

# STATEMENT OF EVIDENCE

<b>Reference:</b>	<b>Draft Amendment PDPSAMEND-2021/022804 Clarence Local Provisions Schedule</b>
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<b>Field of Expertise:</b>	<b>Planning</b>
<b>Filed on behalf of:</b>	<b>Howrah Hills Landcare Group Inc.</b>
<b>Date:</b>	<b>27 February 2023</b>

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# 1. INTRODUCTION

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## 1.1 PREAMBLE

- 1.1.1 This is a statement of evidence from Jacqui Blowfield, Planning Consultant of 49 Tasma Street Hobart. I hold recognised qualifications in Urban and Regional Planning and have 25 years of experience as a planner.
- 1.1.2 I am a Fellow of the Planning Institute of Australia and have maintained recognition through ongoing professional development.
- 1.1.3 My formal planning experience commenced in 1998, from which time I have held planning positions within local government, including over 8 years at Clarence City Council, and for over 15 years as a consultant planner with Ireneinc Planning & Urban Design.
- 1.1.4 I am also an Accredited Person under Part 4A of the Fire Services Act 1979 (Accreditation Number: BFP - 102), able to perform the functions of an Accredited Person under Section 60B of the Fire Service Act 1979.
- 1.1.5 I have appeared as expert witness in the Tasmanian Planning Commission (TPC) and Tasmanian Civil & Administrative Tribunal (previously RMPAT) on numerous occasions over a period spanning more than 18 years.

## 1.2 SCOPE

- 1.2.1 I have been engaged by the Howrah Hills Landcare Group Inc. to provide expert planning evidence in relation to the proposed draft amendments to the Clarence Local Provisions Schedule.

## 1.3 DECLARATION

- 1.3.1 This statement of evidence has been prepared in accordance with the Tasmanian Planning Commission's Practice Note 14 - Expert Evidence. I have made all enquiries which I believe are desirable and appropriate and no matters of significance which I regard as relevant have to my knowledge, been withheld from the Delegates.
- 1.3.2 I have attempted at all times in preparing this proof to distinguish between matters of fact, professional opinion and submission.

## 2. THE DRAFT AMENDMENT

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### 2.1 BACKGROUND

2.1.1 The Tasmanian Planning Commission's decision relating to the Clarence Local Provisions Schedule (LPS) reflected the delegates consideration as follows:

34. *The Commission accepts the evidence of the representor that the Low Density Residential Zone is not the most appropriate zone for the land due to the high conservation natural values present, due to the potential visual impact of increased density, and because in this instance, the Low Density Residential Zone is not an equivalent translation from the Low Density Residential Zone under the interim planning scheme.*
35. *The Commission considers the application of the Landscape Conservation Zone to the land is consistent with LCZ1 of Guideline No. 1 in that the land contains threatened vegetation communities identified for protection and conservation.*
36. *The Commission notes that some parts of the land proposed for the Landscape Conservation Zone are not identified as containing natural vegetation; however, the Commission accepts the evidence of Mr Chetwynd that the land provides a transition to the vegetated slopes of the hillside which is an important visual backdrop to the suburb. This land is therefore also consistent with LCZ1 of Guideline No. 1 in that it is an area of important scenic values.*
37. *The Commission also agrees with the representor that the supplied Vegetation Communities Risk Map produced by Entura in 2011 is relatively consistent with the TASVEG mapping, except for the land within the General Residential Zone which has already been developed at a high density, and some areas of the Low Density Residential Zone lots on the eastern side of Skyline Drive.*
38. *The Commission notes that NAC12 of Guideline No. 1 states that the priority vegetation area overlay may include areas of native vegetation which have identified as being of local importance based on field verification, analysis or mapping undertaken by, or on behalf of, the planning authority. The Commission considers the Vegetation Communities Risk Map and associated Natural Assets Information Manual demonstrates the land predominantly contains vegetation of at least local importance, and accepts the evidence of Dr Wiltshire that the vegetation is likely to be of greater significance. The Commission therefore considers that the application of the priority vegetation area overlay is consistent with NAC12 of Guideline No. 1.<sup>1</sup>*

2.1.2 In its consideration the TPC included assessment against the LPS Criteria including the applicable regional land use strategy the Southern Tasmanian Regional Land Use Strategy 2010-2035.

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<sup>1</sup> [https://www.planning.tas.gov.au/\\_\\_data/assets/pdf\\_file/0004/616522/Decision-and-reasons-to-substantially-modify-part-of-the-Clarence-draft-LPS-24-June-2021.PDF](https://www.planning.tas.gov.au/__data/assets/pdf_file/0004/616522/Decision-and-reasons-to-substantially-modify-part-of-the-Clarence-draft-LPS-24-June-2021.PDF)

2.1.3 Given the above the TPC required substantial modification of the LPS to rezone from Low Density Residential Zone to Landscape Conservation Zone and to apply the priority vegetation area overlay to the following properties:

- (a) 125 Norma Street, Howrah (folio of the Register 26606/146);
- (b) 18 Newhaven Drive, Howrah (folio of the Register 26629/145);
- (c) 5 Zenith Court, Howrah (folio of the Register 26629/144);
- (d) 100 Skyline Drive, Howrah (folios of the Register 136183/1, 2, 3, 4, 5, 6, & 7);
- (e) 73 Skyline Drive, Howrah (folio of the Register 136183/8);
- (f) 46 Skyline Drive, Howrah (folio of the Register 48113/13);
- (g) 60A Skyline Drive, Howrah (folio of the Register 104949/6);
- (h) 60B Skyline Drive, Howrah (folio of the Register 104949/5); and
- (i) 60C Skyline Drive, Howrah (folio of the Register 136183/11).

2.1.4 The Council with therefore required to prepare a draft amendments to the LPS under section 35KB(1) of the *Land Use Planning and Approvals Act 1993* (the Act).

2.1.5 The amendments are as described in the Council's Section 40K reports as follows:



Figure 1: Properties to be rezoned from Low Density Residential to Landscape Conservation.

Figure 2: Area to which the priority vegetation overlay is proposed to apply

**Figure 1: Amendment maps - Source: extract from Clarence - draft amendment - PDPSAMEND-2021-022802 - Clarence City Council - Section 40K 11 April 2022**

## 2.2 THE SUBJECT LAND

2.2.1 The land subject to the amendments is as follows:

Address	Title ref.	Land area (approx.)	Proposed rezoning area (approx.)	Proposed additional overlay area (approx.)
125 Norma St	26606/146	2.34ha	whole lot	2.13ha
18 Newhaven Drv	26629/145	1.066ha	whole lot	665m <sup>2</sup>
5 Zenith Crt	26629/144	1.281ha	whole lot	1569m <sup>2</sup>
46 Skyline Drv	48113/13	2093m <sup>2</sup>	whole lot	whole lot
60A Skyline Drv	104949/6	6093m <sup>2</sup>	whole lot	whole lot

60B Skyline Drv	104949/5	7232m <sup>2</sup>	whole lot	whole lot
60C Skyline Drv	136183/11	5533m <sup>2</sup>	whole lot	whole lot
73 Skyline Drv	136183/8	522m <sup>2</sup>	whole lot	whole lot
100 Skyline Drv	136183/1	967m <sup>2</sup>	whole lot	nil
	136183/2	5843m <sup>2</sup>	3409m <sup>2</sup>	2482m <sup>2</sup>
	136183/3	3614m <sup>2</sup>	1871m <sup>2</sup>	1614m <sup>2</sup>
	136183/4	2.882ha	3922m <sup>2</sup>	3961m <sup>2</sup>
	136183/5	18.81ha	5590m <sup>2</sup>	5590m <sup>2</sup>
	136183/6	24.65ha	(near road) 5018m <sup>2</sup>	5018m <sup>2</sup>
			(western triangle) 8744m <sup>2</sup>	8744m <sup>2</sup>
	136183/7	1.197ha	7794m <sup>2</sup>	7794m <sup>2</sup>

