Revised LUPAA Development Assessment Panels Bill 2025

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1	Dr John Stevens
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5	*Dr. Anya Daly*
6	Shelley M. Scott
7	Jim Love
8	Kerry Houston
9	Geoff Dodd
10	Wilfred Hodgman
11	Nick Booth
12	Craig Ling
13	Jenny Cambers-Smith
14	Jenny Seed
15	YIMBY Hobart
16	Allan Peter Fawcett
17	Devonport City Council
18	Gayle Viney
19	Robert campbell
20	Gustaaf Hallegraeff
21	Sarah Lloyd
22	Huon Valley Council
23	Evan Hadkins
24	Amelia Hanlsow
25	Roger Proctor
26	Christine Bayley
27	Mick Logan
28	Glenorchy City Council
29	Peter and Pam Rowell
30	Glamorgan Spring Bay Council
31	Essie Davis
32	Hobart City Council
33	Philip Stigant
34	John Meehan
35	Robyn Everist
36	Dr Simon Grove
37	Alice Salter
38	Dr Imogen Fullagar
39	Steven Smit
40	Caroline Sutton
41	Louise Stoward
42	Suzanne Bell
43	Stephen Cameron
44	Gayle Newbold
45	Rachael Perigo
46	Ian Cargill
47	Sorell Council
48	Philippa Cargill
49	Janine Combes
50	Dr Genevieve Stather

From: John Stevens
Sent: Thursday, 6 March 2025 8:47 AM
To: State Planning Office Your Say
Cc:
Subject: Draft LUPA bill

Dear SPO, Mayor Bromley and Councillor Warren

I am writing to object to the proposed introduction of Development Assessment Panels (DAPs) and the removal of (or reduced scope) of third party appeals to planning proposals

The previous draft DAP legislation was rejected primarily based on lack of consultation, engagement, reduced capacity for local councils (and councilors) to represent/advocate for local communities. There have been no meaningful attempts to address these matters.

The removal of, or reduced scope of 3rd party appeals is an erosion of individual and the community's ability to represent/advocate the values important to them.

Judicial review through the courts is not accessible to the average person aggrieved by a planning decision and nor is it a substitute for a genuine merit-based appeal system.

The complexities associated with implementing the proposal are not necessary and unaffordable. Tasmania's development assessment system is the fastest in the country.

The Tasmanian Planning Commission suggested a preferred alternative model which has not been investigated and would implement many of the Government's objectives while retaining strong Local Government engagement, capitalising on their skills, local knowledge, expertise and resources.

Yours sincerely,

Dr John Stevens

From: Bill & Irene
Sent: Wednesday, 19 March 2025 8:21 AM
To: State Planning Office Your Say
Subject: CM: Development Assessment Panels Bill 2025

This Bill is an attempt by government to override Council decision making and clear the way for developers to impose upon us proposals which may be totally unsuitable and be opposed by the general public without any opportunity to have our say.
Why is this? To allow developers a free hand? Quite often they don't even live in Tasmania and don't care about us. Getting rich on the back of their friends in government.
To Progress Tasmania? Maybe, but one man's progress is another's visual and practical nightmare.
To acquiesce to party donors? Well if they donate big they expect some favourable treatment or at least the ear of a politician.
To pursue their rigid idealism? Definitely, and they deride anyone with an opposing view.
Some proposals put forward by government have merit, but this one doesn't pass the "pub test".
Bill Brooks

From: Monique Kreis
Sent: Friday, 21 March 2025 6:57 PM
To: State Planning Office Your Say
Cc:

Subject: Protect our rights & our voice/#ScrapTheDAP – make a submission now until 4/04 @5pm

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.

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 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.

Local councils and communities should have the right to have a say over the developments happening in their local areas, National Parks and across the State. Removing our rights removes our democracy!!

Yours sincerely,
Monique Kreis

From: Rachel Tenni
Sent: Sunday, 23 March 2025 8:41 PM
To: State Planning Office Your Say
Cc:

Subject: Say yes to a healthy democracy

Dear Members of the House of Assembly and the legislative Council,

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.

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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.
- **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.

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Tribunal (TASCAT). The amendment does not allow the DAP approval to be decided by mediation just minor disputes in the process.

I call on you to continue to Scrap the DAP. Residents and people who live and work in the community deserve to continue to have a voice.

Sincerely,

Rachel Tenni

From: Anya Daly
Sent: Sunday, 23 March 2025 6:32 PM
To: State Planning Office Your Say
Cc:

Subject: Protect our rights & our voice - #SCRAPTHEDAP

Dear ministers and the current 'powers that be',

Please take serious consideration of all the following details.

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*'.

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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 researchdemonstrates 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.

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?

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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,

Dr. Anya Daly

From: shelley m scott
Sent: Sunday, 23 March 2025 4:07 PM
To: State Planning Office Your Say
Cc:

Subject: Protect our rights & our voice - #SCRAPTHEDAP

Dear Parliamentarians,

Please read this email and take my request and concerns seriously as this is very imprtant to me, my family, friends and community.

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.

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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,

Shelley M. Scott

From: Jim Love
Sent: Sunday, 23 March 2025 12:19 PM
To: State Planning Office Your Say
Cc:

Subject: Protect our rights & our voice - #SCRAPTHEDAP

To whom it may concern,

Now is a more critical time than ever to ensure Tasmania maintains rigorous democratic due process.

I implore you to put the people of Tasmania first and not allow the interests of business to be put ahead of the majority.

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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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.
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 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.
Yours sincerely

Best regards,
Jim Love

From: Kerry Houston
Sent: Sunday, 23 March 2025 10:42 AM
To: State Planning Office Your Say
Cc:

Subject: SCRAP THE DAP

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.

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.

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- 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.

Yours sincerely,

KERRY HOUSTON
OWNER SHIP INN STANLEY

Ship Inn Stanley acknowledges and pays respect to the Tasmanian Aboriginal people as the traditional owners and continuing custodians of the land and waters of this island, lutruwita (Tasmania), where we live and work.

From: Geoff Dodd
Sent: Sunday, 23 March 2025 9:49 AM
To: State Planning Office Your Say
Cc:

Subject: Protect our Rights & our Voice - #SCRAPTHEDAP

To all Tasmanian parliamentarians,

I am strongly opposed to the further politicisation of planning processes which is further entrenched by this upcoming DAP legislation.

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 researchdemonstrates 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.

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.

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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,

Geoffrey Dodd

From:
Sent: Sunday, 23 March 2025 8:49 AM
To: State Planning Office Your Say
Cc:

Subject: Protect our rights & our voice -SCRAP THE DAP

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

The DAPs as an alternate planning system allows property developers to bypass local councils and communities.
Suggested amendments provide little improvement.

Hand picked state appointed planning panels, may decide on development applications not our elected local councillors. Local concerns will be ignored.

- **The Tasmanian Planning Commission is not independent** – DAPs are hand-picked, without detailed selection criteria and objective processes. DAPs do not have to provide written reasons for their decision. Community input will be less effective because it will be delayed until after the DAP has consulted with the developer.

- **DAPs will make it easier to approve large scale contentious developments** like the high-rise in Hobart, or 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.

- **Developments will only be appealable to the Supreme Court based on a point of law.**

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

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

Yours sincerely,

Wilfred Hodgman

From: Nick Booth
Sent: Sunday, 23 March 2025 7:47 AM
To: State Planning Office Your Say
Subject: Submitting for DAP

To who it my con concern, I support the current changes to the bill for 2025 and also would like to voice my concerns, about local government and its excessive control of planning. I spent 2 years and 8 months and close to $30,000 dollars, giving 2.3 Hectares of land and forced to sign a part 5 agreement and told sign or you wont get approval i had little choice but to sign to get a discretionary DA throught kingston council on land, that should of simply gone through building approval as use was a "permitted use" a biodiversity overlay was use by kingston council that encompasses allmost all of kingbrough this was used to change any permitted use to discretionary.
I have listened to many council meetings and even witnessed where council even discussed trying to thwart decisions that went against them only to be reminded that the applicant could sue the council.

Regards
Nick Booth

Sent from my Galaxy

From: craig Ling >
Sent: Monday, 24 March 2025 10:14 AM
To: State Planning Office Your Say
Cc:

Subject: Protect our rights & our voice - #SCRAPTHEDAP

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.

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- **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.

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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.

- 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 required to make the guidelines and the Minister only needs to 'consider' them.

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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, **Craig Ling**

From: Jenny Cambers-Smith
Sent: Monday, 24 March 2025 11:01 AM
To: State Planning Office Your Say
Cc:

Subject: CM: Urgent Request to Shelve Proposed Development Assessment Panels (DAP) Legislation

Dear Members and Senators

I am writing to express my deep concern regarding the proposed Development Assessment Panels (DAP) legislation and urge you to oppose it. This legislation has been met with widespread opposition from local councils, community organisations, and concerned Tasmanians.

In November 2024, the Local Government Association of Tasmania (LGAT), representing all 29 local councils, unanimously voted against the DAP legislation. The motion highlighted the sector's disappointment with the government's approach and emphasised the need for professional consultation and collaboration.

Public sentiment has been overwhelmingly against the DAP proposal. During the initial consultation phase, 92% of the nearly 500 submissions opposed the creation of DAPs. This strong opposition underscores the community's desire to retain meaningful participation in the planning process and to ensure that local voices are heard.

Critics, including the Planning Matters Alliance Tasmania (PMAT) and the Tasmanian Conservation Trust (TCT), have raised significant concerns about the DAP legislation. I argue that it is anti-democratic and lacks transparency, likely leading to detrimental outcomes for ordinary Tasmanians. The legislation would empower the Planning Minister to remove assessment and approval of

developments from established local government processes, thereby sidelining elected councillors and diminishing community input.

The proposed changes would severely limit public appeal rights. Only those who are direct neighbours and are directly affected by a development would be able to lodge an appeal, effectively silencing broader community concerns. This erosion of appeal rights threatens the checks and balances that are fundamental to a fair and equitable planning system.

It is important to note that the Legislative Council previously rejected the DAP legislation in November 2024, with members citing inadequate consultation with local governments and concerns about increasing developer influence. Despite this, the government has indicated its intention to reintroduce the legislation, which raises questions about its responsiveness to stakeholder feedback.

Given widespread opposition, erosion of democratic processes, and the undermining of local governance, I strongly urge you to shelve the proposed DAP legislation. The current system is not broken, it provides an adequate planning timescale and support for sustainable development, while also giving the community a voice in developments that affect them.

Thank you for considering my concerns. I look forward to your support in preserving the integrity of Tasmania's planning system.

Yours sincerely
Jenny Cambers-Smith

From: Jenny Seed
Sent: Monday, 24 March 2025 2:35 PM
To: State Planning Office Your Say
Cc:

Subject: Re Draft Bill February 2025

SUBJECT:- PROTECT OUR RIGHTS & OUR VOICES - **#SCRAPTHEDAP**

To Whom it concerns,

It is apparent that the 2025 revised DAPs legislation has not significantly changed from the 2024 version that was refused by the parliament and retains all the key flaws.
We 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 will/may not be from Tasmania.

- **The Tasmanian Planning Commission is not independent** – DAPs are hand-picked, self-interested parties, 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). What is blatantly wrong is the fact that 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, whatever else, including a so inappropriately positioned AFL stadium.

- **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*. Overdevelopment and the associated vectors of pollution* are never retrospectively mitigated and can/could all have been prevented. 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*'.

- **Wilful removal of 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 clearly demonstrates planning panels favour developers and totally 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. As well overspends and budget blowouts are happening as a result of deliberately excluding democratic accountabilities.

- **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.

ALSO 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 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.

We are saying YES to a healthy democracy

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

community participation and planning outcomes. This will also help protect local jobs and keeping the cost of development applications down.

- We also call on 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 enduring anti-corruption watchdog that cannot be tampered with.

Yours sincerely,

Jenny Seed

24 March, 2025

YIMBY Hobart

To whom it may concern,

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

YIMBY Hobart was established to advocate for:

1. **Housing abundance:** More housing of all types where people want to live.
2. **A city for people at all ages and stages, of all means and abilities:** Our city and suburbs should reflect the diversity of the community as a whole.
3. **Better access for everyone:** Being an active participant in our city should not rely on owning a car.

YIMBY Hobart's interest in the draft bill primarily relates to the impact of the proposed mechanism on the supply of housing, particularly medium-density and social/affordable developments. Despite the draft bill's potential utility in expediting approval of select housing developments, YIMBY Hobart cannot support the bill as drafted.

The State Planning Office website makes clear the purpose of establishing a Development Activity Panel mechanism is to *"help 'take the politics out of planning' for more complex or contentious development applications."* YIMBY Hobart is concerned that using the urgent need to increase the rate of housing construction as a rationale for much broader, and likely contentious, changes to the planning scheme risks unnecessarily politicising housing developments. This outcome would run counter to the stated goals of the bill, and risks further complicating approvals. The fact this is now the second time the Government has attempted to pass this bill exacerbates this risk of it contributing to the unproductive politicisation of housing approvals.

Further, though there are instances in which councils make bad decisions in relation to contentious housing proposals, we do not believe the broad powers the draft bill gives the responsible Minister are appropriate or proportionate to the scale of the issue.

The Tasmanian Government has invested significant time, effort and money into establishing a single statewide Tasmanian Planning Scheme. Though we believe the Planning Scheme's current settings are too end-use agnostic, particularly in our city and

town-centres, we do not believe establishing broad carve-outs via Development Activity Panels is the solution to this problem.

To build on the Government's work establishing the Tasmanian Planning Scheme, and increase the rate of housing approvals, we would instead like to see the Tasmanian Government:

- Expand and accelerate the work set out in the *Improving residential standards in Tasmania* draft report, including the adoption of more permissive residential and mixed-use zoning in city centres.
- Work with councils to ensure an updated Southern Regional Land-Use Strategy clearly articulates and responds to the need for increased medium-density and infill housing construction in activity centres and along transport corridors.

Despite our concerns about the draft bill's broad powers, we are strongly supportive of the powers set out in S60AB(1)(a). Social housing developments face greater barriers to approval than private market proposals, and are much more likely to face concerted local opposition. We would like to see powers to expedite and simplify social housing approvals and developments enacted through a standalone act or as an amendment to existing legislation.

Thank you again for the opportunity to provide feedback on the draft bill.

Regards,

Lachlan Rule & Susan Wallace
YIMBY Hobart

From: Allan Peter Fawcett
Sent: Monday, 24 March 2025 4:10 PM
To: State Planning Office Your Say
Cc:

Subject: CM: SCRAP-THE-DAPS

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,
Allan Peter Fawcett

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

26 March 2025

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

Email: haveyoursay@stateplanning.tas.gov.au

Dear Sir/Madam,

DRAFT LUPA AMENDMENT (DEVELOPMENT ASSESSMENT PANELS) BILL 2025

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

Having considered the revised draft Bill and related supporting documentation – Council's position remains unchanged from that detailed with its previous submissions on the proposed introduction of this legislation.

