

Report on Consultation

**Development Assessment Panel (DAP)
Framework Position Paper**

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1. Introduction

The Premier of Tasmania, the Honourable Jeremy Rockliff, announced the preparation of new legislation to introduce independent Development Assessment Panels (DAPs) to take over some of councils' decision-making functions on certain development applications.

The 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.

The initial scope of the project was broadened to consider whether there should be an enhanced role for the Minister to direct a council to initiate a planning scheme amendment under certain circumstances.

The State Planning Office (SPO) prepared a Development Assessment Panel (DAP) Framework Position Paper (the Position Paper) to explore these matters. The Position Paper included a draft DAP framework, based on statements made in the Premier's announcement and initial consultation with key stakeholders. Submissions were invited on both the matters raised in the Position Paper and on the draft framework. Copies of submissions can be viewed on the Planning in Tasmania website

The then Minister for Planning, the Hon Michael Ferguson, wrote to councils, State agencies, community groups and industry groups informing them that the SPO had published a Position Paper on its website and advised stakeholders of a 6 week consultation period between 19 October to 30 November 2023 in which to make comment.

There were 542 submissions received during the consultation period. The SPO would like to acknowledge the time and effort taken to make a submission and appreciates the level of work required to comment on complex planning process matters.

The Report on Consultation – DAP Framework Position Paper (Report on Consultation) summarises the issues raised in the submissions, provides a response to these issues and outlines a revised framework DAP framework and model for Ministerial direction to the planning authority to prepare a draft amendment to its LPS, the detail of which are included in Attachments 1 (A and B) and 2.

2. Glossary

The following acronyms and abbreviations are used in this report.

SPO	-	State Planning Office
Act	-	<i>Land Use Planning and Approvals Act 1993</i>
DAP	-	Development Assessment Panel
RAA	-	Reserve Activity Assessment
TPC	-	Tasmanian Planning Commission
Commission	-	Tasmanian Planning Commission
LPS	-	Local Provisions Schedule
Position Paper	-	Development Assessment Panel (DAP) Framework Position Paper
Interim Report	-	Future of Local Government Review Stage 2 Interim Report
TasCAT	-	Tasmanian Civil and Administrative Tribunal

3. Summary of issues raised in submissions

Of the 542 submissions received approximately 80 percent of them were generated from 2 pro-forma submission templates that were then forwarded to the SPO by individual submitters.

There was an overall sense of opposition to the introduction of a DAP framework in providing an alternative development assessment pathway.

The main reasons for this opposition, as expressed in the submissions, are as follows:

- Tasmania’s planning system is performing well and there is no demonstrated need to introduce a new development assessment pathway;
- the DAP framework does not achieve its stated intent of deconflicting council’s roles;
- fears that the Government will select panel members, thereby introducing bias and political interference in the planning process;
- taking planning decisions away from elected members undermines local democracy and reduces community participation in planning processes;

- the removal of merit appeal rights is unjust;
- further complicates an already complicated system.

Other issues raised in the submissions related to specific questions in the Position Paper or elements of the proposed DAP framework. These issues included:

- ambiguity around the detail of the proposed framework;
- further justification and explanation for the types of development applications that are suitable for DAP referral;
- various opinions on who, how, and when a development application may be suitable for referral to a DAP;
- that the timeframes are either unacceptably too long or are inadequately too short;

The Position Paper also sought feedback on providing a greater role for the Minister in directing council to prepare an amendment to its Local Provisions Schedule (LPS). The majority of submissions opposed this siting that it would undermine local democracy and threaten local strategic planning.

Attachment 3 of the Report on Consultation provides a more detailed overview of the issues raised with a corresponding response to each of those issues.

4. Discussion of issues raised in DAP submissions

This section of the Report on Consultation discusses the main issues raised in the submissions received on the Position Paper. Each subheading identifies a broad issue that is followed by a discussion of that issue and then an outcome, which, where appropriate, informs a modified assessment framework.

4.1 Justification for a DAP framework

Discussion

Section 3 of the Position Paper identified the issues that supported the need for an alternate development assessment pathway.

The Position Paper acknowledged that Tasmania's existing development assessment process is working well and provided statistics to demonstrate this efficiency.

One of the justifications for the proposed DAP framework comes from findings from the Future of Local Government Review Stage 2 Interim Report (the Interim Report) which found that Councillors were often conflicted in their role as a planning authority

under section 48 of the *Land Use Planning and Approvals Act 1993* (the Act) and representing the interest of the constituents by whom they were elected.

The terms of reference for the Future of Local Government Review were amended following the publication of the Interim Report by removing reference to councils' development assessment roles and referred this function to the (then) Minister for Planning for further consideration. As such, the Future of Local Government Review - Final Report, published in October 2023 provides no recommendations relating to councils' roles as a planning authority.

The DAP framework was presented as providing an option by which these conflicting roles can be resolved, allowing for Councillors to act in accordance with their perceptions of constituent preferences in cases where they are not required to act as a planning authority. The framework and Position Paper sought to tease out situations where this might be appropriate.

The Position Paper identified applications for social and affordable housing as being potentially suitable for DAP determination because the government had become aware of apparently compliant development being refused causing delays in the delivery of housing to help overcome the homelessness and cost of living crisis being experienced by many in the community. Addressing this issue is of primary concern to government and is another underlying reason for the introduction of the DAP framework.

Submissions made by social and affordable housing providers provided anecdotal evidence of bias towards some of their applications and detailed how this had impacted the delivery housing. While some councils acknowledged that on occasion there was strong community opposition for social and affordable housing, most submitted that this does not interfere with its role as a planning authority in objectively determining these types of applications. There was general acceptance that applications for social and affordable housing should not be subjected to social prejudice, nor should it influence the decision of a development application, especially where the application clearly demonstrates compliance with the planning scheme.

Since the release of the Position Paper there is evidence of important social housing projects being refused by elected members against the advice of their planning experts.

The Position Paper sought submissions on what types of applications might benefit from being determined by a panel. There was some support for applications where council is the applicant and planning authority however, most councils contended that this situation is manageable.

It was also submitted that the value of a development was not a reliable indicator of how complex or contentious a development application might be. There were concerns around how a development application could be determined to be 'contentious' or 'subject to bias' and that this introduced more uncertainty and complexity into the planning system.

The referral of applications for critical infrastructure were not supported on the basis that the concept was too vague and there is already a process to deal with larger infrastructure projects. Infrastructure providers also commented that they did not necessarily want all 'critical' infrastructure applications going through the DAP process because it was longer.

Outcome

Many of the submissions acknowledged that the planning system is operating well and there is no need for the introduction of an alternative assessment pathway. While this is a good consultation outcome, advice from social and affordable housing providers and the development industry cannot be ignored. With the State Government's commitment to delivering 10,000 new social and affordable homes, many of which rely on federal funding requiring construction within specified timeframes which if not met may be lost, greater certainty within the planning system is needed.

The framework allows for development applications to be determined by a DAP if they are listed as a 'prescribed purpose'. The revised DAP framework provides for 'prescribed purposes' as being development applications for subdivision to facilitate social and affordable housing or for the construction of social and affordable housing, that is endorsed by the board of Homes Tas for determination by a DAP. It also provides pathways for applications over \$10M, or \$5M in a non-metropolitan municipality, to enter the DAP process by the choice of the applicant, or the planning authority with the consent of the applicant. Alternatively, an applicant or a planning authority may request the Minister to refer an application to a DAP where the Minister is satisfied that the 'DAP criteria'¹ is met and agrees that it is suitable for DAP determination.

There is also an option for a council to refer an application of over \$1M in value to a DAP for determination where it is the applicant and planning authority.

¹ Refer to section 6 of this Report

The revised framework provides various options for applications to be referred to a DAP for determination. This provides for greater flexibility in the planning system allowing it to respond to emerging issues as they arise.

4.2 Local democracy

Discussion

Many submissions expressed concern that the DAP framework undermines local democracy because it removes decision making functions from councils.

As explained in the Position Paper, council should not be acting democratically in the sense of responding to a majority view on a development application when it performs its development assessment and determination functions as a planning authority under the Act. Section 48 of the Act is very specific in its intent that 'where a planning scheme is in force, the planning authority must, within the ambit of its power, observe, and enforce the observance of, that planning scheme in respect of all use and development undertaken within the areas to which the planning scheme relates'.

Local democracy is implemented through the planning scheme being consistent with the expressed values and interests of council when they approve strategic land use plans and the local component of their planning scheme.

Expression of local democracy, or a vote of popularity, at the time of development appraisal does not provide certainty to the planning system and invites decisions to be made that are politically motivated which is the very issue that the DAP framework is seeking to address.

Outcome

The issues raised relating to the perceived loss of local democracy in determining development applications do not warrant modification to the proposed framework.

4.3 Membership of DAPs

Discussion

Many of the pro-forma generated submissions expressed concern that the DAP would be comprised of members that have been 'hand-picked' by government to generate a particular assessment outcome.

The Tasmanian planning system is characterised by not having Ministerial decisions on determining development applications. Planning decisions are either made by council acting as a planning authority with an appeal to an expert panel established by TasCAT or by a similarly constituted expert panel established by the Tasmanian Planning Commission (TPC).

The Position Paper explained that DAPs would be established by the TPC, which is an independent statutory body at arm's length from government.

The TPC is established under the *Tasmanian Planning Commission Act 1997* and consists of eight people. Each member is required to hold specific skills/experience in different areas – e.g. one member must possess planning experience, one member must possess expertise and management experience in resource conservation and so on. All members are appointed by the Governor on the nomination of the Minister. They hold office for a term not exceeding 5 years.

The TPC performs many functions in the Resource Management and Planning System, often drawing on a pool of delegates, many of which are members of the Tasmanian Civil Administrative Tribunal (TasCAT), to establish assessment panels.

The TPC already establishes development assessment panels under the Act. For example, a panel in relation to a Major Project consists of:

- a member of the TPC, or another person nominated by the TPC, who is to be the chairperson of the Panel; and
- a member of the TPC, or another person, nominated by the TPC; and
- a person who is not a member of the TPC and who, in the opinion of the TPC, has qualifications and experience that are relevant to the assessment of the project.

In relation to the last member of the panel, a person has appropriate qualifications and experience if the person has:

- qualifications or experience in land use planning, urban and regional development, commerce or industry; or
- practical knowledge of, and experience in, the provision of building or other infrastructure.

The TPC has a discretion to appoint two more panel members if the complexity of the Major Project warrants it.

It is not expected that the development applications proceeding to DAPs for assessment will be as complex as Major Projects.

A copy of the TPC's Code of Conduct for the Executive Commissioner, Commissioners, Delegates and Major Project Panels can be found [here](#).

By way of comparison, TasCAT is established under the *Tasmania Civil and Administrative Tribunal Act 2020* and consist of:

- the President;
- each Deputy President;

- senior members; and
- the ordinary members

All members are generally appointed by the Governor and hold office for five years. Supplementary members are appointed by the Minister and hold office for a term of not more than two years.

A person may only be appointed as a Deputy President if the person is an Australian lawyer of not less than 5 years' standing as an Australian legal practitioner. A person may only be appointed as a senior or ordinary member of TasCAT if the person

- is an Australian lawyer of not less than 5 years' standing as an Australian legal practitioner; or
- has extensive knowledge, expertise or experience relating to a type of matter in relation to which functions or powers may be performed or exercised by the Tribunal and holds a particular qualification or an authority to engage in a profession that relates to that type of matter.

There is no legislative requirement for the TasCAT members to be nominated by the Minister, but the Minister in effect nominates persons for appointment through the Cabinet and Executive Council processes. The Minister must consult the President of TasCAT before the appointment of a Deputy President, senior member and ordinary member is made, although it would be possible for an appointment to be made despite the wishes of the President.

The Resource and Planning stream determines matters under a number of Acts set out in clause 3 of Part 8 of Schedule 2 of the *Tasmania Civil and Administrative Tribunal Act 2020*. Clause 4 provides that, for such matters, the Tribunal is to be constituted by:

- a legally qualified member; or
- a legally qualified member who is assigned to the stream and not more than 4 other members, and is either a legally qualified member or has expertise in the subject matter to which the proceedings relate, which may include any of the following matters:
 - i) planning resource economics;
 - ii) science;
 - iii) engineering;
 - iv) medicine;
 - v) environmental management;
 - vi) industry process operations;
 - vii) building;

- viii) architecture;
- ix) building surveying;
- x) plumbing;
- xi) local government;
- xii) disability access to buildings;
- xiii) environmental and public health.

Typically, tribunals established by TasCAT have greater legal representation consistent with adversarial processes while the TPC is generally more inquisitorial in their procedures.

The DAP framework does not specify the makeup of the panel. The TPC has its own protocols for establishing assessment panels and can determine the number of panellists and their necessary experience on a case-by-case basis depending on the nature of the development application.

Outcome

The independence of the TPC is well known and highly regarded in the planning system. The framework retains the proposal of not having any role for the Minister in determining applications and utilises the systems and respected processes of the TPC. The only role for the Minister is to decide on whether an application should be referred to a DAP for determination. The TPC and its delegates uphold a high degree of integrity in the functions it performs. While the *Tasmanian Planning Commission Act 1997* gives some latitude on the TPC's procedures, the principle of natural justice must be followed at all times. Commissioners and delegates must not have any conflict of interest, or are required to register any perceived conflict of interest, and must bring an open and unprejudiced mind to all matters. Any decision made by the TPC is subject to judicial review which would reveal any bias or perception of bias.

The revised framework will be modified to make it clearer that the DAP is to be established by the TPC.

4.4 Rights of Appeal

Discussion

There was considerable opposition to the removal of rights of a merit appeal for decisions made by the DAP.

The purpose of appealing a planning authority's decision to TasCAT is to provide an independent review of the process, in a public forum and without political interference. The actual process becomes one where TasCAT assumes the role of the planning authority and assesses the application *de novo*.

The DAP framework proposed the removal of rights of appeal on the basis that the DAP framework provides for all those elements within the initial assessment process by being open to the public, giving parties the opportunity to test one another's evidence and appeal directly to the decision maker.

With the exception of the TPC acting as the planning authority under the *Major Infrastructure Development Approvals Act 1999*, no other decisions made by it are subject to a merit appeal.

Other States have alternate assessment pathways for certain types of development that are seen as important economic drivers that are determined by the Minister, panels appointed by the Minister or independent panels, and which have no, or very limited rights of appeal.

By way of comparison to social and affordable housing applications being assessed in other States, the following table describes the nature of the approval process and the status of any subsequent right to a merit appeal of the decision.

State	Approval process	Subject to merit appeal
QLD	Social and affordable housing can be declared a State Facilitated Development (SFD) by the Minister. A SFD application is processed by government's SFD team and determined by the Chief Executive.	Limited appeal rights
NSW	Social and affordable housing projects can be declared by the Minister or Independent Planning Commission as being State Significant Development (SSD) which is subject to an alternate approval pathway. The assessment of an SSD is coordinated by the Department of Planning, Housing and Infrastructure with the decision being made by a 'consent authority' which can be the council or the Independent Planning Commission where the council objects to the project or the project receives significant community opposition. NSW's own property development agencies have self-assessment pathways for social and affordable housing projects at certain scales.	No appeal rights if the decision is made by the Independent Planning Commission and it held a hearing prior to determination.

Vic	There are multiple pathways for obtaining housing approvals. Housing in accordance with 'Victoria's Big Housing Build' and carried out fully or partially by the State's Director of housing are subject to clause 52.2 of the Victorian Planning Provisions which removes the need for a planning permit and replaces it with a development approval process where the Minister determines the application.	No third-party appeal rights
SA	State Commission Assessment Panel (SCAP), established by the State Planning Commission, assess all Housing SA developments providing advice to the Minister who makes the final decision.	No appeal rights
WA	Community housing projects can opt-in for the application to be determined by an independent DAP. DAPs are established through regulations and are independent of government but hosted by a government department.	No third-party appeal rights

Response

The TPC, including decision making functions delegated to a DAP, are bound by the rules of natural justice which establish the right to procedural fairness. To achieve this, it requires that parties to an assessment:

- have an opportunity to be heard; and
- have an adequate opportunity to comment on all material or information on which the DAP may base their conclusions.

The process involves the exhibition of a draft assessment of the development application including, where the application is supported, a draft permit and conditions of approval. This allows all the parties to be aware of the decision makers' initial thinking and to challenge elements of that thinking. The publication of all representations following the exhibition period provides parties with the opportunity to scrutinise each other's submissions and test them in a public hearing and before the decision makers. This is a similar process to the Major Projects and Project of State Significance approval pathways which similarly do not have the rights to a merit appeal.

Allowing a right of appeal when the framework already has the safeguards in place to provide a legally sound process that obeys the rules of natural justice in the initial decision, introduces unnecessary time delays and costs to the community.

It is also considered inappropriate for the State's peak planning body to be subject to a merit appeal on planning grounds. As discussed, any decision of a DAP will be subject to judicial review.

4.5 Details of DAP framework

4.5.1 General issues

Discussion

The Position Paper provided a draft DAP framework to act as a catalyst for discussion and further thought on what type of development applications might be suitable for referral, how that referral would take place and some timeframes around those processes.

Many submissions commented that the proposed framework lacked the detail required to fully understand how it would work and therefore what the implications would be.

The draft framework proposed two options for development application referral, a mandatory referral process for 'prescribed purposes' and a discretionary referral process that was subject to complying with a DAP criteria.

General concern was that the proposed framework was unnecessarily complicated in terms of determining the types of applications to be referred and the process for referral and assessment.

Outcome

It is acknowledged that parts of the proposed framework would introduce additional processes into the planning system. However, that complexity is born by those parties that choose that pathway, or in the case of a request being made to the Minister, the pathway provides for the other party to have a right of reply and make a submission why referral to a DAP is not appropriate. To address concern regarding the planning authority having to determine if an application met the DAP criteria, the revised framework requires the Minister to determine if an application meets the DAP criteria.

