



tasmanian conservation trust inc

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Draft Macquarie Point Planning Permit Bill 2025

The following points relate specifically to the *Draft Macquarie Point Planning Permit Bill 2025* and are additional to the submission submitted by the Planning Matters Alliance Tasmania and Tasmanian Conservation Trust.

Need for additional consultation

It is unfortunate that consultation on the *Draft Macquarie Point Planning Permit Bill 2025* is continuing during the state election. If the incoming government wishes to proceed with the same or similar legislation, then the TCT strongly recommends that additional consultation is undertaken. Clearly an election in which the stadium and the draft enabling legislation are central and contentious issues would distract people from making submissions and may bias those submissions that are made.

Overall recommendation

Given the criticisms included below regarding the nature of the project permit, the unchecked powers of the minister and the lack of enforcement powers, it is recommended that the *Draft Macquarie Point Planning Permit Bill 2025* be scrapped.

Minister's power to issue subsequent project permits

Clauses 9, 11 and 12 relate to the minister's power to issue subsequent project permits, which can include amendments to the Project Permit that the state government intends to table with the draft legislation. The process established in the draft legislation provides for the minister to issue a subsequent permit that has immediate effect, but which can only be disallowed by parliament at a later date. The timeframes in the draft legislation allow for the actions subject to the subsequent permit to be acted upon prior to the parliament being able to consider disallowance. Clause 10 requires the Minister to table a subsequent project permit in parliament within 10-sitting days after the minister issues it. Ten sitting-days could amount to several weeks or months given that parliament can have long periods of not sitting between sitting days.

This grants the minister unacceptable discretion to issue subsequent permits without any practical limits or control. This is quite different from the initial project

permit that is proposed to be tabled with the draft bill and is subject to parliamentary scrutiny and potentially can be refused prior to being in force. The powers to issue subsequent permits would allow the minister to make any amendment to the permits including entirely replacing the initial project permit. This power seems to have no limits as there is no potential to challenge permits through the courts or via TasCAT.

Permit enforcement

Clause 16 assigns responsibility for permit compliance to the minister but no enforcement powers are provided in the draft legislation. In practical purposes this means that the minister cannot compel the proponent or anyone acting on their behalf to stop or alter their actions, in order to comply with the project permit. This combined with there being no potential to challenge permits through the courts or TasCAT means that the proponent is virtually immune from legal recourse, with the possible exception of criminal acts.

Draft Project Permit

The TCT's submission to the Draft Integrated Assessment Report for the Macquarie Point Multi-purpose Stadium focused on management of contamination and so will comment on the Draft Project Permit.

'Schedule 5 - Environmental Protection Authority conditions' requires the production of a number of plans that are to be approved by the Director of the EPA, including the Construction and Environmental Management Plan pursuant to CN2. Schedule 8 lists regulators for these conditions including the Director EPA, Secretary State Growth, Secretary of Natural Resources and Environment and others. It is not clear whether Schedule 8 requires that conditions such as CN2 are approved by all these regulators, some of them or just one? If it is just the EPA that approves the CEMP then this must be made clear in the permit. If it is more than one regulator that provides approval, then this must be made clear as well as the order of who provided approval first and whether one can override the others.

C1 allows permits to be prepared and approved in stages which provides another level of complexity to the permit approvals process.

CN2(5) allows the proponent to make a request to the Director to amend or replace the CEMP. It is not made clear whether the amended plan is to meet the same conditions as the original plan as per CN2(1), (2) and (3).

The combined effect of C1, allowing plans to be approved in stages, Schedule 8, apparently requiring multiple regulators to provide approvals, CN2, providing for plans to be amended or replaced and clauses 9, 11 and 12 of the legislation, to allow the minister to amend the permits, is a fabulously complex and potentially disjointed approval process that is bound to lead to mistakes.

It is noted that CN2 provides that the CEMP 'must be submitted to the Director for approval'. It is not clear what the Director is to do if the CEMP does not include the required content or is not of sufficient standard. There is no timeframe for the Director to make a decision to approve the CEMP or request additional information. Assuming the Director provides a request to the proponent for additional information there is no timeframe provided for the response.

It is noted that neither the Draft Project Permit or the Enabling Legislation Report respond to the numerous concerns raised by both the TPC Draft IAR and the EPA

submission (both of which are addressed in the TCT submission to the Draft IAR) about the inadequate information provided by the proponent about the nature and extent of contaminated materials and the inability of the proponent to respond to requests for additional information. Similarly, the TPC and EPA found that the proponent had provided Contaminated Land Audit reports for the earlier 'Masterplan' development and claimed that these would be sufficient for the stadium development which the EPA did not accept. The conditions proposed in the draft project permit will not be sufficient if the proponent has failed to undertake the first step adequately, i.e. to know the nature and extent of contamination. Similarly, the proponent cannot expect to pass off to the Director EPA the CLA for a different development that required far less excavation of contaminated materials.

Yours sincerely



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Tasmanian Conservation Trust

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