Consistent with these previous submissions (made in November 2023 and November 2024), Council reiterates its position that the role and responsibilities of local councils as planning authorities should be appropriately maintained. Any proposed reforms towards the introduction of DAPs should not unreasonably diminish or otherwise undermine this position. Whilst Council does support consideration of alternative assessment models, for applications where the Council currently acts as both the planning authority and is also the applicant, the establishment of DAPs to fulfill this role appears overly complex and is not the only option that could or should be considered.

Our Council remains firmly of the view that the establishment of DAPs will not provide a materially improved outcome compared to the effective and locally informed assessment function undertaken by planning authorities under the current and well-established system.

Thank you again for the invitation to provide comment.

Yours sincerely

Matthew Atkins
CHIEF EXECUTIVE OFFICER

From: gayle viney
Sent: Wednesday, 26 March 2025 2:50 PM
To: State Planning Office Your Say
Cc:

Subject: 2025 revised DAPs legislation

I am extremely concerned about the 2025 revised DAPs legislation.

Last year the public, community groups, councils, and members of parliament, strongly opposed the DAPs legislation. We are now faced with a so-called revised legislation, but it has not addressed the important concerns people had.

For example, I worry about not being able to appeal developments in the National Parks, World Heritage areas, and reserves on issues that are important to me. For example, if it is going to have negative impacts on the biodiversity and natural heritage of an area. If it is going to adversely affect our pristine wilderness. If it is in the economic interests of a small group of people, with limited community benefits. Most of the concerns people have about developments are not on points of law and it is difficult for individuals or small community groups to take things to the Supreme Court. Therefore, we need to keep a tribunal system to review government decisions as our democratic right.

I am also concerned about a small group of selected people having so much say in future developments, without transparency about how they reached their decisions. Will the panels be dominated by pro-developers regardless of the environmental costs?

I was born in Tasmania and will probably die here. It is important to me to care for and protect our natural assets. It is the beauty of the wild places that draw so many here and will become increasingly important in the future. I

understand that new employment opportunities are needed but let's make sure we have good planning and development processes where the people who care and understand the areas can have an effective voice.

Please say no to DAPs and other proposed Bills that will weaken or remove people's say.
Yours sincerely,
Gayle Viney

From: Robert campbell
Sent: Wednesday, 26 March 2025 5:12 PM
To: State Planning Office Your Say
Cc:

Subject: Protect democracy - reject the prosed DAP legislation

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 current system is not broken and is democratic in that it allows for community input. There are also appeal processes that can be pursued. It is a system that has checks and balances. Admittedly it can be complex but that is the price of democracy.
- Decisions about the impact of development proposals on a community are best made by the Local Government elected representatives who are closest to the community. They can be held accountable at election time. Their processes are open to public scrutiny.
- The majority of planning decisions are made without difficulty. There are statistics that support this. Contentious proposals are usually that way because the likely outcomes conflict with community values.
- The interests of developers do not always align with community values. The private sector can be destructive to public capital. Developers are profit driven and self-interested, despite what they say. They will not pursue developments that don't make them money. Public assets need protection from this rapacity.
- It seems that the desire for DAP's comes from several sources.

    - Developer frustration that they cannot get their way.
    - A lack of political will to stand up to developer lobbying.
    - Councillors who find it too challenging to make difficult decisions.
    - A desire by major political parties to pursue economic growth regardless of consequences.

  None of these reasons are sufficient to warrant watering down the existing system.
- The concerns of councillors could be addressed by significantly improved training in planning policy and procedures. Smaller councils could resource share to ensure they have access to competent planning advice.
- DAP's have been tried elsewhere around the country with mixed results. This is documented.
- The property development industry actively pursues self-interest and there is plenty of history about corrupt practice. Money doesn't talk it screams. Removing planning decisions from accountable elected councillors to individually selected unaccountable panel members may open the risk of bias and developer influence. A rigged jury.
- Introducing panels that take away local assessment and decision making may well lead to heightened community dissatisfaction and adverse political reaction.
- Personally, in the ten years, I was General Manager of the City of Launceston I found that the views of the community and the judgement of Councillors were more often right than wrong. Sure, there were tensions. but that's life.
- Autocracy is about doing what you are told, democracy is about doing what we agree. Oppose this legislation in the interest of democracy.

Robert Campbell

From: Gustaaf Hallegraeff
Sent: Thursday, 27 March 2025 9:30 AM
To:

Cc: State Planning Office Your Say
Subject: SERIOUS FLAWS REMAIN IN THE DAP

Dear Parliamentarians,

I am an Emiritus Professor in Plant Science /Marine Science at the University of Tasmania, having taught thousands of students environmental values for 28 years, and I also am actively involved in landcare conservation as the President of the Taroona Environment Network.

I am deeply concerned that the proposed 2025 revised Development Assessment Panels (DAP) legislation will move our beautiful Tasmania on to a destructive Trump-like "drill baby drill " path, by increasing ministerial power over the planning system, and killing off democratic objections against developers interests . Changes made to the DAPs legislation , as previously rejected by the Parliament in November 2024, are insignificant and serious flaws remain.

- This fast-track DAP process will remove elected councillors from having a say on the most controversial and destructive developments affecting local communities.

- 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 .

- 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.

- This DAP process removes merit-based planning appeal rights via the planning tribunal on all the issues the community cares about , removes the opportunity for mediation in the planning tribunal, and has the potential to increase corruption and favour developers.

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

Keep decision making local, rather than bypassing it, with opportunities for appeal.

Improve the local government system and existing planning processes by providing more resources to councils and enhance community participation in planning outcomes. This will help protect local jobs and keep the cost of development applications down.

Originating myself from overcrowded Europe, and having also lived in overcrowded Sydney, to me Tasmania is too special a place to lose by not getting this DAP legislation right.

Yours sincerely,

Gustaaf Hallegraeff
Emeritus Professor
Institute for Marine and Antarctic Studies (IMAS)
College of Sciences and Engineering
University of Tasmania
Private Bag 129, Hobart 7000

UNIVERSITY of TASMANIA

IMAS

Institute for Marine and Antarctic Studies

From: Sarah Lloyd
Sent: Thursday, 27 March 2025 9:04 AM
To: State Planning Office Your Say; planningmatterstas@gmail.com;

Subject: Protect our democratic rights & our voice - #SCRAPTHEDAP

Dear Member of Parliament,

It is extremely concerning that the State Liberal Government is again attempting to table revised the Development Assessment Panel legislation, especially as it is not significantly changed from the 2024 version that was refused by the parliament and retains all the key flaws.
It is imperative that local people have the right to have their say about what goes on in their local community via their democratically elected members.

Please support a healthy democracy

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

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

Yours sincerely,

Sarah Lloyd OAM
Tasmania

HUON VALLEY COUNCIL

HUON VALLEY COUNCIL COMMENTS
DEVELOPMENT ASSESSMENT PANEL (DAP) FRAMEWORK
DRAFT LAND USE PLANNING AND APPROVALS AMENDMENT
(DEVELOPMENT ASSESSMENT PANELS) BILL 2025

Thank you for the opportunity to make a submission on the proposed *Land Use Planning and Approvals Amendment (Development Assessment Panels) Bill 2025*.

At the outset the Huon Valley Council has not supported the establishment of DAPs.

Council recognises that the proposed changes to the format and additional detail provided in the new Bill has addressed some of Council's concerns, particularly to the undefined extent that what is proposed encourages political interference.

The proposed DAP process removes planning decisions from our democratically elected Council who represent the broad spectrum of the Huon Valley residents, and hands it to a small panel appointed by the Minister. It also removes any planning appeal. We see this as a backward step for democracy.

However, there remains the underlying and fundamental issues raised in Council's previous submission.

The need for DAP as an alternative from the normal approval process through the Council acting as a Planning Authority has, still in Council's view, in no way been demonstrated and it is still unclear what the DAP is trying to achieve.

Council reiterates that Tasmania's Development Application assessment process is already more efficient than that in other states, therefore why change a system that is not broken?

Huon Valley Council also continues to support the view that a better approach would be to provide more technical resources to work within the existing structures and systems. This approach is also supported by LGAT.

Summary of Changes – General comments

Modification	Reason	Comment
Removal of the option for an applicant or planning authority to request the Minister to transfer an application to a DAP for determination partway through a council assessment process	This pathway was removed because it was overly complex and provided uncertainty to both the applicant and planning authority in the assessment process. It also causes the assessment process to take longer and potentially duplicating	This is supported

	assessment tasks performed by the DAP and planning authority.	
Modifying the criteria for when the Minister can refer a new application to a DAP for determination by removing certain statements, such as where an application is likely to be 'controversial'	The removal of ambiguous or subjective criteria helps provide certainty regarding the eligibility of applications to enter the DAP assessment process. This matter is also helped by the requirement of the Commission to prepare guidelines for the Minister to use when making a determination to refer an application (see below for further details)	This is supported, particularly the removal of an undefined discretion and provision of guidelines would support transparent decision making. Council still considers the need for a DAP has not been made out.
Increasing the value thresholds for an application to be referred to a DAP from $5 million to $10 million in a city, and from $2 million to $5 million in other areas	In response to concerns that the threshold values are too low and that it would allow too many applications to enter the DAP process	How value relates to complexity of assessment has not been demonstrated. There is still no justification for this arbitrary value.
Allowing the Commission to issue guidelines to assist the Minister in determining whether to refer an application to a DAP and a requirement for the Minister to take these guidelines into account when making that determination	To provide greater certainty and accountability regarding what applications are eligible for referral to a DAP for determination	Provision of guidelines would support transparent decision making. Council still considers the need for a DAP has not been made out
Clarifying that the DAP can use alternate dispute resolution techniques when making a determination and trying to resolve issues between parties	Although dispute resolution and mediation processes are implicit in the Commission's proceeding, the proposed inclusion of explicit provisions gives greater certainty to aggrieved parties	This is supported to make decision making process effective and is consistent with the TASCAT process
Clarifying that the DAP can modify hearing dates and times subject to giving notice and that hearings can occur during an agreed extension of time	Modification made to provide greater flexibility for conducting hearings to account for availability of the parties to attend hearings, or the need to add additional hearings days to consider the issues raised in the submissions	This is supported to make decision making process effective and is consistent with the TASCAT process
Including provisions that allow the Commission to appoint a substitute panel member should a previously appointed member become unavailable	Modification made to allow flexibility in the Panel membership in case a member becomes unavailable so that it does not hold up the assessment process	This is supported to make decision making process effective
Clarifying that the Heritage Council retains its normal enforcement functions following the issuing of a permit approved by the DAP	Modification to clarify that the Heritage Council retains its enforcement function regarding any heritage conditions it may have recommended be imposed on the permit consistent with post	This is supported

	approval functions under other assessment pathways	

Proposal Timing and Impact on Limited resources
The timing for such a proposal remains poor. Resources are being / would be taken away from the State Planning Office (SPO) and the Tasmanian Planning Commission (TPC) at a time when they are working on crucial reforms including developing the Tasmanian Planning Policies (TPPs), reviewing the State Planning Provisions (SPPs), updating the Regional Land Use Strategies, and developing various guidelines outside of the statutory structure, and the Commission is undertaking hearings into various Local Planning Schedules. These should all take priority.

Benefits of current system (Time frames and Appeal rights)
The current system of Council making decisions and the opportunity to appeal, which may seem frustrating to a developer, works. The DAP is no better a process but could be used (or perceived to be used) to bypass community consultation and the traditional path of decision making and ***avoid*** the need for review, which in itself has political bias implications.

The DAP has now formally proposed to replace appeal rights, with only judicial review possible of DAP decisions. If a DAP exhibition includes conditions of approval, then the public perception of this process would be that the applicant has chosen a bias pathway where approval is almost guaranteed (as it is included as conditions and part of the advertising process).

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

Membership of a DAP
Council again asks the question, where are the experts to be members of the panel? Is this DAP process going to result in planners leaving councils to work with the TPC? There is already a limited pool of statutory planners. Additionally, a conflict of interest could be created by the proposal if members of the panels come from private industry, which is where they work for the proponents. This could create a conflict of interest within the DAPs themselves.

Option for use of a DAP as an alternative to existing system
If a DAP can be justified, then the DAP could be another option in the toolbox for councils. For example, where a proposal is too complex for council staff / resources to deal with, or where it is a large-scale project initiated by council. If there is a role, then the processes and linkages need to be right. This would have limited application and may not be sufficient to require the need to establish an entirely new process.

In addition, the Government has a particular focus on Homes Tasmania and Social Housing proposals. The reason for this focus has never been properly discussed other than to suggest that there is a need to fix a housing crisis. Whilst that imperative is recognised why is it considered to be appropriate to create an entirely different assessment process to that which exists and works within Councils.

If the Government is concerned about the need for this housing as a social imperative then why does the Government simply undertake a transparent process and provide a permitted pathway for these developments in appropriate zones in the State Planning Provisions? This will then mean that there is no need for establishment of a new system of approvals, no extra cost and any concerns of discretion of planning authorities or appeal rights are addressed.

While the criteria for a DA referral to a DAP, have been made more specific in the new Draft Bill there remains a concern that a qualitative assessment will be undertaken without knowledge of what the supporting advice from the Tasmanian Planning Commission will be to inform the Minister's assessment.

Pre-Approval process

Council's position is that advertising/exhibiting the application with a list of conditions (following the combined planning scheme amendment / development application model) is not appropriate. By making the decision prior to advertising, it implies the representors concerns will have little impact on the decision (which has already been made and conditioned).

It is still Council's position, that a better to model for the process would be the s.57 process, where advertising happens first and then the report finalised, and decision made after the advertising process has been completed and the representations can be incorporated into the decision.

Cost

There is a general issue regarding cost arising from the DAP process.

Currently Council can charge for applications made to it as a Planning Authority to cover the costs of the application so that it is borne by the applicant and not generally borne by all ratepayers.

Council is firstly required to consider the application and any further information that is required to undertake its role and functions as a reviewing authority.

A full list of conditions is also expected to be prepared prior to advertising, by day 35 of the process.

A Council Planning Officer and a representative from Council Infrastructure (DEO) would be expected to attend the hearing post exhibition. Normally a planner would attend a TasCAT hearing with the DEO as the expert witness (when required) It is unclear if both would be required for the entire duration of the hearing. However, given the expected size of these projects ($5 million threshold in non-metro areas) these hearings may run for at least a day).

In summary, more assessment work within less time up front as well as more time commitment at the end of the process from Council to attend hearings, will therefore be required under the DAP from the Permit Authority for less income (as the application fee will be paid to the DAP).

