

DRAFT AMENDMENT
FLINDERS PLANNING SCHEME 1994

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Draft Amendment to Flinders Planning Scheme 1994.

Main Street, Lady Barron, Flinders Island

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1. PURPOSE OF THE REPORT

This report supports a request by Circular Head Council's Strategic Projects Office, on behalf of the Tasmanian Ports Corporation Pty. Ltd. (Tasports), to amend the *Flinders Planning Scheme 1994* under s.43A of the *Land Use Planning and Approvals Act 1993*.

The draft amendment seeks to rezone a portion of land identified as Main Street, approaching the Port of Lady Barron, Flinders Island, from "Road " to 'Port" and to effect a textural amendment to Schedule 4 "Roads" of the *Flinders Planning Scheme 1994*, facilitating opportunity for works to occur within a road and road reserve, when within a 'Port' zone.

The draft zoning and textural amendment is addressed in Section 3 of this report.

A separate, attached report addresses a development proposal to erect access security gates within the proposed 'Port' zone (Use Class "Transport Depot") across Main Street entry to the Port of Lady Barron. Refer to development report and application documents – **Attachment A**.

2. DESCRIPTION OF THE LAND

2.1 Location and Land Use Patters

The land is within the municipal area of Flinders Island and forms part of a sealed access road to the Port of Lady Barron, Flinders Island.

The land has an historic use as a road and road reserve, servicing the Port of Lady Barron and surrounding stock yards, storage sheds, wharf and boat ramp.

Refer to Aerial View below.



*Aerial View – Port of Lady Barron and surrounds- Flinders Island
(NB Main Street is incorrectly shown as Lady Barron Road in the aerial)*

2.2 Title Description

There is no Certificate of Title to the land.

2.3 Physical Characteristics of the Land.

The land is a relatively level, sealed parcel of State road and road reserve that is under the authority of the Tasmanian Department of Infrastructure, Energy and Resources. The road terminates at the Port of Lady Barron.

The adjoining parcels of land that are also zoned Port, support stock yards, a transit storage shed, Port of Lady Barron Tasports offices, public recreational space and a police station.

The land is not identified as being within an area of landslide. There is no evidence of land movement.

There are no natural drainage features on the land, and the area is not within a flood prone location.

The land is not within a tidal zone, and is not affected by processes and activities of the sea.

2.4 Environmental Quality

The land does not contain any characteristics creating a place of environmental significance. In this regard:

- Habitat value is low, given the land forms part of a sealed roadway and road reserve, and there is an absence of significant native vegetation over the land.
- The land is not subject to bushfire risk.

2.5 Special & Significant Features.

The land is not endowed with special or significant natural features.

Adjoining properties are not registered under the *Historic Cultural Heritage Act 1995*.

2.6 Infrastructure Provision

Roads

The subject land forms part of Main Street, Lady Barron.

Sewage

The land does not have a connection to TasWater's reticulated wastewater treatment facility.

Water

The land is able to be connected to TasWater's reticulated water supply system.

Stormwater

The road reserve supports stormwater infrastructure.

Electricity

Electricity is available to the land from a supply network within Main Street road reserve.

