Development Assessment Panel Framework Position Paper
Submissions 501 - 543

501 Mark Tarleton
502 Andrew Climie
503 Rowan Harris
504 Liz Sharman
505 Wayne Darby
506 Tasmanian Conservation Trust Inc
507 North East Bioregional Network
508 Robert Rands
509 Alison Collier
510 Lee Cheong
511 Property Council of Australia
512 Anna Pafitis
513 Carol Bristow
514 Friends of the Great Western Tiers kooparoona niara
515 Alex Matysek
516 Victoria Wilkinson
517 Huon Valley Council
518 Catherine Fondacaro
519 Trudi Disney
520 Rebecca Tyers
521 Lee Smith
522 State Growth
523 Lisa Litjens & Alan Kemp
524 Coordinator-General
525 Jennifer Godfrey
526 Janiece Bryan
527 Rowan Harris
528 Dianne Kennedy
529 David Taylor
530 Phyllis Fiotakis
531 Devonport City Council
532 Tasmanian Planning Commission
533 Chris Allfree
534 Central Coast Council
535 Australian Institute of Architects
536 Mischa Pringle
537 Maja
538 Stevie Davenport
539 Daniel Steiner
540 Neil Duncan
541 Local Government Association Tasmania
542 Department of Health
543 Launceston City Council
544 Anne-Marie Loader

From: Mark Tarleton
Sent: Thursday, 30 November 2023 11:33 AM
To: State Planning Office Your Say
Cc:
Subject: Protect our local democracy - say no to the Liberals new planning panels

Say no to the Liberals new planning panels

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

- **It will create an alternate planning approval pathway allowing property developers to bypass local councils and communities.** Handpicked state appointed planning panels will decide on development applications, not your elected local council representatives. Local concerns will be ignored in favour of the developers who may not be from Tasmania. Also, if an assessment isn't going their way the developer can abandon the standard local council process at any time and have a development assessed by a planning panel. This could intimidate councils into conceding to developers' demands.
- **Makes it easier to approve large scale contentious developments** like the kunanyi/Mount Wellington cable car, high-rise in Hobart, Cambria Green and high-density subdivision like Skylands at Droughty Point.
- **Remove merit-based planning appeal rights** via the planning tribunal on issues like height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and other potential amenity impacts and so much more. **Developments will only be appealable to the Supreme Court based on a point of law or process.**
- **Removing merits-based planning appeals has the potential to increase corruption and reduce good planning outcomes.** The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption.
- **Increased ministerial power over the planning system increases the politicisation of planning and risk of corrupt decisions.** The Planning Minister will decide if a development application meets the planning panel

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

- **Flawed planning panel criteria.** Changing an approval process where one of the criteria is on the basis of 'perceived conflict of interest ' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers.
- **Undermines local democracy and removes local decision making.** State appointed hand-picked planning panels are not democratically accountable, they remove local decision making and reduce transparency and robust decision making.
- **Mainland experience demonstrates planning panels favour developers and undermine democratic accountability.** Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability.
- **Poor justification – there is no problem to fix.** Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest, if not the fastest, in Australia when it comes to determining development applications.
- **Increases complexity in an already complex planning system.** Why would we further increase an already complex planning system which is already making decisions quicker than any other jurisdiction in Australia?

Say yes to a healthy democracy

- **I call on you to ensure transparency, independence, accountability and public participation in decision-making within the planning system**, as they are critical for a healthy democracy. Keep decision making local with opportunities for appeal. Abandon the planning panels and instead take action to improve governance and the existing Council planning process by providing more resources to councils and enhancing community participation and planning outcomes.
- I also call on you to **prohibit property developers from making donations** to political parties, **enhance transparency and efficiency in the administration of the *Right to Information Act 2009***, and **create a strong anti-corruption watchdog**.

Tasmania is possibly the least democratic state in Australia. We have the weakest political donation laws of all the states and a freedom of information regime crippled by inadequate resources. The present government appears to be doing all it can to avoid transparency, and accountability to the people of Tasmania. It appears, instead, to see its responsibility as facilitating the ambitions of its donors. The planning panels are just another attempt to do that. In the interests of a healthy democracy and the good of the Tasmanian people please say no to these panels.

Regards,

Mark Tarleton

From: Andrew Climie
Sent: Thursday, 30 November 2023 11:12 AM
To: State Planning Office Your Say
Cc:
Subject: Objection to the proposed Planning Panels

Sent from Mail for Windows
I am writing to express my greatest opposition to the proposed Planning Panels, and to increasing the ministerial power over the planning process.

Local government must remain the gatekeeper on local development, and provide opportunity for the community to express its views on individual projects and issues. The proposal will enable development to be taken out of the usual council assessment process.
Importantly, this proposed process will remove merit-based planning appeal rights. Planning will favour developers and the big players who have the ear of the minister, at the expense of the community. It has the real risk of increasing corruption, favours for mates and donors, at the expense of good planning decisions.

I have real concerns about the effects of increasing ministerial power over the planning process. This will politicise outcomes and will make planning susceptible to undesirable, undemocratic influence. Interstate experience has justified these concerns, with similar processes undermine local democracy and accountability and favour developers.

Yours sincerely
Andrew Climie

From: Rowan Harris
Sent: Thursday, 30 November 2023 11:10 AM
To: State Planning Office Your Say
Cc:
Subject: Protect our local democracy - say no to the Liberals new planning panels

Hello,

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

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

2. **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.

3. **Remove merit-based planning appeal rights** via the planning tribunal on issues like height, bulk, scale or appearance of buildings; impacts to

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

4. **Removing merits-based planning appeals has the potential to increase corruption and reduce good planning outcomes.** The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption.

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

6. **Flawed planning panel criteria**. Changing an approval process where one of the criteria is on the basis of 'perceived conflict of interest ' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers.

7. **Undermines local democracy and removes and local decision making**. State appointed hand-picked planning panels are not democratically accountable, they remove local decision making and reduce transparency and robust decision making.

8. **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.

9. **Poor justification – there is no problem to fix.** Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest, if not the fastest, in Australia when it comes to determining development applications.

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

Say yes to a healthy democracy

11. **I call on you to ensure transparency, independence, accountability and public participation in decision-making within the planning system**, as

they are critical for a healthy democracy. Keep decision making local with opportunities for appeal. Abandon the planning panels and instead take action to improve governance and the existing Council planning process by providing more resources to councils and enhancing community participation and planning outcomes.

12. 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,
Rowan Harris

From: Liz Sharman <>
Sent: Thursday, 30 November 2023 10:45 AM
To: State Planning Office Your Say
Subject: Concern about developers and Planning Minister powers over community and environmental considerations in proposed planning changes

Thank you for the opportunity to comment on the proposed Planning Panel.
As a person who lives half the year in Melbourne and the others half doing family caring duties in Hobart, I have been involved in planning submissions in both states.
I have seen how ministers have used inappropriate powers to override council objections and live in an area where large developer Mirvac has hired QCs/KCs to override community objections to overdevelopment and inappropriate development. Often developer arguments to get an extra two or five or six storeys are on the basis of housing shortage that doesn't take into account factors like land banking by overseas investors and by developers, or unoccupied housing, or rentals taken off the market by Air BNB.

Reasons for objection

1. Handpicked planning panels will not necessarily have local knowledge and their allegiances and integrity will not be under local scrutiny in the same way that local councils are.
2. For many years merit based arguments about height, density, heritage, neighbourhood considerations etc have been fought and lost or won in a transparent process that has at least aired the issues and shaped the development. This would be lost or overridden easily by developers with deep pockets and expensive KCs in a much less transparent process - including for large developments like Droughty Point and Cambria Green.
3. The stifling of appeal mechanisms is a huge problem in the planning arena where conflict of interest, developer donations and political over-reach have often led to poor community and environmental outcomes. And at the worst, corruption occurs.
4. There is little evidence that developers don't mostly get what they want anyway in the end. The proposed system just hands it to them quickly like a fast food delivery - with little consideration of real housing needs, creating housing for struggling families or planning for enhancing Tasmania's beautiful environment.

I thank you for the opportunity to contribute.

Liz Sharman

From: Wayne Darby
Sent: Thursday, 30 November 2023 10:28 AM
To: State Planning Office Your Say;

Subject: Protect our local democracy

As a citizen I have come to rely on independent and green politicians at all levels to inject some semblance of social conscience into government decisions. As the proposed planning panels appear to be designed to avoid rational argument with "NIMBY " individuals or groups I oppose the creation of planning panels and increasing ministerial power over the planning system, for the following reasons:

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

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

- **Remove merit-based planning appeal rights** via the planning tribunal on issues like height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic,

noise, smell, light and other potential amenity impacts and so much more. **Developments will only be appealable to the Supreme Court based on a point of law or process.**

- **Removing merits-based planning appeals has the potential to increase corruption and reduce good planning outcomes.** The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption.

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

- **Flawed planning panel criteria**. Changing an approval process where one of the criteria is on the basis of 'perceived conflict of interest ' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers.

- **Undermines local democracy and removes and local decision making**. State appointed hand-picked planning panels are not democratically accountable, they remove local decision making and reduce transparency and robust decision making.

- **Mainland experience demonstrates planning panels favour developers and undermine democratic accountability.** Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability.

- **Poor justification – there is no problem to fix.** Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest, if not the fastest, in Australia when it comes to determining development applications.

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

Say yes to a healthy democracy

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

more resources to councils and enhancing community participation and planning outcomes.

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

Yours Faithfully
W. Darby

tasmanian conservation trust inc

28 November 2023

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

yoursay.planning@dpac.tas.gov.au

Development Assessment Panel Framework Position Paper

Find attached a Talking Point article that was submitted to the Mercury – please accept this article as the TCT's submission on the 'Development Assessment Panel Framework Position Paper'.

The attached article addresses the apparent reasons for the proposed planning panels and other policy recommendations and the failure of the State Government to provide any evidence to support them. Until my concerns regarding the reasons for the proposed changes are addressed, I am unwilling to comment further about the content on the position paper.

Yours sincerely

Peter McGlone

CEO
Tasmanian Conservation
Trust
Hobart 7000

Development Assessment Panel Framework Position Paper

The Minister for Planning Michael Ferguson has proposed a new process for certain types of developments, so that they can be taken out of the normal council process and be assessed and approved by planning panels.

Just what is the reason for this new assessment pathway, given that the government only recently introduced major projects pathway? Well, there are the reasons the minister admits too and then there is the real reason.

I believe the minister has manufactured a crisis whereby he claims councils are routinely stopping developments for entirely inappropriate reasons. The fix for this apparent crisis is the planning panels.

The Minister's media release and the discussion paper, that is out for public comment until 30 November 2023, justify the proposed new planning panels by reference to: the need to take the politics out of planning decisions; claims that councillors are 'conflicted' when deciding on developments; and reference to new housing projects including social housing being blocked.

The Minister's 19 October 2023 media release stated that the proposed changes to create Development Assessment Panel's 'will ensure that politics is taken out of planning decisions and much needed projects are properly assessed ~~and approved where appropriate in a timely way'~~. The Minister says 'We need to take local politics out of planning decisions on developments that should be assessed against the planning rules in place and nothing else'.

He also says developments are being stopped including 'much needed social housing which are being held up for many months if not years by decisions being influenced by matters that are not relevant planning considerations'.

The Minister provides no evidence that this is happening. Where are the planning rules not being adhered to? Which non-planning considerations are guiding councillors' decisions? Where are housing developments being held up for years?

If planning rules were being flouted by councillors, then a proponent could (and routinely do) take the decision to the planning appeals tribunal and have it reviewed and potentially reversed. The Minister makes no mention of this.

There are rare cases where councillors exercise their judgement about what is in the best interest of their communities and may go against the advice of their planners. But this is invariably because the planner has interpreted a planning rule in a different way and some planning rules are qualitative and open to interpretation. The minister wants people to think that all planning rules are hard lines on maps that councillors should not be crossing.

The Minister's media release claims 'There are occasions where the local council acting as a planning authority is conflicted because of its other role as an elected council.'

The State Planning Office's discussion paper claims that councillors have 'conflicting roles', that effects councillors ability to decide on developments and planning scheme amendments, without providing any evidence. It refers to the Local Government Board review report from May 2023 but that also contained no evidence that a conflict existed, was causing problems or wasn't being properly managed.

The Minister and State Planning Office fail to state that a code of conduct applies to all elected councillors that is intended to address conduct including real and perceived conflicts of interest when voting on developments. This has been applied by councils in recent times to ensure that some councillors do not vote on some developments because they had previously expressed clear views for or against a development.

If the minister believes that the code of conduct is not effective and needs to be changed or is not being properly applied why does he not mention it?

The mere fact that councillors may have to consider what their communities think of a development and what the planning scheme requires is not intrinsically a problem.

The claim about conflicting roles seems to be a whispering campaign and when you trace it back to its origins there is no substance to it. In an earlier report the Local Government Board recommended to the government to 'de-conflict the role of councillors and the role of planning authorities' based on very flimsy reasons. The December 2022 Options Paper: Appendix found: 'The Board has heard that the role of councillors "to represent the community" often conflicts with the role of planning authorities to objectively apply the provisions of a planning scheme regardless of the views of the community.'

There is no documentation of who the board heard this claim from, how many people held these concerns, and whether decisions were affected in inappropriate ways. The Board did not attempt any targeted research on the conflict issue. Instead, this flimsy claim led the Minister for Local Government to recommend to the Minister for Planning that he investigate the apparent conflict of interest problem.

Although no problem could be identified the government wanted to fix it with planning panels.

The Minister's media release also claimed 'There are examples of really important projects such as much needed social housing which are being

held up for many months if not years by decisions being influenced by matters that are not relevant planning considerations'.

The minister has not pointed to one specific example of social housing being held up so we cannot challenge his evidence. I don't see many examples of housing let alone social housing being held up. There may be some examples but there also legitimate concerns.

It seems too convenient that the Minister blames councillors for holding up "much needed social housing… for years' to deflect bale of the state government.

If the minister's stated reasons for introducing planning panels cannot be believed, what is the real reason. It's simple, there have been a few very large and controversial developments stopped recently, Mt wellington cable car, Cambria development near Swansea and several highrise buildings in Hobart. The Minister cannot bare seeing one single development refused. He wants to create a new process that offers developers an assured way to get big, controversial projects approved that cuts out councillors, removes appeal rights and ignores local concerns.

Peter McGlone
CEO
Tasmanian Conservation Trust

From: NE Bioregional Network <> Thursday, 30 November
Sent: 2023 10:18 AM
To: State Planning Office Your Say
Subject: Development Assessment Panels representation

The North East Bioregional Network is a community based nature conservation group with a long history of engagement in land use planning issues.
We have participated in numerous RMPAT and TPC processes related to specific developments as well as broader land use strategies and planning scheme reviews.

In the early to mid 1990's a raft of visionary planning/conservation laws were implemented in Tasmania including establishing the RPDC and RMPAT, the LUPA Act, Threatened Species Act and State Coastal Policy. For a while these new initiatives created opportunities for the local community to have meaningful input into land use planning and protection of our coast and threatened species. However over time and particularly since the election of the Liberal Government in 2014 planning laws have been weakened year after year under the guise of reducing "red and green tape".....in other words making planning laws more developer friendly and limiting community groups and individual citizens ability to participate in land use planning.

Development Assessment Panels (DAP) represent yet another tranche of this Governments continual white anting of land use planning to progress the agenda of vested interest groups such as the Property Council, Master Builders Association, Housing Industry Australia etc etc etc. A good example is the proposed automatic referral of "affordable housing" projects to the DAP without any definition or criteria of what constitutes "affordable housing".....basically a means of fast tracking large scale housing development for the benefit of property developers.

We do not support establishing DAPS.:
*They have failed in other states of Australia
*They give more power to the Minister in a state (Tasmania) where there is already inadequate anti corruption oversight and where as in other states of Australia property development is one of the highest risk areas for corruption to occur.
* Having the TPC select DAP members is somewhat problematic. For example should Pam Allen be allowed to select a DAP member when she is a member of Northern Tasmania Development a pro development lobby group.
*It will limit or possibly exclude third party appeal rights for individuals and community groups to object to inappropriate development.

Todd Dudley
President
North East Bioregional Network

From:	Robert Rands <>
Sent:	Thursday, 30 November 2023 10:14 AM
To:	State Planning Office Your Say
Cc:	
Subject:	My comments on the Draft Land Use Planning and Approvals (Development Assessment Panel) Amendment Bill 2024.

Sirs and madams,

I oppose this act for the following general reasons argued in detail by the Planning Matters Alliance, Tasmania

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

- **The Act will make it easier to approve large scale contentious development.**

- **The Act will remove merit-based planning appeal rights, which has the potential to increase corruption and reduce good planning outcomes.**

- **The Act gives increased ministerial power over the planning system increases the politicisation of planning and risk of corrupt decisions.**

- **The planning panel criteria are flawed, and threaten communities with undue influence by the minister of the day and commercial interests who are driven by personal and commercial interests.**

The book 'Corporate Power in Australia' by Lindy Edwards, published in 2021, documents a series of cases where commercial pressures arguably affected federal public policy to the detriment of our communities. These arguments are set in a framework of commercial power expressed through economic sway, ideas and propaganda supporting 'free market' ideology, and political influence on elections and individual politicians. Current Tasmanian government priorities are undoubtedly influenced as well by these factors. The developments and programs the state government supports, such as the stadium, the Mt Wellington Cable Car, the Marinus Link and others are similar examples of poor planning at the taxpayers' cost, enabled through undue influence of the commercial sector on our state's economy.

Thank you for your consideration of my concerns.

Yours sincerely,
Robert Rands

From: Admin <>
Sent: Thursday, 30 November 2023 10:02 AM
To: State Planning Office Your Say
Cc:
Subject: Protect our local democracy - I say NO to the Liberals new planning panels

I definitely say NO to the Liberals new planning panels

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

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

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

- **Remove merit-based planning appeal rights** via the planning tribunal on issues like height, bulk, scale or appearance of buildings; impacts to

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

- **Removing merits-based planning appeals has the potential to increase corruption and reduce good planning outcomes.** The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption.

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

- **Flawed planning panel criteria**. Changing an approval process where one of the criteria is on the basis of 'perceived conflict of interest ' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers.

- **Undermines local democracy and removes local decision making**. State appointed hand-picked planning panels are not democratically accountable, they remove local decision making and reduce transparency and robust decision making.

- **Mainland experience demonstrates planning panels favour developers and undermine democratic accountability.** Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability.

- **Poor justification – there is no problem to fix.** Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest, if not the fastest, in Australia when it comes to determining development applications.

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

Say yes to a healthy democracy

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

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

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

Yours sincerely,
Alison Collier

From:	Lee Cheong <
Sent:	Thursday, 30 November 2023 9:49 AM
To:	State Planning Office Your Say
Cc:	
Subject:	Protect our local democracy - say no to the Liberals new planning panels

Say no to the Liberals new planning panels

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

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

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

- **Remove merit-based planning appeal rights** via the planning tribunal on issues like height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and other potential amenity impacts and so much more. **Developments will only be appealable to the Supreme Court based on**

a point of law or process.

- **Removing merits-based planning appeals has the potential to increase corruption and reduce good planning outcomes.** The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption.

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

- **Flawed planning panel criteria**. Changing an approval process where one of the criteria is on the basis of 'perceived conflict of interest ' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers.

- **Undermines local democracy and removes and local decision making**. State appointed hand-picked planning panels are not democratically accountable, they remove local decision making and reduce transparency and robust decision making.

- **Mainland experience demonstrates planning panels favour developers and undermine democratic accountability.** Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability.

- **Poor justification – there is no problem to fix.** Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest, if not the fastest, in Australia when it comes to determining development applications.

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

Say yes to a healthy democracy

- **I call on you to ensure transparency, independence, accountability and public participation in decision-making within the planning system**, as they are critical for a healthy democracy. Keep decision making local with opportunities for appeal. Abandon the planning panels and instead take action to improve governance and the existing Council planning process by providing more resources to councils and enhancing community participation and planning

outcomes.

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

Thank you for taking the time to read my email and hear my concerns. I again implore you to say NO to the Liberals new planning panels, we need to plan Tasmania's future as a Tasmanian community and not allow it to sit in the hands of a small minority.

