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**PROPOSED SUBDIVISION:
TWENTY THREE ALLOTMENTS and BALANCE**

**North East River Palana
Flinders Island**

FURNEAUX FORESTS CO-OPERATIVE SOCIETY LTD

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1. BACKGROUND

1.1 Surveyor Griggs on behalf of the Furneaux Forests Co-Operative Society Ltd lodged an application for subdivision with the Flinders Island Council (the “Council”) in March 2014. The Council responded with a request for further information as follows

- “1. A copy of the current Forest Practices Plan for the site.
2. An agricultural report prepared by a suitably qualified person assessing the suitability of the site for agricultural use. As a non-agricultural use is proposed, Clause 5.8.2 of the Scheme must be addressed.
3. In the letter accompanying the application, it was suggested a planning report would be forwarded under separate cover. This must address the following:
 - a. Clause 5.8.3 of the planning scheme, as lots smaller than 40ha are proposed in the rural zone.
 - b. The special area provisions at 7.2 Visually Sensitive Areas as part of the site is in a visually sensitive area.
 - c. the bushfire report submitted with the application requires the clearing of a threatened community on lots 14,15 and 16. To develop these lots in the future a permit will be required to remove the threatened vegetation. If refused the result may be that these lots are undevelopable. Lots 15 and 16 in particular are wholly covered by the threatened community. A redesign of the subdivision may be advisable.”

This report and associated reports have been prepared in response to this request.

1.2 The now proposed subdivision covers a site that Council previously approved for the subdivision of ten allotments in August 2010 (DA 18/10P)



FIGURE 1. Location (Boundaries are indicative only)

2. PROPOSAL

- 2.1 The subject site, described as lots 25626 on Plan 237440, 25627 on plan 237439 and part of lot 1 on Plan 208996 (copies of which were provided earlier) is an irregular shaped area of 392.50ha in area shown in Figure 1 above.
- 2.2 The proposal is for the creation of twenty three allotments and a balance area the latter to be dedicated as open space shown as lot 100 on the Plan of Subdivision.
- 2.3 The proposal varies from that originally submitted to Council in March 2014 in that the proposed layout has been rearranged around a road system to reflect Councils position in respect to Edens Road.
- 2.4 The application is made under the provisions of Clause 5.8.3 (b) of the Flinders Planning Scheme 1994 (the Scheme)
- 2.5 The proposed subdivision has discretionary status under the Scheme.



FIGURE 2. The subject site viewed from Holloway Point.

3. RELEVANT PLANNING PROVISIONS

- 3.1 The subject site falls within the **Rural Zone** of the **Flinders Island Planning Scheme 1994** (the "Scheme") as shown in Figure 4 below. The site also falls in part within the provisions of the Scheme dealing with **Visually Sensitive Areas** dealt with under Part 7.2 of the Scheme and again shown in Figure 4 below.
- 3.2 Part 5.8.1 provides the **Intent** for the Rural Zone as follows

"(a) The Rural Zone on Flinders Island is intended to maintain the existing rural character of the island which is typified by a pattern of areas of open farmland, typically with shelter belts of remnant vegetation, interspersed with irregular areas of native vegetation and substantial unspoiled landform. On other islands within the Planning Area the zone is intended to preserve the existing character which displays minimal signs of European occupation.

(b) Use and development in the Rural Zone is intended to accommodate agricultural uses and development predominantly, with some compatible non-agricultural uses and development in appropriate circumstances, including tourist operation and rural industries. Forest plantations may be appropriate where they do not adversely affect the character of an area or detract from important views."

- 3.3 Part 5.8.2 provides the **Desired Zone Character** and **Zone Guidelines** as follows

"(a) The use or development of small existing rural lots for the purpose of residential living shall only be approved where such use or development is compatible with any existing or potential agricultural use of that land or surrounding lands.

(b) Use or development should enhance the rural character of the zone. Buildings should be substantial distances from the road frontage and apart, unless inappropriate for operational or topographical reasons. Where land clearance is undertaken it should be visually sympathetic; important trees (or stands of trees) should be retained, important hilltop locations should not be cleared and location of trees and shrubs along fence lines, property boundaries, watercourses and at property entrances is encouraged. Buildings and structures for aquaculture should be sited with regard to the protection of coastal scenery and compatibility with recreational use of the coastline.

