

# Guide

## Major Development Assessment South Australia's *Development Act 1993*

A PRACTICAL GUIDE FOR PROPONENTS



2017



Government of South Australia  
Department of Planning,  
Transport and Infrastructure

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## Purpose

This Guide has been prepared to assist proponents to understand the assessment and decision-making process for proposals declared ‘Major Developments and Projects’ under South Australia’s *Development Act 1993*.

A Major Development or Project process is a significant undertaking for proponents, the assessing agencies and decision makers. It is important that all parties have a sound understanding of the proposal, the issues and the process.

This Guide is an initial reference and should be supplemented with discussions and clarification relevant to the particular proposal.

In particular, it provides information to assist proponent understanding of:

- The key steps involved in the assessment process
- The various decisions that are made and by whom
- The level and type of information required for each decision
- The various factors that influence decision making.

The Guide also outlines advisory services that are available, particularly from the Development Division in the Department of Planning, Transport & Infrastructure (DPTI), and provides useful contact information.

While the Act also makes provision for ‘Major Projects’, the focus of this Guide is on ‘Major Developments’.

*Note: This Guide should be read in conjunction with the Development Act. Up-to-date editions of the Development Act and the associated Development Regulations can be found online at the SA Government’s legislation website at [SA Government's legislation website \(www.legislation.sa.gov.au\)](http://www.legislation.sa.gov.au)*



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# Introduction

This Guide provides information to assist proponents to understand and navigate the Major Developments and Projects assessment process. Sections 46 to 48 of South Australia's *Development Act 1993* details the assessment process.

## Overview

A proponent that engages in the Major Development/Process can expect their proposal will be assessed based on an evaluation of environmental, social and economic impacts and how these can be managed.

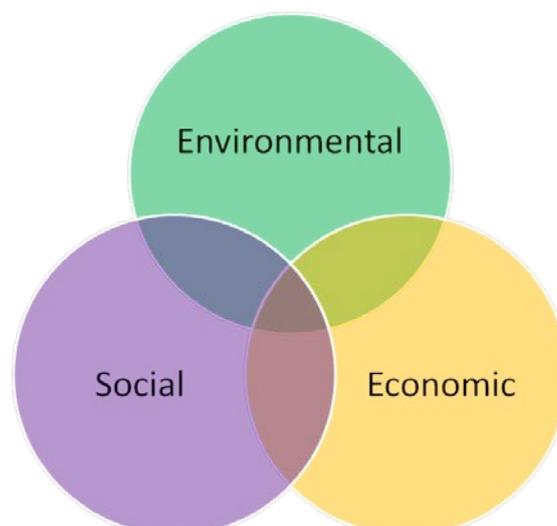
The Major Development/Project process consists of a full assessment of a development proposal and its potential effects. This approach includes the drafting of a detailed impact assessment document, engagement with the general public and State Government Agencies.

DPTI provides a 'one-stop-shop' approach to co-ordinate other approvals required under other relevant State Government and Federal Government legislation. This work includes undertaking investigations and the presentation of information relevant to those other approvals, which aims to expedite subsequent approvals or identify early if further approvals cannot be granted.

The coordination of these aspects are often more complex, detailed and can often involve a longer timeframe for assessment when compared to other less complicated applications.

The Major Development/Project process provides a framework for delivering a quality development outcomes informed by the community and State agencies and the Federal Government

A detailed and comprehensive process is outlined in the *Development Act 1993* and explained further in this Guide.



# An Overview of the Major Development process

## Stage 1 - The **State Commission Assessment Panel** sets level of assessment and provides guidelines

Once a proposal has been declared a Major Development or Project by the Minister and the formal Development Application has been provided by the proponent, the Application is referred to the independent statutory authority, State Commission Assessment Panel (SCAP).

The SCAP will consider the application and identify the key social, environmental and economic issues relevant to the assessment of the proposed development.

The SCAP engages with relevant State agencies as part of this process to ensure all aspects of the proposal are properly considered. The SCAP will then determine which level of further detailed assessment is required and issue formal development assessment guidelines for the proposal.

The three possible levels of detailed assessment which can be required by the SCAP are:

- an Environmental Impact Statement (EIS)
- a Public Environmental Report (PER) or
- a Development Report (DR).

The Guidelines document is provided to the proponent and publicly advertised and sets the level of assessment required, and the issues the proponent's document must address. This concludes the SCAP's role in the process.

This phase can take up to 12 weeks following the formal lodgement of the Development Application or Project Proposal.

## Stage 2 - Proponent prepares and releases an Assessment Document

The proponent will prepare an EIS, PER or DR as directed by the SCAP in accordance with the Guidelines.

The length of time it takes a proponent to prepare the assessment document is not set, and will depend upon the level of assessment, the complexity of the proposal and the sensitivity of the site.

A DR generally takes the shortest time, while an EIS takes the longest and is more detailed.

Once it is complete, the assessment document is released for public and agency comment for a minimum of either:

- six weeks (EIS, PER) or
- three weeks (DR).

A public meeting for an EIS or PER is held early in the 'exhibition' period, in the general vicinity of the proposed development or project. The above described aspects of the process are a statutory requirement.

### Stage 3 - Responding to public comment on an Assessment Document

After the appropriate public comment period on the assessment document, the proponent will then be required to respond to any public or agency comments (*to note - this is optional for a DR*).

The proponent's response to public feedback will be made publicly available online through [the Major Developments webpage](#).

The Response document may include:

- any amendments to the assessment document or
- indicated changes to the original proposal in response to issues which have been raised
- clarify issues of concern to agencies or the community without changes to the proposal.

*To note - if substantial changes are made, they may require an amendment to an EIS or PER and to undergo further public consultation.*

No specific timeframe is allocated for an EIS, 30 business days for PER; optional requirement for DR.

### Stage 4 - Assessing the proposal and releasing the Assessment Report

The Minister for Planning (with the assistance of DPTI) will then assess the whole proposal (including all the documentation produced in the previous stages), and document that through an Assessment Report.

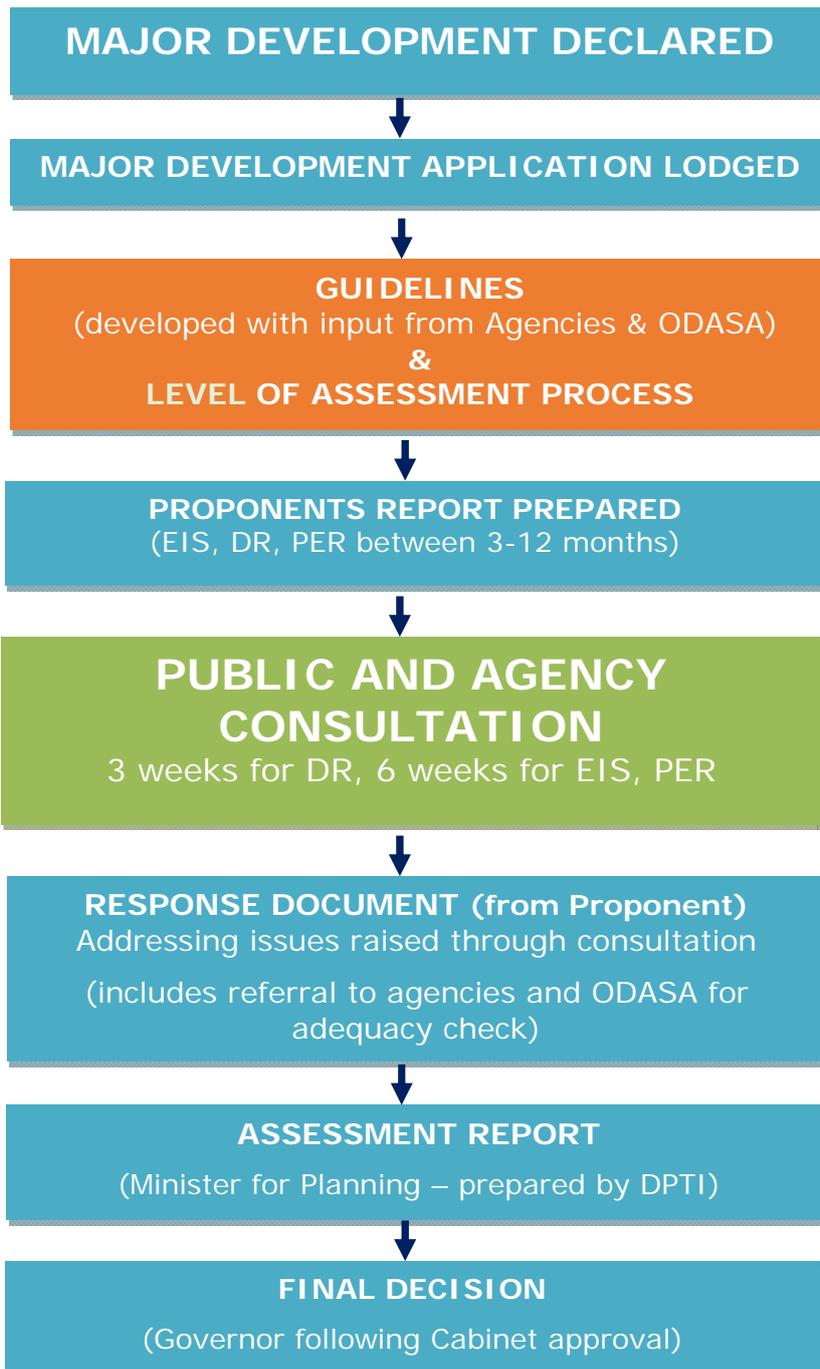
Relevant State Government agencies are engaged again at this stage as required. The DPTI Assessment Report will be [publicly released for information](#), and will usually contain recommendations regarding the proposal.

