



# Section 35F Report

## Local Provisions Schedule Report on representations

November 2021

Prepared by:



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## Abbreviations:

Act	<i>Land Use Planning and Approvals Act 1993</i>
ALAct	<i>Aboriginal Land Act 1995</i>
ALCT	Aboriginal Land Council of Tasmania
CBIAA	Cape Barren Island Aboriginal Association
Commission	Tasmanian Planning Commission
Council	Flinders Council  Flinders Council in its role as a Planning Authority under <i>Land Use Planning and Approvals Act 1993</i>
Guideline No.1	<i>Guideline No.1 - Local Provisions Schedule Zone and Code Application</i>
Interim Scheme	Draft Flinders Interim Planning Scheme (not brought into operation)
LGA	Local Government Area
LPS	Local Provisions Schedule
LUPAA	Land Use Planning and Approvals Act
NTRLUS	Northern Tasmania Regional Land Use Strategy
PAL Policy	State Policy for the Protection of Agricultural Land 2000
PPZ	Particular Purpose Zone
SAP	Specific Area Plan
SSQ	Site Specific Qualification
Structure Plan	Flinders Structure Plan 2016 (draft)
TPS	Tasmanian Planning Scheme
2000 Scheme	Flinders Planning Scheme 2000

### Document Issue Status

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## Process

The exhibition of *Local Provisions Schedule* (LPS) and the process to make and assess representations is established under Part 3A of the *Land Use Planning and Approvals Act 1993* (Act).

The LPS was lodged with the Commission in July 2019 and subject to a series of changes before it was approved for exhibition by the Commission.

The LPS was exhibited in accordance with the Act and directions issued by the Commission from 2 June to 2 August 2021. During this period, 34 representations were received. One late representation was received.

The Act contains specific provision on number of matters that representations can and cannot contain.

## The Can...

A simplified summary of what a representation can and cannot contain follows, as the legislation is circuitous, unclear and confusing.

Subsection 3 says a representations **can** state:

- (a) that a part of the LPs is inconsistent with the SPP's; or
- (b) part of the SPP's should or should not apply to an area of land; or
- (c) the LPS should or should not contain provisions that the s.34 criteria allow.

Representations that raise these matters can be assessed and have a recommendation provided. Generally, submissions made comments that complied with the requirements of clauses (b) and (c).

## The Not...

Subsection 4 clearly states that representations **must not** state that the SPP's should be altered.

Subsection 5 states specific matters that **cannot** be taken as a representation:

- (a) matters that do not relate to the content or merits of the LPS; or
- (b) is not allowed under subsection 3 (see previous comments); or
- (c) statements that the SPP's should change.

While many representations contain comments and submissions on these issues, Council is not allowed to consider these matters as part of the representation.

## Assessment of representations

Full copies of the representations were provided as a separate attachment to this report.

The assessment of each representation provides a general discussion and response before providing the recommendation required under section 35F(2) of the Act, which requires a decision under each of the following categories.

- Recommendation for draft LPS:
- Effect on Draft LPS as a whole
- LPS Criteria

The report structure provides this at the end of each representation.

## Summary Table – representors and issues

No	Name	Issues
1	Liz Frankham	<ul style="list-style-type: none"> <li>Support for Rural Living zone, 22 Baileys Lane, Whitemark</li> </ul>
2	Linda Nicol & Tony Griggs	<ul style="list-style-type: none"> <li>Requests Rural Living B zone for 4506 Palana Road</li> </ul>
3	Clem Newton-Brown	<ul style="list-style-type: none"> <li>Support for Rural Living C zone at Sawyers Bay</li> <li>Request for landscape Conservation zone on Little Dog Island</li> </ul>
4	Conservation Land Owners Tasmania	<ul style="list-style-type: none"> <li>Support for use of landscape conservation zone within LPS</li> </ul>
5	Kerrie Prescott	<ul style="list-style-type: none"> <li>Request to retain existing Rural zone over lot 4 Fairhaven Road, Emita</li> </ul>
6	Police Fire and Emergency Management SES	<ul style="list-style-type: none"> <li>Lack of flood hazard mapping in LPS</li> <li>Support for coastal inundation hazard overlay</li> <li>Support for SAP's</li> </ul>
7	Communities Tasmania	<ul style="list-style-type: none"> <li>Objection to limitations on multiple dwellings and subdivision controls with translation of Residential to Low Density Residential zone</li> <li>Impact of visitor accommodation on dwelling supply</li> <li>Zoning 12 crown land titles at Lady Barron</li> </ul>
8	Rebecca Green & Associates obo D. Fair	<ul style="list-style-type: none"> <li>Request for Low Density Residential zone, Lot 1 Pot Boil Road, Lady Barron</li> </ul>
9	Craig Smith	<ul style="list-style-type: none"> <li>Expansion of Scenic protection overlay to east coast</li> </ul>
10	Flinders Council	<ul style="list-style-type: none"> <li>Refusal of local strategy in zoning</li> <li>Units in Whitemark</li> <li>Scenic protection listings</li> <li>Scenic protection code issues</li> <li>Electricity connection for new lots</li> <li>Crown titles at Lady Barron</li> <li>Priority vegetation overlay in urban areas</li> <li>Supporting reports</li> <li>State based codes</li> </ul>
11	Adrian Fairfield - Cohen & Associates	<ul style="list-style-type: none"> <li>Request Low Density Residential zone for approved lots at 4837 Palana Road, Palana</li> </ul>
12	Adrian Fairfield - Cohen & Associates	<ul style="list-style-type: none"> <li>Request Low Density Residential zone for approved lots at Killiecrankie Road, Killiecrankie</li> </ul>
13	Anne Rae & Bronwyn Stubbs	<ul style="list-style-type: none"> <li>Increasing land in management / protection reserves</li> <li>Threatened species data supporting LPS</li> <li>Objecting to loss of 8 metre height limit</li> <li>Applying Scenic Protection Overlay to eastern coastline</li> <li>Increasing scenic protection code to Killiecrankie Road</li> <li>Expansion of Landslip hazard overlay</li> <li>Support for various proposal under LPS</li> <li>Revising listings for FLI-C8.1.4 Killiecrankie</li> <li>Consideration of light pollution impacts</li> </ul>

No	Name	Issues
14	State Growth	<ul style="list-style-type: none"> <li>• Zoning State road network</li> <li>• Road and rail attenuation area</li> <li>• Density adjoining State road network</li> <li>• Zoning for extractive industries</li> <li>• Overlays for Priority Vegetation and Coastal Refugia on State roads</li> <li>• Zoning MRT strategic resource areas</li> <li>• Zoning, Franklin Pde, Lady Barron</li> </ul>
15	Wendy Jubb-Stoney	<ul style="list-style-type: none"> <li>• Support for 180 Badger Corner Road</li> <li>• Development on Little Dog and Little Green Islands</li> <li>• Complexity of TPS &amp; LPS documents</li> </ul>
16	Jude Cazaly	<ul style="list-style-type: none"> <li>• Expansion of Scenic Protection Overlay</li> <li>• Revision of Scenic Protection listings to reflect clause 7.2.2 2000 Scheme</li> <li>• Expansion of Landslip overlay at Killiecrankie</li> <li>• Support for FLI-S3 Coastal Areas SAP and lack of discretion on height</li> <li>• Consideration of light pollution/impacts</li> <li>• Shorelines and waterbodies overlay</li> <li>• Agricultural zoning at Quoin</li> </ul>
17	Flinders Island Protection Network	<ul style="list-style-type: none"> <li>• Complexity of TPS LPS documents</li> <li>• Revision of Scenic Protection listings to reflect clause 7.2.2 2000 Scheme</li> </ul>
18	Ken Stockton	<ul style="list-style-type: none"> <li>• Revision of Scenic Protection listings to reflect clause 7.2.2 2000 Scheme</li> </ul>
19	Eve Schulz	<ul style="list-style-type: none"> <li>• Revision of Scenic Protection listings to reflect clause 7.2.2 2000 Scheme</li> </ul>
20	Megan Gledden	<ul style="list-style-type: none"> <li>• Zoning Little Dog Island and suitability of land with natural values for tourism/visitor accommodation proposals</li> <li>• Quality and content of Natural values reports</li> </ul>
21	Annemarie Carnell	<ul style="list-style-type: none"> <li>• Expansion of PVO at Killiecrankie</li> <li>• Inclusion of PVO within the Agriculture zone at Killiecrankie</li> <li>• Support for inclusion of Mt Killiecrankie in Scenic Protection Overlay</li> <li>• Expansion of Landslip Overlay at Killiecrankie</li> <li>• Objection to increased height limit under TPS/LPS</li> </ul>
22	Jo & Tom Youl	<ul style="list-style-type: none"> <li>• Request Agriculture zoning for 160 Killiecrankie Road, Killiecrankie</li> </ul>
23	Van Diemen Consulting obo David Gibbons	<ul style="list-style-type: none"> <li>• Objection to FLI-S3 Coastal Areas SAP at Lady Barron &amp; Whitemark</li> <li>• Objection to zoning for existing extractive industry, Harleys Road, Whitemark</li> <li>• Objection to Landscape Conservation zone and FLI-S3 Coastal Areas SAP, Palana Road, Whitemark</li> <li>• Objection to Landscape Conservation zone, 2270 Palana Road, Lughrata</li> <li>• Support for various zones</li> </ul>

No	Name	Issues
24	Jana Monnone & Raoul Harper	<ul style="list-style-type: none"> <li>Request for Rural Living zone, lot 2 Esplanade/Cattle Track</li> </ul>
25	Trish Goss	<ul style="list-style-type: none"> <li>Request for Rural Living zone 250 Lady Barron Road, Whitemark</li> <li>Objection to part Landscape Conservation zoning 1106 Palana Road, Blue Rocks</li> </ul>
26	Mark & Mandy Wales	<ul style="list-style-type: none"> <li>Request to retain Rural zoning, 1813 Palana Road, Emita</li> </ul>
27	Vicki & Noel Warden	<ul style="list-style-type: none"> <li>Request for Rural Living zone, lot 2 Esplanade, 1A Palana Road, Whitemark</li> </ul>
28	Flinders Island Protection Network	<ul style="list-style-type: none"> <li>Landscape Conservation zoning for private lands on outer islands</li> </ul>
29	Kelly Blundstone	<ul style="list-style-type: none"> <li>Request for Rural Living zone, lot 1 Esplanade/Cattle Track</li> </ul>
30	Van Diemen Consulting obo Markarna Park	<ul style="list-style-type: none"> <li>Request for Agriculture and Rural zones, Markarna Park x 12 titles</li> <li>Objection to FLI-S3 Coastal Areas SAP</li> </ul>
31	Paul Carnell	<ul style="list-style-type: none"> <li>Priority vegetation overlay in Agriculture zone</li> <li>Priority vegetation overlay addressing fauna issues</li> </ul>
32	Greg Beeton	<ul style="list-style-type: none"> <li>Zoning of shearwater rookeries and suitability for tourism and visitor accommodation use</li> </ul>
33	Aboriginal Land Council of Tasmania (ALCT)	<ul style="list-style-type: none"> <li>Support for PPZ and wider use for aboriginal lands</li> <li>Heritage listings at Wybalenna</li> <li>Zoning Little Dog/Little Green and outer islands</li> <li>EMZ suitability for tourism and visitor accommodation</li> <li>PPZ precinct for Truwana gravel pit</li> <li>Zoning intertidal areas</li> </ul>
34	Sophie Underwood obo The Dock	<ul style="list-style-type: none"> <li>Support for Landscape Conservation zoning</li> <li>Competence of Scenic Protection code</li> <li>EMZ suitability for tourism and visitor accommodation`</li> </ul>
35	M Wortman Onefox Consulting Pty Ltd	<ul style="list-style-type: none"> <li>Objects to change from Residential to Low Density Residential zone</li> <li>Village zone at Killiecrankie</li> <li>Change from Rural to Agriculture zones</li> <li>Rezoning Leeka from Rural to Landscape Conservation</li> </ul>

## Assessment of representations

### 1. Elizabeth Frankham

Overview			
Site:	22 Bailey's Lane, Whitemark	PID:	6427849
Area:	Approx. 5.5 hectares	CT:	212109/1
Is representation consistent with:		Does the representation:	
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	Yes	Relate to TPS	No
State Policies:	Yes	Relate to LPS	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	Yes		

The representation supports the Rural Living zone proposed for the subject property. No further consideration is required.

Conclusion: the representation has merit and no change is required.

**Recommendation for draft LPS:** no change as a result of the representation.

**Effect on Draft LPS as a whole:** no effect on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the Guidelines. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** not applicable.

### 2. Linda Nichol & Tony Griggs

Overview			
Site:	4596 Palana Road, Palana	PID:	1863203
Area:	Approx. 9.85 hectares	CT:	115624/1
Is representation consistent with:		Does the representation	
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	Yes	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	Yes		

The representation seeks rezoning from Rural to the Rural Living B zone for the subject property on the basis of;

- its desirable location and proximity to other Rural Living B zoned land adjacent to Palana settlement;
- a claimed lack of financially viable farming capacity (though not data is provided to support this claim);
- a lack of significant flora and fauna values over the land;
- suitability under zone purpose statements and Guidelines RLS1 and 3;



- the identified shortfall in dwelling projections (identified need of 561 dwellings versus 230 allocated); and
- current real estate sales information.

In terms of the land, the following is noted:

- Palana Road is a Council owned and maintained road;
- The creek running through the property is identified as Eden's Creek on Tasmaps and is under a Wetland and Coastal Protection Overlay;
- The site is not subject to any other overlays for natural values or known hazards; and
- The requested rezoning would allow subdivision of the land based on the 2-hexctare minimum lot size.

Council adopted the Structure Plan, which provides the following:

- Palana was identified as a stunning coastal location to cluster housing taking advantage of modern construction (page 8);
- The wider area was identified in Primary Production Area 2 and proposed for the Rural zone;
- Outcome 4 identifies clustered residential use at the intersection of Palana and Eden's Road, which is located to the northwestern corner of the subject lands; and
- Appendix 3 identifies that the subject area the wider area should target small holdings for residential use on cleared land.

The request is consistent with the identified outcomes for the Palana area under the Structure Plan.

The Guidelines provide the following specific direction regarding use of the Rural Living zone:

*RLZ 2 The Rural Living Zone should not be applied to land that is not currently within an interim planning scheme Rural Living Zone, unless:*

- (a) consistent with the relevant regional land use strategy, or supported by more detailed local strategic analysis consistent with the relevant regional land use strategy and endorsed by the relevant council; or ...*

The RLUS recognises the need for local strategy to inform settlement and activity centre planning and residential development allocations on the Furneaux group of islands at D2.2.4, E2.1, RSN-P3 and RSN-P25.

Flinders endorsed local strategic documents and analysis that identify the need for further lands to be available to support economic and population goals. The following is noted:

- The representation was workshopped, where concerns were expressed over the potential for ad-hoc growth of the Palana Settlement;
- Within 600 metres of the subject land, there are a range of smaller titles in private ownership;
- A review of the zoning of the wider area will provide for a considered response to the Structure Plan; and
- Rezoning the subject property would create a spot zoning, which is discouraged under the Guidelines.

Conclusion: the representation has merits that need to be considered on a wider basis than the subject site. Future strategic work will need to expand local strategy for growth of the Palana area.

Conclusion: the representation has merit but is not recommended for change at this time.

**Recommendation for draft LPS:** no change to the LPS as a result of the representation.

**Effect on Draft LPS as a whole:** no effect on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the Guidelines. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** not applicable.

## 3. Clem Newton Brown, Sawyers Bay Shacks

Overview			
Site:	Little Dog Island	PID:	6433149
Area:	Approx. 17.45 hectares	CT:	204138/1
Is representation consistent with:		Does the representation	
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	Yes	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	Yes		

The representation provides support for the Rural Living C zone at Blue Rocks/Sawyers Bay area, which is noted.

The representation also requests that private titles on Little Dog Island be zoned Landscape Conservation from Environmental Management (PID 6433149, FR 204138/1).

Council previously made a series of decisions on use of the Landscape Conservation zone in place of the Environmental Management zone for privately owned lands with natural values as part of its response to Attachment 4 of the LPS. Other lands (including freehold titles on Islands) in private ownership were subject to the Landscape Conservation zone as a result of Directions 5.14 to 5.18 of the Flinders LPS Notice issued under section 35(5)(b) and Schedule 6, Clauses 8C(5)(a) and 8D(9)(a). The same principle should be applied to this representation.

Use of Landscape Conservation zone for private land on Little Dog Island is consistent with LCZ1 and 2 of Guideline No.1.

It is noted that the outcome of this request also applies to two other freehold titles on Little Dog Island, PID 6433157 FR's 226682/1 and PID 6433173 FR 204139/1.

Use of the Landscape Conservation zone was supported by the Aboriginal Land Council Tasmania in Representation 33.

Conclusion: the representation contains issues with merit and is supported.

**Recommendation for draft LPS:** the following private titles on Little Dog Island should be rezoned Landscape Conservation PID 6433149, FR 204138/1; PID 6433157 FR's 226682/1 and PID 6433173 FR 204139/1.

**Effect on Draft LPS as a whole:** no effect on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the Guidelines. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** not applicable.

## 4. Conservation Landowners Tasmania

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	Mixed	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation provides extensive support for use of the Landscape Conservation zone within the LPS, summarized as follows:

*Of the 15 Councils that have exhibited their Draft Local Provisions Schedule to date, Flinders Council is the first Council to have correctly followed the Tasmanian Planning Commission's (TPC) Guideline No 1 with respect to the Landscape Conservation Zone. Conservation Landholders Tasmania commends the Flinders Planning Authority for this and hopes that the remaining 14 Councils will follow its example.*

The representation provides a detailed examination of 10 properties with permanent reserves registered on them and supports use of the Landscape Conservation zone by Council.

Conclusion: the representation has merit but does not seek any changes to the LPS.

**Recommendation for draft LPS:** no change as a result of the representation.

**Effect on Draft LPS as a whole:** no effect on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the Guidelines. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** not applicable.

## 5. Kerrie Prescott

Overview			
Site:	Lot 4 Fairhaven Road, Emita	PID:	2781277
Area:	Approx. 43.5 hectares	CT:	151152/4
Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	Yes
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	Yes	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	Yes		

The representation seeks to retain the existing Rural zone over the land, in place of the Agriculture zone imposed by the Commission Directions. The following points were made in support of this request:

- Current land use is for a horse stud, with up to 14 horses;
- The parcel is too small for commercially viable grazing activities;
- The land is not suitable for cropping due to topography and rock outcrops;
- The combination of these factors identifies that the subject and adjoining lands are best suited to lifestyle activities;

- The lack of housing in towns highlights the need for land to be available for housing;
- Provision of land for lifestyle activities and housing is necessary to accommodate projected growth on Flinders; and
- Use of the rural zone is consistent with Council adopted strategies.

The request is consistent with the adopted position of Council identified in representation 10, that the subject title and surrounding area should be zoned rural based on local strategies for population attraction, economic diversification and sustainability; it is also consistent with the supporting documents for the LPS.

The subject title forms part of a larger area that was identified for Rural zoning under Council strategy, as shown in Figure 1.

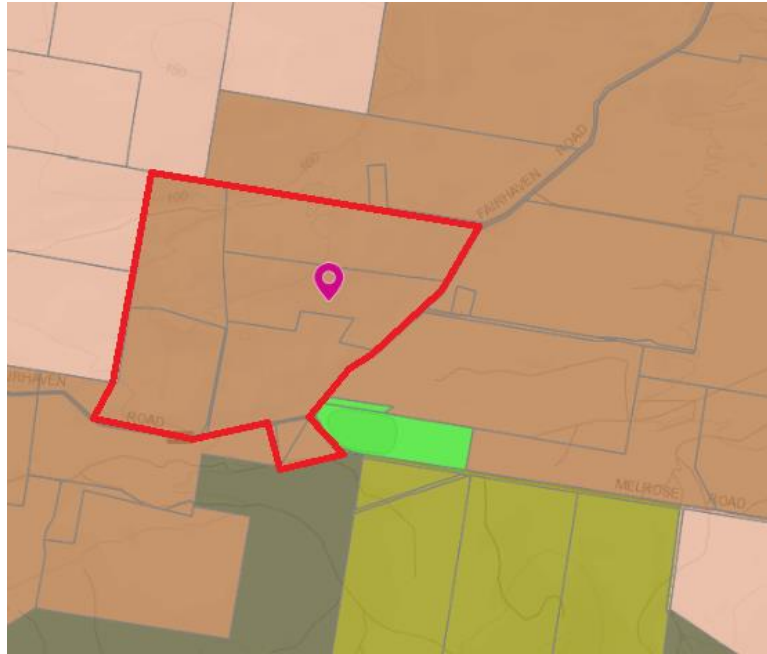


Figure 1 - LPS zoning subject property and area, with smaller titles highlighted

The zoning of the subject land was changed in the Directions that were issued by Commission for exhibition of the LPS. The request and adopted position of Council and strategic documents that support the LPS.

