CITY OF HOBART

RESPONSE TO DEVELOPMENT ASSESSMENT PANEL

DRAFT BILL

Contents

Introduction 3
Process to Appoint a DAP 4
Role of the Minister 4
Role of Homes Tasmania 7
Council applications 8
Council unable to assess 8
Further, unknown applications 8
Assessment of Applications under a DAP 8
Diminished Role of Community 9
Timeframes 10
Appeals 11
Other Reform 12
Alternatives 13
Remove all planning assessments from local councils 13
Make the CEO (General Manager) the planning authority 14
Alter the appeal rights for social housing projects 15
Alter TASCAT processes & allow applications to be amended 15
Impact on City of Hobart resources 17
Loss of senior staff 17
Reduction of fees from large applications 17
Work by councils expected despite the absence of fees 19
Draft Amendment of Local Provision Schedule 19
Conclusion 20

Introduction

1. This paper is the City of Hobart's response to the draft Land Use Planning and Approvals Amendment (Development Assessment Panels) Bill 2024 (**draft Bill**), which is intended to amend Tasmania's planning legislation, the *Land Use Planning and Approvals Act 1993* (**LUPAA**).

2. In summary, the position of the City of Hobart is that the draft Bill is not supported. The proposed development assessment panel (**DAP**):

   (a) introduces politics into planning by giving the Minister such broad and undefined powers;

   (b) reduces the involvement of the community in the planning process;

   (c) threatens to significantly disrupt the ability of councils to retain senior expert staff;

   (d) is likely to impact the City of Hobart's fee structure so that applicants for smaller projects are likely to be required to pay higher fees; and

   (e) creates ambiguity for developers, with no assessment framework which is articulated.

3. The City of Hobart does not accept that a DAP is required. The State Planning Office's Development Assessment Panel (DAP) Framework Position Paper (**SPO Position Paper**) states[1]:

   > *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.*

4. Before progressing this reform, the State Government needs to provide the evidence that it says exists. Making blanket statements is not evidence, which was the approach in the State Planning Office Report on Consultation dated October 2024, which responded to the 542 responses to the SPO Position Paper. This uses phrases like "the government has become aware" and "anecdotal evidence of bias".[2] No specific examples were provided and no

[1] p.8
[2] p.7

statistics to demonstrate the extent of this perceived problem were contained within that report.

5. Further, this is a missed opportunity for proper reform of the planning system. We are using a planning system that is over 30 years old. Other jurisdictions have had numerous substantive reforms in that time. We are working with legislation which has had so many amendments that sections include 60ZZZAB in LUPAA; and the majority of the *Local Government (Building and Miscellaneous Provisions) Act 1993* has been repealed, leaving only a handful of active provisions, some of which are not fit for purpose and create ambiguity in the assessment process. But here we are, with another proposed add-on which is a solution to a perceived problem to a select few and without any evidence base to support these very significant changes.

6. The concerns raised in our Response to Development Assessment Panel Framework, dated 29 November 2023 have not been properly addressed, and those concerns are incorporated into this response.

Process to Appoint a DAP

7. It is noted that a DAP may be created in the following circumstances:

   (a) the Minister is asked by the applicant to do so;

   (b) Homes Tasmania determines that this is appropriate;

   (c) in the City of Hobart, a project has a value of $10M or more (outside cities, that drops to $5M);

   (d) certain council applications; and

   (e) prescribed applications.

Role of the Minister

8. The greatest concern with the draft Bill is that section 60AC allows the Minister to interfere in the planning process. An applicant may ask the Minister to intervene and direct that an application is assessed by a DAP.

9. This relies on broad, loose terms which are not defined and have no guard rails for a robust and predictable system. They are dramatically reduced from the requirements for a major project, to the point where they provide almost no threshold at all – the minimum value of projects in 60AB(1)(b) do not apply here.

10. The problematic terms include:

    (a) if an application is “significant” to the area;

    (b) if an application is “important” to the area; and

    (c) If an application “is, or is likely to be, controversial”.

