

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, and the timing of that project would have benefitted from commencing the investigation studies earlier.

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. Depending on the methodology required, in some cases permission to undertake the study may be necessary if the activity is not exempt under the Tasmanian Planning Scheme (TPS). For example, a study may involve disturbing the 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.

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 required, such as ground surveys or botanical studies. In some cases, seasonal timing may suggest the need to commence a study early.

This could occur if the proponent has already identified the need for the early study in the major project proposal document submitted to the Minister.

Prior to the Assessment Panel being formed the Executive Commissioner of the Commission acts on behalf of the panel and could issue any investigation permit if required to do so.

What can be done?

Allow for site investigation permissions to be issued at the discretion of the Panel or the regulator 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, the Commission or the Assessment Panel the discretion to issue investigation permissions. These should be issued after the declaration of a major project, within a set time period of receiving a request from the proponent, where the need for the early site investigations is identified in the major project proposal.

Sections of the draft Bill that relate to this topic

Clause in draft Bill	Section of LUPAA	Clause note
8	60E	Clarifies the intent of subsections (1) & (2).
9	60F	Adds a requirement to specify in a major project proposal document which early site investigations are required and why they are needed early.
11	60SB	Enables the proponent to request 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.
20	60ZT	Specifies when early permissions cease to have effect
21	60ZU	Specifies when early permissions cease to have effect

Early issue of site investigation permissions

