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27 April 2021

Tasmanian Planning Commission
Att: John Ramsay – Delegate (Chair)

GPO Box 1691 Hobart Tas 7001
Email: enquiry@planning.tas.gov.au

Dear Mr Ramsay,

CLARENCE DRAFT LPS - TPC DIRECTION AIRPORT CODE MAPPING & CLARENCE HEIGHTS SAP

I refer to the Commission's direction dated 16 April and subsequent correspondence dated 26 April 2021 relating to the above. The direction specified that seven to days prior to the hearing scheduled for 4 May 2021 Council is to:

1. Review the obstacle limitation surface supplied by the Hobart Airport on 30 September 2020 and calculate the number of properties that would be impacted by clause C16.6.1 A1 of the State Planning Provisions, including:
 - the number of potential and existing residential properties; and
 - the number of potential and existing commercial properties
2. In consultation with E3 Planning for Fenshaw Pty Ltd to provide:
 - evidence of on why the policy position should be changed as proposed in the modifications to clauses CLA-S1.8.2, CLA-S1.8.3, CLA-S1.8.4, and CLA-S1.8.6; and
 - details of the vegetation values of the site and why the additional protections and offset requirements are no longer required.

Each of these matters are addressed below.

1. Review the obstacle limitation surface

The Hobart Airport's obstacle limitation surface layer overlays **31,123** existing properties in Clarence, and if approved, would all be the subject to the provisions of the Safeguarding of Airports Code.

None of these properties would be “impacted” by the Safeguarding of Airports Code unless development above the elevation of obstacle limitation surface is proposed. In real terms it is considered that the properties “impacted” by the Code are those with elevations above the obstacle limitation surface levels and those within 10m (vertically) of it.

The table below summarises the number of lots that would be subject to the Safeguarding of Airports Code and provides a breakdown of the existing properties and potential estimated lot yield based on the assigned LPS draft zones (as exhibited). Minimum lot size assumptions are as shown and while unsophisticated the approach taken is considered sufficient for this purpose.

Lots subject to the Safeguarding of Airports Code

Total Number of existing properties subject to Code overlay mapping:

31123

Number of lots elevated above the obstacle limitation surface RL's less 10.0m:

Authority Land	97
Casement	154
Private	866
Total	1117

Breakdown of Privately Owned Lots

Zones		No. Existing Lots (Zone1)	No. Existing Vacant lots (Zone 1)	Estimated lot yield						
				Min lot size*	Zone 1	Zone 2	Zone3	Zone4	Combined Aggregate	
					(Primary)	(multiple zoned lots)				
Residential Zones	General Residential	18	18	600m2	1284	131			1415	**
	Low Density Residential	3	3	3000m2	26	6	50	6	88	
	Landscape Conservation	169	133	50Ha	191	2			193	
	Rural Living	556	493	2Ha	674	25		16	715	
	Future Urban			600m2		805			805	
	Total	746	647						2411	
Commercial/Other Zones	Agricultural	29	27	20Ha	33	3	3		39	
	General Industrial	5	4	5000m2	98	27			125	
	Light Industrial			5000m3			28		28	
	Local Business			600m2				23	23	
	Rural	76	65	20Ha	191				191	
	Open Space	3	2	N/A	3				3	
	Recreation	2	2	N/A	2				2	
	Community Purpose			5000m2		8	3		11	
	Utilities			N/A#		9			9	
	Total	115	100						411	

* Min lot size used for yield calcs - all rounded down and subminimum lots rounded up to one

**1263 lots in Parranville and Clarence Heights (Western side of Meehan Range)

lot size not relevant - yield assumed one additional lot per application pf zone per lot

The following figures (attached) spatially represent the table above.

Figure 1: Parcels subject to Safeguarding of Airports Code Obstacle Limitation Surface

Figure 2: Parcels Elevated above the Obstacle Limitation Surface elevation less 10.0m

Figure 3: Modified Obstacle Limitation Surface & Draft LPS Zones

2. *Clarence Heights SAP*

In collaboration with E3 Planning Council provides the following.

Evidence of on why the policy position should be changed as proposed in the modifications to clauses:

CLA-S1.8.2

Objective:	That Clarendon Vale together with Clarence Heights appears as a contained settlement set below the wooded slopes of the Meehan Range. Subdivision is designed to minimise visual impact.	
Acceptable Solutions		Performance Criteria
A1 The subdivision includes no new roads.		P1 Roads must be designed and landscaped to reduce visual impact having regard to: (a) locating roads primarily across contours; (b) a landscape plan; and (c) density of trees along streets being comparable to 2 trees per lot or 1 tree between lots on the top side of a street and 2-3 trees alongside each of the lots on the lower side of a street, providing privacy on the lower side.

