence agency may change its referral response or give a late referral response.

### Changes to a development application generally

The DA system has been designed to be a flexible system that is responsive to changing needs and circumstances during the development assessment process. This is particularly evident in providing the ability to change a development application before a development application has been decided. Section 52 of the Planning Act provides for an applicant to change a development application after it is made but before it is decided, in the following manner:

- (1) An applicant may change or withdraw a development application, before the application is decided, by a notice given to the assessment manager and, for a withdrawn application, any referral agency.
- (2) However—
  - (a) if the change is, or includes, a change of applicant, the notice may be given by the person who proposes to become the applicant if the notice is accompanied by the consent of the current applicant; and
  - (b) section 51(2) applies for making the change as though the change were an application if—
    - (i) the applicant no longer owns the premises or the change is to include premises that the applicant does not own; and
    - (ii) were the application to be remade with the change, section 51(2) would apply to the application; and
  - (c) the change may not include prohibited development.
- (3) If the change is a minor change, the change does not affect the development assessment process.

The DA Rules and the Planning Act establish three types of changes, each of which has a different effect on the DA process. These are summarised in Table 2 below. This table also shows the level of effect required as a result of the change.

**Table 2** Categories of change and effect on the DA process

Minor change	Change in response to information request, further advice or a submission	Other change
The Planning Act sets out that this change has no effect on the development assessment process	The DA Rules state that the process does not stop as a result of this type of change. However, part 4 may be required, or required again, and any additional referral to be referred and assessed in accordance with part 2.	This is a change that 'fits' into neither of the other two categories. Process stops and restarts from the start of the confirmation period.



## Giving notice of a changed development application

- » After receiving notice of the change from the applicant, the assessment manager must give a copy of the change to each referral agency for the development application (for the original and the changed application) and also advise each agency of the effect of the change on the development assessment process. Effectively, they are required to advise whether the change is a:
  - minor change – no effect on the development assessment process;
  - change that is about a matter raised in a submission, information request or further advice – outlining the effects on the development assessment process as per section 26 of the DA Rules; or
  - other change – outlining the effects on the development assessment process as per section 27 of the DA Rules.

## Effect of a change that is about a matter raised in a submission, information request or further advice

- » Where the assessment manager is satisfied the changed application is not a minor change but is a change that is about a matter raised in a submission, information request or further advice, this change does not stop the development assessment process. However, if as a result of the change:
  - additional referral is required: this must be undertaken in accordance with this section and part 2
  - public notification is required: this must be undertaken in accordance with this section and part 4.
- » Where public notification has already been undertaken for the development application, or was underway when the change was made, public notification is required to be undertaken again – unless the assessment manager is satisfied the change would not be likely to attract a submission objecting to the thing comprising the change, if public notification were to apply to the change.
- » If the change results in the triggering of additional referral requirements for the development application, the applicant is required to refer the application to these entities in accordance with part 2. However, for this referral, the period under section 5.1 of the DA Rules is taken to start on the day the applicant received advice about the change under section 25.1(b). A confirmation notice is not required to be given to the referral agency in this instance.
- » If re-notification, and/or referral, is required as a result of the changed application, and the assessment manager's decision period has already commenced, the assessment manager cannot decide the application and the decision period restarts in accordance with section 23.2(c).

## Effect of other changes

- » Where the assessment manager is satisfied the changed application is neither a minor change nor a change that is about a matter raised in a submission, information request or further advice, this is an 'other' change. This change has the effect of restarting the development assessment process from the beginning of the confirmation period, where the remainder of the development assessment process is to be undertaken again from that point.
- » The assessment manager must ensure the application including the change can still be considered a properly made application in accordance with section 51 of the Planning Act. If the application is no longer properly made, an action notice may be issued to remedy this.
- » The only exception to this process may relate to public notification, where the DA Rules provide the assessment manager with the ability to determine – if public notification has already taken place or was underway when the change was made – whether re-notification is required. This should be identified in the assessment manager's confirmation notice or notice given under section 26.2(c).

## Concurrence agency changes its response or gives a late response

- » This part of the DA Rules provides a concurrence agency with the option to give or amend its response after the end of the referral agency's assessment period but before the application is decided, if the applicant agrees.
- » Despite this, this section also enables a concurrence agency to give a response or change its response without the applicant's agreement in some circumstances, which are limited to:
  - where the Minister has given the concurrence agency a direction under section 99 of the Planning Act; or
  - where the applicant has changed their application in response to a properly made submission, request for information or further advice provided by an assessment manager or concurrence agency; or
  - where an applicant has made representations to the referral agency under section 30.1 and the referral agency agrees to make the changes included in the representations.
- » In relation to section 28.2(a) of the DA Rules, it should be noted that this only applies to a change to a concurrence agency's response. Once the concurrence agency has received notice of the change under section 26 of the DA Rules, the concurrence agency has five business days within which to consider the change and notify the applicant and the assessment manager of its intention to change its response. The concurrence agency then has a further 10 business days to give the changed referral response. The changed response must relate directly to the changes made to the application. If the changed response is not given within the 10 business day period, the assessment manager can proceed with deciding the application.
- » It should also be noted that:
  - section 32 of the DA Rules provides the applicant with the ability to stop the assessment manager's decision period in order to make representations to a referral agency about its response
  - a mechanism for the applicant to make representations to a referral agency is provided under section 30; however, this provision alone does not automatically stop any period.