Kind regards,
Lee

PROPERTY COUNCIL of Australia

Australia's property industry
Creating for Generations

30 November 2023

By Email Only: *yoursay.planning@dpac.tas.gov.au*

To whom it may concern,

Development Assessment Panel Framework – Submission

The Property Council of Australia welcomes the opportunity to provide input into the Tasmanian Government's Development Assessment Panel Framework. Models in other states continue to be effective in streamlining the planning process for both residential and commercial development. Most recently the Western Australian Government expanded eligibility of development projects given the success it has had in recent years.

Please refer to our responses below. we are happy to expand on them through further discussion with the Planning Office.

1a) Applications that meet a value threshold should be eligible for referral to a DAP.

1b) The Applicant

Planning authority with consent of Applicant

The Minister

1c) The Applicant should be able to reserve the right to opt into the process at any stage.

2a) The Minister should have the power to direct.

2b) The Minister should have power to direct following a review.

2c) There could be thought given to criteria or a test of "demonstration of economic and/or community/social benefit".

3a) The Property Council does not believe there is a need for council to retain the requirement of public consultation, it should instead go straight to reviewing against compliance. Council should undertake the initial factual assessment and then pass on to the panel for subsequent steps.

3b) Yes.

4a) Yes.

4b) We are supportive of an RFI mechanism, DAPs can have the power to instruct council to request additional RFI. We are also supportive of the onus being on

the project developer to provide as much information as possible to ensure a smooth and quick pathway.

Consultation issue 5 – Appeal rights and assessment timeframes for DAP determined applications.

a) Is it reasonable that decisions on DAP determined applications are not subject to TasCAT appeals where the TPC holds hearings and provides all parties the opportunity to make submissions and test evidence?

b) Given the integrated nature of the assessment, what are reasonable timeframes for DAP determined applications?

OPTIONS

Lodging and referrals, including referral to DAP	3 days	Running total
DAP confirms referral	3	6
Further information period (can occur within the timeframes above, commencing from time of lodgement)	21	27
Council assesses development application and makes recommendation whether or not to grant a permit	21	48
Development application, draft assessment report and recommendation on permit exhibited for consultation	0	48
Council provide documents to DAP, including a statement of its opinion on the merits of representations and whether there are any modifications to its original recommendation	0	48
DAP hold hearing, determine application and give notice to Council of decision	35	83
If directed by the DAP, Council to issue a permit to the applicant	7	90 max

5a) Yes.

5b) Amendments made to days directly into table above.

Row 4 should be changed to say – "Council assesses development application and makes recommendation to DAP".

Row 5 should be removed entirely.

Row 6 should also be removed entirely.

6a) Yes.

6b) Yes.

6c) Yes.

Next Steps

We commend the Tasmanian Government for their commitment to working with the private sector to identify ways to streamline the planning process and provide alternative planning pathways to attract continued investment and development in the State. The Property Council is eager to see progress and we would appreciate the opportunity to continue to provide input into the framework over coming months.

If you require further information or clarification on our submission, please contact me on or

Yours sincerely

Rebecca Ellston
Executive Director, Tasmania
Property Council of Australia

From:
Sent: Thursday, 30 November 2023 9:28 AM
To: State Planning Office Your Say
Cc:
Subject: Planning Panels Submission

Dear Minister

I am writing to make a submission opposing the proposed new planning panels.

I live on the Tasman Peninsula.

I would describe it as a fractured community. It is fractured along the lines of environmentalists vs pro industry, poor vs rich, old farmers vs new settlers, pro development vs no development. The residents are civil and decent but the ruptures sit just beneath the surface of this small community.

In 2018 the residents of Tasman voted overwhelmingly to not amalgamate their Council. Despite the divisions in their community they accept and trust in a group of elected people, representative of all our views, to make decisions for their municipality. I do not believe planning decisions made by an unelected group of people will be tolerated. Such decisions will be overwhelmingly perceived as corrupt and heighten divisions in the community along the fault lines.

Decisions made by the proposed 'independent planning panels' or the increased use of 'ministerial powers' will be damaging for our community, damaging for our democracy and result in poor outcomes.

We have seen no evidence that such planning panels have worked in other States where they have been introduced.

I have cut and paste below the dot points from Planning Matters Alliance Tasmania as part of my submission as I believe they provide an excellent summary of the reasons why independent planning panels should not be considered.

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

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

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

- **Remove merit-based planning appeal rights** via the planning tribunal on issues like height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and other potential amenity impacts and so much more. **Developments will only be appealable to the Supreme Court based on a point of law or process.**

- **Removing merits-based planning appeals has the potential to increase corruption and reduce good planning outcomes.** The NSW Independent Commission Against Corruption recommendedthe expansion of merit-based planning appeals as a deterrent to corruption.

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

- **Flawed planning panel criteria**. Changing an approval process where one of the criteria is on the basis of 'perceived conflict of interest ' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers.

- **Undermines local democracy and removes and local decision making**. State appointed hand-picked planning panels are not democratically accountable, they remove local decision making and reduce transparency and robust decision making.

- **Mainland experience demonstrates planning panels favour developers and undermine democratic accountability.** Local planning panels, which are often dominated by members of the development sector, were created in NSW to

stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability.

- **Poor justification – there is no problem to fix.** Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest, if not the fastest, in Australia when it comes to determining development applications.

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

Say yes to a healthy democracy

- **I call on you to ensure transparency, independence, accountability and public participation in decision-making within the planning system**, as they are critical for a healthy democracy. Keep decision making local with opportunities for appeal. Abandon the planning panels and instead take action to improve governance and the existing Council planning process by providing more resources to councils and enhancing community participation and planning outcomes.

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

Yours sincerely,
Anna Pafitis

From: Carol <>
Sent: Thursday, 30 November 2023 9:18 AM
To: State Planning Office Your Say
Cc:
Subject: Democracy needs Protecting and so does Tasmania

To Whom it may Concern,

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

- **It will create an alternate planning approval pathway allowing property developers to bypass local councils and communities.**Handpicked state appointed planning panels will decide on development applications not your elected local council representatives. Local concerns will be ignored in favour of the developers. **This is not acceptable, we need to look after our state and our community.**

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

- **Remove merit-based planning appeal rights** via the planning tribunal on issues like height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and other potential amenity impacts and so much

more. **Developments will only be appealable to the Supreme Court based on a point of law or process. This would be very difficult for most people.**

-
- **Removing merits-based planning appeals has the potential to increase corruption and reduce good planning outcomes.** The NSW Independent Commission Against Corruption recommendedthe expansion of merit-based planning appeals as a deterrent to corruption.

- **Increased ministerial power over the planning system increases the politicisation of planning and risk of corrupt decisions.** The Planning Minister will decide if a development application meets the planning panel criteria. The Minister will be able to force the initiation of planning scheme changes, but perversely, only when a local council has rejected such an application, threatening transparency and strategic planning. If local councils have rejected a development because it fails to meet planning requirements it should not be approved; **that defeats the whole purpose of planning.**

- **Flawed planning panel criteria**. Changing an approval process where one of the criteria is on the basis of 'perceived conflict of interest ' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers.

- **Undermines local democracy and removes and local decision making**. State appointed hand-picked planning panels are not democratically accountable, they remove local decision making and reduce transparency and robust decision making.

- **Mainland experience demonstrates planning panels favour developers and undermine democratic accountability.** Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability.

- **Poor justification – there is no problem to fix.** Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest, if not the fastest, in Australia when it comes to determining development applications.

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

Say yes to a healthy democracy and protect the unique values of Tasmania

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

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

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

Thanking You,
Carol Bristow

From:	Laurie Goldsworthy <
Sent:	Thursday, 30 November 2023 9:15 AM
To:	State Planning Office Your Say
Cc:	
Subject:	Position Paper on a proposed Development Assessment Panel (DAP) Framework

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

It will create an alternate planning approval pathway allowing property developers to bypass local councils and communities. Handpicked state appointed planning panels will decide on development applications not your elected local council representatives. Local concerns will be ignored in favour of the developers. 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.

It would 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.

It would remove merit-based planning appeal rights via the planning tribunal on issues like height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and other potential amenity impacts and so much more. Developments will only be appealable to the Supreme Court based on a point of law or process.

Removing merits-based planning appeals has the potential to increase corruption and reduce good planning outcomes. The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption.

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

Changing an approval process where one of the criteria is on the basis of 'perceived conflict of interest ' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers.

It undermines local democracy and removes and local decision making. State appointed hand-picked planning panels are not democratically accountable, they remove local decision making and reduce transparency and robust decision making.

Mainland experience demonstrates planning panels favour developers and undermine democratic accountability. Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability.

There is no problem to fix. Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest, if not the fastest, in Australia when it comes to determining development applications.

It would 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?

We call on you to ensure transparency, independence, accountability and public participation in decision-making within the planning system, as they are critical for a healthy democracy. Keep decision making local with opportunities for appeal. Abandon the planning panels and instead take action to improve governance and the existing Council planning process by providing more resources to councils and enhancing community participation and planning outcomes.

Yours sincerely,
Laurie Goldsworthy
President
Friends of the Great Western Tiers kooparoona niara

From: Alex Matysek <>
Sent: Thursday, 30 November 2023 9:07 AM
To: State Planning Office Your Say
Cc: Rob Valentine; Rockliff, Jeremy; Rebecca White; Rosalie Woodruff; Ruth Forrest
Subject: Protect our local democracy - say no to the Liberals new planning panels-a voter response

Say no to the Liberals new planning panels

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

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

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

- **Remove merit-based planning appeal rights**via the planning tribunal on issues like height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and other potential amenity impacts and so much more. **Developments will only be appealable to the Supreme Court based on a point of law or process.**

- **Removing merits-based planning appeals has the potential to increase corruption and reduce good planning outcomes.** The NSW Independent Commission Against Corruption recommendedthe expansion of merit-based planning appeals as a deterrent to corruption.

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

- **Flawed planning panel criteria**. Changing an approval process where one of the criteria is on the basis of 'perceived conflict of interest ' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers.

- **Undermines local democracy and removes and local decision making**. State appointed hand-picked planning panels are not democratically accountable, they remove local decision making and reduce transparency and robust decision making.

- **Mainland experience demonstrates planning panels favour developers and undermine democratic accountability.**Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability.

- **Poor justification – there is no problem to fix.**Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest, if not the fastest, in Australia when it comes to determining development applications.

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

Say yes to a healthy democracy

- **I call on you to ensure transparency, independence, accountability and public participation in decision-making within the planning system**, as they are critical for a healthy democracy. Keep decision making local with opportunities for appeal. Abandon the planning panels and instead take action to improve governance and the existing Council planning process by providing more resources to councils and enhancing community participation and planning outcomes.

- I also call on you to **prohibit property developers from making donations to political parties**, **enhance transparency and efficiency in the administration of the *Right to Information Act 2009***, and **create a strong anti-corruption watchdog**.
- Finally, this matter is vital to my family and my local community who are all dismayed at this failure of the liberal government to understand the basic desire of voters and our local communities to retain their hard won and existing social fabric.
- Development at any cost is NOT the way forward in our state.
- Please keep me informed on the stages, changes and progress of this bill - *Draft Land Use Planning and Approvals (Development Assessment Panel) Amendment Bill 2024*.

Yours sincerely,

Alex Matysek

From: Victoria Wilkinson>
Sent: Thursday, 30 November 2023 8:59 AM
To: State Planning Office Your Say
Cc:
Subject: DAP - Undemocratic and divisive.
Attachments: Examiner 19 July 2023 1.jpg

Dear all. I don't believe this is about housing, it is about business pure and simple. Forced amalgamations was the trojan horse for this proposed legislation evidenced by the smiling faces (attached) of the property council members two days after Premier Rockliff announced that forced amalgamations was off the table.

Arguing against this proposal is like arguing against wind farms and transmission pilons – housing and green energy = good.
But argue against it I will. With this proposed land legislation we will see an avalanche of subdivisions with cookie cutter housing and this is bad.

Here in Tasmania we have greenfield (productive) sites which could become leading examples of housing/working developments but why would you bother if you have cookie cutter designs you can churn through a DAP.

Not your average subdivision WA: https://www.ecovillage.net.au/about/
Not your average subdivision ACT: https://dairyroad.com.au/

Well resourced councils are perfectly placed to make good planning decisions within the realm of the community they are elected to govern. And developers need to enter the 21st Century.

Lastly, whilst property developers continue to make donations to political parties proposed legislation such as this will be tainted.

Kind regards - Victoria Wilkinson

Reforms 'will help with housing shortage'

Matt Maloney

PROPERTY and construction groups say the government's plan to establish new Development Assessment Panels will do much to tackle Tasmania's housing shortage.

Premier Jeremy Rockliff on Tuesday announced the government would soon draft new planning legislation which will allow developers the choice of whether to have a project assessed by a relevant council or a Development Assessment Panel (DAP), appointed by the Tasmanian Planning Commission.

He said the proposed legislation was designed to take the politics out of decision-making on developments.

Master Builders Tasmania chief executive Matthew Pollock said the planned reform was the most significant since the major projects in 2009.

"If we are going to meet future housing needs then we need to make it easier to get major housing developments off the drawing board," he said.

"It is not acceptable that local politics gets in the way of sensible projects in the middle of a housing crisis."

Mr Pollock said the reform would support inner-city developments and larger scale greenfield developments in the outer suburbs to accelerate land supply and put downward pressure on land prices.

Property Council of Australia state executive director Rebecca Ellston said the new approach to development assessment would enable proponents to access an independent and impartial decision-making process.

"DAPs are proven to enhance planning expertise in decision-making by improving the balance between technical advice and local knowledge," she said.

"A depoliticised planning system ensures that future housing delivery decisions will be professionally made and expedited.

"This move will secure a steady stream of new homes, keeping Tasmania affordable and accessible for the next generation of home buyers."

Mr Rockliff said the legislation, to be put out as a draft for consultation later this year, would help the government reach its goal to build 10,000 new affordable homes by 2032.

"There have been a number of examples where critical land and indeed housing or other projects have been either delayed or stopped," he said.

Property Council of Australia state executive director Rebecca Ellston with Premier Jeremy Rockliff and Master Builders Tasmania chief executive Matthew Pollock.

HUON VALLEY COUNCIL

HUON VALLEY COUNCIL COMMENTS

DEVELOPMENT ASSESSMENT PANEL (DAP) FRAMEWORK POSITION PAPER

Thank you for the opportunity to make a submission on the Position Paper.

At the outset the Council does not support the establishment of DAPs.

The need for DAP as an alternative from the normal approval process through the Council acting as a Planning Authority has in no way been demonstrated and it is unclear what is trying to be achieved. The Position Paper clearly shows that Tasmania's Development Application assessment process is already more efficient than that in other states, therefore why change a system that is not broken?

It is considered that a better approach would be to provide more technical resources to work within the existing structures and systems.

The timing for such a proposal is also bad. Resources are being / would be taken away from the State Planning Officer and the Tasmanian Planning Commission at a time when they are working on crucial reforms including developing the Tas Planning Policies, reviewing the State Planning Provisions, updating the Regional Land Use Strategies, and developing various guidelines outside of the statutory structure, and the Commission is undertaking hearing into various Local Planning Schedules. These should all take priority.

The current system of Council making decisions and the opportunity to appeal, which may seem frustrating to a developer, works and the DAP is no better a process.

There is some general discussion on a DAP replacing appeal rights. This may be all good but why would an applicant wish to have a DAP hearing for each application when there is no guarantee that there will be an appeal against their application. A planning appeal may simply not occur. It in fact adds to the time and cost for the normal approvals process.

If there are fundamental issues with appeal rights, then the Government needs to look at this as a separate matter. It does not justify development of an alternative planning approval process.

The stated purpose to "take the politics out of planning" completely confuses the roles and functions of Councillors whilst acting as a Planning Authority. Providing powers to the Minister to be able to act in certain circumstances is also far from removing politics from planning, it is in fact adding in politics.

There is a major concern as to the manner in which the proposals seek to deal with matters of perception. With respect, unless there can be something which is validated, the endorsement of perception will lead to abuse of the system with unreasonable perception being created by those who wish to undermine Council's Planning Authority Role and to use a DAP as a convenient alternative.

Should the proposal proceed it needs to be based on clearly defined evidence / data, and not on perception or "anecdotal evidence".

Regarding the issue of conflict of interest for councillors, that is being addressed through the Local Government training framework and individual Council's induction processes. It could be made mandatory for training packages to be completed within the first few months of a councillor's tenure or pre-election. It could also be dealt with by ensuring there was a legal representative / probity officer present at council meeting advising on what can be considered / not considered. Standardised delegation rules to Council Officers, could be developed by LGAT for adoption by all Tasmanian councils.

Where are the experts to be members of the panel? Are they going to result in planners leaving councils to work with the TPC. There is a limited pool of planners. A conflict of interest could be created by the proposal if members of the panels come from private industry, which is where they work for the proponents. This could create a conflict of interest within the DAPs themselves.

If a DAP can be justified, then the DAP could be another option in the toolbox for councils. For example, where a proposal is too complex for council staff / resources to deal with, or where it is a large-scale project initiated by council. If there is a role, then the processes and linkages need to be right. This would have limited application and may not be sufficient to establish an entirely new process. Additionally, the criteria for a DA referral to a DAP, seem unduly broad. Definitions are not provided, for instance, "critical infrastucture".

Whilst the combined planning scheme amendment / development application model is a well-known process, it is not considered appropriate. Under this model, the report is finalised, and decision made prior to advertising. It is considered that it would be better to model the process on the s.57 process, where advertising happens first and then the report finalised, and decision made.

If Councils as Planning Authorities were to remain in the DAP process, then the normal process would follow, and any recommended decision/permit can then be referred to the DAP for hearing and determination.

CONSULTATION ISSUE	COUNCIL SUBMISSION AND COMMENT
3.1 Conflicting role of Councillors	
Consultation issue 1 – Types of development applications suitable for referral to a DAP for determination	
a) What types of development applications are problematic, or perceived to be problematic, for Councils to determine and would therefore benefit from being determined by a DAP? Options i. Applications for social and affordable housing which often attract considerable opposition within the local community based on social stigma rather than planning matters. ii. Critical infrastructure; iii. Applications where the Council is the applicant and the decision maker; iv. Applications where Councillors express a conflict of interest in a matter and a quorum to make a decision cannot be reached; v. Contentious applications where Councillors may wish to act as elected representatives supporting the views of their constituents which might be at odds with their role as a member of a planning authority; vi. Where an applicant considers there is bias, or perceived bias, on the part of a Council or Councillors; vii. Complex applications where the Council may not have access to appropriate skills or resources; viii. Application over a certain value; ix. Other?	Note general comments on matters of perception above. There are few development applications that are problematic from any objective assessment. There is no evidence in the Huon Valley of social and affordable housing attracting anything like considerable opposition. There have been concerns raised in relation to the number of houses and also in relation to the design with removal of trees to facilitate the development. These are dealt with purely as planning matters. In addition, the Council's experience is more so difficulty in obtaining applications for social and affordable housing that address the planning scheme requirements, particularly the need to provide sufficient supporting infrastructure. There is no basis for these applications to be simply eligible to be put before a DAP circumventing the current system that supports them. Critical infrastructure may be something that could benefit from a DAP but this is not defined or known and is unable to be supported on that basis. Applications where the Council and the applicant is the decision maker could benefit from a DAP. Often Council developments are attacked because some from the community do not like the concept of the development in the first instance or think it should be in some completely different form. The argument therefore becomes about whether or not Council should undertake the development, not whether it meets the Scheme. There may be some circumstances where "larger" (note undefined) projects would benefit from a DAP.

CONSULTATION ISSUE	COUNCIL SUBMISSION AND COMMENT
	Some developments may be seen to be controversial or contentious in that there are some members of the community that are philosophically strongly for or opposed to the proposed development. This does not mean it is problematic on any planning grounds. Also what is the standard for something to be determined as contentious? Just because a proposal has media attention or is being publicly opposed by a Councillor, it still may only receive a small number of representations. With respect to bias, there is no reasonableness test proposed. It is simply based on the applicant considering bias (note again comments on perception above). Any allegation of bias can be created to circumvent the Council acting as a Planning Authority if an applicant considered that a DAP was more appropriate. With respect to complex applications there may be some benefit from a DAP however under the proposed framework the Council will still be undertaking the assessment and making recommendations to the DAP. There is no real difference in what the Council needs and what the DAP needs. A focus on more technical support for Planning Authorities will address this issue. With respect to applications over a certain value the question is why some arbitrary amount has any relevance? Just because it costs more does that mean it needs a different approval process. The planning considerations will still be the same. Irrespective of these reasons, under the proposed framework the Council will still be undertaking the assessment and making recommendations to the DAP. How does a DAP Framework address any of the proposed scenarios for applications to benefit from a DAP when Council remains heavily involved? This fundamentally questions the need for the DAPs framework in the first instance.
b) Who should be allowed to nominate referral of a development application to a DAP for determination? Options	If a DAP exists, then this would need to be in limited circumstances by the Planning Authority and the Applicant working in consent.

