Draft LUPAA Development Assessment Panel Bill
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396	Geoffrey Leak
397	Housing Industry Association
398	Steven Jakson
399	Julien Scheffer
400	Eve Robson

From: Ken Hart <
Sent: Tuesday, 12 November 2024 6:51 AM
To:
Cc:
Subject: #ScrapTheDACP – say no to corrupt planning panels that give developers anything they want

I oppose the creation of Development Assessment Panels (Daps) and increasing ministerial power over the planning system because it will provide a closer link with less scrutiny between developers and Government. Developer "donations" to political parties have always been quid pro quos and the only way to weaken the link is to have robust independent planning bodies to make planning decisions. Every time we see Governments weakening the independence of planning approval processes, as we are now seeing, we can be fairly confident there are political donations behind it.

This is CORRUPTION.

I also agree with the following reasons the experts you should be listening to oppose the panels:

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

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

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

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

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

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

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

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

application, threatening transparency and strategic planning.

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

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

Say yes to a healthy democracy

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

Yours sincerely,

(*Include your name*)

From:
Sent: Tuesday, 12 November 2024 6:48 AM
To: yoursay.planning@dpac.tas.gov.au
Cc:
Subject: Development Assessment Panels

Members of Parliament

I oppose the draft legislation proposed by the Government to implement an alternative development assessment and approval process. Taking eligible developments out of the current local council process removes communities' rights to be involved in the decision-making process and removes communities' rights to merits planning appeals over an approval. I live in a rural area where it is vital that those with intimate local knowledge have an opportunity to have input into decisions that directly affect regional communities with small populations with limited access to resources.

I acknowledge and in my direct experience I note that most regional councillors are poorly equipped to understand and make informed planning decisions based on the Tasmanian Planning Scheme and their Local Provisions Schedule. I believe, however, that local representatives should be involved in the process and that community members should have access to an appeal process as a fundamental right in a democracy.

Removing merit-based planning appeal rights via the planning tribunal on all the issues the community cares about like impacts on biodiversity, height, bulk, scale or appearance of buildings and impacts to streetscapes, and adjoining properties. TASCAT review of government decisions is an essential part of the rule of law and a democratic system of government based on '*checks and balances*'.

Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal which is currently an effective dispute resolution process.

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

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

Thank you for the opportunity to have my say against the proposed changes in the draft legislation.

Yours sincerely

Victoria Onslow

From: Jennifer Sheridan
Sent: Tuesday, 12 November 2024 6:37 AM
To: yoursay.planning@dpac.tas.gov.au
Subject: ScrapTheDAP - say no to planning panels/say yes to a healthy democracy

To Who it may concern,

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

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

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

agencies, and adopted its draft decision.

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

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

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

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

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

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

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

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

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

Say yes to a healthy democracy

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

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

Yours sincerely,
Jennifer Sheridan

From: Lee Smith < Tuesday, 12 November
Sent: 2024 4:25 AM
To: yoursay.planning@dpac.tas.gov.au
Subject: My say on planning and DAPs…

To whom it may concern:

The Tasmanian Government currently has on its books draft legislation to enable the Planning Minister to change sound, long-established processes of assessment for community development projects in this State.

This legislation's basic intent is to exclude local government entirely from these critical processes and to enable assessment and approval processes to be carried out by so-called Development Assessment Panels (DAPs).

I am totally opposed to the creation of such ad hoc panels. Moreover, I believe that increasing ministerial involvement and decision-making in key planning processes is anti-democratic and should be avoided at all cost. Furthermore:

- Property developers should not be given capacity to bypass community engagement and local government decision-making. These are fundamental rights, protected by legislation that has served the Tasmanian community well over many decades.

- Handpicked, state-appointed DAPs will remove local government from what is currently a fair and democratic process.

- There will be a distinct lack of community access to DAP assessment processes; no accountability and oversight in the way that proposed DAPs will operate behind closed doors.

- Recent history shows that there has been considerable community suspicion and discontent regarding significant, large-scale developments such as the proposed kunanyi/Mount Wellington cable car and UTAS campus re-development in Hobart. Communities are much more likely to support such developments if they are fully informed of all aspects of their proposed planning and especially of their likely community benefits and challenges. DAPs are not likely to shine a spotlight on all of these critical considerations if they operate behind closed doors and give favour to project developers.

- Proposed removal of merit-based planning and approval processes - and the lack of objectivity and openness in DAP operation - are likely to seriously impede or deny aggrieved parties any right of appeal or mediation. The right to appeal or seek mediation are fundamental principles of our democratic system of government.

- Increasing ministerial involvement in development planning and assessment is likely to facilitate the unwelcome politicisation of planning and add further risk to possibilities of corruption and flawed decision-making.

In summary, the Tasmanian Government's draft legislation relating to planning and DAPs should be consigned to the political dustbin.

Yours sincerely,
Gregory Mark Smith

From: Katherin Witbreuk
Sent: Tuesday, 12 November 2024 2:17 AM
To: yoursay.planning@dpac.tas.gov.au
Cc:

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

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

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

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

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

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

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

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

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

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

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

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

Say yes to a healthy democracy

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

Yours sincerely,

Kath Witbreuk

From:	Monique Kreis
Sent:	Tuesday, 12 November 2024 12:24 AM
To:	yoursay.planning@dpac.tas.gov.au
Cc:	
Subject:	#ScrapTheDAP – say no to planning panels/say yes to a healthy democracy

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

Tasmanians have a right to have a say in the developments that will greatly affect the cities, towns and natural places in which we reside. We should be valuing the community and their needs instead of pro-development government projects that could have disastrous consequences on our communities and natural places.

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

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

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

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

- **Flawed planning panel criteria.** Changing an approval process where the criteria is on the basis of '*perceived conflict of interest*', '*a real or perceived bias*', '*the application relates to a*

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

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

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

Yours sincerely,
Monique Kreis

TASMANIAN RATEPAYERS' ASSOCIATION INCORPORATED

11 November 2024

STATE PLANNING OFFICE
DEPARTMENT OF PREMIER AND CABINET
EXECUTIVE BUILDING
LEVEL 7
15 MURRAY STREET
HOBART TAS 7000
Sent via email to:

yoursay.planning@dpac.tas.gov.au; 'HaveYourSay@stateplanning.tas.gov.au'.

Copied to:

To Whom it may concern

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

The Tasmanian Ratepayers Association Inc (TRA) doesn't support DAPs, increasing Ministerial power and removing planning appeals.

We acknowledge and pay respect to the Tasmanian Aboriginal people as the traditional and original owners of the land on which we live and work. We acknowledge the Tasmanian Aboriginal

community as the continuing custodians of lutruwita (Tasmania) and honour Aboriginal Elders past and present. lutruwita milaythina Pakana - Tasmania is Aboriginal land.

TRA believes by proposing this amendment, the government just wants to make it easier to proceed with controversial and unpopular developments in Tasmania and exclude the public from being comprehensively involved in the assessment and approvals process.

The draft legislation will empower the Planning Minister to remove assessment and approval of developments from the normal local council process and have it done by Development Assessment Panels (DAPs). **This fast-track process will remove elected councillors from having a say on the most controversial and destructive developments affecting local communities. There will be no right for the community to appeal the final decision to the planning tribunal.** The criteria being considered would enable virtually any development, except for industrial and mining developments regulated by the EPA, to be taken out of the normal local council assessment process and instead be assessed by DAPs, including developments already refused.

The Planning Minister can take a development assessment from councils mid-way through the development assessment process if the developer doesn't like the way it is heading.

The bill currently out for public comment will provide a new fast-tracked DAP process to provide a permit for developments **on both private and public land including World Heritage Areas, National Parks and Reserves.** TRA believes the government also intends to introduce new legislation that will provide fast-tracked approvals under the National Parks and Reserves Management Act for developments in reserved land.

The Planning Minister would also have new powers to instruct councils to commence planning scheme changes, but perversely, only when a local council has rejected such an application.

Transparency, independence and public participation in decision-making are critical for a healthy democracy. TRA opposes the principle for any fast-track amendment process as this will create significant planning uncertainty.

We unilaterally oppose the proposed changes to the Land Use Planning and Approvals Act due to the below issues and concerns, and call upon the government to scrap their proposed Development Approvals Panels (DAPs):

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

- **It will create an alternate planning approval pathway allowing property developers to bypass local councils and communities**. Handpicked state appointed planning panels, conducted by the Tasmanian Planning

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

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

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

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

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

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

Say yes to a healthy democracy

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

- We also call on parliament 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.

Accordingly, and in conclusion, we call upon parliament to stop this proposed amendment process.

Yours faithfully,

A J ASCUI

A.J. Ascui

Public Officer

TASMANIAN RATEPAYERS' ASSOCIATION Inc.

ATTACHMENTS

Key Issues of DAPs from: Listen/watch here to **John Dowson** – President, Fremantle Society, former Deputy Mayor and Councillor, City of Fremantle, WA. **Why DAPs have failed in WA**. **Dr Phillipa McCormack** – Adjunct Lecturer in Law, University of Tasmania & researcher with the University of Adelaide with expertise in environmental regulation & administrative law. **Alice Hardinge** – Tasmanian Campaigns Manager, Wilderness Society Tasmania. **Anja Hilkemeijer** – Lecturer in law at the University of Tasmania, with a focus on foundations of public law, constitutional law and human rights law. **Mayor Reynolds** – Lord Mayor & Councillor, Hobart City Council.

Key Documents:

Independent Commission Against Corruption (ICAC) ICAC Report – Anti-Corruption Safeguards & the NSW Planning System

DAPs failing on mainland Australia

NSW: Local planning panels were created to stamp out corruption, but councillors from across the political spectrum (including Philip Ruddock) say they favour developers and undermine democratic accountability: How 'unelected faceless men and women' keep approving NSW developments, Sydney Morning Herald, August 15, 2021.

WA: JDAP Ignores 220 Submissions, *Fremantle Herald*, October 2023

From: Stephanie Gleeson
Sent: Tuesday, 12 November 2024 2:48 PM
To: yoursay.planning@dpac.tas.gov.au
Cc:
Subject: Please keep it local and stop radical planning panels in Tasmania

Thank you for the opportunity to comment on the proposed creation of planning panels in Tasmania.

As a concerned member of the public, I am opposed the creation of Development Assessment Panels (DAPs) and opposed to increasing ministerial power over Tasmania's planning system. My opposition to these proposed changes are for the following reasons:

At a time when democracy is increasingly under threat in many parts of the world, I am concerned by the anti-democratic nature of the proposed DAPs, and the increased potential for corruption as seen in New South Wales. The NSW Independent Commission Against Corruption recommended the expansion of merit-based planning appeals as a deterrent to corruption. Mainland experience demonstrates planning panels favour developers and undermine democratic accountability. Local planning panels, which are often dominated by members of the development sector, were created in NSW to stamp out corruption, but councillors from across the political spectrum say they favour developers and undermine democratic accountability. Research from the Mainland demonstrates that removing merits-based planning appeals has the potential to reduce good planning outcomes including those relating to social and environmental considerations.

A further risk of corruption in the planning system is that of increased ministerial power. It will be the Planning Minister who will decide if a development application meets the DAP criteria. The Minister will be able to force the initiation of planning scheme changes, but perversely, only when a local council has rejected such an application, threatening transparency and strategic planning. Compounding the problem is that the proposed planning panel criteria is flawed. Changing an approval process where the criteria is on the basis of '*perceived conflict of interest*', '*a real or perceived bias*', '*the application relates to a development that may be considered significant*' and the '*development is likely to be controversial*' is vague, overly subjective and broad. Being a politician, the Planning Minister naturally will have political bias and allegiances, and can use this subjective criteria to intervene on any development in favour of developers. Land, especially national parks and reserves, belong to the community, not government or developers. It is up to property developers, especially those ou Tasmania, to gain a social license to operate and for the communities to decide the appropriate level of development. It is the public who pays tax, elect politicians, and it is the public that have to live with property developments in their communities.

Removing merits review and appeal rights radically undermines the democratic principles of our society. The proposed DAPs will be hand-picked, without detailed selection criteria and objective processes. The DAPs are inconsistent with the principles of open justice as they won't hold public hearings, and lack capacity to manage conflicts of interest (as per the 2020 Independent Review). Even if those opposed to a development can afford to apply to the supreme court for judicial review, it will be increasingly difficult to gain such review as the DAPs will not have to provide written reasons for their decisions. Community input will be less effective because it will be delayed until after the DAP has privately consulted with the property developer and any relevant government agencies, and adopted its draft decision, which will result in opponents being placed in an unfair negotiating position. It is also unfair that if a property developer doesn't like the way an assessment is going, the developer can abandon the local council process at anytime and have the development assessed by an unelected planning panel. Such veto power would mostly likely have the effect of intimidating councils into conceding to developers demands, and undermines one of the core tenants of our peaceful, democratic system that justice not only has to be done, but also seen to be done. Having handpicked state appointed planning panels, conducted by the Tasmanian Planning Commission, and having discussions behind closed doors, is not in keeping with transparent government.

The whole point of the proposed DAPs seem to be to undermine the very things that local communities are most concerned about, namely: traffic, noise, smell, light, biodiversity, height, bulk, scale and appearance of buildings; and the impacts to streetscapes and adjoining properties, such as overlooking and privacy. Some of these concerns involve people's human rights and their rights in common law, such as freedom from nuisance and quiet enjoyment of property. While emoving these important rights of appeal may enable the government and developers to force contentious, large-scale developments on the community in the short-term, it will come at an unacceptable price. The concept of 'checks and balances' in our democratic system is an essential part of the rule of law. The whole purpose of TASCAT is for it to exercise independent review of government decisions. Removing merits review from TASCAT to the DAPs would shift power from a judicial body to an executive one. It is an unacceptable power grab by the executive and is exactly the type of behaviour for which judicial checks and balances were created. Such proposed radical changes to the planning system already gives the appearance of some level of corruption by developers, as the draft legislation appears to be tailor-made for developers to the exclusion of the public's fundamental rights of appeal.

For the above reasons, I respectfully request that the state government prohibit property developers from making donations to political parties, and implement other beneficial changes such as: enhancing transparency and efficiency in the administration of the *Right to Information Act 2009*, and to create a strong independent, public anti-corruption watchdog with the power to refer serious matters to the Director of Public Prosecutions.

I respectfully ask that the government please abandon DAPs to safeguard transparency, independence, accountability and public participation in decision-making within the planning system. Keeping decision making local with opportunities for appeal will save time and money in the long term and also help protect local jobs. Please invest instead in expertise to improve the local government system and existing planning processes by providing more resources to local councils and enhancing community participation in planning decisions. History and current world events show us that having a stable, peaceful, prosperous society can not be taken for granted. Democracy relies on public trust and accountability of elected officials acting in the best interests of the people and with their consent when making significant decisions.