Following this, the DAP process would also place a greater assessment / condition / review burden on Council's infrastructure departments, but again less revenue generated for these major projects. Council would still have the statutory responsibility to create the conditions, attend the hearing, advocate for any infrastructure matters or planning related matters that have not been addressed to Council's satisfaction in the decision-making process as well as issue the final permit and enforce the conditions of approval at the end of the process.

The new Bill does recognise that there is to be some cost recovery set by Council's through prescribed fees however such an amount is not known and is unlikely to cover the Council's full costs of assessment and dealing with any application, such that the ratepayers will be burdened with the extra cost associated with these applications.

For these reasons HVC does not support this Bill.

CONSULTATION ISSUE – BILL CLAUSE	COUNCIL COMMENT AND SUBMISSION
Part 1 - PRELIMINARY	
1. Short Title 2. Commencement 3. Repeal of Act	No comment
Part 2 – LAND USE PLANNING AND APPROVALS ACT 1993 AMENDED	
4. Principal Act	No comment
5. Section 3 amended (Interpretation)	No comment
6. Section 40BA inserted 40BA Minister may review certain decisions	This is not supported or in any way justified. Section 40B provides for the clear direction regarding review of a refusal of a request to amend the LPS. This is undertaken appropriately by the Tasmanian Planning Commission (TPC). If there is any justification for the TPC to direct a planning scheme amendment, then perhaps section 40B should be able to clarify the powers of the TPC. The existing section 40C is justified as it is a power for the Minister to ensure compliance with the Act and the resource management and planning system. The proposed section 40BA simply allows for political interference in the planning system in respect of a decision that an applicant does not like or accept. Where the Minister has the power to direct the Planning Authority to prepare a draft amendment as proposed in subsection (4) the question of cost is immediately activated. Any work from the Council should then be at the Minister's cost. In addition, any of a Councils cost at the TPC must also be covered.

CONSULTATION ISSUE – BILL CLAUSE	COUNCIL COMMENT AND SUBMISSION
	The proposed section could indeed become a nonsense as Council may be required to prepare the draft amendment as directed but there is absolutely no guarantee that the amendment will then be accepted by the TPC. This may well be a waste of time and extremely embarrassing to the Minister. The Minister should NOT have this power. If this section remains, then all costs should be borne by the Minister.
7. Section 40C amended (Direction to prepare draft amendments of LPS)	This section is not supported for the reasons stated regarding the proposed section 40BA
8. PART 4, DIVISION 2AA INSERTED **DIVISION 2AA – DEVELOPMENT ASSESSMENT PANELS**	
Subdivision 1 - General	
60AA Interpretation of Division	No comment
Subdivision 2 – Certain new applications may be determined by Assessment Panel	
60AB Constitution of Assessment Panel	The proposed constitution of a DAP is considered to be reasonable and to ensure appropriate expertise to assess any application.
60AC Certain new permit applications may be made to the Commission	There are few development applications that are problematic from any objective assessment. There is no evidence in the Huon Valley of social and affordable housing attracting anything like considerable opposition. There have been concerns raised in relation to the number of houses and also in relation to the design with removal of trees to facilitate the development. These are dealt with purely as planning matters. In addition, the Council's experience is more so difficulty in obtaining applications for social and affordable housing that address the planning scheme requirements, particularly the need to provide sufficient supporting infrastructure. There is no basis for these applications to be simply eligible to be put before a DAP circumventing the current system that supports them. If the Government is concerned about the need for this housing as a social imperative then why does the Government simply undertake a

CONSULTATION ISSUE – BILL CLAUSE	COUNCIL COMMENT AND SUBMISSION
	transparent process and provide a permitted pathway for these developments in appropriate zones in the State Planning Provisions? This will then mean that there is no need for establishment of a new system of approvals, no extra cost and any concerns of discretion of planning authorities or appeal rights are addressed. With respect to applications over a certain value the question is why some arbitrary amount has any relevance? Just because it costs more does that mean it needs a different approval process. The planning considerations will still be the same. Applications where the Council and the applicant is the decision maker could benefit from a DAP. Often Council developments are attacked because some from the community do not like the concept of the development in the first instance or think it should be in some completely different form. The argument therefore becomes about, whether or not, Council should undertake the development, not whether it meets the Scheme. There may be some circumstances where "larger" (note undefined) projects would benefit from a DAP. With respect to complex applications there may be some benefit from a DAP however under the proposed framework the Council will still be undertaking the assessment and making recommendations to the DAP. There is no real difference in what the Council needs and what the DAP needs. A focus on more technical support for Planning Authorities will address this issue. With respect to the proposed subsection (1)(d), the application falls within a *class of applications prescribed for the purpose of this section*. The ability to add prescribed classes of application is not supported. If the Government considers that there is an issue with the current planning system then it should do a full review and reform of the system, not cherry pick certain classes of development to go through another process.

CONSULTATION ISSUE – BILL CLAUSE	COUNCIL COMMENT AND SUBMISSION
	In any event if the ability to prescribe remains then this should only be after significant engagement with local government and the community.
60AD Minister may refer certain new permit applications to Commission	The Minister should not have the authority to nominate referral. This is contrary to a reason to have DAPs in the first instance to "take the politics out of planning" although it is recognised that the proposed changes to the Bill have addressed some of the Council's concerns. This section is though opposed. With respect to the proposed subsection (1)(ab) there is no objective test to demonstrate how a development may be considered "significant or important". It appears that this can simply be at the judgement of the Minister. If this is the case, the recent example of declaring the Clarence Hotel as a Major Project (based on an AI assessment) is a glaring example as to why the Minister should not have this power. In any event, this provision is not demonstratively different to a major project that at least needs a to address specific criteria. There should be no provision for this. With respect to the proposed subsection (1)(c), the test simply rests on the "belief" of a party that the planning authority does not have the technical expertise. This can be appropriate if put forward by the planning authority and provides a reason for the use of a DAP. A belief of an applicant however must some way be justified on an objective basis, not a subjective test. This is not supported. With respect to the proposed subsection (1)(d), there is no reasonableness test proposed in relation to demonstrating either real or perceived bias. Indeed, the proposed subsection opens the Minister up to allegations of political bias. Any allegation of bias can be created to circumvent the Council acting as a Planning Authority if an applicant considered that a DAP was more appropriate.

CONSULTATION ISSUE – BILL CLAUSE	COUNCIL COMMENT AND SUBMISSION
	There would be no issues with this as an option except to define the number of Councillors who are truly conflicted (not just perception). If there is an absolute majority available to hold a quorum to make a decision, then there is no basis for referral of an application to a DAP. As an alternative these decisions could be delegated to ensure that decisions are made within the requirements of LUPAA.
60AE Commission to establish Assessment Panel – new application	No comment.
Subdivision 3 – Assessment of new application by Assessment Panel	
60AF Applications for permits to be provided for reviewing entities	Any costs of the Planning Authority must be met by the Applicant or the Minister and not borne by ratepayers. This has still not been addressed in the Bill unless the general provision regarding Fees in section 60AP are intended to cover these.
60AG Additional information may be required	Despite the process taking longer than the existing DA process the time the permit authority has to consider the application is less for both the initial assessment phase and the review of further information phase. Given these are likely to be large scale major projects this time limitation / reduction seems counter intuitive. Extension of time from 14 to 21 days is acknowledged. Despite the total assessment time increasing the amount of time available for Council to consider the application actually decreases, from 8 business days to 7 days (equivalent to 5 business days) for review of further information responses. Also, under the proposed subsection (6) the DAP only has 7 days (potentially 5 business days) to notify the applicant that the further information has been provided or not provided. Which means that there is limited time for all reviewing entities to assess the further information (less time than is currently available under the DA process which is 8 business days) These limited time frames place a significant burden on Councils.

CONSULTATION ISSUE – BILL CLAUSE	COUNCIL COMMENT AND SUBMISSION
	The DAP has authority under 60AF(3)(a) to override the Council request for further information if they disagree with the request – ie the DAP do not need to include the Council FI request in the formal FI request to the applicant. Council opposes this right to override Council as a referral authority – would this power be given to a further information request made by TasWater or another referral entity with important public assets? Any costs of the Planning Authority must be met by the Applicant or the Minister and not borne by ratepayers.
60AH Exhibition of applications	No comment.
60AI Hearings in respect of applications	No comment
60AJ Hearing may be cancelled in certain circumstances	The proposed subsection (1)(b)(ii) specifies that the DAP can cancel a hearing if the representor does not wish to be heard at a hearing (only submits in writing) – so if a person (representor) cannot attend a hearing, there may not be a hearing. Under proposed subsection (2) *If a hearing in respect of an application is cancelled under subsection (1), the Assessment Panel may direct the relevant planning authority to issue a permit in accordance with the draft assessment report prepared under this Division in respect of the application*. The (draft) assessment report was exhibited so it could therefore be assumed that any representor concerns (if there is no hearing) may not be included in this assessment report based on how 60AJ(1)(b)(ii) reads. The likelihood of this occurring is low – but it is possible. There is no reference made to a 'decision' but rather it is assumed that the decision has already been made prior to exhibition.

CONSULTATION ISSUE – BILL CLAUSE	COUNCIL COMMENT AND SUBMISSION
	A representation has been made as part of the exhibition process. Notwithstanding that the representor does not wish to be heard at a hearing, the matters they put forward should nonetheless be addressed by the DAP in making its final decision. The DAP should be required to address the representation and issue a final assessment report including that consideration. If this is not the case, then, why call for representations in the first instance if they are simply to be disregarded because a person does not want to or cannot attend at a hearing? To do so makes the process of calling for representations disingenuous.
60AK Frivolous or vexatious representations	Whilst this is not opposed in principle, it seems to be very much an outlier in the planning system and should not be included simply for DAPs. There is no equivalent provision regarding frivolous or vexatious representations in normal development applications or major projects under LUPAA. There should be consistency throughout LUPAA, and this provision should not be limited to a DAP. It may also be very difficult to prove legally that a representation is 'frivolous' or 'vexatious' and the assessment of a representation as being such may be one matter or question of law that could / would likely be taken further in the judicial process (which may further delay the decision-making process and outcomes in this already significantly longer DAP process).
60AL Determination of application by Assessment Panel	Additions that the decision must conform to the Scheme and resource management and planning objectives and for the DAP to take into account that a Planning Authority would not be able to approve an application as provided in subsections (2) and (3) are particularly supported.

CONSULTATION ISSUE – BILL CLAUSE	COUNCIL COMMENT AND SUBMISSION
	The proposed subsection (3)(b)(ii) is to direct the relevant planning authority to issue a permit as specified by the Assessment Panel in the direction Any costs of the Planning Authority must be met by the Applicant or the Minister and not borne by ratepayers. This has still not been addressed in the Bill unless the general provision regarding Fees in section 60AP are intended to cover these.
60AM Extension of certain time periods **New section**	The ability to extend certain time periods is supported. Whilst this will delay the ultimate decision, opportunities are required for an applicant to address concerns raised through the process.
Subdivision 4 – Certain existing applications may be referred to assessment panel is supported	Removal of this subdivision is supported.
Subdivision 4 – Miscellaneous	
60AN Application may be withdrawn by applicant	No comment
60AO Effect of issuing permit in respect of certain applications	Under the proposed subsection (1)(a) the planning authority must issue the permit within 7 days after receiving the direction of the Assessment Panel. Any costs of the Planning Authority must be met by the Applicant or the Minister and not borne by ratepayers. Under the proposed subsection (1)(d) there is no right of appeal under this Act, in respect of the permit, on merit grounds. While the DAP is technically a decision made by the TPC a right of appeal of any decision is seen as a fundamental right within the planning system decision making context and removing that right could be seen as a risk to democratic process and a political factor.
60AP Fees under this Division	Addition of subsection (4) is supported to the extent that the fee reflects full cost recovery of all of the Planning Authorities responsibilities under the process and isn't simply tokenistic with the majority of assessment costs borne by the ratepayer

CONSULTATION ISSUE – BILL CLAUSE	COUNCIL COMMENT AND SUBMISSION
60AQ Review of Decision	A review of the Division after 5 years is supported however the Council's submission is that the Government focus on addressing the issues of concern within the relevant policies and planning scheme provisions rather than to set up new and costly assessment bodies.
Part 3 – HISTORIC CULTURAL HERITAGE ACT 1995 AMENDED	
10. Principal Act	No comment
11. Section 33 substituted 33 Application of Planning Act to heritage works is subject to this Part	No comment

From: Evan Hadkins
Sent: Thursday, 27 March 2025 2:58 PM
To: State Planning Office Your Say
Cc:

Subject: Against the DAP's

Dear Parliamentarians,

Replacing councils with ministerial discretion and less accountable boards is an awful idea.

What we need is environmentally sustainable architecture and housing in places less vulnerable to weather disasters (fire and flood). None of this will be more likely under DAP's - it will be less likely.

I urge you to work with councils to make better housing development a reality for all.

Evan Hadkins

From: Amelia Hanslow
Sent: Friday, 28 March 2025 12:40 PM
To: State Planning Office Your Say
Cc:

Subject: #StopTheDap - an undemocratic and developer-centric

I am writing to express concern at the clearly hurried, and clearly unpopular with the Tasmanian community, DAP Bill.

Of particular concern:

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.

As every politician in Tasmania should be aware, this is a state made up of tight-knit communities, who deserve to have their local voices heard, and placing unprecedented power in the hands of ministers undermines every Tasmanian's voice in the way the state and its communities grow.

Of course I have noted the voting patterns in this, and will be voting first and foremost for those representatives that opposed this absolute lip-service in amendments to the bill that was not passed last year.

Most Sincerely,
Amelia Hanlsow

From: Roger Proctor
Sent: Sunday, 30 March 2025 4:05 PM
To: State Planning Office Your Say
Subject: Protect our rights & our voice - #SCRAPTHEDAP

To all it may concern

I oppose the creation of Development Assessment Panels (DAPs) and increasing ministerial power over the planning system.

- This fast-track process will remove elected councillors from having a say on the most controversial and destructive developments affecting local communities.
- 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 will make it easier to approve large scale contentious developments and remove merit-based planning appeal rights.

- Increased ministerial power over the planning system increases the politicisation of critical planning decisions such as rezoning and risk of corrupt decisions; the eligibility criteria are so broad and undefined that it grants the Minister extraordinary power that is arbitrary and unchecked.

I call on you to ensure transparency, independence, accountability and public participation in decision-making within the planning system; keep the inclusion of local decision making, rather than bypassing - this is critical for a healthy democracy.

Regards

Roger Proctor

From: Christine |
Sent: Monday, 31 March 2025 11:39
To: PM State Planning Office Your Say
Cc:

Subject: Protect our rights & our voice – #SCRAPTHEDAP

As a concerned community member, I am deeply troubled by the revised DAPs legislation. It is not significantly changed from the 2024 version that was refused by the parliament and retains all the key flaws.

I firmly oppose the creation of DAPs, oppose increasing ministerial power over the planning system, and oppose providing an alternate planning approval pathway which allows property developers to bypass local councils and communities.

