



Revised Land Use Planning and Approvals (Development Assessment Panel) Bill 2025

Background Report for Consultation

October 2025

We acknowledge and pay our respects to all Aboriginal people in Tasmania; their identity and culture.

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State Planning Office, Department of State Growth
Level 6 – 144 Macquarie Street | GPO Box 536, Hobart TAS 7001
Phone: 1300 703 977
Email: spo@stateplanning.tas.gov.au

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1.0 Introduction

In July 2023, the Premier of Tasmania, the Honourable Jeremy Rockliff MP, announced the preparation of new legislation to introduce independent Development Assessment Panels (DAPs) to provide an alternative planning pathway for certain development applications.

The draft Bill proposes to amend the *Land Use Planning and Approvals Act 1993* (the Act) by providing a process for development applications to be determined by a DAP established by the Tasmanian Planning Commission (TPC). The TPC already establish panels to, among other matters, assess Major Projects, Projects of State Significance and determine planning scheme amendments.

The stated intent for introducing DAPs was ‘to take the politics out of planning’ by providing an alternate approval pathway for more complex or contentious development applications. The draft Bill also responds to the potentially conflicted roles of Councillors who are required to act as a planning authority, applying the planning scheme and determining development applications, while also representing the interests of their constituents.

The alternate pathway is optional and allows an independent assessment to be undertaken against the existing planning scheme requirements.

The process still involves councils as a referral entity, ensuring the interests of councils are taken into consideration in the assessment. Community consultation is also central to the process with similar provisions for public notification and exhibition however those making submissions are invited to attend public hearings to discuss the matters raised.

2.0 Glossary

Act – *Land Use Planning and Approvals Act 1993*

DAP – Development Assessment Panel

EMPCA – *Environmental Management and Pollution Control Act 1994*

EPA – Environmental Protection Authority

SPO – State Planning Office

TasCAT – Tasmanian Civil and Administrative Tribunal

TPC – Tasmanian Planning Commission

3.0 Background

The State Planning Office (SPO) prepared a [Development Assessment Panel \(DAP\) Framework Position Paper](#) (the Position Paper) to explore the introduction of an alternative assessment pathway. The Position Paper included a draft DAP framework, based on statements made in the Premier's announcement and initial consultation with key stakeholders. Submissions were invited on matters raised in the Position Paper and on the draft framework. There were 542 submissions received during the consultation period on the Position Paper which are published on the [Planning in Tasmania website](#).

A [Report on Consultation - DAP Framework Position Paper](#) (Report on Consultation) was published in October 2024. The Report on Consultation summarised the issues raised in the submissions, provided a response to those issues and outlined a revised DAP framework and model for the Minister to direct a planning authority to prepare a draft amendment to its LPS.

The findings from the Report on Consultation were used to inform the drafting of the [draft Land Use Planning and Approvals Amendment \(Development Assessment Panels\) Bill 2024](#) (DAP Bill 2024) which was open for a 5 week public consultation period, closing on 12 November 2024. A total of 461 submissions were received which are also available for viewing on the [Planning in Tasmania website](#). The draft DAP Bill 2024 underwent some modifications following consultation feedback prior to being tabled in Parliament on 19 November 2024.

A copy of the tabled DAP Bill 2024, related documents and results of debate in the House of Assembly and the Legislative Council, including access to Hansard records, can be found on the [Parliament website](#).

While the DAP Bill 2024 passed the Lower House, it was rejected in the Upper House. The DAP Bill was revised based on issues raised during debate in the Upper House and was made available for an eight-week public consultation period from 26 February to Thursday 24 April 2025. A copy of the [draft Land Use Planning and Approvals Amendment \(Development Assessment Panels\) Bill 2025](#) (draft DAP Bill 2025) and the accompanying [Background Report for Consultation](#) is available on the Planning in Tasmania website.

The new Minister has reviewed the submissions with further changes made to the revised draft Land Use Planning and Approvals Amendment (Development Assessment Panels) Bill 2025 (revised draft DAP Bill 2025) (**Attachment 1**). The revised draft DAP Bill 2025 is now available for a further 5 week public consultation period.

The purpose of this report is to provide feedback on the issues raised during the last round of consultation, identify the modifications made to the draft Bill and provide an overview of the proposed revised framework to facilitate further consultation on the revised draft DAP Bill 2025 (**Attachment 1**).