## Part 7: Miscellaneous

### Missed referral agency

- » Not referring the development application in accordance with part 2 of the DA Rules usually has the effect of making an application lapse. However, the missed referral agency provisions provide a simple process for changing an application to include a missed referral.
- » This section applies both:
  - where a referral agency has been entirely missed, and
  - where a referral agency has been referred the development application and a missed referral requirement has been identified after the application has been considered properly referred by a referral agency but before the development application is decided.
- » In particular, once a missed referral has been identified in the way required under this section, the development assessment process can continue while allowing for the missed referral to 'catch up'. However, the development application cannot be decided by the assessment manager until the missed referral agency has had an opportunity to assess the application.
- » This section also makes it clear that an application that would have otherwise lapsed will not lapse as a result of a missed referral where action is taken and completed using this section to remedy the missed referral.
- » However, if after the notice under section 29 of the DA Rules is issued about the missed referral and the applicant fails to refer the development application to the missed referral agency within the prescribed period the application will lapse (and may be revived in accordance with section 31).
- » The missed referral provisions cannot be utilised more than once for a particular referral requirement. For example, once a notice has been given under section 29 about a particular missed referral agency or missed referral requirement, if no action is taken and the application lapses, the provisions under section 29 cannot be used again to address that particular missed referral agency or missed referral requirement.

### Representations about a referral agency response

- » An applicant may elect, under section 32 of the DA Rules, to stop the assessment manager's decision period in which to take this action. If a referral agency wishes to amend their response in relation to representations made under this section, they do so in accordance with section 28 of the DA Rules.
- » Making representations under this section does not stop or pause any timeframe in the development assessment process. However, section 32 of the DA Rules provides the applicant with the ability to stop the assessment manager's decision period to make representations to a referral agency about its response.

### Lapsing of a development application

- » To ensure development applications continue to be processed efficiently, the DA Rules provides for applications to lapse in certain circumstances where a necessary action by the applicant is not taken.
- » A development application processed under the DA Rules will lapse in any of the following circumstances:
  - failure to take the action required to refer the development application to all relevant referral agencies, in accordance with part 2.
  - failure to carry out the public notice requirements set out in section 17 of the DA Rules, in accordance with part 4.
  - failure to give the assessment manager compliance notice that the applicant has carried out public notification, in accordance with part 4.
- » However, within 20 business days of the application lapsing, the applicant can revive the lapsed development application by doing the following:
  - taking the action(s) that caused the development application to lapse.
  - giving the assessment manager notice that they have taken the actions.

- » If the applicant does not remedy the lapse within 20 business days, the development application cannot be revived and the process for that development application is taken to have ended.
- » If the applicant decides to proceed with the application after this time, the applicant will need to make a new development application.

## Stopping a current period

- » The 130 business days provided in this provision cannot be extended. If the applicant needs further time for a particular matter and has already used the time provided under this section, the time can only be extended by agreement, as provided for in the DA Rules.
- » There is only one allocation of 130 business days available per development application process. For example, where an applicant stops the current period for an assessment managers information request period for a total of 20 business days and then later stops a referral agency's assessment period for 30 business days, a total of 50 business days will be deducted from the overall 130 business days.
- » The notice stops the current period for one entity only. For example, if an application has multiple referral agencies and the applicant wishes to stop the assessment period for one agency, as identified in their notice given under section 32, only the period for the identified agency stops. The notice has no effect on the timeframes of the other parties to the development application.
- » If the applicant seeks to stop two or more concurrently running periods at once, then the applicant must identify each of the parties in their notice given under section 32, and the number of days each individual entity's period is stopped is deducted from the 130 business days provided. For example, if the applicant wishes to stop both the assessment manager's information request period and a referral agency's information request period, then both entities must be identified in the notice(s). If both the assessment manager's and concurrence agency's current periods are stopped for 20 business days, then 40 business days will be deducted from the overall time provided under section 32 (there would then be 90 business days remaining in the pool).
- » These provisions can only take effect from the day after a notice to stop a current period is given and as such a notice to stop the current period cannot be given on the last day of a period of time. If considering using these provisions it is important to note that notice must be given at least two days before the end of the period that is intended to be stopped.

## Notices about further periods agreed

- » Throughout the DA Rules there are various periods that may be extended by agreement of the parties nominated in a particular section. These have been generically referred to throughout the DA Rules as a further period agreed. This section establishes how any further period agreed must be undertaken.
- » Any agreement for a further period agreed must be given by notice and agreed between the nominated parties before the period has expired.
- » A copy of the notice must be given by the party who initiated the extension to any other party to the development application. Parties to the development application under the DA Rules are taken to be the applicant, assessment manager and each referral agency for the development application. For example, if the extension of time is agreed between a referral agency and the applicant, the assessment manager must be advised of the extension.

## Third party advice about a development application

- » This section is intended to make it clear that an assessment manager or concurrence agency may seek advice or comment from any person as a means of assisting them in their assessment of a development application.
- » However, it should be noted that the inclusion of this section in the DA Rules is not intended to imply that anything not explicitly provided for in the DA Rules is prohibited.
- » In the context of this provision a third party is taken to mean any person, agency or organisation other than the parties to the development application.

## Further advice about a development application

- » An assessing authority for a development application may wish to provide further advice about a development application to the applicant about a matter that does not need further information, but where there may be a significant issue. For example, there may be insufficient road reserve to accommodate required intersection upgrades as proposed within a traffic report for a particular development proposal.
- » Any advice must be within the limits of the assessing authority's jurisdiction.
- » An applicant, after receiving a notice under this section, may choose to change their development application under section 52(1) of the Planning Act. If the assessment manager is satisfied the change is in response to the further advice, the change may be considered to have the effect on the development assessment process as set out in section 26 of the DA Rules.
- » The further advice becomes part of the common material about the development application.

## Effect of the Native Title Act (Cwlth)

- » Section 68(2)(f) of the Planning Act allows the DA Rules to provide for the effect on a process under chapter 3 of the Planning Act of taking action under the *Native Title Act 1993*. As this provision relates to the entire chapter of the Planning Act, this provision in the DA Rules is applicable to the decision period within the DA Rules, as well as other processes related to development assessment that are not captured within the DA Rules. This also includes a decision:
  - on a change request under section 78 of the Planning Act, and
  - where the Minister is deciding a called in development application under section 105 of the Planning Act.