2.2.2 The following figure further identifies the subject properties and land:

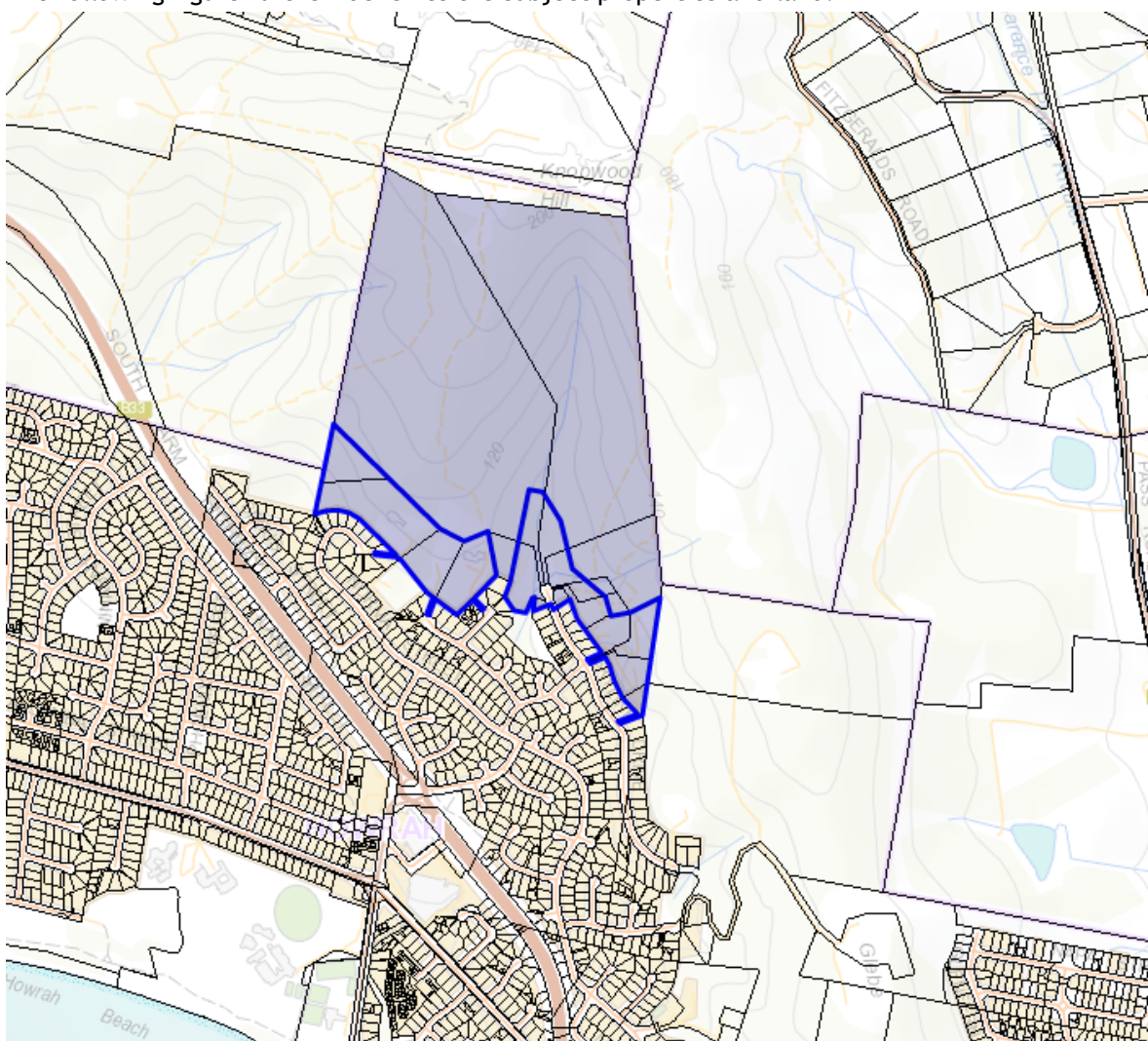


Figure 2: Location - topographic plan and cadastre from www.thelist.tas.gov.au © State of Tasmania, (subject properties shaded blue, rezoning area outlined in blue)

2.2.3 The following figure further describes the site and surrounds:





Figure 3: Aerial with State aerial, road centrelines and cadastre parcels from [www.thelist.tas.gov.au](http://www.thelist.tas.gov.au) © the State of Tasmania

### 3. TASMANIAN PLANNING SCHEME - CLARENCE

#### 3.1 ZONE

- 3.1.1 The current zoning plan for the area is detailed in the figure below. The zones applicable to the subject land are the Low Density Residential Zone and for the balance areas of some lots the Landscape Conservation Zone.

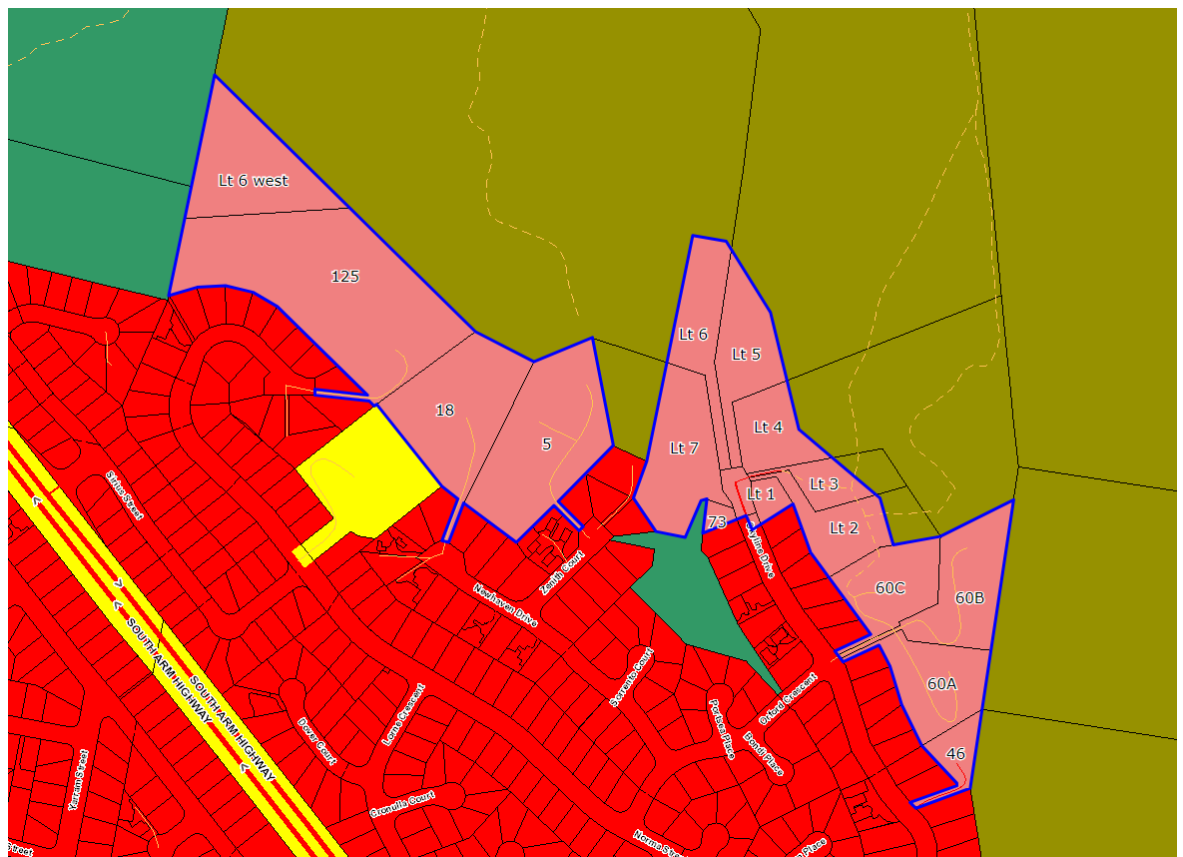


Figure 4: Zones, with TPS zones, cadastral parcels and road centrelines from [www.thelist.tas.gov.au](http://www.thelist.tas.gov.au) © the State of Tasmania

