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Monday, October 5, 2026

Mr John Ramsay
Executive Commissioner

Dear Mr Ramsay

RE: AM2025-01

I act for Ms Wendy Jubb-Stoney of [redacted], Cooma Flinders Island.

The following submissions are made with respect to the Commission's direction to the Planning Authority dated 16 September 2026, and the Planning Authority's response dated 24 September 2026.

Submissions are made under sub-headings for ease of reading.

Validity and merit of Representation 6

A matter raised early in the hearing was that of the 'status' of Representation 6 (**Annexure A**).

The reason I pursue this matter is that of the purported representation having been provided on behalf of Councillors and staff. The Planning Authority has power per s40K(2)(e) of the LUPAA to make '…any recommendations in relation to the draft amendment that the planning authority thinks fit.' That was the fit and proper place to provide recommendations, including those outlined in Representation 6, which did not require Representation 6 to be made.

The representation was submitted by Mrs Jacci Smith (Development Services Manager) with the statement –

> 'The following representation is provided on behalf of the Councillors and staff of Flinders Council.'.

Since the hearing, Council has been asked questions at Public Question time in its August meeting. The Minutes (Unconfirmed) where the questions were asked (Public Question Time) is provided as an extract in **Annexure B.**

Question 1 of the Public Question time was answered with the below -

> *Councillors acting as the Planning Authority approved Council's position through consideration of the Section 40K report at the meeting on 24 September 2025, under decision 261.09.2025. That report formed the basis of Representation 6, with staff adding technical comments addressing the performance criteria in the Tasmanian Planning Commission's subsequent direction. The Representation was therefore submitted by both Council and staff.*

Following the Commission's decision, councillors discussed the matter at the workshop on 13 May 2026, including the proposed response and the process for making a representation. Staff then prepared and submitted the representation reflecting Council's established position and those discussions.

Council staff providing advice in the course of their employment in a planning matter does not constitute an *acceptance* of its contents, nor does it provide or even could it be considered any authority or consent for the Development Services Manger to mislead the Commission, or the Councillors, into an impression that 'all staff' of the Flinders Council have had the representation willingly identify them as being supportive. Even Councillors were unaware of the representations contents when it was made. Why wasn't it made by the General Manager?

At question 2 it states –

Councillors had not seen the exact wording of Representation 6 before it appeared in the July agenda. However, it was prepared on the basis of Council's approved position in the September 2025 section 40K report and subsequent workshop discussions, including those held on 13 May 2026.

Council's position in September 2025 is not that of the content of Representation 6; it proposes to add 400m^2 limits to the Performance Criteria. The workshop of 13 May 2026 is noted in the answer as a basis for its contents. Nothing is mentioned in the items discussed at that workshop in respect to Representation 6. Furthermore, I explored other workshop events in case the matter has been incorrectly referenced by date in the Minutes (Unconfirmed) – September 2026. None of the notes in the Council Minutes of June, July and August 20216 mention any item even vaguely relevant to Representation 6 (including workshops dated 10 June, 8 July, and 12 August 2026).

It is plausible that Representation 6 was likely lodged to give the appearance that 'many people' were concerned by the Commission amended SAP, when in fact they were not. No representations were received by Council that raised any concerns about the SAP being amended by the Commission; the amended SAP saw the introduction of Performance Criteria which if this outcome was so abhorrent that the social fabric of the island was at risk, then why were there not many representations against it. Flinders Island is a small community. The facts speak for themselves; the only concerned persons are those whom the SAP impacts in conducting their businesses and going about their daily lives.

S32(4) of the Land Use Planning and Approvals Act 1993

The Commission sought the following of the Planning Authority:

'whether the substantially modified draft amendment changes the planning policy inherent in the SAP in such a way that causes the SAP to no longer meet section 32(4) of the Land Use Planning and Approvals Act 1993;'

S32(4) of LUPAA provides the following –

'(4) An LPS may only include a provision referred to in subsection (3) in relation to an area of land if –

(a) a use or development to which the provision relates is of significant social, economic or environmental benefit to the State, a region or a municipal area; or

(b) the area of land has particular environmental, economic, social or spatial qualities that require provisions, that are unique to the area of land, to apply to the land in substitution for, or in addition to, or modification of, the provisions of the SPPs.'