Conversion of the area in Figure 1 for residential and lifestyle purposes was specifically identified in the Structure Plan and provides for delivery of the multiple requirements of the RLUS. Additional work is expected from RMCG to support these strategies, as discussed in representation 10.1.

As a result, use of the Rural zone on land in this area is consistent with Guidelines AZ1 a and c, AZ6 a; and RZ3 d and e.

Conclusion: the representation has merit and is supported.

**Recommendation for draft LPS:** the existing Rural zone should be retained for lot 4 Fairhaven Road, Emita, FR 151152/4, PID 2781277.

**Effect on Draft LPS as a whole:** no effect on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the Guidelines. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** not applicable.

## 6. DPFEM SES

Is representation consistent with:	Does the representation		
Local Strategy	-	Translate 2000 Scheme zoning?	No
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	Yes	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	Yes		

The representation notes the following:

- the lack of flood hazard overlay mapping under the LPS, and the opportunity to establish new mapping pending completion of the Tasmanian Flood Mapping Project;
- support for the use of the Coastal Inundation Hazard Overlay under the LPS; and
- support for the zoning and SAP's under the LPS.

While the representation provides a suggested range of information sources to inform potential flood areas, there is little information available at present within those areas that applies within Flinders.

The Tasmanian Flood Mapping Project is expected to provide additional information in the near future that will inform a future amendment to the LPS to establish a Flood Hazard Overlay under the relevant code of the TPS.

The representation notes support for the Coastal Inundation hazards and zoning under the LPS and does not seek any changes.

Conclusion: the representation raises issues with merit.

**Recommendation for draft LPS:** no change as a result of the representation.

**Effect on Draft LPS as a whole:** no effect on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the Guidelines. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** not applicable.

## 7. Dept. of Communities

### 7.1 Multiple dwelling density

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	Yes
NTRLUS:	Yes	Relate to TPS?	Yes
State Policies:	-	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	Yes
TPC Practice Notes	Yes		

The representation seeks Site Specific Qualifications over Housing lands to replace TPS clause 10.6.1 P1 with the equivalent standard from the TPS Village zone at 12.4.1 P1 and thereby remove the 1200 m<sup>2</sup> site area per dwelling requirement. This request is consistent with the structure and format of the TPS and provides an effective remedy to the problem.

This issue was identified in representation 10 and applies to all land in the zone, which includes the main urban centres of Whitemark and Lady Barron as a result of TPS zone purpose statement 8.1.1

and Guideline GRZ 1(b), which require connection to reticulated sewer services that do not exist on Flinders.

The submissions within the representation are supported and the impact of the change to the requirements under the TPS for multiple dwellings will make delivery of this housing form difficult and consequently, have a significant impact on the provision of housing. TPS clause 10.4.1 P1 is expected to exacerbate the existing housing affordability and availability problems on Flinders and compromise housing delivery within Whitemark and Lady Barron.

The mechanism proposed, a site-specific qualification, will only provide limited redress of a problem that applies to the entire settlements of Whitemark and Lady Barron and is not supported. Use of a Specific Area Plan would address this limitation and eliminate a potential discrepancy between the development opportunity afforded to Dept. of Communities and private lands.

The alternative solution would see the General Residential zone of the TPS applied in translation of the Residential zone of the 2000 Scheme. It is understood that this is not possible, due to the lack of reticulated sewer services on Flinders.

Conclusion: a Specific Area Plan should be prepared for the urban areas of Whitemark and Lady Barron to replace TPS 10.4.1 with the equivalent standard from the TPS Village zone at 12.4.1 P1.

## 7.2 Minimum lot size

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	Yes
NTRLUS:	Yes	Relate to TPS?	Yes
State Policies:	-	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	Yes		

The representation seeks to replace TPS performance criteria P1 for clause 10.6.1 with the equivalent clause from the Village zone at clause 12.5.1, which will remove the prohibition on lots under 1,200m<sup>2</sup>, through a site-specific qualification to land owned by the Director of Housing.

As with the previous issue, the prohibition comes about from the prohibition on use of the General Residential zone of the TPS due to the lack of reticulated sewer services on Flinders.

It must also be noted that the inability to use the General Residential zone under the TPS means the Low Density Residential zone becomes the main urban residential zone due to the policy impost of the TPS and Guidelines. The minimum lot size established under 10.6.1 P1 contradicts the real life circumstances with the policy impost of the TPS.

A visual review of the existing settlements identifies the following apparent characteristics:

Area	Min m <sup>2</sup>	Max (hectares)	Average range (m <sup>2</sup> )
Whitemark	330	1.3	650 to 1,100
Lady Barron	476	3.51	900 to approx. 1800

Imposition of the 1,200 m<sup>2</sup> minimum lot size is not consistent with the existing development patterns in Lady Barron and Whitemark and is expected to frustrate further subdivision within these areas.

The submissions on this issue within the representation raise a valid concern that extends beyond the lands owned by Communities Tasmania or the Director of housing.

A Specific Area Plan provides an equitable tool to deliver this outcome across the main settlements.

Conclusion: A SAP be prepared to address this issue.

### 7.3 Visitor Accommodation

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	Yes	Relate to TPS?	Yes
State Policies:	Yes	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	Yes		

The representation seeks to have discretionary status provided to Visitor Accommodation within the Low Density Residential zone of the LPS, consistent with clause 5.2.5 of the existing 2000 Scheme.

Planning Directive No. 6 - Exemption and Standards for Visitor Accommodation in Planning Schemes was established by the State and modifies the 2000 Scheme regarding visitor accommodation for the use of owner-occupied houses. Planning Directive 6 will cease to operate once the TPS and LPS become operational, which will remove the general discretion for Visitor Accommodation under the 2000 Scheme.

There is substantive empirical evidence of accommodation availability and affordability crises on Flinders that are likely to be exacerbated by conversion of dwellings from residential use to visitor accommodation.

Particular concern exists for the impacts to essential worker and affordable housing sectors, although discussions within the local community suggest the problem is experienced across many sectors. This problem is not isolated to Flinders, with ongoing discussions occurring within Tasmania, Australia and many overseas jurisdictions.

No independently verified data is available on this impact locally. ABS data identifies a significantly higher than normal use of dwellings for holiday homes (32.5% versus 14% Tasmania, ABS 2016). Inside Airbnb and AirDNA identify that there are 38 active rentals on island, of which 97% are rentals for the entire house and 65% are for 2 or 3 bedroom houses.

Short Stay Accommodation impacts were recently considered by the University of Tasmania Institute for Social Change in *Insight Eight: Regulating short stay accommodation in Tasmania: Issues to consider and options for reform*. This study considered local impacts and potential reforms to address emerging housing issues from interstate and international locations and provided the following recommendations:

- a more comprehensive permit system for all operators;
- permits be used to deter short stay accommodation in high demand areas through various measures;
- the TPS be amended to enable consideration of housing market conditions when making decisions; and
- the TPS be modified to enable response to community level housing needs in a timely manner.

The outcomes of this report and other specific impacts resulting from the rental of entire houses were recently considered and supported by the City of Hobart Planning Committee (16 August 2021). The decisions of the Council resulting from this report were:

1. Council pursue inserting one or more specific area plans into the Hobart Local Provisions Schedule that prohibit entire home short stay accommodation use (excluding for 'secondary residences');
2. Council advocate to the Minister for Planning to issue a planning directive that immediately prohibits new permits for entire home short stay accommodation within the Hobart Local Government Area; Minutes (Open Portion) City Planning Committee Meeting Page 22 16/08/2021;

3. Council advocate for statewide regulations, similar to those in New South Wales, that enable councils to make decisions about properties within their local government area; and
4. Council advocate to the Tasmanian Government to form a 'Housing Supply Forecasting Council' in line with Recommendation 5 of the report *Regulating Short-Stay Accommodation in Tasmania: Issues to consider and options for reform*.

Initial research identifies this section of the representation has merit and the TPS controls for visitor accommodation have the potential for detrimental impacts on availability and affordability of permanent dwellings on Flinders.

While it is understood that Hobart are looking at a range of measures to ensure dwellings remain a significant land use component of various areas, these were not resolved in time for this process.

Work is underway through the northern region to quantify recent trends in the supply and demand for residential and visitor accommodation, which will quantify some of these issues.

A Specific Area Plan is the only mechanism that can address the representor's concern. Given the current lack of information, it is recommended this issue be pursued as a separate amendment to the LPS.

Council must respond as part of this process.

Conclusion: the issue has merit and should be raised in the 35G Notice to the Commission for review or changes to the TPS.

#### 7.4 Crown titles at Lady Barron

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	Yes
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	-	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	-		

The Department submitted a late addendum to their report to support the rezoning of 12 crown land titles from Environmental Management to Low Density Residential at Lady Barron, as identified in issue 10.6 and recommendation 10 e. The assessment supported the request.

Conclusion: support recommendation 10 for rezoning of 12 crown land titles at Lady Barron.

**Recommendation for draft LPS:** the representation contains issues with merit and the following changes are recommended as a result of the representation:

- a. A new SAP be established over urban Whitemark and Lady Barron to replace TPS 10.4.1 P1 with a standard similar to the TPS Village zone at 12.4.1 P1;
- b. A new SAP be established over the Low Density zone within Whitemark and Lady Barron to replace TPS 10.6.1 P1 with an equivalent standard to the TPS Village zone at 12.5.1 P1; and
- c. 12 existing crown titles at Lady Barron retain residential zoning from the 2000 Scheme and are rezoned Low Density Residential and subject to the SAP's identified in recommendations a and b.

**Effect on Draft LPS as a whole:** The recommendation will overcome functional problems that result from the standardized structure and requirements of the TPS and is not expected to have any significant impact on operation of the LPS as a whole.



**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the Guidelines. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** the following issues be listed in the 35G Notice to be lodged with the Commission:

- a. that the TPS be reviewed to determine the impact that visitor/short stay accommodation is having on long term residential dwellings; and
- b. that the TPS be revised to establish provisions that regulate these impacts as a priority outcome.

8. Rebecca Green & Associates obo D. Fair

Overview			
Site:	Lot 1 Pot Boil Road, Lady Barron	PID:	3222303
Area:	Approx. 92.56 hectares	CT:	165275/1
Is representation consistent with:		Does the representation	
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	Yes	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	Yes		

The representation seeks to have the proposed Landscape Conservation zone changed to Low Density Residential for lots fronting Pot Boil Road and the Rural Living zone to the 2 hectare lots behind.

Reasons provided in support of the request are:

- Landscape Conservation is not consistent with the translation of zones under the Guidelines or Table 3 of the Supporting Report;
- The need to identify land for additional housing; and
- The 1961 subdivision and 2014 dwelling approval established these lots were for residential purposes and character.

The subject title is comprised 62 lots resulting from a 1961 subdivision and was released onto 14 separate titles by the Recorder of Titles in late August 2021, as shown in Figure 2. This process occurs without Council consultation or input.



Figure 2 - LPS lot layout versus titles issued

The Landscape Conservation zone was proposed based on the Guidelines and the title that existed at the time. Lot is a defined term and *means a piece or parcel of land where there is only one title other than a lot within the meaning of the Strata Titles Act 1998.*

The TPS Low Density Residential zone provides for subdivision down to 1,200m<sup>2</sup>, which is not supported for this area. While the 1961 subdivision exists, it has none of the infrastructure normally associated with urban residential densities and land use strategies within the Guidelines and TPS do not support this density. Further subdivision of the recent titles fronting Pot Boil Road may be appropriate, where suitable infrastructure exists.

FLI-S1 Coastal Settlements Specific Area Plan applies to similar areas around Flinders Island and identifies a range of controls that reflect the sensitive coastal environments within Flinders. This includes subdivision, and establishes an absolute minimum lot size of 2,500m<sup>2</sup> under performance criteria.

On this basis, it is considered reasonable to support Low Density Residential zoning for FR 181695 folio's 4, 5, 6 and 7; and FR 181695 folio's 3, 4, 5 and 6. This is considered to be consistent with LDRZ1 and 4 of the Guidelines.

The larger lots to the rear of this area (FR 181695 folio's 1, 2 and 3; and 7; and FR 181695 folio's 1 and 2, approximately 2 ha each) do not have access to a Council maintained road. The adjoining road reservation is in council ownership.

The Rural zone under the 2000 Scheme provides for residential as a discretionary use, which is consistent with the Landscape Conservation zone proposed under the LPS. The Landscape Conservation zone provides specific consideration of road frontage for new houses, which must be addressed for each house application under 22.4.3 P1 of the TPS, as follows:

#### 22.4.3 Access to a road

Objective:	That new dwellings have appropriate vehicular access to a road maintained by a road authority.	
<b>Acceptable Solutions</b>	<b>Performance Criteria</b>	
<b>A1</b> New dwellings must be located on lots that have frontage with access to a road maintained by a road authority.	<b>P1</b> New dwellings must have legal access, by right of carriageway, to a road maintained by a road authority that is sufficient for the intended use, having regard to:  (a) the number of users of the access;  (b) the length of the access;  (c) the suitability of the access for use by the occupants of the dwelling;  (d) the suitability of the access for emergency services vehicles;  (e) the topography of the site;  (f) the construction and maintenance of the access; and  (g) the construction, maintenance and usage of the road.	

The representation suggests that Rural Living is the appropriate zone, which will provide residential use with permitted status.

Pot Boil Road is a Council maintained road and lots with frontage to this can be considered for alternative zoning. A small portion of the existing track is maintained by Council to serve the house at 15 Pot Belly Road, with the substantial remainder of tracks through the subject lands having little relationship to the road reservation through the title and questionable status for public access. The existing tracks are not reflected by rights of way on the title certificates or plans, which creates uncertainty over future access for the recently released lots that do not have access from a Council maintained road. The provisions within the TPS at clause 23.4.3 confirm that legal access to lots is a critical issue when considering residential entitlements.

Substantive work would be required to construct new roads and tracks to establish legal access to land in this area and the subject lots. Given the lack of frontage to a Council maintained road or even track that corresponds to the defined road reservation, no change is recommended for these lots.

While strategic work may support the requested rezoning, the relevant infrastructure is not available to ensure the reasonable expectations of future owners and the subdivision opportunities associated with the requested Low Density Residential zone.

**Conclusion:** the representation contains issues with merit and the rezoning of lots to Low Density Residential zoning is supported for FR 181695 folio's 4, 5, 6 and 7; and FR 181695 folio's 3, 4, 5 and 6. Rezoning of the remainder of the title is not supported.

**Recommendation for draft LPS:** the LPS be modified as a result of the representation so that FR 181695 folio's 4, 5, 6 and 7; and FR 181695 folio's 3, 4, 5 and 6 on part of Lot 1 Pot Boil Road, Lady Barron (former PID 3222303 be zoned Low Density Residential and subject to the FLI-S1 Coastal Settlements Specific Area Plan;

**Effect on Draft LPS as a whole:** no change in zoning and application of the SAP is not expected to have any significant effect on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the Guidelines. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** not applicable.

## 9. Craig Smith

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	-	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	Yes		

The representation identifies the following:

- C8.0 Scenic Protection Code of the TPS was not applied to the east coast of Flinders under the LPS; and
- the overlay should be applied to the Landscape Conservation and Environmental management zones along the east coast as one of the most important scenic landscapes within the Furneaux group.

Discussions with Council have long identified significant support for the intent of this representation. The Scenic Protection Overlay under the LPS is a transitional provision from the 2000 Scheme. The subject lands are within the Environmental Management zone under the LPS.

While privately owned land is within the Landscape Conservation zone, the dominance of publicly owned land is clearly identified through use of the Environmental Management zone through the LPS, as shown in Figure 3.

The Landscape Conservation and Environmental Management zones provide some provisions for management of landscape and scenic issues, through standards for landscape protection and vegetation management respectively.

While minor alterations to the overlay were possible under the transitional status, the requirements of Guideline No.1 must be met for any new areas, such as application to the east coast of Flinders Island. They relevantly provide the following:

*SPC 1 The scenic protection area overlay and the scenic road corridor overlay may be applied to land identified at the local or regional level as important for the protection of scenic values. These may include areas:*

- (a) containing significant native vegetation or bushland areas with important scenic values (such as skyline areas); or*
- (b) identified for their significant scenic views.*

*SPC 2 The scenic protection area overlay and the scenic road corridor overlay should be justified as having significant scenic values requiring protection from inappropriate development that would or may diminish those values.*



Figure 3 - LPS zoning

To satisfy the requirements of Guideline No.1, specialist assessments on both the extent of areas to be covered and the assessment criteria are required to support any proposed expansion of the Overlay. It is likely that a GIS analysis would easily identify areas on the east coast with high visual significance and that development of appropriate criteria could be completed based on the previous work completed for the Structure Plan and LPS.

The nature of the requested expansion of the Scenic Protection Overlay is significant and can be addressed in two ways:

- as a consequential amendment to the LPS, which is identified in the decisions on the LPS and then must be submitted to the Commission within 6 weeks (or other period as specified by the Commission); or
- as a separate planning scheme amendment.

A consequential amendment will not allow sufficient time for any community consultation prior to lodgement of an amendment with the Commission and is not supported for this process.

Conclusion: the request in the representation has merit but will require a separate planning scheme amendment to address the requirements of the Guidelines.

**Recommendation for draft LPS:** no change as a result of the representation.

**Effect on Draft LPS as a whole:** no effect on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies established by State in the Guidelines. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** not applicable.

## 10. Flinders Council

## 10.1 Refusal of local strategy

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	Yes
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	Yes	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	Yes		

The representation identifies that the directions issued by the Commission for the exhibition period to rezone properties from Rural to Agriculture denied consideration of local strategy and in doing so, contradicted the specific recognitions provided under RLUS for local planning, settlement, and economic strategy to determine responses under the LPS and the specific opportunities under Guideline No.1 to enable zoning responses based on local strategy.

The representor will pursue use of the Rural zone to deliver local strategy on Flinders and engaged additional reporting from RMCG to support this concern.

Representation 22 sought extension of the Agriculture zone from the Quoin farm holdings to an adjoining title under the same ownership. This is a departure from the Council position in the supporting reports for this area, which sought use of the Rural Zone to reflect natural and scenic values of the lands and wider landscape and intention of the owners to pursue tourism developments on the lands (Refer page 75 Supporting Report for further information). Given the support within Representation 22 for use of the Agriculture zone, the Quoin holdings were reviewed with Council and it they were removed from the Rural Enterprise Suitability project completed by RMCG.

At the time of writing the additional RMCG work was not completed, however will be available prior to the hearings on the LPS.

Council submits that the local strategies established through the Structure Plan and documents supporting the LPS remain valid and support use of the Rural zone in selected areas.

Conclusion: the issue has merit and will result in further submissions following completion of additional expert supporting reports.

## 10.2 Units in Whitemark &amp; Lady Barron

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	Yes
NTRLUS:	Yes	Relate to TPS?	Yes
State Policies:	-	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	Yes		

The representation seeks to allow alternative criteria for units in the Low Density Residential zone, as a result of the translation requirements of the TPS and prohibition on use of the General Residential zone.

This issue was raised in representation 7 and supported or changes in discussion at 7.1 and recommendation 7a. That response is supported.

Conclusion: support outcome under representation 7.

### 10.3 Scenic Protection issues

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	Yes
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	Yes	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	Yes		

The representation identified that value statements and management objectives within the LPS needed to be revised to address the following issues:

Key issues that are of note to Council include the following:

- The natural appearance of the coastal landscapes when viewed from key locations on land and from adjoining waterways;
- The broad vistas created by rural landscapes when viewed from a range of vantage points including lookouts and roads;
- The scenic value that the hills and mountains provide to many of the landscapes across the Furneaux group;
- The impact that insensitive and inappropriate development has on the landscape; and
- The impacts of lighting of proposals on the night-time landscape and scenic amenity of areas, particularly in areas where there is an existing lack of night lighting within the wider landscape.

These matters relate to the LPS and can be considered under the current process.

As identified in other representations to the LPS, two main issues exist in the wording of the scenic value and management objective statements under the LPS; firstly the improved translation of clause 7.2.2 of the 2000 scheme to the LPS listings and secondly, the 5 listed criteria in the representation and repeated previously.

Clause 7.2.2 of the 2000 Scheme identifies the following at criterion (c)

- To retain and restore where possible the natural vegetation cover.*

Numerous representations identified this issue as a key change in the translation of the 2000 Scheme into the LPS format. The Scenic Protection Overlay and Listings are subject to transitional status following declaration by the Minister.