Comment:

It is submitted that this proposed change is not a fundamental policy shift but rather a mechanism to remove a very prescriptive standard not used elsewhere in the Local Provision Schedule (LPS) or State Planning Provisions (SPP's). The exhibited version (prior to the tracked changed deletion above) reads similarly to an Acceptable Solution (AS) in an environment that may warrant deviation from the prescribed standard due to the localised topography and the design response to (a) and (b). The stated objective will assist to inform the assessment of (c) and it is submitted that the proposed modification will be less prescriptive and allow flexibility were required/desirable.

With the exception of Lot E, no lots with the SAP Area have been created and accordingly no public interest has been compromised.

CLA-S1.8.3

This clause is in addition to General Residential Zone - clause 8.6 Development Standards for Subdivision, Low Density Residential Zone - clause 10.6 Development Standards for Subdivision, Local Business Zone - clause 14.5 Development Standards for Subdivision, Rural Zone - clause 20.5 Development Standards for Subdivision, Landscape Conservation Zone - clause 22.5 Development Standards for Subdivision, and Open Space Zone - clause 29.5 Development Standards for Subdivision.

Objective:	To provide an efficient road system compatible with safe use of the streets by cyclists and providing for convenient cycle and pedestrian circulation.
Acceptable Solutions	Performance Criteria
A1 The subdivision includes no new roads.	P1 <u>The road layout must be generally consistent with the Clarence Heights Master Plan shown in Figure CLA-S1.3 and Figure CLA-S1.4. Having particular regard to connectivity and legibility for all road users.</u> <u>The road layout and a traffic impact assessment must demonstrate that:</u> (a) — the road network will achieve a low-hazard and low-speed traffic environment and include road design-cues for driving speeds of 40kph on minor collectors and residential streets and 20kph on access places; (b) — the layout provides connectivity to the walking and cycle system; and <u>(e)(a) the hierarchy and layout can be readily understood by motorists and pedestrians.</u>

Comment:

It is submitted that the modification will provide more certainty than the exhibited version (prior to the tracked changes shown above). The Master Plans at CLA-S1.3 and S1.4 are well established as being fundamental to the implementation of the SAP, and with the exception of one building envelope on lot E, are not proposed to be amended.

For this reason, the amendment does not represent a policy shift, it simply reinforces the approved Masterplans.

CLA-S1.8.4, and

CLA-S1.8.4 Natural values

This clause is in addition to General Residential Zone - clause 8.6 Development Standards for Subdivision, Low Density Residential Zone - clause 10.6 Development Standards for Subdivision, Local Business Zone - clause 14.5 Development Standards for Subdivision, Rural Zone - clause 20.5 Development Standards for Subdivision, Landscape Conservation Zone - clause 22.5 Development Standards for Subdivision, and Open Space Zone - clause 29.5 Development Standards for Subdivision.

Objective:	That subdivision configuration is to be compatible with established natural values.	
Acceptable Solutions		Performance Criteria
A1 Each lot, or a lot proposed in a plan of subdivision, is located in the Urban Precinct shown in Figure CLA-S1.2.	P1 (a) Subdivision, excluding subdivision in the Urban Precinct, must demonstrate that the proposed road network and lot configuration, having regard to the likely future development of the proposed lots, will have a negligible or minor impact on native vegetation. (b) Lots in the Skyline East Precinct and the Transition Precinct must include the identification of a building area located: (a) within the Transition Precinct; (b) <u>generally</u> in accordance with the building envelopes shown in Figure CLA-S1.3 and Figure CLA-S1.4; or (c) on the lower slopes below the skyline; and (d) in a visually unobtrusive area; and (e) to result in negligible or minor impact on native vegetation when developed. (c) Any lots created in the Skyline Precinct require the preparation of a conservation plan. The plan is to be attached to the lot either by way of a covenant with the Crown under the Nature Conservation Act 2000, or by an agreement made under Section 71 of the Act.	