I'm also concerned about the lack of transparency surrounding the framework.

- 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 the 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 clearly shows DAPs are pro-development and pro-government. They rarely deeply engage with local communities.

The community will no longer have planning appeal rights via the planning tribunal on important issues such as:

- 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 has a narrow focus and is prohibitively expensive.

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

I urge you to join me in opposing this legislation to protect our communities and our democratic rights.

Thank you.
Christine Bayley

From: Never You Mind
Sent: Monday, 31 March 2025 11:23 PM
To: State Planning Office Your Say
Cc:

Subject: Objection to the DAP bill

I am extremely disappointed that the government continues to pursue the enactment of the awful Development Assessment Panel (DAP) Bill, making it necessary for concerned citizens like me to address it with you again.

I have followed this issue closely and appreciate the work of the Planning Matters Alliance in keeping me and others up to date on the matter. They have prepared advice concerning this latest attempt to introduce this legislation, which I endorse and commend to you. I have copied it below for your information.

The legislation was defeated the first time round for a reason, and the simple reality of this is that this is bad legislation. I cannot accept that MP's supporting it are protecting the interests of the everyday punter and our beautiful island State, in fact I feel that quite the contrary is true.

Please do not support this unwanted legislation, it is not in the best interests of the State or its peoples.

Mick Logan

Planning Matters Alliance advice:

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.

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 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.

Submission on the Revised Land Use Planning and Approvals (Development Assessment Panels) Bill 2025 (the revised draft DAP Bill).

Glenorchy City Council

Thank you for the opportunity to review revised Land Use Planning and Approvals (Development Assessment Panels) Bill 2025 (the revised draft DAP Bill).

While the changes in the 2025 revised draft Bill are generally positive, they are minor in the context of the fundamental deficiencies in the statutory scheme for a DAP process, which remains fundamentally flawed for the following reasons:

Undue Ministerial interference in the Development Assessment Process

The draft Bill would still enable the Minister to review a decision of a planning authority not to prepare an LPS amendment.

The Minister can still decide to direct a planning permit application to a DAP process on subjective grounds (guidelines to be determined).

The ad-hoc process in proposed Section 60AD, allowing the Minister to interfere on a case-by-case basis based on political matters, perceived bias or conflicts of interest, or based on Guidelines or cases of applications that would be prescribed at some time in the future is not supported.

Compromised public involvement, contrary to the objectives of the Resource Management and Planning System of Tasmania to encourage public involvement in resource management and planning.

Removing appeal rights, delaying exhibition until a recommended decision has been made. These measures would significantly undermine public confidence in the planning system and exacerbate controversy.

It is not clear the new DAP process will be appropriately resourced

There will likely be significant impacts on resourcing assessments and, while yet unclear, it would seem unlikely planning authorities would not receive fees for such applications, yet would still be required to undertake significant assessment, administration and enforcement.

It is not clear the new DAP process is practicable in terms of its timeframes

While the Commission has been given opportunity to extend timeframes for assessments, the legislated timeframes remain extremely tight (and perhaps unrealistically achievable). Council hopes the DAPs will be sufficiently resourced to deal with such assessments noting Council's ability to respond to such timeframes will significantly impact resources.

From: Peter & Pam Rowell
Sent: Wednesday, 2 April 2025 9:28 PM
To: State Planning Office Your Say
Cc:

Subject: Submission - Draft Development Assessment Panel - Draft Bill 2025

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.

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 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.

Yours sincerely,

Peter and Pam Rowell

GLAMORGAN SPRING BAY COUNCIL

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

Your ref: DAP Bill submission
Our ref:

2 April 2025

State Planning Office
Development Assessment Panel framework consultation

Email to: haveyoursay@stateplanning.tas.gov.au

Dear Sir/Madam

Draft Development Assessment Panel Bill
Detailed submission

We thank you for the opportunity to make a submission to the *Land Use Planning and Approvals Act Development Assessment Panels (DAP) Bill 2025* (2025 Bill).

Following consideration, we advise that while Glamorgan Spring Bay Council generally supports many of the revisions to the 2025 Bill, we must oppose it for the following reasons:

- Ministerial Direction retains technical flaws with the proposed process that have not been addressed from the previous consultation,
- The need for the Development Assessment Panel proposal has not been established,
- The benefits are not clear, and
- There are many technical problems with the mechanisms proposed in the draft Bill.

Ministerial Direction on Planning Scheme Amendments

There are significant and fundamental 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)).

The Planning Authority is required to obtain and consider relevant expert advice under the *Land Use Planning and Approvals Act 1993* and the *Local Government Act 1993*. That decision requires certification that the relevant amendment meets specific requirements, which are then subject to statutory exhibition, and review by an independent decision authority and carries significant financial obligations for implementation of that process.

40BA(5) and (6) do not establish a comparable obligation on the Minister to obtain independent or expert advice on the technical merits of the request particularly where a refusal was based on technical matters or expert advice.

The Planning Authority is then bound to implement an instruction to amend by the Minister and burdened with 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 initial process.

It is evident that this proposal must be opposed.

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

Development Assessment Panels

Concerns over the clear lack of demonstration of the claimed case for the reform were not addressed and did not provide a response to the detailed data in Councils previous submission. This links to questions over the benefit of the proposal and longer timeframes, against a normal planning application process.

Concerns over the lack of definitions for social and affordable housing were dismissed as an administrative function of the relevant bodies.

The Planning Authority is required to be part of the process, complete and submit assessments within required timeframes, participate in hearings, may be required to obtain and introduce its own expert and/or specialist evidence for or against a proposal, but has no clear capacity to obtain fees as it does through a normal planning application, or recover costs as it can through any planning appeal process.

Fee criteria at 60AP (1a) do not clearly enable the planning authority to charge fees, while (1b) allows maximum limits on planning authority fees (presuming they can be set through regulation). Better information is required on what terms may be prescribed through the associated Regulations.

Normal appeal processes allow for costs recovery by application by any party, following the hearings and subject to criteria. This is not possible under a DAP.

Reviewing entities defined at 60AA ought to allow for other parties to be prescribed, such as State Agencies with regulatory functions such as State Growth, Property Services, or Crown land, or expert advice such as Premier and Cabinet, Mineral Resources, Tasmanian Fire Service, Natural Resources and Environment, Conservation Assessments etc.

Application triggers (60AC) are not linked to an indexing method to maintain currency against inflation over time. Prescribed purposes do not address this concern.

While real or perceived conflict of interest was identified as a referral trigger at 60AD(1d), further clarity is required on how this might be assessed or established.

Further information provided under 60AG(5) must be referred for consideration by relevant entities, while the DAP must determine satisfaction of any request within 7 days of lodgement, which is problematic. Section 54(3) for a normal planning application provide 8 business days to determine responses to information requests. Timeframes must enable entities to actually consider any submissions and take advice before responding to the DAP. 14 business days would be more suitable, noting administrative delays due to the DAP process.

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.

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, nor ongoing problems with the 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 has itself become a problem.

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 DAP's to that suite of options.

There is no clear guidance from the State on which types of projects should be directed to which process.

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.

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

Yours sincerely,

Peter Porch
ACTING GENERAL MANAGER

From: Essie Davis
Sent: Wednesday, 2 April 2025 9:46 AM
To: State Planning Office Your Say
Cc:

Subject: Protect our rights & our voice - #SCRAPTHEDAP

To those who are listening,
I oppose the DAPs. 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.

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 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.

Yours sincerely,
Essie Davis

CITY OF HOBART

RESPONSE TO DEVELOPMENT ASSESSMENT PANEL

DRAFT BILL

Contents

Introduction

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Process to Appoint a DAP

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

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

   (b) Homes Tasmania determines that this is appropriate;

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

   (d) certain council applications; and

   (e) prescribed applications.

Role of the Minister

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

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

10. The problematic terms include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Role of Homes Tasmania

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

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

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

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

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

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

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

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

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

Council applications

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

Council unable to assess

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

Further, unknown applications

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

Assessment of Applications under a DAP

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

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

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

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

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

28. The following practical issues also arise:

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

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

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

Diminished Role of Community

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

[4] s.60P

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

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

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

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

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

Timeframes

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

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

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

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

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

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

Appeals

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

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

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

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

Other Reform

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

44. The other issues identified for reform include:

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

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

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

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

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

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

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

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

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

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

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

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

Alternatives

Remove all planning assessments from local councils

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

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

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

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

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

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

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

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

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

Make the CEO (General Manager) the planning authority

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

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

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

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

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

Alter the appeal rights for social housing projects

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

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

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

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

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

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

Alter TASCAT processes & allow applications to be amended

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

    (a) in South Australia, 46 days;

(b) in the Northern Territory, 55 days;

(c) in Australian Capital Territory, 61 days;

(d) in New South Wales, 83 days;

(e) in Queensland, 86 days;

(f) in Victoria, 129 days.

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

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

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

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

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

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

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

Impact on City of Hobart resources

Loss of senior staff

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

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

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

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

Reduction of fees from large applications

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

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

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

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

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

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

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

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

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

Work by councils expected despite the absence of fees

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

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

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

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

Draft Amendment of Local Provision Schedule

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

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

[10] p.15

Conclusion

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

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

From: Philip Stigant
Sent: Thursday, 3 April 2025 12:33 PM
To: State Planning Office Your Say
Subject: Submission draft DAP Bill
Attachments: Submission regarding Draft LUPA Development Assessment Panels Bill 2025.docx; Submission, DAP Position Paper.odt; Submission LUPPA (DAP) draft bill 2024.docx; Future of Local Government Option Paper 2 submission.rtf

Please find attached my response to the Draft LUPA Amendment (Development Assessment Panels) Bill 2025.
In summary;
DAPs would risk increasing conflicts of interest.
They would be more costly.
They would be more time consuming. Tasmania is currently the fastest jurisdiction for approvals.
They would weaken Local Government and make it hard for citizens to feel heard.
Even the original position papers acknowledge that the system is mostly working very well and that the evidence does not support the view that Councillors are conflicted in their role as Planning Authority.
This draft legislation is the product of a campaign by self interested bodies such as the Property Council and does not in any way represent good governance.
I include also my responses to previously advertised versions of this legislation as there is little of substance changed in the current version.

refer to pages 1 and 2.
yours sincerely
Philip Stigant

Submission regarding Draft LUPA Development Assessment Panels Bill 2025

In making this submission I refer you to my previous submissions to the previous iterations of this "draft legislation" and its precursors in the Review of Local Government. Every step of the way this government has sought to obfuscate the unreasonable changes they have sought in the area of planning and to overwhelm with ever changing detail, what despite all the sound and fury amounts to the same thing; removal of the role of Local Government and communities in the making of planning decisions that affect the community.
This is in direct conflict with LUPA Objectives Schedule 1 (c) and (e), which require public involvement.

By reintroducing this bill so soon after its defeat and with negligible change from the 2024 version, it looks very much as through this government has decided to engage in a war of attrition with the community, hoping that we will eventually be too exhausted to engage.

This draft bill differs very little from the bill which was rightly rejected by the Legislative Council in 2024. Despite support from the Liberal/Labor coalition it was rejected by every Green, JLN and Independent member of both houses, in effect every member who was free to judge the bill on its merits. The 2025 bill should suffer the same fate.

I note that one of the changes flagged in this "draft legislation" is a reversion from the 2024 Bill as tabled to the detail in the 2024 "draft legislation", namely the value limits that proponents can use to justify applying directly to the TPC for a DAP assessment. This is however irrelevant as there is no justification for considering the value or cost of a proposed development in considering whether it should be assessed by a DAP. Indeed, none of the discussion papers leading up to this have presented a cogent argument for a DA being eligible to be assessed by a DAP on the basis of its cost.

Also in this draft bill is the rather weak provision at 8A (2) that the Commission **may** issue guidelines for the purpose of assisting the Minister in deciding whether to direct the Commission to establish a DAP pursuant to 60AD. 60AD (4) says that the Minister must **consider** such guidelines. This hardly constrains the Minister's power to direct the commission to establish a DAP. The Commission may not issue guidelines. The guidelines if issued may not speak against arbitrary exercise of power, indeed we have no idea what they will include. Even if they seek to impose appropriate constraints, the Minister only has to **consider** them. This tweak, whilst seeming to constrain ministerial fiat will in practice have no effect.
Another change touted as an improvement in this version of the Bill is the removal of 'controversial application' from the long list of justifications that would be allowed for referral to a DAP. This omission would have no effect as 60AD (1) b, c, d and e could all be used to refer a controversial application to a DAP.
Of these 60AD (1) d (ii) is the most obviously egregious. **It would allow any developer who claims to perceive bias on the part of the Planning Authority to apply to the Minister to have their proposal assessed by a DAP.** We have already seen a vicious campaign by developers in Hobart seeking to besmirch the Hobart City Council in the hope of bullying their way to approval. This legislation would only exacerbate and reward such behaviour.

I note that 60AD (1) (c) provides that if the applicant believes the Planning Authority does not have the technical expertise, they can also apply to the Minister for their DA to be assessed by a DAP. It is conspicuous that there is no provision for corresponding scrutiny of the expertise of the DAP. A three-member DAP would not have the technical expertise to assess many complex projects. Even a five-member DAP is unlikely to have the technical expertise in all cases. Therefore, it is to be expected that most DAPs would have to call on a raft of independent experts to have any hope of accurately assessing a project. There is nothing in this draft Bill or its precursors to suggest they have access to such resources. This is in contrast to Local Government who have much of this expertise in house and are able and willing to outsource any they lack. There is a very real danger a DAP will not get the independent experts' advice they need and instead rely on the reports provided in the DA.
This brings us to one of the practicalities of the DAP process:
Who provides the independent expert advice? This draft Bill does not say, but allows us to believe it may still be the Planning Authority. If so, will they still be able to charge proponents a sufficient fee to cover these costs? If it is to be the DAP, will they be able to charge a sufficient fee to cover these costs? We don't know because the fees in both cases would be determined by regulations made by the Minister, who may just choose to starve both bodies of funds to perform this important part of the assessment.
We could have projects being approved because no-one could afford the services of independent experts to assess the claims of the proponents.
It is worth noting on this point that judicial tribunals typically prefer the evidence of recognised experts, no matter how conflicted, over that of laypersons, no matter how well informed.
We should not be blind to the fact that the experts employed by the proponents are on the whole biased in favour of the proponents. That is understandable (and I don't want to get into legal strife by naming anyone), but the independent reports prepared by Council Officers play an important role in keeping that under control and informing the Planning Authority of any discrepancy.
Without such independent reports we would be inviting the proponents' experts to go from slanting their reports in the proponents' favour to outright corruption and lies. **None of this is good governance.**

The process laid out in this Bill, like that of its predecessor, requires that the DAP produce a draft assessment report with a recommendation to approve or deny a DA. In the event of recommending approval, they are to produce a draft permit.
This is all before public exhibition and representations. They would in effect be **pre judging** the outcome before all the evidence is in. Human nature being what it is, when it comes to the final decision (subsequent to public scrutiny and comment), it is highly likely that the Panel would be biased in favour of their original decision.
This is not good governance or good law. Prejudice is generally eschewed in legal process and public decision making for good reason.
To be fair, in the current process the Council Officers make a recommendation at this point. The difference is that they are not the final decision makers. Elected members are able to weigh up this advice against all of the information that has been revealed in representations. Most times the decision is in line with the Council Officers' recommendation, but not always. This is as it should be. After all, what would be the point of public consultation if it couldn't influence the result?

