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Dear Mr Kannis

## DEVELOPMENT ASSESSMENT PANEL REFORMS

Thank you for your letter dated 18 March 2022 inviting comment on the Department of Planning, Lands and Heritage's Development Assessment Panel reforms.

I note the following proposed amendments to the *Planning and Development (Development Assessment Panel) Regulations 2011* (DAP Regulations) include changes to the requirement for registration and membership for special matters, including:

- Regulation 35 – Register of persons eligible to be specialist members  
The list for specialist members with expertise in certain areas of the District Development Assessment Panel (DAP) has changed from 'environment' to 'environmental impact assessment'.
- Regulation 36 – Special matters DAP members  
The regulation states the Minister for Planning will appoint seven members to the Special Matters DAP including a person nominated by the Chief Executive Officer (CEO) as defined in the *Environmental Protection Act 1986* (EP Act) section 3(1).

Section 3(1) of the EP Act defines 'CEO' as the chief executive officer of the 'Department' through which the EP Act is administered. This is currently the Department of Water and Environmental Regulation (DWER).

In relation to regulation 36, it appears that there are inconsistencies between the supporting factsheets and the draft DAP Regulations. Specifically, in relation to the CEO of the Environmental Protection Authority (EPA) nominating a representative.

Please note that the EPA considers proposals and schemes referred under Part IV of the EP Act, which may include developments subject to approval by a Special Matters DAP. The EPA also provides a range of publicly available advice that may also directly or indirectly impact developments subject to approval by a District or Special Matters DAP. Generally, the EPA does not provide environmental advice outside of its statutory functions under the EP Act.

Given the potential assessment role of the EPA and as per the DAP Regulations, I consider that it would be more appropriate for the DAP member to be nominated by the CEO of the DWER. The CEO of DWER is well placed to provide general advice on water and environmental related matters.

Thank you for taking the time to inform me of these reforms.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'MAT TONTS', with a long horizontal flourish extending to the right.

**Prof. Matthew Tonts**  
CHAIR, ENVIRONMENTAL PROTECTION AUTHORITY

26 April 2022