Comment:

Clause CLA-S1.8.4 P1(c) is proposed to be deleted as it is an unlawful planning provision. It seeks to require the Minister on behalf of the Crown, whom would not be a party to any

application to enter into a conservation covenant with a landowner. S34 of the *Nature Conservation Act 2000* (extract below) provides the Minister with the option, if **they** consider it necessary or desirable to do so. The clause seeks to remove the Minister's discretion.

Requiring building envelopes to be identified on subdivided lots as per clause CLA-S1.8.4 P1(b) (a)-(e) is considered to achieve the same outcome as that sought under clause CLA-S1.8.4 P1(c) without overriding the power of the Minister as specified in the *Nature Conservation Act 2000*.

34. Minister may enter into conservation covenants

- (1) The Minister on behalf of the Crown may enter into a conservation covenant with a landowner if the Minister considers it necessary or desirable to do so for a conservation purpose.
- (2) A conservation covenant may contain such covenants and other provisions as the Minister and the landowner agree.
- (3) Without limiting the generality of [subsection \(2\)](#) , a conservation covenant may contain –
 - (a) provisions relating to the payment of compensation or the provision of financial or other assistance to the landowner; and
 - (b) provisions relating to the repayment of money or, if applicable, the waiver of entitlements to statutory compensation.
- (4) A conservation covenant in respect of reserved land in the class of private sanctuary or private nature reserve may not contain a provision which is –
 - (a) inconsistent with the management objectives for that class of reserved land; or
 - (b) contrary to, or inconsistent with, a management plan in force in respect of that reserved land.
- (5) A conservation covenant may be a restrictive covenant or a positive covenant.
- (6) A conservation covenant –
 - (a) runs with the servient land as if it were a covenant to which [section 102\(2\) of the Land Titles Act 1980](#) applies; and
 - (b) is enforceable between the parties to it, and any person deriving title under any such party, as if the covenant were entered into by a fee simple owner of land for the benefit of adjacent land held by the Crown in fee simple that was capable of being benefited by the covenant and as if that adjacent land continued to be so held by the Crown.

CLA-S1.8.6;

CLA-S1.8.6 Staging

This clause is in addition to General Residential Zone - clause 8.6 Development Standards for Subdivision, Low Density Residential Zone - clause 10.6 Development Standards for Subdivision, Local Business Zone - clause 14.5 Development Standards for Subdivision, Rural Zone - clause 20.5 Development Standards for Subdivision, Landscape Conservation Zone - clause 22.5 Development Standards for Subdivision, and Open Space Zone - clause 29.5 Development Standards for Subdivision.

Objective:	To provide timely provision of offset planning <u>landscaping</u> , establishment of open space areas, land management and hazard reduction.
Acceptable Solutions	Performance Criteria
A1 The subdivision is not staged.	P1 Staged subdivision must provide for: (a) offset planting in lieu of vegetation removal to be established at the same time, or prior to, the works which cause the vegetation loss <u>landscaping of open space and road reservations;</u> (b) transfer of open space areas at an early stage developed as

	<u>recognisable parks before adjacent areas are developed;</u> (a)(c) <u>A condition of approval will include implementation and monitoring of weed management and protection of natural values during development.</u> (b) <u>planting required for visual screening to be established to provide sufficient screening before the commencement of potentially visually intrusive development;</u> (c) <u>establishing open space areas as recognisable parks before adjacent areas are developed;</u> (d) <u>implementation and monitoring of weed management; and</u> (e) <u>protection of natural values during development.</u>
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Comment:

The exhibited Objective made reference to both “offset planning” and “hazard reduction”. These matters are mutually exclusive, and the implementation of one may be to detriment of the

other. The proposed reference to “landscaping” recognises the need to balance both the desire for appropriate vegetation species and density within its setting.

It is considered unrealistic to ensure the establishment of mature vegetation screening before the commencement of any works that may require it. The degree /efficacy of the screening is subjective, and the standard of screening required will vary depending on visual prominence of the area as well as the maturity, density and species of vegetation.

The proposed alterations provide a pathway to progress the timely delivery of lots while ensuring that natural values and weeds are managed during construction and future publicly owned lots are landscaped appropriately and transferred at an early stage of development. The proposed alterations would not diminish the requirement for vegetation protection but would provide greater certainty via the requirement for landscaping.

Details of the vegetation values of the site and why the additional protections and offset requirements are no longer required.