Notwithstanding the prohibition on changes to transitional provisions established under the Act, this concern relates to the translation of the existing scheme provision to the revised format. On this basis, it is supported.

The TPS provides scenic protection measures in a different formal and structure to the 2000 Scheme. The representation identifies concerns that result from the translation into the new format for the controls. On this basis, it is considered reasonable to review the listings under the code to address the concerns within the representation.

Conclusion: review scenic protection code listings to better reflect clause 7.2.2(c) of the 2000 Scheme and the listed issues.

### 10.3 Scenic Protection Code

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	Yes
NTRLUS:	Yes	Relate to TPS?	Yes
State Policies:	-	Relate to LPS?	No
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	Yes		

The representation also raised issues with the operation of the C8 Scenic Protection Code of the TPS, as follows:

- impact of exemptions on operation of the Code (particularly for rural areas, including forestry activities);
- limited nature of the tools as focusing on skylines (undefined) and road corridors (defined but limited in extent);
- provisions appear to be inconsistent with the stated purpose of the code and the matters that are able to be assessed, particularly guidelines SPC1-3;
- no guidance is provided on night landscapes and values;
- the consideration of lights within the nighttime landscapes and under scenic protection code
- the lack of definitions for key terms within the code, such as visually prominent;
- specific assessment of scenic impacts and prominence in coastal locations; and
- compliance of this code was questioned with the Schedule 1 objectives of the Resource Management and Planning System of Tasmania and the Act, specifically objectives at Part 1, 1 (a, b, d, and e) and Part 2 (a, b, c, d, f, and g).

As these matters relate to composition of the TPS, they must be considered by Council under a separate process for the lodgment of the Section 35G Notice under the Act.

Conclusion: list issue for 35G Notice.

### 10.4 Electricity connection to lots

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	Yes
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	-	Relate to LPS?	Yes
Guideline No.1	-	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation raised the lack of a requirement to provide new lots with a connection to the reticulated electricity network, unlike the clause 3.10.6 of the 2000 Scheme. A Specific Area Plan was suggested to require connection to the reticulation network.

This matter relates to the LPS and can be considered under this process.

Unfortunately, initial contact with Hydro Tasmania did not result in any support for this measure, despite the investments in renewable energy on Flinders.

Council expressed concern regarding natural justice and economic impacts about the creation of lots without connection to reticulated services through the subdivision process. It is understood this has been a historical problem, particularly with the cost to subsequent land owners who then want connections to the reticulated electricity network.

Conclusion: SAP to require connection to reticulated electricity network within selected areas.

## 10.5 Crown Titles at Lady Barron

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	Yes
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	Yes	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	Yes		

Crown Land Services sought rezoning of 12 existing, vacant titles at Lady Barron to facilitate their sale and release to the local market for development.

This matter relates to the LPS and can be considered under this process.

Council supported this proposal in its decisions from March 2021. The properties are located on Gunter and Barr Streets and identified within the red border in the extract of the zoning under the 2000 Scheme at Figure 4.

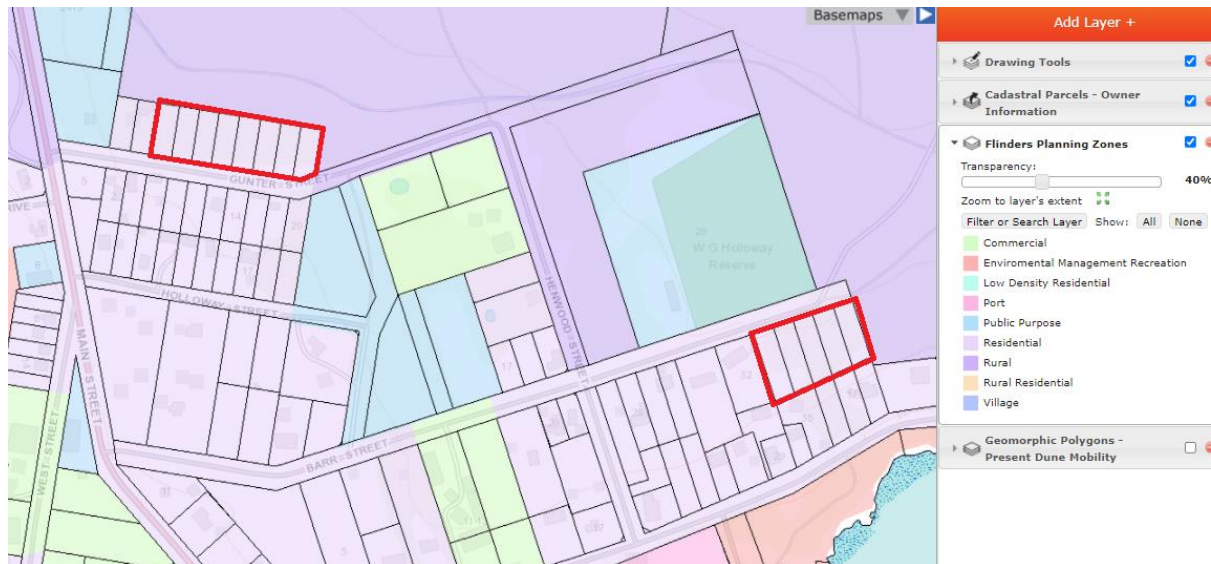


Figure 4 - 2000 Scheme extract - Lady Barron

The exhibited LPS mapping proposed to rezone the subject properties from Residential under the 2000 Scheme to Environmental Management, consistent with their public ownership.

Crown Land Services have since approached Council regarding sale of these properties for residential development.

Rezoning of these lots is appropriate given their pending sale and consistent with:

- Guideline LDRZ1 a to c; and
- Recommendations for Lady Barron, page 15, *Discussion Paper - LPS – Identifying potential lot and dwelling yields*, Jan 2021, adopted by Council 16/3/21.

It is recommended that these 12 properties retain the residential entitlement from the 2000 Scheme and are located within the Low Density Residential zone of the LPS and subjected to the SAP's regarding multiple dwellings and subdivision identified elsewhere in this report.

Conclusion: rezone identified titles Low Density Residential and apply SAP's for multiple dwellings and subdivision.



## 10.6 Priority Vegetation Overlay within urban areas

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	Yes
NTRLUS:	-	Relate to TPS?	Yes
State Policies:	-	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation sought to have the Priority Vegetation Overlay removed from titles in the Low Density Residential zone that are less than 2400 m<sup>2</sup>, or 5000 m<sup>2</sup> within the Coastal Areas SAP. Inclusion of subject titles within the Overlay has no functional impact for operation of the LPS or overlay where there is no subdivision potential.

Clause C7.2.1 of the TPS restricts application of the Overlay to subdivision within the Low Density Residential zone. We also note that clause 10.6.1 establishes an absolute minimum lot size of 1200 m<sup>2</sup>, with FLI-S1.8.1 establishing a 2500m<sup>2</sup> minimum lot size under the FLI-S1 Coastal Areas SAP.

It is recommended that the Priority Vegetation Overlay is removed from titles in the Low Density Residential zone that are less than 2400 m<sup>2</sup>, or 5000 m<sup>2</sup> within the Coastal Areas SAP, as it has no functional purpose in operation of the LPS where there is no subdivision potential.

Conclusion: remove Priority Vegetation Overlay in the urban areas of the Low Density Residential zone on lots less than 2,400m<sup>2</sup> or 5,000m<sup>2</sup> within the Coastal Areas SAP.

## 10.7 Supporting reports

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	-	Relate to TPS?	Yes
State Policies:	-	Relate to LPS?	No
Guideline No.1	-	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation identified that many proposals under the TPS and LPS will require supporting reports from suitably qualified people to enable assessment, through areas of land being subject to specific overlays or identified as investigation areas. Key points included:

- the cost of this impost on the local community and economy in terms of cost and time delays in getting reports for applications;
- the additional cost impacts on top of existing cost loadings within an isolated community; and
- the resulting disincentive to develop on Flinders.

The structure of the TPS standards will result in many proposals requiring a report from a suitably qualified person to demonstrate compliance with the relevant acceptable solutions or performance criteria.

It is likely that Council will need to obtain some more detailed investigations on selected issues to minimise this risk to Flinders, with opportunity to work with other island or remote areas to address such issues.

While there is little that can be done to address this issue through the current process, it is important that it is recognised as part of this process. Actions for this issue will sit outside the current process.

Conclusion: no change to the LPS.

## 10.8 State based codes

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	Yes	Relate to TPS?	Yes
State Policies:	-	Relate to LPS?	No
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	Yes		

Issues were identified regarding maintenance of the mapping that supports TPS codes for natural hazards by the State and taking over the Regional Ecosystem Model that underpins the Priority Vegetation overlay under the Natural Assets code.

It is understood that there is no clear commitment from the State regarding these matters, where it is critical to the competent and efficient operation of the planning system and TPS that such work is completed on a timely and recurrent basis. The representation identifies that some of the required information that supports the TPS codes is already dated (specifically, through outdated coast line information).

Council may raise the issue through its Section 35G Notice to the Commission, which identifies changes that the Planning Authority are required to the TPS.

Recommendations should be provided on this issue as part of this process and also as part of Council's Section 35G Notice to the Commission for review and changes to the TPS.

Conclusion: no change to the LPS, list issue for 35G Notice.

Summary: the representation contains issues with merit.

**Recommendation for draft LPS:** that the LPS be modified as a result of the representation as follows:

- a. support use of the Rural zone for rural enterprise areas at Memana, Emita, Lackrana and Whitemark (subject to further expert evidence);
- b. new SAP's be established to address multiple dwelling density and minimum lot size for subdivision, as identified in recommendations a and b Representation 7;
- c. scenic value statements and management objectives be revised to better reflect the identified statements;
- d. a SAP be established to require connection to the reticulated electricity network for subdivision of new lots within selected areas;
- e. 12 existing crown titles at Lady Barron retain residential zoning from the 2000 Scheme and are rezoned Low Density Residential; and
- f. the Priority Vegetation Overlay is removed from the Low Density Residential zone within the urban areas of Whitemark and Lady Barron, on lots less than 2,400m<sup>2</sup> or 5,000m<sup>2</sup> within the Coastal Areas SAP;

**Effect on Draft LPS as a whole:** no effect on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the Guidelines. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** the following issues be listed in the 35G Notice to be lodged with the Commission:

- a. the Scenic Protection Code of the TPS be reviewed in terms of: operation of the exemptions, the limited nature of the tools under the code to achieve the stated objectives, consistency with and ability to deliver the requirements of Guidelines SPC1 to 3, consideration of night time landscapes and the impacts of lighting, the

- lack of definitions for key terms within the Code, ability to consider impacts to coastal locations, and the ability of the Code to comply with the objectives under pArt 1 and Part 2 of the RMPS;
- b. State urgently updates mapping that supports natural hazard codes and performs ongoing maintenance of this information and the associated layers within the LPS mapping;
  - c. State takes over maintenance of the Regional Ecosystem Model that supports the Priority Vegetation Overlay and performs ongoing maintenance of this information and the associated layer within the LPS mapping; and
  - d. State reviews operation of the Priority Vegetation Overlay and its ability to deliver the stated objectives of the provision and comply with the objectives of the RMPS.

## 11. Rebecca Green & Associates submitted by Cohen & Associates

Overview			
Site:	4837 Palana Road, Palana	PID:	7629434
Area:	Approx. 20.6 hectares	CT:	164144/1
Is representation consistent with:		Does the representation	
Local Strategy	Yes	Translate 2000 Scheme zoning?	Yes
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	Yes	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation identifies the following in support of the request:

- an 11-lot subdivision was approved in 2010, with stage 1 completed and titles issued for 3 lots, over the current low density residential portion of the existing title (refer Figure 5);
- the proposed landscape conservation zone is inconsistent with the Guidelines; and
- the proposed landscape conservation zone allows for residential as a discretionary use.

The subject lands were zoned Low Density Residential and Rural under the 2000 Scheme. The LPS identifies that the subject land has overlays for bushfire hazard, landslip (stability) and natural values (Priority Vegetation). Parts of the site are also within FLI-S1 Coastal Settlement Specific Area Plan.

The Low Density Residential zone under the TPS allows subdivision down to 1,200 m<sup>2</sup> on performance criteria, which represents a substantial increase in subdivision potential from the 4,000m<sup>2</sup> minimum lot size and other requirements under clause 5.3.3 of the 2000 Scheme. The subdivision opportunity provided by the Low Density Residential zone of the TPS is not considered to be consistent with the nature and character of the area or the identified strategic direction for Palana.

Even with application of FLI-S1, up to 8 additional lots could be approved (with the minimum lot size of 2,500m<sup>2</sup> under FLI-S1.8.1 and frontage/access under performance criteria).

Table 19 of the Supporting Report identifies that the conversion of small lots in the area should be to Low Density Residential.

Alternative zones for the approved lots 3, 4, 7, 8 and 10 would be Rural Living, which would prevent further subdivision of these lots.



Figure 5 - Extract – approved plan DA 24/10P

The zone purposes statements of the Rural Living zone are more consistent with the nature and values of the area, as follows:

- 11.1.1 To provide for residential use or development in a rural setting where:
  - (a) services are limited; or
  - (b) existing natural and landscape values are to be retained.
- 11.1.2 To provide for compatible agricultural use and development that does not adversely impact on residential amenity.
- 11.1.3 To provide for other use or development that does not cause an unreasonable loss of amenity, through noise, scale, intensity, traffic generation and movement, or other off site impacts.
- 11.1.4 To provide for Visitor Accommodation that is compatible with residential character.

In terms of the Guidelines:

RLZ1 is relevant through consideration of the subdivision potential provided through the TPS for the lands. While a Site Specific Qualification or Specific Area Plan could be established for the lands to limit further subdivision, use of the Rural Living zone removes the requirement to modify the TPS, while maintaining development opportunities consistent with those under the 2000 Scheme;

RLZ2 is not relevant to the current consideration;

RLZ3 identifies that Rural Living A is the appropriate category for the lands, as the 1 ha minimum lot size will preclude further subdivision of the lands; and

RLZ4(b) is relevant as the natural values of the land are proposed for management through overlays and the associated codes under the LPS/TPS.

Conclusion: the representation raises issues with merit and can be supported.

**Recommendation for draft LPS:** that the LPS be modified so that the approved lots of planning permit DA24/10P on part of 4837 Palana Road, Palana PID 7629434 as follows:

- a. lots 1, 2, 5, 6 and 9 are zoned Low Density Residential;
- b. lots 3, 4, 7, 8, 10 and 11 are zoned Rural Living A; and

- b. lots 1 through 11 are subject to FLI-S1 Coastal Settlement Specific Area Plan.

**Effect on Draft LPS as a whole:** no effect on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the Guidelines. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** not applicable.

## 12. Rebecca Green & Associates submitted by Cohen & Associates

Overview			
Site:	Killiecrankie Road, Killiecrankie	PID:	7716060
Area:	Approx. 20.6 hectares	CT:	50506/3
Is representation consistent with:		Does the representation	
Local Strategy	Yes	Translate 2000 Scheme zoning?	Yes
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	Yes	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	Yes		

The representation requests Low Density Residential zone for the subject land and identifies the following in support:

- Permit DA007-11 provided for a 3 lot subdivision of the land, which is claimed to have substantial commencement (refer Figure 6);
- The current zoning of the land is Village and Rural under the 2000 Scheme;
- The body of the approved lots will be in the landscape conservation zone under the LPS; and
- The 3 approved lots should be zoned Low Density Residential, consistent with adjoining lands that front Killiecrankie Road.

The permit and plans submitted to Council were confirmed as active and the issue relates to zoning established under the LPS, so they can be considered under the current process.

Lots to Killiecrankie Road are proposed for the Low Density Residential zone with FLI-S1 Coastal Settlements Specific Area Plan over them. There is no apparent reason why the approved lots should not have the same zoning and Specific Area Plan as lots fronting Killiecrankie Road.

Conclusion: the representation raised issues with merit and can be supported.

**Recommendation for draft LPS:** the representation contains issues with merit and that lots 1, 2 and 3 on part of CT50506/3 Killiecrankie Road, Killiecrankie PID 7716060 be:

- a. zoned Low Density Residential; and
- b. subject to FLI-S1 Coastal Settlement Specific Area Plan be varied to apply to the full extent of the approved lots.

**Effect on Draft LPS as a whole:** no effect on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the Guidelines. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** not applicable.

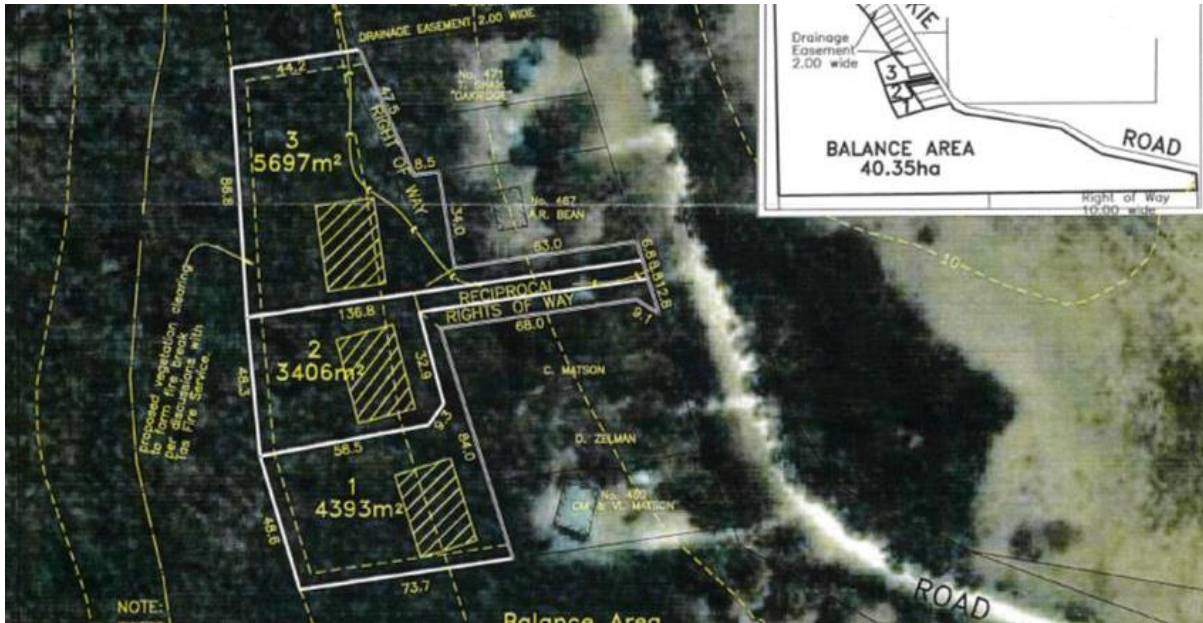


Figure 6 - extract of approved subdivision plan

### 13. Anne Rae and Bronwyn Stubbs

#### 13.1 Increasing land in reserves and management/protection of reserves

Is representation consistent with:	Does the representation		
Local Strategy	No	Translate 2000 Scheme zoning?	No
NTRLUS:	-	Relate to TPS?	No
State Policies:	-	Relate to LPS?	No
Guideline No.1	-	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation seeks to have additional State reserves declared. Designation of State reserves and their management is not relevant to the LPS and cannot be considered under this process.

Conclusion: no change as a result of this issue.

#### 13.2 TPS to utilize most recent threatened species data

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	-	Relate to LPS?	No
Guideline No.1	-	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation seeks to have the most up to date data used in the LPS.

Threatened species data was implemented through the Priority Vegetation Overlay under the Natural Assets Code of the TPS. The Overlay was prepared based on the Regional Ecosystem Model (REM), which considered State and Federal threatened species listings. The REM was subject to

representation seeking State to take ownership and its ongoing maintenance of it in Representation 10.

The Natural Assets Code applies to the areas mapped in the Overlay under the LPS and does not include a clause that allows for a specific report to be prepared following an information request from Council. This tool is used in other codes as a way to overcome shortages of information, particularly for hazards such as coastal erosion, site contamination, flooding and landslip. Such a change would require alterations to the TPS, which is not possible under the current process.

The Act provides expedited processes for the amendment to the provisions and overlays of the TPS/LPS, which will provide for the routine updates of the base information within the LPS.

This matter was also addressed in representation 10 and the associated recommendations.

Conclusion: raise development/maintenance of Priority Vegetation Overlay in Section 35G Notice.

### 13.3 Reject the maximum building height and request decrease to 6 metres

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	No	Relate to TPS?	Yes
State Policies:	-	Relate to LPS?	Yes
Guideline No.1	-	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation seeks to have the 8.5 metre height limit established under the TPS reduced to 6 metres.

The 2000 Scheme provides a permitted height limit of 8 metres most zones, which will increase to 8.5 metres in residential zones and a range of other heights in remaining zones across Flinders under the TPS.