- 3.1.2 The purpose of the 2 relevant zones is as follows:

<b>10.0 Low Density Residential Zone</b>	<b>22.0 Landscape Conservation Zone</b>
<p>...The purpose of the Low Density Residential Zone is:</p> <p>10.1.1 To provide for residential use and development in residential areas where there are infrastructure or environmental constraints that limit</p>	<p>...The purpose of the Landscape Conservation Zone is:</p> <p>22.1.1 To provide for the protection, conservation and management of landscape values.</p>



<p>the density, location or form of development.</p> <p>10.1.2 To provide for non-residential use that does not cause an unreasonable loss of amenity, through scale, intensity, noise, traffic generation and movement, or other off site impacts.</p> <p>10.1.3 To provide for Visitor Accommodation that is compatible with residential character.</p>	<p>22.1.2 To provide for compatible use or development that does not adversely impact on the protection, conservation and management of the landscape values.</p>
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- 3.1.3 As described above the Low Density Residential Zone is focused on providing for residential development which protects residential amenity on land that is constrained from development to more urban density of General Residential Zone areas. While the Landscape Conservation Zone is focused on protection and conservation of landscape values of the land which is in this case typified by the forested upper slopes and hills above the established residential areas on lower slopes.

## 3.2 USE

- 3.2.1 The comparative use tables for the two relevant zones are as follows:

USE CLASS	LOW DENSITY RESIDENTIAL	LANDSCAPE CONSERVATION
<b>Business and Professional Services</b>	<b>Discretionary</b> If for a consulting room, medical centre, veterinary centre, child health clinic or for the provision of residential support services.	<b>Prohibited</b>
<b>Community Meeting and Entertainment</b>	<b>Discretionary</b> If for a place of worship, art and craft centre or public hall.	<b>Discretionary</b> If for a place of worship, art and craft centre or public hall.
<b>Domestic Animal Breeding, Boarding or Training</b>	<b>Prohibited</b>	<b>Discretionary</b>
<b>Educational and Occasional Care</b>	<b>Discretionary</b> If not for a tertiary institution.	<b>Prohibited</b>
<b>Emergency Services</b>	<b>Discretionary</b>	<b>Discretionary</b>
<b>Food Services</b>	<b>Discretionary</b> If not for a take away food premises with a drive through facility.	<b>Discretionary</b> If for a gross floor area of not more than 200m <sup>2</sup> .
<b>General Retail and Hire</b>	<b>Discretionary</b> If for a local shop.	<b>Discretionary</b> If associated with a Tourist Operation.
<b>Natural and Cultural Values Management</b>	<b>No Permit Required</b>	<b>No Permit Required</b>
<b>Passive Recreation</b>	<b>No Permit Required</b>	<b>No Permit Required</b>

<b>Cont. USE CLASS</b>	<b>LOW DENSITY RESIDENTIAL</b>	<b>LANDSCAPE CONSERVATION</b>
<b>Residential</b>	<b>No Permit Required</b> <i>If for a single dwelling.</i>	<b>Permitted</b> <i>If for a:</i>
	<b>Permitted</b> <i>If for a home-based business.</i>	(a) <i>home-based business; or</i> (b) <i>single dwelling located within a building area, if shown on a sealed plan.</i>
	<b>Discretionary</b> <i>If not listed as No Permit Required or Permitted.</i>	<b>Discretionary</b> <i>If for a single dwelling.</i>
<b>Resource Development</b>	<b>Prohibited</b>	<b>Discretionary</b> <i>If not for intensive animal husbandry or plantation forestry.</i>
<b>Sports and Recreation</b>	<b>Discretionary</b> <i>If for a fitness centre, gymnasium, public swimming pool or sports ground.</i>	<b>Discretionary</b> <i>If for an outdoor recreation facility.</i>
<b>Tourist Operation</b>	<b>Prohibited</b>	<b>Discretionary</b>
<b>Utilities</b>	<b>No Permit Required</b> <i>If for minor utilities.</i>	<b>Permitted</b> <i>If for minor utilities.</i>
	<b>Discretionary</b> <i>If not listed as No Permit Required.</i>	<b>Discretionary</b> <i>If not listed as Permitted.</i>
<b>Visitor Accommodation</b>	<b>Permitted</b>	<b>Discretionary</b>

3.2.2 As detailed above and anticipated given to purpose of the two zones, the uses able to be undertaken in the Landscape Conservation Zone (LCZ) are substantially more restricted than that of the Low Density Residential Zone (LDRZ).

3.2.3 Further, given the location of the subject land, it is considered that in relation to the likely future development of the land that the Residential and possibly Visitor Accommodation Use Classes are far more likely to occur than other technically allowable commercial uses.

3.2.4 In relation to the difference between the two zones for the Residential and Visitor Accommodation Use Classes:

- In the Low Density Residential Zone all residential uses are allowable including multiple dwellings being discretionary, and Visitor Accommodation is permitted; and
- In the Landscape Conservation Zone residential development is restricted to only provision of single dwellings as a discretionary use while visitor accommodation is also discretionary.

3.2.5 The extent of uses able to be developed in the two zones is further limited by the Use Standards, detailed in the following section.

### 3.2.6 USE STANDARDS

3.2.7 Relevant to the intensity of use allowable uses able to be undertaken, are the Use Standards for each Zone.

3.2.8 The table following compares use standards from each zone:

Low Density Residential Zone	Landscape Conservation Zone
<p><b>10.3.1 Discretionary uses</b></p> <p><b>A4</b></p> <p><i>No Acceptable Solution.</i></p> <p><b>P4</b></p> <p><i>A use listed as Discretionary must not cause an unreasonable loss of amenity to adjacent sensitive uses, having regard to:</i></p> <ul style="list-style-type: none"> <li><i>(a) the intensity and scale of the use;</i></li> <li><i>(b) the emissions generated by the use;</i></li> <li><i>(c) the type and intensity of traffic generated by the use;</i></li> <li><i>(d) the impact on the character of the area; and</i></li> <li><i>(e) the need for the use in that location.</i></li> </ul>	<p><b>22.3.3 Discretionary use</b></p> <p><b>A1</b></p> <p><i>No Acceptable Solution.</i></p> <p><b>P1</b></p> <p><i>Use listed as Discretionary must be compatible with landscape values, having regard to:</i></p> <ul style="list-style-type: none"> <li><i>(a) the nature, scale and extent of the use;</i></li> <li><i>(b) the characteristics and type of the use;</i></li> <li><i>(c) the landscape values of the site;</i></li> <li><i>(d) the landscape value of the surrounding area; and</i></li> <li><i>(e) measures to minimise or mitigate impacts.</i></li> </ul>
<p><b>Comment:</b></p> <p>The standards describe the difference in the two zones with the LDRZ being focussed on protection of residential amenity as opposed to the LCZ which relates to the protection of the landscape values of an area.</p>	
<p><b>10.3.2 Visitor Accommodation</b></p> <p><b>A1</b></p> <p><i>Visitor Accommodation must:</i></p> <ul style="list-style-type: none"> <li><i>(a) accommodate guests in existing habitable buildings; and</i></li> <li><i>(b) have a gross floor area of not more than 200m<sup>2</sup> per lot.</i></li> </ul> <p><b>P1</b></p> <p><i>Visitor Accommodation must be compatible with the character and use of the area and not cause an unreasonable loss of residential amenity, having regard to:</i></p> <ul style="list-style-type: none"> <li><i>(a) the privacy of adjoining properties;</i></li> <li><i>(b) any likely increase in noise to adjoining properties;</i></li> <li><i>(c) the scale of the use and its compatibility with the surrounding character and uses within the area;</i></li> <li><i>(d) retaining the primary residential function of an area;</i></li> <li><i>(e) the impact on the safety and efficiency of the local road network; and</i></li> <li><i>(f) any impact on the owners and users rights of way.</i></li> </ul>	<p><b>22.3.2 Visitor accommodation</b></p> <p><b>A1</b></p> <p><i>Visitor Accommodation:</i></p> <ul style="list-style-type: none"> <li><i>(a) guests are accommodated in existing buildings; and</i></li> <li><i>(b) has a gross floor area of no more than 300m<sup>2</sup>.</i></li> </ul> <p><b>P1</b></p> <p><i>Visitor Accommodation must:</i></p> <ul style="list-style-type: none"> <li><i>(a) be of a scale that respects the character of use in the area;</i></li> <li><i>(b) not cause an unreasonable impact on the landscape values of the site; and</i></li> <li><i>(c) not adversely impact the safety and efficiency of the local road network or unreasonably disadvantage owners and users of rights of carriageway.</i></li> </ul>

**Comment:**

The similarity in the above standards is in that it provides a permitted pathway for the use of existing buildings, but otherwise requires discretionary consideration under the performance criteria.

