
Fact Sheet

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

The Land Use Planning and Approvals Amendment (Development Assessment Panels) Bill 2024 (the Bill) introduces an alternative assessment pathway for certain developments to be determined by an independent expert Development Assessment Panels (DAP) established by the Tasmanian Planning Commission (the Commission).

The Commission often delegates certain statutory assessment processes to qualified expert panels. For example, similar panels are already utilised in Tasmania's planning system to assess Major Projects, Projects of State Significance and for performing other statutory assessment tasks on behalf of the Commission.

The Bill also provides for the Minister to direct a planning authority to prepare a draft amendment to its Local Provisions Schedule (LPS) under certain circumstances where a review under section 40B of the *Land Use Planning and Approvals Act 1993* (the Act) has been exhausted. For the Minister to make a direction under this part of the Bill, he must be satisfied that the relevant considerations of the Act are met. The direction only initiates the commencement of the Commission's assessment process rather than any approval of a draft amendment to an LPS.

A key issue identified during the Tasmanian Government's 2022 enquiry into local government relates to the potentially conflicted roles of Councillors who are required to act as a planning authority, applying the planning scheme and determining development applications, while also representing the interests of their constituents.

In response, the Bill introduces the DAP assessment pathway—widely adopted in other jurisdictions—to help 'take the politics out of planning'. The alternate assessment pathway allows certain types of development applications to be determined by a DAP, ensuring that they are assessed and considered against the planning rules, and not influenced by local politics, enhancing certainty, transparency, and efficiency in Tasmania's planning process.

Under the Bill, discretionary applications can be referred to a DAP, provided it is not subject to the *Environmental Management and Pollution Control Act 1994*, if it meets specific criteria, including:

- if the application is for social and affordable housing or subdivision to facilitate social and affordable housing;
- where the applicant, or the planning authority with the consent of the applicant, requests DAP determination and the development application is valued over \$5M in metropolitan areas, over \$2M in non-metropolitan areas, or over \$1M where the council is both the applicant and planning authority;
- an application that, upon request by the applicant or planning authority is deemed, by the Minister, to be suitable for DAP determination 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; or
 - as prescribed; or
- any other purpose as prescribed in the Regulations.

Eligible development applications can enter the DAP process at the commencement of the assessment or part way through the planning authority's assessment.

Applications that enter the process at the beginning of the assessment have prescribed statutory timeframes for completing certain assessment tasks. The maximum time taken for determining social and affordable housing applications is 91 days while other types of applications are 112 days. The current timeframe for determining discretionary permits is 42 days. The additional time taken through the DAP process is to provide sufficient time for hearings into the representations.

For applications entering the DAP process partway through assessment, the DAP determines the remaining assessment steps and timelines, including the option to reevaluate certain elements if needed.

The Bill provides for a DAP to consolidate assessments from relevant reviewing entities, including the planning authority and the Heritage Council, coordinating necessary information requests to ensure a consistent and thorough review process. The DAP undertakes a preliminary assessment and prepares a draft assessment report, including a draft permit and conditions if recommended for approval. The draft report, application and any additional information is exhibited for 14 days, consistent with existing public exhibition, and the DAP receives representations. Following the public exhibition period, the representations are published and the DAP holds a hearing to consider the evidence before it and allowing the parties to test each other's evidence. The DAP considers all the relevant information before making a final decision. If the DAP approves a permit, it instructs the planning authority to issue it, with enforcement remaining the planning authority's responsibility.

DAP decisions are final, with no right of appeal based on planning merit, because the process ensures natural justice and procedural fairness through publication of submission and public hearings. Minor amendments to permits approved by a DAP may still be processed by the planning authority.

This Bill, aligning with Tasmania's 2030 Strong Plan, is central to supporting the State's housing goals by streamlining the delivery of 10,000 social and affordable homes for Tasmania's most vulnerable by 2032. Enhancing the planning process, the Bill aims to give developers and communities greater confidence in the long term to invest in and support Tasmania's growing population.