

## Development Assessment Panel Framework Position Paper

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**From:** Colin Chick  
**Sent:** Monday, 23 October 2023 3:38 PM State  
**To:** Planning Office Your Say  
**Subject:** Draft LUPAA (DAP) Amendment Bill 2024

To whom it may concern,

The idea of introducing a DAP framework to provide an alternate approval pathway outside of Councils' decision-making functions is pretty much the exact opposite of 'taking the politics out of planning', and flies in the face of the very reasons for actually having "local government"!

It is absolutely imperative that the community's current rights to make planning appeals are not removed and that councils retain their role as a Planning Authority - ensuring local representation and decision-making that is connected and accountable to the people and places our local governments represent.

Sincerely,

Colin Chick

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**From:** Evan Hadkins  
**Sent:** Tuesday, 31 October 2023 12:40 PM  
**To:** State Planning Office Shared Mailbox

**Categories:**

DAP Framework

Dear Minister, and others,

There are of course a myriad of details to respond to.

However, it seems that in the big picture the proposed reforms are misoriented. They seem to party-politicise the planning process and marginalise the role of citizens.

Developers do not need more power.

Yours Faithfully,  
Evan Hadkins

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**From:** Daisy Chatto  
**Sent:** Tuesday, 31 October 2023 11:51 AM  
**To:** State Planning Office Your Say  
**Subject:** Leave kunanyi alone. Please

Kunanyi is too special to trash with a cable car. Please please please ask our premier to engage any imagination he might have and consider NOT following the rest of the developed world in turning amazing, rare, natural beauty into yet another tourism cash cow for a handful of developers to turn massive profit while simultaneously destroying the natural beauty with (poo filled! Wtf?) carriages running up and down the mountain in full sight of any and everyone.

The world is actually on fire in so many ways. This even being back on the table just makes me so angry. (Guess what I think about stadiums?)

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**From:** jude rosenberg  
**Sent:** Tuesday, 31 October 2023 11:32 AM  
**To:** State Planning Office Your Say  
**Subject:** cable car on mt wellington

please do not let there be a cable car destroying the pristine nature of the mountain. please keep the decision making local at the council level by elected officials. dont pull a trumpian maneuver to go around a well functioning democratic process. shame on you for trying this.

Remember to breathe,

Jude Rosenberg

Certified Coach +  
Enneagram Practitioner



“Between stimulus and response there is a space, and in that space is our power to choose our response, and in that response, lies our growth and freedom” -victor frankl

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**From:** Louise Allen  
**Sent:** Tuesday, 31 October 2023 12:20 PM  
**To:** State Planning Office Your Say  
**Subject:** Development Assessment Panel (DAP) Framework - Position Paper

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Dear State Planning Office,

My response to the Position Paper which Planning Minister Ferguson has recently linked to.

"Keep planning local and democratic  
Don't take planning away from Local Government.  
Don't give the Minister the power to change the Local Planning Scheme."

It is quite simple.

Yours faithfully,

Louise Allen

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**From:**  
**Sent:** Tuesday, 31 October 2023 12:41 PM  
**To:** State Planning Office Your Say  
**Subject:** Re: planning for the mountain. kunanyi

Please keep voting local and democratic.  
Do not take voting away from Local Government.  
And definitely do not give Ministers the power to change the Local Planning Scheme.  
Very strongly opposed to the new proposals.

Amanda Thomson



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**From:** Peter Maloney  
**Sent:** Tuesday, 31 October 2023 12:50 PM State  
**To:** Planning Office Your Say  
**Subject:** cable car kunyani

Dear "Planners",  
Please leave the decision re. the cable car on kunyani in the hands of our local council!  
You do not have my permission nor agreement to give the Minister the authority to change the Local Planning Scheme

Yours faithfully,  
Peter Maloney

PS: We can see kunanyi from our street

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**From:** Angus Finney  
**Sent:** Tuesday, 31 October 2023 12:55 PM  
**To:** State Planning Office Your Say  
**Subject:** Position paper and Refused Kunanyi cable car proposal

To whom it may concern

Please take the following into account in relation to the above proposal:

- Keep planning local and democratic.
- Don't take planning away from Local Government.
- Don't give the Minister the power to change the Local Planning Scheme.

Regards

Angus Finney

Sent from my iPhone

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**From:** Maxine Barry  
**Sent:** Tuesday, 31 October 2023 12:56 PM  
**To:** State Planning Office Your Say  
**Subject:** Zombie project

I am appalled to hear that the Kunanyi cable car project is still being promoted, despite not having social licence to proceed, despite all the material that shows that it is not suitable, for a great variety of reasons.

It is dead but it won't lie down!

