

31 January 2024

State Planning Office
stateplanning@dpac.tas.gov.au
cc. Brian.Risby@dpac.tas.gov.au

Dear Madam/Sir

Submission – Development assessment panels (DAP) framework

Thank you for accepting our submission about the proposed changes to Tasmania's planning system. I acknowledge this submission is being provided outside of the designated consultation period which has allowed our Council to discuss the proposal at its workshop on 18 January 2024. Please note that this submission has not been formerly adopted by the Council.

In summary, our council is not supportive of the DAP. Our council did not anticipate the proposal to remove our powers to an authority like the DAP. This is particularly so as we have fulfilled our planning authority role effectively over time and the proposed DAP is considered unnecessary to improve our current process.

Our councillors understand their separation of duties as elected representatives versus sitting as a planning authority where they need to make a decision in line with the *Land Use Planning and Approvals Act 1993*. While we can understand that there may be times where a DAP could support good decision making, at the City of Launceston there is currently no deficiency in how we assess planning items.

Further, our councillors hold concern that DAP would be an unelected decision making body. We understand it would be staffed with planning professionals, however, the lack of accountability to the community for decisions of the DAP is a concern. A preference for our council would be to see a strengthening of local provisions rather than a loss of representation which will occur with the DAP.

At the councillor workshop on 18 January I asked our councillors a series of questions, answers to which I have provided below.

Q1: Are we supportive of the DAP framework?

Our councillors are of the opinion that they have been elected to make decisions and that our community expects that of them. The City of Launceston (CoL) has performed the role of planning authority to a high level for many years.

Accordingly, council is not supportive of the framework as presented. While there may be examples where the DAP may support decision making, the concerns raised within this submission would need to be addressed.

Q2: What kinds of DAs are problematic or perceived to be problematic and would benefit from being determined by a DAP?

We consider applications where council is the applicant to be the most problematic, and is the main application type that would benefit by being determined by a DAP

Q3: Is it reasonable that DAP decisions are not subject to TASCAT appeals?

No. The Council is of the view that the decisions of a DAP should be subject to TASCAT Appeal.

Q4: Who should be able to refer to the DAP for determination – the applicant, planning authority, or minister?

We would rather have clarification on and definition of what can be nominated rather than who can nominate. For example, types of projects or those worth a certain value should be nominated rather than it being a choice of the applicant, planning authority or minister.

Q5: When should a referral to the DAP occur – at the beginning, following advertising, when conflict arises, or at any stage?

Our preference is that the decision to refer occurs at the commencement of an application to mitigate or minimise the potential for negative media coverage or social media backlash to impact on a decision to refer to a DAP.

Q6: Should council's planning assessment team continue to assess and manage a DAP referred application? Should council enforce DAP determined permits?

Council understands that assessments will need to be undertaken by council officers under the proposed DAP framework and that planning permits, if approved by the DAP, will still be issued by council and therefore enforced by council if necessary.

However, it needs to be noted that council's fee structure will need to recognise that we still do a lot of the work and our fees would be on top of any fees for the DAP. The issue of who collects the DAP fees also remains unresolved.

Q7: What are reasonable timeframes for DAP determined applications?

Our council feels the timeframes for DAP assessments is too long. The emphasis on maintaining efficient approval timelines is important to council where we have an average assessment timeframe for discretionary application of 32 days. The 105 days proposed for the DAP is a significant delay for development approval compared to an application which is assessed under council's current process, either under delegated authority or referred to a council meeting for a decision.

Q8: Under what circumstances should the minister have a power to direct the initiation of a planning scheme amendment to council?

Our council does not feel there are any circumstances where this is warranted. Our strong preference is that the agreement of our council is required to initiate these types of changes.

Q9: 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 and the council still refuses to initiate the amendment?

If this were to occur it would require very clear and strict rules around it as it appears to be a very significant power to vest in the minister. We believe council should still have the final decision regarding amendments.

We also have two questions which we seek further clarity on:

1. If a decision is made by the DAP after a council decision, is it correct that there is no right to appeal that DAP decision?
2. Is there any scope for a council to challenge a DAP decision?

We welcome an opportunity to provide additional feedback if required. Any comments in relation to this letter can be directed to Michelle Ogulin, Acting General Manager Community and Place.

Yours sincerely,

Michael Stetton
Chief Executive Officer