CONSULTATION ISSUE	COUNCIL SUBMISSION AND COMMENT
i. Applicant ii. Applicant with consent of the planning authority; iii. Planning authority iv. Planning authority with consent of the applicant v. Minister	The Minister should not have the authority to nominate referral. This is contrary to a reason to have DAPs in the first instance to "take the politics out of planning".
c) Given the need for a referral of an application to a DAP might not be known until an application has progressed through certain stages of consideration (such as those set out in a) above) have been carried out, is it reasonable to have a range of referral points? Options i. At the beginning for prescribed proposals; ii. Following consultation where it is identified that the proposal is especially contentious; iii. At the approval stage, where it is identified that Councillors are conflicted.	Despite comments above there are no issues with option i. if DAPs were to proceed. With respect to option (ii), note comments above regarding what makes an application contentious. How is consultation to occur, with and by whom? Also, what is the objective criteria for identifying a proposal as "especially contentious"? With respect to option (iii) there would be no issues with this as an option except to define the number of Councillors who are truly conflicted (not just perception). If there is an absolute majority available to hold a quorum to make a decision, then there is no basis for referral of an application to a DAP. As an alternative these decisions could be delegated to ensure that decisions are made within the requirements of the *Land Use Planning and Approvals Act 1993* (LUPAA).
Consultation issue 2 – Provision of an enhanced role for the Minister to direct a council to initiate a planning scheme amendment under certain circumstances	
a) Under what circumstances should the Minister have a power to direct the initiation of a planning scheme amendment by a Council?	The Minister should not have any authority to nominate referral. This is contrary to a reason in the first instance to "take the politics out of planning".
b) Is it appropriate for the Minister to exercise that power where the Council has refused a request from an applicant and its decision has been reviewed by the Tasmanian Planning Commission? For example: Section 40B allows for the Commission to review the planning authority's decision to refuse to initiate a planning scheme amendment and can direct the planning authority to reconsider the request. Where	No. Aside from comments in a), the decision has been made through proper process, further political interference cannot be justified. If there are issues with a Planning Authority again rejecting an amendment after review by the Commission, then look at the legislation and whether the Commission has power to direct the Planning Authority to make the amendment instead of to simply reconsider.

CONSULTATION ISSUE	COUNCIL SUBMISSION AND COMMENT
that has occurred, and the planning authority still does not agree to initiate an amendment, is that sufficient reason to allow Ministerial intervention to direct the planning authority to initiate the planning scheme amendment, subject to the Minister being satisfied that the LPS criteria is met?	
c) Are there other threshold tests or criteria that might justify a direction being given, such as it aligns to a changed regional land use strategy, it is identified to support a key growth strategy, or it would maximise available or planned infrastructure provision?	There could be limited circumstances but only where a planning scheme provision is contrary to a changed regional land use strategy.
3.2 Retaining local input	
Consultation issue 3 – **i. Incorporating local knowledge in DAP decision making.** **ii. DAP framework to complement existing processes and avoid duplication of aministrative processes**.	
a) To allow DAP determined applications to be informed by local knowledge, should a Council continue to be: • the primary contact for applicants; • engage in pre-lodgement discussions; • receive applications and check for validity; • review application and request additional information if required; • assess the application against the planning scheme requirements and make recommendations to the DAP.	The proposed framework to mirror the process in section 43A and section 40T of LUPAA is not supported as an appropriate framework for DAP. However, should Councils still be significantly involved in the process this can be via the current section 57 process with representations made and recommendations from the Planning Authority being referred to the DAP for hearing and determination.
b) Is the current s43A (former provisions of the Act) and s40T of the Act processes for referral of a development application to the Commission, initial assessment by Council and hearing procedures suitable for being adapted and used in the proposed DAP framework?	No. - see comment in a) above.
3.3 Request for further information	

CONSULTATION ISSUE	COUNCIL SUBMISSION AND COMMENT
Consultation issue 4 – Resolving issues associated with requests for, and responses to, further information.	As a general comment, on page 12 of the Position Paper the following statement is made: *"There is anecdotal evidence that with some contentious proposals (particularly social housing) the additional information process is being used to delay or frustrate the timely assessment of a proposal."* Requests for further information are not dealt with or in any way influenced by Councillors or have political motivations. It is Planning Officers who request further information based solely upon planning scheme requirements. Officers do not seek to delay or frustrate assessment of a proposal. This is due to the applicant NOT the Planning Officers. The reason why requests for further information are issued is because the application is poor in the first instance and fails to address the requirements of the planning scheme, particularly in relation to supporting infrastructure. If applicants were prepared to address the Scheme requirements in the first instance, then any delays would be minimised. This statement is strongly rejected and is insulting to Council's qualified and professional planning officers.
a) Should a framework for DAP determined development applications adopt a process to review further information requests similar to the requirements of section 40A and 40V of LUPAA?	No and there are no issues with the current process. There is certainly nothing justifying this approach put forward in the Position Paper.
b) Are there any changes that could be made to the Act or planning scheme to improve requests for, and responses to, additional information?	No. The Applicant should clearly address the requirements of the Scheme in the first instance.
3.4 Timeframes for assessment and appeal rights	
Consultation issue 5 – Appeal rights and assessment timeframes for DAP determined applications.	
a) Is it reasonable that decisions on DAP determined applications are not subject to TasCAT appeals where the TPC holds hearings and provides all parties the opportunity to make submissions and test evidence?	It is reasonable in the circumstances as proposed as a hearing will take place in every instance where each party can be heard. That said though, it is not demonstrated that a DAP framework is in any way

<table>
<tr><th>CONSULTATION ISSUE</th><th>COUNCIL SUBMISSION AND COMMENT</th></tr>
<tr><td></td><td>superior or fairer than the current process that allows appeals to TASCAT.</td></tr>
<tr><td>b) Given the integrated nature of the assessment, what are reasonable timeframes for DAP determined applications?

OPTIONS<table><tr><td>Lodging and referrals, including referral to DAP</td><td>7 da</td><td>Running total</td></tr><tr><td>DAP confirms referral</td><td>7</td><td>14</td></tr><tr><td>Further information period (can occur within the timeframes above, commencing from time of lodgement)</td><td>7</td><td>21</td></tr><tr><td>Council assesses development application and makes recommendation whether or not to grant a permit</td><td>14</td><td>35</td></tr><tr><td>Development application, draft assessment report and recommendation on permit exhibited for consultation</td><td>14</td><td>49</td></tr><tr><td>Council provide documents to DAP, including a statement of its opinion on the merits of representations and whether there are any modifications to its</td><td>14</td><td>63</td></tr><tr><td>DAP hold hearing, determine application and give notice to Council of decision</td><td>35</td><td>98</td></tr><tr><td>If directed by the DAP, Council to issue a permit to the applicant</td><td>7</td><td>105 max</td></tr></table></td><td>There are no issues with this noting that this is a significantly longer period than what is currently provided for.</td></tr>
<tr><td><u>3.5 Post determination roles of Council</u></td><td></td></tr>
</table>

CONSULTATION ISSUE	COUNCIL SUBMISSION AND COMMENT
Consultation issue 6 – Roles of the plannng authority post DAP determination of a development application.	
a) Should the planning authority remain the custodian of planning permits and be required to issue permits in accordance with a direction from a DAP?	Yes
b) Is it appropriate for planning permits associated with a DAP determined application to be enforced the Council?	Yes
c) Is it appropriate for minor amendments (in accordance with s56 of LUPAA) to DAP determined permits to be made by the planning authority?	Yes

4. Draft DAP framework

Draft Development Assessment Panel (DAP) Framework

Ref	Stage of assessment process	Responsible person/ authority	Proposed Framework	Comments and additional Questions for consultation	COUNCIL SUBMISSION AND COMMENT
1	Pre-lodgement discussion between applicant and planning authority	Planning Authority and applicant	No change to current process.	Existing informal processes undertaken on an as needs basis. Discussions may include whether or not the development application is eligible for DAP referral.	Supported only on the basis of a system similar to the current section 57 LUPAA process.

2	Lodge Development Application	Applicant lodges with Planning Authority	No change to current process	Existing process for the lodgement of development applications.	Supported only on the basis of a system similar to the current section 57 LUPAA process.
3	Determination of valid application and referral to other entities	Planning Authority	Planning Authority reviews application and determines if the application is valid in accordance with the existing provisions of the Act.	Existing process for determining that a development application is valid[2]. See section 24 and 25 of this section for information regarding application fees.	Supported only on the basis of a system similar to the current section 57 LUPAA process.
4A	Planning Authority reviews Development Application and decides if it is to be determined by a DAP. **Discretionary referral**	Planning Authority	Planning Authority to determine if the Development Application should be referred to a DAP for determination. development application meets the criteria for DAP referral and, if so, notifies, and seeks endorsement from the applicant, to refer the development application to the DAP for determination, within 7 days of the Planning Authority receiving a valid application. The applicant **may** also make a request to the Planning Authority for it to consider referring the application to a DAP for determination subject to the	Refer to Consultation issue 1 in the Position Paper. Additional considerations: *Is 7 days a reasonable timeframe for this function to be* *undertaken by the Planning Authority? Could it be* *delegated to senior planning staff?* *Where a dispute arises between the Applicant and the* *Planning Authority over a development application being* *referred to a DAP for determination, is it appropriate for* *the Minister to have a role in resolving, subject to being* *satisfied that the development application meets the DAP*	There are no issues with the proposed process subject to comments above regarding the Position Paper. The proposed DAP Criteria is not supported or justified. See comments above.

			Planning Authority being satisfied application meets the criteria for DAP referral. **DAP Criteria** An application **may** be suitable for referring to a DAP if it is a discretionary application and the referral is endorsed by both the Planning Authority and criteria for DAP referral is satisfied: • where the council is the proponent and the planning authority; • the application is for a development over $10 million in value, or $5 million in value and proposed in a non-metropolitan municipality; • the application is of a complex nature • the application is potentially contentious, where Councillors may wish to act politically, representing the • Where there is a case of bias, or perceived bias, established on the part of the Planning Authority	*criteria?* *If not the Minister, who should be responsible for resolving the* *Is it appropriate to consider the value of a development* *as a criteria for referral to a DAP for determination? If so, what should the stated value be?* Note: See sections 21 and 22 of this table which provides options for development applications to be referred at later stages of the assessment process as issues become apparent, such as after exhibition.	

4B	Planning Authority reviews Development Application and decides if it is to be referred to DAP **Mandatory Referral**		The Planning Authority **must** determine to refer the development application to a DAP for determination, within 7 days of the Planning Authority receiving a valid application, if the development application is a discretionary application and for a prescribed purpose: **Prescribed purpose**: • An application over $1 million where the council is the proponent and the planning authority; • An application from Homes Tas for subdivision for social or affordable housing or development of dwellings for social and affordable; • An application for critical infrastructure; • Other(?)	Refer to Consultation issue 1 in the Position Paper. Additional considerations: *Is 7 days a reasonable timeframe for this function to be* *undertaken by the Planning Authority? Could it be* *delegated to senior planning staff?* *Are there any other examples of development applications under the prescribed purposes that might be suitable for referral to a DAP for determination?* *Is it appropriate to consider the value of a development* *for DAP referral where council is the applicant?* *If so, what value is reasonable?* *What might be considered as 'critical*	There are no issues with the proposed process. The prescribed purpose is not however supported. See comments above. There is particularly no justification for an alternative process for Homes Tas subdivision for social or affordable housing.

5	PA requests referral of DA to DAP for determination.	Planning Authority and DAP	Planning Authority requests referral of the development application to the DAP within 7 days of the Planning Authority determining that the development application is suitable for DAP referral in accordance with section 4A and 4B above. The Planning Authority's written referral request includes all the material that comprises the development application (at this stage). If the DAP does not agree that the development application meets the DAP criteria or is for a prescribed purpose, the DAP must give notice to the Planning Authority and applicant of its decision. If the DAP does not agree that the development application meets the DAP criteria, the assessment of the development application continues in accordance with the existing LUPAA provisions. If the DAP accepts the Planning Authority's request that the development application meets the criteria for DAP referral or is for a prescribed purpose, the DAP must give notice, within 7 days of receiving the Planning Authority's request, to the Planning Authority and applicant of its decision.	*Should the time taken for an application that has been referred to a DAP for determination that, in the opinion of the DAP, does not satisfy the relevant referral criteria or is not for a prescribed purpose, count towards the relevant period referred to in s57(6)(b) of the Act given the assessment will continue in accordance with a s57 application if it is not eligible for DAP referral?*	Supported

6	Review of DA to determine if further information is required to undertake the assessment	Planning Authority	Where the DAP has accepted the Planning Authority's request to refer the development application to the DAP for determination, the Planning Authority reviews the development application to determine if additional information is required and, if so, must make a request within 21 days of receiving a valid application. Clock stops while waiting for the applicant to provide additional information to the satisfaction of the Planning Authority	Additional information request can occur simultaneously with the Planning Authority's request for DAP determination. Regardless of the outcome of the request to refer the development application to the DAP, the Planning Authority is required to ensure it has the necessary information it needs to undertake the assessment. The 21 day timeframe and 'stopping the clock' is consistent with section 54 of the Act.	Supported

7	Review of further information requests	Applicant	Within 14 days after being served a request for further information in accordance with 6 above, the applicant may request the DAP to review the Planning Authority's additional information request. The DAP, within 14 days of receiving a request to review the PA's additional information requirement must: • Support the Planning Authority's request for additional information; • Revoke the Planning Authority's request for additional information; or • Issue a new notice to the applicant requesting additional information. The DAP must give notice of its decision to the Planning Authority and applicant.	Refer to Consultation issue 4 in the Position Paper. Because the DAP has agreed that the DA will be DAP determined, it already has a copy of the development application. The review of a Planning Authority's request for additional information is similar to the existing provisions under s40V of the Act.	This is not Supported. There is a current process available to review requests for further information through TASCAT. That review process determines what is required by law under the Planning Scheme. There is no reason to change this or any benefit from a DAP making such a decision.

8	Provision and review of additional information.	Applicant and Planning Authority	Once the applicant provides the additional information and, in the opinion of the planning authority, it satisfies either the original request or one that has been modified by the DAP, the assessment clock recommences. If the additional information does not satisfy the original request or one that has been modified by the DAP, the Planning Authority advises the applicant of the outstanding matters and the clock remains stopped.	This part of the framework is similar to existing processes.	Supported
9	Planning Authority assesses DA	Planning Authority	Planning Authority assesses the application against the requirements of the planning scheme and recommends either: • granting a permit; or • refusing to grant a permit.	Refer to Consultation Issue 3 in the Position Paper. Note: The proposed framework has adopted a process that is similar to the section 40T of the Act process where council assesses the application and then places the application and the Planning Authority's report on	Supported
10	Public notification of application and Planning Authority recommendations	Planning Authority	Planning Authority to advertise the development application, its assessment report and recommendations, including a draft permit (if recommended for approval), for a period of 14 days (and in accordance with section 9 of the LUPAA Regulations) during which time representations are received.		Not Supported. The current process under section 57 should be followed. The application is advertised, representations made then considered by the Planning Authority in making its recommendation to the DAP.

11	Planning Authority to review representations	Planning Authority	Planning Authority to review representations and prepare a statement of its opinion as to the merits of each representation and the need for any modification to its recommendation on the development application, including the draft permit and conditions.	This part of the proposed framework is similar to the existing provisions of section 42 of the Act.	See comments in 10 above. The process can be achieved under the section 57 process.
12	Provision of all documents to the DAP	Planning Authority	The Planning Authority provides DAP with: • a copy of the application (although they should already have it) and any further information received; • a copy of the recommendation report and any draft permit; • a copy of all the representations; and • a statement of its opinion as to the merits of each representation and any modifications to its original recommendations on the DA as a consequence of reviewing the representations; • DAP fee (refer to section 25) within 14 days of the completion of the exhibition period.	This part of the proposed framework is similar to existing processes for a section 40T(1) application	Supported

13	DAP review and publication of information and hearing determination	DAP	DAP reviews and publishes all the information provided by the Planning Authority (as listed in 12 above) and notifies all parties advising that they have received the relevant documents from the Planning Authority, where those documents can be viewed and requesting advice regarding which parties would like to attend a hearing. If there are no representations or no parties that wish to attend a hearing, the DAP may dispense with the requirement to hold a hearing. The DAP must notify the Planning Authority, applicant and representors of their determination to hold, or dispense with holding, a hearing.	An option is given to dispense with the requirement for a DAP to hold a hearing in situation where there are no representations, all representations are in support, representations have been revoked or there are no representations that want to attend a hearing.	Supported
14	DAP hearing into representations	DAP	Representors, applicant and Planning Authority invited to attend hearing and make submissions to the DAP on the development application. Parties to the proceedings must be given at least one weeks' notice before the hearing is scheduled.	The draft permit conditions are subject to contemplation by the parties at the hearing. It is anticipated that this will resolve issues around the future enforcement of those conditions by council or other issues that would otherwise arise and be subject to appeal through TasCAT.	Supported

			Natural justice and procedural fairness for conduct of hearings consistent with *Tasmanian Planning Commission Act 1997*. DAP hearings are encouraged to be held locally.		
15	DAP determination	DAP	DAP undertakes the assessment considering all the information and evidence presented at the hearing and determines the development application. DAP must determine application within 35 days from receiving documents from Planning Authority (under section 12 above) DAP may request an extension of time from the Minister.	Refer to Consultation Issue 5 in the Position Paper for questions regarding assessment timeframes.	Supported
16	Notification of DAP decision	DAP	Within 7 days of the DAP determining the development application it must give notice of its decision to the Planning Authority, applicant and representors.	Similar to existing notification provisions under section 57(7).	Supported
17	Issuing of Permit	DAP/ Planning Authority	If the decision of the DAP is to grant a permit, the DAP must, in its notice to the Planning Authority (under section 16 above), direct it to issue a permit in accordance with its decision within 7 days from receiving the notice from the DAP.		Supported

18	Enforcement	Planning Authority	The Planning Authority is responsible for enforcing the permit.	Refer to Consultation Issue 6 in the Position Paper. This is the same process for permits issued by TasCAT.	Supported
19	Appeal rights	All parties	There is no right of appeal on the grounds of planning merit as the decision has been made by an independent panel with all parties engaged in the process.	Refer to Consultation Issue 5 in the Position Paper for questions regarding appeal rights. While the draft framework proposes that DAP determined development applications are not subject to a merit appeal, the decision of the DAP is subject to judicial review by virtue of the *Judicial Review Act 1997*.	As a matter of principle, the DAP process is not supported and there is nothing wrong with the current process. The fact of hearings being undertaken as part of the decision would though justify the removal of appeal rights.
20	Minor amendment to permits	Planning Authority	A Planning Authority can receive a minor amendment to a permit involving an application that has been determined by a DAP.	Refer to Consultation Issue 6 in the Minor amendments to permits are assessed by the Planning Authority against the existing provisions of section 56 of the Act.	Supported

Other opportunities for a development application to be referred to a DAP

Ref	Stage of assessment process	Responsible person/	Proposed Framework	Comment	COUNCIL SUBMISSION AND COMMENT
21	Ministerial Call in Powers	Planning Authority or applicant	At any stage of the assessment process the applicant or Planning Authority may make a request to the Minister that a development application be referred to a DAP for determination. The Minister may refer the application to a DAP provided the Minister is satisfied that the development application meets the DAP criteria.	This provides an opportunity for referral when issues only become apparent at the later stages of the assessment process. *Is it appropriate for the Minister to have the power to call in a development application in these circumstances?* *In this scenario, is it necessary for the applicant and Planning Authority to agree to the request?*	Not supported. The Minister can be seen as political interference.
22	Ministerial referral of DA to DAP	Minister	Where the Minister refers the DA to a DAP for determination (in accordance with 21 above), the Minister must, by notice to the DAP and Planning Authority (if required), direct the DAP and Planning Authority (if required) to undertake an assessment of the development application and specify the process and timeframes for the DAP and Planning Authority (if required) to follow. The Minister can also specify that the Planning Authority must provide all relevant documents relating to the application and its assessment to the DAP within a timeframe.	Because this type of referral can occur at any stage, there needs to be a direction to specify those parts of the assessment process that still needs to be completed. These processes will include elements that need to be undertaken by the DAP and may include elements that need to be undertaken by the Planning Authority. The Planning Authority is required to provide all relevant documents to the DAP	Not supported. The Minister can be seen as political interference.

