Overview

The Major Projects process provides the Panel and the Regulators an early opportunity to examine if the proposed project has a ‘fatal flaw’. The test aims to discover early on if a major project would be unlikely to be granted a major project permit at the end of the process.

If a ‘fatal flaw’ with the project is found, the Panel can give a notice to the Minister, advising that the Major Project status of the project should be revoked. The Minister then has the discretion to revoke the major project status.

The discovery of the ‘fatal flaw’ and early revocation of the project has potential to save both the proponent and the community time and money by ending the process early.

What are the criteria for the ‘fatal flaw’ test?

In terms of land use planning matters, the Panel may form the opinion that the project is fatally flawed if the granting of a major project permit –

- Would not further the Objectives of the Land Use Planning and Approvals Act 1993
- Would be in contravention of a State Policy
- Would be in contravention of a Tasmanian Planning Policy; or
- Would be inconsistent with a relevant regional land use strategy

This test mirrors the ineligibility criteria applied to the declaration process, so provides a secondary check by the Panel.

A regulator may form the opinion that the project is fatally flawed if the proposed project will not comply with the regulators legislation and as such, the regulator would not be able to approve the project under their own legislation.

How does the ‘fatal flaw’ process work?

The regulator recommends to the Panel that the major project status should be revoked, or the Panel discovers a land use planning issue with the project that it considers cannot be addressed.

The Panel then issues the proponent with a warning notice, which gives the proponent a chance to respond.

The Proponent can respond with additional information, request the Minister to revoke the major project status or submit an
amended major project proposal back into the process.

When the proponent responds with additional information, both the Panel and the regulators review that information and determine that the major projects assessment process can now resume, or the Panel issues the proponent with a second warning notice.

The proponent may then respond to the Panel by requesting the Minister to revoke the major project status or submitting an amended major project proposal to start the assessment process again.

After the Panel issues the second warning notice and receives a response from the proponent, the Panel then gives the Minister a notice recommending that the major project status be revoked.

The Minister then has the discretion to revoke the major project status or not.

What happens to the Major Projects process while the ‘fatal flaw’ is being investigated?

The Major projects process ‘clock’ is ‘stopped’ whilst the ‘fatal flaws’ test is being investigated.

How long does the ‘fatal flaws’ test take?

The ‘fatal flaw’ test takes up to 70 days to run its full course.