



Department of the Premier and Cabinet
Office of the Coordinator General

State Development Area Notification Requirements

Guidance Note

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Introduction

This Guidance Note provides clarity to public authorities regarding their responsibilities under Sections 69 and 70 of the *State Development Act 2025* to notify the Coordinator General ahead of determining applications or performing certain functions within a declared State Development Area (SDA).

These requirements apply to Acts designated in Schedule 1 of the *State Development Act 2025* and subsidiary legislation under these designated Acts.

The State Development Act definition of a **public authority** includes a Minister of the State, a Department of the Public Service, a local government, government trading enterprises, statutory officeholders and statutory body corporates.

The Office of the Coordinator General's (OCG) SDA Division is responsible for managing responses to notifications on behalf of the Coordinator General.

The OCG will endeavour to respond to notifications within fifteen (15) business days.

While sections 69 and 70 of the State Development Act set out matters that public authorities are required to notify the Coordinator General of within an SDA, this should be considered a starting point for engagement with the OCG.

Public authorities are encouraged to contact the OCG in relation to any matter, application or issue that you consider warrants the Coordinator General's attention having regard to our strategic oversight role. An SDA Declaration or SDA Plan can assist with understanding if a matter is likely to be relevant to the OCG.

Purpose of notifications

The notification requirements support the Coordinator General's role in the oversight and coordination of development, activities and interests in land within an SDA. The aim is to ensure that decisions do not compromise the realisation of the vision for an SDA.

Notification enables the identification of opportunities, challenges and synergies across the SDA. Notification may also assist in identifying circumstances where the issue of a

Due Regard notice may be appropriate, particularly ahead of the publication of an SDA Plan.

Importantly, the notification process does not prevent or direct the decisions of Public Authorities. Rather, the notification process provides an opportunity for the OCG to offer advice on the extent to which an application or function is consistent with the vision for an SDA, to support decision makers in taking this into consideration.

Where the OCG has questions or concerns in relation to a matter that has been referred, the initial response will generally request further officer-level engagement to ensure a clear understanding of what is proposed ahead of any further action by the OCG.

Section 69

The notification requirement prescribed by section 69(1) of the State Development Act is intended to ensure that the Coordinator General has notice of the potential exercise of a statutory power that could result in the grant of certain rights over land within an SDA.

The essential requirements of s 69(1) are:

- a) the existence of an application for the exercise of statutory power by a **public authority**;
- b) the relevant statutory power is provided by one of the designated Acts in Schedule 1 of the State Development Act;
- c) the exercise of statutory power could cause or allow the applicant to **develop**, or undertake an **activity**, on land within an SDA.

The State Development Act adopts the definition of **development** from the *Planning and Development Act 2005*. This includes the 'use' of land whether or not works are proposed.

Activity is not defined under the State Development Act and therefore has its ordinary meaning. It includes doing anything on land within an SDA that requires statutory approval on application under a designated Act.

The Coordinator General recognises that section 69 encompasses many decision-making powers, some of which will be unlikely to affect the Coordinator General's functions or the realisation of the vision for an SDA. For this reason, the Coordinator General intends to use his power to grant exemptions from the notification requirement for certain classes of applications made under designated Acts.

The intent is to integrate State Development Act processes with those that already exist and to take a 'less is more' approach to the notification obligation under section 69(1) to ensure that the focus is on applications that are likely to have significant economic, social or environmental impact on an SDA or its surrounds.

Section 70

Sections 70(1) and (2) of the State Development Act relate to the proposed performance of a statutory function under a designated Act that may result in:

- a) the grant of rights to land within an SDA that are proprietary in nature (both present and future rights); or
- b) land within an SDA becoming, or ceasing to be, reserved for any purpose.

If so, the relevant public authority must give written notice to the Coordinator General before performing the function.

The essential requirements of sections 70(1) and (2) are that:

- a) a public authority has a function under a designated Act that enables it to:
 - i. **grant** interests in land within an SDA;
 - ii. **grant** an option or right to acquire an interest in land within an SDA; or
 - iii. cause land within an SDA to be **reserved** or cease to be reserved for any purpose; and
- b) there is a proposal to exercise the relevant power.

The State Development Act defines to **grant** as including proposals to issue, give, renew, vary and extend interests in land. This includes, but is not limited to, the creation of interests in land such as the granting of a lease or an easement over land. Section 70 also includes within its scope the entering into of any agreement to sell land, so long as a public authority is performing a function under a designated Act when doing so.

Reservation is not defined under the State Development Act and therefore has its ordinary meaning. It therefore includes any function under a designated Act which sets an area apart for a particular purpose. It would, for example, include both reservations for a public purpose under a planning scheme and reservation of land to the Crown under the *Land Administration Act 1997*.

