

13 June 2025

Mr Paul Turner SC
Panel Chair of the Macquarie Point Multipurpose Stadium Panel
Tasmanian Planning Commission
GPO Box 169
HOBART TAS 7001

Dear Mr Turner

Macquarie Point Multipurpose Stadium Project of State Significance

1. Introduction

- 1.1 On behalf of our client, the Crown in the Right of Tasmania, we formally request that the scheduled hearing dates, 25 – 27 June, 30 June, 1 – 3 July and reserve days 7 – 9 July 2025, be adjourned.
- 1.2 As documented in the Directions Hearing Summary published on the Tasmanian Planning Commission's (**Commission's**) website yesterday (**Directions Hearing Summary**), during the Directions Hearing held on 10 June 2025, the Commission confirmed that our client is:

at liberty to make another application for adjournment of the public hearing and if it was minded to do so it should direct correspondence to the Commission with detailed reasons why an adjournment was sought

- 1.3 The reasons for this request are as follows:
- (a) since the date of the Directions Hearing, an election has been called for 19 July 2025 and the Government has entered a caretaker period. It would be procedurally unfair to our client to participate in the Public Hearing during the caretaker period, as it will be limited to matters of fact and administration and will not be able to properly respond to matters put during the Public Hearing;
 - (b) our client is prejudiced by the lack of time for preparation, including as a result of the failure to advise of the scope of the Public Hearing until yesterday, and the bringing forward of the commencement of Public Hearing from 30 June to 25 June 2025; and
 - (c) the only party that may suffer prejudice because of the adjournment is our client.
- 1.4 We request the Public Hearing is adjourned to commence no earlier than 6 August 2025, which is approximately 2.5 weeks after the upcoming election, and allowing the caretaker period to end.

2. Caretaker period

- 2.1 An election was called on 11 June 2025, to be held on 19 July 2025 and consequently Government has entered a caretaker period
- 2.2 This is a unique situation that was not foreseen, and these circumstances will impact how our client can address and respond to matters raised at the hearing before the Panel if it proceeds as scheduled.

Caretaker period

- 2.3 Given the passing of the no-confidence motion, the Government has assumed a caretaker role.
- 2.4 The involvement of our client in a public hearing process, if conducted during a caretaker period, would be unduly constrained to its detriment.
- 2.5 The focus of the Public Hearing is on the representations made during the exhibition of the Draft Integrated Assessment Report dated 31 March 2025 (**Draft Integrated Assessment Report**). Our client plays a key role in the hearings as three representations were made on its behalf and it is also the Proponent.
- 2.6 While Government business continues as usual when it comes to ordinary matters of administration, the caretaker conventions affect some aspects of Executive Government, specifically they avoid making major policy decisions that are likely to commit an incoming Government or limit its freedom to act.¹
- 2.7 In addition, Operational Note (a) in section 7 of the “Guidelines on the Caretaker Conventions and the operations of government during Caretaker Period” (**Guidelines to the Caretaker Conventions**) states:

Section 7.5 – “At no time should Tasmanian State Service employees and officers (other than those formally seconded to Ministerial, parliamentary or electorate offices) engage in activities of a political nature while on duty. Extra care is required during the caretaker period to ensure impartiality.”

Operational Note (a) in section 7 – “Tasmanian State Service employees and officers need to exercise judgement if they are scheduled to speak at public functions during the caretaker period. In the case of controversial issues, Tasmanian State Service employees and officers should decline invitations to speak in the first instance. However, if they do accept, they should explain to the organiser that the Government is in caretaker mode and that their presentation will be limited to factual issues and matters of administration. State Service employees and officers should avoid publicly explaining or promoting policies during the caretaker period.”

