Draft LUPAA Development Assessment Panel Bill 2024 Submission index 251 - 300

No	Name
251	Anne Parrott
252	Central Coast Council
253	Keith Breheny
254	Cyran Severin
255	Nicola Tan
256	Dean Wooler
257	Alix HALLE
258	Annette Aldersea
259	Tasmanian Planning Information Network
260	Miles and Anne Harrison
261	Richard Abbott
262	Pam Schindler
263	Peter Mallon
264	Prof Martin Hiscock
265	Amanda Thomson
266	Rosemary Sharman
267	Anne Burleigh
268	Helen Maskell-Knight
269	John Wadsley
270	Elizabeth Smith
271	Helen Rees
272	Pavlov Jenny
273	Janice Bird
274	Tasmanian National Parks Association
275	Alice Chen
276	Austra Maddox
277	Brian Griffiths
278	Mark Passier
279	Rocelyn Ives
280	Dourias Group Holdings
281	Natalie Poros
282	Anne Griffiths
283	ron lowe
284	Jenelle C
285	Holly Mason-White
286	Judy Nelson
287	Robin Thomas
288	Matt Taylor
289	Joanna Smith

Draft LUPAA Development Assessment Panel Bill 2024 Submission index 251 - 300

No	Name
290	Naomi Dickers
291	Chris Lang
292	David Brewer
293	David Brewer
294	Louise Denson
295	Helmut Schwabe
296	Kingborough Council
297	Greg Pullen
298	lan Johnson
299	Jillian Johnson
300	Peter Wileman

From: Anne Parrott Monday, 11 November 2024

Sent: 8:24 AM

To:yoursay.planning@dpac.tas.gov.auSubject:Development Assessment Panels

Dear Sir/ Madam,

I am writing to express my disgust at these proposed changes which erode democratic processes to such a large degree.

I cannot believe that this, or any democratically elected government would think it is ok to concentrate power for decision making about developments in so few people, and in people who are political appointees not elected representatives.

I may not always support the planning decisions of my local council but I can go and talk to the planners in person, I can lobby the councillors (and not vote for them again if needs be) and I can appeal any decision if I feel strongly enough and have deep enough pockets. This is how it should be. I don't need the Minister, who may not live anywhere near the proposed development, and a small group of political appointees to make development decisions which I cannot even appeal. The DAP is self evidently not the way we want things to be done in Tasmania; not for individuals and clearly not for councils either (certainly not Hobart, Clarence and Kingborough)

Please do not support the establishment of DAPs.

Kind regards Anne Parrott

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11 November 2024

Our ref.: Government Relations/State

Liaison; cf/dk

Doc. ID:

State Planning Office

Email: yoursay.planning@dpac.tas.gov.au

Issued by email only

To whom it may concern

DRAFT LUPA AMENDMENT (DEVELOPMENT ASSESSMENT PANELS) BILL 2024.

Thank you for the opportunity to provide input into this draft legislation, which, if made into law, will significantly worsen Tasmania's land use planning system while drawing focus and resources away from the real issues.

The proposal does not align with our Council's objectives of reducing red tape and facilitating development, and would increase the complexity, elapsed time and costs experienced by some applicants.

Councils are far better placed than others to work collaboratively with applicants and the existing process for assessing development applications generally works well in Tasmania. We also note that work undertaken by the Local Government Association of Tasmania has revealed that Tasmanian development assessment timeframes are among the best in the country, with average assessment timeframes well inside the 28 day (permitted) and 42 day (discretionary) timeframes, compared to average times of 70 days in Victoria, 84 days in New South Wales and 60 or 90 days in Western Australia.

Importantly, the appeal processes and penalties enshrined in the Land Use Planning and Approvals Act 1993 (LUPAA), already provide adequate protection against inappropriate decision making by councils. Our submission is as follows:

Minister Ellis' 7 October 2024 email announcing public consultation on the Bill was divisive, inflammatory and disrespectful.

"This Bill will ensure planning decisions are driven by the planning rules, not the personal biases of individual councillors with an axe to grind.

PO Box 220 19 King Edward Street Ulverstone Tasmania 7315 Tel 03 6429 8900 Cheryl, there are too many examples where critical housing or jobcreating projects are being blocked by ideologically motivated councillors".

The Minister should apologise and must be held to account by the Premier.

- The Government should provide evidence to support the suggestion that projects are regularly being blocked by Councillors. An obvious measure would be the number of applications where professional staff have recommended approval, but Councillors have refused the application. At Central Coast Council, only three dwellings have been refused over the past three years. On all three occasions, refusal was recommended by professional staff and supported by Councillors, as the development did not comply with the State Planning Provisions. Not a single other "job-creating project" was refused during this time.
- We comprehensively reject the need for an amendment to LUPAA as currently framed. Tasmania has the shortest statutory assessment timeframes in the country, and no sufficient evidence has been put forward to support the change. Our greatest concern is that councils are best placed to determine applications. Contrary to the simplification and dismissal of the "local democracy" argument in the October 2024 Position Paper, local knowledge and regionally applied context is not a replacement for adherence to a statewide planning scheme, rather is a critical tool for ensuring the scheme is applied fairly and with common sense, to the extent that is lawfully enabled.
- The draft Bill is clearly politically motivated, and the Tasmanian Government should instead focus on much needed changes to the planning system for which a genuine and urgent need exists. This includes proper resourcing of the review of the State Planning Provisions and the Regional Land Use Strategies, both of which have held up far more development than council decision-making. The Government is well aware of this, and knows that the current review processes are taking far too long. The delays are not for want of effort by the State Planning Office, but stem from a lack of leadership, coordination and resourcing at the political level.
- In relation to s40BA, the Minister must not have the ability to force a council to initiate an amendment to its Local Provisions Schedule (LPS). If a council has already deemed that an amendment cannot be supported, it would be a poor use of ratepayer resources to force it to initiate an amendment. If the intention is to provide a mechanism for the Tasmanian Planning Commission (TPC) to be able to review an amendment request that a council has rejected, then the TPC should be wholly responsible for that process. We maintain

- however, that councils should have the final say on whether or not an LPS amendment should be initiated or not.
- In relation to s60AB, Council believes that if Development Assessment Panels (DAPs) are to be established, they should be established solely for the purpose of councils being able to voluntarily refer a matter for independent assessment (e.g. when the council concerned feels conflicted, or feels that it does not have the capacity or capability to undertake the assessment).
- If DAPs are to be established, then the financial threshold for city and non-city councils should be the same, and the threshold for social and affordable housing should include these financial criteria, so that small scale proposals are assessed under the current process.
- In relation to s60AC, we strongly oppose the Minister having a broad power to refer an application to a DAP.
- In relation to s60AE, it will be difficult for councils to provide DAPs with properly informed input into an application, without the benefit of a direct relationship with the applicant. Further, having more people involved in the assessment will increase the potential for confusion, misunderstanding and blame shifting. The same can be said for additional information request made under s60AF.
- In relation to s60AH, the process of holding hearings will add considerable delays to determination timeframes, up to 98 days for social and affordable housing applications and 119 days for other "early lodgment" proposals, with no maximum timeframe for applications referred to a DAP after commencing a council assessment process.
- If a DAP determines that a permit should be issued, the TPC should be responsible for issuing and enforcing the permit, not councils.
- In relation to s60AJ the ability for a DAP to disregard "frivolous and vexatious" representations is open to politicisation and abuse. There is merit in exploring this matter further, but if that occurs, then the same approach should be available to councils when determining an application.
- In relation to s60AL, s60AM and s60AP, the decision to refer an application to a DAP must be made upfront, not after a council has already invested community resources into the process.
- 14 We remain concerned that under the proposal, a DAP determination cannot be appealed.

Please don't hesitate to contact me if you have any questions. Regardless of the outcome, but particularly if the draft legislation proceeds without major improvement, we implore the Tasmanian Government to consider how it might repair the rift that this initiative and the anti-council rhetoric surrounding it, has created.

Yours sincerely,

Cr Cheryl Fuller MAYOR

Cc: The Hon. Jeremy Rockliff MP, Premier of Tasmania via

Cc: The Hon Dean Winter Leader of the Opposition via

From: Keith Breheny

Sent: Monday, 11 November 2024 8:00 AM **To:** yoursay.planning@dpac.tas.gov.au

Cc:

Subject: DAP proposal: Please scrap the Development Assessment Panel proposal

Dear Sir/Madam

I am a retired Councillor from Glamorgan Spring Bay Council and have decades of experience in Local Government Planning and development.

I have never before provided submissions to the State Government in relation to policy development but this proposed change to the way Development Applications are treated has changed my opinion of what political representatives feel about the people they are purported to represent. You are one of those political representatives.

The installment of a Development Assessment Panel removes, from the planning assessment process, every valid democratic process of community involvement. It shuts out the voice of the community - those who are directly affected - and sends out the clear and loud message that only a developer's voice will be heard. To then remove any capacity for appeal against the Panels decision further compounds the divisiveness of this cynical deviation from established planning controls.

I strongly plead with you to reconsider the formation of the DAP and also ask that you urge your colleagues to also reject this nasty proposal.

Full details of the way the DAP will destroy the trust of the community in the validity of the statewide development is set out in the Planning Matters Alliance Tasmania (PMAT) site at <u>planningmatterstas.org.au</u> Thank you Sincerely Keith Breheny

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From: Cyran Severin

Sent: Monday, 11 November 2024 7:37 AM **To:** yoursay.planning@dpac.tas.gov.au

Cc:

Subject: #ScrapTheDAP – say no to planning panels/say yes to a healthy democracy

Importance: High

To whome it concerns,

I oppose the selling of Australia to companies and corporations and the bias that they deserve preferential treatment over the common man. Allowing this would undermine the basic human rights of the citizens to be able to make decisions regarding their community and environment. This proposed panel is a form of corporate corruption, which Tasmania and Australia as a whole, has been subjected to far too often.

I oppose the creation of Development Assessment Panels (Daps) and increasing ministerial power over the planning system, for the following reasons:

It will create an alternate planning approval pathway allowing property developers to bypass local councils and communities. Handpicked state appointed planning panels, conducted by the Tasmanian Planning Commission, will decide on development applications not your elected local council representatives. Local concerns will be ignored in favour of developers who may not be from Tasmania. Also, if an assessment isn't going their way the developer can abandon the standard local council process at anytime and have a development assessed by a planning panel. This could intimidate councils into conceding to developers demands.

The Tasmanian Planning Commission is not independent – DAPs are hand-picked, without detailed selection criteria and objective processes, are inconsistent with the principles of open justice as they do not hold public hearings, and

lack capacity to manage conflicts of interest (as per the 2020 Independent Review). DAPs do not have to provide written reasons for their decision (making it difficult to seek judicial review). Community input will be less effective because it will be delayed until after the DAP has consulted (behind closed doors) with the developer and any relevant government agencies, and adopted its draft decision.

Research demonstrates DAPs are pro-development and pro-government, they rarely deeply engage with local communities, and they spend most of their time on smaller applications and take longer than local councils to make decisions.

Makes it easier to approve large scale contentious developments like the kunanyi/Mount Wellington cable car, high-rise in Hobart, Cambria Green and high-density subdivision like Skylands at Droughty Point and the UTAS Sandy Bay campus re-development.

Removes merit-based planning appeal rights via the planning tribunal on all the issues the community cares about like impacts on biodiversity, height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and so much more. TASCAT review of government decisions is an essential part of the rule of law and a democratic system of government based on 'checks and balances'.

Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal.

Developments will only be appealable to the Supreme Court based on a point of law or process which have a narrow focus and are prohibitively expensive.

Removing merits-based planning appeals has the potential to increase corruption, reduce good planning outcomes, favour developers and undermine democracy. The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption. Mainland experience demonstrates planning panels favour developers and undermine democratic accountability. Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability. Mainland research demonstrates removing merits-based planning appeals has the potential to reduce good planning outcomes – including both environmental and social.

Increased ministerial power over the planning system increases the politicisation of planning and risk of corrupt decisions. The Planning Minister will decide if a development application meets the DAP criteria. The Minister will be able to force the initiation of planning scheme changes, but perversely, only when a local council has rejected such an application, threatening transparency and strategic planning.

Flawed planning panel criteria. Changing an approval process where the criteria is on the basis of 'perceived conflict of interest', 'a real or perceived bias', 'the application relates to a development that may be considered significant' and the 'development is likely to be controversial' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers. NOTE: The scope of the DAPs includes a range of subjective factors that are not guided by any clear criteria:

- Valuations of \$10 million in cities and \$5 million in other areas.
- A determination by Homes Tasmania that an application includes social or affordable housing. There is no requirement for a proportion of the development to be for social or affordable housing. For example, it could be one house out of 200 that is affordable.

Poor justification – there is no problem to fix. Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest in Australia when it comes to determining development applications. The Government wants to falsely blame the planning system for stopping housing developments to cover its lack of performance in addressing the affordable housing shortage.

Increases complexity in an already complex planning system. Why would we further increase an already complex planning system which is already making decisions quicker than any other jurisdiction in Australia? Say yes to a healthy democracy

I call on you to ensure transparency, independence, accountability and public participation in decision-making within the planning system, as they are critical for a healthy democracy. Keep decision making local, rather than bypassing it, with opportunities for appeal. Abandon DAPs and instead invest in expertise to improve the local government system and existing planning processes by providing more resources to councils and enhancing community participation and planning outcomes. This will also help protect local jobs and keeping the cost of development applications down.

I also call on you to prohibit property developers from making donations to political parties, enhance transparency and efficiency in the administration of the Right to Information Act 2009, and create a strong anti-corruption watchdog.

Yours sincerely,

Cyran Severin

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From: Nicola Tan

Sent: Monday, 11 November 2024 7:34 AM **To:** yoursay.planning@dpac.tas.gov.au

Cc:

say no to planning panels/say yes to a healthy democracy

Subject:

am seriously concerned about the lack of community consultation and representation that this proposal will create. Isn't the whole point of voting in local council representatives to provide a voice for the community that elected them? Who would select planning commission representatives?

I am extremely concerned that this will lead to projects like the Kunyani mt Wellington cable car project being approved more easily without community consultation.

I'm open to hearing more if I have misunderstood but as a member of the community it honestly feels like this is a bit of a betrayal.

I oppose the creation of Development Assessment Panels (Daps) and increasing ministerial power over the planning system, for the following reasons:

• It will create an alternate planning approval pathway allowing property developers to bypass local councils and communities. Handpicked state appointed planning panels, conducted by the Tasmanian Planning Commission, will decide on development applications not your elected local council representatives. Local concerns will be ignored in favour of developers who may not be from Tasmania. Also, if an assessment isn't going their way the developer can abandon the standard local council process at anytime and have a development assessed by a planning panel.

This could intimidate councils into conceding to developers demands.

- The Tasmanian Planning Commission is not independent DAPs are hand-picked, without detailed selection criteria and objective processes, are inconsistent with the principles of open justice as they do not hold public hearings, and lack capacity to manage conflicts of interest (as per the 2020 Independent Review). DAPs do not have to provide written reasons for their decision (making it difficult to seek judicial review). Community input will be less effective because it will be delayed until after the DAP has consulted (behind closed doors) with the developer and any relevant government agencies, and adopted its draft decision.
- Research demonstrates DAPs are pro-development and pro-government, they rarely deeply engage
 with local communities, and they spend most of their time on smaller applications and take longer
 than local councils to make decisions.
- Makes it easier to approve large scale contentious developments like the kunanyi/Mount
 Wellington cable car, high-rise in Hobart, Cambria Green and high-density subdivision like Skylands
 at Droughty Point and the UTAS Sandy Bay campus re-development.
- Removes merit-based planning appeal rights via the planning tribunal on all the issues the
 community cares about like impacts on biodiversity, height, bulk, scale or appearance of buildings;
 impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise,
 smell, light and so much more. TASCAT review of government decisions is an essential part of the
 rule of law and a democratic system of government based on 'checks and balances'.
- Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal.
- Developments will only be appealable to the Supreme Court based on a point of law or process which have a narrow focus and are prohibitively expensive.
- Removing merits-based planning appeals has the potential to increase corruption, reduce good planning outcomes, favour developers and undermine democracy. The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption. Mainland experience demonstrates planning panels favour developers and undermine democratic accountability. Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability. Mainland research demonstrates removing merits-based planning appeals has the potential to reduce good planning outcomes including both environmental and social.
- Increased ministerial power over the planning system increases the politicisation of planning and
 risk of corrupt decisions. The Planning Minister will decide if a development application meets the
 DAP criteria. The Minister will be able to force the initiation of planning scheme changes, but
 perversely, only when a local council has rejected such an application, threatening transparency and
 strategic planning.
- Flawed planning panel criteria. Changing an approval process where the criteria is on the basis of 'perceived conflict of interest', 'a real or perceived bias', 'the application relates to a development that may be considered significant' and the 'development is likely to be controversial' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers. NOTE: The scope of the DAPs includes a range of subjective factors that are not guided by any clear criteria:
 - Valuations of \$10 million in cities and \$5 million in other areas.
 - A determination by Homes Tasmania that an application includes social or affordable housing.

- There is no requirement for a proportion of the development to be for social or affordable housing. For example, it could be one house out of 200 that is affordable.
- Poor justification there is no problem to fix. Only about 1% of council planning decisions go to
 appeal and Tasmania's planning system is already among the fastest in Australia when it comes to
 determining development applications. The Government wants to falsely blame the planning
 system for stopping housing developments to cover its lack of performance in addressing the
 affordable housing shortage.
- Increases complexity in an already complex planning system. Why would we further increase an already complex planning system which is already making decisions quicker than any other jurisdiction in Australia?

Say yes to a healthy democracy

- I call on you to ensure transparency, independence, accountability and public participation in decision-making within the planning system, as they are critical for a healthy democracy. Keep decision making local, rather than bypassing it, with opportunities for appeal. Abandon DAPs and instead invest in expertise to improve the local government system and existing planning processes by providing more resources to councils and enhancing community participation and planning outcomes. This will also help protect local jobs and keeping the cost of development applications down.
- I also call on you to prohibit property developers from making donations to political parties, enhance transparency and efficiency in the administration of the *Right to Information Act 2009*, and create a strong anti-corruption watchdog.

Yours sincerely,

Dr Nicola Tan

From: Dean Wooler

Sent: Monday, 11 November 2024 6:41 AM **To:** yoursay.planning@dpac.tas.gov.au

Cc:

Subject: #ScrapTheDAP – say no to planning panels/say yes to a healthy democracy

When will government understand that this sort of overreach is incredibly frustrating to the vast majority of people and will result in their removal from power?. A few handpicked individuals do NOT know better and will in the main be pro-government agendas. This is opposite of democratic, when appeals are disallowed and agendas such as is happening in Victoria with the "green" agenda running rough-shod over everyone in their transmission line and renewables obsession occur. It is plainly wrong and destructive on many fronts.

Therefore I oppose the creation of Development Assessment Panels (Daps) and increasing ministerial power over the planning system, for the following reasons:

- It will create an alternate planning approval pathway allowing property developers to bypass local councils and communities. Handpicked state appointed planning panels, conducted by the Tasmanian Planning Commission, will decide on development applications not your elected local council representatives. Local concerns will be ignored in favour of developers who may not be from Tasmania. Also, if an assessment isn't going their way the developer can abandon the standard local council process at
- at anytime and have a development assessed by a planning panel. This could intimidate councils into conceding to developers demands.

- The Tasmanian Planning Commission is not independent DAPs are hand-picked, without detailed selection criteria and objective processes, are inconsistent with the principles of open justice as they do not hold public hearings, and lack capacity to manage conflicts of interest (as per the 2020 Independent Review). DAPs do not have to provide written reasons for their decision (making it difficult to seek judicial review). Community input will be less effective because it will be delayed until after the DAP has consulted (behind closed doors) with the developer and any relevant government agencies, and adopted its draft decision.
- Research demonstrates DAPs are pro-development and pro-government, they rarely deeply engage with local communities, and they spend most of their time on smaller applications and take longer than local councils to make decisions.
- Makes it easier to approve large scale contentious developments like the kunanyi/Mount Wellington cable car, high-rise in Hobart, Cambria Green and high-density subdivision like Skylands at Droughty Point and the UTAS Sandy Bay campus re-development.
- Removes merit-based planning appeal rights via the planning tribunal on all the issues the community cares about like impacts on biodiversity, height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and so much more. TASCAT review of government decisions is an essential part of the rule of law and a democratic system of government based on 'checks and balances'.
 - Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal.
 - Developments will only be appealable to the Supreme Court based on a point of law or process which have a narrow focus and are prohibitively expensive.
 - Removing merits-based planning appeals has the potential to increase corruption, reduce good planning outcomes, favour developers and undermine democracy. The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption. Mainland experience demonstrates planning panels favour developers and undermine democratic accountability. Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability. Mainland research demonstrates removing merits-based planning appeals has the potential to reduce good planning outcomes including both environmental and social.
 - o Increased ministerial power over the planning system increases the politicisation of planning and risk of corrupt decisions. The Planning Minister will decide if a development application meets the DAP criteria. The Minister will be able to force the initiation of planning scheme changes, but perversely, only when a local council has rejected such an application, threatening transparency and strategic planning.

- Flawed planning panel criteria. Changing an approval process where the criteria is on the basis of 'perceived conflict of interest', 'a real or perceived bias', 'the application relates to a development that may be considered significant' and the 'development is likely to be controversial' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers. NOTE: The scope of the DAPs includes a range of subjective factors that are not guided by any clear criteria:
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Say yes to a healthy democracy

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- I also call on you to prohibit property developers from making donations to political parties, enhance transparency and efficiency in the administration of the *Right to Information Act 2009*, and create a strong anti-corruption watchdog.

