

16 August 2023

Mr John Ramsay
Delegate (Chair)
Tasmanian Planning Commission
Level 3, 144 Macquarie Street
HOBART TAS 7000

Dear Mr Ramsay

**RE: CLARENCE LOCAL PROVISIONS SCHEDULE
DRAFT AMENDMENT PDPSAMEND-2021-022802**

We refer to the Directions Letter dated 1 August 2023 and the enclosed Draft Specific Area Plan and other supporting attachments regarding the rezoning of Howrah Hills (PDPSAMEND-2021-022802).

We take this opportunity on behalf of our client to thank the Commission for the materials provided.

We have now considered the draft Specific Area Plan (**SAP**) and other documents, and we submit that as currently drafted the classification of multiple dwellings as a Discretionary Use under Table CLA-S23.5 will lead to ambiguity and leave future development applications open to potential challenge on the grounds of whether multiple dwellings are acceptable. Given all of the effort and expense (from all interested parties) that has gone into this process to date, we feel this residual ambiguity should, and can sensibly, be avoided.

Under clause 6.10.2 of the State Planning Provisions, Discretionary Uses are to be determined by having regard to the following:

- the purpose of the applicable zone;
- any relevant local area objective for the relevant zone;
- the purpose of any applicable code;
- the purpose of any applicable specific area plan;
- any relevant local area objective for any applicable specific area plan; and
- the requirements of any site-specific qualification, but in the case of the exercise of discretion, only insofar as each such matter is relevant to the particular discretion being exercised.

The purpose of the Specific Area Plan as drafted by the Commission is to protect the natural and scenic values of Howrah Hills while allowing for low density and scale residential infill. The draft SAP also states that the Local Area Objective for Precinct A is to facilitate residential development that conserves visual landscape values. Furthermore, the Local Area Objective for Precinct B is to allow for low density and scale of residential infill development that transitions appropriately between the existing urban residential area and the native bushland of the Howrah Hills.

The detailed evidence provided by experts and the rest of the TPC hearing process undertaken in June have already established that multiple dwellings are an acceptable *Use* in this area, provided that the *Development* of those dwellings is carried out in a way that is sensitive to the landscape values of the land.

We submit that it therefore follows that multiple dwellings should be a Permitted Use. The Development Standards under the proposed SAP in relation to site density and coverage, landscape protection and clearance within priority vegetation areas, together with the provisions of the Landscape Conservation Zone and the Natural Assets Code, are sufficient to ensure that any development of multiple dwellings will be sensitive to the landscape values and will therefore be consistent with the various purposes, objectives and other considerations discussed above.

We accordingly **enclose** an amended version of the Use Table CLA-S23.5 which makes multiple dwellings within Areas A and B a Permitted Use as opposed to a Discretionary Use for your consideration.

Please contact the writer if you have any questions.

Kind regards

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

James Groom

Director

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CLA-S23.0 Howrah Hills Residential Specific Area Plan**CLA-S23.1 Plan Purpose**

CLA-S23.1.1 The purpose of the Howrah Hills Residential Specific Area Plan is to protect the natural and scenic values of the Howrah Hills while allowing low density residential infill.

CLA-S23.2 Application of this Plan

CLA-S23.2.1 This specific area plan applies to the areas of land designated as the Howrah Hills Residential Specific Area Plan on the overlay maps.

CLA-S23.2.2 In the area of land to which this plan applies, the provisions of the specific area plan are in substitution, modification, or addition to the provisions of the Landscape Conservation Zone, as specified in the relevant provision.

CLA-S23.3 Local Area Objectives

GSB-S23.3.1 Local Area Objectives

| Sub-clause | Area description | Local Area Objective |
|---------------|---|--|
| CLA-S23.3.1.1 | Precinct A within the area shown on an overlay map as CLA-S23.2.1.1 and shown as A in Figure CLA-S23.1. | The local area objectives for Precinct A are to: (a) Facilitate residential development conserves the visual landscape values of the mid-slopes of Howrah hills. (b) Allow for a low density and scale of residential infill development in a visually sensitive location within an existing modified landscape. |
| CLA-S23.3.1.2 | Precinct B within the area shown on an overlay map as CLA-S23.2.1.1 and shown as B in Figure CLA-S23.1. | The local area objective for Precinct B is to allow for low density and scale of residential infill development that acts as a transition area between the existing Howrah urban residential area and native bushland on Howrah hills. |

CLA-S23.4 Definition of Terms

This sub-clause is not used in this specific area plan.