Thank you.

Yours faithfully,

Stephanie Gleeson

From: Diana Quilliam
Sent: Tuesday, 12 November 2024 2:43 PM
To: yoursay.planning@dpac.tas.gov.au
Cc:
Subject: Submission re Land Use Planning and Approvals Amendment (Development Assessment Panels) Bill 2024

This is my submission regarding the proposed Land Use Planning and Approvals Amendment (Development Assesment Panels) Bill 2024.

I strongly oppose the proposed creation of DAPs. I believe that planning should be separate from politics and politicians. Planning approvals should be independent and be approved via local local councils. Creation of DAPs will prohibit community input or consideration and remove community appeals processes.

This process gives ultimate power to business and politicians to approve any development it deems worthy on both private and public land including World Heritage Areas, National Parks and Reserves.

The proposed panels do not provide a democratic planning system that delivers social, economic and environmental benefits for Tasmania and its community.

Furthermore it does not take into consideration a community endorsed strategic vision to development.

I believe planning and decision-making processes should be open and transparent as well as providing overseeing processes by an independent commission, with appeals heard by an

independent tribunal. DAPs do not deliver this process but act solely in the interests of business. I believe it is not in Tasmania's best interests that the Planning Minister can take a development assessment from councils' jurisdiction mid-way through the development assessment process if the developer doesn't like the way it is heading. The ability of the Minister to do this seems to be heading towards autocratic government and removing other opinions to be heard.

Planning should prioritise the health and well-being of the whole community, the liveability of cities, towns and rural areas, and the protection of the natural environment and cultural heritage. Developers do not consider these when planning. Developers are focused on making money and do not take into consideration this. Otherwise, why would this legislation be proposed?

Having a planning process that provides an integrated assessment process across all types of development on all land tenures which includes provision of mediation, public comment and appeal rights is a **fundamental democratic right.** The proposed DAPs is autocratic and acts only in the interests of business. This is incredibly short term thinking in its approach.

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

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

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

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

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

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

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

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

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

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

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

Say yes to a healthy democracy

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

From: Christine Tan <>
Sent: Tuesday, 12 November 2024 2:38 PM
To: yoursay.planning@dpac.tas.gov.au
Cc:
Subject: #ScrapTheDAP – say no to planning panels/say yes to a healthy democracy

I am deeply concerned about the proposed planning changes for the following reasons -

The proposed changes to Tasmania's planning process threaten to undermine democratic accountability by allowing developers to bypass locally elected councils in favor of state-appointed panels. These Development Assessment Panels (DAPs), chosen by the Tasmanian Planning Commission, will have the authority to approve development applications without public hearings or written justifications for their decisions. This setup effectively sidelines community voices and allows developers—who may not even be from Tasmania—to override local interests. Additionally, if developers encounter obstacles in the local council process, they can switch to the DAPs mid-assessment, creating pressure on councils to yield to developer demands.

The DAPs lack independence and transparency, with members selected without clear criteria and no obligation to prevent conflicts of interest. Research indicates these panels are generally pro-development and dismissive of community concerns, spending most of their time on smaller applications yet taking longer than local councils to make decisions. Large-scale and controversial projects, such as the kunanyi/Mount Wellington cable car, Hobart high-rises, and dense subdivisions, could be greenlit with minimal oversight, weakening the role of local planning input.

Eliminating merit-based appeal rights further erodes democratic safeguards, as it prevents communities from challenging projects on issues like environmental impact, neighborhood aesthetics, or infrastructure strain. Appeals

will only be possible through the Supreme Court, which focuses narrowly on legal technicalities and is often prohibitively expensive. Without the checks and balances provided by bodies like TASCAT, these changes could open the door to corruption and undermine the quality of planning decisions.

Increased ministerial control adds to this risk, allowing the Planning Minister to intervene in developments based on subjective, loosely defined criteria like "controversial significance" or "perceived bias." This politicization of planning decisions could make Tasmania's development process more vulnerable to influence from well-connected developers, further undermining community-driven planning and transparency.

Sincerely,

Christine Tan

From:	Ben Sanford
Sent:	Tuesday, 12 November 2024 2:37 PM
To:	yoursay.planning@dpac.tas.gov.au
Cc:	
Subject:	#ScrapTheDAP – say no to planning panels/say yes to a healthy democracy

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

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

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

with the developer and any relevant government agencies and adopted its draft decision.

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

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

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

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

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

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

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

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

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

Say yes to a healthy democracy

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

Yours sincerely,

Ben Sanford.

From:
Sent: Tuesday, 12 November 2024 2:34 PM
To: yoursay.planning@dpac.tas.gov.au
Cc:
Subject: Submission re Development Assessment Panels

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

- A lot of input has been made into the existing planning schemes in the State by local communities. It is inappropriate for a body to be set up that potentially bypasses these planning schemes.
- **It will create an alternate planning approval pathway allowing property developers to bypass local councils and communities**. Handpicked state appointed planning panels, conducted by the Tasmanian Planning Commission, will decide on development applications not elected local council representatives. Local concerns will be ignored in favour of developers who may not be from Tasmania. Also, if an assessment isn't going their way the developer can abandon the standard local council process at anytime and have a development assessed by a planning panel. This could intimidate councils into conceding to developers demands.

- **The Tasmanian Planning Commission is not independent** – we need to maintain transparency in government – not introduce levels of opacity. Who gets onto the DAP, and how are their decisions reviewed or appealed.

- DAPs are hand-picked, without detailed selection criteria and objective processes, are inconsistent with the principles of open justice as they do not hold public hearings, and lack capacity to manage conflicts of interest (as per the 2020 Independent Review). DAPs do not have to provide written reasons

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

- **Development must engage local communities – development without a social licence is what we see in China.**
  Engagement with local communities will likely benefit the residents, the environment and the "liveability" of the area. Social cohesion is the 'glue' which keeps communities together.

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

- **Previous issues with large scale development show that the communities have a better idea of the Tasmania they would like to live in then the politicians eg Makes it easier to approve large scale contentious developments** like the kunanyi/Mount Wellington cable car, high-rise in Hobart, Cambria Green and high-density subdivision like Skylands at Droughty Point and the UTAS Sandy Bay campus re-development.

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

- **Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal.**
  Mediation is an appropriate and necessary process by which to resolve conflict. It is essential in order to build a "community" of residents living in harmony.

- **Developments being only appealable to the Supreme Court is effectively stopping all appeals.**
  This is obviously not a option for most people!

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

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

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

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

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

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

Say yes to a healthy democracy

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

Yours sincerely,
Jane Catchpole and Peter Crofts

From: deborah williamson
Sent: Tuesday, 12 November 2024 2:32 PM
To: yoursay.planning@dpac.tas.gov.au
Cc:
Subject: #ScrapTheDAP – say no to planning panels/say yes to a healthy democracy

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

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

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

doors) with the developer and any relevant government agencies, and adopted its draft decision.

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

- **Makes it easier to approve large scale contentious developments** like the kunanyi/Mount Wellington cable car, high-rise in Hobart, Cambria Green and high-density subdivision like Skylands at Droughty Point and the UTAS Sandy Bay campus re-development. Tasmanians have consistently shown that they do not want large scale contentious and divisive developments.

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

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

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

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

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

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

Say yes to a healthy democracy

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

Yours sincerely,

Deborah Williamson

From: Sonya Stallbaum
Sent: Tuesday, 12 November 2024 2:30 PM
To: yoursay.planning@dpac.tas.gov.au
Cc:
Subject: #ScrapTheDAP – say no to planning panels/say yes to a healthy democracy

Dear Tasmanian Parliament Members,

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

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

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

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

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

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

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

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

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

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

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

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

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

Say yes to a healthy democracy

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

Yours sincerely,

Sonya

Sonya Stallbaum
Bushcare Team Leader | Bushland Unit | City Life www.hobartcity.com.au/Bushcare

A PROGRAM OF
City of HOBART

16 Elizabeth Street, Hobart, Tasmania, Australia, 7000 | hobartcity.com.au

Monday - Wednesday

I acknowledge the Palawa people as the Traditional Owners and ongoing custodians of lutruwita (Tasmania). I pay my respects to their Elders past, present and emerging.

From: John Williamson <
Sent: Tuesday, 12 November 2024 2:31 PM
To: yoursay.planning@dpac.tas.gov.au
Cc:
Subject: #ScrapTheDAP – say no to planning panels/say yes to a healthy democracy

Dear Parliamentarians,

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

- It will create an alternate planning approval pathway allowing property developers to bypass local councils and communities.
- The Tasmanian Planning Commission is not independent
- Research demonstrates DAPs are pro-development and pro-government, they rarely deeply engage with local communities
- Makes it easier to approve large scale contentious developments
- Removes merit-based planning appeal rights and TASCAT review of government decisions is an essential part of the rule of law and a democratic system of government based on '*checks and balances*'.
- Developments will only be appealable to the Supreme Court based on a point of law or process which have a narrow focus and are prohibitively expensive.

- Removing merits-based planning appeals has the potential to increase corruption, reduce good planning outcomes, favour developers and undermine democracy

- Increased ministerial power over the planning system increases the politicisation of planning and risk of corrupt decision

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

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

Your Sincerely,

John Williamson

Draft LUPA Amendment (Development Assessment Panels) Bill 2024

Submission by Sharon Moore

This draft legislation is a retrograde step in our democracy, in that it takes decision-making out of the hands of elected representatives in local councils and gives it to a non-elected body, with no right of appeal. It also gives the minister the power to decide which developments should go to a DAP, which is clearly a subjective decision open to bias and corruption. I strongly oppose it.

The proposed Development Assessment Panels (DAPs)

- Councils put a great deal of effort into obtaining expert evidence on all aspects required for planning decisions, and have their own expert planning staff. Only 1% of planning decisions currently go to appeal in Tasmania, and the process is the fastest in Australia. There are strict rules applying to council planning decision-making under the existing legislation, including time limits. There is no guarantee that DAPs will be any more efficient, and research on DAPs elsewhere demonstrates that they are pro-development, pro-government, rarely engage with local communities and take longer than councils to make decisions. There is no reason to remove this function from councils to a non-elected body. This is purely a politically motivated step to ensure that developments favoured by the government in power can be expedited.
- DAPs are hand-picked by a non-independent body, ie the Tasmanian Planning Commission, without detailed selection criteria and objective processes. They do not hold public hearings, do not have to provide written reasons for decisions and community input is delayed until after the DAP has consulted with the proponent and government departments and adopted its draft decision.
- This draft legislation is clearly designed to enable pro-developer decisions on contentious developments, including in national parks and other reserves, proposals such as the kunanyi/Mt Wellington cable car, Cambria Green and so on.

- The planning minister will decide if a development application meets the DAP criteria; the minister will have the power to remove a planning application even when a council has started its process. The minister will be able to force the initiation of planning scheme changes, only when a local council has rejected such an application. These powers are an invitation to corruption and poor decision-making and should not be considered in a democracy.

- Most of the criteria in the draft bill for the minister's decision to use the DAP process – *'perceived conflict of interest', 'a real or perceived bias', 'the application relates to a development that may be considered significant' and the 'development is likely to be controversial'* are subjective and an invitation to bias and corruption. DAPs will have the power to decide if developments are valued at $10 million in cities and $5 million in other areas and where Homes Tasmania has determined that an application includes social or affordable housing. These are not adequate criteria on which to base removal of planning decisions from councils: valuation can easily be fudged and is no basis to judge the impact of a development; there is no requirement for a proportion of housing in a development to be social or affordable for the decision to be removed from a council.

Removal of right of merit-based appeal

- It is appalling that our elected government wants to take away the only avenue of merit-based appeal on these major and contentious planning decisions and limit appeals to those on points of law to the Supreme Court, which is prohibitively expensive. There will be no prospect of review of aspects that residents are concerned about, such as impacts on biodiversity and access to public space; height, bulk, scale or appearance of buildings; impacts to streetscapes and adjoining properties including privacy and overlooking; traffic, noise, smell and light. This is completely unacceptable in a modern democracy – Tasmania has moved a long way from the early years of government by fiat but now seems to be regressing.
- Removing merits-based planning appeal has the potential to increase corruption, reduce good planning outcomes and favour developers. The NSW Independent Commission Against Corruption has recommended the expansion of merit-based appeals as a means of deterring corruption. It removes the opportunity for mediation, which currently is an important aspect of planning appeals before the tribunal.

From: Penny Sowter <>
Sent: Tuesday, 12 November 2024 2:27 PM
To: yoursay.planning@dpac.tas.gov.au
Cc: ;

Subject: I oppose the DAP

I am against the DAP for many reasons. Here are some:

There is no justification for introducing the DAP. The system already works fine. Very few council decisions go to appeal, and where decisions are challenged there are already channels in place to deal with that. Sure, occasionally projects will be held up, but so they should be! Thorough scrutiny and criticism of plans is a vital part of ensuring that good decisions are made. We don't build a good future by hastily approving projects, especially large -scale projects which will have major impacts. One could argue that anything meriting the description of a "project of State significance" should be more, rather than less, open to public accountability, accessibility and review.
Indeed, rushing plans through risks imposing problems on future generations.

Councils are accessible to grass-roots ratepayers. When large numbers of ratepayers petition councils to reject a proposal, councils should listen. That's their duty. It is right and proper that the people most strongly impacted by a development, who know their local area and want to advocate for it, should be respected and listened to as primary stakeholders. This is not to say that developers shouldn't be given an opportunity to address council concerns and make a case for their projects. Of course they should. But if they can't make a convincing counter case, which satisfies council, and more importantly, satisfies ratepayers, the idea that outsiders (as facilitated by the DAP) should intervene to ride roughshod over council decisions is abhorrent and anti-democratic.

The Tasmanian Planning Commision is not independent. Members can be chosen without proper selection criteria or objective processes. They do not hold public hearings and do not have to provide written reasons for their decisions. They can consult privately with developers and adopt draft decisions without community consultation,

leaving anyone who wishes to petition excluded from the process, and with little information to act on in order to critique what has happened and seek judicial review.

The DAP removes merit-based planning appeal rights via the planning tribunal on hugely important issues such as biodiversity, impacts to streetscapes, traffic, noise, smell, privacy, light and shadow....the list goes on. TASCAT review is vital to the rule of law and a democratic system of checks and balances.
Developments will still be appealable to the Supreme Court based on points of law or process, but that will not cover the kinds of concerns mentioned above.