## Publishing reasons for decision

- » The Planning Act establishes that decision-makers assessing development applications – mostly local governments and SARA – must provide reasons for their decisions, for particular development applications.
- » This notice is in addition to the decision notice. Section 63(4) of the Planning Act specifically sets out which development applications require this notice to be prepared by an assessment manager and also that the notice needs to be published on the assessment manager's website.
- » Section 63(5) of the Planning Act states what needs to be in the notice. While this requirement will always need to be met, it is recognised that the scope, style and format of the reasons given for any particular decision will largely be determined by the type, size and scale of development being considered and decided upon.
- » Section 37 of the DA Rules sets out the timeframes for when this notice must be published by the assessment manager. It must be published not later than five business days after:
  - the applicant advises the assessment manager that they will not be making representations to change their approval;
  - the applicant gives the assessment manager notice of their appeal;
  - the applicant's appeal period ends; or
  - if the development application was refused, within five business days of giving the decision notice.
- » Where the chief executive (SARA) or another referral agency specifically prescribed in the Regulation was involved in assessing the development application, the Planning Act (under section 56(6) and (7)) also requires these referral agencies to publish a notice about their referral agency's decision. This section of the DA Rules sets the requirement for these referral agencies to do this no later than five business days after receiving the decision notice from the assessment manager.

# Schedules of the DA Rules

## Schedule 1 – Substantially different development

- » An assessment manager or responsible entity may determine that a change is a minor change to a development application or development approval where – among other criteria – a minor change is a change that would not result in ‘substantially different development’. This schedule provides a substantially different ‘test’.

## Schedule 2 – Referral agency’s assessment period

- » This schedule sets out alternative referral agency assessment periods applying to the particular agencies listed in the schedule. This schedule lists the name of the referral agency, the type of referral matter and the assessment period provided for each.

## Schedule 3 – Public notice requirements

- » The Planning Act requires certain development applications to be publicly notified. The DA Rules set out the public notification requirements for how these development applications must be publicly notified. This schedule provides information on the public notification requirements and the approved form for how public notice is given.

## Schedule 4 – Definitions

- » This schedule contains all the defined terms that appear in the DA Rules.