CLA-S23.5 Use Table

This use table is in substitution of clause 22.2 of the Landscape Conservation Zone.

| Use class | Qualification |
|--|---------------|
| No Permit Required | |
| Natural and Cultural Values Management | |
| Passive Recreation | |

| | |
|-----------------------|--|
| Permitted | |
| Residential | If for a: (a) home-based business; or <u>(b) single dwelling located within a building area, if shown on a sealed plan or with all roofed buildings located within Precincts A or B; or</u> (b) <u>(c) for multiple dwellings with all roofed buildings located within Precincts A or B.</u> |
| Utilities | If for minor utilities. |
| Discretionary | |
| Residential | If: (b) for a single dwelling; or (c) for multiple dwellings with all roofed buildings located within Precincts A or B. |
| Utilities | If not listed as Permitted. |
| Visitor Accommodation | |
| Prohibited | |
| All other uses | |

CLA-S23.6 Development Standards for Dwellings

CLA-S23.6.1 Residential density for multiple dwellings

This clause is in addition to clause 22.4 of the Landscape Conservation Zone.

| Objective: | That the density of multiple dwellings: (a) is appropriate for the natural and visual values of Howrah Hills; and (b) provides for low density residential infill development. |
|--|--|
| Acceptable Solutions | Performance Criteria |
| A1 Within a site the maximum density of multiple dwellings must be 3000m ² per dwelling in Precinct A and 2000m ² per dwelling in Precinct B. | No acceptable criteria |

CLA-S23.6.2 Site coverage

This clause is in substitution of clause 22.4.1 of the Landscape Conservation Zone.

| Objective: | That the site coverage is compatible with the protection, conservation and management of the landscape values of the site and surrounding area. |
|--|---|
| Acceptable Solutions | Performance Criteria |
| A1 Site coverage for uses other than multiple dwellings must not be more than 400m ² . | P1 Site coverage must be compatible with the landscape values of the site and surrounding area, having regard to: |

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| | <ul style="list-style-type: none"> (a) the topography of the site; (b) the capacity of the site to absorb run-off; (c) the size and shape of the site; (d) the existing buildings and any constraints imposed by existing development; (e) the need to remove vegetation; (f) the location of development in relation to cleared areas; and (g) the location of development in relation to natural hazards. |
| <p>A2 Site coverage for multiple dwellings must be not more than:</p> <ul style="list-style-type: none"> a) 700m² for two dwellings, plus an additional 300m² for each additional dwelling where the site does not contain an existing dwelling; or b) 350m² for each additional dwelling where a site contains an existing single dwelling. | <p>P2 Site coverage must no more than 20% greater than the area required by the acceptable solution and be compatible with the landscape values of the site and surrounding area, having regard to:</p> <ul style="list-style-type: none"> (a) the topography of the site; (b) the capacity of the site to absorb run-off; (c) the size and shape of the site; (d) the location and scale of existing buildings and any constraints imposed by existing development; (e) the need to remove or retain vegetation; (f) the location of development in relation to cleared areas and natural hazards; and (g) the scale, form and visibility of the development on the site. |

CLA-S23.6.3 Setback

This clause is in substitution of clause 22.4.2 A2/P2 and A3/P3 of the Landscape Conservation Zone.

