

5.3 Categories of development and assessment

5.3.1 Process for determining the category of development and category of assessment for assessable development

The process for determining a category of development and category of assessment is:

- (1) for a material change of use, establish the use by reference to the use definitions in Schedule 1
- (2) for all development, identify the following:
 - (a) the zone or zone precinct that applies to the premises, by reference to the zone map in Schedule 2
 - (b) if an overlay applies to the premises, by reference to the overlay map in Schedule 2
- (3) determine if the development is accepted development under schedule 6 of the Regulation.

Editor's note—Schedule 6 of the Regulation prescribes development that a planning scheme can not state is assessable development where the matters identified in the schedule are met.

- (4) determine if the development is assessable development under schedule 10 of the Regulation in section 5.4 Regulated categories of development and categories of assessment prescribed by the Regulation.
- (5) if the development is not listed in the tables in section 5.4 Development prescribed under schedule 6 of the Regulation, determine the initial category of assessment by reference to the tables in:
 - section 5.5 Categories of development and assessment—Material change of use
 - section 5.7 Categories of development and assessment— Reconfiguring a lot ,Building work and Operational work
- (6) a precinct of a zone may change the category of development or assessment and this will be shown in the 'Category of development and assessment' column of the tables in sections 5.5
- (7) if an overlay applies refer to section 5.6 Assessment benchmarks —Overlays for the applicable, assessment benchmarks applying to the category of assessment.

5.3.2 Determining the category of development and categories of assessment

- (1) A material change of use is assessable development requiring impact assessment:
 - (a) unless the table of assessment states otherwise
 - (b) if a use is not listed or defined
 - (c) unless otherwise prescribed within the Act or the Regulation.
- (2) Reconfiguring a lot is assessable development requiring code assessment unless the tables of assessment state otherwise or unless otherwise prescribed within the Act or the Regulation.
- (3) Building work and operational work is accepted development, unless the tables of assessment state otherwise or unless otherwise prescribed within the Act or the Regulation.
- (4) Where an aspect of development is proposed on premises included in more than one zone, the category of development and assessment for that aspect is the highest category under each of the applicable zones.
- (5) Where development is proposed on premises partly affected by an overlay, the assessment benchmarks for the overlay only relates to the part of the premises affected by the overlay.
- (6) For the purposes of Schedule 6, Part2 Material change of use section (2)(2)(d)(i) or (ii) of the Regulation, an overlay does not apply to the premises if the development meets the acceptable outcomes that form the requirements for accepted development.
- (7) The category of development prescribed under schedule 6 of the Regulation overrides all other categories of development or assessment for that development under the planning scheme to the extent of any inconsistency.

Editor's note—Schedule 7 of the Regulation also identifies development that the state categorises as accepted development. Some development in the schedule may still be made assessable under the planning scheme.

- (8) Despite all of the above, if development is listed as prohibited development under Schedule 10 of the Regulation, a development application cannot be made.

Note—Development is to be only taken to be prohibited development under the planning scheme only if it is identified in Schedule 10 of the Regulation.

5.3.3 Determining the requirements for accepted development and assessment benchmarks and other matters for assessable development

- (1) Accepted development does not require a development approval and is not subject to assessment benchmarks. However, certain requirements may apply to some types of development for it to be accepted development. Where nominated in the tables of assessment, accepted development must comply with the requirements identified as acceptable outcomes in the relevant parts of the applicable code(s) as identified in the relevant column.
- (2) Accepted development that does not comply with one or more of the nominated acceptable outcomes in the relevant parts of the applicable code(s) becomes code assessable development unless otherwise specified.
- (3) The following rules apply in determining assessment benchmarks for each category of development and assessment.
- (4) Code assessable development:
 - (a) is to be assessed against all the assessment benchmarks identified in the assessment benchmarks column;
 - (b) that occurs as a result of the development becoming code assessable pursuant to sub-section 5.3.3(2), must:
 - (i) be assessed against the assessment benchmarks for the development application, limited to the subject matter of the required acceptable outcomes that were not complied with or were not capable of being complied with under sub-section 5.3.3(1)
 - (ii) comply with all required acceptable outcomes identified in sub-section 5.3.3(1), other than those mentioned in sub-section 5.3.3(2);
 - (c) that complies with
 - (i) the purpose and overall outcomes of the code complies with the code
 - (ii) the performance or acceptable outcomes complies with the purpose and overall outcomes of the code;
 - (d) is to be assessed against any assessment benchmarks for the development identified in section 26 of the Regulation.

Note—Section 27 of the Regulation identifies the matters that code assessment must have regard to.

- (5) impact assessable development:
 - (a) is to be assessed against the identified assessment benchmarks in the assessment benchmarks column (where relevant)
 - (b) assessment is to have regard to the whole of the planning scheme, to the extent relevant
 - (c) is to be assessed against any assessment benchmarks for the development identified in section 26 of the Regulation.

Note—The first row of each table of assessment is to be checked to confirm if there are assessment benchmarks that commonly apply to general scenarios in the zone.

Editor's note—Section 27 of the Regulation identifies the matters that impact assessment must have regard to.