

Revised LUPAA Development Assessment Panels Bill 2025

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From: [Amanda Sully](#)
To: [State Planning Office Your Say](#)
Cc:

Subject: Stand up for our Democracy - Scrap the DAP
Date: Thursday, 24 April 2025 1:35:10 PM

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Dear Government Representatives,

I urge you to please do the right thing by Tasmanian's and uphold our basic democratic rights to have a real say over planning. It's an autocratic move by people who should have more respect and care for our beautiful island.

This new DAP legislation is barely changed and still retains major problems. It's a power grab for corporate mates and the public is not buying it.

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

- **The DAPs represent an alternate planning approval pathway allowing property developers to bypass local councils and communities.** This fast-track process will remove elected councillors from having a say on the most controversial and destructive developments affecting local communities. Handpicked state appointed planning panels, conducted by the Tasmanian Planning Commission, will decide on development applications not our elected local councillors. Local concerns will be ignored in favour of developers who may not be from Tasmania.
- **The Tasmanian Planning Commission is not independent** – DAPs are hand-picked, without detailed selection criteria and objective processes. DAPs are inconsistent with the principles of open justice as they do not hold hearings that are open to any member of the public 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.
- **DAPs will make it easier to approve large scale contentious developments** like the kunanyi/Mount Wellington cable car, high-rise in Hobart, Cambria Green and high-density subdivision like Skylands at Droughty Point and the proposed 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. The Tasmanian Civil and Administrative Tribunal (TASCAT) review of government decisions is an essential part of the rule of law and a democratic system of government based on '*checks and balances*'.
- **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 critical planning decisions such as rezoning 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.
- **Eligibility criteria are so broad and undefined that it grants the Minister extraordinary power that is arbitrary and unchecked.** The Minister can declare a development to be assessed by a DAP based on a '*perceived conflict of interest*', '*a real or perceived bias*', '*the application relates to a development that may be considered significant*'. The Planning Minister has political bias and can use this subjective criteria to intervene on virtually any development in favour of developers.
- **Poor justification** – there is no problem to fix. Only about 1% of the approximately 12,000 council planning decisions go to appeal and Tasmania's planning system is the fastest in Australia. In some years as many as 80% of appeals are resolved via mediation. 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?

Yours sincerely
Amanda Sully

From:
To: [State Planning Office Your Say](#)
Subject: Submission against proposed Development Assessment Panels (DAPs)
Date: Thursday, 24 April 2025 1:34:52 PM

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I oppose the revised Development Assessment Panels (DAPs) Legislation. It has the same flaws rejected by Parliament in November 2024 and fails to provide safeguards for the rights of the Tasmanian Community. My concerns are:

- * Skyscrapers could easily be approved in Hobart with virtually no community input.
- * The proposed DAPs would allow property developers to bypass local councils and communities.
- * They would not make decisions faster than Councils, and there is no concrete evidence to prove that the current system needs reform. In fact, the current system, in place for many years, works well.
- * Community input, at the beginning of the process, is not allowed.
- * Developments could only be appealed to the Supreme Court; a really expensive process.
- * Merit-based planning appeal rights are not maintained. They should be: on all the issues the community cares about - height, bulk, scale, appearance, impacts on streetscapes and adjoining properties (including privacy and overlooking), biodiversity, traffic, noise, smell, and light.
- * The Tasmanian Civil and Administrative Tribunal (TASCAT) review of decisions is essential for a democratic system protected by 'checks and balances'.
- * Under the legislation, Panel appointments do not have to satisfy detailed selection criteria or objective processes.
- * The proposed DAPs have the potential to increase corruption, reduce good planning outcomes, favour developers, and undermine democracy. The NSW Independent Commission Against Corruption has recommended the expansion of merit-based planning appeals as a deterrent to corruption.

I request that this Legislation be rejected.

My name: Andrea Roberts

My email:

My additional comments:: Visitors visit Hobart because we are unique. Why spoil what we have and become just another city.

From: [Peter Morton](#)
To: [State Planning Office Your Say](#)
Cc:

Subject: DAP legislation 2025
Date: Thursday, 24 April 2025 5:00:09 PM

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DAP submission 24apr25

To:
haveyoursay@stateplanning.tas.gov.au

Speaking from stark personal experience, West Tamar is not a free market economy for property developers. Vested interest groups have gotten their hooks into the West Tamar Council to block development applications. Free market economy such as a DAP will support, would build a meritocracy. Currently school kids there have no incentive to study hard or stay informed and instead apply themselves to “hanging” with the feral groups in their schools.

Limiting appeal rights is important for stopping vexatious litigators who can otherwise stymie development projects for no good reason.

A fairer system such as the DAP provides, will lessen ugly conflict. Ne'er do well folk will move on to somewhere else that suits their evil skills better. Good riddance to them.

Tasmania needs the DAP and in the upcoming tougher World economy and will survive better from the economic benefits that the DAP will bring.

Please support the DAP with your vote in state parliament.

Sincerely,
Peter

From: [karen.dedenczuk](#)
To: [State Planning Office Your Say](#)
Cc:

Subject: Development Assessment Panel 2025 Submission please
Date: Thursday, 24 April 2025 4:47:12 PM

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<https://aka.ms/LearnAboutSenderIdentification>]

Dear Members of Parliament,

I am a valued member of my Tasmanian community having been born here, travelled widely with work and come home to realise how really beautiful and special it is.

I am now shocked to see that the failed 2024 DAP legislation is on our tables again. This legislation was overwhelmingly opposed in recent times including by Tasmanian Councils themselves..

The reasons it was opposed are still the same today. That Government ministerial power must not be responsible for assessing developments in our community. Traditionally Councils have taken this independent role for the obvious benefits. They are not politicised and advertise developments via a public process which receives input as to whether that development is suitable for its community.

We have a very beautiful Tasmania and we must be super cautious to analyse potential developments as to whether they fit with the landscape, cultural and social values of our State. Traditionally Council have given good time to the community to think and submit about these aligned values. A politicised body like DAP's will change with the different Governments that rule Tasmania into the future and can be subject to some very heavy pressure from outside sources to let developments go ahead. How can the community know and express their opinions in this process? I believe this process must be independent of Government.

DAPs are inconsistent with the principles of open justice as they do not hold hearings that are open to any member of the public 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.

Impacts on biodiversity; height, bulk, scale or appearance of buildings; impacts to street scapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and so much more. The Tasmanian Civil and Administrative Tribunal (TASCAT) review of government decisions is an essential part of the rule of law and a democratic system of government based on 'checks and balances'. Removing 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.

I believe DAP's will make it much much 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 proposed UTAS Sandy Bay campus redevelopment.

In other States as for example, NSW- their 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.

Eligibility criteria are so broad and undefined that it grants the Minister extraordinary power that is arbitrary and unchecked. The Minister can declare a development to be assessed by a DAP based on a 'perceived conflict of interest', 'a real or perceived bias', 'the application relates to a development that may be considered significant'. The Planning Minister may political bias and can use this subjective criteria to intervene on virtually any development in favour of developers.

Only about 1% of the approximately 12,000 council planning decisions go to appeal and Tasmania's planning system is the fastest in Australia. In some years as many as 80% of appeals are resolved via mediation. Why change something that is working so well?

It is some peoples opinion that the Government wants to falsely blame the planning system for stopping housing developments to cover its lack of performance in addressing the affordable housing shortage. I don't know.

The Tasmanian Planning Commission will be able to issue guidelines to assist with applying the eligibility criteria, but this makes no difference as the Minister only needs to 'consider' them.

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

I dont know why this 2025 minimally changed legislation is standing up again as it is not significantly changed from 2024 when it was rejected. What a waste of taxpayers money. The changes made to the DAPs legislation that was refused by the Parliament in November 2024 are not significant and all the key flaws remain. The changes made do not have any significant practical impact.

I call on you to please stand up for the beauty and specialness of Tasmania. We the people want transparency, independence, accountability and public participation in decision-making within the planning system.

Please reject the need for more legislative thinking on this matter. Tasmania has decided.
Please stand up for us.

Yours sincerely,
Karen Dedenczuk

Hi,

I'm writing regarding the Development Assessment Panels (DAPs) that the government tried to bring in back in 2024 (but was solidly voted down), and their very lightly amended second version which, while appearing to make some changes, has no impact on the government's overall aim of taking the planning process away from local government when ever they see fit.

Coming from Sydney, and working in the building industry, I know that state government's claim of a crisis in planning is way overblown. For while not perfect, it is much simpler and faster than what is being experienced in Sydney..... and yet they have had design review panels in operation for years.

From my experience, I see the positive aspect of having such panels as being as being:

i) getting experienced and well qualified people involved in judging the merits of proposed changes and additions to our built environment.

And I see the negatives as being:

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

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

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

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

Sincerely,

Dal Andrews



Environmental
Defenders Office

**Submission on the draft Land Use Planning and
Approvals Amendment (Development Assessment
Panels) Bill 2025**

24 April 2025

About EDO

EDO is a community legal centre specialising in public interest environmental law. We help people who want to protect the environment through law. Our reputation is built on:

Successful environmental outcomes using the law. With over 30 years' experience in environmental law, EDO has a proven track record in achieving positive environmental outcomes for the community.

Broad environmental expertise. EDO is the acknowledged expert when it comes to the law and how it applies to the environment. We help the community to solve environmental issues by providing legal and scientific advice, community legal education and proposals for better laws.

Independent and accessible services. As a non-government and not-for-profit legal centre, our services are provided without fear or favour. Anyone can contact us to get free initial legal advice about an environmental problem, with many of our services targeted at rural and regional communities.

www.edo.org.au

Submitted to:

State Planning Office

By email only: haveyoursay@stateplanning.tas.gov.au

For further information on this submission, please contact:

James Johnson
Special Counsel

Rachael Chick
Senior Solicitor

Acknowledgement of Country

The EDO recognises and pays respect to the First Nations peoples of the lands, seas and rivers of Australia. We pay our respects to the First Nations Elders past, present and emerging, and aspire to learn from traditional knowledges and customs that exist from and within First Laws so that together, we can protect our environment and First Nations cultural heritage through both First and Western laws. We recognise that First Nations Countries were never ceded and express our remorse for the injustices and inequities that have been and continue to be endured by the First Nations of Australia and the Torres Strait Islands since the beginning of colonisation.

EDO recognises self-determination as a person's right to freely determine their own political status and freely pursue their economic, social and cultural development. EDO respects all First Nations' right to be self-determined, which extends to recognising the many different First Nations within Australia and the Torres Strait Islands, as well as the multitude of languages, cultures, protocols and First Laws.

First Laws are the laws that existed prior to colonisation and continue to exist today within all First Nations. It refers to the learning and transmission of customs, traditions, kinship and heritage. First Laws are a way of living and interacting with Country that balances human needs and environmental needs to ensure the environment and ecosystems that nurture, support, and sustain human life are also nurtured, supported, and sustained. Country is sacred and spiritual, with culture, First Laws, spirituality, social obligations and kinship all stemming from relationships to and with the land.

Introduction

Environmental Defenders Office is a community legal centre specialising in public interest environmental law. We welcome the opportunity to provide feedback on the draft Land Use Planning and Approvals Amendment (Development Assessment Panels) Bill 2025 (**Draft Bill**). EDO has a long history of providing legal advice on environment, planning and development matters in Tasmania, including the planning framework established by the *Land Use Planning and Approvals Act 1993* (**LUPA Act**).

EDO also provided feedback on the previous iteration of this proposal, the draft Land Use Planning and Approvals Amendment (Development Assessment Panels) Bill 2024 (**draft 2024 Bill**).

Although some of the concerns EDO had with the draft 2024 Bill have been addressed by the Draft Bill, we remain concerned that the Draft Bill creates a framework for planning decisions made, if the proponent chooses, by an Assessment Panel that removes community rights to seek review of decisions while expanding the scope for proponents, without appropriate environmental and public interest safeguards or sufficient transparency and accountability measures. We are concerned that the policy intent of the proposed framework, as explained in the *Background Report for Consultation* (**Report for Consultation**),¹ “to take the politics out of planning” is not given effect by the Draft Bill and that, to the contrary, the Draft Bill’s proposed amendments to the LUPA Act provide more scope for political involvement in planning decisions. As drafted, we do not support the Draft Bill.

Specific key issues are outlined below, and relate to:

- Applicant initiated, subjective and undefined criteria for referral of a project to an Assessment Panel;
- Removal of third party merits review rights for projects approved by way of an Assessment Panel;
- Inappropriate Ministerial review at the applicant’s request of decisions of planning authorities not to amend a Local Provisions Schedule;
- Inadequate public exhibition and hearing timeframes; and
- Insufficient transparency and accountability.

As drafted, we **do not support** the Draft Bill.

The Draft Bill provides for new Assessment Panel pathway by which certain permit applications may be assessed

The Draft Bill proposes a new pathway (through a new Part 4, Division 2AA of the LUPA Act) under which certain applications for permits may be assessed and determined by way of Assessment Panel.

The proposed new Division, at s 60AC, provides that a person (being the applicant for the discretionary permit, or the relevant planning authority with the consent of the applicant) may apply to the Tasmanian Planning Commission (**Commission**) for an application for a discretionary permit to be determined by an Assessment Panel if the application:

- relates to social or affordable housing; or

¹ https://www.stateplanning.tas.gov.au/data/assets/pdf_file/0004/565474/DAP-2025-Background-Report-for-Consultation.pdf

- exceeds certain development values; or
- the council is both parties in relation to the application and the development value exceeds a prescribed amount; or
- falls within a class of applications prescribed for the purpose of the section.

If certain criteria are met, the Commission must establish an Assessment Panel in respect of the application.

Proposed s 60AD provides that a party to an application for a discretionary permit (that is, the applicant or the relevant planning authority) may request that the Minister direct the Commission to establish an Assessment Panel in respect of the application if:

- the application relates to a development that includes social or affordable housing, or a subdivision that includes social or affordable housing, for persons who may otherwise be unable to access suitable accommodation in the private rental or property market; or
- the application relates to a development that may be considered significant, or important, to the area in which the development is to be located or the State; or
- either party to the application believes that the relevant planning authority does not have the technical expertise to assess the application; or
- the relevant planning authority may have, in respect of the proponent or development a conflict of interest or a perceived conflict of interest; or a real or perceived bias, whether for or against the proponent or development; or
- the application falls within a class of applications prescribed for the purpose of the section.

The Minister may refer an application for a discretionary permit to the Commission for consideration and determination by an Assessment Panel if, in the opinion of the Minister the application meets one or more of the requirements above and the application is not an application to which section 25 of the *Environmental Management and Pollution Control Act 1994* applies, and following consultation with the Department. The Minister may refuse to refer an application for a discretionary permit to the Commission for any reason.

The Commission may return the application if the application does not meet the requirements or if it is an application to which section 25 of the *Environmental Management and Pollution Control Act 1994* relates; or may establish an Assessment Panel in respect of the application. We note that the drafting of this subsection is slightly ambiguous and it is not clear whether or not the Commission has the discretion to do neither of the matters set out at s 60AD(7)(a) or (b), or if the Commission is required to do one or the other (in which case the word “may” in the chapeau at (7) should be reconsidered).

Assessment Panel pathway is discretionary, and largely at the choice of the applicant

Both proposed ss 60AC and 60AD provide pathways where an applicant may choose to have the application for discretionary permit considered by Assessment Panel, either directly by the Commission (s 60AC) or indirectly by making a request to the Minister (s 60AD).

EDO is concerned that, as with the draft 2024 Bill, the proposed Division essentially allows an applicant to choose the pathway it believes to be more advantageous to itself. If an applicant believes the relevant planning authority will provide an unfavourable decision, it can apply to the Commission

(where it falls within the matters set out a proposed s 60AC(1)) or the Minister (where the criteria are much more open to interpretation, as discussed below) to have the application determined by an Assessment Panel.

There is no requirement for an application to be submitted for determination by an Assessment Panel, even where the application falls within the criteria set out at s 60AC(1)- it can still proceed under the usual pathway and be determined by the relevant planning authority.

Elective, subjective and undefined criteria for Ministerial referral of a project to an Assessment Panel

The criteria set out for applications that may be requested by an applicant and directed by the Minister to be heard by an Assessment Panel remain subjective and undefined, notwithstanding the removal of the “controversial” criterion that was proposed in the draft 2024 Bill. For example, the criterion set out at proposed s 60AD(1)(b) for “a development that may be considered significant, or important” could mean many things to many people, and the phrasing “that may be considered” renders the criteria even more vague and nebulous. Similarly, at s 60AD(1)(c), that “either party to the application believes that the relevant planning authority does not have the technical expertise to assess the application” is entirely subjective, based on the belief of the applicant or the relevant planning authority (rather than an objective circumstance).