DPTI completes the Assessment Report approximately 12 weeks after receipt of Response Document (indicative only - dependant upon the nature, scope and complexity of project).

### Stage 5 - Decision

In the case of a Major Development, the Governor will make a decision on the final Application (on the advice of the Minister and Cabinet) having regard to the Assessment Report and associated documentation. The decision may take a variety of forms, including approval, refusal, or approval with conditions. Some matters of detail may also be reserved for a later decision.

There are no appeal rights against the decision of the Governor.



**Figure 1 - major development flow chart**

# Preparing for a Major Development Process

Based on previous experience, there are a number of matters that should be given consideration prior to seeking a Declaration. These are summarised below and can be discussed in more detail with the Development Division of DPTI.

## Project Management and Communication

A number of government agencies and organisations are usually involved in the assessment process of Major Developments or Projects. The agencies concerned will depend on the nature of the proposal. The Development Division has contacts for relevant State Agencies whose role is to coordinate advice from their agency within a particular portfolio.

It is recommended that proponents give careful consideration about how the project will be managed should the Minister for Planning agree to make a declaration. Analysis of previous examples has shown that significant time can be saved and better communication can be achieved where a consistent contact person is nominated in the initial stages of the process.

The Development Division will also allocate an officer to provide advice, communicate process and timing issues and facilitate discussions with state agencies. This person should always be kept informed of any discussions that are relevant to the assessment process so that no communication problems arise.

It is also recommended that proponents seek to obtain specialist advice should any agency raise issues that relate to sensitive or technical fields. Specialists are able to communicate directly with agencies to ensure clear communication and the provision of useful information/advice in the relevant field.

## Community and interested party engagement

The Major Development process is a high profile process in that all key documents are made available to the public. Any member of the public may make a submission during the formal consultation phase and a public hearing is held to enable verbal submissions to be made. Furthermore, interested parties such as Government Agencies and Councils are engaged at various stages throughout the process.

While there are no appeal rights against a decision under the Major Development or Projects process, the final decision is made by the Governor on the advice of Cabinet. Accordingly, interested parties and public opinion, views and concerns are taken into account.

Previous experience demonstrates that proponents that engage early and respectfully with affected communities and key groups or organisations are better able to:

- ensure that people receive accurate information about a proposal
- manage risk
- fully understand issues and respond to these in a manner that helps decision makers
- avoid substantial re-work of a proposal later in the assessment process.

Proponents are encouraged to develop engagement, media and communications strategic plans at the earliest stages of the application. Early, consistent and committed attention to these issues can assist the assessment process for both the proponent and the decision makers.

*The Government has a commitment to engaging with relevant parties in a meaningful manner. See the [Government of South Australia yourSAy website](#) for more information.*

## Staged proposal evolution

The Major Development process accommodates a staged evolution approach to the development of the detail of a proposal. Most proponents will have their own overall project program that encompasses all stages of project development including feasibility, financing, design, construction and commissioning. Development assessment and approvals is one part of this overall project program.

However, the Major Development/Projects process works best when this occurs at a stage in the overall program where there is still flexibility to adjust design concepts, layouts and incorporate solutions to impact issues. Ideally this is well before detailed design occurs.

Timeframes for the Major Development/Projects can be provided by the Development Division to a proponent to indicate key stages in the process.

While these timelines cannot commit the SCAP, DPTI, Minister or the Governor to making a decision on any particular date, the Development Division will make every effort to meet these timelines, which will be reviewed and discussed throughout the process.

Overall, the time taken to complete the assessment process depends heavily on the degree to which:

- a proposal is clearly defined
- how quickly a proponent is able to provide required information and respond to queries
- the quality of the Assessment Document, the complexity or issues associated with the proposal and
- the presence and commitment of an experienced project manager and associated consultants/advisors.

It should also be noted that the timeline of this assessment process is competitive with other jurisdictions in Australia.

For example, in other Australian jurisdictions it may take up to three months for the relevant Government Agency to prepare the equivalent of the Assessment Report, whereas in South Australia, the preparation of an Assessment Report will usually take six to eight weeks, depending on the complexity of the proposal. Moreover, given the lack of appeal rights and the finality of the decision by the Governor, there is greater certainty for the proponent and other parties about the final outcome.

# Seeking a Major Project declaration

## What information is required?

It is important that any declaration proposal from a proponent to the Minister contains sufficient details so that all parties clearly understand the proposed development or project and associated issues.

The information that is required at this stage needs to be sufficient to enable the Minister to make a decision as to whether a proposal warrants a Major Development/Project (Section 46) approach in relation to the 'tests' in the *Development Act 1993*.

Generally, a request to the Minister for declaration should outline the proposal and provide details as to why it satisfies the two criteria or 'tests' outlined in Section 46(1) of the *Development Act 1993* discussed later in this section.

At this early stage, it is particularly important to provide accurate information about the physical site area and land use type/form of development to be declared. If a proposal does receive a declaration, it is necessary for the declaration notice to state the land use/forms of development and identify the boundary of the area to be declared.

The most critical information includes details required to determine environmental, social or economic importance and whether the Major Development/Project process is appropriate. This includes:

- the rationale for the proposal to be assessed using the Major Development/Project process in comparison to using other assessment processes
- a high level outline of the potential impacts or contributions the project could make in relation to environmental, social and economic issues (business plans, pre-feasibility studies etc).

The information needed to prepare a 'declaration notice':

- a description of the project – the land uses, buildings, infrastructure and access (conceptual plans would be of assistance)
- a description of the site(s) – showing the extent of the proposal including title references.

It is important to note that information about both the proposal and its context are equally valuable in determining the nature of the potential impacts/contributions.

Should information be provided, at this point or later on, that is commercial-in-confidence, then this can be accommodated subject to specific discussion and agreement.

A checklist is provided below.

## Checklist of information to provide for determination

The table below provides more a checklist of what should be provided to the Development Division through your Case Manager.

Provided to SCAP/DPTI	Item
	A declaration request (letter to the Minister for Planning)
	A clear statement of the land uses, buildings, infrastructure and access requirements that form part of the proposed development (including location and layout figures)
	A legal description of the boundary of the suggested area to be declared (titles if they are available), with reference to the forms of development which could be included in the declaration site and any minor exemptions from the declaration. These details would be reflected in any subsequent Declaration Notice in the Government Gazette.
	An outline of the context of the development including the physical/environmental, social and economic setting within which the project is located
	A rationale for the proposed development and the estimated development cost (on which fees will be based)
	An outline of the reasons why this proposed development and the associated issues are of 'major environmental, social or economic importance'
	An outline of the reasons why it is 'appropriate' or 'necessary' for the Major Developments and Projects Division of the <i>Development Act 1993</i> to be used for the 'proper assessment' of the proposed development rather than other assessment processes or amendments to the relevant Development Plan
	An outline of any preliminary consultations already undertaken with councils, government agencies, community groups and the general public, together with an indication of their initial attitudes towards the proposal
	An outline of the Business Plan associated with the proposed development or project, if one is available. If you are concerned about commercial-in-confidence issues, ensure that the Development Division is made aware of this.
	Details on land ownership: Crown Land or Native Title.

