Fact sheet: Statement of reasons

This fact sheet outlines an important change in the current planning system – namely, decision-makers assessing development applications (both code assessable and impact assessable) must now publish the reasons for their decisions.

Exceptions are for operational works (e.g. earthworks) and some building works (i.e. those that are assessable against the Building Assessment Provisions in the *Building Act 1975*), although assessment managers may choose to do so for these as well.

The obligation on assessment managers (usually local governments or the State Assessment and Referral Agency) to publish their reasons is stated in section 63(4) of the *Planning Act 2016*, which came into effect on 3 July 2017.

Providing the reasons for decisions is considered fundamental to ensuring we have a transparent system and good decision-making practices, because:

- it helps those who are affected by the decision to understand the factors that have been taken into account when making the decision
- the process of setting out those reasons enables decision-makers to reach reasonable and reliable decisions
- it creates an open, transparent and accountable decision-making framework that delivers investment and community confidence.

Assessment managers have always had to go through a decision-making process and give decision notices. But under the Planning Act, this process, for the first time, must be captured and explained in a written notice or statement of reasons.

Where can I find the statement of reasons?

The statement of reasons is required to be published on the assessment manager's website.

What is contained in the statement of reasons?

Reasons for each development application decision will be found in the statement of reasons. The Planning Act sets the obligation and scope of the requirement to provide reasons for a decision. Section 63(5) states that the following needs to be in the notice:

- a description of the development
- a description of the assessment benchmarks applying to the development
- to the extent the development required impact assessment:
  - any relevant matters under section 45(5)(b) that the development was assessed against, or to which regard was had in the assessment [section 45(5)(b) relates to impact assessment and provides that an assessment may be carried out against, or having regard to, any other relevant matter other than a person's personal circumstances, financial or otherwise]
  - a description of the matters raised in any submissions
  - how the assessment manager dealt with the matters described above in reaching a decision
- the reasons for the assessment manager's decision
- if the development application was approved (or approved subject to conditions) – even though it did not comply with any of the benchmarks – the reasons the application was approved.

Scope and format

While the requirements of section 63(5) will always need to be met, 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.

Simply saying the development does comply with the planning scheme is not sufficient.
The intent of the notice of reasons is to make clear what matters have been considered and how they have been taken into account when making the decision. It is an explanation given by a decision-maker for making a particular decision.

Based on the fundamental elements required in the Planning Act, the reasons will need to be set out in a way that will enable a person to understand why the decision was made. The notice needs to:

- set out the relevant parts of the scheme and assessment benchmarks on which the conclusions depend
- detail the steps in the reasoning process that led to the decision in a way that will allow a reader to understand exactly how the decision was reached
- set out the information, documents or other material that the decision-maker found to be relevant, credible and significant in relation to each relevant part of the decision
- use clear and unambiguous language in a style and logical structure that is easily understood, avoiding vague language or technical jargon
- be of a length that reflects the nature, importance and complexity of the decision, as well as the time available to prepare it.

Section 63(5)(f) enables the regulation to further prescribe requirements in relation to the notice, although no requirements are currently identified.

Where else are reasons for a decision required?

Under section 56(7), referral agencies are required to include reasons for their decisions in their referral agency response.

Also, when giving a decision in relation to a change approval request, section 83(7) requires that the responsible entity must include their reasoning in their notice of decision.

Further, where the responsible entity was the assessment manager, they must provide reasons why the change application was approved, despite the development not complying with any of the benchmarks.

Next steps

The Department of Infrastructure, Local Government and Planning has been working with local governments on transitioning their current development assessment systems to the new planning framework. The format, structure and contents of the new notice of reasons are part of that transitioning work.

For more information contact us at bestplanning@dilgp.qld.gov.au