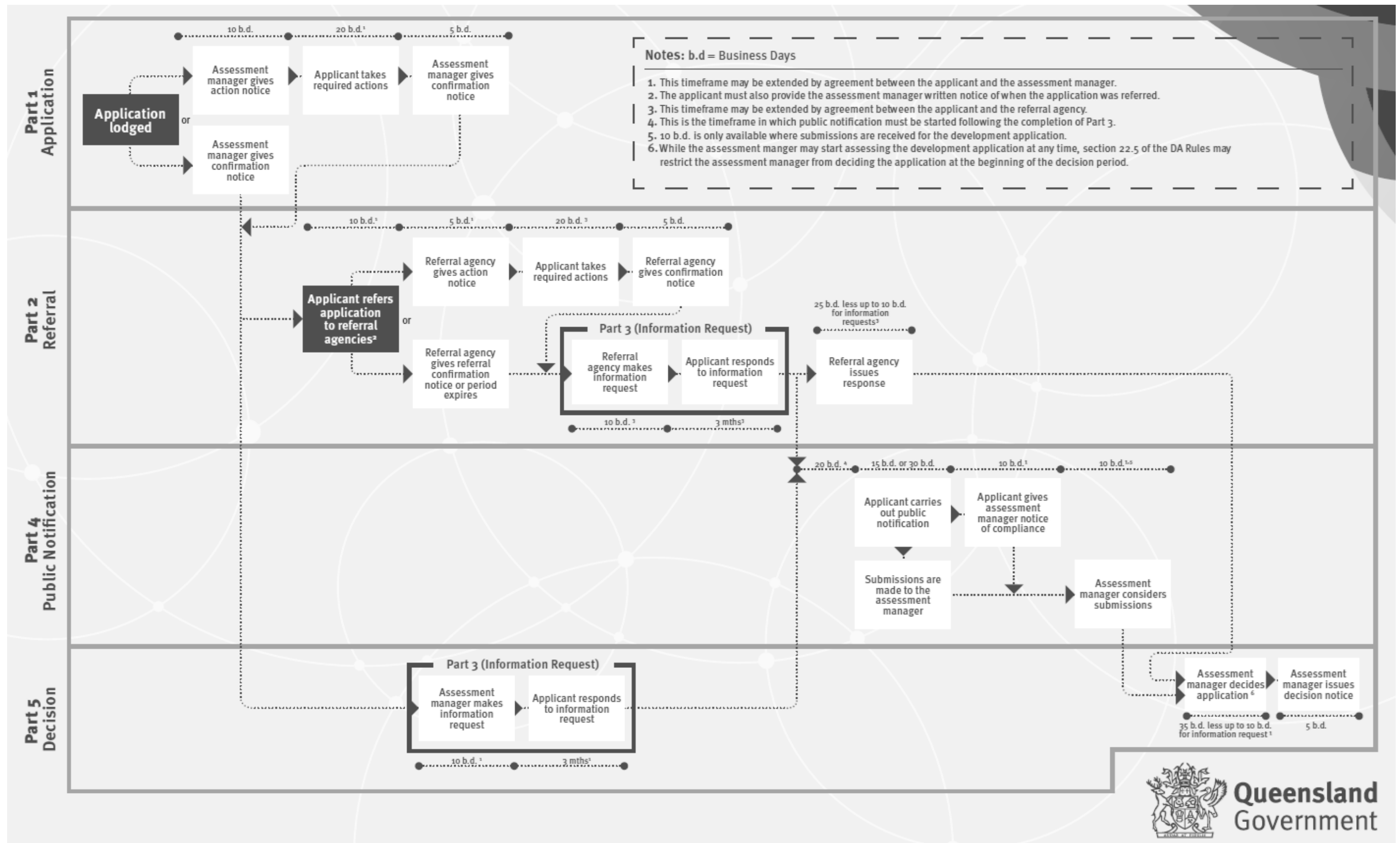


# Appendix 1 – DA Rules process maps

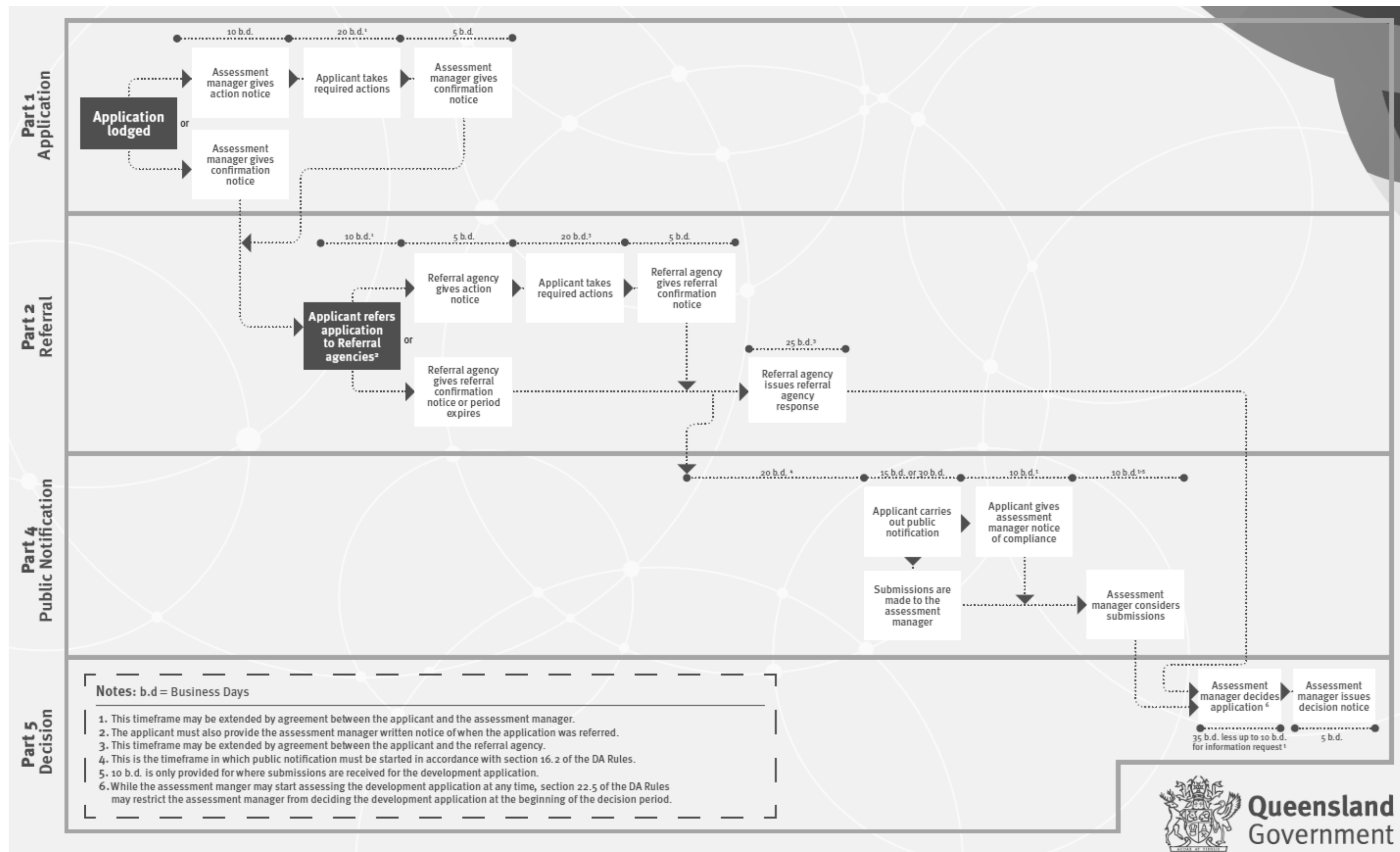
This appendix includes a number of examples of the development assessment process as set out in the DA Rules. These scenario maps can also be found by using the 'Map your development application' tool available on the department's [website](#).

- » Scenario 1: For an impact assessable application involving: referral, information request and public notification.
- » Scenario 2: For an impact assessable application involving: public notification, referral and no information request (as a result of applicant opting-out of accepting an information request when making the application).
- » Scenario 3: For a code assessable application involving: referral and no information request.
- » Scenario 4: For an impact assessable application involving: information request, public notification and no referral.
- » Scenario 5: For a code assessable application involving: information request and referral.
- » Scenario 6: For a code assessable application involving: no information request and no referral.
- » Scenario 7: For a code assessable application involving: information request and no referral.
- » Scenario 8: For an impact assessable application involving: no information request and no referral.