*Once a request for declaration is finalised, it should be attached to a letter to the Minister for Planning requesting Major Development status.*

## Lodging the formal Development Application

Following the declaration of a proposal by the Minister for Planning the next step is to formally lodge a development application through the Development Division of DPTI.

The Development Division is available to assist in understanding the information requirements for the application or project proposal before it is submitted. Again, it is suggested that proponents arrange a meeting with the Development Division to discuss the application requirements.

As for the previous stage of requesting a declaration, obtaining as much quality information as possible at this stage may save time later when the proponent is required to prepare more comprehensive documents to be released for public comment.

The application is also a valuable resource for the State Commission Assessment Panel (SCAP) when it considers the key issues associated with the proposed development or project (see the next section of this Guide).

*Note: The application will typically be amended prior to final decision-making to reflect the outcomes of the assessment process.*

### The role of scoping studies

A scoping study is a task that is often undertaken for larger projects. Pre-feasibility studies are similar in nature although they tend to focus on financial and legal issues rather than on impact issues. Once a project concept has been developed to a reasonable level, a desk-top scoping study is undertaken to document and clarify all the issues that might be associated with the project.

The key purpose of this study is to identify what is known and what requires more information. The methodology for a scoping study starts with a description of the project and its elements. This can then form the basis of:

- a description of the context for the project
- a list of potential impacts or opportunities
- identification of what is known or unknown about each of these – how they can be addressed
- where there are unknowns/uncertainty – identify this and how it can be addressed
- identify 'risk' issues that need further attention.

Scoping studies also consider the legislative and policy context for the project. Consideration of legislative requirements is often undertaken in pre-feasibility studies.

These documents are very useful in that they can identify issues and give weight to those issues that need more investigation.

Where there are obvious or well know answers to issues, these can be addressed in the scoping study. Where more investigation is needed to address the issues, this can also be identified. For this reason, scoping studies are also used as a basis for preparing “scope of work descriptions” for specialist investigations.

It should be acknowledged that, in an impact assessment process, there is an iterative cycle of concept development, issue/impact identification and design or management resolution.

Proponents should not feel the need to address all issues at the scoping study stage. It is part of the methodology of impact assessment that there are stages of investigation and concept review and refinement. The purpose of scoping is to identify potential issues that can prepare a proponent for the impact assessment phase but which will also inform and assist with the development of the Guidelines.

In essence the scoping study identifies what the proponent acknowledges to be issues that require further investigation as part of the Major Development process.

## Scoping Study Guide

The following provides a guide for the preparation of a desk top Scoping Study. It is critical that a Scoping Study is based on a project concept that outlines:

- the nature of the proposal (land uses, built form)
- the proposed site and its features
- ancillary infrastructure and services
- staging and timing
- decommissioning (if relevant)

Element	Evaluation	Outcome
Nature of the receiving environment	<p>A description of the environmental and land use features and context including the site, locality and possibly the region depending on the project.</p> <ul style="list-style-type: none"> <li>- topography</li> <li>- soils</li> <li>- water resources</li> <li>- habitat</li> <li>- hazards (flood, fire)</li> <li>- built form</li> <li>- traffic/access</li> <li>- noise/air quality</li> </ul>	<p>Determine how sensitive the environment may be to change and whether cumulative impacts could be relevant.</p> <p>Highlight areas where additional information is needed.</p>
Nature of the receiving community	<p>A description of the surrounding community and its proximity.</p> <p>Population profile, level of support networks &amp; services, employment levels, stability (migration), character and identity, amenity and any imbalance (activity/population group / friction).</p>	<p>Determine the capacity of the community to cope with change or take advantage of opportunity.</p> <p>Highlight areas where additional information is needed.</p>
Nature of the economic environment	<p>A description of the surrounding economy.</p> <p>Is there a match between skills and jobs, are the existing business relatively stable (what is their outlook), business diversity, capacity to compete?</p>	<p>Determine the economic potential of the area and the ability to compete/compliment or take advantage of opportunity.</p> <p>Identify response or highlight areas where additional information is needed.</p>
Environmental Features	<p>Water</p> <p>Air</p> <p>Land</p> <p>Flora and Fauna</p>	<p>Determine the potential impacts and level of information available.</p> <p>Identify response or highlight areas where additional information is needed.</p>

Element	Evaluation	Outcome
Human Features	Health and safety Amenity and Nuisance Culture / Heritage	Determine the potential impacts and level of information available. Identify response or highlight areas where additional information is needed.
Built Features	Access Infrastructure Built form Character	Determine the potential impacts and level of information available. Identify response or highlight areas where additional information is needed.
Economic Features	Products Employment Resources	Determine the potential impacts and level of information available. Identify response or highlight areas where additional information is needed.
Operational Aspects	Site Remediation Construction Waste management Access and transport Management (communication, emergency response, maintenance)	Determine the potential impacts and level of information available. Identify response or highlight areas where additional information is needed.
Legislation, strategy and policy	Relevant legislative requirements (permits, approvals, licences, duty of care) Key strategic documents Policy guidance	Determine the relevance and applicability of other legislation Identify consistency or reasons for difference regarding strategy and policy

## References and Useful Links

For more information on Scoping Studies:

[Information of Scoping Studies \(https://www.gov.uk/government/publications/handbook-for-scoping-projects-environmental-impact-assessment\)](https://www.gov.uk/government/publications/handbook-for-scoping-projects-environmental-impact-assessment)

[Information on Scoping Studies \(http://eia.unu.edu/course/index.html?page\\_id=140.html\)](http://eia.unu.edu/course/index.html?page_id=140.html)

The following is a summary example of the findings of a Scoping Study

[Summary example of the findings of a Scoping Study \(http://sanparks.org/docs/general/CapePoint\\_sewer\\_scoping\\_report\\_executive\\_summary\\_25sept\\_08.pdf\)](http://sanparks.org/docs/general/CapePoint_sewer_scoping_report_executive_summary_25sept_08.pdf)

## Information Format

The State Commission Assessment Panel and relevant Agencies receive application information electronically. Information is also provided to the public via the SCAP web site. As such is it recommended that proponents give some consideration to the format and layout of information and document sizes.

Hard copies of applications and subsequent documents may also be required to facilitate clear understanding of the proposal and for public display/viewing purposes. Should these be required the proponent will be advised by the Development Division.

Proponents should also indicate if there is any confidential information in the application, remembering that as the assessment process is a public process, the public may request to view it.

## Fees

Fees are required to assess Major Developments. These fees, which are subject to review each year, are prescribed in the *Development Regulations 2008 (Section 63B – Prescribed Fee)*.

If the required fees are not paid within two months of lodging the development application, the assessment process can be halted by the Minister.

The proponent is also required to pay for advertising costs for the public release of statutory documents during the assessment process. The logistics of placing public notices in *The Advertiser* and other relevant local newspapers will be arranged by the Development Division of DPTI. The Minister can also recoup any reasonable costs associated with the assessment process (Section 48D of the *Development Act, 1993*).

Proponents seeking major development or project declarations should also be aware that because the assessment process involves the preparation of a large amount of detailed and technical information, there will most likely be a need to engage a number of specialist staff/consultants (in addition to the fee requirements).

### Fee timeframes

30% at lodgement

30% at community engagement/release of the DR/PER/EIS

40% before a decision is made

# The Assessment Process

## Stage 1 - SCAP sets level of assessment and issues guidelines

Once a proposal has been declared a Major Development by the Minister and the formal Development Application has been received, the Application is referred to the **State Commission Assessment Panel (SCAP)**.