11. The Minister is able to make personal, subjective evaluations, particularly when this is said to be under the guise of taking the politics of planning.

12. Further, the draft Bill in 60AC(1)(d) allows an applicant to request the Minister to require a DAP where the planning authority “may have” a real or perceived conflict of interest, or a real or perceived bias. This provision is breathtakingly inappropriate.

13. There are a number of comments which must be made in response:

    (a) As a statutory body, the planning authority itself cannot have a conflict of interest or bias. Other than delegated decisions, the planning authority itself does not form a view until a meeting has been held and the Elected Members which form the planning authority have voted on a resolution. Prior to that meeting, there is a collective of Elected Members who (as individuals, not as the planning authority) may be considering an application.

    (b) Perhaps this provision was intended to capture the situation where it is anticipated that individual Elected Members have a conflict of interest or bias? If so, it is very poorly drafted and misunderstands the basic governance of a planning authority.

    (c) To suggest that the concepts of conflicts of interest or bias can be introduced into legislation in such flippant terms fundamentally undermines the very role of the planning authority. If the State Government is of the view that the requirements of LUPAA are not being met by Elected Members operating as the planning authority then it should take full responsibility for all planning assessments.

    (d) Further, the proper process for addressing any conflicts of interest is through the code of conduct provisions of the *Local Government Act 1993.* To our knowledge, the Minister or any State Government representative, or any other person (such as an applicant), have not initiated any code of conduct complaint under these provisions for any

Elected Members acting as part of the planning authority on the basis that they hold a conflict of interest or bias. The Director of Local Government is insistent that this mechanism is an appropriate way for conflicts to be dealt with and yet the State Government is creating a different process here. The code of conduct provisions include checks and balances, with a process for a proper analysis of the situation; not a one-person view on whether there "may" be a conflict or bias.

(e) The Supreme Court of Tasmania has endorsed Elected Members holding strong views about applications; so long as they retain an open mind when they sit as part of the planning authority then they are entitled to participate in the assessment of an applicant.

14. If an applicant requests the Minister to agree to the DAP assessing the application, the planning authority is given an opportunity to respond: 60AC(3). It has 7 days to do so. 7 days to review an application which is "significant or important". This timeframe is completely unrealistic and assumes that Elected Members will not be given an opportunity to be involved in that process, since it is not feasible to review an application, compile a report with a recommendation and then for the planning authority to pass a resolution. The short timeframe assumes that this will be a delegated decision, which is insulting to Elected Members and undermines their role as planning authority. It also denies the opportunity for planning assessment officers to hear from the public via the representation process.

15. In 60AC(4), the Minister seems to have an independent ability to refer an application to the TPC if she or he is of the opinion that one of the categories in 60AC(1) applies. This provision is not linked to the earlier request in 60AC(1) by the applicant or planning authority.

16. The Minister may refuse to refer an application to the TPC "for any reason": 60AC(5) which adds to the concern that the DAP process is really just an opportunity for the State Government to step in and manipulate the planning process as it sees fit. The TPC does not have any ability to assess whether it is appropriate for a DAP to assess the application; it only has the ability to return an application if the "administrative requirements" are not met: 60AC(6)(a)(ii). It is noted that this is inconsistent with 60AD(1)(b) to some extent, but given so much depends on the Minister's opinion, this will leave the TPC without any meaningful analysis to do on whether it is appropriate for a DAP to be created.

Role of Homes Tasmania

17. The draft Bill allows Homes Tasmania to endorse a proposal as being suitable for a DAP. This extends to "social or affordable housing".

18. Social housing and affordable housing are different types of development.

    (a) Social housing is funded and supported through the public purse.

    (b) Affordable housing is provided by the private sector or community organisations. While there are varying definitions of affordable housing (and it is not defined in the draft Bill), as the name suggests, it is housing that is affordable for lower income households. Affordable housing is not a phrase which is currently part of the planning scheme provisions, and there is no clear pathway to ensuring that multiple dwellings which are said by the applicant to be for "affordable housing" will remain as such rather than being immediately sold for profit.