The contrast in the performance criteria is that the LDRZ is again focussed on the protection of residential amenity while the LCZ protects landscape values.

### 3.2.9 DEVELOPMENT STANDARDS

3.2.10 Relevant to the intensity of development able to be undertaken, the following compares development standards of each zone:

Low Density Residential Zone	Landscape Conservation Zone
<p><b>10.4.1 Residential density for multiple dwellings</b></p> <p><b>A1</b></p> <p><i>Multiple dwellings must have a site area per dwelling of not less than:</i></p> <p>(a) <i>1500m<sup>2</sup> if it has a connection or is capable of being connected to a full water supply service, a reticulated sewerage system and the public stormwater system; ...</i></p> <p><b>P1.1</b></p> <p><i>For a site that has a connection or is capable of being connected to a full water supply service, a reticulated sewerage system and the public stormwater system, multiple dwellings must only have a site area per dwelling that is less than 1500m<sup>2</sup> if the number of dwellings:</i></p> <p>(a) <i>is not out of character with the pattern of development existing on established properties in the area;</i></p> <p>(b) <i>does not exceed the capacity of the current or intended infrastructure services in the area; and</i></p> <p>(c) <i>the site area per dwelling is not less than 1200m<sup>2</sup>,</i></p> <p><i>having regard to any constraints to development. ...</i></p>	N/A
<p><b>Comment:</b></p> <p>For the purposes of this standard the number of dwelling which can be accommodated is calculated in accordance with the following definitions:</p> <p><b>Table 3.1 Planning Terms and Definitions</b></p> <p><i>site means the lot or lots on which a use or development is located or proposed to be located.</i></p> <p><i>site area per dwelling means the area of a site, excluding any access strip, divided by the number of dwellings on that site.</i></p> <p>There is no equivalent standard in the LCZ given multiple dwellings are prohibited.</p>	



- 3.2.11 The table below provides analysis of the permitted number of dwelling under the TPS LDRZ at 1/1500m<sup>2</sup> of site area. As detailed in the definitions included above this calculated density to be on the whole site area rather than only the area within the LDRZ.
- 3.2.12 The table below also provides an estimate of practical dwelling yield possible for the larger lots in Skyline Drive where only part of the lot is in the LDRZ, as on these lots the development footprint of multiple dwellings would have to be contained within the LDRZ area of the site notwithstanding the theoretical dwelling number calculation based on the entire lot area.

Address	Title ref.	Land area (approx)	Proposed rezoning area (approx)	Theoretical dwellings @1/1500m <sup>2</sup>	Practical dwelling no. for large dual zoned lots @1/375m <sup>2</sup>
125 Norma	26606/146	2.34ha	whole lot	15	
18 Newhaven	26629/145	1.066ha	whole lot	7	
5 Zenith	26629/144	1.281ha	whole lot	8	
46 Skyline	48113/13	2093m <sup>2</sup>	whole lot	1	
60A Skyline	104949/6	6093m <sup>2</sup>	whole lot	4	
60B Skyline	104949/5	7232m <sup>2</sup>	whole lot	5	
60C Skyline	136183/11	5533m <sup>2</sup>	whole lot	4	
73 Skyline	136183/8	522m <sup>2</sup>	whole lot	N/A CCC POS lot	
100 Skyline	136183/1	967m <sup>2</sup>	whole lot	1	
	136183/2	5843m <sup>2</sup>	3409m <sup>2</sup>	3	
	136183/3	3614m <sup>2</sup>	1871m <sup>2</sup>	2	
	136183/4	2.882ha	3922m <sup>2</sup>	19	10
	136183/5	18.81ha	5590m <sup>2</sup>	125	15
	136183/6	24.65ha	1.3762ha	164	37
	136183/7	1.197ha	7794m <sup>2</sup>	8	

- 3.2.13 Based on the table above, it is estimated that the land area within the LDRZ lots could theoretically accommodate in excess of 100 dwellings, as opposed to the 14 dwellings (1 per lot) that was anticipated in the past planning and approvals for the land.
- 3.2.14 Other development standards which particularly contrast the controls of the two applicable zones are detailed in the following:

<p><b>10.4.2 Building height</b></p> <p><b>A1</b> A dwelling must have a building height not more than 8.5m.</p> <p><b>P1</b> The height of dwellings must be compatible with the streetscape and not cause an unreasonable loss of amenity to adjoining properties having regard to:</p> <p>(a) the topography of the site;</p> <p>(b) the height of buildings on the site and adjacent properties;</p> <p>(c) the bulk and form of existing and proposed buildings;</p>	<p><b>22.4.2 Building height, siting and exterior finishes</b></p> <p><b>A1</b> Building height must be not more than 6m.</p> <p><b>P1</b> Building height must be compatible with the landscape values of the site, having regard to:</p> <p>(a) the height, bulk and form of proposed buildings;</p> <p>(b) the height, bulk and form of existing buildings;</p> <p>(c) the topography of the site;</p>
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<p>(d) <i>sunlight to habitable rooms and private open space of dwellings; and</i></p> <p>(e) <i>any overshadowing of adjoining properties.</i></p>	<p>(d) <i>the visual impact of the buildings when viewed from roads and public places; and</i></p> <p>(e) <i>the landscape values of the surrounding area.</i></p>
<p><b>10.4.3 Setback</b></p> <p><b>A1</b></p> <p><i>Dwellings, excluding protrusions that extend not more than 0.9m into the frontage setback, must have a setback from a frontage not less than 8m.</i></p> <p><b>P1</b></p> <p><i>The siting of a dwelling must be compatible with the streetscape and character of development existing on established properties in the area, having regard to:</i></p> <ul style="list-style-type: none"> <li><i>(a) the topography of the site;</i></li> <li><i>(b) the setbacks of surrounding buildings;</i></li> <li><i>(c) the height, bulk and form of existing and proposed buildings;</i></li> <li><i>(d) the appearance when viewed from roads and public open space adjacent to the site; and</i></li> <li><i>(e) the safety of road users.</i></li> </ul> <p><b>A2</b></p> <p><i>Dwellings, excluding outbuildings with a building height of not more than 2.4m and protrusions that extend not more than 0.9m horizontally from the building, must have a setback from side and rear boundaries of not less than 5m.</i></p> <p><b>P2</b></p> <p><i>The siting of a dwelling must not cause an unreasonable loss of amenity to adjoining properties, having regard to:</i></p> <ul style="list-style-type: none"> <li><i>(a) the topography of the site;</i></li> <li><i>(b) the size, shape and orientation of the site;</i></li> <li><i>(c) the setbacks of surrounding buildings;</i></li> <li><i>(d) the height, bulk and form of existing and proposed buildings;</i></li> <li><i>(e) the existing buildings and private open space areas on the site;</i></li> <li><i>(f) sunlight to private open space and windows of habitable rooms on adjoining properties; and</i></li> <li><i>(g) the character of development existing on established properties in the area.</i></li> </ul>	<p><b>A2</b></p> <p><i>Buildings must have a setback from a frontage not less than 10m.</i></p> <p><b>P2</b></p> <p><i>Building setback from a frontage must be compatible with the landscape values of the surrounding area, having regard to:</i></p> <ul style="list-style-type: none"> <li><i>(a) the topography of the site;</i></li> <li><i>(b) the frontage setbacks of adjacent buildings;</i></li> <li><i>(c) the height, bulk and form of existing and proposed buildings;</i></li> <li><i>(d) the appearance when viewed from roads and public places;</i></li> <li><i>(e) the safety of road users; and</i></li> <li><i>(f) the retention of vegetation.</i></li> </ul> <p><b>A3</b></p> <p><i>Buildings must have a setback from side and rear boundaries not less than 20m.</i></p> <p><b>P3</b></p> <p><i>Buildings must be sited to not cause an unreasonable loss of amenity, or impact on landscape values of the site, having regard to:</i></p> <ul style="list-style-type: none"> <li><i>(a) the topography of the site;</i></li> <li><i>(b) the size, shape and orientation of the site;</i></li> <li><i>(c) the side and rear setbacks of adjacent buildings;</i></li> <li><i>(d) the height, bulk and form of existing and proposed buildings;</i></li> <li><i>(e) the need to remove vegetation as part of the development;</i></li> <li><i>(f) the appearance when viewed from roads and public places; and</i></li> <li><i>(g) the landscape values of the surrounding area.</i></li> </ul> <p><b>A5</b></p> <p><i>Exterior building finishes must have a light reflectance value not more than 40%, in dark natural tones of grey, green or brown.</i></p>