DAP membership

Ref	Stage of assessment process	Responsible person/ authority	Proposed Framework	Comment	COUNCIL SUBMISSION AND COMMENT
23	Establishment of Panel	Tasmanian Planning Commission	No change to existing Commission	The framework adopts the Commission's established processes for delegating assessment functions to panels.	Supported

Development application fees

Ref	Stage of assessment process	Responsible person/ authority	Proposed Framework	Comment	COUNCIL SUBMISSION AND COMMENT
24	Lodging DA	Planning Authority	Planning Authority charges applicant normal application fees.	Planning Authority doing the same amount of work, just not making the determination so is entitled to the	Supported
25	DAs referred to DAP for determination	Planning Authority and DAP	A DAP determined development application will incur an additional application fee. The Planning Authority is to charge the applicant an additional fee at the time the DAP notifies the Planning Authority that they have accepted the Planning Authority's request to refer the development application. The DAP application fee is to be included in the information provided to the DAP following the exhibition of the development application (section 12 above). No order for costs can be awarded by the DAP.	Additional fee is to cover some of the costs incurred by the Commission. The additional application fee is going to be cheaper than the cost of going to a full tribunal hearing.	Supported

From: Catherine Fondacaro <
Sent: Thursday, 30 November 2023 7:03 AM
To: State Planning Office Your Say
Cc:
Subject: Protect our local democracy - say no to the Liberals new planning panels

Dear Planning Minister,

Say no to the Liberals new planning panels

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

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

and other potential amenity impacts and so much more. **Developments will only be appealable to the Supreme Court based on a point of law or process.**

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

Say yes to a healthy democracy

- **I call on you to ensure transparency, independence, accountability and public participation in decision-making within the planning system**, as they are critical for a healthy democracy. Keep decision making local with opportunities for appeal. Abandon the planning panels and instead take action to improve governance and the existing Council planning process by providing more resources to councils and enhancing community participation and planning outcomes.
- I also call on you to **prohibit property developers from making donations** to political parties, **enhance transparency and efficiency in the administration of the *Right to Information Act 2009***, and **create a strong anti-corruption watchdog**.

The Position Paper on a proposed Development Assessment Panel (DAP) Framework public comment has been invited between the 19 October and 30 November 2023.

The submissions received on the Position Paper will inform a draft Bill which will be released for public comment most likely in January 2024, for a minimum of five weeks, before being tabled in Parliament in early 2024.

The proposed Bill name is *Draft Land Use Planning and Approvals (Development Assessment Panel) Amendment Bill 2024*.

Youse sincerely,

Catherine Fondacaro

From: Trudi Disney <> Thursday, 30 November
Sent: 2023 6:39 AM State Planning Office Your
To: Say Proposed changes to planning
Subject:

I want to strongly register my opposition to removal of planning from local government, and in particular giving the Minister power to change local planning schemes.
Planning must be kept local and democratic.

Governments are not elected with a mandate for everything that was on their agenda. People have to vote on general principles or on the one or two things that are most important to them. So winning an election does not give a government the 'right' to push through every side project they mentioned in the campaign.

Local Government must be the gatekeeper on local development, and provide an avenue for the community to express its views on individual projects and issues.

Where planning has been removed from councils interstate, we have seen development/developers/profiteering prevail over communities and their wishes.

Trudi Disney

From: Rebecca tyers < >
Sent: Thursday, 30 November 2023 5:06 AM
To: State Planning Office Your Say
Cc:
Subject: Protect our local democracy - say no to the Liberals new planning panels

Say no to the Liberals new planning panels

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

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

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

- **Remove merit-based planning appeal rights** via the planning tribunal on issues like height, bulk, scale or appearance of buildings; impacts to streetscapes, and

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

- **Removing merits-based planning appeals has the potential to increase corruption and reduce good planning outcomes.** The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption.

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

- **Flawed planning panel criteria**. Changing an approval process where one of the criteria is on the basis of 'perceived conflict of interest ' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers.

- **Undermines local democracy and removes and local decision making**. State appointed hand-picked planning panels are not democratically accountable, they remove local decision making and reduce transparency and robust decision making.

- **Mainland experience demonstrates planning panels favour developers and undermine democratic accountability.** Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability.

- **Poor justification – there is no problem to fix.** Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest, if not the fastest, in Australia when it comes to determining development applications.

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

Say yes to a healthy democracy

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

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

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

Rebecca Tyers

From: Lee Smith
Sent: Thursday, 30 November 2023 3:20 AM
To: State Planning Office Your Say
Subject: yoursay.planning@dpac.tas.gov.au

NAPOLEON IS DEAD. LET HIM REST IN PEACE. NO NEED TO REVIVE HIS AUTOCRATIC TACTICS. WE ALL KNOW THIS PIECE OF SHIT LEGISLATION IS TO PLACATE DEVELOPERS AND REMOVE LOCAL SCRUTINY FROM ELECTED COUNCILLORS. COMMUNITY HARMONY WILL BE PERMANTLY ALTERED..... THERE IS NO NEED TO ALTER PROVEN PROTOCOLS FOR THE SAKE OF QUICK BUCKS ! THIS BLOODY RIDICULOUS IDEA HAS BEEN MADE FOR THE COMFORT AND CONVENIENCE OF DEVELOPERS AND NOT THE MAJIORITY OF RESIDENTS IN ANY GIVEN POSTCODE THROUGHOUT TASMANIA.... THIS TEMPORY ERA OF POPULIST IDEOLOGY WILL PASS AND FADE FROM NEMORY. SO LETS NOT BLUNDER HERE BY ALLOWING PANELS NOT RESIDENTS DECIDE ON WHAT GOES ON IN THEIR NEIGHBOURHOODS....

Department of State Growth

Salamanca Building, Parliament Square
4 Salamanca Place, Hobart TAS 7000
GPO Box 536, Hobart TAS 7001 Australia
Phone 1800 030 688 Fax (03) 6173 0287
Email info@stategrowth.tas.gov.au Web www.stategrowth.tas.gov.au
Your Ref: / Our Ref: D23/284306

Tasmanian Government

State Planning Office
Department of Premier and Cabinet
By email: yoursay.planning@dpac.tas.gov.au

Response to the Development Assessment Panel (DAP) Framework Position Paper

Thank you for the opportunity to comment on the Development Assessment Panel Framework Position Paper (the Position Paper).

The Department of State Growth is a major infrastructure delivery agency. In 2023-24, the Australian and Tasmanian Governments will invest $683 million in Tasmania's State Road network including $304 million on road improvement projects. State Growth has reviewed the Position Paper in the context of its experience with existing development approval processes for transport infrastructure projects and provides the following comments.

Addressing project complexity

The complexity of a project is recommended as one of five criteria on which the discretionary referral of an application to a DAP can be made. State Growth notes there are issues with the ability of existing council approval processes to appropriately assess more complex development applications, including in relation to resourcing and technical assessments. It is unclear if the DAP process will address these issues. For example, under the proposed DAP process, councils will still be required to assess projects even where the development application has been referred to a DAP based on complexity.

In relation to project complexity, it is unclear:

- whether the Tasmanian Planning Commission (the Commission) will have the option to include subject-matter experts on a DAP (similar to the major projects approval process).
- to what extent a DAP will be able to commission its own expert advice to support its assessment or be required to rely solely on the evidence provided by a council and applicant.
- whether individual councils will be provided with additional assistance to undertake an assessment.

Referral mechanisms

The DAP process includes both discretionary and mandatory referral pathways:

- Mandatory referrals include applications for critical infrastructure. While critical infrastructure is not defined within the Position Paper, it has the potential to cover a broad range of transport infrastructure and State Growth is concerned that the inclusion

of this criteria could see many transport projects automatically assessed under the DAP process. State Growth's preference is that state agencies and other state infrastructure providers have the option to refer a project to a DAP.

- The proposed project thresholds for a discretionary referral of $10 million (metropolitan) and $5 million (rural/regional) are low compared to project costs for major road upgrades across the State Road network.
- In relation to who can refer an application to a DAP, given the DAP must agree to an application being assessed through the pathway, it appears unnecessary to require the joint consent of both an applicant and council before the application can be referred to a DAP.
- Ministerial referrals should require consultation with state agencies and regulators, prior to referral.
- Closer consideration should be given to whether a development can be referred to the DAP late in the development assessment. Certainty of process and timing is critical for infrastructure projects. It may be appropriate that only the applicant can refer a development application after the initial referral step.

Requests for further information

The ability of the DAP to review requests for further information is supported. In State Growth's experience, some requests for further information are too broad and lead to delays in assessment timeframes.

In referring a request for further information to a DAP, the applicant should have the opportunity to explain why the request is considered onerous. For example, via a submission or short hearing.

Timeframes and resourcing

The proposed assessment timeframes appear optimistic, particularly the DAP assessment timeframe, which may also include public hearings. It would be useful to review the average current timeframes for the Commission to undertake a combined scheme amendment and development application.

Resourcing considerations will also affect assessment timeframes, including whether the Commission will be provided with additional resources to operate the DAP process or councils to assess complex projects.

Contentious developments or bias

The process provides for a referral to the DAP if:

- the application is potentially contentious, and councillors wish to act politically and represent the views of their constituents rather than act as the planning authority.
- there is a case of bias or perceived bias established on the part of the planning authority.

Despite this, the DAP process requires a planning authority to assess a development application and provide its opinion on any representations received. The appropriateness of councils undertaking an assessment under these circumstances should be closely considered.

The Department of State Growth would welcome further discussion on the matters raised above. Please contact Claire Armstrong, Senior Strategic Planner, by email at
or telephone on in the first instance.

Yours sincerely

Mark Bowles
Acting Secretary

1 December 2023

From: Lisa Litjens <>
Sent: Friday, 1 December 2023 10:24 AM
To: State Planning Office Your Say
Cc:
Subject: No to the Liberals' new planning panels.

Protect our Democracy

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

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

- **Makes it easier to approve large scale contentious developments** like the kunanyi/Mount Wellington cable car, high-rise in Hobart, Cambria Green and high-density subdivision like Skylands at Droughty Point. We have campaigned against these projects for very good reasons!

- **Remove merit-based planning appeal rights** via the planning tribunal on issues like height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and other potential amenity impacts and so much more. **Developments will only be appealable to the Supreme Court based on a point of law or process.**

- **Removing merits-based planning appeals has the potential to increase corruption and reduce good planning outcomes.** The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption.

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

- **Flawed planning panel criteria**. Changing an approval process where one of the criteria is on the basis of 'perceived conflict of interest ' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers.

- **Undermines local democracy and removes local decision-making**. State appointed hand-picked planning panels are not democratically accountable, they remove local decision making and reduce transparency and robust decision making.

- **Mainland experience demonstrates planning panels favour developers and undermine democratic accountability.** Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability.

- **Poor justification – there is no problem to fix.** Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest, if not the fastest, in Australia when it comes to determining development applications.

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

A healthy democracy

- **I call on you to ensure transparency, independence, accountability and public participation in decision-making within the planning system**, as they are critical for a healthy democracy. Keep decision-making local, with opportunities for appeal. Abandon the planning panels: instead, take action to improve governance and the existing Council planning process by providing more resources to councils and enhancing community participation and planning outcomes.

- We 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,
Lisa Litjens & Alan Kemp

Office of the Coordinator-General

CH Smith Centre
20 Charles Street, Launceston TAS 7250
PO Box 1186, Launceston TAS 7250 Australia
Phone +61 3 6777 2786
Email cg@cg.tas.gov.au Web www.cg.tas.gov.au

Tasmanian Government

01 December 2023

State Planning Office
Department of Premier and Cabinet
Email: yoursay.planning@dpac.tas.gov.au

Dear Sir or Madam

Submission Response to the Development Assessment Panel (DAP) Framework Position Paper

The Office of the Coordinator-General (OCG) welcomes the opportunity to provide feedback on Development Assessment Panel (DAP) Framework Position Paper 2023.

The OCG fully supports the Tasmanian Government's policy statement in July 2023 to allow certain Development Applications (DA) to be determined by independent Development Assessment Panels (DAPs).

The stated intent for introducing DAPs is "to take the politics out of planning" by providing an alternate approval pathway for more complex or contentious DAs.

The overarching theme of the OCG's submission on recent Tasmanian planning reform proposals is to highlight the investment and development perspectives that are communicated by investors through the OCG. Planning reform processes and outcomes, impact directly on investment decision-making in the contemporary global investment context.

These investment perspectives contend that planning 'aims' and 'principles' need to not only consider the limitations on what planning can influence but importantly, identify and respond to the matters – investment context – that can/should influence planning. This disconnect impedes Tasmanian investment competitive advantage.

It follows that the DAP framework is an urgent intervention by government to make the planning system 'fit-for-purpose' in a global investment context that requires agility, flexibility and an adaptive responsive planning system.

Investment Context in Tasmania

Tasmania has not been spared the levels of disruption and uncertainty following the COVID-19 pandemic to supply chains and critical energy supplies exacerbated by ongoing geo-political tensions in Europe and the Asia-Pacific, rising inflation and interest rates and the potential threat of recession in key global markets. Tasmania's renewable energy platforms, its delivery on net-zero goals has attracted continuing investment

interest in innovative advanced manufacturing, and also particularly in the energy sector, agri-foods, mining and tourism.

Tasmania is becoming of increasing interest to wider markets, which does bring with it unprecedented challenges to the very planning issues that are central to Tasmania's planning reform agenda. At a broad policy perspective these challenges include the development and redevelopment of settlements (responding to unexpected levels of growth or declining populations), future land use (demand and supply across all categories, particularly industrial land zoning), and infrastructure provision (water, energy, transport and mobility efficiency together with the staples of health care, education, and aged care.)

These broad planning policy issues are highlighted by the risk assessment investors make when considering Tasmania as a potential site for investment alongside other options. These include site selection (cost and availability), infrastructure availability and reliability, talent attraction and retention (increasingly critical), housing (including for workers in more remote areas and across all sectors from tourism and hospitality through to mining and energy production), health and education options, transport reliability and access, brand alignment, government support and assistance, including access and understanding of the Tasmanian Planning Scheme (TPS) requirements.

The current planning system continues to be a source of ongoing frustration within the Tasmanian Business Sector and will likely become an impediment to the government as it seeks to build 10,000 homes over the next decade.

Recent examples of planning impediments include land zoning for the Skylands Development and a reasonable pathway for development assessment when it appears that councillors or council planning officers may have become hostile to a project – there are a range of arguable examples but perhaps some of the most recognisable would include Chambroad's project at Kangaroo Bay; the Mt Wellington Cable Car, Villa Howden's expansion and the Nexus New Town Private Hospital. There have been a range of projects across the State where council planners have recommended in favour of a development but the project has become contentious and therefore 'political' in the local area and the planning authority has ultimately rejected the application.

There are also a number of examples where councils may have limited planning resources to be able to process larger or more complex projects appropriately or not be set up to manage projects in a timely manner where time is of the essence including, for example, the Hanging Gardens office development in Hobart, the 234 Elizabeth Street mixed-use development, some larger factory developments in regional areas and numerous social and affordable housing developments across the state. Another important area where there have been challenges are workers accommodation developments on farms for agribusiness employment requirements and in regional areas to support tourism and other focus areas where there have been employment challenges.

DAP referrals could be an avenue for proponents where Councils have strategically 'stopped the clock' and required additional information to be supplied by the proponent often at considerable costs. For example, noise pollution assessment requirements where the standards are not Tasmanian but Victorian standards for roof-top bars were applied to the Telegraph Hotel incurring significant additional costs – in excess of $500,000 - to mitigate noise impacts for neighbouring residential properties and development time-line pressures that extended the financial requirements of the project.

Appendix 1 provides more detail for the Skylands Development and the New Town Private Hospital.

Once trialed, the OCG would recommend DAP become the new normal in planning decisions and the $5 million - $10 million threshold be removed and allowed for all Das as a legitimate approval pathway as of right.

The OCG recognises that a single state-wide DAP might align with the intention of removing 'politics from planning' but in terms of practical and timely delivery of decisions and an understanding of regional context, the OCG supports the view that the make-up of panels – Chairs and Delegates – should be done regionally.

In lieu of having 29 councils making planning decisions based on a single planning scheme there should be a single planning authority making all planning decisions. The regionally based and constituted DAPs would be the preferred model for more complex planning decisions and single planning officers for simple decisions relating to residential construction. This Planning Authority would be regionally based across the state to ensure accessibility and local understanding of community expectations. The TPC would still be the principal authority for approval and amendment of the actual single planning scheme and appeals against the planning authority.

Planning reform is required across the country as noted by the Prime Minister in his recent comments to the ABC said:

"Mr Albanese said the aim was to encourage jurisdictions to make reforms to boost housing supply and increase housing affordability.

National cabinet also agreed to a National Planning Reform Blueprint which included promoting medium and high-density housing in well-located areas close to existing public transport and updating local governments' strategic plans to reflect housing policy targets."

The need for planning reform was also consistent with the findings of PESRAC recommendation 22 which stated:

"Areas of government responsible for planning decisions, permits and related approvals, including Land Titles Offices, should be fully resourced to ensure timely decision making".

Draft DAP Framework Response

The OCG supports the DAP framework and therefore will not comment on every reference point but rather offer support for key references and alternative options for other elements that we feel can be enhanced or we do not agree with.

Key References

4A Planning Authority reviews DA and with the consent of the applicant decides if it is to be determined by a DAP.

The OCG agrees with DAP being established on a discretionary basis where:

- council is both the proponent and the planning authority
- the development is complex in nature
- the development is contentious, and Councillors may wish to act politically in representing the views of their constituents
- where there is a case of bias or perceived bias.

The OCG contends the threshold is too high:

- the currently recommended threshold is $10 million or $5 million in non-metropolitan areas
- the OCG recommends the threshold be $5 million or $1 million in non-metropolitan areas.

4B Planning Authority reviews the DA and decides if it is to be referred to DAP via a mandatory referral

The OCG agrees with the Planning Authority being required to make a mandatory referral for:

- an application over $1 million where the council is both the proponent and the planning authority
- an application by Homes Tas for Subdivision for social or affordable housing or development of dwellings for social and affordable housing

- and application for critical infrastructure.

The OCG believes the scope for mandatory referrals to DAP should be expanded to cover:

- a DA by an applicant for a subdivision or development for affordable housing
- a DA by an applicant for a development to accommodate workers accommodation
- a DA referred by the Minister for State Development that they consider is important to economic development.

5 – Assessment timeframes for DAP determined applications

The OCG notes that the DAP Assessment Timelines indicates a timeline for assessment of 105 days.

With additional steps in the DAP process, the usual 42-day statutory timeframe for determining discretionary applications seems unrealistic.

In relation to whether this timeframe is appropriate and achievable, the OCG questions the viability of the DAP holding hearings, determine application outcome and give notice of the decision in 35 days. Given that DAP will engage with projects that are complex and contested it is likely that requests for more information (whilst stopping the 'clock' on assessment timelines) could add considerable time (weeks and months) to the 'actual' assessment timeline. Together with the complexity of the projects, the subsequent Hearings are likely to be extensive and require significant time to allow for due process consideration of representations.

An assessment of this suggested timeline must be made prior to legislation being introduced so that it more realistically reflects a critical consideration that investors will undertake prior to considering the DAP pathway.

21 Ministerial Call in Powers

The OCG agrees at any stage of the assessment process the applicant or planning authority may make a request to the Minister that a development application be referred to a DAP provided the Minister is satisfied the DA meets the DAP criteria.

The OCG contends this call-in power is critical to the success of the DAP approval process and the Minister should be able to make the decision in the best interests of the state.