A remedy for this defect would be to have the final decision made by a different body to that which made the draft decision. Happily, if we are to go down the DAP pathway there is a body which can perform this function.
It would cost little.
It would take little time.
It is competent and experienced in these matters.
That body of course is the Local Government elected members in the affected municipality.

I refer now to clause 60AO (d). This clearly states there is to be **no right of appeal on merits**.
In light of the weaknesses of the proposed DAP process laid out above, there is more rather than less cause to have the safety net of a process for merits appeal.
60AO (d) should be struck out as should 60AL (b) (ii).
A new 60AL(b) (ii) should be inserted to the effect that aggrieved parties may make application for a merits review by the Planning Authority provided that they do so with 14 days.

So much for what this bill contains.
What it doesn't contain is also alarming. There is no requirement for a DAP to give reasons for their decision. Planning Authorities are required to give reasons. When TASCAT hears an appeal they provide detailed reasons, together with their assessment of evidence and detailed legal argument.
The DAP is only required to decide yes or no and if yes what conditions if any to impose. (This even applies to the draft decision) Perhaps the logic of this is that if their can be no appeal, there is no benefit in knowing the reasons. This ignores the need for justice to be seen to be done.
The advocates of DAPs invariably argue they are needed to deal with perceptions of bias in decisions made by Councils, yet a decision made by an unelected body for unspecified reasons must raise perceptions of bias from a far broader spectrum of the community. Under these circumstances **community confidence in the probity of DAP decisions will be very low.**
As if this is not enough, prospective developers will be in the dark as to why previous DAs were approved or rejected and hence will lack important guidance as to how to design their own to comply with the Planning Scheme and gain approval. **This will increase uncertainty.**

This bill is full of flaws, but the most significant is its very concept. We already have the fastest, most efficient and effective assessment process in Australia, being performed by Local Government acting as the Planning Authority. The problems that occur with this are few and far between, consisting mostly of developers trying to push the envelope and then complaining when their non-compliant proposal is knocked back. This was very clear from reading the initial discussion paper and the statistics of assessments and appeals.
This bill is simply a wish list from the more extreme elements in the construction industry who do not want to submit to a rules-based order, but want to bully their way to getting around the requirements of Planning Schemes.
If the issue is (as claimed by some), social and affordable housing being knocked back by NIMBY councils, a much simpler more targeted bill would suffice. That, however is not what this bill does.

Indeed, this bill if passed could have a **negative impact on housing affordability and availability** if it results in more tourism projects being approved than would otherwise be the case. More houses may be converted to short stay accommodation. Giving Local Government the power to limit short stay accommodation would be a better policy.

This Bill should be rejected in its entirety.

Sincerely,
Philip Stigant

Submission on Land Use Planning and Approvals Act bill 2024 (Draft Development Assessment Panel Bill)

The consultation report makes it clear that the overwhelming response to the position paper was a rejection of the proposed legislation for the very sound reasons documented. As noted, many of the submissions were or were substantially based on proformas. Nonetheless there were many individually authored responses, both from individuals and organisations which cogently argued much the same reasons for rejection.
The consultation report fails to respond to these arguments, merely restating the opinions expressed in the original Position Paper.

I would refer you back to my own submission (numbered 50 in the consultation report). There is nothing in the report that refutes the arguments I have laid out.

I note the concession that the inclusion of critical infrastructure is inappropriate as it is so hard to define satisfactorily.

I concede that I am a lay person with respect to legal and planning issues, but contend that my opinion is worthy of consideration as being amongst the few who have followed and read all of the documents (including supporting documents) and submissions of the Future of Local Government Review as well as the Development Assessment Panel (DAP) Framework Position Paper and resulting submissions. Likewise, I have also read all of the so far published material with respect to the proposed Statutory Reserve Activity Assessment framework.
These consultations follow an identifiable pattern:

1. Seek to give the development lobby what they want.
2. State that lobby's claims as fact, for instance that Councillors are conflicted when sitting as a Planning Authority.
3. Propose changes requested by that lobby such as removing the responsibility of Local Government from any projects of significance to the community.
4. Publish position papers inviting response.
5. Collate the response.
6. Do what the development lobby requested in the first place, modified only by tweaks to make it workable for them, but otherwise ignoring public submissions.

Whilst I am a lay person there were also a number of submissions from people who are legal or planning professionals. For the most part their views correspond to mine.
In particular I would draw your attention to a submission by Ms Anja Hilkemeijer, Ms Cleo Hansen-Lohrey, Professor Jan McDonald, Professor Ben Richardson, Dr Phillipa McCormack and Dr Emille Boulot. The authors are legal academics and their submission is well reasoned and referenced. (It is numbered 198 in the consultation review)
The first reason they give for not supporting the proposals in the position paper is:
"The Tasmanian Government has not provided evidence of problems with council's decision making that would justify the proposed changes"
The best the position paper could do was to repeat an unsubstantiated slur from a report of the Future of Local Government Review that councillors "are conflicted in their role". There was no evidence advanced for this. The recently published consultation report claims that

social and affordable housing projects have been held up by the current system. This includes the statement:
“Since the release of the position paper there is evidence of important social housing projects being refused by elected members against the advice of their planning experts”.
If this is to be used to inform a decision on an amendment of LUPPA it needs to be out in the open. We need to see the evidence and interrogate whether this really indicates a failure of the system. After all, if we believed that the Planning Authority must always follow the advice of their planning experts then the simpler solution would be to just let those experts make all the decisions. Council making a different decision to that recommended by council officers is only a problem if it can be shown that the decision was wrong. If this is to be used to justify a change to the way Development Applications are assessed then it needs to be shown that the current system makes wrong decisions significantly more frequently than would the proposed system. We need to see evidence.

Even so, if this is to be the justification for the changes to LUPPA, it need only apply to social and affordable housing.
The exposure draft includes numerous other circumstances that could cause a project to be assessed by a DAP including:
DA applies to value >$10m in city or >$5m otherwise
Council is applicant
Project is significant to area or state
Either party believes council does not have technical expertise
Real or perceived conflict of interest or bias
“Application falls within a class of applications prescribed for the purpose of this section”
If the justification is to be the provision of social or affordable housing then all of these should be struck out. The last two are of particular concern.
If an applicant claims a perception of conflict of interest or bias how can that be denied even if it is clearly only a ploy to get their project assessed by a DAP? This provision would allow any project to be assessed by a DAP if so desired by the proponent.
The exposure draft does not reveal what “a class of applications prescribed for the purpose of this section” is. It is redundant unless there is a list of prescribed classes of application. Is it proposed that this be listed in regulations under the Act? If so, that should be clearly stated prior to bringing this legislation to Parliament.

In the event that DAPs are adopted for Development Applications relating to social and affordable housing, there is no justification for dispensing with a merits review. You should refer to A Hilkemeijer et Al (submission 198) for a detailed discussion of why we need a merits review.
It is worth noting that if DAPs really produced a correct and objective decision reliably then any such merits reviews by TASCAT could be expected to produce the same result. In this case there would be little incentive to appeal, hence no reason to rule out an appeal on merits.

Yours faithfully
Phil Stigant

Submission responding to the Future of Local Government Review Stage 2 Options Paper and Appendix:

Dear Local Government Review Board,
Thank you for the opportunity to comment on this paper. I should say from the outset that I believe there are a number of reasons to extend the public comment period,

1.Some of the more significant “options” proposed would not have been visible to those citizens who do not already have a keen interest in these matters, hidden as they are in the body of these documents. I refer in particular to proposals to remove Councillors from the role of Planning Authority and proposals to change Local Government Area boundaries (amalgamation).

2. The community meetings convened to get responses to this paper were held at times and places that made it remarkably inconvenient if not impossible for most full time workers to attend. You made a point of commenting on the views of 16-44 year olds, but made little attempt to help them have input at this stage.

3.The paper I refer to below with respect to Council amalgamations (Joseph Drew et al [4/2/23]), presents a remarkably strong reason for being wary of compulsory amalgamations. As it was only recently published it has not been available either to yourselves nor many of those who would seek to make submissions. It deserves consideration.

So, to the Stage 2 Options Paper:
Of the eight “reform outcomes” identified I would agree that seven are clearly desirable and that these outcomes have been achieved by my own Local Government the City of Hobart. The options given however are a mixed bag as to their desirability, in most cases lacking sufficient detail to determine whether their prosecution would represent a net benefit.
There is significant danger that their imposition from above would result in an additional layer of administrative red tape.
High performing councils would likely face additional costs in adapting their systems to the new mandated standard for no benefit, whilst it is questionable whether the smaller or poorer performing councils would see a benefit commensurable with the cost.

One of the “reform outcomes” however is highly questionable and contains “options” which have the potential to destroy local government as we know it.
“Reform outcome” 5 states
“Regulatory frameworks, systems and processes are streamlined, simplified and standardised”
There really is no justification for having this as an objective. The need for regulation is a feature of living in communities. There will always be a tension between those who want more and those who want less regulation as well as between those who want more detail and those who want simpler regulations. I would remind the Board that complexities are mostly put into regulations for legitimate reasons. Systems and processes likewise must of necessity contain complexities.
A more appropriate “reform outcome would be:

“Regulatory frameworks, systems and processes are effective and efficient”
As to whether they should be standardised this should be decided by whether this will result in them being more effective and efficient.

I will come now to what I consider the most objectionable suggestions in the “Options Paper”.
Option 5.1 states:
“Deconflict the role of Councillors and Planning Authorities”
It is true that there has been some propaganda put about that there is a conflict here, but it would appear this has no substance. Indeed it is right and proper that Councillors and candidates for Councillor should make their views known. This is perhaps best illustrated by the determination made (30th of November 2018) on the ‘Code of Conduct’ complaint made by Mr Graham Murray against Alderman Geoff Brisco. The full determination is in the public domain, but I quote below from the Judgement by Justice Zeeman in R v West Coast Council ex parte Strahan Motor Inn (1995), which was cited by the Code of Conduct Panel in explaining why they could not find Alderman Brisco in breach of the Code of Conduct for expressing his opinion about a Cable Car on kunanyi and also being a member of the Planning Authority assessing it.
Of particular relevance to the current case is a decision of Zeeman J in R v. West Coast Council; ex parte Strahan Motor Inn (1995) 4 TasR 411 where his Honour said at 421: Of relevance is the way in which local government councils are elected. Councillors are representatives of their community and elected by and from that community. It may be expected that they will support particular views as to what is in the best interests of the community and that often they will have strong personal views as to what ought to occur in the community. In one sense they may be expected to hold views which may be described as being biased. Councillors may be expected to hold particular views as to how they would wish their community to develop and to discharge their duties as councillors by reference to those views…Mere fixed views as to particular matters which are relevant to the exercise of the discretion conferred by s51, even if strongly expressed, ought not of themselves to be seen as a disqualifying factor. By conferring the role of a planning authority on a municipal council, the legislature may be assumed to have been aware of the nature of such a council and in particular that it is constituted by elected councillors. His Honour went on at p425: Expressions of opinion on the part of a member of a municipal council of a nature which would be sufficient to disqualify a member of a judicial tribunal from sitting on a particular matter may not be sufficient to disqualify a member of a municipal council. Councillors may be assumed to hold and to express views on a variety of matters relevant to the exercise of the functions of the council. Expressing such views is part of the electoral process. Provided that expressions of opinion do not go so far as to evince an intention to exercise a discretion conferred by statute without regard to the terms in which it is conferred or without being prepared to listen to any contrary argument, it ought not be taken to disqualify the councillor from participating in a relevant decision-making process.

It would seem that the problem, if indeed there is a problem is that it is not sufficiently understood that Councillors have a right (even a moral obligation) to make their views known. Hence the solution is better education of Councillors and their constituents.

You give three “options” to achieve this “deconfliction”, of which the first two would remove an important feature of self determination from the local community and the

third is uncertain of outcome. The establishment of “independent assessment panels” is a disturbing prospect. They would fail the community in two ways:

Firstly they would not be independent, but appointed by the State Government. This is a government elected with largely opaque funding (but widely believed to be gambling/hospitality and other business interests), a culture a secrecy and one that pays lip service to community consultation (the 20 year salmon plan is a fine example). We know their attitude to independent judicial bodies from their recent over-ruling of recommendations for new members of TASCAT.

Secondly they would not represent the community in which the proposal is to be situated.

“Reform outcome” 4
“Councils have a sustainable and skilled future workforce”
Without doubt this is an important goal, but you appear to have missed the more effective means of achieving this.
There has been much talk of reconfiguring Local Government and/or the services it delivers, but at the end of the day the same amount of work needs to be done and by and large the same overall staffing requirements exist. “Skills shortages’ exist in many sectors in Tasmania and Australia in general. The reasons are not hard to find. Governments have dropped the ball on occupational training. It’s not that there are no Tasmanians with the potential to do the work, but they do need a career path and an opportunity to train and gain the relevant qualifications.
State Government needs to ensure that there are sufficient TAFE and university places so that we have a sufficiently qualified and skilled workforce into the future. Government needs to work with all employers (Local Government included) to ensure there are sufficient training places available.
I note that in your commentary on this you state that the strategy should minimise unintended competition for employees so as not to drive up costs. I think we have to accept competition and its implications on costs as a feature of a market economy. We should also bear in mind that if training opportunities are adequate and there is still a shortage of workers, then the solution is to increase wages. As things stand when I speak to young people looking for work they generally complain about the lack of entry level employment and shortage of full time positions.

“Reform outcome” 8
You list option 8.1 as:
“Standardise asset life ranges for major asset classes and increase transparency and oversight of changes to asset lives”
This seems to me to be back to front. I agree that it is important to keep track of how long we can expect assets to last, but this is hindered rather than helped by standardisation. Let us take the example of a bridge. The asset life would depend on the siting and engineering of the bridge (which would vary from one bridge to another). It would also depend on the amount and type of traffic and the environmental conditions (all factors which could change over time and may not have been anticipated at the time of build) It would therefore make sense to review asset life on a regular basis, probably aligned with major safety inspections. It is to be expected that many asset lives will be shorted by the affects of climate change,

but it is certainly not one size fits all.