4.0 Issues raised during consultation

4.1 General issues

A total of 426 submissions (not including late submissions) were received on the draft DAP Bill 2025. The majority of submissions did not support the draft Bill. The following provides an overview of the main general issues raised and a response to those issues. For further detail on submissions refer to **Attachment 2**.

- ***General opposition to taking decision making functions away from local government.***

Response

It is noted that there are views that fundamentally oppose the concept of DAPs however, the Government has committed to developing a framework to provide for an alternate decision pathway.

While it is acknowledged that council does not make the decision, it still informs the process and is a party to the proceedings.

Some councils have submitted that there are situations that warrant an alternate decision maker for the assessment of a development application.

- ***No demonstrated need for the introduction of DAPs.***

Response

The need for providing the alternative pathway has been demonstrated at length in past reports. The principal justification is that the contested role of Councillors as a planning authority responsible for determining development applications against the provisions of the planning scheme can be at odds with their political role in representing the interests of their constituents.

- ***Objection to the removal of planning merit appeals.***

Response

The purpose of appealing a planning authority's decision to the Tasmanian Civil and Administrative Tribunal (TasCAT) is to provide an independent review of the process, in a public forum and without political interference. The actual process becomes one where TasCAT assumes the role of the planning authority and assesses the application afresh (*de novo*).

The DAP framework already provides for all those elements within the initial assessment process by being considered by planning experts, open to the public, giving parties the opportunity to test the evidence of others and appeal directly to the decision maker.

The proposed process involves the exhibition of a draft assessment of the development application including, where the application is supported, a draft permit and conditions of

approval. This allows all the parties to be aware of the decision makers' initial thinking and to challenge elements of that thinking. The publication of all representations following the exhibition period provides parties with the opportunity to scrutinise each other's submissions and test them in a public hearing and before the decision makers.

Allowing a right of appeal when the framework already has the safeguards in place to provide a legally sound process that obeys the rules of natural justice in the initial decision, introduces unnecessary time delays and costs to the community.

It is also considered inappropriate for the State's peak planning body to be subject to a merit appeal on planning grounds. Any decision of a DAP will be subject to judicial review.

- With the exception of the TPC acting as the planning authority under the *Major Infrastructure Development Approvals Act 1999*, no other decisions made by it are subject to a merit appeal. **Concerns regarding the qualitative nature of the referral process;**

Response

The draft DAP Bill 2025 provided an option where the applicant, or the planning authority with the consent of the applicant, could request to the Minister that the application be determined by a DAP subject to the Minister being satisfied that the application met one or more of the following criteria:

- the application relates to development that may be considered significant or important to the local area or State;
- there are concerns about the planning authority's technical expertise to assess the application;
- the application relates to development that is, or is likely to be controversial; or
- where the planning authority has, or is likely to have, a conflict of interest or there is a perceived bias on the part of the planning authority.

The submissions raised valid concerns regarding the clarity of these criteria. A statutory decision-making framework needs to have a high degree of certainty. On review, the proposed provisions are considered too subjective and introduce a level of ambiguity which cause subsequent complications for the implementation of the framework.

The submissions that raised this matter are supported and as a consequence, section 60AD in clause 9 of the draft DAP Bill 2025 has been deleted from the revised draft DAP Bill 2025.

- ***Lack of support for increased ministerial powers to determine what applications enter the DAP process.***

The draft DAP Bill 2025 only provided a role for the Minister to decide on whether an application should be referred to a DAP for determination. As discussed above, the exercise of that discretion relied on the Minister applying qualitative criteria which, on review, does not provide the necessary certainty required for statutory processes. The

Ministerial role to determine the eligibility of certain development applications to be assessed by a DAP has been removed from the DAP framework.

- ***Cost and resource implications for councils.***

Response

The fees for council's involvement in the assessment of applications referred to DAP for determination will be prescribed through regulations. Those regulations are yet to be drafted. It is anticipated that the fee structure will be based on a full cost recovery model.

The draft regulations containing the fee structure will be subject to separate consultation if the legislation is passed by Parliament.

- ***Concern that DAPs will not be independent and will be pro-development.***

Response

Planning decisions are either made by council acting as a planning authority, with an opportunity to appeal to an expert panel established by TasCAT, or by a similarly constituted expert panel established by the TPC.

Past reports on the DAP process have explained that DAPs would be established by the TPC, which is an independent statutory body at arm's length from government. The TPC already performs a number of independent assessment and advisory functions within the Resource Management and Planning System. The TPC continues to be well regarded and respected for their independence and expertise in determining complex planning matters.

