



17 August 2020

The Hon Roger Jaensch MP
Minister for Planning, Minister for Housing, Minister for Human Services,
Minister for Environment and Parks, Minister for Aboriginal Affairs
Via email: roger.jaensch@parliament.tas.gov.au

Dear Minister

**Land Use Planning and Approvals (Major Projects) Amendment Bill 2020
(Major Projects Bill)**

Thank you for meeting with us on Thursday 30 July, and for your willingness to share information.

While you and your team fully understand the “intent” of the Major Projects Bill (MPB), the “intent” is not clear to many Tasmanians.

After extensive planning and legal advice, it is our understanding that the espoused intent of the MPB and how it could potentially be used are vastly different. This is of significant concern to the community.

During our meeting it was outlined that due to public submissions changes and adjustments were made; however, we still have further concerns and questions we would like clarified and explained.

The East Coast Alliance focus is the Cambria Green project. We have sought considerable professional planning advice and are fully aware that a planning scheme amendment does not qualify under the MPB.

The Cambria planning scheme amendment application would facilitate a large scale, complex and inappropriate development just outside Swansea, on the East Coast.

The East Coast Alliance’s main concern is not what could or could not qualify right now, it is about the potential of what the MPB in its current iteration would allow in the future.

Our major concerns include:

- **Limited community consultation and participation time** – the community has only 28 days to assess, respond to, engage expert help, and be ready to make both written and oral submissions to any major project assessment process. This includes seeking expert and legal advice. This places unreasonable limits on community rights.
- **There are other limits on meaningful public participation in the assessment process** - the public are restricted and only allowed input once the panel has released its preliminary decision (draft assessment report). This is contrary to the normal local council process and unfair. The public are at a disadvantage as they must convince the panel to change its mind.

- **No appeal rights** – the community will be significantly restricted and unable to appeal the decision to approve a major project, removing a basic democratic right for those projects that would normally be assessed by councils. Legal review can only be taken to the Supreme Court on judicial review: generally, these are reviewed only on procedural grounds, not on substance (e.g. the height of a building).

Below is a comparison of how the Cambria Green application would be assessed under the current Land Use Planning and Approvals Act 1993 (LUPAA) process, and how it could look under the Major Projects Process.

Our concerns are based on the rights lost in the current process, NOT by comparison with the current PORS process.

Current Process	Major Projects Process
<p>Council initiates the Planning Scheme Amendment (PSA), normally a 28-day public consultation period. In this case Glamorgan Spring Bay Council (GSBC) extended the period to 42 days.</p>	<p>Community has only 28 days to assess, respond to, engage expert help, and be ready to make both written and oral submissions to any major project assessment process. This includes seeking expert and legal advice: all of which would be necessary considering the scale, and complexity of the project.</p>
<p>After public consultation, the council planner(s) writes an S.39 report taking any representations from the community into consideration and makes recommendations accordingly.</p>	
<p>Application and S.39 report then goes to the Tasmanian Planning Commission (TPC) to assess. The TPC sets dates for hearings, during which ALL representors can participate and can still be involved in the process. This part of the process is dependent on the resources and time constraints of the TPC.</p> <p><i>This ignores the fact that the application is now in the Supreme Court because of questions around the legitimacy of signatures and other evidence used on landowner consent documents, a jurisdictional issue.</i></p>	
<p>If the PSA is approved by the TPC, once the development application (DA) is ready it will be lodged with the GSBC and advertised for 14 days for public comment.</p>	
<p>If GSBC approved the DA, then the community has the right of appeal in the Resource Management and Planning Appeal Tribunal (RMPAT).</p>	<p>NO Merits appeal rights</p>

The East Coast Alliance asserts that the MPB does not afford procedural fairness and removes community democratic rights. It diminishes the community's ability to have an input in the social, economic and environmental future of Tasmania.

Of major concern to the East Coast Alliance is the potential, should the proponents lose their appeal in the Supreme Court, for the Cambria Green project to be reworked as "development ready", submitted as a Major Project application with the project declared a major project under the current draft legislation.

This would overturn the independent Tasmanian Planning Commission decision and make the Supreme Court case irrelevant. Most importantly, it would rule out any opportunity for a planning appeal against the Cambria Green project.

We would appreciate an explanation of the procedures that would prevent this from happening and more importantly, we seek a guarantee it **WILL NOT** happen.

We look forward to hearing from you. Please do not hesitate to contact me as per below.

Kind regards

A handwritten signature in black ink, appearing to read 'Anne Held', followed by a circular stamp or mark.

Anne Held
President
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Cc:
Anthony Reid, Chief of Staff
David Palmer, Policy Advisor