	<p><b>P5</b></p> <p><i>Exterior building finishes must not cause an unreasonable loss of amenity to occupiers of adjoining properties or detract from the landscape values of the site or surrounding area, having regard to:</i></p> <p><i>(a) the appearance of the building when viewed from roads or public places in the surrounding area;</i></p> <p><i>(b) any screening vegetation; and</i></p> <p><i>(c) the nature of the exterior finishes.</i></p>
<p><b>Comment:</b></p> <p>Consistent with the Purposes of the zones and the objectives of these standards those of the LCZ are generally more restrictive and focussed on protections of the values of the land as opposed to the LDRZ are aimed at providing development that protects residential amenity. It is also noted that the LCZ includes a standard related to the external appearance of buildings which controls the external colour of finishes which is an important protection for landscape character as it ensures that where development occurs that structures are less visually prominent.</p>	

### 3.2.15 STANDARDS FOR SUBDIVISION

#### 3.2.16 The subdivision standards as compared as follow:

Low Density Residential Zone	Landscape Conservation Zone
<p><b>10.6.1 Lot design</b></p> <p><b>A1</b></p> <p><i>Each lot, or a lot proposed in a plan of subdivision, must:</i></p> <p><i>(a) have an area of not less than 1500m<sup>2</sup> and:</i></p> <p><i>(i) be able to contain a minimum area of 10m x 15m with a gradient not steeper than 1 in 5, clear of:</i></p> <p><i>a. all setbacks required by clause 10.4.3 A1 and A2; and</i></p> <p><i>b. easements or other title restrictions that limit or restrict development; and</i></p> <p><i>(ii) existing buildings are consistent with the setback required by clause 10.4.3 A1 and A2;</i></p> <p><i>... or</i></p> <p><b>P1</b></p> <p><i>Each lot, or a lot proposed in a plan of subdivision, must have sufficient useable area and dimensions suitable for its intended use, having regard to:</i></p>	<p><b>22.5.1 Lot design</b></p> <p><b>A1</b></p> <p><i>Each lot, or a proposed lot in a plan of subdivision, must:</i></p> <p><i>(a) have an area of not less than 50ha and:</i></p> <p><i>(i) be able to contain a minimum area of 25m x 25m, where ...; and</i></p> <p><i>(ii) existing buildings are consistent with the setback required by clause 22.4.2 A2, A3 and A4;</i></p> <p><i>...</i></p> <p><b>P1</b></p> <p><i>Each lot, or a proposed lot in a plan of subdivision, must have sufficient useable area and dimensions suitable for its intended use, having regard to:</i></p> <p><i>(a) the relevant Acceptable Solutions for development of buildings on the lots;</i></p> <p><i>(b) existing buildings and the location of intended buildings on the lot;</i></p> <p><i>(c) the ability to retain vegetation and protect landscape values on each lot;</i></p> <p><i>(d) the topography of the site; and</i></p>

<p>(a) the relevant requirements for development of buildings on the lots;</p> <p>(b) the intended location of buildings on the lots;</p> <p>(c) the topography of the site;</p> <p>(d) adequate provision of private open space;</p> <p>(e) the pattern of development existing on established properties in the area; and</p> <p>(f) any constraints to development, and must have an area not less than 1200m<sup>2</sup>.</p> <p>A2</p> <p>Each lot, or a lot proposed in a plan of subdivision, excluding for public open space, a riparian or littoral reserve or Utilities, must have a frontage not less than 20m.</p> <p>P2</p> <p>Each lot, or a lot proposed in a plan of subdivision, excluding for public open space, a riparian or littoral reserve or Utilities, must be provided with a frontage or legal connection to a road by a right of carriageway, that is sufficient for the intended use, having regard to:</p> <p>...,and is not less than 3.6m wide.</p>	<p>(e) the pattern of development existing on established properties in the area, and must have an area not less than 20ha.</p> <p>A2</p> <p>Each lot, or a proposed lot in a plan of subdivision, excluding those for public open space, a riparian or littoral reserve or Utilities must have a frontage of not less than 40m.</p> <p>P2</p> <p>Each lot, or a proposed lot in a plan of subdivision, must be provided with a frontage, or legal connection to a road by a right of carriageway that is sufficient for the intended use, having regard to:</p> <p>...,and is not less than 3.6m wide.</p>
<p>Comment:</p> <p>The subdivision standards of the LDRZ would provide potentially for further subdivision within the subject area, the Objecting of these subdivision standards is:</p> <p><i>That each lot:</i></p> <ul style="list-style-type: none"> <li>(a) has an area and dimensions appropriate for use and development in the zone;</li> <li>(b) is provided with appropriate access to a road; and</li> <li>(c) contains areas which are suitable for residential development.</li> </ul> <p>The Objective of the LCZ subdivision standards is:</p> <p><i>That each lot:</i></p> <ul style="list-style-type: none"> <li>(a) has an area and dimensions appropriate for use and development in the zone;</li> <li>(b) contain areas which are suitable for development, located to protect and conserve landscape values; and</li> <li>(c) is provided with appropriate access to a road.</li> </ul> <p>Again, the contrast between the zones is that the LDRZ is focused on the provisions for residential development whereas the LCZ includes consideration and protection of landscape values.</p>	



### 3.3 NATURAL ASSETS CODE

#### 3.3.1 In accordance with C7.2 this Code applies as follows:

*C7.2.1 This code applies to development on land within the following areas:*

*...(c) a priority vegetation area only if within the following zones:*

- (i) Rural Living Zone;
- (ii) Rural Zone;
- (iii) Landscape Conservation Zone;
- (iv) Environmental Management Zone;
- (v) Major Tourism Zone;
- (vi) Utilities Zone;
- (vii) Community Purpose Zone;
- (viii) Recreation Zone;
- (ix) Open Space Zone;
- (x) Future Urban Zone;
- (xi) Particular Purpose Zone; or
- (xii) General Residential Zone or Low Density Residential Zone, only if an application for subdivision.

#### 3.3.2 Relevant to the subject land as above the Code applies to mapped priority vegetation areas for:

- Development of land within the Landscape Conservation Zone; and
- In the Low Density Residential Zone, to applications for subdivision, but it does not apply to other development.