The TPC is established under the *Tasmanian Planning Commission Act 1997*. The TPC and it delegates uphold a high degree of integrity in the functions it performs. While the *Tasmanian Planning Commission Act 1997* gives some latitude on the TPC's procedures, the principle of natural justice must be followed at all times. Commissioners and delegates must not have any conflict of interest, or are required to register any perceived conflict of interest, and must bring an open and unprejudiced mind to all matters. Any decision made by the TPC is subject to judicial review which would reveal any bias or perception of bias.

- ***The proposed process increases complexity in an already complex system.***

Response

The draft DAP Bill 2025 provides flexibility by introducing an optional additional approval pathway into the system. The Bill is required to be quite detailed because it steps through the eligibility, referral and assessment processes, providing certainty and accountability for the operators of the process and those that operate within it.

While the Bill includes an additional approval pathway which may be perceived as adding complexity to the system, the need for the additional approval pathway is justified.

The removal of the Ministerial role in determining eligibility of certain applications to enter the DAP process removes some of the complexities previously raised.

4.2 Modifications in response to issues

The following table sets out specific issues that have resulted in modifications being made to the draft DAP Bill 2025.

Issue	Modification
Lack of support for the Minister to have the discretion to refer an application to a DAP for determination and the ambiguous criteria used to make that determination.	Supported as discussed above. Section 60AD in clause 9 of the draft Bill has been deleted. Remove subsequent references to section 60AD
Because section 60AD is removed, there is no need for the TPC to issue Section 8A guidelines to help the Minister make a decision to refer an application	Clause 6 of the draft Bill has been deleted.
Section 60AF (3)(a)(i) and (ii) refers to a 'place or area' - need to clarify that they are a "registered place" or "heritage area" as defined under the <i>Historic Cultural Heritage Act 1995</i> ?	Supported. Reference to 'place or area' is now referenced as a registered place or heritage area as defined by that Act. See s60AE(3)(a)(i-ii) of the revised draft DAP Bill 2025.
Section 60AH(5) and (6) relate to modifications to an exhibited hearing date and should be their own sections.	Supported. Provisions inserted as an additional section. See s60AH of the revised draft DAP Bill 2025.
Section 60AH(6) (b) requires that all the application documentations are re-exhibited for the purpose of notification of a change of hearing date. Concern that this will invite further representations to be received outside the exhibition period.	Supported. Section 60AH(6) (b) has been deleted.
TPC have requested the assessment clock stops if it has to seek advice from the Environmental Protection Authority (EPA) under s60AC(4) as it cannot control when that advice will be	Supported. Modification made to the draft Bill to address concern. See s60AC(4)(b) of the revised draft DAP Bill 2025.

Issue	Modification
provided which can impact it meeting its assessment timeframes.	
The 7 day timeframe for the TPC to review further information under s60AG(6) is too short and have requested 14, or “7 days, <i>excluding any days on which the office is closed within normal business hours, or as otherwise agreed by the Minister</i> ”	Supported. The draft Bill has been modified to allow 7 business days or such greater period as determined by the Minister. See s60AF(6) of the revised draft DAP Bill 2025.
A site notice as part of the exhibition notification should go to owners and occupiers of adjoining land are notified under s60AH, not just owners.	Supported. Modification made to the draft Bill to provide that owners and occupiers of adjacent land are notified. See s60AG(1)(c) of the revised draft DAP Bill 2025.
Require the DAP to accept a certificate of exemption issued by an accredited person where there is insufficient risks from natural hazards to warrant specific protection measures.	Supported and modification made to the revised draft DAP Bill 2025. See s60AL(2)(f) of the revised draft DAP Bill 2025.
Concern that if the DAP fails to make a decision within the timeframe that this will make any subsequent approval invalid.	Supported. Modification made to include an additional provision specifying that if a decision is made outside the timeframe allowed, it does not invalidate the approvals. See s60AL(5) of the revised draft DAP Bill 2025.

5.0 Summary of revised DAP Bill 2025

5.1 DAP framework

The draft Bill provides an option to allow discretionary development applications to be referred to a DAP for determination, provided it is not subject to the *Environmental Management and Pollution Control Act 1994*, if it meets specific criteria.

