# Major projects assessment Reform: assessment fees and timeframes

## Overview

The major projects assessment process contained in the draft Land Use Planning and Approvals Amendment (Major Projects) Bill 2018 replaces the current Projects of Regional Significance (PORS) process. This new process provides clearer timeframes and a framework that enables a staged and more equitable approach to the recovery of assessment fees. These changes are intended to provide greater certainty, fairness and predictability to proponents.

## Assessment fees

Under the current PORS process, fees are recovered up front at declaration and prior to the Development Assessment Panel assessing the project. Fees are also calculated based on a percentage of the capital value of the project. This means that fees for larger projects will be higher even though they may not be any more difficult to assess than smaller projects (in some instances, smaller projects can be more complicated to assess and require greater resourcing).

To address these issues, the draft Bill provides for staged assessment fees to be recovered at various points in the assessment process and for the amount of the fee to be set by regulations. This will enable fees to be paid in stages and calculated based on a cost-recovery model, which will be developed and implemented once the draft Bill has passed into law.

If a project is declared as a major project and an application for a normal development permit (DA application) has been made to, but not determined by a relevant planning authority, the planning authority must refund half of any fees that the applicant had paid to the planning authority in respect to the ordinary DA application.

If a project is declared as a major project and the applicant has applied for a project-related permit under a project-associated Act, but it has not been determined under that Act, the project is taken to have been withdrawn under that Act and the relevant regulator must refund half of any fees that the applicant had paid in respect of the application.

If a fee is prescribed in the regulations, it is due and payable by the proponent within 30 days of a major project assessment stage, or another period that may be specified in the regulations.

A Major Project Permit only takes effect after all the relevant fees have been paid for the assessment of the project.

## Timeframes

The indicative timeframes for the major projects assessment process (excluding some steps the proponent is required to undertake, which may include the provision of further information) is between 13 and 14 months. This compares favourably to comparable timeframes for major project assessment processes in other jurisdictions.

The major projects assessment process includes timeframes for key assessment steps as follows:

* *Declaration of major project*: after receiving a request and a Major Project Proposal from a proponent, the Minister is to make a declaration within 28 days (or within 14 days after receiving an amended Major Project Proposal from the proponent or further information from a planning authority);
* *‘No reasonable prospect’ advice:* participating regulators must advise the Development Assessment Panel (the Panel) within 60 days of receipt of the proponent’s Major Project Proposal whether it requests the Panel to recommend to the Minister that he or she revoke the declaration of the major project. Alternatively, participating regulators must give the Panel a notice of no assessment requirements or an assessment requirement notice that specifies the matters they consider to be matters the Panel must have regard to, and any draft conditions or restrictions (including any in-principle permit commencement conditions) that are to be imposed on any Major Project Permit;
* *‘No reasonable prospect’ notice:* if the Panel intends to give the Minister a ‘no reasonable prospect’ notice, it must invite the proponent to make a written submission. The proponent has 14 days to make a submission. After the Panel provides a copy of the proponent’s submission to the participating regulators, they have 7 days to provide any further advice in relation to an assessment requirement notice;
* *Draft Assessment Guidelines:* the Panel must prepare draft Assessment Guidelines in respect of a major project, and draft conditions or restrictions (including any in-principle permit commencement conditions) that are to be imposed on any Major Project Permit, as soon as practicable after receiving an assessment requirement notice (or a notice of no assessment requirements) from each participating regulator;
* *Public exhibition of the draft Assessment Guidelines and Major Project Proposal:* the Panel must publically exhibit the draft Assessment Guidelines and Major Project Proposal for 14 days;
* *Final Assessment Guidelines:* after receiving any advice or alterations from the participating regulators in response to any representations received on the draft Assessment Guidelines, the Panel has 28 days, from the end of the public exhibition period, to finalise the guidelines;
* *Major Project Impact Statement:* after receiving the final Assessment Guidelines, the proponent has 12 months to provide the Panel with its Major Project Impact Statement;
* *Assessment guideline compliance:* after being provided with the proponent’s Major Project Impact Statement, participating regulators must give notice to the Panel within 21 days on whether the document addresses the matters required by the Panel and specified in the Assessment Guidelines;
* *Amended Major Project Impact Statement:* if the participating regulator gives the Panel a Notice of Assessment Guideline Non-Compliance, the Panel has 35 days, after being provided the proponent’s Major Project Impact Statement, to give notice to the proponent that an amended Major Project Impact Statement is required;
* *Participating regulators’ preliminary advice:* after being provided the proponent’s Major Project Impact Statement, participating regulators must provide theirpreliminary advice and advise the Panel within 60 days (or 90 days for a project involving a level 2C activity under the *Environmental Management and Pollution Control Act 1994*) on whether a permit can be granted and the conditions or restrictions to be imposed;
* *Draft Assessment Report:* the Panel has 28 days to prepare the draft Assessment Report after receiving each participating regulators’ preliminary advice;
* *Public exhibition of the major project documentation:* the Panel must give notice of the public exhibition of a major project within 14 days after preparing the draft Assessment Report.The Assessment Guidelines, Major Project Impact Statement and draft Assessment Report must be publically exhibited for at least 42 days;
* *Request for further information:* if required, participating regulators must advise the Panel that they request further information from the proponent within 28 days, beginning on the day after public exhibition. The Panel may (or if requested by a participating regulator must) notify the proponent that further information is required within 35 days, beginning on the day after public exhibition;
* *Final advice:* participating regulators must provide their final advice to the Panel within 14 days of the last hearing. If a participating regulator does not direct the Panel to refuse to grant the Major Project Permit, it must specify the reasons for requiring a condition or restriction to be imposed on the permit;
* *Major Project Permit decision:* the Panel must determine whether to grant a Major Project Permit within 60 days after the public exhibition period has ended. This includes a 28 day process to allow the proponent and specified parties to object to the final conditions or restrictions on the permit and for participating regulators and the Panel to review any objections and make any necessary changes;
* *In-principle permit commencement conditions:* participating regulators must determine whether to approve the documentation provided by the proponent under the in-principle permit commencement conditions within 28 days of receiving the documentation; and
* *Final Assessment Report:* if the Panel grants a Major Project Permit and issues a Permit Commencement Notice, the Panel must give notice in the *Gazette* and in a newspaper generally circulating in Tasmania of the grant of the permit and the place where a copy of the permit and final Assessment Report can be obtained.

## 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.

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