Removing merits-based planning appeals undermines a fundamental and positive feature of the current system. It leaves Tasmanians vulnerable to poor planning outcomes and corrupt, secret machinations of rich developers willing to secretly finance government co-operation.

In current circumstances, it is difficult not to construe the DAP as a cynical attempt to circumvent proper, respectful community consultation in order to gratify major developers who make large donations to political parties.

Projects such as the kunanyi cable car, high-rise in Hobart and the UTAS campus redevelopment have been kept in check by community mobilisation. They are controversial for good reason. Any MP who considers themselves above the community, and deems it appropriate to exclude the community as the DAP will do, ought to resign now. They have no place within our democratic system if they won't support current consultative and democratic procedures . Some of them keep touting the benefits of the cable car despite years and years of work and effort and submissions from experts which have kept it from being built. Not only do they refuse to accept the umpire's decision, they now want to be able to make decisions which leave no room for meaningful umpires. They want absolute say. No way!

Leaving aside the particulars of current projects, and whether or not this smacks of political willfulness and corruption, simply looking at the potential for corruption should be enough to kill the DAP immediately.

I call on you to ensure transparency, independence, accountability and public participation in decision-making within the planning system. This is essential for any healthy democracy. Keep decision making local rather than bypassing it. Keep open opportunities for meaningful appeal. Abandon DAPs. Invest money in councils, to improve their scope for planning review and community consultation.

I also call on you to prohibit property developers from making donations to political parties and to create a strong anti-corruption watchdog capable of efficiently administering the Right to Information Act of 2009.

Thank you for reading this submission.
Yours sincerely,
Penny Sowter.

From: Lynette Taylor
Sent: Tuesday, 12 November 2024 2:27 PM
To: yoursay.planning@dpac.tas.gov.au
Cc:
Subject: DAPs - No way, stop this process now.

Hello Planning at DPAC and members of Parliament,
I wholeheartedly oppose the creation of Development Assessment Panels.
I have written previously on this matter, it seems to me that there has been no recognition of the prior submissions and comments made and that there is an intent to push this inherently undemocratic and unnecessary legislation through.
Development Assessment Panels are unelected and, to my knowledge elsewhere, act to further the interests of developers and the Government and downplay and ignore the concerns of local communities. Reviews have been undertaken where these panels have been introduced and demonstrate that they fail to improve environmental and social outcomes, undermine accountability, democracy and increase the risk of corrupt conduct.
Our Local Government councillors are democratically elected and do their best to represent the views of their community, they are the level of Government closest to the people.
We do not need another planning approval pathway with the capacity to bypass Local Government, very few development applications are in fact appealed, less than 1%. What problem is being addressed?
It is unconscionable that this process would also apply to public lands including National Parks, World Heritage areas and reserves. Are you advocating for unfettered development on public lands?
Merit based appeal rights for communities and individuals must be retained. My sole experience of the current appeals system was negative in that, as a single parent, I could not afford the fee required to progress my appeal. The scenario presented whereby appeal rights would be further diminished or made economically unaffordable is unacceptable.
The Minister should have no capacity to overrule or remove development applications from local Government processes, our current system does have some flaws but overall is fair, accountable and transparent and operates in a timely fashion. Some further education and resourcing of the Local Government sector may be required to enhance their functionality. There are other legislative mechanisms available - Major Projects, Projects of State

Significance, Projects of Regional Significance and Major Infrastructure to enable due consideration in Parliament of projects.
Thank you for the opportunity to make further comment,
Lynette Taylor,

State Planning Office
Department of Premier and Cabinet
GPO Box 123
HOBART TAS 700

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

To the State Planning office,

LAND USE PLANNING AND APPROVALS AMENDMENT (DEVELOPMENT ASSESSMENT PANELS) BILL 2024

The Property Council of Australia welcomes the opportunity to respond the Development Assessment Panels consultation. The Property Council is a strong advocate for the positive role Development Assessment Panels (DAPs) play in delivering high-quality built environment outcomes for Tasmania.

Firstly, the Tasmanian Division acknowledges the ongoing communication between us and government on this important reform and note the work that has already gone into making significant amendments to ensure the draft legislation is technically sound, efficient and fair.

Independent Development Assessment Panels (DAPS) will transform the development process in Tasmania. Currently, the development assessment process can sometimes be highly politicised and there is no certainty that complying and innovative development proposals are fairly assessed for planning approval.

What the introduction of a panel will do, is provide a modern and independent planning approval process are essential to enable the property sector to take on the responsibility of growing the economy through major projects and investment.

One of the key successes of the DAPs system is the involvement of independent experts that help strike an appropriate balance between local representation and professional advice in decision making by ensuring that decisions made by the panel are based on the planning merits application. The Property Council supports a panel of three expert professionals and a panel of five for more complex matters. The Property Council remains supportive of having an elected representative/s of local government on the panel.

Importantly we acknowledge the DAP is an independent decision-making body which is reflected in the regulations that govern the conduct of members. Unlike Councils, where the community at large, including developers and other interested parties, can make direct representations to elected members, DAPs cannot be canvassed by any party, including the applicant. Decisions of the DAP are based purely on the facts at hand having followed due process and are less susceptible to external influence.

Importantly, careful consideration should be given to the role of the TPC in this process given it is not bound by the same legislative framework as TASCAT which is being replaced in this process.

Daps have been successfully introduced in other jurisdictions as a major planning reform intended to enhance planning expertise in decision making by improving the balance between technical advice and local knowledge. Since then, DAPs have delivered a significant improvement in the development assessment determination process which has greatly assisted the property development sector to meet the challenges of growing states.

In regard to specific clauses in the Bill please refer below;

- Thresholds; we are supportive of lowering the threshold to $5million for inner city and $2 million for regional areas to ensure the uptake of the pathway is in line with expectations.
- Regarding requests for additional information, we believe there should be one opportunity to request, and then one further opportunity to supply additional information.
- Section 60AB, define wording further.
- Section 60AB needs further clarification, for example why is Homes Tasmania named in the legislation but not other providers.
- Regarding threshold, we would suggest lowering the caps to two million for regional areas and five million within metro areas.
- Timeframes require further consideration to ensure they are achievable.
- Section 5 (iii) change "requirement" to "eligibility requirement".
- Section 60AE define that reviewing entity and panel are reviewing for RFI's concurrently and hand proponent the RFI with both council and panel requests together.
- Section 60AE 7 day time frame to provide assessment of the RFI and back to reviewing authority not achievable, suggest 14 days.
- Section 60AG, there are already Regs on advertising and exhibiting under LUPA suggest bill refers to those for consistency.
- Section 60AH, mandatory hearing process is not required. Suggest the report is prepared following advertising period. Having considered the representations, then they issue decision.
- Regarding the transfer of application, suggest application is better off re-applying. Transfer could be complicated.
- We suggest Section 60AJ explicitly state its intent. Current wording does not preclude multiple identical reps being made.
- Section 60AC(1)(c) – using the term "controversial" is highly likely to be subject to review. Suggest some parameters be provided to what is "controversial" or preferably it is tied to the Minister's opinion. Alternative wording could be:
  "The application relates to a development that, in the opinion of the Minister, is, or is likely to be, controversial"

Thank you for the opportunity to provide feedback. Should you wish to discuss any of the matters above, please do not hesitate to contact us.

Yours Sincerely

Rebecca Ellston
Tasmanian Executive Director
Property Council of Australia

Heather Mason
Tasmanian President
Property Council of Australia

From: Katrina Spark <>
Sent: Tuesday, 12 November 2024 2:23 PM
To:
Cc:

Subject:

> You don't often get email from Learn why this is important

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

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

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

relevant government agencies, and adopted its draft decision.

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

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

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

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

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

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

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

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

- **Poor justification – there is no problem to fix.** Only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest in Australia when it comes to

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

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

Say yes to a healthy democracy

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

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

Yours sincerely,

Katrina Spark

From: Rosie Hohnen
Sent: Tuesday, 12 November 2024 2:16 PM
To: yoursay.planning@dpac.tas.gov.au
Cc:

Subject: Big no to planning panels

> You don't often get email from Learn why this is important

Dear sir/madam,

I'm writing to you to state my complete lack of support for the proposed planning panels in Tasmania. I am a Lenah Valley resident and I value the input of council, other land managers and community groups on proposed developments in Tasmania. The proposed changes implement a process that lacks transperancy and gives power to few people. I would not support this process in any form.

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

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

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

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

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

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

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

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

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

Rosemary Hohnen,
resident

From: Peter Morton
Sent: Tuesday, 12 November 2024 2:12 PM
To: yoursay.planning@dpac.tas.gov.au
Subject: Submission - Development Assessment Panel - Draft Bill

Dear State Planning Office,

1. I am anticipating that the established forces within local government areas will be adopting measures to attack projects approved via the DAP. One such attack might be from lodging semi-frivolous caveats on the land titles relating to a project. The DAP should be empowered to assess planning applications even where such a registered caveat is in place.

Currently, local councils require the written permission of any caveator before councils will assess a planning application in relation to a property.

2. The DAP should be empowered to use the powers local councils currently have under the Local Government (Building and Miscellaneous Provisions) Act 1993 for adjusting registered easements in existing Sealed Plans. Adjusting easements can be crucial for facilitating subsequent development projects.

Best wishes,
Peter Morton

From:	Pamela Balon>
Sent:	Tuesday, 12 November 2024 2:07 PM
To:	yoursay.planning@dpac.tas.gov.au
Cc:	
Subject:	The draft Land Use Planning and Approvals Amendment (Development Assessment Panels) Bill 2024

I oppose the creation of Development Assessment Panels (DAPs) for the following reasons:

DAPs will reduce transparency and accountability in the planning process.
DAPs will reduce public participation in decision making.
DAPs will duplicate existing planning processes causing unnecessary expense to taxpayers.
DAPs will increase the complexity of the planning system unnecessarily.

Further, I wish to comment that:

• Planning is an inherently political matter - it's impossible to "remove the politics" from planning. Democratic processes ARE political!

• Our existing planning system works and is regarded as among the most efficient in Australia. If it ain't broke, then why waste time and resources setting up a new bureaucracy and process.

Thank you for the opportunity to comment,

Pamela Balon

From: Roger Scott
Sent: Tuesday, 12 November 2024 2:06 PM
To: yoursay.planning@dpac.tas.gov.au
Cc:

Subject:

> You don't often get email from Learn why this is important

For the following reasons I say no to DAP's:

The changes to the planning process will allow developers to bypass local councils with state-appointed panels deciding on development applications instead of elected representatives. This setup favors developers, including those from outside Tasmania, and lets them switch from council oversight to a state panel mid-process if they face challenges, pressuring councils to approve projects.

The Tasmanian Planning Commission's panels are not independent, lack clear selection criteria, avoid public hearings, and are not required to provide written reasons for their decisions, complicating judicial review and limiting community input. Research shows these panels favor development, engage minimally with communities, and often delay decisions longer than councils.

This new pathway enables approval for large, contentious projects such as the kunanyi/Mount Wellington cable car, high-rise buildings, and dense housing subdivisions. It eliminates merit-based appeal rights, removing community input on issues like environmental impacts, building size, privacy, and noise, and restricts appeals to costly Supreme Court cases.

This change risks increasing corruption, diminishing planning quality, and undermining democratic processes. Shifting power to the Planning Minister politicizes planning decisions allowing intervention on developments based on subjective criteria and without strict guidelines such as requiring only minimal affordable housing provisions in large projects.

The proposed changes to Tasmania's planning approval process are undemocratic and deeply unfair, opening the doorway to cronyism and corruption at a time when distrust and a lack of faith in government is growing. People feel disenfranchised by these sorts of changes. The government asks people to play by the rules but when they do, and the government doesn't like the outcome, the government changes the rules to suit themselves. This is deeply concerning because it disempowers people and causes them to lose faith in our government and democratic system. Thanks to the proposed changes we don't need Russian or Chinese interference to undermine democracy, we can do it for ourselves.

Regards,
Roger.

ROGER SCOTT
DIRECTOR

CITY OF HOBART

RESPONSE TO DEVELOPMENT ASSESSMENT PANEL

DRAFT BILL

Contents

Introduction

1. This paper is the City of Hobart's response to the draft Land Use Planning and Approvals Amendment (Development Assessment Panels) Bill 2024 (**draft Bill**), which is intended to amend Tasmania's planning legislation, the *Land Use Planning and Approvals Act 1993* (**LUPAA**).

2. In summary, the position of the City of Hobart is that the draft Bill is not supported. The proposed development assessment panel (**DAP**):

   (a) introduces politics into planning by giving the Minister such broad and undefined powers;

   (b) reduces the involvement of the community in the planning process;

   (c) threatens to significantly disrupt the ability of councils to retain senior expert staff;

   (d) is likely to impact the City of Hobart's fee structure so that applicants for smaller projects are likely to be required to pay higher fees; and

   (e) creates ambiguity for developers, with no assessment framework which is articulated.

3. The City of Hobart does not accept that a DAP is required. The State Planning Office's Development Assessment Panel (DAP) Framework Position Paper (**SPO Position Paper**) states[1]:

   > *Because the evidence is that the inappropriate political determination of applications is limited to isolated, but well publicised, cases, the response should be proportional, so it does not undermine the integrity and success of the existing reforms, or the planning system itself.*

4. Before progressing this reform, the State Government needs to provide the evidence that it says exists. Making blanket statements is not evidence, which was the approach in the State Planning Office Report on Consultation dated October 2024, which responded to the 542 responses to the SPO Position Paper. This uses phrases like "the government has become aware" and "anecdotal evidence of bias".[2] No specific examples were provided and no

[1] p.8
[2] p.7

statistics to demonstrate the extent of this perceived problem were contained within that report.

5. Further, this is a missed opportunity for proper reform of the planning system. We are using a planning system that is over 30 years old. Other jurisdictions have had numerous substantive reforms in that time. We are working with legislation which has had so many amendments that sections include 60ZZZAB in LUPAA; and the majority of the *Local Government (Building and Miscellaneous Provisions) Act 1993* has been repealed, leaving only a handful of active provisions, some of which are not fit for purpose and create ambiguity in the assessment process. But here we are, with another proposed add-on which is a solution to a perceived problem to a select few and without any evidence base to support these very significant changes.

6. The concerns raised in our Response to Development Assessment Panel Framework, dated 29 November 2023 have not been properly addressed, and those concerns are incorporated into this response.

Process to Appoint a DAP

7. It is noted that a DAP may be created in the following circumstances:

   (a) the Minister is asked by the applicant to do so;

   (b) Homes Tasmania determines that this is appropriate;

   (c) in the City of Hobart, a project has a value of $10M or more (outside cities, that drops to $5M);

   (d) certain council applications; and

   (e) prescribed applications.

