



Post Office,
Lady Barron 7255
22 August 2022

Warren Groves,
General Manager,
Flinders Council,
PO Box 40, Whitemark.

Dear Warren,

Representation re:

Applicant: Onefox Investments Pty Ltd – DA 2022 / 00026

Location: 689 West End Road, West End - C/T: 138530/1

Development: Subdivision (4 lots) in Rural Zone with Visually Sensitive Overlay

Furneaux Islands Protection Network Inc. (FIPNI) objects to the proposed subdivision at 689 West End Road, West End, described as DA 2022 / 00026.

FIPNI understands that this Development Application (DA) is being heard under the provisions of the now outdated (from 1 June 2022) Flinders Planning Scheme. However, the date on which the Application was completed and lodged with Flinders Council is not disclosed. An Agricultural and Natural Values report included in the DA is dated 23 December 2021 which could be taken as some evidence the DA was lodged before 1 June 2022 and hence the old Scheme applies. However, a Bushfire Hazard Management Report included with the DA is dated 14 July 2022. This date is after the new Planning Scheme was adopted and provides an argument that the DA should be considered under the new Planning Scheme. Obviously, the DA was lodged in an incomplete manner for which more reports (Bushfire for example) had to be provided. Taken to a valid conclusion, an applicant could have lodged an incomplete DA before 1 June 2022 and it would have been heard under the old Planning Scheme notwithstanding more evidence had to be prepared for presentation to the Council. There is no legal reason to accept this scenario.

Note that it appears citations in the DA extracted from the Flinders Planning Scheme recorded in Part 1 of the Agricultural and Natural Values report (as part of the DA) which refer to 5.8.3 a), 5.8.3 b) and 5.8.3 c) should be to 5.8.3 b), 5.8.3 c) and 5.8.3 d). The apparent errors make a significant deflection from the proper regulations and make the DA a nonsense.

The land which is subject to this DA is in Rural Zone for which subdivision of land into sizes less than 40 hectares is not permitted under the old Planning Scheme. That is a major reason for FIPNI to oppose the DA. Simply for the council acting as a Planning Tribunal (PT) to rubber stamp the DA is a breach of power.

It is fair and reasonable to assume that the reason for the DA to split the current 40-hectare site into 4 lesser sized sites is to promote the usage and maybe sale of those sites for residential (either permanent or itinerant) purposes. It follows that there will be a change of use for the 4 sites put to the council at some time in the future.

The proposal will result in one parcel of land being as small as 4.0 hectares; that is 10% of the minimum size of land under Rural Zone in the Planning Scheme as it is being applied to this DA. The proposal to divide the parcel of land to such a small size has some absurdity about it.

There is an argument, and FIPNI understands, precedence for the provisions of the new Planning Scheme being considered by a Planning Tribunal when reviewing DAs which have been lodged under the old Scheme.

The 40 hectares size is 10 hectares less than the minimum 50 hectares required by clause 22.5.1 of the new Planning Scheme provisions for properties in what is now a Landscape Conservation zone. Although the Council, acting as a Planning Tribunal, is not obliged to consider the impact of the new Planning Scheme, it is the contention of FIPNI that as the new Planning Scheme now controls planning in the municipality its provisions relating to Landscape Conservation zone should be considered.

The zoning in the new Planning Scheme of Landscape Conservation puts constraints on the development of land so that its nature and natural environment is protected. That is what FIPNI would like to see.

An extract of clause 5.8.3 (d)(ii) of the Flinders Planning Scheme operative as of 18 December 2000 says that “The Development Plan should show that subdivision will not result in ribbon development along roads and coastlines”. The DA (which wrongly refers to clause 5.8.3c)ii) seems to be silent in showing any conclusion “that subdivision will not result in ribbon development along roads and coastlines”. Development in the West End area has become disorganised of late and approving this DA does nothing to remedy the haphazard nature of buildings and ribbon development in the area.

That concludes the representation from Furneaux Islands Protection Network inc.

Please call me if you require further information.

Yours sincerely

Gerry Willis,

President

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Abbreviations used:

FIPNI – Furneaux Islands Protection Network Inc.;

DA – Development Application

FC – Flinders Council;

PT – Planning Tribunal