We are concerned that, through this, the Minister is given extremely broad discretion to refer essentially any project the applicant or the Minister sees fit to an Assessment Panel (and, amongst other things, thus removing merits appeal rights, as discussed below). This effectively allows an applicant to choose the development pathway it thinks will offer least resistance, and to lobby the Minister about it.

This is counter to the rationale provided by the Government for the Draft Bill and for the creation of Assessment Panels, which is to take the politics out of decisions.

The new requirement at proposed s 60AD(4) for the Minister to consider guidelines before deciding to refer does not ameliorate this issue because it does not require the Minister to comply with the guidelines (and there is no information yet about what the guidelines should contain or will say).

We note that it is unclear whether proposed s 60AD(4), as drafted, limits the Minister’s referral of applications to the Commission to circumstances where requested by a party under section 60AD(1), or whether the Minister is able to exercise this power on his/her own initiative. The drafting of this section should be clarified to reflect the policy intent. The latter interpretation raises concerns regarding the Minister’s broad discretion to intervene.

As drafted, these provisions are open to abuse by applicants and are unlikely to lead to ‘unpoliticised’ decisions as intended.

Recommendation: Criteria for determination by Assessment Panel must be objective and mandatory, not at the discretion of the applicant or Minister.

Removal of third party merits review rights for projects approved by an Assessment Panel will reduce decision quality, community input and remove independent oversight

The Draft Bill provides that, where a planning authority issues a permit at the direction of an Assessment Panel, there is no right of merits appeal for the permit (proposed s 60AO(1)(d)).

Currently, s 61 of the LUPA Act provides that certain third parties (including those who made representations of a proposal under s 57 of the LUPA Act) may appeal a decision on its merits to TasCAT.

Third party merits review is an important accountability and anti-corruption mechanism that improves decision making, including by improved conditions, and fosters community confidence in a decision-making framework. These provisions have been working effectively for decades under the LUPA Act and no evidence has been provided to substantiate any need for their amendment or removal.

In our view, decisions made by an Assessment Panel should be subject to third party merits review.

The proposed hearing processes for Assessment Panels at proposed s 60AI do not provide the requisite level of independence, oversight, or scrutiny to displace the need for third party merits review to be available.

Recommendation: Third party merits review must be available to the community with respect to decisions determined by an Assessment Panel.

No process or criteria is provided in the Draft Bill for the establishment of an Assessment Panel

There remains no real process or criteria for the establishment of an Assessment Panel under the Draft Bill, as with the draft 2024 Bill.

We note that the term ‘Development Assessment Panel’ is used generally when referring to the proposed new framework, but the term ‘Assessment Panel’ is adopted in the draft legislative provisions.

The term ‘Assessment Panel’ is defined in the Draft Bill (at proposed s 60AA) as:

Assessment Panel, in relation to an application under this Division, means the Development Assessment Panel that –

- (a) is constituted in accordance with section 60AB; and
- (b) is established, in respect of the application, by the Commission under section 60AE;

Proposed sections 60AB and 60AE simply state that the Commission is to establish an Assessment Panel to undertake an assessment of applications made under the new Part 4, Division 2AA, but are otherwise silent as to process for establishing the panel, appointment and expertise of the panel, remuneration and functions of the panel.

Incongruously, although no provision is made for the qualifications or expertise of members of an Assessment Panel generally, if the Commission “(a) is of the opinion that the scale, specialist nature or complexity of the development to which the application relates requires the Assessment Panel to include persons with particular qualifications or experience to assist in the assessment of the application; and (b) the Commission is satisfied, on reasonable grounds, that more than 3 persons are required as members of the Assessment Panel to ensure that the Assessment Panel has those qualifications and experience” (proposed s 60AB(2)). Although an inference could be drawn that there

is therefore some degree of requisite experience or qualifications required for an Assessment Panel generally, this is not explicitly stated, let alone parameters placed around appointments to Assessment Panels (including with respect to real or perceived conflicts of interest).

This is concerning as it would put assessment and decision-making into the hands of unknown persons at the unfettered discretion of the Commission.

This is in contrast to Development Assessment Panels constituted under Div 2A (especially s 60V) of the LUPA Act for major projects, which sets out criteria for Development Assessment Panels. If the policy intent is that the procedure for establishing Development Assessment Panels under Division 2A should apply to Assessment Panels for the purposes of proposed Division 2AA, this needs to be made explicit.

The Report on Consultation for the draft 2024 Bill, when considering similar concerns by stakeholders, drew analogies to processes for establishing the Commission under the *Tasmanian Planning Commission Act 1997 (TPC Act)* and the provisions on the LUPA Act for the establishment of Development Assessment Panels for major project applications (see Part 4, Division 2A, Subdivision 6 of the LUPA Act). Based on the Report on Consultation, we understand that the policy intent is for Assessment Panels established under new Part 4, Division 2AA to be established under a similar process. This must be clearly reflected by explicit provisions to this effect in the Draft Bill. It is important that decisions be made by independent experts, if such panels are to be created.

Recommendation: The procedure for establishment of Assessment Panels must be set out explicitly in the legislation, as is the case for Development Assessment Panels under Part 4, Division 2A of the LUPA Act and the Commission under the TPC Act.

Inappropriate Ministerial review at the applicant's request of decisions of planning authorities not to amend a Local Provisions Schedule

The Draft Bill provides at proposed s 40BA that an applicant who has applied to amend a Local Provisions Schedule and whose application has been refused by the planning authority on reconsideration under s 40B(6) can apply to the Minister for a review of that decision.

On review of the decision, the Minister may decide to direct the planning authority to prepare a draft amendment to the Local Provisions Schedule (that is, to overturn the decision of the planning authority and direct it to take the action it had refused to do). The Minister may only do this if, in the opinion of the Minister, the draft amendment meets the LPS criteria.

We oppose this amendment. In our view it is an inappropriate politicisation of the planning scheme by allowing the Minister to become directly involved at the request of a proponent.

Again, this is counter to the stated intent of the introduction of Assessment Panels and of the Draft Bill, which the Report for Consultation states is “‘to take the politics out of planning’ by providing an alternate approval pathway for more complex or contentious development applications.”²

Recommendation: The proposed provision for Ministerial review of decisions by planning authorities not to amend a local provisions schedule should be removed from the Draft Bill.

² See Report for Consultation, p 3.

Inadequate public exhibition and hearing timeframes

We are concerned that the public exhibition process and hearing timeframes provided in the Draft Bill do not allow for genuine community engagement on proposed applications. In particular, we are concerned that:

- A draft permit will be exhibited as part of the public consultation process (see section 60AH(1)(d)(v)). This pre-empts the proper identification and consideration of key issues during the public consultation process, and undermines the integrity of the process.
- The public exhibition process also occurs after a reviewing entity has considered an application, preventing the reviewing entity from having an opportunity to consider and respond to any concerns raised by stakeholders. While it may be useful for public stakeholders to consider the views of reviewing entities during the public consultation period, the process must also provide those reviewing entities an opportunity to respond to any additional concerns raised during the public consultation period.
- A 14 day public consultation period, as provided by proposed section 60AH(3)(d)(v) is inadequate and will not allow for genuine public participation. This is particularly the case given the stated policy intent for Assessment Panels to be for “for more complex or contentious development applications.” A 14 day consultation period does not reflect genuine public consultation and hearing of objections. Consultation takes up the time and resources of community members and is often done without financial incentive or support. Short time periods do not allow for stakeholders to engage with the key issues, seek feedback from members (e.g. in the case of peak or community organisations), or seek expert advice. Longer time periods should be implemented to allow for genuine engagement with stakeholders.
- Similarly, short timeframes for public hearings risk undermining identification of key issues, consideration of evidence and procedural fairness. The Draft Bill provides (at proposed sections 60AH(1)(d)(vi) and 60AI(3)) for hearings within 10 days after the close of the exhibition period, and requires the hearing to be completed within 28 days after the close of the exhibition period. Such short timeframes for the commencement and completion of hearings, do not afford procedural fairness to affected communities, and does not meet the very genuine need for a separate and independent avenue for review. The need for external expertise might only become apparent following the exhibition period. If external expertise is required to determine the application, how is it reasonably possible for this expert to be found, engaged and briefed, let alone for an opinion to be provided, in the time periods mandated in the Bill?

Transparency and accountability

As in the case for all environment and planning decisions, transparency and accountability are crucial to maintain integrity in decision-making.

Overall, in our view, the Draft Bill undermines transparency and accountability measures, through (as discussed above) its proposed removal of third party merits review rights, provision for substantial and highly discretionary Ministerial intervention in a range of matters, insufficient legislative parameters on the establishment of Assessment Panels and the performance of their functions, and cursory provision for community participation.

In addition to the discussion and recommendations above, to provide a measure of transparency and accountability, the Draft Bill, if it is to proceed (noting that it is our view that the Draft Bill should not proceed), should be amended to require decision-makers to provide reasons for decisions under the new Part 4, Division 2AA, including, for example, reasons for referring applications to the Commission for assessment by an Assessment Panel.

From: [Hugh](#)
To: [State Planning Office Your Say](#)
Subject: FW: SUBMISSION TO TASMANIAN GOVERNMENT ON PROPOSED BILL TO CHANGE PLANNING LAWS.
Date: Thursday, 24 April 2025 5:02:10 PM
Attachments: [SUBMISSION RE 2025 PLANNING BILL.docx](#)

You don't often get email from [State Planning Office Your Say](#). [Learn why this is important](#)

I support Mr Willis's submission

Hugh Sarjeant

24 April 2025

TO: <https://planningmatterstas.org.au/take-action-daps/>

SUBMISSION TO TASMANIAN GOVERNMENT ON PROPOSED BILL TO CHANGE PLANNING LAWS.

TO WHOM IT MAY CONCERN.

INTRODUCTION:

I write with respect to a proposed Bill to change planning laws which will result in local councils, in essence, being removed from planning decisions for their own communities. I am against the proposed changes for reasons which follow in this paper. The list of reasons is not exhaustive; there will be other reasons, but they will not be published here.

CREATION OF DEVELOPMENT ASSESSMENT PANELS:

The proposed Bill will allow for the creation of Development Assessment Panels (DAPs) whose members will be based in Hobart and Launceston. The DAPs will take powers away from local councils and the community when it comes to certain planning matters.

REASONS AGAINST THE PROPOSED CHANGES:

Timing of deadline for submissions:

The deadline for submissions was set on the last working day of the week between the Easter holiday break and Anzac Day. While the consultation period for this revised Bill was probably long enough the fact that the deadline set is between holiday periods in April makes one wonder whether there were some sinister reasonings by the government in setting this date. I can assure any readers that the timing of the deadline has made it difficult to assist other members of the community with responses.

Speed of process:

A similar Bill was defeated in the Parliament last year. It seems to me that there has been an inordinate haste by the government to re-introduce a mechanism to change planning laws. I wonder why. The government does not seem to approach other legislation with such speed.

Interpretation of submissions:

In its paper, Report on Consultation, whose author is the State Planning Officer, on the second page of the report it is written "Of the 542 submissions received approximately 80 percent of them were generated from 2 pro-forma submission templates that were then forwarded to the SPO (State Planning Office) by individual submitters" in reference to submissions for the 2024 Bill. I note this sort of comment is often made in reports on submissions presented to the government. It is almost as if the authors of the reports are saying that because many submissions have been based on templates

setting out a particular point of view promulgated by an interested party then the value or strength of the submissions should be discounted. I am sure readers of these submissions would not form that opinion, but the frequency of the comments does lead one to wonder. I prefer to interpret the reason for submitters using templates as a basis is that for many submitters the issues are complex and numerous and it is easier to prepare submissions in that manner. Their opinion on the issue at hand does not diminish because they have based their submission on a template.

Unpublished proposed Bills:

It is my understanding that the government has two unpublished draft Bills relating to planning changes; these Bills have not yet been released to the public. One Bill will remove the community's right to be involved in planning appeals. It looks as if appeals will only be able to be made by people who are directly and adversely affected by a planning decision. The other Bill will relate to developments on Reserved and Crown Land including Parks and World Heritage Areas.

One of criticisms of governments (local, state and federal) is that there is too much kept away from the public. It seems to me that the unpublished Bills is a case in point. The government is proceeding at a fast rate to re-introduce a Bill dismissed by Parliament while not telling the community its full plans while it has other Bills in the pipe-line.

Local knowledge:

It is my contention that the current situation where locally elected councillors make local planning decisions should remain. I appreciate that Planning is a difficult matter for councillors to come to grips with, but the individual councillors know more about their community than bodies housed in Hobart or Launceston and should be the ones to make decisions. Local councillors know what is right for their communities as regards culture, environment and other matters. They have been elected by the community to represent their views. It is accepted that councillors must act in accordance with the planning laws, but they also have to take into account the views of the community when it comes to interpreting planning matters. Members of the proposed DAPs will not have the local knowledge and will not be able to consider communities' points of view when dealing with planning matters.

Local circumstances:

The Furneaux Group, where I was born seventy-five years ago and continue to live, has special characteristics, especially among the over 80 outlying islands. It would be easier for developers, under the regime proposed to introduce DAPs, to secure consents to construct inappropriate structures on these islands. Might I add that most residents of local councils can identify points of interest in their own council area. All councils have different points of interest and their residents vigorously protect those places. That will not happen with Development Assessment Panels staffed by external individuals.

Previous objection:

The Local Government Association of Tasmania (LGAT) and the 29 local councils of Tasmania unanimously opposed the Bill which was put to the Parliament in 2024. While there have been some changes in this current proposed Bill, it is hard to see that there have been enough changes to make a significantly large difference that LGAT and the councils will change their minds to support the current Bill.

Appointment of members to DAPs:

The appointment of members to DAPs is a concern. While it is proposed to set parameters for appointing members, the interpretation of those parameters means that there is leeway in appointing members. There will be the ability of the government of the day to appoint substitute members to DAPs to replace members who are unable to act. That ability does not seem to have any controls.

Appeals by community members:

Community members will only be able to appeal developments to the Supreme Court on a limited range of matters and which is a costly process. That is, only matters of law. Community members are being cut out of the planning process as they will be unable to appeal developments to the Planning Tribunal (Tasmanian Civil and Administrative Tribunal) on planning grounds. This means that all 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 will be unable to be raised.

Conclusion:

That concludes my submission on the proposed Planning Bill to create Development Assessment Panels. As written above, I am against the Bill. I would be willing to discuss this matter with anyone who is interested.

Yours faithfully

Gerald Willis

Telephone;



Helen Burnet MP

Greens Member for Clark

Tuesday, 29 April 2025

State Planning Office
Department of State Growth
GPO Box 536
Hobart TAS 7001
Via: haveyoursay@stateplanning.tas.gov.au

To whom it may concern,

The Greens welcome the opportunity to provide feedback on the revised Land Use Planning and Approvals (Development Assessment Panel) Bill 2025.

Alongside many others, the Greens prepared a submission in November 2024 urging the government to abandon its first iteration of the draft DAP bill.

Our key concerns were:

- 1) The justification for DAPs is flimsy at best – evidence suggests that Tasmania’s approach to planning through local governments as planning authorities is actually working - with less than 1 percent of applications being refused
- 2) The categories identified for referral to DAPs are ill-described and inadequate – no definition is provided for social and ‘affordable’ housing, and low threshold costs for both general and council applications leave them vulnerable to manipulation from developers
- 3) The legislation provides opportunity for ministerial overreach – this could lead to abuse of power and would undermine democratic processes

The Greens’ position has not changed – we oppose this most recent DAPs bill and urge the government to reconsider its position.

Lack of intent to listen

What is most staggering about the immediate review of the proposed legislation was the government’s lack of intent to listen to the clear public opposition and ultimately parliamentary rejection. Previously, of the submissions, there was 95%

opposition for the DAP framework and position paper in 2023 and 92% opposition for the first iteration of the DAP bill in 2024. Yet again, hundreds of submissions have been written, from people across Tasmania who are opposing these proposed changes to Tasmania's planning system. Will these concerns be ignored yet again?

Undermining expert knowledge

Submissions for both the 2023 and 2024 rounds of feedback came from a range of stakeholders – local councils, planners, community groups, organisations, and individuals. With such a diverse range of expert knowledge, it is disappointing that the government has chosen to ignore this feedback.

Local governments and communities have expert and nuanced knowledge about the planning process, and are best placed to provide feedback on this matter. The government's lack of consideration for their views demonstrates their arrogance and lack of willingness to listen.

Conclusion

The Greens' position is clear – as with our 2024 submission, we again reject the introduction of DAPs. We stand united with the community's strong opposition.