Comment:

In addition to the above response to CLA-S1.8.6 modifications, under the both the current Interim Planning Scheme and future TPS, Natural values are managed through the application of the Natural Asset Code. The Code applies to those areas identified as being likely to contain natural values and its application provides for state-wide consistency. Accordingly removing matters associated with natural assets from the SAP and deferring consideration of to the Natural Asset Code will further the TPS.

Additional Note: CLA-S1.7.1 A1 (a)

Clause CLA-S1.7.1 A1 (a) refers to “must be” twice as shown (underlined for emphasis):

“(a) all external surfaces of buildings, structures, paving and retaining walls must be must be coloured using colours with a light reflectance value not more than 40%.”

This error ought to be corrected.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Dan Ford', with a stylized flourish at the end.

Dan Ford
STRATEGIC PLANNER

Figure 1: Parcels subject to Safeguarding of Airports Code Obstacle Limitation Surface Overlay

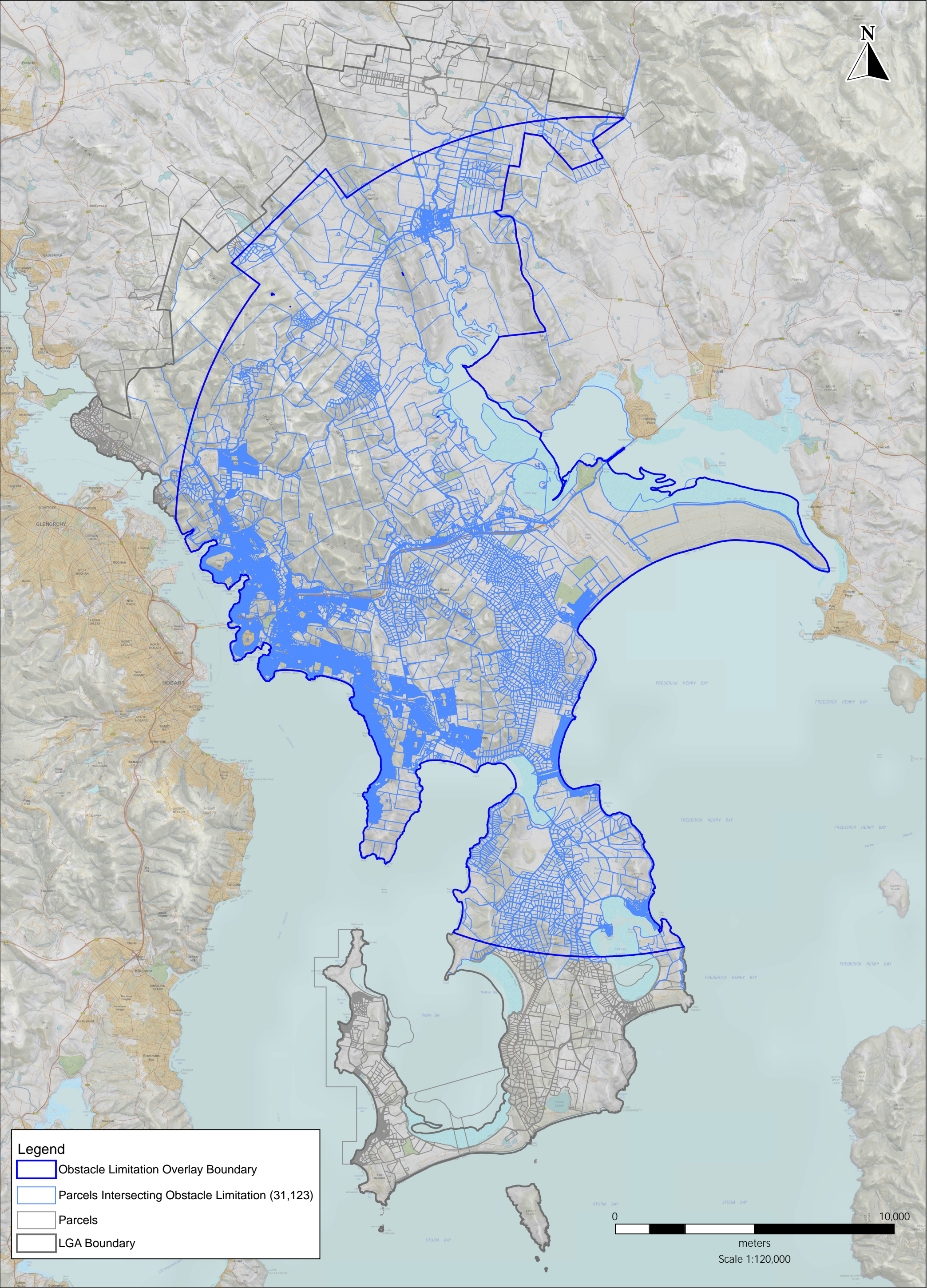


Figure 2: Parcels Elevated above the Obstacle Limitation Surface elevation less 10.0m