#### 3.3.3 The following details the existing extent of the priority vegetation overlay in the area:

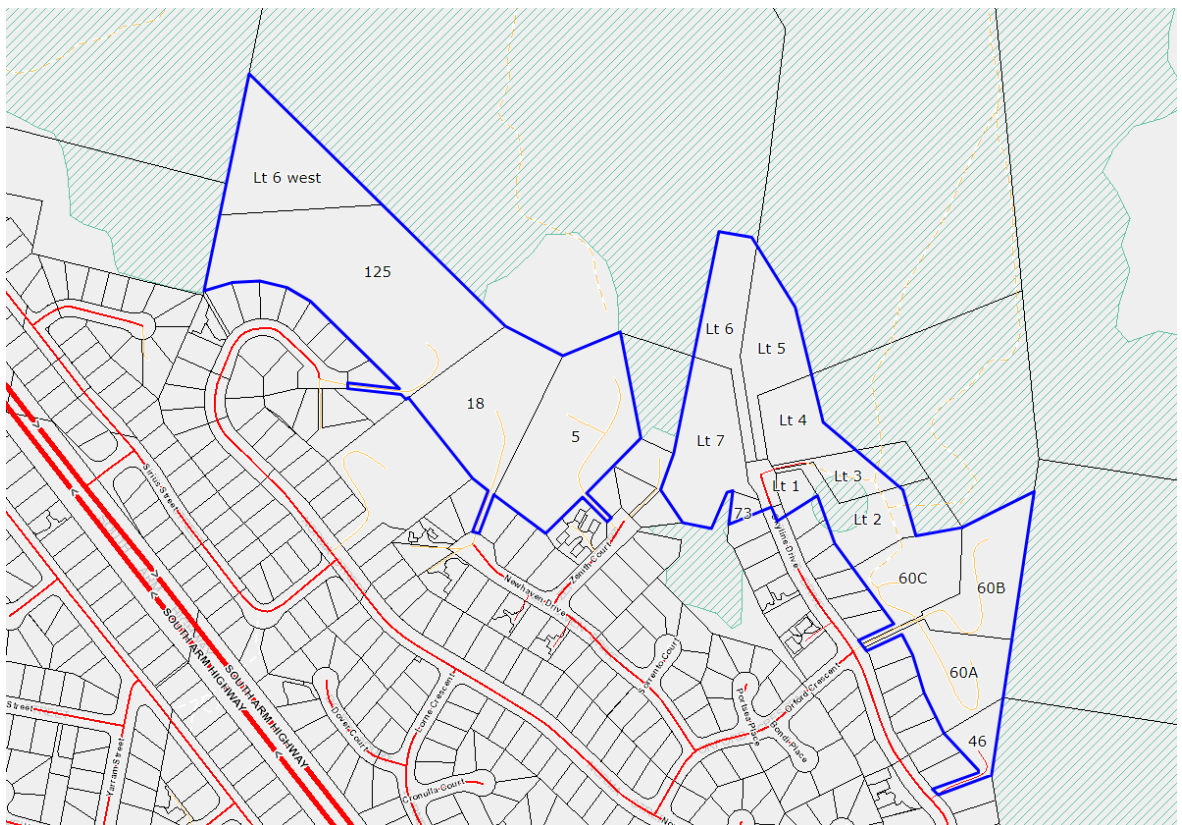


Figure 5: Code overlay, with Priority vegetation overlay, cadastral parcels and road centrelines from [www.thelist.tas.gov.au](http://www.thelist.tas.gov.au) © the State of Tasmania

### 3.3.4 DEVELOPMENT STANDARDS FOR BUILDINGS AND WORKS

3.3.5 The following standards are applicable to the Landscape Conversation Zone areas but not to the Low Density Residential Zone areas:

<b>C7.6.2 Clearance within a priority vegetation area</b>	
<p><b>A1</b>  <i>Clearance of native vegetation within a priority vegetation area must be within a building area on a sealed plan approved under this planning scheme.</i></p>	<p><b>P1.1</b>  <i>Clearance of native vegetation within a priority vegetation area must be for:</i></p> <ul style="list-style-type: none"> <li><i>(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;</i></li> <li><i>(b) buildings and works associated with the construction of a single dwelling or an associated outbuilding;</i></li> <li><i>(c) subdivision in the General Residential Zone or Low Density Residential Zone;</i></li> <li><i>(d) use or development that will result in significant long term social and economic benefits and there is no feasible alternative location or design;</i></li> <li><i>(e) 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</i></li> <li><i>(f) the clearance of native vegetation that is of limited scale relative to the extent of priority vegetation on the site.</i></li> </ul> <p><b>P1.2</b>  <i>Clearance of native vegetation within a priority vegetation area must minimise adverse impacts on priority vegetation, having regard to:</i></p> <ul style="list-style-type: none"> <li><i>(a) the design and location of buildings and works and any constraints such as topography or land hazards;</i></li> <li><i>(b) any particular requirements for the buildings and works;</i></li> <li><i>(c) minimising impacts resulting from bushfire hazard management measures through siting and fire-resistant design of habitable buildings;</i></li> </ul>

	<p>(d) <i>any mitigation measures implemented to minimise the residual impacts on priority vegetation;</i></p> <p>(e) <i>any on-site biodiversity offsets; and</i></p> <p>(f) <i>any existing cleared areas on the site.</i></p>
<p><b>Comment:</b></p> <p>The subject land has identified natural values which are not currently protected by the scheme given the current lack of application the Code Overlay.</p> <p>Even if the areas which are identified as containing significant natural value are included in the overlay the above provisions would not be applicable given Clause C7.2.1, unless the area was to be in the LCZ.</p>	

### 3.3.6 DEVELOPMENT STANDARDS FOR BUILDINGS AND WORKS

#### 3.3.7 The following standards are applicable to the Landscape Conversation Zone and to the Low Density Residential Zone areas:

<b>C7.7.2 Subdivision within a priority vegetation area</b>	
<p><b>A1</b></p> <p><i>Each lot, or a lot proposed in a plan of subdivision, within a priority vegetation area must:</i></p> <ul style="list-style-type: none"> <li>(a) <i>be for the purposes of creating separate lots for existing buildings;</i></li> <li>(b) <i>be required for public use by the Crown, a council, or a State authority;</i></li> <li>(c) <i>be required for the provision of Utilities;</i></li> <li>(d) <i>be for the consolidation of a lot; or</i></li> <li>(e) <i>not include any works (excluding boundary fencing), building area, bushfire hazard management area, services or vehicular access within a priority vegetation area.</i></li> </ul>	<p><b>P1.1</b></p> <p><i>Each lot, or a lot proposed in a plan of subdivision, within a priority vegetation area must be for:</i></p> <ul style="list-style-type: none"> <li>(a) <i>subdivision for 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;</i></li> <li>(b) <i>subdivision for the construction of a single dwelling or an associated outbuilding;</i></li> <li>(c) <i>subdivision in the General Residential Zone or Low Density Residential Zone;</i></li> <li>(d) <i>use or development that will result in significant long term social and economic benefits and there is no feasible alternative location or design;</i></li> <li>(e) <i>subdivision involving 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</i></li> <li>(f) <i>subdivision involving clearance of native vegetation that is of limited scale relative to the extent of priority vegetation on the site.</i></li> </ul>

	<p><i>P1.2</i></p> <p><i>Works association with subdivision within a priority vegetation area must minimise adverse impacts on priority vegetation, having regard to:</i></p> <ul style="list-style-type: none"> <li><i>(a) the design and location of any works, future development likely to be facilitated by the subdivision, and any constraints such as topography or land hazards;</i></li> <li><i>(b) any particular requirements for the works and future development likely to be facilitated by the subdivision;</i></li> <li><i>(c) the need to minimise impacts resulting from bushfire hazard management measures through siting and fire-resistant design of any future habitable buildings;</i></li> <li><i>(d) any mitigation measures implemented to minimise the residual impacts on priority vegetation;</i></li> <li><i>(e) any on-site biodiversity offsets; and</i></li> <li><i>(f) any existing cleared areas on the site.</i></li> </ul>
<p><b>Comment:</b></p> <p>Given the construction of this standard while it is applicable to land in the LDRZ as well as the LCZ, P1.1 would be met if within an area of LDRZ and therefore appear to have limited affect.</p>	



#### 4. PREVIOUS PLANNING SCHEMES

4.1.1 The following provides the sequent of planning controls which have applied to the subject area in previous planning schemes.