Despite the government's assertions that there are blocks in planning, less than 1 percent of planning applications are refused, and 80% of those that are appealed through TasCAT are mediated. Tasmania also has one of the fastest, if not the fastest, planning systems in the country, a fact acknowledged by the DAP Framework Position Paper itself.

Instead of inserting politics into planning, the government could consider other ways of ensuring social housing and more inner-city development opportunities, pathways to improve the application process, underpinned by clear strategic planning objectives.

We urge the government to abandon re-introducing the bill.

Yours sincerely,

Helen Burnet MP

Greens Planning spokesperson
Member for Clark

24th April 2025

State Planning Office
Department of Premier and Cabinet
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Website: www.tmeccom.au

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

Dear Sir or Madam,

**RE: Land Use Planning and Approvals Amendment (Development Assessment Panels)
Amendment Bill 2025 – April 2025**

Thank you for extending an invitation to the Tasmanian Minerals, Manufacturing and Energy Council (TMEC) to contribute to consultation on the *Land Use Planning and Approvals (Development Assessment Panels) Amendment Bill 2025*.

TMEC has focused this submission on the two key points.

1. Establishing a credible and reliable timeframe for all parties to comply with.
2. A trusted and balanced process which demonstrates all relevant perspectives have the opportunity to inform the Panel of their views.

About TMEC

TMEC's membership base represents an important wealth creating sector within the Tasmanian economy. The combined minerals and manufacturing sector employs 18,484 people and contributed \$2.795B in exports in the 22/23 FY. Most of our members are based in regional areas of Tasmania and therefore provide critical employment opportunities away from public funded employers.

Comments on Bill

Ensuring Ministerial oversight as noted in 40BA is welcomed and TMEC would not support this being removed and or have the Ministers ability to seek a review diminished.

TMEC notes Clauses 60AC (3) and 60AC (4) excludes applications to which section 25 of the Environmental Management and Pollution Control Act 1994 applies.

The latest amendment has increased the threshold value of a project deemed within scope for a DAP, therefore, this amendment is limited in which entities represented in this sector would qualify. It is potentially applicable to only manufacturers who do not exceed the metal melting limits listed in Schedule 2 of EMPCA 1994.

While noting the exclusion of Level 2 Activities as commented above, TMEC continues to be concerned with the current state of the Planning Approvals process and its interplay with other legislation (LUPAA)

which is adding both time and costs and ultimately prolonging the approvals process. TMEC remains committed to promoting changes to address this barrier.

As a principle TMEC supports the confirmation of approvals time frames. This provide certainty and predictability which is essential for Tasmania to establish a reputation as an attractive location to invest in.

The inclusion of 60AK – Frivolous or vexatious representations is a vital defence against parties who seek to frustrate legal processes with unsubstantiated claims.

For the community to have confidence in the integrity of the DAP, a mechanism for dissenting views to be heard still needs to happen. Balancing the views of opponents being heard but frivolous or vexatious representations being dismissed needs to be well considered.

TMEC appreciates the opportunity to provide comment in relation to the Land Use Planning and Approvals (Development Assessment Panels) Amendment Bill 2025.

Please do not hesitate to contact me should you require further clarification.

Yours sincerely,



Ray Mostogl
Chief Executive Officer

**SUBMISSION ON THE *LAND USE PLANNING AND APPROVALS AMENDMENT*
(*DEVELOPMENT ASSESSMENT PANELS*) DRAFT BILL 2025**

I am happy for this submission to be made public and for my name to be included.

In making my submission, I understand that:

- I may be contacted by in relation to my submission.
- My name will be part of my submission if published or referenced in its reports.

Signed: Amalea Smolcic

Date: 24th April, 2025

All that glisters is not gold,
Often have you heard that told.
Many a man his life hath sold
But my outside to behold.
Gilded tombs do worms infold.
Had you been as wise as bold,
Young in limbs, in judgment old,
Your answer had not been inscroll'd,
Fare you well, your suit is cold.

– William Shakespeare, Merchant of Venice, Act II Scene 7

Vermiculation, or the pattern a worm makes as they wind their way through the earth, is used by stone masons as a particular form of rustication (the texture applied to stone), and a demonstration of their skill. It is time and labour intensive and afforded to only the grandest buildings – cheaper imitations are obvious, and it is impossible to authentically replicate this process. There are few buildings in Hobart with vermiculated stone, and in many years from now, even these will disintegrate and return to the earth, once again becoming food for worms.

Crafting legislation, like masonry, is also time and labour intensive – however it forms something less tangible than stone. When acts such as the (LUPA) Land Use Planning and Approvals Act 1993¹ are amended, it is essential that changes are for the betterment of society, not mere appearances. Environmental damage for the sake of progress and aesthetic value is not real progress – it is a glistening golden casket, beautiful - but empty. The benefits of having accessible avenues for review and consultation mean that the consequences of change can be more intricately examined. Merits review is an essential component of the justice system, and the proposed (DAP) Development Assessment Panel Bill 2025² takes it away. This takes away the opportunity to fully consider future environmental consequences, which must be avoided.

It is therefore essential that any amendments to the Act are made with the intention of strengthening these vital avenues for review and environmental protection.

¹

² **DAP amendment bill:**

https://www.stateplanning.tas.gov.au/_data/assets/pdf_file/0004/566239/Draft-Land-Use-Planning-and-Approvals-Amendment-Development-Assessment-Panel-Bill-2025.PDF

The following suggestions for various sections are made in the interest of increasing equality and fairness, and ensuring that changes strengthen, and do not diminish legislation.

1. SELECTION/ESTABLISHMENT

60AB(2)(a):

An “opinion” is not a suitably clear guideline for selecting a panel.

60AB(2)(b):

Definitions of what constitutes “reasonable grounds” and “qualifications and experience” need to be provided in the act.

60AB(4):

In the interests of equality and fairness, a panel should ensure that all positions are suitably filled according to the guidelines put forward by the Tasmanian Government to ensure the fair representation of women.³ In order to avoid unintended bias Assessment Panels must ensure that if there are absences or vacancies these must not cause discrimination and undermine the diversity of the panel selection.

2. RULES

60AC(1)(a):

A blanketed discretionary permit should not apply. Social and affordable housing should have more accountability to the public and opportunities for review, and therefore these types of applications should not be included.

60AC(1)(b):

Rules in regard to the threshold amount of money for which discretionary permits may be obtained are contradicted by the following phrase “*or such other amount as may be prescribed*” which has been added following each value threshold.

60AC(2):

³ *Equal Means Equal*, Tasmanian Women’s Strategy 2022-2027, Community Partnerships and Priorities - Department of Premier and Cabinet.
https://www.women.tas.gov.au/__data/assets/pdf_file/0028/257185/0285-Tasmanian-Womens-Strategy-2022-2027_PAG_WCAG.pdf

All following subsections in outlining who may make an application are therefore able to circumvent threshold value requirements, and this provides no adequate guidelines for who may be able to obtain a discretionary permit.

60AC(3):

Applications that trigger s25 of the *Environmental Management and Pollution Control Act 1995* can also be bypassed. This is due to the following subsection:

60AC(4):

This states that the Commission “*may*” seek further information regarding s25 of the *Environmental Management and Pollution Control Act 1995*. If there is any doubt, the Commission **must** seek clarification, to ensure compliance and avoid issues of confusion and potential violations.

60AD(1)(b):

The phrase “significant, or important” is too vague to provide adequate guidelines about what power the Minister has to refer applications, and needs to be defined.

60AD(1)(d):

The need for this subsection would be better cured by making declarations of potential conflicts of interest mandatory. The “*real or perceived bias*” is also in need of further definition. No person exists without a level of bias, and it is the duty of a panel to be aware of their personal biases, and do all that they can to make fair decisions despite them. This task would be made easier for panels with clearer rules about the decision making process. Furthermore, this emphasises the need for selection of panels to have better criteria for establishing diversity.

60AD(2):

Statements made by applicants requesting a discretionary permit on the basis of a “*perceived bias*” do not have to provide any tangible evidence of there being an actual disadvantage to them. Again, this would be better cured by making declarations about potential conflicts of interest mandatory, and providing explicit guidelines.

60AD(4):

The phrase “*in the opinion of the Minister*” is too vague to provide appropriate boundaries and requirements for referral.

60AD(6):

Allowing the Minister to refuse an application for “*any reason*” is insufficient. Specific reasons and explanations must be outlined for the refusal of applications.

60AE(1):

Establishment on “*Reasonable Grounds*” must be clearly defined, with clear criteria.

60AG(2):

Planning authorities should be able to request any and all information necessary to do their job, and they should have a reasonable expectation that this information will be provided to them. The environment *must* be considered in all applications, and there should be specific criteria for doing so.

60AG(3):

If the panel “*believe*” something is not relevant and deny a request for information from a reviewing entity, all information requests can be denied based on subjective belief. This is not an adequate reason for denying information.

60AH(5):

Changing the time and date of hearings must not disadvantage those who have been planning to attend.

60AI(4):

Referral to mediation and other resolution processes must have a clearly defined process. The panel’s consideration of what may be “*appropriate*” needs to be based on transparent rules and guidelines, not only to make the process simpler for them, but also for others.

60AK:

Dismissal of an application based on “*frivolous or vexatious representation*” are not appropriate words to use as reasons for dismissing representations during the exhibition period. It is not the duty of the public to completely control their emotion, and it is a very broad definition that can unfairly restrict public input.

The public should not be expected to hold themselves to a higher standard than that of what a reasonable Minister is expected to do – for instance, before being asked to remove themselves from the floor of Parliament, the speaker will generally give a Minister multiple chances to correct their behaviour - it is therefore unreasonable not to afford the same grace and opportunity to the public.

3. TIME

Throughout the DAP timeframes are uniformly restrictive except the following subsection, which for the following reasons should be changed:

40BA(7):

The phrase “*as soon as practicable*” affords a level of flexibility to the Minister that is withheld from others involved in the planning process. In the interests of fairness, this should be extended to all parties involved, and all timeframes in all sections of the DAP need to be changed. The Victorian Planning and Environment Act 1987 allows for a review when 60 days have passed and there is dissatisfaction with progress. This allows all parties involved to ensure that they are afforded appropriate time, with measures in place to ensure justification for delays.

60AP(3):

The waiving of fees must be reasonably justified.

4. MERITS

40BA(3)(b)(i):

TASCAT is already well suited to determine decisions on merits, and a mere seven days is not an appropriate amount of time for a panel to consider the merit of reviewable decision - especially when there is no requirement that all panel members must be present.

60AO(d)

The removal of a right to appeal on grounds of merits review is entirely unreasonable.

Conclusion

Merit review is an essential component of the justice system - the DAP removes this important avenue for appeal, as well as obfuscating the planning process - making development easier for some and not others, therefore undermining the rule of law.

It is a matter of utmost importance that all components reinforcing the rule of law, such as merit review, are protected.



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24 April 2025

State Planning Office
Department of State Growth
GPO Box 536
Hobart TAS 7001

By email to: haveyoursay@stateplanning.tas.gov.au

Re: LUPA Amendment (Development Assessment Panel) Bill 2025

To whom this may concern,

The Tasmanian Chapter of the Australian Institute of Architects (the Institute) would like to provide feedback on the *Draft Land Use Planning and Approvals Amendments (Development Assessment Panel) Bill 2025* (the Bill). The Institute has had limited time to review this Bill, as we did not receive direct communication about the consultation period commencing. As such, we have the following feedback in response to the *Background Report for Consultation* document.

The Institute is pleased to see the clarification about the role that the Heritage Council retains in the assessment advice it provides, and the Heritage Council's enforcement functions.

The Institute would like to reiterate the importance of the composition, skills and expertise of the Development Assessment Panel/s. In response to the Development Assessment Panel Framework Position Paper in November 2023, the Institute stated:

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

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

In addition, the framework needs a terms of reference and a charter for Development Assessment Panels. In the interest of robust probity, all decisions, minutes and reports should ultimately be made public on similar terms to minutes of Council meetings



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where planning applications have been determined. This would remove the perception or fact of panellists favouring projects, or any political interference. Any panellists should be required to declare conflicts of interest.

Again, the Institute would like to reiterate that if the composition of Development Assessment Panels is not codified into legislation, then there should be a provision in the Act for this to be prescribed in the regulations, such as in WA in their Planning and Development (Development Assessment Panels) Regulations 2011¹. A further down the line approach would be a published manual and resources for DAPs such as WA's Standing Orders for DAPs². These panels should include people qualified to assess the particulars of any application across disciplines including architecture, engineering, landscape, archaeology, ecology, planning and design with Country, and such.

Thank you for the opportunity to provide feedback on the proposed Bill. Please contact us if you would like to discuss any of the points raised further.

Kind regards,

Daniel Lane

President, Tasmanian Chapter
Australian Institute of Architects

Jennifer Nichols

Executive Director, Tasmanian Chapter
Australian Institute of Architects

The Australian Institute of Architects (Institute) is the peak body for the architectural profession in Australia. It is an independent, national member organisation with over 13,500 members across Australia and overseas. The Institute exists to advance the interests of members, their professional standards and contemporary practice, and expand and advocate the value of architects and architecture to the sustainable growth of our communities, economy and culture. The Institute actively works to maintain and improve the quality of our built environment by promoting better, responsible and environmental design. To learn more about the Institute, log on to www.architecture.com.au.

¹ [https://www.planning.wa.gov.au/docs/default-source/daps-docs-other/planning-and-development-\(development-assessment-panels\)-regulations-2011.pdf?sfvrsn=67228bbe_8](https://www.planning.wa.gov.au/docs/default-source/daps-docs-other/planning-and-development-(development-assessment-panels)-regulations-2011.pdf?sfvrsn=67228bbe_8)

² https://www.planning.wa.gov.au/docs/default-source/daps-docs-other/standing-orders.pdf?sfvrsn=f903323e_14

From: [Vicki Campbell](#)
To: [State Planning Office Your Say](#)
Cc:

Subject: No to the DAP
Date: Thursday, 24 April 2025 5:02:16 PM

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I join with the many legal and planning experts who oppose the principle of a DAP.

The new revised DAP legislation is hardly any different from the version which was rejected last year.

The changes which have been made do not address the main issues of concern.

I support many of the arguments put forward by the Planning Matters Alliance Tasmania, namely:

There is no real need for this legislation. Planning approvals in Tasmania are already the fastest in the country.

The DAP legislation unnecessarily increases the complexity of the planning system.

I strongly oppose the idea of the Minister having the power to make planning decisions.

No office, but parliamentarians are mostly uneducated and inexperienced when it comes to planning matters.

Power should not be given to non-elected parties (i.e. a panel which can be hand-picked by government).

Planning decisions should be absolutely transparent, with members of the community having the right to appeal.

Apologies, I need to finish here - I am away from home with less than ideal facilities!

Thank you for the opportunity to comment.

Vicki Campbell



From: [Victoria Maxwell](#)
To: [State Planning Office Your Say](#)
Subject: Oppose the recent Bill to enable Development Assessment Panels
Date: Thursday, 24 April 2025 6:38:28 PM

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Dear Sir

The 2025 revised DAPs legislation is not significantly changed from the 2024 version that was refused by the parliament and retains all the key flaws. I oppose the creation of Development Assessment Panels (DAPs) and increasing ministerial power over the planning system, for the following reasons:

The DAPs represent an alternate planning approval pathway allowing property developers to bypass local councils and communities. This fast-track process will remove local government planning staff from assessment on the most controversial and destructive developments affecting local communities. Handpicked state appointed planning panels, conducted by the Tasmanian Planning Commission, will report on development applications not our expert local council planning staff. Local understanding of issues and scheme interpretation and knowledge of relevant case law will be ignored in favour of rich developers.

The TPC does not have the relevant expert staff to adequately assess development with regard to engineering, road, parking, traffic, stormwater, geotechnical, environmental and biodiversity matters. It has not clearly been established how such advice will be provided. Suggestions that such assessments can be done by council staff puts council in an immediate conflict if elected members also require council staff to provide representation of their positions.

The DAP officer selection is not independent. It's understood that application for such roles will be made to the TPC and minister, without detailed selection criteria and objective processes.

The state government workforce is not necessarily conversant with development assessment, being predominantly involved in strategic planning at State level. They do not have regular and intimate knowledge of operating the planning scheme controls. Local government planners are much more able and appropriate in operating the planning scheme and clause interpretation.

DAPs are inconsistent with the principles of open justice as they do not hold hearings that are open to any member of the public 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.

DAPs will make it easier to approve large scale contentious developments like the kunanyi/Mount Wellington cable car, high-rise in Hobart, Cambria Green and high-density subdivision like Skylands at Droughty Point and the proposed 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. The Tasmanian Civil and Administrative Tribunal (TASCAT) review of government decisions is an essential part of the rule of law and a democratic system of government based on 'checks and balances'.

Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal. Given the ratio of TasCat mediated settlements to full appeals, it is clear that the appeals process works and still enables 3rd party direct involvement in the planning process. It also allows an independent assessment of the development decision based on law. It is not clear that ministerial involvement will be completely removed.

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

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

Eligibility criteria are so broad and undefined that it grants the Minister extraordinary power that is arbitrary and unchecked. The Minister can declare a development to be assessed by a DAP based on a 'perceived conflict of interest', 'a real or perceived bias', 'the application relates to a development that may be considered significant'. The Planning Minister is not without political bias and can use this subjective criteria to intervene on virtually any development in favour of developers.

NOTE: The scope of the DAPs includes a range of other 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 the approximately 12,000 council planning decisions go to appeal and Tasmania's planning system is the fastest in Australia. In some years as many as 80% of appeals are resolved via mediation.

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? 2025 legislation not significantly changed

The changes made to the DAPs legislation that was refused by the Parliament in November 2024 are not significant and all the key flaws remain. The changes made do not have any significant practical impact.

One eligibility criterion has been removed, that a project is likely to be 'controversial', but the other equally broad and undefined criteria are retained (as listed above). There is no impact from this change because virtually any development can fit the remaining criteria.

Removal of the option for the minister to transfer a development partway through a council assessment is not significant because a proponent can remove their development from council assessment before requesting the minister have it assessed by a DAP.

The dollar value thresholds have been increased to \$10 million and above in metro areas and \$5 million and above in non-metro areas which is claimed will restrict the number of DAP applications. Projects under these values are still eligible under the other broad and undefined criteria.

The Tasmanian Planning Commission will be able to issue guidelines to assist with applying the eligibility criteria, but this makes no difference as the Commission is not beholden by this and the Minister only needs to 'consider' them.

There has been an amendment to allow the DAPs to undertake mediation, but the Tasmanian Planning

Commission is inexperienced in mediation and no clear process or rights have been established for objectors, unlike the Tasmanian Civil and Administrative Tribunal (TASCAT). The amendment does not allow the DAP approval to be decided by mediation just minor disputes in the process.

The DAP process is not independent, or overtly in pursuit of the LUPAA Objectives to ensure transparency, independence, accountability and public participation in decision-making within the planning system.

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. If necessary have penalties for elected members who act outside the Planning Authority role.

It is also necessary 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. Without these changes and if the DAP proceeds, the legitimacy of sound planning assessment is uncertain and definitively beyond the intent of the LUPAA Objectives.

Yours sincerely,

Victoria Maxwell

From: brian.rock4@bigpond.com
To: [State Planning Office Your Say](#)
Cc:

Subject: Opposition to the 2025 Development Assessment Panels Bill
Date: Thursday, 24 April 2025 4:41:14 PM

You don't often get email from [brian.rock4@bigpond.com](#). [Learn why this is important](#)

Re: The 2025 Development Assessment Panels Bill

We have serious concerns about the 2025 Development Assessment Panels Bill, and are opposed to the creation of DAPs.

The Tasmanian government is proposing to establish Development Assessment Panels (DAPs) as an alternative to the current process for certain developments. It's claimed that DAPs will streamline decision making, provide support for affordable housing, improve economic and job growth, and allow the state government to prioritize major projects.

These are admirable objectives, but it's not clear that DAPs will deliver on them more effectively or fairly than the current system does.

The working assumption seems to be that proposals that are rejected by councils should have been approved, but there hasn't been any evidence provided that this is a common systemic failure.

Curiously the government also claims that DAPs will "take the politics out of planning". This seems unlikely given that the Planning Minister will be responsible for moving responsibility for the planning process from a council to a DAP. This simply shifts the focus from local politics to state politics. It's not clear how this is an improvement.

What is clear is that DAPs will remove elected councils planning authority, which undermines local democracy.

Of particular concern is that DAP decisions are final, with no right for communities affected by these developments to appeal against the decisions. This makes it much easier to push through projects favoured by the government of the day, at the expense of overriding the best interests of local communities.

While it could be argued that this is unlikely because the DAPs will be independent bodies, it is not obvious that DAPs will be selected to provide proper representation for the community. Although the DAP selection process hasn't been clearly laid out, it's safe to assume that it will be developer-friendly. After all there is no point establishing a panel to make approvals easier unless the panel is designed to more readily approve projects than councils currently do.

The net result is that it will be more difficult for communities to influence developments that directly affect them.

Lastly the government hasn't demonstrated that the current system is creating significant bottlenecks, or that councils are unreasonably opposing projects that should have been approved. What has been proposed is a system that seems designed to force through projects that ignore the interests of the local community in favour of developers. It is not at all clear that this is an improvement that will benefit Tasmanians.

In view of the points presented above we believe that this proposal should be substantially revised, if not abandoned altogether.

Yours sincerely,

Brian and Emma Rock

From: [Janet and John Counsell](#)
To: [State Planning Office Your Say](#)
Cc:

Subject: Proposed Development Assessment Panels (DAP"s)
Date: Thursday, 24 April 2025 4:31:37 PM

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Thank you for the opportunity to "have my say" regarding the proposal for State Government to introduce Development Assessment Panels (DAP's) in place of the current planning system.

I am strongly opposed to this change and before giving my reasons as listed below I wish to advise why I have this view.

I worked as a historic walks guide in Hobart for eighteen years taking interstate and overseas visitors on walks in central Hobart, the waterfront and Battery Point. This included probably thousands of cruise ship visitors many of whom advised they would like to return to Hobart. Other guiding work has been small group and "high end" private tours around the state. In addition I spent several years working as a Visiting Journalist Guide with Tourism Tasmania. The feedback I have received from many visitors is that Tasmania has preserved it's built history and heritage to a higher degree than mainland states and many places overseas. Many visitors however could see some poor planning decisions such as Empress Towers in Battery Point. We therefore have a point of difference compared to other Australian cities and states which I believe we should keep and promote.

The main reasons for my opposition to DAP's are:

- There is no right of appeal to decisions made by DAP's.
- Decision making powers are removed from Local Councils.
- The use of public open space may be approved for development.

John Counsell

From: [Ange Boxall](#)
To: [State Planning Office Your Say](#)
Cc: planningmatterstas@gmail.com;

Subject: Protect our rights & our voice - #SCRAPTHEDAP
Date: Thursday, 24 April 2025 6:34:25 PM

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To Whom it Does Concern - to all,

Say yes to a healthy democracy... This is Tasmania, Australia, not Trump's current America.

The [2025 revised DAPs legislation](#) is not significantly changed from the 2024 version that was refused by the parliament and retains all the key flaws. I oppose the creation of Development Assessment Panels (DAPs) and increasing ministerial power over the planning system, for the following reasons:

- **The DAPs represent an alternate planning approval pathway allowing property developers to bypass local councils and communities.** This fast-track process will remove elected councillors from having a say on the most controversial and destructive developments affecting local communities. Handpicked state appointed planning panels, conducted by the Tasmanian Planning Commission, will decide on development applications not our elected local councillors. Local concerns will be ignored in favour of developers who may not be from Tasmania.
- **The Tasmanian Planning Commission is not independent** – DAPs are hand-picked, without detailed selection criteria and objective processes. DAPs are inconsistent with the principles of open justice as they do not hold hearings that are open to any member of the public 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.

- **DAPs will make it easier to approve large scale contentious developments** like the kunanyi/Mount Wellington cable car, high-rise in Hobart, Cambria Green and high-density subdivision like Skylands at Droughty Point and the proposed 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. The Tasmanian Civil and Administrative Tribunal (TASCAT) review of government decisions is an essential part of the rule of law and a democratic system of government based on *'checks and balances'*.
- **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 critical planning decisions such as rezoning 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.
- **Eligibility criteria are so broad and undefined that it grants the Minister extraordinary power that is arbitrary and unchecked.** The Minister can declare a development to be assessed by a DAP based on a *'perceived conflict of interest'*, *'a real or perceived bias'*, *'the application relates to a development that may be considered significant'*. The Planning Minister has political bias and can use this subjective criteria to intervene on virtually any development in favour of developers.

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- **Poor justification** – there is no problem to fix. Only about 1% of the approximately

12,000 council planning decisions go to appeal and Tasmania's planning system is the fastest in Australia. In some years as many as 80% of appeals are resolved via mediation. 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?

2025 legislation not significantly changed

- The changes made to the DAPs legislation that was refused by the Parliament in November 2024 are not significant and all the key flaws remain. The changes made do not have any significant practical impact.
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- Removal of the option for the minister to transfer a development partway through a council assessment is not significant because a proponent can remove their development from council assessment before requesting the minister have it assessed by a DAP.
- The dollar value thresholds have been increased to \$10 million and above in metro areas and \$5 million and above in non-metro areas which is claimed will restrict the number of DAP applications. Projects under these values are still eligible under the other broad and undefined criteria.
- The Tasmanian Planning Commission will be able to issue guidelines to assist with applying the eligibility criteria, but this makes no difference as the Commission is not required to make the guidelines and the Minister only needs to 'consider' them.
- There has been an amendment to allow the DAPs to undertake mediation, but the Tasmanian Planning Commission is inexperienced in mediation and no clear process or rights have been established for objectors, unlike the Tasmanian Civil and Administrative Tribunal (TASCAT). The amendment does not allow the DAP approval to be decided by mediation just minor disputes in the process.

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.

Please.

Sincerely,

Ange

<https://www.angeboboxall.com>

<https://www.echofestival.com.au/>

<https://www.thesplendidgin.com/>

<https://www.facebook.com/riversdalemill/>

I acknowledge the Tasmanian Aboriginal People as the original custodians of this land, and pay my sincere respects to their elders, past and present.

They are the first peoples to have come together on country to share in song, dance, storytelling, celebrating their deep culture.

From: [Pam Schindler](#)
To: [State Planning Office Your Say](#)
Cc: [pla](#)

Subject: Protect our rights & our voice - #SCRAPTHEDAP
Date: Thursday, 24 April 2025 4:16:43 PM

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Thank you for the opportunity to submit these views regarding the Bill to establish Development Assessment Panels for Tasmania.

All of us in Tasmania are the keepers of priceless natural habitats and human-scale, smaller cities. Commercial development proposals which would degrade these values regularly encounter well-informed community opposition, and this is a good thing. We need development to proceed in alignment with the values that we treasure in Tasmania, and our responsibilities to the natural environment. DAPs would allow development decisions to bypass local councils and community members, and would even apply to management of World Heritage areas. I do not support this Bill, which would lessen good planning and community values in Tasmanian development decisions.

I endorse the detailed points and evidence provided below by the Planning Matters Alliance.

The [2025 revised DAPs legislation](#) is not significantly changed from the 2024 version that was refused by the parliament and retains all the key flaws. I oppose the creation of Development Assessment Panels (DAPs) and increasing ministerial power over the planning system, for the following reasons:

- **The DAPs represent an alternate planning approval pathway allowing property developers to bypass local councils and communities.** This fast-track process will remove elected councillors from having a say on the most controversial and destructive developments affecting local communities. Handpicked state appointed planning panels, conducted by the Tasmanian Planning Commission, will decide on development applications not our elected local councillors. Local concerns will be ignored in favour of developers who may not be from Tasmania.
- **The Tasmanian Planning Commission is not independent** – DAPs are hand-picked, without detailed selection criteria and objective processes. DAPs are inconsistent with the principles of open justice as they do not hold hearings that are open to any member of the public 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.
- **DAPs will make it easier to approve large scale contentious developments** like the kunanyi/Mount Wellington cable car, high-rise in Hobart, Cambria Green and high-density subdivision like Skylands at Droughty Point and the proposed 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. The Tasmanian Civil and Administrative Tribunal (TASCAT) review of government decisions is an essential part of the rule of law and a democratic system of government based on '*checks and balances*'.
- **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 critical planning decisions such as rezoning 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.
- **Eligibility criteria are so broad and undefined that it grants the Minister extraordinary power that is arbitrary and unchecked.** The Minister can declare a development to be assessed by a DAP based on a '*perceived conflict of interest*', '*a real or perceived bias*', '*the application relates to a development that may be considered significant*'. The Planning Minister has political bias and can use this subjective criteria to intervene on virtually any development in favour of developers.

NOTE: The scope of the DAPs includes a range of other 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 the approximately 12,000 council planning decisions go to appeal and Tasmania’s planning system is the fastest in Australia. In some years as many as 80% of appeals are resolved via mediation. 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?

2025 legislation not significantly changed

- The changes made to the DAPs legislation that was refused by the Parliament in November 2024 are not significant and all the key flaws remain. The changes made do not have any significant practical impact.
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Say yes to a healthy democracy

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

Yours sincerely,

Pam Schindler

From: [June Burnet](#)
To: [State Planning Office Your Say](#)
Cc:

Subject: Protect our rights & our voice - #SCRAPTHEDAP Submission - Draft Development Assessment Panel - Draft Bill 2025
Date: Thursday, 24 April 2025 4:24:14 PM

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TO WHOM IT MAY CONCERN - An IMPORTANT message

The Legislative Council DID NOT PASS the 2024 Draft Bill (the same proposal still included in this Draft Bill 2025 version) of the Draft Development Assessment Panel last time, perhaps what I have listed below, even if you have seen it all before, will remind you WHY it wasn't passed last year and the same reasons WHY the DAP Draft Bill 2025 SHOULD NOT BE PASSED this time, nothing has changed, the State Government with their, hand picked staff, is trying to kill our democracy.

We (Tasmanians) demand a healthy democracy, our demands will be felt by the State Government when State voting comes around. We will not forget the Trump/Elon Musk style of winning voters by Offering \$10 AFL Membership to one and all (not all Tasmanians), during **The Caretaker Mode** in the last week before the public voted.

The premier has the support of the Labor opposition by the slogan 'No Stadium, NO TEAM' when we have two stadiums already in use for AFL Games.

We also remember the backflip of the Jacquie Lambie candidates accepting the Premiers conditions, not so fortunately did the Premier meet their demands of accepting the private assessments into the costings etc of The Unwanted Stadium, that he signed up for without running costings by his own Treasurers department etc. you all should realise that Premier Jeremy Rockcliffe is bankrupting Tasmania, just through the Stadium deal with the AFL alone, plus neglecting Health, education and jobs, not building skills, Tasmania is going backwards, it is reported to have the lowest education results, next to the NT. Housing is a problem everywhere, too many homeless as if we're a third world country.

Tasmania used to be self sufficient, can't say that anymore, we're being sold out to Private and International investors, now the talk of selling off Public assets, the public should have

a say in that by a referendum.

Next issue for Tasmania is the Federal Labour Government backing 200 jobs of the Salmon Farmers....You'd be blind to not see the outcome of that with the public, even Top Chefs (not just in Tasmania) are removing Tasmanian Salmon from their menus. The Federal Labour Government will feel the brunt of that on the 3rd of May, by some voters (of course the salmon workers will support them and the forestry workers). Clearing Old forests, felling trees that are hundreds of years old, once they've gone they've gone forever, take a look at the 'available' documentary Franklin, available in our own libraries, see the mistakes made then and see the same mistakes being made now, again the people fought for democracy and still today doing the same. i'd like to remind you tag the rule brought in by our lousy state government, jailed a professional Vet for three months because she was peacefully protesting about the logging of the OLD state forests... where someone that deserves to go to jail for drug/drunken driving gets a wrap over the knuckles.

- 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.
- The [2025 revised DAPs legislation](#) is not significantly changed from the 2024 version that was refused by the parliament and retains all the key flaws. I oppose the creation of Development Assessment Panels (DAPs) and increasing ministerial power over the planning system, for the following reasons:

Granting the Planning Minister excessive power to override local council, silence community voices and fast track controversial developments - even in our World Heritage Areas & National Parks. There will be no right for the community to appeal the final decision to the planning tribunal. there will be no real power to stop inappropriate developments.

The DAPs represent an alternate planning approval pathway allowing property developers to bypass local councils and communities This fast-track process will remove elected councillors from having a say on the most controversial and destructive developments affecting local communities.

The Tasmanian Planning Commission is not independent – DAPs are hand-picked, without detailed selection criteria and objective processes.

Research demonstrates DAPs are pro-development and pro-government, they rarely deeply engage with local communities

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

And High Rise in Launceston City, look back at how **the community fought over The Gorge Hotel**, with the Developer getting just what he wanted, as expected these days by the rules being changed to get the unwanted Gorge Hotel approved. Launceston has other approved high rise already passed and to be built, with two having been built against the residents wishes.

See next paragraph below.

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.

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](#)

Increased ministerial power over the planning system increases the politicisation of critical planning decisions such as rezoning 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.

