

DRAFT SECOND READING SPEECH

HON JEREMY ROCKLIFF MP

State Policies and Projects (Amendment) Bill 2023

** Check Hansard for delivery **

Mister Speaker, I move that the Bill be read a second time.

This Bill proposes to amend the *State Policies and Projects Act 1993* (the Act) to require a project of State significance that is proposed by the State Government to be approved by both houses of Parliament before any final approval order becomes effective.

The draft Bill also proposes to amend the Act to allow other projects of State significance to be returned to Parliament for consideration prior to any final approval becoming effective.

Mister Speaker, while this Bill does not change any aspect of the assessment process that the Act requires, I think it is important to provide a summary of that so that the proposed changes are seen in context.

Mister Speaker, Projects of State significance are assessed by the independent Tasmanian Planning Commission. That assessment can only begin if the Minister administering the Act, which is currently the Premier, recommends that the Governor makes an order declaring a specific proposal to be a project of state significance. That order is then tabled in both Houses of Parliament for 15 sitting days to seek approval. The approval can be in the form of a positive motion or by the passage of those 15 days without a successful move to disallow it.

After the Order is made by the Governor, but before it is approved by Parliament, the Minister must give a written direction to the Commission instructing it to conduct an integrated assessment of the project.

The legislation enables the Commission to start work in preparation of the assessment even before the approval of the Order by Parliament.

The Act provides that this direction can also require the Commission to comply with any requirement regarding specific matters to be addressed in the assessment, the process to be followed in undertaking the assessment, or the time within which the integrated assessment must be completed.

Past project of state significance assessments have been triggered by directions that have indicated consideration of specific planning, environmental or social issues that the project is anticipated will be important. These are over and above the direction to conduct the legislated integrated assessment of environmental, social, economic and community issues. They have also set timeframes for the assessments to be completed.

The timing of the Minister issuing a direction is so that the Parliament is aware of the direction and its content before it has to determine the fate of the order. Parliament will be aware of the specific scope of issues that the Commission will be asked to assess and can determine whether to approve the order based on that knowledge.

Once the direction is provided to the Commission it's key task is to initially prepare guidelines which the proponent must address in its reports and documentation to the Commission to facilitate its integrated assessment work.

The Act specifically allows for the public exhibition of these guidelines before they are finalised, and I can advise the House that all previous projects of state significance have featured this public scoping of the relevant issues to be examined by the Commission.

The Commission is also bound to directly seek the views of a range of key bodies on the project, including the council of the area the project is in and State agencies, but also other public bodies with an interest in it.

In consultation with these key bodies, the Commission must prepare a draft integrated assessment report and exhibit that for at least 28 days. This is the stage that representations in relation to that draft report are made by any person. The Commission is bound to consider these representations and can hold hearings to assist that process.

The independent Commission can then revise its draft report and gives that to the Minister setting out its findings and recommending if it should proceed or not and, where appropriate, what conditions it should proceed under. The Minister has 28 days to decide how to respond to the report.

There is no obligation for the Minister to recommend to the Governor the making of an order to allow the project to proceed. Obviously, if the Commission has recommended that it should not proceed then not proceeding with an order should be an option for the Minister.

Where the Minister determines that the project should proceed in line with the report, they can recommend to the Governor to make a final order to allow the project to proceed. Currently, under this circumstance, Parliament is not provided a further opportunity to approve or refuse the project of State significance.

Alternatively, if the Minister wishes to vary any of the conditions set out in the Commission's report, or to recommend that it proceeds in contradiction to the advice of the Commission, then the Minister can recommend to the Governor the making of an order that allows the project to proceed.

An order made by the Governor following this alternate process has no legal effect until approved by both Houses of Parliament.

This provides the Parliament with a further opportunity to determine if the project can proceed, but only if the Minister wishes to deviate from the Commission's findings. The Parliament provides a check against the decision of the Executive Government to act against the advice of the Commission.

Mister Speaker, this Bill proposes that the final approval order for projects proposed by government, should always be returned to Parliament for consideration and provides an additional optional pathway to allow for a case-by-case determination as to whether the final order for other projects is returned to Parliament for approval. In both these scenarios, this is irrespective of the Minister's acceptance, variation or rejection of the Commission's recommendations.

Care must be taken when considering the need to return a final approval order to Parliament as it may not be suitable for every project of State significance. It is important to be mindful of the risks of damaging Tasmania's reputation for private investment based on predictable, transparent assessment processes when exercising the rights provided under the Bill in relation to projects not being proposed by Government or Government-owned businesses.

Mister Speaker, since the introduction of the *State Policies and Projects Act 1993* there has been the introduction of other approval pathways for major projects. These included the Major Infrastructure Development Approvals Act (MIDAA) and the recent Major Projects process in the *Land Use Planning and Approvals Act 1993* (LUPAA) which was used to assess the new Bridgewater Bridge. Both of these provide higher level assessment of significant regional projects. Major Projects are assessed by independent regulators at arm's length from the Government and Parliament.

Given the broader range of pathways now available, it is timely to review the details of the Projects of State Significance (the POSS) process to ensure it provides a genuine alternative with different characteristics.

While the Major Projects process provides many benefits above the normal development assessment, it is limited to environmental, heritage, natural values and planning issues. It provides a coordinated assessment by the separate regulators of these matters. What the POSS process provides is an integrated assessment of environmental,

economic, social and community matters. This is both broader in scope and enables the assessment to 'trade off' impacts and benefits across these matters.

When we are talking about government projects with significant economic, social and community impacts and benefits, the Government believes there should be a role for the Parliament and not just experts. These are matters that, as elected representatives of the people, we should have a final say on where there is a clear public interest.

Mister Speaker, the introduction of this Bill should not be seen in any way as diminishing the independent scrutiny and assessment of the Commission. Whatever recommendations flow from the Commission's work will obviously be 'front and centre' when the Parliament decides the fate of a project which comes back to it for final approval. But the Government believes that where 'trade offs' involve economic, social and community interests, then the representatives of the people should be involved.

Mister Speaker, because of this, I also commit to progressing a more comprehensive review of the *State Policies and Projects Act* within the next 12 months. The Act has been in effect for nearly 30 years with minimal amendment. With the unprecedented growth being experienced in Tasmania, it is important this review be undertaken now to ensure we have a suite of appropriately calibrated assessment pathways.

I also want to indicate to the House that the Government will be moving to ensure that the Commission will get funded to carry out the assessment. While the current legislation provides for the making of regulations to cover the assessment costs, these have never been drafted. Indeed, one of the previous assessments failed to recoup the costs from the proponent costing the Government over half a million dollars. So today I'm giving notice of our intention to table Regulations that will provide for the full cost recovery of the assessment.

Mister Speaker, the Bill before the House today is very straightforward. It proposes that sections 18 and 26 of the Act are amended to include additional provisions. These new provisions provide for the project declaration order made by the Governor under section 18 of the Act to require that a project of State significance proposed by Government must be returned to be approved by Parliament, while other projects have the option to include a statement indicating that any final orders made by the Governor under section 26 of the Act are of no effect until both houses of Parliament have approved the final order made by the Governor.

Mister Speaker, this Bill gives effect to the principle that given Parliament must agree to start the process, then for government projects, which have significant environmental, economic, social and community impacts and benefits, Parliament should also have the final responsibility to approve the project, notwithstanding the independent assessment and recommendation.

The Bill also allows Parliament to approve or refuse a project, where Parliament considers it appropriate to do so, for those projects of State significance which are not sponsored by the Government but which the Minister of the day agrees should proceed on the terms of the Commission's final assessment report.

Mister Speaker, I commend the Bill to the House.