For social and affordable housing applications and other eligible applications that enter the DAP process at the beginning of the assessment, the revised process will be simpler as it provides a single approach with a more streamlined process with the DAP coordinating the entire assessment process.

For those eligible applications that enter the DAP process part way through an assessment, the DAP determines how to proceed to complete the process. There are no statutory timeframes associated with that pathway.

4.5.2 Duplication of assessment

Discussion

The proposed DAP framework required the planning authority to undertake the initial assessment of the application. The Position Paper justified this on the basis that it is the same process for assessments under section 40T of the Act and that it provides for the input of local knowledge into the assessment process.

Planning authorities did not support having to undertake an assessment of the application and prepare a recommendation report to the DAP. In their view this simply caused double handling of the assessment and compounded existing issues regarding resourcing and access to technical expertise.

Outcome

Council's concerns regarding the proposed duplication of assessment by the planning authority and DAP are acknowledged. The framework has been revised to allow social and affordable housing proposals endorsed by Homes Tasmania and applications over \$10M, or \$5M in a non-metropolitan area where the applicant, or the planning authority with the consent of the applicant, agree to a DAP assessment and lodge the application directly with the TPC who will coordinate the assessment process.

Similarly, an applicant or planning authority can request the Minister to refer their application to a DAP for determination subject to meeting the DAP criteria². This request can occur prior to lodgement with the planning authority (in a request from the applicant) or anytime during the assessment process. Where a request is granted prior to lodging the application with the planning authority there is no duplication of process.

Where an application is referred to a DAP mid-assessment process there will be inevitable duplication of process. In this case the revised framework proposes that the DAP is to provide parties with an outline of the assessment processes it needs to undertake to complete the assessment and specify timeframes for these tasks.

Where an application is lodged with the DAP, it will refer the application to planning authorities who will provide advice, and any conditions, on the impact of the proposal on council owned and managed infrastructure and any other local matters they may wish to raise.

² Refer to section 6 of this Report

The revised framework has limited the duplication of assessment as much as possible. And while it requires the planning authority to be engaged in referral and hearing processes, these requirements already exist in terms of defending decisions made by the planning authority that are subsequently appealed.

See section 4.7 of this report for discussion on fees.

4.5.3 Further information requests

Discussion

The Position Paper identified requests for further information as being a source of frustration in delaying the approval process. Opinions were either that it was the fault of the applicant in submitting a substandard application or that Council's requests were unreasonable.

The proposed framework provided the applicant with the ability to refer the request for additional information to the DAP to determine if it was within the realms of what could be requested under the planning scheme and in accordance with section 54 of the Act. While this was seen by some as a reasonable solution, there were concerns about the added time and complexity caused by referring additional information requests between the applicant, DAP and planning authority.

Outcome

The assessment of the application under the revised framework will be managed by the TPC who will oversee any request for further information. The planning authority can request further information regarding the impact of the use and development on council's infrastructure when it has been referred the application by the DAP. The DAP will coordinate the request for further information.

The framework allows for the applicant to query or seek clarification on the DAP's request for further information.

4.5.4 Exhibition of draft assessment report

Discussion

As discussed in the Position Paper, the proposed framework adopted a similar approach to the process under section 40T of the Act which provides for a draft assessment report to be published for comment. The reason for adopting this approach was that it is an existing process, and that it provided the public with an initial assessment that they could subsequently scrutinise and provide comment on in their representations. By having an early understanding of the assessment issues, all parties are more informed when it comes to public hearings and discussing the issues with the decision makers.

Submissions from councils expressed concern that the requirement to undertake an assessment of the development application prior to it undergoing public exhibition did not allow them to have the benefit of public input prior to the assessment.

Outcome

The TPC will undertake the preliminary assessment and exhibit the draft report, including any proposed permit if recommended for approval. This gives the public the opportunity to comment on the draft assessment and helps all parties to understand the initial thoughts of the decision maker and the issues that are likely to be raised at the hearing.

It also exposes all parties to any permit conditions allowing any issues to be discussed at the hearing.

4.5.5 Timeframes and hearings

Discussion

There was support for the hearings to be held locally, however, there were concerns that the time provided to prepare for hearings was insufficient. Observations on general assessment timeframes ranged from it being too long or that the time allocated to undertake certain assessment tasks was not adequate.

Outcome

The allocated timeframes seek to balance the expectations of the development industry with what is considered reasonable. The timeframes for social and affordable housing are tighter in an effort to expeditiously address the housing crisis. There are certain discrete tasks, such as public exhibition, that align with existing statutory timeframes.

The revised framework for social and affordable housing proposes a maximum assessment timeframe of 98 days, which is a week shorter than the original framework.

Early lodgement or early referrals to a DAP propose a maximum assessment timeframe of 119 days. There is no statutory timeframe specified for applications that are referred by the Minister part way through the assessment process. The framework provides for the DAP to determine the remaining assessment processes that it needs to undertake and inform the parties of those processes and the proposed timeframe to undertake those tasks.

To allow more time to prepare for hearings, the revised framework is proposing to require notification of the scheduling of a hearing date at the time the DAP exhibits its draft assessment. This puts people on notice of the hearing, which must be not less

than 10 days after the close of exhibition, allowing representors to view each other's representations and prepare for the hearing.

The proposal to hold hearings locally is retained.

4.6 Role of planning authorities

Discussion

Under the framework proposed in the Position Paper, the planning authority received the development application, determined its validity, was responsible for referring it to other entities, coordinated the request for further information, prepare a draft assessment report, exhibit the application and comment on the merit of the representations to the DAP. Councils did not support having to undertake these functions when they were not the final decision maker and expressed concern regarding the additional administrative burden.

The submissions supported that the planning authority must have a role in the assessment process to ensure local knowledge is transferred and development engineering conditions are in place to manage any impact on council's assets.

The framework proposed that council would retain post approval functions including issuing and enforcing the permit and determining any minor amendments to the permit. The post approval functions of council were generally supported.

Outcomes

As already discussed, the DAP will manage the assessment process and will refer the application to the planning authority for advice, thereby removing many of the administrative functions of council but still requiring its input on the assessment.

Post approval functions of council will be retained.

4.7 Fees and Resourcing

Discussion

Concerns were raised that the introduction of the DAP framework will distract planners from more important planning reform outcomes.

There was also concern that councils do not have the resources to undertake additional assessment tasks and attend hearings.

Many of the submissions queried how fees were going to be calculated and administered and, if the assessment was being undertaken by the planning authority and the DAP, who was eligible to collect application fees.

Outcome

While there are important planning reforms underway, there is still a need to undertake regular maintenance on the planning system and address issues as they arise. The Government considers that an alternate pathway providing an efficient and independent assessment of certain development applications, especially given the importance of delivering social and affordable housing projects, is a required reform.

Under the current settings councils would ordinarily be required to assess all these development applications. It would also have to allocate additional resources if the decision was appealed and attendance at a TasCAT hearing was required. The revised framework does remove some of the administration of the assessment away from council by requiring the DAP to coordinate the assessment.

The revised framework provides that fees may be prescribed in the regulations. The SPO will consult further on matter of fees for the assessment of applications by DAPs and the work undertaken by referral entities.

5. Ministerial role to direct an LPS amendment

Discussion

As part of seeking feedback on a legislative framework for DAPs, the Position Paper also explored whether it is appropriate for the Minister, under certain circumstances, to have the power to direct a council to prepare a planning scheme amendment.

The Position Paper proposed an additional Ministerial direction based on the outcomes of a request by an applicant under section 40B of the Act. Section 40B allows an applicant to request the Commission to review the planning authority's decision to refuse an application to amend the planning scheme. The Commission can direct the planning authority to reconsider its decision but cannot direct the outcome of that process. Where that has occurred, and the planning authority still does not agree to prepare the draft amendment, the Position Paper proposed that the Minister may intervene, subject to being satisfied that the LPS criteria is met.

There was considerable opposition to any additional role by the Minister to direct a planning authority to prepare a planning scheme amendment. However, what seemed to be overlooked in the submissions was that section 40C of the Act already allows for the Minister to direct a planning authority to prepare an amendment under any of the following circumstances:

- To ensure that the LPS will comply with the SPPs;
- To ensure that the LPS is, as far as practicable, consistent with the RLUS;
- To ensure the satisfactory application of a State Policy;

- To ensure the LPS is in accordance with a direction of the Minister under this Act;
- On the advice of the Commission, any other purpose the Minister thinks fit.

It is unclear if the opposition to an additional Ministerial direction was caused by a misunderstanding that such a direction would result in the approval of the amendment rather than initiating the commencement of the TPC's assessment of the draft amendment.

The basis of the opposition was that it was inappropriate for the Minister to override the decision of a council and interfere with how it intends to implement its local land use strategy.

Outcomes

The proposal was simply to allow an amendment to be placed on exhibition and be considered by the public and subsequent assessment by the independent TPC. Currently, there is no process to intervene in the preparation of a draft planning scheme amendment where an error in judgment has been uncovered by the TPC in a review of the planning authority's determination to refuse to prepare a draft amendment to its LPS. The proposed process only allows Ministerial intervention when the TPC has reviewed Council's decision and directed it to reconsider the request to amend the LPS.

The additional Ministerial direction provides a pathway for a suitable application to amend a planning scheme to be reviewed and assessed that otherwise would not proceed to the TPC. This provides an opportunity for the applicant to seek recourse which is currently not available under the existing process. It does not allow for the Minister to approve the application to amend the planning scheme but rather allows the commencement of the TPC's assessment process.

The applicant may request the Minister to review the planning authority's decision. Where this occurs the Minister it to consider the planning authority's original refusal and the TPC's direction to it to reconsider the preparation of a draft amendment. The Minister also invites the planning authority to provide reasons as to why the Minister should not direct it to prepare a draft amendment. This provides council with the opportunity to demonstrate how approving a draft amendment might interfere with its local land use strategy as raised in submissions. If the Minister directs a planning authority to prepare a draft amendment, the Minister must be satisfied that it meets the LPS criteria.

As already stated, the additional Ministerial direction is only for the planning authority to initiate a draft amendment, allowing it to go on public exhibition and be assessed by the TPC.

For further detail regarding the proposed additional role for the Minister to direct a planning authority to prepare an LPS amendment refer to Attachment 2.

6. Revised DAP framework

The framework has been revised to address many of the issues raised in the submissions. One of these issues was associated with the complexities associated with referring DAP applications to the Environmental Protection Authority (EPA) in accordance with the *Environmental Management and Pollution Control Act 1994* (EMPCA). As a result of these complexities, the revised DAP framework excludes applications that are subject to EPA referral.

Applications that are subject to the *Historic Cultural Heritage Act 1995* are eligible for determination by a DAP. The DAP will refer relevant applications to the Heritage Council seeking its advice.

The revised framework proposes a number of entry points into the DAP process. To be eligible for DAP referral the application must be for a permit in accordance with section 57 of the Act, that is not subject to EPA referral under EMPCA, and is for 'prescribed purposes' (as shown in Attachments 1A and 1B) and described as follows:

Prescribed Purpose

- a) Applications including social and affordable housing declared suitable for DAP determination by the Board of Homes Tasmania;
- b) Subdivision, to accommodate social and affordable housing, declared suitable for DAP determination by the Board of Homes Tasmania;
- c) Where an applicant, or the planning authority with the consent of the applicant, refers an application to a DAP for determination, provided the application is over \$10M or \$5M in a non-metropolitan area, or \$1M where council is the applicant and planning authority;
- d) On request to the Minister, by either the applicant or the planning authority, and the Minister is of the opinion that the application satisfies the DAP criteria and is suitable for DAP determination. The **DAP criteria** is as follows:

- i. the application is considered to be of a technical or complex nature in a municipality where the planning authority does not have the adequate skills or resources to undertake the assessment;
- ii. the application is expected to be, or is, highly contentious, controversial or subject to influence by matters outside the relevant planning considerations;
- iii. the application is considered to have significant social or economic importance to the local or broader area;
- iv. where the planning authority has or is likely to have a conflict of interest or there is perceived bias on the part of the planning authority.

The DAP framework also includes an option to prescribe additional purposes and additional value thresholds at a later date.

An application for subdivision to facilitate social and affordable housing or for the development of social and affordable housing, that is declared by the board of Homes Tasmania to be determined by a DAP, are eligible to be assessed through the DAP process. In this case, applications are made directly to the DAP and follow a statutory timeframe.

Applications for prescribed purposes c) and d) can enter the DAP process at the beginning of the assessment or part way through the assessment. Where an application is either lodged with, or referred to, a DAP at the commencement of the assessment the DAP coordinates the process and it follows a similar pathway to prescribed purpose a) albeit additional time is given to complete assessment tasks. The justification for allowing more time for these applications is that their scope is broader than just residential development.

Applications that are lodged directly with the TPC undergo a validity check and are then referred to the relevant regulated entities (eg Tas Water) and planning authority, seeking advice on matters that are relevant primarily to how the development will impact their infrastructure and any condition they may wish to impose on a subsequent permit.

The TPC establishes a DAP, in accordance with its usual delegation powers, who coordinates any requests for further information. Similar to existing processes, the statutory clock stops until the applicant has provided the additional information to the satisfaction of the DAP. Once the DAP has the relevant information it undertakes a preliminary assessment and prepares a draft report, and if recommending approval, a draft permit. The draft report, application and advice from the planning authority

and referral entities are exhibited for 14 days, consistent with existing statutory exhibition requirements for applications under section 57 of the Act. The exhibition notice also includes a hearing date which is to be scheduled not less than 10 days from the close of exhibition. The DAP receives representations and publishes them on the TPC's website.

Following the exhibition period, the DAP holds hearings and invites all parties to attend to give evidence and be heard. The DAP then considers all the matters and makes a decision on the application and gives notice of its decision. If the decision is for approval, the DAP directs the planning authority to issue a permit in accordance with its decision.

Because the process involves a public hearing involving all parties, the decision of the DAP is not subject to a merit appeal by TasCAT, however, it is subject to judicial review.

The maximum statutory timeframe for the DAP framework is 98 days for social and affordable housing applications and 119 days for other applications that are referred to the DAP prior to the planning authority commencing its assessment.

Applications that are midway through the assessment process will have their timeframes determined by the DAP based on what assessment process have occurred.

All pathways provide options for extensions of time based on agreement between the DAP and applicant or, where an agreement cannot be reached, approval by the Minister.

If the DAP approves the application, it directs the planning authority to issue a permit. The planning authority is responsible for the enforcement of the permit. A planning authority can also receive, assess and determine an application for a minor amendment under the existing provisions of section 56 of the Act.

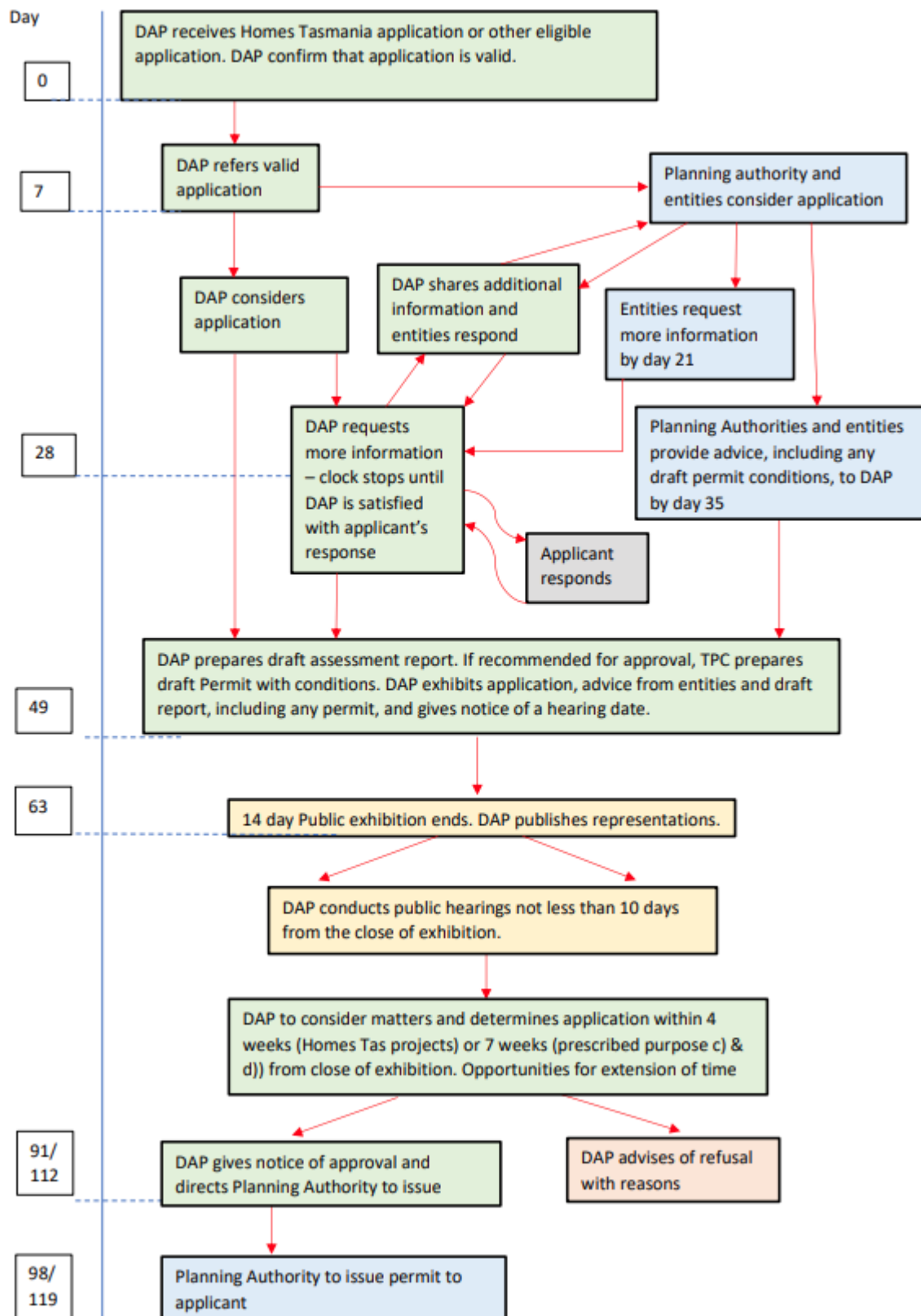
An overview of the proposed DAP framework is provided in a flow diagram below and tables with more detail are provided in Attachments 1A and 1B.