Modification of the TPS to reduce the maximum height limit cannot be considered under this process, due to the limitations established on representations under the Act. FLI-S3 Coastal Areas Specific Area Plan establishes a 5-metre height limit at clause FLI-S3.7.1, with no performance criteria. This provides a partial to the requested height limit in sensitive coastal areas. No further action is required on these matters.

It is not clear that the increase in height limits across Flinders under the TPS will have significant economic, social or environmental impacts that could be documented in a form that would satisfy the tests under the Act to establish a new SAP across all zones under the LPS. As a result, this response is not recommended.

The alternative process would be to list the reduced height limit in Council's Section 35G Notice for changes to the TPS. The issue is likely relevant to other areas, but unlikely to receive uniform support from other Councils and the development sector in Tasmania.

Conclusion: no changes are recommended to the LPS on this issue.

### 13.4 Apply Scenic Protection Overlay to eastern coastlines

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	No	Relate to TPS?	Yes
State Policies:	Yes	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	Yes		

The representations seeks expansion of the Scenic Protection Overlay to include the Eastern coastlines.

This issue was addressed in representation 9. No further consideration or action is required.

### 13.5 Expand scenic protection overlay on the north side of Killiecrankie Rd

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	No	Relate to TPS?	Yes
State Policies:	-	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	Yes		

The representation seeks expansion of the Scenic Protection Overlay north of Killiecrankie Road.

The Scenic Protection Area has Transitional status under the Act. A new area would need to be established to achieve this outcome. Two mechanisms are possible:

*Scenic Road Corridor* applies 100 metres each side of the road corridor and would include an area of approximately 99 hectares along Killiecrankie Road; or

*Scenic Protection Area* can apply to areas of scenic value, which would include over 510 hectares of land to the north of Killiecrankie Road and over 1000 hectares to the south, depending upon where the boundaries were located.

The issue identified in the representation relates to the long range views of distant islands over existing vegetation, which would require management of vegetation in the foreground.

Exemptions from the Scenic Protection Code under the TPS provide the following:

*C8.4.1 The following development is exempt from this code:*

*(a) planting or destruction of vegetation on existing pasture or crop production land, unless for the destruction of the following:*

*(i) exotic trees, other than part of an agricultural crop, more than 10m in height within a scenic road corridor; or*

*(ii) hedgerows adjoining a scenic road within a scenic road corridor,*

*(b) agricultural buildings and works, including structures for controlled environment agriculture, irrigation and netting, on land within an Agriculture Zone or Rural Zone, excluding the destruction of vegetation identified in C8.4.1(a);*

The subject areas will be within the Rural and the Agriculture zones of the LPS and as such, subject to the exemptions under clause C8.4.1 of the TPS for planting and destruction of vegetation, and agricultural buildings and works.

Regardless of which mechanism might be used in response to this part of the representations, the exemptions from the Code under the TPS prevent Council from managing vegetation within the viewing corridor, as raised in the representation. Absent changes to the exemptions at clause C8.4.1, the Code is not capable of managing the identified scenic values.

Conclusion: no change as a result of the representation.



**13.6 Extension of Medium Landslip hazard zone at Killiecrankie Bluff.**

Is representation consistent with:	Does the representation		
Local Strategy	-	Translate 2000 Scheme zoning?	No
NTRLUS:	No	Relate to TPS?	No
State Policies:	-	Relate to LPS?	Yes
Guideline No.1	No	Raise natural justice issues?	No
TPC Practice Notes	Yes		

The representation seeks extension of Medium Landslip hazard zone to all areas above the 30 metre contour on the west side of Killiecrankie Road on Killiecrankie Bluff, due to stormwater and erosion issues.

The Guidelines require that the Landslip overlay is prepared for a LPS based on expert assessment and in accordance with the four hazard bands established in the *Mitigating Natural Hazards through Land Use Planning Project*, prepared by the Department of Premier and Cabinet (DPAC), Office of Security and Emergency Management.

No such expert assessment is available to support the requested change. The guidelines clearly identify that the overlay must be based on the landslide hazard bands established under the project or alternative expert advice.

Conclusion: no change to the LPS on this issue.

**13.7 Revise FLI- C8.1.4 to include Killiecrankie Bluff’.**

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	No	Relate to TPS?	No
State Policies:	-	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	Yes		

The representation seeks revision of FLI- C8.1.4 to include Killiecrankie Bluff in the Description and Scenic Value statements.

The requested alterations to the description and scenic value statements appears to provide for a translation of the existing scheme provisions and are consistent with the existing statements.

It is understood that such refinements can be accommodated under this process in translation of the existing scheme provisions.

Conclusion: revise description and scenic value statements at FLI-C8.1.4 to include Killiecrankie Bluff.

**13.8 Consideration of light impact in all development applications**

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	No	Relate to TPS?	Yes
State Policies:	-	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	Yes		

The representation seeks to provide consideration of lighting impacts in all development applications.

Lighting impacts can be addressed in two ways:

- A Specific Area Plan could be prepared over the entire island that establishes acceptable solutions and performance criteria on the issue. This would be delivered through the LPS and can be considered under the current process. It is not clear that available documents establish a suitable case to meet the requirements of the Act to establish such a mechanism on a universal basis across Flinders; or
- The TPS could be modified to establish appropriate mechanisms and criteria for assessment of applications, which is not possible under the current process as it requires a change to the TPS. Council would need to identify this issue in its Section 356 G Notice to the Commission for this to be considered.

A similar issue was raised in Representation 10.4, which identified that the values and management objectives for listings under the Scenic Protection code will need to be revised to reflect this concern (amongst others). This representation raises a much broader issue.

Further work would be required to investigate whether a Specific Area Plan could meet the statutory tests for inclusion to a LPS and if so, what basis it might be applied upon.

It is noted that this issue can be partially addressed through revisions to the values statements and management objectives under the Code, which is possible under the current process. Clause 7.2 establishes the following objectives that are then assessed for proposals under 7.4.2:

- 7.2.2 The objectives of the Visually Sensitive Areas are:*
- (a) To retain the natural appearance of each Area;*
  - (b) To minimise the visual impact of Use or Development;*
  - (c) To retain and restore where possible the natural vegetation cover.*

The response to other representations identifies that the scenic values and management objectives should be reviewed for better translation of these provisions. This task is relevant to the current matter and should be addressed through this process.

It is recommended the scenic values and management objectives within the LPS be reviewed for better translation of the tests established at clause 7.2 of the 2000 Scheme.

The available tools under the SPP's do not appear to provide mechanisms that can provide for the management of this issue within the broader landscape context. It is understood that other LPS use SAP's to address parts of this issue within sensitive environments. Management of wider areas, such as the Freycinet Peninsula and parts of the surrounding landscape, do not lend themselves to this type of control.

Given that the issue exists across the State and the lack of suitable tools under the SPP's, the only option for Council is to list the matter for consideration by the Commission in the 35G Notice.

No remedy is provided for this issue, as the required policy framework does not yet exist and the alterations to then deliver those policies through the Scenic Protection Code or other tools under the SPP's would be extensive.

The management of lighting impacts on sensitive landscapes is consistent with the Schedule 1 Objectives for the planning system and the Act, in particular 1.1 and 2 (b), (c), (d) and (g).

Conclusion: the management of lighting impacts to significant or iconic landscapes within the TPS be listed under a future 35G Notice.

### **13.9 Endorse the following:**

- **setback from coastal shorelines of 100m in the Shorelines and Waterbodies Overlay to protect highly valued coastal areas;**
- **landscape conservation zone south west of Killiecrankie Bay, based on significant landscape values of the area, its vegetated cover and relatively undeveloped nature;**

- **Agriculture zoning on Quoin property at Mt Killiecrankie;**
- **scenic protection overlay on Mt Killiecrankie and surrounds**

The matters relates to the LPS and can be considered.

The support is noted. No alterations are recommended.

Conclusion: the representation raised multiple issues that require response.

**Recommendation for draft LPS:** the representation contains issues with merit and that listings under FLI-C8 be modified as follows:

- the description and scenic values at FLI-C8.1.4 be revised to include Killiecrankie Bluff; and
- scenic values and management objectives within the LPS be reviewed for better translation of the tests established at clause 7.2.2 of the 2000 Scheme.

**Effect on Draft LPS as a whole:** no effect on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the Guidelines. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** the following issues be listed in the 35G Notice to be lodged with the Commission:

- management of lighting impacts to significant or iconic landscapes be addressed under the Scenic Protection Code of the TPS.

## 14. Dept. of State Growth

### 14.1 State Road Network

The representation supports the zoning of the State Road Network.

Conclusion: no alterations to the LPS are required as a result.

### 14.2 Road and Railway Attenuation Area

The representations supports the approach to application of the attenuation area under the Code.

Conclusion: no alterations to the LPS are required as a result.

### 14.3 Increased density adjoining State Road network

Is representation consistent with:	Does the representation		
Local Strategy	No	Translate 2000 Scheme zoning?	No
NTRLUS:	No	Relate to TPS?	No
State Policies:	-	Relate to LPS?	Yes
Guideline No.1	Mixed	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation opposes use of the Rural Living zone and application of FLI-S2 Whitemark Rural Living Specific Area Plan to land near Whitemark, because:

- A TIA was not provided to demonstrate safety will be maintained by the rezoning;
- The rationale for the proposal is unclear; and
- There is no planned expenditure for any required upgrades to the road infrastructure.

Both the zoning and the SAP are within the LPS and can therefore be considered under the current process.

The rationale for the proposed zoning and SAP was explained in the Supporting Report, summarized as follows:

- There is an existing housing availability and affordability problem on Flinders and around Whitemark;
- There is little zoned land available for residential development within Whitemark;
- Significant natural hazards and values constrain the expansion of the existing Whitemark settlement;
- The RLUS requires that the LPS meets the reasonably foreseeable needs of the area;
- The identification of Rural Living precincts in close proximity to Whitemark is necessary to meet existing and future residential demands; and
- Allowing multiple dwellings under the SAP is expected to increase housing options on Flinders and address affordability issues.

In response to this issue within the representation, it is contended that:

- a TIA will be provided as part of the future subdivision process to maintain safety of road users and the network, as the TPS requires; and
- the Supporting Reports for the LPS and the RLUS support both the Rural Living zone and the SAP proposed for the subject lands.

Conclusion: no change as a result of this concern.

#### 14.4 Zoning Extractive Industries

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	-	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation identifies a number of properties that contain mining leases that are proposed for landscape conservation and requests Rural or Agriculture zoning, on the basis that the existing activities become prohibited under the TPS and cannot continue or expand operations.

Section 11(3)(b) of the Act establishes activities that operate outside of the planning system and provides the following:

- (3) *Nothing in a planning scheme or the Tasmanian Planning Scheme affects –*
- forestry operations conducted on land declared as a private timber reserve under the Forest Practices Act 1985 ; or*
  - the undertaking of mineral exploration in accordance with a mining lease, an exploration licence, a special exploration licence, or a retention licence, issued under the Mineral Resources Development Act 1995 , provided that any mineral exploration carried out is consistent with the standards specified in the Mineral Exploration Code of Practice, published by Mineral Resources Tasmania, as in force from time to time; or*
  - fishing; or*
  - marine farming in State waters*

Subsection b clearly provides that authorised mining and exploration activities are not affected by the operation of a planning scheme.

Noting this, the properties identified by the representor contain existing active leases and associated activities, which questions compatibility with the zone purpose statements under the TPS and Guideline No.1.

Detailed consideration of the specific properties is provided in the following table.

Details	Response	Outcome
2056P/M Lot 2 Palana Road, Lughrata 141842/1 141842/2	The subject titles adjoin Rural zoning to the north under the LPS.  The requested change is not inconsistent with the zoning regime and provides more consistent application of the Guidelines.	Rezone Rural.
2059P/M 2270 Palana Road, Lughrata, 160313/1 154620/2	The subject titles are within a larger area of Landscape Conservation and on land that is subject to multiple overlays for natural hazards and other issues. Rezoning to Rural would create an isolated Rural patch and is not supported.  Use of a SSQ to reflect the mining lease would achieve the same outcome without alteration of the underlying zoning regime.	New SSQ to reflect existing mining lease as a permitted use on the titles.
1229P/M 634 Palana Road, Whitemark, 245509/1	The subject title adjoins an area identified for Rural zoning but subject to Directions that mandated use of the Agriculture zone.  Use of the Rural zone is consistent with local strategy recognised under the RLUS and provides more consistent application of the zone purpose statements under the Guidelines. Rural zoning would also allow retention of the Priority Vegetation Overlay on the land, where the Agriculture zone would not.	Rezone Rural.
2098P/M Lot 2 Harleys Road, Whitemark, 176057/2	The subject titles adjoin Rural zoning to the south and west under the LPS.  The requested change is not inconsistent with the zoning regime and provides more consistent application of the zone purpose statements and Guidelines.	Rezone Rural.

Conclusion: the issue has some merit and the LPS should be modified to reflect the identified outcomes.

#### 14.5 Priority Vegetation and Future Coastal Refugia overlays

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	No	Relate to TPS?	No
State Policies:	Mixed	Relate to LPS?	Yes
Guideline No.1	No	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation requests that the overlays be removed from the State Road Network. Lady Barron Road and Palana Road (to the airport) are State Roads.

Figure 7 shows Future Coastal Refugia in orange and Priority Vegetation in Green hatching and identifies a relatively low risk on Flinders for this issue.

Guideline NAC6(b)(ii) provides specific instruction that the Future Coastal Refugia overlay should not be used for major infrastructure without further justification demonstrating this it will not have an adverse impact. No justification is available to satisfy this test. The Guidelines do not provide a similar instruction for the Priority Vegetation Overlay. It is understood that this was an intentional outcome of the hearings on this issue in development of the TPS and associated documents.

The TPS establishes a range of exemptions from the Code at clause C7.4.1, which provide for a range of infrastructure and agricultural operations. Road infrastructure does not appear to be provided with similar exemptions to water supply, cropping, forestry, coastal issues and coastal protection works.



Figure 7 - State Roads with Future Coastal Refugia and Priority Vegetation Overlays

Conclusion: no change as a result of this issue.

#### 14.6 MRT Strategic Resource in Landscape Conservation zone

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	No	Relate to TPS?	Yes
State Policies:	No	Relate to LPS?	Yes
Guideline No.1	Mixed	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation objects to use of the Landscape Conservation zone on lands identified as containing reserves of strategic resources.

As with issue 14.4, Section 11(3)(b) of the Act provides protections to investigate and conduct mineral exploration and activities against the provisions of a planning scheme.

The lands identified in the representation are shown in Figure 8, which identifies the strategic reserves with the hatched areas on the left, and shown compared to the LPS zoning regime on the right.

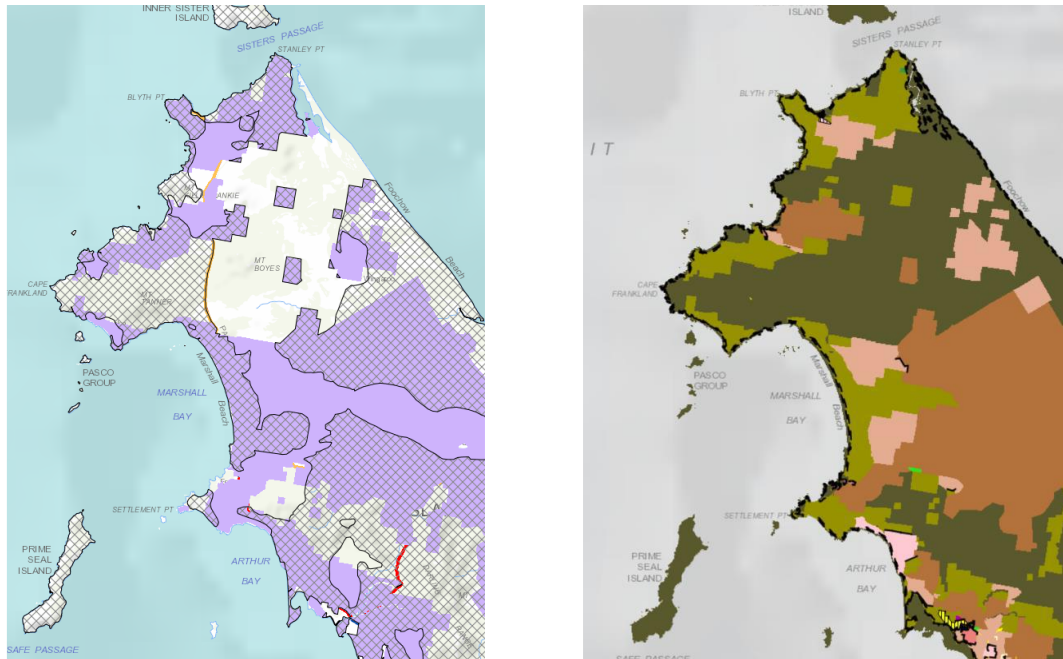


Figure 8 - Strategic mineral resource areas, left, LPS zoning, right.

As a result of the protections provided for mining and exploration activities under the Act, no change is proposed to the zoning under the LPS. Zoning of lands subject to active licenses and operations that result from investigations can be considered in the future.

Conclusion: no change as a result of this issue.

**14.7 PID 6429748 at Franklin Parade, Lady Barron**

Is representation consistent with:	Does the representation		
Local Strategy	No	Translate 2000 Scheme zoning?	Yes
NTRLUS:	No	Relate to TPS?	No
State Policies:	No	Relate to LPS?	Yes
Guideline No.1	Mixed	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation seeks Port and Marine zoning for the land, which provides for translation of the Port zone under the 2000 Scheme.

The LPS proposes the Environmental Management zone. LISTmap identifies that it is unleased crown land that contains foreshore vegetation, as shown in Figure 9.

The land appears to be unused at present, aside from informal community-based use.

The Structure Plan identifies that the land should be used to maintain the waterfront and access to it, as identified in at Appendix 3, as reproduced in Figure 10.

The shape and location of the land suggests that it will probably be difficult to use. Given these considerations, the position within the Structure Plan is preferred.

Conclusion: no change on this issue as a result of the representation.



Figure 9 - Crown land at Franklin Parade, Lady Barron

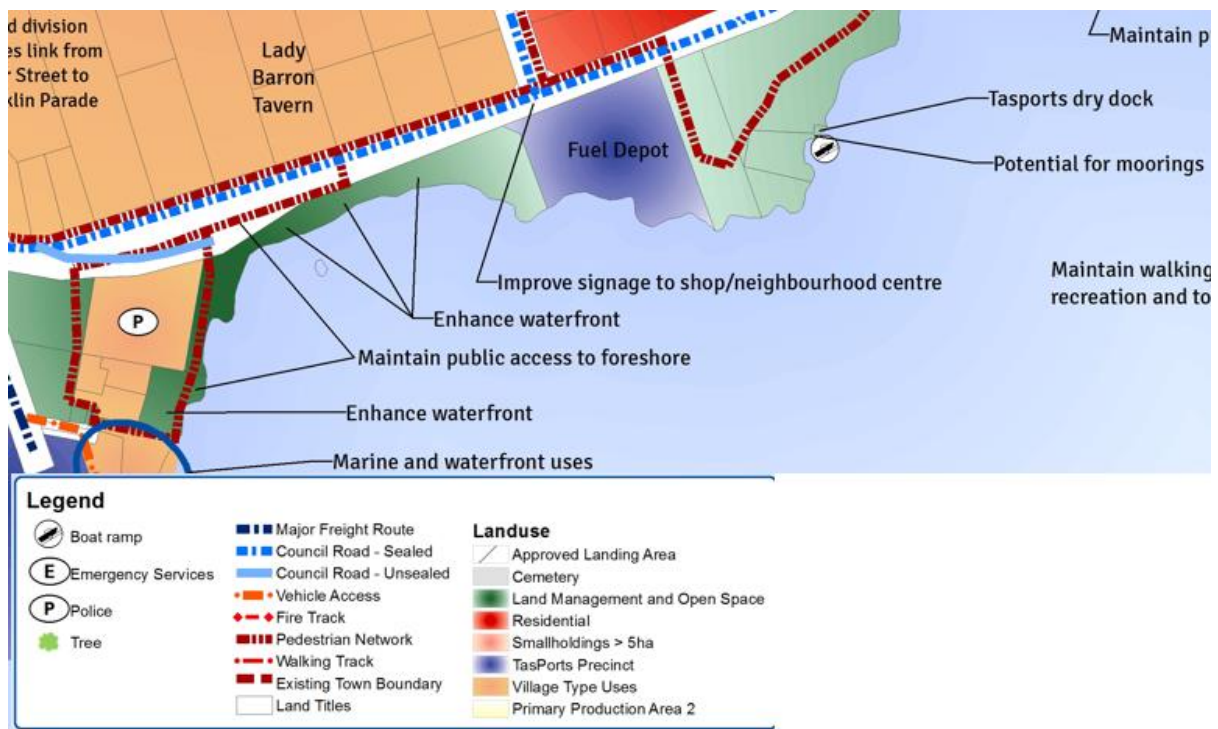


Figure 10 - Structure Plan extract for Franklin Parade, Lady Barron

**Recommendation for draft LPS:** the representation contains issues with merit and the following changes be made to the LPS as a result of the representation:

- a. a new Site Specific Qualification be established to allow Extractive Industry as a discretionary use at 2270 Palana Road, Lughrata, FR's 160313/1 & 54620/2, consistent with Mining Lease 2059 P/M;
- b. the following properties be zoned Rural:
  - i. Lot 2 Palana Road, Lughrata, FR's 141842/1 and 141842/2;
  - ii. 634 Palana Road, Whitemark, FR 245509/1; and
  - iii. Lot 2 Harleys Road, Whitemark, FR 176057/2.
- c. the Future Coastal Refugia Overlay be removed from the State Road network.