S32(4) allows a SAP to be included in a LPS but only in very specific circumstances; as prescribed at (a) and (b).

If a SAP were to be a simple process where the 'bar' for allowing one to be installed within an LPS was low, then the purpose of the SPP's is subverted because the planning system simply becomes many schemes which progressively become divergent with the addition of every SAP. It is submitted that the Coastal Areas SAP, in the amended form and original LPS gazetted form, does not meet the 'bar' and ought to be removed from the LPS because it is contrary to s34(4).

(a) a use or development to which the provision relates is of significant social, economic or environmental benefit to the State, a region or a municipal area; or

The Coastal Areas SAP prevents use and development that is otherwise addressed by the SPP's (including Codes). The coastal area SAP does not have associated with it a use or development that is of social, economic or environmental benefit to the State, a region or a municipal area. An example of where this would apply is that of a technopark, or industrial precinct that serves several municipalities.

(b) the area of land has particular environmental, economic, social or spatial qualities that require provisions, that are unique to the area of land, to apply to the land in substitution for, or in addition to, or modification of, the provisions of the SPPs.

Scant evidence was provided to the Delegates assessing the LPS to justify (b). It is one thing for the Planning Authority to say that what was previously determined by the Commission to be the case now. I prepared several representations which included comments against the Coastal Areas SAP, which included observations that it was not consistent with the State Coastal Policy, and that the 'bar' for a SAP being applied was not met.

The Planning Authority notes the 'base conditions' for establishment of the SAP through the LPS process remain relevant to Flinders Island:

- an extensive coast line with a largely undeveloped character,
- the natural and scenic values of the coastal fringe of Flinders Island, contrasting with limited areas with any significant areas of development impacts,
- historically low pressure for development in coastal locations,
- the value placed on the character of the coastal fringe, the potential impacts of development and the value this has to the local community,
- the need for a local management tool to manage the identified issues across different zones, which was not possible under the SPP.

As noted previously in these submissions, the community has not come out in force to reject the amended changes to the SAP which allow greater development opportunities on the coast by the application of Performance Criteria. Equally, it is necessary to be mindful that the 'protection' being offered by this SAP is from those 'out at sea' whom may be, at some stage, perhaps, looking back at the island from afar.

If there is 'historically low pressure for development in coastal locations,' as described, then why does the LPS

need this Coastal SAP at all?

The Scenic Protection Code is the planning instrument to address landscape values; the SAP simply complicates, and duplicates the intended purpose of the Code in the SPPs.

The Planning Authority misses the point of the Scenic Protection Code when it states: 'None of the zones applied to private lands on Flinders Island provide a primary intent for consistent management of the visual impacts of development within the coastal fringe in a sensitive location such as Flinders Island.'

The Scenic Protection Code applies to areas, and has the primary intent to protect landscape values, irrespective of zones (those to which it applies); it is that mechanism which ought to prevail, as the SPPs intended.

Flinders Island is not unique, it is certainly not alone in having an attractive coastline, yet no other Council has a mechanism comparable to the Coastal Areas SAP. I have made this point consistently with the Commission, along with the ability to measure high water mark (to avoid the covering of private land where the 2000 Scheme applied the coastal protection measures from the high-water mark) which was only recently conceded by the Council's consultant. I had raised this in the LPS hearings, so it is nothing new, but perhaps it has just been reluctantly acknowledged by Council in this process.

'site coverage'

The conflict with the use of the term 'site coverage' as a definition in the SAP with respect to the SPP's is noted. The Planning Authority's suggested approach to reconcile the term is supported, but noting that the intent of the term as applied in the advertised amended SAP be maintained.

If the Commission was to insert or apply a different term that changes the intended meaning and its application meaning, then a further opportunity to make a submission is requested by Mrs Jubb-Stoney.