This power, will however, be likely to raise objections during legislative debate around the original intent of the DAP 'to take the politics out of planning'.

Consequently, the OCG recommends in addition to the respective Ministers having a call-in power the applicant should be able to refer any DA to a DAP that meets the DAP criteria and have the DAP itself determine eligibility in a preliminary finding. This process could adapt the 'No reasonable prospects process' within the Major Project Assessment process. This would ensure that the process was accessible and separate it from any potential debate around political bias at a state level and ensure the Planning Minister, in particular, is not inundated with call-in requests.

The OCG is supportive of changes to the planning system which improve its efficiency and the timeliness of assessments.

Thank you again for the opportunity to provide our response on the newly proposed DAP framework.

Yours sincerely

John Perry
Coordinator-General

Appendix 1 – Case Studies

Appendix 1 – Case Studies

Nexus Private Hospital Development

Overview of the Project

- Private hospital operator Nexus had planned to build a new hospital at the old WIN TV station site at 48-52 Newtown Rd, New Town.
- The plan encompassed a seven-theatre hospital, 26 bed ward, pathology, radiology, pharmacy, general practice and specialist consulting suites.
- The first (original) development application was lodged with Hobart City Council in mid-2019 and was rejected twice before a third application which was lodged in November 2020, was finally approved in March 2021.

Planning Issues

- Nexus first lodged a development application with Hobart City Council in mid-2019. After deferring the decision to allow Nexus to consider further consultation with council and the community, the development application was rejected in December 2019. Multiple grounds were cited for the rejection including the fact that the proposed design did not contribute positively to the streetscape, and the potential impact of operational hours on residents.
- Nexus sought to appeal the decision through the Resource management Appeal Tribunal and entered significant consultation through mediation with council officers and local residents, however this was put on hold with Nexus opting instead to submit a significantly revised development application, which included changes to increase building setbacks from residential boundaries, additional enclosed basement parking, redesign of the building façade to reduce visual bulk, improved public accessibility and amenity from New Town Road, increased landscaping, and reduced overshadowing for adjacent residential buildings.
- The second development application was lodged in 2020, and despite the significant alterations, in August 2020, council voted to defer the application and seek and extension with Nexus on the basis that the proposed building height was “not compatible with the scale of nearby buildings and did not contribute positively to the streetscape".
- A third and final development application was lodged in November 2020 which required significant compromise to Nexus’ proposal, primarily focused on a reduction in overall height above ground, to directly mitigate concerns raised by neighbours. Council approval was granted in March 2021.

Impact

- The approved plan required a reduction in height, and design alteration that required more complex engineering retention systems. This increased project costs considerably from the initial projections.
- Compounding this, years of planning delays resulted in increased construction costs by an estimated $12.3 million in 2021 (total cost of $64 million excluding consulting costs and cost of acquiring the land).
- In August 2023, Nexus announced they had abandoned their plans to build the hospital due to further construction cost increases and the increased cost of finance. These further cost rises resulted in the estimated cost of the project blowing out $120 million, which was deemed unfeasible.

Skylands Development

Overview of the Project

- The Skylands Masterplan sought to develop a privately owned undeveloped parcel of land (approximately 240 hectares in size) at Droughty Point on Hobart's Eastern shore.
- The Masterplan includes the development of six neighbourhoods, encompassing 2,500 homes, shops, cafes, offices, daycare centres, and 100 ha of public park space and habitat reserve.
- The land is located 25 minutes' drive from the Hobart CBD and was designated a Clarence 'land bank' in the 1960's. Development of the area commenced in the 1980's, however it has been minimal to date due to absence of a masterplan.
- Droughty Point was identified as having potential for 3,000 new dwellings in the '30-year Greater Hobart Plan' which estimates a need for 30,000 new homes over the next 30 years to accommodate population growth in the Greater Hobart area.

Planning Issues

- The Masterplan was lodged with Clarence City Council in early 2022, which included a request to amend the Southern Tasmanian Regional Land Use Strategy (STRLUS) by expanding the Urban Growth Boundary (UGB), this would lift a restriction on building by extending the urban growth boundary from 70 metres up the hillside to 110 metres.
- The Masterplan was rejected by Clarence City Council in March 2023 due to concerns around the impact of changes to the Urban Growth Boundary.
- The Planning Minister intervened requesting the Masterplan be assessed by the Tasmanian Planning Commission. The Minster subsequently granted an extension to the UGB in May 2023.

Impact

- The Skylands Masterplan will now need to be resubmitted for approval and the land will also need to be rezoned by the Clarence Council.
- The rejection of the Masterplan and the need for the proponent to resubmit will delay the commencement of the project, in essence delaying houses being built at a time that Tasmania is experiencing a significant housing shortage.

From: jennifer godfrey <>
Sent: Wednesday, 29 November 2023 6:55 PM
To:
Cc:

Subject: Submission on the Liberals' proposed planning panels

Dear Mr Valentine

Dear Mr Valentine

The legislation proposed by the Liberal Government will give more power to the Planning Minister and to hand-picked planning panels and will take planning authority away from local councils. This is a threat to democracy, transparency and independence. The consequences of such legislation are:

- **Property developers will be able to bypass local councils and communities.** Local councils, being aware that developers can by-pass them, may simply accept the developers' demands.
-
- **The right to contest the merit of a planning proposal at the Planning Tribunal will be removed.**
-
- **With merit-based appeals removed, there is a bigger risk of corruption, which is already a problem in Tasmania.**

- **The increased power of the Minister for Planning means that planning decisions can be made on political grounds, and that corruption is again a risk.**

-
- **It will be easier for large-scale developments to be approved, regardless of their impact on local areas and communities.**
-
- **The state-appointed planning panels will not be accountable to local communities and local decision- making will be undermined.** Transparency will be lost. The use of planning panels in Tasmania will make the process similar to mainland planning, where councillors favour developers and democratic accountability is lost. The proposed new system will add complexity and time to a system that is already complicated.
-
- **Tasmania's planning system is faster than that in other states.** This proposal will make it slower.

All these consequences are a threat to democracy in Tasmania.

- **Transparency, independence, accountability and public participation in decision-making** are critical for a healthy democracy. Instead of wasting money on a new planning panels, take action to improve governance and the existing Council planning process by providing more resources to councils and enhancing community participation and planning outcomes.

- P**roperty developers must be prohibited from making donations to political parties**, and **the *Right to Information Act 2009 must be properly administered. Corruption and croneyism is a significant problem in Tasmania. The state needs an ICAC- style* anti-corruption watchdog**.

I spend half my time in NSW and half in Tasmania. I have seen the consequences of poor and corrupt planning-coastal overdevelopment, ugly and inappropriate buildings, housing developments with no green space, poor infrastructure and little amenity, uncontrolled destruction of the natural environment. Tasmania should learn from this, not copy it.

Yours sincerely,

Jennifer Godfrey

From: Janiece Bryan >
Sent: Thursday, 30 November 2023 10:11 AM
To:

Subject: NO Liberal Planning Panels - Maintaining democratic freedoms and the democratic functioning of Government is critical to the welfare of Tasmania and all Tasmanians

Say no to the Liberals new planning panels

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

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

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

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

- **Remove merit-based planning appeal rights** via the planning tribunal on issues like height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and other potential amenity impacts and so much more. **Developments will only be appealable to the Supreme Court based on a point of law or process.**

- **Removing merits-based planning appeals has the potential to increase corruption and reduce good planning outcomes.** The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption.

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

- **Flawed planning panel criteria**. Changing an approval process where one of the criteria is on the basis of 'perceived conflict of interest ' is fraught. The Planning

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

- **Undermines local democracy and removes and local decision making**. State appointed hand-picked planning panels are not democratically accountable, they remove local decision making and reduce transparency and robust decision making.

- **Mainland experience demonstrates planning panels favour developers and undermine democratic accountability.** Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability.

- **Poor justification – there is no problem to fix.** Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest, if not the fastest, in Australia when it comes to determining development applications.

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

Say yes to a healthy democracy

- **I call on you to ensure transparency, independence, accountability and public participation in decision-making within the planning system**, as they are critical for a healthy democracy. Keep decision making local with opportunities for appeal. Abandon the planning panels and instead take action to improve governance and the existing Council planning process by providing more resources to councils and enhancing community participation and planning

outcomes.

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

Maintaining democratic freedoms and the democratic functioning of Government is critical to the welfare of Tasmania and all Tasmanians

Yours sincerely,
Janiece Bryan

From: Rowan Harris <>
Sent: Thursday, 30 November 2023 11:51 AM
To:
Subject: Political planning panel power grab

Hello and thank you for your time,

this email is in addition to my earlier submission to 'yoursay.planning@dpac.tas.gov.au' you were CC'd into. I wanted to take this opportunity to put into my own words, my alarm and disappointment around the proposed planning panels and political power grab.

Whilst I understand and acknowledge the issues with complex planning systems and a need to make planning processes better to ensure greater development and investments to benefit our communities economically, this is not the way. We need to balance social, economic and environmental issues with development, and this proposed process tips too far away from 'social' aspects.

Local councillors are elected by their local communities and are more proportionally representative of their constituents than any other level of government. Why would you want to give developers a way to bypass these communities and their representatives by replacing them with unelected panels. This is antithetical to democratic principles. These representatives are accountable to the community that elected them, the proposed planning panels will not be.

Something I would like you all to consider with this is that developers don't have to live with what they develop, the communities do. That is why communities need to have a say in the planning process. A developer doesn't have to live in a community to develop, they can be doing it as an investment (for their own economic gain) at the expense of the communities' liveability. This is, by definition, unsustainable development.

If you support these changes, I would ask you to reflect on the reason why. Why do you want the community to have fewer avenues to contribute their voice to development? Why do you think a minister or planning panel should have more power or voice than more democratically representative councillors? If you are thinking that you want to 'take the politics out of planning', how is a panel selected by politicians better than politicians selected by the people? They're both political, but one is more accountable than the other. The local councillors are supported by planning experts who on the whole, 'get it right', which is supported by the extremely low appeal rate.

It seems that the justification for this legislation is being introduced is as a solution to a problem that doesn't exist. Tasmania already has high approval rating for development. Of the 1% that are appealed to the planning tribunal, many are found in favour of the council in rejecting the DA. So where is the problem that needs solving? The only problem this will solve is being able to develop without being accountable to the local community.

I ask the question, why would we in Tasmania want to remove the role of merit-based planning appeal rights when the NSW Independent Commission Against Corruption recommends these as a deterrent to corruption? Why make corruption easier?

I ask you to use your political influence to protect local communities around Tasmania and reject this proposal as a way to defend the rights of communities to have a say on the developments in places they live. Rejecting this proposal will protect communities from unsustainable development and reduce potential for corruption.

Please protect us from political planning-panel power grabs.

With thanks,
Rowan Harris

From: dianne kennedy <>
Sent: Thursday, 30 November 2023 4:10 PM
To:
Cc:
Subject: Protect our local democracy - say no to the Liberals new planning panels

Dear Sir,

Say no to the Liberals new planning panels

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

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

intimidate councils into conceding to developers demands.

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

- **Remove merit-based planning appeal rights** via the planning tribunal on issues like height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and other potential amenity impacts and so much more. **Developments will only be appealable to the Supreme Court based on a point of law or process.**

- **Removing merits-based planning appeals has the potential to increase corruption and reduce good planning outcomes.** The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption.

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

- **Flawed planning panel criteria**. Changing an approval process where one of the criteria is on the basis of 'perceived conflict of interest ' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers.

- **Undermines local democracy and removes and local decision making**. State appointed hand-picked planning panels are not democratically accountable, they remove local decision making and reduce transparency and robust decision making.

- **Mainland experience demonstrates planning panels favour developers and undermine democratic accountability.** Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability.

- **Poor justification – there is no problem to fix.** Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest, if not the fastest, in Australia when it comes to determining development applications.

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

Say yes to a healthy democracy

- **I call on you to ensure transparency, independence, accountability and public participation in decision-making within the planning system**, as they are critical for a healthy democracy. Keep decision making local with opportunities for appeal. Abandon the planning panels and instead take action to improve governance and the existing Council planning process by providing more resources to councils and enhancing community participation and planning outcomes.

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

Yours sincerely,
Dianne Kennedy

From: David Taylor <> **Sent:** Friday, 1 December 2023 7:15 AM
To:
Subject: Changes to the Planning Approval Process.

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

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

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

- **Remove merit-based planning appeal rights** via the planning tribunal on issues like height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and other potential amenity impacts and so much more. **Developments will only be appealable to the Supreme Court based on a point of law or process.**

- **Removing merits-based planning appeals has the potential to increase corruption and reduce good planning outcomes.**The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption.

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

- **Flawed planning panel criteria**. Changing an approval process where one of the criteria is on the basis of 'perceived conflict of interest ' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers.

- **Undermines local democracy and removes and local decision making**. State appointed hand-picked planning panels are not democratically accountable, they remove local decision making and reduce transparency and robust decision making.

- **Mainland experience demonstrates planning panels favour developers and undermine democratic accountability.** Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability.

- **Poor justification – there is no problem to fix.** Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest, if not the fastest, in Australia when it comes to determining development applications.

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

Say yes to a healthy democracy

- **I call on you to ensure transparency, independence, accountability and public participation in decision-making within the planning system**, as they are critical for a healthy democracy. Keep decision making local with opportunities for appeal. Abandon the planning panels and instead take action to improve governance and the existing Council planning process by providing more resources to councils and enhancing community participation and planning outcomes.

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

From: Phyllis Fiotakis
Sent: Wednesday, 6 December 2023 9:35 AM
To: State Planning Office Your Say
Cc:
Subject: Planning Matters

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

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

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

- **Remove merit-based planning appeal rights** via the planning tribunal on issues like height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and other potential amenity impacts and so much more. **Developments will only be appealable to the Supreme Court based on a point of law or process.**

- **Removing merits-based planning appeals has the potential to increase corruption and reduce good planning outcomes.** The NSW Independent Commission Against Corruption recommendedthe expansion of merit-based planning appeals as a deterrent to corruption.

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

- **Flawed planning panel criteria**. Changing an approval process where one of the criteria is on the basis of 'perceived conflict of interest ' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any

development in favour of developers.

- **Undermines local democracy and removes and local decision making**. State appointed hand-picked planning panels are not democratically accountable, they remove local decision making and reduce transparency and robust decision making.

- **Mainland experience demonstrates planning panels favour developers and undermine democratic accountability.** Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability.

- **Poor justification – there is no problem to fix.** Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest, if not the fastest, in Australia when it comes to determining development applications.

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

Say yes to a healthy democracy

- **I call on you to ensure transparency, independence, accountability and public participation in decision-making within the planning system**, as they are critical for a healthy democracy. Keep decision making local with opportunities for appeal. Abandon the planning panels and instead take action to improve governance and the existing Council planning process by providing more resources to councils and enhancing community participation and planning outcomes.

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

Yours sincerely,

Phyllis Fiotakis

DEVONPORT CITY COUNCIL
ABN: 47 611 446 016
PO Box 604 Devonport TAS 7310 – 137 Rooke Street, Devonport
Telephone 03 6424 0511
Email council@devonport.tas.gov.au Web www.devonport.tas.gov.au

6 December 2023

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

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

Dear Sir/Madam,

Proposed Development Assessment Panel Framework

Thank you for the invitation to review and make a submission on the proposed Development Assessment Panel Framework.

Council notes the stated intent given in support of this recent reform initiative which is *'to take the politics out of planning'*, by providing an alternative approval process for the determination of more complex and contentious planning permit applications (development applications). This initiative proposes the creation of independent Development Assessment Panels (DAPs) established by the Tasmanian Planning Commission to take over the decision-making role of local councils for development applications in certain circumstances.

Council has considered the detail and supporting information provided in the *Development Assessment Panel Framework – Position Paper*, as prepared by the State Planning Office and provides the following advice in general response to the proposed DAP Framework.

- ***Is the introduction of Development Assessment Panels necessary?***
  - As presented in the Position Paper, the assessment timeframes for planning permit applications in Tasmania are amongst the fastest in the nation.
  - Furthermore, where applicants or representors are not satisfied with the decision of a local council (acting as Planning Authority for the purposes of the *Land Use Planning and Approvals Act 1993* (LUPAA)) there is recourse for that decision to be appealed through the Tasmanian Civil & Administrative Tribunal. This represents long established practice in the Tasmanian planning system.
  - The specific example of development applications for social housing is presented in the Position Paper as a key justification for the introduction of DAPs, and where it is suggested that the personal views of elected councillors may unreasonably influence their decision making.
  - Council's experience is that only a relatively small number of development applications require determination by elected councillors – the majority of applications are determined under routine delegation by council officers. A similar situation is understood to exist for most local councils around the State.

- However, it is recognised that in certain circumstances local councils are required to determine and consider complex and contentious development applications – a proposed wind farm development is perhaps a good example of such an application.
- With regard to development applications of a more escalated or major scale, it is also recognised that the planning system already has the capabilities do deal with this type of development as part of the 'major project' assessment process that was incorporated into LUPAA in recent years.
- In summary of the above comments, Council's primary position is that the role and responsibilities of local councils as planning authorities should be appropriately maintained. It is somewhat difficult to reconcile that there is a compelling justification for the introduction of DAPs, and the issues that the State Government has identified appear to be very limited isolated instances. This leads to a reasonable question as to whether there is a problem that warrants this level of intervention?
- Notwithstanding, and should the State be determined to pursue the DAP approach, this should be limited to consider very specific proposals and subject to a much more refined and considered framework than that currently presented. Furthermore, this should be an optional referral process for local councils to exercise and not subject to any mandatory referral requirements.

- ***A more complex and longer assessment process?***
  - The detail set out in the Position Paper in support of the proposed DAP Framework points towards a more complex and longer assessment process than the current situation. This includes additional requirements that are likely to influence the demand for greater resourcing to support the DAP process.
  - As noted in the supplied Position Paper, the proposed DAP Framework includes the review and assessment of a development application by both the council (initially forming the advice and recommendation) and the DAP (as the final decision maker) and also including the administrative arrangements for any public hearings as part of the DAP's determination. The Position Paper further identifies that the existing 42-day timeframe for discretionary planning permit applications under the *Land Use Planning and Approvals Act 1993* (LUPAA) will not be sufficient for the proposed DAP process – instead a nominal 105-day process is suggested.
  - Council notes that there is still a significant administrative involvement required by local councils in the proposed DAP Framework including the receipt and assessment of applications, requesting additional information, public notification requirements, consideration of representations received, reporting and recommendations to the independent DAPs, and also appearances before the DAPs as part of any convened public hearing processes.
  - It may also be the case that the referral of a development application to a DAP may necessitate a decision of the relevant council to instigate that DAP referral process – which would present additional administrative considerations (such as the preparation of council meeting agenda documentation, etc.).
  - The above comments are provided to generally illustrate how the proposed DAP Framework would likely result in greater complexity and increased timeframes for the assessment of development applications. This appears somewhat at odds with the pursuit of a more streamlined and less complex planning system that have underpinned the State Government's recent reform initiatives to the Tasmanian planning system.

- **Under certain circumstances is it appropriate for the Minister to intervene where a local council has refused to initiate a planning scheme amendment?**
  - Council notes the process currently included with section 40B of LUPAA whereby the Tasmanian Planning Commission (if so requested) can review a planning authority's

decision to refuse to initiate a planning scheme amendment and can direct the planning authority to reconsider its position on the planning scheme amendment.

- The Position Paper supplied for consultation contemplates where the above process has occurred, and the planning authority still does not agree to initiate the amendment, whether there could be a subsequent process for the Minister to intervene and direct the planning authority to initiate the amendment.
- Following Council's understanding that any feedback provided represents an initial stage of general consultation – it offers a general response that this approach does not seem altogether unreasonable.
- As a general suggestion, section 40B of LUPAA could be expanded to accommodate where a planning authority maintains its position to refuse to initiate a planning scheme amendment (following a direction to reconsider issued by the Commission) it is required to provide a statement to the Commission of the reasons in support of that decision. Upon review of that statement of reasons the Commission could then provide a recommendation to the Minister on whether the statement of reasons is appropriate to justify that refusal decision, or instead a recommendation that the Minister intervene and direct the planning authority to modify the amendment. In this context the ministerial intervention would be specific to acting in accordance with advice received from the independent Tasmanian Planning Commission.
- Notwithstanding, it is suggested that the above approach would/should be limited to very particular (or unique) circumstances where the threshold for intervention is established at an appropriate level. As mentioned in the Position Paper, this could be supported by the inclusion of appropriate tests or criteria into the provisions of section 40B of LUPAA.