19. If a DAP process is created, there is no issue with Homes Tasmania being able to specify its social housing projects that are suitable for a DAP. This seems to be the main driver for the State Government to be creating a DAP. It is accepted that these applications can stir a great deal of concern in the community. While we do no accept that any City of Hobart Elected Members have acted inappropriately while acting as planning authority, it is hard to dispute that these applications place more pressure on Elected Members from some community members.

20. However, to our knowledge, Homes Tasmania is not involved in any planning application for affordable housing. Its enabling legislation does establish a mandate in relation to affordable housing but, to our knowledge, this has only extended to grants for already-approved developments.[3]

21. Given the ambiguities in which applications would fit within this category, it is proposed that the draft Bill removes "or affordable" from s.60AB(1)(a). To our knowledge, affordable housing proposals are more likely to be made by a private developer who sets aside a component of their development as "affordable" and Homes Tasmania should not be able to interfere with an application by a third party.

[3] https://www.homestasmania.com.au/newsroom/2024/help-deliver-more-affordable-homes-for-tasmanians

22. Alternatively, the ability of Homes Tasmania to call in an application should be limited to those applications which will be funded by Homes Tasmania, or are made by or on behalf of Homes Tasmania.

Council applications

23. Part of the justification for a DAP is the supposed conflict for councils to determine its own applications. Yet the draft Bill requires that it is the council who would need to apply for such an application to be determined by the DAP. The default is that a council would continue to assess its own applications as planning authority. So councils could choose to retain control of the application process and the DAP may be ignored if that is the preference of the council.

Council unable to assess

24. A justification for the DAP is where an application is beyond the capabilities of a council to properly assess an application. While this has some merit, the application may only be referred with the consent of the applicant: 60AB(2)(a)(ii). This completely undermines the justification for a DAP and disempowers the council, who is the best entity to make an assessment of its capabilities.

Further, unknown applications

25. The categories of applications include those which are “prescribed”. We don’t know what they are so cannot comment. This is a glaring omission. To leave such a fundamental part of the draft Bill to the creation of statutory rules is deeply inappropriate.

Assessment of Applications under a DAP

26. There is a glaring error throughout the draft Bill. At no stage does it state that an application assessed by a DAP must be assessed against the provisions of the planning scheme. Note that:

    (a) if an application is assessed by the planning authority then it is assessed under the applicable planning scheme, under Division 2;

    (b) if an application is assessed as a major project then it is assessed under the applicable “assessment criteria” which have been finalised for that proposal under Division 2A;

(c) under this newly created Division 2AA, it is **silent** as to the assessment framework. In addition, there is no requirement to take into account the objectives in Schedule 1 of the planning system in Tasmania.

27. Similarly, the requirement to obtain the consent of the General Manager to lodge an application pursuant to section 52(1B), which is part of Division 2, is not repeated in the newly created Division 2AA. In contrast, the major projects provisions retain this control with the council.[4]

28. The following practical issues also arise:

(a) The council would have 14 days to request further information once an application had been referred to it: 60AF. This is less than the 21 days it has for a standard discretionary application and is a significant difference.

(b) Requests for information do not stop the time which the council has to respond to the application under 60A unless the TPC is of the opinion that the requests haven't been satisfied; there is no ability for the council to say that it is not satisfied. This differs from requests for information for a standard discretionary application and is completely unworkable if the applicant does not respond promptly. It is also in contrast with the requests for information under other legislation, giving the EPA, TasWater and the THC the ability to form its own view on whether information is satisfactory. This further disempowers councils and places it in a situation where it may not be able to protect its own infrastructure properly.

(c) The 7 days to respond to further information submitted is inconsistent with the 8 business days allowed under s.54 for the same process for a standard discretionary application. It is an unreasonably and unnecessarily short timeframe.

