

## **Report Assessing Amendment Compliance with s32 of the *Land Use Planning and Approvals Act***

**Amendment 01/17 to the Flinders Planning Scheme 2000**

**Variation to allow Tourist Operation, Café/Restaurant, Community Building and Local Shop as discretionary uses in the Port Zone and to add to the zone intent statement for the Port Zone, at 16 Esplanade, Whitemark (Whitemark Wharf Shed) and as described in planning application DA2017010**

FROM: Statutory Planner  
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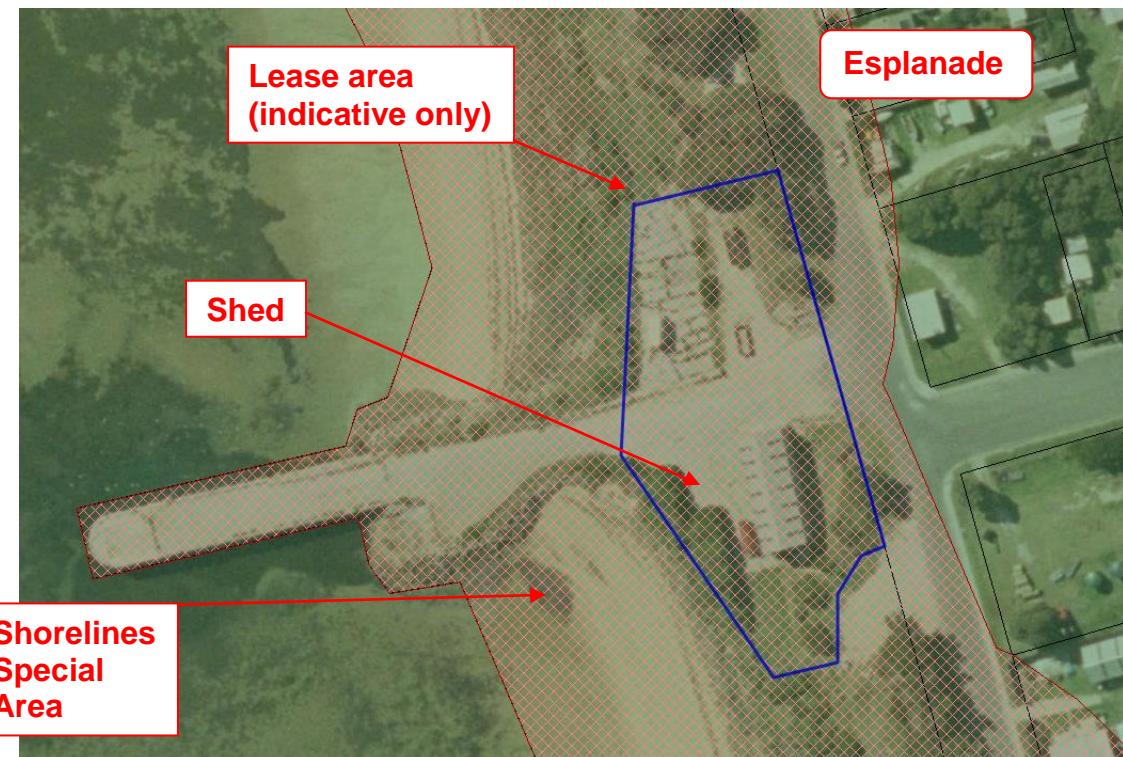
## 1 Introduction

This report assesses an application for an amendment to the *Flinders Planning Scheme 2000* to allow the re-use of an existing shed adjacent to the Whitemark wharf for a multi-purpose commercial centre. The amendment is combined with a planning application. The specific purpose is to assess whether the amendment meets the requirements of S. 32 of the Land Use Planning and Approvals Act 1993. In order to initiate the amendment, Council must certify that it meets the requirements of S.32.

## 2 Subject Land

### 2.1 Location

The amendment affects the Whitemark wharf shed and the lease area around it (see below):



**Figure 1 - Location Plan (source: iplan.tas.gov.au)**

### 2.2 Title description

The land subject to the amendment application is contained within the land title CT129006/1.