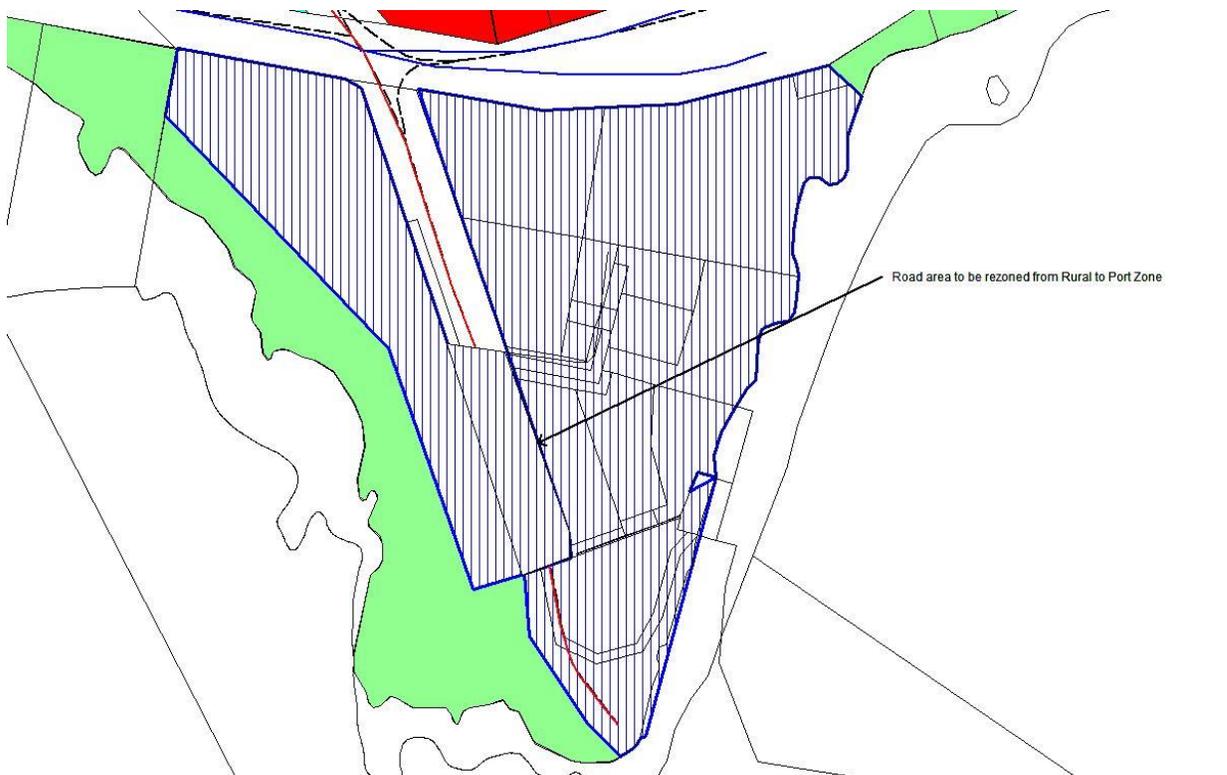
Telecommunication

Telecommunication services are available to the land from a supply network within Main Street road reserve.

3. PROPOSED DRAFT AMENDMENT

It is proposed the *Flinders Planning Scheme 1994* be amended to rezone a portion of Main Street, Lady Barron, Flinders Island, including road and road reserve, from “Road” to “Port”.

The area to be rezoned to “Port” is represented below:



It is also proposed that a textual amendment be effected to Schedule 4 “Roads” as follows:

In Schedule 4 “Roads” after ‘S4.1.2 (c)’ insert:

(d) use and development within a ‘Port’ zone.

4. STATUTORY AND STRATEGIC PLANNING INSTRUMENTS

4.1 Flinders Planning Scheme 1994

The land is subject to provisions of the *Flinders Planning Scheme 1994* (the Planning Scheme).

4.1.(a) Planning Scheme Intent

Section 2.2 articulates the general Intent of the Planning Scheme, which is to:

1. *encourage the orderly and efficient use and management of resources within the Planning Area;*
2. *promote and safeguard the health, safety and welfare of the community;*
3. *maintain and diversify the economic base of the Planning Area;*
4. *foster the social and economic well-being of the community;*
5. *encourage the efficient and effective use of facilities and services;*
6. *protect and enhance the “pure environment” image of the Planning Area;*
7. *ensure that future changes and use or development respect the inherent qualities of the natural environment and avoid undesirable environmental and social impacts;*
8. *provide for the recreational and open space needs of residents and visitors;*
9. *ensure that appropriate use or development types are catered for and promote the opportunity for the development of recreation and tourist facilities;*
10. *encourage the proper use and maintenance of rural land, consistent with the purpose for which it is zoned;*
11. *protect elements of special value; and*
12. *ensure that the sustainable objectives of Schedule 1 of the Land Use Planning and Approvals Act 1993 and the Environmental Management and Pollution Control Act 1994 and relevant State Policies are addressed.*

4.1 (b) Current Zone/Denotation of Land

The land is defined under Part One of the Planning Scheme as “Road” meaning:

“any land, Crown or otherwise, used for the passage and repassage of vehicles and pedestrians as defined under the Local Government (Highways) Act 1982, but does not include any road that is not a public road”.