In closing, Council affirms its position that the role and function of local councils as planning authorities should be maintained. Any proposed reforms towards the introduction of DAPs should not unreasonably diminish or undermine this position. Whilst there may be some merit in exploring a DAP approach, that should be limited to very particular circumstances. Council further suggests that those circumstances and the associated framework to accommodate a DAP process needs more consideration and refinement than what has currently been presented.

Thank you again for the invitation to provide comment.

Yours sincerely,

Matthew Atkins
GENERAL MANAGER

TASMANIAN PLANNING COMMISSION

Our ref: DOC/23/130945
Officer: Luke Newman
Phone: 6165 6816
Email: tpc@planning.tas.gov.au

6 December 2023

Mr Brian Risby
Director
State Planning Office
Department of Premer and Cabinet

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

Dear Brian,

Development Assessment Panel framework

I refer to the State Planning Office's (SPO) consultation on the position paper and draft Development Assessment Panel framework.

The Commission has reviewed the paper and draft framework and provides feedback on some issues relevant to the Commission. In addition to this feedback, should this policy initiative proceed, Commission staff are available to provide technical input into any proposed framework as the details are more fully progressed.

Consultation issue 1 - referral of applications to a DAP.

If the Commission (or a DAP) is required to determine if an application meets certain referral requirements, it would be preferrable that referral requirements are either quantitative, or they were only concerned with quantitative attributes of the application. Examples could include the Council being a landowner, adjoining owner, or having an equitable interest, or matters such as subdivision over a certain size, or including a certain percentage of social housing.

It would not be appropriate for the Commission to determine if a referral meets qualitative attributes that relate to the role or function of a planning authority or council (listed as iv to vii in issue 1 of the position paper).

The practicalities of a 7-day timeframe on referral decisions, will be heavily influenced by how any legislative instrument is drafted, as consideration needs to be given to issues of DAP appointments/delegations, and provision of further information.

Consultation issue 2 - directing amendment initiation.

The Commission makes no comment on the merit of the proposal.

The Commission notes that under section 40C of the Act, the Minister can direct the preparation of draft amendments for a range of reasons, including at 40C(1)(b) to ensure that the LPS is, as far as practicable, consistent with the applicable regional land use strategy.

If the policy proposal proceeds, these existing powers may only require minor clarification to achieve the desired policy intent.

Consultation issue 3 - DAP framework and processes.

If the proposal proceeds, the stage in the process when councils are relieved of involvement leading up to the referral of a DAP, will need to be considered. However, the professional planning staff of the Council are best placed (through process and local knowledge) to progress an application through the normal statutory assessment processes. This should include providing advice to a DAP around permit conditions that would be appropriate if a permit were to be approved, and other advice if they consider a permit should not be approved

Consultation issue 4 – further information requests.

The DAP review of further information requests outlined in attachment 1 - step 7 is consistent with 40V of the current Act, excepting it provides 14 days for a DAP to make a determination, as compared to 40V which is 28 days.

A 35-day timeframe for a DAP to make a decision, would be challenging in most cases, given the practices adopted to provide for procedural fairness and natural justice, such as:

- the practice of providing 14 days' notice of hearings;
- convening hearings in the relevant municipality or region;
- providing for anyone to speak to their representations;
- providing for submissions and responses to be made, prior to, during, and after hearings; and
- co-ordinating the participation of legal and other professional representative.

The broad nature of hearings, combined with provision for submissions and responses, may mean multiple days, or reconvening of hearings, would occur.

For these reasons a longer or more flexible time period that is linked to the complexity of issues presented in the application and representations is desirable. Providing a DAP with power to extend planning authority timeframes would be consistent with the Commission's powers in relation to a combined amendment and permit process.

Similarly, Commission experience with other matters indicates that DAP timeframes at all points, should have provision for extension, with the consent of the Minister.

Consultation issue 6 - permits and enforcement.

The Commission agrees that planning authorities should have responsibility for all aspects of DAP issued permits including enforcement.

Thank you for the opportunity to provide feedback.

Yours sincerely,

John Ramsay
Executive Commissioner

From:
Sent: Wednesday, 6 December 2023 1:20 PM
To: State Planning Office Your Say
Subject: Submission against Development Assessment Panels

I oppose the introduction of Development Assessment Panels because:
* they will add further complication to the existing system
* they reduce the democratic rights of the community.

Issue 1 Types of Development applications
* Critical infrastructure does not need a new panel because Major Projects Legislation or Projects of State Significance already provide an avenue for approval.
* Perceived bias exists at all levels of the planning system. DAPs will only increase community perceptions of bias favouring developers in the planning scheme.
* State Governments through the planning scheme limit or encourage certain types of development and the public perception is that a DAP is only to provide another mechanism to remove the local authority.
* Councils can share skills and resources in the planning area to ensure access to deal with complex issues.

Issue 2 An enhanced role for the Minister
* The Minister should not be given an enhanced role. Sufficient authority exists in current legislation.

Issue 3 Retaining local input
* Council should be the primary contact for applicants and its role should not be diminished.
* Consultation on any proposal should occur at the beginning of the process. The current system of Council being the Planning Authority provides for this.
* This proposal reduces democratic rights for no perceived public good.

Issue 4 Resolving issues associated with requests for, and responses to, further information
* Requests for further information will occur where the developer does not submit the relevant supporting documents with their application. The cable car proposals for Mt Wellington was a perfect example of failure to provide satisfaction of the requirements of the planning scheme in the original proposal. This led to continual requests and responses.
* Annecdotal evidence is never reliable data. Mention of it in this document is an example of bias being allowed to intrude on the planning scheme. Collect reliable evidence-based data before you implement DAPs and get community approval

Issue 5 Appeal rights and assessment time frames.
* Special pathways are not faster, cheaper, simpler or FAIRER.
* Applications that require approval under discretionary provisions rather than acceptable solutions and performance criteria will always take longer to assess
* Public right of consultation and comment must be guaranteed.
* All structures are permanent features on the landscape and within the community so should be assessed under existing systems with local input at all stages.

Issue 6 Roles of the planning authority after DAP determination
* The expectation that the DAP will ‘engage extensively with the planning authority’ provides no

simplification to the process or reduction of Council work loads but simply adds more red tape and cost.

It is not the planning system which is stopping development currently it is a lack of qualified workers and shortage of materials. Within Hobart there are a number of developments approved and awaiting construction.

Your name:	Chris Allfree
Your email:	
My additional comments::	We have local planning authorities to represent the views of people most directly affected by the development. Removing local councils in other regions has led to corruption investigated by anti corruption authorities.

CENTRAL COAST COUNCIL

7 December 2023

Our ref.: Land Use Planning/ Legislation/ Acts and Regulations; da:tic
Doc. ID: 472343

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

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

Dear Sir/Madam

PROPOSED DEVELOPMENT ASSESSMENT PANEL (DAP) FRAMEWORK

I write on behalf of the Mayor, Councillors and General Manager, and we thank you for the opportunity to make a submission in relation to the proposed DAP Framework (the proposal).

The proposal is unnecessary

We believe the proposal is unnecessary. It does not align with Council's objectives of reducing red tape and working closely with applicants and the community to facilitate sustainable development. It would diminish the capacity of councils to facilitate sustainable development and could increase the complexity, elapsed time and costs experienced by some applicants.

The proposal does not adequately make the case for change and provides insufficient detail for councils to quantify the impact it would have on their own resources and those of applicants and other interested parties. It fails to articulate the problem it is trying to solve and offers no analysis of alternative solutions, such as those employed in other jurisdictions and variations of existing Tasmanian assessment pathways (i.e. Projects of State Significance, Major Projects and Major Infrastructure Development Assessment processes).

Council does not support providing the Minister with any new power to direct a council to initiate a planning scheme amendment. Under the current system, parties wishing to amend a planning scheme must obtain the support of the council concerned, and in deciding whether or not to provide that support, the council considers whether or not the proposal is in the best interests of the community. Councils are far better placed than the Minister or any other stakeholder, to make this decision. Councils are also far better placed to work collaboratively with applicants, to help ensure that proposals that are supported, are fit for place.

The existing process for assessing development applications generally works well in Tasmania and the appeal processes and penalties enshrined in the *Land Use Planning and Approvals Act 1993*, provide adequate protection against inappropriate decision-making by councils.

PO Box 220
19 King Edward Street
Ulverstone Tasmania 7315
Tel 03 6429 8900

www.centralcoast.tas.gov.au

Matters to be considered if implementation is inevitable

If implementation of the proposal is inevitable, Council sees DAPs being suited only to the following two scenarios:

a) When a council is the applicant and would otherwise also be the decision-maker; or

b) When a council chooses voluntarily, to refer an application to a DAP for various reasons including but not limited to, occasions when the council would prefer assessment to be undertaken independently.

We note, however, that there are existing mechanisms available to and often utilised by councils, to deal with these scenarios.

Council believes that the entire lodgement and assessment process must be undertaken by the Tasmanian Government (the Government), rather than councils being burdened with the workload and placed in the unenviable position of being "between" the DAP, the applicant and interested community members.

If the Minister's powers are to be expanded so that they can direct a council to initiate a planning scheme amendment, it is appropriate that the Government, not the council, initiates and has carriage of any such amendment. Forcing councils to effectively "champion" an amendment that they are not supportive of, is unfair to applicants, councillors, staff and the community.

Where the Government should more constructively focus its efforts

While the proposal fails to articulate why such a major and uncertain change is needed and how it would improve Tasmania's land use planning system, Council believes change is required. Even though Tasmania has the shortest statutory assessment timeframes in the country, we accept that councils, the Government and industry must work together to ensure that Tasmania remains an attractive place in which to live, visit and invest.

In this regard, Council believes the Government must urgently address the important issues outlined in the Local Government Association of Tasmania's (LGAT) State Budget Priority Statement 2024-25:

1 The Tasmanian Planning Policies must be completed, to provide state-level guidance to regional and local plan-making.

2 The Regional Land Use Strategies must be updated, to provide clarity to both local plan-making and developer proposals. The outdated strategies are preventing new homes from being built and holding back economic growth.

3 A more complete suite of planning information must be developed, with useful development design guidelines, process flowcharts and applicant checklists.

4 The State Planning Provisions must be reviewed and updated to integrate all of the above, and to reduce those elements which are ambiguous and unhelpful, and are the main source of lost time, cost and complexity.

5 The Government and councils must *work together* to identify further procedural problems and potential solutions. Council also believes other key stakeholders from industry, the planning profession and the wider community should be involved. The DAP proposal was developed without proper consultation, and the lack of informed input is evident.

Further to the issues identified by LGAT, Council suggests the Government should also examine the impact that Crown landowner consent processes have on development.

In closing, we urge the Government to at least pause the introduction of DAPs and related changes, and instead focus on the priorities identified by LGAT, its member councils and other experts. To the Government's credit, much of this important work has already started, and the positive impact of the completed work must be allowed to flow through the system before informed decisions can be made about the need for further, more complex changes.

Yours sincerely

Daryl Connelly MBus
DIRECTOR COMMUNITY, GROWTH AND DEVELOPMENT

Australian Institute of Architects TAS

ABN 72 000 023 012
The Royal Australian Institute of Architects
trading as Australian Institute of Architects

1/19a Hunter Street
Hobart, Tasmania 7000

P: (03) 6214 1500
tas@architecture.com.au
architecture.com.au

7 December 2023

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

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

RE: Development Assessment Panel (DAP) Framework Position Paper

To whom it may concern,

The Tasmanian Chapter of the Australian Institute of Architects (the Institute) would like to thank you for the opportunity to provide feedback on the Development Assessment Panel (DAP) Framework Position Paper. Overall, the Institute is highly supportive of strategies that can assist in determining development applications in a streamlined and equitable manner – especially one that removes the potential for conflicts of interest or bias to impact on whether a development is advanced, and engages trained design and planning professionals and other relevant built environment expertise.

Below is feedback that responds directly to the consultation questions, which is then followed by some additional comments on the proposed DAP framework shown in Appendix 1. of the discussion paper.

****

Consultation issue 1 – Types of development applications suitable for referral to a DAP for determination

a) What types of development applications are problematic, or perceived to be problematic, for Councils to determine and would therefore benefit from being determined by a DAP?
b) Who should be allowed to nominate a referral of a development application to a DAP for determination?
c) Given the need for a referral of an application to a DAP might not be known until an application has progressed through certain stages of consideration (such as those set out in a) above) have been carried out, is it reasonable to have a range of referral points?

****

Types of development application
All of the proposed options (i-vii) as set out for Consultation issue 1, Question a) present a potential situation where there could be benefit from being determined by a DAP.

However, the Institute considers criteria viii - which deems applications over a certain value to be automatically subject to a DAP - as unhelpful and unnecessary. Value of a project alone is not sufficiently indicative to be a criteria on its own.

For example, a high quality residential development of either NCC Class 1a) dwellings or NCC Class 2 apartments that embodies a high degree of design excellence, pursues zero operational carbon through a “passive house” design, includes very high quality durable surfaces internally and externally (e.g artisan stonework) and incorporates all landscaping features into the project could strongly enhance the neighbourhood realm and thus shouldn't require a DAP, regardless of the value of the application.

Similarly, major renovations and/or adaptive re-use of an existing development with a significant heritage component may have a higher project value because of the heritage conservation works involved.

Therefore, using project value to somehow flag project complexity and /or scale, that might challenge established precinct building types or neighbourhood character is not reliable. It would be better to develop indicators for complexity and scale which might challenge neighbourhood character or local values for those development typologies or building classes that are permitted within the local scheme.

A further criterion that could be added for referral of a development application are simply those applications which do not neatly fit the local scheme or provisions schedule.

That is to say, development applications that already fully comply with the provisions under a given scheme or plan, and either deliver the acceptable solutions and/or performance criteria set out in the Tasmanian Planning Scheme State Planning Provisions (SPP) should not require determination by a DAP.

The panel resources should be used economically, and the planning authority should continue to approve those applications which are fully compliant.

However, the Institute sees important value in using DAP as a tool to assist infill development. For example, the 30-year Greater Hobart Plan notes,

> *Prioritising and facilitating targeted infill development in preference to greenfield expansion will see the emergence of more inner-city housing through medium density development. In delivering this, the Greater Hobart Committee is committed to maintaining local character and protecting heritage values. To implement this Greater Hobart Plan we will need design solutions to protect what people love about our capital city and its natural and built environment.* (p. 3)

Infill development will require design excellence in order to ensure that local character is positively evolved and that heritage values are protected. Attempting to apply a “tick the box” approach to development applications may likely see those applications fail. Often sites can be small or topographically challenging. It is these development applications that will be among the situations that will most benefit from multi-disciplinary DAP.

Economy of process, such as the avoidance of duplicating processes, will help ensure that Tasmania continues to enjoy timely application decisions. The Planning Authorities might perform the initial checking that all required information has been gathered, but there should not be duplication of decision making itself. The DAP process should not be treated as an appeal process, but rather as an alternate process where qualitative appraisal is required. The DAP process should still make decisions that are consistent with the objectives set out in the State Planning Provisions, but which also demonstrate qualitatively how the objectives are met where they are not clearly demonstrated through full compliance with accepted solutions and /or performance criteria.

However, there is a gap in that the current planning provisions do not adequately address medium density development nor apartments design parameters. A critical success factor will be the establishment of medium density and apartment design guidelines which are also mirrored in the State Planning Provisions. The need to address the housing shortage requires the efficient building of medium density and apartment developments, however, Tasmania needs to ensure those developments are of quality and avoid the problems experienced in other States.

These are necessary for the efficient operation of development approval whether or not this is via the current pathway of the relevant planning authority applying the acceptable solutions and/or performance criteria set out in the Tasmanian SPP or via a DAP qualitatively assessing the application against the objectives.

Referral parties
Proposed options i, ii, iv and v of parties who may refer an application to a DAP are supported. However, option iii) is not supported. An applicant should always consent to DAP referral. This effectively provides them with the option to withdraw their application if they have initially made an application on the premise it would readily pass non-DAP approval process.

Requiring applicant consent will ensure that they have the opportunity to revise their application to either meet the non-DAP approval processes or not proceed at all. Proceeding to a DAP process may attract additional time and cost for the applicant (e.g. consultant planner or architect presenting and responding to the DAP) and the applicant should therefore be able to effectively halt the process and limit their costs.

Referral points
Proposed options i-iii are all appropriate referral points. However option iii (*At the approval stage, where it is identified that Councillors are conflicted*) would need to be identified earlier as an option ii "contentious" proposal.

Much earlier processes should identify - well before the approval stage - if the application would likely proceed to a Councillors' decision and that any Councillors would, therefore, be conflicted.

****

Consultation issue 2 – Provision of an enhanced role for the Minister to direct a council to initiate a planning scheme amendment under certain circumstances.

a) Under what circumstances should the Minister have a power to direct the initiation of a planning scheme amendment by a Council?
b) Is it appropriate for the Minister to exercise that power where the Council has refused a request from an applicant and its decision has been reviewed by the Tasmanian Planning Commission?
c) Are there other threshold tests or criteria that might justify a direction being given, such as it aligns to a changed regional land use strategy, it is identified to support a key growth strategy, or it would maximise available or planned infrastructure provision?

****

Ministerial direction

Ministers should have a power to direct the initiation of a planning scheme amendment by a Council where Councils:

- have not amended schemes and kept them up to date with Regional Land Use Strategies. For example, the Northern Tasmania RLUS[1] states that,

  The preparation of draft Local Provisions Schedules by the planning authorities for each of Northern Tasmania's eight municipal areas will reflect the State Planning Provisions and the planning framework expressed in this RLUS (p.3).

- where it is evident that the Council is deliberately impeding or delaying the delivery of important Tasmanian Planning Policies particularly the delivery of infill development and social and affordable housing. We note for example the risk of "not in my back yard" (NIMBY) response of local government authorities (representing their communities) to the presence of social and affordable housing in their community.

Circumstances of Tasmanian Panning Commission review.

Where a decision has been reviewed by the Tasmania Planning Commission, and the Council continues to fail to initiate a planning scheme amendment after a given time frame (e.g. determined by months or 'n' cycles of ordinary Council meetings), then the Minister should retain the power to direct the initiation.

This would be consistent with the Ministerial direction powers under Section 35 of the Land Use Planning and Approvals Act 1993 where the Minister, by notice in writing to a planning authority, may direct the planning authority to prepare and submit to the Tasmanian Planning Commission a draft Local Provisions Schedule that applies to the municipal area of the planning authority.

Other threshold tests or criteria

We have already noted other threshold tests or criteria could include changes to the applicable Regional Land Use Strategy which then act as a trigger to update planning schemes (Local Provisions Schedules).

[1] Northern Tasmania Regional Land Use Strategy, https://planningreform.tas.gov.au/__data/assets/pdf_file/0003/615585/Attachment-3-NTRLUS-PDFdocument-future-investigation-areas-amendment-June-2021-FINAL.PDF

****

Consultation issue 3 –
i. Incorporating local knowledge in DAP decision-making.
ii. DAP framework to complement existing processes and avoid duplication of administrative processes.

a) To allow DAP determined applications to be informed by local knowledge, should a Council continue to be:

- *the primary contact for applicants*
- *engage in pre-lodgement discussions*
- *receive applications and check for validity*
- *review the application and request additional information if required*
- *assess the application against the planning scheme requirements and make recommendations to the DAP*

b) Is the current s43A (former provisions of the Act) and s40T of the Act processes for referral of a development application to the Commission, an initial assessment by Council and hearing procedures suitable for being adapted and used in the proposed DAP framework?

****

Informed by local knowledge

It is important for local knowledge to come into DAP decision-making, and we support the first four dot points regarding the primary contact point, pre-lodgement discussions, receiving and checking applications for validity.

We also support that Council - namely officers and planners - may provisionally assess the application against the planning scheme requirements noting where it does or does not comply. The recommendations that are made by the Council to the DAP should not constitute a quasi-determination. Such recommendations could specify what would need to change in order for the application to meet the objectives of the Local Provisions Schedule in concert with the State Planning Provisions.

