

Major Infrastructure Development Approvals Act

Background

Before the introduction of the *Major Infrastructure Development Approvals Act 1999* (the Act), major infrastructure projects in Tasmania were dealt with by local Councils acting as the planning authorities for their municipality. It is important to remember that at that time, there were a greater number of municipalities operating under inconsistent planning controls. If a project was located across different municipalities, they were assessed under different planning controls by different planning authorities. This potentially caused uncertainty in the process and could even result in the non-viability of a project if they could only secure partial approval(s). The Act was therefore introduced to streamline the major infrastructure development approvals process, making it fairer and faster for proponents.

Major Infrastructure Development Approvals Process

The Tasmanian Planning Commission (the Commission) website contains a flowchart that summarises the major infrastructure development approvals process:

<https://www.planning.tas.gov.au/assessments-and-hearings/assessment-and-review-processes/major-infrastructure-project-approval-process>

As part of this process, the Minister has specific responsibilities that are outlined in the Act, including the following:

1. Declaration of a major infrastructure project

The Minister can recommend to the Governor of Tasmania (the Governor) to make an order under subsection 7(2) of the Act (i.e., to declare a project to be a major infrastructure project) and has specific responsibilities during this process:

1

Recommending or not to the Governor to make an order declaring a project to be a major infrastructure project

2

If the order is made, causing this order to be laid before both Houses of Parliament for approval

3

If the order is approved, giving notice of the taking effect of the order to the Commission and any relevant planning authorities and State agencies and authorities

2. Corridors

Some major infrastructure projects may require the creation of corridors between two or more places before these projects are approved. For instance, a major project involving the development of a new power line may require the proponent to identify the approximate passage where this line will be developed.

The creation of a corridor ensures that future uses and/or development within it do not hinder a project's viability and provides more transparency to those who might be potentially impacted (e.g., it may give landowners a better understanding of which portions of their land could be affected).

As soon as practicable after an order under subsection 7(2) of the Act has taken effect, a proponent must lodge a plan of a proposed corridor with the Minister. Once this is done, the Minister:

- Must give notice of the proposed corridor to the Commission and any relevant planning authorities and landowners.
- Undertake any necessary steps for the registration of the notified corridor with the relevant authority.
- May consent to the improvement of land within the notified corridor if satisfied that the implementation of the major infrastructure project will not be hampered as a result of that improvement.
- May amend the notified corridor if satisfied that it is reasonable to do so by giving notice of the amended corridor to the Commission and any relevant planning authorities and landowners (including both landowners for which land is added or deleted in relation to the initially notified corridor) and undertaking any necessary steps for the registration of the amended corridor with the relevant authority.

3. Establishment, membership and dismissal of a combined planning authority

The development approvals process for major infrastructure projects is typically administered by the combined planning authority. However, the Commission can also undertake the role, if one of the affected local governments has requested it. The Minister is responsible for establishing the combined planning authority and appointing or removing any members and deputy members of this authority.

If a combined planning authority cannot reach a decision or becomes unworkable, the Minister can make an order to dismiss the authority and give the task to the Commission instead. The Minister's order must be laid before and approved by both Houses of Parliament before taking effect.

4. Amendment or revocation of an order declaring a major infrastructure project

Once an order under subsection 7(2) of the Act has taken effect, the Minister may recommend to the Governor to amend the order. The Minister is required to table the amending Order in both houses of Parliament.

Where the Minister determines that such an amendment will alter the order to such an extent that it should be submitted to both Houses of Parliament for approval, the amending Order does not take effect until it is approved by both houses of Parliament (in the same manner as the original order).

The Minister may also recommend to the Governor to revoke an order under subsection 7(2) of the Act if any of the circumstances specified in subsection 20(1) apply.

Once the revocation of an order has been made by the Governor, the Minister must cause this order to be laid before both Houses of Parliament.

In the event of revocation of an order, permits granted since making the order under section 7(2) for a use or development comprised in the major infrastructure project cease to have effect.

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