The land is subject to Planning Scheme standards under Clause 3.22 required for development within a Road and, further, the requirements of Schedule 4 ‘Roads’. Planning Scheme standards are as follows

“3.22 Use and Development within a Road Zone

The assessment of all Use or Development within the areas deemed to be within a Road Zone shall also take into consideration the provisions of Clause 3.10”.

Council shall further take into consideration the Schedule 4 ‘Roads’ of the Planning Scheme that states:

“S4.1 General

S4.1.1 Any land that is a road as defined in Clause 1.6.4 shall be deemed to be land within a road reserve, irrespective of whether such land is shown uncoloured or rural on the plan, or within any other zone or area.

S4.1.2 Any Use or Development within a road reserve shall be prohibited, except for:

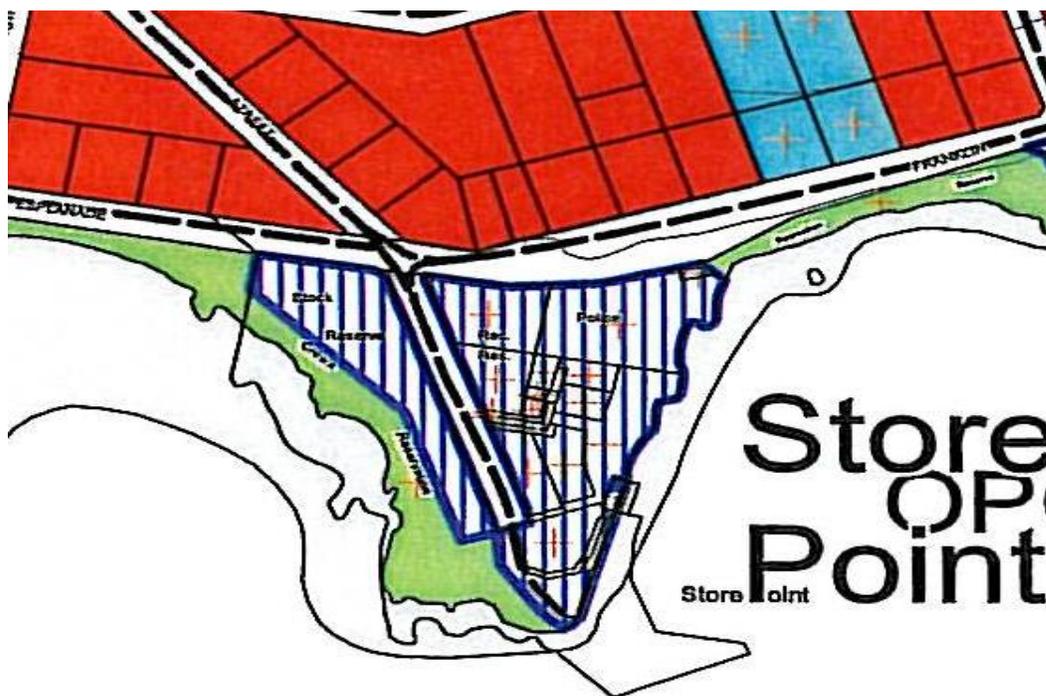
- (a) the purposes of that road for underground Public Utilities, which shall be a Permitted (as of right) Use or Development in accordance with Clause 3.3;*
- (b) above ground Public Utilities, which shall be a Permitted (with Planning Permit) Use or Development in accordance with Clause 3.4; or*
- (c) a vehicular access point to a carriageway, which shall conform to all relevant requirements of this Scheme”.*

The current Zone/Denotation of the land as “Road” prohibits the development of security gate infrastructure across the road and road reserve.

4.1 (c) Proposed Zone of Land

This Draft Amendment seeks to rezone a portion of the “Road” to “Port”

All surrounding land is currently zoned “Port” Refer to **existing Zone Map** reproduced below.



Zone Map

FLINDERS PLANNING SCHEME LEGEND

ZONES		OVERLAYS	MAP KEY
 Residential	 Public Purpose	 Visually Sensitive	 Tidal Flats
 Low Density Residential	 Port	 Ecologically Sensitive	 River
 Rural Residential	 Rural	 Heritage	 Roads / Tracks
 Commercial	 Environmental Management & Recreation	 Unstable Land	 Contours
 Village		 Buffer/Attenuation	
		 Airport Buffer	
		 Scheme Boundary	

Zone Map Legend

The Intent of the ‘Port’ Zone, Desired Character, Development Standards and Use Class Table are stated under Clause 5.7 of the Planning Scheme. Any future use and development of the subject parcel of land is to meet the requirements of the “Port Zone.