**Effect on Draft LPS as a whole:** no effect on the LPS as a whole.



**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the Guidelines. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** not applicable.

## 15. Wendy Jubb-Stoney

### 15.1 180 Badger Corner Road

Overview			
Site:	180 Badger Corner Road, Badger Corner	PID:	9103995
Area:	Approx. 5.04 hectares	CT:	177522/2
Is representation consistent with:		Does the representation	
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	-	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation supports the LPS Rural Living C zoning for 180 Badger Corner Road.

Conclusion: no change as a result of the representation.

### 15.2 Little Dog and Little Green Islands

Is representation consistent with:		Does the representation	
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	No	Relate to TPS?	Yes
State Policies:	-	Relate to LPS?	Yes
Guideline No.1	-	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation has concern over the impact of development on Little Dog and Little Green Islands and access to non-indigenous mutton birding.

The development entitlements are established through the zones and overlays applied under the LPS and can therefore be considered in this process.

Both Little Dog and Little Green Islands were proposed for the Environmental Management zone for public land and Landscape Conservation for private lands under the LPS, with various overlays.

Other representations sought rezoning of these Islands and revisions to the scenic values and management objectives under the Scenic Protection Code, based on private ownership of lands and the management of development on them. These responses are considered to address these matters within this representation and no additional measures are proposed.

Mutton-birding would have existing use rights that are protected under section 12 of the Act and allowed under a range of zones under the TPS. The TPS and LPS can *not* deal with access for private individuals to undertake this activity on private lands.

Conclusion: no change as a result of this issue in the representation.

### 15.3 TPS & LPS documents

Is representation consistent with:	Does the representation		
Local Strategy	-	Translate 2000 Scheme zoning?	-
NTRLUS:	-	Relate to TPS?	Yes
State Policies:	-	Relate to LPS?	Yes
Guideline No.1	-	Raise natural justice issues?	-
TPC Practice Notes	-		

The representor identifies the difficulty in navigating and understanding the TPS and LPS. These are noted.

While comments regarding the LPS can be considered through the current process, the structure, format and drafting requirements are set by the State and the TPS, which makes any redress difficult if not impossible, through this process.

The only method to address this requirement is through the Section 35G Notice. This was raised in other representations.

Conclusion: no change as a result of the representation.

**Recommendation for draft LPS:** the representation contains issues with merit and no changes as a result of the representation.

**Effect on Draft LPS as a whole:** no effect on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the Guidelines. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** the following issues be listed in the 35G Notice to be lodged with the Commission:

- a. the complex nature of the TPS and LPS documents be reviewed to improve understanding of the documents.

## 16. Jude Cazaly

### 16.1 Scenic Protection Overlay & criteria

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	-	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation raises a number of issues regarding the overlay, which can be considered under the current process as follows.

- All outer island should have the application of the Scenic protection Code C8;
- The east coast should have the application of the Scenic protection Code 8;
- The land bordered by Palana Rd. and Killiecrankie Rd extending to the Killiecrankie settlement should be included (C8.1.4);
- Extension of the Killiecrankie Bluff overlay to the back of all of the building titles in Killiecrankie Village..( there seems to be a gap or it could be a print error) to at least the 20 metre contour; and
- Killiecrankie open Space Zone should also be included.

The overlay was subject to transitional status under the Act, which limited alterations to the overlay in the identified areas and explains why the identified areas were not included. The Act established specific protections for transitional provisions and limited alterations to translation into the TPS/LPS structure.

These issues were addressed in the response to representations 9 and 13, which did not recommend any changes to the respective overlays.

The establishment of new scenic protection areas, as requested under the representation, will require a separate planning scheme amendment process.

No changes are recommended to the LPS on this issue.

- *To include 7.2.2 criterion (c) To retain and restore where possible the natural vegetation cover from the 2000 Scheme.*

This issue seeks revision of the relevant criteria to better reflect considerations under the 200 Scheme and was addressed in representations 10 and 13.

Conclusion: no further response is required.

## **16.2 Landslip Code**

The representation seeks extension of the Landslip Overlay at Killiecrankie. The issue relates to the LPS and was addressed in representation 13.

Conclusion: no further response is required.

## **16.3 Coastal Areas SAP**

The representation supports the SAP and lack of performance criteria for height at FLI-S3.7.1. This issue relates to the LPS. The support is noted.

Conclusion: no further response is required.

## **16.4 Building heights**

The representation objects to the increase in height from 8 to 8.5 metres and requests that it is reduced to 6 metres. This issue was addressed in representation 13.

Conclusion: no further response is required.

## **16.5 Light Pollution**

The representation objects to the impacts of development on the night landscape. The issue relates to the LPS and was addressed at representations 10 and 13.

Conclusion: no further response is required.

## **16.6 Shorelines and waterbodies overlay**

The representation supports the 100 metre setback established under the Coastal Areas SAP. This issue was addressed in representation 13. The support is noted.

## **16.7 Agricultural zoning**

The representor supports the Agriculture zoning around Killiecrankie Bay. This was addressed at representations 10 and 13.

Conclusion: no further response is required.

Summary: the representation raises issues with merit.

**Recommendation for draft LPS:** no changes as a result of the representation.

**Effect on Draft LPS as a whole:** no effect on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the Guidelines. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** not applicable.

## 17. Furneaux Islands Protection Network

### 17.1 Complexity

The representation suggests that the complexity and volume of the planning scheme and supporting documents make them impossible to understand outside the industry.

The comments are noted and subject to the response identified in representation 15, which raised this issue in its 35G Notice.

### 17.2 Visual Sensitive Areas

The representation objects to removal of clause 7.2.2 under the 2000 Scheme and seeks refinement of the listing criteria under the Scenic Protection Code. This issue was addressed in response to representations 10 and 13.

Conclusion: no further response is required.

### 17.3 Promises

The representation expresses frustration at the lack or minimal delivery of promises by developers within visually sensitive areas. This does not relate to the construction of the LPS and cannot be considered under this process.

Conclusion: the representation raises issues with merit that were addressed in response to previous representations.

**Recommendation for draft LPS:** no changes as a result of the representation.

**Effect on Draft LPS as a whole:** no effect on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the Guidelines. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** not applicable.

## 18. Ken Stockton

The representation seeks better translation clause 7.2.2 under of the Visually Sensitive Areas provisions of the 2000 Scheme to the LPS.

This issue was addressed in response to representations 10 and 13.

Conclusion: the representation raises issues with merit that were addressed in response to previous representations.

**Recommendation for draft LPS:** the representation contains issues with merit and no changes as a result of the representation.

**Effect on Draft LPS as a whole:** no effect on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the Guidelines. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** not applicable.

## 19. Eve Schulz

The representation objects to removal of clause 7.2.2 under the 2000 Scheme and seeks refinement of the listing criteria under the Scenic Protection Code. This issue was addressed in response to representations 10 and 13.

Conclusion: no further response is required.

**Recommendation for draft LPS:** the representation contains issues with merit and no changes as a result of the representation.

**Effect on Draft LPS as a whole:** no effect on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the Guidelines. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** not applicable.

## 20. Megan Gledden

Zoning and development on Little Dog Island

### 20.1 Zoning and Use

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	Yes	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	Yes		

The representation opposes the impacts from tourism and visitor accommodation on the scenic, cultural, flora and fauna values on Little Dog Island and specifically, shearwater rookeries; night time lighting and consequences of tourism based use on the island; and seeks a more restrictive zoning to prevent adverse impacts from future development.

Zoning of Little Dog Island was subject to representations 3 and 33, which sought and supported use of the Landscape Conservation zone. Council and the Commission supported the use of the Landscape Conservation zone for privately owned lands with significant values in many areas across the Furneaux Group and particularly the outer islands. That response is not altered as a result of this representation.

Scenic values were raised and addressed in representations 9, 10, 13 and 16, which provides a response within the limitations of the TPS/LPS framework.

Conclusion: no change as a result of the representation.

## 20.2 Natural Values & Reports

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	Yes	Relate to TPS?	Yes
State Policies:	Yes	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation identifies concerns and problems with the content and conclusions of Natural Values reports submitted with applications.

Threatened vegetation species are managed through the Priority Vegetation Overlay of the Natural Assets Code. Fauna are not addressed in the LPS, but known habitat for threatened species may be included in the overlay where supported by expert advice.

*Ardenna tenuirostris* (Short-tailed Shearwater) is listed under the *Environmental Protection and Biodiversity Conservation Act 1999* as a marine and migratory species. Any activities that have the potential to impact the species requires approval under this Act through Environment Australia. Review of the DPIPWE website identifies it is *not* a threatened species under Tasmanian legislation. Activities that impact birds or burrows also require approval under the *Wildlife (General) Regulations 2010* from the Conservation Assessment and Wildlife Management Section of DPIPWE.

While the Regional Ecosystem Model reviewed listings under the EPBC process, *Ardenna tenuirostris* habitat was not included in the Overlay as it is not listed as a threatened species. Assessment processes exist under State and Federal legislation and are not relevant to operation of the LPS.

Council may wish to seek revisions to the listing criteria under the REM to include such habitat, or alternatively, seek expert advice to support mapping of additional areas.

The TPS does not include a definition of the type of report required to respond to the Priority Vegetation Overlay, but provides six defined terms that are relevant to such an assessment. By implication, these terms are expected to be addressed in a report by a suitably qualified person.

Other Codes under the TPS specify the requirements for such reports for traffic, heritage, coastal erosion, coastal inundation, flooding, bushfire, contamination and landslip issues.

Both the southern and northern interim planning scheme provide definitions of such terms, as follows:

Northern:

*Flora and fauna report means a report prepared by a suitably qualified person that must include:*

- a) *a survey of the site identifying the extent, condition and connectivity of the habitat; and*
- b) *an assessment of the value of the habitat to contribute to the conservation and protection of species of significance in the bioregion; and*
- c) *an assessment of the full range of the impact that the proposed use or development will have on those values; and any mitigation or additional measures that should be incorporated to protect or enhance the values of the habitat.*

Southern

*Natural values assessment means an ecological assessment, generally consistent with the Guidelines for Natural Values Assessment, (DPIPWE July 2009), by a suitably qualified person (biodiversity) to identify and convey:*

- (a) *the location of priority biodiversity values affecting the site;*
- (b) *the significance of priority biodiversity values, with particular reference to Table E10.1;*
- (c) *any likely impact on these priority biodiversity values including existing activities on the site, nearby land uses, weeds, pests, pathogens and the degree of connectivity with other land with natural values;*

- (d) the likely impact of the proposed development or use on these priority biodiversity values;
- (e) recommendations for the design and siting of the proposed development or use to avoid or minimise the identified impacts;
- (f) recommendations for the mitigation or management of any residual impacts.

The lack of a definition for the required report is an omission from the TPS and cannot be addressed at the local level. Council may wish to raise this issue in its Section 35G Notice to the Commission.

Conclusion: raise definition for reports in 35G Notice.

**Recommendation for draft LPS:** no changes as a result of the representation.

**Effect on Draft LPS as a whole:** no effect on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the Guidelines. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** the representation contains issues with merit and the following issues be listed in the 35G Notice to be lodged with the Commission:

- a. that a definition be inserted to the Natural Assets Code of the type of report and content that is required to address the standards for the Priority Vegetation Overlay.

## 21. Annemarie Carnell

Priority Vegetation, Scenic Protection and Landslip Overlays, Height limit

### 21.1 Priority Vegetation Overlay at Killiecrankie

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	Yes	Relate to TPS?	Yes
State Policies:	-	Relate to LPS?	Yes
Guideline No.1	Mixed	Raise natural justice issues?	No
TPC Practice Notes	-		

The representor seeks expansion of the Priority Vegetation Overlay adjacent Killiecrankie to include a raptor nest and associated habitat.

The White-bellied Sea Eagle (*Haliaeetus leucogaster*) is listed under the *Environmental Protection and Biodiversity Conservation Act 1999*, and listed as Vulnerable under the *Threatened Species Protection Act 1999*. Any activities that have the potential to impact the species require assessment and approval under these Acts through Environment Australia and the Threatened Species Unit of DPIPW.

The nest identified in the representation does not appear on the raptor layer of Listmap. It is understood that the subject nest is being investigated and reported to the Natural Values Atlas outside the LPS process. It will need to be verified and recorded through that process before the Priority Vegetation Overlay can be revised to reflect the nest.

Guidelines NAC 11 & 12 require that expert evidence is provided to support expansion of the Priority Vegetation Overlay. Council cannot seek to alter the Overlay without the detailed reporting that is required under the Guidelines. It is expected that once this process is completed by DPIPW, the Priority Vegetation Overlay can be revised to reflect this information. No further action is possible at this time.

Local controls to address this issue are not warranted, given the threatened status of the species and recognition of the habitat under the guidelines for the Priority Vegetation Overlay.

Scenic Protection Overlay in this area was addressed in Representation 13 and requires no further response.

Conclusion: no change as a result of this issue in the representation.

## 21.2 Expansion of the Priority Vegetation Overlay

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	Yes	Relate to TPS?	Yes
State Policies:	-	Relate to LPS?	Yes
Guideline No.1	Mixed	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation seeks expansion of the Priority Vegetation Overlay to include the identified area in Figure 11 in red as priority vegetation, on the basis that the area includes the threatened native vegetation community "Eucalyptus viminalis - Eucalyptus globulus coastal forest and woodland" and "Heathland on calcareous substrates", a significant number of threatened plant species and species of conservation significance, including, but not limited to: dune tussock grass, (*Poa halmaturina*), shade pellitory (*Parietaria debilis*) and coast wirilda (*Acacia uncifolia*).

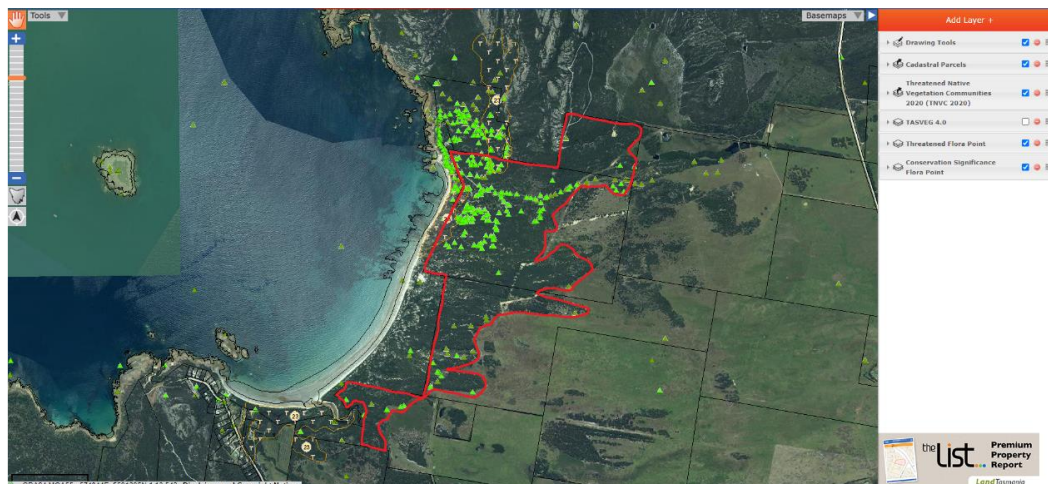


Figure 11 - image reproduced from representation

The Priority Vegetation Overlay was removed from the subject area as a consequence of the Commission Directions to use the Agriculture zone. The overlay is prohibited due to clause C7.2.1 of the TPS and Guideline NAC13, which do not allow it use in the Agriculture zone. Council cannot vary this requirement.

The extent of Priority Vegetation Overlay that was removed as a result of this direction is shown in Figure 12, as developed under the Regional Ecosystem Model.

Council was required to remove the overlay within the Agriculture zone as part of the directions for exhibition of the LPS. It is noted that Representation 22 provides support for use and extension of the Agriculture zone in the area.





Figure 12 - unedited Priority Vegetation mapping, zone boundary shown in red

The merits of the representation are accepted, particularly given the range of alternative uses that can establish in the Agriculture zone under the TPS that are then not required to consider or deal with natural values issues due to the zoning. The policy basis of the TPS on this issue is not evident.

Conclusion: list application of PVO within the Agriculture zone as an issue to be addressed through the 35G Notice to resolve conflicts between sustainable outcomes and non-agricultural uses.

### 21.3 Endorsement of scenic protection overlay at Mt Killiecrankie and surrounds

The representation supports the overlay in the LPS and its expansion to Killiecrankie Creek. This issue was addressed in representation 13.

Conclusion: no change as a result of this issue in the representation.

### 21.4 Extend Medium Landslip hazard at the west side of Killiecrankie Road

The representation supports expansion of the Landslip Hazard Overlay to the 20 metre contour. This issue was addressed in representation 13.

Conclusion: no change as a result of this issue in the representation.

### 21.5 Reject increased building height limits to 8.5 metres

The representation objects to the increase in height from 8 to 8.5 metres. This issue was addressed in representation 13.

Conclusion: no change as a result of this issue in the representation.

Summary: the representation raised issues with merit.

**Recommendation for draft LPS:** no changes as a result of the representation.

**Effect on Draft LPS as a whole:** no effect on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the Guidelines. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** the representation contains issues with merit and the following issues be listed in the 35G Notice to be lodged with the Commission:

- a. the TPS be revised to allow application of PVO within the Agriculture zone to resolve conflicts between sustainable outcomes and non-agricultural uses.

## 22. Jo Youl

Overview			
Site:	160 Killiecrankie Road, Killiecrankie	PID:	2609880
Area:	Approx. 196.6 hectares	CT:	51470/1
Is representation consistent with:		Does the representation	
Local Strategy	Mixed	Translate 2000 Scheme zoning?	No
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	Yes	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation seeks to have the Agriculture zone applied to the title, consistent with the remainder of their farm. Significantly, it does not contest the Agriculture zone imposed by the Commission directions. Supporting information includes:

- historical aerial photography showing the subject lands having been mostly cleared in the 1980's;
- email advice from Mark Wapstra of ECOTas on the natural values of the site; and
- an Analysis Results (SOIL) report, dated November 2020, by Roberts Rural Supplies claimed to be from Richard Mollineaux, an agronomist.

The Supporting Report identifies that the subject title is zoned Environmental Management and Recreation under the 2000 Scheme and was translated to the Landscape Conservation zone on the basis of habitat/species management and suitability for agricultural use. The subject title was excluded from the *Land Potentially Suitable for Agriculture Zone* project and corresponding layer on LISTmap, most likely due to the zoning under the 2000 Scheme.

The adjoining titles that comprise the Quoin property were exhibited with Agriculture zoning as a result of the Commission directions, as shown in Figure 13. The subject title is identified by the pin.



Figure 13 - Exhibited zoning with Priority Vegetation Overlay

Given the support from the owner within the representation for use of the Agriculture zone over the land holding, the Council strategy for use of the Rural zone in this area was reviewed with Council. It was determined that the Rural zone should no longer be pursued by Council and that the Agriculture zone should be retained (refer also to separate discussion under representation 10).

Following this, review of the zoning for the subject title is appropriate.

Guideline AZ7 applies as the title as follows:

- AZ 7** Land not identified in the 'Land Potentially Suitable for Agriculture Zone' layer may be considered for inclusion within the Agriculture Zone if:
- (a) local or regional strategic analysis has identified the land as appropriate for the Agriculture Zone consistent with the relevant regional land use strategy, or supported by more detailed local strategic analysis consistent with the relevant regional land use strategy and endorsed by the relevant council;
  - (b) the land has similar characteristics to land mapped as suitable for the Agriculture Zone or forms part of a larger area of land used in conjunction with land mapped as suitable for the Agriculture Zone;
  - (c) it can be demonstrated that the Agriculture Zone is appropriate for the land based on its significance for agricultural use; or
  - (d) it addresses any anomalies or inaccuracies in the 'Land Potentially Suitable for Agriculture Zone' layer, and having regard to the extent of the land identified in the 'Potential Agricultural Land Initial Analysis' layer.