7. Next Steps

The revised DAP framework has informed the drafting of a Bill to amend the Act. A copy of the draft Bill will be made available on the SPO website at [Have your say | Planning in Tasmania \(stateplanning.tas.gov.au\)](https://www.stateplanning.tas.gov.au). The draft Bill will undergo a 5 week consultation period with submissions invited through the SPO's ['Have your say'](#) platform.

It is anticipated that a draft Bill will be tabled in Parliament towards the end of the year.

Proposed DAP Framework flowchart



Attachment 1A - Revised Development Assessment Panel Framework

Applications for Social and Affordable Housing – Prescribe Purposes a) and b)

Ref	Stage of assessment process	Responsible person/ authority	Stat Clock (max time)	Proposed Framework	Comments
1	Pre-lodgement discussions between applicant and Council	Planning Authority and applicant		<p>Informal process, no need to legislate.</p> <p>Pre-lodgement discussion with council still encouraged to identify issues early in the process.</p>	<p>Existing informal processes undertaken on an as needs basis.</p> <p>Pre-lodgement discussions with Council to identify issues eg, stormwater, and discuss that the application may be for a prescribed purpose and subject to determination by a DAP</p>
2	Determining Social and affordable housing applications			<p>Informal process, no need to legislate.</p> <p>Homes Tasmania will determine which applications for social and affordable housing will be subject to DAP determination.</p> <p>Social and affordable housing providers may request Homes Tasmania to consider their applications to be suitable for DAP determination.</p> <p>Applications for Social and affordable housing must be accompanied by notification from Homes Tasmania determining that it is eligible for DAP determination.</p>	Administrative function carried out between social and affordable housing providers and Homes Tasmania
3	Lodge Development Application with	Applicant	0	A development application suitable for DAP referral means an application for a permit in	

	Tasmanian Planning Commission		<p>accordance with section 57 of the Act, that is not subject to EPA referral under EMPCA, and is for a prescribed purpose.</p> <p>Prescribed purpose:</p> <ul style="list-style-type: none"> a) Social housing³ or affordable housing⁴ declared as suitable for DAP determination by the Board of Homes Tasmania; or b) subdivision, to accommodate social and affordable housing, declared as suitable for DAP determination by the Board of Homes Tasmania; c) where an applicant, or the planning authority with the consent of the applicant, refers an application to a DAP for determination, provided the application is valued over: <ul style="list-style-type: none"> i. \$10M; ii. \$5M in a non-metropolitan area; or iii. \$1M if the Council is the planning authority and applicant d) an application that, upon request to the Minister by the planning authority 	<p>This table provides the DAP framework for Prescribed Purposes a) and b).</p> <p>Attachment 1B outlines the DAP framework for Prescribed Purposes c), d) and e)</p> <p>Homes Tasmania are to determine which of its applications are to be assessed by a DAP.</p> <p>The Commission will establish a DAP based on its usual delegation practices.</p> <p>Any other prescribed purpose added later would be subject to consultation and parliamentary process.</p>
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³ “Social Housing –means both housing provided by the government (public housing) and non-government organisations (community housing) with below-market rent prices.”

⁴ “Affordable Housing – means housing for purchase and rental, including social housing, that is appropriate for the needs of very low-, low- and moderate-income households. This is generally understood to mean housing that costs no more than 30 per cent of a household’s gross income.”

				<p>or applicant, is deemed to satisfy the DAP criteria and is declared as suitable for DAP determination by the Minister;</p> <p>e) <i>As prescribed</i> (potential for others to be set out in Regulation later)</p> <p>The application is to include details, if any, of consultation with persons who may have an interest and pre-lodgement discussions with Council and any endorsement by Homes Tasmania that it is for a prescribed purpose.</p>	
4	Determination of valid application and confirmation that the application is for a prescribed purpose	Executive Commissioner/DAP		<p>Executive Commissioner/DAP receives an application and confirms that the application is for a prescribed purpose.</p> <p>The DAP reviews the application and determines if it is valid in accordance with the existing provisions of the Act.</p> <p>If not valid, the DAP seeks appropriate action from the applicant.</p> <p>This must be done within 7 days of receiving application.</p>	<p>If a DAP has not been established the Executive Commissioner can carry out the administrative functions of the DAP.</p> <p>DAP to determine that an application for a prescribed purpose is valid in accordance with the existing process under the Act.</p> <p>Potentially use S51(1AA) form to demonstrate validity, including payment of fees, and that the application is for a prescribed purpose.</p>
5	Referral to planning authority and other entities	DAP	Start Clock 0-7	<p>Statutory assessment clock commences once the DAP is satisfied that the application is valid.</p> <p>When the DAP determines that the application is valid, it must, within 7 days, refer it to the relevant planning authority and other entities, such as TasWater or regulated entities under the <i>Gas Industry Act 2019</i>.</p>	Planning authorities currently refer applications to regulated entities.

6	Request for further information (RFI)	Planning authority, referral entities and DAP	7-21	<p>Within 14 days of being referred an application from the DAP, the planning authority and referral entities are to provide the DAP with any RFI or advise the DAP that no additional information is required.</p> <p>The Planning Authority can only request further information from the applicant regarding:</p> <ul style="list-style-type: none"> • determining the impact of the use and development on council infrastructure to inform draft permit conditions that address the impacts of the use and development on council infrastructure; • any matters that council would otherwise consider under the <i>Local Government (Building and Miscellaneous Provisions) Act 1993</i>, such as the provision of public open space, if the application is for subdivision. 	
7	DAP reviews RFI and notifies applicant of RFI	DAP	21- 28	<p>DAP to review and consolidate any RFI from the planning authority and referral entities and include additional matters as the DAP may require.</p> <p>The DAP can also request additional information that relates to the assessment of the application from the planning authority or regulated entities.</p> <p>The DAP is to give notice to the applicant of any request for information within 28 days of determining the application is valid.</p>	

				<p>The applicant can query the DAP on its request for further information within 7 days of being notified of the request for further information.</p> <p>Statutory Clock stops once the applicant is notified of the request for further information.</p>	
8	Applicant provides DAP with a response to the RFI	Applicant	Stop clock	<p>Applicant to provide the DAP with further information as requested.</p> <p>DAP circulates the additional information received from the applicant to the planning authority and referral entities.</p> <p>Referral entities, planning authority and DAP have 7 days to review the additional information. Within that 7 days the planning authority and referral entities either determine that they are satisfied with the information provided and give notice to the DAP to that effect or provide a list of outstanding matters to the DAP.</p> <p>If the referral entities, planning authority and DAP are all satisfied that the applicant provided the information requested, the statutory clock recommences.</p> <p>If the DAP has outstanding matters, or receives notice of outstanding matters from the planning authority or referral entities, the DAP has 7 days to review and consolidate the list of outstanding matters and, if deemed necessary for the assessment of the application, notifies the applicant requesting that there are outstanding matters to be addressed.</p>	

				<p>The applicant can query the DAP on its outstanding matters notice.</p> <p>If there are still outstanding matters, the clock remains stopped.</p>	
9	Planning authority and referral entities provide advice on application to the DAP	Planning authority and referral entities	35	<p>Within 28 days (excluding clock stop days) of being referred the application, the planning authority and referral entities provide their advice on the application to the DAP.</p> <p>The advice from the planning authority must (where relevant) include;</p> <ul style="list-style-type: none"> – An infrastructure impact statement outlining the impact of the application on Council's infrastructure; – Any draft permit conditions it would like to impose to address the impact of the use and development on council infrastructure; – any matters that council would otherwise consider under the <i>Local Government (Building and Miscellaneous Provisions) Act 1993</i>, such as the provision of public open space, if the application is for subdivision. <p>The advice from the planning authority may include:</p> <ul style="list-style-type: none"> – A statement of merit in relation to the planning scheme requirements; 	<p>This approach requires the planning authority to address infrastructure and open space issues and allows them the opportunity to bring any other matter to the DAP's attention.</p> <p>The nature of advice from other referral entities are covered through their own Acts.</p>

				<ul style="list-style-type: none"> Any other matter that the planning authority would like to bring to the attention of the Commission. 	
10	DAP assesses application and prepares a draft assessment report and recommendation	DAP	35-49	Within 14 days of receiving the advice from the planning authority and referral entities, the DAP undertakes the initial assessment and prepares a draft assessment report.	The Commission can clarify matters, if needed, with the planning authority and referral entities on an informal basis.
11	exhibition and calls for reps	DAP	49 - 63	<p>DAP exhibits application, additional information, referral advice and its draft assessment report and draft permit (if recommended for approval) for 14 days during which time representations are invited.</p> <p>DAP to notify adjoining property owners, planning authority and referral entities at the commencement of the 14 day exhibition period.</p>	<p>While the planning authority and referral entities are already a party to the proceedings, they may wish to make a representation in response to the Commission's draft report and any draft permit.</p> <p>Elected members can also make a representation outside their role as a member of the planning authority.</p>
12	Exhibition to include notification of hearing	DAP	49-63	The notification must include setting a date for a hearing not less than 10 days from the close of exhibition.	Notification of hearing is done at exhibition to put all parties on notice of when and where the hearing will be held.
13	DAP publishes Representations and may dispense with a hearing	DAP	63-66	<p>DAP publishes representations on the Commission's website.</p> <p>The DAP may dispense with holding a hearing if:</p> <ul style="list-style-type: none"> a. No representations where received; or b. Representations received supported the draft recommendations; and 	If hearing is dispensed, and the DAP directs the planning authority to issue a permit in accordance with the draft assessment report, the permit is issued within 7 days (or by day 70 on the statutory clock) in accordance with row 16.

				<p>no parties to the proceedings, including the applicant, wish to attend a hearing.</p> <p>DAP to give notice to all parties of their decision to dispense with a hearing.</p> <p>If hearing is dispensed, the DAP may direct the planning authority to issue a permit in accordance with draft assessment report ie draft report can become decision.</p>	
14	Review reps and hearing preparation	All parties	66-73	<p>Minimum time between publication of representations and hearing is 7 days. Parties prepare for hearings.</p> <p>The DAP can request an extension of 21 days for complex matters.</p>	<p>The requirement for an extension of time is likely to become apparent after exhibition.</p> <p>Request for extension of time is to the Minister.</p>
15	DAP to hold hearings, make determination and give notice of decision	All parties /DAP	73-91 (112)	<p>Hearings encouraged to be held locally.</p> <p>Following the hearings, the DAP considers all the information presented and makes a decision on the development application.</p> <p>The DAP is to give notice of its decision to the planning authority, regulated entities, applicant and representors within 4 weeks (or 7 weeks if extension of time is granted) of the completion of the exhibition period.</p>	
16	Issuing of Permit	DAP/ Planning Authority	98 (119)	<p>If the decision of the DAP is to grant a permit, the DAP must, in its notice to the planning authority above, direct it to issue a permit in accordance with its decision within 7 days of receiving the notice from the DAP.</p> <p>The permit becomes effective the day it is issued by the planning authority.</p>	

				If the permit is for a subdivision, the DAP also approves it in accordance with the provisions of <i>Local Government (Building and Miscellaneous Provisions) Act 1993</i> .	
17	Withdrawal of application	Applicant		<p>The applicant may withdraw its application at any stage of the assessment process by notification to the DAP.</p> <p>The DAP must notify referral entities and the planning authority that the applicant has withdrawn the application.</p> <p>If the application has been exhibited, the DAP must also notify any representors.</p>	
18	Extension of time	Applicant and DAP		<p>At any time after the close of exhibition, the applicant and DAP, may agree to an extension of time to determine the application.</p> <p>If the applicant does not agree to an extension of time, the DAP may request an extension of time from the Minister.</p>	
19	Commission to take over Council's functions under LGBMP Act	Commission		The Commission to take on particular functions of Council under the <i>Local Government Building and Miscellaneous Provisions Act 1993</i> that involve an application for subdivision.	
20	Enforcement	Planning Authority		The planning authority is responsible for enforcing the permit.	This is the same process for permits issued by TasCAT.

21	Appeal rights	All parties		There is no right of appeal on the grounds of planning merit as the decision has been made by the DAP having been through a public process with all parties participating and being afforded natural justice.	While DAP decisions are not subject to a merit appeal, they are subject to judicial review by virtue of the <i>Judicial Review Act 1997</i> .
22	Minor amendment to permits	Planning Authority		A planning authority can receive a request for a minor amendment to a permit involving an application that has been determined by the DAP without seeking the permission of the DAP.	Minor amendments to permits are assessed by the planning authority against the existing provisions of section 56 of the Act.
23	Fees for DAP assessment and referral advice	Applicant		<p>The fee for the DAP and planning authority will be prescribed in regulations.</p> <p>The Commission may refund or waive some or all of the fees payable to it.</p>	Further consultation will occur to determine an appropriate fee structure for the DAP and planning authority to charge for their respective involvement in the assessment.

Attachment 1B - Proposed Development Assessment Panel Framework – Prescribed Purpose c) and d).

Applications referred to DAP by applicant, or planning authority with the consent of the applicant, subject to meeting value thresholds or where an applicant or the planning authority request that the Minister refers the application to a DAP for determination.

Ref	Stage of assessment process	Responsible person/ authority	Proposed Framework	Comments
1	Pre-lodgement discussions between applicant and planning authority	Planning Authority and applicant	Informal process, no need to legislate.	Existing informal processes undertaken on an as needs basis. May discuss the application being determined by a DAP and whether the applicant and/or planning authority would support DAP determination.
2	Applications suitable for DAP referral		A development application suitable for DAP referral means an application for a permit in accordance with section 57 of the Act, that is not subject to EPA referral under EMPCA, and is for a prescribed purpose. Prescribed purpose:	Prescribed purpose a) and b) follow the social and affordable housing DAP determination framework (see ATTACHMENT 1A). The following DAP framework only applies to prescribed purpose c) and d) . Any other prescribed purpose added later would be subject to consultation and parliamentary process.

			<p>f) Social housing⁵ or affordable housing⁶ declared as suitable for DAP determination by the Board of Homes Tasmania; or</p> <p>g) subdivision, to accommodate social and affordable housing, declared as suitable for DAP determination by the Board of Homes Tasmania;</p> <p>h) where an applicant, or the planning authority with the consent of the applicant, refers an application to a DAP for determination, provided the application is valued over:</p> <p>iv. \$10M;</p> <p>v. \$5M in a non-metropolitan area; or</p> <p>vi. \$1M if Council is the planning authority and applicant</p> <p>i) an application that, upon request to the Minister by either the planning authority or applicant, is deemed to satisfy the DAP criteria and is declared as suitable for DAP determination by the Minister;</p> <p>j) <i>As prescribed (potential for others to be set out in Regulation later)</i></p> <p>The application is to include details, if any, of consultation with persons who may have an interest and pre-lodgement</p>	
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⁵ “Social Housing –means both housing provided by the government (public housing) and non-government organisations (community housing) with below-market rent prices.”