Yours sincerely,

Dean Wooler

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From: Alix HALLE

Sent: Monday, 11 November 2024 6:23 AM **To:** yoursay.planning@dpac.tas.gov.au

Cc:

Subject: #ScrapTheDAP – say no to planning panels/say yes to a healthy democracy

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- A determination by Homes Tasmania that an application includes social or affordable housing. There is no requirement for a proportion of the development to be for social or affordable housing. For example, it could be one house out of 200 that is affordable.
 - Poor justification there is no problem to fix. Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest in Australia when it comes to determining development applications. The Government wants to falsely blame the planning system for stopping housing developments to cover its lack of performance in addressing the affordable housing shortage.
 - Increases complexity in an already complex planning system. Why would we further increase an already complex planning system which is already making decisions quicker than any other jurisdiction in Australia?

Say yes to a healthy democracy

I call on you to ensure transparency, independence, accountability and public participation in decision-making within the planning system, as they are critical for a healthy democracy. Keep decision making local, rather than

bypassing it, with opportunities for appeal. Abandon DAPs and instead invest in expertise to improve the local government system and existing planning processes by providing more resources to councils and enhancing community participation and planning outcomes. This will also help protect local jobs and keeping the cost of development applications down.

I also call on you to prohibit property developers from making donations to political parties, enhance transparency and efficiency in the administration of the Right to Information Act 2009, and create a strong anti-corruption watchdog.

Yours sincerely,
Alix Bouffet-Halle

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From: Rob & Annette Aldersea <

Sent: Monday, 11 November 2024 12:22 AM **To:** yoursay.planning@dpac.tas.gov.au

Cc: Scrap The DAP - say no to planning panels - yes to a healthy democracy

Subject:

High

Importance:

I strongly oppose the creation of Development Assessment Panels (DAPS) and increasing ministerial power over the planning system, for the following reasons:

It will create an alternate planning approval pathway allowing property developers to
bypass local councils and communities. Handpicked state appointed planning panels,
conducted by the Tasmanian Planning Commission, will decide on development
applications, not our elected local council representatives. Local concerns and issues
will be ignored in favour of developers who only care about their bottom line, they do not
care about our communities, towns, National Parks, or reserves. In many cases they will
not be from Tasmania.

- Also, if an assessment isn't going their way the developer can abandon the standard local council process at any time, and have a development assessed by a planning panel. This could coerce councils into conceding to developers demands.
- Under DAPs developments such as the Heavy Truck Fuel Stop proposed in an inappropriate location in the entrance to Longford on Tannery Road, would go ahead denying the community the right to voice its legitimate concerns regarding safety, traffic congestion and environmental issues, and much more. This would clearly be pandering to a private entity only interested in making money, completely disregarding our town and its people who will be negatively impacted if it proceeds and would have no recourse. This is completely undemocratic and un-Australian.
- The DAP removes merit-based planning appeal rights via the planning tribunal on all the
 issues the community cares about like impacts on heritage, biodiversity, height, bulk,
 scale, or appearance of buildings; impacts to streetscapes, and adjoining properties
 including privacy and overlooking. Safety, traffic, noise, smell, light and so much more.
- The Tasmanian Planning Commission is not independent DAPs are hand-picked, without detailed selection criteria and objective processes, are inconsistent with the principles of open justice as they do not hold public hearings and lack capacity to manage conflicts of interest (as per the 2020 Independent Review). DAPs do not have to provide written reasons for their decision (making it difficult to seek judicial review). Community input will be less effective because it will be delayed until after the DAP has consulted (behind closed doors) with the developer and any relevant government agencies and adopted its draft decision. This is completely unacceptable.
- Research demonstrates DAPs are pro-development and pro-government, they rarely
 deeply engage with local communities, and they spend most of their time on smaller
 applications and take longer than local councils to make decisions.
- It will make it easier to approve large scale contentious developments such as the cable car on Mt Wellington/Kunanyi and the Lake Huntley Lodges.
- Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal. TASCAT review of government decisions is an essential part of the rule of law and a democratic system of government

based on 'checks and balances'.

- Developments will only be appealable to the Supreme Court based on a point of law or process which have a narrow focus and are prohibitively expensive, all but excluding Councils and communities from appealing inappropriate developments.
- Removing merits-based planning appeals has the potential to increase corruption, reduce good planning outcomes, favour developers, and undermine democracy. Mainland experience demonstrates planning panels favour developers and undermine democratic accountability. Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability. Mainland research clearly demonstrates removing merits-based planning appeals has the potential to reduce good planning outcomes including both environmental and social.
- Increased ministerial power over the planning system increases the politicisation of planning and risk of corrupt decisions. The Planning Minister will have the power to decide if a development application meets the DAP criteria and have potential influence over DAPs. The Minister will be able to force the initiation of planning scheme changes, but perversely, only when a local council has rejected such an application, threatening transparency, and strategic planning.

The Planning Minister has political bias and can use this subjective criterion to intervene on any development in favour of developers.

- Flawed planning panel criteria. Changing an approval process where the criteria is based
 on 'perceived conflict of interest', 'a real or perceived bias', 'the application relates to a
 development that may be considered significant' and the 'development is likely to be
 controversial' is fraught.
- The scope of the DAPs includes a range of subjective factors that are not guided by any clear criteria:
 - Valuations of \$10 million in cities and \$5 million in other areas. These valuation requirements could easily be manipulated by a developer in valuing a planning application to sidestep Council and proceed straight to DAPs.

- A determination by Homes Tasmania that an application <u>includes</u> social or affordable housing. There is no requirement for a proportion of the development to be for social or affordable housing. For example, it could be one house out of 200 that is affordable. DAPs will not provide more social housing, developers are all about making money, they rarely have a social conscience.
- Very poor justification there is no problem to fix. Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest in Australia when it comes to determining development applications. The Government wants to falsely blame the planning system for stopping housing developments to cover its lack of performance in addressing the affordable housing shortage. It is pandering to developers.
- Increases complexity in an already complex planning system. Why would we further increase an already complex planning system which is already making decisions quicker than any other jurisdiction in Australia?

Please say yes to a healthy democracy and transparent planning decisions.

I ask you to ensure transparency, independence, and accountability, retaining public participation in decision-making within the planning system, as they are critical for a healthy democracy.

Keep decision making local, rather than bypassing it, with opportunities for appeal.

Please abandon DAPs and instead invest in expertise to improve the local government system and existing planning processes by providing more resources to councils and enhancing community participation and planning outcomes. This will also help protect local jobs and keeping the cost of development applications down.

I also call on you to prohibit property developers from making donations to political parties and ban developers from sitting on local Councils.

Enhance transparency and efficiency in the administration of the Right to Information Act 2009 and create a strong anti-corruption watchdog.

Please value and respect people and local communities by ensuring they continue to have a voice on planning issues that will affect their towns and wellbeing.

Thank you.



11th November 2024

Submission on the Draft LUPA Amendment (Development Assessment Panels) Bill 2024

Thank you for this opportunity to comment.

The Tasmanian Planning Information Network (TasPIN) represents people from many Hobart suburbs, was a founding member of the Planning Matters Alliance, and is well advised about current planning reform issues. We formally comment wherever possible.

TasPIN strongly rejects the Bill, and the proposal for DAPs.

We understand that proposals from the previous round of public consultation have not been incorporated in the new Bill and we think this sadly indicates that further consultation is about merely going through the motions. We request that the SPO, DSG and the government take on board the views of the community.

LUPAA 1993 and the RMPS demand that planning should be sustainable and about the orderly use of resources, with government and the public equally involved. To have development assessments made by a remote TPC panel thus locking people out of merits-based planning appeals will completely undermine trust in the whole planning system.

Many of our views have been captured by those earlier submissions, and we consider that overall, the impacts of DAPs will be negative. Our concerns include

- increased Ministerial intervention,
- Councils to be bypassed as Planning Authorities when the system already works effectively and efficiently,
- the absolute need for TasCAT merits-based appeals and checks and balances, (4 Law Lecturers, Opinion piece Mercury 7 Nov 2024)
- Major Projects and POSS/PORS are already being used for contentious projects.

Whilst we fully support social and affordable housing, we consider there are a large number of reasons for the housing shortage. The stated purpose of fixing housing affordability is grossly misleading. Lack of affordability is not due to a lack of housing but includes the cost of goods and services, the growing number of people in casual and / or poorly paid employment, the amount of short stay accommodation, and the financial system, to name a few factors. Thus, it is duplicitous to blame the planning system and use it as a pretext for DAPs.

The outcomes of the DAP process will be expensive, less certain and less fair, seriously undermining the planning process which currently works quite efficiently and effectively. (Catherine Nicholson article, Mercury, 21 Oct 2024). We also understand that other states which have DAPs are trying to wind them back.

In conclusion, the DAP Bill fails comprehensively.

We endorse the PMAT submission and ask that you please listen to the Tasmanian public, discontinuing the Draft LUPA Amendment (Development Assessment Panels) Bill 2024.

On behalf of Tasmanian Planning Information Network,

Anne Harrison, Chair of TasPIN

www.taspin.net

Letters

Development panels costly and ineffective

I recently received an email from Premier Rockliff re the need for Development Assessment Panels (DAPs) to replace our local councils in dealing with potentially contentious planning applications. I felt compelled to reply to him as follows:

Hi Jeremy,

As a retired town planner who sat on the RMPAT for almost 15 years, and [as] an ex-planning commissioner, I beg to disagree with you for the following reasons:

- The statistics for approvals show that Tasmania has one of the fastest planning approval systems of all the states – check with your planning policy unit and they will confirm this.
- Every state, including those with DAPs, has housing supply issues, as do many countries in the western world. It is far too simplistic to constantly blame the planning system for the housing shortage, despite the development industry loving doing that
- Our RMPAT system actually states that one of its objectives is to encourage public participation in the planning system. DAPs usually mean that there are no appeal rights, so this very definitely reduces the public opportunities to participate in the planning system – which of course the development industry loves! But if we want our community to support and have confidence in the planning system, you have to protect their right to have a say over developments. In my experience with RMPAT, while the community may not always like the decision you make, if they feel they have genuinely had an opportunity to be heard, the majority

will accept the decision.

- Local politics are an important part of our democratic processes. They show that people are interested and passionate in their local areas. Yes, of course, there are differences of opinion. That's what democracy at any level is about.
- Finally, where are you going to get all of the expert planners and others with suitable expertise from, to quickly and effectively make decisions using the DAPs process. My expectation is that it will be slower and more expensive than the existing system.

Catherine Nicholson Rose Bav

Thursday November 7, 2024 | Hobart Mercury

Opinion ours & yours

Bill diminishes critical checks and balances

Tasmanian Planning Commission panels are no substitute for TASCAT review of development decisions, write **Anja Hilkemeijer**, **Jan McDonald**, **Phillipa McCormack**, **Cleo Hansen-Lohrey** and **Emille Boulot**

n November last year we wrote a Talking Point piece about the government's proposal to expand the use of Tasmanian Planning Commission panels or a wide range of development pplications. (Mercury, November 29, 023). None of our concerns were ddressed in the now released Land Use Planning and Approvals Amendment (Development Assessment Panels) Bill 2024. The changes proposed in this Bill remove important checks and balances that lie at the heart of our system of government.

This Bill shifts decision-making power for applicable development applications from local councils to TPC panels, and prevents Tasmanian Civil & Administrative Tribunal (TASCAT) review of those decisions. It empowers the Minister for Planning to substitute existing decision-making pathways (i.e., decisions by a local council and access to TASCAT review of that decision) with a "one-stop-shop" decision by a TPC panel established for that purpose.

The proposed threshold for removing decisions from local governments is too low. Under the changes, the minister will be able to

What are perceived to be efficiencies in decision-making processes should not come at the cost of checks and balances on government power

direct any development application to be decided by a TPC panel – if they believe that the proposed development "may be considered significant, or important, to the area in which the development is to be located". This threshold requires only that the minister hold the relevant, subjective belief, regardless of the objective evidence base. This makes a minister's decision to refer to a panel virtually impossible to challenge.

While TPC panels may be an appropriate body to decide development applications in some instances, principles of good decision-

instances, principles of good decisionmaking and democratic accountability

require that those decisions be capable of merits review. Removing access to merits review for a potentially large number of development applications is particularly worrying.

Australia's High Court has recognised that it is in the "nature" of the business activities of property developers that they "might seek to influence [decisions] in their self-interest". One of the important roles for merits review is to create a second opportunity to ensure that primary decision-makers have appropriately balanced common values like clean water and healthy environments against development interests. The government's proposal would remove that opportunity.

The government claims that we do



Wellington. Picture: Patrick Gee

similar to TASCAT panels. We disagree.

First, removing access to TASCAT means that the (new) primary decision-maker (i.e., the TPC panel) will not be subject to merits review at all. Under this new approach, a TPC panel will become the primary decision-maker, replacing local councils. As a matter of logic, a primary decision-maker cannot review its own decisions.

Second, the TPC panels lack the

Tasmanian Planning Commission panels could potentially

affect deliberations over development applications for 🕇

such things as the proposed cable car on kunanyi/Mt

structural independence from government that TASCAT enjoys. Three key design features influence

not need to worry about removing

TASCAT review of development

decisions, because TPC panels are

of members, how they are appointed, and whether/when members can be dismissed. The Tasmanian Planning Commission Act 1997 provides much weaker provisions for each of these criteria than the Tasmanian Civil and Administrative Appeals Tribunal Act 2020. Members of the TPC are appointed by the minister based on open-ended criteria, which gives the minister a lot of discretion about who to appoint. Furthermore, not all of the eight commissioners are appointed in a personal capacity: one is the head (or another employee) of the Department of State Growth, another is the chairperson of the Water and

the independence of a statutory body.

These are: the required qualifications

Sewerage Corporation. This means there are fewer positions available on the TPC for genuinely independent experts.

TPC commissioners appointed to panels, as well as external panel members, can also be more easily dismissed than the president and deputy presidents of TASCAT, so they may have more reason to try to protect their job when making decisions.

Not only are TPC panels less independent from government than TASCAT, but there is a higher risk of conflicts of interest. According to the Independent Review of the TPC conducted in 2020, "the statutory framework setting up the TPC's

organisational structure, membership, and decision-making arrangements does not provide adequate safeguards to reduce the potential for conflicts of interest". This makes retaining merits review of TPC decisions even more important, not less.

Design features of the proposed approach would also give the minister potential influence over the TPC panels in respect of proposed developments. Critically, the TPC is required to comply with directions in the minister's Statement of Expectations and provide the minister with regular information about its work.

The government has also argued

that there is no need to be alarmed about the loss of access to TASCAT because TPC panel decisions can be reviewed by the courts. This is partly true, but misleading.

Review of decisions by courts ("judicial review") is much more limited than merits review.

Judicial review is difficult to access because of restrictions on who can bring cases to court. Court proceedings are much more expensive and time-consuming than merits review by TASCAT. Judicial review is also limited to technical legal errors. Unlike merits review, judicial review cannot "check" to ensure the original decision was "correct or preferable".

Contrary to the government's claims, then, neither TPC panels nor courts provide an adequate substitute for TASCAT merits review. The original decision-maker, the merits review tribunal, and the courts each serve different and important functions in our system of checks and balances.

Removing access to TASCAT will drastically limit oversight of planning decisions. This risks diminishing public confidence in the exercise of government power and undermining the rule of law in Tasmania.

Institutional "checks and balances" lie at the heart of our system of government. As long ago as 1788, the Founding Father of the Constitution of the United States, James Madison, warned that because "human beings are imperfect and ambitious, [so] we need a government structure that guards against abuses of power". We agree with Madison. Removing an important "check" on government decision-making is a retrograde step in our democracy.

What are perceived to be efficiencies in decision-making processes should not come at the cost of checks and balances on government power. We therefore urge the Tasmanian Parliament to reject this Bill.

Anja Hilkemeijer teaches and researches in constitutional law; Professor Jan McDonald has wideranging teaching and research expertise in environmental and climate law and policy; Dr Phillipa McCormack is a climate, environmental and administrative law researcher; Ms Cleo Hansen-Lohrey teaches and researches in administrative law; and Dr Emille Boulot researches national and international environmental law and governance.

State Planning Office - DPAC

Draft LUPA Amendment (Development Assessment Panels) Bill 2024

The proposal to introduce DAPs into Tasmania is egregious.

The purpose we have been told, to "remove politics from planning" is laughable. It allows Ministerial intervention and closes down the community voice almost completely. It is an affront in a 21st century democracy and we consider it is an abuse of power by our state government.

We disagree strongly with the DAPs Bill on these grounds:

- 1. It goes against the RMPS and LUPAA aims requiring public participation and an orderly development of resources.
- 2. It will diminish Councils. Even though there is no evidence that local government is failing in the role as Planning Authority; to the contrary in fact, the government's own DAP discussion paper in Nov 2023 suggests our system is working effectively and efficiently. Councils are important democratic institutions and are playing their part well as Planning Authorities.
- 3. There are already 3 existing mechanisms to deal with large contentious projects, Major Projects, Projects of State Significance and Projects of Regional Significance. There is no need for a DAP on any additional grounds.
- 4. To disallow merits-based appeals is extraordinary, and a backward step. To allow only a Supreme Court appeal on a point of law is definitely an attempt to minimise public engagement and to remove oversight. TasCAT oversight of a DA decision can be very valuable and can actually improve on the original proposal/decision.
- 5. The independence of the TPC cannot be assured when it appoints a DAP. The TPC Act, appointment of Commissioners and Delegates to the Commission is not necessarily a rigorous process; experience not qualifications are required,

positions are not advertised, and there is no security of tenure. This is in contrast to TasCAT, where qualifications are required, positions are advertised and where there is security of tenure. This mean that the public can have confidence that TasCAT operates at arms-length from the government of the day. A decision may not suit one, but the process is generally seen as fair.

In a democracy it is absolutely critical that contentious decisions are arrived at via a fair process.

6. The NSW ICAC has said there should be greater transparency around land use planning decisions due to the risk of corruption. In our view, planning assessments must provide for:

- open hearings
- a written record of reasons as to why a development is passed or refused
- no fixed restrictive time lines, regardless of the size of the project.

This is not clear from the legislation. A closed-door process amounts to a kangaroo court. A travesty!

Given that we know that Tasmania's planning assessment processes are already some of the fastest in Australia according to the government's original discussion paper of Nov 2023, there is absolutely no justification for this appalling takeover. It effectively places the Minister and the government of the day at the centre of the whole process of Development Assessments.

We only need to revisit the Gunns Pulp Mill in the early 2000s where huge pressure was exerted on the RPDC such that Commissioners resigned citing government pressure. Ministerial intervention and political pressure on the DAPs is not an unrealistic possibility.

So to conclude, the DAP proposal fails comprehensively. Please reject this Development Assessment Panel Bill.

Thank you for this opportunity to comment,

Miles and Anne Harrison 11th November 2024

From: Richard Abbott

Sent:Tuesday, 12 November 2024 1:47 PMTo:yoursay.planning@dpac.tas.gov.auCc:yoursay.planning@dpac.tas.gov.au

Subject: Scrap the DAP

Dear Parliament of Tasmania,

I oppose the creation of Development Assessment Panels (Daps) and increasing ministerial power over the planning system, for the following reasons:

- It will create an alternate planning approval pathway allowing property developers to bypass local councils and communities. Handpicked state appointed planning panels, conducted by the Tasmanian Planning Commission, will decide on development applications not our elected local council representatives. Local concerns will be ignored in favour of developers who may not be from Tasmania. Also, if an assessment isn't going their way the developer can abandon the standard local council process at any time and have a development assessed by a planning panel. This could intimidate councils into conceding to developers demands.
- The Tasmanian Planning Commission is not independent DAPs are hand-picked, without detailed selection criteria and objective processes, are inconsistent with the principles of open justice as they do not hold public hearings, and lack capacity to manage conflicts of interest (as per the 2020 Independent Review). DAPs do not have to provide written reasons for their decision (making it difficult to seek judicial review). Community input will be less effective because it will be delayed until after the DAP has consulted (behind closed doors) with the developer and any relevant government agencies, and adopted its draft decision.

- Research demonstrates DAPs are pro-development and pro-government, they rarely deeply engage with local communities, and they spend most of their time on smaller applications and take longer than local councils to make decisions.
- Makes it easier to approve large scale contentious developments like the kunanyi/Mount Wellington cable
 car, high-rise in Hobart, Cambria Green and high-density subdivision like Skylands at Droughty Point and the
 UTAS Sandy Bay campus re-development.
- Removes merit-based planning appeal rights via the planning tribunal on all the issues the community cares about like impacts on biodiversity, height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and so much more. TASCAT review of government decisions is an essential part of the rule of law and a democratic system of government based on 'checks and balances.'
- Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal.
- Developments will only be appealable to the Supreme Court based on a point of law or process which have a narrow focus and are prohibitively expensive.
- Removing merits-based planning appeals has the potential to increase corruption, reduce good planning outcomes, favour developers and undermine democracy. The NSW Independent Commission Against Corruption recommended expansion of merit-based planning appeals as a deterrent to corruption. Mainland experience demonstrates planning panels favour developers and undermine democratic accountability. Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability. Mainland research demonstrates removing merits-based planning appeals has the potential to reduce good planning outcomes including both environmental and social.
- Increased ministerial power over the planning system increases the politicisation of planning and risk of corrupt decisions. The Planning Minister would decide if a development application meets the DAP criteria. The Minister would be able to force the initiation of planning scheme changes, but perversely, only when a local council has rejected such an application, threatening transparency and strategic planning.
- Flawed planning panel criteria. Changing an approval process where the criteria is on the basis of 'perceived conflict of interest', 'a real or perceived bias', 'the application relates to a development that may be considered significant' and the 'development is likely to be controversial' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers. NOTE: The scope of the DAPs includes a range of subjective factors that are not guided by any clear criteria:
 - Valuations of \$10 million in cities and \$5 million in other areas.
 - A determination by Homes Tasmania that an application includes social or affordable housing. There is no requirement for a proportion of the development to be for social or affordable housing. For example, it could be one house out of 200 that is affordable.
- Poor justification there is no problem to fix. Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest in Australia when it comes to determining development applications. The Government wants to falsely blame the planning system for stopping housing developments to cover its lack of performance in addressing the affordable housing shortage.
- Increases complexity in an already complex planning system. Why would we further increase an already complex planning system which is already making decisions quicker than any other jurisdiction in Australia?