Use of the Agriculture zone for the subject property can be considered under criterion (b) given the 2020 purchase by the representor. While the soil analysis results provided in the representation are not an agronomist's evidence, this is not considered necessary for demonstration against criterion (b).

The requirements of Guideline AZ7(b) support the request in the representation.

Conclusion: the request in the representation has merit and is supported.

**Recommendation for draft LPS:** the representation contains issues with merit and PID 2609880, CT 51470/1 should be rezoned Agriculture.

**Effect on Draft LPS as a whole:** no effect on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements and Guideline AZ7(b). The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** not applicable.

## 23. Van Diemen Consulting

### 23.1 Coastal Areas SAP

Overview			
Site:	16 Barr Street, Lady Barron	PID:	6429596
Area:	Approx. 1,012 m <sup>2</sup>	CT:	202206/16
Site:	27 and 29 Esplanade, Whitemark	PID:	6426221 and 6426248
Area:	Approx. 1,012 m <sup>2</sup>	CT:	240349/10 and 240348/9
Is representation consistent with:		Does the representation	
Local Strategy	Mixed	Translate 2000 Scheme zoning?	No
NTRLUS:	Mixed	Relate to TPS?	No
State Policies:	Mixed	Relate to LPS?	Yes
Guideline No.1	-	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation objects to application of the Coastal Areas SAP over the subject titles and specifically, restrictions and cost implications from development standards under the SAP.

The subject properties are identified as within the Village and Low Density Residential zones of the main urban settlements of Whitemark and Lady Barron.

FLI-S3 Coastal Areas Specific Area Plan establishes the following controls over land in close proximity to the coast:

- 5m height limit, without discretion;
- 300 m<sup>2</sup> site coverage, without discretion;
- Building appearance, with discretion;
- Building height, with discretion;
- Exterior finishes, with discretion; and
- 0.5 metre cut and fill limitation, with discretion.

In review of the representation, the following is noted:

- the range of standards, particularly height and site coverage limitations, could have a significant impact on development within the main urban settlements on Flinders;
- the existing Whitemark and Lady Barron settlements represent substantially modified environments that are the main focus for urban development on Flinders;
- the elevated and sloping landform at Lady Barron raises questions over the likely success of the identified standards within the existing settlement;
- the generally flat landform at Whitemark setback raises similar questions over the impact of the standards under the SAP; and
- the SAP does not apply to public lands that comprise the foreshores in both Whitemark and Lady Barron.

As a result of the representation, it is recommended that the SAP be removed from CT's 202206/16, 240349/9 and 240348/10.

As a consequence of the representation, suitability of the SAP for the urban areas of Whitemark and Lady Barron is questioned, particularly when considered against the existing character of the settlements. The SAP is expected to frustrate other Council strategies to facilitate residential development in these two areas.

Conclusion: the SAP be removed from:

- CT's 202206/16, 240349/9 and 240348/10; and
- the urban areas and zones of Whitemark and Lady Barron.

## 23.2 OBJECTION TO ZONING LOT 2 HARLEYS ROAD, WHITEMARK TAS 7255

Overview			
Site:	Lot 2 Harleys Road, Whitemark	PID:	9228686
Area:	Approx. 18.5 hectares	CT:	176057/2
Is representation consistent with:		Does the representation	
Local Strategy	Mixed	Translate 2000 Scheme zoning?	Yes
NTRLUS:	Mixed	Relate to TPS?	No
State Policies:	-	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	-		

The representor objects to Landscape Conservation zoning of property with mining lease 2098P/M over the property and any overlays that potentially limit the operation of the lease. Both the representation and LISTmap identify the mining lease covers the entire title.

The subject title and surrounding area is zoned Rural under the 2000 Scheme, with a buffer established over the nearby quarry activities and a waterway to the northern side of Harley's Road.



Figure 14 - zoning and overlays under LPS

As noted in response to this issue in representation 14.4, mining operations have statutory protections under the Act.

The LPS mapping identifies the subject title adjoins the Rural zone to the south and west and Utilities zone on the southwest corner. Overlays apply to the property for Landslip Hazards, Safeguarding of Airports, Waterway and Coastal Protection and Bushfire Prone Areas. All are based on State-sourced information and in compliance with the Guidelines. These are identified in Figure 14, with the subject title bordered in red.

The title is not subject to overlays for Scenic Protection or Priority Habitat and the nature of the approved use raises questions regarding suitability of the lands and approved activities for the zone purpose statements and requirements of the Guidelines.

Alteration of the zoning regime to reflect the mining lease could be accommodated through the Rural zoning for the lands.

The land was identified a suitable for the Agricultural zone in the 'Land Potentially Suitable for Agriculture Zone' LISTmap layer, which requires consideration against Guideline RZ3, as follows:

- RZ 3 The Rural Zone may be applied to land identified in the 'Land Potentially Suitable for Agriculture Zone' layer, if:*
- (a) it can be demonstrated that the land has limited or no potential for agricultural use and is not integral to the management of a larger farm holding that will be within the Agriculture Zone;*
  - (b) it can be demonstrated that there are significant constraints to agricultural use occurring on the land;*
  - (c) the land is identified for the protection of a strategically important naturally occurring resource which is more appropriately located in the Rural Zone and is supported by strategic analysis;*
  - (d) the land is identified for a strategically important use or development that is more appropriately located in the Rural Zone and is supported by strategic analysis; or*
  - (e) it can be demonstrated, by strategic analysis, that the Rural Zone is otherwise more appropriate for the land.*

The land is not in common ownership with any other adjoining lands and its removal from the Agriculture zone was addressed in the Supporting Report. As noted in the representation, the mining lease provides strategically important natural resources and the site is not subject to significant overlays for natural hazards. Given this and the adjoining zoning, use and development of the lands are considered appropriate to translate to the Rural zone.

Conclusion: the subject title be rezoned to Rural, with no changes to the overlays.

### 23.3 Palana Road, Whitemark TAS 7255

Overview			
Site:	Palana Road, Whitemark	PID:	6428622
Area:	Approx. 9.85 hectares	CT:	202634/1
Is representation consistent with:		Does the representation	
Local Strategy	Mixed	Translate 2000 Scheme zoning?	Yes
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	-	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	Yes		

The representation objects to application of the Coastal Areas SAP and Landscape Conservation rather than the Agriculture zone to CT 202634/1.

Reasons for the objection include that landscape and scenic amenity are addressed through the SPP zone provisions, and the adjoining Crown Land has greater ability to build taller structures than that imposed by the SAP Coastal Areas, and it is on private freehold land. No other supporting information was provided with the representation.

The subject title is within the Rural zone of the 2000 Scheme.

Review of the Supporting Report suggests the Landscape Conservation Zone was applied to CT 202634/1 based on the size of the title, intact vegetation and associated natural values (as demonstrated through the Priority Vegetation Overlay) and connectivity with the coastal reserve under public management.

Zoning of the subject area was reviewed by RMCG, who did not propose a change to the Landscape Conservation zone. Discussions with RMCG identified this area could go to the Rural zone.

Aerial photography identifies the land has extensive native vegetation cover, which is reflected in the Priority Vegetation Overlay under the Natural Assets Code, as shown in Figure 15. The Overlay does not extend to the vegetated title to the west.



Figure 15 - CT 202634/1 (red border) and Priority Vegetation Overlay

The Priority Vegetation Overlay covers approximately 35 hectares of the overall title, approximately 71 hectares. Based on these considerations, use of the Rural zone is consistent with the strategy employed throughout the LPS, noting the representors objections to the use of the overlay in this approach.

This is consistent with Council Strategies, which identify this area for use of the Rural zone, while the exhibited LPS identifies Agriculture zone to the northern title with the same owner. Lands to the west are zoned Rural and Landscape Conservation.

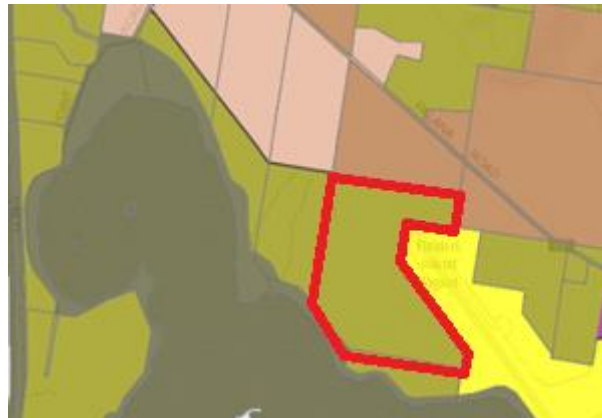


Figure 16 - CT 202634/1 (red border) and LPS zoning in area

As noted in the Supporting Report, the subject title is identified as unconstrained in the *Land Potentially Suitable for Agriculture Zone* Project completed by State. The RMCG review and approach within the LPS support use of the Rural zone for lands with complex natural values, which is consistent with Guidelines AZ6(c) for natural values on the site. Use of the Rural zone for this title is consistent with Council Strategies and therefore complies with Guidelines RZ3(d) and (e).

The subject title be rezoned Rural.

As a consequence of this:

- CT 202635/1, PID 6428622 should also be zoned Rural, as it is in the same ownership as the subject lands; and
- The split zoning to the north of the subject title should be removed and the Rural zone applied to the entirety of 160941/2 PID 3118944 and CT160941/1 PID 3118936.

The Supporting Report provides justification of why the SAP is required to apply under the LPS, how it relates to local strategies and how it meets the assessment criteria. While the adjoining crown lands may have the opportunity to build larger structures than are possible under the SAP, this is considered unlikely to the degree and extent that is likely on private lands and is also subject to a separate statutory assessment process that is recognised through the TPS.

The integrity of the SAP is also critical to its future use and success. The mapping clearly identifies that it covers the entire coastline of Flinders Island, excluding the commercial centre at Whitemark. While there is arguably a case for excluding the SAP from the major urban settlements, the same cannot be said for the balance of the coastline. Removal of the SAP from individual properties or coastal areas outside of the main urban settlements will compromise the integrity of the mechanism and outcomes it can deliver.

No change is recommended to the SAP.

Conclusion: the following titles be zoned Rural, with no change to overlays:

- CT's 202634/1 and 202635/1; and
- CT's 160941/2 and 160941/1.

#### 23.4 2270 Palana Road Lughrata TAS 7255

Overview			
Site:	4596 Palana Road, Palana	PID:	1863203
Area:	Approx. 9.85 hectares	CT:	160313/1 and 154620/2
Is representation consistent with:		Does the representation	
Local Strategy	Mixed	Translate 2000 Scheme zoning?	Yes
NTRLUS:	Mixed	Relate to TPS?	No
State Policies:	Mixed	Relate to LPS?	Yes
Guideline No.1	Mixed	Raise natural justice issues?	No
TPC Practice Notes	Yes		

The representor objects to use of the landscape conservation zone on land containing Mining Lease – 2059PM and requests rural, based on the existing mining leases and resources available on the titles.

This matter was examined in detail under Representation 14.4, the conclusion of which is reproduced for convenience:

Details	Response	Outcome
2059P/M 2270 Palana Road, Lughrata, 160313/1 154620/2	<i>The subject titles are within a larger area of Landscape Conservation and on land that is subject to multiple overlays for natural hazards and other issues. Rezoning to Rural would create an isolated Rural patch and is not supported.</i>  <i>Use of a SSQ to reflect the mining lease would achieve the same outcome without alteration of the underlying zoning regime.</i>	<i>New SSQ to reflect existing mining lease as a permitted use on the titles.</i>

The assessment under Representation 14 identified that the zoning should not change, but that a new site specific qualification should be established under the LPS to make extractive industries permitted under the terms of the Mining Lease.

Conclusion: no alterations as a result of this issue.



### 23.5 Various properties

Overview			
Site:	169 Port Davies Road, Emita	PID:	6423055
Area:	Approx. 4,047 m <sup>2</sup>	CT:	222610/9
Site:	1210 and 1215 Lackrana Road, Lackrana	PID:	6432891 & 3024665
Area:	Approx. 181.9 & 356 hectares	CT:	241023/49 and 157381/1
Is representation consistent with:		Does the representation	
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	Yes	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	Yes		

The representation notes Emita is proposed for Low Density Residential zone and Lackrana titles are proposed for Agriculture. It makes no comment on this unless it is proposed to be changed as part of TPS assessment.

There is no proposal to change the subject properties through this process.

Conclusion: no changes are necessary to this component of the representation.

**Recommendation for draft LPS:** the LPS should be modified as follows.

- FLI-S3.0 Coastal Areas Specific Area Plan be removed from 202206/16, CT's 240349/9 and 240348/10; the Low Density Residential and Local Business zones at Whitemark; and the Low Density Residential, Village, Port & Marine zones at Lady Barron
- CT 176057/2, PID 9228686 be zoned Rural
- CT 202635/1, PID 6428622 should be zoned Rural, as it is in the same ownership as the subject lands; and
- The split zoning to the north of the subject title should be removed and the Rural zone applied to the entirety of 160941/2 PID 3118944 and CT160941/1 PID 3118936.

**Effect on Draft LPS as a whole:** no effect on the LPS as a whole.

**LPS Criteria:** the recommendation provides effect to the policies of the zone purpose statements and Guideline AZ7(b). The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** not applicable.

24. Jana Mononne and Raoul Harper

Overview			
Site:	Esplanade ('The Cattle Track'), Whitemark	PID:	7098434
Area:	Approx. 0.87 hectares	CT:	15860/2
Is representation consistent with:		Does the representation	
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	Mixed	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	Yes		

The representor notes that the subject title is proposed for the Landscape Conservation zone under the LPS and requests that the Rural Living zone be applied to the area, based on the pattern of existing titles, the range of zones applied to lands immediately south that form part of the Whitemark settlement. Substantive arguments are provided in the representation, consistent with the requirements of the Guidelines and selections of the Supporting Report in favour of the request.

The subject title is zoned Rural under the 2000 Scheme and proposed for the Landscape Conservation zone under the LPS, with multiple overlays for natural hazards and values, as shown in Figure 17. FLI-s3 – Coastal Areas Specific Area Plan also covers the majority of the title, as shown by the dashed line on Figure 17. The subject title is bordered by the red line.

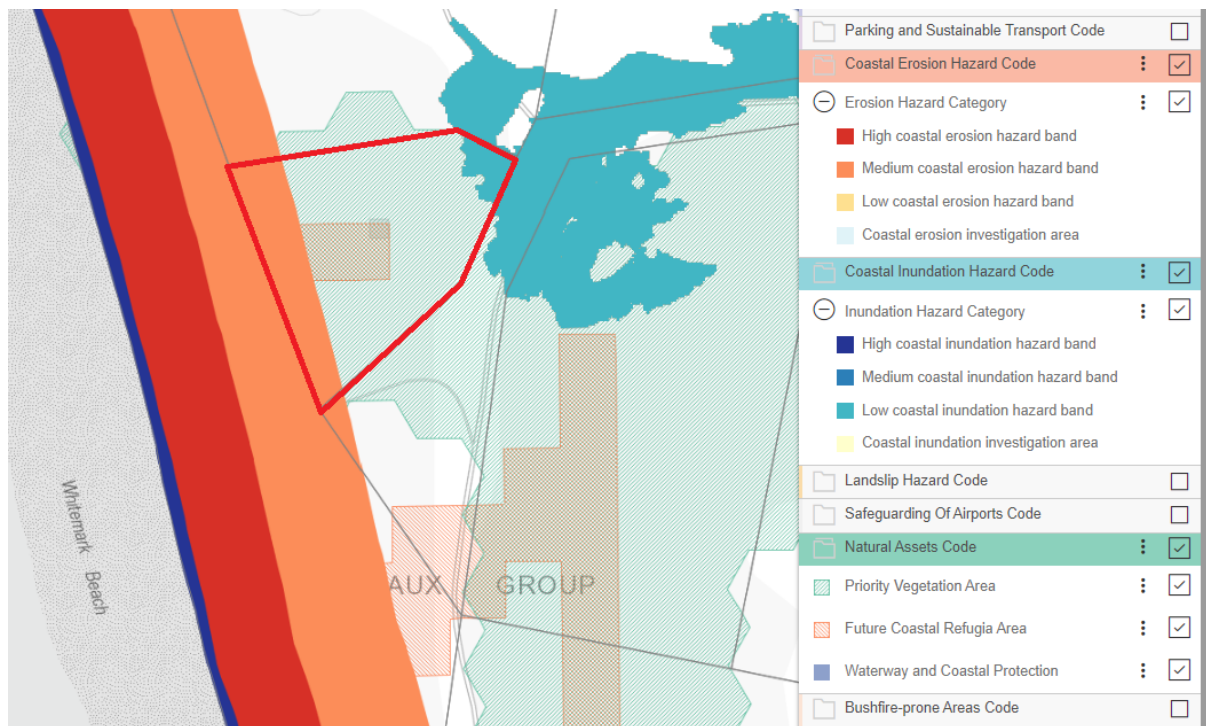


Figure 17 - Overlays under LPS

Review of the Supporting Report identified the Landscape Conservation zone was established based on the constraints established by intact natural values under Guideline LCZ1. Table 13 of the Supporting Report identifies that the subject title was identified as constrained (2a) and that other titles with similar constraints in the area were proposed for Low Density Residential, Rural Living and Rural zones.

The subject title is the smallest in the cluster of Landscape Conservation zoned lands that range from 0.88 to 7.2 hectares. Representation 27 relates to the land immediately north of this title and Representation 29 to other land nearby.

The Supporting Report provides the following response to zoning of this area:

*Immediately north of the town, CT 53171/5, CT 15860/1 and CT15860/2 are zoned Landscape Conservation in recognition of the coastal vegetation and landform values (Guidelines LCZ1 and LCZ2 (a)). CT 60768/6 and CT 128758/2 are split zoned with the Low Density Residential Zone, the latter Low Density Residential zoned land identified as a priority location for an assisted living development with the Landscape Conservation zoned land subject to coastal inundation hazard.1*

LISTmap identifies that reticulated water services are not available to the lands and Council advise they are in the process of taking over the Cattle Track so that it will be maintained by Council.

Notwithstanding the natural values strategies that identified the subject area should be in the Landscape Conservation zone, use of the Rural Living zone in this area would arguably be consistent with the wider strategic aims identified in through the LSP process to facilitate residential development close to Whitemark and the surrounding area. Initial review of the Guidelines suggests the Low Density Residential zone is not appropriate at this time, given the subdivision potential it would create and service limitations to the area. Further work would be required to examine the suitability for any further intensification within the area. Rural Living D would recognise the location of the lands, while preventing further subdivision while further strategic work is completed. Natural values of the area can be managed through the respective Codes of the TPS and LPS. This is consistent with Guidelines RLZ2 and RLZ3.

This should be considered in conjunction with Representations 27 and 29.

It is recommended that the subject title be rezoned to Rural Living D, and that the wider area is reviewed in future to determine suitability for further subdivision in close proximity to the urban area of Whitemark.

Conclusion: the request in the representation has merit and is supported.

**Recommendation for draft LPS:** rezone CT15860/2, PID 7098434 Esplanade (Cattle Track), Whitemark Rural Living D

**Effect on Draft LPS as a whole:** no effect on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements and Guidelines RLZ2 and RLZ3. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** not applicable.

25. Patricia & Colin Goss

25.1 250 Lady Barron Road

Overview			
Site:	250 Lady Barron Road, Whitemark	PID:	7305341
Area:	Approx. 0.869 hectares	CT:	27823/1
Is representation consistent with:		Does the representation	
Local Strategy	Yes	Translate 2000 Scheme zoning?	Yes
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	Mixed	Relate to LPS?	Yes
Guideline No.1	Mixed	Raise natural justice issues?	No
TPC Practice Notes	Yes		

The representor objects to use of the Agriculture zone on property and requests Rural Living.

The subject property has an area of approximately 8,690 m<sup>2</sup> and contains an existing house, with curtilage surrounded by grassed paddocks. It is zoned Rural under the 2000 Scheme. It is not owned in conjunction with any adjoining lands.

Another house, in different ownership, is located approximately 110 metres north west of the existing house. Both are shown on Figure 18.

Council Strategy identifies the subject property and surrounding area to the west for use of the Rural zone, as detailed in representation 10. It is noted that use of the Rural zone would not remedy the current situation with the subject property.

It is clear that the existing property has no capacity to sustain commercial agricultural operations identified in the RLUS, due to the size of the property. Conflict with the zone purpose statements of both the Agriculture and Rural zones is established on lot size and land use alone.