⁶ “Affordable Housing – means housing for purchase and rental, including social housing, that is appropriate for the needs of very low-, low- and moderate-income households. This is generally understood to mean housing that costs no more than 30 per cent of a household’s gross income.”

			discussions with Council and any endorsement by Homes Tasmania that it is for a prescribed purpose.	
3	DAP criteria		<p>In accordance with prescribed purpose d), DAP criteria means where the Minister considers the application would benefit from being determined by a DAP for any one or more of the following reasons:</p> <ul style="list-style-type: none"> the application is considered to be of a technical or complex nature in a municipality where the planning authority does not have the adequate skills or resources to undertake the assessment; the application is expected to be, or is, highly contentious, controversial or subject to influence by matters outside the relevant planning considerations; the application is considered to have significant social or economic importance to the local or broader area; Where the planning authority has or is likely to have a conflict of interest or there is perceived bias on the part of the planning authority; or As prescribed. 	
4	<p>Prescribed Purpose c)</p> <p>An applicant, or the planning authority with the consent of the applicant, may lodge an application to a DAP for determination.</p>	Applicant, or planning authority with the consent of the applicant	<p>Prescribed Purpose c)</p> <p>Prior to an application being lodged with a planning authority, or at any time during the assessment of a development application, the applicant, or the planning authority with the consent of the applicant, may lodge an application that satisfies Prescribed Purpose c) with the DAP for determination.</p> <p>An application lodged with a DAP for determination in accordance with Prescribed Purpose c) must include:</p>	<p>Pathway to provide for a Prescribed Purpose c) application to be lodged with the DAP or to opt into the DAP process at any time during the assessment.</p>

	Information to accompany application		<ul style="list-style-type: none"> – A copy of the development application and where applicable, requests for further information and responses to the requests for further information, referral advice and representations; – A statement whether the application is for initial lodgement with the DAP or if the assessment of the application has commenced by the planning authority; – If the application has been referred to a DAP after the commencement of the assessment, advice from the parties that details the assessment process to date. – any correspondence between the applicant and the planning authority; – A copy of the agreement between the planning authority and applicant to refer the application to the DAP; – A statement of the value of the application to comply with prescribed purpose c); 	
5	<p>Prescribed purpose d)</p> <p>An applicant or planning authority may request the Minister to refer an application to a DAP for determination.</p> <p>Information to accompany request</p>	Applicant or planning authority	<p>Prescribed purpose d)</p> <p>Prior to an application being lodged with a Planning authority, or at any time during the assessment of a development application, the applicant may request that the Minister refers the development application to a DAP for determination subject to demonstrating compliance with the DAP criteria.</p> <p>Once the Planning authority has received an application, or at anytime during the planning authority's assessment of the application, the planning authority may request that the Minister refers the development application to a DAP for determination subject to demonstrating compliance with the DAP criteria.</p>	<p>Pathway to provide for the applicant or planning authority to request the Minister for a Prescribed Purpose d) application to be referred to a DAP for determination.</p> <p>A request by an applicant under prescribed purpose d) can occur prior to the application being lodged with the planning authority or anytime during the assessment.</p>

			<p>Any request by the applicant or planning authority for the Minister to refer an application to a DAP for determination must include, where possible:</p> <ul style="list-style-type: none"> – A copy of the development application and where applicable, responses to requests for further information, referral advice and representations; – A statement whether the application is for initial lodgement with the DAP or if the application commenced being assessed by the planning authority; – any correspondence between the applicant and the planning authority; and – a submission demonstrating how the request satisfies the DAP criteria. <p>Depending on which party makes the request, the Minister must inform the other party (applicant or planning authority) of the request and give them the opportunity to respond and provide reasons why the request should or should not be granted.</p> <p>The Minister considers the response and request and then gives notice of his decision to the Planning authority and applicant. If the decision of the Minister is that the request satisfies the DAP criteria, the Minister directs the DAP to determine the application.</p> <p>If the Minister does not agree to the request, the Minister directs the planning authority to undertake the assessment.</p>	<p>The planning authority can request the Minister for a Prescribed purpose d) application to be referred to a DAP for determination once they have received an application, or any time during the assessment of the application.</p>
6	Provision of information by Planning authority	Minister and planning authority	<p>Where the applicant has requested a DAP referral for a prescribed purpose d) after the commencement of the planning authority's assessment, and the Minister agrees, he</p>	<p>The purpose of this section is for the planning authority to provide information on the development application and advise what stage</p>

			<p>must, in his notice to the Planning Authority, direct it to provide the following information;</p> <ul style="list-style-type: none"> – any correspondence between the planning authority and applicant; – the development application as lodged and, where applicable, responses to requests for further information, referral advice and copies of representations; and – advice that details the assessment process to date. 	<p>the planning authority is up to in its assessment of the development application where that assessment has commenced and the applicant may not be aware.</p>
7	<p>Prescribed purpose c) and d) referred to DAP mid assessment process</p> <p>DAP to establish the assessment process for the referred applications and give notice of it to all parties</p>	DAP	<p>Where the DAP has received an application under row 6 above (prescribed purpose d) that is part way through the assessment process) or a prescribed purpose c) application referred to it during the planning authority's assessment, the DAP determines how it wishes to proceed with the assessment of the development application in terms of the process set out below.</p> <p>The DAP must notify all parties, including representors (if it has already been through public exhibition), advising them of the process and providing estimated timeframes for the completion of the various assessment tasks, including a timeframe for determination.</p>	<p>Where an application for Prescribed purpose c) and d) are referred to a DAP for determination mid assessment process, the DAP is to determine the remaining stages of the assessment process. The DAP needs satisfy itself as it sees fit which may include revisiting some stages of the assessment, such as requesting further information, which, incidentally, may give cause for re-exhibition.</p> <p>Statutory clock does not apply to these applications. Process is to broadly follow DAP assessment procedures but with timeframes at the discretion of the DAP.</p> <p>These applications return to following the statutory timeframe at row 21</p>

8	Early DAP referral or initial lodgement with DAP	DAP	Development applications that have been referred to the DAP under prescribed purpose c) or prescribed purpose d) that have not yet been lodged with the planning authority or the planning authority has not yet commenced the assessment process, can proceed in accordance with the framework set out below.	Early referral of an application to a DAP under prescribed purpose c) and d) allow the DAP to coordinate the assessment process in accordance with the statutory timeframes provided below.
9	Applications approved for early referral	DAP	The DAP reviews the application and determines if it is valid in accordance with the existing provisions of the Act. If not valid, the DAP seeks appropriate action from the applicant. This must be done within 7 days of receiving application.	
10	Referral to planning authority and other entities	DAP Start Clock (0-7) Max days	Statutory assessment clock commences once the DAP is satisfied that the application is valid. When the DAP determines that the application is valid, it must, within 7 days, refer it to the relevant planning authority and other entities, such as TasWater or regulated entities under the <i>Gas Industry Act 2019</i> .	
11	Request for further information (RFI)	Planning authority, referral entities and DAP (7-21)	Within 14 days of being referred an application from the DAP, the planning authority and referral entities are to provide the DAP with any RFI or advise the DAP that no additional information is required. The Planning Authority can only request further information from the applicant regarding: <ul style="list-style-type: none"> determining the impact of the use and development on council infrastructure to inform draft permit conditions that address the impacts of the use and development on council infrastructure; 	

			<ul style="list-style-type: none"> any matters that council would otherwise consider under the <i>Local Government (Building and Miscellaneous Provisions) Act 1993</i>, such as the provision of public open space, if the application is for subdivision. 	
12	DAP reviews RFI and notifies applicant of RFI	DAP (21-28)	<p>DAP to review and consolidate any RFI from the planning authority and referral entities and include additional matters as the DAP may require.</p> <p>The DAP can also request additional information that relates to the assessment of the application from the planning authority or regulated entities.</p> <p>The DAP is to give notice to the applicant of any request for information within 28 days of determining the application is valid.</p> <p>The applicant can query the DAP on its request for further information within 7 days of being notified of the request for further information.</p> <p>Statutory Clock stops once the applicant is notified of the request for further information.</p>	
13	Applicant provides DAP with a response to the RFI	Applicant STOP CLOCK	<p>Applicant to provide the DAP with further information as requested.</p> <p>DAP circulates the additional information received from the applicant to the planning authority and referral entities.</p> <p>Referral entities, planning authority and DAP have 7 days to review the additional information. Within that 7 days the planning authority and referral entities either determine that they are satisfied with the information provided and give notice to the DAP to that effect or provide a list of outstanding matters to the DAP.</p>	

			<p>If the referral entities, planning authority and DAP are all satisfied that the applicant provided the information requested, the statutory clock recommences.</p> <p>If the DAP has outstanding matters, or receives notice of outstanding matters from the planning authority or referral entities, the DAP has 7 days to review and consolidate the list of outstanding matters and, if deemed necessary for the assessment of the application, notifies the applicant requesting that there are outstanding matters to be addressed.</p> <p>The applicant can query the DAP on its outstanding matters notice.</p> <p>If there are still outstanding matters, the clock remains stopped.</p>	
14	Planning authority and referral entities provide advice on application to the DAP	Planning authority and referral entities 35	<p>Within 28 days (excluding clock stop days) of being referred the application, the planning authority and referral entities provide their advice on the application to the DAP.</p> <p>The advice from the planning authority must (where relevant) include;</p> <ul style="list-style-type: none"> – An infrastructure impact statement outlining the impact of the application on Council’s infrastructure; – Any draft permit conditions it would like to impose to address the impact of the use and development on council infrastructure; – any matters that council would otherwise consider under the <i>Local Government (Building and Miscellaneous Provisions) Act 1993</i>, such as the provision of public open space, if the application is for subdivision. 	<p>This approach requires the planning authority to address infrastructure and open space issues and allows them the opportunity to bring any other matter to the DAP’s attention.</p> <p>The nature of advice from other referral entities are covered through their own Acts.</p>

			<p>The advice from the planning authority may include:</p> <ul style="list-style-type: none"> – A statement of merit in relation to the planning scheme requirements; – Any other matter that the planning authority would like to bring to the attention of the Commission. 	
15	DAP assesses application and prepares a draft assessment report and recommendation	DAP (35-49)	Within 14 days of receiving the advice from the planning authority and referral entities, the DAP undertakes the initial assessment and prepares a draft assessment report.	The DAP can clarify matters, if needed, with the planning authority and referral entities on an informal basis.
16	Exhibition and calls for reps	DAP (49-63)	<p>DAP exhibits application, additional information, referral advice and its draft assessment report and draft permit (if recommended for approval) for 14 days during which time representations are invited.</p> <p>DAP to notify adjoining property owners, planning authority and referral entities at the commencement of the 14 day exhibition period.</p>	<p>While the planning authority and referral entities are already a party to the proceedings, they may wish to make a representation in response to the DAP's draft report and any draft permit.</p> <p>Elected members can also make a representation outside their role as a member of the planning authority.</p>
17	Exhibition to include notification of hearing	DAP (49-63)	The notification must include setting a date for a hearing not less than 10 days from the close of exhibition.	Notification of hearing is done at exhibition to put all parties on notice of when and where the hearing will be held.
18	DAP publishes Representations and may	DAP (63-66)	<p>DAP publishes representations on the Commission's website.</p> <p>The DAP may dispense with holding a hearing if:</p>	If hearing is dispensed, and the DAP directs the planning authority to issue a permit in accordance with the draft assessment report,

	dispense with a hearing		<p>c. No representations where received; or</p> <p>d. Representations received supported the draft recommendations; and</p> <p>no parties to the proceedings, including the applicant, wish to attend a hearing.</p> <p>DAP to give notice to all parties of their decision to dispense with a hearing.</p> <p>If hearing is dispensed, the DAP may direct the planning authority to issue a permit in accordance with draft assessment report ie draft report can become decision.</p>	the permit is issued within 7 days in accordance with row 21.
19	Review reps and hearing preparation	All parties (66-73)	<p>Minimum time between publication of representations and hearing is 7 days. Parties prepare for hearings.</p> <p>The DAP and applicant can agree to an extension of time.</p> <p>If an agreement for an extension of time cannot be reached, the DAP can request an extension from the Minister.</p>	
20	DAP to hold hearings, make determination and give notice of decision	All parties /DAP (73-112)	<p>Hearings encouraged to be held locally.</p> <p>Following the hearings, the DAP considers all the information presented and makes a decision on the development application.</p> <p>The DAP is to give notice of its decision to the planning authority, regulated entities, applicant and representors within or 7 weeks (unless an extension of time is granted) of the completion of the exhibition period.</p>	As above – for row 7 applications - DAP to satisfy hearing requirements and giving notice to parties but is not bound by the statutory timeframe.
21	Issuing of permit	DAP/Planning authority (112-119)	If the decision of the DAP is to grant a permit, the DAP must, in its notice to the planning authority above, direct it to issue a permit in accordance with its decision within 7 days of receiving the notice from the DAP.	The timeframes specified in this row and all subsequent rows now apply to row 7 applications.

			<p>The permit becomes effective the day it is issued by the planning authority.</p> <p>If the permit is for a subdivision, the DAP also approves it in accordance with the provisions of <i>Local Government (Building and Miscellaneous Provisions) Act 1993</i>.</p>	
22	Withdrawal of application	Applicant	<p>The applicant may withdraw its application at any stage of the assessment process by notification to the DAP.</p> <p>The DAP must notify referral entities and the planning authority that the applicant has withdrawn the application.</p> <p>If the application has been exhibited, the DAP must also notify any representors.</p>	
23	Extension of time	Applicant and DAP	<p>At any time after the close of exhibition, the applicant and DAP, may agree to an extension of time to determine the application.</p> <p>If the applicant does not agree to an extension of time, the DAP may request an extension of time from the Minister.</p>	
24	Commission to take over Council's functions under LGBMP Act	DAP/TPC	<p>Allow the Commission to take on particular functions of Council under the <i>Local Government Building and Miscellaneous Provisions Act 1993</i> that involve an application for subdivision.</p>	
25	Enforcement	Planning authority	<p>The planning authority is responsible for enforcing the permit.</p>	<p>This is the same process for permits issued by TasCAT.</p>
26	Appeal rights	All parties	<p>There is no right of appeal on the grounds of planning merit as the decision has been made by the DAP having been through a public process with all parties participating and being afforded natural justice.</p>	<p>While DAP decisions are not subject to a merit appeal, they are subject to judicial review by virtue of the <i>Judicial Review Act 1997</i>.</p>

27	Minor amendment to permits	Applicant/planning authority	A planning authority can receive a request for a minor amendment to a permit involving an application that has been determined by the DAP without seeking the permission of the DAP.	Minor amendments to permits are assessed by the planning authority against the existing provisions of section 56 of the Act.
28	Fees	Applicant	Fees for the DAP and planning authority will be prescribed in regulations.	

Attachment – 2 - Proposed additional role for the Minister to direct a planning authority to prepare an LPS amendment.

Ref	Stage of assessment process	Responsible authority	Proposed Framework	Comments
1	Applicant requests the planning authority to amend its LPS	Applicant	Applicant submits an application to the planning authority to amend its LPS.	Refer to section 37 of the Act. No change to current process
2	Planning authority to make decision in relation to request	Planning authority	Planning authority can decide to prepare, or refuse to prepare, an amendment to its LPS.	Refer to section 38 of the Act. No change to current process
3	Applicant requests review of Planning authority's decision to refuse to prepare an amendment to its LPS	Applicant	Where the planning authority has refused to prepare an amendment to its LPS, the applicant can request the Commission to review the decision of the planning authority.	Refer to section 40B(1) of the Act. No change to current process
4	Commission reviews the planning authority's decision to refuse to prepare an amendment to its LPS	Commission	The Commission reviews the planning authority's decision and can: <ul style="list-style-type: none"> – direct the planning authority to reconsider whether to prepare a draft amendment to its LPS; or – determine that the planning authority took into account the appropriate matters when making its decision to refuse to prepare an amendment to the LPS. 	Refer to section 40B(4) of the Act. No change to current process
5	Planning authority reconsiders whether to prepare draft amendment to its LPS	Planning authority	If the planning authority has been directed by the Commission to reconsider an application to amend the LPS, it must do so and notify the applicant within 7 days of its decision.	Refer to section 40B (6) No change to current process

6	Applicant requests that the Minister reviews the planning authority's decision	Applicant	Where the applicant has been notified that, upon reconsideration of the draft amendment, the planning authority has still refused to prepare an amendment to the LPS as requested, the applicant may request that the Minister reviews the planning authority's decision to refuse to prepare a draft amendment.	New process
7	Minister reviews planning authority's decision	Minister	<p>The Minister reviews the planning authority's decision and can:</p> <ul style="list-style-type: none"> – direct the planning authority to prepare a draft amendment to the LPS; or – refuse to direct the planning authority to prepare a draft amendment to the LPS. <p>If directing the planning authority to prepare a draft amendment to the LPS, the Minister must be satisfied that the draft amendment meets the LPS criteria.</p>	New process
8	Minister directs the planning authority to prepare a draft amendment to the LPS	Minister	Minister directs the planning authority to prepare a draft amendment to their LPS.	Section 40C contains existing provisions for Ministerial direction to the planning authority to prepare draft amendments to LPSs
9	Planning authority prepares draft amendment to LPS	Planning authority	The preparation of draft LPS amendments is provided under section 40D of the Act.	No change to existing process. Section 40D also refers to a Ministerial direction under section 40C
10	Ministerial direction to apply to combined permit and scheme amendment		Ministerial direction to require a planning authority to prepare an amendment to its LPS, subject to the scenario described above, also applies to combined permit and planning scheme applications pursuant to section 40T of the Act.	New process
11	Exhibition and assessment of draft LPS amendment	Planning authority/ Commission	Assessment takes place in accordance with existing provisions	No change to current process

Attachment 3 - Summary of issues raised in submissions on the DAP Position Paper

Consultation on the Development Assessment Panel (DAP) Framework Position Paper.