The SCAP is an independent statutory authority consisting of people with a variety of expertise. More information about the SCAP can be found at the State Commission Assessment Panel website ([www.saplanningcommission.sa.gov.au/scap](http://www.saplanningcommission.sa.gov.au/scap)). When considering a Major Development proposal referral, the SCAP may be augmented by the appointment of one or two people by the Minister from a list of independent specialists, who have particular expertise in issues surrounding the nature of the development being proposed.

The SCAP will consider the application and identify the key social, environmental and economic issues relevant to the assessment of the proposed development (matters which must be considered are listed as 'prescribed criteria' in the Development Regulations 2008 – see Appendix 3). The SCAP must classify the issues according to categories of importance.

No statutory timelines are prescribed for this process, however, the SCAP may consult with relevant State agencies as part of this process, including the Environment Protection Authority (EPA), and will usually conduct a site visit of the proposed location of the project. This visit will be arranged with the proponent, who should be present

to answer queries from members of the SCAP. There may be occasions when technical advisers from government agencies are also invited to attend to provide expert advice to the Panel.

The SCAP will then determine which level of assessment is required and issue formal assessment Guidelines.

The SCAP may take approximately 12 weeks to make its determination from the date the application or project proposal is referred to it, depending on agency consultation requirements.

The three possible levels of detailed assessment which can be required by the SCAP are:

- A **Development Report (DR)**. This is the least complex level of assessment, which relies principally on existing information. For a DR level of assessment, a meeting is not a statutory requirement and the report would need to be released for a minimum of three weeks for public comment. The Minister may choose to request a public meeting on a DR.
- A **Public Environmental Report (PER)**. This level of assessment - sometimes referred to as a 'targeted EIS' - applies where the issues surrounding the proposal require investigation in depth but are narrower in scope and relatively well known, or there is existing information available. A PER must also be released for public comment for at least six weeks, and a public meeting held in an area close to the site of the proposed development; or

- An **Environmental Impact Statement (EIS)**. This is the level of assessment required for the most complex proposals, where there is a wide range of issues to be investigated in depth. If the project proponent is directed to prepare an EIS it must do so and then release it for public comment for at least six weeks, and hold a public meeting in an area close to the site of the proposed development; or

The SCAP forwards the Guidelines and level of assessment to the Minister, who will provide them to the proponent and then release them publicly.

This concludes the SCAP's role in the major development process.

### How is impact assessed?

Impact assessment is an important tool in the planning system that enables the consideration of projects that might otherwise struggle to be addressed properly or fairly under the “normal” assessment system.

The following methodology has been developed to provide guidance and improve understanding of how the level of assessment is determined and the Guidelines are developed. The methodology has been developed in a particular way to cater for the needs of the Major Development process and is designed to be used in the early stage of the process to assist with determining the possible nature of impacts and their potential risks.

The State Commission Assessment Panel is required to determine the potential impacts of a project and set the 'level' of investigation based on information provided by the proponent as part of the formal development application.

### Step 1 – Consider the Risk of the Impact

The first step involves considering the nature of the impacts, having regard to how much information is available and whether the avoidance/mitigation/management techniques are well understood.

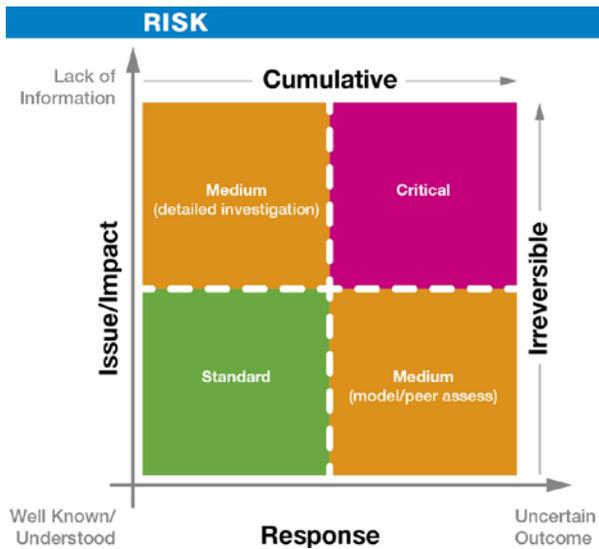
Where the issues are well known and the response is well understood then the risk assessment is classed as ‘standard’.

In some cases the issue is well understood but the response is unclear; perhaps an innovative response is proposed. In other cases, there may be a lack of information (because field studies are required) but the response is clear. In these two cases, work is required to address the issues but the risk is likely to be manageable with additional information. These types of risk would be classified as ‘medium’.

Where information about the issues is lacking and the response is unclear, the issues are classed as ‘critical’. This indicates that significant work is needed to provide information about the nature and extent of the issue and how the issue might be addressed.

Consideration of cumulative and reversibility implications may increase the categorisation of an issue as an added layer of complexity.

This approach enables the SCAP to list the impact issues in the guidelines according to the level of work and type of attention required: standard, medium, critical.



**Step 2 – Consider the Scale of the Issue**

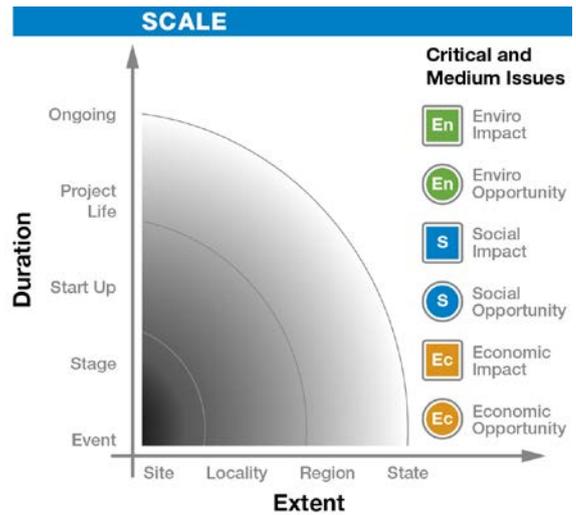
This step involves consideration of the scale of an issue and whether it represents an impact or an opportunity.

All development generates issues and has an effect on its site. Most development also generates impacts during the construction stage. There needs to be an acceptance that at least some issues will be generated by development.

A key question relates to how far beyond the site an issue might extend and whether this is reasonable given the site context. Another consideration is whether the issue is potentially negative or positive.

This step considers whether the scale of the issue warrants additional attention. This also enables consideration of how issues might be managed in a wider context.

The issues are classified as standard, medium and critical depending on the scale of the potential issue and sensitivity of the receiving environment.



**Step 3 – Consider the level of assessment**

This step combines the results of the first two in order to provide an indication of whether a DR, PER or EIS should be set. As the issues are identified and classified in the first two steps, this can then be used as an indicator of the most appropriate level of assessment document.

LEVEL OF ASSESSMENT		
	Risk	Scale
DR	Medium (majority standard)	Standard/Medium
PER	Medium (limited critical)	Medium
EIS	Critical	Critical

Issues of **Community Concern** often arise with projects that are perceived as having particular impacts. In many cases these concerns may be well founded. However, there are cases where an issue might be classified as standard but still raise concerns for the community. In such cases, the proponent should be requested to provide full documentation on the issue in order to better explain the nature of the issue to the community.

## Stage 2 - Proponent prepares and releases Assessment Document

Note: the Minister has the option of having the documentation prepared by another party, but this would occur only in special circumstances.

The **proponent** will prepare a DR, a PER or an EIS, as directed by Guidelines issued by the State Commission Assessment Panel.

This document is intended to provide a clear, detailed and comprehensive analysis of the proposed development, the environment (physical and socio-economic) in which it is proposed to be located, the likely impacts of the proposal, and how such impacts would be addressed. The document should be a statement of intent and commitment, and provide relevant information for informed comment and assessment.

The length of time it takes a proponent to prepare the assessment document is not set, and will depend upon the level of assessment, the complexity of the proposal and the sensitivity of the site. A DR generally takes the shortest time, while an EIS generally takes the longest.

When preparing the DR, PER or EIS the proponent must comply with the requirements outlined in the SCAP's Guidelines, which specify the key issues to be analysed. It is also possible to incorporate new information that may not have been identified by the Guidelines as the assessment progresses.

