

# State Facilitated Development Factsheet

The State Facilitated Development (SFD) assessment pathway has recently been introduced as part of the Housing Availability and Affordability (Planning and Other Legislation Amendment) Act 2024 (the HAAPOLA Act) amendments to the Planning Act 2016 (Planning Act). This factsheet provides a summary of the key features of this new pathway and how it may apply to future development projects.

The Homes for Queensland housing plan seeks to deliver 1 million new houses by 2046, and with most new housing being delivered by the private sector, the need to streamline the decision making process has been identified as an important item to achieve the objectives of the plan. The SFD pathway is one of a suite of changes to the planning framework implemented by the State to deliver more homes, faster.

## What is a State Facilitated Development?

A SFD development application is an alternate assessment pathway which aims to deliver development that is a priority to the State. It enables the State to intervene and undertake a bespoke assessment to streamline proposals that are for an urban purpose and identified as a priority to the State. At this time infill and affordable housing is identified as a priority to the State. The SFD Team of the Department of Housing, Local Government, Planning and Public Works will be the assessment manager of these applications.

It is possible in the future that the State identifies different or additional priorities, facilitating a wider array of projects through the SFD pathway.

In order to initially qualify as a SFD application, the application must be a development application, or a change application, as defined by the Planning Act.

If declared, the Minister must give notice to the applicant and any other affected party, stating the reasons for making the declaration and consider any representations made.

Once declared as a SFD application, any previous decisions stops having effect, any appeal against the decision is discontinued and the process for assessing the application restarts via the SFD assessment process.

## What classifies as SFD?

At a high level, projects that can be considered for the SFD pathway are:

- residential lead
- in well located areas
- provide a minimum of 15% affordable housing

The Planning Act outlines this in more specific detail;

- a. The development the subject of the application must –
  - i. be for predominantly residential development; and
  - ii. include an affordable housing component that equates to at least 15% of all dwellings resulting from the development; and
- b. the affordable housing component must provide -
  - i. a diverse mix of dwelling types; or
  - ii. diversity in the number of bedrooms contained in the dwellings;
- c. the application must comply with either of the following -
  - i. the premises the subject of the application are completely within a zone supporting residential development;
  - ii. the premises the subject of the application are not within an environmental zone or a limited development zone, and the Minister is satisfied the premises are or can be readily serviced by infrastructure for the development.

These requirements ensure the SFD pathway prioritises the delivery of residential developments, while not restricting the pathway to mixed use development incorporating a significant residential component. There is also a focus on delivering diversity amongst the affordable housing component.

## Key terms and what they mean

### Affordable Housing –

An affordable housing component is a component of development that includes:

- a. housing that is appropriate to the needs of households with low to moderate incomes, if the members of the households will spend no more than 30% of gross income on housing costs;
- b. housing provided by a registered provider for residential use;
- c. housing provided as part of a program, funded by any of the following entities, to support the provision of housing that is affordable -
  - i. a public sector entity under the Public Sector Act 2022, section 8;
  - ii. a local government;
  - iii. the State;
  - iv. the Commonwealth;
- d. housing that is sold for an amount that is less than the first home concession limit due to the type, composition, method of construction, size or level of finish of the housing. The first home concession limit means the highest amount mentioned in the Duties Act 2001, schedule 4A, column 1 (dutiability value of residential land) in relation to which a concession amount relating to transfer duty is applicable under column 2 of that schedule;
- e. housing that is rented at or below a value that is affordable for households with low to moderate incomes due to the type, composition, method of construction, size or level of finish of the housing.

**Item a)** regulates affordability based on someone's income.

**Items b) and c)** reflect similar criteria for social and affordable housing provided by registered providers or supported by Government under the Ministerial Infrastructure Designation (MID) pathway pursuant to Schedule 5 of the Planning Regulation 2017 (the Planning regulation) but could be provided as part of an integrated mixed use development.

**Item d)** is restricted to the housing that is sold for an amount that is less than the first home concession limit, which under the Duties Act 2001 has a current maximum value of \$800,000.

**Item e)** regulates affordability based on a dwelling being rented at or below a value that is affordable for households with low to moderate incomes.

**Items a) and e)** refer to households with low to moderate incomes. This is not defined within the HAAPOLA Act, however, guidance material for Economic Development (Affordable housing) Amendment Regulation 2024 identifies:

*Low to moderate income range* means an annual income of more than 50% and less than 120% of the median household income for the relevant local government area as published by the Australian Bureau of Statistics for the most recent census year and indexed in accordance with the 'All Sectors Wage Price Index, Queensland' published by the Australian Bureau of Statistics.

For example, according to the 2021 Census, the Brisbane the annual median household income is \$107,536, with a low to moderate income range of \$53,768 to \$129,043.20 (50% to 120% of the median household income). Accordingly, 30% of low to moderate incomes is \$16,130.40 to \$38,712.96 being spent on annual housing costs.

### Residential development –

- a. means the use of the premises for a residential purpose, including, for example, a relocatable home park or retirement facility; but
- b. does not include —
  - i. a community residence; or
  - ii. a detention facility; or
  - iii. a residential care facility; or
  - iv. tourist accommodation; or
  - v. accommodation for employees, including rural works' accommodation

### Zone supporting residential development, referred to in (c)(i), means –

- a. any of the following zones stated in Planning Regulation schedule 2—
  - i. general residential zone, low density residential zone, low-medium density residential zone, medium density residential zone, high density residential zone or character residential zone;
  - ii. centre zone, neighbourhood centre zone, local centre zone, district centre zone, major centre zone or principal centre zone;
  - iii. mixed use zone;
  - iv. specialised centre zone; or
  - v. zone, other than a zone stated in schedule 2, that is of a substantially similar type to a zone stated in paragraph (a).