These criteria include:

- if the application is made by, or on behalf of, Homes Tasmania or a registered community housing provider for social and affordable housing or subdivision to facilitate social and affordable housing;
- where the applicant, or the planning authority with the consent of the applicant, requests DAP determination and the development application satisfies the following value thresholds:
 - over \$10 Million, or such other amount prescribed, if all, or any part of the development, is located in a city; or
 - over \$5 Million, or such other amount prescribed, where the development is located outside a city;
- where the council is both the applicant and the planning authority and the value of the development exceeds \$1 Million;
- any other purpose as prescribed in the Regulations.

Eligible development applications lodged with a DAP for determination follow statutory timeframes for certain assessment tasks. The maximum time taken for determining applications are in the order of 112 days. The current timeframe for determining discretionary permits is 42 days. The additional time taken through the DAP process is to provide sufficient time for affording natural justice through public hearings into the representations.

The Bill provides for a DAP to refer the development application to reviewing entities, including the planning authority, for advice and input into the assessment process. Any additional information required by the reviewing entities is consolidated by the DAP and the statutory clock stops until the applicant has provided the necessary information to the satisfaction of the DAP.

The DAP undertakes a preliminary assessment and prepares a draft assessment report, including a draft permit and conditions if recommended for approval. The draft report, application and any additional information is exhibited for 14 days, consistent with existing public exhibition, and the DAP receives representations. Following the public exhibition period, the representations are published and the DAP holds a hearing to consider the evidence before it and allowing the parties to test each other's evidence. The DAP considers all the relevant information before making a final decision. If the DAP approves the application, it directs the planning authority to issue the permit. Enforcement and any

subsequent minor amendments to the permit remain the responsibility of the council as the planning authority under the Act.

Similar to other decisions made by panels established by the TPC, DAP decisions are final, with no right of appeal based on planning merit, although they are subject to Judicial review.

Attachment 3 sets out a flow diagram of the proposed DAP process.

5.2 Removal of Ministerial Direction to a planning authority to prepare a draft amendment to its Local Provisions Schedule

The draft DAP Bill 2025 included provisions to allow the Minister to direct a council to prepare a draft amendment to its LPS where the review process under section 40B of the Act had been exhausted. The proposed direction could only occur if the Commission requests the council to reconsider its rejection of a draft amendment. A draft amendment prepared under the proposed Minister's direction only commenced the Commission's assessment process rather than any approval or making of an amendment to the LPS by the Minister.

This process has been removed from the revised draft DAP Bill 2025 on the basis that it is separate to the proposed DAP process. The removed elements may be considered through a separate amendment Bill.

6.0 Next Steps

A copy of the revised draft DAP Bill 2025 is available for viewing and download on the SPO's Planning in Tasmania website at: <https://www.stateplanning.tas.gov.au/have-your-say/consultations/lupaa-amendments/draft-lupaa-development-assessment-panel-amendment-bill-2024>

The revised draft Bill will undergo a 5 week consultation period during which time submissions are invited through the SPO's ['Have your say'](#) platform.

ATTACHMENT 1

Land Use Planning and Approvals Amendment (Development Assessment Panels) Bill 2025 – consultation draft 2 October 2025

ATTACHMENT 2

Summary of issues raised during February – April 2025 consultation and responses

Issue	Response
No justification for introducing DAP pathway	The proposed process is principally in response to a small number of applications that have been refused on the basis of social prejudice against the location of social and affordable housing. With the Government's commitment to delivering 10000 new social and affordable homes, many of which rely on federal funding requiring construction to occur within specified timeframes otherwise funding can be lost, greater certainty within the planning system is needed. Councils generally supported the option to refer a council application to a DAP for determination as it removed any element of perceived bias in the determination.
Increased resourcing and costs, inefficient use of resources and duplication of processes	The fee structure for a DAP assessment will be prescribed through Regulations following extensive consultation with the parties involved in the process. The Background Report that accompanied the draft Bill for consultation flagged that a cost recovery model will be adopted for a DAP assessment, including council's being able to charge a fee for its advice and participation in the process. The specific details of the fee structure are yet to be determined. The additional cost of having an application determined by a DAP is

