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From: Annette Dano < Tuesday, 12 November 2024
Sent: 11:23 AM
To: yoursay.planning@dpac.tas.gov.au
Subject: Scrap the DAP

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

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

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

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

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

- **Removes merit-based planning appeal rights** via the planning tribunal on all the issues the community cares about like impacts on biodiversity, height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and so much more. TASCAT review of government decisions is an essential part of the rule of law and a democratic system of government based on '*checks and balances*'.
- **Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal.**
- **Developments will only be appealable to the Supreme Court based on a point of law or process which have a narrow focus and are prohibitively expensive.**

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

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

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

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

Say yes to a healthy democracy

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

Yours sincerely,

Annette Dano

Draft LUPA Amendment (Development Assessment Panels) Bill 2024

Submission from David and Gladys Seymour

We are seriously concerned about the proposal to move development assessments from the current democratic procedure to the implementation of the DAP process for the following reasons:

- State appointed planning panels, conducted by the Tasmanian Planning Commission, will decide on development applications - not the elected local council representatives.
- The Planning Minister can take a development assessment away from Local Councils mid-way through the development assessment process if the developer is concerned that their proposal is likely to be rejected, regardless of the grounds for refusal.
- The Bill currently out for public comment will provide a new fast-tracked DAP process to allow for developments on both private and public land, including World Heritage Areas, National Parks, and Reserves.
- The Planning Minister would have new powers to instruct councils to make planning scheme changes, when a local council has rejected an application in its municipality. If an assessment is not heading in a favourable way for the developer, they can abandon the standard local council process at any time and have a development assessed by the government appointed planning panel. The Minister will be able to direct any development application to be decided by a TPC panel, with the only requirement being that the Minister holds the relevant subjective belief, regardless of the objective evidence base.
- DAPs are hand-picked, lack detailed selection criteria and objective processes, are inconsistent with the principles of open justice as they do not hold public hearings, and lack capacity to manage conflicts of interest. Furthermore, DAPs do not have to provide written reasons for their decisions.
- The proposed Bill removes merit-based planning appeal rights via the planning tribunal. The TASCAT review of government decisions is an essential part of the rule of law and a democratic system of government based on ‘checks and balances’.
- Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal.
- Developments will only be appealable to the Supreme Court based on a point of law or process, which have a narrow focus and are prohibitively expensive.
- Removing merits-based planning appeals has the potential to reduce good planning outcomes. One of the important roles for merits review is to create a second opportunity to ensure that primary decision-makers have appropriately balanced common values.
- Increased ministerial power over the planning system increases both the politicisation of planning and the risk of corrupt decisions.

- Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest in Australia when it comes to determining development applications.
- Transparency, independence and public participation in decision-making are critical for a healthy democracy, and the proposed changes to the assessment of development applications place the process into the political arena, not into the hands of those best representing their local community.

David and Gladys Seymour

12/11/2024

From: Hunter Cole <>
Sent: Tuesday, 12 November 2024 11:13 AM
To: yoursay.planning@dpac.tas.gov.au
Cc:
Subject: #ScrapTheDAP – say no to planning panels/say yes to a healthy democracy

Dear All,I hope this email finds you well. I'm writing to inform you of my opposition to the proposed Development Assessment Panels (DAPs). As a resident of Tasmania who cares deeply about our community and environment, I feel compelled to share my thoughts on this critical issue.First and foremost, I'm worried that these changes could significantly undermine local democracy and community input. The idea of state-appointed panels making decisions that bypass our elected local council representatives doesn't sit right with me. It feels like we're potentially handing over control of our neighborhoods to developers who may not have our best interests at heart.Moreover, the lack of transparency in the DAP process is alarming. The fact that these panels won't be required to hold public hearings or provide written reasons for their decisions seems to go against the principles of open and accountable governance that we value in Tasmania.I'm also concerned about the potential loss of our merit-based planning appeal rights. This change could make it much harder for community members to challenge decisions that affect our local environment, streetscapes, and quality of life. The thought of only being able to appeal to the Supreme Court on narrow legal grounds is both daunting and potentially out of reach for many Tasmanians.Furthermore, the increased ministerial power over the planning system raises red flags about the potential for political influence in planning decisions. We need a system that prioritizes good planning outcomes and community needs, not one that could be swayed by

political considerations.Instead of these proposed changes, I believe we should be focusing on strengthening our existing local government system. We could invest in providing more resources and expertise to our councils, enhancing community participation, and improving current planning processes. This approach would help protect local jobs, keep development application costs down, and ensure that decisions are made by those who understand our communities best.I urge you to reconsider these proposals and instead work towards a planning system that prioritizes transparency, independence, accountability, and meaningful public participation. Let's keep our decision-making local and preserve the right to appeal unfair decisions.Thank you for taking the time to consider my views on this important matter. I look forward to hearing your thoughts and would be happy to discuss this further if you have any questions.Best regards,
Hunter Cole

Save Democracy and Scrap the DAP

We are writing to express our emphatic objection to the proposed Development Application Panels which are intended to diminish public participation in assessing development proposals.

We list the obvious reasons for dismissing this proposal which include the well –recognised and obvious objections which incorporate:

- Overriding the normal democratic processes
- Lack of independence
- Demonstrably pro development bias
- Potential to favour large scale development so often supported with resources to ensure approvals
- Without reflecting on the integrity of the current members of the TPC, there is the very obvious potential for corruption and conflict of interests
- No justifiable rationale or public demand for this proposed changes
- Adequate and suitable protection procedures for development
- Political intervention to override the democratic rights.

Our submission focusses on the last point with a specific example that epitomises so many of the above points. The contentious proposed over development of Droughty Point as submitted by the US based developers in a manner based on intensive US style development in conflict with Tasmanian way of life, disregard of skyline, destruction of native bushland, elimination of wildlife habitat, creating an unworkable and unsafe transport network, lack of provision of suitable and usable public open space (not 'cliff' faces as proposed), destruction of the visual appearance of the iconic headlands, disregarding the steep contours and adverse consequences, disregard for endangered hand fish breeding grounds, creating a network of visually offensive and unnecessary roads over the hilltop. All of this in the name of generating massive profits.

Objections to the contentious issues were expressed emphatically over a number of years by different means.

1. A preliminary survey by consultants Niche showed overwhelming opposition to extending the UGB, linking roads to Rokeby, development on the skyline, destruction of native vegetation, over development, inappropriate road network, lack of suitable public reserves plus unsuitability of intensive develop0ment.
2. The developer's consultants own on-line survey was fully consistent with these objections with many more opposed than supported it. These results were removed off line but recall suggests as many as three or four times as many people objected compared to those who supported it. Allowing for support coming from those seeking financial gain then these results are very telling.
3. The Council's own public survey regarding extension of the UGB provided evidence of emphatic opposition with approximately **65% objecting** to extension of the UGB.
4. An extensive public community based survey resulted in more than 5,100 objections to the proposed development with just a hand full of supporters.

5. The co-owner of most of Droughty Pt where this development was proposed expressed publically the unsuitability of this proposal. He is a joint owner and liable for financial gain, but lives on site and has a sound understanding of the inappropriate nature of the proposal.
6. The Council after expensive WA based visits, and thorough review of all matters, soundly rejected the proposal in a 9:3 vote.
7. The developer's own consultants **agreed in writing** (1st Sept 2020) that there was no need to extend the UGB as reasonable development could be implemented without extending the UGB

Nonetheless despite all these evidence based objections, the Minister intervened to override the democratic process and ruled to extend the UGB which was essentially approving the proposal.

In order to assess the rationale for such decision making it is important to reflect on the number of meetings and contact the Minister had with the developers and the influence that resulted. He was no doubt influenced by false statements about being sustainable (destroying thousands of native trees and wildlife habitat), affordable social housing (exclusive expensive suburb prices in the millions) , walkability (walk everywhere, no cars – in winter with children, tradespeople with tools, steep etc.) and all other unbelievable statements.

Whilst it could be argued that this is not the result of a DAP, the intended outcomes from a DAP could be similar to this most recent example whereby the wishes of the community and normal democratic processes are overridden in the quest for excessive profits. (Extending the UGB could potentially increase the return to the developers expressed in hundreds of millions of dollars).

We suggest that invoking DAP's will be most closely aligned with this sort of outcome which will override normal democratic processes and result in inappropriate development based on financial gain rather than community well-being and suitable.

There are adequate provisions to protect the rights of developers and this pro-development provision is not required. We and the majority of the community urge that this undemocratic proposal be rejected.

Geoff and Rosalie Murray

12th Nov 2024

12 November 2024

Department of Premier and Cabinet
GPO Box 123
Hobart TAS 7001
Via email: yoursay.planning@dpac.tas.gov.au

To Whom it May Concern

Re: Draft legislation Development Assessment Panels

The East Coast Alliance Inc. appreciates the opportunity to comment on the Land Use Planning and Approvals Amendment (Development Assessment Panels) Bill 2024, out for public comment until COB Tuesday 12 November 2024.

The East Coast Alliance Inc. (ECA) is a community organisation that supports sustainable planning and development initiatives that protect and enhance the irreplaceable social, cultural, environmental and economic characteristics of the East Coast and communities across Tasmania.

The ECA has serious concerns, outlined below, regarding the Tasmanian government's proposed introduction of Development Assessment Panels (DAPs). We are deeply concerned about the impact this alternate development assessment and approval process would have on contentious developments such as Cambria Green through removing merit-based planning appeal rights and the community's right to have a say, and through the bypassing of local government as Planning Authority.

Ministerial power

Particularly relevant and concerning to the ECA is the broad, overreaching powers the proposed DAP process delivers to the Minister for Planning, and the (mis)use of those powers to step in and support controversial development proposals (including future iterations of Cambria Green).

The proposed Bill enables the Minister for Planning to direct any development application to be heard by the DAP, should the incumbent Minister decide said development 'may be considered significant, or important, to the area in which the development is to be located'. There are no strict guidelines or comprehensive decision-making criteria to guide or limit the Minister's powers. The Minister's decision to take control is subjective, personal and cannot be challenged.

Removal of merit-based planning appeal rights

The Bill takes decision-making power for applicable development applications from local councils to government-appointed Tasmanian Planning Commission panels and removes the opportunity for appeals to the Tasmanian Civil and Administrative Tribunal (TASCAT). The community and their local council could no longer seek a review of a planning decision through TASCAT – a statutory body with structural independence from government. Developments will only be appealable to the Supreme Court based on a point of law, not on planning merits.

Challenging the government line that DAPs 'take the politics out of planning'

The government repeatedly infers government-appointed (ie *not* independent) Panel members 'take the politics out of planning' by taking planning decisions away from local councils. As eminent UTAS Professor David Adams stated in an opinion piece in The Examiner on 16 October 2024, in response to this assertion: 'I was confused by the proposition that local politics were apparently about local politics …'. In his experience, backed by research, DAPs in other jurisdictions 'take the local out of local', are overwhelmingly skewed towards development, and rarely engage with the community when assessing development applications.

Local politics are a key, longstanding component of our democratic processes. They provide local communities with the opportunity to become involved in issues they care about, and to have the democratic right to question and challenge local planning decisions. Most importantly there are, currently, effective avenues for appeal. DAPs will remove those critically important merits-based planning appeal processes.

DAPs in Tasmania are proposed for *both* public and private land

Of great concern to the ECA is the proposal by the state government to expand DAPs to public land, not just to development applications on private land. That means, if legislated, Development Assessment Panels (and the Minister for Planning) will have decision-making power over proposed developments in Tasmania's precious World Heritage Areas, National Parks and public reserves. The community would again be removed from the process, and have no opportunity for merits-based planning appeals.

Conclusion

The ECA believes Councils must retain their role as a Planning Authority to ensure local representation and appeal rights remain with their community. Local communities must be heard and have the right to comment on planning issues and developments proposed for their local government area. We acknowledge local council decisions are not always universally welcome in their community – this is democracy in action.

For the above reasons, the ECA strongly disagrees with the replacement of Planning Authorities by Development Assessment Panels. Significant negative interstate experience of such panels is now well-documented: currently in NSW, for example, Councillors of all political persuasion have joined to criticise the NSW planning system, stating their own and their community's frustrations at being effectively locked out of planning decisions that impact their local area.

Further criticism of DAPs has been levelled by the NSW Independent Commission Against Corruption (ICAC) – ICAC recommends the expansion of merit-based planning appeals as a deterrent to corruption.

The ECA urges the government and all elected members of Parliament to refuse the Land Use Planning and Approvals Amendment (Development Assessment Panels) Bill 2024.

Kind regards

Alcuin Hacker
President
M:

From: Clare Jacobson <
Sent: Tuesday, 12 November 2024 10:51 AM
To: yoursay.planning@dpac.tas.gov.au
Cc:
Subject: SCRAPTHEDAP -Say NO to planning panels, say YES to a healthy democracy

To my local parliamentarians,

I am a 24year old nipaluna/Hobart born and bred woman. I fear for the future of our democracy, our rights to have any influence over the way that our society progresses in ever more challenging and disturbing times.

I implore you to consider the following reasons which outline why the DAPs are an anti-democratic, unjust and unnecessary change to our current system.

All I want is the community to have power over its own affairs. D
Please, as our elected officials, don't take our power away from us.

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

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

standard local council process at anytime and have a development assessed by a planning panel. This could intimidate councils into conceding to developers demands.

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

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

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

- **Removes merit-based planning appeal rights** via the planning tribunal on all the issues the community cares about like impacts on biodiversity, height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and so much more. TASCAT review of government decisions is an essential part of the rule of law and a democratic system of government based on '*checks and balances*'.
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- **Developments will only be appealable to the Supreme Court based on a point of law or process which have a narrow focus and are prohibitively expensive.**

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- **Flawed planning panel criteria.** Changing an approval process where the criteria is on the basis of '*perceived conflict of interest*', '*a real or perceived bias*', '*the application relates to a development that may be considered significant*' and the '*development is likely to be controversial*' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers. NOTE: The scope of the DAPs includes a range of subjective factors that are not guided by any clear criteria:
  – Valuations of $10 million in cities and $5 million in other areas.
  – A determination by Homes Tasmania that an application includes social or affordable housing. There is no requirement for a proportion of the development to be for social or affordable housing. For example, it could be one house out of 200 that is affordable.
- **Poor justification – there is no problem to fix.** Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest in Australia when it comes to

determining development applications. The Government wants to falsely blame the planning system for stopping housing developments to cover its lack of performance in addressing the affordable housing shortage.

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

Say yes to a healthy democracy

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

Corruption in the state of Tasmania needs to end, we need transparency, community, and care across all of our island state. Those that benefit from the wrong thing ultimately are not happy anyway, nothing will satisfy them.

Let us be aligned and strong in our journey for a more just and community driven society.

Yours sincerely,

Clare Alice Jacobson

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

I am strongly opposed to this legislation for the following reasons:

- Firstly, this legislation is trying to fix a problem that doesn't exist. The Planning Minister said on this morning's ABC Hobart, that lots of 'good ideas' were being rejected by local councils despite them meeting planning criteria. This is wrong on so many counts – and I speak with experience having been a local councillor, resigning only recently.

    - Who is the arbiter of a 'good idea'? This shouldn't be something that can be determined subjectively by a Minister or a small group of Tasmanian Planning Commission officials, pulled from a tiny pool of persons all of whom appear to be part of a revolving door of council-non-executive directorship-govt official-Forests Practices Authority old boy mateship. How can ratepayers trust this hand-picked group, which would (absurdly) not be subject to merit-based appeal, over the judgement of elected officials who live in and know the community where a development is being proposed?

    - A development that 'meets all the planning criteria', cannot be rejected by planning authorities, and if it is, the decision can be simply challenged through the TASCAT appeals route. Very few planning decisions are taken to appeal and many are resolved through mediation. In fact planning decision criteria are already lacking sensible objective elements relating to environmental harms, complentarity with local vernacular, type of housing offered and energy efficiency – the sorts of things community really cares about. Planning authorities often have to approve developments that are opposed by community for good reasons, but will not be amended by developers pursuing the profit motive (eg large single houses poorly orientated, rather than affordable energy-efficient conjoined apartments and town houses).

    - Tasmania already has a faster planning process than any other state – including ones that already employ DAPs (with very mixed experiences – certainly *not* all positive).