Eligibility criteria are so broad and undefined that it grants the Minister extraordinary

power that is arbitrary and unchecked. The Minister can declare a development to be assessed by a DAP based on a '*perceived conflict of interest*', '*a real or perceived bias*', '*the application relates to a development that may be considered significant*'. The Planning Minister has political bias and can use this subjective criteria to intervene on virtually any development in favour of developers.

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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,
June Burnet

From: [Ingrid Colman](#)
To: [State Planning Office Your Say](#)
Cc:

Subject: Scrap the DAP request again!
Date: Wednesday, 23 April 2025 6:36:55 PM

You don't often get email from [redacted]

of DAP be scrapped and was relieved it was refused by the parliament. So I am now appalled and incredulous that a [2025 revised DAPs legislation](#) which is not significantly changed from the 2024 version and retains all the key flaws is being proposed. I oppose the creation of Development Assessment Panels (DAPs) and increasing ministerial power over the planning system, for the following reasons:

- **The DAPs represent an alternate planning approval pathway allowing property developers to bypass local councils and communities. This fast-track process will remove elected councillors from having a say on the most controversial and destructive developments affecting local communities.** Handpicked state appointed planning panels, conducted by the Tasmanian Planning Commission, will decide on development applications not our elected local councillors. Local concerns will be ignored in favour of developers who may not be from Tasmania.
- **The Tasmanian Planning Commission is not independent** – DAPs are hand-picked, without detailed selection criteria and objective processes. DAPs are inconsistent with the principles of open justice as they do not hold hearings that are open to any member of the public 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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- I also call on you to prohibit property developers from making donations to political parties, enhance transparency and efficiency in the administration of the *Right to Information Act 2009*, and create a strong anti-corruption watchdog.

Please stop this second attempt to push through the DAP,

Yours sincerely, Ingrid Colman

From: [Brooke Robinson](#)
To: [State Planning Office Your Say](#)
Subject: Scrapthedap
Date: Thursday, 24 April 2025 4:19:15 PM

You don't often get email from brooke_robinson@outlook.com. [Learn why this is important](#)

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PLANNING NEWS

APRIL 2025



**Reminder: Submissions close
24 April @ 5pm**

Scrap the State Gov's anti- democratic DAP Bill

Important: If you made a submission last year on the 2024 DAP Bill, **you still need to make a submission on the 2025 version.** It's open for public comment until **Thursday, 24 April at 5pm.**

On 26 February 2025, the Planning Minister re-released the highly controversial and anti-democratic Development Assessment Panel (DAP) Bill—despite the 2024 version being voted down by the Legislative Council in November 2024, and despite unanimous opposition from every council in Tasmania.

Read [here](#) PMAT's Media Release 'The Tasmanian Government's renewed push for DAPs is another demonstration they don't care about the community.'

The [2025 revised DAPs legislation](#) is not significantly changed from the rejected 2024 version. **It retains all the key flaws**, which is why we're calling on you again, to **maintain your strong opposition by making another submission.**

Please make an urgent submission using the guide below.

Note: These steps may be easier to perform on a computer. You can also view PMAT's Submission Guide via our website. [Click here.](#)

STEP 2 - Copy and paste into your “CC’ field Members of the House of Assembly and Legislative Council:

[illegible]

Protect our rights & our voice -
#SCRAPTHEDAP

STEP 4 – Copy and paste suggested email text:

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.

The [2025 revised DAPs legislation](#) is not significantly changed from the 2024 version that was refused by the parliament and retains all the key flaws. I oppose the creation of Development Assessment Panels (DAPs) and increasing ministerial power over the planning system, for the following reasons:

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Yours sincerely,
(Include your name)

STEP 5 – Please send your email ASAP.

STEP 6 – Please share this critically important email with your friends, family and community!



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WANT TO KNOW MORE?

Key Documents

- *Draft LUPA Amendment (Development Assessment Panels) Bill 2025* – see [here](#).
- *Background Report for Consultation* - revised draft DAP Bill 2025 – see [here](#).

Listen/Watch PMAT's #ScrapTheDAP 400+ strong Town Hall 2024 public meeting

Listen/watch [here](#) to key issues of DAPs from: **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 Anna Reynolds** - Lord Mayor & Councillor, Hobart City Council.

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.

Making a submission to oppose DAPs is vital to saving our democracy and rights. Please share this email and alarming message about DAPs far and wide - everyone needs to know what's at stake if DAPs are approved. With your support, we helped stop the Bill once—and we can stop it again.



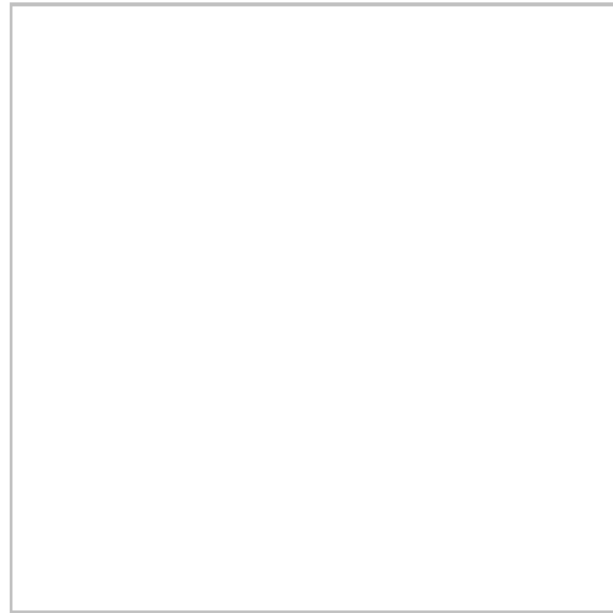
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Thank you for your support,
Sophie and the PMAT Team





PMAT acknowledges and pays 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.

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From: [Ken Hart](#)
To: [State Planning Office Your Say](#)
Cc:

Subject: STOP the CORRUPTION - No to DAPS
Date: Thursday, 24 April 2025 10:40:17 PM

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It is obscene that the Liberal party is putting up this obnoxious bill again after it was soundly rejected by parliament last time and is being pushed by developers in collusion with the Liberal party. THIS IS CORRUPTION!!!

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Yours Sincerely,

Ken Hart.

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

By email: haveyoursay@stateplanning.tas.gov.au

24 April 2025

Dear Madam/Sir

Joint Submission on Land Use Planning and Approvals Amendment (Development Assessment Panels) Bill 2025

Thank you for the opportunity to make a submission on the draft **Land Use Planning and Approvals Amendment (Development Assessment Panels) Bill 2025** (DAP Bill 2025). The draft Bill makes relatively minor changes to the processes set out in the draft DAP Bill 2024. As such, we reiterate our concerns about the proposed Development Assessment Panel (DAP) process, including the exclusion of review by the Tasmanian Civil and Administrative Tribunal (TASCAT), as expressed in our submission dated 12 November 2024 (see attached).

TASCAT review is an important ‘check’ in relation to planning decisions, especially those that may have a broader public impact. We reject the suggestion that a TPC panel is a substitute for merits review by an independent tribunal, for the reasons outlined in our 2024 submission.

We wish to provide additional comment in relation to one new provision in the draft DAP Bill 2025, namely clause 60AI(4).

Dispute Resolution Techniques

The proposed new cl 60AI(4) provides:

‘... the Assessment Panel may use such dispute resolution techniques including, but not limited to, mediation, as part of a hearing under this section, if the Assessment Panel considers it appropriate in the circumstances.’

The *Background Report for Consultation*¹ indicates that this proposed section clarifies that the DAP ‘can use alternate dispute resolution techniques when making a determination and trying to resolve issues between parties.’ The *Background Report* further explains that ‘dispute

¹ State Planning Office, *Revised Land Use Planning and Approvals (Development Assessment Panel) Bill 2025: Background Report for Consultation*, (February 2025): https://www.stateplanning.tas.gov.au/__data/assets/pdf_file/0004/565474/DAP-2025-Background-Report-for-Consultation.pdf

resolution and mediation processes are implicit in the Commission's proceeding' and the 'proposed inclusion of explicit provisions gives greater certainty to aggrieved parties.'²

However, the intention and scope of cl 60AI(4) is unclear, and gives rise to two main concerns. First, the reference to dispute resolution techniques in the proposed cl 60AI(4) does not accurately describe the power of a DAP to hold closed-door meetings with the proponent and opponents of a development application. The power of a DAP to conduct private meetings with the proponent and some or all objectors to a development application cannot be described as 'alternative dispute resolution' in the sense that that term is normally used.

Alternative Dispute Resolution (ADR) techniques, usually in the form of mediation or conciliation, are well established processes for resolving disputes between parties. ADR is used to try and settle a dispute between parties, to prevent that dispute from having to proceed to a hearing and decision by a court or tribunal. An essential feature of ADR is that it is conducted by someone who is not connected to the dispute. Furthermore, while the person conducting ADR actively encourages the parties to reach an agreement, and may give expert advice or information, they do not take sides in the dispute, and they do not make a decision about the dispute.³ This is reflected in the *Tasmanian Civil and Administrative Tribunal Act 2020* (Tas) ('TASCAT Act') which provides that a tribunal member who participates in an ADR 'cannot take any further part in dealing with the proceedings after the alternative dispute resolution process has taken place', except with the permission of both parties.⁴

In contrast, cl 60AI(4) appears to suggest that the DAP will conduct the ADR itself 'as part of a hearing', though the wording of the provision lacks clarity on this point. The role of a DAP is entirely different from that of an ADR facilitator: the DAP is the decision maker in relation to the development application; a mediator or conciliator is an independent person who does not make the decision subject to dispute.

Second, dispute resolution during a DAP hearing (after which a primary decision will be made) is not equivalent to dispute resolution before an impartial merits review body such as TASCAT.

Clause 60AI(4) applies during the hearing phase of the DAP process, namely when the DAP is receiving oral submissions that will inform its final determination of a development application. This contrasts with the role of ADR in assisting the resolution of matters before TASCAT.

TASCAT is able to conduct ADR sessions between parties to a dispute that may arise after a decision on a development application has been made. TASCAT does so as an impartial 'outsider' to the making of the original decision and with clear procedural safeguards in place in the TASCAT Act to ensure that if the matter does proceed to a hearing, nothing said in the closed-door sessions unfairly influences the tribunal's decision. In addition to requiring that

² Ibid, 6.

³ See: Commonwealth of Australia (1999) *A Fair Say: Managing Differences in Mediation and Conciliation*:https://www.adrac.org.au/files/ugd/34f2d0_31b6bc71694846fdb4ed5228b276bf29.pdf; Attorney-General's Department (2012) *Your Guide to Dispute Resolution* :https://www.adrac.org.au/files/ugd/34f2d0_35466fa2f3904f45a261f2c82a48a483.pdf.

⁴ TASCAT Act, s 102(9).

the person conducting ADR is a different person to the Tribunal member who will make the final decision (noted above), evidence of anything said or done during mediation is inadmissible in a TASCAT hearing, except with the permission of both the parties.⁵ No such procedural safeguards are set out in the DAP Bill. Indeed, there is a concerning absence of detail in the DAP Bill on who will facilitate mediation and under what circumstance, whether evidence in mediation is protected from disclosure in the hearing and, if not, how the probative value of the mediation discussions will be assessed.

Recommendations:

- We reiterate the recommendations set out in our submission of 12 November 2024 (attached).
- If cl 60AI(4) is to be retained, we recommend that it be amended to reflect all relevant procedural safeguards of impartiality and the protections of privilege in section 102 of the TASCAT Act.

We would be happy to discuss our submission further.

Yours sincerely

Ms Anja Hilkemeijer

Dr Cleo Hansen-Lohrey

Dr Emille Boulot

⁵ TASCAT Act, s 102(8).

ATTACHMENT A

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

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

12 November 2024

Dear Madam/Sir

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

Thank you for the opportunity to comment on this Bill. We write as a group of legal academics with expertise in administrative, constitutional and environmental law. We make this submission as law academics at the University of Tasmania. The views expressed are our own.

In this submission we draw on relevant principles of public and environmental law, including:

- requirements of good decision-making processes;
- requirements of procedural fairness for those likely to be affected by a decision;
- the importance of taking into account independent assessment of potential risks of environmental harm;
- the importance of clear legal rules established by Parliament; and
- the importance of independent oversight of the primary decision-maker to ensure both good and legally correct decisions.

For the reasons we outline in our submission, this Bill should not be enacted into law without significant amendment.

We would be happy to discuss our submission further.

Yours sincerely

Ms Anja Hilkemeijer

Professor Jan McDonald

Ms Cleo Hansen-Lohrey

Dr Emille Boulot

Dr Phillipa McCormack

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

Executive Summary

We have a number of serious concerns in relation to this Bill as outlined in the body of this submission. Our key submissions are:

- The proposed Panels lack independence;
- The Bill lacks procedural rules for the appointment and conduct of panels;
- The Bill lacks substantive rules to guide draft assessment decisions;
- The Bill removes environmental assessment of applications determined by Panels;
- The Bill provides inadequate procedures for obtaining all relevant information for making a determination;
- The various timeframes set out in this Bill for the development assessment are inadequate;
- The proposed Panels are not required to provide reasons for decisions undermining procedural fairness and capacity for review; and
- The existing oversight over planning decisions by the Tasmanian Civil and Administrative Tribunal is removed.

To cure the shortcomings of the Bill, all of the following amendments are needed:

1. Insert clear criteria to guide the Minister's decision to refer an application to a Panel.
- 2.1 To ensure the independence of Panel decisions, the Bill should stipulate that the statement of expectations does not apply to the establishment of Panels, and that the Commission must act independently in its selection of Panellists, based on statutory selection criteria.
- 2.2 To ensure the independence of Panel decisions, the Bill should contain an express requirement that the Panel act independently.
- 2.3 To ensure the independence of Panellists, the Bill should contain clear criteria for the appointment of members and the process for their appointment and removal from office.
3. To avoid actual or perceived conflicts of interest, the Bill should preclude Commissioners from being members of Panels.
4. To ensure both the appearance and reality of a robust decision-making process, the Bill must include clear rules about all relevant procedural matters.
- 5.1 The Bill be amended to either deem a Panel to be a planning authority for the purposes of triggering s24 or provide another mechanism by which to ensure that EPA provides advice on the environmental impacts of development proposals.
- 5.2 Amend the Bill to ensure that Panels must elicit and consider the advice of all agencies whose portfolio may be affected by the development application.
- 5.3 Amend the Bill to provide sufficient time for reviewing entities to assess the need for further information and to provide their advice.
- 6.1 Ensure the Bill allows for extensions of timelines for requesting information where necessary.

- 6.2 The Bill be amended to expand the range of matters over which local councils may request further information, including statutory planning objectives, as set out in LUPAA.
- 6.3 The Bill be amended to remove the Panel's discretion to decline to request further information, except in circumstances that are clearly irrelevant to the development application.
- 6.4 The timeframe in the Bill for advising the applicant that information provided is inadequate and should be extended.
- 6.5 The Bill be amended to permit the Panel to request further information where required.
7. The Bill is amended to extend decision-making timeframes to enable the Panel to make a fully informed decision.
8. The Bill be amended to include specific decision-making criteria, to provide clear guidance to the Panels and avoid inconsistent and potentially arbitrary decision-making.
9. The Bill be amended to provide Panels with the discretion to extend timeframes where necessary to consider all relevant viewpoints and reach a fully informed decision.
10. Require Panels to provide written reasons for decision.
11. The Bill be amended to provide the parties to an application, as well as persons who have made a submission to the DAP application process, a right to apply to TASCAT to seek merits review of Panel decisions.
12. That the words 'in the opinion of the Minister' in s 40BA(5) be replaced with 'if the Minister determines that the draft amendment meets the LPS criteria'.

1. The range of development applications potentially covered by legislation is too broad

This Bill allows for the Minister to refer development applications to the Tasmanian Planning Commission (the ‘Commission’) to be decided by a Panel established by the Commission for that purpose (the ‘Panels’). Applications referred to the Commission will be dealt with in accordance with a new Division 2AA to be inserted in Part 4 of the *Land Use Planning and Approvals Act* 1993. Our comments on the proposed Division 2AA are set out below.

The reach of the Minister’s power is very wide: the Minister can, for example, refer any application that ‘may be considered significant, or important’ to the ‘area in which the development is to be located’ (s 60AC(1)(a)). The Bill also empowers the Minister to further expand the class of applications to which the provisions in this Bill apply through the promulgation of subordinate legislation, (s 60AB(1)(d) and s 60AC(1)(e)). There are no statutory criteria guiding the exercise of this discretion or to clarify what might make a development ‘significant or important’. This means that the Minister’s referral of a project may be motivated by political or other considerations unrelated to the planning merit of the proposal.

Recommendation

Insert clear criteria in the Bill to guide the Minister’s decision to refer an application to a Panel.

