

State Development Assessment Provisions

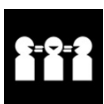
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Contents

Policy context

Using the state codes

Interpretation

State codes

Locational

- State code 1: Development in a state-controlled road environment
- State code 2: Development in a railway environment
- State code 3: Development in a busway environment
- State code 4: Development in a light rail environment
- State code 5: Development in a state-controlled transport tunnel environment
- State code 6: Protection of state transport networks
- State code 7: Maritime safety
- State code 8: Coastal development and tidal works
- State code 9: Great Barrier Reef wetland protection areas
- State code 10: Taking or interfering with water
- State code 11: Removal, destruction or damage of marine plants
- State code 12: Development in a declared fish habitat area
- State code 13: Unexploded ordnance
- State code 14: Queensland heritage

Use-based

- State code 15: Removal of quarry material from a watercourse or lake
- State code 16: Native vegetation clearing
- State code 17: Aquaculture
- State code 18: Constructing or raising waterway barrier works in fish habitats
- State code 19: Category 3 levees
- State code 20: Referable dams
- State code 21: Hazardous chemical facilities
- State code 22: Environmentally relevant activities
- State code 23: Wind farm development

Advice only

- State code 24: Urban design outcomes for significant projects

Appendices

- Appendix 1: Development requiring assessment under the Planning Regulation 2017
- Appendix 2: FastTrack5 qualifying criteria

Policy context

Introduction

The State Development Assessment Provisions (SDAP) provide assessment benchmarks for the assessment of development applications where the chief executive is the assessment manager or a referral agency.

The chief executive administering the *Planning Act 2016* through the State Assessment and Referral Agency (SARA) uses the SDAP to deliver a coordinated, whole-of-government approach to the state's assessment of development applications.

The role of the State Assessment and Referral Agency

Through SARA, the chief executive of the Act (the Director-General of the Department of State Development, Manufacturing, Infrastructure and Planning) is the assessment manager or referral agency for development applications where there is a matter of interest to the state. The Planning Regulation 2017 (the regulation) states when the chief executive is an assessment manager or a referral agency for particular development applications.

DSDMIP is the single point of lodgement for all development applications which are assessed through SARA. In assessing development applications through SARA, DSDMIP will seek technical advice from other relevant state agencies with expertise in the particular matters covered by the SDAP provisions. Following assessment by SARA, a single decision notice (as assessment manager) or referral agency response (as referral agency) is issued which addresses all relevant matters of state interest.

Relationship with the *Planning Act 2016* and the *Planning Regulation 2017*

Queensland's planning legislation establishes a performance-based approach to planning. Performance-based planning seeks to regulate development to achieve a performance outcome, rather than regulating development through prescription.

In assessing and deciding a development application, the chief executive is bound by the decision-making rules outlined in the Act, including the matters the chief executive must assess a development application against and the matters the chief executive may have regard to when undertaking the assessment.

Section 43(1) of the Act provides that the assessment manager must assess development against assessment benchmarks. The regulation sets out the specific assessment benchmarks that an assessment manager must assess development against, including the SDAP. Section 45 of the Act sets out the categories of assessment for assessable development (code assessment and impact assessment) and the matters the assessment must, or may be, carried out against. Each of the triggers in schedules 9 and 10 of the regulation specify the assessment benchmarks for that trigger. For every trigger the chief executive is the assessment manager for, the SDAP is specified as the assessment benchmark.

Section 55(2) of the Act states that a regulation may prescribe the matters that a referral agency may, must or must only have regard to in its assessment. Each of the referral triggers in schedules 9 and 10 of the regulation specify the matters the referral agency's assessment must be against. For every trigger the chief executive is the referral agency for, the SDAP is specified as the matter the referral agency's assessment must be against. Additionally, section 23 of the regulation specifies other matters a referral agency must have regard to when assessing a development application.

Development not assessed by SARA, or not assessed against SDAP

Under schedules 9 and 10 of the regulation, certain matters require referral to entities other than the chief executive. Referrals to entities other than the chief executive are not administered by SARA and do not require assessment against the SDAP. Further information on these referrals is available on DSDMIP's website.

Where referral to the chief executive is triggered in the regulation for the South East Queensland Regional Plan, SARA will assess these applications against the criteria in the regulation. The SDAP does not contain provisions relevant to this trigger.

Where a development application made to the chief executive is triggered in the regulation for material change of use on contaminated land, SARA will assess these applications against the criteria in the regulation. The SDAP does not contain provisions relevant to this trigger.

Using the state codes

Matters of state interest which are considered by the SDAP may broadly be categorised as:

1. interests that have the **potential to impact on development** (e.g. unexploded ordnance); and
2. interests that must be **protected from the impacts of development** (e.g. marine plants).

Appendix 1 is intended to assist applicants in determining which of the state codes in the SDAP apply to a development application.

