

TASMANIAN PLANNING COMMISSION

Our ref: DOC/25/67440
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17 June 2025

Mr Joshua Dellios
Partner
MinterEllison
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By email: joshua.dellios@minterellison.com
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Dear Mr Dellios

Thank you for your letter of 13 June directed to Mr Paul Turner SC, the Chair of the Panel of delegates of the Tasmanian Planning Commission which is conducting the integrated assessment of the Macquarie Point Multipurpose Stadium Project of State Significance ('the Project').

In the letter you request:

- 1.1...that the scheduled hearing dates, 25 - 27 June, 30 June, 1 - 3 July and reserve days 9 - 9 July 2025, be adjourned; and
- 1.4...the Public Hearing is adjourned to commence no earlier than 6 August 2025...

Mr Turner has considered the contents of your letter and has determined that the requests be refused. Mr Turner has requested that I advise you of his reasons for refusal which are set out below.

"Adjournment Request Refusal - Reasons

Chronology

The Draft Integrated Assessment Report was published and exhibited on 31 March 2025. It contains a brief outline of events occurring to that point. It references reports/material submitted by the proponent. They are voluminous and are published on the Commission's website - <https://www.planning.tas.gov.au/assessments-and-hearings/current-assessments-and-hearings/macquarie-point-multipurpose-stadium-integrated-assessment>.

Prior to that, on 11 March 2025 the Executive Commissioner, Mr John Ramsay sent an email to the CEO of the Macquarie Point Development Corporation, which had been tasked by the Premier to 'be responsible for progressing the project' (his letter to Mr Ramsay of 27 November 2023). In part the email said:

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The Commission has prepared indicative timelines for the next stages of the assessment process for the Macquarie Point Multipurpose Stadium POSS. I stress 'indicative' timelines. The dates listed below may be subject to change, depending on finalisation of the draft integrated assessment report (draft IAR), and the number, contents and issues raised in representations on the draft IAR.

Indicative Timelines

- 31 March anticipated release date of the draft IAR
- Assuming a 31 March release - period for receipt of representations until 8 May (which provides for additional time to take into account the Easter period)
- May/June - assessment of representations
- June - Directions Hearing (date to be advised)
- 30 June - 25 July - conduct of hearings as determined to be required by the Assessment Panel
- 17 September - final IAR and report to the Minister

By public notice on 31 March 2025 the Commission (by the delegates) invited representations to be made by 8 May 2025. The proponent (the Crown in Right of the State of Tasmania) made three separate representations.

On 17 April the Commission published on its noted website details of the 'Assessment Process'. This included reference to a Directions Hearing to be conducted on a date in June to be advised; and specified 'current indicative arrangements for hearings' - being 30 June - 25 July.

The Commission determined that 29 of the representations received should be considered by way of a hearing. One of those representations was the third made by the proponent, on 8 May 2025.

On 30 May 2025 an email was sent by the Commission to Minter Ellison, the representative of the proponent, advising of the Directions Hearing to be held at the Old Woolstore on 10 June at 10 am; and of the public hearings 'scheduled to be heard between 25 June and 4 July, with potential for reserve days up to 9 July'. It advised that the Panel '[wished] to hear from the proponent in relation to the Minter Ellison representation dated 8 May 2025'.

In addition to the foregoing on 23 July 2024 there was published on the noted website of the Commission 'Guidance on representations and hearings'. That included:

.... the Commission must consider the representations. To that end it may conduct a hearing, which will be governed by the provisions of Part 3 of the Tasmanian Planning Commission Act 1997.

If there is a hearing, directions will be made by the Commission as to the orderly and fair conduct of it. That will include a requirement for any person who wishes to give or to call evidence to the Commission at the hearing to disclose in writing the nature of such evidence some time prior to the hearing, and to make that available to any other person who seeks to be heard at the hearing.

The Secretary of the Department of Premier and Cabinet, Ms Kathrine Morgan-Wicks wrote to the Executive Commissioner on 21 May 2025. In part her letter said:

I write to advise that the Government has formed the view that the integrated assessment process under the *State Policies and Projects Act* is no longer the preferred approach for the Crown to secure approval for the Multipurpose Stadium proposed to be developed at Macquarie Point.

The Government considers that special purpose legislation represents a more expeditious and clearer path for approval for the Stadium and will introduce this legislation into the Parliament in early June 2025.

By way of update, the Department of Premier and Cabinet has been tasked with coordinating the input of all relevant State Government Agencies and statutory authorities in the preparation of this special purpose legislative package. The package comprises a draft bill, permit and conditions (with drafting led by an externally engaged planning expert), project scope and relevant supporting documents, and a Report to address all identified issues in the Panel's Draft Integrated Assessment Report and any further issues identified in formal representations (submitted by members of the public and organisations in the recent round of consultation conducted by the Commission).