Say yes to a healthy democracy

- I call on you to ensure transparency, independence, accountability and public participation in decision-making within the planning system, as they are critical for a healthy democracy. Keep decision making local, rather than bypassing it, with opportunities for appeal. Abandon DAPs and instead invest in expertise to improve the local government system and existing planning processes by providing more resources to councils and enhancing community participation and planning outcomes. This will also help protect local jobs and keeping the cost of development applications down.
- I also call on you to prohibit property developers from making donations to political parties, enhance transparency and efficiency in the administration of the *Right to Information Act 2009*, and create a strong anti-corruption watchdog.

To reiterate again, I oppose the creation of Development Assessment Panels (Daps) and increasing ministerial power over the planning system.	
Yours sincerely,	
Richard Abbott	

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From: Pam Schindle

Sent: Tuesday, 12 November 2024 1:43 PM **To:** yoursay.planning@dpac.tas.gov.au

Subject: Scrap the DAP — please reject Development Assessment Panels

Pam Schindler

11 November 2024

Re: The Draft Land Use Planning and Approvals Amendment (Development Assessment Panels) Bill 2024

Dear Sir or Madam,

Thank you for the chance to make a submission regarding draft legislation to create Development Assessment Panels in Tasmania.

As a longstanding Tasmanian resident and homeowner, I am writing to oppose the Tasmanian government's draft legislation, which would enable development proposals to be taken out of the hands of councils and the present need to be consistent with planning schemes.

Tasmanians rightly value our human-scale cities and our unique and magnificent natural environment. As the present keepers of what we have inherited, we have a responsibility not to destroy these values for the future. Planning schemes are meant to guide development so that a city may grow while preserving harmony with its existing history, amenity and natural setting. Commercial development should be kept outside our national parks and World Heritage areas, which should be managed with the overriding aim of nature conservation.

The proposed Development Assessment Panels would step outside existing planning schemes and outside existing protection for natural areas, and would favour commercial interests, but at the cost of disempowering local communities and weakening our ability to see harmonious development in our cities, and preservation of our wild places.

For these reasons, I oppose the draft legislation which would create Development Assessment Panels.

I also endorse the following points made by Planning Matters Tasmania, copied below:

I oppose the creation of Development Assessment Panels (Daps) and increasing ministerial power over the planning system, for the following reasons:

- It will create an alternate planning approval pathway allowing property developers to bypass local councils and communities. Handpicked state appointed planning panels, conducted by the Tasmanian Planning Commission, will decide on development applications not your elected local council representatives. Local concerns will be ignored in favour of developers who may not be from Tasmania. Also, if an assessment isn't going their way the developer can abandon the standard local council process at anytime and have a development assessed by a planning panel. This could intimidate councils into conceding to developers demands.
- The Tasmanian Planning Commission is not independent DAPs are hand-picked, without detailed selection criteria and objective processes, are inconsistent with the principles of open justice as they do not hold public hearings, and lack capacity to manage conflicts of interest (as per the 2020)

Independent Review). DAPs do not have to provide written reasons for their decision (making it difficult to seek judicial review). Community input will be less effective because it will be delayed until after the DAP has consulted (behind closed doors) with the developer and any relevant government agencies, and adopted its draft decision.

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 Wellington cable car, high-rise in Hobart, Cambria Green and high-density subdivision like Skylands
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 There is no requirement for a proportion of the development to be for social or affordable housing.
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 determining development applications. The Government wants to falsely blame the planning
 system for stopping housing developments to cover its lack of performance in addressing the
 affordable housing shortage.

• Increases complexity in an already complex planning system. Why would we further increase an already complex planning system which is already making decisions quicker than any other jurisdiction in Australia?

Say yes to a healthy democracy

- I call on you to ensure transparency, independence, accountability and public participation in
 decision-making within the planning system, as they are critical for a healthy democracy. Keep
 decision making local, rather than bypassing it, with opportunities for appeal. Abandon DAPs and
 instead invest in expertise to improve the local government system and existing planning processes
 by providing more resources to councils and enhancing community participation and planning
 outcomes. This will also help protect local jobs and keeping the cost of development applications
 down.
- I also call on you to prohibit property developers from making donations to political parties, enhance transparency and efficiency in the administration of the *Right to Information Act 2009*, and create a strong anti-corruption watchdog.

Yours sincerely,

Pam Schindler

CONFIDENTIALITY NOTICE AND DISCLAIMER

From: Peter Mallon <

Sent: Tuesday, 12 November 2024 1:42 PM **To:** yoursay.planning@dpac.tas.gov.au

Cc:

#ScrapTheDAP – No to planning panelsand Yes to a healthy democracy

Subject:

I am in opposition to the forming of DAPS (Deveopment Application Panels) which will increase ministerial power over the planning system for the following;

- 1. It will create an alternate planning approval pathway allowing property developers to bypass local councils and communities. Handpicked state appointed planning panels, conducted by the Tasmanian Planning Commission, will decide on development applications which is a pathway to corruption. Local concerns will be ignored in favour of developers who may not be from Tasmania. If an assessment isn't looking in favour of the Developer they can abandon the standard local council process at anytime and have a development assessed by a planning panel, leading to the possible intimidation of Councils.
- 2. The Tasmanian Planning Commission is not independent DAPs are hand-picked, without detailed selection criteria and objective processes, are inconsistent with the principles of open justice as they do not hold public hearings, and lack capacity to manage conflicts of interest (as per the 2020 Independent Review). DAPs do not have to provide written reasons for their decision (making it difficult to seek judicial review). Community input will be less effective because it will be delayed until after the DAP has consulted (behind closed doors) with the developer and any relevant government agencies, and adopted its draft decision.
- **3. Research demonstrates DAPs are** pro-development and pro-government, they rarely deeply engage with local communities, and they spend most of their time on smaller applications and take longer than local

councils to make decisions.

- 4. Makes it easier to approve large scale contentious developments like the kunanyi/Mount Wellington
 cable car, high-rise in Hobart, Cambria Green and high-density subdivision like Skylands at Droughty Point.
- 5. Removes merit-based planning appeal rights via the planning tribunal on all the issues the community cares about like impacts on biodiversity, height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and so much more. TASCAT review of government decisions is an essential part of the rule of law and a democratic system of government based on 'checks and balances'.
- Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal.
- 5. Developments will only be appealable to the Supreme Court based on a point of law or process which have a narrow focus and are prohibitively expensive.
- 6. Removing merits-based planning appeals has the potential to increase corruption, reduce good planning outcomes, favour developers and undermine democracy. The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption. Mainland experience demonstrates planning panels favour developers and undermine democratic accountability. Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability. Mainland research demonstrates removing merits-based planning appeals has the potential to reduce good planning outcomes including both environmental and social.
- 7. Increased ministerial power over the planning system increases the politicisation of planning and risk of corrupt decisions. The Planning Minister will decide if a development application meets the DAP criteria. The Minister will be able to force the initiation of planning scheme changes, but perversely, only when a local council has rejected such an application, threatening transparency and strategic planning.
- **8. Flawed planning panel criteria.** Changing an approval process where the criteria is on the basis of 'perceived conflict of interest', 'a real or perceived bias', 'the application relates to a development that may be considered significant' and the 'development is likely to be controversial' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers. NOTE: The scope of the DAPs includes a range of subjective factors that are not guided by any clear criteria:
 - Valuations of \$10 million in cities and \$5 million in other areas.
 - A determination by Homes Tasmania that an application <u>includes</u> social or affordable housing. There is no requirement for a proportion of the development to be for social or affordable housing. For example, it could be one house out of 200 that is affordable.
- 9. Poor justification there is no problem to fix. Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest in Australia when it comes to determining development applications. The Government wants to falsely blame the planning system for stopping housing developments to cover its lack of performance in addressing the affordable housing shortage.
- 10. Increases complexity in an already complex planning system. Why would we further increase an already complex planning system which is already making decisions quicker than any other jurisdiction in Australia?

Say yes to a healthy democracy

• I call on you to ensure transparency, independence, accountability and public participation in decision-making within the planning system, as they are critical for a healthy democracy. Keep decision making local,

rather than bypassing it, with opportunities for appeal. Abandon DAPs and instead invest in expertise to improve the local government system and existing planning processes by providing more resources to councils and enhancing community participation and planning outcomes. This will also help protect local jobs and keeping the cost of development applications down.

• I also call on you to prohibit property developers from making donations to political parties, enhance transparency and efficiency in the administration of the Right to Information Act 2009, and create a strong anti-corruption watchdog.

Yours sincerely,
Peter Mallon

CONFIDENTIALITY NOTICE AND DISCLAIMER

From: martin hiscock <>

Sent: Tuesday, 12 November 2024 1:36 PM

To: yoursay.planning@dpac.tas.gov.au; craig.farrell@parliament.tas.gov.au;

Subject: No DAPs for Tasmania

Developers must be accountable to tax-paying residents

Development approvals should go through local councils who are best positioned to serve their communities

Why change a system that already works?

You will end up with lesser quality developments hastily approved at the expense of residents and sometimes in World Heritage areas, National Parks and Reserves

You almost completely stifle any avenue of appeal as it is simply unaffordable to go through the Supreme Court. Is this the intention? To make it too hard. If so, this constitutes dictatorship

This process will significantly limit transparency and will just increase politicisation of the process

Put simply, DAPs are not democratic

Sincerely, A/Prof. Martin Hiscock

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From: Amanda Thomson

Sent: Tuesday, 12 November 2024 1:31 PM **To:** yoursay.planning@dpac.tas.gov.au

Cc:

Subject: #ScrapTheDAP – say no to planning panels/say yes to a healthy democracy

I oppose the creation of Development Assessment Panels (Daps) and increasing ministerial power over the planning system, for the following reasons:

- It will create an alternate planning approval pathway allowing property developers to bypass local councils and communities. Handpicked state appointed planning panels, conducted by the Tasmanian Planning Commission, will decide on development applications not your elected local council representatives. Local concerns will be ignored in favour of developers who may not be from Tasmania. Also, if an assessment isn't going their way the developer can abandon the standard local council process at anytime and have a development assessed by a planning panel. This could intimidate councils into conceding to developers demands. Local council representatives are just that! people often with good credentials, with local knowledge of the environment and community needs, and so are better able to assess developments.
- The Tasmanian Planning Commission is not independent DAPs are hand-picked, without detailed selection criteria and objective processes, are inconsistent with the principles of open justice as they do not hold public hearings, and lack capacity to manage conflicts of interest (as per the 2020 Independent Review). DAPs do not have to provide written reasons for their decision (making it difficult to seek judicial review). Community input will be less effective because it will be delayed until after the DAP has consulted (behind closed doors) with the developer and any relevant government agencies, and adopted its draft decision. This lack of judicial review equals a

lack of democracy.

- Research demonstrates DAPs are pro-development and pro-government, they rarely deeply
 engage with local communities, and they spend most of their time on smaller applications and take
 longer than local councils to make decisions. This lengthens rather than shortening / assisting in
 getting agreement on application approvals.
- Makes it easier to approve large scale contentious developments like the kunanyi/Mount
 Wellington cable car, high-rise in Hobart, Cambria Green and high-density subdivision like Skylands
 at Droughty Point. Open to being bought by big business with no checks or balances. Not looking at
 alternatives or best practice.
- Removes merit-based planning appeal rights via the planning tribunal on all the issues the
 community cares about like impacts on biodiversity, height, bulk, scale or appearance of buildings;
 impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise,
 smell, light and so much more. TASCAT review of government decisions is an essential part of the
 rule of law and a democratic system of government based on 'checks and balances'.
- Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal.
- Developments will only be appealable to the Supreme Court based on a point of law or process which have a narrow focus and are prohibitively expensive.
- Removing merits-based planning appeals has the potential to increase corruption, reduce good planning outcomes, favour developers and undermine democracy. The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption. Mainland experience demonstrates planning panels favour developers and undermine democratic accountability. Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability. Mainland research demonstrates removing merits-based planning appeals has the potential to reduce good planning outcomes including both environmental and social.
- Increased ministerial power over the planning system increases the politicisation of planning and
 risk of corrupt decisions. The Planning Minister will decide if a development application meets the
 DAP criteria. The Minister will be able to force the initiation of planning scheme changes, but
 perversely, only when a local council has rejected such an application, threatening transparency
 and strategic planning.
- Flawed planning panel criteria. Changing an approval process where the criteria is on the basis of 'perceived conflict of interest', 'a real or perceived bias', 'the application relates to a development that may be considered significant' and the 'development is likely to be controversial' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers. NOTE: The scope of the DAPs includes a range of subjective factors that are not guided by any clear criteria:
 - Valuations of \$10 million in cities and \$5 million in other areas.
 - A determination by Homes Tasmania that an application <u>includes</u> social or affordable housing. There is no requirement for a proportion of the development to be for social or affordable housing. For example, it could be one house out of 200 that is affordable.

- Poor justification there is no problem to fix. Only about 1% of council planning decisions go to
 appeal and Tasmania's planning system is already among the fastest in Australia when it comes to
 determining development applications. The Government wants to falsely blame the planning
 system for stopping housing developments to cover its lack of performance in addressing the
 affordable housing shortage.
- Increases complexity in an already complex planning system. Why would we further increase an already complex planning system which is already making decisions quicker than any other jurisdiction in Australia?

Say yes to a healthy democracy

- I call on you to ensure transparency, independence, accountability and public participation in
 decision-making within the planning system, as they are critical for a healthy democracy. Keep
 decision making local, rather than bypassing it, with opportunities for appeal. Abandon DAPs and
 instead invest in expertise to improve the local government system and existing planning processes
 by providing more resources to councils and enhancing community participation and planning
 outcomes. This will also help protect local jobs and keeping the cost of development applications
 down.
- I also call on you to prohibit property developers from making donations to political parties, enhance transparency and efficiency in the administration of the Right to Information Act 2009, and create a strong anti-corruption watchdog.

This entire bill proposal takes planning proposals away from those representative councils with the appropriate local knowledge and hands it over to distant government DAPs. No credentials, no public scrutiny and no demand for explanations on decisions to be allowed. The guise of a 'home-building measure' is a furphy! Do not allow this erosion of our democracy please! We do not need our beautiful island corrupted by big business and politicians with short term interests. Please scrap The DAP!

Yours sincerely, Amanda Thomson

CONFIDENTIALITY NOTICE AND DISCLAIMER

From: Rosemary Sharman <s>

Sent: Tuesday, 12 November 2024 1:30 PM **To:** yoursay.planning@dpac.tas.gov.au; Liz

Cc: Planning panels should not implemented to bypass Tasmanians having a say in

their community's shape

Subject:

I strongly encourage the government not to implement Development Assessment Panels (DAPs) / increasing ministerial power over the planning system for the following reasons:

- As a Tasmanian who is resident in Taroona part-time and Melbourne, I have been alarmed to see the state adopt big city/crowding planning approaches that open the path for property developers to bypass local councils and communities. What is the problem the government is trying to fix here?
 - Is the panel only for a few big contentious projects? If so, why is it such a broadbrush approach?
 - Council representation on these matters is very important to democracy, to shaping our communities and retaining Tasmania's green spaces and bush and hillscape so that it remains a place people want to live in and visit.
 - The threat of developers resorting to a planning panel to override concerns is real.
 - There is enough intimidation and concern about getting developers to stick to height and other limits in the system already.
 - Some councillors anticipate blowback from developers and the Tribunal and are reluctant to support sensible setbacks and height limits that would preserve the character and community feel of Tasmanian suburbs, towns and landscapes.

Tasmania does not yet face the immediate need for growth, infill and densifying that panels conducted by the Tasmanian Planning Commission, would most likely facilitate.

I also agree with the following points made by the Planning Matters Alliance.

- The Tasmanian Planning Commission is not independent I am concerned that DAPs will not hold public hearings and do not have to provide written reasons for their decision and provide an advantage to the developer in consulting first with them and with any relevant government agencies, before the community gets input into their draft decisions.
- Research from my Victorian experience demonstrates planning panels are prodevelopment and pro-government.
- Situated opposite Droughty Point, I am concerned about the possibility of fast tracking contentious developments (eg Skylands, the kunanyi/Mount Wellington cable car, high-rise in Hobart, Cambria Green and the UTAS Sandy Bay campus re-development.
- Removes merit-based planning appeal rights via the planning tribunal on all the issues the
 community cares about like impacts on biodiversity, height, bulk, scale or appearance of
 buildings; impacts to streetscapes, and adjoining properties including privacy and
 overlooking; traffic, noise, smell, light and so much more. TASCAT review of government
 decisions is an essential part of the rule of law and a democratic system of government
 based on 'checks and balances'.
- Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal.
- Developments will only be appealable to the Supreme Court based on a point of law or process which have a narrow focus and are prohibitively expensive.
- Removing merits-based planning appeals has the potential to increase corruption, reduce good planning outcomes, favour developers and undermine democracy. The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption. Mainland experience demonstrates planning panels favour developers and undermine democratic accountability. Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability. Mainland research demonstrates removing merits-based planning appeals has the potential to reduce good planning outcomes including both environmental and social.
- Increased ministerial power over the planning system increases the politicisation of
 planning and risk of corrupt decisions. The Planning Minister will decide if a development
 application meets the DAP criteria. The Minister will be able to force the initiation of
 planning scheme changes, but perversely, only when a local council has rejected such an
 application, threatening transparency and strategic planning.

- Flawed planning panel criteria. Changing an approval process where the criteria is on the basis of 'perceived conflict of interest', 'a real or perceived bias', 'the application relates to a development that may be considered significant' and the 'development is likely to be controversial' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers. NOTE: The scope of the DAPs includes a range of subjective factors that are not guided by any clear criteria:
 - Valuations of \$10 million in cities and \$5 million in other areas.
 - A determination by Homes Tasmania that an application includes social or affordable housing. There is no requirement for a proportion of the development to be for social or affordable housing. For example, it could be one house out of 200 that is affordable.
- Poor justification there is no problem to fix. Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest in Australia when it comes to determining development applications. The Government wants to falsely blame the planning system for stopping housing developments to cover its lack of performance in addressing the affordable housing shortage.
- Increases complexity in an already complex planning system. Why would we further increase an already complex planning system which is already making decisions quicker than any other jurisdiction in Australia?

Say yes to a healthy democracy

- I call on you to ensure transparency, independence, accountability and public participation
 in decision-making within the planning system, as they are critical for a healthy democracy.
 Keep decision making local, rather than bypassing it, with opportunities for appeal.
 Abandon DAPs and instead invest in expertise to improve the local government system and
 existing planning processes by providing more resources to councils and enhancing
 community participation and planning outcomes. This will also help protect local jobs and
 keeping the cost of development applications down.
- I also call on you to prohibit property developers from making donations to political parties, enhance transparency and efficiency in the administration of the *Right to Information Act* 2009, and create a strong anti-corruption watchdog.

Yours sincerely,

Liz Sharman

CONFIDENTIALITY NOTICE AND DISCLAIMER

From: Anne Burleigh

Sent: Tuesday, 12 November 2024 1:28 PM **To:** yoursay.planning@dpac.tas.gov.au

Cc:

Subject: Scrap The DAP – NO to Planning Panels - YES to a Healthy Democracy

Good Afternoon Members of the House of Assembly and Legislative Council

I wholeheartedly oppose the creation of Development Assessment Panels (Daps) and increasing ministerial power over the planning system, for the following reasons:

- It will create an alternate planning approval pathway allowing property developers to bypass local councils and communities. Handpicked, this is worrying why not state 'qualified' appointed planning panels, conducted by the Tasmanian Planning Commission, that will decide on development applications not your elected local council representatives.

 Local concerns will be ignored in favour of developers who may not be from Tasmania. Also, if an assessment isn't going their way the developer can abandon the standard local council process at anytime and have a development assessed by a planning panel. This could intimidate councils into conceding to developers demands.
- The Tasmanian Planning Commission is not independent DAPs are hand-picked, without detailed selection criteria and objective processes, are inconsistent with the principles of open justice as they do not hold public hearings, and lack capacity to manage conflicts of

interest (as per the 2020 Independent Review). DAPs do not have to provide written reasons for their decision (making it difficult to seek judicial review). Community input will be less effective because it will be delayed until after the DAP has consulted (behind closed doors) with the developer and any relevant government agencies, and adopted its draft decision.

- Research demonstrates DAPs are pro-development and pro-government, they rarely deeply
 engage with local communities, and they spend most of their time on smaller applications
 and take longer than local councils to make decisions.
- Makes it easier to approve large scale contentious developments like the kunanyi/Mount Wellington Cable Car, high-rise in Hobart, Cambria Green and high-density subdivision like Skylands at Droughty Point AND the UTAS Sandy Bay Campus redevelopment/move!

Especially as the Planning Minister and/or Colleagues are 'Pals of the UTAS VC/C and/or the Utas Council. It was stated at the PAC Enquiry by the Minister for Education that the State Government relies on the <u>advice</u> from UTAS management regarding the supposedly '<u>independent</u>' appointees! Which is why the UTAS Council are all 'yes men' to the VC and that UTAS will endeavour by ANY means to circumvent the 74% of People's NO Vote! Etc etc. ...and this is presumably just why the proponents of the Cable Car have reared their heads again - they have 'Friends' in the Government!

