# Major projects assessment Reform: roles and responsibilities

## Overview

The draft Land Use Planning and Approvals Amendment (Major Projects) Bill 2018 provides for the assessment of projects that have been declared as major projects. The purpose of this fact sheet is to provide a high-level summary of the roles and responsibilities of the key decision-makers in the proposed major projects process. Key decision-makers are the:

* Minister for Planning and Local Government;
* Development Assessment Panel (the Panel);
* Regulators responsible for the project-associated Acts covered by the process;
* Tasmanian Planning Commission (the Commission); and
* Local councils who nominate a person with the appropriate qualifications and experience to be a member of the Panel.

The Commonwealth Government may also have a role when a major project requires Commonwealth Government approval. This is where the project involves activities that are likely to impact significantly on matters of national environmental significance under the Commonwealth’s *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act).

The Office of the Coordinator-General also has a facilitation role; however, this role is outside the statutory major projects assessment process.

## Role of the Minister

The Minister’s primary role is to determine whether a project is eligible to declared a major project and assessed under the major projects assessment process.

The Minister has no role in the assessment process of a major project, the selection of the Panel that is established by the Commission to assess a major project, or the determination of assessment criteria.

In order to declare a project for assessment, the Minister must consider that it meets the eligibility criteria contained in the draft Bill (see Fact Sheet 2).

After a proponent has requested the Minister to declare a project to be a major project, the Minister is responsible for:

* Notifying each planning authority for the land to which the request relates about the request and providing them with a copy of the proponent’s Major Project Proposal;
* Requesting additional information from the proponent or planning authority, if required, to enable the Minister to determine whether to declare a project to be a major project;
* Declaring a project to be a major project in response to a request from a proponent, or by the Minister’s own motion;
* Nominating in the notice of declaration, a planning authority in a relevant regional area if the major project is to take place on an area of land that is not within any municipal area;
* Providing the Commission with a notice in relation to a declaration of a major project, the Major Project Proposal and any further information requested by the Minister from the proponent or a planning authority in relation to the major project;
* Considering any submission or comments received by the Panel when it notifies the Minister that a major project has ‘no reasonable prospect’ of being approved, prior to the Minister revoking a declaration of a major project;
* Revoking the declaration of a major project in prescribed circumstances; and
* Determining whether to extend a statutory assessment timeframe on application from the Panel or a participating regulator.

## Role of the Development Assessment Panel

The Commission establishes the Panel, and a member or nominee of the Commission will chair the Panel. The Panel will also include local government representation and members with expertise in land use planning, urban and regional development, commerce or industry, or practical knowledge and experience in the provision of buildings and other infrastructure.

The Panel comprises a minimum of three members but may consist of up to five members. The Panel must comply with the procedures that have been established and approved by the Commission, subject to the provisions of the draft Bill and Part 3 of the *Tasmanian Planning Commission Act 1997*.

The role of the Panel is to coordinate the assessment process, conduct the land use planning assessment and determine whether to grant a Major Project Permit. This includes:

* In consultation with participating regulators, developing the Assessment Guidelines, including (where relevant) notifying the Minister if the project has ‘no reasonable prospect’ of approval;
* Considering the land use planning implications of the project, including determining whether conditions or restrictions should be placed on the permit or whether a planning scheme amendment should be approved;
* Collating and preparing the draft Assessment Report;
* Where relevant, requesting further information from the proponent, a planning authority, the Commission, a State Service Agency, a State Authority or other relevant parties.
* Coordinating public exhibition and hearings, including inviting representations and advertising and notifying hearings;
* Distributing representations to participating regulators and reviewing the draft Assessment Report;
* In consultation with participating regulators, resolving any inconsistency between conditions or restrictions required by regulators in a manner that best achieves the purpose of those conditions or restrictions;
* Preparing the final Assessment Report and publishing the reasons for the Panel’s final decision on whether to grant a Major Project Permit;
* Granting the Major Project Permit;
* Coordinating the in-principle permit commencement condition (IPPCC) process, including issuing a permit commencement notice once all the IPPCCs have been met; and
* Where a Major Project Permit has been granted but has not taken effect, correcting obvious clerical mistakes or miscalculations on the permit, assessing applications for permit amendments or cancelling a permit in accordance with the statutory requirements (see Fact Sheet 6).

## Role of Regulators

The role of regulators is to determine whether an assessment of a major project is required under their relevant project-associated Act, and where relevant, assessing the project against the requirements of that Act and directing the Panel accordingly.

For the purposes of assessing a major project, regulators can be ‘relevant regulators’ or participating regulators’.

Relevant regulators include the:

* EPA Board;
* Heritage Council;
* Aboriginal Heritage Tasmania;
* Department of Primary Industries, Parks Water and Environment;
* Regulated entity (Water Authority); and
* Gas pipeline licensee.