    - Once a development has been through all the various routes available to them and a proposal is rejected (a tiny percentage of applications) that should be the end of the matter. It would appear that the government has decided that some of these proposals which have been resoundingly rejected by planning authorities and community, should be resurrected through this process. This move smacks of autocracy and state capture by corporate interests, rather than governance for the public good. The legislation is being brought in without there being sufficient knowledge in the community of what is happening to undermine their democratic rights. The few rejected proposals tend to be large and contentious projects which will incite considerable division in community, and in many cases will cause long-term environmental harm and loss of amenity for local residents.

- The Planning Minister and some of the documentation surrounding this DAP legislation talks of 'taking the politics out of planning'. This is complete nonsense. Local politics are not driven by party divisions, with most councils and planning authorities working together for the benefit of their communities and in line with planning legislation, rather than slavishly following ideology or party poltics. On the other hand, Ministers are clearly highly politicised, and the TPC can hardly be termed apolitical, as it is reporting directly to the government of the day, is funded by government, and has only a small pool of people from which to recruit panels.

- Rather than spending time enacting this divisive developer-friendly legislation and endeavouring to take power away from the people, the government's energy would be better spent:

    - providing more flexible pathways for small and affordable housing on a range of zones,
    - improving energy efficiency requirements,
    - requiring developers to ensure a sizeable proportion of subdivisions are public-owned affordable rentals, and
    - ensuring planning rules include provision for:

        - medium to high density living,
        - active transport,
        - public transport,
        - wildlife corridors,
        - water permeability,
        - no new fossil fuel connections or wood heaters,
        - water storage (tanks),
        - solar panels and
        - grid-connect EV charging points.

Jenny Cambers-Smith,

From: Jane R <
Sent: Tuesday, 12 November 2024 10:43 AM
To: yoursay.planning@dpac.tas.gov.au
Cc:
Subject: #ScrapTheDAP – say no to planning panels/say yes to a healthy democracy

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

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- **The Tasmanian Planning Commission is not independent** – DAPs are hand-picked, without detailed selection criteria and objective processes, are inconsistent with the principles of open justice as they do not hold public hearings, and lack capacity to manage conflicts of interest (as per the 2020 Independent Review). DAPs do not have to provide written reasons for their decision (making it difficult to seek judicial review). Community input will

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

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

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

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

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

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

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

Say yes to a healthy democracy

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

Yours sincerely,

Jane Rienks

From: R Donald
Sent: Tuesday, 12 November 2024 10:45 AM
To: yoursay.planning@dpac.tas.gov.au
Cc:
Subject: From a northern Tasmanian family: strongly opposed to DAPs, want to maintain a strong democracy

Dear all Members of House of Assembly and Legislative Council

My family, based in northern Tasmania, is strongly opposed to DAPs, and strongly opposed to increasing Ministerial power and removing planning appeals.

We support, and will vote for, Tasmania keeping a strong democracy. This includes increasing, not decreasing, independence, transparency and accountability within the planning system, and true public involvement in decisions that affect local communities.

Tasmanian voters and communities deserve to keep planning decisions at the local level, and deserve to keep the opportunities we currently have, to appeal decisions that affect us.

We also support a strong anti-corruption watchdog.

Sincerely,
R Donald

http://www.southhobart.org/
secretary@southhobart.org
ARBN: IA10232
ABN: 217 591 029 81

12th November 2024

Dear State Planning Office,

South Hobart is a diverse and generally privileged community, with a mix of residents who have grown up here as well as moved to Tasmania from far and wide seeking a better life. We also have a mix of social housing, and have higher levels of dwelling occupancy and dwelling mix than the state and national averages (ABS Census, 2021).

Our community cherishes being close to nature, to unique wilderness areas, and on the edge of a small city, conveniently located between *kunanyi* 'The Mountain' and *timtumili minanya* 'The River'. We also appreciate the settlement being largely on a north-facing hillside as well as in the valley of the Hobart Rivulet, with schools, medical facilities, shops, restaurants, cafés, entertainment and public transport services all close by.

"The South Hobart Sustainable Community (SHSC) is a grassroots collection of South Hobart residents who are working towards making South Hobart a more sustainable and resilient place to live."

[Source: www.facebook.com/groups/southhobartsustcomm – Accessed 8/11/2024]

We have nearly 400 members, and have prepared this submission on their behalf, guided by our principles and values, which include:

Build Community - by generating inclusive activities, projects and ideas that bring people together across age groups, backgrounds, cultures and belief systems; by respectfully listening to each other and by working collaboratively for the common good and maximum enjoyment. Over the years, events have included winter lantern parades, film nights and Autumn Harvest Fairs, with the Resilience Fair now becoming South Hobart Sustainable Community's major annual event.

Build Resilience - by seeking ways to produce locally-grown food, make our streets safer, reduce bushfire risks by understanding and practicing hazard reduction, looking after our neighbours, working towards and bulk-buying sustainable solutions to everyday problems (e.g. - roof-top solar PV and hot water systems, community batteries, electric vehicles, electric bikes, preparing emergency kits in the event of the increasing likelihood of floods, fire, heatwaves, wild storms or cold snaps).

Nature first - this includes the preservation and conservation of all existing ecosystems and biodiversity holistically. It also involves bush-care, creating verge

gardens, gardens for wildlife, food forests, a local community garden, home-based food production, composting, seedling swapping, cleaning up the rivulet, commissioning a mural for the badminton centre and so much more.

Play - we like to have fun, be creative, enjoy dance, music and the moment, support each other and enjoy each other's company. Children are an important part of the community and are included wherever and whenever possible and appropriate.

Specific Issues of concern

As a community we create specific interest groups and actively engage with the broader community, on issues including: **State and Local Planning Policies**, local developments, public open spaces and parks, local heritage, streetscapes, significant trees, endemic wildlife and their habitats, local infrastructure, transport systems and community facilities.

We note that our community has managed to accommodate an additional 573 residents (+10.7%), with an extra 160 dwellings (6.5%) in the five years between census periods, from 2016 to 2021, without any significant community angst. This has included an increase in social housing (from 94 to 125 dwellings which is 33% increase) and has largely been possible through infill development, and demographic renewal (i.e. more younger families moving in).

Our focus is always on seeking long-term, sustainable and nature positive solutions to economic, social and environmental concerns and issues, on behalf of our community.

We are a grassroots and active community group whose aim is to make '*South Hobart a more sustainable and resilient place to live*'. We do everything we can to achieve this aim, regularly holding workshops, community gatherings and events to engage with the community and to support this purpose. Our work is never finished!

The South Hobart Sustainable Community (SHSC) strongly opposes the creation of Development Assessment Panels (DAPs) and increasing ministerial power over the planning system.

We do not support the introduction of DAPs for all of the following reasons:

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

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

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

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

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

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

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

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

- **Removing merits-based planning appeals has the potential to increase corruption, reduce good planning outcomes, favour developers and undermine democracy.** The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption. Mainland experience demonstrates planning panels favour developers and undermine democratic accountability. Local planning panels,

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

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

- **Flawed planning panel criteria.** Changing an approval process where the criteria is on the basis of *'perceived conflict of interest'*, *'a real or perceived bias'*, *'the application relates to a development that may be considered significant'* and the *'development is likely to be controversial'* is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers. NOTE: The scope of the DAPs includes a range of subjective factors that are not guided by any clear criteria:
  - Valuations of $10 million in cities and $5 million in other areas.
  - A determination by Homes Tasmania that an application includes social or affordable housing. There is no requirement for a proportion of the development to be for social or affordable housing. For example, it could be one house out of 200 that is affordable.

- **Poor justification – there is no problem to fix.** When looking at the City of Hobart's "State of the City" dashboard, it shows that housing approvals over the past 7 years have been consistently higher than in the preceding corresponding period (refer "Housing > Building approvals: https://www.hobartcity.com.au/Council/About-Council/Research-and-statistics/State-of-the-City).

State of the City
Reporting to inform decision-making as we plan for the future of the city.
www.hobartcity.com.au

http://www.southhobart.org/
secretary@southhobart.org
ARBN: IA10232
ABN: 217 591 029 81

Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest in Australia when it comes to determining development applications. The Government wants to falsely blame the planning system for stopping housing developments to cover its lack of performance in addressing the affordable housing shortage.

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

We support a healthy democracy, and call on the Minister to:

- Ensure transparency, independence, accountability and public participation in decision-making within the planning system, as they are critical for a healthy democracy. Keep decision making local, rather than bypassing it, with opportunities for appeal.

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

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

We trust our submission is clear, but please feel free to contact us via secretary@southhobart.org if you need to clarify anything.

Yours sincerely,

Ben Clark
Facilitator,
South Hobart Sustainable Community

&

Tim Williams
Convenor,
South Hobart Sustainable Community Planning Group

From: Lee Brown
Sent: Tuesday, 12 November 2024 10:29 AM
To: yoursay.planning@dpac.tas.gov.au; ; ScrapTheDap
Subject:

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

- **Flawed planning panel criteria.** Changing an approval process where the criteria is on the basis of '*perceived conflict of interest*', '*a real or perceived bias*', '*the application relates to a development that may be considered significant*' and the '*development is likely to be controversial*' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers. NOTE: The scope of the DAPs includes a range of subjective factors that are not guided by any clear criteria:
  – Valuations of $10 million in cities and $5 million in other areas.
  – A determination by Homes Tasmania that an application includes social or affordable housing. There is no requirement for a proportion of the development to be for social or affordable housing. For example, it could be one house out of 200 that is affordable.
- **Makes it easier to approve large scale contentious developments** like the kunanyi/Mount Wellington cable car, high-rise in Hobart, Cambria Green and high-density subdivision like Skylands at Droughty Point and the UTAS Sandy Bay campus re-development.

Yours sincerely,

Lee Brown

From: Anita Harrison <>
Sent: Tuesday, 12 November 2024 10:27 AM
To: yoursay.planning@dpac.tas.gov.au
Cc: yoursay.planning@dpac.tas.gov.au
Subject: ScrapTheDAP – I say NO to planning panels

To all elected officials,

I vehemently oppose the creation of Development Assessment Panels (DAPs). Increasing ministerial power over the planning system is dangerous. There is already concern that projects are open to corruption, there is a complete lack of transparency in political donations, and I expect a DAP will only serve to create a deeper developer alliance with some elected officials.

As the last 10+ years has proven, we do not have ministers in government with the integrity or capability to be trusted with such a process. We have many examples of this, most recently with the Spirit of Tasmania debacle - how poorly the current government manages its own projects gives a strong indication of how they would manage DAPs.

Hearing childish commentary in the political space from Minister Felix Ellis on ABC radio "too bad too sad", or name calling (everyone who objects is a NIMBY apparently) is pathetic and not helpful, and our state deserves so much better than this.

There is much research which demonstrates that DAPs are pro-development and pro-government, and do not engage with local communities.
Removing merits-based planning appeals has the potential to increase corruption, reduce good planning outcomes, favour developers and undermine democracy. This absolutely terrifies me, and for the future of our state.

I call on you to ensure transparency, independence, accountability and public participation in decision-making within the planning system - this is critical for a healthy democracy. Abandon DAPs and invest in expertise to improve the local government system and existing planning processes by providing more resources to councils and enhancing community participation and planning outcomes.

Yours sincerely,

From: Joan von Bibra,
Sent: Tuesday, 12 November 2024 10:17 AM
To: yoursay.planning@dpac.tas.gov.au
Cc:
Subject: the poor legislation to set up DAPs in Tasmania

Dear elected members of Parliament

I am writing again to you as I strongly oppose the creation of Development Assessment Panels (DAPps) and the proposed increasing ministerial power over the planning system.

Today Mr Bromeley (Mayor of Clarence), speaking on the ABC, voiced rational opposition to the proposed legislation which undermines the democratic process, removing the ability of the public to comment on planned development and denying the pubiic the right to appeal planning decisions. No doubt other Mayors will also oppose the proposed legislation which denies Councils the right to contribute to planning decisions affecting their communities.

The Tasmanian Government seems determined to ride rough shod over the democratic rights of the people who elected them. We expect the Government of Tasmania to carry out the task of government responsibly and competently, not to waste the tax payer's money and to represent the electors' views with transparent, rational and fair legislation.

The proposed legislation means a DAP would be hand-picked, without detailed selection criteria and objective processes, would not hold public hearings and would not have to provide written reasons for their decision (making it difficult to seek judicial review). Community input would be less effective because it would be delayed until after the DAP had consulted privately with the developer and any relevant government agencies, and had adopted its draft decision. Research has shown that DAPs are pro-development and pro-government, they rarely deeply engage

with local communities, thus developments such as the kunanyi/Mount Wellington cable car, high-rise in Hobart, Cambria Green and high-density subdivision such as Skylands at Droughty Point could be be pushed through.

Issues which the community cares about such as the impact on biodiversity, height, bulk, scale or appearance of proposed buildings,their impact on street-scapes, on adjoining properties including loss of privacy, traffic noise, smell and light issues would not be able to be raised by the public and no appeal about decisions would be allowed.This is undemocratic.

I urge you not to vote for this legislation.

Yours sincerely

Joan von Bibra OAM

From: Rosanna Cameron
Sent: Tuesday, 12 November 2024 10:11 AM
To: yoursay.planning@dpac.tas.gov.au
Cc:
Subject: #ScrapTheDAP – say no to planning panels/say yes to a healthy democracy

I am aware I have copied many of the points made here from the Planning Matters Alliance. I commend them for their hard word and research which presents the complete case better than I could. I feel very strongly about this legislation - because the people of Tasmania are the people who live with the consequences of wrong decisions or over development - the developers are mostly not here for the long term. The people from here MUST have a say on the future of the place where we chose to live.

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

- **It will create an alternate planning approval pathway allowing property developers to bypass local councils and communities**. Local concerns will be ignored in favour of developers who may not be from Tasmania. These

Developers come to Tasmania to make money - no! they do not come to create jobs or beautify the State.

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

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

- **Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal.**
- The people who know our state and care about it are the people who live here - not rich corporations from overseas. The latter are just here to make money and control the future of our tourism ventures.
- **Developments will only be appealable to the Supreme Court based on a point of law or process which have a narrow focus and are prohibitively expensive.**

- **Removing merits-based planning appeals has the potential to favour developers and undermine democracy.** The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption. Mainland experience demonstrates planning panels favour developers

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

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

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

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

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

Yours sincerely,

Rosanna Cameron u

From: Deborah Lynch
Sent: Tuesday, 12 November 2024 10:10 AM
To: yoursay.planning@dpac.tas.gov.au
Subject: Scrap the DAP and yes to democracy in Tasmania

To whom it may concern,

My name is Deborah Lynch and I live in Western Creek, close to both Tasmanian National Parks and World Heritage Areas.

I am deeply concerned about this policy, which "fast tracks" private developments (largely for wealthy tourists) in these areas that are designated for all ordinary people (such as myself) who enjoy recreating in natural, pristine, Tasmanian National Parks and World Heritage Areas!

Please do not ignore the democratic process and respect the will of ordinary Tasmanians, who wish to enjoy the wild beauty of our environment!

Yours faithfully,

Deborah Lynch

_____

From: glenda Hosking <
Sent: Tuesday, 12 November 2024 10:10 AM
To: yoursay.planning@dpac.tas.gov.au
Cc: yoursay.planning@dpac.tas.gov.au

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

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

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

- **The Tasmanian Planning Commission is not independent** – DAPs are hand-picked, without detailed selection criteria and objective processes, are inconsistent with the principles of open justice as they do not hold public hearings, and lack capacity to manage conflicts of interest (as per the 2020 Independent Review). DAPs do not have to provide written reasons for their decision (making it difficult to seek judicial review). Community input will

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

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

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

Say yes to a healthy democracy

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

Yours sincerely,

Glenda Hosking

From: Ruginia Duffy
Sent: Tuesday, 12 November 2024 10:05 AM
To: yoursay.planning@dpac.tas.gov.au
Cc:
Subject: #ScrapTheDAP – say no to planning panels/say yes to a healthy democracy

To whom it may concern,

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

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

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Say yes to a healthy democracy

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

Yours sincerely,

Ruginia Duffy

From:
Sent: Tuesday, 12 November 2024 9:59 AM
To: yoursay.planning@dpac.tas.gov.au
Cc: yoursay.planning@dpac.tas.gov.au
Subject: SCRAP THE DAP: say no to planning panels/say yes to a healthy democracy

Dear Parliament of Tasmania,

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

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

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

Say yes to a healthy democracy

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

To reiterate again, I object to and I oppose the creation of Development Assessment Panels (Daps) and increasing ministerial power over the planning system because in my opinion removing the community from the planning process only adds up to a grave political and corporate injustice.