- Removes merit-based planning appeal rights via the planning tribunal on all the issues the
 community cares about like impacts on biodiversity, height, bulk, scale or appearance of
 buildings; impacts to streetscapes, and adjoining properties including privacy and
 overlooking; traffic, noise, smell, light and so much more. TASCAT review of government
 decisions is an essential part of the rule of law and a democratic system of government
 based on 'checks and balances'.
- Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal.
- Developments will only be appealable to the Supreme Court based on a point of law or process which have a narrow focus and are prohibitively very expensive.
- Removing merits-based planning appeals has the potential to increase corruption, reduce good planning outcomes, favour developers and undermine democracy. The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption. Mainland experience demonstrates planning panels favour developers and undermine democratic accountability. Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability. Mainland research demonstrates removing merits-based planning appeals has the potential to reduce good planning outcomes including both environmental and social.
- Increased ministerial power over the planning system increases the politicisation of planning and risk of corrupt decisions. The Planning Minister will decide if a development

application meets the DAP criteria. The Minister will be able to force the initiation of planning scheme changes, but perversely, only when a local council has rejected such an application, threatening transparency and strategic planning.

- Flawed planning panel criteria. Changing an approval process where the criteria is on the basis of 'perceived conflict of interest', 'a real or perceived bias', 'the application relates to a development that may be considered significant' and the 'development is likely to be controversial' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers. NOTE: The scope of the DAPs includes a range of subjective factors that are not guided by any clear criteria:
 - Valuations of \$10 million in cities and \$5 million in other areas.
 - A determination by Homes Tasmania that an application includes social or affordable housing. There is no requirement for a proportion of the development to be for social or affordable housing. For example, it could be one house out of 200 that is affordable.
- Poor justification there is no problem to fix. Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest in Australia when it comes to determining development applications. The Government wants to falsely blame the planning system for stopping housing developments to cover its lack of performance in addressing the affordable housing shortage. I feel that the Development Assessment Panel of 'handpicked' appointees will be out to appease the thrice thwarted property developers that wish to line ALL their collective pockets at the expense of the Tasmanian Citizens Cite 1. Mount Wellington belongs to Past, Present and Future citizens AS IS! Next you'll be selling parts of the Derwent! Cite 2. Our only University whose academic prowess is being eroded by FAILED so-called property developers at the expense of EDUCATION.

If the DAP was in existence, which the VC is counting on, we will certainly have the poorest of educational facilities throughout Australia -the University will be but a mere Polytechnic. ...and what Tasmania will be left with are a heap of badly built Monuments to VC Black that outwardly look smick at an ENORMOUS COST - but that is all - internally they are not fit for purpose!

Enormous Cost example: The Forestry Building: began at - \$84mill, then \$131mill, 2024 \$154mill, 2026 \$200mill...

• Increases complexity in an already complex planning system. Why would we further increase an already complex planning system which is already making decisions quicker than any other jurisdiction in Australia?

Say Yes to a Healthy Democracy

- I call on you to ensure <u>transparency</u>, independence, accountability and <u>public participation</u> in decision-making within the planning system, as they are critical for a healthy democracy. Keep decision making local, rather than bypassing it, with opportunities for appeal.
- Abandon DAPs and instead invest in expertise to improve the local government system and existing planning processes by providing more resources to councils and enhancing community participation and planning outcomes.
- This will also help protect local jobs and keeping the cost of development applications down.
- I also call on you to prohibit property developers from <u>making donations to political parties</u>, <u>enhance transparency and efficiency in the administration</u> of the *Right to Information Act* 2009, <u>and create a strong anti-corruption watchdog</u>. Anne Blyth Burleigh

From: Helen Maskell-Knight

Sent: Tuesday, 12 November 2024 1:28 PM **To:** yoursay.planning@dpac.tas.gov.au

Cc: DAPs opposed

Subject:

High

Importance:

I oppose the establishment of Development Assessment Panels (DAPs) and the associated increase of ministerial influence in Tasmania's planning system.

The reasons for my opposition are as follows.

Poor justification – there is no problem to solve. Only about 1 per cent of council planning decisions go to appeal and Tasmania's planning system is already among the fastest in Australia in delivering development application determinations.

Research demonstrates that DAPs elsewhere are pro-development and pro-government, rarely deeply engage with local communities, spend most of their time on smaller applications and take longer than local councils to make decisions.

Establishing DAPs as proposed would provide an alternative planning approval pathway which would allow property developers to bypass local councils and communities. Handpicked state appointed planning panels, managed by the Tasmanian Planning Commission, would decide on development applications, not elected local councils.

DAPs would be hand-picked by the Tasmanian Planning Commission, without detailed selection criteria and open processes. DAPs would not hold public hearings, would lack the capacity to manage conflicts of interest (refer to the 2020 Independent Review report) and would not need to provide written reasons for their decisions – making it difficult to seek judicial review.

Community input would be reduced in significance and less effective – because it would not be sought until after the DAP had consulted privately with the developer and any relevant government agencies and had adopted a draft decision.

Flawed planning criteria. Incorporating such decision criteria as: 'perceived conflict of interest', 'a real or perceived bias', 'the application relates to a development that may be considered significant' and 'the development is likely to be controversial' would weaken the integrity of the planning process and allow the demonstration of bias by the decision-makers and the minister. Further, the scope of the proposed DAPs includes important elements not informed by clear criteria. For example, the proposed DAPs would allow a determination to be made by Homes Tasmania that an application includes social or affordable housing if only one house out of a proposed 200 was affordable.

The existence of DAPs would make it easier to approve large scale contentious developments, such as the kunanyi/Mount Wellington cable car, high-rise buildings in Hobart and high-density subdivisions such as Skylands at Droughty Point.

Increased ministerial power over the planning system would increase the politicisation of planning and the risk of corrupt decisions. The planning minister would decide if a development application met the DAP criteria and the minister would be able to force the initiation of changes to a planning scheme after rejection of a development application by a local council, thereby threatening quality strategic planning and reducing transparency.

DAPs would remove merit-based planning appeals to the planning tribunal on issues such as impacts on biodiversity, height, bulk, scale or appearance of buildings; impacts on streetscapes and adjoining properties, including privacy and overlooking; traffic, noise, smell, light and more. The ability of TASCAT to review government decisions is an essential part of the democratic system of government.

Removing merits-based planning appeals would also remove the opportunity for mediation on development applications in the planning tribunal.

Developments would only be appellable to the Supreme Court based on a point of law or legal process – a prohibitively expensive exercise.

Removing merits-based planning appeals has the potential to increase corruption, reduce good planning outcomes, favour developers and undermine democracy. The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption. Mainland experience demonstrates that planning panels favour developers and undermine democratic accountability. Local planning panels, which are often dominated by members of the development sector, were established in NSW to stamp-out corruption, but councillors from across the political spectrum say planning panels favour developers and undermine democratic accountability. Further, mainland research demonstrates that removing merits-based planning appeals has the potential to reduce good planning outcomes — including environmental and social outcomes.

Instead, I encourage action to ensure transparency, independence, accountability and public participation in decision-making within the planning system, as all are essential to a healthy democracy. I recommend that the proposal to establish DAPs be abandoned and – instead – there

be increased investment in improving the expertise available to the local government system and planning processes and by enhancing community participation in planning decisions. I also request that action be taken to:

- · prohibit property developers from making donations to political parties;
- enhance transparency and efficiency in the administration of the *Right to Information Act 2009*; and
- · establish a strong anti-corruption watchdog.

Helen Maskell-Knight Helen Maskell-Knight

CONFIDENTIALITY NOTICE AND DISCLAIMER

From: John Wadsley

Sent: Tuesday, 12 November 2024 1:28 PM **To:** yoursay.planning@dpac.tas.gov.au

Cc:

Subject: Opposing the proposed Development Assessment Panels

To whom it may concern,

I oppose the creation of Development Assessment Panels (DAPs) and increasing ministerial power over the planning system. We must retain local control of planning assessments, especially so local heritage matters can be properly assessed.

I oppose the proposed DAPs approach for the following reasons:

- 1. It will create an alternate planning approval pathway allowing property developers to bypass local councils and communities. We should not allow state appointed planning panels, conducted by the Tasmanian Planning Commission, to decide on development applications not our elected local council representatives. Local concerns will be ignored in favour of developers who may not be from Tasmania. The possibility that a developer can abandon the standard local council process at any time and have a development assessed by a planning panel is an affront to good planning practice
- 2. The Tasmanian Planning Commission is not independent DAPs are hand-picked, without detailed selection criteria and objective processes, are inconsistent with the principles of open justice as they do not hold public hearings, and lack capacity to manage conflicts of interest (as per the 2020 Independent Review). DAPs do not have to provide written reasons for their decision (making it difficult to seek judicial review). Community input will be less effective because it will be delayed until after the

DAP has consulted (behind closed doors) with the developer and any relevant government agencies, and adopted its draft decision.

- 3. Research demonstrates DAPs are pro-development and pro-government, they rarely deeply engage with local communities, and they spend most of their time on smaller applications and take longer than local councils to make decisions.
- 4. Large scale contentious developments such as the kunanyi/Mount Wellington cable car, high-rise developments in Hobart, Cambria Green on the East Coast and high-density subdivision like Skylands at Droughty Point and the UTAS Sandy Bay campus re-development are more likely to be approved without proper local community involvement. Developments will only be appealable to the Supreme Court based on a point of law or process which have a narrow focus and are prohibitively expensive.
- 5. The DAPS approach removes merit-based planning appeal rights via the planning tribunal on all the issues the community cares about like impacts on local heritage, cultural landscapes, biodiversity, height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and so much more. WE must retain TASCAT reviews of government decisions is an essential part of the rule of law and a democratic system of government based on 'checks and balances'. Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal. Removing merits-based planning appeals has the potential to increase corruption, reduce good planning outcomes, favour developers and undermine democracy. The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption. Mainland experience demonstrates planning panels favour developers and undermine democratic accountability. Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum favour developers and undermine democratic accountability.
- 6. Increased ministerial power over the planning system increases the politicisation of planning and risk of corrupt decisions. The Planning Minister will decide if a development application meets the DAP criteria. The Minister will be able to force the initiation of planning scheme changes, but perversely, only when a local council has rejected such an application, threatening transparency and strategic planning.
- 7. Flawed planning panel criteria. Changing an approval process where the criteria is on the basis of 'perceived conflict of interest', 'a real or perceived bias', 'the application relates to a development that may be considered significant' and the 'development is likely to be controversial' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers.
- 8. Poor justification there is no problem to fix. Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest in Australia when it comes to determining development applications. The Government wants to falsely blame the planning system for stopping housing developments to cover its lack of performance in addressing the affordable housing shortage. And DAPs will increases complexity in an already complex planning system. Why would we further increase an already complex planning system which is already making decisions quicker than any other jurisdiction in Australia?

I call on you to ensure transparency, independence, accountability and public participation in decision-making within the planning system, as they are critical for a healthy democracy. Keep decision making local, rather than bypassing it, with opportunities for appeal. Abandon DAPs and instead invest in expertise to improve the local government system and existing planning processes by providing more resources to councils and enhancing community participation and planning outcomes. This will also help protect local jobs and keeping the cost of development applications down. I also call on you to prohibit property developers from making donations to political parties, enhance transparency and efficiency in the administration of the *Right to Information Act 2009*, and create a strong anti-corruption watchdog.

Regards,

John Wadsley BA(Hons) M.ICOMOS



John Wadsley Planning and Heritage Consultancy Heritage Management - Historic Research - Conservation Planning

ABN 47 435 784 653

CONFIDENTIALITY NOTICE AND DISCLAIMER

From: Liz Smith <

Sent: Tuesday, 12 November 2024 1:27 PM yoursay.planning@dpac.tas.gov.au

Cc:

Subject: DAPs are not the answer

To Your Say re DAPs

I am deeply concerned about the proposal to create Development Assessment Panels (DAPs) that would increase ministerial power over the planning system.

Land and the unique environments, both natural and built, are Tasmania's most precious assets and must be protected. Therefore, it is critically important that decisions on land management and development must be made in as clear and transparent a manner as possible. The appointment of Development Assessment Panels that do not involve communities with knowledge of the local environment seems to be in direct conflict with these principles.

It is disturbing to learn that the proposal to create DAPs does not specify how members of a DAP will be appointed and selection criteria will not be publicly available, so the community will not know the qualifications of DAP members allocated to a project in their community. As a former councillor of the Huon Valley Council I am very aware of the costs of conflicts of interest and understand how quickly community confidence

can be lost. Therefore, any potential conflicts of interest involving members of a DAP and a developer must be clearly stated.

Developers may be in a position to influence the decisions of a DAP, without the knowledge of councillors, council staff and community members who may be affected by the decisions. Also, a decision of a DAP on land use does not have to be consistent with the planning scheme that has been developed by the local council at great cost to the community and comprehensive involvement of local residents.

Under the proposed legislation, a DAP will not hold public hearings and will not have to provide reasons for their decisions. It is not clear that there will be capacity to report conflicts of interest or how such conflicts of interest will be managed. The proposed changes would make it easier to approve large contentious developments.

Also, it is likely that a developer may choose to follow the DAP process rather than the local council's process, especially if it is recognised that there is a risk that the proposed development is likely to be controversial in the local community which is represented by the elected members of the council acting as a planning authority.

Unlike the Tasmanian Planning Commission which holds public hearings and provides detailed reasoning for its decisions, a DAP will not be required to provide reasons for its decision and there will be no appeal process. Merit-based planning appeal rights via the planning tribunal on the issues the community cares about, like impacts on biodiversity, important viewfields, neighbours etc. The TASCAT system of review of government decisions is an essential part of the rule of law and a democratic system of government.

It appears that the Planning Minister will decide whether a development application meets the DAP criteria and will also be able to force the initiation of planning scheme changes, but only after a local council has rejected an application submitted under that scheme. This possibility directly threatens the principles of strategic planning and community input into the development of planning schemes.

There is little evidence that the current planning approvals system is delaying approval of projects such as housing developments and shopping precincts. For example, the approval of a 32 lot "social housing" development in Cygnet was recently approved in a timely manner despite community concerns about the removal of important eucalypts that provided habitat for endangered swift parrots. The appeals process is not used frequently, but is very important because it provides the potential for making amendments to council's decisions through an open and accountable process.

Land use planning is critically important to the future of Tasmania's environment, heritage and local amenity. The implementation of the Tasmanian Planning Scheme has been a democratic process with a great deal of scientific and community input, and to introduce the proposed legislation would be a retrograde step in land use planning.

Thank you for the opportunity to make a submission on this very important issue.

Yours sincerely, Elizabeth Smith BSc, PhD, Grad Dip. Env. Planning, From: Helen Rees

Sent: Tuesday, 12 November 2024 1:24 PM **To:** yoursay.planning@dpac.tas.gov.au

Cc:

#ScrapTheDAP - Please for the sake of Tasmania - say no to planning panels/

Subject: say yes to a healthy democracy

To whom it may concern

As a community member I have been involved and impacted by local planning approvals. The current system is flawed, but the proposed system is unconscionable.

As background – a recently approved development, at the end of a single entry road, puts our local community at significant risk if there is a bushfire. Whilst recognised as an issue by many within the Fire Services, this was not taken into account by any of requirements of the planning process.

The houses that were built are already falling apart and one builder told us he had never seen such shoddy work that had been accepted. People who live there talk about fixtures falling off the walls within weeks of moving in. A year or two in some of the buildings already look like the edge of a shanty town.

I have seen nearby individuals whose backyard privacy and ability to grow a viable garden were totally lost because, whilst within the development itself there are rules about overshadowing and privacy, there are no such rules for the neighbours they impact. They had originally moved there for the benefits they then lost, and as a pensioner they had no choice but to continue to live there.

Conversely, I have also been involved on another occasion where significant environmental assets were saved from a totally inappropriate development through positive Council involvement combined with the actions of some individuals wealthy enough to go through the laborious appeals process. Our broader community is grateful to them all.

Our existing system is already heavily biased. As an individual or small community group we often have less than two weeks to respond to a complex legal document in the midst of busy lives. The other side has paid lawyers, have many highly skilled people employed to propose and win such processes and are backed by comparatively limitless resources. Once the development is in, it is impossible to change and the developers take their profits but have no responsibility or care for the consequences of their actions. Leaving local individuals and communities disrupted and at times devastated.

However whilst the current process is flawed and cumbersome the proposed DAP process shuts out community involvement and any kind of balanced process entirely.

If community and councils are excluded from the process, decisions will be left entirely to those with the greatest resources (ie developers), those with a political investment (politicians and developers) and by those who don't care about the impact on the local community or environment (ie developers).

The potential belief that a politically driven government will somehow protect these community rights is at best naïve. The reality is that decisions would be politically driven and made for the highest bidders. It is perhaps no accident that the company that built the above-mentioned development is partly owned by an ex-politician. A development that had to go through despite almost every councillor saying on record that they totally disagreed with it but had no legal choice but to approve it!

I strongly disagree with the proposed DAP process and respectfully beg that it be reconsidered so that we can build a process that takes into account the needs of ALL of the community. That decisions can be made by those who are directly concerned as well as (or instead of) those who are entirely politically or financially motivated.

I request instead that the system be reviewed to find better solutions that do recognise the need for housing and for sustainable development, that enables and supports considered community into the decision and that recognises the potential for Tasmania to lead the way in how we build and live within this incredible environment.

I am concerned about and oppose the creation of Development Assessment Panels (Daps) and increasing ministerial power over the planning system, for the following reasons:

• It will create an alternate planning approval pathway allowing property developers to bypass local councils and communities.

- The Tasmanian Planning Commission is not independent DAPs are hand-picked, without detailed selection criteria and objective processes, are inconsistent with the principles of open justice as they do not hold public hearings, and lack capacity to manage conflicts of interest (as per the 2020 Independent Review). DAPs do not have to provide written reasons for their decision (making it difficult to seek judicial review). Community input will be less effective because it will be delayed until after the DAP has consulted (behind closed doors) with the developer and any relevant government agencies, and adopted its draft decision.
- Research demonstrates DAPs are pro-development and pro-government, they rarely deeply
 engage with local communities, and they spend most of their time on smaller applications
 and take longer than local councils to make decisions.
- It will be easier to approve large scale contentious developments without community consultation and genuine input into the decision making.
- It removes merit-based planning appeal rights and the opportunity for mediation on development applications in the planning tribunal. Developments will only be appealable to the Supreme Court based on a point of law or process which have a narrow focus and are prohibitively expensive.
- Removing merits-based planning appeals has the potential to increase corruption, reduce good planning outcomes, favour developers and undermine democracy. The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption. Mainland experience demonstrates planning panels favour developers and undermine democratic accountability. Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability. Mainland research demonstrates removing merits-based planning appeals has the potential to reduce good planning outcomes including both environmental and social.
- Removes the option for genuine community consideration and representation (eg through our local councils), creates a totally undemocratic process and excludes those with least power but who will be most affected by the decisions made.

As previously noted, I do believe the current system is flawed but this proposed progress is designed (deliberately or otherwise) to exclude community entirely. It is a dangerous precedent and goes against the principles of democracy that our government is purported to uphold. It gives the power of our lived environment over to those who are driven to make profit from it, or for political power. It makes a mockery of the value of the community and the will of the people (for the good of the community) whom our politicians are elected to represent.

We can make better decisions and design	better processes	than this. Please	e for the sake of
Tasmania, say no to the proposed process	3.		

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Helen Rees

From: Pavlov Jenny <

Sent: Tuesday, 12 November 2024 1:23 PM **To:** yoursay.planning@dpac.tas.gov.au

Cc:

#ScrapTheDAP – say no to planning panels/say yes to a healthy democracy

Subject:

Who ever in OUR parliament comes up with these conniving, open to corruption and greed ideas for legislate is not for the people, just a minority.. This is not what a Democratic government represents.

I oppose the creation of Development Assessment Panels (Daps) and increasing ministerial power over the planning system, for the following reasons:

• It will create an alternate planning approval pathway allowing property developers to bypass local councils and communities. Handpicked state appointed planning panels, conducted by the Tasmanian Planning Commission, will decide on development applications not your elected local council representatives. Local concerns will be ignored in favour of developers who may not be from Tasmania. Also, if an assessment isn't going their way the developer can abandon the standard local council process at anytime and have a development assessed by a planning panel. This could intimidate councils into conceding to developers demands.

- The Tasmanian Planning Commission is not independent DAPs are hand-picked, without detailed selection criteria and objective processes, are inconsistent with the principles of open justice as they do not hold public hearings, and lack capacity to manage conflicts of interest (as per the 2020 Independent Review). DAPs do not have to provide written reasons for their decision (making it difficult to seek judicial review). Community input will be less effective because it will be delayed until after the DAP has consulted (behind closed doors) with the developer and any relevant government agencies, and adopted its draft decision.
- Research demonstrates DAPs are pro-development and pro-government, they
 rarely deeply engage with local communities, and they spend most of their time
 on smaller applications and take longer than local councils to make decisions.
- Makes it easier to approve large scale contentious developments like the kunanyi/Mount Wellington cable car, high-rise in Hobart, Cambria Green and high-density subdivision like Skylands at Droughty Point.
- Removes merit-based planning appeal rights via the planning tribunal on all
 the issues the community cares about like impacts on biodiversity, height, bulk,
 scale or appearance of buildings; impacts to streetscapes, and adjoining
 properties including privacy and overlooking; traffic, noise, smell, light and so
 much more. TASCAT review of government decisions is an essential part of the
 rule of law and a democratic system of government based on 'checks and
 balances'.
- Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal.
- Developments will only be appealable to the Supreme Court based on a point of law or process which have a narrow focus and are prohibitively expensive.
- Removing merits-based planning appeals has the potential to increase corruption, reduce good planning outcomes, favour developers and undermine democracy. The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption. Mainland experience demonstrates planning panels favour developers and undermine democratic accountability. Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability. Mainland research demonstrates removing merits-based planning appeals has the potential to reduce good planning outcomes including both environmental and social.
- Increased ministerial power over the planning system increases the politicisation of planning and risk of corrupt decisions. The Planning

Minister will decide if a development application meets the DAP criteria. The Minister will be able to force the initiation of planning scheme changes, but perversely, only when a local council has rejected such an application, threatening transparency and strategic planning.

