



NSW GOVERNMENT
Department of Planning

**Criteria for declaring development to be a Major Project under
Clause 13 of Schedule 1 of the Major Projects SEPP**

**Guidelines for Part 3A
of the Environmental Planning and Assessment Act 1979**

Major Residential, Commercial and Retail Projects

Introduction

The State of NSW has and will need to sustain significant growth in housing and employment in order to maintain a growing economy. The Metropolitan and other regional strategies will provide the framework for that growth and for ensuring state or regional planning objectives are achieved in these regions. A significant proportion of the growth will need to be in centres that can provide a diversity of opportunities and can be efficiently serviced by infrastructure, reducing the environmental impacts of growth.

Major Projects of State or regional planning significance

Clause 13 of Schedule 1 of the *State Environmental Planning Policy (Major Project) 2005*, (Major Projects SEPP) identifies residential, commercial or retail developments considered to be projects to which Part 3A applies with the Minister as the approval authority. This clause does not apply to projects that meet the major development criteria in section 31 of the *City of Sydney Act 1988*, and hence are determined by the City of Sydney Planning Committee.

Group 5 Residential, commercial or retail projects

13 Residential, commercial or retail projects

- (1) Development for the purpose of residential, commercial or retail projects with a capital investment value of more than \$50 million that the Minister determines are important in achieving State or regional planning objectives.
- (2) This clause does not apply to major development within the meaning of section 31 of the City of Sydney Act 1988.

Criteria for determining if the provisions apply to a project

The Minister has discretion about whether a project with a capital investment value of more than \$50 million is important in achieving State or regional planning objects and hence subject to clause 13 and therefore a major project. The Major Projects SEPP makes provisions for the Minister to publish guidelines from time to time to guide his decision as to what types of construction projects (which are more than \$50 million capital investment valued) are of importance in achieving State or regional planning outcomes. This guideline is for that purpose.

The capital investment value of a development includes all costs necessary to establish and operate the development including the design and construction of buildings, structures, associated infrastructure and fixed or mobile plant and equipment (but excluding land costs and GST). In some cases, this value will need to be verified in a Quantity Surveyor Report.

For the purpose of this clause, a major residential, commercial or retail construction project (with a capital investment value of more than \$50 Million) is likely contribute to achieving State or regional planning objectives if:

(a) Local impediments to urban renewal

The project is located in an area identified in the Metro Strategy or regional or sub-regional strategies for urban renewal or increased urban development and there are local impediments to the implementation of the development identified as a result of consultation with local council to implementing the project.

Check:

- *Is the development within a centre or urban renewal area nominated for growth in the Metro Strategy or a regional or sub-regional strategy?*
- *Are there provisions in the LEP which are likely to prevent or frustrate the implementation of the Metro or regional strategy?*
- *Does the council have the resources to assess and determine major projects?*
- *Do council practices demonstrate that projects important in implementing Metro or regional strategies can be determined on their merits?*

(b) Facilitate housing or job growth

The project will contribute to major employment or residential growth in centres or urban renewal areas identified in the Metro or regional strategies

Check:

- *Will the development directly result in significant growth in housing choice?*
- *Will the development directly result in permanent jobs in the area?*
- *Is the development in a centre identified in the Metro Strategy or Regional Strategy?*

(c) Transport accessibility

The project will contribute to increased accessibility to public transport services by providing quality housing or employment generating development within a transport corridor or in the vicinity of a transport hub

Check:

- *Is the development readily accessible to a railway, bus stop with frequent service, transitway station or ferry wharf? As an example within 800 metres from a station or transport node.*

(d) Improved infrastructure

The project will complement and enhance government infrastructure services or facilitate improved public service delivery outcomes or public spaces or foreshore access

Check:

- *Will the development result in additional public infrastructure or services?*
- *Will the development provide affordable housing or facilitate the delivery of health, education or other community service facilities?*
- *Will the development contribute a significant increase in public open space, additional foreshore access or improvements in the public domain?*

(e) Environmental Sensitivity

The project is likely to result in significant environmental benefits or the project is located in an environmentally sensitive area with risks to environmental or conservation values.

Check:

- *Is the project likely to significantly contribute to conservation outcomes? As an example, result in protection and enhancement of important wetlands or other important ecological communities?*
- *Is the project located in an area of high conservation significance and is likely to put at risk conservation values? As an example, located in or adjacent sensitive coastal locations, important wetlands, critical habitat, World Heritage areas, or areas of high cultural heritage or landscape significance?*

(f) Local council issues

The project is located or will impact on more than one local government area or the project is located so that added transparency is required due to the potential for conflict of interest.

Check:

- *Will there be a benefit in having a single independent approval authority for the development where the project is located in more than one local government area?*
- *Will there be a benefit in having an independent approval authority for the development where the project is located so that the traffic or other significant impacts principally affect the adjoining local government area?*
- *Would there be benefits in having an independent approval authority where the local council is the land owner or proponent for the project or there are other potential conflicts of interest issues?*

Procedures

Unless there are valid reasons to do otherwise, proponents of major residential, commercial or retail construction projects (with a capital investment value of more than \$50 Million) should in the first instance approach the local council so that an agreed process for determination of the project can be established. It is not the intention of clause 13 of the Major Project SEPP to apply to every construction project valued at more than \$50 million in NSW. Rather, it is open for councils and proponents to make a case as to whether the Minister's discretion should be exercised to declare the development to be a major project under this clause because of the development's importance in achieving State or regional planning objectives.

Where appropriate, the Department will encourage proponents to work with councils and for the projects to be determined by councils. However, the proponent or a council may refer a project to the Minister to determine if a project meets the criteria. Councils or proponents need not refer every application over \$50 million to the Minister; only where it is requesting the Minister to become the approval authority.

When a development is referred to the Minister to determine if the project meets the criteria in clause 13 of the SEPP, the following information should be provided:

- a description of the project and the location along with a map identifying the site,
- the capital investment value (excluding land value and GST) and direct employment,
- permissibility (whether fully or partially permissible) and development controls in the local environment plan applying to the site
- justification as to why the project should or should not be considered to be a project to which Part 3A applies taking into consideration the above criteria in this guideline.
- the outcomes of consultation with the local council(s), and reasons why the project should not be determined by the council.

When a development is referred to the Minister requesting clarification of the status of a project under Part 3A of the Act, the Minister will take into consideration the criteria in this Guideline in determining if the development is likely to contribute to achieving State or regional planning objectives. To assist in the determination, the Department of Planning will consult with the local council and advise the Minister of the council's views.

The Department will inform the proponent and relevant council within 14 days of making an application of the Ministers decision.