- 2.8 It is accepted that a position has already been put forward by our client in respect of the proposal through the submission of reports in response to the Macquarie Point Multipurpose Stadium Final Guidelines (including a number of additional reports following requests for further information) in addition to the three representations on the Draft Integrated Assessment Report.
- 2.9 However, there is concern that our client's case would nonetheless be severely constrained in the Public Hearing process during the caretaker period, to its detriment.
- 2.10 This is due to its inability to present material beyond matters of fact and administration. It is evident from the Directions Hearing that these types of issues may arise during the Public Hearing, either in response to new material or alternative approaches that might be put by either the Commission itself or other representors. These may fall beyond the scope of our client's decision-making powers expressed in the Guidelines to the Caretaker Conventions.
- 2.11 If the Public Hearing is not adjourned and new material or alternative approaches are entertained, our client would be forced to seek an adjournment during the Public Hearing itself, which would disadvantage all parties.
- 2.12 Further, as noted at the Directions Hearing, our client is considering making available a person that is subject to the Guidelines to the Caretaker Conventions to discuss the positive aspects of the Project. Given the context within which the election was called, the Project is clearly of a highly political nature. To put forward such a person in a manner that would properly advance our client's case would risk contravention of section 7.5 of the Guidelines to the Caretaker Conventions. In addition, it would not be possible to limit matters to factual issues and matters of administration, as required by Operational Note (a) in section 7.

¹ See section 1.10 of the Guidelines to the Caretaker Conventions

Timeframes

- 2.13 It is only in the Directions Hearing Summary, which was released yesterday, that the Commission has confirmed which representors will be parties to the Public Hearing. It is procedurally unfair to require our client to prepare its case in response to the issues raised by the now confirmed parties to the Public Hearing in such a short timeframe, including to:
- (a) provide all further written evidence to support representations subject to the Public Hearing to the Commission by 17 June 2025, which is 3 business days after the parties were confirmed; and
 - (b) attend the Public Hearing which has been scheduled to commence on 25 June 2025. Among other things, we note that the Draft Integrated Assessment Report stated that it is expected that a public hearing would be held between 30 June and 25 July 2025. It is not clear why Commission has decided to schedule the Public Hearing to commence at a time before the initially stated timeframes, however, to do so severely constrains our client's ability to properly review, consider and respond to any new information provided by other parties to the Public Hearing.
- 2.14 In our submission, should the adjournment be refused, our client would be deprived a reasonable opportunity to present its case, thus constituting procedural unfairness.²
- 2.15 The rules of natural justice require, inter alia, that a party has a reasonable opportunity to present its case.³

3. Prejudice

- 3.1 A relevant consideration when determining whether an adjournment should be granted is whether any party would suffer any prejudice as a result.
- 3.2 The only party that would suffer prejudice from the delay caused by the adjournment is the Proponent, considering the present circumstances our client accepts the resultant delay and the consequences of this.
- 3.3 Whilst it could be said that the Commission is under a strict timeframe to deliver its final report by no later than 17 September 2025 as a result of the timeframes imposed by clause 3 of the Ministerial Direction dated 16 October 2025 (**Ministerial Direction**) and may itself be prejudiced by an adjournment to the dates proposed, the Panel noted during the Directions Hearing that it may have its final report ready well in advance of that date. Therefore, adjourning the hearing to the dates proposed does not appear to create any unmanageable challenges for the Commission.
- 3.4 Further, if the Commission would require additional time in light of the requested adjournment which would mean it could not comply with the requirements of the Ministerial Direction, our client invites the Commission to write to it noting this.

4. Conclusion

- 4.1 For the reasons set out above, we respectfully request that the hearing dates be adjourned to commence no earlier than 6 August 2025.

Yours faithfully
MinterEllison

MinterEllison

Signed: **Joshua Dellios**
 Partner
 +61 436 023 233
joshua.dellios@minterellison.com

Contact: **Allison Tansley**
 Senior Associate
 +61 421 062 711
allison.tansley@minterellison.com

² See also *Minister for Immigration and Citizenship v Li* (2013) 249 CLR 332 at [19] - [48]
³ *Attorney General v University of Tasmania* (2020) TASFC 12