### 2.3 Area of the subject land

The area of the subject title is 3.617 ha. The requested amendment only affects part of the site, shown as the 'lease area' on the plans. The area takes in the shed and its curtilage, with frontage to the Esplanade.

## 3 Existing conditions

This section provides an analysis of the existing conditions and limitations of the site.

### **3.1 Land capability of the subject land**

The subject land is located within the township of Whitemark and is part of the port. Land capability and the *State Policy for the Protection of Agricultural Land 2009* are not relevant to the site.

### **3.2 General environmental quality and hazards**

No mapped landslip or stability issues at the sites of the proposal. The shed is located in the high risk coastal erosion hazard band, as mapped in a Department of Premier and Cabinet project in 2016. The summary report that accompanied the mapping contains a Coastal Erosion Hazard Planning Matrix. In relation to statutory planning, it states that in such high risk areas: '*new use or development is not permitted unless it is coastally dependent or a development to an existing building*'. The proposal is within an existing building. In relation to strategic planning (insofar as it applies to this planning permit application) it states that such areas: '*should be zoned for non-residential or industrial use*'. The current and future zoning (i.e, port zone) is consistent with this, as are the uses proposed here.

In relation to the coast and to the existing vegetation on the site, the proposal will better control stormwater run-off – it is understood there is no specific control of it now, and the wastewater report submitted with the application details tanks and a stormwater disposal trench on the site. Most of the existing vegetation will be retained.

### **3.3 Availability and capacity of infrastructure**

No improvement needs to be made to any roads, road junctions or water, sewerage, electricity or transportation services. This part of the island is not supplied with sewerage infrastructure so a septic tank serves the proposal, subject to a separate statutory approval process. The septic design, and the calculations it is based on, form part of the application. It is concluded that the proposal will be supplied with an adequate level of infrastructure and services.

### **3.4 Special or significant features of the subject land**

There are no known scientific, aesthetic, architectural, historical and cultural values on the land. No unique or special ecosystems were identified on the land in the DPIWE Natural Values Atlas.

### **3.5 Buildings and significant structures on the subject land**

The site contains an existing 220m<sup>2</sup> shed (25.1m by 9.5m and 7.15m high) and the wharf.

### **3.6 Existing use of subject land and surrounding land**

The existing building on the site is vacant and has been for some time. It is owned by Tasports and it is understood that it has been used for port purposes in the past but is no longer required. Surrounding the subject site on three sides is the remainder of the Tasports owned title, which contains the wharf itself but is otherwise vacant of development. To the east of the site is the Esplanade, the most westerly of Whitemark's streets. Land uses on the other side of this section of the street are residential.

## **4 Planning controls**

### **4.1 Existing zoning and effect on subject and surrounding land**

The subject site is in the port zone (pink) of the scheme, as shown below. The commercial zone (green) and residential zone (purple) abut the site.



**Figure 2 - Zoning Extract 2000 Scheme**



**Figure 5 – Special Areas Extract 2000 Scheme**

## 5.7 Port Zone

### 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.

### 5.7.3 Subdivision Standards

- (a) The minimum lot size is as determined by the requirements of an approved Use or Development on the land or 550 m<sup>2</sup> where no Use or Development has been approved.
- (b) Unless required otherwise as part of an approved Use or Development, lots for port buildings shall be capable of containing a rectangle of 15 x 20 metres.
- (c) Unless required otherwise as part of an approved use or development, lots shall have a minimum road frontage of 15 metres.

### 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.

### 5.7.5 Table of Use or Development

<b>Permitted (as of right)</b>	PUBLIC	Public Utility (minor)
<b>Permitted (with Planning Permit)</b>	COMMERCIAL	Marine Sales, Hire and Maintenance Office Saleyard Timber Yard
	PUBLIC	Car Park
	INDUSTRIAL	Store Transport Depot Warehouse
<b>Discretionary ( see Note (a))</b>	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
<b>Prohibited</b>	All other Uses or Developments except as provided for under Clause 3.7and Clause 3.15.	

Note (a): 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 Use or Development within the Zone.