Table 1 outlines where the chief executive is the assessment manager for a development application under the provisions of the regulation and the relevant state codes for the type of development.

Table 2 outlines where the chief executive is a referral agency for a development application under the provisions of the regulation and the relevant state codes for the type of development.

Within the above context, the SDAP may include both general provisions applying across all development aspects and types, or specific criteria for particular uses and types of development.

Use of state codes – applicants

The SDAP is structured in a performance-based code format, whereby applicants can address performance criteria to demonstrate that a development appropriately manages any impacts on a matter of state interest, and/or protects a development from impacts of matters of state interest.

In making a development application to SARA, applicants should respond to each of the relevant provisions of the applicable state codes in the SDAP. This will assist in minimising requests for further information and speed up the assessment process.

Use of state codes – SARA

SARA delegates will assess a development application against the relevant provisions of the applicable state codes. In assessing development applications, DSDMIP will seek technical advice from other relevant state agencies with expertise in the particular matters covered by the relevant SDAP provisions. DSDMIP officers are responsible for issuing SARA decisions on behalf of the chief executive.

How the state codes are used in assessment

Each state code in the SDAP will typically contain the following assessment criteria:

1. a purpose statement;
2. performance outcomes; and
3. acceptable outcomes (the only non-essential assessment criteria).

In simple terms:

1. if a development application complies with all of the relevant performance outcomes of a code, it complies with the purpose statement of the code, and therefore with the code itself
2. if a development application complies with some, but not all, relevant performance outcomes of a code, SARA will determine whether it complies with the purpose statement and therefore the code itself
3. if SARA determines that the purpose statement of the code is complied with, the code itself is considered to be complied with and an approval (with or without relevant conditions) will be issued
4. if a development application does not comply with the purpose statement of the code, it does not comply with the code itself and will be refused.

Each aspect of the state codes, and how they are applied, are discussed in further detail in the following sections.

Purpose statement

The purpose statement of a state code is the highest order test within the SDAP that a development application can be assessed against. Unlike a local government planning scheme, the SDAP does not rely on overarching strategic outcomes. Instead, development will comply with a particular state code if it can be shown to meet the code's purpose statement. The purpose provides the overall context for the code and holistically defines what the code seeks to manage and/or protect.

Performance outcomes

Performance outcomes serve as the primary tests for development being assessed against a code, and identify the aspects or features of a relevant matter of state interest.

Performance outcomes define what may constitute an acceptable or tolerable impact on a matter of state interest, or the minimum standards required to manage the impacts a matter of state interest on a development.

If a development application does not comply with one or more particular performance outcomes then SARA will determine, on balance, whether the purpose statement is complied with or not.

Acceptable outcomes

Acceptable outcomes are provided for some, but not all, performance outcomes, and identify ways in which performance outcomes can be met. An application that complies with all applicable acceptable outcomes is considered to satisfy the corresponding performance outcome. If an application does not comply with one or more of the applicable acceptable outcomes, compliance with the performance outcome should be demonstrated.

Where multiple acceptable outcomes are provided as a means of achieving compliance with a performance outcome, they are to be read in the following way:

1. if there is an 'AND' provided between each acceptable outcome, this means all of the acceptable outcomes apply if they are relevant to the application
2. if there is an 'OR' between each acceptable outcome and there are only two acceptable outcomes, this means one or the other apply if they are relevant to the application
3. if there are three or more acceptable outcomes provided and there is an 'AND' provided between the first two or more acceptable outcomes, then an 'OR' provided between the last two acceptable outcomes, this means that all of the acceptable outcomes apply and one-or-the-other of the last two acceptable outcomes apply (for example, the code lists AO7.1 AND AO7.2 AND AO7.3 OR AO7.4 – this means either AO7.1, AO7.2 and AO7.3 apply, or AO7.1, AO7.2 and AO7.4 apply)
4. if there are three or more acceptable outcomes provided and the words – 'OR all of the following acceptable outcomes apply' or 'OR both of the following acceptable outcomes apply'; this means that either the first acceptable outcome applies, or all other acceptable outcomes apply (for example, the code lists AO2.1, OR both of the following acceptable outcomes apply, AO2.2 AND AO2.3 – this means either AO2.1 applies, or AO2.2 and AO2.3 apply).

The codes can also contain reference tables or figures (information required to apply the code).

Managing multiple state codes or matters of state interest

Development applications assessed against the SDAP will sometimes involve multiple matters of state interest and trigger assessment against a number of different state codes. Where this occurs, applicants should consider and address each relevant state code independently. It is not necessary to attempt to balance or justify outcomes with reference to other state codes.

In assessing the development application, SARA officers will consider the compliance or otherwise of the application with each applicable state code. In cases where multiple state codes are triggered and the

purpose statement of one or more of the codes is not considered to be achieved by the development proposal, SARA will make a decision that best achieves and advances the purpose of the Act.