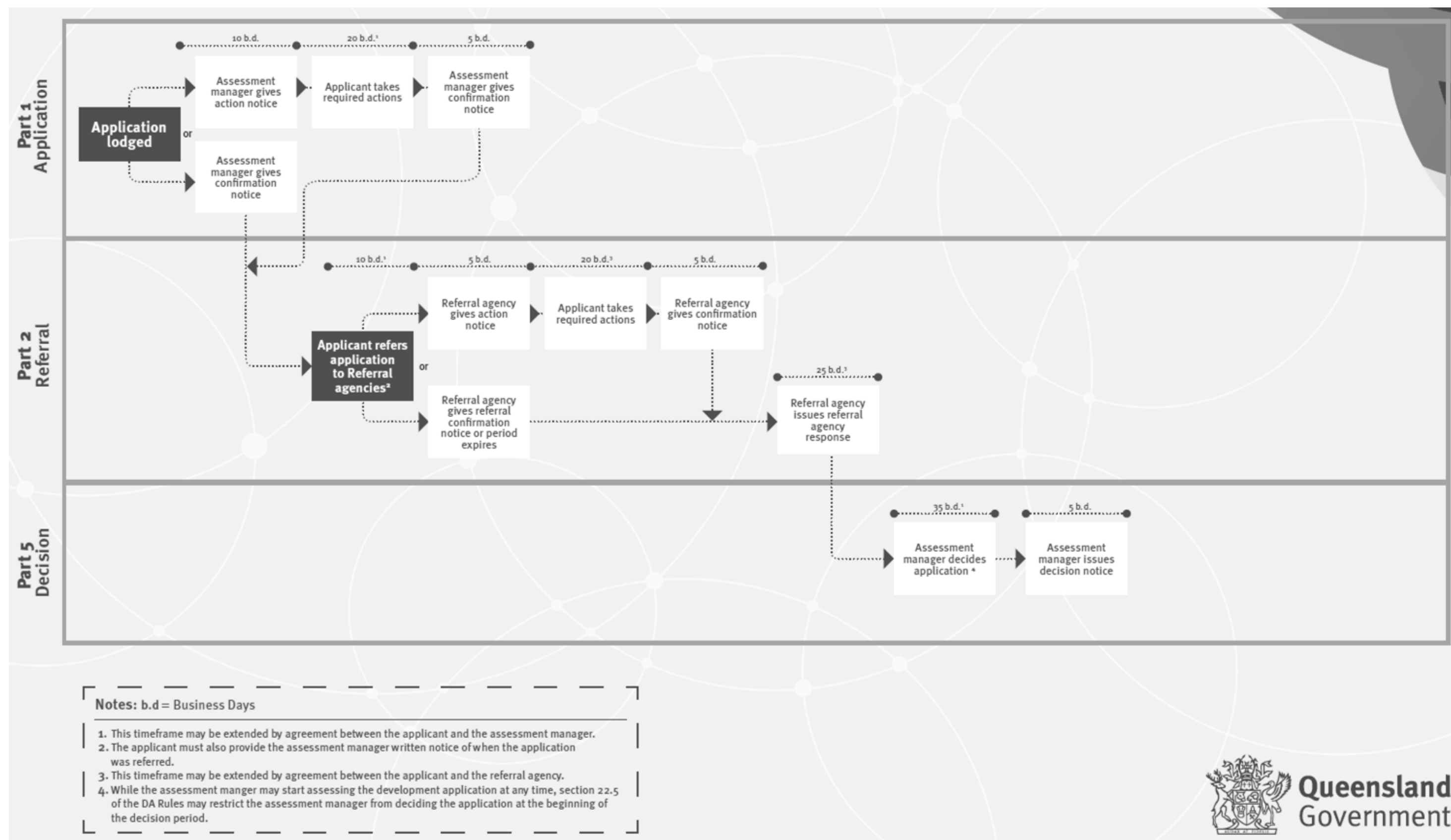
Scenario 1: For an impact assessable application involving: referral, information request and public notification



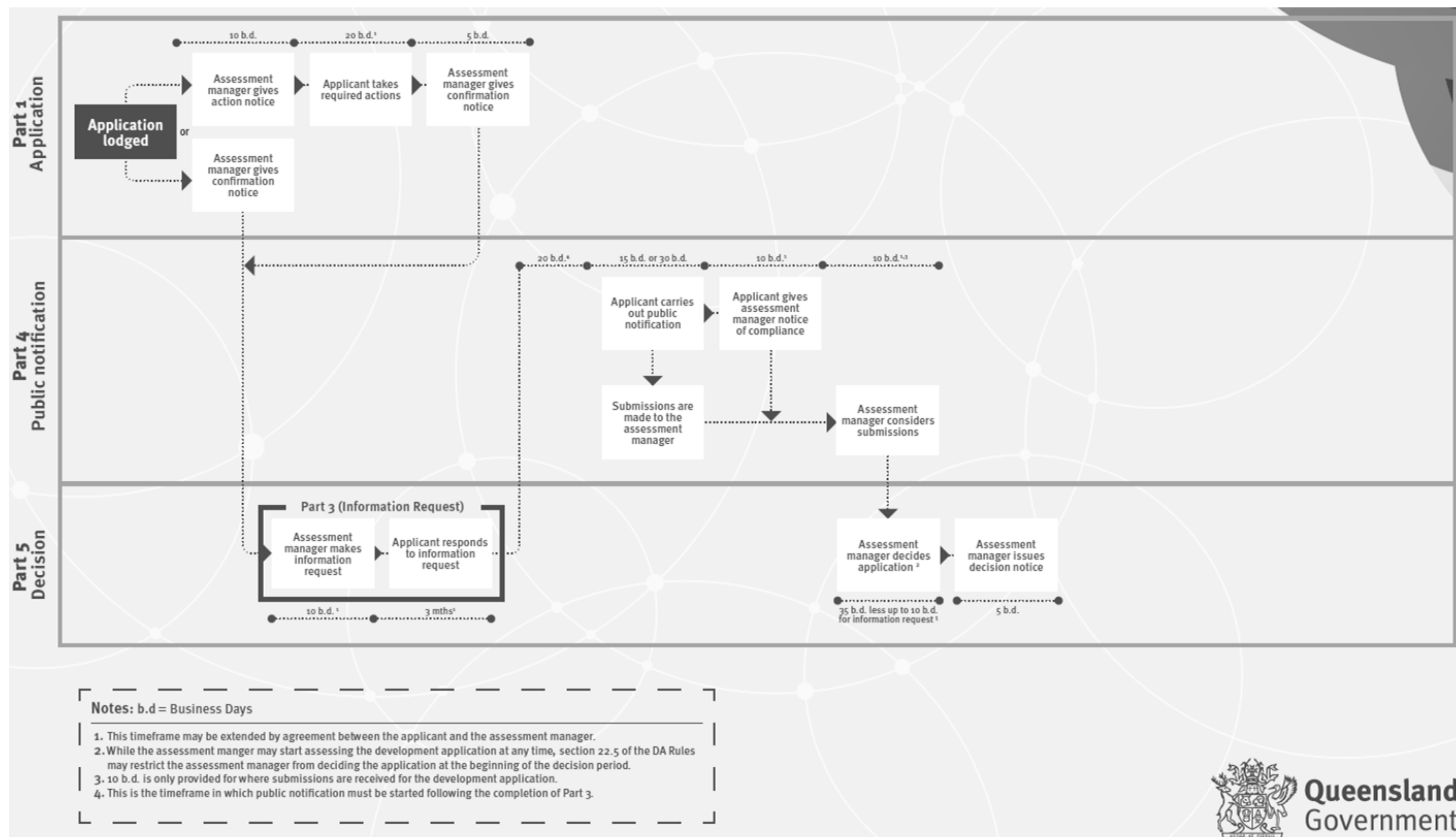
Scenario 2: For an impact assessable application involving: public notification, referral and no information request (as a result of applicant opting-out of accepting an information request when making the application)