A detailed assessment against the requirements of the Scheme is provided as Attachment 3 to this report. The assessment determined that the proposal complies with the requirements of the Scheme and could be supported.

#### 4.2 Special controls and affect on subject and surrounding land

The land is subject to the Shorelines, Water Bodies and Watercourses Special Area. It is provided in full below:

##### 7.5 Shorelines, Water Bodies and Watercourses

- 7.5.1 The shorelines, water bodies and watercourses identified in Schedule 3 shall be sustainably managed for the protection of water quality, the conservation of aquatic and shoreline habitat and the enhancement of recreational opportunities.
- 7.5.2 Development (other than that prohibited within the zone) which pertains to a Shoreline, Water Body or watercourse listed in Schedule 3 shall be considered as a discretionary Use or development in accordance with Clause 3.5.
- 7.5.3 Before considering an application pursuant to Clause 7.5.2 council may require additional information, prepared and submitted for Council's consideration by a suitably qualified person(s) to ensure that the proposal is adequately in terms of:

- (a) Contours and levels of the natural surfaces in relation to the range of water levels likely to occur in the vicinity of the proposed use or Development
- (b) Existing water quality, including seasonal variations;
- (c) Quantities and qualities of water that are proposed to be abstracted from or discharged to the sea, a water body or a watercourse listed in Schedule 3;
- (d) The likely impact of the proposed use or development on the quality of waters by reason of off-site effects such as erosion, siltation, salinisation, chemical spray drift, nutrient seepage, seed disposal or other emissions;
- (e) The natural, ecological, cultural, recreational and aesthetic qualities of the site.

7.5.4 In considering an application for Use or Development in Shorelines, Water Bodies and Watercourses and whether to impose conditions Council shall consider the following matters:

- (a) The siting, orientation, setback, bulk, form, height, scale, materials and external finishes of buildings and structures
- (b) The impact upon water quality, foreshore or streamside vegetation and wildlife habitat of building, clearing, excavation, effluent disposal, access construction, fences, firebreaks or the deposition of fill;
- (c) Whether land should be acquired by Council as a condition of subdivision or otherwise, to protect the items listed in Schedule 3;
- (d) Whether additional fencing or any other special works or practices are required to protect the items listed in Schedule 3;
- (e) The design, content and location of signage and interpretative displays.

## 5 Proposal

### 5.1 Brief description of proposal

It is proposed to refurbish an existing shed adjacent to the Whitemark wharf and use for a multi-purpose commercial centre.

#### Use

A number of uses are proposed. Office is currently a permitted use in the zone and distillery (light/rural industry) is a discretionary use in the zone. These uses are able to be approved under the current scheme. However, the proposed uses tourist operation (tourism information desk), café/restaurant (restaurant), community building (conference room) and local shop (providore) are all currently prohibited uses. A planning permit application cannot be made without an amendment to the planning scheme. Below is a summary table of the proposed uses:

Use	Scheme Definition	Use status (current)	Use status (proposed)	Ground Floor Area (m <sup>2</sup> )	Mezzanine Area (m <sup>2</sup> )
Distillery	Light industry	Discretionary	No change	50	-
Office	Office	Permitted	No change	-	27
Tourism booking desk	Tourist operation	Prohibited	Discretionary		10
Café/restaurant	Restaurant	Prohibited	Discretionary	145	-
Conference room	Community Building	Prohibited	Discretionary	-	50
Ancillary (store/circulation)	NA	NA	NA	25	39
			<b>TOTAL</b>	<b>220</b>	<b>126</b>

#### Development

The existing shed will have its roof raised by 200mm to 7.35m, which is discretionary development as it is in a special area (shorelines, waterbodies and watercourses). A 141m<sup>2</sup> ground level deck (28.25m by 5m) will be constructed along the western side of the shed. The re-

cladding, re-glazing and internal fit out of the shed, along with the water tanks, on-site waste water system and the parking area do not require planning approval.

## **5.2 Reasons for the proposal**

The proponents have determined that the site is suitable for the proposed use for the following reasons:

- the site contains an existing vacant shed well suited to the intended use,
- the site is located close to the main street in Whitemark and close to existing commercial and business activities, and:
- the site is vacant and able to be leased.

