



Australian Government

Department of Infrastructure, Regional Development and Cities


Airports Act 1996

Airports Amendment Act 2018 Guidelines

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Chapter 1: Introduction

1.1 Context

On 28 September 2018, the *Airports Amendment Bill 2018* came into effect.

These guidelines have been drafted to assist in addressing the implementation of the new requirements to the *Airports Act 1996* (the Act) as a result of the *Airports Amendment Bill 2018* coming into effect.

The amendments streamline certain administrative arrangements relating to master plans (MPs) and major development plans (MDPs) to offer a more flexible, proportionate, efficiency-based regulatory approach.

The Department of Infrastructure, Regional Development and Cities recognises airport-lessee companies are now well experienced in drafting MPs and MDPs and the basic concepts and requirements for the planning documents are well established and understood by airport-lessee companies.

These guidelines do not replace the Act and should be read in conjunction with the Act.

1.2 Purpose of the Guidelines

These guidelines are designed to provide operators of the leased federal airports (including joint user airports) with guidance on meeting the requirements of the Act, particularly in relation to the following:

- a differential Master Plan submission cycle;
- mandatory inclusion of a new Australian Noise Exposure Forecast in each new MP;
- increase of the MDP trigger from \$20 million to \$25 million and allow the Minister for Infrastructure, Transport and Regional Development (the Minister) to issue legislative instruments:
 - for the purpose of increasing the threshold amount (monetary trigger) for MDPs every three years, taking into account price indexations indicating changes in construction activity costs; and
 - for the purpose of specifying the costs that must be included, and must not be included, when calculating the cost of construction for an MDP;
- 15 business day statutory decision timeframe within which the Minister must consider applications from airport-lessee companies for reduced consultation periods for MDPs, with such applications deemed refused if there is no Ministerial decision within this timeframe;
- the Minister is able to extend more than once the period approved MDPs are required to be substantially completed; and
- airport-lessee companies are able to notify the Minister if an approved MDP is not able to proceed on the basis of exceptional circumstances.

Chapter 2: Key Amendments

2.1 Master Plan submission cycle

Subsections 76(1)(a)(i) and (ii) brings effect to a differential MP submission cycle for federal leased airports (excluding Mount Isa and Tennant Creek). MPs will remain a 20 year strategic plan for the airport.

2.1.1 Eight year MP submission cycle:

Adelaide, Alice Springs, Archerfield, Bankstown, Camden, Canberra, Darwin, Essendon, Gold Coast, Hobart, Jandakot, Launceston, Moorabbin, Parafield and Townsville airports must give the Minister, in writing, a draft MP for the airport no later than eight years after the original plan came into force. This amendment does not extend the life of existing approved MPs. This amendment provides for the next MP to be prepared under the new eight year cycle.

For example, if a MP was approved on 18 September 2017, this MP is still scheduled to expire on 18 September 2022 (five years from the date it was approved). The next MP will expire eight years after the date it is approved.

Subsection 71(3A)(b) outlines the initial period of the MP is the first eight years of the MP to provide more detail on:

- the ground transport system on the landside of the airport
- proposed developments used for commercial, community, office or retail purposes or any other purpose not related to airport services
- the likely effect of the proposed developments on employment levels at the airport and the local and regional economy.

The Airport Environment Strategy must also reflect the eight year planning period.

2.1.2 Five year MP submission cycle:

Brisbane, Melbourne, Perth, Sydney (Kingsford-Smith), and Sydney West airports retain the five year cycle and must give the Minister, in writing, a draft MP for the airport no later than five years after the original plan came into force.

Under subsection 71(3A)(a), the airport-lessee companies are still required to provide more detail across the first five years of the term of the MP on:

- The ground transport system on the landside of the airport
- Proposed developments used for commercial, community, office or retail purposes or any other purpose not related to airport services
- The likely effect of the proposed developments on employment levels at the airport and the local and regional economy.

The Airport Environment Strategy must also reflect the five year planning period.

2.2 Australian Noise Exposure Forecast (ANEF)

Subsection 76(1A) of the Act mandates the inclusion of a new Australian Noise Exposure Forecast (ANEF) in each new MP and must be for the 20 year planning period, at a minimum.

This amendment will ensure each final MP comprises an up-to-date representation of the potential noise impacts of airport operations. The amendment also facilitates integrated and coherent land use planning outcomes; in particular, to manage incompatible and sensitive land uses from encroaching on airports.

The *Manner of Endorsement for Australian Noise Exposure Forecasts*, approved by the then Minister for Infrastructure and Transport on 18 April 2017, provides more information about the ANEF endorsement process.

2.3 Major Development Plan (MDP)

2.3.1 Monetary trigger

Subsection 89(9) of the Act increases the threshold amount for MDPs from \$20 million to \$25 million, having regard to changes in construction industry costs as well as economic and marketplace conditions since the threshold amount was last amended in 2007.

A mechanism to apply indexation to the MDP cost trigger every three years is included at subsection 89(10). This indexation will be at the Minister's discretion and determined in a legislative instrument. The matters to be taken into account are included under subsection 89(12) and (13) and include price indexations indicating changes in construction activity costs. The threshold amount may only remain the same or increase.

If the threshold amount is reviewed and increased, the earliest the new amount can become effective is on each third anniversary concerned from the date of the last determination.

A mechanism to enable the Minister to make a legislative instrument to determine the costs of construction is included at subsection 89(7). This legislative instrument will set out the costs that must be included and excluded in the calculations of the construction cost of the MDP trigger.

The purpose of the instrument is to provide certainty for industry and ensure a consistent costing application approach across all airports. The general expectation is costs associated with construction include base building fitout and services (such as internal cladding, plumbing, drainage, electrical). Costs of groundworks such as establishing level ground as well as basement excavation should also be included. The Department is currently developing this instrument and will consult with stakeholders as soon as feasible.

2.3.2 Reduced consultation periods for MDPs

Subsection 92(2BA) of the Act prescribes if an airport requests a reduced consultation period for a MDP, the Minister has a 15 business day decision timeframe to consider the application. An application is deemed refused if there is no Ministerial decision within this timeframe.



2.3.3 Substantial completion

Subsection 94(7B) of the Act enables the Minister to extend, more than once, the period approved MDPs are required to be substantially completed by up to two years. This provision only applies if the initial 5 year period, or the further extended period, has not expired.

2.3.4 Exceptional circumstances

Section 96AA provides a mechanism for airport-lessee companies to give the Minister notice (withdrawal notice) of its intention not to proceed with an approved MDP under the specific circumstances.

The withdrawal notice must outline the exceptional circumstances that make proceeding with an approved MDP unviable. Exceptional circumstances refer to external influences such as changes in economic conditions, market place circumstances or other unforeseen circumstances beyond an airport-lessee company's direct area of control.

Subsection 96AA (4) outlines the approval of the MDP only ceases to be in force on the day after the Minister gives the airport-lessee company notice of acknowledgment.