It is important the proponent adequately cross-references information in the document to the issues outlined in the Guidelines. This makes it easier when assessment is occurring to ascertain the degree of compliance with the Guidelines.

If the DR, PER or EIS document is lengthy, the proponent should also consider the production of a glossary of terms; an appropriate indexing system; and an additional 'summary' document that summarises the key issues and findings of the DR, PER or EIS.

DPTI's Development Division can provide examples of good quality EIS, PER and DR documents to aid in preparation (some are available for viewing on the DPTI website). Again, it is suggested a proponent employ a qualified consultant or advisors with knowledge of the assessment process and issues relevant to the proposal to undertake the preparation of the DR, PER or EIS so that a good quality document results.

### Time for document preparation

While the SCAP's Guidelines formally outline the requirements for the DR, PER or EIS, it is possible for a proponent to informally commence preparing the document earlier to save time, and to then modify the document once the Guidelines and notification from the Minister about the level of assessment are received.

The amount of time taken to prepare the DR, PER or EIS is at the proponent's discretion, but a good quality analysis of the issues at this stage (which may take quite some time), usually has the benefit of saving time later in the process.

In order to identify any potential gaps or inaccuracies of information, DPTI's Development Division can review a draft of the DR, PER or EIS document to determine its quality, whether it complies with the Guidelines and to determine its suitability for public exhibition. The proponent can decide whether or not to heed the comments on the document made by the Development Division.

The Development Division will advise the proponent of how many 'hard copy' documents will be required depending on the nature of the proposal and the level of public interest.

### Release of the document: the public consultation requirements

Once it is complete, the DR, PER or EIS is released for public and agency comment.

A mandated public meeting for an EIS or PER is also held during the exhibition period. A meeting may be required, at the Minister's discretion for a DR.

In the case of an EIS or PER, the document must be released for a public exhibition period of at least 30 business days, during which time the public will be invited, through advertisements in *The Advertiser* and local newspapers, to comment on the document and proposal. Local councils and other prescribed authorities such as the Environment Protection Authority (EPA) will also be consulted during this formal exhibition period (as will the Native Vegetation Council if disturbance of native vegetation is involved (see section 7 for more detail)).

Proponents should consider providing a disk version, and/or provide a link to the document on their website in order to enhance public/agency access to information. DPTI recommends that low or no cost hard copies be made available to help ensure the public is fully informed, but the price set for this documentation is at the discretion of the proponent. The document will be made available for viewing and download for free from the DPTI website. A free Executive Summary provided by the proponent is also useful.

During the exhibition period a public meeting will also be arranged and chaired by a person appointed by the Minister, usually a senior officer in DPTI to assist interested parties to prepare a submission and to inform them about the proposal and assessment process. It is expected the proponent will attend the meeting to inform the public of the scope and nature of the proposal and to answer questions at the meeting.

Proponents may also wish to hold their own public meetings, workshops or displays to ensure that the general public is fully informed about the proposal and to indicate they are serious about listening and responding to the community's concerns.

In the case of a DR, the public exhibition period must be at least 15 business days, although in practice this may occur for 30 business days, particularly if the Environment Protection Authority (EPA) must be consulted. A public meeting is not generally held for this level of assessment, although the Minister may convene such a meeting at his discretion.

Written submissions are received at any time during the public comment period on the DR, PER or EIS.

All submissions are referred to the proponent for formal response in a Response Document.

All submissions are also considered by the Minister when assessing the proposal.

All submissions will be made available for public inspection at the offices of Department of Planning, Transport & Infrastructure (Level 5, 136 North Terrace, Adelaide) and on the DPTI website. Submissions will be available on the website within 10 working days of the close of submissions.

All submissions will also be officially forwarded to the proponent at the end of the public exhibition period by DPTI on behalf of the Minister for Planning.

All submissions will be made available for public inspection at the offices of Department of Planning, Transport & Infrastructure (Level 5, 136 North Terrace, Adelaide) and on the DPTI website. Submissions will be available on the website within 10 working days of the close of submissions.

All submissions will also be officially forwarded to the proponent at the end of the public exhibition period by DPTI on behalf of the Minister for Planning.

### **Stage 3 - Proponent responds to public comment**

After the appropriate public comment period on an EIS or PER, the proponent will be required to respond in writing to any public or agency comments made during the exhibition period in a Response Document.

It is the proponent's discretion whether to respond to late submissions made outside the exhibition period.

Production of a Response Document is discretionary for the DR level of assessment.

There is no time limit for production of the Response Document for an EIS, but it must be produced within two months of receipt of submissions for a PER. If the proponent chooses to produce a Response Document for a DR, it must be provided within 10 business days. These times can be extended at the request of the proponent if further detailed investigation or project management refinement is required to address the issues.

As well as responding to public or agency comments and submissions, the Response Document may include amendment to the EIS/PER/DR to incorporate additional information, correct errors, incorporate new technology, or update information. It may also flag changes to the original proposal in response to issues raised. If substantial changes are made, they may require the preparation of an Amendment to an EIS/PER/DR and further public exhibition, at the discretion of the Minister.

Proponents can provide a draft of the Response Document to the Development Division for comment so that any unresolved issues can be tagged and discussed further before the Minister's assessment commences. The Response Document should be drafted and structured according to 'issues' rather than responding by 'authors' of the submissions.

The draft Response Document may also be circulated to relevant government agencies for comment and to determine whether their concerns have been adequately addressed. If minor issues are unresolved at this stage, then they may be attended to later as 'Reserved Matters' in the Development Approval or alternatively as conditions of approval to be satisfied.

Once finalised, the Response Document is submitted by the proponent to the Minister, and released publicly by the Minister.

### **Stage 4 - Assessing the Proposal and releasing the Assessment Report**

In this stage the whole proposal is assessed (taking into account all the documentation produced in the previous stages and the process of project evolution).

The result of this assessment is contained in an Assessment Report.

The Assessment Report must set out or include:

- the Minister's assessment of the development or project
- the Minister's comments (if any) on the proponent's document, the submissions, and the response to submissions
- the comments of the EPA, local council and other bodies
- comments by the Native Vegetation Council (if sought and provided in relation to matters of native vegetation disturbance or clearance, as required under an exemption to the *Native Vegetation Act 1991* in relation to Major Development declarations)
- any other matters or comments.

The Assessment Report will be publicly released, and will usually contain recommendations regarding the proposal.

The advice provided in the Assessment Report is used to inform the final decision on the proposal, which is made by the Governor. The Development Division can provide examples of previous Assessment Reports to promote a better understanding of the requirements and outputs.

### Preparing the assessment report

After the proponent has completed the Response Document (where required), the assessment team in the Development Division of DPTI will commence the preparation of a draft Assessment Report on behalf of the Minister.

Preparation of the draft Assessment Report usually takes approximately 30 business days, or 40 business days for more complex proposals or proposals involving other jurisdictions. The Assessment Report will consider the relevant Development Plan, Planning Strategy, and any submissions received during the public exhibition period, among other things. Relevant State Government agencies may again be consulted during preparation of the report.

The Minister may ask the proponent to comment on the factual information related to the proposal contained in the draft Assessment Report. The proponent, however, will not be provided or able to comment on any conclusions or recommendations contained in the Assessment Report.

The DPTI will then finalise the Report on behalf of the Minister so it can be considered by the Governor. Release of the Assessment Report is then at the discretion of the Minister.

## Stage 5 - Decision

### Final/revised application

It is expected that the proposal will be refined in response to the findings made through the preceding stages of the assessment process. If such refinement does occur, a final and revised set of details and plans that are dated and signed (i.e. a 'revised application' made under Section 48B of the Development Act) needs to be provided to the Minister.

## Decision-maker and conditions

The Governor will then make the final decision on the proposal, based in part on this revised application, and on other documentation, including the published Assessment Report by the Minister.

The Governor cannot make a decision to approve a development (or part of a development) until an DR, PER or EIS and an Assessment Report have been prepared, and must also consider a number of other factors, including the relevant Development Plan, the Planning Strategy, Building Rules and the objects, duty and policies of the Environment Protection Act 1993 (if the development involves an activity of prescribed significance - see Section 7 in this Guide on 'What Other Approvals are Required'). The Governor must also take into account any impact on the River Murray (River Murray Act, 2003 and Murray Darling Basin Act 1993), the Adelaide Dolphin Sanctuary (Adelaide Dolphin Sanctuary Act, 2005), or Marine Parks (Marine Parks Act 2007) if applicable.

