# Major projects assessment Reform: ministerial declaration

## Overview

The draft Land Use Planning and Approvals Amendment (Major Projects) Bill 2018 provides for the assessment of projects that have been declared as major projects.

The Minister for Planning and Local Government is responsible for determining whether a project is eligible to be declared a major project and assessed under the major projects assessment process. The assessment of an eligible major project is conducted by an independent and expert Development Assessment Panel (the Panel) established by the Tasmanian Planning Commission (the Commission).

The purpose of this fact sheet is to provide a high-level summary on how a major project is declared. Key aspects of the declaration of a major project are:

* Request for declaration;
* Ministerial declaration;
* Eligibility criteria for declaring a major project;
* Landowner consent;
* Ineligible projects; and
* Revocation of Ministerial declaration.

## Request for declaration

A proponent for a project may request the Minister to declare a project to be a major project.

A proponent can be a person or a group of people. A person includes both private and public individuals or organisations and may include a department, a local council or other agency of Government of the State or the Commonwealth.

If a proponent requests the Minister to declare a project to be a major project, they must provide the Minister with a Major Project Proposal.

If the Minister is considering whether to declare a project of his or her own volition, the Minister may also require a proponent to provide a Major Project Proposal.

If a request is made by a proponent, the Minister must:

* notify each planning authority for the land to which the request relates that the Minister is considering whether to declare the project to be a major project; and
* provide the relevant planning authority with a copy of the Major Project Proposal.

A planning authority that is notified of a request then advises the Minister whether it is of the opinion that the project is eligible to be declared a major project and the reasons why the planning authority is of that opinion.

The Minister may also request further information from the proponent or a planning authority if it is reasonably necessary to enable the Minister to determine whether to declare a project to be a major project.

## Ministerial declaration

The Minister may declare a project to be a major project in response to a request from a proponent, or of his or her own motion.

However, the Minister may only declare a project to be a major project if he or she considers the project to be eligible in accordance with specified eligibility criteria and has considered any advice received from a notified planning authority.

In determining whether to declare a project to be a major project, the Minister is also to have regard to any Determination Guidelines issued by the Commission. These guidelines detail matters to which the Minister is to have regard in determining whether to declare a project to be a major project.

## Eligibility criteria

In deciding to declare a major project, the Minister can seek advice from State Service Agencies or any other source to determine whether the project should be declared a major project in accordance with specified eligibility criteria.

For a project to be eligible for declaration as a major project, it must meet two or more of the following attributes:

* Will make a significant financial contribution to the region or the State;
* Is of strategic planning significance to a region or the State;
* Will significantly affect public infrastructure;
* Has significant environmental, economic or social affects; or
* Requires two or more approvals under relevant planning, utility, heritage and environmental legislation (project-associated Acts), or the approval or implementation of the project will require assessments of the project by more than one planning authority;

A proposed project must also not be inconsistent with a State Policy or any regional land use strategy that applies in relation to the land.

If a project is beyond the capacity of the relevant planning authority to assess, or it has been unreasonably delayed in the planning assessment process by the planning authority, the Minister can declare a project to be a major project after considering any advice provided by the relevant planning authority and after consulting with the Commission.

## Landowner consent

Where either the Crown or a local council owns the land that will be subject to the proposed use and development, landowner consent is required before a project can be declared as a major project. Consent is also required from the Wellington Park Management Trust if the land is located in Wellington Park.

Additionally, a project cannot be declared as a major project unless the owner of the land or the local council (for land that is occupied or administered by a local council but not owned by it) has been notified.

## Ineligible projects

The draft legislation clarifies that if a proposed building exceeds the Acceptable Solution for height under a relevant planning scheme, the issue of building height (i.e. the scale of the building) is not a relevant consideration in determining whether the project is eligible for assessment under the major projects assessment process. This recognises that the height of a building is not a complex planning matter and it can be assessed as part of the normal Development Application (DA) and assessment process under the relevant planning scheme.

The draft Bill specifies that if all of a proposed building is to be developed, or the building is predominantly to be developed, to enable:

* residential accommodation;
* accommodation that consists of a hotel, motel, apartments or otherwise; or
* office use;

it is not eligible to be declared to be a major project if the height of the building is to be higher than the Acceptable Solution for building height under the relevant planning scheme.

To be a major project, a project would need to warrant declaration for other reasons, such as having broader regional implications, requiring multiple permits or involving complex planning issues that are beyond the capacity of the relevant planning authority to deal with.

This rule does not apply to public infrastructure projects. These projects are for the public benefit and it is important to retain the ability to declare public projects as major projects in circumstances where they may rely on height (i.e. potentially a new tower block that is part of a public hospital or a wind farm).

## Revocation of declaration

The Minister for Planning and Local Government may revoke a declaration of a major project (i.e. the status of a major project) in respect of the subject land following the receipt of advice from the relevant decision-maker.

The Minister may revoke a declaration of a major project in circumstances where:

* The proponent of a project requests the Minister to revoke the declaration and there is no Major Project Permit for the relevant land;
* The Panel has given the Minister a ‘no reasonable prospect’ notice (see Fact Sheet 3);
* If the proponent has not taken all reasonable steps to provide any information sought by the Minister in a request under the draft Bill;
* If the proponent has failed to provide the Panel with a Major Project Impact Statement in relation to the project, an amended Major Project Impact Statement or any further requested information;
* If the proponent has provided the Minister or the Panel with false or misleading information;
* If the Minister is satisfied that the proponent does not intend the major project to proceed and a Major Project Permit has not been granted;
* If the Minister is satisfied that the proponent has not, within 2 years after a Major Project Permit was granted to the proponent, complied with an in-principle permit commencement condition imposed on the permit in relation to the subject land; or
* The Major Project Permit has been cancelled.

Before the Minister revokes a declaration of a major project, he or she must notify the proponent, all relevant planning authorities, the Commission, each State Service Agency that has an interest in the major project, and the Wellington Park Management Trust if the land to which the major project relates is situated in Wellington Park.

The Minister must ensure that a notice of the revocation of a declaration of a major project is placed in the *Gazette* and published in a newspaper generally circulating in Tasmania.

## What consultation has there been so far?

The draft Bill has been developed in consultation with the Planning Reform Taskforce and key State Government agencies. The Commonwealth Department of the Environment and Energy has also been consulted on the proposal to seek accreditation of the new process under the Bilateral Agreement between Tasmania and the Commonwealth on environmental assessments under the EPBC Act.

The first period for comment on the draft Bill closed on 2 October 2017 and 198 submissions were received. The submissions raised a number of issues that have been considered by the Government in preparing this revised draft Bill.

## Where do I find the revised draft Bill?

A copy of the revised draft Bill, a second Consultation Paper and the accompanying seven Fact Sheets are available at [www.planningreform.tas.gov.au](http://www.planningreform.tas.gov.au) or at [www.justice.tas.gov.au](http://www.justice.tas.gov.au).

## How can I comment?

Comment on the proposed changes to the draft Bill are invited by **Monday, 29 January 2018**. Comments should be marked ‘Major Projects Reform’ and can be emailed to [Planning.Unit@justice.tas.gov.au](mailto:Planning.Unit@justice.tas.gov.au) or posted to:

Planning Policy Unit

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Further enquiries can be directed to the Planning Policy Unit at the above email address or by telephoning (03) 6166 1429.

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