## **5.3 Detailed statement explaining proposed changes**

The proposed change will to make tourist operation, restaurant, community building and local shop discretionary uses in the port zone in a specific part of land at Whitemark Wharf (CT: 129006/1), as described in DA2017010. It will also add to the zone intent statement for the port zone as follows:

### **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. Use of development for tourism/hospitality related purposes is supported in association with Whitemark Wharf.*

## **5.4 Land use conflict**

The proposal uses an existing building and the hardstand for parking. The appearance of the site will remain mostly unchanged when viewed from adjoining land. Adjacent land to the east is residential. This would have been affected by the port use in the past (ship, truck and forklift movements, loading and unloading of ships, likely at various times of the day). The uses proposed will clearly have a greater impact than the currently vacant building. However, these will be limited to traffic movements (almost entirely light vehicles) and potential noise and lighting emissions. Based on the fact uses will take place inside the building, the distance of the building from these residents (minimum 70m and separated by a road) the impact on adjoining land is not expected to be unreasonable.

## **5.5 Environmental, economic and social impacts on the region**

Environmental impacts of the proposal are expected to be very limited. The proposal will better control stormwater run-off and the wastewater report submitted with the application details tanks and a stormwater disposal trench on the site. Most of the existing vegetation will be retained

The economic impacts of the proposal are not quantified in the proposal. However, it is clear that they will be generally positive. The proposal will provide employment directly and indirectly in the provision of supplies and services. The proposal business will increase the business activity and prosperity (both perceived and real) of the township.

Positive social impacts are likely within Whitemark and Flinders Council area generally, but are difficult to quantify for assessment of the current proposal. The proposal provides a community meeting place which mixes commercial and community functions and will be effective in 'bringing together' a small, widely dispersed community.

## 5.6 Comments of government agencies or other relevant bodies

The application was referred to Taswater. They had no comment on the amendment, but provided standard conditions for the associated planning permit, which are included on the permit.

As part of the statutory notification, TasPorts and DPIPWE were notified. Neither made a representation.

## 6 Strategic planning

### 6.1 Regional Land Use Strategy

The *Regional Land Use Strategy of Northern Tasmania* (the Strategy), version 4, was declared by the Minister for Planning on 16 October 2014.

The proposed amendment responds to existing circumstances on the western fringe of the existing Whitemark commercial centre. As such, the delivery or achievement of the broad visions, strategies and land use components contained in Parts B and C of the Strategy is not affected.

Part D of the Strategy sets out the desired regional outcomes for the region namely:

- Planning directions and principles necessary to achieve those outcomes;
- Specific policies to be applied to guide state and local government planning processes and decision making; and
- Specific regional planning projects and programs to be actioned and initiated further and implemented over the life of the plan.

In relation to the Regional Settlement Network at 4.1, the following introductory point is made regarding the Furneaux Group:

*While the region can generally be categorised into a settlement and activity centre hierarchy, this system recognises and responds to the interactions that take place throughout the region that are not reflected in the Furneaux Group. Due to the isolated function of the islands, the demands placed on settlement and activity centres (and the relationship with lifestyle land use patterns) are different to the typical functions of other levels of settlement. As such, planning for the islands and the creation of demand to support economic objectives for population retention visitation is dependent on local strategy.*

Notwithstanding this, the summary table of northern Tasmanian settlements identifies Whitemark as a District Centre. Technically, Urban Growth Boundaries were not established through the Strategy or any other document, so this section is not relevant to the current amendment. Regardless, the following response is provided to the relevant policies and actions.

