

## Practice note no. 14

### Issued: March 2016

# State interests in development assessment in Priority Development Areas

The Minister for Economic Development Queensland (MEDQ) may delegate any of its functions and powers under section 169(1) of the *Economic Development Act 2012* (the Act) to various persons and entities including local government. Development assessment delegations will only be relevant to priority development areas (PDA) that have been declared under the Act.

In exercising the delegation power of development assessment functions to local government, the MEDQ has also given directions under section 170 of the Act to comply with the process for identifying and considering State interests which is contained in this Practice Note. The power to identify and consider state interests within the meaning of section 87(4) of the Act has been delegated to officers of the Department of Infrastructure, Local Government and Planning (DILGP).

Local governments need to seek the DILGP delegate's advice in relation to relevant state interests when assessing a development application within a PDA.

The purpose of this practice note is to provide guidance on how to ensure state interests are properly considered in development assessment when the primary assessment function has been delegated to local government.

This practice note should be read in conjunction with the DILGP *Economic Development Act 2012*, Development Assessment Manual (the DA Manual).

### Policy context

The State Development Assessment Provisions (SDAP) provide guidance in determining if a state interest is relevant to the assessment of a development application. Other state interests, such as the *Mineral Resources Act 1989*, that have not been integrated into the *Sustainable Planning Act 2009* (SPA) or excluded through a PDA declaration may also be applicable.

Each PDA will have different types and levels of state interest. To assist with streamlining consideration of state interests DILGP will provide additional advice on state interests that are considered relevant to development assessment in a particular PDA. This advice will help determine at an early stage if, and to what degree, state interests are relevant.

It should be noted that in preparing interim land use plans and development schemes for PDAs, state interests will be identified and, where possible, relevant state interests will be addressed in a way that avoids or minimises the need to further consider state interests at the development assessment stage.

### Using the practice note

This practice note provides particular guidance on the following stages that are documented in the DA Manual:

- » pre-application
- » lodgement
- » information
- » decision.

Relevant state interests should also be considered in the administration of the following other stages documented in the manual:

- » changing an application
- » changing a development approval
- » extending a currency period.

## Documentation of delegation decisions

To ensure proper reporting of delegated functions, delegates should keep a record of all instances where information is provided, advice prepared and decisions made in relation to the determination and consideration of relevant state interests.

## Considering state interests in relevant development assessment stages

### Pre-application stage

#### *Initial enquiries*

When an initial enquiry is received, the local government delegate should advise the applicant of the need to consider relevant state interests and seek DILGP's preliminary advice on what state interests are likely to be relevant to each particular PDA.

#### *Pre-application discussions*

If state interests are likely to be relevant, and depending on the scale and complexity of a proposal, the DILGP delegate may agree to attend pre-application discussions. Each applicant should research the potential implications of state interests prior to pre-lodgement.

### Lodgement stage

The local government delegate should assess the information provided by the applicant on relevant state interests and refer the application to the DILGP delegate for a response within five business days. The DILGP delegate's response will include any information required to address a relevant state interest.

### Information stage

The information request should include any information required by the DILGP delegate to assess relevant state interests including advice on how a state interest may be addressed.

### Decision stage

At the commencement of the decision stage a copy of the final information request response should be provided to the DILGP delegate who will, within 10 business days, give a direction (under section 170 of the Act as to relevant state interests referred to in s87(1)(b) of the Act) that:

- » based on the information provided, state interests are either no longer considered relevant to the assessment of the PDA development application or that the PDA development application addresses them satisfactorily; or

- » outstanding concerns as to state interests must be addressed in any PDA development approval in a specified way (including, but not limited to, imposing conditions and nominating a stated entity to be a nominated assessing authority for a condition); or
- » a PDA development application must be refused because of a state interest.

A copy of the final decision package should be provided to the DILGP delegate.