Interpretation

Statutory and non-statutory parts of the SDAP

All information in a state code is statutory, other than notes (except where indicated to be statutory notes) and the list of reference documents, which are intended to assist applicants in preparing a development application. Each code contains the following information:

1. purpose statement
2. performance outcomes and acceptable outcomes
3. reference documents which may support the interpretation and assessment of a development application against a particular matter.
4. figures and/or reference tables (where applicable) which outline information required to apply the code
5. glossary of terms
6. abbreviations (where applicable) specific to that state code.

All information included in the sections of the SDAP titled 'Policy context', 'Using the state codes' and 'Interpretation', as well as the appendices, form non-statutory components of the document.

Numbered and bulleted lists

Numbered and bulleted lists throughout this document are to be interpreted as 'and' statements unless the word 'or' is included.

Notes and statutory notes

Statutory notes are identified by the title 'statutory note:' and constitute statutory information. Notes are identified by the title 'note', are extrinsic material, meaning they are non-statutory.

Glossary of terms

A glossary is included within each state code which defines terms as they relate to that individual state code. All defined terms within the state code are bold for ease of reference. When a term is not defined it has the meaning given in the Act or the regulation or where not defined in one of those documents, its ordinary meaning.

Hyperlinks

Where a hyperlink is available, the text appears in the following style: [hyperlink](#).

Mapping

Where relevant, reference may be made to the development assessment (DA) mapping system (as amended from time to time) <https://planning.dilgp.qld.gov.au/maps>, which contains mapping layers relevant to SARA. The DA mapping system is publicly available.

The DA mapping system aims to provide a central repository for all available mapping layers that may assist users in identifying relevant assessment or referral triggers under the regulation and/or responding to provisions contained within the SDAP. The DA mapping system also contains information in relation to other state government planning mechanisms not related to SARA.

Appendices

Appendix 1: Development requiring assessment under the regulation

Appendix 1 is intended to assist applicants in determining which of the state codes apply to a development application.

Table 1 outlines where the chief executive is the assessment manager for a development application under the provisions of the regulation and the relevant state codes for the type of development.

Table 2 outlines where the chief executive is a referral agency for a development application under the provisions of the regulation and the relevant state codes for the type of development.

Appendix 2: FastTrack5 framework

Where the chief executive is the assessment manager or referral agency for a development application, aspects of that application may qualify for a streamlined assessment. The FastTrack5 framework is a referral and assessment process that allows certain aspects of development to be assessed and decided quickly by SARA. A reduced fee applies to eligible aspects of development.

Qualifying for FastTrack5 assessment

Having confirmed the triggers relevant to a development application, applicants can use the tables in appendix 1 of the SDAP to determine whether the FastTrack5 assessment pathway is available prior to lodgement or referral of the application to SARA. It is up to the applicant as to whether they seek to qualify for FastTrack5 assessment for any or all of the eligible aspects of development.

To qualify for FastTrack5 assessment, development applications must demonstrate that all of the qualifying criteria in appendix 2 for each relevant aspect of development are met. The reduced SARA development application fee will be applied for each qualifying FastTrack5 trigger at the time of lodgement or referral of the application. If the application does not meet all of the relevant FastTrack5 qualifying criteria, the standard SARA assessment pathway applies, requiring full assessment against the SDAP state codes and subject to standard statutory timeframes and fees.

Upon receipt of an application seeking assessment via the FastTrack5 pathway, SARA will review the documentation provided and confirm that a triggered aspect of development qualifies for FastTrack5 assessment.

If after lodgement or referral an aspect of the development application is proven not to meet the relevant FastTrack5 qualifying criteria, the applicant will be asked to provide a supplementary fee to ensure that the application is properly made or properly referred to SARA for the relevant trigger(s) in accordance with the regulation. The application will then follow the standard SARA assessment pathway and the usual statutory timeframes, as per the Act and the Development Assessment Rules.

Assessment via the FastTrack5 assessment pathway

Having confirmed that the relevant aspect(s) of the development meet the FastTrack5 qualifying criteria, SARA can quickly assess and provide a referral response or decision for a FastTrack5 eligible aspect of the development. Applications that qualify for FastTrack5 assessment will not be subject to an information request and standard conditions will generally be applied.

Assessment of FastTrack5 triggers via the standard assessment pathway

In circumstances where an application has more than one SARA trigger, but not all triggers are FastTrack5 eligible triggers or aspects of development, the application will follow the standard SARA assessment pathway and be subject to the associated timeframes. Nevertheless, FastTrack5 eligible aspects of development will still benefit from a reduced fee, will not be subject to an information request and will generally have standard conditions applied. For applications assessed through the standard assessment pathway which also have FastTrack5 eligible triggers, a single decision notice will be issued covering all aspects of development.