Yours truly  
Maxine Barry

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**From:** Lilian Macdonald <  
**Sent:** Tuesday, 31 October 2023 12:58 PM  
**To:** State Planning Office Your Say  
**Subject:** Changes to planning approvals

Local Councils are specific to their local area. They have a close connection with the voters who elected them (and voting is now compulsory?). Therefore if a local council votes against a particular planning application it is to be assumed that they have listened to their electors who have expressed disapproval. Now this may be inconvenient for developers, but it is the basis for our democracy. The voice of the voting citizen carries far more weight than the voice of those who want to proceed with developments which do not meet with community approval.

Such is the case, for example, of the proposed cable car development on the face of Kunanyi. This proposal has been rejected several times by the local community, for various reasons. The Minister for Planning is well aware of this. To attempt to subvert the will of the local community, as expressed by their local representatives, in favour of development investors would be a travesty of responsible Government. The present Government, indeed any Government, should think very carefully before antagonising the voting public with amendments to planning schemes which increase a lack of transparency and the perception, at least, that lobbying and business interests can bypass local approval if they persist in their schemes for long enough.

Dr. W. L. Macdonald

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**From:** Sarah Dulak  
**Sent:** Tuesday, 31 October 2023 12:58 PM  
**To:** State Planning Office Your Say  
**Subject:** NO CABLE CAR - HOW MANY TIMES?!?!???

how many times do the people of Tasmania have to make their voices heard? These corrupt grifters in state Government seek to undermine the will of the people, who **overwhelmingly** disapprove of a cable car.

Do NOT permit this travesty of Justice to continue. The people have spoken time and time again. To continue to pursue this reckless abuse of power is to spit in the face of the populace.

These decisions have been made by public referendum and should be supported by those trusted to see that the voice of the people is heard.

NO BLOODY CABLE CAR!!!

keep your hands off our mountain, you greedy shills.

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**From:** Val T  
**Sent:** Tuesday, 31 October 2023 1:32 PM  
**To:** State Planning Office Your Say  
**Subject:** My response to the Position Paper of the State Planning Office

- Keep planning local and democratic.
- Don't take planning away from Local Government.
- Don't give the Minister the power to change the Local Planning Scheme.

Val Thomson

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**From:** Sarah Kersey  
**Sent:** Tuesday, 31 October 2023 1:37 PM State  
**To:** Planning Office Your Say  
**Subject:** Stop, think

Please just stop this way of thinking that building “things” is the only way to develop! Start thinking about community based spaces , activities, initiatives, residences to improved the everyday lives of your constituents! Not these big (expensive) projects that do nothing to improve lives “on the ground” .

Thanks,

Sarah Kersey

Sent from my iPhone

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**From:** Rhys Gray <>  
**Sent:** Tuesday, 31 October 2023 2:30 PM  
**To:** State Planning Office Your Say  
**Subject:** Opposition to Cable Car Proposal and Proposed Changes to Planning Laws

Dear Planning Minister Ferguson et al.,

I hope this message finds you well. I am writing to express my strong opposition to the proposed cable car project across the Organ Pipes and the associated tourist center/restaurant near the Pinnacle on Kunanyi/Mt Wellington.

The decision of the Hobart City Council to reject the cable car proposal in November 2022 was a wise and well-considered one. However, I am deeply concerned about the recent statements made by Premier Rockliff in the 'State of the State Address' on the 28th of February, indicating a commitment to push forward with the cable car project.

Additionally, the position paper, as referenced in Planning Minister Ferguson's statement on October 19th, raises serious concerns about potential changes to planning laws that could shift decision-making authority from local councils to Development Assessment Panels. This proposal, coupled with the potential authority granted to the Minister to initiate changes to the Planning Scheme, poses a threat to the democratic and local control over planning decisions.

I have reviewed the position paper, and I find the proposed changes alarming. The suggestion that some councils may be less supportive of new development without substantial evidence undermines the importance of local perspectives and the democratic process. I firmly believe that decisions of such magnitude should be made at the local level, where the community's voice can be most effectively heard.

As a concerned resident, I urge you to reconsider the government's stance on both the cable car project and the proposed changes to planning laws. The unique beauty of Kunanyi/Mt Wellington should be preserved and protected for future generations, and decisions about its development should be made with the utmost consideration for the local community.

I implore you to keep planning local and democratic, to maintain decision-making authority within local government, and to refrain from granting the Minister the power to unilaterally change the Local Planning Scheme.

It is my hope that you will carefully consider the concerns raised by the community and make decisions that prioritize the long-term well-being of Kunanyi/Mt Wellington and its surrounding areas.

It is my wish that my full name not be shared in connection with this correspondence. Thank you for your time and consideration.

Sincerely,

Rhys Gray



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**From:** Moira Conley  
**Sent:** Tuesday, 31 October 2023 2:31 PM  
**To:** State Planning Office Your Say  
**Subject:** Planning and possible cable car on Kunanyi

To Whom it May Concern

It is disappointing that despite a clear outcome last year that a cablecar is not appropriate for our mountain we find ourselves needing to make our voices heard again to protect the mountain.

