

General Manager
Flinders Council
PO Box 40
WHITEMARK TAS 7255

FLINDERS COUNCIL
DRAFT LPS
REPRESENTATION

NUMBER: 8

Via email: development.services@flinders.tas.gov.au

29 July 2021

Dear Mr Groves,

**PLANNING EXHIBITION REPRESENTATION – DRAFT FLINDERS LOCAL PROVISIONS
SCHEDULE**

This representation is prepared on behalf of Ms. Dianne Fair for consideration within the Local Provisions Schedule for Flinders Council in relation to property at Lot 1 Pot Boil Road, Lady Barron CT 165275/1 and comprises an area of 92.56 hectares.

The land is currently on a single title and could be sold as a single lot. However, an older version of the title contains full descriptions of 62 smaller lots. The roads within the site were transferred to the Council in 2013. Part of the land has previously been surveyed and the plan of survey was registered at the Land Titles Office being P1680. The owner has proceeded with an application to the Recorder for separate certificates of title to several of the lots shown on P1680 and contained in Certificate of Title Volume 165275 Folio 1. Sproal & Associates have lodged an application at the Land Titles Office on 26 June 2021 for separate folios for thirteen parcels on behalf of Ms. Fair. I attach a letter with enclosures from Sproal & Associates detailing evidence of such application (Appendix A). I also attach at Appendix B to this submission a coloured diagram detailing the thirteen parcels applied for separate folios. No new approval is required of Council to separate the folios which were approved in 1961.

The current zoning of the subject site shows that the smaller water side lots are zoned Residential, whilst the larger lots are zoned Rural within the *Flinders Planning Scheme 1994* (updated 2000). It is noted that the whole of the subject land is identified on Map 29 in the Draft Flinders Local Provisions Schedule as Landscape Conservation zone.

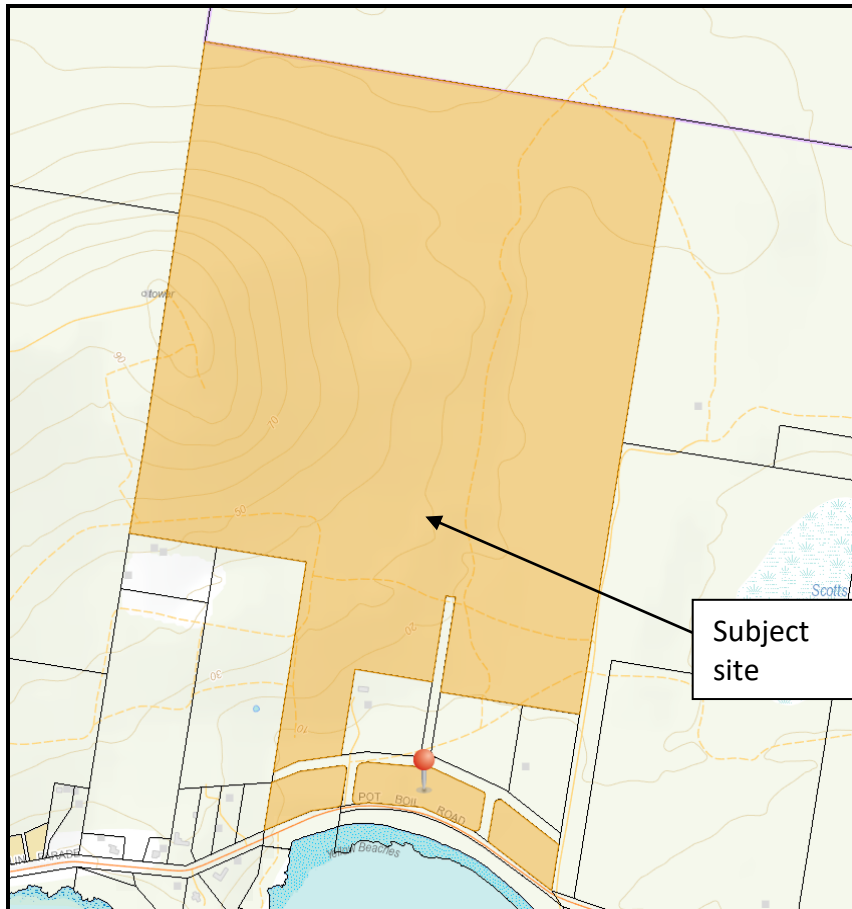


Figure 1 – Locality Plan CT165275/1 (Source: theLIST)