Please let me know if you would like to discuss these submissions.

Yours sincerely

Dr Richard Barnes

B.Sc.(Hons). Ph.D., GDURP MPIA, MESA, EIANZ

Director, Van Diemen Consulting Pty Ltd

Annexure A

FLINDERS COUNCIL
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6 July 2026

Tasmanian Planning Commission
Delegated Assessment Panel
Via: tpc@planning.tas.gov.au

Dear Sir/Madam

AM2025-01 Coastal Areas Specific Area Plan - Representation to Exhibition

The following representation is provided on behalf of the Councillors and staff of Flinders Council.

The exhibited amendment (certified 29 May 2026) AM2025-01 seeks to remove FLI-S3.0 Coastal Areas Specific Area Plan (SAP) from various locations, including the Bootjack Flats drain near Lady Barron, identified by items 4.0 through 9.0 inclusive in the exhibited document. Those components of AM2025-01 are supported. The changes are consistent with the intent of AM2025-01 as initiated by the Planning Authority.

As exhibited, the amendment also seeks to introduce amendments to the written ordinance relating to FLI-S3.0 Coastal Areas SAP including Section 1 to define the term 'site coverage'. We restate our objections to section 1 as any such definition should be revised in '3.0 Interpretation' section of the State Planning Provisions. If it must remain, the Commission should be responsible for any future maintenance of the definition within the SAP.

Further, the amendment proposes to include a performance criteria for the site coverage controls, identified by item 3.0 - FLI-S3.7.2 Site Coverage – Performance Criteria P1. We find this objectionable given that this matter has not been consulted with the community or the Planning Authority.

Items 1.0 and 3.0 of the exhibited amendment are not supported. The justification provided by the delegates in the decision issued by the Tasmanian Planning Commission on 15 April 2026 appears **not** to be based on strategic consideration of the matter. Parts of the decision suggest that the changes are effectively in response to representations lodged by a single property owner, who was not originally affected by the proposed amendment, while other parts of the decision appear to suggest that it was to reintroduce discretions that were removed by the Commission in the assessment of the Local Provisions Schedule (LPS).

The lack of strategic justification for sections 1.0 to 3.0 of AM2025-01 is in stark contrast to the extensive reporting, consultation and supporting documentation that Council, in its role as a planning authority, is required to provide when it seeks a planning scheme amendment.

Neither sections 1.0 to 3.0 of AM2025-01, nor the 15 April decision, provide any examination of the strategic basis for the lack of performance criteria following on from the provisions of the *Flinders Planning Scheme 2000*.

The Flinders Community and Council all recall planning permits being issued, under the previous planning scheme, for proposals that caused significant impacts to the visual amenity of the coastline around the Island. This recollection was a significant part of the LPS consultation and resulted in the development of *FLI-S3.0 Coastal Areas Specific Area Plan* – the subject matter of this amendment.

Those discussions also formed part of the consultation for the draft Flinders Structure Plan which resulted in no performance criteria being provided for the subject provisions.

Planning Scheme amendments must comply with the Schedule 1 objectives of the Act. Part 1 of the Schedule states the following:

1. 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.*

It is submitted herewith that parts 1.0 to 3.0 of the exhibited AM2025-01 do not provide for achievement of objectives (b), (c) and (e) in Part 1 of the Schedule 1 objectives.

Part 2 of Schedule 1 provides the following objectives for the planning process established under the Act:

- *(a) to require sound strategic planning and coordinated action by State and local government; and*
- *(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*
- *(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*
- *(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*
- *(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*
- *(f) to promote the health and wellbeing of all Tasmanians and visitors to Tasmania by ensuring a pleasant, efficient and safe environment for working, living and recreation; and*
- *(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*
- *(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; and*
- *(i) to provide a planning framework which fully considers land capability.*

This representation submits that primarily part 3.0 of the exhibited AM2025-01 does not provide for achievement of objectives (a), (c), (f) and (g) in Part 2 of the Schedule 1 .