In section 6 of your options paper you discuss “structural reform” and suggest the the status quo is not sustainable and further that there are only three options.
I would contend that the reality is not nearly as dire as you paint it. Whist I would accept that some councils underperform in some of their areas of responsibility, most do very well at most things. Whilst you have made some statements about widespread failures in a few areas, I could not find a gap analysis anywhere in your information package. Whether you have this already or not, it would not be hard to do. The question then becomes how can we best fill the gaps (always assuming that we agree they should be filled).
I would propose a fourth option:
The Office of Local Government establishes a team to assist Local Councils to fill those identified gaps. It may mean providing the personnel to do the work or by mentoring Council to do it themselves. The pathway taken in each instance would be decided by negotiation between the Office of Local Government and the relevant Council. This would appear to be the most efficient way to fill the gaps and shares few of the negative consequences of the other three options.

As to forced amalgamation of Local Government Areas you should take cognisance of a paper on this subject by Joseph Drew et al published in the Public Management review on the 4th of February this year. The link is here
https://www.tandfonline.com/doi/full/10.1080/14719037.2023.2174586
To summarise, these researchers followed a group of Councils in NSW that were forced to amalgamate and compared them with a group that had been selected by the same process, but who escaped amalgamation by recourse to the courts. The supposed purpose of forced amalgamation was to save ratepayers money. The conclusion was that it increased costs by 11% They also explain why amalgamations do not necessarily save money and many of those reasons would also apply to shared services. This is not to say that amalgamations or sharing of services are always going to be bad, but the evidence is that doing so compulsorily is unlikely to have a good result.
Other researchers have studied the same event. A summary of their findings is here;
https://mcusercontent.com/de16af086bf9dd3259607f008/files/90ae0b9d-2f90-55ba-d790-a9d57979fd55/Dollery_2023_Empirical_Evidence_on_the_Impact_of_the_2016_NSW_Forced_Amalgamation_Program_1_.pdf

It should be abundantly clear that this is not a pathway we should be following in Tasmania.
I note that the research you commissioned with respect to shared services, although acknowledging that this can be an effective and cost effective way of delivering services, notes that there are many potential pitfalls especially if it is imposed compulsorily. It notes that we already have a lot of shared services in Tasmania and there is a trend for this to increase voluntarily. I think that to do more than this would require very compelling reasons, which have not been articulated in any of your documentation.

In summary, doing nothing would be better than any of your three proposed alternatives. My option four may be better than that and I expect there are a few

other option fours that are worthy of consideration.

Yours faithfully

Response to State Planning Office Position Paper, “Development Assessment Panel Framework”

Thank you for the opportunity to comment on this Position Paper.

The stated intent of this proposal is to “take the politics out of planning”, but just what does this mean and is it desirable? It would seem that the proposal purports to remove any subjective political process and replace it with an objective judicial process.
This may appear desirable to the extent that the decisions to be made are objective, such as whether a proposed development meets the Acceptable Solution. The reality is that most such decisions are already made by qualified Council Officers without the need for intervention by Elected Members. Clearly where the decision is uncontentious it is already handled in the most effective way. This is not controversial.
Where the Council (Elected Members) as Planning Authority need to make decisions is where it needs to be decided whether a proposal meets the more subjective Performance Criteria. Often times Performance Criteria require the preservation of particular values. Under these circumstances it is entirely appropriate that in making that assessment Elected Members do so in accordance with the values that they communicated to their constituency prior to their election. This is something that can't be done by an unelected body and is the very reason such decisions are not left to the often highly qualified and competent Council Officers. That this is the way it is working here is evidenced by the extent to which most of the successful candidates (at least for Hobart City Council), have been prepared to communicate their values to the electorate.
This is not a given. In some parts of Australia where Elected Members have little scope for such decision making, they limit their electioneering to letting electors know their family circumstances and which clubs they belong to. In such places there is a correspondingly low level of engagement from electors.

All in all, Tasmania has the better system for getting planning decisions that both comply with the Planning Scheme and as far as possible accord with the values of the local community.
I know that Hobart City Council does often make planning decisions that a majority would prefer to be otherwise simply because the decision they wanted to make would not be consistent with the Planning Scheme. The solution to this should be for the Council to make changes to the Planning Scheme to bring it into line with the values of the community (not there and then but after serious consideration of the values and principles underlying the potential change). Sadly, Local Government is often hamstrung by State Government policies that prevent this. An example would be the decision to allow a change of use of a residential property to short stay accommodation.

In my view if there is to be a change to the way that local provisions of the planning scheme are made or amended it should be to give more, not less power to Councils.
It most certainly should not be to give more power to the Minister.

So, does this proposal “take the politics out of planning”?
I would argue it does not. Developers would be given the opportunity to have their proposal assessed by an unelected panel whose values would be determined in large part by their mode of selection and independently of the values of the local community. That is not to say they would in practice be an independent body. Ultimately, they would be selected by people who are selected by ministers of the State Government. Anyone who has had contact with senior Public Servants in the State Service would be aware that at this level appointments are mostly political. We would be exchanging our existing local political representation for an entity twice removed but nonetheless committed to the views of the State Government. Despite the result the government of the day could not be held to account because these decisions would be claimed to be at arms length. Hence the politics would still be in the planning but without the accountability.
To make matters worse developers would vote with their feet. If they perceived that a DAP would

more likely give them the result they would want, that is what they would opt for. If they thought a Council would give them a better result they would choose the Council. This is unlikely to result in the best decisions being made in the long run.

Is it even be desirable to “take the politics out of planning”.
I would argue that it is not. Many planning decisions are uncontroversial and these are already dealt with to the satisfaction of most people by the qualified Council Officers. Where decisions are controversial it is because people care about them. It is seldom a contest of facts but rather of values. This is the very stuff of politics. Planning issues are, for the most part local and so it is most appropriate that they be decided by Local Government.
Local Government is generally only political at the level of democratic decision making as the executive are professional managers who act on the instructions of the Council as a whole democratically expressed at Council meetings. Executive power lies with the General Manager- although he or she can be scrutinised by the Elected Members. This means that whilst the Elected Members are political the Executive is apolitical. It is in many ways a better separation of the powers than exists in the Westminster system where increasingly ministers gain sweeping executive powers with little scrutiny.

It has oft been stated by the pro development lobby that they want to have certainty in planning. This proposal offers the very opposite. It incorporates a plan to allow the Minister to force a Council to initiate a change to the Planning Scheme to facilitate a development. This ultimately means that the rules can be changed on the run. Most ten year olds have worked out that not only is this unfair- it makes the game very uncertain. The players no longer know what they need to do to comply because the developer can always apply to the Minister for a change to the Planning Scheme (but won't know whether it will be granted).
Not only does this lead to uncertainty but has to be seen as a serious risk to governance. Even if no Minister were ever to take an inducement to facilitate this there would frequently be the perception that they have. Even that perception would be corrosive of good governance not to speak of public confidence in the system.

Paragraph 2.1 (pp4-5) of the Position Paper perpetuates the unsubstantiated slur in the Interim Report of the 'Future of Local Government Review' that Councillors are “conflicted in their role” as Planning Authority. I am aware that some activists have been pushing this allegation very hard, but thus far have failed to provide evidence. As explained above Councillors have a legitimate role in deciding contentious Development Applications.
The decision of Zeeman J. in R v West Coast Council ex parte Strahan Motor Inn 1995 TasR 411 includes this illuminating statement (p425):
“*Expressions of opinion on the part of a member of a municipal council of a nature which would be sufficient to disqualify a member of a judicial tribunal from sitting on a particular matter may not be sufficient to disqualify a member of a municipal council. Councillors may be assumed to hold and to express views on a variety of matters relevant to the exercise of the functions of the council. Expressing such views is part of the electoral process. Provided that expressions of opinion do not go so far as to evince an intention to exercise a discretion conferred by statute without regard to the terms in which it is conferred or without being prepared to listen to any contrary argument, it ought not be taken to disqualify the councillor from participating in a relevant decision-making process.* “
As far as I am aware there has been no serious attempt to overturn that judgement. I submit that is because Justice Zeeman's observation still holds. Quite clearly “expressing such views is [or should be] part of the electoral process”. If we thought otherwise, we would give up on the whole democratic project and be prepared to submit to tyranny. Thankfully we have not yet arrived at that pass.

Paragraph 2.2 (p6) of the Position Paper observes that the Tasmanian planning system is already

among the fastest if not the fastest in Australia. It is also noted that most other states have an alternative pathway for determining certain developments with some form of a DAP. That we have a quicker process without resort to this would seem to indicate that it would be better not to go down that pathway. The empirical evidence would seem to indicate that adoption of the DAP model is more likely to prolong rather than expedite the process.
The reality in Tasmania is that a small minority of DA s are decided by Elected Members, the majority being decided by qualified Council Officers on objective facts. Of this minority only a small minority are brought to appeal.
On my count over the last 12 months only 22 Council DA decisions were brought to appeal at TasCAT.
Of these 10 were appealed by the proponent and 12 by another interested party.
11 were denied.
6 were upheld.
5 resulted in a change to the conditions.
To me this looks like a system that is working. It does not look like an excessive price to pay for an effective and fair system of assessment.

It should be noted that probably the most time consuming and expensive of these was the MWCC cable car proposal which was so far removed from meeting the relevant Planning Scheme that Council rejected it on 21 grounds and then after the proposal had been toned down a little TasCAT rejected it on 18 grounds! It should also be noted that in this instance Council employed a team of independent experts to inform their decision in case there should be any perception the the qualified Council Officers were in some way biased.
MWCC were warned throughout that what they proposed would not comply with the Planning Scheme but they soldiered on regardless, presumably hopeful of political intervention from the State Government. If this was indeed the misapprehension they were labouring under then the solution would be for the State Government to make it clear that they would not intervene. This, rather than a change to planning law is what would have saved a lot of time and money for the Council, the community and the proponents themselves.
We don't know for sure what the result would have been had the decision been made by a DAP. I think most likely it would have been the same, but what if it were not? Would the community have accepted the result? I believe that a lot of people would have inferred that the DAP had a strong pro development bias. Perceptions of bias against unelected bodies are much harder to deal with than perception of bias of those who are democratically elected. At least in the case of the elected body there is the safety valve of the ballot box.
Hence, if we were to go down the DAP pathway for such projects it is essential that there be recourse to a merits appeal. It has been suggested in this paper that merits appeal to TasCAT would not be appropriate in part at least as the process of the DAP would be similar to that of TasCAT. Perhaps that is so, but there needs to be an opportunity to appeal on merits.
A better arrangement would be an appeal to the original Council as Planning Authority. This would be relatively cheap and quick as the DAP would already have heard and collated all the evidence. The Planning Authority would need only to make the value based judgements as to whether the proposal meets the performance criteria, this being something they are uniquely qualified to do.

On page 7 of the Position Paper we find the statement:
"The current proposal to develop a DAP framework is based on the principle of utilising existing parts of the planning system that are working well, including the existing and highly regarded independence and expertise of the Commission, in establishing DAPs to determine applications."

I wondered how many DAPs there have been and just how tried and trusted this process really is. Also is it really quicker than other processes?
The Tasmanian Planning Commission website mentions only two. They are the North East

Windfarm and the Bridgewater Bridge. From establishment of the DAP to a final decision has taken 12 ½ months and 8 ½ months respectively. I recall that an amendment to the recently established Major Projects Act was required to facilitate the assessment of the Bridgewater Bridge.
This does not look to me like a tried and tested process. There is no evidence at all in Tasmania of such a system working effectively to assess a contentious project nor an inner city project.

Paragraph 3.1 (p8) of the Position Paper opens with the following:
"Conflicting role of Councillors
Despite the statistical evidence, there remains a perception that some Councils are less supportive of new development than others and that on occasion the personal views of elected councillors in relation to a proposed development, such as large-scale apartments, or social housing, may influence their decision-making despite being outside of the relevant planning scheme considerations they are bound to administer as part of the obligations of a planning authority."

I am glad to see acknowledgement that perceptions of a conflicting role of Councillors is unsupported by the evidence. We should be making our decisions based on the evidence, not 'perceptions'. It is nonetheless worth considering where these perceptions come from. You would have to be living under a rock not to know that they are the work of very active highly connected and resourced pro development lobby groups. They have worked hard over the last few years to discredit Councils. Maybe they have to some extent been successful in poisoning a proportion of public sentiment against Councils, but importantly they have not been able to provide the evidence to back up their claims.
This one sentence is key to the whole process outlined in this Position Paper. It is being proposed to gut Local Government of its central role in planning, despite the evidence and because of a 'perception' engineered by lobby groups who share a clear commercial interest. To be clear I am not against commercial interest, but it should not override the interests of the community and it should not override democratic decisions.

The next paragraph refers to the need for social and affordable housing and the tension this creates for the Planning Authority. Indeed, rapid population growth has led to a housing shortage and a tension between maintaining standards of livability and providing roofs over people's heads. This has been an issue right across Australia and has led to pressure to lower planning standards. This essentially means accepting lower quality of life for existing residents so as to fit others in.
It does not have to be this way. This government (both state and federal) has been pushing for population growth for the last decade. That has exacerbated the problem. If the governments were to push the other way it would probably not arrest growth, but would at least slow it to a point where it can be dealt with in an organised and effective way. Unfortunately, the very same lobbyists who are pushing the negative perceptions about Local Government are also pushing a growth at all costs agenda.
Make no mistake. This is about financial gain for this lobby. It is not about the welfare of ordinary Tasmanians.
If we continue to have too rapid population growth the tension between the welfare of existing residents and homeless people will still exist and there will still be losers, but under a DAP process those difficult decisions would be made by a panel unaccountable to the community.
A better plan would be to give Councils more control over short stay accommodation and for the State Government to stop 'going for growth'.

Page 8 of the Position Paper concludes with the statement:
"Because the evidence is that the inappropriate political determination of applications is limited to isolated, but well publicised, cases, the response should be proportional, so it does not undermine the integrity and success of the existing reforms, or the planning system itself. Changes should only be proposed where an issue has been identified. Additionally, any proposed changes should seek to

utilise those parts of the assessment process that are operating efficiently."

Indeed, I could not agree more. If there is a case for change to planning law to improve outcomes in those "*isolated but well publicised cases*", then it needs to stem from a focussed process.
First the '*inappropriate political determinations'* need to be identified.
Second, they need to be scrutinised as to whether they are indeed inappropriate. Many of the decisions raised by the pro development lobbies are not inappropriate, merely counter to the wishes of that lobby.
Thirdly measures to remedy this very small number of cases should be considered that do not undermine the existing planning system and the important central role of Local Government in it.
Possible remedies would be better education of Councillors or perhaps a review of the appeal system such that any overreach by Council is identified.
I would assert however, that the number and extent of these remaining cases is extremely small and would represent a lower level of malfeasance than we see in decisions from the other two levels of government in Australia.
Instead, this Position Paper goes on to propose responses that are not proportional, that do undermine the integrity and success of the existing reforms and the planning system itself. Further these proposals seek to utilise a part of the planning system that has not been shown to operate efficiently in Tasmania. Indeed, those interstate jurisdictions in which it is more widely used are performing less well even on the metric of time required to assess Development Applications.