- Flawed planning panel criteria. Changing an approval process where the criteria is on the basis of 'perceived conflict of interest', 'a real or perceived bias', 'the application relates to a development that may be considered significant' and the 'development is likely to be controversial' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers. NOTE: The scope of the DAPs includes a range of subjective factors that are not guided by any clear criteria:
 - Valuations of \$10 million in cities and \$5 million in other areas.
 - A determination by Homes Tasmania that an application <u>includes</u> social or affordable housing. There is no requirement for a proportion of the development to be for social or affordable housing. For example, it could be one house out of 200 that is affordable.
- Poor justification there is no problem to fix. Only about 1% of council
 planning decisions go to appeal and Tasmania's planning system is already
 among the fastest in Australia when it comes to determining development
 applications. The Government wants to falsely blame the planning system for
 stopping housing developments to cover its lack of performance in addressing
 the affordable housing shortage.
- Increases complexity in an already complex planning system. Why would we further increase an already complex planning system which is already making decisions quicker than any other jurisdiction in Australia?

Say yes to a healthy democracy

- I call on you to ensure transparency, independence, accountability and public
 participation in decision-making within the planning system, as they are critical
 for a healthy democracy. Keep decision making local, rather than bypassing it,
 with opportunities for appeal. Abandon DAPs and instead invest in expertise to
 improve the local government system and existing planning processes by
 providing more resources to councils and enhancing community participation and
 planning outcomes. This will also help protect local jobs and keeping the cost of
 development applications down.
- I also call on you to prohibit property developers from making donations to political parties, enhance transparency and efficiency in the administration of the Right to Information Act 2009, and create a strong anti-corruption watchdog.

Yours sincerely,

Jenny Pavlov concerned voter

From: Janice Bird

Sent: Tuesday, 12 November 2024 1:19 PM **To:** yoursay.planning@dpac.tas.gov.au

Cc:

Subject: The draft Land Use Planning and Approvals Amendment (Development

Assessment Panels) Bill 2024

Dear Department and democratic representatives

I wish to make the following submission in opposition to the proposal to create Development Assessment Panels (DAPS) and to increase ministerial power over the planning system. My reasons are as follows:

- It will allow property developers to override the objections of local councils and communities. Local concerns will be ignored in favour of developers, who usually don't have to live with, and don't care about, the consequences for Tasmanian residents. Their motivation is short-term profit. Developers would be able to opt out of the local council process and have a development assessed by a planning panel. This could intimidate councils into conceding to developers demands.
- The Tasmanian Planning Commission is not independent members would be hand-picked, without detailed selection criteria and objective processes, do not hold public hearings, and lack capacity to manage conflicts of interest (as per the 2020 Independent Review). DAPs do not have to provide written reasons for their decision (making it difficult to seek judicial review). Community input will be less effective because it will be delayed until after the DAP has consulted (behind closed doors) with the developer and any relevant government agencies, and adopted its draft decision.

- Research demonstrates DAPs are pro-development and pro-government, they don't care about local
 communities. Also, claims about job creation are spurious, since there isn't a vast workforce of
 unemployed building industry workers waiting in Tasmania for developments to be approved; big
 projects are usually contracted out interstate and the employment is temporary, whereas the
 consequences for the local environment are long term and often very negative for the natural
 environment and for the quality of life of tax-paying, voting, local residents.
- It will be easier to approve large-scale developments that many local residents passionately oppose, such as the kunanyi/Mount Wellington cable car, high-rise buildings in Hobart, Cambria Green and highdensity subdivision like Skylands at Droughty Point and the UTAS Sandy Bay campus redevelopment proposals.
- It gets rid of merit-based planning appeal rights via the planning tribunal on all the issues the community cares about, including impacts on biodiversity, height, bulk, scale or appearance of buildings; impacts on streetscapes and adjoining properties, including privacy and overlooking; traffic, noise, smell, light, solar energy and more. TASCAT review of government decisions is an essential part of the rule of law and a democratic system of government based on 'checks and balances'.
 - Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal.
 - Appeals to the Supreme Court against developments will only be permissible on a point-of-law or process, which has a narrow focus and is too expensive for many potential appellants.
 - Removing merits-based planning appeals is likely to encourage corruption, reduce good planning outcomes, favour developers and undermine democracy. The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption. Mainland experience demonstrates planning panels favour developers and undermine democratic accountability. Local planning panels were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability. Mainland research demonstrates removing merits-based planning appeals has the potential to reduce good planning outcomes including both environmental and social outcomes.
 - Increased ministerial power over the planning system increases the politicisation of planning and
 risk of corrupt decisions. The Planning Minister will decide if a development application meets the
 DAP criteria. The Minister will be able to force planning scheme changes but, perversely, only
 when a local council has rejected such an application, which is a threat to transparency in decisionmaking and strategic planning.
 - The planning panel criteria for changing the approval process are flawed: on the basis of 'perceived conflict of interest', 'a real or perceived bias', 'the application relates to a development that may be considered significant' and the 'development is likely to be controversial'. The Planning Minister has political bias and can use these subjective criteria to intervene in favour of developers. NOTE: The scope of the DAPs includes a range of subjective factors that are not guided by any clear criteria:
 - valuations of \$10 million in cities and \$5 million in other areas
 - a determination by Homes Tasmania that an application includes social or 'affordable' housing (with no requirement for a specific proportion of the development to be for this purpose, e.g. it could be just one dwelling out of 200
 - Justification for the change is weak there is no problem with the current process. Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest in Australia when it comes to determining development applications. It seems that the state

government is trying to blame the planning system for stopping housing developments, as the excuse for its failure to addressing the shortage of affordable housing. And why increase the complexity of an already complex planning system which is already making decisions quicker than any other jurisdiction in Australia?

Please oppose this bill

- I urge you to support transparency, independence, accountability and public participation in decision-making within the planning system, as they are critical for a healthy democracy. Keep decision making local by enabling opportunities for appeal. Abandon DAPs and instead invest in expertise to improve the local government system and existing planning processes by providing more resources to councils and enhancing community participation and planning outcomes. This will also help protect local jobs and keep the cost of development applications down.
- I also call on you to prohibit property developers from making donations to political parties, to enhance transparency and efficiency in the administration of the *Right to Information Act 2009*, and create a strong anti-corruption watchdog.
- I wish our elected representatives would recognise that Tasmania is a special place that cannot and should not compete with bigger, more urbanised places and add to the consequences of climate change by filling space and obstructing vistas with concrete slabs, in the hope of attracting tourist dollars or investors who cause house-price rises. Tasmania's future value lies in protecting and enhancing what makes it special its natural features and an enviable quality of life (as pandemic lock-downs demonstrated): a relatively healthy environment, small, accessible and walkable cities with close proximity to nature, clean air, solar power, and being able to see water, forest, mountain etc from city streets, transporting urban dwellers mentally beyond the city limits.

Yours sincerely,

Janice Bird

CONFIDENTIALITY NOTICE AND DISCLAIMER



11 November 2024

State Planning Office
Department of Premier and Cabinet

By email to yoursay.planning@dpac.tas.gov.au

LUPA Amendment (Development Assessment Panels) Bill 2024

The Tasmanian National Parks Association (TNPA) urges the State Government to abandon its proposed 'independent' Development Assessment Panels (DAPs) for contentious planning matters, in favour of maintaining the current legislation.

'Independent assessment', especially without the check of a possible appeal of the decision, will not remove politics from planning, but shift the politics involved from a relatively democratic process to a top-down one from which stakeholders are almost excluded.

The concepts of 'independent' and 'expert' that underpin the DAP proposal are hardly objective. The 'independence' of planning consultants is compromised because self-interest incentivises them to support the goals of the body that has engaged them. And the relevance of a consultancy firm's 'expertise' will depend on how closely their knowledge and values reflect those of the stakeholders, or the project proponents.

The complexities of large green-field housing development proposals should not be used as an excuse to remove local stakeholder involvement in planning. Housing, and the built environment, will inevitably generate some conflicting responses, however best outcomes are achieved when stakeholders feel they have been part of the decision-making process. Discussing issues and ways in which they might be addressed can result in better, and more widely accepted, planning decisions than those that have not involved local input.

Planning decisions relating to the natural environment also benefit from involving people with connection to, and knowledge of the local area. Involvement in land use planning of this kind is best met by existing planning arrangements in which municipal councils perform a strong role, rather than shifting to a more removed and less democratic process.

Of particular concern to the TNPA is the suggestion that "complex" planning development applications may be referred to DAPs. Any development application on reserved land has the potential to be deemed "complex" – see TNPA's 26 November 2023 Comments on Development Assessment Panel (DAP) Framework Position Paper (attached).

In conclusion, the TNPA strongly urges the Tasmanian Government to abandon its proposal for Developmental Development Panels to deal with contentious planning proposals.

Yours sincerely

Nicholas Sawyer President

ATTACHMENT: TNPA COMMENTS 26 NOVEMBER 2023

Comments on Development Assessment Panel (DAP) Framework Position Paper

Introduction

The Tasmanian National Parks Association Inc. (TNPA) understands that the Position Paper has been prepared as part of a proposal "to take ... politics out of planning decisions". The planning system (including planning decisions) is inherently political, because it is about balancing competing public and private interests. Therefore the proposal cannot achieve its stated purpose.

Misperceptions of conflict

The Position Paper suggests that perceptions of conflicting roles of councillors could be one ground for removing planning decisions from elected local councils and giving those decisions to development assessment panels (DAPs). The material in the Position Paper strongly indicates that the conflicts are not a significant problem at present. Given the inherently political nature of the planning system, it is appropriate that planning decisions on controversial matters are made by elected councillors who are accountable to voters, rather than by panellists who are not. Responsible government (including the responsibility of executive decision-makers to voters) is a fundamental feature of all levels of government in Australia.

Suggested grounds for involving DAPs

There is also a suggestion in the Position Paper that applications over a certain value should be determined by a development assessment panel rather than an elected local council. Proponents of controversial developments often make questionable claims about the value of their proposals. The suggestion seems likely to encourage this practice, which runs counter to making of well-informed planning decisions.

Of particular concern to the TNPA is the suggestion that "complex" planning development applications may be referred to DAPs. Any development application on reserved land has the potential to be deemed "complex" because it needs to demonstrate compliance with both the National Parks and Reserves Management Act 2002 and the Land Use Planning and Assessment Act 1993. Hence there is potential for any development application on reserved land to be assessed by a DAP with no right of appeal.

A number of options are suggested in the Position Paper for allowing applicants for development approvals to have a role in choosing that their applications be decided by DAPs. The TNPA believes these options are inappropriate. The TNPA also believes that the suggested option for the Minister to nominate applications for assessment by DAPs is inappropriate, and likely to increase controversy around proposed developments and perceptions of undue political influence in the planning system.

ATTACHMENT: TNPA COMMENTS 26 NOVEMBER 2023

Reducing accountability by removing appeals

The Position Paper suggests that provision for appeals to an independent tribunal from decisions of development assessment panels is not warranted, in part because of the expertise of the Tasmanian Planning Commission and panellists. Longstanding Australian Government guidance indicates that expertise of decision-makers is not a valid justification for denying merits review of their decisions.ⁱⁱ

It is not clear from the Position Paper what degree of expertise or independence panellists will have. The paper refers to various Acts as possible models, but only one of them (the *Land Use Planning and Assessment Act 1993*) currently provides for development assessment panels (in Division 2A of Part 4). Those provisions allow the Minister a significant degree of influence in the appointment of a development panel, given that the Minister can determine what qualifications or experience 2 of the required appointees to the panel need to have. Those 2 appointees could constitute a majority of the quorum of 3 panellists. This hardly seems a model "to take ... politics out of planning decisions".

Conclusion

The proposed framework will not only fail "to take ... politics out of planning decisions", but will cause further political problems by diminishing accountability through removing decision-making from elected local representatives and denying appeals.

The framework and wider proposal of which it forms part should therefore be abandoned.

Nicholas Sawyer, President, TNPA 26 November 2023

Endnotes

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ⁱ https://www.premier.tas.gov.au/site_resources_2015/additional_releases/development-assessment-panel-consultation.

ii https://www.ag.gov.au/legal-system/administrative-law/administrative-review-council-publications/what-decisions-should-be-subject-merit-review-1999#:~:text=The%20Council%20prefers%20a%20broad,2.5. (see paragraphs 5.16 and 5.17).

ii See subsections 60Q(3) and 60W(4) and (5) of the Land Use Planning and Approvals Act 1993.

iv See subsection 60X(1) of the Land Use Planning and Approvals Act 1993.

From: Alice Chen Tuesday, 12 November

Sent: 2024 1:12 PM

To:yoursay.planning@dpac.tas.gov.auSubject:I oppose the creation of DAPs

I oppose the creation of Development Assessment Panels (Daps) and increasing ministerial power over the planning system, for the following reasons:

- It will create an alternate planning approval pathway allowing property developers to bypass local councils and communities. Handpicked state appointed planning panels, conducted by the Tasmanian Planning Commission, will decide on development applications not your elected local council representatives. Local concerns will be ignored in favour of developers who may not be from Tasmania. Also, if an assessment isn't going their way the developer can abandon the standard local council process at anytime and have a development assessed by a planning panel. This could intimidate councils into conceding to developers demands.
- The Tasmanian Planning Commission is not independent DAPs are hand-picked, without detailed selection criteria and objective processes, are inconsistent with the principles of open justice as they do not hold public hearings, and lack capacity to manage conflicts of interest (as per the 2020 Independent Review). DAPs do not have to provide written reasons for their decision (making it difficult to seek judicial review). Community input will be less effective because it will be delayed until after the DAP has consulted (behind closed doors) with the developer and any relevant government agencies, and adopted its draft decision.
- Research demonstrates DAPs are pro-development and pro-government, they rarely deeply engage
 with local communities, and they spend most of their time on smaller applications and take longer
 than local councils to make decisions.
- Makes it easier to approve large scale contentious developments like the kunanyi/Mount Wellington cable car, high-rise in Hobart, Cambria Green and high-density subdivision like Skylands at Droughty Point and the UTAS Sandy Bay campus re-development.
- Removes merit-based planning appeal rights via the planning tribunal on all the issues the
 community cares about like impacts on biodiversity, height, bulk, scale or appearance of buildings;
 impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise,
 smell, light and so much more. TASCAT review of government decisions is an essential part of the
 rule of law and a democratic system of government based on 'checks and balances'.
- Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal.
- Developments will only be appealable to the Supreme Court based on a point of law or process which have a narrow focus and are prohibitively expensive.
- Removing merits-based planning appeals has the potential to increase corruption, reduce good
 planning outcomes, favour developers and undermine democracy. The NSW Independent
 Commission Against Corruption recommended the expansion of merit-based planning appeals as a

deterrent to corruption. Mainland experience demonstrates planning panels favour developers and undermine democratic accountability. Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum <u>say</u> they favour developers and undermine democratic accountability. Mainland <u>research</u>demonstrates removing merits-based planning appeals has the potential to reduce good planning outcomes – including both environmental and social.

- Increased ministerial power over the planning system increases the politicisation of planning and risk of corrupt decisions. The Planning Minister will decide if a development application meets the DAP criteria. The Minister will be able to force the initiation of planning scheme changes, but perversely, only when a local council has rejected such an application, threatening transparency and strategic planning.
- Flawed planning panel criteria. Changing an approval process where the criteria is on the basis of 'perceived conflict of interest', 'a real or perceived bias', 'the application relates to a development that may be considered significant' and the 'development is likely to be controversial' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers. NOTE: The scope of the DAPs includes a range of subjective factors that are not guided by any clear criteria:
 - Valuations of \$10 million in cities and \$5 million in other areas.
 - A determination by Homes Tasmania that an application includes social or affordable housing.
 There is no requirement for a proportion of the development to be for social or affordable housing.
 For example, it could be one house out of 200 that is affordable.
- Poor justification there is no problem to fix. Only about 1% of council planning decisions go to
 appeal and Tasmania's planning system is already among the fastest in Australia when it comes to
 determining development applications. The Government wants to falsely blame the planning
 system for stopping housing developments to cover its lack of performance in addressing the
 affordable housing shortage.
- Increases complexity in an already complex planning system. Why would we further increase an already complex planning system which is already making decisions quicker than any other jurisdiction in Australia?

Say yes to a healthy democracy

- I call on you to ensure transparency, independence, accountability and public participation in
 decision-making within the planning system, as they are critical for a healthy democracy. Keep
 decision making local, rather than bypassing it, with opportunities for appeal. Abandon DAPs and
 instead invest in expertise to improve the local government system and existing planning processes
 by providing more resources to councils and enhancing community participation and planning
 outcomes. This will also help protect local jobs and keeping the cost of development applications
 down.
- I also call on you to prohibit property developers from making donations to political parties, enhance transparency and efficiency in the administration of the *Right to Information Act 2009*, and create a strong anti-corruption watchdog.

Yours sincerely,

Alice Chen

Personal Submission on the Draft LUPA Amendment (Development Assessment Panels) Bill 2024 by Austra Maddox.

I am responding to the call for public comment on this proposed legislation.

As a long-term resident of Hobart I have taken an active interest in planning matters relating to both our city and more broadly the state for quite a few years. It is distressing to see the trend to increasing centralisation of decision-making and the politicisation of what should be proper, open processes which allow for genuine community input and participation.

The current proposal is totally unacceptable on this basis:

- It aims to give the responsible Minister excessive power, thus making planning decisions effectively political decisions;
- it denies proper citizen participation and merit-based appeal rights.

This is already demonstrated by the fact that the proposal for DAPs does NOT incorporate input from the earlier round of public "consultation"!

The proposed DAPs process clearly preferences development interests (i.e. money interests) over community interests, public amenity and heritage concerns.

This is unacceptable in what purports to be a democracy, instead enabling executive government and decision-making which is not subject to public scrutiny.

The government should instead **respond to each of the issues raised** by citizens in both the previous "consultation" and in this current phase.

Planning should, among other things, be an open process of ensuring that sustainable, structured and well documented decisions are made, meeting well established criteria and guidelines which also ensure that the community can have meaningful input and proper merit-based appeal rights.

The current DAPs proposal does not meet any of these fundamental threshold benchmarks. There can be no public confidence and trust in such a "planning" system which so systematically denies community involvement at each critical point in that process.

The government has already undermined any proper planning process in a number of ways, and further Ministerial power in this area would virtually end the very concept of planning in this state. In this regard I would particularly highlight, amongst other thing -

- Attacks on the role of Local Government Councils, seeking to bypass their function as Planning Authorities, despite the fact that the system works effectively and efficiently,
- Major Projects and POSS/PORS are already being used for contentious projects in a blatant attempt to have political decision-making rather than planning outcomes.

On the matter of the housing crisis, it is totally disingenuous to claim that "fixing" planning would somehow also address the housing issue. The housing crisis has arisen due to many factors over a significant period of time; planning matters are a very minor part of that broader picture and any potential solutions.

I will not repeat all the points made in the excellent Planning Matters Alliance Tasmania (PMAT) submission, but merely affirm that I also fully endorse that submission, based as it is on a rational assessment of the relevant facts and issues. I would point out that PMAT represents over 70 community groups and organisations, and is therefore representative of much community feeling on these issues, which have had considerable discussion in various forums.

The government needs to listen to such voices and drop the Draft LUPA Amendment (Development Assessment Panels) Bill 2024 to demonstrate that it is responsive to genuine community input above the vested interests of the development sector.

Austra	Mad	ldox.
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Ends.

From: Brian Griffiths

Sent: Tuesday, 12 November 2024 1:02 PM **To:** yoursay.planning@dpac.tas.gov.au;

Cc:

Subject:

Submission opposing the proposed DAP legislation

I wish to object in the strongest possible terms to the draft legislation that will remove assessment and approval for developments from local councils to Development Assessment Panels.

Transparency, independence and public participation in decision-making are critical for a healthy democracy. The proposed legislation removes transparency, negates independence, and removes the right of public participation. This is bad legislation and needs to be defeated on the floor of parliament.

Planning decisions need to be made at the local level, rather than by a panel with no local knowledge or interests in the consequences of their decisions on people adversely affected by their decisions. There are perfectly good appeal mechanisms in place in Tasmania if individuals or businesses disagree with Council planning decisions: an anonymous Panel is not a progressive step and is unnecessary. In a healthy democracy dissent is good. The DAP process removes this right of dissent from the people most impacted by fast-tracked decisions. There must be an appeal process in this proposed

legislation if there is genuinely stupid proposals (like the proposed AFL stadium that will send Tasmania broke) approved under the DAP system am particularly alarmed by the possibility that development permits may be fast tracked in the World Heritage areas, and in National Parks and reserves. I am not opposed to sensible developments in these areas but they must be carefully considered and not railroaded through the development application process that would occur under this flawed proposed legislation.

I note that the Planning Minister would be able to take a development assessment from councils mid-way through the development assessment process if the developer doesn't like the way it is heading. Why don't individuals and communities have the same rights? This portion of the proposed legislation means there is a very disturbing potential for corruption to occur, particularly under Tasmania's existing very poor political donation rules and timelines for disclosure.

I require our elected Members of Parliament to defeat this legislation, or be defeated at the next Parliamentary election themselves.

Brian Griffiths



CONFIDENTIALITY NOTICE AND DISCLAIMER

From: Mark Passier <

Sent: Tuesday, 12 November 2024 12:57 PM **To:** yoursay.planning@dpac.tas.gov.au

Cc:

Subject: #ScrapTheDAP – say no to planning panels/say yes to a healthy democracy

I oppose the creation of Development Assessment Panels (Daps) and increasing ministerial power over the planning system, for the following reasons:

- It will create an alternate planning approval pathway allowing property developers to bypass local councils and communities. Handpicked state appointed planning panels, conducted by the Tasmanian Planning Commission, will decide on development applications not your elected local council representatives. Local concerns will be ignored in favour of developers who may not be from Tasmania. Also, if an assessment isn't going their way the developer can abandon the standard local council process at anytime and have a development assessed by a planning panel. This could intimidate councils into conceding to developers demands.
- The Tasmanian Planning Commission is not independent DAPs are hand-picked, without detailed selection criteria and objective processes, are inconsistent with the principles of open justice as they do not hold public hearings, and lack capacity to manage conflicts of interest (as per the 2020 Independent Review). DAPs do not have to provide written reasons for their decision (making it difficult to seek judicial review). Community input will be less effective because it will be delayed until after the DAP has consulted (behind closed doors) with the developer and any relevant government agencies, and adopted its draft decision.