“Port” Zone Planning Scheme provisions are reproduced below:-

“5.7.1 Zone Intent

The areas under this zone are intended for development of uses directly related to the operation of Whitemark and Lady Barron as ports. Appropriate use or development include storage, warehousing, marine-related office and sales outlets, marine maintenance and repair facilities and holding yards.

5.7.2 Desired Zone Character and Zone Guidelines

(a) While acknowledging the design requirements of different port related uses, development should nevertheless take all reasonable measures to limit conflict with the character of the surrounding area (including that under other zoning) and other uses.

b) Use or development should be of modest scale and use traditional design elements and orientation to the street, where appropriate. Pitched roofs and broken form are preferred and long, high and continuous walls are not appropriate.

(c) Advertising signs may be colourful but should be restrained in their overall impact. Typically, signs should be located on the building face or fence or in a low position if free standing. Large signs and those which are out of scale with the area or the building or structure on which they are located or relate to, as well as those above roof height, are inappropriate.

(d) Security fencing shall be kept to a minimum. Where required its visual impact should be minimised through such measures as use of dark coloured/finished wire mesh and screening vegetation, and where possible located behind the line of the building facade.

5.7.4 Development Standards

(a) The maximum height of buildings is 8.0 metres.

(b) *There are no minimum setback requirements except those necessary to meet the zone intent, protect the character of the surrounding area and protect the amenity of neighbouring properties”.*

Clause 5.7.5 of the Planning Scheme stipulates the Use of Land and identifies the development status for each use class in the “Port” Zone. Refer to Table below:

5.7.5 Table of Use or Development – Port Zone

Permitted (as of right)	PUBLIC	Public Utility (minor)
Permitted (with Planning Permit)	COMMERCIAL	Marine Sales, Hire and Maintenance Office Saleyard Timber Yard
	PUBLIC	Car Park
	INDUSTRIAL	Store Transport Depot Warehouse
Discretionary	INDUSTRIAL	Contractors Depot Fuel Depot General Industry Light Industry Industry Research and Development
	PUBLIC	Telecommunication Structure Civic Building/Centre
	RECREATION	Passive Recreation
	RURAL	Animal Stockyard or Animal Saleyard Aquaculture
Prohibited	All other <i>Uses</i> or <i>Developments</i> except as provided for under Clause 3.7 and Clause 3.15.	
Note: Notwithstanding the provisions of Clause 5.7.5 the use or development of a proclaimed wharf area for port and shipping purposes shall be permitted <i>Use</i> or <i>Development</i> within the Zone.		

4.2 Flinders Council Strategic Plan 2011 - Local Government Act 1993

Flinders Council has prepared a Strategic Plan in accordance with requirements in Division 2 Part 7 of the *Local Government Act 1993*. The Plan was derived from an extensive consultation

process involving the local community and all relevant external parties that may have potential or direct influence on the operating environment and future direction of the municipal area.

The Plan contains a number of key outcome areas, the following of which are most relevant to the draft amendment:-

LAND USE, DEVELOPMENT AND BUILDING

Strategic Outcome: *A productive system of land and building development that promotes investment and activity while protecting people and the environmental characteristics of the Flinders municipal area.*

INFRASTRUCTURE

Strategic Outcomes: *Efficient and reliable infrastructure that supports and protects production, services and lifestyle.*

It is considered the requested amendment is consistent with the Strategic outcomes contained in the Strategic Plan.

Other Statutory Considerations

When considering certification of a draft amendment, a Planning Authority is further required under Section 32 *LUPAA* to ensure the draft is prepared in accordance with State Policies made under the *State Policies and Projects Act 1993* and that it seeks to further objectives contained in Schedule 1 of the *Act*.

The following assesses the draft amendment against these overarching planning considerations.

4.3 State Coastal Policy 1996

Key Objectives and Principles to be considered in relation to development on or adjacent coastal landforms will not be impacted upon by the rezoning and textual amendment. There are no natural coastal processes on the land. The land is considered to have sufficient elevation and separation from coastal influences to be at no risk from an increase in sea level and storm activity that may result from climate change.

4.4 State Policy on the Protection of Agricultural Land 2009

The land is not within an area identified as agricultural land.