A participating regulator is a relevant regulator who has notified the Commission that the regulator intends to make an assessment of a major project under the major projects assessment process and in accordance with a relevant project-associated Act.

The role of participating regulators includes:

* Reviewing the Major Project Proposal and advising the Panel of the regulator’s requirements for inclusion in the Assessment Guidelines;
* Where the regulator considers that there is ‘no reasonable prospect’ that the project could be approved under the relevant project-associated Act, advising the Panel accordingly;
* Reviewing the proponent’s Major Project Impact Statement and advising the Panel of any further information that is reasonably required from the proponent in order to determine whether a Major Project Permit should be granted and the conditions or restrictions that should be placed on the permit;
* Providing the Panel with the regulator’s preliminary advice for inclusion in the draft Assessment Report;
* Reviewing relevant representations and information obtained during the public exhibition and hearing process, and providing the Panel with the regulator’s final advice on whether a Major Project Permit should be granted and the conditions or restrictions that should be placed on the permit;
* In consultation with the Panel and other participating regulators, resolving any inconsistencies between conditions or restrictions required to be placed on the permit;
* Notifying the Panel whether the documentation provided by the proponent under an IPPCC is satisfactory, including (where the regulator considers that the document is unsatisfactory) the reasons for the regulator’s view;
* Monitoring and enforcing conditions or restrictions imposed by the regulator on a permit.
* Where a Major Project Permit has commenced, requesting minor permit amendments or providing comment and advice to the Panel or Commission on minor permit amendments;
* Providing advice to the Panel or Commission on requests for significant amendments to a Major Project Permit, and whether such requests can be ‘re-assessed’ without being declared by the Minister or whether they constitute a new project altogether.

## Role of the Tasmanian Planning Commission

The role of the Commission includes:

* Establishing the Panel and appointing Panel members;
* Revoking the appointment of Panel members;
* Providing the Panel with the Major Project Proposal and any information provided to the Commission in relation to the major project;
* Referring the major project to each relevant regulator;
* Issuing Determination Guidelines regarding the matters to which the Minister is to have regard when declaring a major project;
* Notifying the Panel that a relevant regulator has given notice that it intends to assess a major project under their relevant project-associated Act;
* Issuing any guidelines to assist participating regulators to determine the contents of an assessment requirement notice;
* Issuing a notice that it is satisfied that the proponent has taken all reasonable steps to enter into any required agreements to which a Major Project Permit relates;
* In consultation with the relevant planning authority, amending the relevant planning scheme or Local Provisions Schedule to remove any inconsistency;
* Where a Major Project Permit has taken effect, correcting obvious clerical mistakes or miscalculations on the permit, assessing applications for permit amendments or cancelling the permit in accordance with the statutory requirements; and
* Granting an extension to a Major Project Permit that has not been substantially commenced within 4 years from when it was granted.

## Role of Local Councils

The role of local councils (and planning authorities) include:

* For a planning authority that has been notified by the Minister of a request in relation to a project, it may advise the Minister whether it is of the opinion that a project is eligible to be declared major project and the reasons why they are of that opinion;
* Providing additional information to the Minister if it is reasonably necessary to enable the Minister to determine whether to declare a project to be a major project;
* Providing landowner consent where all of part of the land is owned by a local council;
* Nominating a person who is able to represent the local councilsfor the municipal area(s) where the major project is to take place to be a member on the Panel;
* Providing the Panel with additional information to assist in determining whether a Major Project Impact Statement is suitable for public exhibition;
* Assisting the Panel in the public exhibition of the Assessment Guidelines, Major Project Impact Statement and draft Assessment Report; and
* Where a Major Project Permit has commenced, requesting minor permit amendments or providing comment and advice to the Panel or Commission on minor permit amendments.

## Role of the Commonwealth

The current Projects of Regional Significance (PORS) process is an accredited process under the Commonwealth-State Bilateral Agreement on Environmental Assessments made under the EPBC Act. This means that where a project involves activities that are likely to have a significant impact on a matter of national environmental significance, the proponent can opt to have the Commonwealth assessment under the EPBC Act integrated into and coordinated through the Tasmanian assessment process.

The major projects assessment process retains the PORS approach. The Commonwealth Minister’s requirements in relation to a major project can be incorporated into the Assessment Guidelines and met through the major projects assessment process.

It is intended to ensure that the major projects assessment process is accredited under the Bilateral Agreement. This will be formalised once the Tasmanian Parliament has passed the final Bill.

## Role of the Office of the Coordinator-General

Consistent with the Office of the Coordinator-General’s major projects facilitation role, the Office will coordinate and facilitate advice and assistance to proponents to help them enter and navigate the major projects process. The Office of the Coordinator-General has no role in the major projects assessment and approval decision-making process.

## 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:

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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