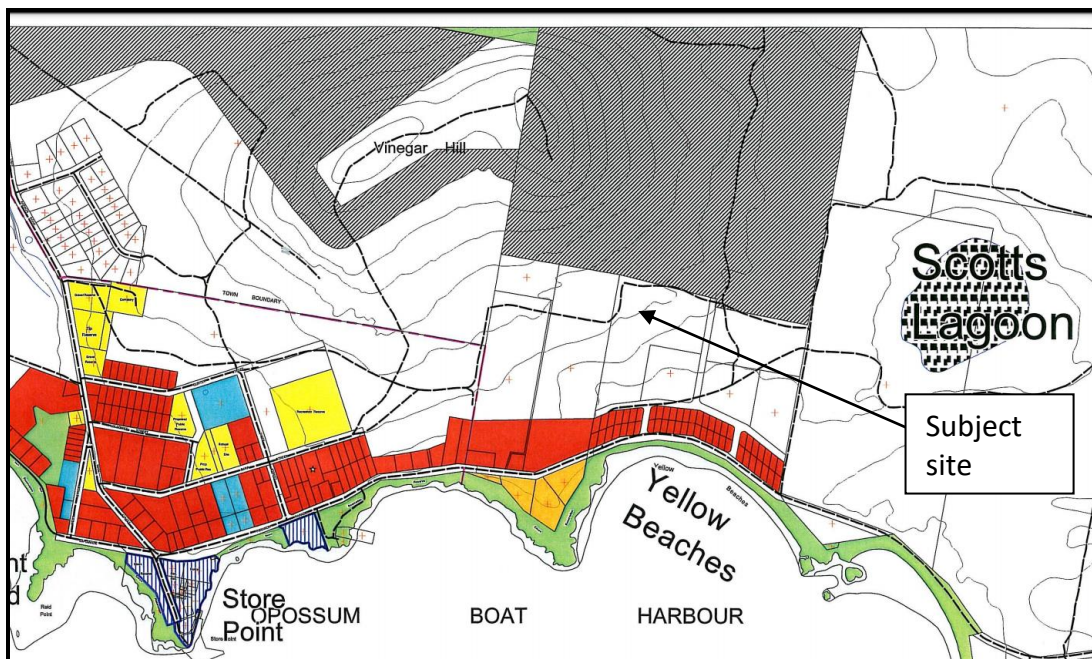


Figure 2 – Current zoning – Flinders Planning Scheme 1994 (part Residential and part Rural).
(Source: <https://www.flinders.tas.gov.au/client-assets/images/Development/Downloads/Flinders%20Planning%20Scheme%20-%20Lady%20Barron.pdf>)