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| Objective: | That the siting of dwellings is compatible with the landscape and natural values of the site. |
| Acceptable Solutions | Performance Criteria |
| <p>A1 Buildings must have a setback from all boundaries not less than 10m.</p> | <p>P1 Building setbacks must be compatible with the landscape values of the surrounding area, having regard to:</p> <ul style="list-style-type: none"> (a) the topography of the site; (b) setbacks of adjacent buildings; (c) the height, bulk and form of existing and proposed buildings; (d) the appearance when viewed from roads and public places; (e) the safety of road users; and |

| | |
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| | (f) the retention of vegetation. |
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CLA-S23.6.4 Landscape protection

This clause is in substitution to clause 22.4.4 of the Landscape Conservation Zone.

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| Objective: | |
| Acceptable Solutions | Performance Criteria |
| <p>A1</p> <p>Buildings and works, excluding multiple dwellings, must be located within a building area, if shown on a sealed plan.</p> | <p>P1</p> <p>Buildings and works must be located to minimise native vegetation removal and the impact on landscape values, having regard to:</p> <ul style="list-style-type: none"> (a) the extent of the area from which native vegetation has been removed; (b) the extent of native vegetation to be removed; (c) any remedial or mitigation measures or revegetation requirements; (d) provision for native habitat for native fauna; (e) the management and treatment of the balance of the site or native vegetation areas; (f) the type, size, and design of development; and (g) the landscape values of the site and surrounding area. |
| <p>A2</p> <p>Buildings and works, excluding multiple dwellings must:</p> <ul style="list-style-type: none"> (a) be located within a building area, if shown on a sealed plan; or (b) be an alteration or extension to an existing building providing it is not more than the existing building height; and (c) not include cut and fill greater than 1m; and (d) be not less than 10m in elevation below a skyline or ridgeline | <p>P2</p> <p>Buildings and works must be located to minimise impacts on landscape values, having regard to:</p> <ul style="list-style-type: none"> (a) the topography of the site; (b) the size and shape of the site; (c) the proposed building height, size and bulk; (d) any constraints imposed by existing development; (e) visual impact when viewed from roads and public places; and (f) any screening vegetation. <p>P2.2</p> <p>If the building and works are less than 10m in elevation below a skyline or ridgeline, there are no other suitable building areas.</p> |

CLA-S23.6.5 Clearance within a priority vegetation area

This clause is in substitution of clause C7.6.2 of the Natural Assets Code.

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| Objective: | That clearance of native vegetation within a priority vegetation area: |
|-------------------|--|

| | <p>(a) does not result in unreasonable loss of priority vegetation;</p> <p>(b) is appropriately managed to adequately protect identified priority vegetation.</p> |
|--|---|
| Acceptable Solutions | Performance Criteria |
| <p>A1</p> <p>Clearance of native vegetation within a priority vegetation area must be within a building area on a sealed plan approved under this planning scheme.</p> | <p>P1.1</p> <p>Clearance of native vegetation within a priority vegetation area must be for:</p> <ul style="list-style-type: none"> (a) an existing use on the site, provided any clearance is contained within the minimum area necessary to be cleared to provide adequate bushfire protection, as recommended by the Tasmania Fire Service or an accredited person; (b) buildings and works associated with the construction of a single dwelling, multiple dwellings or an associated outbuilding on the site; (c) use or development that will result in significant long term social and economic benefits and there is no feasible alternative location or design; (d) clearance of native vegetation where it is demonstrated that on-going pre-existing management cannot ensure the survival of the priority vegetation and there is little potential for long-term persistence; or (e) the clearance of native vegetation that is of limited scale relative to the extent of priority vegetation on the site. <p>P1.2</p> <p>Clearance of native vegetation within a priority vegetation area must minimise adverse impacts on priority vegetation, having regard to:</p> <ul style="list-style-type: none"> (a) the design and location of buildings and works and any constraints such as topography or land hazards; (b) any particular requirements for the buildings and works; (c) minimising impacts resulting from bushfire hazard management measures through siting and fire-resistant design of habitable buildings; (d) any mitigation measures implemented to minimise the residential impacts on priority vegetation; (e) any on-site biodiversity offsets; and (f) any existing cleared areas on the site. |

Figure CLA-S23.1

Howrah Hills Residential Specific Area Plan