Yours sincerely,
Sue Abbott

Sue Abbott

From: Jane Kerr
Sent: Tuesday, 12 November 2024 9:57 AM
To: yoursay.planning@dpac.tas.gov.au
Cc:
Subject: #ScrapTheDAP – say no to planning panels/say yes to a healthy democracy

To: Members of the House of Assembly and Legislative Council

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

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

high-rise in Hobart, Cambria Green and high-density subdivision like Skylands at Droughty Point and the UTAS Sandy Bay campus re-development.

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

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

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

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

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

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

– Valuations of $10 million in cities and $5 million in other areas.

– A determination by Homes Tasmania that an application includes social or affordable housing. There is no requirement for a proportion of the development to be for social or affordable housing. For example, it could be one house out of 200 that is affordable.

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

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

Say yes to a healthy democracy

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

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

Yours sincerely,

Jane Kerr

From: Anna Pafitis
Sent: Tuesday, 12 November 2024 9:57 AM
To: yoursay.planning@dpac.tas.gov.au
Cc:
Subject: SCRAP the DAP submission

Dear All

I am writing to oppose the creation of Development Assessment Panels (DAP). Tasmania has one of the fastest records for assessment of development applications. There is no proven need for bypassing our current democratic processes to introduce a system that is prone to corruption.

On the 6th March 2024 Planning Matters Alliance Tasmania held a rally on this matter at the Town Hall and attracted over 400 people. People had to be turned away. This is an unpopular and unnecessary proposal.

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

- **It will create an alternate planning approval pathway allowing property developers to bypass local councils and communities.**Handpicked state

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

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

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

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

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

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

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

- **Removing merits-based planning appeals has the potential to increase corruption, reduce good planning outcomes, favour developers and undermine democracy.** The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption. Mainland experience demonstrates planning panels favour developers and undermine democratic accountability. Local planning

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

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

- **Flawed planning panel criteria.** Changing an approval process where the criteria is on the basis of *'perceived conflict of interest'*, *'a real or perceived bias'*, *'the application relates to a development that may be considered significant'* and the *'development is likely to be controversial'* is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers. NOTE: The scope of the DAPs includes a range of subjective factors that are not guided by any clear criteria:
  - Valuations of $10 million in cities and $5 million in other areas.
  - A determination by Homes Tasmania that an application includessocial or affordable housing. There is no requirement for a proportion of the development to be for social or affordable housing. For example, it could be one house out of 200 that is affordable.

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

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

Say yes to a healthy democracy

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

development applications down.

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

Yours sincerely

Anna Pafitis

From:
Sent: Tuesday, 12 November 2024 9:57 AM
To: yoursay.planning@dpac.tas.gov.au
Cc:
Subject: Submission re the DAP - say NO to planning panels

To Your Say Planning - DPAC Tasmania

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

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

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

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

- **The change will make it easier to approve large scale contentious developments** like the kunanyi/Mount Wellington cable car, high-rise in Hobart, Cambria Green and high-density subdivision like Skylands at Droughty Point and the UTAS Sandy Bay campus re-development – all developments that have attracted huge community opposition.

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

- **By removing merits-based planning appeals, the opportunity for mediation on development applications in the planning tribunal will be removed.**

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

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

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

- **Subjective and flawed planning panel criteria.** Changing an approval process where the criteria is on the basis of '*perceived conflict of interest*', '*a real or perceived bias*', '*the application relates to a development that may be considered significant*' and the '*development is likely to be controversial*' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers. NOTE: The scope of the DAPs includes a range of subjective factors that are not guided by any clear criteria:
  – Valuations of $10 million in cities and $5 million in other areas.
  – A determination by Homes Tasmania that an application includes social or affordable

housing. There is no requirement for a proportion of the development to be for social or affordable housing. For example, it could be one house out of 200 that is affordable.

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

- **The proposed changes will increase complexity in an already complex planning system.** Why would we further increase an already complex planning system which is already making decisions quicker than any other jurisdiction in Australia?

Say yes to a healthy democracy

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

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

Yours sincerely,

David A Reeve

From: Jane Pollard
Sent: Tuesday, 12 November 2024 9:53 AM
To: yoursay.planning@dpac.tas.gov.au
Cc: k

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

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

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

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

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

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

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

- **Increased ministerial power over the planning system increases the risk of corrupt decisions.** The Planning Minister will decide if a development application meets the DAP criteria. The Minister will be able to force

the initiation of planning scheme changes, but perversely, only when a local council has rejected such an application, threatening transparency and strategic planning.

- **Flawed planning panel criteria.** Changing an approval process where the criteria is on the basis of '*perceived conflict of interest*', '*a real or perceived bias*', '*the application relates to a development that may be considered significant*' and the '*development is likely to be controversial*' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers. NOTE: The scope of the DAPs includes a range of subjective factors that are not guided by any clear criteria:
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  – A determination by Homes Tasmania that an application includes social or affordable housing. There is no requirement for a proportion of the development to be for social or affordable housing. For example, it could be one house out of 200 that is affordable.

Say yes to a healthy democracy

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

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

Yours sincerely,
Jane Pollard

Sent from

Clarence City Council
38 Bligh St Rosny Park
PO Box 96
Rosny Park TAS, 7018
Ph 03 6217 9500
E clarence@ccc.tas.gov.au

12 November 2024

CEO/Mayor office

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

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

To whom it may concern

Draft Development Assessment Panel (DAP) Bill

Please find attached Clarence City Council's submissions to the Draft DAP Bill for your perusal and information.

Yours sincerely

Ian Nelson
CHIEF EXECUTIVE OFFICER

Clarence... a brighter place

Submission to consultation on the draft Land Use Planning and Approvals Amendment (Development Assessment Panels) Bill 2024

Clarence City Council

This submission is on behalf of the Clarence City Council in response to the public consultation on the Draft Land Use Planning and Approvals Amendment (Development Assessment Panels) Bill 2024 (the draft Bill).

Council previously provided a response to the DAP Framework Position Paper and it is disappointing to see that, not only have the matters raised by Council been entirely ignored, but the Report on Consultation on the DAP Position Paper prepared by the State Planning Office in October 2024 ignores the issues raised by the majority of respondents and provides a superficial justification of the Government's already established position.

As previously stated, there may be some benefit to providing a more formalised DAP process for more complex applications, such as a Level 2 Activity under the Environmental Protection and Pollution Control Act 1994 (which interestingly is specifically excluded from the DAP process), however the proposed paradigm is not it.

It is the position of Council that the draft Bill is incompetent, both from a drafting and operative perspective, and is not founded on good planning principles.

As such, it clearly does not meet the Objectives of the Resource Management and Planning System in Tasmania (as outlined in Part 1 of Schedule 1 of the Land Use Planning and Approvals Act 1993), in that it does not provide for the fair, orderly and sustainable use and development of air, land and water, and does not encourage public involvement in resource management and planning.

Furthermore, the proposed assessment regime is in direct conflict with the Objectives of the Planning Process (as outlined in Part 2 of Schedule 1 of the Land Use Planning and Approvals Act 1993), in particular objectives (a) to (e) as below:

> *"(a) to require sound strategic planning and co-ordinated action by State and local government; and*
> *(b) to establish a system of planning instruments to be the principal way of setting objectives, policies and controls for the use, development and protection of land; and*
> *(c) to ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land; and*
> *(d) to require land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels; and*
> *(e) to provide for the consolidation of approvals for land use or development and related matters, and to co-ordinate planning approvals with related approvals; and*
> *…"*

Council's key points of concern are outlined below:

1. The draft DAP Bill is further evidence of the move to remove planning from Local Government and devalue local community representation.

The draft DAP Bill seeks to enable the Minister or an applicant, for no good planning reason, to bypass or remove an application from the established planning permit processes.

Instead, such an application will be subject to a longer, less efficient and potentially more costly process with no greater chance of success. There is no perceived benefit to the development community in this process other than to remove the consideration by local elected members and the constraints of the relevant Tasmanian Planning Scheme or Interim Planning Scheme, which were imposed on council by the state government in the first place.

This is coupled with the *Land Use Planning and Approvals (Supporting Development) Bill 2024* which was introduced to Parliament on 16 October 2024, with no consultation, specifically to provide the Minister with the power to extend the timeframe for commencement of a permit, with no reference to the current processes for such an extension, nor a notification to the permit authority who must administer the permit.

Finally, the recent decision to award a Major Project declaration to the Kangaroo Bay Hotel project significantly lowers the bar of such declarations, meaning a significant potential reduction in commercial applications being considered through a normal planning permit process.

The move to the Tasmanian Planning Scheme (TPS) has seen a reduction of the ability to identify and protect local community values. Projects of significant statewide or regional importance are already provided with an approval pathway elevated from the local area. Local values are derived from living, communicating and engaging in the local area and local community. They are not just lines on a map.

Clarence City Council considers it essential that local representation and consideration is maintained for all planning applications which have the potential impact on local values.

2. The draft DAP Bill proposes to create an approval pathway with no relationship to the relevant planning scheme nor any discernible assessment criteria and is entirely inconsistent with established processes.

The draft DAP Bill provides for the provision of an alternative assessment framework for particular applications which meet certain criteria through the establishment of a new Division 2AA of LUPAA. This framework operates outside of the current provisions of Division 2 (which provides the operative functions for processing and assessment of local development applications). It is noted that Major Projects are discretely considered under Division 2A of LUPAA.

The definition of a *discretionary permit* provides for either an application which is considered under Section 57 (which would require the application to have already been made to the planning authority), or an application under the newly created Division 2AA.

However, both Division 2 and Division 2A operate independently and each contain all relevant operative provisions. In the case of Division 2, it requires consideration of the planning scheme. Under Division 2A, a set of assessment criteria is developed, through consultation, against which the application is considered. Without reference to assessment criteria or the provisions of the relevant planning scheme, an Assessment Panel has nothing to base their assessment on, particularly if the proposal is unsuitable for approval.

Both divisions then contain different requirements for timeframes, landowner consent, lodgement, payment of fees, further information, exhibition, assessment, notification, validation, condition compliance, and ongoing operation of the permit including amendments and expiry.

However, the DAP process under Division 2AA is silent regarding consideration of landowner's consent, validation of applications, condition compliance, amendment and expiry of permits. In addition, where a planning authority has a 42-day timeframe under Division 2 to process, exhibit and determine an application, with penalty clauses for non-compliance, the DAP process is over twice as long for assessing *the very same application* and has no comparative penalties for non-compliance. This is fundamentally unfair and proof that the currently timeframe imposed on council is manifestly inadequate.

Clarence City Council considers it essential that the assessment of an application through a DAP process must be held against the provisions of the relevant planning scheme/s and local policies. In addition, the administration, exhibition and assessment processes, including timelines and compliance requirements for an application under either Division 2 or Division 2AA of LUPAA must be consistent.

3. The draft DAP Bill undermines the current Resource Planning Development System and the entire planning reform program, including the regional land use strategies.

The Resource Planning Development System is a suite of legislation, linked by common objectives, which facilitate:

- Projects of State Significance – required to meet state significance eligibility tests
- State Policies
- Tasmanian Planning Policies
- Regional Land Use Strategies
- Major Projects – required to meet regional eligibility tests
- Level 2 Environmental assessments under Environmental Management and Pollution Control Act 1994
- Tasmanian Planning Scheme (comprising State Planning Provisions and Local Provisions Schedule) and existing interim planning schemes
- Amendments to LPS assessed by Tasmanian Planning Commission against criteria under LUPAA
- Assessment of local Development Applications against the provisions of the TPS (or IPS).

- Review of planning authority decisions by TASCAT against provisions of the TPS (or IPS).

In addition, the planning reform process has spent significant time and resources over the last decade to redefine the statewide planning framework and implement the TPS across the State. By offering a loophole to circumvent the entirety of these processes (other than that of a Level 2 assessment under EMPCA), the credibility of planning in Tasmania is brought into question, as it is in direct contradiction with the objectives of LUPAA (and the RMPS).

Furthermore, the draft Bill provides for intervention through the process of consideration of an amendment to the LPS. Currently, the process enables council to refuse a request for an amendment to the LPS in the first instance, if they believe that the amendment is without merit and does not meet the LPS criteria prescribed under LUPAA. This decision is subject to review by the Tasmanian Planning Commission but only in so far as to ensure that all relevant matters were considered – it is not a review on merit or *de novo*. As an outcome, the Commission can require that council reconsider its decision. Where this reconsideration still results in a failure to support the application, the draft Bill proposes that the Minister can intervene and determine, on merit, that the proposal should proceed and direct council to prepare a draft amendment.

It is noted that, currently, sufficient power is provided within section 40C(1) of LUPAA, to direct such an amendment, but this is to be based on a number of criteria, including subclause (e) which is (*inter alia*)"on the advice of the Commission, [for] any other purpose the Minister thinks fit." Accordingly, the draft Bill seeks to provide the Minister to act without such advice, relying on his own planning expertise in isolation.

The draft Bill also ignores the fact that any planning authority, who has not transitioned to the Tasmanian Planning Scheme yet, operates under the former provisions of LUPAA, to which this draft Bill does not apply.

In addition, the lack of provision of consequential amendments to the Regulations is a glaring deficiency as it leaves such a fundamental part of the criteria of eligibility of the DAP process to the creation of statutory rules at a later date.

Clarence City Council considers it essential that the assessment of an application through the DAP process does not subvert an existing assessment process, such as that for Projects of State Significance or Major Projects. Furthermore, the ability to direct council to undertake an amendment to the LPS under s40C(1) should only occur on a sound planning basis. In addition, any modification of LUPAA that replies upon the operation of statutory rules must also include draft changes to the regulations to enable wholistic consideration.

4. The draft DAP Bill undermines the credibility of Local Government within the planning framework in that it purports to solve a problem that does not exist.

The claim that the system, and more particularly, councils, are holding up development is a fallacy without evidence. Furthermore, the additional criteria for relief being the likelihood of controversy is more about the optics of decision-making than proper planning principles.

The Tasmanian planning system has one of the shortest, if not the shortest, statutory planning timeframes in Australia and, where matters are appealed, the last annual report of TASCAT (Annual reports | TASCAT - Tasmanian Civil & Administrative Tribunal) identified that over 80% of the matters are resolved through mediation.

LGAT in their correspondence to the Minister, have noted:

> *"A number of the comments in the release were emotive, unhelpful, not accurate and frankly insulting to the local government sector.*
>
> *These comments come despite your own Development Assessment Panel Position Paper saying, '" Despite the statistical evidence" there remains a perception that some Councils are less supportive of new development than others…'.*
>
> *The Position Paper goes on to acknowledge that Tasmania's existing development assessment process is working well, 'being one of, if not the fastest in the country' when it comes to applications. I would further point out that the Future of Local Government Review Board reported that only about one per cent of discretionary applications across the state go to appeal and importantly the determinations made by elected representatives were no more likely to be appealed than those by council officers."*

The outlined criteria for when a proponent may seek relief to the Minister includes where it is believed that Council may have:

> *"(i) a conflict of interest or a perceived conflict of interest; or*
>
> *(ii) a real or perceived bias, whether for or against the proponent or development;"*

A robust Code of Conduct system applies to elected members and the *Local Government Act 1993* contains existing provisions with regard to the declaration of pecuniary interests of councillors or council staff. Similar provisions apply to parliament through the *Parliamentary (Disclosure of Interests) Act 1996* and the public sector, including the Tasmanian Planning Commission. Opportunity is already provided for lodging of any complaint through the code of conduct provisions of the *Local Government Act 1993*.

Singling out Councillors and council staff as the only party subject to this accusation within this process, is inflammatory and unfairly erodes the function and credibility of Council in the planning process.

The planning system already provides a proper process already in place for review of decisions, either through TASCAT or judicial review, based on evidenced actions, not supposition of future behaviour. The judicial review process holds councils accountable for all of their decisions, not just planning ones.

There is no problem to be solved here, an alternative process is arguably merely catering to a disgruntled few whose developments failed to meet the criteria of the State Planning Provisions, a criteria imposed on council by the State Government.

There is no credible evidence to support the need for this provision to be included in the draft Bill. While the draft Bill required some evidence of "one or more criteria" in making an application, the existence of a personal opinion as to a hypothetical situation is impossible to discredit.

