# Major projects assessment Reform: STAGED APPROVAL PROCESS

## Overview

The draft Land Use Planning and Approvals Amendment (Major Projects) Bill 2018 introduces:

* A ‘no reasonable prospect’ test early in the assessment process based on preliminary documentation provided by the proponent in the form of a Major Project Proposal; and
* The ability to provide in-principle permit commencement conditions (IPPCCs) following public exhibition and hearings on the project. This occurs through the grant of a Major Project Permit that is subject to ‘in-principle’ conditions that require the proponent to provide further documents for approval before the permit can commence.

These features combine to form a staged approval process that provides earlier and greater certainty to proponents as to whether their project is capable of approval and the conditions that they will be required to meet in order to proceed.

This ensures that proponents are provided with greater certainty before they invest in preparing potentially costly surveys, studies and other technical information. It also enables participating regulators to avoid diverting public resources to assessing projects that have ‘no reasonable prospect’ of approval.

## ‘No reasonable prospect’ test

Following declaration of the project as a major project, the Tasmanian Planning Commission (the Commission) establishes a Development Assessment Panel (the Panel) to assess the proponent’s Major Project Proposal. The Commission refers the major project documentation and any other information obtained from the proponent or a planning authority to the Panel and relevant regulators.

At this stage, each relevant regulator is required to advise the Panel on whether it intends to conduct an assessment of the major project. A regulator that indicates it intends to assess the project becomes a participating regulator (see Fact Sheet 3).

For relevant regulators that opt to become participating regulators in the major projects assessment process, they have 60 days to request the Panel to recommend that the Minister for Planning and Local Government revoke the major project declaration where the regulator considers that there is ‘no reasonable prospect’ that the project can be approved. The Panel may also make this recommendation of its own initiative.

Where the Panel intends to issue a ‘no reasonable prospect’ notice to the Minister, the draft Bill includes a process for the proponent to be given a right of reply. This includes the ability for the proponent to provide further information, amend its Major Project Proposal or request that the Minister revoke the declaration. This information is provided to participating regulators, who can amend their advice to the Panel (see Fact Sheet 3).

Where the advice remains unchanged, the Panel recommends that the Minister revoke the declaration and the Minister may act accordingly.

## In-principle permit commencement conditions

The major projects assessment process provides for in-principle permit commencement conditions (IPPCCs) for a major project. This occurs through the Panel granting a Major Project Permit subject to a condition (or conditions) that requires the proponent to provide further information to a participating regulator or the Panel for approval before the permit can commence.

This approach will give proponents greater confidence that their project has met the key issues that are required to be addressed in order to obtain approval before they invest in preparing detailed documentation for issues of a routine or technical nature that they would be reasonably expected to satisfy. These issues may vary between projects, however, it is anticipated that they may include, for example, the preparation of management or technical works plans where established guidelines, practices and/or standards apply.

An IPPCC is a condition that is specified on the Major Project Permit:

* After the Panel grants the permit; and
* Before a Permit Commencement Notice is issued by the Panel in relation to the permit commencing.

As part of the major projects assessment process, participating regulators and the Panel identity those matters that are required to be included in the proponent’s Major Project Impact Statement and any conditions or restrictions that each regulator and the Panel requires to be included in the Assessment Guidelines for the major project.

At this stage, any proposed conditions or restrictions are draft only and subject to consideration of the proponent’s Major Project Impact Statement, any other information required by the participating regulators and information obtained through the public exhibition and hearing process.

Proposed conditions or restrictions may include draft IPPCCs, which are conditions that can be required by the participating regulators to be placed on a Major Project Permit, which may require the proponent to provide further documentation for approval prior to the permit commencing.

The bulk of any proposed conditions or restrictions to be complied with after commencement of the Major Project Permit are expected to be identified following assessment of the proponent’s Major Project Impact Statement and consideration of representations provided during public exhibition and any hearings on the project.

Following the exhibition and hearing process and the receipt of final advice from the participating regulators, the Panel makes a decision on whether to grant a Major Project Permit. The permit issued by the Panel may be subject to IPPCCs that have been imposed by the participating regulators and the Panel.

The proponent is then required to provide any relevant documentation specified in the IPPCCs to the participating regulator for approval. When all IPPCCs have been met, the Panel issues a Permit Commencement Notice that allows the major project to proceed.

## Grant of Major Project Permit

The Panel may only grant a Major Project Permit in relation to a major project if it is satisfied that:

* The permit will further the objectives specified in Schedule 1 under the *Land Use Planning and Approvals Act 1993*;
* The permit will not be inconsistent with any State Policy;
* The Assessment Guidelines in respect of the major project have been satisfied;
* All relevant fees have been paid; and
* The Panel has received a participating regulator’s final advice.

The Panel may grant a Major Project Permit even though the use or development permitted by the permit would not be permitted under a planning scheme or a Local Provisions Schedule that applies to the land to which the permit relates.

In this case, the Commission, in consultation with the relevant planning authority, would amend the planning scheme or Local Provisions Schedule to remove any inconsistency.

In summary, a Major Project Permit is granted with any specified IPPCCs, but the permit can only commence once the required documentation in relation to the IPPCCs has been assessed and approved by the participating regulators and all the relevant fees have been paid (see Fact Sheets 3 & 7).

## What consultation has there been so far?

The draft Bill has been developed in consultation with the Planning Reform Taskforce and key State Government agencies. The Commonwealth Department of the Environment and Energy has also been consulted on the proposal to seek accreditation of the new process under the Bilateral Agreement between Tasmania and the Commonwealth on environmental assessments under the EPBC Act.

The first period for comment on the draft Bill closed on 2 October 2017 and 198 submissions were received. The submissions raised a number of issues that have been considered by the Government in preparing this revised draft Bill.

## Where do I find the revised draft Bill?

A copy of the revised draft Bill, a second Consultation Paper and the accompanying seven Fact Sheets are available at [www.planningreform.tas.gov.au](http://www.planningreform.tas.gov.au) or at [www.justice.tas.gov.au](http://www.justice.tas.gov.au).

## How can I comment?

Comment on the proposed changes to the draft Bill are invited by **Monday, 29 January 2018**. Comments should be marked ‘Major Projects Reform’ and can be emailed to [Planning.Unit@justice.tas.gov.au](mailto:Planning.Unit@justice.tas.gov.au) or posted to:

Planning Policy Unit

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Further enquiries can be directed to the Planning Policy Unit at the above email address or by telephoning (03) 6166 1429.

December 2017