**Email subject heading:**

A critical moment for democracy: #ScrapTheDAP – make a submission now until 12/11 @5pm

**Email Text**

**#ScrapTheDAP**

**PMAT SUBMISSION GUIDE – RE: *The draft Land Use Planning and Approvals Amendment (Development Assessment Panels) Bill 2024***

**Say yes to a healthy democracy/Say no to DAPs**

The Tasmanian government has released draft legislation to empower the Planning Minister to remove assessment and approval of developments from the normal local council process and have it done by Development Assessment Panels (DAPs). **This fast-track process will remove elected councillors from having a say on the most controversial and destructive developments affecting local communities. There will be no right for the community to appeal the final decision to the planning tribunal.** The criteria being considered would enable virtually any development, except for industrial and mining developments regulated by the EPA, to be taken out of the normal local council assessment process and instead be assessed by DAPs, including developments already refused such as the kunanyi/Mt Wellington cable car, high-rise buildings in Hobart and new developments such as large-scale subdivisions like Skylands development at Droughty Point.

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

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

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

Transparency, independence and public participation in decision-making are critical for a healthy democracy – **please make a submission to say no to DAPs.**

**Please take action for Tasmania’s democracy in SIX VERY EASY STEPS!**

**STEP 1 – Copy and paste the submission email into your ‘To’ field**

yoursay.planning@dpac.tas.gov.au

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

craig.farrell@parliament.tas.gov.au; bec.thomas@parliament.tas.gov.au; cassy.oconnor@parliament.tas.gov.au; dean.harriss@parliament.tas.gov.au; rosemary.armitage@parliament.tas.gov.au; tania.rattray@parliament.tas.gov.au; michael.gaffney@parliament.tas.gov.au; leonie.hiscutt@parliament.tas.gov.au; ruth.forrest@parliament.tas.gov.au; meg.webb@parliament.tas.gov.au; luke.edmunds@parliament.tas.gov.au; kerry.vincent@parliament.tas.gov.au; jo.palmer@parliament.tas.gov.au; sarah.lovell@parliament.tas.gov.au; nick.duigan@parliament.tas.gov.au; cecily.rosol@parliament.tas.gov.au; rosalie.woodruff@parliament.tas.gov.au; Tabatha.badger@parliament.tas.gov.au; vica.bayley@parliament.tas.gov.au; helen.burnet@parliament.tas.gov.au; kristie.johnston@parliament.tas.gov.au; craig.garland@parliament.tas.gov.au; david.obyrne@parliament.tas.gov.au; rebekah.pentland@parliament.tas.gov.au; miriam.beswick@parliament.tas.gov.au; andrew.jenner@parliament.tas.gov.au; janie.finlay@parliament.tas.gov.au; michelle.obyrne@parliament.tas.gov.au; shane.broad@parliament.tas.gov.au; ella.haddad@parliament.tas.gov.au; josh.willie@parliament.tas.gov.au; meg.brown@parliament.tas.gov.au; dean.winter@parliament.tas.gov.au; jen.butler@parliament.tas.gov.au; rebecca.white@parliament.tas.gov.au; anita.dow@parliament.tas.gov.au; michael.ferguson@parliament.tas.gov.au; simon.wood@parliament.tas.gov.au; rob.fairs@parliament.tas.gov.au; felix.ellis@parliament.tas.gov.au; jeremy.rockliff@parliament.tas.gov.au; roger.jaensch@parliament.tas.gov.au; madeleine.ogilvie@parliament.tas.gov.au; nic.street@parliament.tas.gov.au; eric.abetz@parliament.tas.gov.au; jacquie.petrusma@parliament.tas.gov.au; guy.barnett@parliament.tas.gov.au; jane.howlett@parliament.tas.gov.au; mark.shelton@parliament.tas.gov.au; simon.behrakis@parliament.tas.gov.au