Importantly, the draft Bill fails to recognise that, as a statutory body, the planning authority itself cannot have a conflict of interest or bias. Other than through the operation of delegations, the planning authority itself does not form a view until a meeting has been held and the Elected Members vote on a resolution. Prior to that meeting, the elected members act as individuals, not as the planning authority. The Supreme Court of Tasmania has acknowledged that elected members may hold strong views about applications; so long as they retain an open mind when they sit as part of the planning authority. The draft Bill would appear to fly in the face of those findings.

By allowing an application to be transferred from one jurisdiction to another mid-assessment, undermines the integrity of the existing assessment process to achieve proper planning outcomes.

With regard to other referral or elevation criteria, Council is supportive for matters to protect and support the most vulnerable members of our community, and who struggle to be fairly represented in the planning process, such as the provision of social housing. However, such a process would need to ensure that adequate development standards are maintained so that the local communities do not have to subsidise or put up with the impacts of inadequate development standards.

However, in constructing this provision, it is acknowledged that Homes Tasmania's focus is on social housing. Affordable housing is provided by the private sector, through 3rd party subsidisation. In this extent, Homes Tasmania is not involved in an application for affordable housing, yet the draft Bill provides for their endorsement as a basis of escalation.

"Affordable housing" is not defined in the draft legislation, nor is it a phrase which is currently part of the planning scheme provisions. There is currently no clear pathway to ensure that multiple dwellings which are said by the applicant to be for "affordable housing" will remain as such rather than being immediately sold for profit.

The other circumstance where an elevated assessment may be warranted is for significant Council initiated developments where Council believes that independent decision-making would benefit the community. However, such elevation of assessment would be incumbent on Council to determine and not be tied to a predetermined value.

Clarence City Council considers it essential that this Bill be modified to ensure the eligibility criteria for applications for permits are based on proper planning grounds and not unsupported, potentially biased opinions of individuals.

Clarence City Council supports consideration of a DAP process for the development of social housing which is legitimate, solely for that purpose and is subject to the same development standards as private development.

Clarence City Council supports consideration of a DAP process for referral by Council of significant Council-initiated developments where independent decision-making is likely to provide the best outcomes for the community.

5. The approval pathway provides for no consideration of landowner consent and seeks to be able to bind Council.

The draft Bill contains no recognition of the need to seek the consent of the public authority, for publicly owned or managed land, nor notify the landowner to the making of the application. These provisions are standard across the other approval mechanisms under LUPAA, including:

- Section 37(3) (in relation to LPS amendments) and s40T(6) (in relation to planning applications submitted in conjunction with an amendment) require the consent of the landowner for inclusion in an application.
- If an application for a planning permit under Division 2 includes land owned or managed by council or crown, section 52(1B) requires the consent of council (or crown) prior to lodgement.
- Section 60P (in relation to Major Projects under Division 2A) requires the consent of public land managers if their land is to be included in such a declaration.

While it may be postulated that the rights of a landowner will enable inappropriate development from actually occurring, it is noted that section 58A provides for a condition of a permit to require the entering into agreements.

Part 5 of LUPAA facilitates these agreements by the planning authority, including those required as a condition of a permit relating to section 86 of the *Local Government (Building and Miscellaneous Provisions) Act 1993* (LGBMP). Section 116 of LGBMP also provides that council, if imposing a condition on a permit requiring the increase in the provision of open space within a subdivision in excess of 5% of the area, is liable to purchase the excess.

All of these provisions that require council consideration and agreement may be ignored and worse, may be imposed without consent through the proposed DAP process. The Bill specifically seeks to supplant the Assessment Panel to act as Council under LGBMP with regard to the assessment and processing of subdivisions and sealing of Final Plans including, quite bizarrely, the affixing of the Council seal and the rest of Council's powers and function under Part 3 of LGBMP. This is clearly extending beyond the process of assessment of a planning application and is completely unnecessary.

It is self-evident that the assessment and conditional permit process of a planning application through LUPAA and associated legislation requires consideration and coordination of council in its roles as, amongst others, planning authority, road authority and public land manager.

The integrated legislative system is not setup to enable a "smash and grab" approach where a third party can just take on one aspect of this function.

Noting the comments and examples provided above, there is a clear demonstration that the drafting of this legislation is ill-conceived and has not been undertaken with sufficient knowledge and experience of the wider issues associated with planning, land management and their associated rights and obligations. In this regard, council considers the draft Bill incompetent in its current form. If passed by the Tasmanian Parliament in its current form, the associated disruption and litigation will be felt by the Tasmanian community for years to come.

Clarence City Council considers it essential that the existing owner's consent rights are maintained for any application and that the proposed changes to the Local Government (Building and Miscellaneous Provisions) Act 1993 be modified to clarify the role of the planning authority in the assessment of subdivisions as distinct from the roles Council performs under other functions of the Act.

6. The approval pathway is reliant upon Council to provide technical expertise in the assessment process.

An additional proposed criterion for relief is where the applicant believes that the local planning authority does not possess sufficient expertise to assess the proposal.

While this may be occasionally true, particularly for smaller Councils, this is generally related to large complex applications which are likely to be considered through the Major Projects process. However, the assessment of normal planning applications is one of Council's core functions. In this, councils are the primary assessor and regulator of development in Tasmania. Councils are at the nexus point in the planning system and must manage legislative requirements, while also balancing the development industry and local community needs.

In overcoming any resource deficiency, councils have the option to engage consultants to fill such short-term or long-term needs, or to share resources where it is possible and appropriate to do so, as outlined through the discussion of the issue of shared services in the Future of Local Government Review - - as a more effective pathway to resolve that issue rather than seeking to change the whole system to address those councils who need a bit of resource assistance.

The ability to elevate the assessment of an application, in such a circumstance, may be warranted for retention in a modified Bill but only at the discretion of the planning authority.

Curiously, the draft Bill acknowledges that the Commission itself does not have sufficient engineering expertise nor significant knowledge of local planning matters and are therefore reliant upon inputs, through a referral process, from the very organisation that the legislation and supporting statements previously regarded as biased or incompetent. The dichotomy of this position, put forward as a basis for the proposed legislative changes, if nothing else, demonstrates that the draft Bill effectively resolves nothing.

In addition, the seven days allowed for the planning authority to formally respond to notification by the Minister, is manifestly inadequate as it forces the response by council officers, as opposed to the planning authority, in that seven days does not allow sufficient time for a matter to be formally considered by elected members and comply with the *Local Government (Meeting Procedures) Regulations 2015*. This lack of courtesy and understanding of existing legislative requirements is further evidence of the incompetence of the draft Bill.

Clarence City Council considers it essential that this Bill, should it process, be modified to ensure that the eligibility criteria for applications for permits, where council is insufficiently resourced to assess a proposal, is only based on a request by the relevant planning authority and not any other party. Furthermore, any referral to the planning authority must provide a sufficient response time for a matter to be considered by elected members at a normal council meeting, including time for the preparation of a report and recommendation.

Clarence City Council considers that critical resource deficiencies amongst councils are most effectively able to be overcome through voluntary resource-sharing opportunities.

7. The intended process undermines the remit of the Tasmanian Planning Commission as a strategic planning body.

The Tasmanian Planning Commission is a strategic planning body focussed on matters beyond the scope of an individual Council (ie: of state and regional significance). To that end, it is noted that the review and updating of the regional land use strategies and state policies and the introduction of Tasmanian Planning Policies remain incomplete, yet the draft Bill seeks to require the Commission to now undertake statutory planning assessments.

From a practical perspective, placing further work upon the Tasmanian Planning Commission, will only increase their demand for resources which will put further strain on the system at a time where the critical shortage of planners is of fundamental concern nationwide.

Clarence City Council considers it essential that the Tasmanian Planning Commission must remain as a strategic body focussed on matters of regional and statewide importance. Further activities cannot be undertaken at the expense of, and in conflict with, this core role.

Furthermore, the conversion of the Tasmanian Planning Commission to become a statutory planning body will have long term detrimental implications for strategic land use planning in Tasmania, further delaying the key priorities of the review of regional land use strategies and state policies as well as the introduction of the Tasmanian Planning Policies.

8. The proposed processes will unreasonably reduce public involvement in planning.

The draft Bill has sought to describe a new different public exhibition process rather than utilising or repeating the well-established process for advertising of normal planning permits. The new process does not specify the form and content of the notice, which have been the subject of tribunal cases over the years, in Tasmania and interstate.

The public notification process of the DAP application pathway provides for less notification than that which currently exists for a Division 2 planning permit in that:

- There is no requirement to public a notice in the newspaper.
- There is no requirement to notify the occupiers of adjacent land (presumably due to the lack of a suitable database within the state government).
- There is no requirement to display notification on the boundaries of the subject land (presumably due to resourcing constraints to undertake local activities on ground).

While it is agreed that changes to notification requirements are long overdue, particularly in terms of the redundancy of placing a notice in the newspaper, it is considered that this should be done in a holistic way. It is considered illogical that notification and exhibition processes for fundamentally similar applications (or in the case of a transferred application – the same application) differ between jurisdictions. Accordingly, reform for this aspect is supported but needs to be consistent for both processes. As an example, the placing of a public notice in a newspaper is heavily outdated, costly and reaches only a small portion of the community – current engagement process through council websites and the use of social media have a far greater effect and reach a significantly wider demographic of the community.

The draft bill also provides for discounting of representations based on a perception of their content – using terms of "frivolous and vexatious". These terms have a legal basis which normally relate to actions, not matters raised for consideration. It is noted that the planning authority does not enjoy any similar provision in the assessment of a Division 2 planning permit, instead being required to take into account all representations no matter how trivial or irrelevant.

In addition, there is no notification nor specific consideration given to any existing representors in the case of a transferred application that has already been advertised, nor guarantee of their inclusion in any future hearing process.

The draft Bill also removes a right to appeal to TASCAT and narrows the right of appeal on the grounds of an error of law. The Consultation Report refers to other jurisdictions

having similar limited appeal rights, but this appears to be only in relation to applications which are combined with planning scheme amendments.

There is no reason why, again, this right of appeal should differ for fundamentally similar applications (or in the case of a transferred application – the same application).

Clarence City Council considers it essential that the draft Bill be modified to ensure that the notification, public exhibition, assessment and administration processes application under either Division 2 or Division 2AA of LUPAA are consistent in timeframe, content and method. Reform for these processes should consider the most effective methods for notification given modern communication channels and public engagement practices.

9. The draft DAP Bill is incompetent in its drafting and proposes a process that is fundamentally flawed rending it in direct conflict with Council's obligations under other legislation.

The inconsistent and unconsidered drafting of the draft Bill will result in significant adverse outcomes. The scope and implications of these impacts reinforce the deficiency of the drafting and review process of the draft Bill and highlights the complexity of current processes.

This is highlighted through two key examples:

- The draft Bill intends to utilise Council as the issuing agency for any permit (by way of direction from the Assessment Panel). In addition, it reinforces the Council's role from an enforcement perspective.

  However, council's obligation under section 48 and section 63A of LUPAA (even to the extent of being guilty of an offence for failure to do so) is in relation to breaches of the planning scheme, not planning permits. Until now this has not been an issue as permits were issued in accordance with the provisions of the scheme, or specifically overriding the scheme (with the scheme to be brought into conformity with the permit such as in the case of Major Projects and Projects of State Significance).

  With the DAP process circumventing the application of the planning scheme, it is likely that permits will be inconsistent with the planning scheme, thus placing Council in a position to enforce the planning scheme contrary to a permit it has been directed to issue.

- The draft Bill, in relation to a transferred application, purports to cease the old process and halt the statutory timeframes of the DA process while the request to transfer the application is considered.

  However, there is no process for the applicant to notify the planning authority of their intention, nor of the Minister or Commission to notify the planning authority of their determination. The only requirement is for the Minister to notify the Planning Authority that such a request has been made and provide an opportunity to respond but it does not specify the timeframe in which the Minister must take this action.

  Given that the trigger to seek relief through the DAP process for an existing application is likely to be following assessment - when the applicant is notified of the officer's recommendation and the matter is listed on a Council Agenda - it is likely that the application will be nearing the end of the statutory timeframe (or agreed extension).

  It follows that, given Council's imperative to determine the application within the statutory timeframe, that any delay in notification of a transfer application may result in a situation where Council, acting in good faith, has determined a matter and issued a permit, only for the DAP process to now intervene and purport to conduct an alternative assessment and direct a different permit to be issued. The result - two potentially different permits and confusion.

  In the alternative, it is also likely that, where Council has stopped its assessment due to being notified of a transfer request, not notifying Council of an unsuccessful determination may result in the (now resumed) application exceeding the statutory timeframe without Council's knowledge.

Both of these processes place council in a position of conflict in administering processes where it is not adequately informed of determinations in a timely manner.

If the draft Bill is to proceed then it must be modified to recognise the role of enforcement as it relates to breaches of the planning scheme (not of permits) and that the notification processes of transfer applications are suitable to ensure council is able meet its statutory obligations in relation to timeframes for assessment of planning permits, or these obligations are varied in these circumstances.

From: Tom Roach
Sent: Tuesday, 12 November 2024 9:50 AM
To: yoursay.planning@dpac.tas.gov.au
Cc:
Subject: #ScrapTheDAP – say no to planning panels/say yes to a healthy democracy

To whom it may concern,

I am writing to voice my opposition to the creation of Development Assessment Panels in Tasmania. I am concerned that this change will reduce the voice of local communities with regards to proposed developments and ultimately unfairly favour the interests of developers. This is highlighted by the lack of independence of the Tasmanian Planning Commision and the limited appeal options presented through this process.

While I understand councils are under considerable load with regards to managing planning applications, I feel these proposed changes are geared towards facilitating developments that would otherwise struggle under appropriate public scrutiny. Examples of this include the failed application for a Mount Wellington Cable Car.

Finally I am concerned about the anti-democratic nature of this proposal in that it reduces the voice of the wider public. In association with this I call on you to prohibit property developers from making donations to political parties, enhance transparency and efficiency in the administration of the *Right to Information Act 2009*, and create a strong anti-corruption watchdog.

Kind regards

Dr Tom Roach

From: Azra Clark <
Sent: Tuesday, 12 November 2024 9:40 AM
To: yoursay.planning@dpac.tas.gov.au
Cc:
Subject: #ScrapTheDAP – say no to planning panels/say yes to a healthy democracy

I oppose the creation of Development Assessment Panels (Daps). Opportunities for community feedback are vital for a representative and responsible government. I am concerned that this pathway bypasses such opportunities. The lack of transparency processes and independence of the Tasmanian Planning Commission is also worrying.

The following further details reasons and concerns:

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

- **The Tasmanian Planning Commission is not independent** – DAPs are hand-picked, without detailed selection criteria and objective processes, are inconsistent with the principles of

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

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

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

- **Removes merit-based planning appeal rights** via the planning tribunal on all the issues the community cares about like impacts on biodiversity, height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and so much more. TASCAT review of government decisions is an essential part of the rule of law and a democratic system of government based on '*checks and balances*'.
- **Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal.**
- **Developments will only be appealable to the Supreme Court based on a point of law or process which have a narrow focus and are prohibitively expensive.**

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

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

- **Flawed planning panel criteria.** Changing an approval process where the criteria is on the basis of '*perceived conflict of interest*', '*a real or perceived bias*', '*the application relates to a development that may be considered significant*' and the '*development is likely to be controversial*' is fraught. The Planning Minister has political bias and can use this

subjective criteria to intervene on any development in favour of developers. NOTE: The scope of the DAPs includes a range of subjective factors that are not guided by any clear criteria:
– Valuations of $10 million in cities and $5 million in other areas.
– A determination by Homes Tasmania that an application includes social or affordable housing. There is no requirement for a proportion of the development to be for social or affordable housing. For example, it could be one house out of 200 that is affordable.

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

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

Say yes to a healthy democracy

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

Yours sincerely,

Azra Clark

Tasmanian Networks Pty Ltd
ABN 24 167 357 299
PO Box 606, Moonah, TAS, 7009

12 November 2024

State Planning Office
Department of Premier and Cabinet
HOBART TAS 7001

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

Dear State Planning Office,

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

TasNetworks welcomes the opportunity to have our say to the State Planning Office on the draft Land Use Planning and Approvals Amendment (Development Assessment Panels) Bill 2024 **(the draft DAP Bill).**

TasNetworks is the Transmission Network Service Provider, Distribution Network Service Provider and Jurisdictional Planner in Tasmania. TasNetworks' focus in all of these roles is to deliver safe, secure and reliable electricity network services to Tasmanian customers at the lowest sustainable prices. We are supporting the legislated Tasmanian Renewable Energy Target and Australia's transition to renewable energy by upgrading our network to connect and deliver new renewable energy forecast in Tasmania by the Australian Energy Market Operator. This includes major transmission projects such as:

- the North-West Transmission Development to support Marinus Link;
- upgrade of the transmission corridor between Waddamana and Palmerston to connect new renewable generation in the central highlands; and
- upgrades to support new load growth at George Town.