1. General opinion on the proposed introduction of a DAP assessment pathway			
Issue	Submission no	Summary of issue raised	Response
	102, 114, 127, 351, 353, 366, 437, 449, 441, 482, 511, 524	In support of the proposed framework and the economic and social benefits it will provide.	Noted.
	194, 353	In support of a DAP framework subject to conditions	Noted.
	366	The ability for an alternate assessment pathway is likely to be beneficial.	Noted.
	351, 441, 482, 500, 524, 535	In support of the proposed DAP framework as it provides an alternate pathway that will enhance certainty, transparency and effectiveness in planning decisions being made across Tasmania.	Noted.
	351	The framework sets a benchmark in best practice for dealing with complex and contentious development applications by mitigating political influences in the planning process.	Noted.
	382	In support of the DAP framework although it provides an assessment advantage to only a few types of applications.	Noted.
	56, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 77, 78, 79, 80, 81, 82, 83, 84, 86, 87, 88, 89, 90, 91, 92, 93, 95, 97, 98, 99, 100, 101, 103, 105, 107, 108, 109, 110, 111, 112, 113, 115, 117, 118, 119, 120, 122, 123, 124, 125, 126, 129, 130, 131, 132, 133, 134, 135, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 157, 158, 159, 160, 161, 164, 165, 166, 167, 168, 169, 170, 190, 195, 197, 199, 200, 201, 202, 203, 204, 205, 206, 211, 213, 217, 219, 220, 222, 225, 263, 269, 272, 281, 289, 294, 306, 316, 319, 320, 321, 324, 329, 330, 332, 334, 335, 336, 337, 338, 342, 345, 356, 357, 360, 361, 362, 365, 368, 369, 370, 372, 373, 377, 379, 381, 383, 384, 387, 389, 390, 395, 399, 400, 401, 403, 404, 405, 406, 407, 409, 412, 413, 414, 416, 417, 419, 421, 422, 423, 425, 426, 429, 430, 431, 432, 433, 435, 436, 438, 440, 442, 443, 444, 445, 446, 450, 453, 454, 455, 456, 457, 460, 466, 468, 469, 472, 473, 474, 475, 476, 483, 484, 485, 486, 489, 490, 492, 493, 494, 495, 496, 497, 498, 501, 503, 504, 505, 508, 509, 510, 512, 513, 514, 515, 518, 520, 523, 525, 526, 527, 529, 530, 536, 537, 538, 539, 540,	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.	<p>The proposed pathway maintains input from council and communities into the assessment process.</p> <p>Members of the planning panels are appointed by the Tasmanian Planning Commission (TPC), not handpicked by the State government. The TPC is an independent statutory authority that operates at arm's length from the government. Refer to section 4.3 of the Report on Consultation for further detail.</p> <p>Development applications referred to a DAP for determination are still required to undergo public consultation, consistent with the existing process, where local concerns are raised and required to be addressed by the DAP.</p> <p>The planning system does not differentiate between developers that are from Tasmania or elsewhere.</p> <p>The revised DAP framework does not provide an option for a developer to opt out of a council assessment process in favour of a DAP process once it has commenced.</p>
	352,	The DAP framework will introduce as many 'conflicts of interest' as what occurs currently with councils.	<p>The framework's intent is to remove the political tensions that exist, when elected member are required to make a decision that is inconsistent with their personal opinion or that of the constituents they represent.</p> <p>The assessment by an independent panel established by the TPC will remove any conflict between the roles of councillors as members of a planning authority and as elected representatives.</p>

	50, 439, 531, 541	DAP framework introduces greater uncertainty and complexity in planning processes.	<p>It is accepted that the framework does introduce another process into the planning system. The framework provides an alternative assessment pathway only. The planning provisions which an application is assessed against remain the same.</p> <p>The DAP framework has been revised to provide simple and streamlined process with the DAP coordinating the assessment process.</p>
	173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 193, 207, 208, 209, 210, 214, 215, 216, 218, 221, 223, 224, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 257, 258, 259, 260, 261, 264, 265, 266, 267, 268, 270, 271, 273, 274, 275, 276, 277, 278, 279, 280, 282, 283, 284, 285, 286, 287, 288, 291, 292, 293, 295, 296, 298, 299, 300, 301, 302, 303, 304, 305, 307, 308, 309, 310, 311, 312, 313, 314, 315, 317, 318, 322, 323, 325, 326, 327, 339, 340, 343, 344, 346, 348, 349, 350, 359, 371, 378, 380, 394, 398, 415, 434, 448, 480, 533,	DAP framework does not simplify process or reduce redtape.	The intent of the DAP framework is not to simplify the process or reduce redtape but to ensure independent assessment against the planning rules.
	56,59, 60, 61, 62,63,64, 65, 66, 67, 68, 69, 70, 72, 73, 74, 75, 77, 78, 79, 80, 81, 82, 83, 84, 86, 87, 88, 89, 90, 91, 92, 93, 95, 97, 98, 99, 100, 101, 103, 105, 107, 108, 109, 111, 113, 115, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 129, 130, 131, 132, 133, 134, 135, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 157, 158, 159, 160, 161, 164, 165, 166, 167, 168, 169, 170, 190, 195, 197, 199, 200, 201, 202, 203, 204, 205, 206, 211, 213, 217, 219, 220, 222, 225, 256, 263, 272, 289, 294, 306, 316, 319, 320, 321, 324, 329, 330, 332, 334, 335, 336, 337, 338, 342, 345, 356, 357, 360, 361, 362, 363, 365, 368, 369, 370, 372, 373, 377, 379, 381, 383, 384, 387, 389, 390, 395, 399, 400, 401, 403, 404, 405, 406, 407, 409, 412, 413, 414, 416, 417, 419, 421, 422, 423, 425, 426, 429, 430, 431, 432, 433, 435, 436, 438, 440, 442, 443, 444, 445, 446, 450, 455, 456, 457, 460, 466, 468, 469, 472, 473, 474, 475, 476, 479, 483, 484, 485, 486, 489, 490, 492, 493, 494, 495, 496, 497, 498, 499, 501, 504, 505, 509, 510, 512, 513, 514, 515, 518, 520, 523, 525, 526, 529, 530, 536, 537, 538, 539, 540,	Undermines local democracy and removes 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.	<p>The proposed DAP framework provides for local input into the assessment and decision making.</p> <p>Elected members are required to act as a planning authority when determining development applications. Decisions must be made in accordance with the planning scheme, not the political preference of locally elected members.</p> <p>Decisions being made on individual development applications by the planning authority are not intended to be a democratic process. The local democracy and local input has already been embedded in the local planning instrument that the development applications are being assessed against. Refer to section 4.2 of the Report on consultation for further information.</p> <p>The DAP is appointed by the TPC which is independent from government. Refer to section 4.3 of the Report on Consultation for further information.</p> <p>The Act already provides a pathway for development applications to be determined by a TPC panel under the s40T process.</p>
	2, 50, 55, 212, 347, 352, 354, 355, 364, 424, 451, 465, 516, 527,	Proposed framework politicises planning process and marginalise the role of citizens	The framework removes the politics by allowing development applications to be determined by an independent DAP which is required to consider the opinions of those making representations including the holding of public hearings so those representors can be heard by the panel.
	198, 341, 352, 376, 424, 439, 516, 541	Proposed legislative amendments undermine public confidence in planning decisions.	The DAP framework provides for decisions to be made by an independent panel where the concerns of representors can be presented to the panel in a public hearing. This provides more input from the public than the existing development assessment process and should increase public confidence in planning decisions by removing political bias.

	226, 333, 341, 352, 427,	The framework does not reflect or undermines the need for planning decisions to be independent, open for public participation and transparent.	The framework provides for planning decisions to be made by an independent panel with a process that is open for public participation and subject to the rules of natural justice including procedural fairness.
	78, 226, 352,	The DAP framework will allow the State government to ignore the checks and measures provided by the existing system and will act to the detriment of local communities for the purpose of achieving political goals.	DAP decisions are independent of the government and will remove politics from the decision making. The framework does not propose any modification to the planning provisions which applications are assessed against and include the requirement for public engagement and inviting comments from the community. See section 4.3 of the Report on Consultation for more information about how the DAPs are established.
	527	The planning system should balance social, economic and environmental issues with development and the proposed framework tips too far away from 'social' aspects.	The framework does not alter any of the planning provisions which a development application is assessed against so does not alter the relative weight of social, economic and environmental issues. The framework maintains public engagement and introduces the ability for representors to be heard and examine the evidence of other parties.

2. General issues associated with the proposed DAP framework

Process	56, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 72, 73, 74, 75, 77, 78, 79, 80, 81, 82, 83, 84, 86, 87, 88, 89, 90, 91, 92, 93, 95, 97, 98, 99, 100, 101, 103, 105, 107, 108, 109, 111, 113, 115, 117, 118, 119, 120, 122, 123, 124, 125, 126, 129, 130, 131, 132, 133, 134, 135, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 155, 157, 158, 159, 160, 161, 163, 164, 165, 166, 167, 168, 169, 170, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 193, 195, 197, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 263, 264, 265, 266, 267, 268, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 291, 292, 293, 294, 295, 296, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 322, 323, 324, 325, 326, 327, 329, 330, 332, 334, 335, 336, 337, 338, 339, 340, 342, 343, 344, 345, 346, 348, 349, 350, 356, 359, 360, 361, 362, 365, 365, 369, 370, 371, 372, 373, 377, 378, 379, 380, 381, 383, 384, 387, 389, 390, 394, 395, 398, 399, 400, 401, 403, 404, 405, 406, 407, 409, 412, 413, 414, 415, 416, 417, 419, 421, 422, 423, 426, 429, 430, 431, 432, 433, 434, 435, 436, 438, 440, 442, 443, 444, 445, 446, 448, 450, 455, 457, 460, 466, 468, 469, 471, 472, 473, 474, 475, 476, 480, 483, 484, 485, 486, 489, 490, 492, 493, 494, 495, 497, 498, 501, 503, 505, 509, 510, 512, 513, 514, 515, 518, 520, 523, 526, 529, 530, 533, 536, 537, 538, 539, 540,	Increases complexity in an already complex planning system	The revised framework has been simplified to provide for the assessment to be coordinated by the DAP. Refer to section 4.5.1 of the Report on Consultation for further information.
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56, 57, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 77, 78, 79, 80, 81, 82, 83, 84, 86, 87, 88, 89, 90, 91, 92, 93, 95, 97, 98, 99, 100, 101, 103, 105, 107, 108, 109, 111, 113, 115, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 128, 129, 130, 131, 132, 133, 134, 135, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 155, 157, 158, 159, 160, 161, 164, 165, 166, 167, 168, 169, 170, 190, 195, 197, 199, 200, 201, 202, 203, 204, 205, 206, 211, 213, 217, 219, 220, 222, 225, 256, 263, 272, 289, 294, 306, 316, 318, 319, 320, 321, 324, 329, 330, 334, 335, 336, 337, 338, 342, 345, 356, 360, 361, 362, 365, 368, 369, 370, 372, 373, 377, 379, 381, 383, 384, 386, 387, 390, 395, 399, 400, 401, 403, 404, 405, 406, 407, 409, 412, 413, 414, 416, 417, 419, 422, 423, 425, 426, 429, 430, 431, 432, 433, 435, 436, 438, 440, 442, 443, 444, 445, 446, 450, 453, 454, 455, 456, 460, 468, 472, 473, 474, 475, 476, 483, 484, 485, 486, 489, 490, 492, 493, 494, 495, 497, 498, 499, 501, 503, 505, 506, 510, 512, 513, 514, 515, 518, 520, 523, 525, 526, 529, 530, 536, 537, 538, 539, 540,	Ensure transparency, independence, accountability and public participation in decision-making within the planning system, as they are critical for healthy democracy. Keep decision making local with opportunities for appeal. Abandon 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.	<p>The proposed DAP framework provides for transparency, independence, accountability and public participation.</p> <p>Decisions will continue to be made with local input.</p> <p>Unlike the current local council process the DAP framework includes public hearings where all parties are invited to test each other's evidence in a public forum and in front of the decision makers. The proposed process has all the natural justice and procedural fairness elements of an appeal. The decisions are made by planning experts appointed by the TPC so there is no need for the decision of the DAP to be subject to a planning merit appeal. Refer to section 4.4 of the Report on Consultation for further information.</p> <p>Councils are already required to act independently of their local political interests when assessing a development but there are cases where they introduce matters outside of the planning rules because of their role as a political representative. There is a need to ensure proper independent rules-based assessments.</p>
136	The framework should mirror the existing process with the DAP determining the application and not the council.	Revised framework seeks to streamline the process with the application only being referred to the council for advice.
376,	Support for the framework adopting the s40T model.	Noted. Although issues raised regarding the duplication of assessment process has resulted in modifying the framework to allow the DAP to coordinate the assessment and councils used as a referral entity.
194, 491, 531,	Unfair for DAP to use council for administration of application assessment.	Noted. Revised framework addresses this by seeking to streamline the process with the DAP coordinating the assessment and referring the application to the council for advice only.
524	Once trialled the DAP framework should become the normal approval pathway.	The intent of the framework is to address the types of applications that are problematic.
366, 418, 461, 471, 531,	The mechanics of the framework is too ambiguous to determine if it would work.	Noted. The framework presented a concept to encourage discussion and feedback as referenced in the Position Paper. This framework has been revised and simplified. The draft Bill will provide more detail regarding specific processes.
463, 471, 517,	Support for using and improving existing assessment pathways rather than creating new ones.	The justification for the proposed framework is discussed in the body of the Report on Consultation at section 4.1. While a new pathway is proposed the planning rules applying are the same.
482	Proposes an alternative framework based on DAP models used in WA and QLD. Suggest that Social and affordable housing projects could opt in or out of a DAP assessment. Suggested framework reduces time frames from 105 days to 60 days.	<p>Noted however, these models operate under different planning systems that do not necessarily align and fit in with the Tasmanian system.</p> <p>The revised framework does allow for social and affordable housing to opt in or out based on seeking and obtaining endorsement from Homes Tasmania. The timeframe for determination is longer because it accounts for public hearing processes that removes the need for subsequent appeals.</p>

	366	Can council lodge representations and respective appeal rights?	<p>Under the proposed framework provided in the Position Paper a Councillor could make a representation and there was no right of appeal.</p> <p>The revised framework allows the planning authority to advise the DAP on matters relevant to the application and it can also make a representation on the DAPs draft assessment report. A councillor can also make a representation.</p>
	471	Fears the DAP framework will undermine the Major Projects pathway.	The pathways are different and separated by specific eligibility criteria. The DAP process is simply an alternative pathway for assessment against the existing rules while the Major Project process develops project specific criteria.
	388, 517	Disagree with the assumption that DAP framework will quash controversy, and that community pressure and political pressure detracts from desirable planning outcomes.	The intent of the framework is simply to provide for an independent panel to make the decision in accordance with the existing planning scheme provisions.
	198, 408	Bypassing council and TasCAT undermines administrative justice by removing accountability of both the democratic and merits review in exercising planning discretions.	Refer to section 4.4 of the Report on Consultation.
	353	Suggests use of different terminology to 'discretionary referral' as it could be confused with discretionary application.	Acknowledged. The revised framework no longer refers to a discretionary referral process.
Justification	439, 531, 541,	There is no justification for the need for the planning system to provide another assessment pathway	Refer to section 4.1 of the Report on Consultation for discussion on the justification for the DAP framework.
	462	Further investigation of the issues that have given rise to the development of the framework need be reviewed in light of deficient planning scheme standards or issues with points of law that could be addressed more simply.	Perceived deficiencies in the planning scheme standards are outside the scope of this project. It is noted that the State Planning Provisions (SPPs) are currently under review.
	531, 541	Difficult to reconcile that there is compelling justification for the introduction of DAPs, and the issues that the government has identified are limited isolated cases which leads to a reasonable question as to whether there is a problem that warrants this level of intervention?	While the number of cases is limited, the evidence is that they impact more on social and affordable housing projects at a time of critical housing shortage. The revised framework focusses on this particular need and other applications that satisfy the DAP criteria where the applicant or planning authority makes a request to the Minister for the application to be referred to a DAP for determination or where the applicant, or the planning authority with the consent of the applicant choose DAP determination subject to the application meeting value thresholds. . Refer to section 4.1 of the Report on Consultation for further discussion on the justification for the DAP framework.

	23, 50, 56, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 72, 73, 74, 75, 77, 78, 79, 80, 81, 82, 83, 84, 86, 87, 88, 89, 90, 91, 92, 93, 95, 97, 98, 99, 100, 101, 103, 105, 107, 108, 109, 111, 113, 115, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 129, 130, 131, 132, 133, 134, 135, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 163, 164, 165, 166, 167, 168, 169, 170, 190, 195, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 211, 213, 217, 219, 220, 222, 225, 256, 263, 269, 272, 281, 289, 294, 306, 316, 318, 319, 320, 321, 324, 329, 330, 332, 334, 335, 336, 337, 338, 342, 345, 356, 360, 361, 362, 365, 368, 369, 370, 372, 373, 377, 379, 381, 383, 384, 387, 389, 390, 395, 399, 400, 401, 403, 404, 405, 406, 407, 409, 410, 412, 413, 414, 416, 417, 418, 419, 421, 422, 423, 426, 427, 429, 430, 431, 432, 433, 435, 436, 438, 440, 442, 443, 444, 445, 446, 450, 453, 455, 456, 457, 460, 465, 466, 468, 469, 471, 472, 473, 474, 475, 476, 479, 483, 484, 485, 486, 487, 489, 490, 491, 492, 494, 494, 495, 497, 498, 499, 501, 503, 504, 505, 506, 509, 510, 512, 513, 514, 515, 517, 518, 520, 523, 526, 529, 530, 531, 534, 536, 537, 538, 539, 540, 541,	Poor justification – there is no problem to fix.	Refer to section 4.1 of the Report on Consultation for discussion on the justification for the DAP framework.
Role of Council	194	By removing council from some of their planning authority roles allows Councillors to advocate for their constituents on certain matters.	Noted, this is consistent with part of the rationale for the DAP framework as Councillors should be applying the provisions of the planning scheme and not advocating for their constituents on certain matters.
	194, 517,	Should upskill elected members on their decision making behaviour.	Noted. There is an existing educational module produced by the Office of Local Government in conjunction with the SPO for new elected members that explains their role as a member of a planning authority.
	462, 491,	The framework should eliminate all obligations of the planning authority to assess an application and should be used by the DAP as a referral body.	The revised framework refers the application to the planning authority for advice as it has technical information about local conditions that is important to consider.
	23, 50, 71, 163, 388, 439, 458, 491, 506,	Councillors can clearly distinguish between their political and planning authority roles.	It is acknowledged that this is correct in the majority of cases. The framework provides an alternate pathway for certain development applications that have been identified as problematic
	194, 517,	Councillors can manage perceived bias	As above

	1,5,6, 7,8, 10,12,14,15,16, 17,18, 19, 21, 27, 28, 29, 30, 31, 32, 33,34, 35, 36,37, 39, 40, 41, 42, 43, 44, 45,, 48, 49, 50, 51, 53, 54, 55, 57, 58, 71, 76, 85, 94,96, 104, 106, 156, 162, 163, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186,, 187, 188, 189, 191, 193, 198, 207, 208, 209, 210, 212, 214, 215, 216, 218, 221, 223, 224, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 257, 258, 259, 260, 261, 262, 264, 265, 266, 267, 268, 270, 271, 273, 274, 275, 276, 277, 278, 279, 280, 282, 283, 284, 285, 286, 287, 288, 290, 291, 292, 293, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 307, 308, 309, 310, 311, 312, 313, 314, 315, 317, 318, 321, 322, 323, 325, 326, 327, 333, 339, 340, 341, 343, 344, 346, 347, 348, 349, 350, 352, 354, 355, 358, 359, 362, 364, 371, 374, 378, 380, 385, 388, 389, 393, 394, 397, 398, 408, 410, 411, 415, 424, 428, 434, 447, 448, 451, 458, 460, 467, 470, 480, 481, 487, 502, 507, 512, 517, 519, 521, 527, 533, 534,	Council should retain their role as planning authority in the assessment of development applications to ensure local democracy in decision making.	<p>Council will retain their decision-making functions on the majority of applications. The revised framework only applies to eligible applications that facilitate social and affordable housing, or where the applicant, or the planning authority with the consent of the applicant support referral, subject to meeting value thresholds, or upon request to the Minister for an application to be referred.</p> <p>The DAP framework provides for local input into the assessment and decision-making process.</p> <p>Elected members are required to act as a planning authority when determining development applications. Decisions must be made in accordance with the planning scheme, not the political preference of locally elected members or their response to constituent pressure.</p> <p>Decisions being made on individual development applications are not intended to be a democratic process in the sense of voting for or against something on personal preference but where pre-determined rules are independently applied. The local democracy and local input into the decision has already been embedded in the planning instrument that the development applications are being assessed against.</p> <p>Refer to section 4.2 for further discussion.</p>
	160, 465	Local government should not be bound by their role as a planning authority under the Act and should be able to vote on planning matters in a democratic way and as they see fit.	This is inconsistent with the Act and the Resource Management and Planning System and fails to provide certainty for delivering planning outcomes. Planning decisions should be made against transparent planning rules and not involve personal biases.
	382	Increase state-wide planning regulations and deregulation of assessment power of local councils.	Noted. The Tasmanian Planning Scheme provides for state-wide planning regulations.
	102, 524,	The government should take planning away from local Councils.	Evidence suggests that in most circumstances the planning system is working well. The DAP pathway seeks to address only those problematic applications which are holding up important developments such as social housing.
	102	The government should amalgamate Councils.	Outside the scope of this project
	462, 478, 531	Council is best placed to make decisions on planning applications although acknowledges there may be situations where referral to a DAP may be useful to allow elected members to express a different position.	Noted and submission supported.
	462	The framework does not achieve its objectives of deconflicting the roles of local government.	The framework does not suggest it can deconflict the roles. It simply provides an alternate pathway to alleviate the conflict for certain applications that might be problematic.
	366, 482, 500, 524,	The DAP framework provides a platform to take personal preferences and biases out of planning decisions.	Noted.

