

# Draft Land Use Planning and Approvals (Amendment) Bill 2022

Part 9 –Correcting minor administrative errors before a final decision is made

## Issue

Experience from applying the major projects process to the Bridgewater Bridge project indicates that the process is complex to administer, giving rise to the potential for administrative errors to occur throughout the process.

An accidental clerical or administrative error in managing the major project assessment process could result in the process being subject to legal challenge causing delays for the delivery of the project or even requiring the proponent to have to recommence at the start of the major project application process.

## Discussion

The major projects process is highly prescriptive, lengthy and complex, with many administrative requirements to act within set timeframes or to consult with a potentially wide range of people. It is plausible that during such a long and complex process, an error or oversight could occur with a decision maker not responding within a set timeframe, or an individual not receiving an appropriate notification during a particular stage in the process.

If a mistake administering the process occurs, the proponent could be left with a permit that is open to legal challenge. Naturally, major mistakes should cause the process to be redone for any of those aspects which were not done properly. However, if a mistake is minor in nature then the intent of the process should not be that the major project permit is undermined as a result.

The current process does not enable the assessment panel the ability to correct any administrative error that may have occurred during the process.

## What can be done?

Provide the assessment panel with flexibility to manage the process in a manner that can address some errors that may have occurred during the process.

## What is proposed?

1. When a notice that is required to be given to a person or given within a prescribed time period, and that notice was not given to a person or not given within the prescribed time period, the assessment panel has the ability to notify that person and seek their views prior to making their final decision on the proposed major project.
2. Providing the person 21 days to respond to the assessment panel with their views on the proposed major project. Any such reply is then taken to be a representation given during the exhibition period.
3. Specifying that not giving a notice within a prescribed time period does not invalidate the assessment process.

## Sections of the draft Bill that relate to this topic

Clause in draft Bill	Section of LUPAA	Clause note
26	60ZZMB	<p>The assessment panel can notify persons that were previously not notified and seek their views with respect to the proposed major project. Also, giving a notice outside the prescribed timeframe does not invalidate the assessment process.</p> <p>The person has 21 days to provide their views on the proposed major project.</p>