My Department will ensure that the Commission is provided with all material developed to support Parliament's consideration of the project at the earliest opportunity, which I expect to be by early next week. I note that we will also release the draft package for public consultation.

Government recognises and appreciates the expertise and very substantial effort put into the integrated assessment process by the Commission, Macquarie Point Development Corporation on behalf of the Crown as the proposer of the Stadium and all those who have made representations to the integrated assessment process. This work will serve the Parliament well in its consideration of legislation brought before it, noting it has been reviewed in detail and directly referenced in the preparation of the legislative package.

Government also recognises that the next steps in the integrated assessment process will involve a significant effort for the Commission, Macquarie Point Development Corporation, representors and Government agencies concurrently with the Parliament's consideration of legislation for the Stadium and has determined that the Crown will cease to actively engage with the integrated assessment process and will instead prioritise its resources to support the

Parliament's consideration of the enabling legislation.

Ms Morgan-Wicks wrote again to the Executive Commissioner on 27 May 2025. Her letter said in part:

Consistent with my commitments to you, please find enclosed the consultation draft of the Enabling Legislation Report, the draft Macquarie Point Planning Permit Bill 2025 and the draft Permit and Conditions. These have been developed by the Department of Premier and Cabinet through a process of engagement with all relevant State Agencies and authorities and

with appropriate consultation with the Macquarie Point Development Corporation and Stadiums Tasmania.

As advised previously, the Government has determined that the Crown will not actively engage with the integrated assessment processes, choosing instead to prioritise its resources to support the Parliament's consideration of the enabling legislation. I will, however, ensure that you are provided with any material generated through that process that may be relevant to the Commission's processes.

At the directions hearing the proponent was represented by counsel, who advised that it would not take any active role in the hearings but would produce a person to speak to the terms of the draft Permit and Conditions.

Consideration of the request(s)

The proponent correctly identifies that the Government is presently in a caretaker role following the dissolution of the House of Assembly.

The caretaker conventions are set out in a publication of the Department of Premier and Cabinet - 'Guidelines on the Caretaker Conventions and the Operation of Government During Caretaker Period'. Relevantly they do not impact in any way on the statutory process mandated by the *State Policies and Projects Act 1993*. That is to say, the Commission is enjoined to continue with the integrated assessment.

It is claimed that the proponent, by reason of the application of the convention(s), suffers an 'inability to present material beyond matters of fact and administration...which may arise during the Public Hearing, either in response to new material or alternative approaches that may be put by either the Commission itself or other representors'.

It is to be doubted that such is the case. The conventions do not prevent the ordinary business of government from being transacted. The ordinary business includes that which flows from agreements entered, decisions that have been made, policies which have been announced and actions which have been taken prior to the caretaker period having commenced. State servants are not prevented by the conventions (as set out in the noted publication) from doing things which further those pre-existing matters. They are not to do significant things which are, in effect, not countenanced by anything Government determined prior to the caretaker period, and which would commit the incoming Government to something new. The policy of Government – expressed clearly and on multiple occasions before the dissolution of the House of Assembly - is to have constructed on Macquarie Point a multi-purpose Stadium (together with related infrastructure). There is nothing in the convention(s) which require abandonment of that.

In any case, nothing material is identified by which the proponent, which now wishes to engaged in the hearing(s) in a manner different to what it had previously expressed, would or could cause any State servant (or anyone else) to be in breach of the convention(s) and thereby prevent the proponent advancing something it wants to – whether by evidence or submission.

The proponent claims also that 'it is procedurally unfair to require... [it] to prepare its case in response to the issues raised by the now confirmed parties to the Public Hearing in such a short timeframe'. It claims that the refusal of an

adjournment would deprive it of 'a reasonable opportunity to present its case, thus constituting procedural unfairness'.

The Commission considers that the proponent has had ample time to prepare its case. The contents of the reports and materials prepared by the proponent – including the bundle of materials accompanying Ms Morgan-Wicks' letter of 27 May 2025 show a highly sophisticated, well resourced party, clearly alert to the issues identified by the Draft Integrated Assessment report. It has considered the representations that have been made about that report (as appears in the latest Report in support of the mooted legislation). It cannot properly be said that it has in any way been hampered in being able to prepare and present its case by whatever means it chooses in what it contends to be a 'short timeframe', especially when the matters set out in the chronology are considered.

There is no good reason to accede to the requests made. They are refused."

In accordance with usual Commission practice, your letter of 13 June and this response will be posted on the Commission website.

Yours sincerely,



John Ramsay
Executive Commissioner