

Draft Land Use Planning and Approvals Amendment Bill 2022

Part 5 – Granting permission for site investigations after a major project has been declared

Issue

Experience from applying the major projects process to the proposed Bridgewater Bridge project has shown that the studies required to complete the major project impact statement (MPIS) were known before the assessment criteria were finalised. As that project is running on a tight timeframe, commencing the investigation studies earlier would have been advantageous for meeting the tight timeframes for delivery of the project.

An investigation permission cannot be granted until after the assessment criteria have been made, noting that an investigation permission is only required if the activity relating to site investigations is not 'exempt' under the relevant planning scheme. Yet, the method of the study may already be known, or seasonal timing of a survey may be better to occur earlier. This means a proponent must wait for the preparation of the assessment criteria to be finished, which is 98 days after a major project is declared before they can apply for the necessary site investigation permissions.

Discussion

A proponent has 12 months to prepare an MPIS once the assessment criteria have been issued, or a longer period allowed by the Minister, under section 60ZQ of the *Land Use Planning and Approvals Act 1993* (the Act).

To prepare a MPIS a proponent will need to undertake a range of studies and in some cases the methodology used to undertake the study will trigger the need to obtain permission to undertake the study, as the activity is not exempt under the Tasmanian Planning Scheme (TPS). For example, a study may involve disturbing ground or vegetation. In the major projects process, these permissions are issued by the assessment panel (under section 60ZU of the Act) or the relevant regulator (under section 60ZT of the Act) but the process does not allow them to be issued until after the assessment criteria have been finalised by the assessment panel.

Once a major project is declared, the proponent has to wait for the assessment criteria to be made before receiving permission to undertake the necessary studies. In most cases, the proponent would already have a clear idea of the studies needed to be done, such as ground

surveys or botanical studies and in some cases seasonal timing may suggest the need to commence a study early. This would be a reasonable proposition if the proponent has already identified the need for the early study in the major project proposal document submitted to the Minister seeking the declaration of the major project.

Prior to the Assessment Panel being formed the Executive Commissioner of the Commission can act on behalf of the panel and could issue any investigation permit if required to do so, or a relevant regulator could also issue permission.

What can be done?

Allow for site investigation permissions to be issued earlier in the process than after the finalisation of the assessment criteria where the early study has been identified by the proponent in the major project proposal.

What is proposed?

1. Enable a relevant regulator or the Commission or the Assessment Panel to issue investigation permissions, once a major project has been declared where the proponent has identified in the major project proposal the need for the early issue of the site investigation permission

Sections of the draft Bill that relate to this topic

Clause in draft Bill	Section of LUPAA	Clause note
8	60F	Adds a requirement to specify in a major project proposal document which early site investigations are required and why
10	60SA	Enables the relevant regulator or the Commission or Assessment Panel to issue early site investigation permission once a major project has been declared, where the early study has been identified in the major project proposal submitted to the Minister
19	60ZT	Specifies when an early site investigation permission ceases to have effect
20	60ZU	Specifies when an early site investigation permission ceases to have effect

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