Diminished Role of Community

29. The current planning assessment process requires public exhibition for discretionary applications prior to preparing an assessment report. At the City of Hobart, we take any representations received during that period into account. Of course, we have a statutory obligation to do so but it is more than that; it is a key step in understanding what the application means for the community in the framework of the planning scheme. The proposed DAP process has the report prepared first and then public exhibition later. It is

[4] s.60P

unfortunate that the public views are not taken into account by the assessing officers at this point.

30. The public exhibition period is restricted to 14 days: 60AG(2). For a standard discretionary application, there is an ability to allow an extension of time for a further 14 days to allow a representation to be provided. Again, this diminishes the role of the community in assessing applications.

31. Further compounding this issue is that the usual public notification processes (newspaper and sign at the site) are not required under the draft Bill: 60AG(1)(b). This will inevitably mean that less people are notified of the application, which is ironic, given that these are the largest and potentially most impactful applications. This creates an inconsistency with the way other applications are notified, without justification.

32. A DAP is not required to take into account any input from the community. For standard planning applications, it is a mandatory requirement to take representations into account: 51(2)(c). Those provisions are not replicated in Division 2AA. This is a shocking omission.

33. The DAP may disregard community representations which it considers to be frivolous or vexatious: s.60AJ.

Timeframes

34. The Fact Sheet accompanying the draft Bill states that the timeframes for assessment of applications is 91 days for social and affordable housing or 112 days for other applications. It is hard to understand why the TPC requires so much time when the planning authority only has 42 days for a standard discretionary application. This is an indication that the 42 day timeframe is (or can be) insufficient.

35. The referral to the council and other agencies is not an explanation for the longer timeframe; those referrals are currently done by councils within the 42 day timeframe.

36. The hearings are also not a justification for the additional 70 days for assessment. The City of Hobart allows representors to make deputations at Planning Committee meetings which would be the equivalent of a TPC hearing. The hearings will not be akin to a Tasmanian Civil & Administrative Tribunal (**TASCAT**) hearing, where all parties have proper notice of the points that are raised, with evidence exchanged and cross-examination of witnesses, followed by detailed submissions. To expect anyone in that process to be able

to have a legally robust hearing which replaces a TASCAT disputed hearing is nonsensical.

37. It is proposed that the draft Bill is further amended to allow a planning authority further time to assess applications.

38. Planning authorities operate under the unreasonably onerous obligation that if a timeframe is not met, a permit is deemed to have been issued and the Council is responsible for the costs of an appeal. It is interesting to note that the TPC is not under any similar obligation. It is proposed that as part of this reform package, the obligations in s.59 of LUPAA are removed or reduced. In the current day, the mental health impacts for council officers operating under this strict regime are unnecessary.

Appeals

39. There is no right of appeal on the merits from a TPC decision: 60AR(1)(d). This further compromises the rights of the community to participate in the planning process and may mean that third party rights are compromised without a proper appeal process.

40. As stated above, the hearings which the TPC will hold will not be a legally robust replacement for a TASCAT appeal hearing.

41. The proposed process ignores the fact that the majority of planning appeals are resolved at mediation so that there is an agreed outcome leading to the planning authority, the applicant and any third-party appellant being (reasonably) satisfied with the outcome. That option for bringing resolution to conflict within the community will be lost.

42. It is noted that a decision of a DAP would be subject to an appeal to the Supreme Court of Tasmania on the basis of judicial review on administrative grounds (not related to the merits). Litigation in the Supreme Court is slow and expensive; it does not have the specialty which can be found at TASCAT to resolve such disputes. It is likely that with no other appeal avenue, members of the community will try their luck in this way, potentially causing more delay than an applicant current faces with a standard planning appeal. A judicial review application is currently available in the planning context but is not used because the current appeal process to TASCAT is effective and efficient.

Other Reform

43. It is disappointing that the State Government hasn't taken this opportunity to properly review and reform LUPAA and associated legislation to address well known issues. These issues have all been raised directly with the State Government, along with a suggestion to create a working group between councils, State Government and other stakeholder representatives. To date, that opportunity has not been embraced by the State Government.

44. The other issues identified for reform include:

    (a) There is an inconsistency with assessment timeframes throughout LUPAA, some using calendar days, some using business days.

