

Types of Development

1. Introduction

This Fact Sheet is one of a series which deals with planning scheme related information. This Fact Sheet deals with types of development.

2. Background

'Development' under the *Sustainability Planning Act 2009* (SPA) is broadly defined as one or more of the following activities:

- Carrying out building work;
- Carrying out plumbing or drainage work;
- Carrying out operational work (ie clearing vegetation, land filling or excavation);
- Reconfiguring a lot (ie subdivision, rearranging boundaries or creating an access easement);
- Making a material change of use (ie starting a new use, increasing the intensity of a use or re-establishing an abandoned use).

3. Determining if an Application is Required

Under SPA, the following categories of development are:

- **Exempt development:** does not require an application;
- **Self-assessable development:** does not require an application to be made but must comply with any applicable State Planning Policies or planning scheme codes;
- **Development requiring compliance assessment:** the request for compliance must comply with any applicable State Planning Policies or planning scheme codes. The request for compliance is not a development application.
- **Assessable development:** a development application is required. Within the category of Assessable Development, there are 2 sub-categories: Code and Impact.
 - **Code assessment:** If an application requires Code Assessment, it is assessed against the applicable codes detailed in the Planning Scheme and applicable State Planning Policies.

- **Impact assessment:** If an application requires Impact Assessment, the application is assessed having regard to the whole Planning Scheme and applicable State Planning Policies. The application is also publicly notified and submissions sent to Council.

- **Prohibited development:**

- An application or request for compliance assessment can not be made for development if the development is prohibited development.
- If an application or request for compliance assessment is made and any part of the development applied for is prohibited development, the application or request is taken not to have been made and IDAS does not apply to it.

4. Submissions (to Impact Assessable Applications)

For a submission to be considered **properly made**, the submission is to address the following:

- (a) is in writing, unless is made electronically under the Act, and signed by each person who made the submission;
- (b) is received during the Notification Period for a development application;
- (c) states the name and residential or business address of each person who made the submission;
- (d) states the grounds of the submission and the facts and circumstances relied on in support of the grounds; and
- (e) is made to the Assessment Manager (ie Council) if the submission relates to a development application.

Submissions are to address planning related matters such as noise, lighting, pollution, traffic generation, safety and security, waste disposal, density of development, building setbacks and heights. Matters such as impact on property values and business competition are generally not considered to be planning related matters.

5. Integrated Development Assessment System (IDAS)

The Integrated Development Assessment System (IDAS) is the system for the assessment of development applications. IDAS is a sequential process that involves the following stages:

(a) Application Stage

The application is lodged with Council. If the application requires Impact Assessment and / or referral to a State Government Agency for assessment, the local government will issue an Acknowledgement Notice. Referral Agencies are State Government Agencies that are required to assess applications with respect to State Government interests and they carry out their own assessment of the application concurrently with Council's assessment.

(b) Information and Referral Stage

Once the application is reviewed, this Stage provides an opportunity for the local government and any Referral Agency to ask the Applicant for further information needed to assess the application.

(c) Notification Stage

The Notification Stage applies to Impact Assessable Applications and provides an opportunity for a person to make a submission, including an objection, regarding an application.

Submissions received must be taken into account by the Assessment Manager before an application is decided. The Notification Stage also provides an opportunity for a person to secure the right to appeal a decision to the Court about an Assessment Manager's decision.

(d) Decision Stage

The Decision Stage provides the Assessment Manager with time to make a decision whether an application is to be approved including any conditions of approval or refused.

The Applicant and any Submitter to an application will be advised of the decision.

(e) Compliance Stage

The compliance stage is part of the IDAS process, however a request for compliance assessment does not follow the IDAS stages (a) to (d) identified above.

The compliance stage allows for development, or a document or work relating to development, to be assessed for compliance with:

- (a) a matter or thing prescribed under a regulation; or

- (b) a planning instrument; or
 (c) a master plan; or
 (d) a preliminary approval to which section 242 applies; or
 (e) a condition of a development approval or compliance permit.

Compliance assessment: may be carried out by a local government, an entity nominated by a local government or a public sector entity.

Within the compliance assessment period, the compliance assessor assesses the request against the matters or things against which the development, document or work must be assessed under the regulation, State planning regulatory provision, relevant instrument or condition requiring the compliance assessment, and the compliance assessor must:

- decide the request; and
- give the person making the request a **compliance permit** or **compliance certificate** or an **action notice**.
- **Compliance permit:** authorises development requiring compliance assessment to take place to the extent stated in the permit, and subject to the conditions of permit. A compliance permit is only given for development, not document or works.
- **Compliance certificate:** approves documents or works requiring compliance assessment to the extent stated in the certificate, and subject to conditions in the certificate. A compliance certificate is only given for documents and works, not for development.
- **Action Notice:** is a written notice stating the reasons the development, document or work does not achieve compliance, and the action required to demonstrate compliance, and the period in which the person may again make a request for compliance assessment after taking the action.

The person in receipt of the action notice may carry out the action required to demonstrate compliance and again apply for compliance assessment. If the person does not comply with the action notice, the request for compliance will lapse.

The IDAS process does allow opportunity for the Applicant to seek negotiations of any approval conditions. Applicants (and Submitters for Impact Assessable Applications) can also lodge appeals with the Planning and Environment court to have the matter heard by a Judge.