(c) Land use or development and management practices shall be environmentally appropriate and shall avoid contamination or despoliation of the land, ground water, water courses, shorelines, lagoons and marshes. Sand-dunes and coastal vegetation and ecologically important areas shall be protected from degradation.

(d) Forestry activities in the zone shall be in accordance with the Forest Practices Code."

3.4 Part 5.8.3 of the Scheme under the heading Subdivision Standards provides

(a) The minimum lot size is 40 ha

(b) A lot less than 40 hectares may be approved at Council's discretion for the following purposes;

(i) For an intensive agricultural use;

(ii) For a use, other than agriculture, that is consistent with the zone intent, desired zone character and zone guidelines;

(iii) For an aquaculture use;

(iv) For a servicing facility, infrastructure or recreational use;

(v) For boundary alterations where no additional titles are created and the resultant lots will comply with the intent of the zone.

(c) In considering an application under Clause 5.8.3(b) Council shall require a detailed assessment of the proposal prepared by a suitably qualified, independent, agricultural consultant that demonstrates:

(i) In the case of lots for intensive agricultural use, the capacity of the proposed lot(s)

(ii) other cases, the agricultural capacity of the proposed lot(s) (including any balance lot) and methods which will be employed to safeguard their agricultural capacity;

(d) Before accepting an application under Clause 5.9.3(b) Council may require the applicant to submit a Development Plan for the land to which the application relates. The Development Plan should show that:

(i) Subdivision will not fragment or diminish the agricultural potential of the land;

(ii) Subdivision will not result in ribbon development along roads and coastlines;

(iii) Development will not cause significant adverse impact on the natural environment, flora and fauna, coastal waters, watercourses or skylines;

(iv) Development or use will not be likely to result in land use conflict with existing land uses in the vicinity.



FIGURE 3. Existing timber harvesting operations and the existing road to be used for access to the proposed allotments in the mid ground viewed from Holloway Point

3.5 Part 7.2 of the Scheme under the heading **7.2 Visually Sensitive Areas** provides

7.2.1 These areas have been identified in recognition of their contribution to the landscape character and scenic values of the Planning Area.

Important elements in their selection are:

- (a) Visual prominence when seen from public roads, foreshores and coastal waters;*
- (b) Undisturbed landforms and natural vegetation;*
- (c) Minimal visible evidence of human activity in the form of buildings, structures or works.*

7.2.2 The objectives of the Visually Significant 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.*

7.2.3 Not with standing any other provision in this Scheme, within the Visually Sensitive Areas any application for Use or Development (other than those prohibited within the Zone) shall be considered as a discretionary Use or Development in accordance with Clause 3.5.

7.2.4 In considering an application for Use or development within the Visually Sensitive areas and whether to impose conditions Council shall consider the following matters:

- (a) The objectives listed in Clause 7.2.2*
- (b) The siting, orientation, setbacks, bulk, form, height, scale and external finishes of buildings and structures*
- (c) The visual impact of buildings, clearing, excavation, access, construction, fences, firebreaks or the deposition of fill;*
- (d) The adequacy of proposed landscaping and whether any special works or practices are required to protect the scenic values of the site;*
- (e) Whether development is proposed to be located on skylines or ridgelines.*



FIGURE 4. Zoning of subject site

4. PLANNING ASSESSMENT

- 4.1 The relevant provision of the Scheme in respect to the proposed subdivision is Part 5.8.3 (b) as detailed above. That part provides for the subdivision of lots less than the minimum lot size under part 5.8.3 (a), it does not provide any minimum lot size.
- 4.2 The subject site as it currently exists does not fit well with Part (a) of the Intent of the Rural Zone in that it is clearly not typical of the “rural character of the island.” The agricultural Report accompanying this report describes the area as follows

“Published Land Capability shows the area to be Class 5, with small areas of Class 6. Soils on the title are considered not suitable for agricultural development and this combined with steeper slopes on the south western portion and significant areas of poor drainage, the sandy nature of the soils leading to a high risk of erodibility, as well as the saline nature of the coastal environment indicates the agricultural limitations are more severe than is commonly associated with Class 5 Land. The majority of the land is considered to be Class 6 with poorly drained sites considered Class 7. Class 6 land is not suitable for cultivation and should be retained under its native vegetation cover; at best this can support some grazing and Class 7 land is unsuitable for agriculture (Grose, 1999). There is no agricultural activity in the vicinity of the title.