    (b) Despite the term "business days" being used, there is no definition and there is ambiguity as to whether this includes days where the Council is closed but other businesses are open such as Easter Tuesday and between Christmas and New Year.

    (c) There are other ambiguities in the interpretation of LUPAA such as the operation of s.54 assessment timeframes, which require further clarification.

    (d) The validity of planning permits depends on obtaining permits under other legislation, unnecessarily and creating uncertainty for developers: s.53(4).

    (e) It would be useful to add a clause to allow councils to certify that a project has "substantially commenced" which would provide certainty to developers that a permit will not expire: s.53(5).

    (f) There are inconsistencies in the processes for TasWater, THC and TasNetworks which could be resolved.

    (g) Agreements made under Part 5 of LUPAA are only enforceable via the Supreme Court of Tasmania and do not have a pragmatic enforcement process akin to others in LUPAA, effectively making the enforcement unaffordable for councils.

    (h) Part 5 agreements are not a basis to refuse an application, so while there may be an agreement registered on the title, it cannot be relied upon by the planning authority for subsequent application.

(i) The planning permit amendment process does not have a provision to stop the clock if further information is required.

(j) Planning applications cannot be amended following a Supreme Court of Tasmania decision, creating further applications to be required.

(k) There is no mechanism for including documents endorsed under s.60 to be included in documents approved under the *Building Act 2016.*

(l) LGBMP is very hard to understand and conflicts with planning scheme provisions, causing uncertainty for applicants.

Alternatives

Remove all planning assessments from local councils

45. In the SPO Position Paper, the justification for creating a DAP process is the (according to some) inherent conflict between the political role of an Elected Member with the obligation to act with an open mind when acting as planning authority. This is contrary to settled law in the Supreme Court of Tasmania, which has stated[5]:

> *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.*

46. In other words, it is expected that Elected Members engage with the community, ventilate their concerns about a proposal and ensure that planning assessments take into account their own views about whether or not the proposal meets the scheme. As long as each Elected Member retains an open mind and assessed the proposal against the planning scheme, this is an appropriate way to carry out the role of part of the planning authority.

---

[5] *R v West Coast Council; Ex Parte Strahan Motor Inn (A Firm)* [1995] TASSC 47; (1995) 4 Tas R 411 (3 May 1995) at [33]

47. If the State Government disagrees with the Supreme Court of Tasmania and has a view that Elected Members are incapable of carrying out both roles then the only appropriate answer is for all planning decisions to be removed from local councils.

48. Why would a conflict only arise for the projects which have been identified in the draft Bill?

49. To support it's case, the State Government refers to the Future of Local Government Review Stage 2 Interim Report which suggests that there is an inherent conflict and recommends the following reform:

> *Remove councillors' responsibility for determining development applications entirely. All developments would be determined by council planning officers or referred to an independent panel for determination.*

50. The State Government isn't following that recommendation; it is cherry picking to take the heart out of the planning applications which are crucial for the progress of our city.

Make the CEO (General Manager) the planning authority

51. There seems to be no objection to decisions which are made at officer level. Currently, many applications which fall within the proposed DAP categories may be made at officer level, depending on each council's delegations.

52. The General Manager currently has some powers under LUPAA to make decisions on behalf of her or his council. A key decision is to grant "General Manager consent" which allows an application to be lodged where the application includes land owned or administered by the council. At times, a CEO / GM will seek input from Elected Members on whether or not to grant this consent. This recently occurred at the City of Hobart for the zipline proposal at kunanyi / Mount Wellington. Ultimately, it is our CEO's decision but, mindful that this application will create community interest, he wanted to ensure that his decision was informed by our Elected Members' views.

53. The same could occur for the determination of planning applications.

54. It is likely that the CEO / GM would delegate that decision making process, at least for some applications as currently occurs, to a professional with planning expertise within the council. At times, external assessment may be required to support the internal assessment capability.