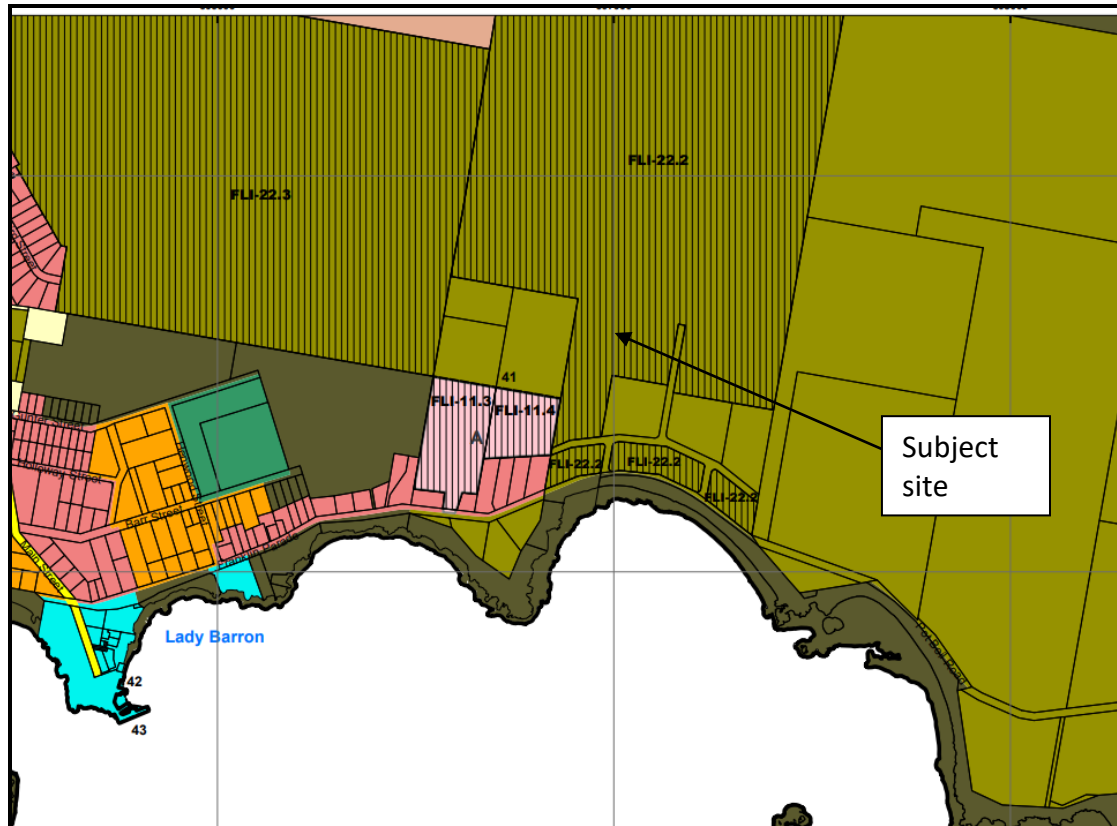


Figure 3– Proposed zoning – Tasmanian Planning Scheme – Flinders Local Provisions Schedule Map 29 (Landscape Conservation).

(Source: [TPS - FLI LPS - Zone Maps.pdf \(flinders.tas.gov.au\)](https://flinders.tas.gov.au/TPS-FLI-LPS-Zone-Maps.pdf))

Whilst 62 lots are available to be separated, the owner recognises that the smaller lots are just too small to provide for construction of dwellings and associated outbuildings, servicing including onsite wastewater management infrastructure and consideration of any overlay constraints including Bushfire Prone Areas Code as shown on FLI LPS – Code 13 mapping for Bushfire-Prone Areas Overlay. Apart from the Bushfire Prone Areas Overlay and part of the lot in the north-west portion mapped as priority habitat there are no other overlays that appear to constrain the smaller waterside lots.

It is proposed that the waterside lots (as shown in Appendix B as 8 smaller lots that will be executed shortly by the Land Titles Office) be considered for zoning in the Low Density Residential zone, like those of similar size and characteristics immediately adjacent to the west of the subject land.

The proposed zoning to Landscape Conservation of the current Residential zoned lots is not in accordance with Table 3 – Zone translation summary of the Flinders Local Provisions Schedule Supporting Report which translates the 2000 Scheme Residential zone to Low

Density Residential. The proposed zoning is therefore inconsistent with Guideline No. 1 for zone conversions and therefore not generally consistent with local and NTRLUS.

In January 2021 Flinders Council published “LPS Identifying potential lot and dwelling yields”.
<https://www.flinders.tas.gov.au/client-assets/images/4.%20FLI%20Discussion%20Paper%20-%20Potential%20Lot%20&%20Dwelling%20Yields%20v1%20adopted%20by%20Council.pdf>

After considering all the lots delivered by the LPS the report concludes *“307 dwellings are likely to be created from the lot yield, which will generate a shortfall of 209 dwellings or 40% of the projected demand. Additional land will be required to deliver the expected requirements for the life of the planning scheme.”*

Further the report states that *“Additional lands must therefore be identified for the provision of housing.”*

The report proceeds to consider ways the shortfall might be partially addressed by releasing additional land. Various schemes are considered reducing, but not eliminating, the shortfall. The final draft proposed LPS still contains a shortfall of development lots for new dwellings.

The proposed Low Density Residential zoning of the 8 separated lots at Lot 1 Pot Boil Road would partially address the shortfall whilst be consistent with Guideline No. 1 for zoning translation.

In 2021 the Council identified a lack of lots for new dwellings. Within the current 1994 planning scheme, the waterside lots of the subject land are zoned Residential. An application has been lodged with the Land Titles Office to separate a total of 13 lots of the subject site, 8 of which are within the current Residential zoning.

Whilst the Landscape Conservation Zone allows for Residential Use Class – if for a Single Dwelling as a discretionary use, the Low Density Residential Zone allows for Residential Use Class – if for a Single as a No Permit Required use and provides for other Residential land uses as discretionary including multiple dwellings. The Residential Zone of the *Flinders Planning Scheme 1994* (updated 2000) allows for a house (Residential) as a permitted (with planning permit) use. A basic comparison table is provided below in relation to the current Residential zoned lots.