4.5 National Environmental Protection Measures

There are no relevant *NEPM*'s that need to be addressed on site.

Any future use or development of the land will allow the Planning Authority to properly exercise and enforce its powers and responsibilities with respect to environmental management.

4.6 State Policy on Water Quality Management 1997

There is no natural stream or watercourse within the land.

4.7 Land Use Planning and Approvals Act 1993 – Schedule 1 - Part 1

The *Act* contains a Schedule of general outcomes for the Resource Management and Planning System of Tasmania. These outcomes must be furthered in any planning scheme amendment. The following addresses these outcomes within the context of the draft amendment:-

a) The promotion of sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity is not compromised.

The land does not contain any characteristics within this class that will be adversely impacted by a rezoning of the land or a textual amendment that seeks to expand the exemptions within a road or road reserve, where within a 'Port' zone. The bulk of the land has little environmental value and has been modified and sealed many years ago to form a public Road supporting vehicular traffic to and from the Port of Lady Barron.

b) Provision for fair, orderly and sustainable use and development of land, air and water can be achieved.

The land is an existing, developed site (access road). Rezoning and the proposed textual amendment will allow for the orderly and sustained use and development of the land for its intended purpose, that is, supporting port and shipping purposes for the benefit of the Flinders Island community.

c) Public involvement in resource planning and management outcomes

Public involvement will be achieved through the independent processes of public notification and the opportunity for formal submission of representation under *LUPAA*, as associated with public exhibition of the draft amendment and development proposal.

d) Facilitate economic development in accordance with principles of sustainability, fairness and community involvement

Rezoning and the textual amendment will allow for development of the land to meet access security requirements of the Tasmanian Ports Corporation Pty. Ltd. within a port environment.

e) Promotion of a sharing of responsibility for resource management and planning between different spheres of government, the community and industry in Tasmania.

This will be achieved through the statutory consultation period associated with the Planning Scheme amendment process; and in the authority held by Flinders Council as the local Planning Authority and the Tasmanian Planning Commission as the ultimate decision maker in relation to planning scheme amendments.

4.8 Land Use Planning and Approvals Act 1993 – Schedule 1 - Part 2

The *Act* contains a schedule of outcomes specific to land use planning and control. The following points address how these outcomes are to be achieved through the planning process, within the context of the draft amendment.

a) *To require sound strategic planning and co-ordinated action by State and local government.*

Although the draft amendment will not be specifically derived from a strategic plan or a coordinated action by State and Local government, the desired outcome reflects coordinated decisions affecting land and asset management by the Tasmanian Ports Corporation Pty. Ltd. and broad strategic outcomes contained within the *Flinders Strategic Plan 2011*. Any current and future use of the land should be compatible with broader agendas to deliver quality and sustainable development for Flinders Island.

(b) *To establish a system of planning instruments to be the principal way of setting objectives, policies and controls for the use, development and protection of land.*

The amendment will not be inconsistent with any other planning instrument or policy applying to the land.

(c) *To ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land.*

Consideration has been given to affects on the environment, amenity, community safety, long term social and economic impacts and on local expectations.

(d) *To require land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels.*

The proposed amendment seeks to integrate State-wide strategic policy in relation to critical infrastructure supporting transport and port and shipping purposes, with land use planning, environmental planning and resource mamangemet.

(e) *To provide for the consolidation of approvals for land use or development and related matters, and to co-ordinate planning approvals with related approvals.*

The draft amendment will not remove the need for any other permits or approvals as may otherwise be required under any statutory or lawful approval system.

(f) To secure a pleasant, efficient and safe working, living and recreational environment for all Tasmanians and visitors to Tasmania.

The draft amendment will support future use and development of the land that will result in outcomes directed to securing a pleasant, efficient and safe working and recreational environment for all Tasmanians and visitors to Flinders Island.

(g) To conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.

There are no buildings, areas or places on the land considered or identified to have scientific, aesthetic, architectural or historical or special cultural interest.

(h) To protect public infrastructure and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community.

The key outcome of the proposed use and development of the land to be rezoned will facilitate the protection of public infrastructure. The draft amendment will not create a future demand for uncoordinated or the additional provision of services.

(i) to provide a planning framework which fully considers land capability.

There are no impacts on land capability under any classification system intended to identify attributes for a particular form of land use.