Role of the Minister

8. The greatest concern with the draft Bill is that section 60AC allows the Minister to interfere in the planning process. An applicant may ask the Minister to intervene and direct that an application is assessed by a DAP.

9. This relies on broad, loose terms which are not defined and have no guard rails for a robust and predictable system. They are dramatically reduced from the requirements for a major project, to the point where they provide almost no threshold at all – the minimum value of projects in 60AB(1)(b) do not apply here.

10. The problematic terms include:

    (a) if an application is “significant” to the area;

    (b) if an application is “important” to the area; and

    (c) If an application “is, or is likely to be, controversial”.

11. The Minister is able to make personal, subjective evaluations, particularly when this is said to be under the guise of taking the politics of planning.

12. Further, the draft Bill in 60AC(1)(d) allows an applicant to request the Minister to require a DAP where the planning authority “may have” a real or perceived conflict of interest, or a real or perceived bias. This provision is breathtakingly inappropriate.

13. There are a number of comments which must be made in response:

    (a) As a statutory body, the planning authority itself cannot have a conflict of interest or bias. Other than delegated decisions, the planning authority itself does not form a view until a meeting has been held and the Elected Members which form the planning authority have voted on a resolution. Prior to that meeting, there is a collective of Elected Members who (as individuals, not as the planning authority) may be considering an application.

    (b) Perhaps this provision was intended to capture the situation where it is anticipated that individual Elected Members have a conflict of interest or bias? If so, it is very poorly drafted and misunderstands the basic governance of a planning authority.

    (c) To suggest that the concepts of conflicts of interest or bias can be introduced into legislation in such flippant terms fundamentally undermines the very role of the planning authority. If the State Government is of the view that the requirements of LUPAA are not being met by Elected Members operating as the planning authority then it should take full responsibility for all planning assessments.

    (d) Further, the proper process for addressing any conflicts of interest is through the code of conduct provisions of the *Local Government Act 1993.* To our knowledge, the Minister or any State Government representative, or any other person (such as an applicant), have not initiated any code of conduct complaint under these provisions for any

Elected Members acting as part of the planning authority on the basis that they hold a conflict of interest or bias. The Director of Local Government is insistent that this mechanism is an appropriate way for conflicts to be dealt with and yet the State Government is creating a different process here. The code of conduct provisions include checks and balances, with a process for a proper analysis of the situation; not a one-person view on whether there "may" be a conflict or bias.

(e) The Supreme Court of Tasmania has endorsed Elected Members holding strong views about applications; so long as they retain an open mind when they sit as part of the planning authority then they are entitled to participate in the assessment of an applicant.

14. If an applicant requests the Minister to agree to the DAP assessing the application, the planning authority is given an opportunity to respond: 60AC(3). It has 7 days to do so. 7 days to review an application which is "significant or important". This timeframe is completely unrealistic and assumes that Elected Members will not be given an opportunity to be involved in that process, since it is not feasible to review an application, compile a report with a recommendation and then for the planning authority to pass a resolution. The short timeframe assumes that this will be a delegated decision, which is insulting to Elected Members and undermines their role as planning authority. It also denies the opportunity for planning assessment officers to hear from the public via the representation process.

15. In 60AC(4), the Minister seems to have an independent ability to refer an application to the TPC if she or he is of the opinion that one of the categories in 60AC(1) applies. This provision is not linked to the earlier request in 60AC(1) by the applicant or planning authority.

16. The Minister may refuse to refer an application to the TPC "for any reason": 60AC(5) which adds to the concern that the DAP process is really just an opportunity for the State Government to step in and manipulate the planning process as it sees fit. The TPC does not have any ability to assess whether it is appropriate for a DAP to assess the application; it only has the ability to return an application if the "administrative requirements" are not met: 60AC(6)(a)(ii). It is noted that this is inconsistent with 60AD(1)(b) to some extent, but given so much depends on the Minister's opinion, this will leave the TPC without any meaningful analysis to do on whether it is appropriate for a DAP to be created.

Role of Homes Tasmania

17. The draft Bill allows Homes Tasmania to endorse a proposal as being suitable for a DAP. This extends to "social or affordable housing".

18. Social housing and affordable housing are different types of development.

    (a) Social housing is funded and supported through the public purse.

    (b) Affordable housing is provided by the private sector or community organisations. While there are varying definitions of affordable housing (and it is not defined in the draft Bill), as the name suggests, it is housing that is affordable for lower income households. Affordable housing is not a phrase which is currently part of the planning scheme provisions, and there is no clear pathway to ensuring that multiple dwellings which are said by the applicant to be for "affordable housing" will remain as such rather than being immediately sold for profit.

19. If a DAP process is created, there is no issue with Homes Tasmania being able to specify its social housing projects that are suitable for a DAP. This seems to be the main driver for the State Government to be creating a DAP. It is accepted that these applications can stir a great deal of concern in the community. While we do no accept that any City of Hobart Elected Members have acted inappropriately while acting as planning authority, it is hard to dispute that these applications place more pressure on Elected Members from some community members.

20. However, to our knowledge, Homes Tasmania is not involved in any planning application for affordable housing. Its enabling legislation does establish a mandate in relation to affordable housing but, to our knowledge, this has only extended to grants for already-approved developments.[3]

21. Given the ambiguities in which applications would fit within this category, it is proposed that the draft Bill removes "or affordable" from s.60AB(1)(a). To our knowledge, affordable housing proposals are more likely to be made by a private developer who sets aside a component of their development as "affordable" and Homes Tasmania should not be able to interfere with an application by a third party.

[3] https://www.homestasmania.com.au/newsroom/2024/help-deliver-more-affordable-homes-for-tasmanians

22. Alternatively, the ability of Homes Tasmania to call in an application should be limited to those applications which will be funded by Homes Tasmania, or are made by or on behalf of Homes Tasmania.

Council applications

23. Part of the justification for a DAP is the supposed conflict for councils to determine its own applications. Yet the draft Bill requires that it is the council who would need to apply for such an application to be determined by the DAP. The default is that a council would continue to assess its own applications as planning authority. So councils could choose to retain control of the application process and the DAP may be ignored if that is the preference of the council.

Council unable to assess

24. A justification for the DAP is where an application is beyond the capabilities of a council to properly assess an application. While this has some merit, the application may only be referred with the consent of the applicant: 60AB(2)(a)(ii). This completely undermines the justification for a DAP and disempowers the council, who is the best entity to make an assessment of its capabilities.

Further, unknown applications

25. The categories of applications include those which are “prescribed”. We don’t know what they are so cannot comment. This is a glaring omission. To leave such a fundamental part of the draft Bill to the creation of statutory rules is deeply inappropriate.

Assessment of Applications under a DAP

26. There is a glaring error throughout the draft Bill. At no stage does it state that an application assessed by a DAP must be assessed against the provisions of the planning scheme. Note that:

    (a) if an application is assessed by the planning authority then it is assessed under the applicable planning scheme, under Division 2;

    (b) if an application is assessed as a major project then it is assessed under the applicable “assessment criteria” which have been finalised for that proposal under Division 2A;

(c) under this newly created Division 2AA, it is **silent** as to the assessment framework. In addition, there is no requirement to take into account the objectives in Schedule 1 of the planning system in Tasmania.

27. Similarly, the requirement to obtain the consent of the General Manager to lodge an application pursuant to section 52(1B), which is part of Division 2, is not repeated in the newly created Division 2AA. In contrast, the major projects provisions retain this control with the council.[4]

28. The following practical issues also arise:

(a) The council would have 14 days to request further information once an application had been referred to it: 60AF. This is less than the 21 days it has for a standard discretionary application and is a significant difference.

(b) Requests for information do not stop the time which the council has to respond to the application under 60A unless the TPC is of the opinion that the requests haven't been satisfied; there is no ability for the council to say that it is not satisfied. This differs from requests for information for a standard discretionary application and is completely unworkable if the applicant does not respond promptly. It is also in contrast with the requests for information under other legislation, giving the EPA, TasWater and the THC the ability to form its own view on whether information is satisfactory. This further disempowers councils and places it in a situation where it may not be able to protect its own infrastructure properly.

(c) The 7 days to respond to further information submitted is inconsistent with the 8 business days allowed under s.54 for the same process for a standard discretionary application. It is an unreasonably and unnecessarily short timeframe.

Diminished Role of Community

29. The current planning assessment process requires public exhibition for discretionary applications prior to preparing an assessment report. At the City of Hobart, we take any representations received during that period into account. Of course, we have a statutory obligation to do so but it is more than that; it is a key step in understanding what the application means for the community in the framework of the planning scheme. The proposed DAP process has the report prepared first and then public exhibition later. It is

[4] s.60P

unfortunate that the public views are not taken into account by the assessing officers at this point.

30. The public exhibition period is restricted to 14 days: 60AG(2). For a standard discretionary application, there is an ability to allow an extension of time for a further 14 days to allow a representation to be provided. Again, this diminishes the role of the community in assessing applications.

31. Further compounding this issue is that the usual public notification processes (newspaper and sign at the site) are not required under the draft Bill: 60AG(1)(b). This will inevitably mean that less people are notified of the application, which is ironic, given that these are the largest and potentially most impactful applications. This creates an inconsistency with the way other applications are notified, without justification.

32. A DAP is not required to take into account any input from the community. For standard planning applications, it is a mandatory requirement to take representations into account: 51(2)(c). Those provisions are not replicated in Division 2AA. This is a shocking omission.

33. The DAP may disregard community representations which it considers to be frivolous or vexatious: s.60AJ.

Timeframes

34. The Fact Sheet accompanying the draft Bill states that the timeframes for assessment of applications is 91 days for social and affordable housing or 112 days for other applications. It is hard to understand why the TPC requires so much time when the planning authority only has 42 days for a standard discretionary application. This is an indication that the 42 day timeframe is (or can be) insufficient.

35. The referral to the council and other agencies is not an explanation for the longer timeframe; those referrals are currently done by councils within the 42 day timeframe.

36. The hearings are also not a justification for the additional 70 days for assessment. The City of Hobart allows representors to make deputations at Planning Committee meetings which would be the equivalent of a TPC hearing. The hearings will not be akin to a Tasmanian Civil & Administrative Tribunal (**TASCAT**) hearing, where all parties have proper notice of the points that are raised, with evidence exchanged and cross-examination of witnesses, followed by detailed submissions. To expect anyone in that process to be able

to have a legally robust hearing which replaces a TASCAT disputed hearing is nonsensical.

37. It is proposed that the draft Bill is further amended to allow a planning authority further time to assess applications.

38. Planning authorities operate under the unreasonably onerous obligation that if a timeframe is not met, a permit is deemed to have been issued and the Council is responsible for the costs of an appeal. It is interesting to note that the TPC is not under any similar obligation. It is proposed that as part of this reform package, the obligations in s.59 of LUPAA are removed or reduced. In the current day, the mental health impacts for council officers operating under this strict regime are unnecessary.

Appeals

39. There is no right of appeal on the merits from a TPC decision: 60AR(1)(d). This further compromises the rights of the community to participate in the planning process and may mean that third party rights are compromised without a proper appeal process.

40. As stated above, the hearings which the TPC will hold will not be a legally robust replacement for a TASCAT appeal hearing.

41. The proposed process ignores the fact that the majority of planning appeals are resolved at mediation so that there is an agreed outcome leading to the planning authority, the applicant and any third-party appellant being (reasonably) satisfied with the outcome. That option for bringing resolution to conflict within the community will be lost.

42. It is noted that a decision of a DAP would be subject to an appeal to the Supreme Court of Tasmania on the basis of judicial review on administrative grounds (not related to the merits). Litigation in the Supreme Court is slow and expensive; it does not have the specialty which can be found at TASCAT to resolve such disputes. It is likely that with no other appeal avenue, members of the community will try their luck in this way, potentially causing more delay than an applicant current faces with a standard planning appeal. A judicial review application is currently available in the planning context but is not used because the current appeal process to TASCAT is effective and efficient.

Other Reform

43. It is disappointing that the State Government hasn't taken this opportunity to properly review and reform LUPAA and associated legislation to address well known issues. These issues have all been raised directly with the State Government, along with a suggestion to create a working group between councils, State Government and other stakeholder representatives. To date, that opportunity has not been embraced by the State Government.

44. The other issues identified for reform include:

    (a) There is an inconsistency with assessment timeframes throughout LUPAA, some using calendar days, some using business days.

    (b) Despite the term "business days" being used, there is no definition and there is ambiguity as to whether this includes days where the Council is closed but other businesses are open such as Easter Tuesday and between Christmas and New Year.

    (c) There are other ambiguities in the interpretation of LUPAA such as the operation of s.54 assessment timeframes, which require further clarification.

    (d) The validity of planning permits depends on obtaining permits under other legislation, unnecessarily and creating uncertainty for developers: s.53(4).

    (e) It would be useful to add a clause to allow councils to certify that a project has "substantially commenced" which would provide certainty to developers that a permit will not expire: s.53(5).

    (f) There are inconsistencies in the processes for TasWater, THC and TasNetworks which could be resolved.

    (g) Agreements made under Part 5 of LUPAA are only enforceable via the Supreme Court of Tasmania and do not have a pragmatic enforcement process akin to others in LUPAA, effectively making the enforcement unaffordable for councils.

    (h) Part 5 agreements are not a basis to refuse an application, so while there may be an agreement registered on the title, it cannot be relied upon by the planning authority for subsequent application.

(i) The planning permit amendment process does not have a provision to stop the clock if further information is required.

(j) Planning applications cannot be amended following a Supreme Court of Tasmania decision, creating further applications to be required.

(k) There is no mechanism for including documents endorsed under s.60 to be included in documents approved under the *Building Act 2016.*

(l) LGBMP is very hard to understand and conflicts with planning scheme provisions, causing uncertainty for applicants.

Alternatives

Remove all planning assessments from local councils

45. In the SPO Position Paper, the justification for creating a DAP process is the (according to some) inherent conflict between the political role of an Elected Member with the obligation to act with an open mind when acting as planning authority. This is contrary to settled law in the Supreme Court of Tasmania, which has stated[5]:

> *Expressions of opinion on the part of a member of a municipal council of a nature which would be sufficient to disqualify a member of a judicial tribunal from sitting on a particular matter may not be sufficient to disqualify a member of a municipal council. Councillors may be assumed to hold and to express views on a variety of matters relevant to the exercise of the functions of the council. Expressing such views is part of the electoral process. Provided that expressions of opinion do not go so far as to evince an intention to exercise a discretion conferred by statute without regard to the terms in which it is conferred or without being prepared to listen to any contrary argument, it ought not be taken to disqualify the councillor from participating in a relevant decision making process.*

46. In other words, it is expected that Elected Members engage with the community, ventilate their concerns about a proposal and ensure that planning assessments take into account their own views about whether or not the proposal meets the scheme. As long as each Elected Member retains an open mind and assessed the proposal against the planning scheme, this is an appropriate way to carry out the role of part of the planning authority.