Comparison Table for Consideration of 8 x waterside Lots within current Residential zone

Planning Scheme	Residential (current 1994 Scheme)	Landscape Conservation (Tasmanian Planning Scheme)	Low Density Residential (Tasmanian Planning Scheme)
Use	Single Dwelling – permitted Grouped Housing – discretionary	Single Dwelling – discretionary Multiple Dwelling – prohibited	Single Dwelling – No Permit Required Multiple Dwelling – Discretionary
Height	8.0m	6.0m (Acceptable Solution)	8.5m (Acceptable Solution)
Setbacks	BCA & Building Regs 1994	Front – 10m (AS) Side/Rear – 20m (AS)	Front – 8.0m (AS) Side/Rear – 5.0m (AS)
Subdivision	No minimum lot size however consideration of onsite wastewater required Min. Frontage – 4.0m Contains 10 x 15m rectangle	Min. Lot size – 50ha (AS), 20ha (PC) Min. Frontage – 40m	Min. Lot size – 1500m ² Contains a 10 x 15m rectangle Min. Frontage – 20m

Site Specific matters identify the subject land as FLI22.2. Page 42-43 of the Local Provisions Schedule and Zoning Strategy discuss FLI22.2, specifically stating that access to the summit of Vinegar Hill must be maintained. The separation of the lots and the existing approved subdivision in 1961 do not affect the existing tracks and roads so that access will be unaffected.

The portion of the subject site currently zoned Residential should be changed to Low Density Residential Zoning in the Tasmanian Planning Scheme – Flinders to ensure consistency with Guideline No. 1 (Guideline No. 1 Local Provisions Schedule (LPS): zone and code application made under section 8A of the Act).

It is further requested that Council consider that the zoning of Lot 31 and even Lots 32-35 be considered for zoning to Rural Living A. It is recognised that the current Rural zoning translation could be one of four zones in the SPP's/ LPS being either Rural, Landscape Conservation, Agriculture or Rural Living A, B, C or D. Table 4 of "Flinders Local Provisions Schedule Supporting Report" recognises the overarching rationale of the Rural Living SPP zone for those lots adjacent to current settlements and the NTRLUS and facilitates compliance with Schedule 1 objectives for sustainable development.

Lots 31-35 are characteristic of Rural Living (lifestyle allotments) when considering their size, orientation and road access and surrounding land uses. The Council owned road reserve continues to the northern edge of these lots, and the Visually Sensitive overlay of the 1994 Planning Scheme does not affect these lots at all.

Relevant context to Lot 31 being included in the Rural Living A zoning is adjacent Lots 28, 29 and 30 which are each in separate ownership, with Lot 30 being developed some years ago. Lot 28 is currently undertaking development. To the immediate west of Lot 31 is land

identified at 57 Franklin Parade, CT250865/1 and Lot 1 Pot Boil Road CT156090/1 which are both discussed on Page 9 of the "Identifying Potential Lot and Dwelling Yields" report where it is concluded to retain their rural living zoning despite that one of the lots "lacks frontage to a Council maintained road". The "Flinders Local Provisions Schedule Supporting" report at pages 56-57 further considers these two lots as being identified for Rural Living A with site specific qualifications adding stormwater provisions to subdivision standards. The establishment of a Rural Living Zone provides for a land offering at Lady Barron that is currently unavailable. The proposed Lots 31-35 would also complement this aim and align with the criteria set out in RLUS Action RSN-A26.

Further, Council minutes of the 15th May 2014 considers an application for a house at 57A Franklin Parade CT11112/1 with access via CT250865/1. The report states:

"The use of the land for residential purposes is considered to be in keeping with the Desired Zone Character. The subject land is located on the outskirts of the Lady Barron township and is one of a number of sub-minimal lots, off Franklin Parade, which lend themselves toward a residential use rather than agriculture. ... Sub-minimal lots intended for residential use and generally developed as such, continue for approximately 1km along Franklin Parade/Pot Boil Road from the subject title."

All of these lots, including the subject site excluding the waterside lots, were zoned Rural in the 1994 Planning Scheme. The southern part of CT156190/1 and CT250865/1 are to be zoned Rural Living A in the Draft Flinders Local Provisions Schedule.

The 15th May 2014 minutes further states:

"As discussed, this land is located in a Visually Sensitive Area and wholesale vegetation clearance and landscape scarring is strongly discouraged by the Planning Scheme. Due to the size of this lot there is also significant potential for future use and development to be located a substantial distance from the proposed dwelling. As such, the proposed dwelling has negligible impact on use and development on the adjoining land."

....