Issue	Response
RSN-P1 Urban settlements are contained within the identified Urban Growth Boundary Areas, which is a tool to manage rather than accommodate growth. No new discrete settlements are allowed and opportunity for expansion will be restricted to locations where there is a demonstrated housing need, particularly where spare infrastructure capacity exists, namely water supply and sewerage.	Not relevant as there are no urban growth boundaries. The proposal is located within the existing Whitemark settlement and will utilise an existing site and improvements that were established for port purposes. The proposal is consistent with this Policy, despite the lack of declared Urban Growth Boundaries.
RSN-A2 Ensure that the zoning of land provides the flexibility to appropriately reflect the nature of the settlement or precincts within a settlement and the ability to restructure underutilised land.	The amendment is consistent with the extent of the existing commercial precinct in Whitemark and will provide flexibility for the zoning to reflect that precinct and the needs of the settlement.
RSN-P2 Ensure existing settlements can support local and regional economies, concentrate investment in the improvement of services and infrastructure and enhance the quality of life in those urban and rural settlements.	The amendment will provide for a new commercial and community building within the physical extent of the main commercial precinct, improving investment in the subject property and provide for a positive effect on residents' quality of life.
RSN-A7 Identify areas with existing mixed land use patterns; and/or brownfield areas; adjacent to activity centres for mixed use redevelopment, and ensure that the zoning provides flexibility for uses that support the activity centre and the role of the settlement.	The subject land is located within the physical extent of the main commercial precinct of mixed land use patterns.

The remaining policies and actions under this section were not relevant to the amendment.

## 2. Regional Activity Centre Network

This section sets the following desired regional outcomes:

Develop and reinforce an attractive, sustainable and vibrant Regional Activity Centre network to support sustainable urban settlements and communities. Regional activity centres will be well designed urban places as specific locations for employment, infill housing, retail, commercial and community facilities with good access to high-frequency transit such as bus interchanges and bus route corridors.

The Regional Activity Centre Hierarchy then defines District Centres as follows:

District Service Centres (DSC)	
Role	To provide predominantly non-urban communities with a range of goods and services to meet their daily and weekly needs. Trips to larger centres only required occasionally.
Employment	Highest concentration of employment for the sub-region, with a diversity of employment across business and industrial sectors.
Land Uses Commercial and Retail	Should offer at least one major or a combination of independent supermarkets and a range of speciality shops. Local or district level commercial office space servicing the community. May include district offices of government functions if strong correlation to features of the surrounding location.

The following response is provided to the relevant policies and actions at 4.9.

<b>Issue</b>	<b>Response</b>
RAC-P1 Maintain and consolidate the Regional Activity Centres Network to ensure future urban development consolidates and reinforces the spatial hierarchy of existing centres through reuse and redeveloping existing buildings and land to integrate a mix of land uses including the coordinated provision of residential development, retail, commercial, business, administration, social and community facilities, public and active transport provision and associated infrastructure.	<p>The amendment proposes to reuse an existing building that was constructed for port purposes and is located within the physical extent of the established activity centre of the Whitemark commercial area.</p> <p>The proposed use will provide for a new commercial and community facility in Whitemark to serve local and visitor needs.</p>
RAC-A5 Ensure the lower order activity centres are sustained through a local residential strategy or development plan that strengthens their role and function by maintaining and consolidating retail attractions, local employment opportunities and public amenities and services to create vibrant and sustainable regional and rural communities.	<p>The proposed use will provide for a new commercial and community facility on the edge of the commercial area and local employment within an established activity centre in a rural community.</p>
RAC-P12 Regional Activity centres should encourage local employment, although in most cases this will consist of small scale businesses servicing the local or district areas.	<p>The amendment will facilitate local employment in business serving the local area within an established activity centre.</p>

The following strategy programs do not relate to the proposal and do not require a response:

- 3. Regional Infrastructure Network
- 4. Regional Economic Development
- 5. Social Infrastructure and Community
- 6. Regional Environment<sup>1</sup>

This examination of the relevant strategies and associated policies and actions of the Regional Land Use Strategy for Northern Tasmania demonstrates that the amendment and application comply and can be supported.

## 6.2 Planning strategy and planning scheme

Part 2 of the Scheme sets out the intent of the Council with respect to the future use, development and management of land in the Planning Area. Each point is provided as indented and italicised text, with responses following. It is the intent of this Scheme to:

1. *encourage the orderly and efficient use and management of resources within the Planning Area;*

**The proposal is located within an existing and disused building. It is both orderly and efficient to re-use the building and site.**

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<sup>1</sup> P37, RLUS

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;

The proposal will provide a safe public site. The combination of a number of commercial, tourism and community uses in one place provides a central meeting and interaction point for a small and dispersed community, which promotes its welfare. The proposal will diversify the economic base and indirectly support a number of businesses by providing them with premises and a market based on the aggregation of other like uses. The tourism booking desk will indirectly support tourism businesses on the island.