It also includes ensuring our distribution network can manage the increasing use of household solar PV and electric vehicles.

TasNetworks supports the draft DAP Bill and makes the following suggestions that we think will improve the outcomes being sought by introducing the new process. The proposed Development Assessments Panel **(DAP)** process has the potential to deliver a more efficient assessment process for large distribution and transmission projects while maintaining appropriate rigor in terms of scrutiny and transparency.

In section 60AB (3) of the draft DAP Bill, it is stipulated that an application cannot proceed through the DAP process if it is an application that section 25 of the Environmental Management and Pollution Control Act 1994 **(EMPCA)** applies to. This section of the EMPCA refers to permissible level 2 activities. It is our understanding that this exclusion may also extend to permissible level 1 activities. We consider this restriction should be removed. We expect most transmission developments to be level 1 activities under the EMPCA and therefore would not be eligible for the new DAP process. As stated above, the proposed DAP process offers the opportunity to rigorously and efficiently plan and develop large distribution and transmission projects. As a result, we recommend amending section 60AB (3) of the draft DAP Bill to allow for applications that could

Tasmanian Networks Pty Ltd
ABN 24 167 357 299
PO Box 606, Moonah, TAS, 7009

be a permissible level 1 activity to be able to go through the DAP process on the condition that the EPA is given the opportunity to give considerations to the panel.

The draft DAP Bill stipulates that consultation is required between the application assessment panel and each 'reviewing entity'. This gives a 'reviewing entity' the opportunity to provide relevant information for consideration by the panel. This does not include TasNetworks. However, Division 5B (special provision relating to certain transmission and distribution entities) of the Electricity Supply Industry Act **(ESI Act)** requires developers to consult with TasNetworks to ensure the development does not compromise our requirement to deliver safe and reliable electricity to our customers. Therefore, we consider that TasNetworks (with the same definition as specified in section 44K of the ESI Act[1]) be included in the definition of a 'reviewing entity' in the DAP Bill.

Once again, thank you for the opportunity to comment on the Draft DAP Bill. Should you have any questions, please contract Chris Noye, Leader Regulation at .

Yours sincerely

Chantal Hopwood

Head of Regulation

[1] Section 44K of the ESI Act defines relevant entity as:
(a) TasNetworks; and
(b) an electricity entity that –
(i) holds a license to distribute electricity by the way of the distribution network or a license authorising the operation of a transmission system; and
(ii) is prescribed for the purposes of this paragraph

From: Heather Donaldson <
Sent: Tuesday, 12 November 2024 9:41 AM
To: yoursay.planning@dpac.tas.gov.au
Subject: Submission - Development Assessment Panel - Draft Bill

This bill is ONLY good for developers. It is shocking for communities.
Democracy has to always be the priority of good governments.
People need to have a say.

Heather Donaldson

From:
Sent: Tuesday, 12 November 2024 9:35 AM
To: yoursay.planning@dpac.tas.gov.au
Cc:

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

Dear MPs as addressed.

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

- Democracy erosion is an ever-increasing part of modern governments with usually very little public input invitation and far too much consultancy interference and advice and which is often flawed. That is because governments have their own policies and preferred options, mostly intertwined with vested interests, that require “friendly” consultants that will endear themselves to favoured terms of reference resulting in approvals that are not popular with constituents.
- Local councils have a far better understanding together with their rate-payers on what is generally best for their municipal areas and not what imported and hand-picked decision-makers decide as better.
- Appealing bad and vested interest decisions made by such bureaucracies, especially those of a corrupted nature, will not be affordable for the general public or smaller stake-holders

I support the following words that are relevant to the DAP creation:

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

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

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

Best Regards,
Tony Coen OAM,

From: Ross Lincolne
Sent: Tuesday, 12 November 2024 9:35 AM
To: yoursay.planning@dpac.tas.gov.au
Subject: Submission on the "Draft LUPA Amendment (Development Assessment Panels) Bill 2024"

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

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

FROM:
Ross Lincolne

I object to this change.

It is not reasonable to subvert the time-honoured position that local communities has a say in decisions directly affecting them.

The Independent DAPs will not be independent, will be selected in a closed private process.
The DAPs would publicly release their proceedings or reasons for their decisions.
Their decisions will not be subject to review or appeal.

This change will not safely improve public housing developments or commercial developments. The proposed process is justy dangerous to the public interest.

I submit that these changes should not proceed.

Ross Lincolne

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Ross Lincolne

TW CM ref: 24/76264

12 November 2024

State Planning Office
Department of Premier and Cabinet
GPO Box 123
Hobart, Tasmania, 7001
yoursay.planning@dpac.tas.gov.au

Dear the State Planning Office,

TasWater Submission to the proposed Development Assessment Panels (DAP) Framework Position paper

Thank you for the opportunity to provide further feedback into the DAP Framework being proposed. TasWater notes that its previous feedback has been considered with the mandatory referral being removed, leaving the discretionary referral.

It also notes there are two alternative discretionary pathways for referral:

1. Application to the Planning Commission, and
2. Application to the Minister

Applying directly to the Planning Commission

There are certain alternative requirements before such an application can be made (this means only one of these requirements needs to be met). This includes certain monetary thresholds being met, depending on where the development is going to occur, or where the Council is both the proponent for the development and the Planning Authority. Those do not concern TasWater.

Our concern relates to the other requirements. The first is that regulations can be made to include any other class of application. This really should not be necessary considering the purpose of the amendments were to deal with specific issues.

The second instance is when the application is endorsed by Homes Tasmania as including social or affordable housing or a subdivision for the purposes of social or affordable housing.

To receive this endorsement from Homes Tasmania, an application does not require a certain percentage of social or affordable housing to be part of the application, nor does the purpose of the development need to be for the sole or dominant purpose of social or affordable housing.

Therefore, TasWater suggests like the threshold for monetary requirement there should be a threshold related to a certain percentage of social/affordable housing or the

purpose of the development being at least for the dominant purpose of social/affordable housing.

Applying to the Minister

The requirements for asking the Minister to refer an application to a Development Assessment Panel, are less specific. The same catch all trigger that allows regulations to be made to include any other class of application, exists. Again, this should not be necessary, considering the purpose of the amendments were to deal with specific issues.

Making a request of the Minister only requires:

1. A belief that the Planning Authority does not have the expertise to assess the application before it, or
2. That the application relates to a development that is or is likely to be controversial, or
3. That the Planning Authority may have in respect of proponent, or a development, a conflict of interest or a perceived conflict of interest or a real or perceived bias against the proponent or the development.

There is a requirement that evidence is provided to the Minister to support these requirements, however the Minister does not necessarily need to consider any response from the Planning Authority, nor consider what measures are in place to manage conflict/bias.

Therefore, TasWater suggests that these measures should be incorporated for the Minister to consider when determining such applications.

In addition to the above, the proposed amendments prevent an application to either the Commission or the Minister being successful, if section 25 of EMPCA applies. That section can only apply if an application for development is made to the planning authority first However, no application needs to be made to the planning authority before making an application to the Commission or Minister. Therefore, this proposed safeguard, can be easily bypassed.

TasWater suggests that the wording of the safeguard is changed to incorporate words to the effect that "section 25 of EMPCA applies or would apply if the application was not granted under section 60AB or section 60AC".

TasWater is supportive of the proposed assessment process contained in the Bill.

Yours Sincerely,

Matt Derbyshire
General Manager, Sustainable Infrastructure Services

From: Susan Bowes
Sent: Tuesday, 12 November 2024 9:27 AM
To: yoursay.planning@dpac.tas.gov.au
Cc:
Subject: #ScrapTheDAP – say no to planning panels/say yes to a healthy democracy

As the Sustainable Australia Party says 'We must achieve a transparent, democratic, corruption-free and environmentally sustainable town and urban planning system that will stop *over*development, while properly protecting our built heritage, backyards and urban amenity.'

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

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

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

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

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

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

- **Removes merit-based planning appeal rights** via the planning tribunal on all the issues the community cares about like impacts on biodiversity, height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and so much more. TASCAT review of government decisions is an essential part of the rule of law and a democratic system of government based on '*checks and balances*'.
- **Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal.**
- **Developments will only be appealable to the Supreme Court based on a point of law or process which have a narrow focus and are prohibitively expensive.**

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

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

- **Flawed planning panel criteria.** Changing an approval process where the criteria is on the basis of '*perceived conflict of interest*', '*a real or perceived bias*', '*the application relates to a development that may be considered significant*' and the '*development is likely to be*

controversial' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers. NOTE: The scope of the DAPs includes a range of subjective factors that are not guided by any clear criteria:
– Valuations of $10 million in cities and $5 million in other areas.
– A determination by Homes Tasmania that an application includes social or affordable housing. There is no requirement for a proportion of the development to be for social or affordable housing. For example, it could be one house out of 200 that is affordable.

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

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

Say yes to a healthy democracy

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

Yours sincerely

Susan Bowes

From: Steve Wilson
Sent: Tuesday, 12 November 2024 9:27 AM
To: yoursay.planning@dpac.tas.gov.au
Subject: Submission re DAP Legislation

We have major concerns about the existing planning approvals process. The proposed legislation to remove major projects from local council planning approval does nothing to remove these concerns and exacerbates difficulties with objective technical assessment. In particular we are concerned that guidelines, and planning objectives generally, appear to largely override or ignore certain aspects of suitability of sites for major development. These issues include, but are not restricted to, lack of (or limited) existing infrastructure, such as roads and water supply, changes in physical characteristics of a site with changing climate, changes in land use priorities with changing demographics, detailed analysis of business plans for proposals based on crown land.
We have no confidence that a DAP will address these issues as the panel will inevitably be presented with favourable technical analysis commissioned by the proposer.

We would like to see any assessment system underpinned by an independent and anonymous peer review process for all technical and economic aspects of large development projects. Peer review is normal procedure for academic publications and ought to be a minimal requirement for development projects with a high physical or social impact.

If such a system were adopted as part of the proposed DAP, we would strongly support it. Unfortunately the presently proposed DAP offers advantages for developers but no improvement in the quality of analysis for the general public.
Regards
Steve Wilson

From: Maria Riedl <
Sent: Tuesday, 12 November 2024 9:19 AM
To: yoursay.planning@dpac.tas.gov.au; State Planning Office Your Say
Subject: URGENT: Please confirm receipt of my submission because I have been having issues with my computer email sending!
Attachments: 2-Submission to Draft Land Use Planning and Approvals Amendement (DAPs) Bill 2024 by Maria IE Riedl.pdf

12 November 2024

Dear Have Your Say,

I have also attached articles to my original submission that highlight what I have stated and why I oppose DAP and why it must be thrown out!


THE NEW PLANNING LAWS SIMPLY TAKE IMPORTANT DECISIONS AWAY FROM INCOMPETENT COUNCILS AND PUT THEM INTO THE SAFE HANDS OF THE STATE GOVERNMENT.
EXACTLY!
YOU MEAN THE PEOPLE WHO ARE PLANNING TO LEASE OUT OUR BRAND NEW FERRIES BECAUSE THEY FAILED TO HAVE ADEQUATE DOCKING FACILITIES READY ON TIME?
TAS PORTS
CONSTRUCTION SITE
AUTHORISED PERSONNEL ONLY
KUDELKA

“Addressing the housing crisis by subverting the assessment process might seem acceptable to your average political fixer but it’s a breach of the time-honoured rule that local communities have a place at the table when final decisions are being taken on matters directly affecting them

free zone. The most troubling outcome of his emphatic win is the licence it will give to others to follow his lead, here in Australia as much as anywhere. Political, economic, social and environmental implications are historic.

Politically, he won despite fomenting a violent insurrection to overturn Joe Biden’s legitimate election. His social policies are already fostering division, distrust and fear by scapegoating migrants and other minorities, notably transgender people.

His policy on the environment is to ignore it. The environment is not a skyscraper, a golf course, a private jet or a seaside mansion, so why should he bother?

In his eyes the planet is just fine; hence his “drill, baby, drill” policy to ramp up fossil fuel extraction. The door is now open for a re-elected Trump to do incalculable damage, in his own country and globally.

Last week two Launceston climate action stalwarts stood up for the planet. Police were called to the main city branch of the ANZ bank to remove veteran protesters Rev Jeff McKinnon and Dr Scott Bell, who had presented customers with an uncomfortable truth: that since the 2015 Paris Agreement the bank has lent more than $20bn to the fossil fuel industry. The two face court in December.

I salute them for their courage, but feel dispirited, too.

After the Right’s greatest triumph of the modern era, bankrolled by corporate interests keen to share the spoils, it’s hard to escape the feeling that I’m just going through the motions here. But it’s an old habit, hard to shake off.

Peter Boyer is a former journalist and public servant. He writes mainly about the science and politics of climate.

Opinion OURS & YOURS

Lessons to learn blurring lines of private and public

Felix Ellis's Bill to remove individual planning decisions from local government is a real worry, writes **Peter Boyer**

A proposed Bill which would empower the minister to remove high-profile proposals from normal council processes has many concerned that this will prevent community members from having a say on developments which directly affect them. Such proposals could include a cable car on kunanyi/Mt Wellington, big subdivisions and high-rise CBD buildings. Picture: Richard Jupe

Peter Boyer

"There is no such thing as 'the government'," says Project 2025, that blueprint for rule by corporation in the US – and for that matter, the world. "There are just people who work for the government and wield its power ... to serve themselves first and everyone else a distant second."

As a former government employee I have issues with that, but for now I'll just add the words that seem to have been overlooked: "... just like people who run big business and wield its power."

Tasmania has a centuries-long history of blurred lines between private and public, never more so than over control of land. It started with the colonial government granting huge acreages (completely disregarding those who already lived there) to "suitable" settlers.

Last month Housing and Planning Minister Felix Ellis introduced a Bill enabling him to remove individual planning decisions from local government and have them assessed by what he described as "independent" development assessment panels (DAPs).

This will deny elected councillors a say on certain selected land projects, removing community rights to appeal decisions and empowering the minister to remove high-profile proposals from normal council processes – even after councils have begun their assessment. These could include a cable car on kunanyi/Mt Wellington, big subdivisions and high-rise CBD buildings.

And DAPs will be anything but independent. Members will be hand-picked behind closed doors, won't hear evidence in public and won't have to explain decisions in writing. Community input will only happen after developers and government agencies have had their say, in private.

The minister disguises this radical power shift, removing local councils from the approvals process, by describing it as a home-building measure.

"Importantly, the Bill streamlines the delivery of homes for Tasmania's most vulnerable," Mr Ellis said in announcing the legislation.

Minister Felix Ellis has introduced a Bill to remove planning decisions from councils and have them assessed by "independent" development assessment panels (DAPs).

Addressing the housing crisis by subverting the assessment process might seem acceptable to your average political fixer, but it's a breach of the time-honoured rule that local communities have a place at the table when final decisions are being taken on matters directly affecting them. Next week, a meeting of the Local Government Association of Tasmania will debate a two-pronged motion to support the DAP Bill, but subject to amendment.

Many in local government are unhappy with the minister's claim last month that, "critical housing or job-creating projects are being blocked by ideologically motivated councillors".

Deregulation and outsourcing have long been buzzwords in Australia, where big slices of public sector work have been outsourced to unsupervised, poorly regulated private suppliers. It's safe to assume the Trump resurgence is a portent of more job-cutting to come here – a seductive message in frontier societies such as ours (and the US), where for some "the government" is less an essential service than an intolerable burden.

Populist slogans around the concept of "small government" resonated strongly in the US election. Trump disavowed Project 2025 but no-one takes that seriously. He plans to cut staff in key environmental, climate, health, scientific and other agencies, and appears likely to dismantle some of them altogether.

Along with the political party that he now owns, Trump is a principle-

Draft bill is 'cataclysmic'

Mayor joins chorus unhappy at proposed changes to planning laws

Sue Bailey

The government's proposed changes to the state's planning laws have been slammed as "cataclysmic for ordinary Tasmanians" and anti-democratic, with powers being taken away from ratepayers.

But Planning Minister Felix Ellis said the new legislation backs in "common sense over the NIMBYs".