This time it is by fighting to retain local control over planning decisions- they must remain local and democratic ie with local government and not with the Minister given the power to change the Local Planning Scheme .

Kind regards

Moira Conley

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**From:** Andrew Sant  
**Sent:** Tuesday, 31 October 2023 2:46 PM  
**To:** State Planning Office Your Say  
**Subject:** Development Assessment Panel

Dear Sir/Madam,

I am emailing to say that as a Hobart rate-payer I am wholly against the formation of a Development Assessment Panel which is designed to override or ignore local government. This is a conveniently anti-democratic move, transparently designed to push through developments without concern for majority local opinion. This is outrageous. Planning should remain in the hands of local government which is responsive to the concerns of local citizens and matters they regard as contributing to a satisfactory quality of life - government for the many not the few. Furthermore, I am against giving the Planning Minister the power to change the Local Planning Scheme.

Yours sincerely,

Andrew Sant

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**From:** Kylee Carter  
**Sent:** Tuesday, 31 October 2023 3:06 PM  
**To:** State Planning Office Your Say

To Whom it may concern,

- Keep planning local and democratic.
- Don't take planning away from Local Government.
  - Don't give the Minister the power to change the Local Planning Scheme.

I am a very concerned resident of South Hobart. I do not want a cable car on our beautiful Kunyani.

Sincerely,  
Kylie Allen

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**From:** P A Walker  
**Sent:** Tuesday, 31 October 2023 3:17 PM  
**To:** State Planning Office Your Say  
**Subject:** Don't tale planning away from Local Govt

Don't take planning away from Local Govt!!!!

Pamela Walker

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**From:** Pascal B  
**Sent:** Tuesday, 31 October 2023 3:17 PM  
**To:** State Planning Office Your Say  
**Subject:** Keep planning local!

- Keep planning local and democratic.
- Don't take planning away from Local Government.
  - Don't give the Minister the power to change the Local Planning Scheme.

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**From:** Anne Frost  
**Sent:** Tuesday, 31 October 2023 3:51 PM  
**To:** State Planning Office Your Say Cable  
**Subject:** car proposal

I strongly disagree with any proposal for a cable to even be considered for our beautiful city. As a long time resident of Lenah Valley, I can think of nothing worse to leave for future generations. Natural, beautiful land formations are so very precious, and I would like to think that future generations of mine will be able to enjoy our beautiful island as it is, unspoilt as it has always been.

Regards,  
Anne Frost, Long time resident of Lenah Valley.

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**From:** Geoffrey Duke  
**Sent:** Tuesday, 31 October 2023 4:08 PM  
**To:** State Planning Office Your Say  
**Subject:** Mt Wellington cable car

Dear sir /madam

I am writing to express my concerns that despite a ruling in November of last year that affirmed the decision of the Hobart City Council to reject the proposal for a cable car on Kunanyi/Mt Wellington that this decision is not being fully respected.

Efforts to remove planning controls from local councils across Tasmania and to diminish the democracy that currently is on offer to local people in having a say are unfair and simply lean into the hands of big business. If these rights are removed it will give the green light to the cable car proposed and rejected by the November TASCAT decision.

Please do not let this happen

Geoff Duke

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**From:** Jacqueline Mampieri  
**Sent:** Tuesday, 31 October 2023 4:22 PM  
**To:** State Planning Office Your Say  
**Subject:** MT Wellington cable car - NO

Good afternoon,

I am writing in response to the proposed changes in development approvals within government that would allow the Mt Wellington cable car to proceed.

I am wholeheartedly against the cable car and any changes in the planning scheme or otherwise that would allow this project to proceed. I was married on the summit of Mt Wellington. It holds a place dear to my heart as it has always been in the view from my home, since the day I was born. To put a giant scar of a structure on it would be against the natural values of the park, as well as a waste of tax payer money when it already been voted against by the people and parliament. If Mr Rockliffe continues in his agenda for the cable car to proceed, I will never again be voting for him, or any party he represents. The cable car is a complete waste of tax payer time and money and would restrict all future access to the summit for the enjoyment of others.

I am happy to discuss this further via email, phone or in person.

Regards  
Jacqueline Mampieri



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**From:** Ted Cutlan  
**Sent:** Tuesday, 31 October 2023 4:31 PM  
**To:** State Planning Office Your Say  
**Subject:** Draft LUPAA (DAP) Amendment Bill 2024

Sent from for Windows

31October 2023

Development Assessment Panels

Thank you for giving me the opportunity to comment on the proposed changes to introduce DAPs.

First let me say that I disagree with the very idea that a special or alternative planning process is necessary. I will explain why I think this way.

In the DAP Framework Position Paper it is clearly stated that there seems to be a “perception” that there is uncertainty for developers. Indeed the paper states that most DA s are dealt with in a timely manner by council expert planning staff. I fail to see why there is planned a change based on perception rather that reality. The figures suggest that our system is working well compared to other states and there are very few DAs that go to appeal, and even then most of those are not successful. This indicated that councils get the right answer in the vast majority of times.