55. Making this change would be an option that would create less impact for the resourcing of councils.

Alter the appeal rights for social housing projects

56. One of Homes Tasmania's current projects (73A New Town Road) has had significant delays caused by third party appeals. The appeal is based on planning grounds, but the grounds will have no impact whatsoever on the appellant; the grounds only relate to the occupants of the proposed dwellings. This project was recommended for approval by our officers, approved by our Planning Committee, and also supported by TASCAT. It was then appealed to the Supreme Court of Tasmania, which has required that it is reconsidered by TASCAT. That process is ongoing, more than two years after the application was initially lodged at the City of Hobart.

57. Homes Tasmania has every right to be frustrated by this process. We have a housing crisis and Homes Tasmania is working to provide social housing as part of the solution.

58. However, there are other possible solutions to this problem, other than a DAP:

    (a) remove or limit third party appeal rights, particularly on issues where they will not be impacted – in other words, remove the "not in my backyard" ability to slow down or thwart a social housing development;

    (b) create provisions in the planning scheme which allow for a more predictable approval process for social housing proposals, such as through a planning directive (as has happened in the visitor accommodation context); or

    (c) further oversight by Homes Tasmanian to ensure that social housing proposals are more conservative in their approach to the design – that is, design to the planning scheme rather than design first and justify later, removing or reducing some of the potential controversy.

Alter TASCAT processes & allow applications to be amended

59. The planning system we have is one of the toughest and fastest in the country. In the SPO Position Paper, it is acknowledged that Tasmanian councils have a median assessment timeframe of 38 days, and average assessment time of 40 days. In comparison, the SPO Position Paper states that the average assessment times were:

    (a) in South Australia, 46 days;

(b) in the Northern Territory, 55 days;

(c) in Australian Capital Territory, 61 days;

(d) in New South Wales, 83 days;

(e) in Queensland, 86 days;

(f) in Victoria, 129 days.

60. In this context, where is the evidence that there is a problem with the current system? The SPO Position Paper acknowledges: *These statistics indicate that overall, our planning system is already one of the fastest, if not the fastest, in the country when it comes to determining development applications.*[6]

61. It goes on to say: *However, the broad rights of appeal provided under Tasmanian legislation mean that these very timely outcomes are sometimes extended by an appeal process by many months resulting in an overall approval timeframe of perhaps 9-12 months.*

62. This statement is contrary to statistics published by TASCAT.[7] According to TASCAT, the average number of days for the completion of appeals is 80 days. So the average application assessment time plus appeal time is 120 days or about 4 months, much less than the 9-12 months stated by the State Planning Office. According to TASCAT, it is very unusual for the Tribunal itself to request an extension of time to the 90-day statutory timeframe and in almost 95% of the extensions are from the parties themselves, suggesting that the mediation processes are effective.

63. Perhaps there needs to be a tougher approach by TASCAT to third parties who are reluctant for appeals to go to hearing but also reluctant to articulate their case and provide suitable expert evidence to support it.

64. Perhaps LUPAA needs to be amended to enable councils to accept amendments to planning applications. Currently, the ability to amend applications is dramatically more flexible under TASCAT than during the council assessment process. The ability to amend applications was clarified by the Supreme Court of Tasmania in 2021, which clearly states that an

[6] p.6
[7] Annual Report 2022-2023 at p.60

application must not be amended with the council assessment process.[8] The State Government has not engaged within the issue of whether amendment powers should be introduced and if so, how – despite requests from the City of Hobart to do so. Currently, if an application has to be amended then the applicant has to start again or do so through the appeal process. It is our experience that the mediation and amendment process before TASCAT often achieves an outcome which is improved than the version considered by the Planning Committee.

Impact on City of Hobart resources

Loss of senior staff

65. In order to assess applications and determine them as part of a DAP, the Tasmanian Planning Commission will need senior qualified planning, engineering, hydraulic and other experts to do so.