The Hobart City Council on Monday night will consider a submission on the draft bill to establish Development Assessment Panels (DAPs) which it says "introduces politics into planning" by giving the Planning Minister broad and undefined powers, and "reduces the involvement of the community in the planning process".

Clarence Mayor Brendan Blomeley . Picture: Chris Kidd

The Clarence City Council will also discuss the submission, which Mayor Brendan Blomeley has described as "exceedingly poor legislation".

"Whilst I do not wish to preempt a decision of council, in my view, it is clear that this proposed legislation is all about the Minister for Planning taking planning control away from local government and placing those decisions under his direct control and, when delegated, a few selected individuals appointed by government," Mr Blomeley said.

The Planning Matters Alliance Tasmania and Tasmanian Conservation Trust are urging Tasmanians to lodge a submission on DAPs before they close at 5pm on Tuesday.

Alliance state director Sophie Underwood said the DAP fast-track process would remove elected councillors and Tasmanians from having a proper say on the controversial developments affecting local communities as it removed planning appeal rights.

"This is cataclysmic for ordinary Tasmanians," Ms Underwood said.

"It's not at all hyperbole to say that these proposed changes to the way developments will be approved and land rezoned is crossing a threshold for the breakdown of democracy.

"DAPs will take voting ratepayers out of the picture.

"The people of Tasmania are having their rights stripped away and they do not even know.

"Development applications will be approved by a non-independent authority which is not accountable to voters or the ratepayers and will not be subject to the normal checks and balances of appeal rights."

Tasmanian Conservation Trust chief executive Peter McGlone says power will be centralised in the minister, who cannot be challenged in the planning appeals tribunal.

"This anti-democratic legislation gives the minister massive and unchecked power to decide if developments are taken out of the normal council planning system," Mr McGlone said.

"The government has justified DAPs as a social and affordable housing measure, but this is also misleading.

"Rather than being motivated by a desire to do more for affordable and social housing, the government just wants to give property developers a leg up through this anti-democratic legislation."

Mr Ellis said the new legislation would "give the community and developers the confidence they need to invest and continue to meet the needs of our growing population".

MORE: Talking Point, p17

Thank you

Maria IE Riedl B.S.Ed., M.Env.L., M.Env.Gov
41 St Georges Tce
Battery Point 7004
0408446090

'When we try to pick out anything by itself, we find it hitched to everything else in the Universe.' John Muir

From: NE Bioregional Network <
Sent: > Tuesday, 12 November 2024 9:24 AM
To: yoursay.planning@dpac.tas.gov.au
Subject: Development Assessment Panels

Draft LUPA Amendment (Development Assessment Panels) Bill 2024

We wish to comment on the above proposed legislation.
Our group has been involved in a variety of land use planning processes over a number of decades including RMPAT/TASCAT appeals and TPC/RPDC hearings.

Third party appeal rights are the most important avenue for the community to have meaningful input into land use planning especially so when our local council (Break O Day) approves just about every DA that comes before it at Council meetings. By participating in planning appeals, reviews and hearings our group has protected many important natural and scenic values in the region by stopping damaging development and improving planning permit conditions.

The proposed changes to the planning laws continue a decade long attack on the planning system by the Govt which started almost immediately upon their election in 2014 when they appointed the former head of the Property Council to oversee the Planning Reform Tasklforce and has continued unabated since then.

In our view the proposed laws will not only result in poor planning outcomes but also are a assault on democracy due to the removal of third party appeal rights being a central plank of the legislation. Undoubtedly the abolition of third party appeal rights has been the Govt's ultimate goal for many years now as its sympathies lie primarily with making development approvals for property developers as easy as possible.....referred to in pro development circles as removing green/red tape". As such the legislation is in total conflict with the core principles of Schedule 1 of LUPA below (and we would suggest the Govt would be quite happy to remove Schedule 1 all together if it could get away with it)

1. The objectives of the resource management and planning system of Tasmania are –

(a) to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity; and

(b) to provide for the fair, orderly and sustainable use and development of air, land and water; and

(c) to encourage public involvement in resource management and planning; and

(d) to facilitate economic development in accordance with the objectives set out in paragraphs (a) , (b) and (c) ; and

(e) to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State.

Some other observations/comments

Our recent experience with the TPC (via panel members Ramsay and Heath) and the Break O Day LPS process has shattered our trust in the TPC's ability to make evidence based decisions and as such they cannot be relied upon to oversee DAPS

DAPS have been implemented in other states of Australia and have generated considerable controversy in relation to the independence of the selected panel members and their planning decisions.

The excuse that these laws are necessary to address the current housing crisis are a smokescreen to justify open slather urban sprawl and intensification without adequate planning oversight. If the Govt was really concerned about housing it wouldn't support rapid population growth policies when there is a shortage of housing and they would also have prioritised funding for more public housing over the past ten years.

The current system is far from perfect with an ever increasing number of activities and land uses exempted from LUPA while participation has become increasingly expensive and the process of appeals more and more legalistic and adversarial

The RMPS in Tasmania needs strengthening not further weakening. This would include

* Including all land uses in LUPA (NO EXEMPTIONS)
* Auditing the performance of Local Councils regarding their assessments and approbvals of DA's and enforcement of planning permit conditions
* A strong independent anti corruption commission with teeth
* Genuine ecologically sustainable land use planning laws that are mandatory.

We request the proposed Bill be withdrawn

Todd Dudley
President
North East Bioregional Network

From: Geoff Heriot <
Sent: Tuesday, 12 November 2024 9:07 AM
To: yoursay.planning@dpac.tas.gov.au
Cc:
Subject: REJECT THE DEVELOPMENT ASSESSMENT PANEL LEGISLATION

1: My wife and I reside in Sandy Bay and, until recently, spent portions of the year at a family house in Victoria affected by that State's flawed planning panel process. This submission registers strong opposition to the proposed Development Assessment Panels legislation, founded on the following:

- That it would impose an unreasonable constraint on citizen rights and principles of community self-determination at a time when levels of trust in public institutions have been in freefall globally and at home.
- That it would further erode necessary checks and balances in Tasmania; a State already notorious for the weakness of its safeguards of integrity in public office (viz the Integrity Commission, which lacks both an adequate mandate and resources to perform as it ought in the public interest).
- That our direct and pertinent experience of the planning panels process in Victoria produced sobering lessons from a hard-won citizen victory over narrow vested interests in that case.

2: Problems intrinsic to the proposed Tasmanian planning panel model were borne out starkly in the Victorian case. It centred on a developer's proposal, contrary to the local planning regime, to

transform a partly occupied, medium density infill housing development, into one of very high density. A planning panel, appointed by the Minister, nonetheless recommended that the transformation be allowed and that local planning rules be changed to enable it. Apparently, the panel was exercised by the overall imperative to build more housing, regardless of variances of character and function between one part of the State or city to another.

3: Eventually, the City Council responsible for the disputed area decided unanimously to oppose the panel recommendation. Councillors argued variously that natural justice to the community had not been served, that the planning panel had imposed a one-size-fits-all perspective without considering the 'granularity' of the city's planning scheme, and that the proposal had been wholly developer - rather than policy-led. Panel members, all of whom were property/planning-related professionals rather than public policy or civil society adjudicators, applied a skewed top-down perspective that lacked situational sensibility.

4: Despite Victoria's much larger population and economy, compared with Tasmania, its community of planning specialists is relatively small. In the case cited, the panel chairperson failed to disclose a substantial prior professional relationship with the developer's counsel. Advocates and expert witnesses on either side were well-known to one another and appeared frequently in proceedings together. An extensive body of scholarship, affirmed by professional experience in Australia and internationally, points to the systemic biases inherent in the in-group/out-group dynamics of professional classes and disciplines. A panel might be composed of 'independent' persons but that is not to say they are 'neutral' or disinterested; indeed, they are appointed in pursuit of government policy priorities. The need for checks and balances to defend against systemic bias and the risk of soft corruption deserves special attention amid the professional and political cosiness of Tasmania.

5: In the Victorian case, for almost two years, city planning officers had worked cooperatively with the developer to advance the development proposal, in contradiction of the published planning regime on which residents had to rely and upon which to plan their affairs. We cannot know whether officers acted under instruction or the influence of assumptive groupthink. Regardless, civic order ultimately cannot be maintained without citizens having reason to maintain a tolerable degree of trust in public institutions.

6: Dismissively, part way through the Victorian hearing process, the planning panel accepted the developer's cart-before-the-horse proposal to re-write the planning rules to allow transformation to a high-density development. Asserting that this tolerance was normal practice for a panel to allow, it effectively sought to override an established regime and deny residents their reasonable expectations of a previously approved multi-storey/medium density project.

7: In this case, confronted by unanimous Council and resolute community opposition, the Victorian Planning Minister did not act to enforce the planning panel's recommendation. Relevantly, the community group comprised individuals with backgrounds in local government, public policy/corporate governance and the professions; that is, it was a group well-equipped to analyse and argue its case. Many community groups in Victoria – or Tasmania – would not have such skills to draw upon when seeking to be heard. But they should not have to do so in the absence of contestability between the judgments of State and local government authorities.

8: Tasmania operates with a poor-performing minority State government and an unimpressive opposition party. Government processes appear often to be opaque. The current administration is

guilty of astonishing neglect and incompetence in its husbandry of critical infrastructure projects and of the State's precarious finances. As proposed, the Development Assessment Panel process would expose the community to even greater risk of shoddy, unacceptable governance in the absence of such check-and-balances that remain across the tiers of State and local government. The Bill should be rejected.

Thank you for considering this submission.

Geoff Heriot, PhD
MComLaw, MA, GradDipBusAd, BA

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Geoff Heriot PhD
MComLaw, MA, GradDipBusAd, BA

Books:
International Broadcasting and its Contested Role in Australian Statecraft: Middle Power, Smart Power, Anthem Press (London & New York) 2023.

In the South: Tales of Sail & Yearning, Forty South (Hobart) 2012.

From: dave james <>
Sent: Tuesday, 12 November 2024 9:05 AM
To: yoursay.planning@dpac.tas.gov.au
Cc:
Subject: #ScrapTheDAP – say no to planning panels/say yes to a healthy democracy

Dear Gov

Thanks for even opening this email. I'm sure you have received a few with the same cut and paste responses... But i'd like to say these planning changes are a step in the wrong direction from making a Tasmania where people feel like they are the architects of the places we live and have a say in the future. The changes are not needed and seem to be an attempt to shift power to developers and wealthy business who don't Vote and have vested interest.

Please consider my Opposition as outlined below.

Thankyou

David James

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

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

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

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

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

- **Removes merit-based planning appeal rights** via the planning tribunal on all the issues the community cares about like impacts on biodiversity, height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and so much more. TASCAT review of government decisions is an essential part of the rule of law and a democratic system of government based on '*checks and balances*'.
- **Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal.**
- **Developments will only be appealable to the Supreme Court based on a point of law or process which have a narrow focus and are prohibitively expensive.**

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

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

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

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

Say yes to a healthy democracy

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

Yours sincerely,

David James

NORTHERN MIDLANDS COUNCIL

Ref: 13/026/013

11th November 2024

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

By email only: yoursay.planning@dpac.tas.gov.au

To whom it may concern,

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

Thank you for the opportunity to provide a submission on the draft Land Use Planning and Approvals (Development Assessment Panel) Amendment Bill 2024 (the draft DAP Bill).

Consistent with its response of 28th November 2023 to the Position Paper, the Northern Midlands Council remains concerned that the Development Assessment Panel framework is an unnecessary process that is not guaranteed to achieve the intended outcomes but rather disrupt the current assessment processes that are largely working well.

60AB. Certain new permit applications may be made to Commission

As advised in Council's submission dated 28th November 2023:

- *While there may be a general NIMBY (not in my backyard) sentiment amongst many communities towards potential social and affordable housing, it is very rare for this to have any impact on the application process of a development application and has no bearing on the assessment of the application against the planning scheme provisions.*
- *Development value is not indicative of whether an application will be contentious or not, and should not form part of the referral criteria.* Also, the value of $10M or $5M is an arbitrary amount, and being legislated won't be indexed.
- *Applications where Councillors express a conflict of interest in a matter and a quorum to make a decision cannot be reached may be a circumstance that warrants decision making external from Council.*

The Northern Midlands Council therefore:

Does not support 60AB (1) (a):
(i) – social or affordable housing endorsed by Homes Tasmania, and
(ii) – subdivision for social or affordable housing endorsed by Homes Tasmania .

P.O. Box 156
Longford Tas 7301

Telephone (03) 6397 7303
Facsimile (03) 6397 7331

www.northernmidlands.tas.gov.au

Does not support 60AB (1) (b):

(i) development in excess of $10 million or other prescribed amount.

(ii) development in excess of $5 million or other prescribed amount.

60AC. Minister may refer certain new permit applications to Commission

(1) A party to an application for a discretionary permit may request that the Minister direct the Commission to establish an Assessment Panel in respect of the application if –

(a) the application relates to a development that may be considered significant, or important, to –

(i) the area in which the development is to be located; or

(ii) the State; or

(b) either party to the application believes that the planning authority does not have the technical expertise to assess the application; or

(c) the application relates to a development that is, or is likely to be, controversial; or

(d) the relevant planning authority may have, in respect of the proponent or development –

(i) a conflict of interest or a perceived conflict of interest; or

(ii) a real or perceived bias, whether for or against the proponent or development; or

(e) the application falls within a class of applications prescribed for the purpose of this section.

Submission to 60AC(1)(a)(i): 'Area' is undefined. Is it municipal area, regional area or something else?

Submission to 60AC(1)(b): The planning authority is best placed to know whether it has the technical expertise to assess an application. It should only be the planning authority that may request the Minister under s. 60AC(1)(b).

60AG. Exhibition of applications

(1) Within 14 days after the expiry of the period specified in section 60AE(2) in respect of an application, the Assessment Panel is to –

(a) prepare a draft assessment report in relation to the application; and

(b) ensure that an exhibition notice is published that specifies, in relation to the documents and information specified in paragraph (d) –

(i) the day on which the exhibition of the documents and information is to commence; and

(ii) that the documents and information are or will be available for viewing by the public during the exhibition period at the premises specified in the notice; and

(iii) that the documents and information may be downloaded by the public from the website specified in the notice; and

(c) provide a copy of a notice under paragraph (b) to all property owners who own land adjoining the land to which the application relates; and

(d) ...

Consistent with the objective of the Resource Management and Planning System of Tasmania to encourage public involvement in resource management and planning the following is recommended.

- Section 60AG (1) (b) (ii) needs to state that the documents and information are or will be available at the premises of the council of the municipal area in which the application is proposed specified in the notice.

- Section 60AG (1) (c) needs to also legislate that a copy of a notice under paragraph (b) is to be provided to all occupiers of properties adjoining the land to which the application relates.

- Section 60AG needs to also legislate that the Development Assessment Panel is to ensure that a notice under paragraph (b) is advertised in a daily newspaper circulating generally in the area relevant to the application.

- Section 60AG needs to also legislate that the Development Assessment Panel is to ensure that a notice under paragraph (b) is displayed on the land that is the subject of the application –
  (i) in a size not less than A4; and
  (ii) as near as possible to each public boundary of the land that adjoins land to which the public has access.

60AL. Certain permit applications may be transferred to Assessment Panel

The transfer of existing applications to an Assessment Panel is **not supported**. Existing applications should be withdrawn and lodged under 60AB or 60AC.

Ministerial role to direct an LPS amendment

The Northern Midlands Council retains its position that the initiation of a planning scheme amendment should remain a decision of Council, noting that there is currently a review process under s. 40B, and that under s. 40C the Minister may direct the authority to prepare under section 40D a draft amendment of an LPS.

Should you have any further questions, please do not hesitate to contact Council, either by email council@nmc.tas.gov.au or by phone 6397 7303.

Yours sincerely,
Maree Bricknell
ACTING GENERAL MANAGER

From: Linda Poulton <
Sent: Tuesday, 12 November 2024 9:00 AM
To: yoursay.planning@dpac.tas.gov.au
Cc:
Subject: Scrap the DAP

To DPAC,

I led the campaign to oppose the ill-conceived proposal to construct the Northern Regional Prison near Westbury. I believe the complete backflip on this issue by the State Government reflects a better outcome for the correctional system than the prison had proposed. The prison proposal was met with widespread community opposition and was opposed 82% of our town. This might have been a pet project for the Government, but it was simply not something our community wanted.