The majority of the site is recently harvested pine plantation. This plantation, while commercially harvested after a very long rotation, has proven problematic in obtaining sales for the products given the absence of processing capability on the island. Re-establishment of plantation on the site is considered uneconomic.

The title is considered to have no agricultural value currently and no agricultural potential.”
 (Agricultural and Natural Values Report AK Consultants 2013 page 4)

In light of the above it is submitted that the proposed subdivision under part 5.8.3 (b) of the Scheme is consistent with the zone intent, desired zone character and zone guidelines. The longer term use of the allotments is in fact more likely to bring the area, in visual terms, back to a greater level of consistency with the intent.

- 4.3 The proposed subdivision will not fragment or diminish the agricultural potential of the subject site as it has no agricultural value or potential as determined by the agricultural assessment accompanying this report as detailed above.
- 4.4 The proposed subdivision does not result in ribbon development along the road serving the area in that the proposal consolidates the development into one confined area and that area has already been approved for development albeit at a lower density.
- 4.5 The subdivision of its own accord will not impact on the natural environment, flora and fauna, coastal waters, watercourses or skylines. Future developments on the allotments will be subject to further application to Council and in the main at Council's discretion, enabling refusal of inappropriate development. Further Council have the opportunity to condition any permit ensuring development blends rather than contrasts with the environment of the area.
- 4.6 Again the subdivision of its own accord will not conflict with adjoining development. As detailed in 4.5 above, future development will be subject to further application to Council allowing for detailed consideration of impact at that time. It is also worth noting that there is little in the way of other land uses adjacent to the site and further the proposed lot sizes are of a magnitude that provide for adequate separation and buffering if the latter is necessary.
- 4.7 Part 7.2 of the Scheme detailed above, deals with the visual sensitivity of part of the site essentially the upper area as designated by the overlay. There is nothing specific in the part that deals with subdivision directly, rather the provisions relate to natural vegetation protection and impact of physical developments on the sites. In this instance other than the use of an existing road alignment there is nothing in the subdivision that will have any impact on the visual qualities of the area. The most significant impact is, in fact, the harvesting of the pine forest from the land as shown in Figures 2 and 3 above and this has already been approved by Council.
- 4.8 Any application for a proposed use on the lots created is subject to an application under the provisions of the Scheme. Applications for development within the visually sensitive area are Discretionary notwithstanding any other provisions of the Scheme. This provision allows Council the opportunity to refuse applications for inappropriate development. Council can impose conditions on developments on any of the proposed sites ensuring development that blends rather than contrasts with the surrounding environment as well as landscaping or revegetation.
- 4.9 In response to part 3(c) of Council's letter of 2nd June 2014 relating to removal of threatened vegetation community on proposed lots 13, 14 and 15 (Please note these lots have been renumbered since the first proposal and plan used in the Agricultural and Natural Values Report which identified the threatened vegetation community) it is submitted that a building site is available on each of the proposed allotments which would not significantly impact on the vegetation. The Bushfire Management Plan Accompanying this report makes observations and recommendations in regards these sites. It is further submitted that any future permit for the subdivision of the site should be conditional on Building Envelopes corresponding to the areas identified in the Bushfire Management Plan being endorsed on the titles to lots 13 14 and 15 and that any development outside of those areas be prohibited.

5. CONCLUSION

- 5.1 A subdivision of twenty three (23) allotments and balance is proposed. The latter is to be dedicated as open space consistent with a previous permit for subdivision issued by Council.
- 5.2 The proposed lots are all subminimum but are consistent with the provisions of Clause 5.8.3 (b) of the Scheme.

- 5.3 The subject site is part covered by the Visually Sensitive Areas Overlay however it is considered that the minimisation of visual impact of any future development can be adequately addressed through future conditional permits ensuring appropriate landscaping and building materials and colours that blend rather than contrast with the existing environment. All development within the area is discretionary and any proposal considered inappropriate can be refused. The cessation of forestry activity is likely for the area to be revegetated with native vegetation resulting in the area returning to a more natural appearance consistent with the scheme.
- 5.4 Overall the proposal as submitted is consistent with the standards of the Scheme and should be considered in a positive light and is in my opinion, meritorious of Council's approval.