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[5] *R v West Coast Council; Ex Parte Strahan Motor Inn (A Firm)* [1995] TASSC 47; (1995) 4 Tas R 411 (3 May 1995) at [33]

47. If the State Government disagrees with the Supreme Court of Tasmania and has a view that Elected Members are incapable of carrying out both roles then the only appropriate answer is for all planning decisions to be removed from local councils.

48. Why would a conflict only arise for the projects which have been identified in the draft Bill?

49. To support it's case, the State Government refers to the Future of Local Government Review Stage 2 Interim Report which suggests that there is an inherent conflict and recommends the following reform:

> *Remove councillors' responsibility for determining development applications entirely. All developments would be determined by council planning officers or referred to an independent panel for determination.*

50. The State Government isn't following that recommendation; it is cherry picking to take the heart out of the planning applications which are crucial for the progress of our city.

Make the CEO (General Manager) the planning authority

51. There seems to be no objection to decisions which are made at officer level. Currently, many applications which fall within the proposed DAP categories may be made at officer level, depending on each council's delegations.

52. The General Manager currently has some powers under LUPAA to make decisions on behalf of her or his council. A key decision is to grant "General Manager consent" which allows an application to be lodged where the application includes land owned or administered by the council. At times, a CEO / GM will seek input from Elected Members on whether or not to grant this consent. This recently occurred at the City of Hobart for the zipline proposal at kunanyi / Mount Wellington. Ultimately, it is our CEO's decision but, mindful that this application will create community interest, he wanted to ensure that his decision was informed by our Elected Members' views.

53. The same could occur for the determination of planning applications.

54. It is likely that the CEO / GM would delegate that decision making process, at least for some applications as currently occurs, to a professional with planning expertise within the council. At times, external assessment may be required to support the internal assessment capability.

55. Making this change would be an option that would create less impact for the resourcing of councils.

Alter the appeal rights for social housing projects

56. One of Homes Tasmania's current projects (73A New Town Road) has had significant delays caused by third party appeals. The appeal is based on planning grounds, but the grounds will have no impact whatsoever on the appellant; the grounds only relate to the occupants of the proposed dwellings. This project was recommended for approval by our officers, approved by our Planning Committee, and also supported by TASCAT. It was then appealed to the Supreme Court of Tasmania, which has required that it is reconsidered by TASCAT. That process is ongoing, more than two years after the application was initially lodged at the City of Hobart.

57. Homes Tasmania has every right to be frustrated by this process. We have a housing crisis and Homes Tasmania is working to provide social housing as part of the solution.

58. However, there are other possible solutions to this problem, other than a DAP:

    (a) remove or limit third party appeal rights, particularly on issues where they will not be impacted – in other words, remove the "not in my backyard" ability to slow down or thwart a social housing development;

    (b) create provisions in the planning scheme which allow for a more predictable approval process for social housing proposals, such as through a planning directive (as has happened in the visitor accommodation context); or

    (c) further oversight by Homes Tasmanian to ensure that social housing proposals are more conservative in their approach to the design – that is, design to the planning scheme rather than design first and justify later, removing or reducing some of the potential controversy.

Alter TASCAT processes & allow applications to be amended

59. The planning system we have is one of the toughest and fastest in the country. In the SPO Position Paper, it is acknowledged that Tasmanian councils have a median assessment timeframe of 38 days, and average assessment time of 40 days. In comparison, the SPO Position Paper states that the average assessment times were:

    (a) in South Australia, 46 days;

(b) in the Northern Territory, 55 days;

(c) in Australian Capital Territory, 61 days;

(d) in New South Wales, 83 days;

(e) in Queensland, 86 days;

(f) in Victoria, 129 days.

60. In this context, where is the evidence that there is a problem with the current system? The SPO Position Paper acknowledges: *These statistics indicate that overall, our planning system is already one of the fastest, if not the fastest, in the country when it comes to determining development applications.*[6]

61. It goes on to say: *However, the broad rights of appeal provided under Tasmanian legislation mean that these very timely outcomes are sometimes extended by an appeal process by many months resulting in an overall approval timeframe of perhaps 9-12 months.*

62. This statement is contrary to statistics published by TASCAT.[7] According to TASCAT, the average number of days for the completion of appeals is 80 days. So the average application assessment time plus appeal time is 120 days or about 4 months, much less than the 9-12 months stated by the State Planning Office. According to TASCAT, it is very unusual for the Tribunal itself to request an extension of time to the 90-day statutory timeframe and in almost 95% of the extensions are from the parties themselves, suggesting that the mediation processes are effective.

63. Perhaps there needs to be a tougher approach by TASCAT to third parties who are reluctant for appeals to go to hearing but also reluctant to articulate their case and provide suitable expert evidence to support it.

64. Perhaps LUPAA needs to be amended to enable councils to accept amendments to planning applications. Currently, the ability to amend applications is dramatically more flexible under TASCAT than during the council assessment process. The ability to amend applications was clarified by the Supreme Court of Tasmania in 2021, which clearly states that an

[6] p.6
[7] Annual Report 2022-2023 at p.60

application must not be amended with the council assessment process.[8] The State Government has not engaged within the issue of whether amendment powers should be introduced and if so, how – despite requests from the City of Hobart to do so. Currently, if an application has to be amended then the applicant has to start again or do so through the appeal process. It is our experience that the mediation and amendment process before TASCAT often achieves an outcome which is improved than the version considered by the Planning Committee.

Impact on City of Hobart resources

Loss of senior staff

65. In order to assess applications and determine them as part of a DAP, the Tasmanian Planning Commission will need senior qualified planning, engineering, hydraulic and other experts to do so.

66. It is well recognised that local councils struggle to attract and retain suitably qualified staff and that they should be supported to develop a local government workforce strategy.[9]

67. The DAP process will make this situation worse for local councils and disrupt the current workforce.

68. The City of Hobart is lucky enough to have a strong group of experts across all necessary fields to assess planning applications. It is anticipated that we will lose some of those staff to the TPC if the DAP system is created.

Reduction of fees from large applications

69. The City of Hobart structures its planning fees so that larger applications pay a higher percentage of the cost to assess them. Smaller applications pay much less.

70. This is an extract from the City's approved fees and charges, which have been created after extensive comparison with other councils to ensure that we are charging similar fees, and endorsed by Elected Members as part of the annual process to set fees and charges:

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[8] *Tomaszewski v Hobart City Council [2020] TASSC 48*

[9] p.106 *The Future of Local Government Review Final Report* October 2023

Cost of development up to $20,000	$420.00
Cost of development between $20,001 and $200,000	$673.00
Cost of development between $200,001 and $600,000	$1,346.00
Cost of development between $600,001 and $1,000,000	$2,244.00
Cost of development between $1,000,001 and $5,000,000	$8,416.00
Cost of development between $5,000,001 - $10,000,000	$28,051.00
Cost of development between $10,000,001 and $25,000,000	$44,881.00
Cost of development in excess of $25,000,000	$44,881 plus $1.40 per $1,000 of development costs in excess of $25M

71. An analysis of the number of applications we receive for $10M cost of works or above for the past 5 years demonstrates that we receive an average of $153,446 from those applications. While the number of applications fitting in this category varies, we would normally expect five or six applications falling within that value.

72. It is very difficult to predict how the DAP will impact our application numbers, particularly with the ill-defined broad powers held by the Minister to refer certain applications to a DAP. But this could add to the applications which we no longer consider, possibly adding another $50,000 or more to the fees we will no longer receive.

73. If there was a direct reduction in staffing costs to the fees received, this would be acceptable but, again, it is unknown how this process will unfold.

74. While we still have set staffing costs, it is anticipated that the loss of revenue anticipated from the DAP would have to be borne by other, smaller applicants. Alternatively, the cost is funded from Hobart ratepayers. Neither option is palatable.

Work by councils expected despite the absence of fees

75. To further add to this problem, the SPO Position Paper states[10]:

> *It is anticipated that the DAP will engage extensively with the planning authority in preparing the permit and conditions of approval.*

76. This is currently occurring with the assessment of the Macquarie Point stadium, which is being assessed as a project of state significance. The City of Hobart has received no planning application fee or other funding to participate in this process. Yet it is spending substantial time with officers dedicated to the project and further funds spent engaging consultants to ensure that the TPC is properly informed as part of the assessment process. It is just not financially feasible for the City of Hobart to support the TPC in this way. It is cost-shifting at its worst.

77. Also, by creating a combined determination and appeal process, the DAP would also impose additional responsibilities and costs onto councils if it is expected to participate in the way that it is at TASCAT. The expectation at TASCAT is that the planning authority is expected to carry out numerous administrative tasks, submit evidence and detailed legal submissions articulating what the planning authority's position on the application of the planning scheme should be. If this is replicated in a DAP context then it will generate additional work, noting that not all larger applications are appealed.

Draft Amendment of Local Provision Schedule

78. The draft Bill also includes an ability for the Minister to interfere with the process for amending a council's Local Provision Schedule (LPS, which is part of the Tasmanian Planning Scheme). Currently, a council has control over whether it wishes to progress the amendment of its LPS which has been initiated by a member of the public.

79. The current process includes an assessment by the TPC. There is no justification for the Minister having a new power to override a council's decision in this context. Again, it is introducing politics into planning.

[10] p.15

Conclusion

80. The DAP is a knee-jerk reaction to a perceived problem which does not have a proper evidentiary basis. It will impact staffing and finances for the City of Hobart. Crucially, it will diminish the role of the community in the planning process.

81. There are alternative pathways to address the State Government's frustrations with the planning system. It is very unfortunate that these do not seem to have been considered and the offer of engagement with the Local Government Association of Tasmania has not been taken up.

From: Neil Smith <>
Sent: Tuesday, 12 November 2024 2:03 PM
To: yoursay.planning@dpac.tas.gov.au
Cc:

Subject:

[You don't often get email from ... Learn why this is important at https://aka.ms/LearnAboutSenderIdentification]

Dear Decision makers,

I write to oppose the idea of new legislation to take some planning decisions from local councils (with the associated TASCAT appeal
process) and invest decision-making power in appointed panels.

This gives the Planning Minister far too much power, including the avenue whereby an application already being assessed by a council, or already rejected by a council for legitimate reasons, may be immediately transferred to a DAP, and thus removed from a merits-based appeal process. One individual, who clearly will have his/her own ideas about what consitutes a desirable development, should not be so entrusted.

It is essential to the democratic process that simple appeal mechanisms, merits-based and not prohibitively expensive, be available to affected community members. It is also much more obviously community-respectful and openly-informative that an elected council have the right and responsibility to debate development applications in meetings open to the public. The planning scheme already prescribes much of the process to be followed, and together with the TASCAT appeal process - available to both developers who feel their application wrongly rejected, and to the community who may well have significant concerns to raise - the current system works well (and apparently quite quickly compared with planning processes in some other jurisdictions).

This legislative proposal opens up avenues to corruption - DAPs are supposedly to be appointed by a Planning Commission at arms length from Government, but there is enormous scope for high-level interaction in secret by interested parties of all kinds, including corporate developers and those simply ideologically-inclined in their direction.
This might apply both to the appointment process and to interventions in an assessment itself. Compare this with the transparency offered by arguments publicly presented by elected councillors of a variety of political persuasions.

And this DAP scheme is also proposed to apply to developments in National Parks and indeed the Tasmanian Wilderness World Heritage Area.
These areas are reserved for the benefit of all citizens, and in the case of the TWWHA for the people of the entire world. Everyone should have the opportunity to express whatever concerns they think are relevant to the proper management of these most-significant public areas. Fast-tracking, in secret, any sort of development in such an area is ridiculous. And removing appeal rights even more so.

yours faithfully,
Neil Smith

_____

From: Jacqui Frew <j>
Sent: Tuesday, 12 November 2024 2:00 PM
To: yoursay.planning@dpac.tas.gov.au
Cc:

Subject:

> You don't often get email from Learn why this is important

I am extremely concerned about the DAP proposal for planning, and urge you to reject it. It seems to be little more than a power grab by the minister, rather than any kind of attempt to solve a problem.

- Our councils currently do an excellent job. They do not reject developments without justifiable grounds, and there are many approved developments that have not been started for reasons completely unrelated to the planning approvals process. This proposal purports to solve an alleged problem we do not actually have.
- The new proposal bypasses the checks and balances our elected councillors provide, and similar proposals have had negative outcomes in other jurisdictions where they have been implemented.
- I have been around long enough to see the detrimental effects that arise when planning is taken out of the hands of the experts, without the option of public input and appeal. It creates an environment ripe for corruption. Unfortunately both sides of politics have previous form in this regard.

I strongly urge all involved to avoid further disasters and preserve planning integrity by rejecting this proposal.

Yours sincerely

Jacqui Frew

From: David Jack <>
Sent: Tuesday, 12 November 2024 1:58 PM
To: yoursay.planning@dpac.tas.gov.au
Cc:

Subject: Seriously - Scrap The DAP

Hello DPAC
We oppose the creation of Development Assessment Panels - this is simply not the right thing to do.
There are so many issues that arise from development applications that only those close to the development can understand.
We have witnessed first hand how a developer tried to get a subdivision through where we live at Clifton Beach. It was only by engaging all the councillors at the Clarence City Council that the overwhelming majority realised how inappropriate the development would be and ended up rejecting their support for it. The development was eventually rejected at the planning commission. Councillors are very important to planning decisions as they represent the people in their area.
Properly researched developments and those that seek feedback from communities beforehand will always have a better outcome.

Thank you - David & Jan Jack

From: Warwick Moore <>
Sent: Tuesday, 12 November 2024 1:58 PM
To: yoursay.planning@dpac.tas.gov.au
Cc: c

Development Assessment Panels

Subject:

> You don't often get email from . Learn why this is important

I oppose the introduction of Development Assessment Panels. There is no need to change the current system of planning assessment. I feel very threatened by the concentration of power in the hands of the relevant Minister. DAPs will allow indiscriminate development by developers. Government is already too secretive in declaring how much money is provided to them by developers and DAPs will increase public unease. The concentration of power in a very small number of panel members, appointed directly or indirectly, by the state, will inevitably invite corruption of the process. Our democracy is at stake when the general public is precluded from appealing decisions.