The issue of “additional information” is an interesting one. Most of the time it is the fault of developers that more information is requested. I speak from experience having recently built a new house. If developers complied with the planning law and submitted the necessary information councils would not have to hold up assessments. A glaring example of this recently was the cable car proposal where the proponents failed to provide even the most basic of information and the subsequent delays were entirely their own fault.

The role of Councillors has been questioned and it has been suggested that they are not able to separate their role as representatives of the community from the role in planning. From my experience councillors are eminently capable of distinguishing between their two roles and take that distinction very seriously. This proposal for DAPs is frankly disrespectful to the dedicated elected councillors. Councillors are advised by expert planners and bring another level of scrutiny to that of the planning departments in Council.

The proposed changes are said to remove the politics from planning but this seems far from reality.

The idea that the minister can initiate a change to the planning scheme undermines the role of local government and their role in representing their constituents. If the public perceive a need for change they can lobby the council. If the council see a need for change they can suggest it and go to the elections and let the public decide.

The suggestion that the DAPs would allow no appeal rights is appalling. If this unnecessary change to the planning law is made then at the very least I would like to see appeal rights to the TASCAT as currently exists when a DA is assessed by Council.

Ted Cutlan

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**From:** Millie Jex  
**Sent:** Tuesday, 31 October 2023 4:37 PM  
**To:** State Planning Office Your Say  
**Subject:** Mt Wellington

To Whom It May Concern,

I don't know what is wrong with this state government but no is no. We do not want cable cars running up and down the mountain. People have given their opinion and you ignore them. I can only assume you are all wanting to spend more time with your families because between the cable car and the stadium, you will have more time.

Respect the people's stand and be big enough to say, okay, if that is what you want, you can have it. Mr. Rockcliff was not voted into this position so he has no mandate to impose his will on the people. He can be voted out.

Millie Jex

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**From:** Anne Castley  
**Sent:** Tuesday, 31 October 2023 5:12 PM  
**To:** State Planning Office Your Say  
**Subject:** Cable car on kunyani

I am opposed to a cable car on kunyani / Mt Wellington. In particular if this cable car is to cross our organ pipes.

I believe the Government should listen to the people of Tasmania and the councils opposed to this development and stop changing legislation to suit a few.

Regards  
Anne Castley

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**From:** Louise Rigozzi  
**Sent:** Tuesday, 31 October 2023 5:30 PM  
**To:** State Planning Office Your Say  
**Subject:** 10 years of deliberations and a final result last year

Dear Planning Commission,

There has been so much money and time spent on deciding the fate of the cable car proposition and it resulted in the decision by TASCAT last year that it was not an appropriate for Mount Wellington.

It seems rather undemocratic and ridiculous that one man in power can decide that it should now go ahead. It also seems rather egotistical of him to think that he can override all of the 10 years of deliberations that have gone on before his grand statement.

I will be writing in more detail but just to say that now, along with many other people who have fought against this proposal for 10 years, I think that the Premier needs to be more aware of the democratic process and accept what has already been decided.

Yours faithfully,  
Louise Rigozzi

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**From:** Suzanne King  
**Sent:** Tuesday, 31 October 2023 6:11 PM  
**To:** State Planning Office Your Say  
**Subject:** Protect local planning laws

Good evening

I am in receipt of information provided by Residents Opposed to the Cable Car which has prompted me to forward this email to you.

I wish to lodge my appeal and support against any proposed changes to planning laws that could give developers the right to have their proposals assessed by a Development Assessment Panel instead of by Council.

A formal decision was made to finally reject the proposal for a cable car across the Organ Pipes and a large tourist centre near the Pinnacle of kunanyi in November 2022. This should be the end of the matter instead of trying to change planning laws to find an alternative way to implement a cable car project.

In summary, I wish to keep planning local and democratic. I do not wish planning laws be taken away from Local Government and I do not wish to give the Minister the power to change the Local Planning Scheme.

Kind regards

Suzanne King  
Reiki VII Practitioner  
Reiki Energy for Life

Sent from for Windows

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**From:** John Dudley  
**Sent:** Tuesday, 31 October 2023 6:12 PM  
**To:** State Planning Office Your Say  
**Subject:** planning

I write in exasperation. I assumed that the unsuitable proposal for a cable car on Mt Wellington had been so comprehensively and repeatedly rejected after exhaustive debate, but apparently not so. It is my view that the current planning arrangements are sufficient, that local government is a suitable vehicle for the administration of the planning laws given that they are closely in touch with local issues and sentiments and are by their nature democratic. Changes that endow a Minister of the Crown with powers to override public sentiment and matters of interpretation of social mandate are prone to political misuse and in extreme situations are an invitation to corrupt practices. To make changes of the sort outlined above is inappropriate and invites a further socially divisive debate concerning the disposition of public assets for exclusive private gain and a further loss of social confidence in our political institutions and elected members, something we can scarce afford.