The proposed creation of Development Assessment Panels (Daps) and increasing ministerial power over the planning system would of course have allowed this project to be steam-rolled though our community. This is clearly the exact type of project the State Government has in mind in its move to implement its legislative agenda with Daps.

I oppose the Daps for the following reasons:

- **It will create an alternate planning approval pathway allowing property developers to bypass local councils and communities**. Handpicked state appointed planning panels, conducted by the Tasmanian Planning Commission, will decide on development applications not your elected local council representatives. Local concerns will be ignored in favour of developers who may not be

from Tasmania. Also, if an assessment isn't going their way the developer can abandon the standard local council process at anytime and have a development assessed by a planning panel. This could intimidate councils into conceding to developers demands.

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

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

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

- **Removes merit-based planning appeal rights** via the planning tribunal on all the issues the community cares about like impacts on biodiversity, height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and so much more. TASCAT review of government decisions is an essential part of the rule of law and a democratic system of government based on '*checks and balances*'.
- **Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal.**
- **Developments will only be appealable to the Supreme Court based on a point of law or process which have a narrow focus and are prohibitively expensive.**

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

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

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

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

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

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

Say yes to a healthy democracy

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

Yours sincerely,

Linda Poulton

From: Belinda Kavic <
Sent: Tuesday, 12 November 2024 8:54 AM
To: yoursay.planning@dpac.tas.gov.au
Cc:
Subject: #ScrapTheDAP – say no to planning panels/say yes to a healthy democracy

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

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

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

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

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

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

Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal.
Developments will only be appealable to the Supreme Court based on a point of law or process which have a narrow focus and are prohibitively expensive.

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

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

Flawed planning panel criteria. Changing an approval process where the criteria is on the basis of 'perceived conflict of interest', 'a real or perceived bias', 'the application relates to a development that may be considered significant' and the 'development is likely to be controversial' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers. NOTE: The scope of the DAPs includes a range of subjective factors that are not guided by any clear criteria:
– Valuations of $10 million in cities and $5 million in other areas.
– A determination by Homes Tasmania that an application includes social or affordable housing. There is no requirement for a proportion of the development to be for social or affordable housing. For example, it could be one house out of 200 that is affordable.

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

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

I call on you to ensure transparency, independence, accountability and public participation in decision-making within the planning system, as they are critical for a healthy democracy. Keep decision making local, rather than bypassing it, with opportunities for appeal. Abandon DAPs and instead invest in expertise to improve the local government system and existing planning processes by providing more resources to councils and enhancing

community participation and planning outcomes. This will also help protect local jobs and keeping the cost of development applications down.
I also call on you to prohibit property developers from making donations to political parties, enhance transparency and efficiency in the administration of the Right to Information Act 2009, and create a strong anti-corruption watchdog.

Yours sincerely,

Bee

From: mabsydney
Sent: Tuesday, 12 November 2024 8:35 AM
To: yoursay.planning@dpac.tas.gov.au
Cc: yoursay.planning@dpac.tas.gov.au
Subject: DAP threat to our democracy

This email is to express my objection to the creation of Development Assessment Panels (DAPs) and increasing ministerial power over the planning system.

The creation of DAPs is a serious threat to democracy in Tasmania; by selecting state appointed planning panels and removing local council representatives from decision making the Tasmanian government is choosing to ignore independent and impartial feedback and concerns.

This legislation appears to be designed to force projects such as the Kunanyi cable car through while ignoring the objections of the local community and groups such as rock climbers, mountain bikers, trail runners and other users of Wellington Park who don't intend to stand by and watch our mountain be destroyed with an ill thought out development that is being supported and pushed forward by Jeremy Rockliff's government who aren't content with wasting tax payer money on a stadium while health care and housing are woefully underfunded.

Kind Regards,

Martin Brown

From: Tim Smith
Sent: Tuesday, 12 November 2024 8:33 AM
To: yoursay.planning@dpac.tas.gov.au
Cc:
Subject: Reject the creation of Development Assessment Panels

I deeply oppose the proposed
creation of Development Assessment Panels (Daps) and increasing ministerial power over the planning system.
This shameless proposal is deeply undemocratic and implies that an appointed few, with no public oversight, is allowed to make lasting decisions on lands belonging to the many. It is fundamentally self serving and turns its back on the egalitarian project Australia pretends to be. This has the very real potential to enshrine bad ideas without due planning inputs.
There is very real potential that this proposal opens doors to overt corruption, a corruption that already exists through political lobbying and preferential treatment to individuals or organisations with money and influence. Tasmania should be seeking to be better and different not a nepotistic version of larger states. Real culture and investment should be fostered by community nurturing initiatives that include a focus on social housing, support services for women and men perpetrating violence against women, removing anti protest laws, protecting the environment and removing political influence through donation and lobbying reform.
This proposal is a significant step in the wrong direction. I'm disappointed at the group of people responsible and the socially and morally corrupt position instigating such a body.
Regards. Tim Smith, Ridgeway, TAS

From: Dal Andrews
Sent: Tuesday, 12 November 2024 8:27 AM
To: yoursay.planning@dpac.tas.gov.au
Cc:
Subject: DAPs Submission

Hi,

I'm writing regarding the Development Assessment Panels (DAPs) the government proposes to bring in.

I see the positives as being:

i) having experienced and well qualified people judge the merits of proposed additions to our built environment.

I see the negatives as being:

i) the DAPs panelist selection process would have to be transparent and able to ensure that the government and the development industry won't have undue influence. Achieving this would be very difficult, and assuming an effective selection criteria could be brought into existence, it would difficult to protect that process from being eroded over time.

ii) the panelists, while experts in their field, would not be bringing a nuanced sense for the local situation to the decision making process. Yet it can be very important for planning directives to be tempered by local conditions, local experience and local knowledge. The ability for a planning system to respond to local conditions and needs is important for all communities, it's how they help to shape the built world around them, and make it 'their place'.

iii) we need to recognise that no decision process is infallible and therefore, there needs to be an avenue for reasonable appeals to be heard and acted upon. Without that, the DAPs would be in grave danger of being seen as autocratic, unresponsive and unfair.

I recognise that the local government planning process is far from perfect, and it often fails to deliver outcomes consistent with some of the concerns raised above. However, that system can be fixed with some serious re tuning (not tossing it out), and by bringing well informed expertise into the local process rather than having DAPs panelists imposing decisions on communities from 'outside'.

Sincerely,

Dal Andrews
4 Rowan Court, Taroona

TASMANIAN PLANNING COMMISSION

Our ref: DOC/24/139806
Officer: Dan Ford
Phone: 03 6165 6828
Email: tpc@planning.tas.gov.au

12 November 2024

Mr Sean McPhail
Assistant Director
State Planning Office
Department of Premer and Cabinet

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

Dear Mr McPhail

Development Assessment Panel Framework
Draft DAP Bill

I refer to the State Planning Office's (SPO) consultation on the draft Land Use Planning and Approvals Amendment (Development Assessment Panels) Bill 2024 (draft Bill).

The Commission has reviewed the SPO's DAP Framework Position Paper, Consultation Report, and draft Bill and identified several concerns relevant to the Commission outlined below.

Preferred alternative

The draft Bill has significant resourcing implications for not only the Commission but also the planning sector more generally. The Commission is not currently structured or resourced sufficiently to manage the assessment process anticipated under the draft Bill. It follows that the progression of any DAP model will require sufficient resources to effectively administer the process.

The Position Paper confirms that the Tasmanian planning system is already among the fastest, if not the fastest, in the country when it comes to determining development applications. This demonstrates that the Local Government sector is not only capable but administers development assessment processes efficiently. Any new DAP process ought to capitalise on local government experience and resources before creating parallel alternatives and putting the sector under further resourcing pressure.

The stated intent for introducing DAPs is 'to take the politics out of planning'. The proposed framework has broad implications beyond decision making. The proposal essentially sets up a parallel administrative alternative to the functions currently undertaken by planning authorities. The concern is that the proposed framework:

- Does not recognise and benefit from the efficiencies in the current frontend development application administration and assessment routinely undertaken by planning authorities;
- Will add further layers to an already complex planning system;
- Will require the duplication of administrative and technical functions (i.e. Commission and Local Government) that will require additional staff across the sector to implement. This will result in a more expensive planning system, but more concerningly, there may not be enough sufficiently skilled and experienced people in Tasmania to run it;
- The Commission would need to expand the skills and experience of its internal staff and delegates and to engage people with backgrounds in engineering (civil, coastal, traffic, hydraulic), ecology, law, urban design, and environmental health;
- It is possible new bespoke application management software could be required; and
- Would require the duplication of the process currently undertaken by TASCAT, as well as duplication of its resources.

The Commission submits that an alternative approach should be developed to address these concerns while still relying on an independent DAP decision making model thereby 'taking the politics out of planning'.

The equivalent reports and early assessment responsibilities associated with draft planning scheme amendments (and concurrent permits under s.40T) are currently undertaken by councils that are sufficiently resourced and supported by suitability skilled people. This element of the planning process is currently working well, is familiar to the planning and development sector and should be utilised to further the Government's core objectives. It is considered that a more efficient, manageable and responsible approach would be to alter the draft Bill to reflect the draft amendment process, so that planning authorities:

- Receive the application;
- Charge a fee for assessment of the application;
- Check the application's overall validity and against the prescribed DAP criteria;
- Conduct the preliminary assessment (as it currently would) to ascertain whether additional information is required (which is currently subject to appeal rights and could be referred to the DAP);
- Receive additional information (if required);
- Advertise the application (newspapers, letters and site notices, as well as valuable non-statutory functions such as the display of applications on council web sites and associated in person customer services);
- Prepare an assessment report (which would include an assessment of the representations and an opinion on their merit);
- Prepare draft permit conditions; and
- Pass the complete application, associated supporting documentation, assessment report, and its recommendation on whether a planning permit should be granted, to the Commission for determination by a DAP.

It is noted that this approach would not increase the assessment timeframes established under the draft Bill, could lend itself to a simpler fee structure, and would be easier for the Commission to administer and budget for. It would also allow the councils to remain an important part of the process and allow them to continue to be seen to represent their communities.

For comparison, a Flowchart of the suggested Alternative Process is attached.

Despite the Commission's preference for an alternative DAP model outlined above, in the event that the draft Bill is tabled in a substantially unaltered form, the Commission must be given sufficient resources to effectively administer the process.

Even so, the Commission has identified a range of concerns with the exhibited draft Bill outlined below.

General Concerns with exhibited draft Bill

Heritage

The draft Bill seeks to amend both the Act and the *Historic Cultural Heritage Act 1995* (Heritage Act). The framework establishes that applications that are subject to the Heritage Act are eligible for determination by a DAP. The DAP will refer relevant applications to the Heritage Council (one of several defined reviewing entities) seeking its advice.

Section 60AD(2) of the draft Bill establishes that where a DAP is established to determine an application, the Heritage Act does not apply. This is similarly reflected in the proposed amendment to Part 3 of the Heritage Act that specifies at s.33(2)(a) that *"This Part does not apply to – a permit application that is to be determined by an Assessment Panel under Division 2AA of Part 4 of the Planning Act; and…"*

The concern is that sites that warrant referral to and consideration by the Tasmanian Heritage Council (THC) are those that are listed on the Tasmanian Heritage Register and are not recognised under the Tasmanian Planning Scheme for the following reasons:

- The C6.0 Heritage Code specifies at C.6.2.3 that the code does not apply to a registered place entered on the Tasmanian Heritage Register; and
- Many LPSs are limited to sites of local significance and do not include/duplicate properties listed on the Tasmanian Heritage Register.

The consequence of this drafting is that there is no trigger to refer applications to the THC. Even if they were to be referred, any comments received from the THC would not be relevant to the assessment on the basis that properties listed on the Tasmanian Heritage Register have no protection under the Tasmanian Planning Scheme, placing these properties at very high risk being used or developed inappropriately.

Establishment of DAP

Under s.60AD (and s.60AM and s.60AP), the Commission is to establish an Assessment Panel (or DAP). The DAP is to administer and exhibit the application. Under s.60H the DAP is to hold a hearing open to prescribed parties (not public) and must determine the application. Ultimately it is the DAP and not the Commission administering and determining the application.

Whilst there are similarities in the processes, the comparable references in the planning scheme amendment assessment and determination process refer to the Commission rather than the appointed delegates. Ultimately it is the Commission who administers and determines applications for planning scheme amendments via a delegated panel.

It is unclear if this nuance was intentional. However, as drafted there is concern that Commission hearing procedures and protections prescribed under the *Tasmanian Planning Commission Act 1997* (Commission Act) would not apply to DAPs in the same way they apply to panels delegated under s.8 of the Commission Act. Specifically, the DAP may not be afforded the ability to inform itself as it thinks fit, may be the bound by the rules of evidence, and does not have to observe the rules of natural justice [s.10(1)]. This will represent a significant departure from the inquisitorial nature of the Commission's current hearing practice to a more adversarial evidence-based approach. This approach will be less accessible to the public to participate in the planning process, but more concerning is that DAP members are not protected from immunity and liability as afforded to Commission delegates under s.13 and s.14 Commission Act.

This is a matter that ought to be addressed and potentially could be achieved by amending references to 'Assessment Panels' to the 'Commission' or alternatively extending the draft Bill to include a suitable amendment to the Commission Act.

Commencement date

Resourcing the Commission to adequately administer and determine future DAP applications will be contingent on understanding the potential DAP application numbers anticipated.

No estimated figures on potential DAP application numbers were provided or are available and based on the Prescribed Purposes in the draft Bill, are very difficult to estimate.

Should the draft Bill be approved, it is likely to be some time before the Commission has the necessary resources and systems in place to manage the process. For this reason, the Commission requests that the commencement date is delayed sufficiently to ensure the Commission is adequately resourced and prepared to ensure successful implementation.

Fee Structure

The Consultation Report (p19-20) recognises that the fee structure for councils and DAPs is important and confirms that 'the revised framework provides that

fees may be prescribed in the regulations.' It is noted the SPO intends to consult further on this matter and that it is an area that will have significant implications for the Commission and specifically its ability to control its budget, resources and establishment of the process.

DAPs will be a new responsibility and the Commission must be sufficiently resourced to deliver the outcomes prescribed. This will have implications for:

- Staff [Administration, Planning advisors, Panel delegates (numbers and skills/expertise)]; and
- Administration, public interaction and physical space [Office space, suitable hearing rooms (statewide), vehicles (availability/purchase/lease/hire and parking)]. Logistical issues must be also taken into account here, including the time taken to conduct site inspections at distant locations.

The Commission has considered a range of potential fee structures and the preferred approach is a hybrid cost recovery model relying on the payment of a prescribed set fee required to be paid up front, and at the conclusion of the assessment, actual assessment costs reconciled with any un-utilised fees refunded or any shortfall invoiced for recovery.

The Commission welcomes further discussion on this issue.

Specific concerns with exhibited draft Bill

Section 60AA - Interpretation

- Definition for a city (relates to the assessment criteria in s.60AB and s.60AL) – potential issue given some city councils, such as Launceston and Clarence, contain a mix of urban and rural environments. Additionally, large municipalities such as Kingborough, with significant urban areas and development pressure, will be subject to lower development cost thresholds. This will lead to a disproportionate number of "suitable" DAP assessments in municipalities such as Kingborough. A better approach would be to rely on defined urban and non-urban zones.
- It is not necessary for the Act to refer to the term 'social and affordable housing.' The Act could simply refer to Homes Tasmania because the application has to be 'endorsed' by Homes Tasmania in any case. This removes the need to define or consider what may or may not be inferred by reference to social and affordable housing and removes the potential for conflicting views.

Section 60AB – New permit applications (criteria for referral)

- As prescribed, the $5M and $10M development thresholds are not indexed and will effectively be reduced over time. This is likely to see a corresponding increase in DAP eligibility/take-up in the longer term.
- It is not clear who calculates the cost of works to verify whether the $1M, $5M or $10M thresholds are met.

- The Commission could be challenged on application thresholds. If it was later found that an application did not meet cost thresholds, would it invalidate the process?
- A better approach would be to establish the thresholds in the Regulations, subject to annual indexing and updates as required.
- Evidence of the cost of works should be provided by a suitably qualified person, such as a quantity surveyor.
- Seven days is not long enough for the Commission to request additional information and establish an Assessment Panel (it could be difficult to meet the timeframe, especially over the Easter and Christmas period).
- Officers may need more time to assess the application and any further information submitted to determine what expertise the DAP Panel members need.