1. Planning applications dealt with by councils are generally successful. Only about 1% of planning applications are rejected or go to appeal under the current system. There is NO NEED for a new system. Setting up DAPs, with their obvious failings, is a ridiculous overstep on the part of government to address this 1%. Most of the applications rejected or appealed would have been ambit claims put in by developers trying to circumvent planning rules or wanting to push the boundaries, as we have seen in several notable examples with building heights in Hobart.

2. The concentration of power in the hands of the Minister is quite undemocratic. Such a step is a threat to democracy. The "power of the people" of our democracy is undermined. I have had direct positive experience dealing with issues in the Clarence municipality, over a period of 50 years. On one occasion a group of local residents formed a committee, with developers and council staff, to conduct a referendum in the community on suggested changes to the planning scheme. The resulting survey produced a result which led to a change in the Council's plans for the betterment of the community. On another occasion I was involved with a group of residents opposing the sale of a small parcel of public open space. Council employed Hydro Consulting to present their proposal and our group presented the opposing view. A panel of council members held a hearing and found in favour of our opposition to the Council's position. These positive interventions by the community, that maintained the character and ambience of the relevant areas, would not be possible under the proposed new system of DAPs.

3. In other states that have adopted DAPs, there has been evidence provided to show that DAPs are pro-development. Without the opportunity to appeal decisions, and without the right to know the basis of these decisions, there are no checks and balances. Reaching outcomes that are mutually agreed, and beneficial to both developers and opponents (such as described in 2 above), would never be possible. The proposed changes favour confrontation and unilateral decision-making, rather than negotiated outcomes.

4. The secrecy of the DAP decisions and the reasons for the decisions would certainly contribute to a further lack of trust in government, at a time in history when democratic government is grossly under threat. Tasmania is particularly vulnerable to a further erosion of democracy because of the entrenched reliance on "commercial in confidence" and the lack of real-time disclosure of political donations, both compounded by poor, underfunded Right to Information performance. The government would do better to ban donations from developers, and to create a powerful anti-corruption authority to start to reclaim some of the lost trust within the electorate, instead of wasting the parliament's time with this undesirable bill.

5. The concentration of power in a very small number of panel members, appointed directly or indirectly, in secret, by the state, will inevitably invite corruption of the process. Secret appointments, secret hearings, and secret reasons for decisions, have no place in our democracy. To propose such a secretive process highlights the government's develop at all costs motive behind this bill.

6. Development planning applications are specific to an area. As a student of Geography, I understand the importance of place. I appreciate that the best people to evaluate the impact that a development has on a particular place, is local government, accountable to the local people. This is not NIMBYism as the current government hysterically would have us believe. Local government understands the implications of scale, light, shadows, size, height, traffic flow, air quality, appearance, ecology etc. on space snf place within the bigger picture of the surrounding area and future plans. DAPs can never have the knowledge that the local authority has acquired over time. Indeed, it seems that even local councillors will be excluded

from membership of the DAPs. Similarly, the local community cannot raise such matters because an appropriate appeal process is non-existent. Bad decisions are inevitable under the proposed, flawed process. Appealing to the Supreme Court has a narrow focus – point of law or process - and is very costly. It would appear to be designed to stifle opposition rather than to give a local community any chance to raise the legitimate concerns of their community.

7. Consultation has been mentioned in the debate on this proposal, as a means of obtaining local knowledge and of giving people a say in developments. This is laughable and treats the public with contempt! The concept of consultation is seen to be superfluous in Tasmania, with developers and government quoting numbers of people who participate, as evidence of successful consultation. The way in which the consultation guided a particular development is never explained and, as a result, people are correct to believe that no notice was taken of the views of the respondents. In the proposed bill the consultation would come **after** a draft decision has been made. If you tried very hard, you could not come up with a better way of showing that consultation is irrelevant and meaningless!

8. There are many other issues that raise my concerns: the arbitrary DAP criteria; The Minister determining if a development meets the DAP criteria; the reference to the subjective "controversial" or "significant" projects; the ability of the Minister to force changes to a planning scheme; the arbitrary monetary value of the project; whether there is a perceived conflict of interest. All these "criteria" give the Minister far too much power, which could be influenced by the political donations of developers or, indeed, by the minister's friends. It is a recipe for corruption.

9. The claim that development must be fast-tracked to solve the housing crisis is a furphy and should be discounted. There is no clear indication of how much affordable housing is required in a development and, in any case, such "promises" by developers have been routinely ignored. How much affordable housing will be built as part of the Mac Point Stadium, I wonder. Affordable housing is an issue that the government should accept accountability for through Homes Tasmania, rather than to shift the blame to developers.

In my opinion, this proposal to create DAPs is so flawed that I believe it should be rejected immediately. Attempts to amend various bits of the legislation cannot possibly produce an acceptable result.

Yours sincerely

Warwick Moore

From: jdbryan
Sent: Tuesday, 12 November 2024 1:57 PM
To: yoursay.planning@dpac.tas.gov.au
Cc:
Subject: #Say NO to Planning Panels/say YES to a healthy Democracy/ we are not a Dictatorship

1. **This is plea to Parliamentarians to act and govern in the best interests of Tasmania and all Tasmanians by 'Scrapping the DAPs Legislation.'**
2. **For the welfare of our State, dictatorial governance must not be allowed to replace our democracy.**
3. **The statistics for approvals show that Tasmania has one of the fastest planning approval systems of all states.**
4. **The DAPs Bill is about circumventing local government planning approvals and overriding assessments by using the specifically designed and weakened State Planning Laws in conjunction with the installation of a biased, anti-democratic, Ministerial controlled Development Approval Panels. Add to this the influence of Political Donations and without oversight and appeal rights we have the perfect environment for corruption to flourish.**
5. **Most concerningly the government also intends to introduce a new legislation that will provide fast-tracked approvals under the *National Parks and Reserves Management Act* for developments in reserved land such as National Parks.**
6. **"Development panels are costly and ineffective" states experienced planner Catherine Nicholson. "It will be more expensive to source specific planners and slower than the existing system."**
7. **The people of Tasmania are having their rights stripped away and they do not even know.**
8. This anti-democratic legislation gives the Minister massive and unchecked power to decide if developments are taken out of the normal council planning system. The draft legislation allows the

minister to intervene for a range of subjective and undefined reasons. This appears to be a process set up to facilitate corruption. It appears Local Planning Provisions applying to Local Government Areas will therefore be overridden by the specifically amended State Planning Provisions that will facilitate these approvals.

9. Development Applications will be approved by a non-independent authority which is not accountable to voters or the ratepayers and will not be subject to the normal checks and balances of appeal rights. It will turbo charge planning decisions made behind closed doors, increasing the risk of corruption. This is the complete opposite of open and transparent democracy.
10. The Tasmanian Conservation Trust says the process is deceptive as power will be centralised in one person, the minister, who cannot be challenged in the planning appeals tribunal.
11. Every state has housing supply issues and constantly blaming this on planning system is far too simplistic with other forces causing it.
12. The Infill Apartment complexes planned by the Government on CBD public car parks for example in Glenorchy could be approved without the requirement to provide off-street parking for residents and the DAPs process will prevent ratepayers from having their say about their loss of access to services and businesses. Our streets are already littered with parked cars making access on narrow streets difficult and dangerous. Streets have not been designed for this change in planning laws which clearly favours developers.
13. This anti-democratic legislation appears to just want to give property developers a leg up without right of appeal.
14. Whilst the planning system has encouraged public participation the introduction of anti-democratic DAPs will prevent appeal rights.
15. Input at the Local Government level for residents is an important part of the democratic process and important to the future well-being of residents.
16. The DAP process would remove elected councillors from decision making as well as Tasmanians from having a proper democratic say on controversial developments affecting local communities by removing appeal rights.

From: bwalter
Sent: Tuesday, 12 November 2024 3:45 PM
To: yoursay.planning@dpac.tas.gov.au
Subject: Submission - Development Assessment Panel - Draft Bill

To whom it may concern

I perceive an increased trend to bypass planning processes and to move more power to Ministers and I think none of this is good for Tasmania.

I feel centralisation of power is open to manipulation and corruption. There are already several examples where projects have been proposed that fly in the face of public opinion and where public consultation has been bypassed, ignored and/or manipulated. Given the lack of transparency with political donations it's easy to assume that a vested interest has been served.

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

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

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

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

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

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

smell, light and so much more. TASCAT review of government decisions is an essential part of the rule of law and a democratic system of government based on '*checks and balances*'.

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

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

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

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

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

Say yes to a healthy democracy

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

From: David Ridley <>
Sent: Tuesday, 12 November 2024 3:43 PM
To: yoursay.planning@dpac.tas.gov.au
Cc:

Subject: Re: draft legislation for Planning Minister power to bypass Councils and use of Development Assessment Panels.

You don't often get email Learn why this is important

Dear 'yoursay.planning' / Sir / Madam / etc

Dear Member of Parliament

I write concerning the draft legislation to create Development Assessment Panels (DAPS), the use of DAPs to bypass Councils, the taking away of community involvement in development approval by locally elected Councillors, the removal of appeal rights, and the increased political control of the Tasmanian planning system.

I write as a result of hearing Minister Ellis on the ABC this morning. There was no compelling position put by Ellis and the characterisation of those opposed to the legislation as being opposed to jobs is incorrect. It shows how disconnected from the Tasmanian community the Liberals have become.

For the record, I am a forester, pro-responsible development and have constructed two mills (and Executive General Manager) that provided 120 new jobs. I have a shack in the Central Highlands (Central Highlands Council) and live in the Glenorchy Council area. I am currently involved in an appeals process in the Central Highlands because of wind turbines 230m tall being located as close as 400m to an immediate neighbour. They will be adversely impacted by noise and visual impacts as well as shown by recent events - with parts flying off the blades. The appeals process allows the community (in this case farmers, fishers, neighbours, business operators, shack owners, tourists and residents etc) to have an independent hearing by an independent body based on real issues.

I oppose the draft legislation for a number of reasons, including:

- **It is not necessary. Major Projects Legislation that already exists addresses the matters raised by Minister Ellis and the draft Legislation.** Furthermore, only about 1% of council planning decisions go to appeal and Tasmania's planning system is already among the fastest in Australia when it comes to determining development applications. [The Liberals are falsely blaming the planning system for its own lack of performance in addressing the affordable housing shortage).

- **The draft legislation gives the Planning Minister unnecessary power and control in a way that bypasses democratic processes.**

  Assessment and approval of developments under the normal local Council process is replaced by Development Assessment Panels (DAPs).

  It will remove elected councillors from having a say on the controversial and destructive developments affecting local communities.

  The criteria for the Minister would enable virtually any development, except for industrial and mining developments regulated by the EPA, to be taken out of the normal local council assessment process and instead be assessed by DAPs.

  The Planning Minister can take a development assessment away from Councils mid-way through the development assessment process if the developer doesn't like the way it is heading.

  There will be increased Ministerial power and politicisation of the planning system. We live in Tasmania, not Russia, and expect politicians to set the rules and not run the show. The Planning Minister will be able to decide if a Development Application meets the DAP criteria and can force the initiation of planning scheme changes. Such a change to the approval process by the Minister can occur based on subjective criteria - *'perceived conflict of interest'*, *'perceived bias'*, or the *'development is likely to be controversial'*.

- **It removes the community right for merit-based planning appeals** on the issues the community cares about such as height, bulk, scale or appearance of buildings; and impacts to streetscapes and

adjoining properties - including privacy, traffic, noise, light. TASCAT review of decisions under the current appeals process is an essential part of the democratic system of government based on checks-and-balances. Under the draft legislation, developments will only be appealable to the Supreme Court based on a point of law or process which have a narrow focus and are prohibitively expensive

The need for the draft legislation has not been proven. The need is to keep decision making local, rather than bypassing it and maintain the opportunities for merit-based appeal. A greater concentration of powers and politicisation of the planning system given by the draft legislation to the Planning Minister is not supported. The Government needs to improve the local government system and existing planning processes by providing more resources to Councils and by enhancing community participation and planning outcomes.

Yours sincerely

David Ridley

David Ridley

From: Roger Gavshon <>
Sent: Tuesday, 12 November 2024 3:38 PM
To: yoursay.planning@dpac.tas.gov.au
Cc:

Subject: Development Assessment Panels Erode Democracy - NO to DAP

The Australian democratic system is based on the Westminster system, in essence, ***"Government by the People for the People"***.

The "People" have representation at three levels, at local, state and federal. Of the three, only local government can truly represent the needs and views of a defined geographical community within the State context. State Government is tasked, therefore, to integrate the needs and views represented by local governments across the State and to plan, fund and assign resources to provide the best outcomes that meet these integrated needs.

Sadly, these State Government tasks are too often delegated to bodies, organisations and/or corporate entities that are remote from the issues being addressed, that have no commitment to the impacted communities, are susceptible to "outside" interests, have diminished governmental oversight and have, therefore little incentive to work in the best interests of the communities. This delegation of governmental responsibilies to "outside interests" has steadily increased over the past two decades and too often resulted in expensive and flawed outcomes with the consequent political backlash. **This debased system of governance represents an erosion of the democratic principle and is the reason I cannot support the concept of Development Assessment Panels.**

I concur with the general submission advocatiing for the scrapping of the Development Assessment Panels (Daps) concept, which would increase ministerial power over the planning system, for the following reasons:

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

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

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

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

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

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

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

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

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

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

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

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

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

Say yes to a healthy democracy

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

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

Yours sincerely,

Roger Gavshon

From: Suz Haywood <>
Sent: Tuesday, 12 November 2024 3:38 PM
To: yoursay.planning@dpac.tas.gov.au
Cc:

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

I mortified that I am living in an Australia where I am now dealing with what I see is, the over-reach of Government in this way.

You are intentionally taking away the capacity of the local councils and community people to have a say in the environment they both live in, grow their families up inside, and often work in, IF their valid views are NOT WHAT YOU WANT TO HEAR because of some bigger financial player's tantrum, who has not gotten their way.

When has catering to a tantrum at ANY AGE, ever a good idea?

I am starting to feel the impact of being redundant as a contributing, living breathing voting individual, proud of a democracy that I thought was robust enough to allow consultation, consideration for local wants and needs, and that had a tangible capacity and interest in building cohesive and thriving communities.