2. The independence of Panels is not safeguarded

The Commission, and the Panels created by it, lack the statutory requirements of independence usually associated with administrative decision-making involving potentially contested matters. This is due to: its obligations to support the Minister; the absence of a statutory obligation to act independently; and the absence of statutory selection criteria to ensure the independence of Panellists.

2.1 Commissioners subject to Minister’s statement of expectations

The Commission’s principal function is to provide advice to the Minister about planning matters⁶. However, its functions have been added to over time, through other statutes, to include the determination of planning applications. The enactment of the *Land Use Planning and Approvals Amendment (Major Projects) Act* 2020 contained the most recent expansion of the Commission’s decision-making power. This Bill would expand the decision-making role of the Commission much further again.

Advising the Minister on planning matters and determining controversial and significant development applications are two distinct tasks. It is therefore also important to distinguish between the attributes of independence for the purpose of giving advice to a Minister and the usual attributes of independence for the purpose of making a decision in relation to potentially contested matters (and ones in which the Minister may have a strong, political view).

⁶ *Tasmanian Planning Commission Act* 1997 s6 (1A).

The *Tasmania Planning Commission Act 1997* (Tas) provides for sufficient independence for the Commission's advisory role, but it does not do so for the purpose of its decision-making function because it is constrained by an obligation to comply with a Ministerial statement of expectations.

The statement of expectations specifies 'the objectives of the Minister in respect of any matter relating to the functions of the Commission' (s7B).⁷ The current Ministerial statement of expectations requires the Commission to:

- provide the Minister with 'regular information on its operations and performance' and bring to the Minister's 'attention in a timely manner, information regarding any significant issues affecting the Commission's work'; and
- take into account in Commission work any relevant 'policies and procedures' as advised by the Minister in writing.⁸

In addition to the constraints of the statement of expectations, the Commission's advisory functions require regular and close interaction with the Minister and the relevant government departments.⁹

These factors compromise the Commission and individual Commissioners in their ability to undertake a truly independent development assessment. Expanding the range of developments for which the Commission is required to establish Panels will exacerbate the existing tension between its advisory and decision-making functions and enable determinations by Panels that lack the usual statutory attributes associated with independent decision-making.

Recommendation

To ensure the independence of Panel decisions, the Bill should stipulate that the statement of expectations does not apply to the establishment of Panels, and that the Commission must act independently in its selection of Panellists, based on statutory selection criteria.

2.2 No statutory requirement for Panels to act independently

There is also no statutory requirement for the Commission or Commission's Panels to act independently and free from direction by the Minister. Indeed, the word 'independent' does not

⁷ Compare this with the Ministerial statement of expectation for the Environment Protection Authority which must "advance the statutory objectives specified in Schedule 1 of the Act" (*Environmental Management and Pollution Control Act 1994* s 15A(2)(aa)).

⁸ Minister for Planning the Hon Roger Jaensch MP, Ministerial Statement of Expectation 2020 Tasmanian Planning Commission (27 January 2020): https://www.planning.tas.gov.au/_data/assets/pdf_file/0011/583283/Ministerial-Statement-of-Expectation-2020-effective-1-February-2020.PDF.

⁹ Section 6 of the *Tasmanian Planning Commission Act 1997* (Tas) includes the following functions and powers, to provide:

- advice and support to the Minister in relation to the Minister's exercise of functions and powers in relation to land use planning under any Act,
- general advice to the Minister in respect of matters relating to land use planning, and
- review and advise the Minister in respect of state and regional strategic land use planning matters.

appear anywhere in the *Tasmanian Planning Commission Act 1997* (Act). The lack of independence of members of the Commission contrasts with the Environment Protection Agency Board ('EPA'). Section 18 A of the *Environmental Management and Pollution Control Act 1994* ('EMPCA') expressly states that the Director of the EPA is 'required to act independently' and (subject to law) has 'complete discretion'. It further expressly provides that the Director is 'not subject to the direction from anyone in relation to a decision.' The lack of independence also contrasts with the Tasmanian Civil and Administrative Tribunal ('TASCAT') a 'main objective' of which is: 'to promote the best principles of public administration including independence of decision-making'.¹⁰

This lack of independence of Panel decision-making can be avoided simply by inserting into the Bill a clause that removes the obligation to follow the Minister's statement of expectation and inserts a requirement to act independently.

Recommendation

To ensure the independence of Panel decisions, the Bill should contain an express requirement that the Panel act independently.

2.3 No criteria for selection or appointment of Panellists

The lack of rules regarding the manner in which the Commission will constitute a Panel and select its members also potentially undermines a Panel's independence and expertise.

The Bill contains no rules regarding the establishment of Panels under the new Division s2AA. For example, the Bill does not provide for:

- transparent merit-based selection processes;
- selection criteria;
- the inclusion of professionally-qualified experts; or
- rules about the size of a Panel.

This is in contrast to Panels established for 'Major Projects' under LUPAA, which are governed by at least some minimal requirements regarding qualifications and experience of Panellists (see Part 4, Division 2A subdivision 6 of LUPAA). We noted in our November 2023 submission that even those rules make it unlikely that major project Panels will be strongly independent.

Recommendation

To ensure the independence of Panellists, the Bill should contain clear selection criteria for the appointment of members and the process for their appointment and removal from office.

3. Increased risk of Commission conflicts of interest

This Bill will increase the risk of conflicts of interests arising in the work of the Commission and its Panels, that have already been identified in earlier reviews. There is nothing to preclude members of the Commission from being appointed to these Panels. This is problematic because it involves a Commissioner then wearing two 'hats': one as member of the Commission,

¹⁰ *Tasmanian Civil and Administrative Tribunal Act 2020* s10.

advising the Minister on planning matters; and another, when appointed to a Panel, assessing the development application. The potential conflict is particularly acute in relation to developments proposals that are strongly supported by the Minister.

The report of the Independent Review of the Commission (2020), commissioned by the Department of Justice, found that ‘the statutory framework for the Commission’s organisational structure, membership, and decision-making arrangements significantly raises the potential for conflict of interest’¹¹ The potential for conflict of interests occurs:

The potential for conflicts of interest and undue influence is naturally elevated in the Tasmanian context given the small size of the planning industry that is characterised by close professional relationships. ... As such, deep consideration needs to be given [to] the design of the development assessment Panel model operationalised by the Commission.¹²

This Bill will increase the potential of conflicts of interest because a wider range of development applications may be determined by the Commission through the establishment of Panels.

Recommendation

To avoid actual or perceived conflicts of interest, the Bill should preclude Commissioners from being members of Panels.

4. Panel decision-making lacks accountability because no procedural rules are specified

The procedures by which Panels will operate lack transparency and will undermine public confidence. There are no rules as to how a Panel is to conduct itself. For example, there is no specification of how, and how often, a Panel will meet to deliberate.

Under the Bill, a Panel will finalise a draft decision before hearing from members of the public with an interest in the application. Procedural fairness normally requires that a decision-maker hears from all persons with an interest in the matter prior to adopting any position. This may include, for example, adjoining landowners to the development site who, under the proposed legislation, would only formally be notified of the development application on the publication of the draft assessment report in an exhibition notice (s 60AG(1)(c)). Hearing the arguments from just one perspective means that there has been no opportunity to consider other views or for the information provided by one side to be contested by the other side in order to ensure that the best evidence is relied on in the decision-making process.

Furthermore, Panel deliberations are conducted behind closed doors. Concerns may arise from the fact that there are no restrictions on Panel members seeking informal advice from other

¹¹ Roberta Ryan and Alex Lawrie, *Independent Review of the Tasmanian Planning Commission*, Report October 2020: https://www.planning.tas.gov.au/_data/assets/pdf_file/0007/669994/RTI-SoE-Part-3.pdf

¹² Ibid.

Commissioners or staff of the Commission, from the applicant or its advisers or, indeed from any one at all. There is no public record of those conversations.

Rules about procedure are important because the possibility of unfair influence on the Panel by the applicant prior to the release of a draft assessment report, and right up to the release of the final decision, will undermine public confidence in the Panel process.

There are also no rules for how Panels reach their decision in cases of conflict between Panel members. For example, there are no guidelines on whether Panel decisions must be unanimous or, if a majority is acceptable, whether the chair carries a casting vote. There is also no guidance on whether they require a quorum to make a decision and, if so, what that quorum must be.

Recommendation:

To ensure both the appearance and reality of a robust decision-making process, the Bill must include clear rules about all relevant procedural matters.

5. The quality of decision-making will be eroded because the Bill removes or reduces obligations to consult with expert agencies.

The Bill removes or reduces the obligation to consult with expert agencies in respect of environmental, heritage and other matters.

5.1 No environmental assessment by EPA

The Bill removes critical environmental assessment protections that are currently in place. Under the *Environmental Management and Pollution Control Act 1994* (EMPCA), development applications that involve a risk of environmental harm and for which a local council is the applicable planning authority are assessed by the Environmental Protection Agency (EPA). Under the proposed Bill, a Panel has no obligation to consult with the EPA. The application will be determined without any information from the EPA about the possible risk of environmental harm associated with the development.

Under existing arrangements, two categories of development undergo review by the EPA. First, specific activities listed in Schedule 2 to the EMPCA automatically require referral (i.e., mining, manufacturing, agriculture, waste disposal etc). This continues to be the case under the Bill because Schedule 2 activities are excluded from the operation of this Bill and must be assessed by a local council planning authority in the normal way, with input from the EPA under s 25 of the EMPCA.¹³

EMPCA (s24) provides that some non-Schedule 2 developments are to be ‘treated’ as Schedule 2 applications for the purpose of EPA assessment. These include:

- combined permit and planning scheme amendment under s 40 T of LUPAA (s24 (1C)),

¹³ Bill provides that development applications may not be referred for a discretionary permit to the Commission if ‘it is an application to which section 25 of the EMCPA 1994 applies’: s60 AB (3) and s60AC(4)(b).

- discretionary permits under s 57 of LUPAA (s24 (3))
- permit in respect of a use or development for which, under the provisions of a planning scheme, a planning authority is bound to grant a permit either unconditionally or subject to conditions or restrictions.’ s 58 of LUPAA (s24(3))

The precondition for the application of s24 is that ‘*an application has been made to a planning authority under the LUPAA.*’ However, this statutory trigger for the EPA’s assessment obligations under s 24 is not part of the Panel’s assessment under the proposed Bill. This is because under the Bill, a ‘new permit application’ is made to the Commission (s 60 AB or s60 AC), not the planning authority under LUPAA, so the statutory trigger for the application of s 24 is not met. This means that the requirement in s 24 for the EPA to assess certain applications ‘as if’ they were activities listed in Schedule 2 of the EMPCA will NOT apply.

Effectively, as a result of this Bill, any development application that does not involve one of the activities listed in Schedule 2 of the EMPCA, may be determined by a Panel without an independent assessment of possible environmental harm. This may include such proposals as the construction of a cable car and restaurant on Kunanyi.

Recommendation

The Bill be amended to either deem a Panel to be a planning authority for the purposes of triggering s24 or provide another mechanism by which to ensure that EPA provides advice on the environmental impacts of development proposals.

5.2 Limited input from other external agencies

The Panel will have limited input from other agencies to informing its decision. The Bill provides for only four ‘reviewing entities’ to advise the Panel:

- the relevant local council (the ‘planning authority’ as defined in LUPAA);
- the Heritage Council (in some situations);
- gas pipeline licensee; and
- water licensor.¹⁴

No other statutory bodies or agencies have any formal advisory role in the decision-making process: neither the EPA nor the Director of National Parks and Wildlife will have to be consulted on projects referred to Panels.

Recommendation

Amend the Bill to require Panels to elicit and consider the advice of all agencies whose portfolio may be affected by the development application.

5.3 Limited timeframe for ‘reviewing entities’ to provide advice

The time available to the relevant local council and the other reviewing bodies to consider, deliberate and prepare advice to the Panel is unreasonably limited. The reviewing entities have

¹⁴ Land Use Planning and Approvals Amendment (Development Assessment Panels) Bill 2024 s60AA.

28 calendar days to prepare advice on the development application (although the clock stops running while the Panel seeks additional information from the proponent us 60 AF (5)).

Where reviewing entities have requested additional information, they have only 10 working days from receipt of responses to finalise their advice. The Panel must ask the proponent for further information at the expiry of 14 days after the application has been provided to the reviewing entities. The clock stops then and starts running again when the Panel is satisfied that the applicant has responses to those requests. That only leaves 10 working days for the reviewing entity to complete its advice based on all the information that is made available to it. Outside of very simple development applications, this makes the collection of all relevant information including by reference to internal and contracted experts, as well as the careful consideration of the proposal's impacts, difficult to achieve.

This limited timeframe will undermine the capacity of reviewing entities to provide high quality advice to Panels.

Recommendation

Amend the Bill to provide sufficient time for reviewing entities to assess the need for further information and to provide their advice.

6. Limited ability to obtain all relevant information from applicant

A fundamental precondition for good decision-making is that decision makers have access to all relevant information in a comprehensible form and in a timely manner. The Bill contains some provisions for requesting further information from the applicant.

These provisions are inadequate for the reasons we set out below.

6.1 Timeline for requesting information is short

The timeline for the council and the other three reviewing entities to consider the development application, and to be able to identify what other information may be missing or incomplete, is extremely short. The Bill provides for just one point in time for the Panel to request further information from the applicant and that is at the expiry 14 calendar day period from the date the application was provided to councils (s60 AF (5)). That means there are just 10 working days for those entities to review potentially voluminous and complex project documentation, and to identify any missing information that they need to provide complete and meaningful advice to the Panel.

Recommendation

Ensure the Bill allows for extensions of timelines for requesting information where necessary.

6.2 Local councils may only request limited additional information

The issues on which the local council may ask for further information are extremely limited.

The local council may only request information for three purposes relating principally to the protection of council infrastructure:

- to determine the impact of the proposed development on the use and development of *council infrastructure*;
- to assist in the preparation of recommended conditions to be imposed in respect of the impact of the use and development on council infrastructure; and
- regarding any matters that the council is entitled to consider under the *Local Government (Building and Miscellaneous Provisions) Act 1993*.

This means that a council is not permitted to request further information from the applicant about matters relevant to the LUPAA ‘Objectives’, including such things as the effects of the proposed development on the environment, socio and economic effects, impact on building conservation, health and well-being and sustainable development.

Recommendation

The Bill be amended to expand the range of matters over which local councils may request further information, including statutory planning objectives, as set out in LUPAA.

6.3 The Panel may decline to act on council requests for additional information

Under the Bill, a local council or other reviewing entity cannot communicate directly with the applicant. Instead, they have one opportunity to ask that the Panel request further information from the applicant, and the Panel is permitted to refuse to make the request.

Not only can the reviewing entities not make their request for further information directly to the applicant, but a Panel has the power to refuse to pass on such a request if it ‘believes the information is not relevant to the application’ (s60 AF(3)).

This broadly worded discretion not to pass on a request for further information is problematic, particularly since a reviewing entity will presumably be of the view that the additional information it is asking for is relevant.

The Bill provides that the Panel must notify the reviewing entity in writing of its decision not to ask for the requested information. This decision may be subject of applications for judicial review. It is not clear what would happen to the timeline if a council sought review of a Panel’s decision not to ask the applicant for further information.

Recommendation

The Bill be amended to remove the Panel’s discretion to decline to request further information, except in circumstances that are clearly irrelevant to the development application.

6.4 Limited power to respond if applicant does not provide requested information

There is a limited window of time for the council and the other reviewing entities to determine whether the applicant’s response to a request for additional information is adequate.

After receiving the applicant’s response to a request, the Panel has seven days (amounting in practice to five working days, and fewer if there is a public holiday) to notify the applicant that ‘it is not satisfied that the applicant has complied with the initial requests for information’ (s60

AF(7)). This timeline is unworkable. Before the Panel can determine how to respond to the initial provision of additional information, the reviewing entities must be:

- provided with the additional information
- review that information to see if it responds to their request; and
- if the information is inadequate, notify the Panel that further requested information has not been provided.

We also note that just as the initial request may be refused by the Panel, a notice that information that was requested was not provided may also be refused by the Panel. This time no written reasons for that refusal are required (s60 AF(7)).

Recommendation

The timeframe in the Bill for advising the applicant that information provided is inadequate should be extended.

6.5 No opportunity for follow-up requests for further information

Once the applicant has provided a response to a request for further information to the satisfaction of the Panel, no further requests may be made.

The lack of opportunity to ask for further information, based on matters that arise in relation to the additional information received, undermines the quality of the advice the reviewing entities will be able to provide to the Panel. It also undermines the Panel's own deliberations and undermines the capacity of members of the public who may wish to engage with the process once the draft assessment plan is exhibited.

Recommendation

The Bill be amended to permit the Panel to request further information where required.

