

# Draft Land Use Planning and Approvals Amendment Bill 2022

## Part 6 – Relating to land outside the area declared for a major project

### Issue

Once a major project is declared, the area nominated in the declaration notice cannot be added to, unless the declaration of the major project is revoked, and a new major project declaration is made by the Minister which includes the additional land. If that was to occur, then the assessment process would need to start over again.

Yet through preparing the major project impact statement to address the assessment criteria or responding to issues raised during the public hearings or preparing a detailed design to address the conditions on a major project permit, it may be discovered that a better outcome would arise if an element of the project could be located outside of the area declared for the major project.

### Discussion

With a major project declaration, the area for the major project is defined in the official declaration notice made by the Minister and the major project permit can only approve use and development of land inside the declared major project area. Similarly, an amendment to a major project permit can only approve adjustments to the permit within the area declared for the major project.

To achieve a major project permit, a proponent after receiving the notification of the declaration of their major project must prepare a Major Project Impact Statement (MPIS) in response to assessment criteria prepared by the assessment panel. Through the response to the assessment criteria, the proponent may find that a small part of the development needs to be located just outside of the declared major project land area, perhaps to protect a natural feature inside the declared project area, or to avoid an area subject to a high risk from a natural hazard. A similar outcome may result from issues raised during public hearings into the major project or once a major project permit has been granted and the detailed design work is underway.

Or in the case of a government project additional land for a project may have been acquired after the initial declaration of the major project and making use of this additional land for the major project would enable a better outcome for the community.

Under the current assessment process, it is not possible for the assessment panel to consider any part of a major project outside of the declared major project area for both the initial approval of the major project and any future amendments to the major project.

Leaving the proponent with 2 options when making use of newly acquired land or needing to extend the major project outside the declared major project area in relation to making use of the additional land, which are –

1. needing to have to seek a separate approval through a development application with the local planning authority for the part of the major project outside of the originally declared major project area, or
2. seeking approval for a second major project for the part of the major project outside of the originally declared major project area

Both of which defeat the intent of the major projects assessment process, which is to be an all-inclusive process. Either option listed above would cause significant time delays in the final delivery of a major project.

## What can be done?

Allow for the assessment panel to consider small (relative to the originally declared land area) amounts of extra land being used for the major project outside the area declared for a major project, and if considered suitable to add the extra land to the declared major project area, make a recommendation to the Minister to amend the declared area of land for the major project.

Any land added to an existing declared area should also be subject to the same limitations that apply for the original declared area, such as decision makers considering the ineligibility criteria that is set out in section 60N of the *Land Use Planning and Approvals Act 1993* (the Act) and the requirement to seek landowner consents when the land involves Government land or land managed by the Wellington Park Management Trust.

## What is proposed?

1. Allow the assessment panel or the Commission to consider extensions/additions to the declared major project area that can only be small relative to the original declared area.
2. This is only to be allowed to occur if the small extension/addition is included in the MPIS that is placed on public exhibition (so that the public are well aware of the proposed changes) or if an issue is raised in the public hearing or for an amendment to a major project permit already granted.
3. The Minister can only amend the declared major project area after receiving advice from the assessment panel or the Commission. Where the assessment panel has undertaken an investigation to determine if this is reasonable which has included consultation with affected landowners and the relevant regulators.

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4. Once the Minister amends the declared project area, notification is given in the same manner as when the Minister declares a major project.
5. There are also limitations on the Minister declaring the additional land that are the same criteria for declaring a major project in the first place, such as considering the ineligibility criteria under section 60N of the Act and the requirement to have consent from landowner/managers when the land is Government, Council or Wellington park Management Trust managed land.

## Sections of the draft Bill that relate to this topic

Clause in draft Bill	Section of LUPAA	Clause note
9	60S	Clarifies the effect on an existing development application when a major project declared area is amended
11	60T	Clarifies the effect on an existing application/referral with a regulator when a major project declared area is amended
12	Part 4, Division 2A, Subdivision 5: Heading	Heading revised to refer to “Amendment and revocation of declaration”
13	60TA, 60TB, 60TC, 60TD, 60TE, 60TF, 60TG and 60TH	<p>60TA – sets out definitions relevant to this section</p> <p>60TB – provides for the proponent to apply to the Commission or the assessment panel to amend the declared area</p> <p>60TC – requires the Commission or assessment panel to consult with relevant persons, the same as in section 60I of the Act</p> <p>60TD – requires the Commission or assessment panel to seek the views of the regulators</p> <p>60TE – provides for the Commission or assessment panel to give advice to the Minister, including the criteria around that advice</p> <p>60TF – sets the Ministers actions when declaring the amended area</p>

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		<p>60TG – requires notification for approval of the amended area</p> <p>60TH – establishes when a new major project proposal document is required after an amended area is declared</p>
18	60ZR	A Major Project Impact Statement can refer to the additional area of land
25	60ZZMA	Provides for a major project permit to be granted over land that has been included within the declared area after the original declaration.

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