Figure 18 – Left, existing house and title (red boundary) and right, extract Council zoning proposal

The Guidelines and Practice Notes do not provide any relevant material to assist zoning in cases such as this to any practicable outcome. Rural Living zone is located to the north west of the

property, on the opposite side of Lady Barron Road. The purpose of this zone is established at clause 11.1 of the TPS:

*11.1 Zone Purpose*

*The purpose of the Rural Living Zone is:*

*11.1.1 To provide for residential use or development in a rural setting where:*

- (a) services are limited; or*
- (b) existing natural and landscape values are to be retained.*

*11.1.2 To provide for compatible agricultural use and development that does not adversely impact on residential amenity.*

*11.1.3 To provide for other use or development that does not cause an unreasonable loss of amenity, through noise, scale, intensity, traffic generation and movement, or other off site impacts.*

*11.1.4 To provide for Visitor Accommodation that is compatible with residential character.*

It is evident that the property complies with the Rural Living zone purpose statements. This is supported by its mapping as Constraint 2A under the 'Land Potentially Suitable for Agriculture Zone' project. Criteria 2A identifies titles with a capital value over \$50,000 per hectare as a limitation to agricultural use.

Use of the Rural Living zone is frustrated by the isolated nature of the title and Guidelines, which preclude its use as the requirements of RLZ2 cannot be met:

*RLZ 2 The Rural Living Zone should not be applied to land that is not currently within an interim planning scheme Rural Living Zone, unless:*

- (a) consistent with the relevant regional land use strategy, or supported by more detailed local strategic analysis consistent with the relevant regional land use strategy and endorsed by the relevant council; or*
- (b) the land is within the Environmental Living Zone in an interim planning scheme and the primary strategic intention is for residential use and development within a rural setting and a similar minimum allowable lot size is being applied, such as, applying the Rural Living Zone D where the minimum lot size is 10 ha or greater.*

The alternative zone for this title is Rural, which provides the equivalent zoning as the 2000 Scheme, which is consistent with Guidelines RZ1 and RZ3a and b and e:

*RZ 1 The Rural Zone should be applied to land in non-urban areas with limited or no potential for agriculture as a consequence of topographical, environmental or other characteristics of the area, and which is not more appropriately included within the Landscape Conservation Zone or Environmental Management Zone for the protection of specific values.*

...

*RZ 3 The Rural Zone may be applied to land identified in the 'Land Potentially Suitable for Agriculture Zone' layer, if:*

- (a) it can be demonstrated that the land has limited or no potential for agricultural use and is not integral to the management of a larger farm holding that will be within the Agriculture Zone;*
- (b) it can be demonstrated that there are significant constraints to agricultural use occurring on the land; ...*
- (e) it can be demonstrated, by strategic analysis, that the Rural Zone is otherwise more appropriate for the land.*

The size of the title prevents its use for agricultural purposes, as reflected by its identification as subject to constraint 2A, in addition to local strategy (refer representation 10).

Conclusion: retain the Rural zone established under Council strategy and the 2000 Scheme.

## 25.2 Landscape Conservation zone

Overview			
Site:	1106 Palana Road, Blue Rocks	PID:	3145328
Area:	Approx. 100 hectares	CT:	205540/1
Is representation consistent with:		Does the representation	
Local Strategy	Mixed	Translate 2000 Scheme zoning?	No
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	-	Relate to LPS?	Yes
Guideline No.1	Mixed	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation objects to the split zoning of the title, being part Rural Living D & part Landscape Conservation zone, and requests Rural Living for all of the title, as shown in Figure 19.

The title has an area of approximately 100 ha, with 46 HA in the Landscape Conservation zone based on elevation (Supporting Report) and the Priority Vegetation Overlay. The title is zoned Rural under the 2000 Scheme.

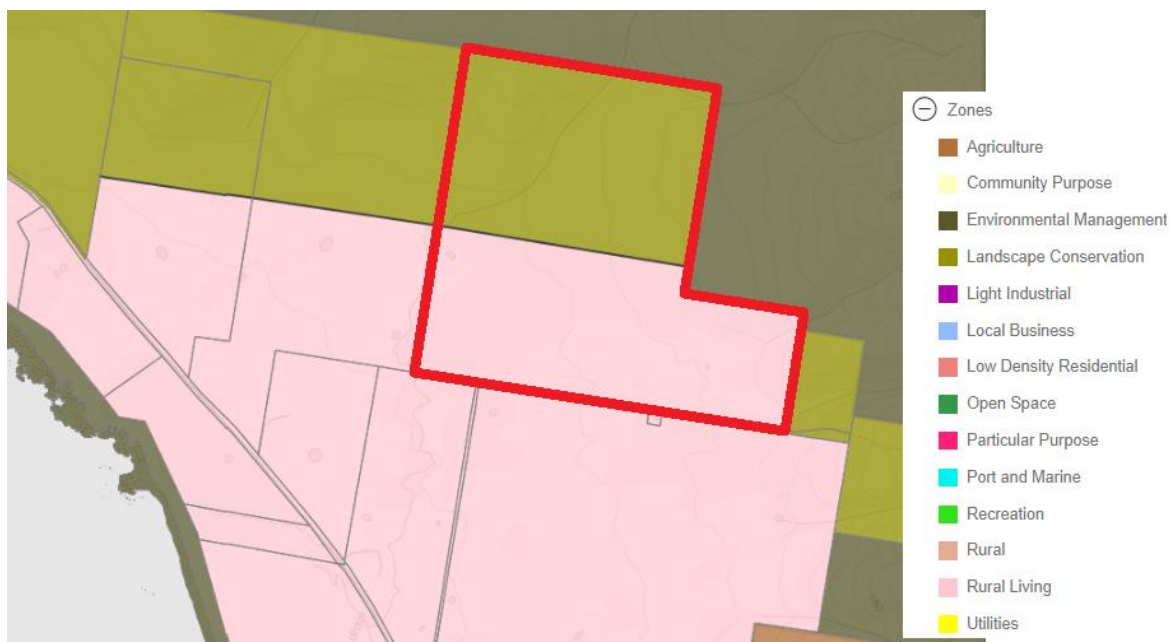


Figure 19 - zoning extract - 1106 Palana Road and area

The split zoning carries across two adjoining lots to the west and changes to Environmental Management for crown and public land, as shown in Figure 19 with the subject title shown with a red border.

The TPS establishes standards for subdivision that include permanent requirements for legal frontage and access, which are likely to frustrate subdivision of this land without the cooperation of adjoining land owners.

It is understood that the title would need to obtain a crown license for access, and that Crown Land Services do not provide access licenses or rights of way on a permanent basis to support subdivision. Subdivision is therefore unlikely against the performance criteria at clause 11.5.1, as lots are unable to meet the required standards in the TPS.

Given the issues with this land, no changes are supported at this time. It is likely that the area will need to be reviewed in future.

Conclusion: no change.

**Recommendation for draft LPS:** the representation contains issues with merit and CT 27823/1 PID 7305341 250 Lady Barron Road, Whitemark should be rezoned Rural to retain the existing zoning.

**Effect on Draft LPS as a whole:** no effect on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements and Guideline RZ1 and 3. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** not applicable.

## 26. Mark & Mandy Wales

Overview			
Site:	Kentdale' at 1813 Palana Rd, Emita	PID:	3588989, 3588989, 3588989
Area:	Approx. 575.46 hectares	CT:	158840/1, 175212/2, 239241/1
Is representation consistent with:		Does the representation	
Local Strategy	Yes	Translate 2000 Scheme zoning?	Yes
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	Mixed	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	Yes		

The representation objects to the proposed Landscape Conservation and Agriculture zoning of the titles, requests Rural for all titles and objects to any split zoning of the subject titles. Overlays were not contested.

The subject titles are located within the Rural zone of the 2000 Scheme. Council strategy supports use of the Rural and Landscape Conservation zone, as identified in representation 10. Agriculture zoning was applied in place of Rural following the Directions of the Commission. It is also noted that the entirety of CT158840/1 is subject to the Scenic Protection Overlay, which did does not apply under the 2000 Scheme.

As discussed in Representation 10, Council identified the subject titles for Rural zoning, as detailed in section 4.3 of the Supporting Report and for the specific property at page 85. While the RMCG Review provides some commentary for use of the Landscape Conservation zone on the identified title<sup>2</sup>, it is noted this was done without reference to Council Strategy and particularly, the zoning strategies of the LPS that provide for Landscape Conservation zone to Marshall Bay.

Council strategies remain the preferred response in this area. Rural zoning is supported in place of Agriculture, as noted under Representation 10.

Despite the representors objections, any variation of Council Strategy needs to consider the natural values of the area and should consider a split zoning of the title for the grazing areas. This is considered to balance the requirements of the Guidelines for the Rural and Landscape Conservation zones. Guidance is also provided under the State Coastal Policy, which provides the following:

1.4.1. Areas subject to significant risk from natural coastal processes and hazards such as flooding, storms, erosion, landslip, littoral drift, dune mobility and sea level rise will be identified and managed to minimise the need for engineering or remediation works to protect land, property and human life.

Discussions with RMCG identified CT 158840/1 is clearly used for agriculture and would be better suited to the Rural zone to retain natural values overlays on the lands. On balance of these considerations and local strategy, it is recommended that the properties be zoned Rural.

Conclusion: the request for Rural zoning in the representation has merit and is supported.

**Recommendation for draft LPS:** Rezone CT's 158840/1, 175212/2, 239241/1 Rural.

**Effect on Draft LPS as a whole:** no effect on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements and Guideline AZ7(b). The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** not applicable.

## 27. Noel & Vicki Warden

Overview			
Site:	1A Palana Rd, Whitemark (situated on 'The Cattle Track')	PID:	1727092
Area:	Approx. 7.2 hectares	CT:	53171/5
Is representation consistent with:		Does the representation	
Local Strategy	Mixed	Translate 2000 Scheme zoning?	No
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	Mixed	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	Yes		

The representation opposes the proposed Landscape Conservation zoning and requests Rural Living zone for the lands.

This issue was examined at Representation 24 and is supported for this representation. Rural Living D requires a minimum lot size of 10 hectares for subdivision and will not create any additional subdivision opportunity.

Conclusion: the representation has merit and the property be zoned Rural Living D.

**Recommendation for draft LPS:** the that CT53171/5, PID 1727092 Esplanade (Cattle Track), Whitemark be zoned Rural Living D.

**Effect on Draft LPS as a whole:** no effect on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements and Guideline RLZ2 and RLZ3. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** not applicable.



## 28. Flinders Island Protection Network

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	Mixed	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation supports use of the Landscape Conservation zone for private lands on the outer islands, Environmental Management zone for public lands and the Particular Purpose Zone PPZ for aboriginal lands. Particular reference is made to Little Green, Little Dog Island and outer islands.

The zoning for outer islands, and particularly Little Green Island, was discussed in previous representations 3, 15, 20 and 33. Consistent with other privately owned lands within similar areas, the conclusion of those assessments was that the Landscape Conservation zone should be used for it is privately owned land.

Conclusion: no change is proposed as a result of this representation.

**Recommendation for draft LPS:** no change as a result of the representation.

**Effect on Draft LPS as a whole:** no effect on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements and Guidelines. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** not applicable.

## 29. Kelly Blundstone

Overview			
Site:	Esplanade, Whitemark (situated on 'The Cattle Track')	PID:	7098426
Area:	Approx. 2.82 hectares	CT:	15860/1
Is representation consistent with:	Does the representation		
Local Strategy	Mixed	Translate 2000 Scheme zoning?	No
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	Mixed	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	Yes		

The representation opposes the proposed Landscape Conservation zoning and requests Rural Living.

This issue was examined at Representations 24 and 27 and is supported for this representation. Rural Living D requires a minimum lot size of 10 hectares for subdivision and will not create any additional subdivision opportunity.

Conclusion: the property be zoned Rural Living D.

**Recommendation for draft LPS:** the representation contains issues with merit and CT15860/1, PID 7098426 Esplanade (Cattle Track), Whitemark should be zoned Rural Living D

**Effect on Draft LPS as a whole:** no effect on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements and Guideline RLZ2 and RLZ3. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** not applicable.

### 30. Van Diemen Consulting for Markarna Grazing Company P/L

#### 30.1 Markana East

Overview			
Site:	368 Five Mile Jim Road, Palana (part)	PID:	3513143
Area:	Approx. 404.7 hectares	CT:	121581/1
Is representation consistent with:		Does the representation	
Local Strategy	Mixed	Translate 2000 Scheme zoning?	No
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	Yes	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	Yes		

The representation seeks Agriculture zone for the subject title and removal of the Priority Vegetation Overlay. In support of the request, it identifies the land as part of the largest livestock operation on Flinders, the unconstrained findings in the Land Potentially Suitable for Agriculture project, contests the RMCG findings, identifies water availability in the area and coarse sands below the lands and provides an alternative assessment against the required criteria at Table 9 of the representation.

The representation provides no assessment of the natural values on the site and appears to dismiss the approach taken by Council and RMCG in balancing natural values with use of the Rural zone.

The subject area was reviewed by RMCG in response to queries from the Commission, and it is noted that the RMCG recommended the Rural zone based on the natural values onsite, consistent with the requirements of AZ1(a), AZ4(d), AZ7(c) and RZ1.

Use of the Rural or Agriculture zones would be consistent with Council strategy for the area, though it is noted that Rural zone provides for management of Priority Vegetation where the Agriculture zone is exempt from the Priority Vegetation Overlay.

The specific advice of RMCG is preferred for the subject lands under the current circumstances.

Conclusion: no change at this time.

## 30.2 Markana West

Overview			
Site:	Marshall Bay area	PID:	3513143
Area:	Approx. 403 hectares	CT:	120064/1, 215120/1, and 230282/1
Site:	Five Mile Jim Road, Palana	PID:	3513143
Area:	Approx. 202 hectares	CT:	208980/1 and 208933/1
Is representation consistent with:		Does the representation	
Local Strategy	Mixed	Translate 2000 Scheme zoning?	No
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	Yes	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	Yes		

The representation objects to the use of the Landscape Conservation zone and requests the Rural zone. The Supporting Report and earth based resources are identified as supporting the representation. The subject titles are identified in Figure 20. It is noted that CT's 208980/1, 208933/1 are repeated in the request and relate to the File Mile Jim titles.

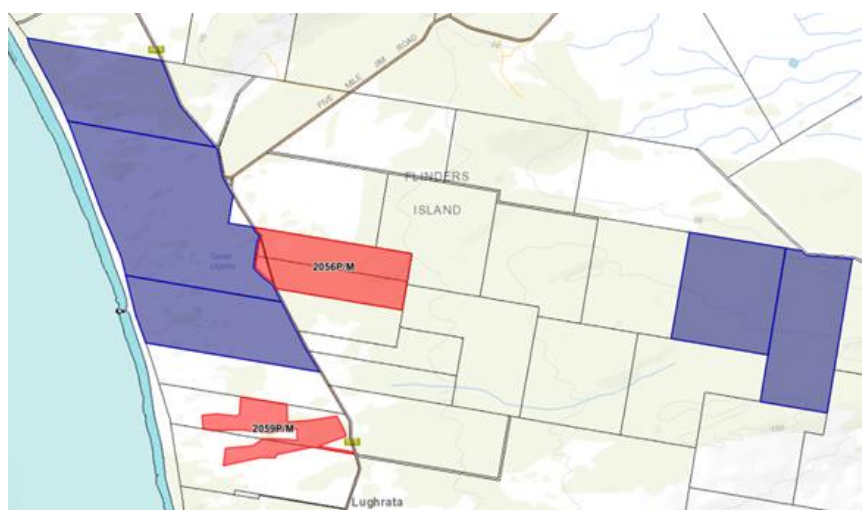


Figure 20 - subject properties and area with mining leases (LISTmap)

Review of current Mining Leases identifies that none of the properties in the representation contain a current mining lease, with the subject properties highlighted in blue and mining leases in red on Figure 20.

The statutory exemptions that apply for mineral resource activities apply in the subject cases. As discussed under representation 14, Section 11(3)(b) of the Act establishes activities that operate outside of the planning system and provides the following:

- (3) *Nothing in a planning scheme or the Tasmanian Planning Scheme affects –*
- (a) *forestry operations conducted on land declared as a private timber reserve under the Forest Practices Act 1985 ; or*
- (b) *the undertaking of mineral exploration in accordance with a mining lease, an exploration licence, a special exploration licence, or a retention licence, issued under the Mineral Resources Development Act 1995 , provided that any mineral exploration carried out is consistent with the standards specified in the Mineral Exploration Code of Practice, published by Mineral Resources Tasmania, as in force from time to time;*
- or*

- (c) fishing; or
- (d) marine farming in State waters

Subsection b clearly provides that authorised mining and exploration activities are not affected by the operation of a planning scheme, including the Tasmanian Planning Scheme and accompanying a Local Provisions Schedule. Statements within the representation that existing and future extractive industries will be sterilised by zoning are not consistent with the statutory provisions, which cannot then be overruled by a planning scheme or LPS.

Page 40 of the representation identifies that the Environmental Management zone was to be used to manage agricultural land adjacent Marshall Bay. The representors extract of the Supporting Report identifies that the relevant guidelines supporting the statement refer to LCZ 1 and LCZ2(b), which identifies that Landscape Conservation zoning was used. This is consistent with the wider approach for zoning of private lands within the LPS and subject to separate examination under representation 26.

The Supporting Report identifies that Landscape Conservation zone was used for all properties fronting Marshall Bay based on natural values, including the area are mapped as unclassified presently mobile dunes, which was confirmed by LISTmap and supports the zoning strategy under the LPS for this area.

Pages 40-48 argue that lime and other earth-based resources support a Rural zoning for the identified lands, with mining leases over parts of the subject lands. Similar issues were addressed under representation 14, which recommended that Lease 2059P/M be subject to a site-specific qualification to allow extractive industries as a permitted use.

Comments within the representation suggest that the Strategic Resources LISTmap layer and *Mineral Resources Development Act 1995* should drive zoning within this region. Similar comments were made in representation 14. These matters are considerations to the land use planning policies delivered through planning schemes and are not the determinant drivers.

It is also noted that Resource Development has discretionary status under the Landscape Conservation zone, which confirms that existing rural operations will not become existing non-conforming uses under the TPS and therefore sterilized. Extraction of lime sands and other materials for agricultural purposes on the farm holding would be allowed under the TPS and subject to any other relevant statutory approvals.

Given the statutory provision for mining exploration and lease activities, no change to the LPS zoning is considered necessary for properties fronting Marshall Bay.

Conclusion: no change.

### 30.3 Wingaroo Aggregation

Overview			
Site:	1297 Five Mile Jim Rd, Wingaroo	PID:	6423928
Area:	Approx. 1,721.84 hectares	CT:	247225 folios 1, 2, 3, and 4
Is representation consistent with:		Does the representation	
Local Strategy	Mixed	Translate 2000 Scheme zoning?	No
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	Yes	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation seeks Agriculture zone for the subject titles and removal of the Priority Vegetation Overlay. In support of the request, it contests the RMCG findings, identifies water availability in the

area and course sands below the lands and provides an alternative assessment against the required criteria at Table 9 of the representation.

The representation provides no assessment of the natural values on the site and appears to dismiss the approach taken by Council and RMCG in balancing natural values with use of the Rural zone.

The subject area was reviewed by RMCG in response to queries from the Commission, and it is noted that the RMCG recommended the Rural zone based on the natural values onsite, consistent with the requirements of AZ1(a), AZ4(d), AZ7(c) and RZ1.

Use of the Rural or Agriculture zones would be consistent with Council strategy for the area, though it is noted that Rural zone provides for management of Priority Vegetation where the Agriculture zone is exempt from the Priority Vegetation Overlay.

The specific advice of RMCG is preferred for the subject lands under the current circumstances.

Conclusion: no change.

### 30.4 The Gums, Palana Road

Overview			
Site:	1297 Five Mile Jim Rd, Wingaroo	PID:	3544783
Area:	Approx. 1,721.84 hectares	CT:	245509/1 and 173164/3
Is representation consistent with:		Does the representation	
Local Strategy	Mixed	Translate 2000 Scheme zoning?	Yes
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	Yes	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation objects to the Landscape Conservation zoning of the subject titles and requests the titles be within the Rural zone.

These titles were addressed under representation 14.4, which is reproduced following for convenience:

Details	Response	Outcome
1229P/M 634 Palana Road, Whitemark, 245509/1	The subject title adjoins an area identified for Rural zoning but subject to Directions that mandated use of the Agriculture zone.  Use of the Rural zone is consistent with local strategy recognised under the RLUS and provides more consistent application of the zone purpose statements under the Guidelines. Rural zoning would also allow retention of the Priority Vegetation Overlay on the land, where the Agriculture zone would not.	Rezone Rural.