Summary

In summary, failure to require referral to relevant agencies and failure to ensure that the Panel and referring agencies have access to necessary information, will seriously undermine the integrity of the Panel's decision in coming to its decision.

7. The timeframe for reaching a draft decision is inadequate

The timeframe for reaching a draft decision on an application is too short to ensure it is based on a proper consideration of all relevant matters. The Panel must provide its draft assessment decision within 14 days (effectively 10 working days, and fewer if there are public holidays) of receiving the 'advice' from the four entities (s 60AG). This is regardless of the complexity of the development application, the additional information and the advice provided by the council and the other three reviewing entities,

Such a short timeframe will impair the capacity of the Panel to carefully consider, debate and decide on the application, including in resolving situations where there is a difference of opinion between Panel members.

Recommendation

The Bill is amended to extend decision-making timeframes to enable the Panel to make a fully informed decision.

8. No substantive rules specified to guide draft assessment decision

The Bill does not provide any legal rules for a Panel to follow in deciding whether a development application should be approved. The only matters that must be followed are the LUPAA objectives (set out in Schedule 1 of the LUPAA).

This is in stark contrast to the situation that applies under LUPAA, when either a council or a major projects Panel decides the application. Under LUPAA, a council (as ‘planning authority’) must apply: the objectives of the LUPAA Act; the environmental or natural hazard management plan certified by an accredited person or state service agency; and the provisions of the relevant planning scheme. A Major Projects Panel established under part 4 division 2 of LUPAA is required to adopt an assessment framework or criteria and the applicant must provide a detailed impact assessment addressing that framework. These requirements do not apply to Panels under the proposed Bill.

Merely adhering to the LUPAA objectives is no substitute for applying detailed state planning scheme rules (councils) or a detailed assessment framework (major projects panels). LUPAA objectives are vague and broadly framed and often conflicting. Panels established will have extremely broad discretion to determine whether to approve the application. No guidance is provided to the Panel as to how competing objectives should be resolved in a given context. This leaves much greater room for discretionary decision making than is possible under LUPAA. Downgrading the current clear provisions to one containing wide discretion repeats the problems of ministerial discretion that have been identified in other statutory processes, including most notably, the Samuel Review of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth). The second 10-yearly review of the Commonwealth EPBC Act found that:

“A fundamental shortcoming in the EPBC Act is that it does not clearly outline the outcomes it aims to achieve and does not provide sufficient constraints on discretion to ensure that development is sustainable.”¹⁵

Recommendation

¹⁵ Samuel, G 2020, *Independent Review of the EPBC Act – Final Report*, Department of Agriculture, Water and the Environment, Canberra, October. CC BY 4.0, 52.

The Bill be amended to include specific decision-making criteria, to provide clear guidance to the Panels and avoid inconsistent and potentially arbitrary decision-making

9. Panels not required to ensure procedural fairness in hearings

Procedural fairness requires a decision maker to hear from all relevant and affected persons before making a decision. Here, by the time a hearing commences, the Panel has already been deeply engaged with the material provided by the applicant, supplemented by the advice from the reviewing entities, and on that basis has already made a preliminary decision.

Several other features undermine the capacity of the current process to ensure procedural fairness. Under the Bill, a public hearing must start within less than 28 calendar days from the day the draft assessment decision is made public (s60AG(1)(d)(vi)). This leaves insufficient time for members of the public to prepare for the hearing. The Bill makes no provision for hearings to be held in the locality of the proposed development (contrary to page 19 of the Report on Consultation) and there is no provision for members of the public to be represented by legal advisers or to be able to call on experts to provide evidence.

The statutory limit on the time between releasing a draft decision and reaching a final decision dramatically reduces scope for procedural fairness. The Panel will not be able to determine for themselves how much time is needed to give all persons appearing before it a fair amount of time to explain their position. The final decision of the Panel must be adopted within 28 calendar days from making the draft decision public, and, that means, the final decision must be adopted within 18 calendar days of the start of a hearing. This will mean that to allow time to make any revisions to its draft assessment decision, the hearings must be brought to an end well in advance of the expiration of that 18-calendar day period. On this basis the Panel could be forced to curtail a hearing to just 5 or 7 working days.

There are limited opportunities for the Panel to obtain an extension of time. The Minister has a discretion to approve one extension of not more than 21 calendar days. The only way in which a Panel can obtain a longer extension (but not for applications endorsed by Homes Tasmania) is for the applicant to agree to it (s 60AH (4) - (6)).

This means that Panels may have to limit the time available for submissions by interested parties because its hands are tied by the statutory deadlines. Similarly, a Panel may be forced to cut corners in its own deliberations (including in dealing with possibly diverging views) to meet the deadline for its final decision (i.e. without an extension that must be done within 18 calendar days from start of hearing). This will compromise the quality of the final decision, because the Panel may not be basing its decision on full information. It also increases the risk of judicial review where a) there is limited time to give genuinely consider all mandatory relevant considerations, and b) interested parties are dissatisfied.

Recommendation

The Bill be amended to provide Panels with the discretion to extend timeframes where necessary to consider all relevant viewpoints and reach a fully informed decision.

10. Panel not required to provide reasons for decision

A further shortcoming of the proposed decision-making process is that the Panel is not required to provide a written statement of reasons to explain how it arrived at its decision. It is not required to explain how it considers that a proposal meets the LUPAA objectives or how it valued/weighted competing considerations.

The 2020 *Independent Review of the Tasmanian Planning Commission* ('Independent Review of the Commission') identified lack of transparency as a serious shortcoming of the Commission. The Independent Review noted that statements of reasons are necessary to ensure the 'transparency, fairness and justice' of Commission decisions.¹⁶ The provision of written reasons in support of the exercise of a statutory power is an essential component of sound administrative decision-making. Lack of transparency regarding the reasons for a decision can:

- undermine public confidence in the correct application of planning rules;
- limit the scope for judicial review of the legal soundness of decisions;
- and minimise opportunities to promote consistency and predictability in decision-making by reducing the likelihood that applications based on similar facts will result in broadly similar outcomes.

Written reasons are particularly important in relation to decisions that involve the application of complex statutory rules such as those found in planning laws.

Written reasons explaining how the decision was arrived at are also an important part of any further review of the decision (including through judicial review).

Recommendation

Require Panels to provide written reasons for decision.

11. No right to seek merits review of a Panel decision.

The shortcomings outlined in this submission are compounded by the absence of merits appeal rights from decisions of a Panel. The Position Paper that formed the background to this Bill assumed that the Tasmanian Civil & Administrative Tribunal (TASCAT) 'independent review function will be built into the DAP [*Panel*] framework'.¹⁷ The concept of an 'independent [merits] review function' being 'built into' the primary decision-making process is a contradiction in terms. It is impossible for a Panel to be both an original decision-maker and to conduct merits review of its own decision. A decision by a Panel cannot, as a matter of logic and administrative law, be a substitute for merits review by TASCAT.

Further, merits review should be conducted by members of an independent body that is structurally positioned to act at arm's length from the original decision maker, and from the

¹⁶ Roberta Ryan and Alex Lawrie, *Independent Review of the Tasmanian Planning Commission*, Report October 2020: https://www.planning.tas.gov.au/_data/assets/pdf_file/0007/669994/RTI-SoE-Part-3.pdf at 53.

¹⁷ Development Assessment Panel (DAP) Framework: Position Paper, State Planning Office, Department of Premier and Cabinet, ('Position Paper'): https://www.planningreform.tas.gov.au/_data/assets/pdf_file/0010/729253/PositionPaper-Development-Assessment-Panel-Framework-October-2023.pdf at 6, 13.

government. The selection and appointment process for members of the Commission does not meet these requirements. Appointments through a ministerial ‘nomination’ process, such as is done for the Commission, fall far short of best practice for appointment members of a merits review body. The Council of Australasian Tribunals’ *Tribunal Independence in Appointments: A Best Practice Guide* (2016) is highly critical of such nomination processes in the merits review context, warning that:

The use of the nomination method in tribunal appointments has declined since the early 1990s, when it came under sustained criticism as an ‘old boy network’ that gives privileged access to certain people and perpetuates a narrow membership profile. The closed mode of recruitment leads to qualified persons from under-represented groups being systematically overlooked. It may also present an enhanced risk of political patronage and bias, particularly where the Minister relies on party sources to identify or assess potential appointees [citations omitted].¹⁸

Another important feature of independent decision-making, as well as the public perception of such independence, is that appointments are ‘secure against interference by the Executive or other appointing authority in a discretionary or arbitrary manner.’¹⁹ Commissioners have limited security of tenure: they are appointed for a contractual term of no more than five years but only two of the six non-government Commissioners are protected from arbitrary dismissal.²⁰ Members of Panels have no security of tenure at all.

The position of Members of TASCAT is structurally much more independent than members of a Panel. Senior and Ordinary Members of TASCAT are selected through a publicly advertised merits-based process involving selection criteria and interviews by a Panel.²¹ Once appointed, TASCAT members have considerable security of tenure. The President and Deputy Presidents are provided the same protections as judges: they can only be removed on very serious grounds by a motion of both Houses of Parliament.²² All other TASCAT members may only be removed on the basis of four narrow and serious grounds.²³

The relative structural independence and greater transparency of TASCAT is vital to supporting impartial and credible merits review processes that foster public confidence in those who engage with the planning system in Tasmania.

Where merits review is not available, the only avenue of appeal is judicial review of a decision. While theoretically possible, judicial review will often not be an option for people who are

¹⁸The Council of Australasian Tribunals, *Tribunal Independence in Appointments: A Best Practice Guide* (2016) https://coat.asn.au/wp-content/uploads/2018/10/Tribunal-Independence-in-Appointments_COATBestPracticeGuide-2016-Final-web-interactive.pdf at 30 and 31.

¹⁹The Australasian Institute of Judicial Administration Incorporated, *Tribunal Independence*, report by Pamela O’Connor (2013) at 62.

²⁰*Tasmanian Planning Commission Act*, 1997 (Tas) Schedule 2. Section 10 allows four of the six non-government members of the Commission to be dismissed on the ground that they ‘are no longer qualified to be appointed to the Commission.’

²¹*Tasmanian Civil and Administrative Tribunal Act 2020* Pt 3, Div 4.

²²*Ibid*, ss 16-19, and 30-33.

²³*Ibid*, s 47(1).

concerned about planning decisions. This may be because community members do not have the time, money or expertise to pursue review through the courts; or because a technical legal ground of review is not available (which is not to say that the decision is ‘correct or preferable’ in accordance with the standard of merits review); or, because a community member may not be able to meet the threshold for ‘standing’ (that is, they are not directly connected to or affected by the decision in way that would justify access to the courts). Planning decisions can affect access, amenity, enjoyment, and community connection for a wide range of people that may not be able to demonstrate ‘standing’ and therefore seek judicial review. This would mean, in practice, that there will be no independent review of a Panel decision in those situations, despite those decisions potentially impacting a large number of people in the relevant community. The proposal therefore risks removing opportunities to have the concerns of affected communities acknowledged and interrogated in a transparent, accountable, and democratic way.

Removing merits review will not remove strong community concerns about developments. These concerns are not merely those of ‘local politics’ but relate to a multifaceted range of issues that constituents feel are important to them. In fact, it may mean that concerns are channelled into other fora such as media and election campaigns, or corporate boycotts. It may also have the perverse effect of increasing costs and delays by forcing a greater proportion of planning decisions into the judicial review process, which is far more costly, complex, and time consuming than merits review, both for developers and communities. Our democratic system is based on the principle that public participation is essential to good decision-making – here, that input from a community affected by a ‘significant’ or ‘important’ development is essential to ensure that the decisions made by government bodies are informed and in the public interest.

Recommendation

The Bill be amended to provide the parties to an application, as well as persons who have made a submission to the DAP application process, a right to apply to TASCAT to seek merits review of Panel decisions.

13. The Minister’s discretion to amend a planning scheme needs to be grounded in objective criteria

Separate to the new Part 2AA, we make the following comments on the capacity of the Minister to review decisions to amend the LPS on the application of a relevant person.

The proposed s 40BA gives the Minister the capacity to override the decision of a council and the TPC not to amend a planning scheme if ‘in the opinion of the Minister, the draft amendment meets the LPS criteria’. This broad discretion allows for the opinion of a senior politician to override the assessment of the council and TPC. At a minimum, the Minister’s assessment should be that the LPS criteria are met, as objectively assessed by reference to the LPS criteria, not that it is in their opinion that the criteria are met.

Recommendation

That the words ‘in the opinion of the Minister’ in s 40BA(5) be replaced with ‘if the Minister determines that the draft amendment meets the LPS criteria’.

From: [Jane Horwood](#)
To: [State Planning Office Your Say](#)
Subject: Submission - Draft Development Assessment Panel - Draft Bill 2025
Date: Thursday, 24 April 2025 3:58:53 PM

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Good afternoon,

There are many aspects of the current planning scheme that I disagree with, but I do not think that the creation of Development Assessment Panels (DAPs) provides any improvement to the current system. I firmly believe that local councils and communities should determine development.

Planning already favours developers – they are well resourced and know how the system works. Community members who wish to object to development applications have a steep learning curve in order to prepare submissions to address standards and discretionary requirements of the planning scheme applicable to the assessment of the application. An alternate planning approval pathway only exacerbates this imbalance.

Potential conflicts of interest between Councillors having to act as a Planning Authority while also having been elected to represent their constituents has been flagged as a driver for the changes. However, the Final Report (October 2023) of the Future of Local Government Review addresses this concern by recommending a mandated learning program for Councillors including the topics '*council as a planning authority*' and '*community engagement, representation, and advocacy*'. The Final Report also states that Councils should engage with the community in the planning and development process, particularly for significant projects or changes that affect the local area. I prefer that it is elected local Councillors who decide the fate of development applications rather than state appointed planning panels conducted by the Tasmanian Planning Commission.

It has been stated that an intention of the changes was to provide an alternate approval pathway outside of Councils' decision-making functions and help '*take the politics out of planning*' for more complex or contentious development applications. But the Minister also has a political bias... The recent lack of faith in the Tasmanian Planning Commission's report on the proposed stadium, and the decision to bypass local planning authorities and instead introduce fast-tracked legislation only illustrates this!

The proposed changes give the Minister power to refer a development to be assessed by a DAP based on a '*perceived conflict of interest*', '*a real or perceived bias*' or '*the application relates to a development that may be considered significant*'. This are subjective criteria and leave the process open to political bias.

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; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and so much more is extremely concerning to me.

Infrastructure is not keeping up with the rate of development. For instance, the Environmental Protection Agency regularly allows sewerage treatment plants to breach their environmental licence conditions, because there are worse sewerage plants polluting the environment that need to be fixed first. There is insufficient coordination between the parties involved in development and the infrastructure providers to support this, so how

does adding an additional planning pathway to the process help this? In my view, the State's limited funds would be better spent addressing inadequate infrastructure rather than on DAPs.

There needs to be transparency, independence, accountability and community participation in decision-making within the planning system, as they are critical for a healthy democracy. In my view, the best way to do this is to keep decision making local, rather than bypassing it, and there needs to be opportunities for appeal.

Regards
Jane Horwood

From:
To: [State Planning Office Your Say](#)
Subject: Submission against proposed Development Assessment Panels (DAPs)
Date: Thursday, 24 April 2025 5:55:53 PM

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I oppose the revised Development Assessment Panels (DAPs) Legislation. It has the same flaws rejected by Parliament in November 2024 and fails to provide safeguards for the rights of the Tasmanian Community. My concerns are:

- * Skyscrapers could easily be approved in Hobart with virtually no community input.
- * The proposed DAPs would allow property developers to bypass local councils and communities.
- * They would not make decisions faster than Councils, and there is no concrete evidence to prove that the current system needs reform. In fact, the current system, in place for many years, works well.
- * Community input, at the beginning of the process, is not allowed.
- * Developments could only be appealed to the Supreme Court; a really expensive process.
- * Merit-based planning appeal rights are not maintained. They should be: on all the issues the community cares about - height, bulk, scale, appearance, impacts on streetscapes and adjoining properties (including privacy and overlooking), biodiversity, traffic, noise, smell, and light.
- * The Tasmanian Civil and Administrative Tribunal (TASCAT) review of decisions is essential for a democratic system protected by 'checks and balances'.
- * Under the legislation, Panel appointments do not have to satisfy detailed selection criteria or objective processes.
- * The proposed DAPs have the potential to increase corruption, reduce good planning outcomes, favour developers, and undermine democracy. The NSW Independent Commission Against Corruption has recommended the expansion of merit-based planning appeals as a deterrent to corruption.

I request that this Legislation be rejected.