The Governor's decision may take a variety of forms, including provisional consent for part of the development; approving or rejecting all or part of the Application; or approving it with conditions attached. Some matters of detail may also be reserved for a later decision.

There may be more than one consent decision required to obtain an approval. For example, separate consents may be required for change of land use, land division and Building Rules consents, and an approval is obtained when all the relevant consents are granted. This enables staged decision-making as documentation is produced, and avoids unnecessary costs of preparation of documentation if one aspect is refused. The Governor can, however, grant approval outright, waiving the need for individual consents.

The Governor can attach conditions to either a consent or a development approval, and reserve the right to attach new conditions at a future time on matters specified at the time of the original authorisation. This enables contingency measures to be imposed and be complied with where uncertainty of outcomes has been identified or monitoring has revealed problems. These conditions must be complied with or the proponent will be guilty of an offence.

The Governor may vary or revoke conditions.

The Governor's decision will usually incorporate 'Conditions' and 'Notes to the Applicant' in an official notice, which is published in the Government Gazette. The proponent will also be officially notified of the approval in writing and any plans submitted in the revised application will be stamped 'approved' and dated by the Governor.

## After the decision

### Are there appeal rights?

Section 48E of the *Act* provides that no proceedings for judicial consideration can be brought against the Governor's decision or the process for assessment. This provision means proponents and the community have certainty following a decision by the Governor.

### Commencement of Works

The proponent must commence substantial work on the development according to the approved plans within two years of the Governor's approval beyond this, there is a capacity for the approval to be cancelled at the discretion of the Governor (unless the Governor has specified a longer time for the commencement of works or has granted an extension).

### Possibility of an 'Early No'

The Governor can indicate at any time, and prior to the completion of the assessment process, that the development will not be granted authorisation. This may occur if it is clear that the development is inappropriate or cannot be managed adequately. This is also commonly referred to as an 'early no' and saves the proponent, the Government and the community the uncertainty, time and cost which would have been expended if the full process was completed before this 'no' was given.

### Delegated Decision-Making Powers

If the development is approved, the Governor may also delegate any further decision-making powers to the Minister or the State Commission Assessment Panel (SCAP) for subsequent decisions and minor variations to the proposal.

### Building Works Approvals & Other Licenses

If there are building works involved in the proposal, the Governor will require, in the final Decision Notice, that these works be certified as complying with the Building Rules. This certification is undertaken by a qualified private certifier or the relevant council.

The Governor's Decision Notice may also refer to the need for a licence from the Environment Protection Authority (EPA) (see Section 7 - 'What other approvals are required').

### Offences

It is an offence to commence any development works without approval for the development being first given by the Governor (or the Minister or SCAP under delegated authority) and significant monetary penalties can apply. In addition, any ongoing breaches in the face of any Court order can be considered to be a contempt of Court and jail sentences are then an option for the Court and a term of imprisonment may be imposed.

## Variations after the Governor's Decision

A variation may be permitted by the Governor under section 48(2) of the Development Act provided that the development as varied remains within the ambit of the declaration and of the DR, PER or EIS and Assessment Report.

A variation that takes the development outside the scope of the declaration requires a new declaration; a variation that takes the proposal outside the ambit of the DR, PER or EIS and Assessment Report will require new reports (and will be subject to further assessment processes and fees). In addition, if an amendment is sought more than five years after the EIS/PER/DR was placed on exhibition then the EIS/PER/DR will require review before a new decision can be made.

It is important that the Development Division is kept informed of progress after the Governor's approval (if granted), particularly if:

- there are delays in the implementation of the proposal
- unforeseen management difficulties are discovered: and/or
- an extension to the approval is required.

## Monitoring

The Minister can require monitoring of the proposal, and it is often practice for the Development Division to conduct site inspections to review the progress of the construction and operation of the development or project. These inspections can be with or without prior notice to the proponent. Again, it is important to keep the Development Division informed of progress during the construction process.

If at any stage, it is believed there are problems in meeting any approval conditions, or unforeseen impacts arise, it is important that the proponent contact the Development Division as soon as possible to determine the most appropriate solution. The Governor the Minister or the State Commission Assessment Panel (SCAP) is able to amend or revoke conditions if appropriate within the terms of a delegated authority.

## What other approvals may be required?

The Major Developments or Projects process aims to provide a holistic approach to assessment and decision-making. Thus to achieve this aim, an EIS PER or DR will need to include information and investigations that are usually required for approval processes under other relevant legislation. This ensures that consequential approvals can be expedited once a development approval has been granted.

It is also possible to set up a working group with representatives from the proponent, Council and relevant government agencies to assist in implementing approval requirements and consequential approvals under other legislation.

Throughout the assessment process, proponents must consider the requirements of other State and Commonwealth legislation. It is the proponent's responsibility to identify these requirements at the earliest opportunity.

Requirements may include (note: this list is not exhaustive):

- *River Murray Act 2003*
- *Murray Darling Basin Act 1993*
- *Adelaide Dolphin Sanctuary Act 2005*
- *Marine Parks Act 2007*
- *Natural Resource Management Act 2004*
- *Environment Protection Act 1993*
- *Coast Protection Act 1972*
- *Native Vegetation Act 1991*
- *Aboriginal Heritage Act 1988*
- *National Parks and Wildlife Act 1972, and*
- *the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 and Native Title requirements.*

Also, if agreement is needed with a particular government agency or local council to implement the proposal (for example, constructing an adequate access road may require obtaining agreement with the Department of Planning, Transport and Infrastructure, or the local council), then the proponent should consult with that agency/Council as soon as possible and inform the Development Division of the documented outcomes or agreements.

The proponent will also usually be required to prepare detailed environmental management and monitoring plans for construction and operation as part of the conditions of approval. These may require the approval of the EPA and/or SCAP (as delegate of the Governor) in consultation with the Development Division before construction can commence (if the proposal is approved).

## ***Environment Protection Act 1993 (State)***

Developments or projects that are also activities of prescribed environmental significance under the State *Environment Protection Act 1993* must obtain a licence from the EPA, and the proponent must have regard to the objects and duties of that Act.

Activities of prescribed significance are listed in Schedules in both the *Development Act 1993* and in the *Environment Protection Act 1993*.

Moreover, proponents must have regard to the concept of 'General Environmental Duty' in the *Environment Protection Act 1993*. That is:

25. (1) A person must not undertake an activity that pollutes, or might pollute, the environment unless the person takes all reasonable and practicable measures to prevent or minimise any resulting environmental harm.
- (2) In determining what measures are required to be taken under subsection (1), regard is to be had, amongst other things, to –
  - (a) The nature of the pollution or potential pollution and the sensitivity of the receiving environment; and
  - (b) The financial implications of the various measures that might be taken as those implications relate to the class of persons undertaking activities of the same or a similar kind; and
  - (c) The current state of technical knowledge and likelihood of successful application of the various measures that might be taken.

It is expected that if a proposal is of 'environmental significance' a proponent will need to refer to the *Environment Protection Act 1993* in more detail.

It should also be noted that the EPA will be consulted and involved throughout the Major Developments and Projects assessment process so that before a proposal is approved there can be adequate certainty that the proposed development or project can be managed appropriately in accordance with the *Environment Protection Act 1993*.

## ***Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth)***

As indicated earlier in this guide, a Major Development or Project proposal may require approval under the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). This Act may apply if the proposal occurs on Commonwealth land and is likely to have a significant impact on the environment and/or the proposal may result in a significant impact on matters of National Environmental Significance (NES). These matters are:

- World Heritage properties
- Ramsar Wetlands
- nationally threatened species and ecological communities
- migratory species
- Commonwealth marine areas

- Nuclear actions (including uranium mining)
- National Heritage Places

If a Development or Project may have a significant impact on a matter of NES then it will be deemed to be a 'controlled action'.