## Process Overview

The SFD process consists of two main stages broken into three parts:

**Stage 1:** Preliminary stakeholder engagement, pre-application advice and the Planning Minister's declaration of the proposal as a SFD application, and

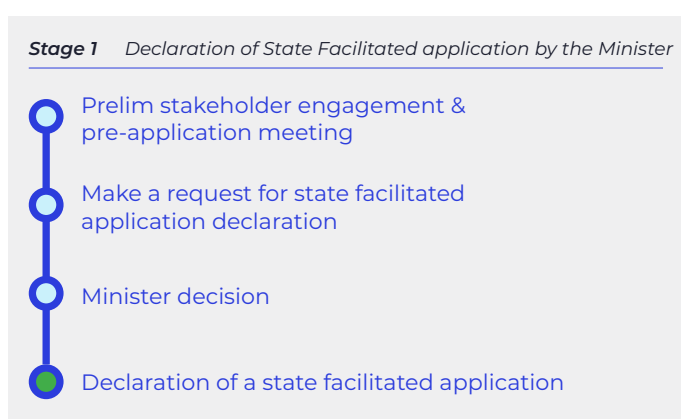
**Stage 2:** The assessment of the development application for SFD by the Chief Executive of the Department of Housing, Local Government, Planning and Public Works (the Department).

The Planning Minister's statutory role in the process is finalised at the end of Stage 1, if a declaration of an application for SFD is made.

Stage 1 of the SFD process is similar to the MID process whereby the Department will provide initial advice, engagement occurs with stakeholders (e.g. local Council, elected representatives, first nations group) and/or local community, and permission provided by the Minister to continue with the assessment process. Stage 2 follows a similar process to normal development applications, but with SFD applications being assessed by the Department.

It is noted that that in addition to the HAAPOLA Act amendments to the Planning Act, the Planning Regulation, Minister's Guidelines and Rules and Development Assessment Rules are also being updated to incorporate specific SFD provisions and processes.

### Stage 1 - Declaration of State Facilitated application by the Minister



This stage does not have any statutory timeframes, which allows for a proponent lead, front loaded application pathway. The key phases are;

1. Preliminary stakeholder engagement (if required), e.g. local Council, elected representatives, first nations group

2. Pre-application advice from the SFD team, advising on overall suitability and outlining application requirements. As this is a front-loaded processes, this phase may include multiple meetings to ensure all necessary supporting information is provided for the Minister's deliberation.
3. Applicant lodges the request for declaration.

Once the request for an SFD application has been provided to the Minister, they will consider the proposal and provide a declaration within 10 business days.

### Stage 2 - Assessment of the State facilitated application by the Chief Executive



Once the proposal has been declared an SFD by the Minister, the assessment of the proposal is delegated to the Chief Executive of the Department. Timeframes for assessment of an SFD are prescribed by the amendments to the DA Rules.

The key phases of Stage 2 include;

1. Applicant lodges a development application
2. Confirmation of application (5 business days)
3. Information Request (10 business days to issue, 30 business days for response)
4. Public Notification (Requirements determined on a case-by-case basis)
5. Assessment and Decision by Chief Executive (30 business days)
6. Development approval or refusal

By way of example, if a proposal were not to require public notification, an approval could be provided within 75 business days, or approximately 4 months from lodgement of the Development Application.



## Application Requirements

The scope of an SFD application will likely depend on the scale of the proposal, however what is key to note is that the application material for Stage 2 should be the same as if submitting a Development Application to the Council. Additional material may be sought by the Department depending on the sensitivities of the site or the approach to affordable housing delivery.

## Is SFD right for your project?

### Commencement

It is important to note that SFD prescribe a 2 year currency period. This means that construction of the approval must substantially commence within 2 years, and if this is not adhered to, the approval will be classified as invalid.

### SFD vs MID

There are a number of similarities between the MID process and the SFD process, however the key difference is the eligibility criteria. Currently, the MID process is only available for developments delivering 100% affordable or social housing, in partnership or lead by a Community Housing Provider. SFD proposals do not have to be state-funded or provided by registered providers, can provide a mixture of market and affordable housing, and form part of a mixed use development. The SFD pathway creates a pathways for proposals that do not meet the MID or Housing Act 2003 criteria, but can deliver innovative and affordable housing solutions.

### Affordable Housing Component

We note that the delivery of the affordable housing component of the development will be a condition of the approval. It is currently understood that this condition will be time sensitive, requiring the housing to remain affordable for an agreed number of years, post construction, which we understand to be typically a minimum of 10 years.

### Responding to the local planning scheme

The SFD pathway is not bound by the requirements of the local planning scheme, however are likely to be given appropriate regard as part of the assessment process. This flexibility enables developments to be considered against good planning first principles, providing flexibility in the assessment process that considers projects on a case-by-case basis. The relevant local authority will be notified and engaged throughout the assessment process, however their feedback does not hold any statutory weighting in the consideration of the application.

## Fees

The SFD process does not currently carry an application fee. Infrastructure charges will still be applied, payable to the local Council and distribution entity.

## Contact

If you think the SFD process may benefit your project, or want to discuss the process in more detail, please reach out to any of the following experts within our QLD Office;



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