John Dudley

Keep planning local and democratic.

- Don't take planning away from Local Government.
- Don't give the Minister the power to change the Local Planning Scheme.

Sent from for Windows

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**From:** Amandaparrish  
**Sent:** Tuesday, 31 October 2023 6:33 PM  
**To:** State Planning Office Your Say  
**Subject:** Development Assessment Panel

Might I politely seek clarification of the rationale for removing decision making from councils (who might have personal or political issues with development proposals) and placing this decision making in the hands of politicians with declared personal and political stances. I do find this confusing and possibly eroding our normal civil rights.

Yours Amanda Parrish

Sent from my iPad



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**From:** Aedan Howlett  
**Sent:** Tuesday, 31 October 2023 7:29 PM  
**To:** State Planning Office Your Say  
**Subject:** Minister Ferguson's Position paper

To whom it may concern,

I am writing to voice my concern over a position paper put forward by planning minister Ferguson that would propose to make changes to planning law to make it possible to circumvent council in favour of a Development Assessment Panel.

I am opposed to this idea as it seems like it could lead to unjust and unfair outcomes favouring developers rather than the interests of the community.

My initial concern is in relation to the ongoing proposed cable car debate/debacle

but extends to the possibility of other future developments that may be pushed through without regard for community interests.

Sincerely

Aedan Howlett

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**From:** Rebecca Hubbard  
**Sent:** Tuesday, 31 October 2023 7:33 PM  
**To:** State Planning Office Your Say  
**Subject:** Stop undermining our planning processes

To the State Planning Office,

In response to your recent position paper, I would like to simply say:

- Keep planning local and democratic
- Don't take planning away from Local Government, and
- Don't give the Minister the power to change the Local Planning Scheme!

I, like much of the rest of the Tasmanian community, are not interested in the Minister rolling in over the top of everyone else to give bonus access to big developers.

Regards,  
Rebecca Hubbard

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Rebecca Hubbard

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**From:** Kerry Andrews  
**Sent:** Tuesday, 31 October 2023 8:37 PM  
**To:** State Planning Office Your Say  
**Subject:** Speaking up to Oppose The Planning Proposal  
**Attachments:** IMG\_20231031\_120316.jpg; IMG\_20231031\_120830.jpg; Screenshot\_2023-10-31-12-12-02-44\_e2d5b3f32b79de1d45acd1fad96fbb0f.jpg; Screenshot\_2023-10-31-12-11-28-09\_e2d5b3f32b79de1d45acd1fad96fbb0f.jpg

Hello, I write to submit my opposition to the current planning proposal that would allow the Minister to access new powers to over-power Local Councils.

I object strongly.

### 3. Identification of Issues

#### 3.1 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.

The State Government has committed to delivering 10,000 new social and affordable houses by 2032. As identified in the Interim Report, where a development is controversial, there can be a tension between councillors' role as community advocates and as members of a statutory planning authority. The proposed DAP framework is intended to remove this tension and to deliver appropriate and timely assessments of housing projects undertaken by Homes Tasmania and registered Community Housing Providers.

Currently, only a small proportion of all development applications actually come before the elected members for decision with between 85 and 90 percent being routinely determined under delegation by council officers. These development applications are assessed by council planners against the requirements of the relevant planning scheme in accordance with the established processes defined in LUPAA. Many planning authorities delegate the determination of development applications to senior officers, and to sub committees. While only a small percentage of applications are determined by the full elected council, these applications typically involve a significant number of representations and are therefore subject to higher levels of local political interest. In some circumstances the full elected council will determine any application that has been recommended by council planners for refusal or where the application is actually proposed by council.

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.

Based on the discussion so far the following issues have been identified for feedback:

#### Consultation issue 1 – Types of development applications suitable for referral to a DAP for determination

- 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. At the beginning for prescribed proposals,
- ii. Following consultation where it is identified that the proposal is especially contentious;
- iii. At the approval stage, where it is identified that Councillors are conflicted.

## **Consultation issue 2 – Provision of an enhanced role for the Minister to direct a council to initiate a planning scheme amendment under certain circumstances.**

- a) Under what circumstances should the Minister have a power to direct the initiation of a planning scheme amendment by a Council?
- b) Is it appropriate for the Minister to exercise that power where the Council has refused a request from an applicant and its decision has been reviewed by the Tasmanian Planning Commission?

For example:

Section 40B allows for the Commission to review the planning authority's decision to refuse to initiate a planning scheme amendment and can direct the planning authority to reconsider the request. Where that has occurred, and the planning authority still does not agree to initiate an amendment, is that sufficient reason to allow Ministerial intervention to direct the planning authority to initiate the planning scheme amendment, subject to the Minister being satisfied that the LPS criteria is met?