It is the proponent's responsibility to determine whether or not to refer their proposal to the Commonwealth Government in accordance with the requirements of the EPBC Act. The Commonwealth has released Significant Impact Guidelines to assist in deciding whether or not to make a referral. These and other guidelines can be downloaded at:

[Link to access Commonwealth guidelines \(http://www.environment.gov.au/epbc/guidelines-policies.html#guidelines\)](http://www.environment.gov.au/epbc/guidelines-policies.html#guidelines)

DPTI will not advise a proponent on this matter; proponents may wish to seek their own legal advice or consult the Department of Environment, Water, Heritage and the Arts (DEWHA) directly about the need for a referral. The Development Division of Department of Planning, Transport & Infrastructure can provide general advice on the requirements of the EPBC Act and arrange joint meetings to assist in coordinating the two assessment processes (State and Commonwealth) if the Commonwealth process is likely to be triggered.

It is important to note that if a proponent undertakes an action which has been approved in South Australia in accordance with the *Development Act 1993*, but has not been approved under the Commonwealth's EPBC Act, and the activity results in a significant impact on a matter of NES, the proponent can incur serious monetary and/or criminal penalties for doing so.

## Summary of referral process

If a proponent decides that their Major Development or Project "may" have a significant impact on a matter of NES, a referral is made to DEWHA using the standard referral form. A referral form can be downloaded from the DEWHA website at:

[Link to download standard referral from DEWHA site \(http://www.environment.gov.au/protection/assessments/approval-process/refer-action/form\)](http://www.environment.gov.au/protection/assessments/approval-process/refer-action/form)

Within 20 days of receiving the referral the Commonwealth Minister will determine whether the Major Development or Project is one of the following:

- a 'controlled action', and hence requires assessment and approval under the EPBC Act;
- not controlled action 'particular manner', where approval will not be required if the action is taken in the manner specified (conditions may apply); or
- not a controlled action, where approval will not be required if undertaken in accordance with what is stated in the referral.

## Assessment under the EPBC Act

The Commonwealth assessment process is similar in nature to the South Australian Major Developments and Projects assessment process, although there are some differences. It is expected proponents will read the EPBC Act and/or information about the Act to understand its requirements and processes.

In summary, the assessment process under the EPBC Act has a number of levels of assessment. The Commonwealth Minister or delegate will determine the level of assessment required. These include assessment:

- on Referral Information;
- on Preliminary Documentation;
- on Environmental Impact Statement or Public Environment Report; or
- by Public Inquiry.

The Commonwealth Minister may also follow the Accredited Assessment path by allowing assessment under a state assessment process. For example, the state Major Development process was accredited by the Commonwealth for the purpose of assessing the Southern Ocean Lodge at Hanson Bay/Kangaroo Island Tourist Development.

The time the assessment process takes is dependent on the assessment approach chosen, but could be anywhere from 30 days to 60 days minimum depending on the assessment approach. Project proponents should also factor into their planning the possibility that the Commonwealth Minister can defer making decisions which may extend the time to gain an approval, and the time to address conditions applied to approvals, which has included the development and approval of environmental management plans.

## Bilateral Agreement

A Bilateral Agreement was signed between the South Australian and Australian Governments in 2008 in relation to the assessment of proposals that trigger both the Commonwealth EPBC Act and the 'Major Developments' provisions of the *Development Act 1993*. The bilateral agreement allows for the State and the Commonwealth to agree to the assessment of a Major Development or Project under the Major Development provisions of the *Development Act 1993*. The approval decision still falls with the relevant Minister for the respective legislation. The bilateral means the proponent can prepare one set of documents and conduct one public consultation process to meet the requirements of both Acts. While the decisions are separate, consultation will occur between State and Commonwealth agencies seeking consistency. Further detailed information of this process is available from the DPTI.

## Native Vegetation Clearance

The Native Vegetation Regulations made under the *Native Vegetation Act 1991* provide that no separate approval is required from the Native Vegetation Council for disturbance or clearance of any native vegetation for an approved Major Development or Project, if the Native Vegetation Council has been given the opportunity to comment on the development proposal during the DR, PER or EIS processes.

The Native Vegetation Council's comments are included in the Assessment Report if any are made, and the Governor takes the clearance of native vegetation into account when determining whether or not to approve a Major Development. Clearance or retention of native vegetation may be the subject of conditions of approval, or a 'Significant Environmental Benefit' (that needs to be approved by the Native Vegetation Council) may be required as 'compensation' for clearance under the Native Vegetation Act.

## Aboriginal Heritage and Native Title

Aboriginal Heritage and Native Title are two separate concepts. Aboriginal Heritage is protected under the *Aboriginal Heritage Act, 1988* and relates to cultural values. Native Title relates to land ownership, access and use rights. Each area requires specialist advice.

The Aboriginal Affairs and Reconciliation division can provide early advice on both issues. Specific, project advice about Aboriginal Heritage issues can be sourced from cultural heritage specialists. Native Title advice is best sought from lawyers that operate in this field.

Native Title issues should be explored at the same time that other land access and title and ownership issues are addressed.

Aboriginal heritage issues should be included in the early scoping study stage. These issues are best explored early. If Aboriginal Heritage is a potential issue, it will be necessary to work with the local community representatives to agree the best method of addressing and managing heritage sites and artefacts. A certain level of confidentiality is also required to protect cultural values.

Addressing Aboriginal Heritage early enables a proponent to establish communication and a relationship with the representatives of the community. This is particularly important for the construction stage in the event that heritage is 'discovered' during the earthworks phase. If a relationship and agreements are already established then there are ways of managing issues that minimise the impact on construction phase timing.

## Land Ownership and Rezoning

It is the proponent's responsibility to ensure agreements are in place with the owner[s] of any land that is the subject of the development or project proposal. The proponent must demonstrate that it owns the land or has a reasonable prospect of securing the land (such as through an 'option' to purchase agreement). This is particularly important if Crown or council land is involved as Native Title issues can arise and may need to be addressed before the proposal can be undertaken. If there is evidence that the land concerned will not be made available, the Major Developments and Projects assessment process can also be halted or terminated.

Moreover, although the Major Developments and Projects assessment process only need have regard to zoning provisions in the relevant Development Plan (and is not bound by them), there may need to be changes to the zoning if extensions or amendments are proposed to a development or project in the future, or a buffer zone is required. This would be undertaken through the Development Plan Amendment (DPA) process. Guides that describe that process are also available from the DPTI.

## Opening and Closing a Road

It is also possible under the Major Development process to include the administrative procedures for opening or closing a road normally dealt with under the Roads Opening and Closing Act (date).

It is necessary to provide details of the location of the proposed road to be closed (this is the usual requirement) and appropriate advertising and notifications included in the Major Development advertising process in order to implement the exemption to the Act for these developments.

## Other Approvals and Legislation

Where possible, the Major Development/Project assessment process aims to integrate approvals by involving a range of relevant agencies. Their involvement in this process means that they are then prepared and informed should other licences, permits and approvals be required.

The legislation makes a clear connection between the *Environment Protection Act* and the Major Development process. There is also a connection where a proposal may involve any impacts on the River Murray (*River Murray Act, 2003 and Murray Darling Basin Act 1993*), the Adelaide Dolphin Sanctuary (*Adelaide Dolphin Sanctuary Act, 2005*), or Marine Parks (*Marine Parks Act 2007*).

## Appendix 1 – Definition of Development

‘Development’ is defined in Section 4 of the Development Act, and includes:

- A change in the use of land or buildings
- The creation of new allotments through land division (including Strata and Community Title division)
- Building work (including construction, demolition, alteration and associated excavation/fill)
- Cutting, damaging or felling of significant trees
- Specific work in relation to State and Local Heritage Places
- Prescribed mining operations
- Other acts or activities in relation to land as declared by the Development Regulations

Note: The full definition of development is in Section 4 of the Act; schedules 2 and 3 to the Development Regulations contain extensions and exclusions to the definition of development. For specific definitions and exclusions in relation to ‘what is development’ please refer to the Act and the Regulations.

## Appendix 2 - Major Development or Major Project?

The *Development Act 1993* (the Act) and *Development Regulations 2008* (the Regulations) detail the processes for lodging and assessing development applications. There are various possible assessment 'paths' for a proposed development. The most suitable path will depend on the nature of the proposed development and its location.