- Research demonstrates DAPs are pro-development and pro-government, they rarely deeply engage with local communities, and they spend most of their time on smaller applications and take longer than local councils to make decisions.
- Makes it easier to approve large scale contentious developments like the kunanyi/Mount
 Wellington cable car, high-rise in Hobart, Cambria Green and high-density subdivision like Skylands
 at Droughty Point and the UTAS Sandy Bay campus re-development.
- Removes merit-based planning appeal rights via the planning tribunal on all the issues the
 community cares about like impacts on biodiversity, height, bulk, scale or appearance of buildings;
 impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise,
 smell, light and so much more. TASCAT review of government decisions is an essential part of the
 rule of law and a democratic system of government based on 'checks and balances'.
- Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal.
- Developments will only be appealable to the Supreme Court based on a point of law or process which have a narrow focus and are prohibitively expensive.
- Removing merits-based planning appeals has the potential to increase corruption, reduce good planning outcomes, favour developers and undermine democracy. The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption. Mainland experience demonstrates planning panels favour developers and undermine democratic accountability. Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability. Mainland research demonstrates removing merits-based planning appeals has the potential to reduce good planning outcomes including both environmental and social.
- Increased ministerial power over the planning system increases the politicisation of planning and risk of corrupt decisions. The Planning Minister will decide if a development application meets the DAP criteria. The Minister will be able to force the initiation of planning scheme changes, but perversely, only when a local council has rejected such an application, threatening transparency and strategic planning.
- Flawed planning panel criteria. Changing an approval process where the criteria is on the basis of 'perceived conflict of interest', 'a real or perceived bias', 'the application relates to a development that may be considered significant' and the 'development is likely to be controversial' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers. NOTE: The scope of the DAPs includes a range of subjective factors that are not guided by any clear criteria:
 - Valuations of \$10 million in cities and \$5 million in other areas.
 - A determination by Homes Tasmania that an application includes social or affordable housing.
 There is no requirement for a proportion of the development to be for social or affordable housing.
 For example, it could be one house out of 200 that is affordable.
- Poor justification there is no problem to fix. Only about 1% of council planning decisions go to
 appeal and Tasmania's planning system is already among the fastest in Australia when it comes to
 determining development applications. The Government wants to falsely blame the planning
 system for stopping housing developments to cover its lack of performance in addressing the
 affordable housing shortage.

• Increases complexity in an already complex planning system. Why would we further increase an already complex planning system which is already making decisions quicker than any other jurisdiction in Australia?

Say yes to a healthy democracy

- I call on you to ensure transparency, independence, accountability and public participation in
 decision-making within the planning system, as they are critical for a healthy democracy. Keep
 decision making local, rather than bypassing it, with opportunities for appeal. Abandon DAPs and
 instead invest in expertise to improve the local government system and existing planning processes
 by providing more resources to councils and enhancing community participation and planning
 outcomes. This will also help protect local jobs and keeping the cost of development applications
 down.
- I also call on you to prohibit property developers from making donations to political parties, enhance transparency and efficiency in the administration of the *Right to Information Act 2009*, and create a strong anti-corruption watchdog.

Best	regard	ls,
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Mark Passier

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CONFIDENTIALITY NOTICE AND DISCLAIMER

From: Rocelyn Ives >

Sent: Tuesday, 12 November 2024 12:57 PM **To:** yoursay.planning@dpac.tas.gov.au

Cc: Panels are not needed and I oppose this process to undermine democtatically

elected local councils

Subject:

I oppose the creation of planning panels and increasing ministerial power over the planning system, for the following reasons:

- •It will create an alternate planning approval pathway allowing property developers to bypass local councils and communities. Handpicked state appointed planning panels will decide on development applications not your elected local council representatives. Local concerns will be ignored in favour of the developers who may not be from Tasmania. Also, if an assessment isn't going their way the developer can abandon the standard local council process at anytime and have a development assessed by a planning panel. This could intimidate councils into conceding to developers demands.
- Makes it easier to approve large scale contentious developments like the kunanyi/Mount Wellington cable car, high-rise in Hobart, Cambria Green and high-density subdivision like Skylands at Droughty Point.
- Remove merit-based planning appeal rights via the planning tribunal on issues like height, bulk, scale or appearance of buildings; impacts to

streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and other potential amenity impacts and so much more. Developments will only be appealable to the Supreme Court based on a point of law or process.

- Removing merits-based planning appeals has the potential to increase corruption and reduce good planning outcomes. The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption.
- Increased ministerial power over the planning system increases the
 politicisation of planning and risk of corrupt decisions. The Planning
 Minister will decide if a development application meets the planning panel
 criteria. The Minister will be able to force the initiation of planning scheme
 changes, but perversely, only when a local council has rejected such an
 application, threatening transparency and strategic planning.
- Flawed planning panel criteria. Changing an approval process where one of the criteria is on the basis of 'perceived conflict of interest' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers.
- Undermines local democracy and removes and local decision making. State
 appointed hand-picked planning panels are not democratically accountable,
 they remove local decision making and reduce transparency and robust
 decision making.
- Mainland experience demonstrates planning panels favour developers and undermine democratic accountability. Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum <u>say</u> they favour developers and undermine democratic accountability.
- Poor justification there is no problem to fix. Only about 1% of council
 planning decisions go to appeal and Tasmania's planning system is already
 among the fastest, if not the fastest, in Australia when it comes to determining
 development applications.
- •Increases complexity in an already complex planning system. Why would we further increase an already complex planning system which is already making decisions quicker than any other jurisdiction in Australia?

Say yes to a healthy democracy

•I call on you to ensure transparency, independence, accountability and public participation in decision-making within the planning system, as they are critical for a healthy democracy. Keep decision making local with opportunities for appeal. Abandon the planning panels and instead take action

to improve governance and the existing Council planning process by providing more resources to councils and enhancing community participation and planning outcomes.

- I also call on you to prohibit property developers from making donations to political parties, enhance transparency and efficiency in the administration of the Right to Information Act 2009, and create a strong anti-corruption watchdog.
- This is a total undermining of Tasmanian Citizen's rights to have their say in their city/town's future vision and direction with the skewing of dominating projects being approved. Developers and government who care more about economics than about healthy communities where every citizen matters, will more likely approve through the panel system projects of no real inherent value. Every elector, not just developers, has the right to have a voice in grass roots decision making for their town or community. The current planning scheme managed by councils allows for this and has not failed us.
- Planning is not just about a project here and a project there. Planning is
 essentially about values the community holds and being interpreted by
 those elected into council who they have chosen to represent their values and
 visions.
- State government MPs were not elected on the premise of being the representative to decide what directio local community should take with approvals of projects. This current approach for changing the planning approach with panel assessments is a corruption of democratic process in my opinion. Any change in the process of planning should occur by an electoral poll in a state election.
- The Wilderness World Heritage Area is unique on this planet fulfilling more criteria than any other wild place for world heritage listing. Any man made incursion into these sacred areas with projects would undermine its value.
- Tasmania's attraction now and into the long term future is to uphold the terms by which this listing was granted. Even tinkering at the edges would be a destructive force and impinge on flora and fauna health. Intact wilderness has elements that can easily be destroyed and usually these damages are caused by fixing footprints somewhere. There is an ecology that can't be renewed once elements of these places are destroyed. A lesson was the bush fires that damaged and decreased populations of alpine plants and flora. No projects should ever be considered appropriate.

My name is Rocelyn Ives and I am a community representative on the launceston City Council's Heritage Advisory Council.I have knowledge learned through tourism and visitor information experiences over a decade or more, as to why Launceston's intact architecture and nature landscape(Cataract Gorge)are considered world class tourism experiences as they are. They don't need fixing. I am also a committee members of Tasmania Wilderness Society with some knowledge of the importance of intact landscapes and our Wilderness world Heritage Area. We are the envy of the world with the treasures we have. There is no need to change the management of community developments as they exist now.

I do hope consideration can be given to the enormous detrimental impacts DAPs would have.

Respectfully, Rocelyn Ives,

CONFIDENTIALITY NOTICE AND DISCLAIMER



DOURIAS GROUP HOLDINGS

Dourias Group Holdings

PO BOX 3193, West Hobart Tasmania, 7000

Email: douriasgroupholdings@gmail.com

11th November 2024

State Planning Office
Department of Premier and Cabinet
GPO Box 123
HOBART TAS 7001

Email to: yoursay.planning@dpac.tas.gov.au

State Planning Office,

Submission Land Use Planning and Approvals (Development Assessment Panels) Bill 2024 (the draft DAP Bill)

Thank you for the opportunity to provide a written submission on the proposed amendments to the *Land Use Planning and Approvals Act 1993* (the Act) to allow for the operation of the Development Assessment Panels (DAP) and associated changes to allow for Ministerial review and direction to Planning Authority's to initiate an amendment to the Local Provisions Schedule (LPS).

Our submission details are provided as follows:

On behalf of Dourias Group Holdings I hereby provide support for the proposed amendments to the Act and provide support for the intended outcomes of the DAP Framework and Ministerial direction to initiate an amendment to an LPS.

Dourias Group Holdings group of entities is a major landowner and property developer in Tasmania, with a diverse portfolio throughout the State. For the past 30 years, we have been actively involved in the planning and development system in Tasmania, focusing on the development and rezoning of land. We have engaged with most Councils over this period and generally experience courteous and professional conduct.

At times, however, we have noted that Elected Members or Council Officers need to make difficult decisions with regard to development applications. This can occur where the development is on land owned by the Council or where the Council is the Applicant for the development.

Though Council's often put other measures in place such as engaging planning consultants or assessment by another Councils (through resource sharing) the DAP would provide a clear pathway for these complex situations.

Similarly, where a proposed development is controversial or likely to become controversial, for example, the Lake Malbena project, then it makes sense for an alternative and independent assessment process to occur.

Council's, particularly the Elected Members acting as a Planning Authority are often faced with conflicting roles. They must act as both a community representative and as a decision maker in line with professional reporting and recommendations by Council Officers.

This can be particularly challenging in situations where there is high public interest and opinion on a proposed development that conflicts with the requirements of the planning scheme or expert recommendations and advice. The DAPs would alleviate this situation by providing an alternative assessment pathway.

The DAP is in our interest as we anticipate the process will expedite the assessment process for complicated applications where the Council is the landowner or where Council Officers or Elected Members have expressed an opinion on a development application before assessment has commenced or a decision has been made.

With regard to Ministerial direction to prepare a draft amendment to an LPS we support this process. A situation where Council Officers or Elected Members have expressed an opinion on an application to amend an LPS prior to assessment commencing will inevitably shape the assessment or decision-making process.

The Planning Authority must consider the LPS Criteria which provides a multitude of policies that must be addressed in the assessment process. Unfortunately, the number of policies is extensive and allows for a number of reasons for a Planning Authority to refuse to initiate an amendment. The question of whether or not a proposed amendment to an LPS meets the LPS Criteria can be subjective with regard to the particular details of the LPS Criteria. For example, an opinion as to whether a proposed amendment satisfies a particular policy of a Regional Land Use Strategy may differ between professionals or between decision-makers.

This is problematic. If the Planning Authority refuses to initiate a Section 37 application to amend the LPS then there is currently no merits-based review by the Tasmanian Planning Commission or any other body. The role of the Tasmanian Planning Commission in any appeal under Section 40B is to determine whether the Planning Authority took into account those matters in Section 38 (which is the LPS Criteria). This is a question of whether or not the Planning Authority had considered the LPS Criteria (i.e. a clearly documented and adequate process). The review does not specifically determine whether or not the proposed amendment <u>complied</u> with the particular details of the LPS Criteria.

Ministerial involvement in this process is a welcome relief as it provides a pathway to a decision before the Planning Commission which contemplates the merits of the amendment.

I thank you again for this opportunity to provide this submission.

With regards,

Tony Dourias Dourias Group Holdings From: Natalie Poros

Sent: Tuesday, 12 November 2024 12:52 PM yoursay.planning@dpac.tas.gov.au

Cc:

Subject: #ScrapTheDAP – say no to planning panels/say yes to a healthy democracy

Good afternoon,

I am emailing today to urge you to preserve our democratic values as a country. If democracy is truly something that we prides ourselves on, we must uphold and protect these values. As representatives of us, the people, I urge you to hear our voices and concern at the creation of a Development Assessment Panel.

I oppose the creation of Development Assessment Panels (Daps) and increasing ministerial power over the planning system, for the following reasons:

- 1. It will create an alternate planning approval pathway allowing property developers to bypass local councils and communities. Handpicked state appointed planning panels, conducted by the Tasmanian Planning Commission, will decide on development applications not your elected local council representatives. Local concerns will be ignored in favour of developers who may not be from Tasmania. Also, if an assessment isn't going their way the developer can abandon the standard local council process at anytime and have a development assessed by a planning panel. This could intimidate councils into conceding to developers demands.
- 2. The Tasmanian Planning Commission is not independent DAPs are hand-picked, without detailed selection criteria and objective processes, are inconsistent with the principles of open justice as they do not hold public hearings, and lack capacity to manage conflicts of interest (as per the 2020 Independent Review). DAPs do not have to provide written reasons for their decision (making it difficult to seek judicial review). Community input will be less

effective because it will be delayed until after the DAP has consulted (behind closed doors) with the developer and any relevant government agencies, and adopted its draft decision.

- 3. Research demonstrates DAPs are pro-development and pro-government, they rarely deeply engage with local communities, and they spend most of their time on smaller applications and take longer than local councils to make decisions.
- 4. Makes it easier to approve large scale contentious developments like the kunanyi/Mount Wellington cable car, high-rise in Hobart, Cambria Green and high-density subdivision like Skylands at Droughty Point and the UTAS Sandy Bay campus re-development.
- 5. Removes merit-based planning appeal rights via the planning tribunal on all the issues the community cares about like impacts on biodiversity, height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and so much more. TASCAT review of government decisions is an essential part of the rule of law and a democratic system of government based on 'checks and balances'.
- 6. Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal.
- 7. Developments will only be appealable to the Supreme Court based on a point of law or process which have a narrow focus and are prohibitively expensive.
- 8. Removing merits-based planning appeals has the potential to increase corruption, reduce good planning outcomes, favour developers and undermine democracy. The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption. Mainland experience demonstrates planning panels favour developers and undermine democratic accountability. Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability. Mainland research demonstrates removing merits-based planning appeals has the potential to reduce good planning outcomes including both environmental and social.
- 9. Increased ministerial power over the planning system increases the politicisation of planning and risk of corrupt decisions. The Planning Minister will decide if a development application meets the DAP criteria. The Minister will be able to force the initiation of planning scheme changes, but perversely, only when a local council has rejected such an application, threatening transparency and strategic planning.
- 10. Flawed planning panel criteria. Changing an approval process where the criteria is on the basis of 'perceived conflict of interest', 'a real or perceived bias', 'the application relates to a development that may be considered significant' and the 'development is likely to be controversial' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers. NOTE: The scope of the DAPs includes a range of subjective factors that are not guided by any clear criteria:
- Valuations of \$10 million in cities and \$5 million in other areas.
- A determination by Homes Tasmania that an application includes social or affordable housing. There is no requirement for a proportion of the development to be for social or affordable housing. For example, it could be one house out of 200 that is affordable.
- 11.Poor justification there is no problem to fix. Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest in Australia when it comes to determining development applications. The Government wants to falsely blame the planning system for stopping housing developments to cover its lack of performance in addressing the affordable housing shortage.
- 12. Increases complexity in an already complex planning system. Why would we further increase an already complex planning system which is already making decisions quicker than any other jurisdiction in Australia?

Say yes to a healthy democracy

- I call on you to ensure transparency, independence, accountability and public participation in
 decision-making within the planning system, as they are critical for a healthy democracy. Keep
 decision making local, rather than bypassing it, with opportunities for appeal. Abandon DAPs and
 instead invest in expertise to improve the local government system and existing planning processes
 by providing more resources to councils and enhancing community participation and planning
 outcomes. This will also help protect local jobs and keeping the cost of development applications
 down.
- I also call on you to prohibit property developers from making donations to political parties, enhance transparency and efficiency in the administration of the *Right to Information Act 2009*, and create a strong anti-corruption watchdog.

Yours sincerely,

Natalie Poros

CONFIDENTIALITY NOTICE AND DISCLAIMER

Anne Griffiths < From: Sent: Tuesday, 12 November 2024 12:51 PM To: yoursay.planning@dpac.tas.gov.au Cc: DAP Subject: To whom it might concern (should) concern: The proposed legislation to remove planning decisions from local councils and give all this power to the Tasmanian Government is a draconian measure by the government to once again override the concerns and wishes of the people of this state. It is a poorly drafted piece of legislation and gives all power to a minister who almost certainly will have no planning experience and in the words of the current minister (Felix Ellis this morning talking to Leon Compton on the ABC morning show) "We are pro-development". If an appeal is made by members of the public the development proposal may be considered by a "panel" the members of which may well have no planning experience and also will be chosen by the government. We are supposed to be living in a democracy. This legislation is more autocratic than democratic.

Yours sincerely

Anne Griffiths

CONFIDENTIALITY NOTICE AND DISCLAIMER

From: ron lowe <

Sent: Tuesday, 12 November 2024 12:48 PM **To:** yoursay.planning@dpac.tas.gov.au

Cc:

Subject: Scrap the DAP

To whom it may concern,

I write to strongly oppose the creation of Development Assessment Panels (Daps) and increasing ministerial power over the planning system, for the following reasons:

It will create an alternate planning approval pathway allowing property developers to bypass local councils and communities. Handpicked state appointed planning panels, conducted by the Tasmanian Planning Commission, will decide on development applications not your elected local council representatives. Although this system also has its flaws, at least ratepayers can lobby their local councillors and voice their concerns.

Local concerns will be ignored in favour of developers who may not be from Tasmania. Also, if an assessment isn't going their way the developer can abandon the standard local council process at anytime and have a development assessed by a planning panel. This could intimidate councils into conceding to developers demands.

The Tasmanian Planning Commission is not independent – DAPs are hand-picked, without detailed selection criteria and objective processes, are inconsistent with the principles of open justice as they do not hold public hearings, and lack capacity to manage conflicts of interest (as per the 2020 Independent

Review). DAPs do not have to provide written reasons for their decision (making it difficult to seek judicial review). Community input will be less effective because it will be delayed until after the DAP has consulted (behind closed doors) with the developer and any relevant government agencies, and adopted its draft decision.

Research demonstrates DAPs are pro-development and pro-government, they rarely deeply engage with local communities, and they spend most of their time on smaller applications and take longer than local councils to make decisions.

Makes it easier to approve large scale contentious developments like the kunanyi/Mount Wellington cable car, high-rise in Hobart, Cambria Green and high-density subdivision like Skylands at Droughty Point.

Removes merit-based planning appeal rights via the planning tribunal on all the issues the community cares about like impacts on biodiversity, height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and so much more. TASCAT review of government decisions is an essential part of the rule of law and a democratic system of government based on 'checks and balances'.

Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal.

Developments will only be appealable to the Supreme Court based on a point of law or process which have a narrow focus and are prohibitively expensive.

Removing merits-based planning appeals has the potential to increase corruption, reduce good planning outcomes, favour developers and undermine democracy. The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption. Mainland experience demonstrates planning panels favour developers and undermine democratic accountability. Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability. Mainland research demonstrates removing merits-based planning appeals has the potential to reduce good planning outcomes – including both environmental and social.

Increased ministerial power over the planning system increases the politicisation of planning and risk of corrupt decisions. The Planning Minister will decide if a development application meets the DAP criteria. The Minister will be able to force the initiation of planning scheme changes, but perversely, only when a local council has rejected such an application, threatening transparency and strategic planning.

Flawed planning panel criteria. Changing an approval process where the criteria is on the basis of 'perceived conflict of interest', 'a real or perceived bias', 'the application relates to a development that may be considered significant' and the 'development is likely to be controversial' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers. NOTE: The scope of the DAPs includes a range of subjective factors that are not guided by any clear criteria:

- Valuations of \$10 million in cities and \$5 million in other areas.
- A determination by Homes Tasmania that an application includes social or affordable housing. There is no requirement for a proportion of the development to be for social or affordable housing. For example, it could be one house out of 200 that is affordable.

Poor justification – there is no problem to fix. Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest in Australia when it comes to determining development applications. The Government wants to falsely blame the planning system for stopping housing developments to cover its lack of performance in addressing the affordable housing shortage.

Increases complexity in an already complex planning system. Why would we further increase an already complex planning system which is already making decisions quicker than any other jurisdiction in Australia?

Say yes to a healthy democracy

I call on you to ensure transparency, independence, accountability and public participation in decision-making within the planning system, as they are critical for a healthy democracy. Keep decision making local, rather than bypassing it, with opportunities for appeal. Abandon DAPs and instead invest in expertise to improve the local government system and existing planning processes by providing more resources to councils and enhancing community participation and planning outcomes. This will also help protect local jobs and keeping the cost of development applications down.

I also call on you to prohibit property developers from making donations to political parties, enhance transparency and efficiency in the administration of the Right to Information Act 2009, and create a strong anti-corruption watchdog.

Our existing systems have ensured that Tasmania is the envy of the world, with the right balance between progressive development and protecting our natural heritage.