To leave no doubt, while supporting the continued delegated role of officers and planners in routinely determining of 85% -90% planning applications, as discussed on page 8 of the discussion paper, we do not support the continued role of elected councillors in determining applications, and see this as a fundamental reason to establish DAPs. This is consistent with the position we adopted in our submission[2] to the Department of Premier and Cabinet in response to the *Future of Local Government Review* in February this year.

Processes for referral

We have been unable to obtain a copy of the Act containing the details of repealed Section 43A of the original 1993 version of the Act. Section 40T (*Permit application that requires amendment of LPS*) does not provide sufficient detail that could be adapted to the DAP framework. It would be more efficient to determine the directions established by the Consultation issues 1 and 2 as well as Consultation issue 3, Question (a) and then draft fit-for-purpose legislation and regulations to give effect to the processes.

[2] See: https://www.architecture.com.au/wp-content/uploads/Aust_Inst_Arch_submission_Future-of-Local-Government-Review_February-2023.pdf

****

Consultation issue 4 – Resolving issues associated with requests for, and responses to, further information.

a) Should a framework for DAP determined development applications adopt a process to review further information requests similar to the requirements of section 40A and 40V of LUPAA?

b) Are there any changes that could be made to the Act or planning scheme to improve requests for, and responses to, additional information?

****

Review of further information requests.

A process to review further information requests, similar to the requirements of section 40A and 40V of LUPAA, could be adopted with respect to applications being heard by a DAP, however these current provisions pertain to the original application for a permit or to vary a Local Provisions Schedule.

Similar to our response to Consultation issue 3 Question (b), regarding processes for referral, we cannot properly appraise the adequacy of these provisions without fully understanding the full process and its settings. We recommend consultation drafts of proposed legislative settings are made available for public response.

****

Consultation issue 5 – Appeal rights and assessment timeframes for DAP determined applications.

a) Is it reasonable that decisions on DAP determined applications are not subject to TasCAT appeals where the TPC holds hearings and provides all parties the opportunity to make submissions and test evidence?

b) Given the integrated nature of the assessment, what are reasonable timeframes for DAP-determined applications?

****

Appeals to TasCAT

The Institute supports the establishment of Development Assessment Panels that are able to make binding determinations.

The Draft DAP framework proposed parties can make submissions and be heard by the decision maker in much the same way as a TasCAT appeal hearing. It is also advised in the discussion paper that a DAP, as a panel established by the Commission, is required to determine matters following the rules of natural justice and providing for procedural fairness similar to other LUPAA processes that are undertaken by the Commission.

We conditionally support that the decision would be binding without TasCAT appeal subject to knowing more about the panels' proposed composition.

One important matter that the draft framework has not addressed is the composition of the Development Assessment Panels. It is essential that these are multi-disciplinary. Expertise must be wide ranging and include not only planners, but architects, urban designers, landscape architects, traffic engineers as appropriate to the development application. There must also be a legal counsel or commissioner to ensure procedural correctness.

Reasonable timeframes for DAP-determined applications.
Until there is greater clarity about the options adopted under Consultation issues 1 and 2 and the role of Council in Consultation issue 3, we are unable to answer this question. The process would require councils to:

- receive applications,
- check applications for validity,
- review applications and make requests for further information, and
- assess against planning scheme requirements and make recommendations

before referral to a panel. The panel would then need to be duly constituted, and an opportunity would need to be created to receive public submissions. Therefore, it would seem that the timeframes would be longer than for applications determined in-house by Councils' officers (not Councillors). A comparative process map would aid an analysis.

****

Consultation issue 6 – Roles of the planning authority post DAP determination of a development application.

a) *Should the planning authority remain the custodian of planning permits and be required to issue permits in accordance with a direction from a DAP?*
b) *Is it appropriate for planning permits associated with a DAP-determined application to be enforced the Council?*
c) *Is it appropriate for minor amendments (in accordance with s56 of LUPAA) to DAP-determined permits to be made by the planning authority?*

****

Custody.
It would reduce overall administrative burden and costs for Tasmanians and reduce confusion if the planning authority remains the custodian of planning permits and would be required to issue permits in accordance with a direction from a DAP.

Council enforcement
It would also reduce overall administrative burden and costs for Tasmanians and reduce confusion if planning permits associated with a DAP-determined application were to be enforced the Council.

Minor amendments
It would be appropriate for minor amendments (in accordance with s56 of LUPAA) to DAP-determined permits to be made by the planning authority. It is assumed here that reference to the Appeal Tribunal in subsection 56(2) would be substituted by a reference to the Development Assessment Panel.

Summary on feedback on Draft DAP Framework
The Draft Development Assessment Panel described in Appendix 1 appears well-considered and robust.

Again we note that more information and consultation about the composition of is required. This also needs to include parameters such:

- selection and nomination process of applicants,
- the size of the panels,
- duration of a term on a panel.

In addition, the framework needs a terms of reference and a charter for Development Assessment Panels. In the interest of robust probity, all decisions, minutes and reports should ultimately be made public on similar terms to minutes of Council meetings where planning applications have been determined. This would remove the perception or fact of panellists favouring projects, or any political interference. Any panellists should be required to declare conflicts of interest.

Thank you again for the opportunity to provide feedback on this important issue. Please feel free to contact us if you would like to discuss any of the above points raised in further detail.

Yours sincerely,

Paul Zanatta
National Advocacy and Policy Manager,
Australian Institute of Architects

Jen Nichols B. Arch (Hons), B. Env Des
Executive Director,
Tasmania and International Chapters,
Australian Institute of Architects

From: Mischa Pringle <>
Sent: Sunday, 19 November 2023 8:53 AM
To: State Planning Office Your Say
Subject: Protect our local democracy - say no to the Liberals new planning panels

Say no to the Liberals new planning panels

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

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

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

- **Remove merit-based planning appeal rights** via the planning tribunal on issues like height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and other potential amenity impacts and so much more. **Developments will only be appealable to the Supreme Court based on a point of law or process.**

- **Removing merits-based planning appeals has the potential to increase corruption and reduce good planning outcomes.** The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption.

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

- **Flawed planning panel criteria**. Changing an approval process where one of the criteria is on the basis of 'perceived conflict of interest ' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers.

- **Undermines local democracy and removes and local decision making**. State appointed hand-picked planning panels are not democratically accountable, they remove local decision making and reduce transparency and robust decision making.

- **Mainland experience demonstrates planning panels favour developers and undermine democratic accountability.** Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability.

- **Poor justification – there is no problem to fix.** Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest, if not the fastest, in Australia when it comes to determining development applications.

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

Say yes to a healthy democracy

- **I call on you to ensure transparency, independence, accountability and public participation in decision-making within the planning system**, as they are critical for a healthy democracy. Keep decision making local with opportunities for appeal. Abandon the planning panels and instead take action to improve governance and the existing Council planning process by providing more resources to councils and enhancing community participation and planning outcomes.

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

Regards,

Mischa Pringle

From: marja < >
Sent: Sunday, 19 November 2023 9:11 AM
To: State Planning Office Your Say
Cc:
Subject: New planning panels will interfere with the democratic process

Say no to the Liberals new planning panels

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

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

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

- **Remove merit-based planning appeal rights** via the planning tribunal on issues like height, bulk, scale or appearance of buildings; impacts to streetscapes, and

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

- **Removing merits-based planning appeals has the potential to increase corruption and reduce good planning outcomes.** The NSW Independent Commission Against Corruption recommendedthe expansion of merit-based planning appeals as a deterrent to corruption.

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

- **Flawed planning panel criteria**. Changing an approval process where one of the criteria is on the basis of 'perceived conflict of interest ' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers.

- **Undermines local democracy and removes and local decision making**. State appointed hand-picked planning panels are not democratically accountable, they remove local decision making and reduce transparency and robust decision making.

- **Mainland experience demonstrates planning panels favour developers and undermine democratic accountability.** Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability.

- **Poor justification – there is no problem to fix.** Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest, if not the fastest, in Australia when it comes to determining development applications.

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

Say yes to a healthy democracy

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

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

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

Marja
Kingston TAS

From: Stevie Davenport <>
Sent: Sunday, 19 November 2023 10:37 AM
To: State Planning Office Your Say
Cc:
Subject: Protect our local democracy - say no to the Liberals new planning panels

Dear Staff of the Department of Premier and Cabinet,

Personal experience has shown me the importance of local people with local knowledge having an important role in decisions about planning and development matters.

Without a democratic input to planning, it is too easy for decisions to be made for short term gain for a few against longer term benefit to the whole community and environment.

Say no to the Liberals new planning panels

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

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

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

subdivision like Skylands at Droughty Point.

- **Remove merit-based planning appeal rights** via the planning tribunal on issues like height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and other potential amenity impacts and so much more. **Developments will only be appealable to the Supreme Court based on a point of law or process.**

- **Removing merits-based planning appeals has the potential to increase corruption and reduce good planning outcomes.** The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption.

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

- **Flawed planning panel criteria**. Changing an approval process where one of the criteria is on the basis of 'perceived conflict of interest ' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers.

- **Undermines local democracy and removes and local decision making**. State appointed hand-picked planning panels are not democratically accountable, they remove local decision making and reduce transparency and robust decision making.

- **Mainland experience demonstrates planning panels favour developers and undermine democratic accountability.** Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability.

- **Poor justification – there is no problem to fix.** Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest, if not the fastest, in Australia when it comes to determining development applications.

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

Say yes to a healthy democracy

- **I call on you to ensure transparency, independence, accountability and public participation in decision-making within the planning system**, as they are critical for a healthy democracy. Keep decision making local with opportunities for appeal. Abandon the planning panels and instead take action to improve governance and the existing Council planning process by providing more resources to councils and enhancing community participation and planning outcomes.

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

This matter is of critical importance to all of us. I want to live in a state that favours a long term view of large scale benefit to residents and environment over the perceived need or greed of a minority.

Yours sincerely,

Stevie Davenport

From:	Daniel <>
Sent:	Sunday, 19 November 2023 1:20 PM
To:	State Planning Office Your Say
Cc:	
Subject:	Protect our local democracy - say NO to the new Planning Panels
Attachments:	20231115_192601.jpg; 20231115_192549.jpg

Say NO to the new Planning Panels

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

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

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

- **Remove merit-based planning appeal rights** via the planning tribunal on issues like height, bulk, scale or appearance of buildings; impacts to streets capes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and other potential amenity impacts and so much more. **Developments will only be challenged by an appeal to the Supreme Court based on a point of law or process.**

- **Removing merits-based planning appeals has the potential to increase corruption and reduce good planning outcomes.** The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption.

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

- **Flawed planning panel criteria**. Changing an approval process where one of the criteria is on the basis of 'perceived conflict of interest' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers.

- **Undermines local democracy and removes any local decision-making**. State appointed hand-picked planning panels are not democratically accountable, they remove local decision-making and reduce transparency and robust decision-making.

- **Mainland experience demonstrates planning panels favour developers and undermine democratic accountability.** Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability.

- **Poor justification – there is no problem to fix.** Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest, if not the fastest, in Australia when it comes to determining development applications.

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

Say yes to a healthy democracy

- **I call on you to ensure transparency, independence, accountability and public participation in decision-making within the planning system**, as they are critical for a healthy democracy. Keep decision-making local, with opportunities for appeal. Abandon the planning panels and instead take action to improve governance and the existing Council planning process by providing more resources to councils and enhancing community participation and planning outcomes.

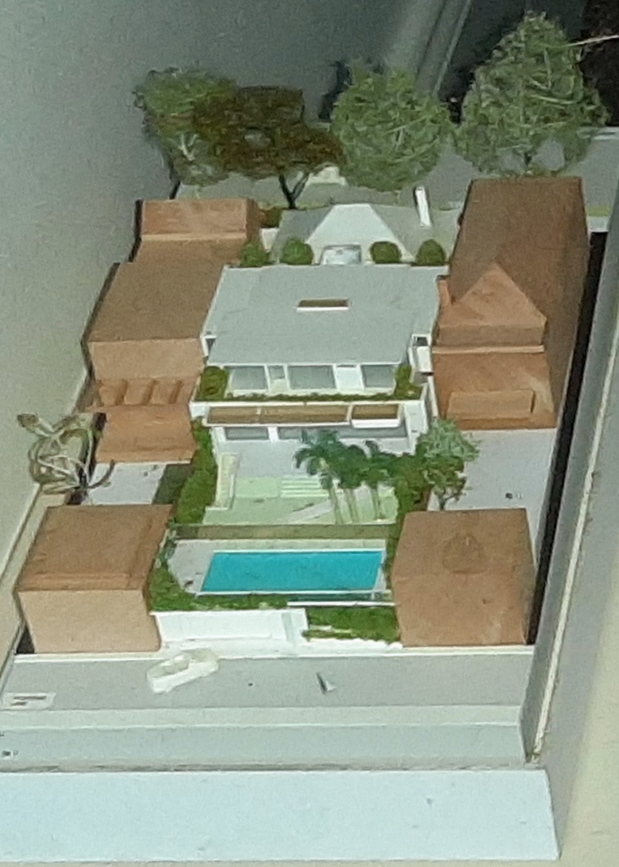
- I also call on you to **prohibit property developers from making donations to political parties**, **enhance transparency and efficiency in the administration of the *Right to Information Act 2009***, and **create a strong anti-corruption watchdog**.

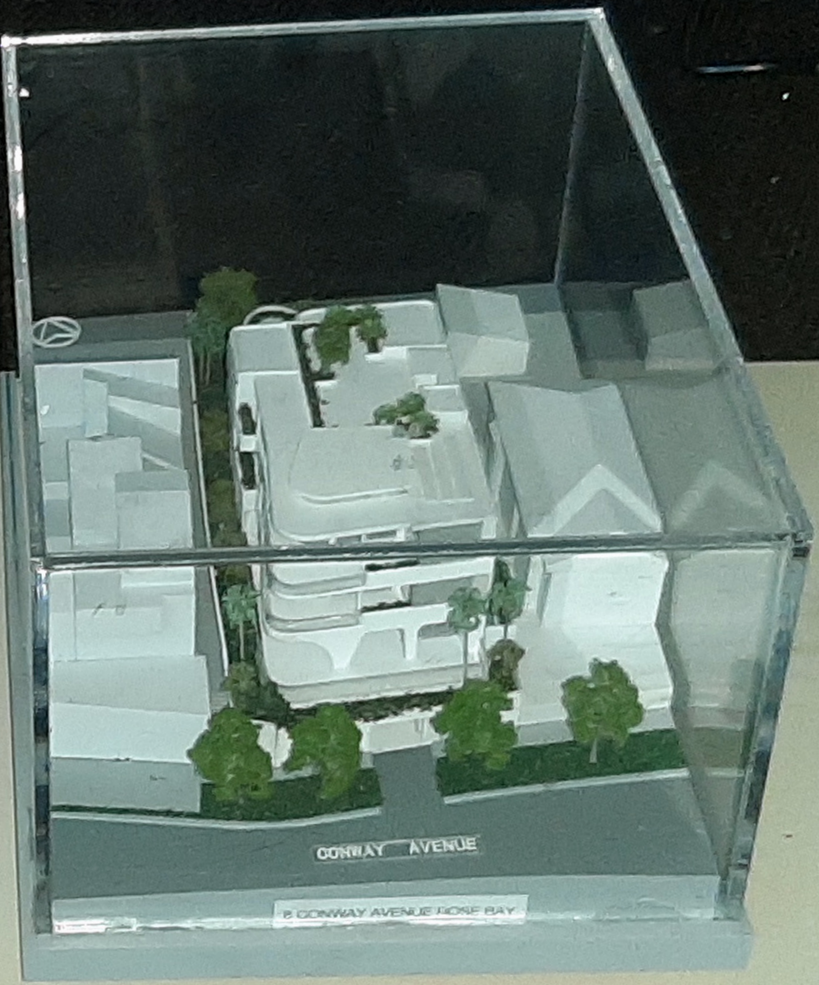
- Please evaluate closely what has happened in NSW with the introduction of Planning Panels and learn from their experiment before make a decision.

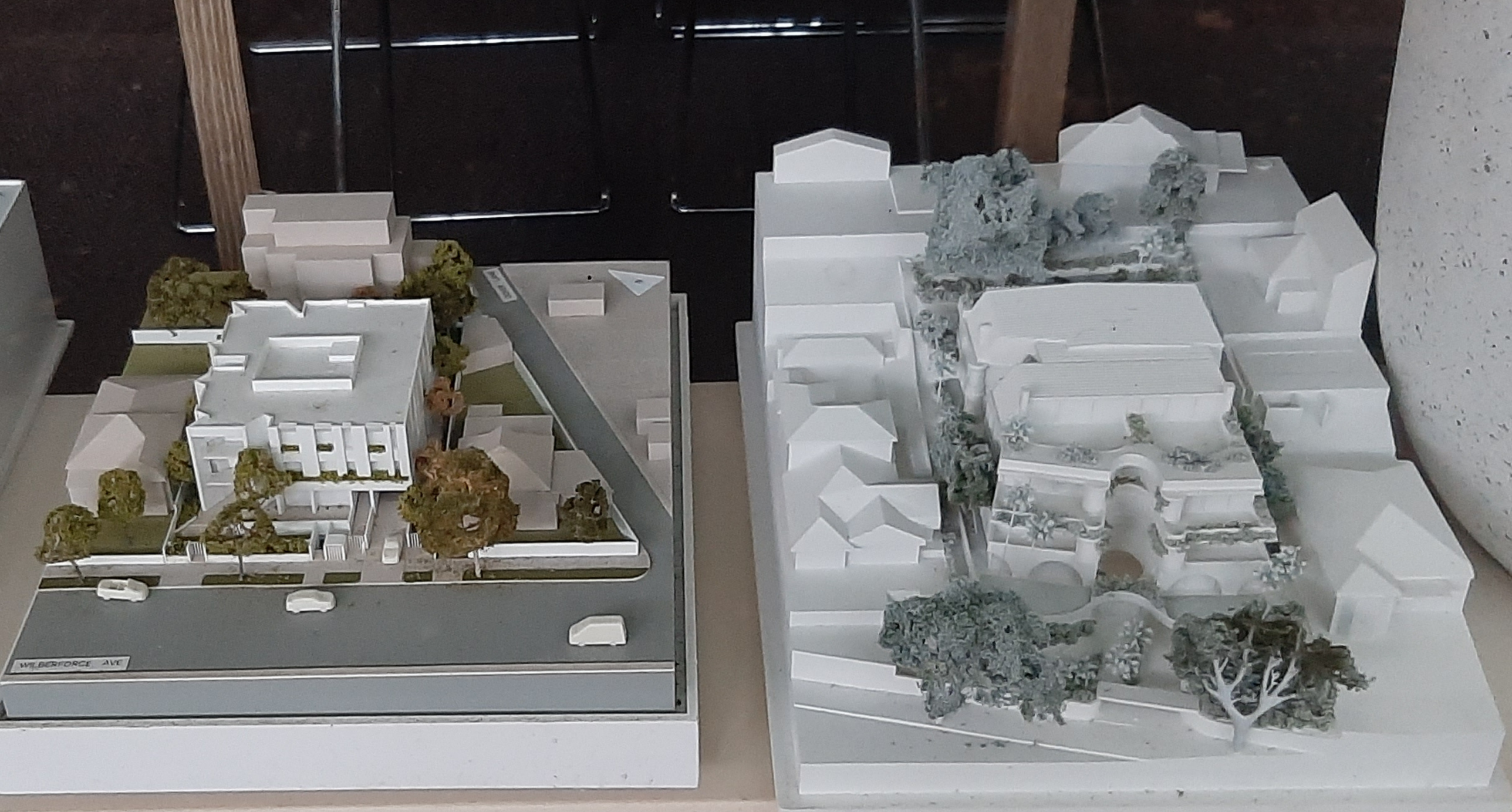
- Attached are two recent photos from a NSW Town Planner's window using the models of the over-developments for advertising purposes.

Yours sincerely,
Daniel Steiner

ph: (02) 9362 3564






WILBERFORCE AVE

From: N Duncan <>
Sent: Thursday, 30 November 2023 8:07 AM
To: State Planning Office Your Say
Cc:
Subject: Protect our Democracy- I say Nato LIBS planning panels!!!

Dear Liberals, I am a strong "NO " to your horrible Planning changes.

When will you Liberals learn.