66. It is well recognised that local councils struggle to attract and retain suitably qualified staff and that they should be supported to develop a local government workforce strategy.[9]

67. The DAP process will make this situation worse for local councils and disrupt the current workforce.

68. The City of Hobart is lucky enough to have a strong group of experts across all necessary fields to assess planning applications. It is anticipated that we will lose some of those staff to the TPC if the DAP system is created.

Reduction of fees from large applications

69. The City of Hobart structures its planning fees so that larger applications pay a higher percentage of the cost to assess them. Smaller applications pay much less.

70. This is an extract from the City's approved fees and charges, which have been created after extensive comparison with other councils to ensure that we are charging similar fees, and endorsed by Elected Members as part of the annual process to set fees and charges:

---

[8] *Tomaszewski v Hobart City Council [2020] TASSC 48*

[9] p.106 *The Future of Local Government Review Final Report* October 2023

Cost of development up to $20,000	$420.00
Cost of development between $20,001 and $200,000	$673.00
Cost of development between $200,001 and $600,000	$1,346.00
Cost of development between $600,001 and $1,000,000	$2,244.00
Cost of development between $1,000,001 and $5,000,000	$8,416.00
Cost of development between $5,000,001 - $10,000,000	$28,051.00
Cost of development between $10,000,001 and $25,000,000	$44,881.00
Cost of development in excess of $25,000,000	$44,881 plus $1.40 per $1,000 of development costs in excess of $25M

71. An analysis of the number of applications we receive for $10M cost of works or above for the past 5 years demonstrates that we receive an average of $153,446 from those applications. While the number of applications fitting in this category varies, we would normally expect five or six applications falling within that value.

72. It is very difficult to predict how the DAP will impact our application numbers, particularly with the ill-defined broad powers held by the Minister to refer certain applications to a DAP. But this could add to the applications which we no longer consider, possibly adding another $50,000 or more to the fees we will no longer receive.

73. If there was a direct reduction in staffing costs to the fees received, this would be acceptable but, again, it is unknown how this process will unfold.

74. While we still have set staffing costs, it is anticipated that the loss of revenue anticipated from the DAP would have to be borne by other, smaller applicants. Alternatively, the cost is funded from Hobart ratepayers. Neither option is palatable.

Work by councils expected despite the absence of fees

75. To further add to this problem, the SPO Position Paper states[10]:

> *It is anticipated that the DAP will engage extensively with the planning authority in preparing the permit and conditions of approval.*

76. This is currently occurring with the assessment of the Macquarie Point stadium, which is being assessed as a project of state significance. The City of Hobart has received no planning application fee or other funding to participate in this process. Yet it is spending substantial time with officers dedicated to the project and further funds spent engaging consultants to ensure that the TPC is properly informed as part of the assessment process. It is just not financially feasible for the City of Hobart to support the TPC in this way. It is cost-shifting at its worst.

77. Also, by creating a combined determination and appeal process, the DAP would also impose additional responsibilities and costs onto councils if it is expected to participate in the way that it is at TASCAT. The expectation at TASCAT is that the planning authority is expected to carry out numerous administrative tasks, submit evidence and detailed legal submissions articulating what the planning authority's position on the application of the planning scheme should be. If this is replicated in a DAP context then it will generate additional work, noting that not all larger applications are appealed.

Draft Amendment of Local Provision Schedule

78. The draft Bill also includes an ability for the Minister to interfere with the process for amending a council's Local Provision Schedule (LPS, which is part of the Tasmanian Planning Scheme). Currently, a council has control over whether it wishes to progress the amendment of its LPS which has been initiated by a member of the public.

79. The current process includes an assessment by the TPC. There is no justification for the Minister having a new power to override a council's decision in this context. Again, it is introducing politics into planning.

[10] p.15

Conclusion

80. The DAP is a knee-jerk reaction to a perceived problem which does not have a proper evidentiary basis. It will impact staffing and finances for the City of Hobart. Crucially, it will diminish the role of the community in the planning process.

81. There are alternative pathways to address the State Government's frustrations with the planning system. It is very unfortunate that these do not seem to have been considered and the offer of engagement with the Local Government Association of Tasmania has not been taken up.