"As a result of the historic pattern of subdivision and the existing use of lots along Franklin Parade and Pot Boil Road for residential purposes, the subject title lends itself more to residential forms of development rather than agriculture. The title to the south of the development has been subject to a number of applications for residential forms of development, no permits remain valid, and the landowner has expressed the desire to develop for residential purposes. While predominately in the Rural Zone a portion of this title is zoned Residential."

Although larger, the title to the east shares similar characteristics and restraints to the subject title. Agriculture is heavily restricted on this land, due to the small size of the lot and its proximity to dwellings along Pot Boil Road. The lot size suggests that the title was historically created for residential purposes."

The titles to the east within 1 kilometre are Lots 31-35 of P1680. The Council therefore recognises that these lots back in 2014 were created for residential purposes and characteristics similar to other adjoining lots.

.....

"The historic pattern of subdivision has resulted in a number of lots in the area, including the subject lot, which lend themselves to residential development due to their small size and proximity to the Lady Barron township. The urban limits of Lady Barron are less than 550m to the west of the subject title. While the lots directly adjoining the subject title do not contain dwellings, there are a number of dwellings located along Franklin Parade and Pot Boil Road further to the east.

As such, a residential use is considered to be appropriate and in keeping with use and development in the local area."

Whilst it is recognised that Practice Note 7 requires zone boundaries that do not follow property boundaries to be minimised and should be necessary for planning reasons, it would seem apparent that the Council is unaware of the 1961 subdivision of the subject site and the process to allow for separation of lots without the need of any further approvals of Council, which is current with the Land Titles Office. Further consideration of existing adjoining land uses, lot sizes and previous Council decisions would in our opinion mean that the current waterside lots and Lot 31-35 require further consideration of zoning other than the proposed Landscape Conservation zoning in the Draft Flinders Local Provisions Schedule.

Therefore, we respectfully request further consideration of the future of this parcel of land through this process.

Kind Regards,



Rebecca Green

Senior Planning Consultant & Accredited Bushfire Hazard Assessor
m. 0409 284422
e. admin@rgassociates.com.au



SPROAL & ASSOCIATES

Property Lawyers

22 July 2021

Rebecca Green & Associates
PO Box 2108
LAUNCESTON TAS 7250

Dear Rebecca,

RE: DIANNE SOPHIA FAIR – APPLICATION FOR SEPARATE CERTIFICATES OF TITLE TO SEPARATE PARCELS CONTAINED IN FOLIO OF THE REGISTER

I recently received an email from Paul McGilly advising that he and his partner, Dianne Fair, have engaged you to make representations to the Flinders Council in relation to the draft planning scheme.

I have been instructed to write to you to advise you in relation to our instructions received on behalf of Dianne Fair to make an application to the Land Titles Office for separate titles to separate parcels shown in a folio of the register.

Dianne Fair has recently inherited land on Flinders Island from the estate of her late mother, Barbara Isobel Alexandratos. The land is located at Pot Boil Road, Lady Barron and is comprised in Certificate of Title Volume 165275 Folio 1 and comprising an area of 92.56 hectares.

Part of the land has previously been surveyed and the plan of survey was registered at the Land Titles Office being P1680. As a consequence our client has proceeded with an application to the Recorder for separate certificates of title to several of the lots shown on P1680 and contained in Certificate of Title Volume 165275 Folio 1. I **enclose** for your reference a copy of the application which has been lodged at the Land Titles Office as well as a copy of P1680.

Please let me know if you require anything further.

Yours faithfully,

SPROAL & ASSOCIATES

A handwritten signature in black ink, appearing to be 'B. Sproal', with a stylized flourish at the end.

BARRY SPROAL

Email: barry@sproalassociates.com.au

TASMANIAN LAND TITLES OFFICE

Blank Instrument Form

Land Titles Act 1980



DESCRIPTION OF LAND			
Folio of the Register			
Volume	Folio	Volume	Folio
165275	1		

APPLICATION FOR SEPARATE CERTIFICATES OF TITLE TO SEPARATE PARCELS CONTAINED IN THE FOLIO OF THE REGISTER

VOLUME 165275 FOLIO 1

I, **DIANNE FAIR**, of 9 Tulip Street Black Rock in Victoria being the registered proprietor of the above Folio of the Register hereby apply for the creation of thirteen separate folios as set out below for the lots shown on Plan 1680 (95501). The certificate of title relating to the folios mentioned above is lodged herewith.