Yours sincerely,

Ron Lowe

CONFIDENTIALITY NOTICE AND DISCLAIMER

From: Jenelle C

Sent: Tuesday, 12 November 2024 12:44 PM **To:** yoursay.planning@dpac.tas.gov.au

Cc: The DAP

Subject:

I oppose the creation of these Developement Assessment Panels for the following reasons

- 1 increases ministerial power over the planning system. I believe this is better handled at local council level as this is more democratic and better reflects the will of the people living in that community
- 2 It creates a pathway for developers (who have the ministerial ear) to bypass local councils and communities
- 3 They won't be independent as they will be handpicked panels without objective processes
- 4 Designed to make large and contentious developments easier to get approval
- 5 Seems designed to remove reasonable appeal process based on merit which
- 6 potentially increases the risk of corruption, favours developers and undermines democracy by removing local voices
- 7 I also believe there is no real justification for the establishment of these panels. We have a planning process which seems to have worked and it feels like this is being introduced to circumvent existing processes to make it more favourable for developers.

I would like to see greater accountability and transparency not less. Public consultation is important and this seems to want to do away with it removing my rights thus undermining democracy and reducing my utility of public places in favour of a few making money.

Please act to preserve our democratic right

CONFIDENTIALITY NOTICE AND DISCLAIMER

From: Holly Mason-White <>

Sent: Tuesday, 12 November 2024 12:41 PM **To:** yoursay.planning@dpac.tas.gov.au

Cc:

Subject: #ScrapTheDAP – say no to planning panels/say yes to a healthy democracy

Dear Parliamentarians,

Along with many others, I strongly oppose the creation of Development Assessment Panels (Daps) and increasing ministerial power over the planning system, for the following reasons:

- It will create an alternate planning approval pathway allowing property developers to bypass local councils and communities. Handpicked state appointed planning panels, conducted by the Tasmanian Planning Commission, will decide on development applications not your elected local council representatives. Local concerns will be ignored in favour of developers who may not be from Tasmania. Also, if an assessment isn't going their way the developer can abandon the standard local council process at anytime and have a development assessed by a planning panel. This could intimidate councils into conceding to developers demands.
- The Tasmanian Planning Commission is not independent DAPs are hand-picked, without
 detailed selection criteria and objective processes, are inconsistent with the principles of
 open justice as they do not hold public hearings, and lack capacity to manage conflicts of
 interest (as per the 2020 Independent Review). DAPs do not have to provide written

reasons for their decision (making it difficult to seek judicial review). Community input will be less effective because it will be delayed until after the DAP has consulted (behind closed doors) with the developer and any relevant government agencies, and adopted its draft decision.

- Research demonstrates DAPs are pro-development and pro-government, they rarely deeply
 engage with local communities, and they spend most of their time on smaller applications
 and take longer than local councils to make decisions.
- Makes it easier to approve large scale contentious developments like the kunanyi/Mount Wellington cable car, high-rise in Hobart, Cambria Green and high-density subdivision like Skylands at Droughty Point and the UTAS Sandy Bay campus re-development.
- Removes merit-based planning appeal rights via the planning tribunal on all the issues the
 community cares about like impacts on biodiversity, height, bulk, scale or appearance of
 buildings; impacts to streetscapes, and adjoining properties including privacy and
 overlooking; traffic, noise, smell, light and so much more. TASCAT review of government
 decisions is an essential part of the rule of law and a democratic system of government
 based on 'checks and balances'.
- Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal.
- Developments will only be appealable to the Supreme Court based on a point of law or process which have a narrow focus and are prohibitively expensive.
- Removing merits-based planning appeals has the potential to increase corruption, reduce good planning outcomes, favour developers and undermine democracy. The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption. Mainland experience demonstrates planning panels favour developers and undermine democratic accountability. Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability. Mainland research demonstrates removing merits-based planning appeals has the potential to reduce good planning outcomes including both environmental and social.
- Increased ministerial power over the planning system increases the politicisation of
 planning and risk of corrupt decisions. The Planning Minister will decide if a development
 application meets the DAP criteria. The Minister will be able to force the initiation of
 planning scheme changes, but perversely, only when a local council has rejected such an
 application, threatening transparency and strategic planning.
- Flawed planning panel criteria. Changing an approval process where the criteria is on the basis of 'perceived conflict of interest', 'a real or perceived bias', 'the application relates to a development that may be considered significant' and the 'development is likely to be controversial' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers. NOTE: The scope of the DAPs includes a range of subjective factors that are not guided by any clear

criteria:

- Valuations of \$10 million in cities and \$5 million in other areas.
- A determination by Homes Tasmania that an application includes social or affordable housing. There is no requirement for a proportion of the development to be for social or affordable housing. For example, it could be one house out of 200 that is affordable.
- Poor justification there is no problem to fix. Only about 1% of council planning decisions
 go to appeal and Tasmania's planning system is already among the fastest in Australia
 when it comes to determining development applications. The Government wants to falsely
 blame the planning system for stopping housing developments to cover its lack of
 performance in addressing the affordable housing shortage.
- Increases complexity in an already complex planning system. Why would we further increase an already complex planning system which is already making decisions quicker than any other jurisdiction in Australia?

Say yes to a healthy democracy

- I call on you to ensure transparency, independence, accountability and public participation
 in decision-making within the planning system, as they are critical for a healthy democracy.
 Keep decision making local, rather than bypassing it, with opportunities for appeal.
 Abandon DAPs and instead invest in expertise to improve the local government system and
 existing planning processes by providing more resources to councils and enhancing
 community participation and planning outcomes. This will also help protect local jobs and
 keeping the cost of development applications down.
- I also call on you to prohibit property developers from making donations to political parties, enhance transparency and efficiency in the administration of the *Right to Information Act* 2009, and create a strong anti-corruption watchdog.

Yours sincerely,

Holly Mason-White

CONFIDENTIALITY NOTICE AND DISCLAIMER

From: Judy Nelson

Sent: Tuesday, 12 November 2024 12:39 PM **To:** yoursay.planning@dpac.tas.gov.au

Cc:

Subject: #ScrapTheDAP – say no to planning panels/say yes to a healthy democracy

Importance: High

I oppose the creation of Development Assessment Panels (Daps) and increasing ministerial power over the planning system, for the following reasons:

I live in Westbury and have been actively involved in the community, working with the local counsellors to ensure our town and its amenities remain accountable/available to its residents. With decisions locally decided, the community remains engaged, interested and involved. I frequently see the local counsellors participating in various events and know they are fulfilling their role, the voice of the Meander Valley residents. They find the time to talk/listen to us, are open to our comments/suggestions and are best positioned to make local decisions. Please do not take away their decision-making choice within the planning system. They are our eyes and voices, transparent in communicating, translating our needs efficiently and responsible in ensuring the Valley's future infrastructure targets are responsibility and efficiently achieved.

Say yes to a healthy democracy

- I call on you to ensure transparency, independence, accountability and public participation
 in decision-making within the planning system, as they are critical for a healthy democracy.
 Keep decision making local, rather than bypassing it, with opportunities for appeal.
 Abandon DAPs and instead invest in expertise to improve the local government system and
 existing planning processes by providing more resources to councils and enhancing
 community participation and planning outcomes. This will also help protect local jobs and
 keeping the cost of development applications down.
- I also call on you to prohibit property developers from making donations to political parties, enhance transparency and efficiency in the administration of the *Right to Information Act* 2009, and create a strong anti-corruption watchdog.

Yours sincerely,

Judy Uehlein Nelson

From: Robin Thomas <

Sent: Tuesday, 12 November 2024 12:09 PM **To:** yoursay.planning@dpac.tas.gov.au

Cc:

Subject: Our Democracy clearly threatened by DAPs

I strongly object to and oppose the government's forming development assessment panels (DAPs) to use in our planning system, thereby denying our treasured and vital democratic rights to effect real choice and input to our planning system, for our beautiful State, all our communities, and our younger generations. I also strongly object to increasing Ministerial power and to proposed removing of Planning appealing. My reasons follow.

The fact that DAPs' membership won't be elected by the relevant respective community, but by unelected 'picks' by the government of the day, is blatantly and clearly ant-democratic, and very vulnerable to corruption (as "money talks"). Also, with no proposed infrastructural transparency, no processes of recording decision-making, details etc demanded, this is laughably weak as proposed legislation.

It being known already that the existing Tasmanian Planning system is one of the fastest nationally, and it being demonstrated from research that Mainland DAP-use in Planning has resulted in bad and counter-productive results, the proposed legislation is a real 'no-brainer' to reject.

The fact that development applications would only be appealable through the Supreme Court, on extremely narrow criteria, is a glaring point denying equity (ie costs are prohibitive). Equity seems to be a government-professed and constantly promised principle.

The inclusion of public and private lands for this infamous legislation, is really a totalitarianism, and extremely unwise-sounding for a small, beautiful State, with its aesthetics and lack of Mainland homogeneity, upon which its economy and happinesses depend.

The fact that developers may not be Tasmanian, and indeed may be international, is yet another 'no brainer' to reject the proposed legislation, both on money, corruption-invite, and cultural-eroding grounds.

The legislation proposal denies merit-based criteria, and procedural checks and balances.

The whole proposal is extremely anti- democratic (ie to bypass the independent knowledge and wisdoms of our respective communities via our elected Councillors), and is contemptuous of our island's population.

Thank you. Mrs Robin Thomas,

CONFIDENTIALITY NOTICE AND DISCLAIMER

From: Matt Taylor

Sent: Tuesday, 12 November 2024 12:36 PM **To:** yoursay.planning@dpac.tas.gov.au

Subject: Please consider my voice

Here are some of the most importantly reasons why I believe this legislation should not proceed:

The Tasmanian Planning Commission is not independent – DAPs are hand-picked, without detailed selection criteria and objective processes, are inconsistent with the principles of open justice as they do not hold public hearings, and lack capacity to manage conflicts of interest (as per the 2020 Independent Review). DAPs do not have to provide written reasons for their decision (making it difficult to seek judicial review). Community input will be less effective because it will be delayed until after the DAP has consulted (behind closed doors) with the developer and any relevant government agencies, and adopted its draft decision.

Removes merit-based planning appeal rights via the planning tribunal on all the issues the community cares about like impacts on biodiversity, height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and so much more. TASCAT review of government decisions is an essential part of the rule of law and a democratic system of government based on 'checks and balances'.

Thank you for your time,

Matt Taylor

CONFIDENTIALITY NOTICE AND DISCLAIMER

From: Joanna Smith <

Sent: Tuesday, 12 November 2024 12:33 PM

To: joanna smith

Subject: #ScrapTheDAP – and get the GBEs under some control while you are at it - it's

embarrassing!

Quick email for those who care to read. For those who don't, have a great day and be awesome at what you do!

Having recently taken on TasRacing to strop the greyhound track in Wesley Vale, I can not emphasize enough how important it is to have the appeals process when things get pushed through for the sake of development or because the government wants it to happen.

The Tasmanian Planning Commission said NO to the land rezoning and subdivision of the significant agriculture land. 3 times through the re-zoning discussions. The council said NO you can't build it, we don't support your representation, we agree with the TPC and we don't want it.

Developer sneaks in a +40 page application before the new re-zoning is applied. They wait 9 months, amend the application to over +200 pages, then advertise but, it gets processed under the old scheme. The council then says oh yes TasRacing you can build it. How does this happen with no community consultation - by bypassing the process for the sake of development and money. So NO the council doesn't always get it right, and neither will DAP, but at least we have the opportunity as a community to appeal the wrong decisions through TASCAT. That process isn't the best either, but at least we have it available to us if we can afford to use it. Most of us can't afford it, but people use it because some development approvals simply get it wrong.

The community said NO. Tasracing didn't care. The landowner didn't care. The Wesley Vale Community cared.

We can't just have a group of selected people decide what is best for our community. There needs to be a process that is followed, people need to be scrutinised and held to account.

Biggest thing I have learned from the TASCAT exercise was in this state is business for mates, big business and "for the boys" that needs to be squashed and called out for what it is.

"Development" isn't always the best for the area or community - people before money seems to be a concept lost on rich people who develop just to make money, not help community.

General info as provided for sending in objections - which I don't need as I have lived the process for the last 12 months, but have included.

Yours sincerely,

I oppose the creation of Development Assessment Panels (Daps) and increasing ministerial power over the planning system, for the following reasons:

- It will create an alternate planning approval pathway allowing property developers to bypass local councils and communities. Handpicked state appointed planning panels, conducted by the Tasmanian Planning Commission, will decide on development applications not your elected local council representatives. Local concerns will be ignored in favour of developers who may not be from Tasmania. Also, if an assessment isn't going their way the developer can abandon the standard local council process at anytime and have a development assessed by a planning panel. This could intimidate councils into conceding to developers demands.
- The Tasmanian Planning Commission is not independent DAPs are hand-picked, without detailed selection criteria and objective processes, are inconsistent with the principles of open justice as they do not hold public hearings, and lack capacity to manage conflicts of interest (as per the 2020 Independent Review). DAPs do not have to provide written reasons for their decision (making it difficult to seek judicial review). Community input will be less effective because it will be delayed until after the DAP has consulted (behind closed doors) with the developer and any relevant government agencies, and adopted its draft decision.
- Research demonstrates DAPs are pro-development and pro-government, they rarely deeply engage with local communities, and they spend most of their time on smaller applications and take longer than local councils to make decisions.
- Makes it easier to approve large scale contentious developments like the kunanyi/Mount Wellington cable car, high-rise in Hobart, Cambria Green and high-density subdivision like Skylands at Droughty Point and the UTAS Sandy Bay campus re-development.
- Removes merit-based planning appeal rights via the planning tribunal on all the issues the community cares about like impacts on biodiversity, height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and so much more. TASCAT review of government decisions is an essential part of the rule of law and a democratic system of government based on 'checks and balances'.
- Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal.
- Developments will only be appealable to the Supreme Court based on a point of law or process which have a narrow focus and are prohibitively expensive.
- Removing merits-based planning appeals has the potential to increase corruption, reduce good
 planning outcomes, favour developers and undermine democracy. The NSW Independent
 Commission Against Corruption recommended the expansion of merit-based planning appeals as a
 deterrent to corruption. Mainland experience demonstrates planning panels favour developers and
 undermine democratic accountability. Local planning panels, which are often dominated by
 members of the development sector, were created in NSW to stamp out corruption, but councillors
 from across the political spectrum say they favour developers and undermine democratic

accountability. Mainland <u>research</u> demonstrates removing merits-based planning appeals has the potential to reduce good planning outcomes – including both environmental and social.

- Increased ministerial power over the planning system increases the politicisation of planning and risk of corrupt decisions. The Planning Minister will decide if a development application meets the DAP criteria. The Minister will be able to force the initiation of planning scheme changes, but perversely, only when a local council has rejected such an application, threatening transparency and strategic planning.
- **Flawed planning panel criteria.** Changing an approval process where the criteria is on the basis of 'perceived conflict of interest', 'a real or perceived bias', 'the application relates to a development that may be considered significant' and the 'development is likely to be controversial' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers. NOTE: The scope of the DAPs includes a range of subjective factors that are not guided by any clear criteria:
 - Valuations of \$10 million in cities and \$5 million in other areas.
 - A determination by Homes Tasmania that an application includes social or affordable housing.
 There is no requirement for a proportion of the development to be for social or affordable housing.
 For example, it could be one house out of 200 that is affordable.
- Poor justification there is no problem to fix. Only about 1% of council planning decisions go to
 appeal and Tasmania's planning system is already among the fastest in Australia when it comes to
 determining development applications. The Government wants to falsely blame the planning
 system for stopping housing developments to cover its lack of performance in addressing the
 affordable housing shortage.
- Increases complexity in an already complex planning system. Why would we further increase an already complex planning system which is already making decisions quicker than any other jurisdiction in Australia?

Say yes to a healthy democracy

- I call on you to ensure transparency, independence, accountability and public participation in decision-making within the planning system, as they are critical for a healthy democracy. Keep decision making local, rather than bypassing it, with opportunities for appeal. Abandon DAPs and instead invest in expertise to improve the local government system and existing planning processes by providing more resources to councils and enhancing community participation and planning outcomes. This will also help protect local jobs and keeping the cost of development applications down.
- I also call on you to prohibit property developers from making donations to political parties, enhance transparency and efficiency in the administration of the *Right to Information Act 2009*, and create a strong anti-corruption watchdog.

Υ	our	s sin	cere	Ιy,

Joanna Smith

CONFIDENTIALITY NOTICE AND DISCLAIMER

From: Naomi

Sent:Tuesday, 12 November 2024 12:28 PMTo:yoursay.planning@dpac.tas.gov.au

Subject: #ScrapTheDAP – say no to planning panels/say yes to a healthy democracy

I oppose the creation of Development Assessment Panels (Daps) and increasing ministerial power over the planning system, for the following reasons:

- It will create an alternate planning approval pathway allowing property developers to bypass local councils and communities. Handpicked state appointed planning panels, conducted by the Tasmanian Planning Commission, will decide on development applications not your elected local council representatives. Local concerns will be ignored in favour of developers who may not be from Tasmania. Also, if an assessment isn't going their way the developer can abandon the standard local council process at anytime and have a development assessed by a planning panel. This could intimidate councils into conceding to developers demands.
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Say yes to a healthy democracy

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 instead invest in expertise to improve the local government system and existing planning processes
 by providing more resources to councils and enhancing community participation and planning
 outcomes. This will also help protect local jobs and keeping the cost of development applications
 down.
- I also call on you to prohibit property developers from making donations to political parties, enhance transparency and efficiency in the administration of the *Right to Information Act 2009*, and create a strong anti-corruption watchdog.

Yours sincerely,

-Naomi Dickers

From: Chris Lang Tuesday, 12 November

Sent: 2024 12:20 PM

To: yoursay.planning@dpac.tas.gov.au

Subject: DAP concerns

Hi,

The draft legislation concerning. DAPs are all about creating a planning system that serves a small group of developers at the expense of everyone else in the community.

The concentration of decision making capabilities in one minister and a hand-picked panel is a recipe for corruption. While the current minister may be trusted to act with integrity, there's no assurance that future ministers will do the same. The potential for personal gain in the role will inevitably attract individuals who will prioritise self over the interests of Tasmanians.

I do not believe this legislation can be amended to reduce the risk of corruption satisfactorily. It should not be tabled.

Sincerely, Chris Lang

CONFIDENTIALITY NOTICE AND DISCLAIMER

From: **David Brewer** Sent: Tuesday, 12 November 2024 12:18 PM To: State Planning Office Your Say Fwd: #ScrapTheDAP – say no to planning panels/say yes to a healthy democracy **Subject:** David Brewer Ph Mob: ----- Forwarded message ------From: David Brewer Date: Tue, 12 Nov 2024 at 12:14 Subject: #ScrapTheDAP – say no to planning panels/say yes to a healthy democracy Т

I have read the draft Bill. The Consultation Report's stated intent for introducing DAPs is 'to take the politics out of planning by providing an alternate approval pathway for more complex or contentious development applications'. Aside from the sloppy language in that statement—use of 'alternate' suggests a flipping back and forth when the intention is, I suppose, an alternative—the Bill really just tries to take the public out of planning.

The criteria for sending developments to the Assessment Panels includes projects costing as little as \$1 million. This could include domestic dwellings. The \$10 million or such other amount as may be prescribed for a city development (emphasis added)could include a small block of flats. It is vitally important for a civilised society that local councils and residents have a say in the merits of such developments. There is already too little heed paid to the experience and varied expertise of residents. Councils are outsourcing more and more of their town planning expertise. The use of Assessment Panels seems to guarantee that there will be even more influence based on wealth and connection, rather than merit.

Large projects are even a bigger concern. The Bill reminds me of the demand for Projects of State Significance and the like, where half-baked Pies in the Sky are deemed so important that there is an expectation that they be pushed through without the normal checks and balances. But the very existence of a State Significance means there should be even more checks and balances. One only has to look at the countless white elephants around the world to see the evidence for that.

Rather than bypass the public and local government, our taxes would be better placed subsidising local government to provide more local expertise in planning, design and construction.

This Bill is an attempt to provide a solution to an uncertain problem. The solution as proposed will be neither safe nor effective.

Save your effort, and our money.

David Brewer

From: David Brewer

Sent: Tuesday, 12 November 2024 12:15 PM yoursay.planning@dpac.tas.gov.au

Cc:

#ScrapTheDAP – say no to planning panels/say yes to a healthy democracy

Subject:

Land Use Planning and Approvals Amendment (Development Assessment Panels) Bill 2024

I have read the draft Bill. The Consultation Report's stated intent for introducing DAPs is 'to take the politics out of planning by providing an alternate approval pathway for more complex or contentious development applications'. Aside from the sloppy language in that statement—use of 'alternate' suggests a flipping back and forth when the intention is, I suppose, an alternative—the Bill really just tries to take the public out of planning.

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This Bill is an attempt to provide a solution to an uncertain problem. The solution as proposed will be neither safe nor effective.

Save your effort, and our money.

David Brewer



CONFIDENTIALITY NOTICE AND DISCLAIMER

From: Louise Denson <

Sent: Tuesday, 12 November 2024 12:14 PM **To:** yoursay.planning@dpac.tas.gov.au

Cc:

Subject: DAPs and Planning Decision-Making Processes in Tasmania

Dear Members of Tasmania's Upper and Lower Houses of Parliament,

I am alarmed to see that your government is proposing to increase ministerial power over planning decisions in Tasmania through the use of Development Assessment Panels (DAPs). I am deeply opposed to this anti-democratic proposal which will remove local councils from the process, and consequently bypass the requirement that councils consult with their communities on such matters. Just because the USA is lurching towards authoritarianism does not mean that Tasmania should follow suit by concentrating power in so few hands.

A cynic might say this legislation is designed to obviate the clear public opposition which has caused projects such as the cable car on kunanyi and the wilderness resort on Halls Island in Lake Malbena to fall over; and to ensure that the will of the majority (60 - 70%) of Tasmanians will be overridden in the matter of destroying the amenity of the Hobart waterfront (and cutting essential services) with the proposed AFL stadium; and giving public land to the AFL in Rosny for the HPC.