## 4.2 CLARENCE INTERIM PLANNING SCHEME 2015

4.2.1 Subject land was partially within the Low Density Residential Zone with balance areas within the Environmental Living Zone under the previous *Clarence Interim Planning Scheme 2015* (CIPS 2015).

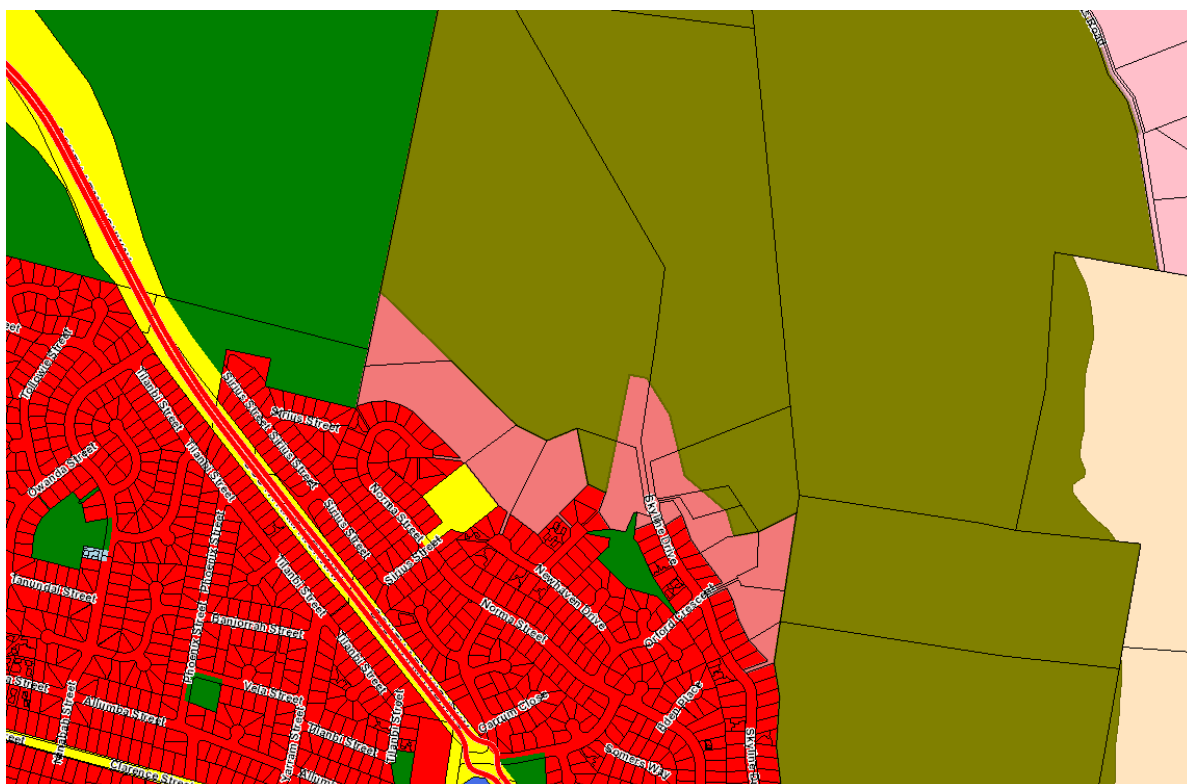


Figure 6: Zone Plan CIPS 2015, with IPS zones, Cadastral parcels and road centrelines from [www.thelist.tas.gov.au](http://www.thelist.tas.gov.au) (previous version) © the State of Tasmania

#### 4.2.2 CIPS 2015 LOW DENSITY RESIDENTIAL ZONE PROVISIONS

#### 4.2.3 The purpose of the zone under the CIPS2015 was:

## 12.0 Low Density Residential Zone

### 12.1 Zone Purpose

### 12.1.1 Zone Purpose Statements

12.1.1.1 To provide for residential use or development on larger lots in residential areas where there are infrastructure or environmental constraints that limit development.

- 12.1.1.2 *To provide for non-residential uses that are compatible with residential amenity.*
- 12.1.1.3 *To avoid land use conflict with adjacent Rural Resource or Significant Agricultural zoned land by providing for adequate buffer areas.*
- 12.1.1.4 *To provide for sensitive neighbourhood development as a buffer between established urban areas and non-urban areas.*

4.2.4 The TPS LDRZ no longer includes within its purpose statements that land is intended provide for sensitive neighbourhood development as a buffer between established urban and non-urban areas. This is further confirmed through Guideline No.1 where it confirms that the Low Density Residential Zone should not be applied for the purpose of protecting areas of important natural or landscape values (LDRZ 3).

#### 4.2.5 Allowable Uses

4.2.6 The Use Table 12.2 of the LDRZ under the CIPS2015 provides for residential single dwelling or home-based business as No Permit Required, with all other residential uses being prohibited.

4.2.7 Unlike the LDRZ of the CIPS2015 the TPS LDRZ provide discretionary use for all residential use including multiple dwellings, retirement living etc.

4.2.8 In addition the TPS LDRZ also provides for additional commercial uses including, Business & prof services (medical centre, consulting rooms, vet, +), Food services for cafes and restaurants, General retail for a local shop, and any educational establishments other than university.

#### 4.2.9 Use Standards

4.2.10 There was no density standard for the LDRZ of the CIPS2015 given multiple dwelling were prohibited.

4.2.11 As detailed previously, this contrasts significantly with the current standards (in the TPS-Clarence LDRZ) where the density for multiple dwellings is permitted at 1/1500m<sup>2</sup> or 1/1200m<sup>2</sup> potentially through the performance criteria, and therefore provide for the potential of a significant number of additional dwellings, resulting in a significantly different development intensity and scale to that of the CIPS 2015.

#### 4.2.12 Development Standards

4.2.13 Development Standards for the Zone included acceptable solution with:

- a building envelope height of 8.5m;
- a site coverage of 25%; and
- maximum 1m cut or fill

4.2.14 The objective of the Site Cover Standard included providing for development which was compatible with the natural environment of the area, and the standard (C12.4.8) for Land Fill and Excavation included consideration of visual amenity as part of the performance criteria.

### 4.3 CLARENCE PLANNING SCHEME 2007

4.3.1 The above provisions of the CIPS 2015 were considered and applied in the context of the creation of the interim planning scheme as a like for like translation from the previous planning scheme the

Clarence Planning Scheme 2007 (CPS 2007), relevant to the consideration of the subject land the controls from the CPS 2007 included the following:

#### 4.3.2 CPS 2007 ZONE

4.3.3 The following figure provides the zone plan for the area surrounding the subject land:



Figure 7: CPS 2007 Zones - <https://www.ccc.tas.gov.au/wp-content/uploads/2018/10/Planning-Scheme-Zone-Sheet-16.pdf>

4.3.4 As described above the applicable zones were Rural Residential for the western areas above Norma Street and Newhaven Drive, while the areas in Skyline Drive were Low Density Residential. The balance areas of the Skyline Drive lots were in the Landscape and Skyline Conservation Zone.

4.3.5 Single Dwellings were a permitted use in the Low Density Residential Zone and Rural Residential Zone, discretionary in the Landscape and Skyline Conservation Zone. Multiple dwellings were prohibited in all three zones.

