

MAJOR PROJECTS BILL – IN DETAIL

Overview

The draft Bill amends the *Land use Planning and Approvals Act 1993* (the Act) and will replace the current Project of Regional Significance (PORS) process with a process that provides confidence to both proponents and the broader community that complex and economically significant proposals will receive fair, objective and timely consideration.

The amendments to the Act deliver on a Government commitment made during the 2014 election.

Preparation of the Bill commenced in 2016 and involved two rounds of extensive stakeholder consultation in 2017 and 2018. Over 350 submissions were received, which have been carefully considered in finalising and shaping the Bill.

The Bill provides for the issuing of a consolidated major project permit that combines matters relating to land use planning, heritage, environmental management, water and sewerage infrastructure and conservation. This avoids the need to obtain separate permits once a planning permit has been obtained.

What does the Bill do?

The Bill provides for a major project consideration process with three distinct stages:

1. An eligibility phase for the Minister to determine whether a major project proposal is suitable for consideration in the process, based upon eligibility criteria and guidelines issued by the independent Tasmanian Planning Commission;
2. A preliminary assessment stage for the independent Panel to prepare the appropriate assessment guidelines for the major project proposal; and
3. A final Assessment stage, which includes public exhibition, hearings and a final report and decision by the independent Panel.

The Bill also includes provisions to amend or correct major project permits, and to amend the relevant planning scheme to remove any inconsistency with the major project permit once it has been issued.

The Bill provides set time limits for each step of the process to provide certainty for proponents on how long the whole process should take.

The Minister has no role in the assessment of the proposal, or the decision to issue a major project permit.

Key functions of the Bill?

Under the Bill, a proponent, council or the Minister may refer a proposal for consideration as a major project.

The Bill sets criteria that a major project proposal will need to meet to be eligible for declaration as a major project.

The Bill requires proposals to be assessed by an independent Panel, appointed by the Tasmanian Planning Commission. The Panel must include a member from the relevant local Council.

The Panel is responsible for preparing Assessment Guidelines, which form the basis of the determination of whether a major project permit should be issued.

The Bill provides for appropriate stakeholder engagement in the assessment process.

The Bill provides for the Minister to revoke the major project status at any time through the process, upon advice from the Panel or request by the proponent.

The Bill provides for a relevant regulator to require that a major project proposal be refused, if there is no prospect that the proposal could be approved under the regulator's own legislation.

The Bill provides for the staged payment of assessment fees, relevant to each phase of the process.

Why propose the Bill?

The current PORS assessment process set out in the Act does not contain clear direction in relation to:

- providing early feedback to the proponent that the project is unlikely to gain approval, potentially wasting significant resources before this is known;
- the timeframes make it difficult for proponents to 'forward plan' their projects when the length of approval time is unpredictable; and
- a lack of integration between any associated approvals from other government regulators required to implement the project.

Since its inception in 2010, the PORS process has never been used, suggesting that the process lacks clarity and certainty, which acts as a deterrent to potential developers.

The draft Bill aims to deliver a process that gives confidence to both proponents and the broader community that complex and economically significant proposals will receive fair, objective and timely consideration.

Where does the Major Project assessment process sit within the Tasmanian Planning System?

The Major Projects Bill provides a process within the existing Tasmanian Land Use Planning Framework that fits between normal Development Applications, and the Projects of State Significance process, as shown below.

All decisions made by the Minister and the Panel in relation to a major project proposal will be required to ensure that a major project proposal is not inconsistent with –

- Furthering the Objectives set out in the Act in Part 1 and Part 2;
- Each State Policy;
- Each Tasmanian Planning Policy (when they come into effect); and
- the relevant Regional Land Use Strategy

The final decision of the Panel must ensure that the major project represents an effective and appropriate use and development of land, and must be based on the Assessment Guidelines that are produced in stage 2 of the process.

The Bill requires each decision to be accompanied by a statement of reasons.

What is the role of the Minister?

The Bill requires the Minister to declare whether or not a proposal is a major project. The decision of the Minister must be based upon the eligibility criteria set out in the Bill and determination guidelines to assist that are prepared by the independent Tasmanian Planning Commission.

The Bill provides for the Minister to revoke the status of major project proposal, upon advice from the Panel, where the Panel's advice may be guided by advice from a relevant regulator or by request from the proponent.

The Minister is required to prepare a report stating the reasons for his/her decision on the eligibility of the proposal to be assessed as a major project.

What is the role of the Tasmanian Planning Commission?

The Bill requires the Tasmanian Planning Commission to establish the Development Assessment Panel and to also provide the Minister with determination guidelines to assist with applying the eligibility criteria.

Whilst not explicit in the Bill, the Tasmanian Planning Commission will provide administrative support for the assessment Panel throughout the process.

What is the role of the Proponent?

The Bill sets out the requirements for the proponent (applicant) to prepare a major project proposal for the Minister's consideration in the first phase of the process.

If the Minister declares the project to be a major project then the proponent must prepare a Major Project Impact Statement to support the assessment of the proposal.

The proponent must also respond to any request for additional information that may come from the Minister, the Panel or a participating regulator.

The proponent's role may also include attendance at public hearings held by the Panel.

What is the role of the Panel?

The Panel must prepare Assessment Guidelines and then assess the proposal against the Act and the assessment guidelines.

The Panel is responsible for exhibition of the proposal and conducting hearings into the representations made.

The Panel is required to prepare reports into the finalisation of the assessment guidelines and the final major project permit, or the final decision to refuse the proposal.

What is the role of the Regulators?

Regulators must inform the Panel if the proposal ought to not proceed, advise if any additional information is required in each stage of the process, or inform the Panel of any specific conditions that should be placed on the final major project permit.

The Bill sets the relevant regulators as –

- Heritage Council;
- TasWater;
- Pipeline licensees within the meaning of the *Gas Pipelines Act 2000*;
- Environment Protection Authority;
- Threatened Species and Private Land Conservation Section; and
- Aboriginal Heritage Council.

The relevant regulator may also be required to attend public hearings held by the Panel.

What is the role of the Government?

The Bill also provides for the Minister or the Panel to consult with any other Government agencies or Tasmanian Government Businesses that are not prescribed as a regulator.

Their role is to respond to the Minister or the Panel with their issues, which may include a request for additional information.

Their role may also include attendance at the public hearings held by the Panel, and to provide the Panel with any additional information that the Panel requests.

What is the role of Local Government?

The Bill requires that the Minister must consult with the relevant Council in its capacity as the local Planning Authority before declaring a project to be a major project. This provides the Planning Authority with the opportunity to request the Minister to not declare the project as a major project. If this occurs, the Planning Authority must give reasons.

The Bill requires the Panel to consult with Planning Authorities in the region during the preparation of the assessment guidelines and also during the final assessment of the major project proposal.

Planning Authorities may also be required to attend public hearings held by the Panel.

What is the role of the Community?

The broader Tasmanian community has the opportunity to make submissions to the major project proposal (including the major impact statement).

This may also include attendance at the public hearings held by the Panel.

Where do I find the Bill?

A copy of the Bill is available at the Tasmanian Planning Reform website at: www.planningreform.tas.gov.au

Enquiries

Any enquiries can be directed to the Planning Policy Unit within the Department of Justice at Planning.Unit@justice.tas.gov.au or by telephoning (03) 6166 1429.

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