Issue	Response
	borne by the applicant who chooses this process.
Divert resources away from more important strategic planning reforms	Providing an alternate approval pathway for certain problematic development applications to be determined against the existing planning provisions is considered a good use of resources. The process will allow social and affordable housing to be delivered in a timely manner supporting the provision of much needed housing.
Increases complexities in an already complex process	While it might be considered by some to add more complexity, that complexity is borne by the applicant who chooses the DAP process.
Ministerial referral of applications to a DAP is ambiguous and does not provide certainty to councils or applicants as to what developments are eligible for DAP determination	This element of the draft Bill has been removed. There are no longer any role for the Minister to determine if an application is suitable for DAP referral.
Lack of meaningful engagement and modifications made to the Bill are superficial	The draft Bill underwent an extended 8 week consultation period during which time the SPO held 2 online information sessions to help councils understand the Bill and facilitate their feedback. The Bill has been modified post consultation to address many of the concerns raised in submissions, most notably the removal of the Minister to refer applications to a DAP. The new Minister has approved another round of consultation in the hope of striking a suitable balance between the issues raised.
Timeframes to undertake certain assessment functions are insufficient and should be extended	The timeframe given for the TPC to review and respond to further information provided by the applicant was increased from 7 days to 7 working

Issue	Response
	days with an option to extend subject to approval by the Minister. This is considered necessary given the scope and complexity of information it may have to review. Other parties subject to the same reviewing timeframe were not given the additional time because they have more discrete and limited range of matters to review.
Timeframes should not apply while TPC is seeking advice from EPA confirming that an application is not subject to EMPCA	The time taken for the EPA to respond to confirm that an application is not subject to EMPCA should not contribute to the TPC's assessment time. The Bill has been modified so that the assessment clock doesn't start until this advice is obtained.
The Bill should include that a correction of errors can be made	The Bill already specifies that the Act applies the provisions relating to any minor amendments to a permit and enforcement of the permit. This includes any correction of an error
If a determination is made outside the specified timeframe it should not be considered invalid	The Bill was modified to include a provision that a decision is not invalidated if it is made outside the specified timeframe.
Need for pre-lodgement discussion with Tasmanian Heritage Council.	This currently occurs outside of the statutory process and there is not considered a need to require it through legislation.
Require the DAP to accept a certificate of exemption issued by an accredited person where there is insufficient risks from natural hazards to warrant specific protection measures.	This is supported and the Bill has been modified to include an additional provision under the existing provision requiring the DAP to accept a relevant bushfire hazard management plan or other prescribed management plan relating to environmental hazards.

Issue	Response
Applications subject to EMPCA should be eligible for DAP determination.	Development applications that are subject to the EMPCA are assessed by both the Environmental Protection Authority (EPA) and the planning authority with the planning authority being required to apply any outcomes of the EPA's assessment. The reason why they have been excluded from the DAP process is to allow for applications that have complex environmental considerations to be subject to expert consideration of the EPA.
DAPs are not independent and no criteria for the establishment of a DAP	DAPs are to be established by the TPC which is an independent statutory authority at arm's length from government. The <i>Tasmanian Planning Commission ACT 1997</i> has its own set of provisions for holding hearings and delegating functions to panels. The Bill specifies that the TPC Act applies to a DAP as if it were a reference to the TPC (s60AA(2))
DAP process will make it easier to approve large scale development	The DAP is required to undertake an assessment against the same planning provisions and considerations as council.
DAP decisions should be subject to merit appeal	The purpose of appealing a planning authority's decision is to provide an independent review of the process, in a public forum and free from political interference. Most decisions made by the TPC are not subject to a merit appeal because the TPC is the peak planning body and is bound by the principles of natural justice requiring giving parties the opportunity to attend public hearings to make submissions and test each other's

Issue	Response
	submissions in the presence of the decision maker.
Opposition to increased Ministerial powers to direct council to prepare a draft LPS amendment	To avoid confusion with the DAP process, this element of the draft Bill has been removed.
Opposition to removal of local democracy in local decision making	Planning decisions should not be based on local democracy or a vote of popularity. When making decisions as a planning authority council is required to apply the provisions of the planning scheme.
Inadequate timeframes for public exhibition and hearing notification	The public exhibition period is 14 days which is consistent with the application of standard provisions. Notification of the public hearing is given at the time of exhibition of the application and draft assessment report. The minimum timeframe for a public hearing is 10 days from the close of exhibition. This allows a minimum overall timeframe of 24 days to prepare for a hearing. The TPC Act requires the publishing of submissions as soon as practical (refer s12 TPC ACT). The minimum timeframes for notification of an existing TPC hearing is 2 weeks.

ATTACHMENT 3