The conclusion of the assessment under representation 14.4 supported rezoning the subject titles Rural. No further consideration is necessary.

Conclusion: no further change.

### 30.5 FLIS3.0 Coastal Areas Specific Area Plan

Is representation consistent with:	Does the representation		
Local Strategy	Mixed	Translate 2000 Scheme zoning?	No
NTRLUS:	Mixed	Relate to TPS?	No
State Policies:	Mixed	Relate to LPS?	Yes
Guideline No.1	-	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation provides an expansion of the comments in Representation 23 and requests that the SAP be removed from the LPS. Specific exception is taken to:

- FLI-S3.7.1 Building height and FLI-S3.7.2 Site coverage – on the lack of performance criteria;
- application of the various provisions across a range of zones; and
- lack of application of the SAP to the coastal reserve.

The SAP was prepared in response to the requirements of the Guidelines and tests established at Sections 32 and 34 of the Act, as detailed in the supporting report and modified in response to the Directions issued by the Commission.

It is noted that in response to concerns within Representation 23, it was recommended the SAP be removed from the main urban settlements of Whitemark and Lady Barron.

In terms of the lack of application of the SAP to the coastal reserve, this area was zoned in accordance with the requirements of the Guidelines and is almost exclusively within the Environmental Management zone under the LPS. It is understood from the development and assessment of the TPS that the standards of the Environmental Management zone reflect statutory approval regimes under other legislation that apply to the subject lands as investigated and summarized by the Commission in its assessment report on the TPS, with the relevant section reproduced as follows:

*The Commission notes that qualifications and standards in the draft SPPs rely on approval processes outside the planning scheme, providing a permitted pathway under the zone with the necessary 'authority' given by a managing authority or the Director General of Lands. A concern is that managing authorities do not necessarily have a clear and transparent process under which approvals are granted.*

*The Commission heard from DPIPWE that larger, more complex matters are assessed under the reserve activity assessment framework that includes public consultation. If the managing authority does not grant an approval or authority, the proposed development would be subject to a decision by the planning authority under the Performance Criteria which include comprehensive matters to which regard must be had.*

*The Commission accepts that this policy is to avoid duplication of assessment and that with relatively minor modifications to the Use Table and Acceptable Solutions, it can operate in the manner intended.<sup>3</sup>*

Application of the SAP to the coastal reserve is not supported within the LPS on this basis.

Aside from generalised objections to the SAP itself and standards within it, little supporting information is provided to allow considered assessment of the concerns within the representation.

Conclusion: no change to the SAP.

<sup>3</sup> pp24-25, Draft State Planning Provisions Report – December 2016, Tasmanian Planning Commission

**Recommendation for draft LPS:** no change as a result of the representation.

**Effect on Draft LPS as a whole:** no effect on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements and Guidelines. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** not applicable.

### 31. Deakin Uni/Blue Carbon Lab, Paul Carnell

Is representation consistent with:	Does the representation		
Local Strategy	Mixed	Translate 2000 Scheme zoning?	No
NTRLUS:	Mixed	Relate to TPS?	Yes
State Policies:	Mixed	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation seeks to have the Priority Vegetation Overlay:

- applied to CT 170037/3, CT 170037/2 and CT 170037/4, based on natural values on the titles and that if that is not possible, the zoning should be changed to allow it; and
- extended at "Mt Wheatley" in Killiecrankie (CT 161362/1 ) on the basis that it contains critical flora and fauna, including an unreported White Bellied Sea Eagle nest.

As noted in response to representation 21.1 and 21.2, the subject titles are zoned Agriculture and the Priority Vegetation Overlay cannot be applied in that zone under the TPS or the Guidelines. It is proposed to seek revisions to the Agriculture zone to allow the Priority Vegetation Overlay within the Agriculture zone through the Section 35G Notice to the Commission, as this issue was identified in numerous representations.

Council sought Rural zone for the Quoin property based on local strategy, which was refused by the Commission as part of its declarations for exhibition of the LPS.

Recommendation: no change through this process.

**Recommendation for draft LPS:** no change to the LPS as a result of the representation.

**Effect on Draft LPS as a whole:** no effect on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements and Guidelines. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** not applicable.

## 32. Greg Beeton

## 32.1 Zoning of shearwater rookeries/islands

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	Yes	Relate to TPS?	Yes
State Policies:	Yes	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation seeks the Environmental Management Zone for all islands with shearwater rookeries, regardless of tenure, based on the lack of value placed on the species and protection for habitat under planning schemes.

Shearwaters are listed under Federal legislation as a migratory species and are not listed as a threatened species under State legislation.

Natural values and habitat are managed through the Priority Vegetation Overlay under the Natural Assets Code of the LPS. The Priority Habitat provisions of the TPS can only be applied where the overlay is applied under the planning scheme.

The Overlay was developed based on the Regional Ecosystem Model, which considered threatened species listings at state and federal levels in its development. It is understood that Shearwater habitat was not included in the overlay as they are not a threatened species.

The Guidelines require expert information to support alterations to the overlay. Council would need to obtain that expert assessment work to support a change as suggested in the representation and then maintain that work into the future.

The nature of the task is outside the scope of the current process and is not recommended for action through the LPS.

Responses to other representations identified that the Overlay should be reviewed and maintained by State. Council may wish to list consideration of the Shearwater habitat for review as part of that process through the 35G Notice.

Conclusion: the issue has merit but is outside the scope of the current LPS process.

## 32.2 Suitability/impacts from visitor accommodation

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	No	Relate to TPS?	Yes
State Policies:	-	Relate to LPS?	Yes
Guideline No.1	-	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation questions the suitability of visitor accommodation on the outer islands of the Furneaux group and particularly smaller islands (noting restrictions on other uses with similar impacts), and questions the identification and management of land use impacts on rookeries ones with rookeries. Similar issues were raised in the assessment of representation 21.1.

Issues raised within the representation relate to the following:

- zoning of land (addressed in previous representations);
- use entitlements under the TPS; and
- compliance with planning permits issued for visitor accommodation.



The zoning of outer islands was addressed in previous representations and requires no further discussion.

Use entitlements within the TPS cannot be a valid matter for representation under the Act and therefore, cannot be considered under this process. Associated issues were raised in numerous representations regarding the composition and ongoing maintenance of the Priority Vegetation Overlay. No further response is required.

Raises issues with ongoing use and compliance with planning permits are not relevant to the LPS process.

Conclusion: The merits within the representation are recognised.

**Recommendation for draft LPS:** no change as a result of the representation.

**Effect on Draft LPS as a whole:** no effect on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements and Guidelines. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** the Priority Vegetation Overlay consider inclusion of Shearwater habitat as part of any review.

### 33. Aboriginal Land Council of Tasmania

The representation raises multiple issues.

#### 33.1 Particular Purpose Zone

Overview			
Site:	truwana, Cape Barren and outer islands	PID:	Multiple
Area:	-	CT:	Multiple
Is representation consistent with:		Does the representation	
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	Yes	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	-		

The representations supports the development and inclusion of the PPZ to the LPS and requests its expansion to other aboriginal lands, including Wybalenna.

The support is noted. The Supporting Report identifies that the Landscape Conservation zone was used for Wybalenna due to the crown land recognitions in the TPS Environmental Management zone.

The request has merit and will minimise opportunity for conflict between the Act and the Aboriginal Lands Act. Review of the PPZ and supporting papers confirm that it was written for the Islands and will require modification to apply to mainland Flinders. The required changes to allow wider application of the PPZ are likely to be outside the current the scope of the current assessment and to require a subsequent process to take effect.

Council may wish to list this issue in its 35G Notice for the Commission, to allow a specific zone to be developed and applied to Aboriginal lands across Tasmania.

Conclusion: raise in Council's 35G Notice.

**33.2 Heritage listing for Wybalenna**

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme provisions?	Yes
NTRLUS:	-	Relate to TPS?	No
State Policies:	-	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation expresses concern regarding the potential impacts of the listing to the indigenous values of the site and area.

FLI-C6.1.36 of the LPS identifies 2 burial grounds, 3 structures and 13 foundations of structures that appear to represent European values on the site. Listings for Local Heritage Places under FLI-C6 are subject to transitional status and can only be altered in translation from the 2000 Scheme to the LPS.

Additional work is likely to be required to clearly establish the specific values for the listed items to better understand how they should be managed and then how those listings may impact the indigenous values for the site. Given that Aboriginal Heritage is managed through a separate statutory process, this is likely to occur outside the current assessment.

Conclusion: no change is proposed at the current time.

**33.3 Zoning of Little Dog, Little Green and Outer Islands**

Overview			
Site:	truwana, Cape Barren and outer islands	PID:	Multiple
Area:	-	CT:	Multiple
Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	Yes	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation supports use of the Landscape Conservation zone for private lands on the outer islands, including Little Dog and Little Green Islands.

This is consistent with the zoning strategy applied by the Council for the LPS and the inclusion of privately owned title on Little Green Island has been recognised in previous representations as an error that requires correction (refer representation 3).

Conclusion : the issue has merit.

### 33.4 Suitability of Environmental Management zone for cultural locations

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	Mixed	Relate to TPS?	No
State Policies:	Mixed	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation objects to permitted status for visitor accommodation and tourist operation within the Environmental Management zone under the TPS.

Permitted status is provided under the Environmental Management zone to lands that have approvals under the *National Parks and Reserved Land Regulations 2009* and *Crown Lands Act 1976*, which reflects existing statutory provisions for those lands. Private lands within the zone are subject to discretionary status and assessment against a use test at 23.3.1, though the drafting of the standard suggests that it does not apply to privately owned lands. It is understood that there are no private titles proposed for the zone under the LPS (following the recommendations of this report).

The tests for discretionary use under the zone are through assessment against the following performance criteria:

- P1 A use listed as Discretionary must be consistent with the values of the land, having regard to:*
- (a) the significance of the ecological, scientific, cultural or scenic values;*
  - (b) the protection, conservation, and management of the values;*
  - (c) the specific requirements of the use to operate;*
  - (d) the location, intensity and scale of the use;*
  - (e) the characteristics and type of the use;*
  - (f) traffic and parking generation;*
  - (g) any emissions and waste produced by the use;*
  - (h) the measures to minimise or mitigate impacts;*
  - (i) the storage and handling of goods, materials and waste; and*
  - (j) the proximity of any sensitive uses.*

The tests provide a single test against criteria at P1.

Other provisions within the TPS deal with sensitive issues in a two-stage assessment that first considers when something should occur and then considers how it is proposed, if the first test is met. This is most clearly stated for the clearance of Priority Vegetation under the Natural Assets code, at clause C7.6.2. Extracts of these provisions are provided for clarity:

- P1.1 Clearance of native vegetation within a priority vegetation area must be for:*
- (a) ...*
- P1.2 Clearance of native vegetation within a priority vegetation area must minimise adverse impacts on priority vegetation, having regard to:*
- (a) ...*

P1.1 clearly considers whether the activity should occur, while P1.2 addresses impacts of that activity.

Given the sensitivities of the areas where the Environmental Management zone has been used on Flinders (and most likely, across Tasmania), the potential suitability of proposals and the impacts from use may require a more refined assessment process. The tests under C7.6.2 provides an example of how this could be done within the structure of the TPS.

While the subject issue cannot be considered under the current process due to the prohibitions under the Act, it can be raised under the S.35G Notice.

Conclusion: raise in Council's 35G Notice.

### 33.5 Truwana gravel pit to be removed from Environmental and Cultural Protection Precinct

Overview			
Site:	Part of Lot 1 Thunder & Lightning Rd, Cape Barren Island	PID:	2615375
Area:	-	CT:	143716/1
Is representation consistent with:		Does the representation	
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	Mixed	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation identifies that the Environmental and Cultural Protection Precinct is not appropriate to the existing gravel pit and should be changed.

The submissions are accepted and supported. The adjoining property is located in the Rural Precinct. Local Area Objectives and use opportunities support the quarry being located in this precinct.

Conclusion: relocate gravel pit to the Rural Precinct.

### 33.6 Zoning of intertidal areas under LPS

Is representation consistent with:		Does the representation	
Local Strategy	Mixed	Translate 2000 Scheme zoning?	No
NTRLUS:	Mixed	Relate to TPS?	No
State Policies:	Mixed	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation notes the significance of the intertidal area to the community for cultural values and requests the zoning of land reflect this.

The zoning is based on the Central Plan Registry entry for the Local Government Area and land titles to establish zoning and overlays. The zoning for truwana/Cape Barren Island and other aboriginal lands were based on those entries. The zoning of these areas can be changed if the titles are altered in these areas.

Clause 7.11 of the TPS provides for use and development of land extending from the municipal boundary, which provides for the zone to be applied that adjoins the subject area or is closest to it.

In this case, that would allow the Particular Purpose or Environmental Management Zones to be applied to the subject areas, depending upon the location.

Conclusion: no change.

**Recommendation for draft LPS:** the Truwana Gravel Pit should be relocated from the Environmental and Cultural Protection to the Rural Precinct under the PPZ.

**Effect on Draft LPS as a whole:** no effect on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements and Guidelines. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** the following issues be listed in the 35G Notice to be lodged with the Commission:

- a. State consider review of the PPZ for use across aboriginal lands; and
- b. use standards of the Environmental Management zone at 23.3.1 P1 be revised to establish a two-stage assessment, firstly of whether the use should occur and secondly, how impacts are managed, similar to C7.6.2 P1.1 and P1.2.

## 34. S Underwood for The Dock Shareholders,

### 34.1 The Dock, Palana

Overview			
Site:	'The Dock', Palana Road, Palana	PID:	7098231
Area:	Approx. 24.19 hectares	CT:	197699/1
Is representation consistent with:		Does the representation	
Local Strategy	Yes	Translate 2000 Scheme zoning?	No
NTRLUS:	Yes	Relate to TPS?	No
State Policies:	Yes	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	Yes		

The representation provides support for the Landscape Conservation zoning and overlays proposed under the LPS for the property. The support is noted and no alterations to the area are proposed to the LPS requested under the representation or this report.

Conclusion: no change.

### 34.2 Scenic Protection Code

Is representation consistent with:		Does the representation	
Local Strategy	Yes	Translate 2000 Scheme zoning?	Yes
NTRLUS:	Yes	Relate to TPS?	Yes
State Policies:	-	Relate to LPS?	No
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	-		

Specific concerns are expressed over the ability of the TPS Scenic Protection Code to deliver its stated intent and objectives, particularly relating to the potential impacts from the exemptions and use entitlements under the TPS. As noted under representation 10, Council shares some of these concerns. While these comments are technically not a representation as they call for changes to the TPS, they are consistent with issues raised in representation 10.

Under the terms of the Act, representations are prevented from containing statements that the TPS should be changed. The only mechanism for Council to consider these matters is through its Section 35G Notice to the Commission.

Conclusion: the issue has merit and was listed for consideration in the 35G Notice under previous representations.

### 34.3 Environmental Management Zone

Is representation consistent with:	Does the representation		
Local Strategy	Yes	Translate 2000 Scheme zoning?	Yes
NTRLUS:	Yes	Relate to TPS?	Yes
State Policies:	-	Relate to LPS?	No
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation then calls for the Environmental Management zone to be reviewed, based on the permitted status of Tourist Operation and potential impacts the use can create in sensitive areas.

The representation questions the permitted status of tourist operation and visitor accommodation within national parks and calls for review of the TPS zone to provide discretion or prohibit such proposals.

This issue was addressed in representation 10, with specific recommendations for the 35G Notice.

Conclusion: no change.

**Recommendation for draft LPS:** no changes as a result of the representation.

**Effect on Draft LPS as a whole:** no effect on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements and Guidelines. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** not applicable.

## 35. M Wortman Onefox Consulting Pty Ltd

### 35.1 Change to Low Density Residential zone

Is representation consistent with:	Does the representation		
Local Strategy	Mixed	Translate 2000 Scheme zoning?	Yes
NTRLUS:	Mixed	Relate to TPS?	Yes
State Policies:	-	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation objects to use of the Low Density Residential zone in place of Residential under the 2000 Scheme.

This is noted and results from the structure of use and development under the TPS. Council is prohibited from using the Residential zone of the TPS as there is no reticulated sewer service on Flinders.

Conclusion: no change.

**35.2 Village zone at Killiecrankie**

Is representation consistent with:	Does the representation		
Local Strategy	Mixed	Translate 2000 Scheme zoning?	Yes
NTRLUS:	Mixed	Relate to TPS?	Yes
State Policies:	Mixed	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation objects to the change from Village to Low Density Residential at Killiecrankie.

This change was required to address the changing use and development entitlements that are established under the TPS.

Conclusion: no change.

**35.3 Rezoning Rural to Agriculture**

Is representation consistent with:	Does the representation		
Local Strategy	Mixed	Translate 2000 Scheme zoning?	Yes
NTRLUS:	Mixed	Relate to TPS?	Yes
State Policies:	Mixed	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	-		

The representation objects to the change from a flexible rural zone to the restrictive opportunities presented under the Agriculture zone of the TPS.

Council is obliged to use the Agriculture zone due to the Land Potentially Suitable for Agriculture Zone Project completed by State and implemented through the requirements AZ1 to AZ7 of Guideline No.1.

Council attempted a wider use of the Rural zone in response to local strategy, which was partially refused through the Commission's directions for exhibition of the LPS.

Conclusion: no change.

**35.4 Rezoning Rural to Landscape Conservation**

Is representation consistent with:	Does the representation		
Local Strategy	Mixed	Translate 2000 Scheme zoning?	Yes
NTRLUS:	Mixed	Relate to TPS?	Yes
State Policies:	Mixed	Relate to LPS?	Yes
Guideline No.1	Yes	Raise natural justice issues?	No
TPC Practice Notes	Yes		

The representation objects to the rezoning of properties at Leeka from Rural to Landscape Conservation through the LPS. In support, the existing land use character of the area is identified as rural lifestyle, with small lots and dwellings. The representor notes that the Landscape Conservation will prevent establishment of a village in the area and prevent people from relocating to Leeka.

It is noted that the Landscape Conservation zone does not prohibit residential use through subdivision controls, unlike the Rural zone under the TPS (refer 20.5.1P1). In this respect, it presents a better zoning option for the settlement.

In terms of subdivision to create a hamlet at Leeka, it is understood that the representor is in the process of developing a Development Plan for the site, which will be lodged with Council in the future.

Guideline No.1 provides specific assistance in such cases, as follows:

- RLZ 2 The Rural Living Zone should not be applied to land that is not currently within an interim planning scheme Rural Living Zone, unless:*
- (a) consistent with the relevant regional land use strategy, or supported by more detailed local strategic analysis consistent with the relevant regional land use strategy and endorsed by the relevant council; or*
  - (b) the land is within the Environmental Living Zone in an interim planning scheme and the primary strategic intention is for residential use and development within a rural setting and a similar minimum allowable lot size is being applied, such as, applying the Rural Living Zone D where the minimum lot size is 10 ha or greater.*

The Structure Plan establishes limited growth in the Leeka area for residential purposes, as identified in the maps at Appendix 3 and reproduced in Figure 21.

Given the lack of Council endorsed strategy identifying Leeka for residential intensification, the representor's lands and wider area do not meet the requirements for use of the Rural Living zone under RLZ2 a or b.

The LPS process is highly unlikely to facilitate such a proposal given the lack of documentation to support the LPS. The proponents of a project can use more appropriate mechanisms that will allow proper consideration of the merits of any proposal, such as a planning scheme amendment or a combined planning scheme amendment and planning application process.

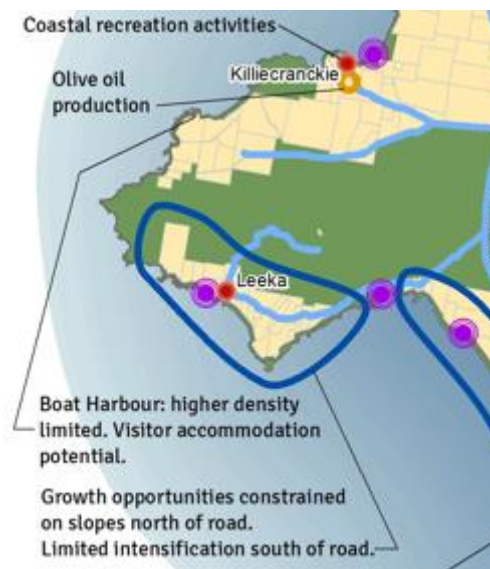


Figure 21 - Structure Plan extract - Leeka area

Conclusion: no change.

**Recommendation for draft LPS:** no changes as a result of the representation.

**Effect on Draft LPS as a whole:** no effect on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements and Guidelines. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**35G Notice:** not applicable.