Application is made for separate folios for the following thirteen parcels:

1. Lot 31
2. Lot 32
3. Lot 33
4. Lot 34
5. Lot 35
6. Lots 1, 2, 3, 60, 61 and 62
7. Lots 4, 5, 6, 7, 56, 57, 58 and 59
8. Lots 8, 9, 10, 11, 52, 53, 54 and 55
9. Lots 12, 13, 14, 49, 50 and 51
10. Lots 15, 16, 17, 46, 47 and 48
11. Lots 18, 19, 20, 43, 44 and 45
12. Lots 21, 22, 23, 40, 41 and 42

Land Titles Office Use Only

13. Lots 24, 25, 26, 27, 36, 37, 38 and 39

DATED this 26th day of June 2021

SIGNED by:.....DS Fair.....

Dianne Fair

MEMO 24.6.61

SURVEY PLAN
COUNTY OF FLINDERS ISLAND

PARISH OF COOMA

Part of Lot 2129, 248, 1-21, Gld. to Winifred Constance Carrigg

SCALE: 160 FEET TO AN INCH

A.G. Wallace & Ors 995-2 cr.

PART OF LOT 21729

A. G. Wallace & Ors. OWS.

SEE INSIDE FIELD
NOTES FOR REF.
LOT 30

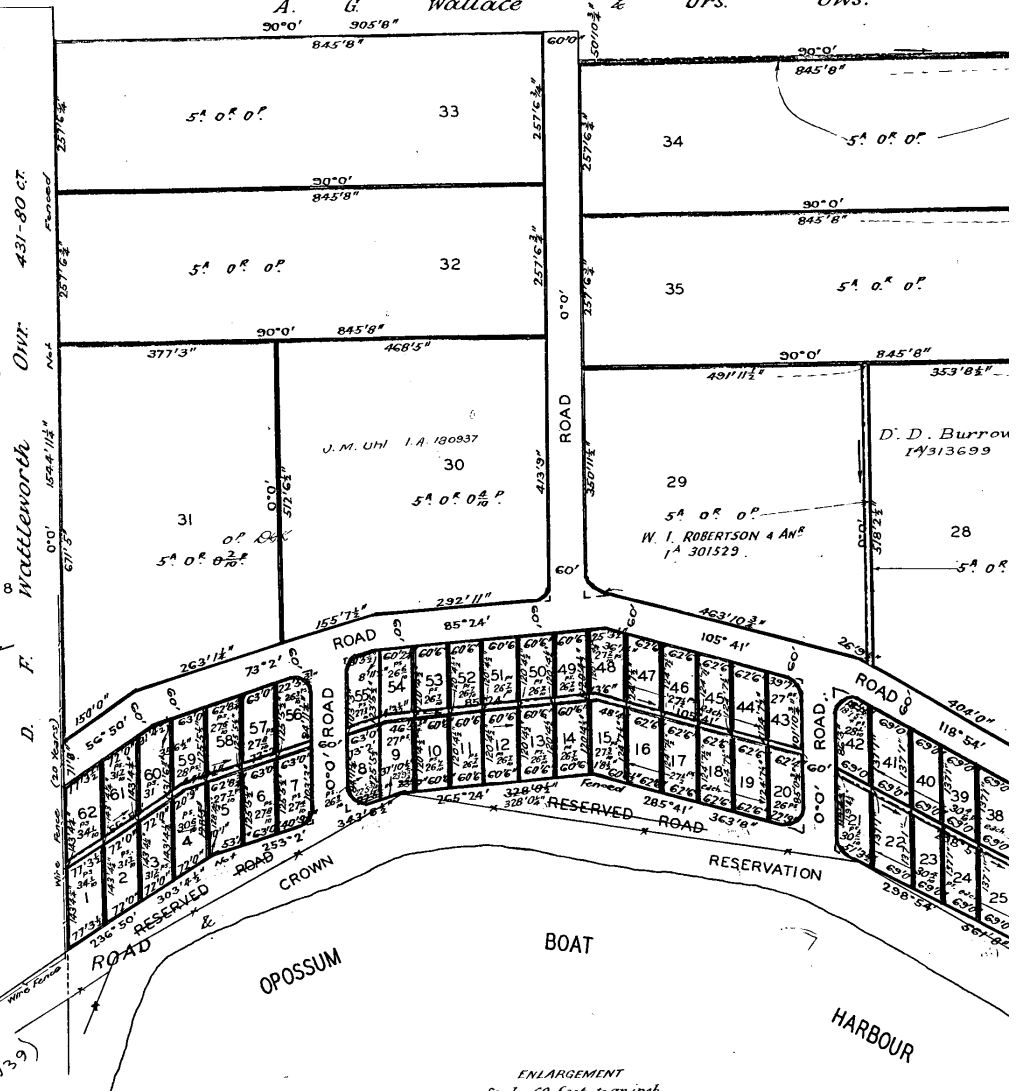
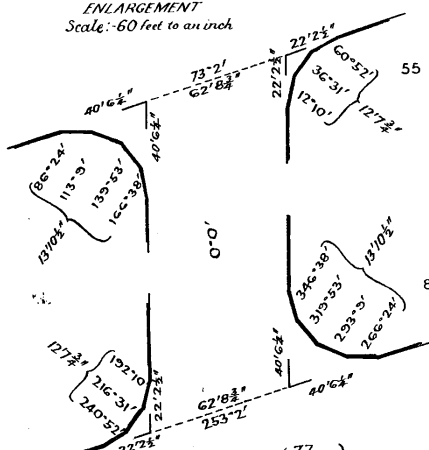
Black
V.M.S. 114
6.10