### Scenario 3: For a code assessable application involving: referral and no information request

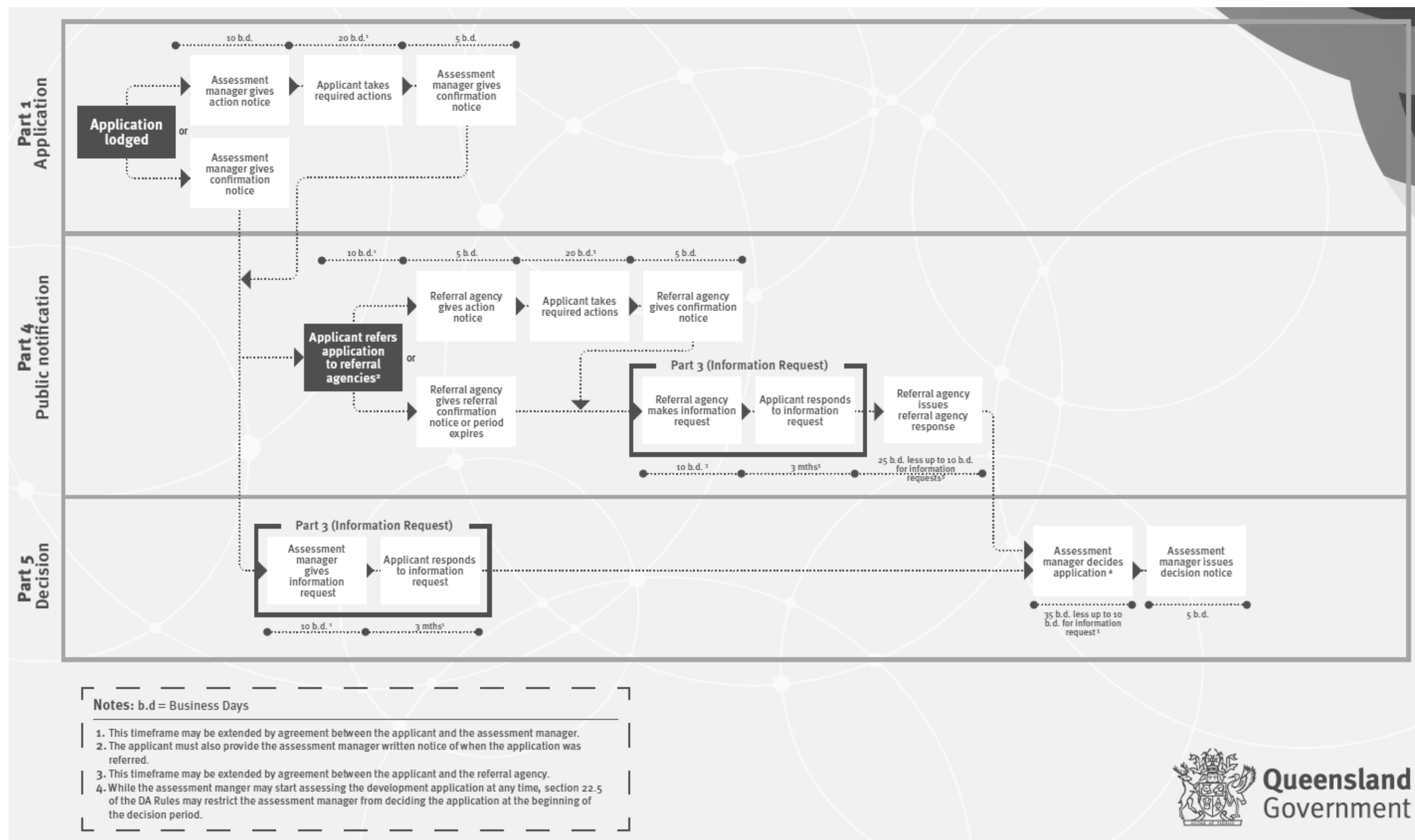


## Scenario 4: For an impact assessable application involving: information request, public notification and no referral



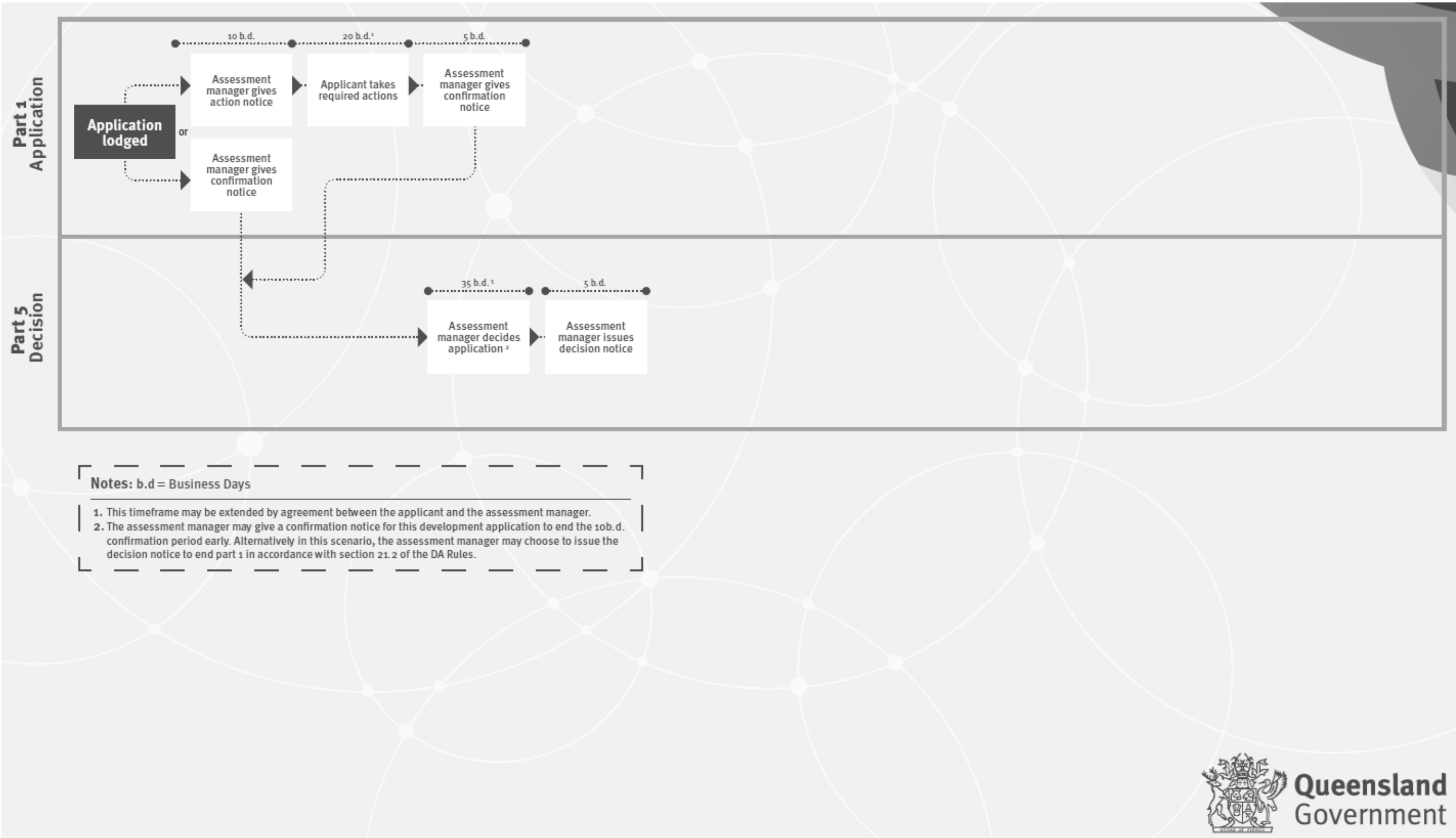