I will now proceed to a commentary on Consultation Issue 1:
a) What types of development applications are problematic, or perceived to be problematic, for Councils to determine and would therefore benefit from being determined by a DAP?

I would prefer to split this question into two parts.
What types of development are problematic?
Which would benefit from being determined by a DAP?
You will note that I have left out "perceived to be problematic" as inclusion of this category would open the door to proponents or other interested parties forcing a DA to a DAP by a campaign of denigration of the Planning Authority. As I have touched on earlier in my response perception is not evidence and should not be used for decision making.

For a development to be considered problematic for a decision by Council it would need to be such that either the Council does not have the resources to deal with the technical matters or there is not a quorum of unconflicted Councillors.
I should stress that having a view even a very strong view does not constitute a conflict of interest. A relevant conflict of interest would arise if a Councillor had business or financial interests that would be particularly (rather than generally) affected by the decision. By way of example a significant proportion of Members of Parliament have investment properties, but as far as I am aware never recuse themselves from making decisions that could reasonably be expected to affect the value of real estate in general.
In the case of lack of technical resources Councils have the option to outsource to contractors or in some cases neighbouring Councils. Referral to a DAP may be appropriate if such a body was able to provide its own expert reports, but it is my understanding that this is not a part of the DAP proposal.
In the (presumably rare) case of a lack of quorum due to conflicts of interest, the Council should be able to decide an alternate body to act as Planning Authority. This may be a DAP appointed by the TPC or it may be another Council.
A proposal is not problematic for a decision by Council by virtue of the perceptions wishes or views of the proponent, Minister or lobby groups, nor is it relevant how contentious or important the proposal is.

Referring applications for critical infrastructure or social or affordable housing is inappropriate as regardless of who makes the assessment the DA must meet the requirements of the Planning Scheme. It should also be noted that there is almost never a situation where there is no choice as to location or design of critical infrastructure or housing. The main consequence of mandating referrals of these categories would be to slow down their assessments. The ancillary effect would be a reduction in community confidence that the decision had taken their values into account. Recently the Glamorgan Spring Bay Council approved the building of an ambulance station on a site in Bicheno. Councillors stated that whilst they were supportive of an ambulance station in Bicheno, they considered this site unsuitable and that it could be better utilised for a different development. Nonetheless as it complied with the Planning Scheme, they had no choice but to approve the application. The only differences a DAP would have made is a longer more expensive process.
The other difficulty with mandating referrals for critical infrastructure is just how broadly that category is considered to apply. Most would probably agree that emergency services are critical infrastructure, but electricity generation and distribution could also be considered critical as could communications and transport systems. If the aim is to make approvals more likely (due to the perception that Councils are refusing Development Applications that are compliant with the Planning Scheme), then you would have to consider how to prioritise. A rational analysis of priority would not necessarily put all critical infrastructure projects near the top of the list as there is usually considerable choice as to design and location, Better alternatives are likely to be revealed by community consultation (which it seems would have helped in Bicheno).

b) Nomination for assessment by a DAP should only be able to be made by the Council which has the responsibility as Planning Authority. It should not be possible for the Minister to intervene nor for the proponent to have a role. The one possible exception to this is that as the DAP will create an additional expense for the proponent they should have the option to withdraw the application at this stage.

c)If a Council elects to nominate a proposal for assessment by a DAP this decision ought to be able to be made as soon as the DA is submitted.

Consultation Issue 2:
There are no circumstances where the Minister should have a power to direct the initiation of a planning scheme amendment by a Council.

Consultation Issue 3:
Any competent Development Assessment Panel should be able to inform themselves of the objective facts including local knowledge. The real issue is whether they will make the best judgement on subjective matters as it is less likely (than Council) that they will share the community's values.

Consultation Issue 4:
Any appeal against a request for further information should be made to TasCAT as they are the body with the most experience at adjudicating such matters.

Consultation Issue 5:
a) No. It is not reasonable that DAP decisions not be subject to an appeal on merits. I acknowledge that the DAP process is very similar to the TasCAT process. If the appeal were to be to TasCAT there would at least be the benefit of different tribunal members. The weaknesses are:

1) TasCAT tribunal members may be reluctant to make a decision at odds with their TPC appointed colleagues in the DAP.

2) Neither tribunal is answerable to the community most affected by the outcome and so subjective decisions are less likely (than Councils) to align with community values.

A better and fairer solution would be to make the Planning Authority (Local Council) the body to which an appeal is made. This would be at very little cost. The Council has already done the work leading up to the DAP. Now they would have any extra information revealed at the DAP as well as the reasoning of the DAP to inform their decision. This would also most likely add very little time to the overall process.

b)I will leave it to others to argue over the specific timeframes for this process but would make the following observations:
1)The table appears to show Council making a recommendation prior to the 'Draft Assessment Report'. Then after the 'Draft Assessment Report' and representations they are asked to report on any modifications to their original recommendation. This is a bit like asking a jury to pronounce a verdict prior to hearing evidence, to potentially be amended after hearing the evidence. I don't think I have seen this before. My gut feeling is that it is bad practice. Also it serves no purpose. I suspect that most Councillors would be uncomfortable making a recommendation prior to receiving all the relevant information.
2)A consultation period of 14 days is very short, but may be considered justifiable so as to not unduly hold up simple and uncontentious applications. However, the type of Development Applications likely to be referred to a DAP are also those most likely to be complex and contentious. In recognition of this a longer time period should be allowed.

Consultation Issue 6:
Ideally there should be no responsibility without power nor power without responsibility. On this basis the DAP should be responsible for administration of any permit they cause to be issued. This would however, be quite impractical. They would have neither the personnel nor the expertise to do so. On this basis I think the administration and policing of the permit would need to be done by the Planning Authority. Likewise circumstances that would require minor amendments to the permit conditions should be handled by the Planning Authority as they are the only body competent to make such assessments.

Philip Stigant
12th of November 2023

From: John Meehan
Sent: Thursday, 3 April 2025 12:26 PM
To: State Planning Office Your Say
Cc:

Subject: Protect our rights & our voice – #SCRAPTHEDAP

I have been employed in the Manufacturing sector for over 30 years, the last 10 years in Senior management positions.
During that time I have successfully managed multi-million dollar developments making me well versed in planning laws and requirements.

I was personally relieved that the 2024 version of the DAP legislation was refused by parliament.
I am similarly deeply concerned with the 2025 revised DAPs legislation as it has not significantly changed from the previously refused version, retaining the same key flaws.

Despite the political rhetoric, Tasmania's planning system is not broken.
Its strength lies in the merit-based appeals process that allows both local government and communities to work with developers. This can create the best outcome possible for a development via mediation or in a tiny number of cases, the Tasmanian Civil and Administrative Tribunal appeals process. This system has proven to produce well thought out, and locally supported development outcomes.
Advice in late 2024 from the Government's own Department of Premier and Cabinet indicated that there is no evidence the planning system impacts development in Tasmania.

I do not support the creation of Development Assessment Panels (DAPS), nor the unprecedented power of the Planning Minister to determine if a development application meets the DAP criteria including the Minister's ability to force planning scheme changes if a local council rejects a proposal. This undermines local councils strategic planning whilst also reducing transparency.
The DAPs lack of requirements for public hearings and written decision reasons eliminates consultation and oversight. This is deeply worrying.

Tasmania remains a holdout in Australia, still allowing property developers to influence politics through donations. Combined with the extraordinarily broad and unchecked powers of the Minister under the revised 2025 legislation, this has the very real potential to result in poorer planning outcomes, and could even lead to corruption. Property developers and their associates must be prohibited from making donations to political parties.

If enacted, the revised DAPs legislation creates an unprecedented opportunity for unscrupulous developers and politically biased Ministers to bypass the normal checks and balances our communities rightly deserve when it comes to planning approvals.

I call on you to abandon and withdraw any support you might have for DAPs.
Keep decision making local, consultative, transparent and accountable.

Yours sincerely,
John Meehan

From: Robyn Everist
Sent: Thursday, 3 April 2025 8:40 AM
To: State Planning Office Your Say
Cc:

Subject: Protect our rights & our voice – #SCRAPTHEDAP

I write to you today to urge you to not approve the 2025 DAPs legislation.

There are lots of reasons for my objections, so strap yourself in for a good read.

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 researchdemonstrates 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.

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 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.

Yours sincerely,

Robyn Everist

From: Simon and Chris Grove
Sent: Thursday, 3 April 2025 6:29 AM
To: State Planning Office Your Say
Cc:

Subject: Protect our rights & our voice - #SCRAPTHEDAP

Dear State Planning Office

I would like to have my say regarding the proposed Development Assessment Panels. Seemingly designed to fast-track the planning process for major or contentious developments, they bypass long-established, devolved planning processes and are inherently undemocratic, politicising, polarising and disenfranchising regarding the rights and wishes of the Tasmanian citizenry and electorate. As such, I submit that they are the antithesis of a fair and reasonable planning process. The concept has been rejected once and there seems little justification for raising it again, other than to sow division and to divert political discourse in Tasmania away from other, more pressing matters.

As such, 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 in protecting 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, to enhance transparency and efficiency in the administration of the *Right to Information Act 2009*, and to create a strong anti-corruption watchdog.

I include a more comprehensive list of concerns below.

Regards

Dr Simon Grove

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.

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 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.

From: Alice Salter
Sent: Thursday, 3 April 2025 11:26 PM
To: State Planning Office Your Say
Cc:

Subject: Protect our rights & our voice – #SCRAPTHEDAP

Good Evening State Planning,

I open this email to invite you into my space for a few minutes, to share my opposition to allowing the introduction of Development Assessment Panels (DAPs), a planning system that would allow property developers to bypass local councils and communities when seeking approval for major projects. By allowing this bill to pass, it will unfold a domino effect of projects that will ultimately be the downfall of Tasmiana's culture. This bill could allow members from other states and developers who would push the envelope for the proposed cable car on kunanyi/Mount Wellington.

This would be a disastrous, irreversible scar on one of Tasmania's most sacred landscapes.
This project is not about access or progress; it is about exploitation.

Exploitation driven by those who see our wild places as nothing more than dollar signs.

Tassie's heart is in its untouched beauty, in the peace and authenticity that set it apart from over-commercialised destinations. I am currently holidaying in Queenstown, New Zealand, which is a stunning place, yet one that has lost much of its original charm to the relentless march of tourism and development. We cannot let this happen to Hobart, to Tasmania. Queenstown also has the infrastructure paid for from snow seasons, a sport that brings a big influx of cash to a region for a season each year. This is something Hobart does not have, and one ugly cable car and a few ziplines won't fill that hole.

The infrastructure required for such a project is neither viable nor welcome. It will irreversibly destroy the very soul of what makes tassie unique. Instead of pouring time and money into destructive developments, we should be investing in a government that prioritises sustainable planning, community participation, and transparency.

I urge you to reject this bill! Tune in and focus on strengthening our existing planning systems, protecting local jobs, and keeping development application costs manageable. Additionally, we must eliminate political donations from property developers, enhance transparency and keep Tassie unique.

Our wild home is not for sale.

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.

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.

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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.

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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.

Thank you,

Alice Salter

From: i
Sent: Thursday, 3 April 2025 10:08 PM
To: State Planning Office Your Say
Cc:

Subject: Protect Tasmanian property rights: #SCRAPTHEDAP

This submission focuses on the importance of upholding property rights and government that prioritises public good over developer interests. I've pretexted it with issues researched by others who care about Tasmania.

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.

Reasons researched by others who care about Tasmania:

- **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. 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 WHICH HAVE THE GREATEST IMPACT ON LOCAL TASMANIAN COMMUNITIES**.

- **Removes merit-based planning appeal rights** AND INCREASE THE EXPOSURE OF THE TASMANIAN GOVERNMENT TO LATERAL LEGAL CHALLENGES.

- **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. THIS PUTS THE ONUS OF PUBLIC GOOD ON THE COMMUNITY RATHER THAN DEVELOPERS … OUR CONSTITUTION REQUIRES GOVERNMENT TO REPRESENT VOTERS (NOT PARTY DONORS)**

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

- **Increased ministerial power over the planning system increases the politicisation of critical planning decisions such as rezoning and risk of corrupt decisions. THE ENTIRE WORLD IS WATCHING THE TENSION BETWEEN THE USA PRESIDENT AND JUDICIAL SYSTEM IN HORROR … WHY ON EARTH WOULD SUPPOSED REPRESENTATIVES OF THE TASMANIAN PUBLIC ENDORSE SIMILAR BEHAVIOURS**

- **Eligibility criteria are so broad and undefined that it grants the Minister extraordinary power that is arbitrary and unchecked. THE POWER YOU CONTROL TODAY WILL BE GIVEN TO SOMEONE WHO DOES NOT SHARE YOUR INTERESTS TOMORROW. THINK ABOUT THE PROTECTION YOU WANT FOR ASSETS YOU VALUE IN TEN YEARS TIME**

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.**
- **Increases complexity in an already complex planning system.**

2025 legislation not significantly changed

Say yes to democracy

- I call on you to ensure transparency, independence, accountability and public participation in decision-making within the planning system.
- I call on you to ensure the Tasmanian Government continues to represent Tasmanian voters, not undisclosed party donors, who increasingly buy out representation of voters simply by slopping support into both the major parties. Come on! Have a little integrity! Read the Tasmanian Constitution, understand the job you were elected to do, and get on with it. Voters simply want to believe that they (not big businesses) are represented by government process.

- **I call on you to prohibit property developers from making donations to political parties, enhance transparency and efficiency in the administration of the *Right to Information Act 2009*,** and create a strong anti-corruption watchdog.
- I call on you to **PROTECT TASMANIAN PROPERTY RIGHTS AND ASSETS**. Locals cannot invest in or value our State if our government does not uphold the value of Tasmanian property rights and assets. Tasmanians simply cannot afford to increase public investment into 'for profit' developments that are sold off for profit and then left to rot. We cannot afford to be subsiding developers this way. Capitalism centralises wealth – what is good for developers certainly cannot be assumed to be good for anyone else (the role of private companies is to maximise their profit … the job of government is PUBLIC GOOD. Please do your job. Please keep clear separation so Tasmanian voters can better respect negotiations between the Tasmanian Government and private companies.)
- I call on you to reduce the pressure on Tasmanians to protest about everything BECAUSE TASMANIAN VOTERS ARE NO LONGER REPRESENTED BY THE TASMANIAN GOVERNMENT. It is utterly ridiculous. You hate it; we hate it; it is inconvenient for everyone and creates unnecessary stress all round. If you could just provide and adhere to transparent government processes that are managed for transparent public good, it would be so much easier on everyone.
- I call on you to respect independent advice when it consistently flies in the face of developer wishes. It is embarrassing to have supposed public representation so actively supporting proposals that NO economist will put their name to. It drags down the credibility of everything Tasmanian.