Depending on the nature of the proposed development the 'relevant authority' may be a local council or the State Commission Assessment Panel (an independent statutory authority).

Development Plans contain the zones and policies that must be used by the relevant authority to guide the assessment of development applications. However, there are some circumstances where this policy is not sufficient to fully assess the impacts and implications of a proposal. This might be due to the use of new technology, the scale of the proposal or the location of the proposal and the surrounding environmental, social or economic conditions.

In such circumstances, the Minister for Planning (the Minister) may declare that a proposal be assessed as a Major Development. This enables the assessment process to consider a wider range of issues and impacts than might be covered in a low to medium risk land use assessment process.

This Guide deals only with the Major Developments path, which requires the proposal to be 'declared' by the Minister, a detailed assessment process to be followed, and a decision made by the Governor of South Australia.

What is a Major Project in comparison to a major development?

The assessment of Major Developments (rather than projects) is by far the most common use for Sections 46-48 of the *Development Act 1993*.

Occasionally, however, activities which do not fall under the definition of 'development' (and are therefore not subject to the provisions of the Development Act) may require the sort of detailed assessment provided under these provisions of the Act.

These activities can be declared as 'Major Projects'.

An example may include drainage schemes subject to approval by the Minister responsible for the *Water Resources Act* or a mining proposal subject to the approval of the Minister responsible for Mining.

If the Minister makes a declaration that a particular project proposal is to be subject to the Major Developments or Projects section of the Act, then those assessment processes will be activated.

The processes are essentially the same as if the project were 'development' (with some minor differences, explained later in this Guide).

However, importantly, the final decision will be taken under the relevant legislation where decision-making is required, not under the Act. In these cases, the assessment completed under the Major Development or Project provisions of the Development Act is advisory only, and used to assist that decision-making.

## Appendix 3 - Factors of environmental, social and economic significance

The following is a list of examples of factors which may be considered when determining whether to declare a major development or project. These factors may also be the focus of assessment.

- Physical factors: land disturbance, erosion, alteration of water courses and drainage patterns, excavation, dredging, filling or reclamation, salinisation, effect on coastal processes.
- Biological factors: biodiversity or ecological process concerns, clearing, burning, modification or the disturbance of vegetation, loss of habitat for, displacement of or barriers to fauna, introduction of noxious weeds, vermin, feral species, disease or genetically modified organism.
- Land use: major changes, use which is significantly different to surrounding land use and/or inconsistent with planning/development objectives of locality, reservation alteration or alienation of Crown land, substantial change to economic value of land or water, curtailment of beneficial uses of an area (e.g. conservation, recreation, transport, limitation of use by others or increased demands on natural resources).
- Resource use: foregoing alternative uses, seriously affect livelihood of existing users, disruption to industries involving use of renewable resources (e.g. fishing) or loss of species (damage to nursery area).
- Economic Impacts: impacts on economic development of State or region and attendant flow on effects.
- Community: large population movement, substantial change to demographic structure, marked change to economic stability of a community, quality of life of individuals and communities (such as odour, noise, dust, physical dislocation), concern regarding loss of personal security, privacy, safety or amenity.
- Infrastructure: significant increase in demand on services and infrastructure.
- Heritage: adverse effects on Aboriginal communities, damage to Aboriginal anthropological or archaeological sites or relics, adverse effects on European historic sites or items.
- Aesthetics: obstruction of views or sunlight, excessive height, floor restrictions, degradation of scenic amenity, illumination or reflection impacts on adjacent properties, adverse wind effects.
- Air: large-scale generation of dust, smoke, grit, odorous fumes, other toxic or radioactive gaseous emissions; substantial atmospheric gases contributing to greenhouse effect or ozone layer damage.

- Water: local water quality may deteriorate through salinity, colour, odour, turbidity, temperature, nutrients or pollutants such as oil, toxins, antifouling compounds or heavy metals; marine environment may be damaged through spills of oil, fuel, waste.
- Wastes: disposal of significant volumes of sewage, industrial or domestic wastes; disposal of spoil, overburden or process waste.
- Hazards: use, storage, transport or disposal of hazardous substances; emission of electromagnetic or other radiation with impacts on human health or electronic plant, coastal erosion, flooding impacts
- Noise factors: increased traffic and vibrations (road, rail, air, marine, construction)

## Appendix 4 – the level of assessment 'test'

Criteria for consideration of the level of assessment

- (a) Character of the receiving environment.
- (b) Potential social, economic and environmental impacts of the proposal.
- (c) Resilience of the environment to cope with change.
- (d) Degree of confidence of the prediction of impacts resulting from the development or project.
- (e) Extent to which undesirable impacts may be irreversible.
- (f) Extent to which impacts and requirements for monitoring and assessing impacts will be ongoing.
- (g) Presence of other statutory or policy frameworks which provide ways for managing any issues of concern.

In taking account of the above, consideration is given to:

- (a) the extent of impacts by an analysis of their:
  - type
  - size
  - scope
  - intensity
  - duration
- (b) the nature of impacts by an analysis of:
  - degree of predictability of impacts
  - resilience of environment to cope with change
  - degree of reversibility of impacts
  - degree to which impacts can be managed or mitigated
  - degree to which performance criteria can be applied
- (c) the significance of impacts by an analysis of:
  - degree which impacts adversely affect environmentally sensitive areas
  - degree to which impacts are acceptable
- (d) other factors determined by the State Commission Assessment Panel to be relevant.

## Appendix 5 – Environment Protection Act 1993 – Section 10

10 (1) *The objects of this Act are-*

(a) *to promote the following principles ("principles of ecologically sustainable development"):*

(i) *that the use, development and protection of the environment should be managed in a way, and at a rate, that will enable people and communities to provide for their economic, social and physical well-being and for their health and safety while-*

(A) *sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations; and*

(B) *safeguarding the life-supporting capacity of air, water, land and ecosystems; and*

(C) *avoiding, remedying or mitigating any adverse effects of activities on the environment;*

(ii) *that proper weight should be given to both long and short term economic, environmental, social and equity considerations in deciding all matters relating to environmental protection, restoration and enhancement; and*

(b) *to ensure that all reasonable and practicable measures are taken to protect, restore and enhance the quality of the environment having regard to the principles of ecologically sustainable development, and-*

(i) *to prevent, reduce, minimise and, where practicable, eliminate harm to the environment-*

(A) *by programmes to encourage and assist action by industry, public authorities and the community aimed at pollution prevention, clean production and technologies, reduction, re-use and recycling of material and natural resources, and waste minimisation; and*

(B) *by regulating, in an integrated, systematic and cost-effective manner-*

*activities, products, substances and services that, through pollution or production of waste, cause environmental harm; and the generation, storage, transportation, treatment and disposal of waste; and*

(ii) *to co-ordinate activities, policies and programmes necessary to prevent, reduce, minimise or eliminate environmental harm and ensure effective environmental protection, restoration and enhancement; and*

- (iii) to facilitate the adoption and implementation of environment protection measures agreed on by the State under intergovernmental arrangements for greater uniformity and effectiveness in environment protection; and*
- (iv) to apply a precautionary approach to the assessment of risk of environmental harm and ensure that all aspects of environmental quality affected by pollution and waste (including ecosystem sustainability and valued environmental attributes) are considered in decisions relating to the environment; and*
- (v) to require persons engaged in polluting activities to progressively make environmental improvements (including reduction of pollution and waste at source) as such improvements become practicable through technological and economic developments; and*
- (vi) to allocate the costs of environment protection and restoration equitably and in a manner that encourages responsible use of, and reduced harm to, the environment with polluters bearing an appropriate share of the costs that arise from their activities, products, substances and services; and*
- (vii) to provide for monitoring and reporting on environmental quality on a regular basis to ensure compliance with statutory requirements and the maintenance of a record of trends in environmental quality; and*
- (viii) to provide for reporting on the state of the environment on a periodic basis; and*
- (ix) to promote-*
  - (A) industry and community education and involvement in decisions about the protection, restoration and enhancement of the environment; and*
  - (B) disclosure of, and public access to, information about significant environmental incidents and hazards.*

*The Minister, the Authority and all other bodies and persons involved in the administration of this Act must have regard to, and seek to further, the objects of this Act.*