Our system of government is based upon the idea that members of parliament represent the interests of their community. They determine what those interests are by presenting a platform before elections, and by continuing to consult throughout their terms in office as new issues arise. The DAP system will undermine this entire process, rendering decision-making opaque and suspect. There is a world-wide problem with

people losing trust in democratic institutions: this will ensure that the problem is even further entrenched in Tasmania.

Decision-making needs to be transparent and independent of lobbyists, cronies and donors who have a vested interest in the outcome. Accountability and public participation in decision-making within the planning system are critical for a healthy democracy.

Here are my reasons for opposing this legislation.

- Using DAPs will allow property developers to bypass local councils and communities. Handpicked state-appointed planning panels will decide on development applications. Local concerns will be ignored in favour of developers who may not be from Tasmania. If an assessment isn't going their way the developer can abandon the standard local council process at any time and have a development assessed by a planning panel. This could intimidate councils into conceding to developers' demands.
- The Tasmanian Planning Commission is not independent. DAPs are hand-picked, are inconsistent with the principles of open justice as they do not hold public hearings, and lack capacity to manage conflicts of interest (as per the 2020 Independent Review). DAPs do not have to provide written reasons for their decision, making it difficult to seek judicial review. Community input will be less effective because it will be delayed until after the DAP has consulted, behind closed doors, with the developer and any relevant government agencies, and adopted its draft decision.
- Research demonstrates DAPs are pro-development and pro-government and they rarely deeply engage with local communities. They are therefore incapable of making fair, unbiased, well-informed decisions in accordance with community sentiment.
- **Merit-based planning appeal rights** via the planning tribunal are removed on issues the community cares about. These include:
 - o impacts on biodiversity and green space;
 - o height, bulk, scale or appearance of buildings;
 - o impacts to streetscapes and adjoining properties including privacy;
 - o traffic, noise, smell, light pollution;
 - o use of public land for private purposes.
- Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal.
- Developments will only be appealable to the Supreme Court based on a narrowly-focused point of law or process. This is prohibitively expensive and effectively suppresses democratic participation in planning decisions.

TASCAT review of government decisions and the right to appeal are essential parts of the rule of law and a democratic system of government.

- Increased ministerial power over the planning system and removing merits-based planning appeals has the potential to increase corruption, reduce good environmental and social planning outcomes, favour developers and undermine democracy. The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption. Mainland experience demonstrates planning panels favour developers and undermine democratic accountability. Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability.
- Increased ministerial power over the planning system increases the politicisation of planning. The Planning Minister will decide if a development application meets the DAP criteria. The Minister will be able to force the initiation of planning scheme changes, but perversely, only when a local

council has rejected such an application. There can be no clearer indication that this process is designed to override decisions made in the interests of the local area.

• The Government's justification – that the planning system is stopping housing developments – is spurious. Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest in Australia when it comes to determining development applications. Again, the reason for these proposals appears to be a desire to suppress public opposition to certain projects, and limit public input into decision-making.

Say yes to a healthy democracy

- I call on you to withdraw this draft legislation, the result of which will be to undermine the democratic participation of Tasmanians in decision-making which affects their communities. Abandon DAPs and instead invest in expertise to improve the local government system and existing planning processes by providing more resources to councils and enhancing community participation and planning outcomes. This will also help protect local jobs and keep the cost of development applications down.
- I also call on you to prohibit property developers from making donations to political parties, enhance transparency and efficiency in the administration of the *Right to Information Act* 2009, and create a strong anti-corruption watchdog.

Sincerely, Dr Louise Denson

CONFIDENTIALITY NOTICE AND DISCLAIMER

From: Helmut Schwabe

Sent: Tuesday, 12 November 2024 12:12 PM **To:** yoursay.planning@dpac.tas.gov.au

Cc:

ScrapTheDAP

Subject:

To whom it may be of concern

I like and appreciate to live in our democracy and I like it to function at its best, that is when everyone can feel recognised and represent in the decision making processes regardless of wealth and status.

There is no need for me to waste your time and repeat the countless arguments against this Land Use Planning and Approvals Amendment (Development Assessment Panels) Bill 2024.

The proposed concentration of power in just a few "selected" hands is fraught with serious shortcomings in the absence of an anti corruption commission.

The overdue reform of political donation declaration (in real time) makes this proposed change even more dubious and only will add to the cynicism in our communities. That is something that isn't at all conducive to a well functioning democracy.

To put it politely, the unshakeably decision making powers of so called Sustainable Timbers Tasmania made me personally even more wary of overriding power concentrations.

Please scrap this undemocratic bill that will only invite misconduct and conflict of interests.

Thank you for your time.

Kind regards

Helmut Schwabe

CONFIDENTIALITY NOTICE AND DISCLAIMER



11 November 2024

The Hon Felix Ellis Minister for Housing and Planning

Via email: yoursay.planning@dpac.tas.gov.au

Dear Minister,

KINGBOROUGH COUNCIL SUBMISSION ON THE DRAFT DEVELOPMENT ASSESSMENT PANELS BILL 2024

Thank you for the opportunity to make a submission on the draft Development Assessment Panels Bill 2024 (the draft Bill).

At its Council meeting held on 4 November 2023, Kingborough Council considered the proposed changes contained in the draft Bill. The commentary below reflects the content of the report tabled in the agenda (attached) and views put forward by elected members during the discussion.

The proposed framework

As outlined in the submission made on 27 November 2023 on the Development Assessment Panels Position Paper, Kingborough Council (Council) considers the need for a Development Assessment Panel (DAP) as broadly unnecessary, however it is acknowledged there may be benefit of a DAP for some Councils and applications. In its submission, Council suggested that if a DAP were to be established, Planning Authorities should continue to receive and complete the assessment of relevant applications and provide recommendations to a DAP for consideration. This model would avoid the creation of another approval pathway and retain local knowledge in the assessment process. This is not the model proposed in the draft Bill where eligible applications can be referred to the Tasmanian Planning Commission (the Commission) who will then establish a DAP to undertake the assessment. The complexity of the planning process and assessment timeframes are a recurring theme in feedback received by Council from applicants. While it is acknowledged that the intent of the draft Bill is to address potential political influence on decision making for development applications, the proposed approach appears to increase 'red tape' and assessment timeframes and is counterintuitive when the existing process could be modified to achieve the same outcome without increasing complexity.

Utilising the Commission and its governance processes to establish a DAP when required is a reasonable and practical approach. To ensure the objectives of the draft Bill are achieved, it is suggested that the Commission develop and publish governance policies relating to the management of DAPs and application referrals, as well as regularly monitoring and reporting performance against these policies.

Types of applications suitable for referral

Council maintains the view that a DAP could play a beneficial role for applications for social housing, for Councils who are resource constrained, for complex and highly technical applications and for applications where the Council is the applicant.

The proposed framework allows for applicants (and the Planning Authority) to apply to the Minister for an application to be assessed by a DAP, which can be made anytime through an assessment. This appears to be contrary to the intent of the draft Bill, as it will result in the state government being directly involved in decision making within the assessment process. The proposed framework does necessitate a means to determine the eligibility of applications for assessment by a DAP, and it is suggested that the Commission is the appropriate body to make this determination rather than the Minister. The criteria set out in the draft Bill for the Minister to refer certain applications to the Commission are subjective. To ensure that referrals are made objectively, consistently and are not influenced by political priorities, more detailed guidance, definitions and evidence requirements should either be included in the draft Bill, subordinate regulations or in supporting guidelines.

The ability for an applicant (or Planning Authority) to apply to the Minister for the transfer of an existing assessment to the Commission does not represent procedural fairness and will be difficult for all entities involved to navigate and administer. If retained, it should only be allowed in strict circumstances where sound evidence can be provided by the entity applying for the transfer. Again, the Commission would be more appropriate in determining whether an application is eligible in these circumstances.

Permit enforcement

Council is concerned that a DAP in the context of the proposed framework (I.e. undertaking an assessment) would be limited in its ability to consider and account for the practical implications of ongoing permit enforcement. It is noted that applications will be referred to planning authorities, however if recommendations provided are not properly incorporated into the assessment and permit, it is likely that there will be ongoing financial, asset management and environmental impacts which will then become Councils' responsibility to manage. This issue could be avoided by implementing the suggested model where planning authorities complete an assessment and provide recommendations to a DAP for consideration.

Minister direction to prepare a draft amendment to a Local Provisions Schedule

The draft Bill provides for the Minister to direct a planning authority to prepare a draft amendment to its Local Provisions Schedule (LPS) under certain circumstances where a review under section 40B of the Land Use Planning and Approvals Act 1993 (the Act) has been exhausted. The rationale for this amendment has not been provided in the consultation material and 'special circumstances' are not defined in the draft Bill. This amendment seems to be in contrast with the intent of removing the influence of politics from the planning process and lacks sufficient detail to inform meaningful consultation. A more suitable approach may be to undertake legislative reform to allow for an appeal or review of the validity of a planning authorities decision to refuse an application to amend its LPS.

Thank you for you consideration of this submission,

Yours sincerely

DAVE STEWART CHIEF EXECUTIVE OFFICER being the General Manager as appointed by the Kingborough Council pursuant to Section 61 of the Local Government Act 1993 (TAS)

The draft Land Use Planning and Approvals Amendment (Development Assessment Panels) Bill 2024 (draft Bill)

Please accept this submission regarding the introduction of Development Assessment Panels in Tasmania.

My concerns are simple, because the basic principle is simple.

Replacing the current system of development assessment does not take the bias of individual politics out of decision, as the Liberal Party asserts.

Decisions are better made through the current system of local councils, the Environment Protection Authority (EPA) and the Tasmanian Civil & Administrative Tribunal (TasCAT) where the public can argue the merits of a proposal, and where local nuances can be highlighted.

Developments should not be assessed by a panel, nominated without due oversight by a sitting minister, where "the greater good" is deemed sufficient to bypass local community concerns. The now-accepted principle of social licence demands this.

As an example: While many suburban dwellers in the Greater Hobart area might not see the problem with 100 wind turbines on Robbins Island, they might easily be incensed if a cable ride to the top of kunyani/Mt Wellington was loudly supported as necessary by residents visiting from the far North West.

Both these projects could be removed from public challenge (at any stage of their development timeline) under the Government's proposed changes to planning law, and fast-tracked by a DAP.

There's a simple message for the incumbent government: How confident would you feel if a Development Assessment Panel was being appointed by a Tasmanian Greens government?

This is not future-proof legislation, and its vague terminology places too much wriggle room in the hands of a governing party minister.

Before rushing through these changes, could the Government perhaps accelerate the glacial pace of political donation reform and the publishing of ministerial diaries?

This may shed some light on just who wants the minister, not the public, to influence development in this State.

Perceived NIMBYism is no excuse to remove a democratic process when dramatic changes are being proposed in many Tasmanian locations, and the profit motive should not be the over-arching principle.

Greg Pullen

From: lan Johnson

Sent: Tuesday, 12 November 2024 11:53 AM

To: yoursay.planning@dpac.tas.gov.au

Cc:

Subject: No to Development Assessment Panels

To whom it may concern,

I absolutely oppose the creation of Development Assessment Panels. I ask you to protect democracy by speaking against and voting against the DAP. I will not vote for any politician who is in favour of the DAP.

To give the Planning Minister of any political party the right to take away the rights of the citizens and local planning authorities to have a say in developments that may affect them is a complete travesty. Most importantly, it will allow corruption. Planning ministers and their associates will do deals with their developer mates in return for favours, and all at the expense of the people who live here and who pay taxes that pay the wages of these politicians. Unfortunately, corruption by some in parliament is endemic. I am aware of what has happened in Queensland with the introduction of similar legislation, and it has had an appalling effect on the rights of local communities.

Specific reasons include:

It will create an alternate planning approval pathway allowing property developers to bypass local councils and communities. Handpicked state appointed planning panels, conducted by the Tasmanian Planning Commission, will decide on development applications not your elected local

council representatives. Local concerns will be ignored in favour of developers who may not be from Tasmania. Also, if an assessment isn't going their way the developer can abandon the standard local council process at any time and have a development assessed by a planning panel. This could intimidate councils into conceding to developers demands.

- The Tasmanian Planning Commission is not independent DAPs are hand-picked, without detailed selection criteria and objective processes, are inconsistent with the principles of open justice as they do not hold public hearings, and lack capacity to manage conflicts of interest (as per the 2020 Independent Review). DAPs do not have to provide written reasons for their decision (making it difficult to seek judicial review). Community input will be less effective because it will be delayed until after the DAP has consulted (behind closed doors) with the developer and any relevant government agencies, and adopted its draft decision.
- Research demonstrates DAPs are pro-development and pro-government, they rarely deeply engage with local communities, and they spend most of their time on smaller applications and take longer than local councils to make decisions.
- Makes it easier to approve large scale contentious developments like the kunanyi/Mount Wellington cable car, high-rise in Hobart, Cambria Green and high-density subdivision like Skylands at Droughty Point.
- Removes merit-based planning appeal rights via the planning tribunal on all the issues the community cares about like impacts on biodiversity, height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and so much more. TASCAT review of government decisions is an essential part of the rule of law and a democratic system of government based on 'checks and balances'.
- Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal.
- Developments will only be appealable to the Supreme Court based on a point of law or process which have a narrow focus and are prohibitively expensive.
- Removing merits-based planning appeals has the potential to increase corruption, reduce good planning outcomes, favour developers and undermine democracy. The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption. Mainland experience demonstrates planning panels favour developers and undermine democratic accountability. Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability. Mainland research demonstrates removing merits-based planning appeals has the potential to reduce good planning outcomes including both environmental and social.
- Increased ministerial power over the planning system increases the politicisation of planning and risk of corrupt decisions. The Planning Minister will decide if a development application meets the DAP criteria. The Minister will be able to force the initiation of planning scheme changes, but perversely, only when a local council has rejected such an application, threatening transparency and strategic planning.

- Flawed planning panel criteria. Changing an approval process where the criteria is on the basis of 'perceived conflict of interest', 'a real or perceived bias', 'the application relates to a development that may be considered significant' and the 'development is likely to be controversial' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers. NOTE: The scope of the DAPs includes a range of subjective factors that are not guided by any clear criteria:
 - Valuations of \$10 million in cities and \$5 million in other areas.
 - A determination by Homes Tasmania that an application <u>includes</u> social or affordable housing. There is no requirement for a proportion of the development to be for social or affordable housing. For example, it could be one house out of 200 that is affordable.
- Poor justification there is no problem to fix. Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest in Australia when it comes to determining development applications. The Government wants to falsely blame the planning system for stopping housing developments to cover its lack of performance in addressing the affordable housing shortage.
- Increases complexity in an already complex planning system. Why would we further increase an already complex planning system which is already making decisions quicker than any other jurisdiction in Australia?

Say yes to a healthy democracy

- I call on you to ensure transparency, independence, accountability and public participation in decision-making within the planning system, as they are critical for a healthy democracy. Keep decision making local, rather than bypassing it, with opportunities for appeal. Abandon DAPs and instead invest in expertise to improve the local government system and existing planning processes by providing more resources to councils and enhancing community participation and planning outcomes. This will also help protect local jobs and keeping the cost of development applications down.
- I also call on you to prohibit property developers from making donations to political parties, enhance transparency and efficiency in the administration of the Right to Information Act 2009, and create a strong anti-corruption watchdog.

Yours faithfully, lan Johnson

CONFIDENTIALITY NOTICE AND DISCLAIMER

From: Jillian Johnson

Sent: Tuesday, 12 November 2024 11:50 AM **To:** yoursay.planning@dpac.tas.gov.au

Cc:

Subject: No to Development Assessment Panels

To whom it may concern,

I absolutely oppose the creation of Development Assessment Panels. I ask you to protect democracy by speaking against and voting against the DAP. I will not vote for any politician who is in favour of the DAP.

To give the Planning Minister of any political party the right to take away the rights of the citizens and local planning authorities to have a say in developments that may affect them is a complete travesty. Most importantly, it will allow corruption. Planning ministers and their associates will do deals with their developer mates in return for favours, and all at the expense of the people who live here and who pay taxes that pay the wages of these politicians. Unfortunately, corruption by some in parliament is endemic. I am aware of what has happened in Queensland with the introduction of similar legislation, and it has had an appalling effect on the rights of local communities.

Specific reasons include:

It will create an alternate planning approval pathway allowing property developers to bypass local councils and communities. Handpicked state appointed planning panels, conducted by the Tasmanian Planning Commission, will decide on development applications not your elected local

council representatives. Local concerns will be ignored in favour of developers who may not be from Tasmania. Also, if an assessment isn't going their way the developer can abandon the standard local council process at any time and have a development assessed by a planning panel. This could intimidate councils into conceding to developers demands.

- The Tasmanian Planning Commission is not independent DAPs are hand-picked, without detailed selection criteria and objective processes, are inconsistent with the principles of open justice as they do not hold public hearings, and lack capacity to manage conflicts of interest (as per the 2020 Independent Review). DAPs do not have to provide written reasons for their decision (making it difficult to seek judicial review). Community input will be less effective because it will be delayed until after the DAP has consulted (behind closed doors) with the developer and any relevant government agencies, and adopted its draft decision.
- Research demonstrates DAPs are pro-development and pro-government, they rarely deeply engage with local communities, and they spend most of their time on smaller applications and take longer than local councils to make decisions.
- Makes it easier to approve large scale contentious developments like the kunanyi/Mount Wellington cable car, high-rise in Hobart, Cambria Green and high-density subdivision like Skylands at Droughty Point.
- Removes merit-based planning appeal rights via the planning tribunal on all the issues the community cares about like impacts on biodiversity, height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and so much more. TASCAT review of government decisions is an essential part of the rule of law and a democratic system of government based on 'checks and balances'.
- Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal.
- Developments will only be appealable to the Supreme Court based on a point of law or process which have a narrow focus and are prohibitively expensive.
- Removing merits-based planning appeals has the potential to increase corruption, reduce good planning outcomes, favour developers and undermine democracy. The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption. Mainland experience demonstrates planning panels favour developers and undermine democratic accountability. Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability. Mainland research demonstrates removing merits-based planning appeals has the potential to reduce good planning outcomes including both environmental and social.
- Increased ministerial power over the planning system increases the politicisation of planning and risk of corrupt decisions. The Planning Minister will decide if a development application meets the DAP criteria. The Minister will be able to force the initiation of planning scheme changes, but perversely, only when a local council has rejected such an application, threatening transparency and strategic planning.

- Flawed planning panel criteria. Changing an approval process where the criteria is on the basis of 'perceived conflict of interest', 'a real or perceived bias', 'the application relates to a development that may be considered significant' and the 'development is likely to be controversial' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers. NOTE: The scope of the DAPs includes a range of subjective factors that are not guided by any clear criteria:
 - Valuations of \$10 million in cities and \$5 million in other areas.
 - A determination by Homes Tasmania that an application <u>includes</u> social or affordable housing. There is no requirement for a proportion of the development to be for social or affordable housing. For example, it could be one house out of 200 that is affordable.
- Poor justification there is no problem to fix. Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest in Australia when it comes to determining development applications. The Government wants to falsely blame the planning system for stopping housing developments to cover its lack of performance in addressing the affordable housing shortage.
- Increases complexity in an already complex planning system. Why would we further increase an already complex planning system which is already making decisions quicker than any other jurisdiction in Australia?

Say yes to a healthy democracy

- I call on you to ensure transparency, independence, accountability and public participation in decision-making within the planning system, as they are critical for a healthy democracy. Keep decision making local, rather than bypassing it, with opportunities for appeal. Abandon DAPs and instead invest in expertise to improve the local government system and existing planning processes by providing more resources to councils and enhancing community participation and planning outcomes. This will also help protect local jobs and keeping the cost of development applications down.
- I also call on you to prohibit property developers from making donations to political parties, enhance transparency and efficiency in the administration of the Right to Information Act 2009, and create a strong anti-corruption watchdog.

Yours faithfully, Jillian Johnson

CONFIDENTIALITY NOTICE AND DISCLAIMER

From: Peter Wileman Tuesday, 12 November

Sent: 2024 11:33 AM

To: yoursay.planning@dpac.tas.gov.au

The planning scheme in Tasmania is already overly biased towards developers. I oppose the creation of Development Assessment Panels (Daps) and increasing ministerial power over the planning system, for the following reasons:

- It will create an alternate planning approval pathway allowing property developers to bypass local councils and communities. Handpicked state appointed planning panels, conducted by the Tasmanian Planning Commission, will decide on development applications not your elected local council representatives. Local concerns will be ignored in favour of developers who may not be from Tasmania. Also, if an assessment isn't going their way the developer can abandon the standard local council process at anytime and have a development assessed by a planning panel. This could intimidate councils into conceding to developers demands.
- The Tasmanian Planning Commission is not independent DAPs are hand-picked, without
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 engage with local communities, and they spend most of their time on smaller applications
 and take longer than local councils to make decisions.
- Makes it easier to approve large scale contentious developments like the kunanyi/Mount
 Wellington cable car, high-rise in Hobart, Cambria Green and high-density subdivision like
 Skylands at Droughty Point and the UTAS Sandy Bay campus re-development.
- Removes merit-based planning appeal rights via the planning tribunal on all the issues the
 community cares about like impacts on biodiversity, height, bulk, scale or appearance of
 buildings; impacts to streetscapes, and adjoining properties including privacy and
 overlooking; traffic, noise, smell, light and so much more. TASCAT review of government
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Say yes to a healthy democracy

I call on you to ensure transparency, independence, accountability and public participation
in decision-making within the planning system, as they are critical for a healthy democracy.
Keep decision making local, rather than bypassing it, with opportunities for appeal.
Abandon DAPs and instead invest in expertise to improve the local government system and
existing planning processes by providing more resources to councils and enhancing
community participation and planning outcomes. This will also help protect local jobs and
keeping the cost of development applications down.

• I also call on you to prohibit property developers from making donations to political parties, enhance transparency and efficiency in the administration of the *Right to Information Act* 2009, and create a strong anti-corruption watchdog.

Yours sincerely,

Peter S Wilema MSC, BEd, LCGLI

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