Yours sincerely,

Dr Imogen Fullagar
Executive Director

weathering change
Enabling communities & governments to live with change

From: steven smit
Sent: Thursday, 3 April 2025 9:44 PM
To: State Planning Office Your Say
Cc:

Subject: Protect our rights & our voice – #SCRAPTHEDAP

Dear State Planning!

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*'.

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

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- **Increased ministerial power over the planning system increases the politicisation of 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.
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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?

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- 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,

Steven Smit
Non practicing Design Director

From: Caroline Sutton
Sent: Thursday, 3 April 2025 9:45 PM
To: State Planning Office Your Say
Cc:

Subject: Protect our rights & our voice – #SCRAPTHEDAP

Thank you for the opportunity to express my opinoin regarding the proposed planning legislation.

I am opposed to the creation of Development Assessment Panels (DAPs). It is my understanding that this legislation is fundamentally unchanged since it was refused last time it was brought to parliament in 2024!

I am concerned that the hand picked members of the DAPs will not be independent and there is no opportunity to appeal decisions without an expensive hearing in the supreme court. This takes the planning process away from the community and into the hands of developers. This will inevitably lead to developments that are not driven by community interests but rather by profits for the few. Land is a community asset and the needs and wishes of the community must be taken into consideration in all developments.

I ask for independence, accountability, transparency and public participation in the decision making process within the planning system.

Sincerely,

Caroline Sutton

From: Louise McDermott <
Sent: Thursday, 3 April 2025 9:23 PM
To: State Planning Office Your Say
Cc:

Subject: Protect our rights & our voice - #SCRAPTHEDAP

Please note my objection to the above legislation on the following grounds.

I am an active member of my local community who attends my local council meetings on zoom and a member of Save Rosny Parks in Clarence. I understand the negative impact this legislation will have in both our state and our communities and I urge you to reconsider. We do not need this type of legislation in Tasmania as our planning system already functions as it should. This legislation removes the present rights of appeal of locals and as such is anti democratic. I feel very strongly about this and cannot support and will not vote in future for any members who support this.

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.

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

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 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.

Yours sincerely,
Louise Stoward

From: Suzanne Bell
Sent: Thursday, 3 April 2025 8:38 PM
To: State Planning Office Your Say
Cc:

Subject: Protect our rights & our voice – #SCRAPTHEDAP

I am totally against the proposed DAP legislation.

Please vote against it.

It will remove the democratic right of all Tasmanians to 'have a say' when big changes and developments are proposed and planned.

We will be unable to appeal to our elected representatives and explain why we want changes to legislation which impacts on us all.

This fast-track process will remove elected councillors from having a say on the most controversial and destructive developments affecting local communities.

There will be no right for the community to appeal the final decision to the planning tribunal.

I am totally against a Cable Car development on our beautiful Mountain. If this proposed legislation is passed, we can say goodbye to (in my opinion) the best thing about our southern city....

I look up at the mountain from my house and every morning, I admire the wonderful vista of our very special unspoilt Mountain. I especially love the sunlight shining on the dramatic Organ Pipes.

My heart aches to think that we would be so short sighted as to destroy this wonderful, and yes, untouched view with a huge structure at the top and even worse, a man made very visible cable car going over the Organ Pipes.

There is absolutely nothing special about a cable car. So many cities in the world have cable cars. Once you have been in one, you realise that it is, yes, another (very expensive) form of transportation.

What is VERY SPECIAL about Kunanyi is that it is so close to Hobart, a capital city! It's presence so close to the centre of the city – truly a mystic mountain if there ever was one.

People who say the mountain is already "spoiled" have very likely not walked on the many tracks that wind their way up from Cascade, Fern Tree and Lenah Valley. You often feel miles away from civilization when you are only 20 minutes from town.

Perhaps they have not been on Grouse Mountain (near Vancouver) or the mountain above Jasper in British Columbia, or on the mountain near Christ Church or Queenstown NZ – to see what mountaintops with cable cars really look like. There is no mystic feeling when you walk out of a noisy cable car into a visitor centre.

Our mountain is a treasure and we do not want to look back in 10 or 20 years with REGRET that we have let some developers with only $$$ motivating them to sway our thinking.

I am not opposed to a reasonably sized café / visitor centre on the mountain. I am opposed to a very large noisy structure that is not needed.

When my very-well-travelled auntie from California visited the Mountain a few years ago, standing in the quiet, among the lichen covered rocks at the pinnacle blew her away. The clean air allows lichen to grow on those wonderful rock formations. This is something truly unique in the world and worth saving; the wonderful unspoilt view across these rocks to the city below. To destroy these mystic and unique natural features by erecting a huge structure over them is short sited and lacks vision.

Please vote against this legislation.

From: Stephen, Robina and Elsa >
Sent: Thursday, 3 April 2025 8:29 PM
To: State Planning Office Your Say
Subject: Protect our rights & our voice – #SCRAPTHEDAP

Dear Parliamentarians,

I am writing to express my concern over the creation of Development Assessment Panels (DAP's) and increasing ministerial power over council planning approval processes. I encourage you not to support the 2025 Draft Bill (which is not significantly changed from the 2024 version that was refused by parliament and retains all the key flaws) for the following reasons:

- **The DAPs will allow property developers (not necessarily from Tasmania) to bypass locally elected councillors representing communities, ignoring local concerns over controversial and destructive developments.**

- **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.

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 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.

Yours sincerely,

Stephen Cameron

Mountain River

From: Gayle Newbold
Sent: Thursday, 3 April 2025 6:50 PM
To: State Planning Office Your Say
Cc:

Subject: Submission re: 2025 revised DAPs legislation

To whom it may concern,

I wish to express my opposition to the creation of Development Assessment Panels (DAPs) and increasing ministerial power over the planning system.

The updated DAP continues to exclude elected councillors from representing Tasmanians when developments directly affecting the community are being considered.

The proposed planning commission is not elected or selected in a transparent, fair way. They are not committed to considering public opinion or sharing the reasoning behind their decisions. Much of the land that developments are on is accessed, and loved, by Tasmanian residents and we deserve to help choose how they are used.

The proposed DAP also reduces the ability of residents, organisations or local business owners to appeal on grounds that affect the community, removing the rights of fauna and flora, community groups, business and residents who are impacted directly and indirectly by projects.

The scope of projects assessed by DAP is also poorly defined, meaning a range of projects may be pushed through this system when they likely threaten the values of Tasmanian residents, making them more difficult to oppose.

In a country that I like to think promotes democracy, human rights and a fair go, this legislation is a backwards step. As a state, our appeal to both residents and tourists is largely based on access to nature. Developments that do not adequately adhere to our 'brand' of unique animals and landscapes, natural beauty and quality 'clean, green' products will diminish our character and appeal. It will also mean tangible losses for residents and wildlife in areas of development.

I hope that the DAP is re-considered in light of the above points and then scrapped, with no further iteration in the future.

Yours sincerely,

Gayle Newbold

From: Rachael Perigo <
Sent: Thursday, 3 April 2025 6:26 PM
To: State Planning Office Your Say
Cc:

Subject: Protect our rights & our voice – #SCRAPTHEDAP

To the Members of the House of Assembly and the Legislative Council,

As a local resident in Tasmania, I am strongly opposed to the 2025 revised DAP's legislation. I regularly use Wellington Park for recreational purposes and highly value the serenity and its cultural heritage. I also regularly visit and value other National Parks. ANY development in ANY of these, or other locations MUST continue to involve community voice and consultation.

The revised DAP 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.

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 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.

Yours sincerely,

Rachael Perigo

From: Ian Cargill
Sent: Thursday, 3 April 2025 3:03 PM
To: State Planning Office Your Say
Cc:

Subject: Scrap the DAP Legislation

I am opposed to the proposed legislation to create Development Assessment Panels (DAPs) on many levels, not least because they (DAPs) seem to be a solution to a problem that doesn't exist! Of the 12,000 or so DAs that are submitted each year, barely 1% are appealed, and 80% of those are resolved by mediation. So what is the problem that the government is trying to fix? There isn't one!

I have also read of ministers saying that they "want to take politics out of the process". This is ridiculous. The membership of DAPs will be controlled by politicians, so that doesn't get rid of the politics. I also question why it is necessary to take politics out of the process. Currently, development is assessed by local government councillors who are answerable to their local communities, which is how it should be. They have to decide according to the current planning rules, so if they do make a "bad" decision, it is easily appealable through existing mechanisms.

Further, there is absolutely no guarantee that DAPs will make any better decisions than councils.

The whole thing is clearly just an attempt by the State Government to tilt the scales in favour of developers and shows a contempt for the democratic process by restricting citizens rights to participate in the decision-making process, either directly or through their elected local representatives.

I vehemently oppose the creation of Development Assessment Panels, and I urge all members of the State Parliament to vote against it.

Regards
Ian Cargill

3 April 2025

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

haveyoursay@stateplanning.tas.gov.au

LUPAA (DAP) Bill 2025 Version 2 Submission

Council remains open minded to a well-designed Development Assessment Panel (DAP) framework. Council notes that DAPs already exist (i.e., major projects) in LUPAA and that the planning system defers complex or technical elements of agencies such as the EPA or Heritage Tasmania.

Council supports expanding existing DAP provisions to address:

- regulate activities associated with public-private partnerships that Council's enter into;
- assess significant Council projects;
- assess complex or unique proposals in a manner similar to EPA assessment of environmental significance or Tasmanian Heritage Council assessment of heritage values; and
- review planning scheme amendments not certified by planning authorities.

LUPAA has provisions for major projects to be assessed by a DAP. A DAP for a major project is a different (and existing) mechanism to that now proposed. These existing major projects provisions enable matters of either strategic importance or of significant impact, scale and complexity *to a region* be assessed by a DAP.

Council has no firm view on whether matters of significance *to a local area* should also be capable of elevation to a DAP. On one hand, there are scant examples of Councils obstructing development through refusals. On the other hand, appeals to TASCAT, which the Bill would negate, are costly to all involved including Council's and their communities.

Council can see value in social or affordable housing being assessed through a DAP subject to certainty that new housing stock is public or available at sub-market rent and permits are not transferrable. This is because many social or affordable housing models mix public, affordable and open market stock and also because LUPAA is tenure neutral.

Council has concerns that the drafting of the Bill is incomplete and omits key elements of the normal planning process, such as the requirement for landowner consent.

Council is particularly concerned that little modification has been made to the bill that was rejected by the Legislative Council and no consultation has occurred prior to this new Bill being drafted.

While supportive of some parts, Council contends that the Bill should be rejected. Significant changes are required, and further consultation is necessary. That consultation should be broader than just DAPs and should consider all opportunities to streamline administrative functions in LUPAA, modernise how planning occurs and how the State can and should support the implementation of its planning scheme through guidance and support.

Yours sincerely

Robert Higgins
GENERAL MANAGER

From: Flip Cargill >
Sent: Friday, 4 April 2025 1:50 PM
To: State Planning Office Your Say
Cc:

Subject: Vote against proposed DAPs

I oppose the Governments proposed legislation to create Development Assessment Panels (DAPs). They are clearly not required here.

This is a close-knit, well educated community that keeps a close eye on everything that is going on here.

It has been mentioned that the politicians would like to control the membership of the DAPs.

It is clear to me that our current councillors do an efficient job of processing applications under the existing system. Of the 12,000 or so DAs that are submitted each year, barely 1% are appealed, and 80% of those are resolved by mediation. So what is the problem that the government is trying to fix? There isn't one!

There is no evidence that DAPs will make better decisions than councils.

This shows a contempt for the democratic process by trying to restrict citizens rights to participate in the decision-making process.

For these reasons I oppose the creation of Development Assessment Panels, and I urge all members of the State Parliament to vote against it.

Philippa Cargill

From: Janine Combes
Sent: Friday, 4 April 2025 12:15 PM
To: State Planning Office Your Say
Cc:

Subject: Submission - Draft Development Assessment Panel - Draft Bill 2025

I would like to express my concern about the 2025 revised Development Assessment Panels legislation. This legislation has some significant flaws, and it proposes to allow developers to bypass our accepted systems of planning control as administered by local Councils which are bodies elected by communities to undertake this role. I consider that the appointment of State appointed planning panels undermines an effective democratic system and places undue power in the hands of Ministers and a few hand-picked persons.

The DAPS do not have to provide written reasons for their decision making which means a closed-door approach which is not open to public scrutiny.

There is considerable potential for conflict of interest and corruption to occur with such panels, as evidenced through research into local planning panels in other States (e.g. NSW Independent Commission Against Corruption).

The available research indicates that DAPs do not often engage with local communities and take longer to make decisions that Councils. Furthermore, the introduction of DAPS would remove merit-based planning appeal rights to deal with issues such as impacts on biodiversity from height, bulk of buildings, impacts on adjoining properties from traffic, noise, overlooking and other reasons. The result will be less than ideal environmental and social outcomes.

We need checks and balances in our planning systems, and these are currently provided by the Tasmanian Civil and Administrative Tribunal (TASCAT). The legislation will remove any potential to use mediation

processes to resolve planning issues within our communities. The only recourse will be to the Supreme Court will lead to a narrow, legally focussed approach and will be prohibitively expensive. This is not a good use of valuable court resources when there is not a problem to be fixed. Only about 1% of the approximately 12,000 council planning decisions go to appeal and Tasmania's planning system is the fastest in Australia. Many are resolved through mediation. Do we really want to dismantle a system which is robust, democratic, and well-functioning to meet the interests of a few?

The creation of the DAPS enables any project which a developer or the Government sees as 'significant' to be fast tracked without public scrutiny or input.

The DAPs legislation was refused by the Parliament in November 2024. The changes made to the 2025 legislation are not significant and all the key flaws remain. I call upon you to ensure transparency, independence, accountability, and public participation in decision-making within the Tasmanian planning system. This is essential for a healthy democracy.

In addition to rejecting the introduction of DAPS I call upon you to work toward preventing donations by developers to political parties and the creation of strong anti-corruption watchdog for Tasmania.

Yours sincerely

From: Genevieve Stather
Sent: Friday, 4 April 2025 11:22 AM
To:

Subject: Please protect our rights & our voice

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:

Tasmania has so many pristine wilderness areas. This is why tourists come here from all over the world - not for infrastructure projects. Local people who look after these precious places should be consulted on the developments of their local area. They are such an important voice and perspective on the potential benefits and impacts of developments, and can meaningfully contribute ways to improve these projects for the greater good of all. Consulting local communities is more democratic and allows them some autonomy rather than being bulldozed by big business and rich companies who would give back minimally to these communities.

- **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 not have local communities best interests at heart.

- **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.

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 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.

Yours sincerely,

Dr Genevieve Stather