- c) Are there other threshold tests or criteria that might justify a direction being given, such as it aligns to a changed regional land use strategy, it is identified to support a key growth strategy, or it would maximise available or planned infrastructure provision?

### **3.2 Retaining local input**

One of the concerns of a DAP framework is that it relies on decisions being made by experts that do not necessarily have the local knowledge that would otherwise be available within a local council and considered and applied when determining a development application.

The proposed DAP framework can utilise and benefit from this local knowledge. By way of example the current assessment process for a combined planning scheme amendment and permit application (s. 40T of LUPAA or s.43A under the former provisions of LUPAA) is undertaken by both the planning authority and the Commission, with the Commission being the final decision maker. For the development application component of a s43A or s40T application, it is the planning authority that assesses the proposal against the amended provisions of the planning scheme, issues a draft permit, undertakes the notification procedures in accordance with the LUPAA, it receives representations and addresses the issues raised by the representations. All these matters are presented in a report prepared by the council officers and provided to the Commission. Then all parties including those that made representations are invited to attend a hearing and present their issues before the final determination is made by the panel.

year Premier Rockliff had this to say at the 'State of the State Address':

***"I am committed not only to the Cradle Valley Cableway, but also a cableway on Kunanyi/Mt Wellington, and I have sought advice on developing a pathway to support this to happen."***

Now we can see what that pathway is. Planning Minister Ferguson made the [attached](#) statement on the 19th of October.

- Keep planning local and democratic.
- Don't take planning away from Local Government.
- Don't give the Minister the power to change the Local Planning Scheme.

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**From:** Nella Watson-Lowe  
**Sent:** Tuesday, 31 October 2023 8:51 PM  
**To:** State Planning Office Your Say  
**Subject:** Keep planning local and democratic - e.g. Kunanyi cable car proposal

Dear sir/madam,

I refer to Planning Minister Ferguson made on 19 October in relation to some councils being less supportive of development than others.

I write to request that:-

- planning be kept local and democratic;
- that planning not be taken away from local government; and
- that the minister not be given the power to change the local planning scheme.

Locals do not want the cable car. And our government should not bypass the democratic process which has resulted in the cable car not going ahead.

Kind regards

Nella Watson-Lowe



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**From:** Andrea <> Tuesday, 31 October  
**Sent:** 2023 9:58 PM State Planning Office  
**To:** Your Say Development Assessment  
**Subject:** Panel

*A draft legislative proposal, released last week, would enable the Minister to decide if a planning scheme amendment should be initiated - like the highly contentious Cambria Green amendment - and not be the responsibility of local councils as is currently the case.*

I agree that these changes will 'REMOVE planning appeal rights'. \*

I am concerned about proposed changes to Tasmanian Planning assessments.

As a longterm resident of Hobart – I live in the HCC LGA – I am very concerned about the overuse of power by the government, which potentially could influence Planning decisions (eg kunyani Cable Car, Utas move ,and the AFL stadium) without residents' consultation. Councils are best set up to work collaboratively with residents' views (eg the HCC vote against the cable car at the last election).

Planning must be kept democratic,  
open to dialogue and not commanded by the 'power' of the current government.

Residents of Tasmania must be able to have their voices heard via Council.

Yours,

**Andrea Breen**

- Keep planning local and democratic.
- Don't take planning away from Local Government.
- Don't give the Minister the power to change the Local Planning Scheme

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**From:** sean green  
**Sent:** Tuesday, 31 October 2023 10:05 PM State  
**To:** Planning Office Your Say  
**Subject:** DAP Framework Position paper

I am opposed to any changes to planning laws that allow developers the right to have their proposals assessed by a Development Assessment Panel instead of by Council.

- Keep planning local and democratic.
- Don't take planning away from Local Government.
- Don't give the Minister the power to change the Local Planning Scheme.

No cable car on Kunanyi

Sean Green

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**From:** Christine Anderson  
**Sent:** Wednesday, 1 November 2023 9:07 PM  
**To:** State Planning Office Your Say

I am Strongly against taking away the councils capacity to make planning decisions.  
There should be a democratic process maintained so that all views may be aired publicly and not passed over to a committee.