5. encourage the efficient and effective use of facilities and services;

**The proposal is located within an existing and disused building. It is both orderly and efficient to re-use the building and site.**

6. protect and enhance the “pure environment” image of the Planning Area;

**The proposal site itself, whilst in a disused port building, is directly on the coast, part of the ‘pure environment’ image. Furthermore, it will promote local produce, also part of this image.**

7. ensure that future changes and use or development respect the inherent qualities of the natural environment and avoid undesirable environmental and social impacts;

**The proposal will better control stormwater run-off and the wastewater report submitted with the application details tanks and a stormwater disposal trench on the site. Most of the existing vegetation will be retained.**

8. provide for the recreational and open space needs of residents and visitors;

**Recreational and open space provision are not part of this proposal. It does directly adjoin coastal recreational areas and is likely to encourage use of them.**

9. ensure that appropriate use or development types are catered for and promote the opportunity for the development of recreation and tourist facilities;

**Recreational and open space provision are not part of this proposal. It does directly adjoin coastal recreational areas and is likely to encourage use of them. The proposal includes a tourism booking desk, the intention being that it become a required stop on tourists’ itineraries. Other tourism operations on the island can be promoted (and indeed booked) from the proposal.**

10. encourage the proper use and maintenance of rural land, consistent with the purpose for which it is zoned;

**Not applicable – not rural land.**

11. protect elements of special value; and

**The applicable element of special value is the coastline. The visual impact of the proposal will remain mostly unchanged from the existing conditions. The proposal will better control stormwater run-off and the wastewater report submitted with the application details tanks and a stormwater disposal trench on the site. Most of the existing vegetation will be retained.**

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.

**This examination of the proposal identifies consistency with – and in numerous cases, a direct furthering of – the intent of the Scheme, of supporting objectives. The proposal is therefore considered consistent.**

### **6.3 Local government strategic plan**

The proposal is consistent with Flinders Council's Strategic Plan (September 2015). The specific Strategic Focus Area that is relevant is Population Growth and more specifically the vision attached to it: *Focusing on strategies, projects and policy initiatives that support the community, economic development and investment attraction.*

The proposal is a purposeful attempt to bring together a number of commercial/tourism and community functions in one central location. It is clearly furthering the strategies below in particular:

*Underpinning an ambition to support population growth is a Council determination to assist in diversifying economic activity, building on the strengths of the Islands' primary resources and agriculture so that Island residents have opportunities for employment and to create their own economic futures. Opportunities to grow the tourism base are expected to contribute to the future of the Furneaux Islands' economy. To support business development there is a need for a targeted and strategic approach to overcome the limitations to innovation and broader entrepreneurial activity (e.g. remoteness) on the Furneaux Islands.*

*Increased visitation to the Islands also provides significant local benefit. Tourism, business investment and seasonal visitors all provide opportunities for increased prosperity on the Islands.*

## **7 State Policies**

The following State Policies are currently in force Under the *State Policies and Projects Act 1993*:

- Tasmanian State Coastal Policy 1996
- State Policy on Water Quality Management 1997
- State Policy on the Protection of Agricultural Land 2009

Under this act, *National Environment Protection Measures* are also taken to be State Policies.

The proposal is assessed against a planning scheme that was certified as compliant with current State policies and NEPM's when it was declared as a scheme in 2000 (except the 2009 State Policy on the Protection of Agricultural Land, which is not applicable). The Scheme implements the requirements of the *State Coastal Policy* and the *State Policy on Water Quality Management* through the Shorelines Water Bodies and Water Courses Special Area, which applies to the proposal. The *State Policy on the Protection of Agricultural Land* is implemented through the Rural Resource zone of the Scheme. The subject Policy and Zone are not relevant to the current proposal. The detailed assessment of the proposal against the Scheme determined that it complied with the requirements that reflect the applicable State policies.