	478, 534,	The framework introduces the potential for greater bias by suggesting that elected members can act as advocates. This places planning staff in a difficult position.	Elected members advocating an outcome under the framework are acting as Councillors, not the planning authority. Where a development is not referred to a DAP it is clear that the elected member has the role to act as a member of the planning authority
	352	Abandon the proposed framework and take action to improve governance in councils.	Noted. There is an existing educational module produced by the Office of Local Government in conjunction with the SPO for new elected members that explains their role as a member of a planning authority.
	351	The DAP framework provides a practical solution to the potential conflicting and biased roles that Councillors face as members of a planning authority consistent with issues identified in the Future of Local Government Review Stage 2 Interim Report.	Noted and supported
Consultation with Council	439, 478, 541	Consultation with local government is inadequate and does not provide sufficient time to fully understand the proposal and the implications for local government.	Noted, however consultation took place in accordance with agreed timeframes for consultation between local government and the State.
	541	The government should engage directly with local government to develop a DAP framework that is fit for purpose.	Noted and supported. The government did engage directly with local government.
Reference to specific proposals	437, 524	Provides a detailed example of the Skylands proposal, identifying issues that would have benefited from an independent review by a DAP.	Noted and acknowledged.
	3, 4,7,9,10,11, 14,15, 17, 20, 21, 22,24,25,26, 27, 28, 30, 33, 34, 35, 38, 40, 41, 44, 45, 47, 51, 52, 53, 54, 164, 168, 196, 297, 362, 410,	Concerns that the DAP framework will lead to the approval of the MT Wellington Cable Car	The revised DAP framework prescribes that only certain applications are eligible for DAP determination. Therefore, any future proposed Mt Wellington Cable Car application that satisfies the criteria may be eligible. The DAP process does not change the planning provisions a proposal is assessed against or the need for landowner consent to lodge a development application such as the council owned land in Wellington Park.
	385, 408, 458	Fears that the DAP framework will lead to inappropriate development in National Parks	The DAP framework does not alter the existing planning scheme provisions that applications are assessed against. It is noted that there is a DAP model being proposed through the review of the National Parks Reserve Activity Assessment process which is separate to this process.
	46, 192	Objection to the framework on the basis that it will allow the stadium to be approved.	The stadium is a Project of State Significance and is being assessed under a different Act by an independent panel of the Tasmanian Planning Commission.

56,59, 60,61,62, 63,64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 77, 78, 79, 80, 81, 82, 83, 84, 86, 87, 88, 89, 90, 91, 92, 93, 95, 97, 98, 99, 100, 101, 103, 105, 107, 108, 109, 110, 111, 113, 115, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 128, 129, 130, 131, 132, 133, 134, 135, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 157, 158, 159, 160, 161, 164, 165, 167, 168, 169, 170, 190, 195, 197, 199, 200, 201, 202, 203, 204, 205, 206, 211, 213, 217, 219, 220, 222, 225, 263, 272, 289, 294, 306, 316, 320, 321, 324, 329, 330, 332, 334, 335, 336, 337, 338, 342, 354, 356, 357, 360, 361, 362, 363, 365, 368, 369, 370, 372, 373, 377, 379, 381, 383, 384, 387, 389, 390, 395, 399, 400, 401, 403, 404, 405, 406, 407, 409, 412, 413, 414, 416, 417, 419, 420, 421, 422, 423, 426, 429, 430, 431, 432, 433, 435, 436, 438, 440, 442, 443, 444, 445, 446, 450, 455, 456, 457, 460, 465, 466, 468, 469, 472, 473, 474, 475, 476, 483, 484, 485, 486, 489, 490, 492, 494, 495, 497, 498, 501, 503, 505, 506, 508, 509, 510, 512, 513, 514, 515, 518, 520, 523, 525, 526, 529, 530, 536, 537, 538, 539, 540,	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.	The DAP framework does not make it easier to approve large scale contentious developments. It simply proposes to provide an alternate assessment pathway where the existing planning scheme provisions are applied to assess an application but the decision is made by an independent panel established by the TPC.
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3. Specific issues raised on the proposed DAP framework

3.1 Referral of a development application to a DAP

Timing of referral to DAP	461, 491,	DAP referral must occur at the beginning of the process to allow the DAP to have input into the initial assessment, requests for further information and review of representations.	Supported. The revised framework provides for the opportunity for an application to be lodged directly with the DAP who manages the assessment process.
	471, 462	Support for referral at the beginning of the process or after consultation.	As above
	136, 262,	Does not support the ability of the planning authority and applicant to opt into the DAP process at anytime.	Noted however, issues may arise midway through the assessment process where it becomes apparent that the assessment of the application is problematic.
	194 , 376, 449, 478, 511	Support referrals to DAP at different stages of assessment	Noted however the framework has been revised to provide a more streamlined approach to reduce the complexity and double handling of assessment tasks between the planning authority and DAP.
	351	In support of the framework providing multiple referral points throughout the assessment as it considers and reflects the complexities inherent in the management and assessment of development applications.	Noted. The revised models allow multiple entry points subject to satisfying eligibility criteria.
	522	Further consideration of appropriateness to refer an application to a DAP later in the development assessment.	As above.
	353	Queries discretionary DAP referrals being made by council officers or the planning authority as this has time implications.	The revised framework allows the planning authority to make a request to the Minister to refer an application to the DAP. In this instance the statutory clock would have to stop similarly to where the planning authority with the consent of the applicant agree to the referral.
	136, 50	DAP referral should only be made by the planning authority and occur at the time it is meant to be making its decision.	The revised framework allows multiple entry points to provide for flexibility in the assessment process and to address issues as they arise.

Who is responsible for referral	353	Non-mandatory referrals should be at the discretion of the planning authority, not the applicant, however the applicant should have the right to appeal this decision.	The framework has been revised to provide for options for the planning authority or the applicant to request the Minister to refer, or the applicant or planning authority with the consent of the applicant to make a referral to the DAP subject to meeting values thresholds.
	194, 353, 388, 459, 462, 376, 477, 511,	Support Council having the ability to refer an application to a DAP.	The revised framework allows council to request the Minister to refer an application to a DAP, or the planning authority with the consent of the applicant, subject to conditions.
	351	Support recognition of situations where the applicant can request the planning authority to consider referring the application to a DAP or challenging the planning authority's referral.	Noted, these comments have been incorporated in the revised framework.
	353, 388, 459, 462, 534	Planning authority should be the only point of referral of a development application to a DAP.	The planning authority with the consent of the applicant may refer an application subject to criteria. A planning authority can also request the Minister to refer an application under other circumstances. The referral of applications and the eligibility criteria is based on capturing those applications that are problematic.
	367, 428, 471, 517, 535, 542,	Referral to a DAP should be undertaken by the Planning authority with consent of the applicant	As above.
	461, 491,	Referral should be from the applicant or Council. Referral process needs to establish different criteria for developer and council referred proposals	As above.
Disputes over referral	449	Unlikely that planning authority and applicant will always agree to referral.	Noted. The Minister determines if an application is to be referred where the consent of both parties is not achieved.
	522	Given DAP has to agree to referral, it is unnecessary to require mutual consent of applicant and planning authority to refer.	The framework has been revised so the comment on this matter is no longer relevant.
	462	The Minister should only intervene if there is dispute over a referral of application.	The revised framework allows the Minister to consider a request by either the applicant or planning authority subject to addressing other criteria.
	353	Disputes regarding discretionary DAP referral should be resolved by TasCAT.	As above, the Minister responds to requests by either the planning authority or the applicant thereby making a determination to refer where an agreement cannot be reached.
Ministerial referral ⁷	353, 388, 418, 410, 439, 471, 477, 517,	The Minister should have no power to intervene on referring a development application to a DAP.	The Minister is the most appropriate person to resolve any conflict between the planning authority and applicant regarding the referral of an application to the DAP for determination subject to being satisfied that the DAP criteria is met.

⁷ Further issues associated with the proposed DAP framework providing a role for the Minister to refer an application to a DAP are identified below.

	367	Minister should only intervene if there is a breach of statutory responsibility by the planning authority.	Evidence of conflict of interest or perceived bias is one of the DAP criteria.
	522	Ministerial referrals should require consultation with regulators and state agencies prior to referral.	This is considered unnecessary for a development application being assessed against the planning scheme.
	449, 491, 524,	Support for Ministerial referral process.	Noted.
3.2 Types of development applications that are proposed for DAP referral (consultation issue 1 of Position Paper)			
Mandatory referral and DAP criteria	449, 441, 524	Support for the range of applications for mandatory referral to DAP	Noted, however due to other findings from consultation there are no mandatory referrals in the revised framework.
	194, 462, 463, 491,	DAP framework should be available to those councils that are under resourced or where there is a contentious application	Noted, and supported in revised framework subject to the application meeting value thresholds.
	351, 441,	In support of criteria based referral of an application to a DAP as it provides the proponent with a responsive, efficient, transparent and effective assessment.	Noted.
	452	Referral of an application to a DAP should only be for prescribed purposes or called- in by the Minister.	The revised framework provides that only applications for 'prescribed purposes' are eligible for consideration by a DAP. These include social and affordable housing endorsed by Homes Tasmanian, where the applicant or the planning authority with the consent of the applicant support the referral subject to meeting a value threshold, or upon request to the Minister by either the planning authority or applicant subject to satisfying the DAP criteria Compliance with the DAP criteria is determined by the Minister consistent with this submission..
	162, 439, 522, 532, 353	The proposed DAP criteria are too broad and ambiguous.	Noted. The revised framework has been modified to address ambiguity and require the Minister to determine when an application satisfies the DAP criteria.
	452	Application from State Agencies or applications where State owns the land should be eligible for DAP referral.	Applications from State agencies are eligible for DAP referral subject to complying with the criteria in the framework. The DAP process does not change the need for landowner consent to lodge a development application.
	461	Lack of evidence to justify the types of development applications that will be referred to a DAP.	The Position Paper discussed why the types of applications that are proposed to be referred to a DAP would benefit from the being assessed through the DAP pathway. Refer to section 4.1 of the Report on Consultation for further justification of the types of development that are suitable for being determined by a DAP.
	461	Types of applications referred to DAP must be clarified eg sections 57 and/or 58 and minor amendments	The Position Paper was explicit that the DAP assessment pathway only applied to s 57 applications.
	535	Include additional criteria to allow developments that do not neatly fit with the planning scheme.	This is outside the scope of the process proposed and would require further consultation to determine parameters around what would be acceptable. There are existing processes that allow these types of projects to be considered including the Major Projects process and the capacity for applicants to seek to amend the planning scheme at the same time as lodging a development application.

Social and affordable housing	136, 156, 353, 388, 517,	Social housing applications should not be mandatorily referred to a DAP for determination.	The framework proposed that they are only referred to a DAP if the applications is endorsed by Home Tasmanian as being suitable for DAP determinations.
	50	Social housing will be better dealt with by controlling short stay accommodation and for the government to stop promoting growth.	Noted however, this is outside the scope of this project. The Government is reviewing the Regional Land Use Strategies to guide growth in appropriate locations. There is evidence that social housing projects are not always being assessed without political bias.
	114, 392, 463, 524,	In support of social and affordable housing being assessed by a DAP.	Noted and supported.
	351	DAP framework will help deliver State government's housing targets.	Noted and supported.
	114	Recommend definition of 'Social Housing' and 'Affordable Housing' is consistent with the Tasmanian Housing Strategy 2023-43	Noted, supported.
	471	Need to define or qualify 'social and affordable housing'	Noted and supported.
	367, 478, 491,	Social and affordable housing applications do not present an issue and are dealt with like all other residential development.	Noted however there is evidence to suggest there have been cases where these applications have been problematic.
	114	<p>Include definition of 'Registered Community Housing Provider' for the mandatory referral of social housing applications by adopting the national Community Housing Industry Association (CHIA) definition:</p> <p>'Registered Community Housing Provider' – <i>means an organisation established as a constitutional corporation that is:</i></p> <ul style="list-style-type: none"> <i>a) Registered as a charity under the Charities Act 2013 (Cth) by the Australian Charities and Not for Profit Commission (ACNA); and</i> <i>b) Registered as a Community Housing Providers National Law set out in the Appendix to the Community Housing Providers (Adoption of National Law) Act 2012 (NSW) (or jurisdictional equivalent in Tasmania)</i> 	Noted and supported however it is not considered necessary to include the definition in the framework as allowing developments proposed by a Registered Community Housing Provider is likely to be an administrative task performed by the Board of Homes Tas when determining that a project is suitable for DAP determination as required under the draft "prescribed purpose" in attachment 1A of this report.
	114, 482	The proposed process for the assessment of social and affordable housing duplicates tasks undertaken by council and the Tasmanian Planning Commission and could be further streamlined.	Supported and addressed in the revised framework.
	114, 482	Social and affordable housing should be dealt with separately in a more streamlined process to deliver faster implementation.	Supported and addressed in the revised framework.
	388	There is no problem with the planning authority's assessment of social housing applications.	Noted however there is evidence to the contrary.
	136, 388, 478, 517,	Lack of evidence to justify referral of social housing applications.	Noted however there is evidence to the contrary. Refer to section 4.1 of the Report on Consultation.

Critical Infrastructure	136, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 193, 207, 208, 209, 210, 214, 215, 216, 218, 221, 223, 224, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 257, 258, 259, 260, 261, 264, 265, 266, 267, 268, 270, 271, 273, 274, 275, 276, 277, 278, 279, 280, 282, 283, 284, 285, 286, 287, 288, 291, 292, 293, 295, 296, 298, 299, 300, 301, 302, 303, 304, 305, 307, 308, 309, 310, 311, 312, 313, 314, 315, 317, 318, 322, 323, 325, 326, 327, 339, 340, 343, 344, 346, 348, 349, 350, 359, 371, 378, 380, 388, 394, 398, 415, 434, 448, 533,	'Critical infrastructure' applications should not be mandatorily referred to a DAP for determination because there are other pathways available.	The revised framework removes 'critical infrastructure' from being eligible for DAP determination.
	156	Critical infrastructure should be referred to a DAP where it has statewide impact or affects 2 or more local government areas.	The revised framework removes 'critical infrastructure' from being eligible for DAP determination.
	367, 392, 471, 478, 531,	There are already existing pathways for critical infrastructure	Noted. The revised framework removes 'critical infrastructure' from being eligible for DAP determination.
	50, 351, 471, 491, 517, 522, 542,	'critical infrastructure' needs to be better defined	Noted. The revised framework removes 'critical infrastructure' from being eligible for DAP determination.
Contentious applications	136, 367, 392, 428,	Difficult to determine if an application will be contentious. The concept is ambiguous and is unsuitable for a DAP criteria.	The revised framework retains applications that are contentious as one DAP criterion. Any request to the Minister to refer an application to a DAP under this criterion is required to provide evidence. It is a matter for the Minister to determine if the application satisfies the criterion.
	136, 353, 441,	Support the referral of an application to a DAP where a certain number of representations are received which represents a contentious application with high community interest.	Noted, the revised framework includes, as a DAP criterion, applications that are expected to be, or is, highly contentious.
Perceived bias/conflict of interest	353, 428, 452, 487, 136, 162	Do not support referral to DAP on the basis of the applicant considering there is perceived bias on the part of the Council	The framework retains the consideration of this issue as a DAP criterion as it provides an avenue for an alternate assessment pathway if the applicant can demonstrate that there is a conflict of interest or bias.
	367, 388, 449, 452, 491, 496, 534,	No evidence that perceived bias on the part of the decision makers is a problem. Council has own ways of managing.	Acknowledged however there have been cases where this has occurred.
	441, 478,	In support of referral where there is a real or perceived bias on the part of the planning authority	Noted and criterion retained.
	156, 471,	Suitable for referral where quorum cannot be reached or Councillors express conflict of interest	Noted
	461	Need to establish a process to determine perceived bias.	The framework has been revised to allow the Minister to make this determination.
	173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 193, 207, 208, 209, 210, 214, 215, 216, 218, 221, 223, 224, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 257, 258, 259, 260, 261, 262, 264, 265, 266, 267, 268, 270, 271, 274, 275, 276, 277, 278, 279, 280, 282, 283, 284, 285, 286, 287, 288, 291, 292, 293, 295, 296, 298, 299, 300, 301, 302, 303, 304, 305, 307, 308, 309, 310, 311, 312, 313, 314, 315, 317, 318, 322, 323, 325, 326, 327, 339, 340, 343, 344, 346, 348, 349, 350, 359, 371, 378, 380, 394, 398, 415, 434, 448, 480, 517, 533,	DAPs will increase the perception of bias	The DAPs are to be established by the TPC which is independent from government. The TPC already performs a number of decision-making functions in the RMPS and has well established and tested procedures to manage perceptions of bias and conflicts of interest. DAP decisions will be subject to judicial review of their assessment process which potentially invalidates decisions where natural justice has not been provided.