For the reasons set out within this representation, it is requested that parts 4.0 to 9.0 of AM2025-01 are approved and part 3.0 are **refused**.

If the Commission is of a mind to approve parts 1.0 through 3.0 inclusive, we submit that the following changes are required:

- *The site coverage must minimise impacts of development on the natural appearance of the area, must not be obtrusive and* **must not** *have an unreasonable impact on the visual…*
- a new criterion (h) is added to clause 3.1 to establish an upper limit for development of 400m^2.

As representations were received regarding the exhibition of AM2025-01, we also request:

1. that there is a hearing into the representations; and
2. that the hearing is held on Flinders Island to ensure that locals and/or the Council are not put to any undue physical, financial or procedural disadvantage for participation in the hearing process.

I thank you your time to consider this representation to AM2025-01.

Kind regards

[redacted]

Jacci Smith'
Development Services Manager

Annexure B

2 Acknowledgement of Country

The Mayor began by acknowledging the Traditional Owners of the land on which we met today, the palawa people of the Trawulwai Nation. We will recognise their connection to the land, waters and culture of this island, and pay respects to Elders past, and present.

3 Confirmation of Minutes

3.1 Minutes of the Ordinary Council Meeting 26 August 2026

Annexures Nil

RECOMMENDATION
That the Minutes from the Ordinary and Closed Council Meetings held on 26th August 2026 be confirmed.

DECISION
217.09.2026 Moved: Deputy Mayor Vanessa Grace Seconded: Cr Ken Stockton
That the Minutes from the Ordinary and Closed Council Meetings held on 26th August 2026 be confirmed.

CARRIED UNANIMOUSLY: (6-0)
Mayor Rachel Summers, Deputy Mayor Vanessa Grace, Cr Garry Blenkhorn, Cr Aaron Burke, Cr Carol Cox and Cr Ken Stockton.

4 Public Question Time

Question 1: Gerry Willis

1. I refer to the confirmed minutes of the ordinary council meeting held on 22 July 2026 and I ask whether Representation 6 from Flinders Council referred to in discussions on decision 145.07.2026 was approved by the Councillors acting as the Planning Authority or was it submitted only by council staff?

2. I also ask how many councillors were aware of Representation 6 before it appeared on the agenda for the July meeting.

Question 1: Mayors Response

1. Councillors acting as the Planning Authority approved Council's position through consideration of the Section 40K report at the meeting on 24 September 2025, under decision 261.09.2025. That report formed the basis of Representation 6, with staff adding technical comments addressing the performance criteria in the Tasmanian Planning Commission's subsequent direction. The Representation was therefore submitted by both Council and staff.

   Following the Commission's decision, councillors discussed the matter at the workshop on 13 May 2026, including the proposed response and the process for making a representation. Staff then prepared and submitted the representation reflecting Council's established position and those discussions.

2. Councillors had not seen the exact wording of Representation 6 before it appeared in the July agenda. However, it was prepared on the basis of Council's approved position in the September 2025 section 40K report and subsequent workshop discussions, including those held on 13 May 2026.

PLEASE NOTE: While every attempt has been made to ensure the accuracy of these minutes, they are still subject to confirmation at the next meeting of Council and as such cannot be construed as an official record of this meeting, pursuant to Division 5 of the Local Government (Meeting Procedures) Regulations 2025, until endorsed at the next meeting.

Cr Blenkhorn wanted it noted that he did not fully approve the way Council went about it (representation 6), as it was submitted to the Commission before Councillors had the opportunity to complete a thorough review. He was under the impression that not every Councillor was in favour of what was submitted.

5 Response to Public Questions

No Public questions were asked at the 26 August 2026 Council meeting.

6 Councillors' Questions on Notice

6.1 Councillors' Questions on Notice

Nil received.