4.3.6 Other development standards included:

- Site Cover in the Low Density Residential Zone and Rural Living Zone was 20%;
- The permitted height in the Low Density Residential Zone and Rural Living Zone was 7.5m.

#### 4.3.7 CPS 2007 OVERLAYS

4.3.8 The following figure provides the Vegetation Management overlay plan for the area surrounding the subject land:

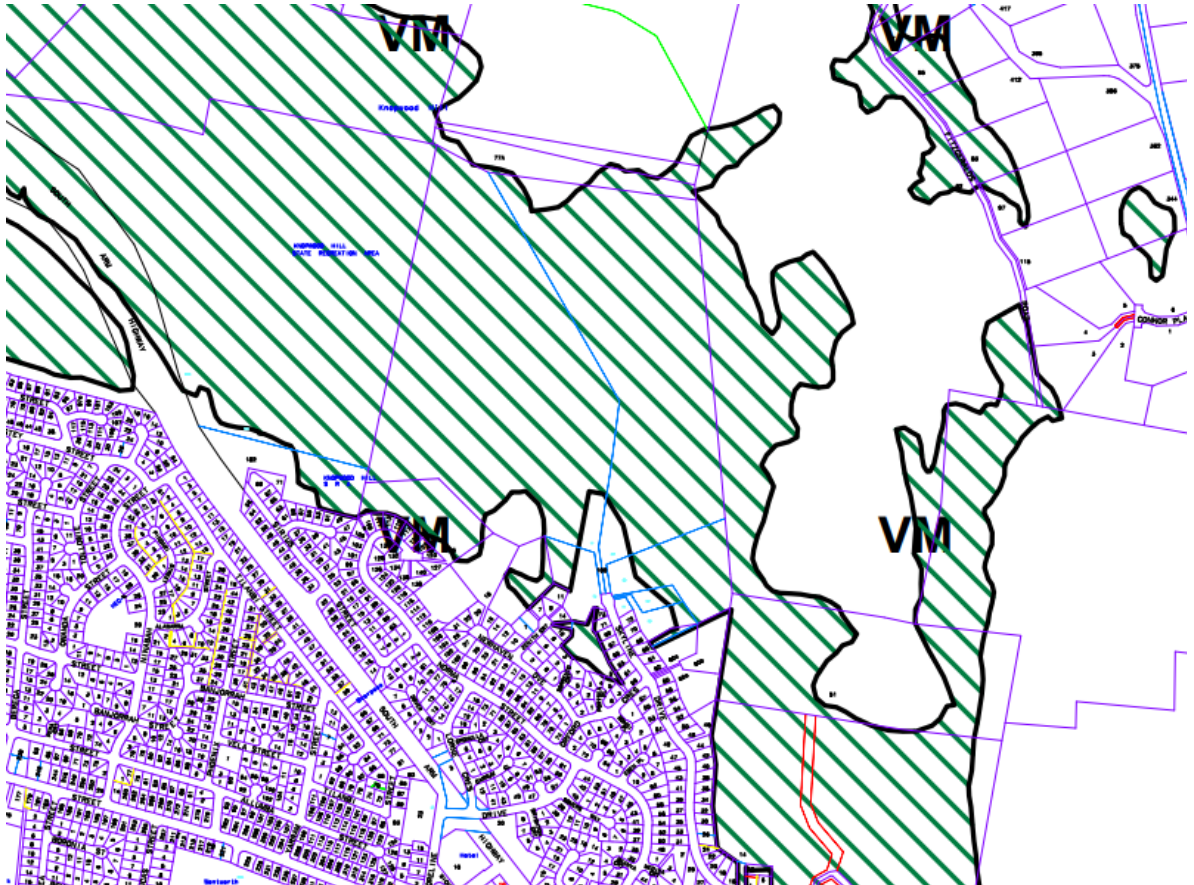


Figure 8: CPS 2007 Vegetation Management Overlay <https://www.ccc.tas.gov.au/wp-content/uploads/2018/10/Vegetation-Management-Sheet-16.pdf>

4.3.9 Removal of vegetation within the overlay triggered discretionary consideration under the provisions of the Overlay

#### 4.4 EASTERN SHORE PLANNING SCHEME 1963

4.4.1 Prior to 2007 the effective planning scheme for the area was the *Eastern Shore Planning Scheme 1963*.

4.4.2 It was under this planning scheme which the original rezoning of the subject land to Residential C (Sylvan) Zone occurred through the BW series of amendments.

## 5. CONCLUSION

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### 5.1 APPLICATION OF ZONE

- 5.1.1 The draft amendment proposes application of the Landscape Conservation Zone, rather than the Low Density Residential Zone, for an area of land in Howrah affecting all or parts of 15 existing titles, described previously in figures 1 and 2.
- 5.1.2 The area has previously been subject to planning scheme amendments and subdivision approvals under previous planning schemes. Through these previous planning processes the subject area has long been identified as being an area with scenic landscape value. The landscape values are, further detailed in the Statement of evidence from Bruce Chetwynd.
- 5.1.3 Previous planning schemes, as well as the conditions of approval for previous subdivision for the area, have protected the area from development which would significantly impact on identified landscape values.
- 5.1.4 The Low Density Residential Zone of the *Tasmanian Planning Scheme* provides a significantly different suite of planning controls, than the previous zone of the same name, in the prior *Clarence Interim Planning Scheme 2015*.
- 5.1.5 The Low Density Residential Zone of the TPS is no longer equivalent to the previous planning control, including in the following ways:
- The uses provided for are significantly broader and specifically include provision for multiple dwellings which provides for an intensity of development to accommodate this use not previously planned for.
  - The Development standards of the zone are focused on protection of residential amenity without consideration of landscape impacts.
- 5.1.6 Application of the Landscape Conservation Zone to the subject land would provide as follows:
- Allow single dwellings within the Zone but prohibits multiple dwellings, consistent with prior planning scheme zones which have been applied to the subject rezoning area, and the previous subdivision of the area.
  - Provide an outcome consistent with the original intention of the approval for the area, including the past partial zoning to Residential C of the *Eastern Shore Planning Scheme 1963*.
  - Provides a reasonable degree of certainty regarding the location of a single dwelling on currently undeveloped lots, given the Residential Use Class qualification of Clause 22.2, which provides for, single dwellings in a building area shown on a sealed plan, as a permitted use.
  - Removal of dual zonings for the Skyline Drive properties consistent with minimising zone boundaries which do not align with cadastral parcel boundaries, consistent with TPC Practice Note 7 Draft LPS mapping.



## 5.2 APPLICATION OF NATURAL ASSETS CODE

- 5.2.1 The subject land contains natural values of significance as previously established through the previous rezoning and subdivision applications and the TPCs previous considerations of the LPS's. These values are further detailed in the Statement of evidence provided by Andrew North.
- 5.2.2 The application of the Priority Vegetation Overlay as proposed in the draft amendment under consideration is therefore consistent with the existence of the identified natural values.
- 5.2.3 The provisions of the Code are however significantly restricted in application if the underlying zone is Low Density Residential, given that the application of the Code is restricted to relating only to subdivision by clause C7.2.1. In addition there are subdivision standards in the Code (C7.7.2) which provide location within the Low Density Residential Zone as a method of meeting performance criteria P1.1.
- 5.2.4 Therefore, in order to adequately protect the values identified, in addition to application of the overlay, there should additionally be application of the Landscape Skyline Zone, to provide for the full consideration of the values as part of any further development applications.
- 5.2.5 Application of the Priority Vegetation Overlay as proposed by the Draft Amendment would provide better protection for the natural values and be more consistent with the previous planning for the area and in a way which is consistent with the previous intent given:
- The acceptable solution for the Code standard for Clearance within a priority vegetation area (C7.6.2 A1) provides for clearing within a building area of a sealed plan.
  - The performance criteria for the Code standard for Clearance within a priority vegetation area (C7.6.2 P1.1 & P1.2) allows for clearance to be for single dwellings provided adverse impact on priority vegetation are minimised.