## Scenario 5: For a code assessable application involving: information request and referral

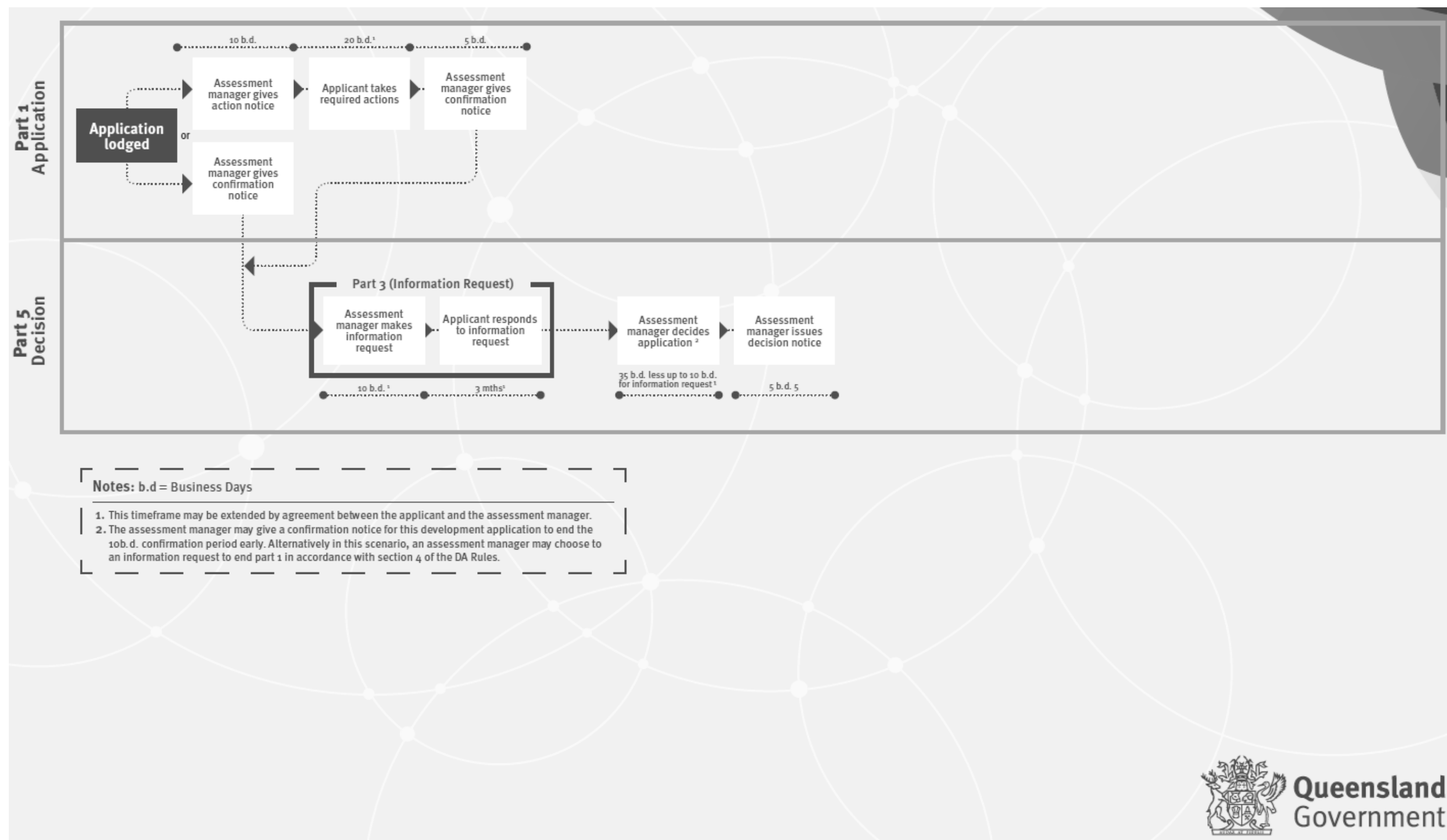




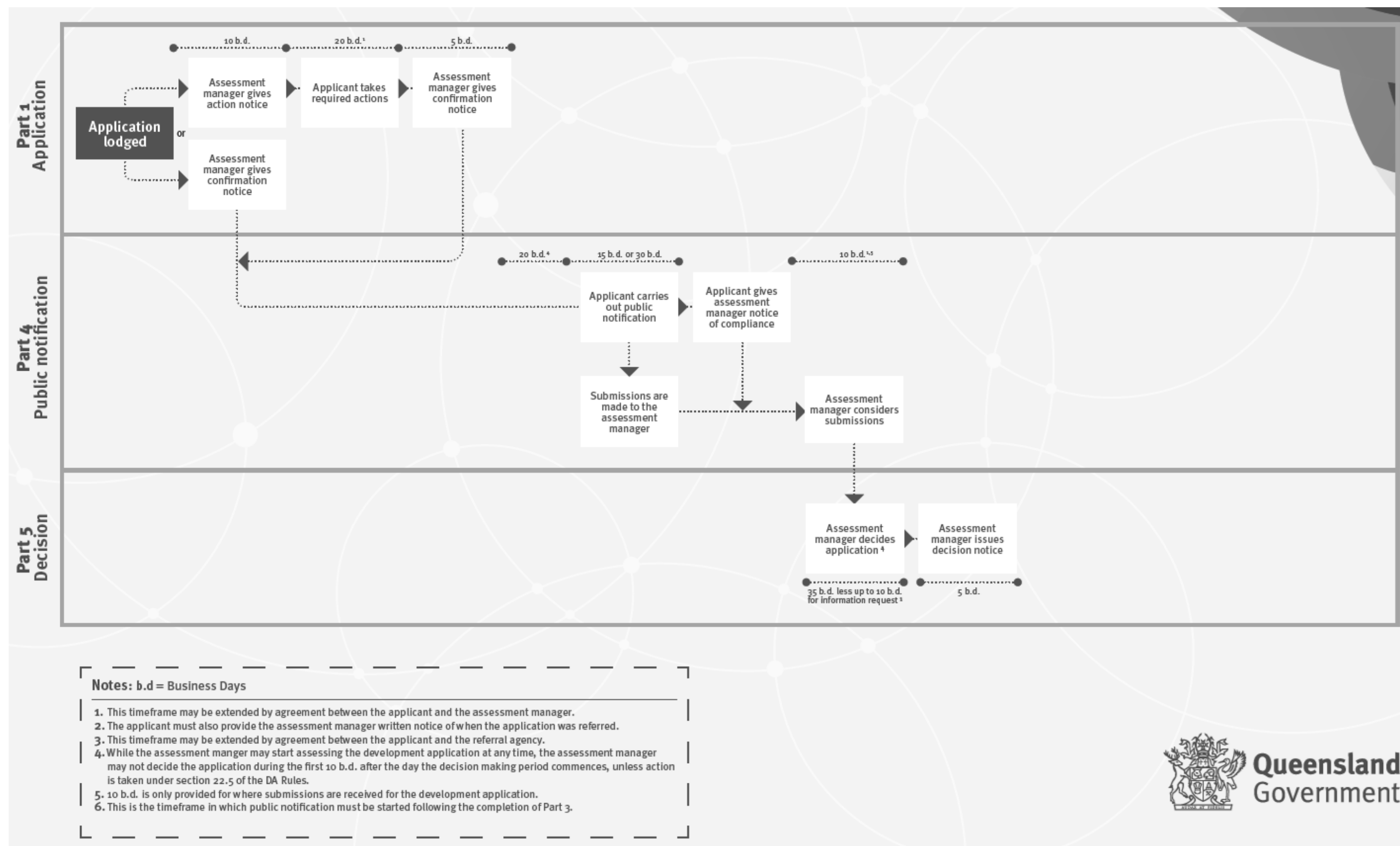
Scenario 6: For a code assessable application involving: no information request and no referral



## Scenario 7: For a code assessable application involving: information request and no referral



## Scenario 8: For an impact assessable application involving: no information request and no referral





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