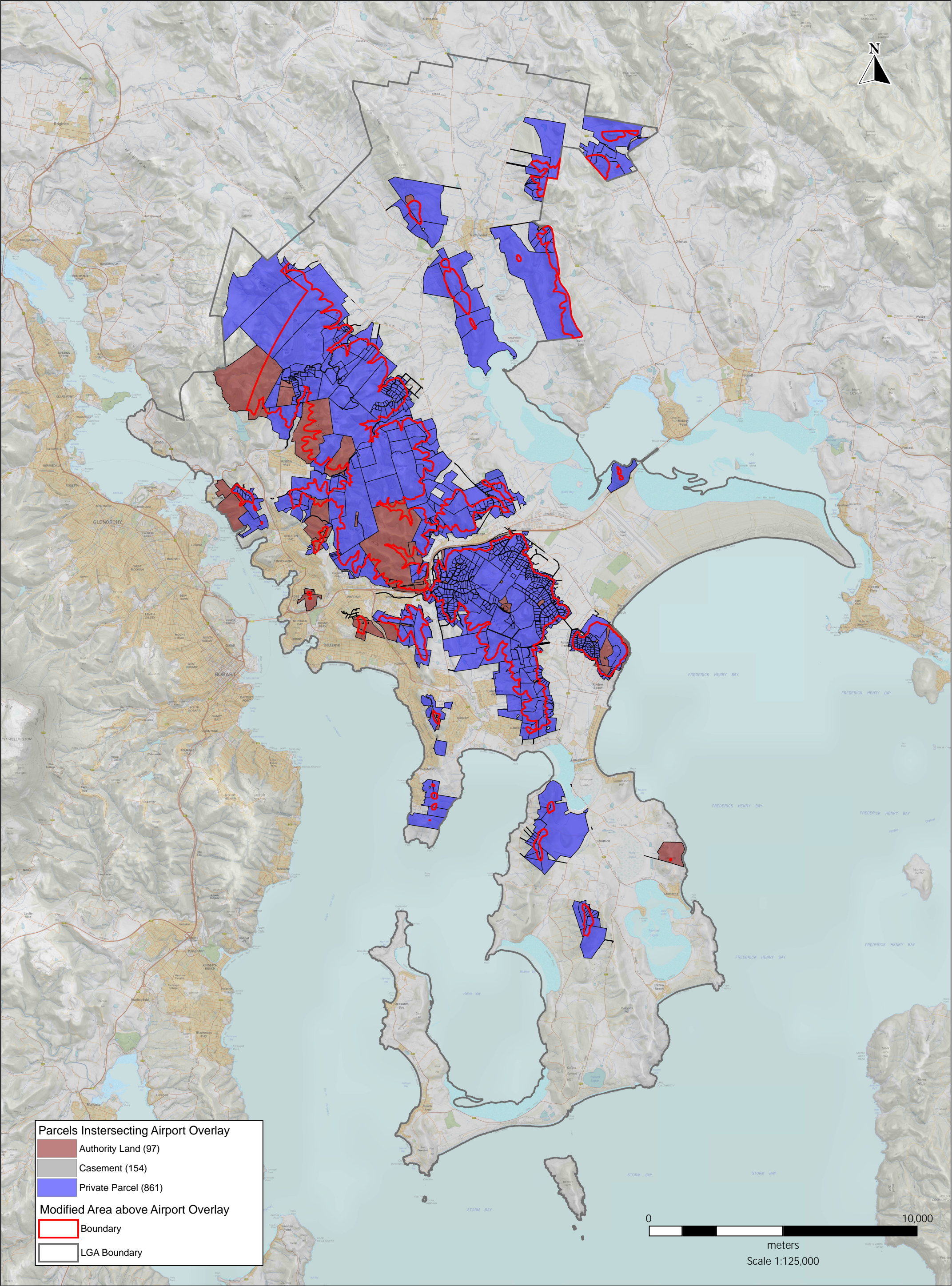


Figure 3: Modified Obstacle Limitation Surface & Draft LPS Zones