Site contamination is the only relevant issue raised within *National Environmental Pollution Measures*. The Flinders scheme does not address site contamination. However, the PD1 mandate (applicable across most of the state though not on Flinders) defines sensitive use to mean a *residential use or a use involving the presence of people for extended periods except in the course of their employment, such as in a caravan park, child care centre, dwelling, hospital or*

school<sup>2</sup>. The proposal does not include the change to a sensitive use as defined within the PD1 mandate. On this basis it is considered that site contamination is not applicable to this proposal.

It is therefore concluded that the proposal complies with current State Policies and National Environmental Protection Measures.

## 8 Land Use Planning and Approvals Act 1993

The process for amendment of a planning scheme was established under Division 2 of the Act. Section 32 required that the Planning Authority to be satisfied that an amendment:

- (e) *must, as far as practicable, avoid the potential for land use conflicts with use and development permissible under the planning scheme applying to the adjacent area; and*
- (ea) *must not conflict with the requirements of section 30O; and*
- (f) *must have regard to the impact that the use and development permissible under the amendment will have on the use and development of the region as an entity in environmental, economic and social terms*

**The potential for land use conflict is determined to be low. The requirements of (e) are therefore considered met. (ea) is assessed for compliance following this section of the report and is found to comply. (ea) is therefore considered met. The environmental, economic and social needs and outcomes of the region were examined and formed the basis of the RLUS, where future growth was to be focussed to improve outcomes to the population on a range of these and other issues and impacts as a result of the development process and land use change. The RLUS recognised the role of rural lifestyle options in delivering a part of population growth as part of a sustainable development program. The amendment is therefore considered compliant with (f).**

Section 30(O) requires:

- (1) *An amendment may only be made under Division 2 or 2A to a local provision of a planning scheme, or to insert a local provision into, or remove a local provision from, such a scheme, if the amendment is, as far as is, in the opinion of the relevant decision-maker within the meaning of section 20(2A), practicable, consistent with the regional land use strategy, if any, for the regional area in which is situated the land to which the scheme applies.*

**The Act defines a local provision as a provision, of an interim planning scheme or of a planning scheme made under section 30N, that is not a common provision, and includes a zoning of a particular area of land<sup>3</sup>. It is considered that this outcome is both practicable and consistent with the RLUS.**

- (2) *An amendment, of a planning scheme, that would amend a local provision of the scheme or insert a new provision into the scheme may only be made under Division 2 or 2A if –*
  - (a) *the amendment is not such that the local provision as amended or inserted would be directly or indirectly inconsistent with the common provisions, except in accordance with section 30EA, or an overriding local provision; and*
  - (b) *the amendment does not revoke or amend an overriding local provision; and*
  - (c) *the amendment is not to the effect that a conflicting local provision would, after the amendment, be contained in the scheme.*

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<sup>2</sup> Clause 4.1.3 2013 scheme, page B-8

<sup>3</sup> [www.thelaw.tas.gov.au](http://www.thelaw.tas.gov.au)

**Common provisions are defined in the Act at 30B as ‘*a provision, of an interim planning scheme or of a planning scheme made under section 30N, that is: (a) a mandatory common provision; or (b) an optional common provision*’<sup>4</sup>.**

The amendment was initiated under Division 2 and sought to make an insertion into zone provisions, which is defined within the Act as a local provision. The amendment did not affect common or overriding local provisions, in compliance with (a) and (b). The amendment is not expected to cause conflicts with any other local provisions. The amendment is considered compliant with (c).