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

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

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

- **Remove merit-based planning appeal rights** via the planning tribunal on issues like height, bulk, scale or appearance of buildings; impacts to streetscapes, and

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

- **Removing merits-based planning appeals has the potential to increase corruption and reduce good planning outcomes.** The NSW Independent Commission Against Corruption recommendedthe expansion of merit-based planning appeals as a deterrent to corruption.

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

- **Flawed planning panel criteria**. Changing an approval process where one of the criteria is on the basis of 'perceived conflict of interest ' is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers.

- **Undermines local democracy and removes and local decision making**. State appointed hand-picked planning panels are not democratically accountable, they remove local decision making and reduce transparency and robust decision making.

- **Mainland experience demonstrates planning panels favour developers and undermine democratic accountability.** Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability.

- **Poor justification – there is no problem to fix.** Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest, if not the fastest, in Australia when it comes to determining development applications.

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

Say yes to a healthy democracy

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

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

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

Local Government Association Tasmania

Our Ref: ME | MP

20 December 2023

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

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

Dear Sir / Madam

Development Assessment Panels Framework Position Paper

Thank you for the opportunity to provide a submission on the Development Assessment Panels Framework Position Paper. This submission has been prepared by the Local Government Association of Tasmania (LGAT) on behalf of Tasmanian local government in collaboration with our members; all 29 councils.

LGAT is incorporated under the *Local Government Act 1993* and is the representative body and advocate for Local Government in Tasmania. Where a council has made a direct submission to this process, any omission of specific comments made by that council in this submission should not be viewed as lack of support by us for that specific issue.

Please contact Michael Edrich if you have any questions or would like further information, at or .

Yours sincerely,

Dion Lester
Chief Executive Officer

LGAT Submission: Development Assessment Panels Framework Position Paper

Introduction

Thank you for the opportunity to make a submission to the Development Assessment Panels (DAPs) Framework Position Paper (the Paper). LGAT has consulted with its members via a well-attended online workshop and receiving written feedback from a majority of councils.

Our engagement work and research uncovered the following:

1. The case for DAPs needs improvement.
2. The design of the proposed DAPs framework needs improvement.
3. State engagement of local government in planning policy needs improvement.
4. Many councils remain open minded to a well-designed DAPs framework.
5. Codesign and targeting evidenced problems can generate a more widely accepted DAPs framework.
6. The real solution to planning performance lies in completing Tasmania's planning system.

Engagement in planning policy

As we have previously stated, LGAT and the entire local government sector are disappointed at the absence of consultation that led to the announcement of this policy[1]. It immediately generated conflict and concern across local government, at both the technical professional and elected representative levels.

This is a shame as it was already known to LGAT that some councils were interested in exploring DAPs and other, specifically designed, alternative decision making pathways to achieve specific objectives. Creating conflict by not involving councils prior to announcement was unnecessary and prejudices the end result.

Local government is not just another player in the development space, but the primary regulator of development in Tasmania. Councils stand at the convergence point in the planning system of all the planning legislation and statutory instruments, of state and development industry players, and of communities. This makes them the primary managers and mediators of growth and change in the state and central to planning policy.

[1] LGAT Media Release 18 July 2023.

Councils need the right planning tools, properly tuned, to help them do their job to the highest level and to serve and support the growth and development of their communities that collectively form Tasmania. DAPs, if specifically designed to address a clear problem, are one of these tools.

No one experiences or understands the development regulation space as closely and intimately as councils do, which makes councils best placed to assist in informing the design of the planning tools they need to do their job. Representations from councils should not be diluted as equivalent to any other, as this is not the truth of the situation and poorly reflects the depth of experience they have in delivering development outcomes. The State will consistently fail to achieve its development objectives to their fullest potential if it fails to develop its understanding of the intricacies and nuances of development issues by not properly engaging local government and enabling them to achieve success.

We advise the Tasmanian Government to understand this when it comes to reviewing the submissions from councils. Councils want growth, development, housing, and the improved living standards and wellbeing that these bring to their communities – all objectives the State also wants to achieve – but how this unfolds on the ground is complex, challenging, and specific. Their experience can help develop the right policy response, minimise conflict, and achieve effective implementation.

We recommend that the Tasmanian Government take a codesign approach from this point forward in the development of DAPs policy, matching the design of DAPs to local government, development proponent, and community needs and issues.

The case for DAPs needs improvement

A majority of councils assess that the case for DAPs need significant improvement before being developed further. Without developing this case, we risk not properly addressing real problems and causing unintended consequences. These may include skills resourcing disruptions in an already strained system, approvals slow-downs, and community backlash.

The DAPs Framework Position Paper accurately points out that *"overall, our planning system is already among the fastest, if not the fastest, in the country when it comes to determining development applications"*. Indeed, the DAPs process as currently proposed would see discretionary DA processes blow out from 42 days (currently averaging a nation leading 38-day completion time), more than double to up to 105 days when assessed by DAPs.

The Paper also shows that Tasmania's planning system already has five other development assessment panel processes in operation:

1. Combined planning scheme amendment and development permit process (LUPAA Part 3B, Division 4).
2. Major Projects (LUPAA Part 4, Division 2A).
3. Planning Appeals to the Tasmanian Civil and Administrative Tribunal (LUPAA Part 4, Division 3).
4. Major Infrastructure Projects (*Major Infrastructure Development Approval Act 1999*).
5. Projects of State Significance (*State Policies and Projects Act 1993*).

This proposal would add a **sixth** DAPs process to Tasmania's development regulation system. The need for this added complexity must be sufficiently demonstrated.

Most of all, the case for DAPs must properly target the problems it seeks to solve. One case of a development application being upheld in appeal is not sufficient rationale to trigger system change – but it can be an early indicator. A single case is an anecdote and needs to be supported by robust and specific system-level data that illustrate the problem, such:

- as the proportion of discretionary development applications that go to appeal
- the proportion of these that are upheld versus overturned
- patterns in the nature of the upheld appeals that might inform how a DAP might generate a different result
- the relative time and financial cost associated with a DAPs process rather than a regular planning authority process.

Design of the DAPs proposal needs improvement

The DAPs process currently proposed creates a new, substantially longer, and more complex development assessment process. This would undoubtedly result in more costs for development proponents. This may see proponents specifically design proposals to avoid triggering a DAP. If this results, it would demonstrate that the design of the DAPs framework is not meeting needs. We have seen this situation historically in Tasmania with the now defunct Projects of Regional Significance approval process.

The DAPs proposal removes appeal pathways, which may heighten community suspicions and foster cynical attitudes to development proposals assessed under the DAP process. It's easy to image the lobbying that would result, alienating councils and generating political tensions.

The design of the DAPs proposal seems to anticipate appeal, which indicates the proposed process would be most useful for proponents in cases where they expect appeal to occur, helping to evade the possibility of appeal. This is a very cynical approach to judicial processes. The right way for proponents to minimise the chance of appeal is to invest in positive, constructive engagement with the local community and the planning authority early in process, sustaining this engagement and incorporating feedback in design. By avoiding appeal, the DAPs process encourages proponents not to invest in public engagement and adjustment of design to feedback.

These are all indications of a substantial risk that the DAPs process as currently designed won't meet the needs of proponents, communities, and councils.

Councils are open to a DAPs framework, if well designed

The Tasmanian Government has not yet fully developed the case for DAPs, and this is clear in the Position Paper. Despite this, many councils remain open to some form of DAPs framework, if properly designed. This is an opportunity for the Tasmanian Government to develop a robust proposal.

For example, LGAT has had two relatively recent motions put forward by councils at its General Meetings that relate to DAPs and alternative decision making pathways. These are:

LGAT General Meeting March 2021, motion was lost:

> *That LGAT investigate the level of support among Tasmanian councils and identify the relevant considerations and options to propose an amendment of the Land Use Planning and Approvals Act 1993 to -*
>
> *a) Delete the mandatory requirement for a council to act as a planning authority for purposes of determining an application for a permit to use or develop land within its municipal area; and*
>
> *b) Provide as an alternative, the establishment of an independent development assessment panel to determine a permit application.*

LGAT General Meeting December 2021, members resolved:

> *That LGAT lobby the State Government to investigate amending the Land Use Planning and Approvals Act 1993 to provide alternative mechanisms for consideration of the development applications submitted by elected members as a means to removing any perception of bias or conflict of interest.*
>
> *The investigation shall provide the pros and cons of any (alternative) solutions.*

Councils are clearly looking for decision making pathways that help them address problems they are experiencing. If the design of a DAPs framework is approached with the view of providing councils with the tools and assistance they need to address these problems, this would greatly improve the end product and its reception.

Build evidence of problems and codesign solutions with local government

We strongly recommend that the Tasmanian Government work with councils and planning professionals to make the case for DAPs, to better inform their design. Councils can help build the evidence of how and where problems can arise in the process. This would help build evidence of problems and their nature, helping to inform targeted solutions.

For example, we know from member motions that councils are interested in resolving the perception of a conflict of interest. Providing councils with the full discretion to refer a development application to a DAP would address this.

Planning performance results from a complete planning framework

Ultimately, councils are acutely aware of the multiple gaps and deficiencies in Tasmania's planning framework that need attention to deliver a better planning process and better development outcomes. We need:

1. Tasmanian Planning Policies completed – none exist currently
2. Regional Land Use Strategies updated – current set are very outdated
3. Non-statutory guides and supporting information – very little exists
4. Tasmanian Planning Scheme updated to reflect the above
5. Changes to the development assessment process and procedures provided by LUPAA to improve system performance

This is where real performance improvements lie in Tasmania's planning system and LGAT has outlined this in its State Budget Priority Statement 2024-25. If we were to assess the completion status of Tasmania's planning system, it would quickly become apparent where we need to focus our attention.

These gaps are substantial potholes on the road to planning performance. Changing the driver, who makes the planning decisions, can only make minor differences to a small number of development applications. Filling these gaps will pave the road, improving the performance of the whole system, for all development proposals. Embarking on DAPs at this stage before our system is complete distracts attention and diverts State planning resources from the main game of completing the planning reforms, where the major performance improvements lie.

Summary

Overall, councils would strongly prefer the Tasmanian Government to approach the development of a DAPs Framework in the following way:

1. Do not divert State planning resources away from the current set of planning reforms to develop DAPs. Instead, properly resource State planning capacity to take on the DAPs work without impacting the speed of delivery for the current set of planning reforms. Accelerate current planning reforms as much as possible.
2. Build the evidence of the nature and extent of development decision making problems so that the right solutions that address these problems can be developed.
3. Enter a codesign phase for the DAPs framework in partnership with local government.
4. Keep solutions as simple as practicable, utilise existing planning processes and structures as much as possible.
5. Provide options for councils to use a DAPs process as a tool to address specific problems, such as the perception of conflicts of interest, or to deconflict / increase independence in decision-making for more contentious proposals.

Department of Health

GPO Box 125, HOBART TAS 7001 Australia
Web: www.health.tas.gov.au

Tasmanian Government

Contact: Andrew Hargrave
Phone:
E-mail:

Our Ref D23/117617/2

State Planning Office
Department of Premier and Cabinet

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

Submission - Development Assessment Panel (DAP) Framework Position Paper

The Department of Health (the Department) welcomes the opportunity to provide a response to the Position Paper outlining the proposed Development Assessment Panel (DAP) framework, which is intended to assume some of council's decision-making functions in relation to certain development applications.

The Department owns and manages significant health infrastructure assets across Tasmania and is also responsible for the delivery of an extensive range of health services. These assets and services are distributed throughout the State, from urban and regional centres to rural and remote locations and interact with the planning system on many levels.

The Department currently has an ambitious infrastructure delivery program that relies on timely and efficient development assessment and approval processes. In the majority of cases, the Department's projects are straight forward and uncontentious. The current assessment processes offer predictable and timely outcomes, which are important components in any infrastructure delivery program. However, the Department is aware that on occasion, more complex and larger developments may benefit from the oversight of a DAP.

Where the Department is of the view that a development would benefit from the DAP process, agreement between the planning authority and the applicant seems appropriate. The Department would base any determination on the knowledge and experience it has accrued over many years of delivering health infrastructure and would take into account the longer DAP process and the potential impact on project timelines.

Your Position Paper has identified 'Critical Infrastructure' as one of several criteria that might mandate a referral of a development application into the DAP process. It is unclear if your intention is to align your definition of 'Critical Infrastructure' with the definition under the Australian Government's security of critical infrastructure (SOCI) legislation?

Along with a broad range of sectors, the SOCI legislation captures the health sector under its definition of Critical Infrastructure. The Royal Hobart Hospital, Launceston General Hospital and

North-West Regional Hospital are specifically identified as 'critical infrastructure' assets. If the SOCI definition of Critical Infrastructure were to be applied as one of the criteria, developments associated with these sites might automatically be drawn into the DAP process. As noted, in many circumstances, a DAP process would not be necessary.

Given the potential for a critical infrastructure definition to unintentionally capture a broad range of developments, the Department would be keen to work with you and other infrastructure providers to carefully consider the definition including the use of alternative terminology to avoid confusion with existing legislation.

You have also sought input on the value over which referral might be mandated. Once again, the Department would want flexibility in engaging in the DAP process as project value does not necessarily reflect project complexity or the potential for a project to be contentious. It is also worth noting that when determining project value thresholds, there has been significant cost escalation across all infrastructure projects over recent years, which would indicate thresholds might be higher than currently proposed?

We would be pleased to expand on the issues raised in this submission.

Yours sincerely

Andrew Hargrave
Deputy Secretary Infrastructure

File No: MO
Your Ref:

31 January 2024

State Planning Office
stateplanning@dpac.tas.gov.au
cc. Brian.Risby@dpac.tas.gov.au

Dear Madam/Sir

Submission – Development assessment panels (DAP) framework

Thank you for accepting our submission about the proposed changes to Tasmania's planning system. I acknowledge this submission is being provided outside of the designated consultation period which has allowed our Council to discuss the proposal at its workshop on 18 January 2024. Please note that this submission has not been formerly adopted by the Council.

In summary, our council is not supportive of the DAP. Our council did not anticipate the proposal to remove our powers to an authority like the DAP. This is particularly so as we have fulfilled our planning authority role effectively over time and the proposed DAP is considered unnecessary to improve our current process.

Our councillors understand their separation of duties as elected representatives versus sitting as a planning authority where they need to make a decision in line with the *Land Use Planning and Approvals Act 1993*. While we can understand that there may be times where a DAP could support good decision making, at the City of Launceston there is currently no deficiency in how we assess planning items.

Further, our councillors hold concern that DAP would be an unelected decision making body. We understand it would be staffed with planning professionals, however, the lack of accountability to the community for decisions of the DAP is a concern. A preference for our council would be to see a strengthening of local provisions rather than a loss of representation which will occur with the DAP.

At the councillor workshop on 18 January I asked our councillors a series of questions, answers to which I have provided below.

Q1: Are we supportive of the DAP framework?

Our councillors are of the opinion that they have been elected to make decisions and that our community expects that of them. The City of Launceston (CoL) has performed the role of planning authority to a high level for many years.

Accordingly, council is not supportive of the framework as presented. While there may be examples where the DAP may support decision making, the concerns raised within this submission would need to be addressed.

Q2: What kinds of DAs are problematic or perceived to be problematic and would benefit from being determined by a DAP?

We consider applications where council is the applicant to be the most problematic, and is the main application type that would benefit by being determined by a DAP

Q3: Is it reasonable that DAP decisions are not subject to TASCAT appeals?

No. The Council is of the view that the decisions of a DAP should be subject to TASCAT Appeal.

Q4: Who should be able to refer to the DAP for determination – the applicant, planning authority, or minister?

We would rather have clarification on and definition of what can be nominated rather than who can nominate. For example, types of projects or those worth a certain value should be nominated rather than it being a choice of the applicant, planning authority or minister.

Q5: When should a referral to the DAP occur – at the beginning, following advertising, when conflict arises, or at any stage?

Our preference is that the decision to refer occurs at the commencement of an application to mitigate or minimise the potential for negative media coverage or social media backlash to impact on a decision to refer to a DAP.

Q6: Should council's planning assessment team continue to assess and manage a DAP referred application? Should council enforce DAP determined permits?

Council understands that assessments will need to be undertaken by council officers under the proposed DAP framework and that planning permits, if approved by the DAP, will still be issued by council and therefore enforced by council if necessary.

However, it needs to be noted that council's fee structure will need to recognise that we still do a lot of the work and our fees would be on top of any fees for the DAP. The issue of who collects the DAP fees also remains unresolved.

Q7: What are reasonable timeframes for DAP determined applications?

Our council feels the timeframes for DAP assessments is too long. The emphasis on maintaining efficient approval timelines is important to council where we have an average assessment timeframe for discretionary application of 32 days. The 105 days proposed for the DAP is a significant delay for development approval compared to an application which is assessed under council's current process, either under delegated authority or referred to a council meeting for a decision.

Q8: Under what circumstances should the minister have a power to direct the initiation of a planning scheme amendment to council?

Our council does not feel there are any circumstances where this is warranted. Our strong preference is that the agreement of our council is required to initiate these types of changes.

Q9: Is it appropriate for the minister to exercise that power where the council has refused a request from an applicant and its decision has been reviewed by the Tasmanian Planning Commission and the council still refuses to initiate the amendment?

If this were to occur it would require very clear and strict rules around it as it appears to be a very significant power to vest in the minister. We believe council should still have the final decision regarding amendments.

We also have two questions which we seek further clarity on:

1. If a decision is made by the DAP after a council decision, is it correct that there is no right to appeal that DAP decision?
2. Is there any scope for a council to challenge a DAP decision?

We welcome an opportunity to provide additional feedback if required. Any comments in relation to this letter can be directed to Michelle Ogulin, Acting General Manager Community and Place.

Yours sincerely,

Michael Stretton
Chief Executive Officer

Mrs Anne-Marie Loader

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

30 October 2023

Re: Development Assessment Panel Framework (DAP) Submission

I am a Meander Valley Councillor, this submission, however, is my own, and not the Council's.

Prior to and now as a Councillor, the single biggest issue I hear from community is their inability to have a real say in planning. If a development is deemed acceptable by planners, then woe betide a councillor who votes against that decision. We must stick our fingers in our ears and sing 'la la la la la' very loudly and drown out the concerns of community.

Let's stop for a minute. Who lives with the outcome of planning? Developers? Sometimes. Builders and other tradespeople? Sometimes. Councillors? Yes. Community? Yes.

Who then is best placed to comment on planning applications? The community who will have to live and be affected by that which those planning applications allow to become reality. And who best to make the decisions about those planning applications? Local councillors who will also have to live with the decisions in a real and tangible way.

"The DAP will take the politics out of planning?" Is this believable? A State Government Minister will be firmly involved in planning at the very grassroots level. If that's not politics, I don't know what is. And who is going to be on these panels? Who is going to appoint the panel members? The DAP doesn't actually say. It is rather devoid of important detail like how transparent the selection process will or won't be.

The fact that a developer will be able to choose who assesses their application is truly terrifying. What will this look like in the future? Developers coming in, seeing opportunities, bypassing community, building the 'thing', then moving on? It's almost like that now! Tasmania needs people who care about our communities, with lived experience of our communities to make decision about developments that could be around for generations. The community needs a right of reply, or as it is called 'a right to appeal'. How will this work under the DAP? It certainly looks like the right to appeal will be removed and the voice of community will be silenced at worst or severely minimised at best.

Honestly, how much power does the Minister for Planning need to have? This position should be working to ensure balance and appropriate development, not development at any cost that makes it easy for developers but difficult for community. A Minister bypassing community in favour of developers isn't democracy and it certainly places politics fair and square in the middle of planning decisions.

This Framework is truly terrifying in its lack of detail but with enough detail to render councils and communities voiceless and developers totally in charge.

Biggest of all, our council staff will still be preparing all the planning documentation, but the decision making will be removed from the council with little opportunity for community to have input. Councils are accountable to their residents and ratepayers; how will the DAP members be accountable? The position paper doesn't say.

The very first sentence of the Position Paper rings alarm: 'take over'. Communities do not want the State Government to 'take over' the role of councils as planning authorities, the community wants to be listened to and be taken seriously regarding planning applications that they will have to live with. They do not want some unknown people on a DAP making decisions about the place they call home.

That State has its 'Major Projects Bill', surely that is enough power. Please leave planning alone and in the hands of Local Government.

Yours sincerely

Mrs Anne-Marie Loader
BA, MAppSc