My name: Laurel Trevena

My email:

**My additional
comments::**

From:
To: [State Planning Office Your Say](#)
Subject: Submission against proposed Development Assessment Panels (DAPs)
Date: Thursday, 24 April 2025 5:53:02 PM

You don't often get email from [redacted]. [Learn why this is important](#)

I oppose the revised Development Assessment Panels (DAPs) Legislation. It has the same flaws rejected by Parliament in November 2024 and fails to provide safeguards for the rights of the Tasmanian Community. My concerns are:

- * Skyscrapers could easily be approved in Hobart with virtually no community input.
- * The proposed DAPs would allow property developers to bypass local councils and communities.
- * They would not make decisions faster than Councils, and there is no concrete evidence to prove that the current system needs reform. In fact, the current system, in place for many years, works well.
- * Community input, at the beginning of the process, is not allowed.
- * Developments could only be appealed to the Supreme Court; a really expensive process.
- * Merit-based planning appeal rights are not maintained. They should be: on all the issues the community cares about - height, bulk, scale, appearance, impacts on streetscapes and adjoining properties (including privacy and overlooking), biodiversity, traffic, noise, smell, and light.
- * The Tasmanian Civil and Administrative Tribunal (TASCAT) review of decisions is essential for a democratic system protected by 'checks and balances'.
- * Under the legislation, Panel appointments do not have to satisfy detailed selection criteria or objective processes.
- * The proposed DAPs have the potential to increase corruption, reduce good planning outcomes, favour developers, and undermine democracy. The NSW Independent Commission Against Corruption has recommended the expansion of merit-based planning appeals as a deterrent to corruption.

I request that this Legislation be rejected.

My name: Colin Trevena

My email:

**My additional
comments::**

From:
To: [State Planning Office Your Say](#)
Subject: Submission against proposed Development Assessment Panels (DAPs)
Date: Thursday, 24 April 2025 4:05:13 PM

You don't often get email from [redacted]. [Learn why this is important](#)

I oppose the revised Development Assessment Panels (DAPs) Legislation. It has the same flaws rejected by Parliament in November 2024 and fails to provide safeguards for the rights of the Tasmanian Community. My concerns are:

- * Skyscrapers could easily be approved in Hobart with virtually no community input.
- * The proposed DAPs would allow property developers to bypass local councils and communities.
- * They would not make decisions faster than Councils, and there is no concrete evidence to prove that the current system needs reform. In fact, the current system, in place for many years, works well.
- * Community input, at the beginning of the process, is not allowed.
- * Developments could only be appealed to the Supreme Court; a really expensive process.
- * Merit-based planning appeal rights are not maintained. They should be: on all the issues the community cares about - height, bulk, scale, appearance, impacts on streetscapes and adjoining properties (including privacy and overlooking), biodiversity, traffic, noise, smell, and light.
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- * The proposed DAPs have the potential to increase corruption, reduce good planning outcomes, favour developers, and undermine democracy. The NSW Independent Commission Against Corruption has recommended the expansion of merit-based planning appeals as a deterrent to corruption.

I request that this Legislation be rejected.

My name: David Jupe

My email:

My additional comments:: Since the overwhelming number of development applications are passed expeditiously by the current system and the only justification is to speed up controversial major projects for which there is an existing alternative route, the only motive for this legislation must be a wish to reduce the power of local councils in favour of the central state government. This is an extreme attack on the democratic institutions in our state and should be strongly rejected for that reason alone. If there are reasons to alter planning legislation to facilitate some development applications, this blunderbus approach to disenfranchise local government is no way to properly achieve it.

Department of Police, Fire and Emergency Management



Office of the Secretary
GPO Box 308 HOBART TAS 7001
Phone 1800 765 827
Email secretary@dpfem.tas.gov.au

Our reference: A25/124020

29 April 2025

State Planning Office

Via email: haveyoursay@stateplanning.tas.gov.au

LAND USE PLANNING AND APPROVALS (DEVELOPMENT ASSESSMENT PANELS) BILL 2025

Thank you for the opportunity to comment on the Land Use Planning and Approvals (Development Assessment Panels) Bill 2025 (the Bill).

The Department of Police, Fire and Emergency Management (DPFEM) is responsible for providing quality policing, fire, and emergency management services to the Tasmanian community. DPFEM comprises four operational service arms – Tasmania Police, Tasmania Fire Service (TFS), State Emergency Service (SES) and Forensic Science Service Tasmania (FSST). While broadly supportive of the Bill, DPFEM provides the following comments for consideration.

Section 60AD(c)

Under the Bill, the applicant or the planning authority may request the Minister to refer an application to the Commission to be determined by a Development Assessment Panel (DAP) subject to the Minister being satisfied that (among other criteria) either party to the application believes that the relevant planning authority does not have the technical expertise to assess the application (section 60AD(c)).

DPFEM acknowledges that there are already some planning authorities within Tasmania where Development Assessment Planners may not have the technical expertise required to assess natural hazard risks such as flood and coastal inundation. In some cases, Development Assessment Planners become a shared human resource across multiple Councils to fill this gap. Where this is not possible, the technical aspect of the assessment is outsourced to a third party such as a consultant engineer at a cost to the Council. As such, there is potential for the draft Bill to encourage cost-shifting through the provision of the criterion in section 60AD(c).

Further, there is potential for new work to be generated for agencies such as the SES where an application is accepted and a DAP that was created based on a gap in technical expertise then makes a referral to the SES as an agency with the technical expertise. While the SES has the technical expertise required to assess an application with flood and

coastal inundation hazards considerations, it is not a statutory referral agency and has no additional resources to service DAP referrals. In this scenario, the outcome may be that the timeframes tied to a referral cannot be met and/or resources may be diverted from existing work programs and priorities.

It is unclear how this complication would be resolved as a potential outcome of the Bill, and whether a DAP that lacks technical expertise would outsource this aspect of the application process to a third-party consultant or an agency such as the SES which may not be able to service the request.

Section 60AL(2)

I note that the TFS made a separate submission to the Bill via the Office of the Fire and Emergency Services Commissioner. The TFS submission identifies a potential omission that may create inconsistencies between the assessment process followed by planning authorities and DAPs in granting a permit for a development.

I would like to reiterate the comments of the TFS, which highlighted that section 60AL(2) of the Bill requires the DAP to accept a certified bushfire hazard management plan; however, it does not require acceptance of a certified exemption. In contrast, section 51(2)(d) of the *Land Use Planning and Approvals Act 1993* does require acceptance of a certified exemption. The process followed by the two authorities should be consistent, and therefore, as per the TFS recommendation, section 60AL(2)(e) should include reference to a certified exemption similar to section 51(2)(d)(ii) of the *Land Use Planning and Approvals Act 1993*.

I appreciate the opportunity to comment on the Bill. If you would like to discuss this submission further, please contact Rachael Murray on (03) 6173 2673 or Rachael.Murray@dpfem.tas.gov.au

Yours sincerely



Donna Adams PSM APM

SECRETARY

Our Ref: GR.STA.001

Enquiries: Office of the Chief Executive Officer
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23 April 2025

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State Planning Office
Department of Premier and Cabinet
GPO Box 123
HOBART TAS 7000

By email: haveyoursay@stateplanning.tas.gov.au

Dear Sir/Madam

Submission – draft Land use Planning and Approvals Amendment (Development Assessment Panels) Bill 2025

Thank you for providing West Tamar Council with the opportunity to provide feedback in relation to the draft Land Use Planning and Approvals Amendment (Development Assessment Panels) Bill 2025 which facilitates the introduction of Development Assessment Panels (DAP).

Council provides the following submission which was endorsed at its meeting of 15 April 2025 and is submitted within the advertised consultation period.

There are diverging views within Council with regard to the merit of a DAP Bill, with neither definitive support nor opposition to the Bill. Instead, further amendments are requested to the draft DAP Bill to address key concerns, prior to being considered for adoption.

Reasons for supporting the Bill

In particular, Council supports the objective of facilitating faster and more efficient affordable housing developments, as a means of addressing the current 'Housing Crisis', as well as an alternative avenue for complex projects where the relevant Council may not have the required expertise, subject to clear eligibility guidelines.

Reasons for not supporting the Bill

The broader motivation for DAPs is unclear as there does not appear to be a specific problem with the existing planning process that the DAP is seeking to resolve.

To our knowledge, Tasmania has the fastest approvals process in Australia and a low number of appeals, which suggests the existing process is working well. Further, the broadness of the proposed eligibility criteria creates a lack of clarity regarding the intent of the DAP process and raises questions regarding the capacity of the



Tasmanian Planning Commission to resource the number of applications that will be eligible.

Recommended amendments

The following matters are recommended for further consideration and amendment:

Appeal Rights

All parties should be provided with the opportunity for appeal rights once the decision has been made by the Tasmanian Planning Commission, including the applicant, representers and the relevant Council. These appeal rights should extend to the merits of the decision. Public consultation or hearings during the assessment stage is not considered an adequate substitute for merit-based appeal rights.

Eligibility Criteria

There is potential merit in the DAP process for major projects and affordable housing projects. However, the eligibility criteria should be refined to focus on the primary intent of the DAP.

Affordable housing

If the intention is to facilitate affordable housing through Homes Tasmania and other affordable housing providers, the revised DAP Bill provides less clarity, as it opens up the ability for any developer to submit a housing proposal through the DAP process, under the guise of affordable housing. Clear guidelines should be developed to qualify genuine affordable housing proposals.

Technical expertise

There may be merit in a DAP process in certain circumstances, such as significant projects where the relevant Council lacks the technical expertise. However, in most cases, Council is able to source expertise externally in order to make informed decisions, as they do currently. Further, the proposed eligibility criteria may lead to reliance on the DAP process as a substitute for appropriate resourcing of Council's with suitably qualified professionals, creating potential capacity issues for the TPC.

Conflict of interest

Clear eligibility guidelines should be developed, including qualifying what constitutes a conflict of interest for Councils and for verifying when a genuine conflict exists. For example, where relied upon as the sole eligibility criteria, the Planning Authority should provide confirmation, rather than being at the discretion of the applicant to assert a conflict.

Local interest

It is unclear why applications of 'local interest' would be eligible, unless there is also a clear state interest or benefit.

Ministerial directions regarding LPS amendments

The Minister's involvement to direct a Council to initiate LPS amendments through the DAP process is unnecessary as this mechanism already exists. Notwithstanding, there is no evidence to suggest Council's are refusing to initiate LPS amendments without sufficient grounds. Should Council determine not to initiate a LPS amendment, a more appropriate mechanism would be for the Minister or TPC to self-initiate the amendment. Where a Council has determined that there are insufficient grounds to support a LPS amendment, it is considered inappropriate that they should be directed to further resource the process.

Timeframes for Council Input

The referral of DAP applications to Council for advice is welcomed. However, the timeframe for response will limit the capacity for consideration of matters other than through delegation, which may not be appropriate or desirable for complex or contentious applications. An extended timeframe for response, or the ability to request an extension, should be considered.

Further, the allowable scope of Council's advice and information requests should extend to all State Planning Provisions and Local Planning Provisions to ensure all relevant information provided with an application can be properly considered.

Additional Cost to Council

Any provisions about fees and charges by the Planning Authority must allow for full cost recovery, to avoid Council's being disadvantaged by insufficient remuneration for their inputs to the assessment process.

Resourcing and Capacity

It is unclear whether the SPO and TPC have capacity to take on the volume of applications that are likely to be eligible based on the broad criteria currently proposed. Further refinement of the eligibility criteria, clear guidelines and further information regarding how the DAP will be resourced is required to ensure the intent of streamlined decision making is achieved.

If you would like to discuss this matter further, please contact me on 6353 9300 or via email at wtc@wtc.tas.gov.au.

Your faithfully



Kristen Desmond
CHIEF EXECUTIVE OFFICER

1 May 2025

State Planning Office
Department of State Growth
GPO Box 536
Hobart TAS 7001
By email: haveyoursay@planning.tas.gov.au

Dear Sirs,

Flinders Council appreciates the opportunity to provide a submission on the Development Assessment Panel Bill 2025 (2025 Bill), and we thank you for accepting this submission after the advertised closing date.

At its April 2025 Ordinary Meeting, Council resolved not to support the Development Assessment Panel Bill 2025 in its current form. Council strongly encourages the State Government to undertake meaningful consultation with all Tasmanian Councils to develop a system that recognises and accommodates the diverse needs of our communities, rather than applying a uniform model that may not be fit for purpose across the State.

The 2025 Bill proposes significant changes to the previous proposal, which were identified in the table at section 3 of the **Report on Consultation**. Those changes identified in the Table are all supported.

Many of those changes were arguably required to make the process function and provide some equity between the existing planning application, appeal process and the DAP process. The Report on Consultation provides a review of the submissions to the previous proposal.

Section 8A Guidelines

The 2025 Bill now includes the capacity for the Tasmanian Planning Commission to establish Guidelines under section 8A of the Act to assist the Minister to determine whether a proposal includes social/affordable housing or subdivision, or, whether an application ought to be nominated for a DAP assessment. Section 8A Guidelines provide significant guidance to parties on key decision criteria.

Increased use of Section 8A Guidelines by the Commission should be supported.

Ministerial Direction on Planning Scheme Amendments

Despite previous concerns, the proposal for the Minister for Planning to direct preparation of planning scheme amendments remains unrevised at section 7 of the 2025 Bill.

There are some potential issues with this proposal, particularly given that the basis for this power follows a refusal by the Planning Authority to commence to prepare a planning scheme amendment (40BA(1)).

Sections 40BA(5) and (6) do not establish any comparable decision requirements or obligations on the Minister but simply rely on their opinion and require them to be informed as they see fit. There is no obligation to obtain independent or expert advice on the technical merits of the request.

The provisions of section 7 of the 2025 Bill fail to provide a suitable obligation on the Minister to obtain qualified or expert advice to make a properly informed decision on any request, particularly where a refusal was based on technical matters or expert advice.

The Planning Authority would then be bound to implement an instruction to amend by the Minister and possibly cover the subsequent financial obligations and other commitments that the Minister's decision would have created. The 2025 Bill does not provide for a qualified decision by the Minister, so any technical issues or problems with the application cannot be resolved through that process.

If this proposal is progressed at this time, then the Minister (or delegate) should administer and retain liability for the full amendment process.

Development Assessment Panels

While there are many good reasons to support the revisions, there are some concerns regarding the remaining proposal. Some of these include:

- No response received to the detailed data in Councils previous submission;
- Concerns over the lack of definitions for social and affordable housing;
- Unclear fee recovery process for local governments;
- While real or perceived conflict of interest was identified as a referral trigger at 60AD(1d), further information is required on how this might be assessed;
- The 2025 Bill does not enable referral to the Commission for its view on any requested permit amendments under section 56 or corrections to permits under section 55 of the Act;
- Possible conflicts with statutory timeframe; and
- Concerns about post permit processes were not resolved. While the 2025 Bill identifies the Planning Authority is responsible for amendments and enforcement of any permit, concerns over the claimed conflicts of interest were not addressed with regard to minor amendment provisions for planning permits at Section 56 of the Act.

Clear Guidance

During consultation on this and the previous proposal, it has become clear that the volume of approval pathways in Tasmania is complex.

Current planning processes include a normal planning application, a scheme amendment, a combined scheme amendment and planning application, Major Projects, Projects of State Significance and Major Infrastructure developments. This proposal will add DAPs to that suite of options.

If/when the State delivers DAPS, it is essential that they publish guidelines and provide online resources to assist consideration of the range of approval options for delivery with the draft Bill.

Post Community Consultation

A Community consultation session was held on 14 April 2025, as was required by the deferred motion of the 26 March 2025 Ordinary Meeting of Council. Information gathered from the session was used to further inform Council's submission and includes:

- Concern around the lack of detail provided to inform assessment of requests to the Minister for a DAP nomination;
- Objection to reliance on further guidelines which are to be issued post the DAP Bill adoption;
- Concern at a lack of information that demonstrates the need for DAP's to be established;
- Lack of understanding around defined terms such as referral of developments that are "significant" in the local area. Acknowledgement that what is significant in one local area may be vastly different in our area – with significantly smaller projects being significant to the Flinders Municipality;
- The process makes no provision to recognise or incorporate aboriginal heritage considerations as a reviewing entity at section 60AF, unlike Heritage Tasmania and other state agencies; and
- Consideration of these proposals will be different within the Furneaux Group and may require referral to other State agencies such as Conservation Assessments. The 60AF process ought to allow the DAP to include other referral agencies as determined to be relevant.

We invite the Government to engage with Council on any potential changes before progressing the DAP initiative and suggest this be completed across the Local Government sector.

I wish to again thank you for the extension of time to submit this information and look forward to progressing the matter to find an overall resolution for all affected.

Yours faithfully,

Rachel Summers
Mayor