Complex development applications	353, 364, 367, 388, 392, 517,	Do not support the referral of complex development applications to a DAP	The DAP framework retains this criterion and allows the Minister to be satisfied that it is met. Where a request against this criterion has been made by the applicant, the framework also provides an opportunity for the planning authority to make a submission in response.
	522	In support of complex projects being referred to a DAP.	Noted and as above.
Ministerial referral	353, 364,	Inappropriate for Minister to nominate applications to go to DAP for determination	The Minister is the most appropriate person to resolve any conflict between the planning authority and applicant regarding the referral of an application to the DAP for determination subject to being satisfied that the DAP criteria is met.
	491	Ministerial call in powers may be appropriate in some cases.	Noted
	56,59, 60,61,62, 63,64, 65, 66, 67, 68, 69, 70, 72, 73, 74, 75, 77, 78, 79, 80, 81, 82, 83, 84, 86, 87, 88, 89, 90, 91, 92, 93, 95, 97, 98, 99, 100, 101, 103, 105, 107, 108, 109, 111, 113, 115, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 129, 130, 131, 132, 133, 134, 135, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 157, 158, 159, 160, 161, 164, 165, 167, 168, 169, 170, 190, 195, 197, 199, 200, 201, 202, 203, 204, 205, 206, 211, 213, 217, 219, 220, 222, 225, 263, 272, 289, 294, 306, 316, 319, 320, 321, 324, 329, 330, 332, 334, 335, 336, 337, 338, 342, 345, 356, 357, 360, 361, 362, 365, 368, 369, 370, 372, 373, 377, 379, 381, 383, 384, 387, 389, 390, 395, 399, 400, 401, 403, 404, 405, 406, 407, 409, 412, 413, 414, 416, 417, 419, 421, 422, 423, 426, 429, 430, 431, 432, 433, 435, 436, 438, 440, 442, 443, 444, 445, 446, 450, 455, 456, 457, 460, 466, 468, 469, 472, 473, 474, 475, 476, 483, 484, 485, 486, 489, 490, 492, 494, 495, 497, 498, 499, 501, 503, 505, 508, 509, 510, 512, 513, 514, 515, 518, 520, 523, 526, 529, 530, 536, 537, 538, 539, 540,	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.	The Ministerial powers only relate to a request by the applicant or the planning authority to refer the application to a DAP. The Minister has no role in determining the application or influencing the outcome of the assessment which is undertaken against the same planning provisions.
Council applications	136, 156, 194, 351, 353, 392, 441, 452, 462, 471, 478, 491, 517, 524, 534	Support for referral of applications where Council is the applicant	Noted and retained should Council wish to use it subject to a \$1M value threshold.
	388, 428, 439	Council can manage the assessment of its own applications.	Agree, council has been successfully managing the assessment of its own applications. The framework provides an option for council to make a request to the Minister for its application to enter the DAP process.
	367	Council applications are assessed by an independent planning consultant.	Noted. As above, the framework provides another option for council should it choose to use it.
Developments over certain values	391, 449, 452, 461,	Need to clarify value amount of application being referred.	Noted and value thresholds have been clarified.
	136, 156, 262, 353, 364, 367, 459, 462, 471, 487, 517, 535	Do not support the criteria for applications over certain values being referred to DAP for determination because they are not always problematic.	Noted. The revised framework provides an option for these types of applications to proceed to a DAP for determination.
	351	\$5M threshold for non-metropolitan municipalities is too high and should be reduced to \$1Million for discretionary DAP referral.	The DAP criteria value thresholds are considered reasonable and can be modified if needed in the future.
	522, 542,	Further consultation required for mandatory referral to a DAP based on the value of the application.	Noted. The draft Bill will include proposed values thresholds which will undergo further consultation.

	463, 491, 511,	Support for DAP referral where a certain value is exceeded.	Noted and retained
3.4 Resolving issues associates with request for further information			
	136, 439, 517,	Does not support the DAP reviewing Council's request for further information	<p>The TPC already has this review function under s40V for s40T permits.</p> <p>The framework has been revised so the DAP coordinates the assessment process. This involves referring the application to the planning authority for advice on how the proposed use and development might impact council's infrastructure and any matters under the <i>Local Government (Building and Miscellaneous Provisions) Act 1993</i> if the application is for subdivision.</p> <p>The DAP is required to review the planning authority's request for further information to ensure it is appropriate and the DAP has the information it needs to assess the application.</p>
	522	In support of the DAP reviewing Council's further information request.	Noted and consistent with revised framework
	50, 439, 471,	Appeals against request for additional information should be made to TasCAT.	With the revised framework now being coordinated by the DAP, it can manage any disputes over further information requests.
	491	Because the DAP is the decision maker, it should be requesting the further information.	Supported. The revised framework provides for the planning authority to request information relating to the impact of the proposed use and development on council's infrastructure and the DAP to request any further information relating to the assessment against the planning provisions.
	353	Does the framework provide a timeframe for the planning authority to advise the applicant that the further information request has not been satisfied?	No, it did not. The revised framework allows 7 days.
	452	No evidence to suggest that requests for further information have been misused.	Submissions have been made to the contrary.
	418	Unclear how DAPs will deal with any additional information that they require.	The revised framework allows DAPs to request additional information.
	353	Will the application lapse if further information is not satisfied within a certain time?	The framework does not specify. This will be resolved when detailed drafting commences.
	23, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 193, 207, 208, 209, 210, 214, 215, 216, 218, 221, 223, 224, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 257, 258, 259, 260, 261, 264, 265, 266, 267, 268, 270, 271, 273, 274, 275, 276, 277, 278, 279, 280, 282, 283, 284, 285, 286, 287, 288, 291, 292, 293, 295, 296, 298, 299, 300, 301, 302, 303, 304, 305, 307, 308, 309, 310, 311, 312, 313, 314, 315, 317, 318, 322, 323, 325, 326, 327, 339, 340, 343, 344, 346, 348, 349, 350, 353, 359, 371, 378, 380, 394, 398, 415, 434, 448, 480, 488, 496, 517, 533,	Time delays associated with requests for additional information are the fault of developers and not planning authorities.	Agree that this is often the case.

	353	Greater understanding of the Tasmanian Planning Scheme application requirements would improve response times for requests for additional information.	Noted.
	366, 524	Request for further information section of the DAP framework could result in requests for peripheral or superfluous documents and reports that will slow down assessment .	The proposed framework does not alter the scope of what can be requested as additional information.
	482	The current stop the clock requirements for requests for further information causes major delays in obtaining approval for social and affordable housing projects.	This is unavoidable. The decision maker must have the information it needs from the applicant to determine the application.
	482, 524	The DAP framework fails to address time delays caused by requests for further information	As above, the decision maker must have all the relevant information it needs to undertake its assessment and determine the application.
	194, 428, 441, 478, 511,	Support of the DAP framework proposed review of request for additional information.	Noted.
	194, 428,	Support for requests for further information to be made at multiple times up to the DAP's hearing	This would be considered unreasonable to the applicant and would serve to frustrate streamlined assessment and approval processes.
	194, 388	Suggest suspension of statutory time frame for determining development applications between 20 th Dec – 10 January.	Outside the scope of this project.
	367, 376, 471,	Existing provisions around managing disputes over further information requests are sufficient and don't need to be duplicated by this framework.	Noted. With the revised framework now being coordinated by the DAP, it can manage any disputes over further information requests.
External referrals	116	Retain existing referral provisions under LUPAA to make sure DAP determined applications have input from regulatory authorities during the assessment process.	Supported.
	353	Need to consider timeframes for referrals	Agree. Considered and modified accordingly
	471	The framework does not adequately describe how the DAP process would align with referrals and approvals required under Acts outside of LUPA.	Noted and accepted that the proposed framework did not adequately specify how referrals and approvals under other Acts would align. The revised framework excludes applications that are subject to Environmental Protection Authority referral under the <i>Environmental Management and Pollution Control Act 1994</i> or subject to the <i>Cultural Heritage Act 1995</i>
3.5 Incorporating local knowledge into the DAP framework			
	353, 388, 392, 428, 471, 535,	Support council maintaining carriage of pre-application, lodgement and validity checks, application review, request for information and preliminary assessment of development application.	Noted, however many did not support the planning authority undertaking these functions and not being the final decision maker. The revised framework has the DAP referring the application to the planning authority for advice on certain matters. The planning authority can make a representation and is a party to the process so will be involved in any hearings.
	367, 459,	Support for locally held hearings.	Noted and supported.
	351	In support of the planning authority's advisory role in the framework as it ensures local knowledge is included in the decision making process.	Noted and supported.

	55, 58, 76,96, 162, 171, 191, 212, 290, 321, 341, 347, 352, 358, 362, 376, 389, 408, 410, 411, 424, 427, 507, 516,	The framework will allow developers to bypass councils and communities completely, creating no or limited avenue for community engagement.	The framework does not bypass Councils or communities. Councils provide input through advising the DAP, making a representation and participating in public hearings. The community's involvement occurs through the same consultation period as provided currently and participating in public hearings.
3.6 Timeframes for DAP framework processes			
	353, 459, 478, 517,	Exhibition should occur before Council makes its recommended decision.	The Position Paper framework was based on the 40T process whereby the recommendation report and any draft permit is advertised so all parties are privy to the information before it goes to the TPC (or DAP) for hearing and determination. This also allows the conditions to be reviewed by the applicant and any concerns aired at the hearing. The revised framework has the DAP exhibiting its draft report and recommended decision. This is an important process for natural justice, especially when, under the proposed framework, the DAP decision is not subject to appeal.
	511	DAP should undertake exhibition of application and not council.	The revised framework has the DAP undertaking exhibition of the application, referral advice, draft assessment report and any permit if the DAP is recommending approval.
	351, 461, 517, 524	Acknowledgment that the DAP framework including the merging of the advisory role of the planning authority, hearings to enable stakeholder to address the panel and DAP determination will take longer than the existing 42 days.	Noted, it is unavoidable that the DAP process will take longer than the existing 42 day statutory timeframe.
	351, 367, 462,	Difficulty for planning authority to refer a development application to a DAP in the 7 days provided in the proposed framework.	Noted. The revised framework provides for eligible applications to be lodged directly with the TPC/DAP removing the need for the planning authority to refer it to a DAP unless the planning authority agrees to the referral or is directed by the Minister to refer the application to the DAP..
	388, 461, 471, 478,	Clarification is required on many of the timeframes specified in the DAP framework and many of them are unreasonable.	Noted. The revised framework seeks to specify realistic timeframes.
	532	The practicalities of 7 day timeframe on referral decisions, will be heavily influenced by how any legislative instrument is drafted, as consideration needs to be given to issues of DAP appointments and provision of further information.	The decision to refer has been removed and replaced with an option for applications to be lodged directly with the TPC/DAP who then coordinates referral to entities and the planning authority and coordinates further information requests.
	532	The 35 day timeframe for a DAP to make decisions would be difficult to achieve given the time taken to arrange hearings.	Noted. The framework has been revised to allow the exhibition notice to include notification of a hearing date not less than 10 days from the close of exhibition.
	418, 428, 462, 471, 478, 522	Unrealistic timeframes for involvement of parties in hearings and decision processes.	The revised framework provides access to all application material, including representations, for a minimum of one week prior to the hearing. This is considered adequate time to prepare for the hearing.
	452	Suggests DAP referral request is made and processed prior to lodgement and therefore does not count toward the statutory timeframe.	The framework has been revised to make it clearer what applications are eligible for DAP determination.
	388, 461,	Restricting timeframes for assessment can lead to sub-optimal outcomes.	Noted however there also need to be some certainty for the timely delivery of an outcome for the applicant.

	452	Suggest stop clock when request for DAP referral is being processed.	Agree and supported.
	482, 511, 524,	Timeframes are too long and should be shortened.	The revised framework for social and affordable housing has been reduced by 7 days. Timeframes for other prescribed purposes are longer because of the breadth of applications allowed by the DAP criteria. Given the process removes appeal rights, it is an unrealistic expectation that the DAP assessment processes can be undertaken in a shorter timeframe while still achieving procedural fairness and allowing natural justice in the decision making process.
	367, 459, 482	The process increases the assessment timeframe and therefore provides no benefit.	The purpose of the framework is not necessarily about speeding up the process but rather providing greater certainty in the outcome and that it will be delivered within a reasonable timeframe. However, for social housing projects, where there are examples of applications being rejected initially but approved on appeal, the DAP process will provide a much quicker outcome.
	136	Proposed DAP framework duplicates the assessment process and requires council staff to undertake assessment within 21 days	The framework proposed 35 days for council to make a recommendation to the DAP. The revised framework removes the duplication of assessments between the planning authority and DAP.
	353	The time taken for a DAP to determine that a referral is not valid should not count towards the s57 period.	Noted, although the issue is now redundant as the framework has been modified.
	50	There should be longer timeframes for consultation on more complex development applications.	The consultation period is considered appropriate.
	353, 388, 461, 462,	Timeframes for council to undertake preliminary assessment are too short.	The revised framework does not require the planning authority to undertake a preliminary assessment. The planning authority has 28 days from being referred the application to provide advice to the DAP.
	366	Are statutory assessment timeframes subject to 'stop the clock' associated with requests for further information?	Yes.
3.7 Proposed removal of merit appeal for DAP determined development applications			
	194, 198, 262, 353, 367, 391, 458, 459, 461, 476, 477, 487, 488,	DAP decisions should be subject to TasCAT appeals	Refer to section 4.4 of the Report on Consultation
	1, 23, 37, 50, 55, 156, 162, 163, 198, 212, 333, 341, 364, 385, 408, 411, 424, 451, 461, 467, 502, 507,	Opposition to removal of merit appeals	Refer to section 4.4 of the Report on Consultation

	56,59, 60, 61, 62,63,64, 65, 66, 67, 68, 69, 70, 72, 73, 74, 75, 77, 78, 79, 80, 81, 82, 83, 84, 86, 87, 88, 89, 90, 91, 92, 93, 95, 97, 98, 99, 100, 101, 103, 105, 107, 108, 109, 110, 111, 112, 113, 115, 117, 118, 119, 120, 122, 123, 124, 125, 126, 128, 129, 130, 131, 132, 133, 134, 135, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 164, 165, 167, 168, 169, 170, 190, 195, 197, 199, 200, 201, 202, 203, 204, 205, 206, 211, 213, 217, 219, 220, 222, 225, 263, 272, 281, 289, 294, 306, 316, 319, 320, 321, 324, 329, 330, 332, 334, 335, 336, 337, 338, 342, 345, 356, 357, 360, 361, 362, 363, 365, 368, 369, 370, 372, 373, 377, 379, 381, 383, 384, 387, 389, 390, 395, 399, 400, 401, 403, 404, 405, 406, 407, 409, 412, 413, 414, 416, 417, 419, 420, 421, 422, 423, 426, 429, 430, 431, 432, 433, 435, 436, 438, 440, 442, 443, 444, 445, 446, 450, 453, 454, 455, 457, 460, 466, 468, 469, 472, 473, 474, 475, 476, 479, 483, 484, 485, 486, 489, 490, 492, 494, 495, 496, 497, 498, 501, 503, 504, 505, 508, 509, 510, 512, 513, 514, 515, 518, 520, 523, 525, 526, 529, 530, 536, 537, 538, 539, 540,	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.	Refer to section 4.4 of the Report on Consultation
	198, 388, 458, 461, 462, 491,	DAP hearing is not equivalent to a merits review by TasCAT.	Refer to section 4.4 of the Report on Consultation
	198, 461	Under administrative law, it is impossible for a DAP to be both an original decision maker and to conduct a merit review of its own decision	Acknowledged however there are precedents set in other approval pathways under the Act, for example Major Projects and section 40T combined amendment and development application, which provide the same singular assessment process. While it is not a merit review of its own decision, the assessment process allows third parties be heard and participate. The DAP assessment process is still subject to judicial review to ensure that natural justice has been afforded to all parties.
	476	<p>NSW Independent Commission Against Corruption recommends expanding merit based planning appeals because they are:</p> <ul style="list-style-type: none"> – An important check on executive government; – Third party appeal rights have the potential to deter corrupt approaches by minimising the chance that any favouritism sought will succeed; and <p>The absence of third party appeals creates an opportunity for corrupt conduct to occur, as an important disincentive for corrupt decision-making is absent from the planning system.</p>	<p>While the NSW Independent Commission Against Corruption might have reached this conclusion, many of the planning decisions made in NSW still do not allow a merit appeal or do not allow third party appeals.</p> <p>The DAP does not propose that decisions will be made by executive government but by independent experts appointed by the independent Tasmanian Planning Commission.</p>