A **licence** is not an interest in land. Accordingly, the obligation to notify under Section 70 does not extend to proposals for the grant of licences or other forms of contractual based rights over land, unless the contractual right is for an option, or the right to acquire, an interest in land in the future.

However, the requirement to notify the Coordinator General under Section 69 may still apply where a licence requires an application for the exercise of statutory power.

The intent of Section 70 is to support the Coordinator General's strategic oversight of decisions affecting the ownership, disposal and use of land within an SDA.

Many public authorities undertake routine land transactions and related activities as part of their core business and the OCG will take a practical approach to our application of Section 70. We want to work with public authorities to identify appropriate thresholds for informing the scope of an exemption under Section 70 to ensure that only strategically significant decisions and transactions are subject to the notification requirement.

Exemptions

The State Development Act includes provisions which allow the Coordinator General to exempt a public authority from notification requirements by providing a written notice to that public authority or by specifying exemptions through regulations.

An exemption does not prevent a public authority from notifying the Coordinator General of an application or the performance of a function where the public authority believes that consideration by the Coordinator General would be beneficial.

The OCG is considering what may be the subject of an exemption under section 69(4) and section 70(4) of the State Development Act.

Examples where exemptions are unlikely include applications for development or activities that:

- are inconsistent with an SDA Plan or, where no plan has been published, the intent for an area as expressed in an SDA Declaration.
- are likely to have substantial environmental impacts (e.g. where clearing is required or where substantial on-site or off-site buffers are necessary to manage ongoing activities)
- are of a scale or type that would be strategically or economically significant
- are located in areas of strategic importance within an SDA.

Examples of the types of applications (in the case of section 69(1)) or proposed performance of statutory functions (as contemplated by section 70(1) and (2)) that may be exempted include:

- applications for approval to undertake development or activities that are minor in nature, or do not result in changes to the planned use of land, for example:
 - minor additions to existing approved land use consistent with the zoning of land
 - temporary uses which do not result in any ongoing changes to land or disruption of infrastructure networks
 - activities consistent with the zoning or reservation of recreational land
- applications for approval to undertake later stages of development or an activity already reviewed at an earlier or more consequential stage. For example, the connection of service infrastructure to a new development.

The OCG recognises that the identification of appropriate exemptions is an iterative process and invites comments from public authorities to assist with this process.

Regulations

There are currently no SDA Regulations. However, future regulations may also exempt certain classes of application from notification requirements.

Identifying appropriate exemptions

A wide range of Acts are designated in Schedule 1 of the State Development Act. The OCG recognises that public authorities administering these Acts are best placed to understand the impacts of their decisions and to advise what exemptions may be desirable to ensure that notification requirements do not result in unnecessary referrals.

The OCG welcomes requests from public authorities to ensure that Section 69 and 70 notification requirements are fit-for-purpose. In raising proposed exemptions, public authorities should have regard to this Guidance Note, intent of the State Development Act, the SDA Declaration and any advertised or published SDA Plan.

The OCG can issue exemptions for classes of applications. A class may be defined by:

- specific reference to an application, function or activity authorised or performed under a specified section or sections of a designated Act or its subsidiary legislation
- reference to what the OCG is to be notified of, with all other applications or proposed functions excluded in general terms. Where this approach is recommended, a public authority must provide sufficient information to enable the OCG to understand the scope of matters that would otherwise fall within the notification requirements of the State Development Act
- reference to a particular period of time, geographic area or other limitation. For example, excluding all applications except specified activities, or activities of limited duration.

Public authorities should consider the most appropriate approach, or combination of approaches, in consultation with the OCG.

The OCG's approach to exemptions may be updated depending on the maturity of an SDA, for example when an SDA Plan is advertised or finalised or development reaches certain thresholds.

OCG is also open to updating exemptions in consultation with public authorities where required to meet operational needs or to maintain consistency with the principles outlined in this Guidance Note.

Referral procedure

Notifications must be provided by the public authority responsible for making a statutory determination under a designated Act.

Where a public authority has been referred an application for comment, but is not the responsible public authority, they are not required to notify the OCG of the application or performance of a function.

Notifications can be referred to the OCG SDA Division via email to sdareferrals@dpc.wa.gov.au.

Referrals should include the following information:

- a) a description of the application or function being referred;
- b) copies of relevant supporting documentation;
- c) contact information for a responsible officer;
- d) a timeframe within which a response is requested; and
- e) any other information relevant to the OCGs consideration.

There may be circumstances where a single application gives rise to obligations under both section 69(1) and section 70(2). In these cases, only one referral is required.