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

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

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

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

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

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

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

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

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

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

Say yes to a healthy democracy

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

Yours sincerely,

Susan (Suz) Haywood

From: Petra Wilden <>
Sent: Tuesday, 12 November 2024 3:37 PM
To: yoursay.planning@dpac.tas.gov.au
Cc:

Subject: No DAP's we need democracy

> You don't often get email from . Learn why this is important

Dear Ministers and Legislators,

I would like to take this opportunity to tell you I strongly oppose the creation of Development Assessment Panels (DAPs) and increasing ministerial power over the planning system. Please regard my below submission carefully.
I am very worried the DAPs will erode democracy even further and create an alternate planning approval pathway, whereby property developers, people/businesses with a lot of money can bypass local councils and communities. Research shows DAPs are pro-development and pro-government and they rarely thoroughly engage with local communities. Plans will be approved without the approval of the local community and having sustainable practices at heart.
Giving state-picked appointed planning panels the power to decide on development applications and not our elected local council representatives in collaboration with the community is a terrible route to propose. Planning decisions need to be made with local independent expert knowledge: hydrologist, economist, engineer, ecologist. The DAPs have the opportunity to completely ignore local sentiment in favour of developers who may not even be from Tasmania and mostly only look for profit at the cost of the community and natural environment. Mainland experience demonstrates planning panels favour developers and undermine democratic accountability.

DAPs will likely encourage developers who know their planning assessment might create roadblocks from the community, to abandon the local council process and have the development assessed in turn by the DAPs, hereby overriding local council's authority.
Much more beneficial would be to put more funding towards local council's expertise and create transparency in the planning process, so councils can make collaborative decisions with the community in the best interest of our current and future world. Keep decision making local, rather than bypassing it.
Please stop the DAPs and instead invest in local government expertise and existing planning processes by providing more resources to councils and enhancing community participation and planning outcomes. This will also help protect local jobs and keep the cost of development applications down.
Hand-picked panels, without detailed selection criteria and objective processes, are not consistent with the principles of open justice. Open justice would mean holding public hearings and the capacity to manage conflicts of interest. As it stands DAPs do not have to provide written reasons for their decision, which makes it difficult to seek judicial review. Appallingly, community input will be an afterthought as the community won't be consulted till the DAP has consulted with the developer and any relevant government agencies behind closed doors and adopted its draft decision.
DAPs go against an honest, collaborative, local approach. A local approach of liveable, sustainable communities need to be encouraged by local councils, not top-down big projects by big business, which removes merit-based planning appeal rights via the planning tribunal on all the issues the community cares about. TASCAT review of government decisions is an essential part of the rule of law and a democratic system of government based on *'checks and balances'*. The planning system as it stands now is not stopping housing developments.
Mainland research demonstrates removing merits-based planning appeals has the potential to reduce good planning outcomes – including both environmental and social.
Increasing Ministerial power over the planning system increases bias and risks corrupt decisions based on the party in power. Planning decisions are extremely important and influence all of the communities lives, this should not be put in the hands of a few in power.
Changing an approval process on the basis of*'perceived conflict of interest or bias'*, *'a development that may be considered significant'* is fraught. This clearly involves biased opinions.
On top of this, the scope of the DAPs includes a range of subjective factors that are not guided by any clear criteria:
- Valuations of $10 million in cities and $5 million in other areas.
- A determination by Homes Tasmania that an application includes social or affordable housing, but there is no requirement to mention the amount of social or affordable housing. This could very well end up still having this kind of housing ignored.

Finally, to create a sustainable future for Tasmania I would like to 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, create a strong anti-corruption watchdog and for the protection of our life-giving environment, tighten environmental regulation.
Yours sincerely,

Petra Wilden

From: Gillian Haines <g>
Sent: Tuesday, 12 November 2024 3:29 PM
To: yoursay.planning@dpac.tas.gov.au
Cc:

Subject: #ScrapTheDAP – say no to planning panels

To whom it may concern

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

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

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

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

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

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

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

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

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

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

Say yes to a healthy democracy

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

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

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

Yours sincerely

Gillian Haines,

From: Ceri Flowers
Sent: Tuesday, 12 November 2024 3:33 PM
To:
Cc:

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

In addition to the standard text below, which is so well written I happily support it in full, I strongly object to the proposal for DAPs as we have so many examples of developments that have appropriately been halted for further review or stopped completely that were so unsuitable for Tasmania.

I think there are wonderful examples of appropriate development in Tasmania, the three capes walk, the new Cradle Mountain viewing platform at Dove Lake, I like many of the developments in Hobart city that keep the heritage front of the buildings and put an appropriate and sympathetic building set back from the street frontage.
I'm not anti development BUT do believe that public land must be designed for public use. I would be horrified if a marina was developed at Lauderdale, I do not like the proposal of a cable car on Mt Wellington, but would support a one way road off the mountain towards Glenorchy so traffic could move up and over the mountain to help with traffic flow. I support thoughtful developments in National Parks, for example the huts in Cradle/Lake St Clair allow many people to safely experience the beauty of our parks.

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

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

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

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

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

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

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

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

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

requirement for a proportion of the development to be for social or affordable housing. For example, it could be one house out of 200 that is affordable.

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

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

Say yes to a healthy democracy

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

Yours sincerely,

Ceri Flowers

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

12 November 2024

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

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

Dear Sir/Madam,

Draft LUPA Amendment (Development Assessment Panels) Bill 2024

Thank you for the invitation to review and make a submission on the draft Bill to amend the *Land Use Planning and Approvals Act 1993* (LUPAA) proposing the introduction of Development Assessment Panels (DAPs) as an alternate assessment pathway for certain types of development.

As with the previous consultation on this proposed reform in November 2023, Council notes the justification offered in support of this 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).

Council has considered the draft Bill and related supporting documentation, and provides the following comments which reiterate Council's position outlined with its earlier submission provided in November 2023 (a copy of this previous submission is attached).

(a) Council affirms its position that the role and responsibilities of local councils as planning authorities should be maintained. Any proposed reforms towards the introduction of DAPs should not unreasonably diminish or otherwise undermine this position.

(b) Council notes that over 540 submissions were made in the previous round of consultation on this proposed initiative – with the clear majority of those submissions in opposition to the introduction of DAPs. Furthermore, 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. Equally, similar isolated instances of contentious planning decisions, emanating from the Tasmanian Planning Commission, the body identified to oversee DAPs, could easily be identified. Planning by its very nature will always result in a level of contention, regardless of any legislative structure.

(c) Council does support consideration of alternative assessment models for applications where the Council currently acts as both the planning authority and is also the applicant however, the establishment of DAPs to fulfill this role, appears overly complex and is not the only option that should be considered.

Our Council is strongly of the view that the establishment of DAPs will not provide a materially improved outcome compared to the effective and locally informed assessment function undertaken by the established local Planning Authority.

Thank you again for the invitation to provide comment.

Yours sincerely,

Matthew Atkins
GENERAL MANAGER

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

22 November 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

From: Brian Garland >
Sent: Tuesday, 12 November 2024 3:28 PM
To: yoursay.planning@dpac.tas.gov.au
Cc: c
Subject: #ScrapTheDAP – say no to planning panels/say yes to a healthy democracy

If you can, please personalise your submission by writing why you don't support DAPs, increasing Ministerial power and removing planning appeals.

Personalising your message creates a powerful impact with Parliamentarians.

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

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

demands.

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

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

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

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

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

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

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

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

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

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

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

Say yes to a healthy democracy

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

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

Yours sincerely,

Brian Garland

From: Barbara Murphy
Sent: Tuesday, 12 November 2024 3:28 PM
To: yoursay.planning@dpac.tas.gov.au
Cc: Scrap the DAP

Subject:

Dear members of the Tasmanian Parliament,

We currently have a system that works - why are we considering a process that takes longer, will remove community engagement, will cost more and will be in conflict with some of the aspirations of the current Tasmanian government ?

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

1. **Ministerial power must be used with great care** - not many in the community have expertise in planning - this includes Ministers
2. **DAPs will not improve the current system**. An alternate planning approval pathway allowing property developers to bypass local councils and communities would further increase a complex planning system which is already making decisions quicker than any other jurisdiction in Australia?
3. **Removing merits-based planning appeals has the potential to increase corruption, reduce good planning outcomes**

4. **Developments will only be appealable to the Supreme Court** based on a point of law or process which have a narrow focus and are prohibitively expensive and not available to the community who have every right to a say in decision

I value our democratic society and I value the opportunity for the community to be part of the decision making process in matters that affect our society

- Democracy ensures transparency, independence, accountability and public participation in decision-making.
- It benefits the community to keep decision-making local, rather than bypassing it, with opportunities for appeal.

Thank you for reading my comments.

I would ask you all to show, when debating this legislation, that you consider the value of community engagement to be an essential component of good governance in Tasmania.

Yours sincerely,

Barbara Murphy

From: Ben Jones <>
Sent: Tuesday, 12 November 2024 3:22 PM
To: yoursay.planning@dpac.tas.gov.au
Subject: Draft LUPA Amendment (Development Assessment Panels) Bill 2024

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

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

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

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

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

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

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

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

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

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

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

Say yes to a healthy democracy

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

Yours sincerely,

Ben Jones

From: Sue Webster <
Sent: Tuesday, 12 November 2024 3:22 PM
To: yoursay.planning@dpac.tas.gov.au
Cc:
Subject: DAP's - our democratic rights under threat

Dear Ministers and planning staff

I am very concerned about the bill to propose unnecessary changes to our planning processes. The bill aims to reduce public involvement in planning by having an "impartial"?? Development Assessment Panel (DAP) decide what's best for us in our small communities throughout Tasmania. This approach seems undemocratic and denies those of us who disagree with a developer's proposal any rights of appeal.

It assumes the planning rules will be adhered to and these alone will be sufficient to justify whatever proposal has been put forward. How can a small body, that may well be stacked with pro-development members, be aware of community sentiments in other parts of the State and the impacts such developments might have.

Tasmania already has the weakest political donation disclosure laws of any State in Australia. It seems developers will be able to buy approval for their developments through making donations to the appropriate political party. Such is democracy in Tasmania as Robin Gray showed us so clearly all those years ago.

There are already good checks and balances available in our existing planning processes, so why change something that isn't broken. Why not fix some of the real problems that need addressing in this State such as the Port In Devonport and the expensive ships that can't berth there for the next 2-3 years. What a mess that is and now it seems you are determined to roll out another government blunder and mess. Shame on you.

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

Sue Webster
Ratepayer and voter in Tasmania

From: John Bignell <
Sent: Tuesday, 12 November 2024 3:19 PM
To: yoursay.planning@dpac.tas.gov.au
Cc: c

Subject: #ScrapTheDAP

[You don't often get email from Learn why this is important at https://aka.ms/LearnAboutSenderIdentification]

SCRAP THE DAP

I wish to lodge my objection to the Government's plan to establish Development Assessment Panels (DAPs) which will remove the opportunity for local councils and their ratepayers to have input into planning matters that directly affect them.

We have now seen the disastrous consequences of the policy decision made by the unelected and unaccountable University Council.

Likewise, we have seen the failure of the responsible Minister to monitor the performance of the GBEs that were responsible for the procurement of the Bass Strait ferries.

Therefore, based on past performance, I have no faith that a small DAP selected by a Minister will be unbiased and adequately overseen by the Minister.

PLEASE DO NOT SUPPORT THE DAP POLICY.

Thank you,

John Bignell

_____

GLAMORGAN SPRING BAY COUNCIL

9 Melbourne Street (PO Box 6)
Triabunna TAS 7190
03 6256 4777
03 6256 4774
admin@freycinet.tas.gov.au
www.gsbc.tas.gov.au

Your ref: DAP Bill submission

12 November 2024

State Planning Office
Development Assessment Panel framework consultation

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

Dear Sir/Madam,

Draft Development Assessment Panel Bill
Detailed submission

Thank you for the opportunity to make a submission to the draft *LUPAA Amendment (Development Assessment Panels) Bill 2024* (Bill) to the *Land Use Planning and Approvals Act 1993* (Act). This submission was provided from the officers and was not endorsed by Council.

We have the following significant concerns:

- many of the issues raised in the previous submissions from both staff and our elected members have not been addressed in the draft Bill or supporting documents;
- the premise for the reforms was not established in terms of demonstrated problems within the system or impacts to timeframes, despite repeated statements about removing the politics from planning;
- the proposed bill arguably increases complexity in the planning system in how the proposed DAP's will operate; and
- the public commentary surrounding the reform raises questions about the understanding of the proposed reforms and lack of education that has occurred.

For context, Tasmania arguably has the fastest regulatory approvals and planning appeals systems in the Country, as acknowledged within the supporting documents.

Council will incur additional workloads from the DAP assessment and decision process, without the opportunity to recover costs as is currently possible through the planning appeal process.

Review of decisions to refuse initiating a planning scheme amendment by the Minister (40BA series) does not require any qualified or expert assessment, providing significant opportunity for political intervention without any supporting evidence. This reform creates significant risk of political intervention with no liability for that decision by the Minister. This proposal is clearly contrary to the requirement for coordination and cooperation across the community, Local and State Government and must be revised.

Ministerial initiation of planning scheme amendments is opposed and must be removed from the Bill. If retained, the Minister must assume responsibility and liability for initiation for the duration of the assessment process.

The Bill does not address the inquisitorial basis of operation of the *Tasmanian Planning Commission* (Commission), versus the legal operation of the *Tasmanian Civil and Administrative Appeals Tribunal* (TASCAT). TASCAT has established a significant body of interpretation through decisions under the Tasmanian Planning Scheme, which must inform any DAP decisions by the Commission. This is critical to the operation of any DAP's and must be resolved prior to implementation.

The criteria for nomination remains arbitrary (60AB), despite the previous submissions of Council and others on this issue. The inclusion of social and affordable housing may have merit, but has not overcome the remaining issues around nomination criteria. The financial thresholds (60AB(b)) are arbitrary and do not relate to the claimed basis for the intervention. The Bill appears to duplicate process for projects that are of State Significance, given the Projects of State Significance process under the State Policies and Projects Act, unless that process is removed from legislation.

Per previous submissions, nomination criteria require revision to reflect the claimed circumstances for the intervention and a range of operational measures such as inflation and the ability to test the claimed project value. The Bill introduces the term controversial, which is likely to be a legally unclear term that will be subject to much debate.

Timeframes within the Bill appear to be unrealistic, often referring to 7 days for actions by the Commission or Council (particularly establishment of the DAP and delegates), with no ability for extension. These must be extended to be practicable (14 days), or provide for extensions.

The exhibition period (14 days under 60AG(2)) does not provide for extensions, unlike the normal application process (57(5)), which is inconsistent with some of the nomination arguments and the RMPS objectives to facilitate public involvement in planning processes.

Fee provisions are established at section 60AS. (3) must be revised to allow submissions on fees from parties or risk Councils being significantly disadvantaged by the DAP process.