Section 60AC – Minister may refer certain new permit applications to Commission

- The criteria are very open (significant, controversial, conflict of interest) and it is not clear how the Minister may interpret this and in turn how many applications would be received under this provision. This will have resourcing implications for the Commission.
- The Minister is likely to receive many enquiries and requests for applications to be referred to DAPs.
- The Minister should have guidelines or criteria to assist in making consistent judgements about the nature of applications that ought to be referred to the Commission. For example, the term 'controversial' is not defined. Potentially every application currently referred to a council meeting for decision could fit the ordinary meaning (the fact that such applications are not determined under officer delegation suggest that they are controversial). This provision be tightened to ensure the Minister is not progressively burdened by requests.

Section 60AE – Referral to 'reviewing entity'

- It is not clear whether the Panel can have regard to heritage matters if an application relates to a place on the Tasmanian Heritage Register. This is discussed above.
- It is unclear why the definition for 'referral entity' cannot be aligned to refer to the already defined term 'regulated authority' as per the existing s.60 of the Act.
- The planning authority should be given the opportunity to recommend that a permit not be granted even if it is required to provide draft conditions.

Section 60AF – Additional information

- The assessment time is paused until the request for further information has, 'in the opinion of the Panel', been satisfied – it is not clear when the assessment time would recommence.

Section 60AG – Exhibition

- Fourteen days may not be long enough to produce an assessment report.
- A provision is needed that would allow the Panel to seek an extension of time when required/warranted.
- It is unreasonable to expect a Panel to have to make a recommendation about whether an application should be approved prior to exhibition and a hearing, since those processes are often integral to identifying the information necessary to make informed and sound decisions. The assessment may not be informed by valid issues that may be identified in the representations and DAP decisions could be undermined by representors who claim the Panel is prejudiced.
- The Panel should not be in a position where it feels it has to defend the draft permit as this may be seen by the parties as pre-empting a final decision.
- Would the regulations prescribe the newspaper where and by whom the notice is expected to be published, responsibility to erect a site notice, and any other requirements for exhibition?
- Should the Act/regulations provide that applications be exhibited online rather than by public notices in newspapers given modern readership of public notices is low?
- It would be premature to advertise notice of the hearing before knowing how many representations had been received and how complex the issues raised were.
- A provision is needed to allow for a change of hearing date/venue when warranted.
- It is not clear what is meant by 'comments and feedback' in s.60AG(3) – is this different to a representation?

Section 60AH – Hearings and decisions

- Ten days may not be long enough for the Panel to review representations and conduct site inspections (particularly for distant locations).
- The Minister may grant one extension of time to the Panel of not more than 21 days (does not apply to applications made by Homes Tasmania). There should be provision for the Minister to grant additional extensions of time when warranted.
- Homes Tasmania should have the option to provide an extension of time.
- It is not clear what happens if no extension of time is granted. Can a permit be issued after expiry? Is there a penalty/review when decisions are not made in time? The safest alternative is to allow unlimited Ministerial extensions that may be granted retrospectively.
- Section 60AH(3)(a) and (b) should be modified to clarify that the Panel's decision must be based on the applicable planning scheme.

Section 60AJ – Frivolous or vexatious representations

- Section 60AJ is unnecessary, frivolous or vexatious representations will be given negligible weight in the DAPs decision.

Sections 60AL, 60AM and 60AN – Transfer applications

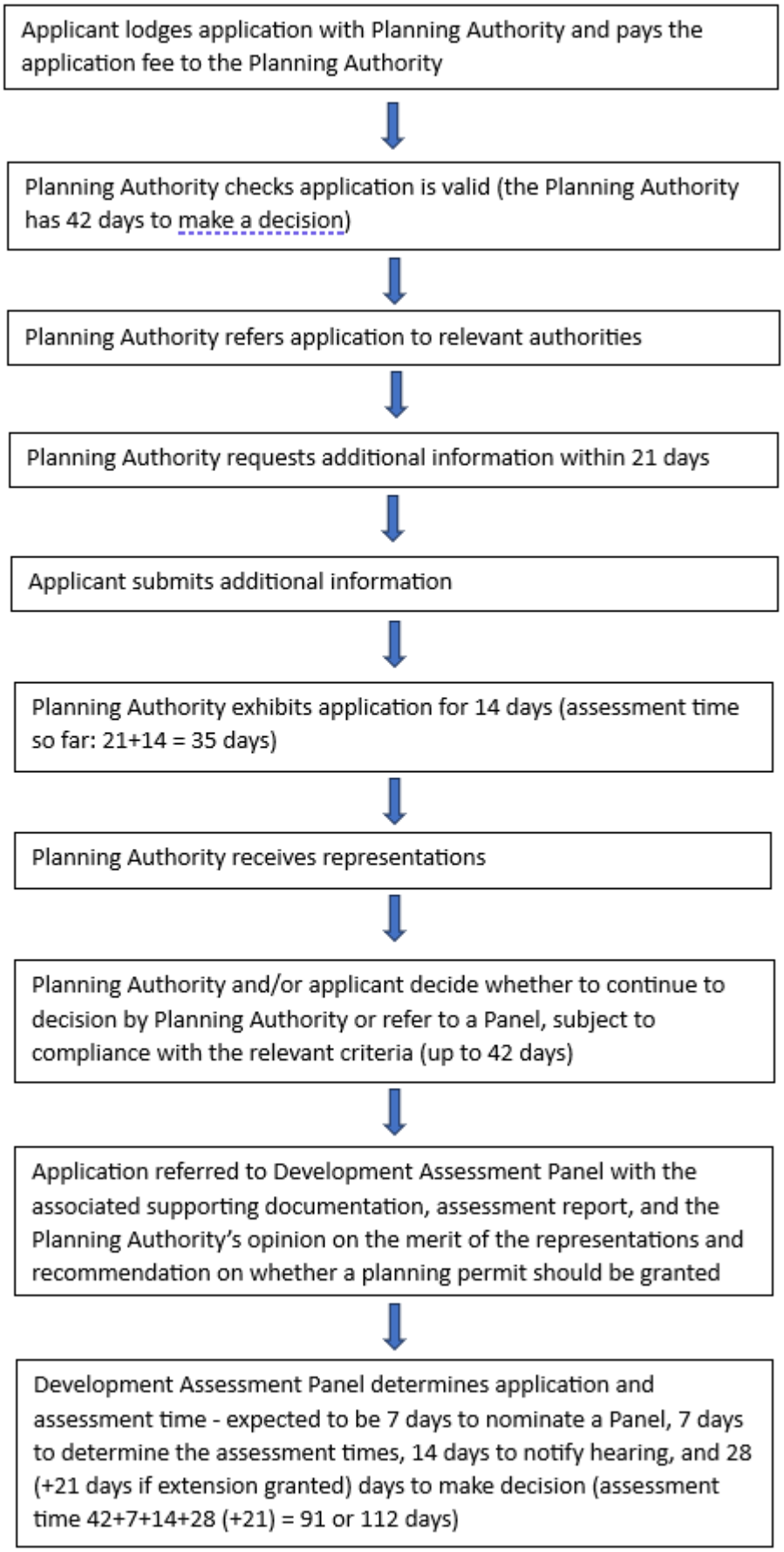
- Transfer application provisions should be removed or modified such that applications should be transferred prior to exhibition. There is a risk that respect for the system could be undermined in situations where parties become aware of a disadvantageous officer recommendation to the council.

Thank you for the opportunity to provide feedback. If you require further information relating to this submission, please contact the Commission on 03 6165 6828.

Yours sincerely

John Ramsay
Executive Commissioner

Appendix A – Flowchart of Alternative Process



From: Stephen Bayley
Sent: Tuesday, 12 November 2024 7:56 AM
To: yoursay.planning@dpac.tas.gov.au
Cc:
Subject: #ScrapTheDAP – say no to planning panels/say yes to a healthy democracy

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

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

- **The Tasmanian Planning Commission is not independent** – DAPs are hand-picked, without detailed selection criteria and objective processes, are inconsistent with the principles of open justice as they do not hold public hearings, and lack capacity to manage conflicts of interest (as per the 2020 Independent Review). DAPs do not have to provide written reasons for their decision (making it difficult to seek judicial review). Community input will be less

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

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

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

- **Removes merit-based planning appeal rights** via the planning tribunal on all the issues the community cares about like impacts on biodiversity, height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and so much more. TASCAT review of government decisions is an essential part of the rule of law and a democratic system of government based on '*checks and balances*'.
- **Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal.**
- **Developments will only be appealable to the Supreme Court based on a point of law or process which have a narrow focus and are prohibitively expensive.**

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

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

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

planning system for stopping housing developments to cover its lack of performance in addressing the affordable housing shortage.

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

Say yes to a healthy democracy

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

Yours sincerely,

Stephen Bayley

Stephen Bayley

From: Esther Groarke
Sent: Tuesday, 12 November 2024 7:55 AM
To: yoursay.planning@dpac.tas.gov.au
Subject: Draft Land Use Planning and Approvals Amendment Bill 2024

To Whom it may concern

As a citizen and ratepayer of Tasmania, I wish to express my deep concern about the proposed changes to the planning and approvals processes, by the Government.

To take the more complex planning decisions out of the hands of our elected Councillors and giving them to an appointed Development Assessment Panel (members of which may not even have experience in urban planning), is an extreme overreach of government powers.

Additionally, with the community having no right to appeal final decisions made by the panel, this constitutes a further erosion of our democratic processes.

The Government would do well to reconsider their proposed changes to the current legislation and leave the planning and approvals processes to local government officials to decide upon. They are best placed to make decisions on behalf of their communities and state government interference in such matters is neither fair or warranted.

Yours sincerely,
(Mrs) Esther Groarke

From: Lachlan McKenna <
Sent: Tuesday, 12 November 2024 7:38 AM
To: yoursay.planning@dpac.tas.gov.au
Cc:
Subject: #ScrapTheDAP – say no to planning panels/say yes to a healthy democracy

Dear DPAC engagement team,

I'm writing to expression my opposition to the creation of Development Assessment Panels (Daps) and increasing ministerial power over the planning system. The changes proposed are fundamentally undemocratic and remove the say of local communities.

They are overreach, autocratic and should be scrapped.

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

The Tasmanian Planning Commission is not independent – DAPs are hand-picked, without detailed selection criteria and objective processes, are inconsistent with the principles of open justice as they do not hold public hearings, and lack capacity to manage conflicts of interest (as per the 2020 Independent Review). DAPs do not have to provide written reasons for their decision (making it difficult to seek judicial review). Community input will be less effective

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

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

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

Removes merit-based planning appeal rights via the planning tribunal on all the issues the community cares about like impacts on biodiversity, height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and so much more. TASCAT review of government decisions is an essential part of the rule of law and a democratic system of government based on 'checks and balances'.
Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal.
Developments will only be appealable to the Supreme Court based on a point of law or process which have a narrow focus and are prohibitively expensive.

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

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

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

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

I call on you to ensure transparency, independence, accountability and public participation in decision-making within the planning system, as they are critical for a healthy democracy. Keep decision making local, rather than bypassing it, with opportunities for appeal. Abandon DAPs and instead invest in expertise to improve the local

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

Yours sincerely,
Lachlan

From: David Rowe Tuesday, 12 November 2024
Sent: 7:30 AM
To: yoursay.planning@dpac.tas.gov.au
Subject: Scrap the DAP

This is only for the Developers. The community has been left out again. Outrageous.
Never,Ever will I vote for a Liberal again.

David Rowe

_____

From: Emma Gunn <
Sent: Tuesday, 12 November 2024 7:23 AM
To: yoursay.planning@dpac.tas.gov.au
Subject: DAP an anti-democratic step

It is so obvious that the proposed DAP process is designed to ensure development applications are approved with as little input as possible from the local community that the development will impact.

The DAP process is clearly primarily designed to force through large scale contentious developments like the white elephant cable car on kunanyi. Research has demonstrated that DAP's are pro- development, which is the very reason they are introduced - to override community objections. This is just a cynical pro-development anti-democratic push that must be rejected.

There is no problem here that needs to be fixed - this is just an attempt to undermine the democratic process and do away with a merit-based planning process. Removing merits based planning process has the potential to increase corruption and favour developers.

Given that the Minister is the one to decide whether the DAP process should apply this will obviously politicise planning decisions, especially as the scope of DAPs include a range of subjective factors not guided by any clear criteria.

I am strongly opposed to the creation of Development Assessment Panels and ministerial interference in the planning system.

Emma Gunn

From: Oren Gerassi
Sent: Tuesday, 12 November 2024 7:17 AM
To: yoursay.planning@dpac.tas.gov.au
Cc:
Subject: Development Assessment Panels (DAP)

Dear Leaders,

Please think about your neighbourhood
Please think your right to live in peace and quiet
Now think about your constituency
If these laws are passed, everyone will be missing out on the ability to participate and shape the future of our state – Everyone except the greedy and powerful few.

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

- **The Tasmanian Planning Commission is not independent** – DAPs are hand-picked, without detailed selection criteria and objective processes, are inconsistent with the principles of open

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

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

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

- **Removes merit-based planning appeal rights** via the planning tribunal on all the issues the community cares about like impacts on biodiversity, height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and so much more. TASCAT review of government decisions is an essential part of the rule of law and a democratic system of government based on '*checks and balances*'.
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- **Increased ministerial power over the planning system increases the politicisation of planning and risk of corrupt decisions.** The Planning Minister will decide if a development application meets the DAP criteria. The Minister will be able to force the initiation of planning scheme changes, but perversely, only when a local council has rejected such an application, threatening transparency and strategic planning.

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

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

Say yes to a healthy democracy

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

Yours sincerely,

Oren Gerassi

11 November 2024

yoursay.planning@dpac.tas.gov.au
cc: members of the House of Assembly and Legislative Council

Dear Sir/Madam

I am writing to express the Tasmanian Constitution Society's profound concern about the Development Assessment Panels Bill 2024. We have three major points of contention:

1. The Bill removes power from local electors;
2. There is little or no redress for opponents of developments; and
3. The governance and independence of Development Assessment Panels' (DAPs).

1. Local government is an integral part of our three-tier system of government. It is the closest to its people and communities. The proposed Bill disenfranchises local electors by taking planning powers from councils. An example is the planning minister's power to instruct councils to start planning scheme changes, but only when the council has rejected such an application.

   During the development process, the planning minister can remove an assessment from a council if the developer does not agree with the way it is heading. This gives power to private, unaccountable developers from accountable local elected councillors. An elector might vote for a candidate because of her or his opposition which would be rendered powerless. The Tasmanian Planning Commission will determine development applications, not elected councillors.

2. The Bill is contrary to a fundamental principle of our democratic system of government: checks on power. One of those checks is the ability for redress. The proposed Bill removes planning appeals based on merit and abolishes the opportunity for mediation on development applications in the planning tribunal. A Tasmanian Supreme Court appeal can be based only on points of law or process, which limits its use. Appeals are expensive and beyond the financial resources of many people and organisations.

   The New South Wales Independent Commission Against Corruption has said the removal of merit-based planning appeals could increase corruption, reduce good planning decisions, favour developers and undermine democracy.

3. The DAPs' governance is inadequate. The Bill is silent about selection criteria for DAPs members. Panels' hearings will not be open to the public, which undermines accountability and transparency. The Bill lacks provisions to manage conflicts of interest (as per the 2020 Independent Review). The 14-day public comment period is insufficient and appears to be an attempt to limit public involvement.

   Planning Minister Felix Ellis said in his 7 October media statement the government's justification for the Bill is to improve "certainty, transparency, and the effectiveness of planning across Tasmania". He said too many critical housing developments had been blocked by councillors.

   There is certainty: only about one percent of council planning decisions are appealed and the approval process for development applications is one the quickest in Australia. It seems The government's claim the planning system is to blame for stopping housing developments does not stand up to scrutiny. The Bill is silent about the requirement for a proportion of the development to be for social or affordable housing. For example, it could be one house out of 200 that is affordable, which suggests the Bill's raison d'etre is to disenfranchise local government and give unaccountable power to developers.

   Councillors from all political persuasions and parties – including former senior federal Coalition Government minister Philip Ruddock – say changes, such as those the Bill proposes, favour developers and undermines democratic accountability.

Please ensure democracy is fortified rather than damaged by not supporting this Bill. Keep decision-making in the hands of locally elected and accountable councillors.

Yours sincerely

Neil Spark
President
Tasmanian Constitution Society