Sincerely

Christine Anderson

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**From:** Rachel Andrew  
**Sent:** Wednesday, 1 November 2023 3:45 PM State  
**To:** Planning Office Your Say  
**Subject:** DAP proposal

I am a business owner, in Tasmania (actually 2 businesses) and as such I have certain processes I have to go through, especially in health care, there is oversight and regulations I have to abide by. I have read the full document proposing the changes and giving the Minister power to over-ride council, and I am completely opposed to this. In Mosman in Sydney where my parents live, the state government has been able to override council planning. Council, who have been elected democratically by the community. this has resulted in apartment blocks being put up, higher than the existing skyline "to improve housing access" however, the apartments where 1.5million+ to buy, so improving access for whom, I would ask. In addition this meant the successful application and instalment of an "essential" Dan Murphy (a bottle shop - not essential as there were plenty of others) which was argued against by the fire station in safety terms, as they were worried about access in emergency situations. Yet this was over ridden. Now there is going to be a Woolworths metro, to improve "supermarket access" despite there currently being 3 supermarkets, an IGA, an ALDI, and a Harris farm, all within 500m radius. again, the community and local council were over-ridden. It has completely changed the landscape of the suburb for the worst. These are not "NIMBY, no-development" concerns - this is concerns of an emergency service and developers making huge profits from 1.5million dollar flats at the community expense. Giving the Minister the power to initiate planning scheme amendments, property developers the power to choose to bypass local councils and communities, and removing third party rights of appeal, is not democracy and a backward step for transparency in Tasmania. I am completely opposed.

Kind regards

Rachel Andrew

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**From:** Gayle Newbold  
**Sent:** Wednesday, 1 November 2023 1:02 PM  
**To:** State Planning Office Your Say  
**Subject:** Kunanyi cable car

To whom it may concern, I am writing to voice my opposition to the renewed plans for a cable car on Kunanyi.

The decision had been made by Hobart City Council, backed by residents, to discontinue plans for a cable car. This decision should be final and not overturned by a different body. Such an act would be in defiance of democracy.

yours sincerely,

Gayle Newbold

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**From:** Jenny Dean  
**Sent:** Wednesday, 1 November 2023 12:59 PM  
**To:** State Planning Office Your Say  
**Subject:** Draft Land Use Planning and Approvals (Development Assessment Panel) Amendment Bill 2024

I would like to register my opposition to the proposed 'development assessment panel'. This panel does not sound democratic and instead is autocratic, I say this having been thwarted by the council as a developer myself. I understand that it's frustrating but these are processes that have been developed over time to maintain a balance of history, livability and green space.

I wholeheartedly support the plan to build social housing and as long as the designs comply with the current standards there will not be opposition by councils for the sake of it. Opposition arises when politicians want to be remembered in perpetuity for building stadiums (without consultation regardless of the cost and future economic costs) , cable cars that don't blend sympathetically with the environment, Cradle Valley Cableways to ruin a pristine environment and wind-tunnel producing University monoliths. These spaces are beautiful because they have been protected.

It's time for all political parties to start governing for the people and not short term economic benefits for the few. Historically it has been the practice for politicians to be managed by big business but let's start to make decisions that are in the best interest of the people.

Let's think in the long term and not just our own legacy.

Let's not start introducing fascist practices into this democracy but instead become more genuinely consultative.

Regards,

Jenny Dean

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**From:** hamish jackson  
**Sent:** Thursday, 2 November 2023 5:24 PM  
**To:** State Planning Office Your Say  
**Cc:** Shumita Joseph  
**Subject:** Planning position paper

Dear state planning office,

Thank you for seeking community feedback on proposed changes to the planning law. I would strongly oppose any moves that increases the power of the state minister in planning matters and encourage planning matters to stay under the management of local community Councils.

I am particularly concerned about such changes in light of the current governments approach the mt Wellington cable car proposals given the thorough process that has already been undertaken and ultimately the proposal has been rejected.

Best regards

Hamish Jackson .  
Sent from my iPhone

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**From:** Colette McKiernan  
**Sent:** Thursday, 2 November 2023 4:45 PM  
**To:** State Planning Office Your Say  
**Subject:** Position Paper on Cable Car

Dear planning people.

**Re the DAP Framework Position Paper**

I am very disappointed and angry to see this underhand, back door way in, to another pathway to development. I thought I was part of a democratic process where I had the chance to vote, and I did, like so many thousands of people in Hobart did, opposing a cable car development on kunanyi and clearly and strongly winning that vote. At least it was local and democracy worked.

I can see this for what it is, and once you lose control over development locally it will have a huge impact on everything not just this. You must keep planning here within the local community and region. It is our pulling power to maintain the environment and plan and develop sensitively.

I just got back from South Korea and Japan where most cars are electric and ALL buses. We can't even do that here. I just saw that old bus chugging out dark smelly smoke on its way up the hill - It is incongruous that you would spend time and money on such a development - and you can't even get an electric bus to get there. This does not respect the traditional owners of the land. This is a way to override their wishes too. How can you do that? Keep up your actions that continue to bring people here to visit and live, get electric buses and a long term strategy to keep the air clean.

I do not want planning to be passed over to federal gov as I have seen what can happen.

Please don't give the Minister the power to change our democratic Local Planning Scheme.

Kind regards

Colette McKiernan



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**From:** Karen Grant  
**Sent:** Thursday, 2 November 2023 11:32 AM  
**To:** State Planning Office Your Say  
**Subject:** Feedback on the State Govt position paper on Local Planning

Good morning

I would like to submit feedback on the recent position paper suggesting developments rejected by the local planners can circumvent the process and seek an overriding decision from the State Government.