Suitable provision must also be made for costs applications following determination, similar to the normal appeal process.

The Bill is unclear whether the DAP can issue directions from hearings under section 60AH, which is normal process for both Commission and TASCAT processes.

The Bill will create significant work for the Commission, which will require increased resources to administer the process within the timeframe.

In addition, the significant discourse around this Bill identifies a clear lack of education and understanding on this reform by the Government. If the Bill is progressed, the State must provide ongoing education on the reform and process for both the general public and across the planning and development sector. Education is typically done by Councils, as there are no other options.

The Bill will result in significant changes to the planning system and a significant increase in the complexity of assessment processes.

The lack of supporting evidence for this reform, clear process around the decision for the intervention and lack of responsibility by the Minister for resourcing or supporting these interventions is opposed.

Reforms must improve planning process and delivery of the Schedule 1 objectives of the planning system within the Act. The Bill has not clearly established these outcomes.

We question the commercial reality of the DAP process, when you consider the timeframe (up to 118 days) and the increased and unknown costs of the process.

Local representation must be provided on the Assessment Panel. Composition of the Assessment Panel is not addressed in the Bill and does not appear to be addressed in the *Tasmanian Planning Commission Act 2007* (which provides for both delegation and committees, but not Assessment Panels).

We also note that this proposal was promoted over other reforms that can improve processes, such as:

- mandatory training or qualifications for members of planning authorities;
- use of a planning directive for social and affordable housing (such as occurred for Visitor Accommodation);
- provision to allow revised applications before Council decision under the Act; or
- revisions to the TASCAT process to allow elevation of a proposal following statutory exhibition, prima-facie testing of appeal grounds.

On the above basis, we do not support this bill, however, we welcome the opportunity to work with government to address the many concerns with this draft bill, which the current assessment and wider discourse suggests has not occurred to the required degree.

Please contact the planning department at Council on 6256 4777 to discuss any questions you may have regarding this submission.

Yours sincerely,

Peter Porch
ACTING GENERAL MANAGER

File No: N/A

Your Ref: DAPBILL2024_V1

8 November 2024

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

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

Dear Sir/Madam,

Submission - Draft Land Use Planning and Approvals (Development Assessment Panels) Bill 2024

The City of Launceston welcomes the opportunity to provide feedback on the draft *Land Use Planning and Approvals (Development Assessment Panels) Bill 2024.* We acknowledge that this bill has been prepared following a review of submissions received during the exhibition of a Position Paper on the proposed Development Assessment Panel (DAP) framework in late 2023.

It is acknowledged and appreciated that the majority of the concerns raised in Council's written feedback on the Position Paper have been discussed in the Report on Consultation, however non-support for the proposed DAP framework remains. Below are comments on existing concerns raised by Council, as well as some additional concerns identified with changes that have been made following the preparation of the draft DAP Bill.

Please note that the following comments are Council officer level only as an extension of time to allow Council to consider and endorse a formal submission at its general meeting on 14 November was not granted by the Minister.

Role of Council as a planning authority
As noted in our previous feedback, City of Launceston's elected councillors are fully aware of their responsibilities as a planning authority and have performed effectively in this role for many years.
It is acknowledged that there may be some situations where the democratic pretension of a Council can override their role as a planning authority, however existing appeal pathways are available, in the form of TasCAT or the Tasmanian Planning Commission, to review and amend certain planning decisions if determined necessary.

Applicable development applications

It is acknowledged and appreciated that an eligibility criterion for development applications has been outlined in the draft DAP Bill, with a combination of development types, uses, financial thresholds and where conflicts of interest are identified. However, concern remains with the opportunity for an applicant to directly request the Minister assess an application through DAP if they consider the application to be of local or state significance or likely to be controversial.

'Significance' and 'controversial' are both subjective terms that are not clearly defined in the draft DAP Bill, leaving the potential for conflicted interpretations between applicant, local council or State government. As a result, the proposed DAP framework may provide the most contentious applications with a greater opportunity to circumvent the adopted planning direction of councils, resulting in the local community needs and views to not be appropriately considered.

Appeal rights

It is acknowledged that the State Planning Office's (SPO) position is that the DAP framework would be a robust, legally sound process that "obeys the rules of natural justice", and the opportunity for a right of appeal would only introduce unnecessary time delays and costs to the community.

Although it is appreciated that this is the intention of the DAP framework, we are of the view that determinations made by DAP should be subject to a TasCAT (or a higher independent body) appeal rights to ensure that there is a recourse for errors or oversights made through the process.

Referral process and timeframes for DAP

It is acknowledged that amendments have been made to the assessment timeframe for varying DAP applications, however concern remains that these assessment times are still too long and are counter-intuitive to 'speeding up' development approvals.

Concern also remains the proposed timing on when a development application can be referred to DAP for consideration. As noted in our previous feedback, development applications that are to be considered by a DAP should be occur at the commencement of the process to ensure resources are being effectively used and to provide transparency to all stakeholders.

Ministerial direction to initiate a planning scheme amendment

It is acknowledged that Section 40C of the *Land Use and Planning Act 1993* (the Act) currently permits the Minister to direct a planning authority to initiate a draft planning scheme amendment relating to specific criteria.

It remains unclear as to the intention of amending Section 40C of the Act as part of the draft DAP Bill, as there seems to be no substantive connection between the opportunity and operation of a DAP and the proposed Ministerial Direction. It is noted that consideration of the proposed Ministerial Direction for planning scheme amendments should be undertaken as a separate consultation and implementation process with stronger justification than what is currently provided.

In summary, we remain opposed to the proposed DAP framework in its current form. Notwithstanding, we welcome the opportunity to provide further feedback during the proposed fee arrangement process and/or any additional feedback relating planning matters if required. Any comments in relation to this letter can be directed to Michelle Ogulin, Acting General Manager - Community and Place.

Yours sincerely

Sam Johnson OAM GAICD
Chief Executive Officer

From: Geoffrey Leak <>
Sent: Tuesday, 12 November 2024 3:15 PM
To: yoursay.planning@dpac.tas.gov.au
Subject: #ScrapTheDAP – say no to planning panels/say yes to a healthy democracy

Dear Sir/Madam,

I oppose the creation of Development Assessment Panels (Daps).

It is important for people to have a say in matters that directly affect them. Without that people give up on democracy. Having control over what happens around us is one of the key indicators for well being.

In a radio interview this morning (12/11/24) I heard the minister disparage people who even engage in the process to the extent of expressing an opinion on local talk back radio. To me that underlined his purpose, to shut ordinary citizens out of the process of deciding what happens around them and accruing that power to himself.

Regards

Geoffrey Lea

30 Burnett St
North Hobart TAS 7000
PO Box 346 North Hobart TAS 7002
03 6230 4600

12 November 2024

Tasmanian Government
State Planning Office
Department of Premier and Cabinet
Submitted via email
yoursay.planning@dpac.tas.gov.au

HIA Submission in response to the Draft LUPA Amendment (Development Assessment Panels) Bill 2024

Thank you for the opportunity to provide comment in response to the Draft LUPA Amendment (Development Assessment Panels) Bill 2024 (the draft Bill).

HIA welcomes consultation with the residential construction industry on these important planning matters. Development Assessment Panels (DAPs) when formed and implemented correctly can be a very useful element of a states planning toolkit. DAPs can make a significant contribution to streamlining approval processes and the reduction of red tape in the planning system.

About the Housing Industry Association (HIA)

The HIA is Australia's only national industry association representing the interests of the residential building industry, including new home builders, renovators, trade contractors, land developers, related building professionals, and suppliers and manufacturers of building products.

As the voice of the residential building industry, HIA represents a membership of 60,000 across Australia. HIA members are involved in land development, detached home building, home renovations, low & medium-density housing, high-rise apartment buildings and building product manufacturing.

HIA members are comprised of a mix of residential builders, including the Housing 100 volume builders, small to medium builders and renovators, residential developers, trade contractors, major building product manufacturers and suppliers and consultants to the industry. HIA members construct over 85 per cent of the nation's new building stock.

HIA comment and feedback re the proposed Development Assessment Panel

Following review and consideration of the draft Bill and associated Development Assessment Panel (DAP) Fact HIA provides the following comment and feedback.

In principle HIA supports the formation and implementation of the Development Assessment Panel as outlined in the draft Bill, though further detail regarding the matters outlined below would be appreciated.

- It is understood the DAP would be established by the Tasmanian Planning Commission (the Commission)
  - What is proposed in terms of (structural and human) resourcing?
  - In establishing a DAP what does the Commission anticipate the take up will be by applicants and planning authorities?

- It is not understood how the value thresholds were arrived at
  - How were these arrived at? With what justification / rigour?

  HIA consider over $10m and over $5m in a non-metropolitan area could be too high and not capture enough social and affordable housing development to have any real impact.

- Re: When can applications be referred to a DAP? last sentence *..., including the possibility of repeating elements of the assessment.* HIA consider this not to be particularly pragmatic when designing approval mechanisms intended to try and speed up decision making timeframes approaches.

  HIA submit when managing and aiming to streamline approval processes and timeframes it is imperative that duplication is avoided, and this can be done by acknowledging and accepting previous work that has already been carried out and submitted.

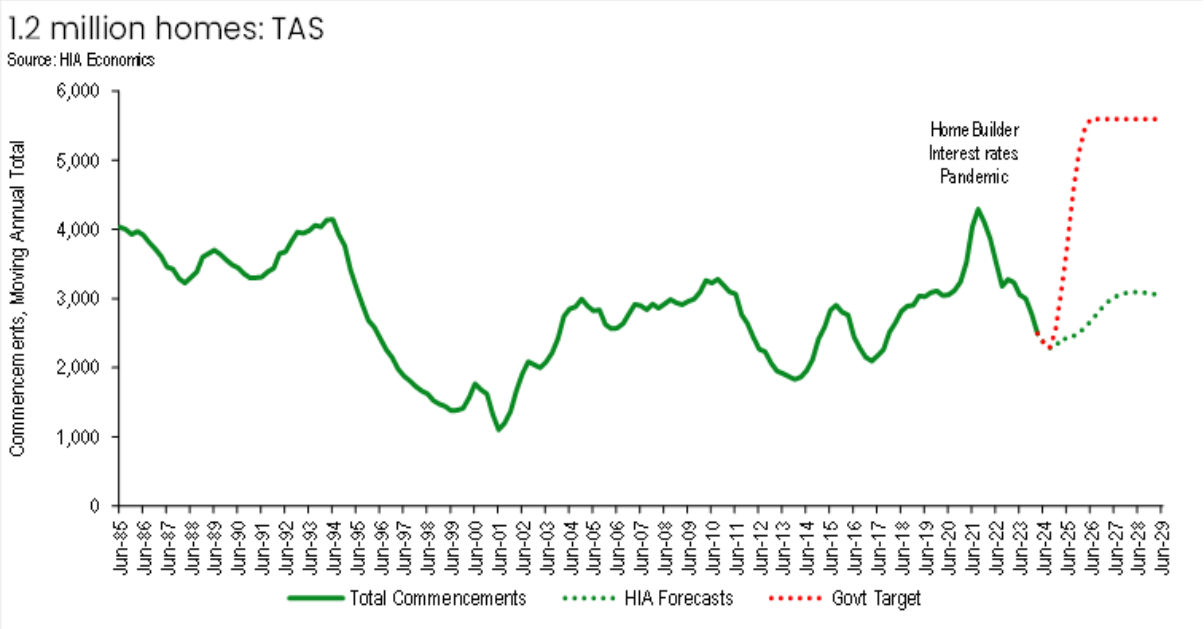
- The Statutory assessment timeframes are considered too high for a process that is intended to help facilitate social and affordable development outcomes.

  HIA submit these timeframes should be reviewed with the aim of reducing timeframes particularly at the points *DAP prepares draft assessment report* and *DAP to consider matters and determines application within 4 weeks …*

- HIA is eager to understand the fees and fee structure. It is considered if fees are set to high it could be a disincentive for an applicant.
  - Is it intended fees would be the same whether an applicant or the Planning authority?

<u>State Planning Reform in the context of the National Housing Accord</u>

To meet its housing delivery targets in accordance with the National Housing Accord (NHA), Tasmania will be required to construct 26,117 well located homes over 5 years from mid-2024 (5,223 annually). To put this in comparison, the volume of housing delivered over the previous 5-year period (2019-2023) Tasmania built 16,483 homes. This is 9,634 homes short of that required. Refer Graph 1.1 below.



Graph 1.1 – Tasmania's share of 1.2 million home over 5 years starting mid 2024 compared with previous years

For this target to be achieved it is imperative a range of planning reforms are implemented that facilitate development opportunities.

This can only be achieved with genuine planning reform, in accordance with that committed to by states and territory governments to support deliver of the 1.2 million homes target:

- undertaking expedited zoning, planning and land release to deliver on the housing target.
- working with Local Governments to deliver planning and land-use reforms that will make housing supply more responsive to demand over time ensuring achievement of targets for social and affordable housing are met.

The primary objective of planning reform must be to ensure development is facilitated and provides certainty for industry; by reducing red tape, streamlining approval systems and timeframes and eliminating regulatory duplication, particularly in the form of duplicative requirements with the building approvals system.

Thank you for the opportunity to provide comment at this stage. HIA would appreciate being consulted as the life cycle of the draft Bill and the DAP itself continues.

Please do not hesitate to contact us if you wish to discuss matters raised in this correspondence – Mike Hermon HIA Executive Director - Planning & Environment 0407 684 551 / or Stuart Collins 0418 507 377 /

Yours sincerely
HOUSING INDUSTRY ASSOCIATION LIMITED

Stuart Collins
Executive Director
Tasmania

From: Steven Jakson <>
Sent: Tuesday, 12 November 2024 3:14 PM
To: yoursay.planning@dpac.tas.gov.au
Cc:

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

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

Fundamentally, centralising of power is UNDEMOCRATIC. I believe and will keep standing for myself and my community living in a democracy.

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

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

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

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

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

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

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

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

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

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

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

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

Say yes to a healthy democracy

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

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

Yours sincerely,

Steven Jakson

From: Julien Scheffer
Sent: Tuesday, 12 November 2024 3:02 PM
To: yoursay.planning@dpac.tas.gov.au
Cc:

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

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

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

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

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

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

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

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

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

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

Julien Scheffer

From: Eve Robson
Sent: Tuesday, 12 November 2024 3:03 PM
To: yoursay.planning@dpac.tas.gov.au
Cc:

Subject: DAP - Scrap it,it's undemocratic!

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Yours sincerely

Eve & Ian Robson,