North



LOT 23531

ENLARGEMENT
Scale: 60 feet to an inch



AREAS OF LOTS 1-27 & 36-62

LOT NO.	AREA	PERCENT
1	34 1/2	"
2 & 3	31 1/2	"
4 & 5	27 3/10	"
6	27 1/10	"
7	27 1/10	"
8	26 3/10	"
9	27	"
10-14	26 7/10	"
15	27 1/10	"
16-19	27 1/10	"
20	26	"
21	30 1/10	"
22-27	30 7/10	"
36-41	"	"
42	28 7/10	" 28 7/10 OWS.
43	27	"
44-47	27 1/10	"
48	27 1/10	"
49-53	26 1/10	"
54	26 3/10	"
55	27 1/10	"
56	26 3/10	"
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58	27 1/10	"
59	28	"
60	31	"
61	31 1/10	"
62	34 1/10	"

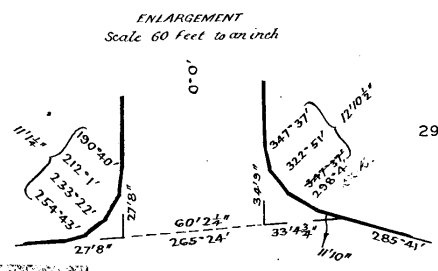
PLOTTED BY W.H.

MATHEMATICALLY CHECKED W.H.

OFFICE REF. NO. 1778
SURVEY COMMENCED 23-6-61. EXAMINED AS TO BOUNDARIES W.H. 24/6/61
SURVEY COMPLETED 4-7-61. ENCLOSURE CARD BY W.H.
ERROR OF CLOSE. NIL.

