

DRAFT Second Reading Speech

**THE HON FELIX ELLIS MP
MINISTER FOR HOUSING, PLANNING
AND CONSUMER AFFAIRS**

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

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Honourable Speaker, I move that the Bill be now read a Second time.

The Land Use Planning and Approvals Amendment (Development Assessment Panels) Bill 2024 will deliver significant enhancements to Tasmania's planning processes by amending the *Land Use Planning and Approvals Act 1993* (the LUPA Act).

Honourable Speaker, this Bill will provide for Development Assessment Panels, established by the Tasmanian Planning Commission, to be an alternative assessment pathway for certain developments in Tasmania.

Since 2014, our Government has progressed extensive reforms to the Tasmanian planning system, including the statewide Tasmanian Planning Scheme, and the introduction of the Major Projects assessment process.

However, as identified in the Future of Local Government Review Stage 2 Interim Report, released in May 2023, there remains a critical issue. The involvement of Councillors in controversial or complex planning applications, where they act both as planning authorities and as representatives of their constituents, has raised concerns about potential for conflicts of interest, or for decisions to be made to refuse important development despite applications meeting the necessary planning requirements.

Honourable Speaker, this Bill takes the politics out of planning for certain development applications, including those that may be overly complex or contentious, by allowing them to be determined by an independent Development Assessment Panel, offering a more transparent and equitable planning process, determined by the planning rules, and the planning rules alone.

The Bill will provide opportunities for certain discretionary development applications to be referred to an independent expert Development Assessment Panel for determination.

To be eligible for choosing this assessment pathway, a discretionary development application is to meet specific criteria as set out in the Bill, including:

- Being a development including social and affordable housing, or for subdivision to facilitate social and affordable housing;

- a development valued over \$5 million in metropolitan areas, \$2 million in non-metropolitan areas, or \$1 million if council is both the applicant and planning authority; or
- upon request by the applicant or the planning authority where the application is considered, by the Minister, to be suitable for determination by a Development Assessment Panel if:
 - the development could be significant for its area or the State;
 - there are concerns about the planning authority's technical expertise to assess the application;
 - the development is likely to be controversial; or
 - there is a real or perceived conflict of interest or bias involving the planning authority in relation to the proposed development.

Honourable Speaker, the Bill provides discretionary permit applications to be referred to a Development Assessment Panel at the commencement of the assessment process or at any stage of the planning authority's assessment.

An eligible application referred to a panel for assessment at the beginning of the process follows statutory time frames that need to be adhered to by the panel and the reviewing entities. These time frames include the exhibition of applications for a period of 14 days. To further transparency and access to key information,

the exhibition notice will need to be accompanied by the following information:

- the application;
- each document, or piece of information, provided by a reviewing entity;
- any further information provided by the applicant to the Panel or to a reviewing entity;
- a draft assessment report, prepared by the Panel;
- if the draft assessment report recommends that a permit be granted, a draft permit, including each proposed condition to be imposed in respect of the permit; and
- the date on which a hearing may be held.

Honourable Speaker, it is clear that the processes set out in the Bill strike the right balance, providing significant information to the public and members of the community, and for the community to have their say, directly to the Panel.

Importantly, the Bill sets out specific provisions for ‘reviewing entities’, which are entities specified within the Bill, being:

- the planning authority for each relevant municipal area to which the application relates;
- the Heritage Council, within the meaning of the *Historic Cultural Heritage Act 1995*, if the application relates to a

development that includes heritage works within the meaning of Part 6 of that Act;

- the relevant regulated entity within the meaning of Division 2A of the LUPA Act, and
- a pipeline licensee, within the meaning of Division 2A of the LUPA Act if the land is within a gas infrastructure corridor.

The Development Assessment Panel established by the Commission is to refer an application to the reviewing entities as soon as practicable after having been established. This gives each reviewing entity the opportunity to then provide advice, to the Assessment Panel, on elements of the application that are relevant to the expertise and operation of the reviewing entity in relation to the application.

Honourable Speaker, let me make this clear – these important provisions for reviewing entities are in recognition that local government, the Heritage Council and other reviewing entities provide necessary input into development consideration, including how proposed development impacts on infrastructure, heritage and other services. These provisions of the Bill ensure that the views of the reviewing entities are adequately represented and considered by the Development Assessment Panel in determining an application.

A decision made by a Development Assessment Panel is final, with no right of appeal based on planning merit. This provision

reflects the commitment to natural justice and procedural fairness through public hearings, and made by expert panels members of the Tasmanian Planning Commission established panel.

Honourable Speaker, communities across Tasmania have seen too many examples of critical housing or job-creating projects being refused by councils as planning authorities, despite being recommended for approval by their own expert planners. This results in unnecessary delay with both parties being subject to lengthy dispute resolution and appeal processes within the Tasmanian Civil and Administrative Tribunal (TASCAT).

This Bill establishes Development Assessment Panels, but also provides for the Minister to direct a planning authority to prepare a draft amendment to its Local Provisions Schedule where it has rejected an application, and the Commission is of the opinion that the request meets the relevant considerations.

This does not mean that the Minister has the power to amend a Local Provisions Schedule. Rather, it provides an opportunity for recourse where the planning authority has determined not to initiate a request for an LPS amendment, allowing the Commission to commence its formal assessment and determination process. This ensures everyone gets a fair and open assessment, and importantly, it is assessed by the independent Tasmanian Planning Commission.

By introducing Development Assessment Panels and allowing the Minister to direct the preparation of a draft amendment to a Local Provisions Schedule, both of which are widely adopted in other jurisdictions, this Bill gives developers the confidence they need to invest in projects that meet the needs of our growing population and benefit the Tasmanian community.

Honourable Speaker, I commend the Bill to the House.