This is an entirely unacceptable proposal. There is already a legal process through the Land and Environment Court available to developers who believe an injustice has occurred. Otherwise, our democratic elected Local Council is mandated to uphold planning laws and represent the interests of residents. It is important to remember, planning laws are not required to represent the interests of the State Government.

Your sincerely

Karen Grant  
Kingston

*Emailing on the traditional lands of the mouhenneneer people of lutruwita/Tasmania in Australia.*

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**From:** barbara whitebear  
**Sent:** Friday, 3 November 2023 2:03 AM  
**To:** State Planning Office Your Say  
**Subject:** Local government need to be respected!

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Than you!

Barbara Whitebear

Sent from my Galaxy

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**From:**  
**Sent:** Friday, 3 November 2023 1:40 PM  
**To:** State Planning Office Your Say  
**Subject:** Development Assessment Panel Framework Position Paper

Dear Sirs,

I am against the DAP Position Paper. I note that the stated intent is to “take politics out of planning by providing an alternative pathway”. The Cable Car proposal is one of the projects that this is aimed at. I note that the current Tasmanian government supports the cable car. This proposal would give that government the say over whether the cable car goes ahead. This is despite the majority of the community, the local aboriginal community and the HCC being against the proposal.

This proposal should not proceed. Don't give the Minister the power to change the Local Planning Scheme. I believe that planning should be local and democratic. I support Local Government.

Sincerely,

Pam Powell

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**From:** Carlos Whiley  
**Sent:** Friday, 3 November 2023 5:39 PM  
**To:** State Planning Office Your Say  
**Subject:** Cable Car. Again.

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Re: Mount Wellington Cable Car. Again.

I feel like I shouldn't have to be writing to you about this. In November 2022 TASCAT affirmed the decision of the Hobart City Council to reject the proposal for a cable car across the Organ Pipes and a large tourist centre/restaurant near the Pinnacle. In my view, that should have been the end of it but apparently there are political moves afoot to undermine and negate that legitimate decision.

In our overdeveloped world I find great comfort in having such a splendid example of natural wonder, so close to a capital city, that has not been COMMODIFIED. By commodified, I mean something that was previously free and available to all being turned into something that can be sold in order to turn a profit for the enabler of the commodification. Humans seem to have an insatiable appetite for novelty and the commercial aspects of our culture provide an endless supply of gee-gaws, gismos and gadgets to supply the market that appetite provides. But I think we also have far deeper fundamental, even primal needs, about our connectedness to our natural world and given the relentless pressures that are eroding our natural world, thus making such connectedness more fraught, I find it inconceivable that we would allow the natural values of Mount Wellington to be commodified in the interests of novelty.

So.....I ask this of the Tasmanian State Planning Office: Please keep planning local and democratic. Please don't take planning away from Local Government and please, please, please don't give the Minister the power to change the Local Planning Scheme.

With best regards,  
Carlos Whiley,

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**From:** Jennie Smith  
**Sent:** Saturday, 4 November 2023 10:57 AM  
**To:** State Planning Office Your Say  
**Subject:** Sports arena

This is to voice my objection to any further attempts by the government to get this issue going forward.

It was not promised during lobbying so how dare they keep pushing for it?

Jennie Smith

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**From:** Jennie Smith  
**Sent:** Saturday, 4 November 2023 10:56 AM  
**To:** State Planning Office Your Say  
**Subject:** Cable Car not on

This is to voice my objection to any further attempts by the government to get this issue going forward.

It was not promised during lobbying so how dare they keep pushing for it?

The same goes for the proposed arena.

Jennie Smith

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**From:** izzy Bradley  
**Sent:** Saturday, 4 November 2023 1:05 AM  
**To:** State Planning Office Your Say  
**Subject:** Opposition to position paper on Development Assessment Panel Framework

Dear State Planning Office,

Re: Development Assessment Panel Framework

I am writing to oppose the recent proposal by planning Minister Ferguson to change the planning laws so developers have the right to have their proposals assessed by a Development Assessment Panel instead of by Council. This takes away power from council that have been elected by constituents according to their values and wants for their community and its future. I believe that planning decisions affecting communities should be kept local and democratic. It should not be up to a single minister to change a rule that will have ongoing impacts for years that take away a long established democratic system.

I urge you to reject this proposed Development Assessment Panel.

Kind regards,  
Isabella Bradley

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**From:** neil hopgood  
**Sent:** Monday, 6 November 2023 11:12 AM  
**To:** State Planning Office Your Say  
**Subject:** Planning

Dear Sir/Mdm, I certainly want to see planning local and democratic and controlled by councils not some minister with his own misrepresentations. Yours sincerely Neil Hopgood Sent from my iPhone



## 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 a 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 peoples 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

12<sup>th</sup> of November 2023