**STEP 3 – Suggested email subject heading:**

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

**STEP 4 – Copy and paste suggested email text:**

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

***Personalising your message creates a powerful impact with Parliamentarians.***

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

* **It will create an alternate planning approval pathway allowing property developers to bypass local councils and communities**. Handpicked state appointed planning panels, conducted by the Tasmanian Planning Commission, will decide on development applications not your elected local council representatives. Local concerns will be ignored in favour of developers who may not be from Tasmania. Also, if an assessment isn’t going their way the developer can abandon the standard local council process at anytime and have a development assessed by a planning panel. This could intimidate councils into conceding to developers demands.
* **The Tasmanian Planning Commission is not independent** – DAPs are hand-picked, without detailed selection criteria and objective processes, are inconsistent with the principles of open justice as they do not hold public hearings, and lack capacity to manage conflicts of interest (as per the 2020 Independent Review). DAPs do not have to provide written reasons for their decision (making it difficult to seek judicial review). Community input will be less effective because it will be delayed until after the DAP has consulted (behind closed doors) with the developer and any relevant government agencies, and adopted its draft decision.
* **Research demonstrates DAPs are** pro-development and pro-government, they rarely deeply engage with local communities, and they spend most of their time on smaller applications and take longer than local councils to make decisions.
* **Makes it easier to approve large scale contentious developments** like the kunanyi/Mount Wellington cable car, high-rise in Hobart, Cambria Green and high-density subdivision like Skylands at Droughty Point and the UTAS Sandy Bay campus re-development.
* **Removes merit-based planning appeal rights** via the planning tribunal on all the issues the community cares about like impacts on biodiversity, height, bulk, scale or appearance of buildings; impacts to streetscapes, and adjoining properties including privacy and overlooking; traffic, noise, smell, light and so much more. TASCAT review of government decisions is an essential part of the rule of law and a democratic system of government based on ‘*checks and balances*’.
* **Removing merits-based planning appeals removes the opportunity for mediation on development applications in the planning tribunal.**
* **Developments will only be appealable to the Supreme Court based on a point of law or process which have a narrow focus and are prohibitively expensive.**
* **Removing merits-based planning appeals has the potential to increase corruption, reduce good planning outcomes, favour developers and undermine democracy**. The NSW Independent Commission Against Corruption [recommended](https://www.icac.nsw.gov.au/media-centre/media-releases/2012-media-releases/icac-recommends-changes-to-the-nsw-planning-system-to-minimise-corruption-risks) 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](https://www.smh.com.au/national/how-unelected-faceless-men-and-women-keep-approving-nsw-developments-20210804-p58fvt.html) they favour developers and undermine democratic accountability. Mainland [research](https://d3n8a8pro7vhmx.cloudfront.net/edonsw/pages/2998/attachments/original/1467777537/EDO_NSW_Report_-_Merits_Review_in_Planning_in_NSW.pdf?1467777537) demonstrates removing merits-based planning appeals has the potential to reduce good planning outcomes – including both environmental and social.
* **Increased ministerial power over the planning system increases the politicisation of planning and risk of corrupt decisions.** The Planning Minister will decide if a development application meets the DAP criteria. The Minister will be able to force the initiation of planning scheme changes, but perversely, only when a local council has rejected such an application, threatening transparency and strategic planning.
* **Flawed planning panel criteria.** Changing an approval process where the criteria is on the basis of ‘*perceived conflict of interest*’, ‘*a real or perceived bias*’, ‘*the application relates to a development that may be considered significant*’ and the ‘*development is likely to be controversial*’ is fraught. The Planning Minister has political bias and can use this subjective criteria to intervene on any development in favour of developers.

NOTE: The scope of the DAPs includes a range of subjective factors that are not guided by any clear criteria:

* Valuations of $10 million in cities and $5 million in other areas.
* A determination by Homes Tasmania that an application includes social or affordable housing. There is no requirement for a proportion of the development to be for social or affordable housing. For example, it could be one house out of 200 that is affordable.
* **Poor justification – there is no problem to fix.** Only about 1% of council planning decisions go to appeal and Tasmania’s planning system is already among the fastest in Australia when it comes to determining development applications. The Government wants to falsely blame the planning system for stopping housing developments to cover its lack of performance in addressing the affordable housing shortage.
* **Increases complexity in an already complex planning system.** Why would we further increase an already complex planning system which is already making decisions quicker than any other jurisdiction in Australia?

**Say yes to a healthy democracy**

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

**Yours sincerely,**

**(*Include your name*)**

**STEP 5 – Please send your email 😊 ASAP.**

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

**WANT TO KNOW MORE?**

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

Listen/watch [here](https://www.youtube.com/watch?v=Nlee6srLT-s) to key issues of DAPs from: **John Dowson** - President, Fremantle Society, former Deputy Mayor and Councillor, City of Fremantle, WA. **Why DAPs have failed in WA**. **Dr Phillipa McCormack** - Adjunct Lecturer in Law, University of Tasmania & researcher with the University of Adelaide with expertise in environmental regulation & administrative law. **Alice Hardinge** - Tasmanian Campaigns Manager, Wilderness Society Tasmania. **Anja Hilkemeijer** - Lecturer in law at the University of Tasmania, with a focus on foundations of public law, constitutional law and human rights law. **Mayor Reynolds** - Lord Mayor & Councillor, Hobart City Council.

**Key documents**

* [Report on Consultation - DAP Framework Position Paper](https://www.stateplanning.tas.gov.au/__data/assets/pdf_file/0030/382935/Report-on-Consultation-DAP-Framework-Position-Paper-October-2024.pdf).
* [Development Assessment Panel (DAP) Fact Sheet](https://www.stateplanning.tas.gov.au/__data/assets/pdf_file/0028/383545/Development-Assessment-Panel-Fact-Sheet-for-consultation-of-DAP-Bill-Oct-2024.pdf).
* The draft [*Land Use Planning and Approvals Amendment (Development Assessment Panels) Bill 2024*](https://www.stateplanning.tas.gov.au/__data/assets/pdf_file/0025/382705/Land-Use-Planning-and-Approvals-Amendment-Development-Assessment-Panels-Bill-2024.pdf) and [General Bill process](https://www.stateplanning.tas.gov.au/have-your-say/consultations/lupaa-amendments/draft-lupaa-development-assessment-panel-amendment-bill-2024).

**Independent Commission Against Corruption (ICAC)**

ICAC Report - [Anti-Corruption Safeguards & the NSW Planning System](https://www.icac.nsw.gov.au/media-centre/media-releases/2012-media-releases/icac-recommends-changes-to-the-nsw-planning-system-to-minimise-corruption-risks)

**DAPs failing on mainland Australia**

**NSW:** Local planning panels were created to stamp out corruption, but councillors from across the political spectrum (including Philip Ruddock) say they favour developers and undermine democratic accountability: [How ‘unelected faceless men and women’ keep approving NSW developments](https://www.smh.com.au/national/how-unelected-faceless-men-and-women-keep-approving-nsw-developments-20210804-p58fvt.html), Sydney Morning Herald, August 15, 2021.

**WA:** [JDAP Ignores 220 Submissions](https://heraldonlinejournal.com/2023/10/13/jdap-ignores-220-submissions/?fbclid=IwAR11MGBWPd46WCw_Gcx5ZB0CPJoBfnigrV5re6RwavYuguGxp7D9WshDv7s), *Fremantle Herald*, October 2023.