- (3) *Subject to section 30EA, an amendment may be made to a local provision if –*
  - (a) *the amendment is to the effect that a common provision is not to apply to an area of land; and*
  - (b) *a planning directive allows the planning scheme to specify that some or all of the common provisions are not to apply to such an area of land.*
- (4) *An amendment may not be made under Division 2 or 2A to a common provision of a planning scheme unless the common provision, as so amended, would not be inconsistent with a planning directive that requires or permits the provision to be contained in the planning scheme.*
- (5) *Subject to section 30EA, an amendment of a planning scheme may be made under Division 2 or 2A if the amendment consists of –*
  - (a) *taking an optional common provision out of the scheme; or*
  - (b) *taking the provision out of the scheme and replacing it with another optional common provision.*

**The amendment is considered compliant with these sections. The amendment is therefore considered compliant with sections 32 and 30(O) of the Act.**

In initiating this amendment, the Council must also satisfy itself that this amendment to the Scheme:

- *Seeks to further the objectives set out in Schedule 1 of the Act;*
- *Is in accordance with the requirements of State Policies made under section 11 of the State Policies and Projects Act 1993;*
- *as regard to the strategic plan of the Council referred to in Division 2 of Part 7 of the Local Government Act 1993; and*
- *Has regard to the safety requirements set out in the standards prescribed under the Gas Pipelines Act 2000.*

## **8.1 Schedule 1 Part 2 - Objectives of the Planning Process**

Responses to the objectives of the planning process established under the Act follow.

- (a) *to require sound strategic planning and co-ordinated action by State and local government; and*

**As it is consistent with the planning scheme and the Flinders Strategic Plan, the amendment is considered to represent sound strategic planning and coordinated action by local government. Although the State Government is not directly involved, the amendment is consistent with the RLUS and acceptable to State agencies (TasWater, DPIPEW, TasPorts).**

- (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; and*

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<sup>4</sup> [www.thelaw.tas.gov.au](http://www.thelaw.tas.gov.au)

The site specific amendment seeks to utilise the established statutory planning mechanisms to implement regional development and land use planning objectives, policies and controls for the long term use, development and protection of land. The objective is relevant to the amendment and the amendment is considered compliant with the objective.

- (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; and

**The environmental, social and economic impacts and effects of the amendment were previously considered in this report. This objective is therefore considered to be met.**

- (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; and

Available environmental, social, economic, conservation and resource management issues were previously considered within this report. The amendment is considered to be as consistent with this objective as is possible within the available State, regional and local policy framework.

- (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; and

**This objective is not considered relevant to a site that is less than a single land parcel.**

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

The amendment is considered to be consistent with this objective.

- (g) to conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value; and

**Based on the previous examination of these issues, this objective is not considered relevant to the amendment (notwithstanding that it conserves the existing building).**

- (h) to protect public infrastructure and other assets and enable the orderly provision and coordination of public utilities and other facilities for the benefit of the community; and

**The current and future operation of Whitemark port is secured.**

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

**Land capability was addressed in the examination of the amendment, it is therefore considered to comply with this objective.**

**The examination of the proposed amendment confirmed compliance with the relevant objectives of the Act.**

## **8.2 Objectives of the Resource Management and Planning System of Tasmania**

Compliance with the objectives of the Resource Management and Planning system of Tasmania are:

- (a) to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity; and
- (b) to provide for the fair, orderly and sustainable use and development of air, land and water; and
- (c) to encourage public involvement in resource management and planning; and
- (d) to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c); and
- (e) to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State.

The issues within the RMPS objectives that were relevant to the amendment were addressed in the previous section of the report and determined to comply. It is submitted that the proposal meets each of the stated objectives, and satisfies the objectives of the Resource Management and Planning System.

## **9 Conclusion**

This report examined the site conditions and context for alterations to the use table of the port zone of the scheme and a change to the zone intent to allow the re-use of an existing shed adjacent to the Whitemark wharf for a multi-purpose commercial centre. The subject property is considered unlikely to revert to port use, given the predominance of the Lady Barron Port. Notwithstanding, the current use of the wharf and potential re-emergence of the Whitemark port is not prevented by this proposal. The potential for land use conflict with adjoining and nearby uses will be limited. The proposed amendment will allow the relevant uses to occur within the port zone, and limit it to the subject lease area / property. The amendment was examined, and found compliant with, strategic documents for the region and Council, state policies, relevant legislation and the scheme. It is submitted that the proposed amendment is suitable for incorporation into the scheme.

**James Ireland, Statutory Planner**