REGISTERED NUMBER
95501

p1680



0891d

SURVEY PLAN
COUNTY OF FLINDERS ISLAND

PARISH OF COOMA

Part of Lot 21729, 248, 1-21, Gld. to Winifred Constance Carriag

SCALE: 160 FEET TO AN INCH

A. G. Wallace & Ors 395-2 or

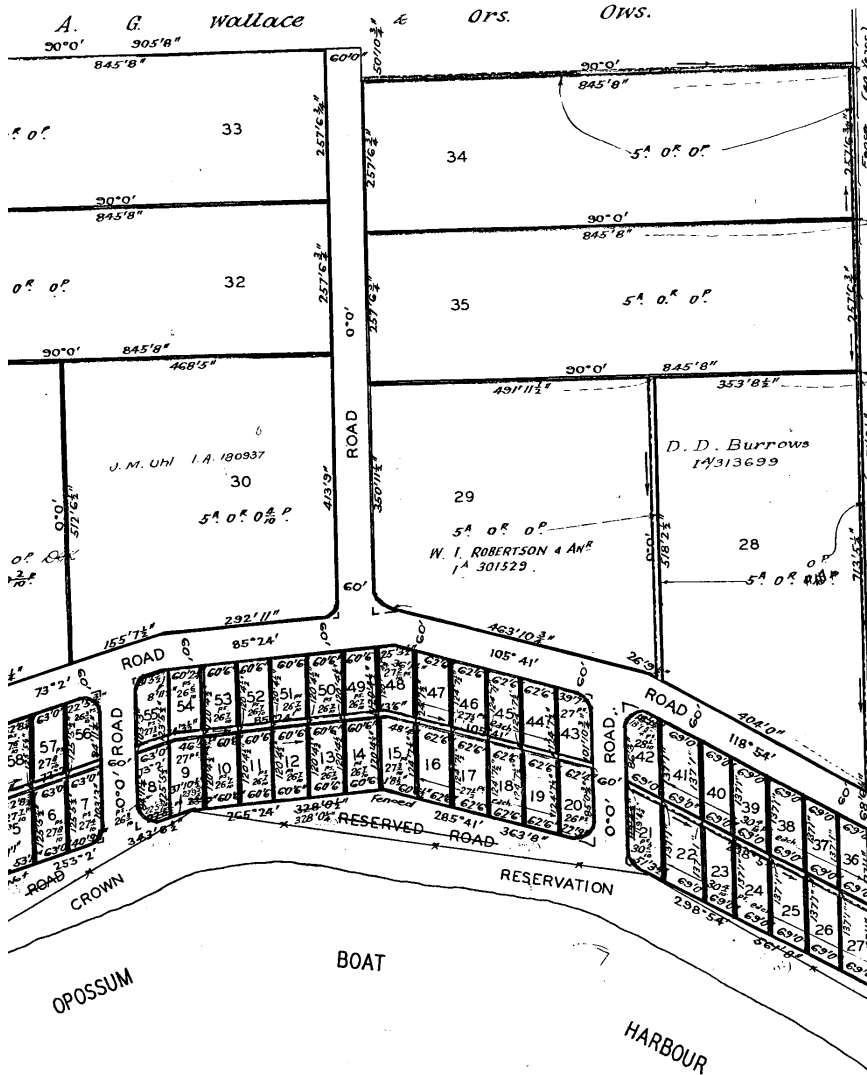
PART OF LOT 21729

A. G. Wallace & Ors. OWS.

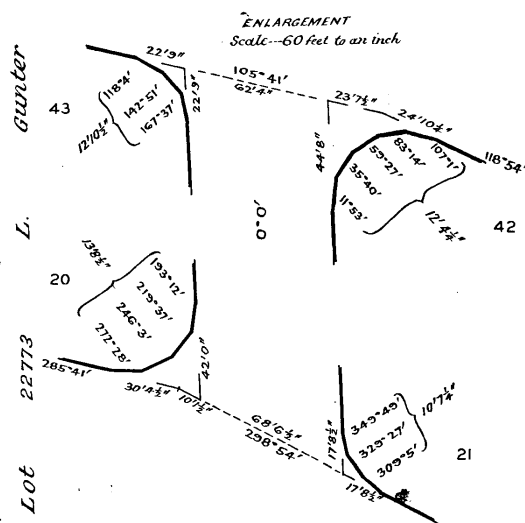
Black & White
33873
TASMANIA
10/15/61

Approved 15th. August 1961. The Common Seal of the Warden Councillors, and Electors of the Municipality of Flinders has been hereunto affixed in the presence of us this 18th. day of August 1961 in pursuance of authorisation given at a meeting of the Council held on the 15th. day of August 1961.

WARDEN.
COUNCILL R.
COUNCIL CLERK.



LOT 22773



NOTE:- The eastern & western boundaries of Lots 27 & 36-62 bear 0° 0'.

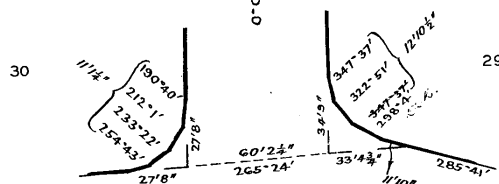
The lands coloured Green are Drainage Easements & are six feet wide

NOTE:- Boundaries between lots incorrectly shown by double red lines. The true boundary lines are shown in full. Broken lines are easements only, and should not have been shown surrounded by red lines by the surveyor

KIRKPATRICK & WEBBER
SURVEYORS, ENGINEERS & TOWN PLANNERS
225 MAROONDAH HIGHWAY
RINGWOOD
TELEPHONE 870 1085 & 87 8909

I, Donald Ian Kirkpatrick of 225 Maroondah Highway, Ringwood, Victoria, Registered Surveyor, of Tasmania, do hereby certify that this plan has been made from surveys executed by me or under my own personal supervision, inspection, & field-check, & that both plan & survey are correct, and have been made in accordance with the Land Surveyors' By-law No. 2.
Dated 7th July 1961. D. I. Kirkpatrick Authorised Surveyor

ENLARGEMENT
Scale 60 feet to an inch



REGISTERED NUMBER

95501

Appendix B

Gld. to W.C. Carrigg
Meas. are in feet & ins
P. 1680

See Enlargement

Lot 1 of this plan consists of all the land comprised in the above-mentioned cancelled folio of the Register.

REGISTERED NUMBER

213441