	56,59, 60,61, 62,63,64, 65, 66, 67, 68, 69, 70, 72, 73, 74, 75, 77, 78, 79, 80, 81, 82, 83, 84, 86, 87, 88, 89, 90, 91, 92, 93, 95, 97, 98, 99, 100, 101, 103, 105, 107, 108, 109, 111, 113, 115, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 129, 130, 131, 132, 133, 134, 135, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 157, 158, 159, 160, 161, 164, 165, 167, 168, 169, 170, 190, 195, 197, 199, 200, 201, 202, 203, 204, 205, 206, 211, 213, 217, 219, 220, 222, 225, 263, 269,272, 281, 289, 294, 306, 316, 319, 320, 321, 324, 329, 330, 332, 334, 335, 336, 337, 338, 342, 345, 356, 357, 360, 361, 362, 365, 368, 369, 370, 372, 373, 377, 379, 381, 383, 384, 387, 389, 390, 395, 399, 400, 401, 403, 404, 405, 406, 407, 409, 412, 413, 414, 416, 417, 419, 421, 422, 423, 426, 429, 430, 431, 432, 433, 435, 436, 438, 440, 442, 443, 444, 445, 446, 450, 455, 457, 460, 466, 468, 469, 472, 473, 474, 475, 476, 483, 484, 485, 486, 489, 490, 492, 494, 495, 496, 497, 498, 501, 503, 504, 505, 508, 509, 510, 512, 513, 514, 515, 518, 520, 523, 525, 526, 527, 529, 530, 536, 537, 538, 539, 540,	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.	As above
	541	Removal of appeal pathways will heighten community suspicions and foster cynical attitudes to development proposals assessed under the DAP process.	This has not been the case for other assessment processes conducted by the TPC who's decisions are typically not subject to merit appeal.
	194, 428, 441, 511, 535	DAP decision should not be subject to TasCAT appeal where a public hearing process has occurred.	This was the position taken in the proposed framework similar to the Major Projects and combined amendment and development application pathways.
	482	Support for decisions not being subject to third party appeal rights however, the applicant should be able to appeal the decision of the DAP or any imposed conditions, to TasCAT.	Not supported as it unfairly favours the developer.
3.8 Roles of the planning authority post approval			
	50, 194, 376, 388, 428, 471, 477, 482, 488, 491, 511, 517, 532, 535	Administration and enforcement of DAP determined permits should be undertaken by the planning authority.	Noted. This is consistent with the proposed framework.
	351, 418,	Successful enforcement of DAP permits by the planning authority requires clear communication between DAP and planning authority.	Noted and agreed.
	353	Questions the value of 1 week delay to permit coming into effect if there is not right of appeal.	Supported. The framework has been modified to state that the permit becomes effective on the day it is issued.
	353	TPC's expertise does not include compliance considerations which presents issues of practicality and resourcing around enforcement	Noted, it is not the role of the TPC. The planning authority can alert the DAP to any compliance considerations during the assessment process and, where appropriate, advise the DAP on permit conditions.
	351, 367, 462, 478,	Risk of overburdening planning authorities with enforcing DAP permits.	The council would have to enforce the permit if it made the decision. Currently, the council has a legal obligation to enforce permits issues by TasCAT or by the TPC as part of a combined amendment and development application process or a Major Project assessment A council as the planning authority is better placed to enforce a planning permit irrespective of the assessment process it has resulted from.

	452	Cost of compliance with a permit can be high and should not be borne by Council if they did not issue the permit. Compliance costs should be met by the developer.	As above, the council would have to enforce the permit if it made the decision. This is one of the roles of the planning authority.
	418, 194, 353	DAP should be involved in amendments to permits.	The proposed framework allows council to determine minor amendments to DAP permits. By their very nature they are minor and there are clear criteria in the Act by which to assess them. There is no need to involve a DAP to determine a minor amendment. A more significant amendment would be treated as a new application and as such may meet the prescribed criteria to be assessed under the DAP process.
	50, 376, 388, 471, 461,	Requests for minor amendments to DAP determined permits should be processed by the planning authority	Supported.
3.9 Resourcing issues and development application fees for DAP pathway			
	194	Council should be able to charge fees for applications	Supported. Fees will be prescribed in regulations.
	353, 367, 471, 478,	DAP applications would take additional time to consider, process and attend hearings. Additional workload for Council.	The revised framework removes the assessment function from the planning authority but retains certain involvement. The workload on a council is anticipated to be less than conducting a full assessment and participating in any further appeal to TasCAT.
	452	What viable fee structures, such as a cost recovery model similar to the EPA, could be used, particularly if DAPs rely heavily on existing resources as appears to be intended.	The framework has been revised to reduce the pressure on council. The DAP will refer the application to the planning authority who is only required to comment on how the application impacts its infrastructure and any other matters it may wish to raise. The framework proposes that fees will be prescribed. Further consultation will be undertaken to determine what those fees will be.
	353, 471, 531, 534	DAP hearings would increase workload of council officers	The full assessment of the application is now undertaken by the DAP. The planning authority is only required to advise on the impact of the application on council's infrastructure, thereby limiting the workload to only those matters. Planning authorities can comment on other matters as they see fit.
	482, 524, 531, 534	The framework does not address the resourcing issues in councils and places further strain on the limited pool of planning professionals by requiring planners to conduct assessments during both phases of the process.	The revised framework removes the requirement for council officers to undertake the assessment and any future involvement in an appeal to TasCAT. The process reduces the load on expert planners by consolidating all input into a single process and hearing.
	452	Where will the planning resources come from given the shortage of qualified planners?	The planning system will not require more planners to operate the proposed framework. See previous comment.
	534, 541	Government resources would be better spent addressing other issues in the planning system.	The Government considers that addressing planning issues connected with housing supply is a priority.
	428, 461, 471, 531	There is a lack of clarity around the DAP framework including the potential additional costs to council	Noted however the framework presented in the Position Paper was intended to provoke discussion. The revised framework has tried to limit additional costs to councils.

	482	Social and affordable housing applications should be exempt from DAP processing fees.	For equity reasons this is not supported. The framework proposes that fees will be prescribed. Further consultation will be undertaken to determine what those fees will be.
3.10 Issues associated with the composition of DAP and			
	353, 418	If panels are to prepare permits then they will require contemporary statutory experience.	Agree. The TPC will consider this when they establish DAPs. The TPC's list of delegates is maintained to reflect the range of work that the legislative framework requires of it and can be expanded to include additional experienced council planners.
	461	Planning authority should be represented on the DAP.	The framework does not specifically exclude a member of a planning authority being part of a DAP but inclusion of an elected councillor would not be in line with the DAP proposal to separate local politics from planning decisions. The TPC may consider appointing a council planner when they establish a DAP.
	391	The DAP must be comprised of planning experts and representative of the community	The framework relies on the establishment of panels through the TPC's delegation processes. The framework does not propose to interfere or specify the types of expertise needed in a panel because the TPC will determine that on a case-by-case basis. The DAP process is based on independent experts assessing a proposal not representatives of certain communities. This is the same basis as TasCAT determinations of appeals.
	262	Lack of detail in the Position Paper on what level of expertise the DAP will have.	As above – the framework leaves that to the TPC to determine consistent with how it establishes panels to perform other functions under the Act.
	396	DAP membership should include a heritage expert.	The TPC may wish to include a heritage expert on the DAP if an application involves heritage issues.
	366	How is the DAP formed and with what expertise?	As above, the DAP is established by the TPC considering the expertise that is relevant to the particular development application being assessed.
	418	Greater representation of local and regional expertise is required in the reporting and membership of the DAP.	As above – the TPC will determine the range of expertise of the panel in response to the nature of the matter being determined.
	353	Queries appropriateness of pre-lodgement discussions with the TPC regarding DAP referral.	The proposed framework does not propose pre-lodgement discussion regarding DAP referral with the TPC. Any such discussions would be at the discretion of the TPC which has established procedures for managing potential for bias or conflict of interest, its anticipated that it would confine discussions to matters of process. Pre lodgement discussions with the council are encouraged to understand the planning issues as set out in the planning scheme.
	136, 163	Questions whether the TPC has the technical expertise or resources to undertake assessment.	The TPC has access to a wide range of delegates and planning advisers with the necessary technical expertise.

	198, 212, 333, 341, 347, 352, 355, 362, 364, 385, 389, 397, 408, 424, 451, 458, 477, 481, 487, 488,	Fears TPC delegates are not independent from government.	The TPC is an independent statutory authority that performs numerous roles and functions under the RMPS. The Minister does not appoint the delegates that the TPC appoints to its register or those selected for any specific assessment.
	354, 408, 424, 427, 439, 451, 465, 512, 527	The DAP framework will increase the public perception that decisions are being made by panel members chosen by government.	The TPC is an independent statutory authority that performs numerous roles and functions under the RMPS. The Minister does not appoint the delegates that the TPC appoints to its register or those selected for any specific assessment.
	376, 507,	TPC should appoint panel without political interference.	Agreed. The TPC does appoint panel members, and performs all its other functions, free from political interference.
	452	Will a DAP be part of the TPC, TASCAT, agency or independent statutory authority?	The DAP will be appointed by the TPC as is the case for all the TPC assessments.
	56,59, 60, 61,62,63,64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 77, 78, 79, 80, 81, 82, 83, 84, 86, 87, 88, 89, 90, 91, 92, 93, 95, 97, 98, 99, 100, 101, 103, 105, 107, 108, 109, 111, 113, 115, 117, 118, 119, 120, 122, 123, 124, 125, 126, 129, 130, 131, 132, 133, 134, 135, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 157, 158, 159, 160, 161, 164, 165, 166, 167, 168, 169, 170, 190, 195, 197, 199, 200, 201, 202, 203, 204, 205, 206, 211, 213, 217, 219, 220, 222, 225, 256, 263, 272, 289, 294, 306, 316, 319, 320, 321, 324, 329, 330, 332, 334, 335, 336, 337, 338, 342, 345, 352, 356, 360, 361, 362, 365, 368, 369, 370, 372, 373, 377, 379, 381, 383, 384, 387, 389, 390, 395, 399, 400, 401, 403, 404, 405, 406, 407, 409, 412, 413, 414, 416, 417, 419, 421, 422, 423, 425, 426, 429, 430, 431, 432, 433, 435, 436, 438, 440, 442, 443, 444, 445, 446, 450, 455, 456, 457, 460, 465, 466, 468, 469, 472, 473, 474, 475, 476, 479, 483, 484, 485, 486, 489, 490, 492, 494, 495, 497, 498, 501, 503, 505, 509, 510, 512, 513, 514, 515, 518, 520, 523, 526, 529, 530, 536, 537, 538, 539, 540,	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.	NSW has different system for the appointment of panels. See previous comments about the TPC delegates.
4. Proposed Ministerial role to direct LPS amendment and general intervention in planning			
	5,6, 7,8,12,14,15, 16, 17, 19, 23, 27, 28, 31, 33, 35, 37, 41, 44, 45, 50, 51, 53,54, 57, 104, 106, 156, 162, 163, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 193, 207, 208, 209, 210, 214, 215, 216, 218, 221, 223, 224, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 257, 258, 259, 260, 261, 264, 265, 266, 267, 268, 270, 271, 273, 274, 275, 276, 277, 278, 279, 280, 282, 283, 284, 285, 286, 287, 288, 291, 292, 293, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 307, 308, 309, 310, 311, 312, 313, 314, 315, 317, 318, 322, 323, 325, 326, 327, 333, 339, 340, 341, 343, 344, 346, 348, 349, 350, 359, 367, 378, 380, 394, 398, 410, 415, 418, 434, 439, 448, 471, 480, 488, 519, 533, 534, 136, 163, 376, 439, 459, 461, 462, 463, 477, 491, 517,	The Minister should not have additional power to modify the local planning scheme.	The Position Paper did not suggest that the Minister would have the power to modify local planning schemes. For further discussion on this matter refer to section 5 of the Report on Consultation.

56,59, 60, 61, 62,63,64, 65, 66, 67, 68, 69, 70, 72, 73, 74, 75, 77, 78, 79, 80, 81, 82, 83, 84, 86, 87, 88, 89, 90, 91, 92, 93, 95, 97, 98, 99, 100, 101, 103, 105, 107, 108, 109, 110, 111, 115, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 128, 129, 130, 131, 132, 133, 134, 135, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 157, 158, 159, 160, 161, 164, 165, 167, 168, 169, 170, 190, 195, 197, 199, 200, 201, 202, 203, 204, 205, 206, 211, 213, 217, 219, 220, 222, 225, 263, 269, 272, 289, 294, 306, 316, 319, 320, 321, 324, 329, 330, 332, 334, 335, 336, 337, 338, 342, 345, 356, 357, 360, 361, 362, 363, 365, 368, 369, 370, 372, 373, 377, 379, 381, 383, 384, 387, 389, 390, 395, 399, 400, 401, 403, 404, 405, 406, 407, 409, 412, 413, 414, 416, 417, 419, 421, 422, 423, 426, 429, 430, 431, 432, 433, 435, 436, 438, 440, 442, 443, 444, 445, 446, 450, 453, 454, 455, 457, 460, 468, 469, 472, 473, 474, 475, 476, 479, 483, 484, 485, 489, 490, 492, 494, 495, 497, 498, 501, 502, 503, 505, 508, 509, 510, 512, 513, 514, 515, 518, 520, 523, 525, 526, 529, 530, 536, 537, 538, 539, 540,	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.	As above – The model proposes that Ministerial intervention can only occur when the TPC's review has determined to direct Council to reconsider its rejection of the application to amend the planning scheme. The proposed Ministerial direction is only that the Council should commence the assessment process by preparing a draft amendment that is then assessed by the TPC including public exhibition. The Minister has no involvement in the assessment and determination and simply allows a proposal to be considered by the public and the independent TPC For further discussion on this matter refer to section 5 of the Report on Consultation.
198	Ministerial power to override council rejection of a rezoning application based on a finding of Council bias could be procedurally unfair.	The model proposes that Ministerial intervention can only occur when the TPC's review has determined to direct Council to reconsider its rejection of the application to amend the planning scheme. Council has the opportunity to review its decision before the Minister can intervene, allowing procedural fairness. The TPC provides an independent review of Council's decision and the Minister must consider that review in determining to direct that the amendment be assessed.. The Minister also provides council with the opportunity to provide reasons why the Minister should not direct it to prepare a draft amendment for assessment by the TPC.
353	Only in support of Ministerial direction to prepare a draft amendment to an LPS if it is demonstrated that the planning authority made an error of judgment and the LPS criteria can be met.	Noted and agreed.
194, 428, 449, 478, 535	Support Minister directing planning authority to prepare a draft amendment to their LPS in some circumstances.	Noted and agreed.
461	Where the Minister has required the planning authority to initiate an amendment, the State or Minister must be responsible for processing and assessment of the amendment.	The assessment and determination of a draft amendment to a local planning scheme is always undertaken by the TPC. The Minister's role is simply to overcome the block where a council determines not to start an amendment process.
471	Suggestion that the Act could be amended to allow for the TPC do undertake a merit review of council's decision in not initiating an amendment to their LPS and direct Council to commence the amendment process.	The Act does allow for the TPC to review a council's decision but that is not a full merit review and there is no power to direct it to prepare an amendment where the TPC has directed reconsideration of the draft amendment. The proposed legislative amendment provides for this process. It is more appropriate for the Minister to initiate the process than the TPC because it might pre-empt a proper merit review by the TPC later.
428, 531, 535,	Support Ministerial direction where the TPC has reviewed the Council's decision and determined an error has been made.	Noted and agreed.

5. Other issues raised			
	382,	State Government is undertaking concurrent policy reviews and introducing planning reform. Fear that these projects are being done in isolation from each other resulting in inconsistent approaches being developed.	Noted that there are concurrent planning reforms and reviews being undertaken in the planning system. The proposal utilises existing processes and bodies rather than creating new ones. It is consistent with other DAP processes that the TPC administers.
	56,59, 60, 61, 62,63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 77, 78, 79, 80, 81, 82, 83, 84, 86, 87, 88, 89, 90, 91, 92, 93, 95, 97, 98, 99, 100, 101, 103, 105, 107, 108, 109, 112, 113, 115, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 129, 130, 131, 132, 133, 134, 135, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 155, 157, 158, 159, 160, 161, 164, 165, 167, 168, 169, 170, 190, 195, 197, 199, 200, 201, 202, 203, 204, 205, 206, 211, 213, 217, 219, 220, 222, 225, 256, 263, 272, 289, 294, 306, 313, 316, 319, 320, 321, 324, 329, 330, 334, 335,336, 337, 338, 342, 345, 352, 356, 360, 361, 362, 365, 368, 369, 370, 372, 373, 377, 379, 381, 383, 384, 386, 387, 390, 395, 399, 400, 401, 403, 404, 405, 406, 407, 409, 411, 412, 413, 414, 416, 417, 419, 422, 423, 425, 426, 429, 430, 431, 432, 433, 435, 436, 438, 440, 442, 443, 444, 445, 446, 450, 451, 453, 455, 460, 468, 472, 473, 474, 475, 476, 483, 484, 485, 486, 489, 490, 492, 493, 494, 495, 497, 498, 501, 503, 505, 509, 510, 512, 513, 514, 515, 518, 520, 523, 525, 526, 529, 530, 536, 537, 538, 539, 540,	prohibit property developers from making donations to political parties, enhance transparency and efficiency in the administration of the <i>Right to Information Act 2009</i> , and create a strong anti-corruption watchdog.	Outside the scope of the project. As the Minister does not have any powers to approve or reject either a development or a scheme amendment, there is no capacity for decisions to be influenced by political donations. The DAP proposal removes decisions from elected councillors who can be subject to conflicts of interest.



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