7 Councillors' Questions Without Notice

Question 1: Cr Carol Cox
On the corner of Henwood and Gunter Streets, in the village zone, there is apparent development works occurring that are rumoured to be for a fuel outlet. The works include an access onto Henwood Street right on the blind corner. Under the Tasmanian Planning scheme, a fuel sales outlet in the village zone is a discretionary use. To my knowledge there has been no Development Application advertised for that site. Could Council please advise the community on what development is occurring on that site?

Question 1: Mayors Response
The Development Services Manager was asked to respond to this question and provided the following response:
No development application has been received, and enforcement actions under LUPAA (*Land Use Planning and Approvals Act 1993*) have commenced.

8 Responses to Councillors' Questions Without Notice

8.1 Responses to Councillors' Questions Without Notice from 26 August 2026

No Councillor questions without notice were asked at the 26 August 2026 Council meeting.

9 Late Agenda Items

Nil

10 Declarations of Pecuniary Interest

11 Conflicts of Interest

Deputy Mayor Vanessa Grace declared a conflict of interest for item 20.1, Budget Variation – Council Asset – Pony Club yards.

PLEASE NOTE: While every attempt has been made to ensure the accuracy of these minutes, they are still subject to confirmation at the next meeting of Council and as such cannot be construed as an official record of this meeting, pursuant to Division 5 of the Local Government (Meeting Procedures) Regulations 2025, until endorsed at the next meeting.

Annexure C

FLINDERS COUNCIL

Confirmed Minutes
Ordinary Council Meeting
27 May 2026

Confirmed 29/06/2026

12 Workshops and Information Forums

Action **For Information**
File Reference COU/0205 Workshops and Information Forums

Council Workshop – Tuesday 5th May 2026

Council held a workshop on the following subjects:

- Item 2.1 2026-27 Rates and Budget Discussions

Councillors	In Attendance
Mayor Rachel Summers	Yes
Deputy Mayor Vanessa Grace	Via Teams
Councillor Garry Blenkhorn	Yes
Councillor Aaron Burke	Yes
Councillor Carol Cox	Via Teams
Councillor Chris Rhodes	Yes
Councillor Ken Stockton	10.09am – 11.49am

Staff and Consultants		In Attendance
Warren Groves	General Manager	Via Teams
Jade Boyes	Corporate Services Manager	Via Teams
Jacci Smith	Development Services Manager	Via Teams
Sue Mythen	Executive Officer (Note Taker)	Via Teams
Marissa Walters	Contract Accountant	Via Teams

Council Workshop – Wednesday 13th May 2026

Council held a workshop on the following subjects:

- Item 2.1 Review DA 2023/0038 - Rezone to Rural and Establish Lime Sand Extraction (Level 2) Pit - Marshall Bay
- Item 2.2 Code for Tenders and Contracts
- Item 2.3 Rationale for Waiver of Fees Review
- Item 2.4 Fees & Charges 2026-27
- Item 2.5 Cape Barren Island Project Proposals (Deferred)
- Item 2.6 Annual Plan Action Items Review
- Item 2.7 NTDC Discussion
- Item 2.9 2026-27 Draft Budget and Rates
- Item 2.10 Bass Strait Freight Port Proposal and Bridport Cutting
- Item 2.11 General Manager's Update
- Item 2.12 Furneaux Collective Update

Councillors	In Attendance
Mayor Rachel Summers	Item 2.1 - 2.12
Deputy Mayor Vanessa Grace	Item 2.2 - 2.12
Councillor Garry Blenkhorn	Item 2.1 - 2.12
Councillor Aaron Burke	Item 2.1 - 2.12
Councillor Carol Cox	Apology
Councillor Chris Rhodes	Item 2.1 - 2.10
Councillor Ken Stockton	Item 2.1 - 2.10

Staff and Consultants		In Attendance
Warren Groves	General Manager	Item 2.1 - 2.12
Jade Boyes	Corporate Services Manager	Item 2.1–2.6, 2.9 - 2.11
Sammi Gowthorp	Community Engagement Manager	Item 2.2 - 2.12
Richard Harley	Airport Operations Coordinator	Item 2.9
Jacci Smith	Development Services Manager	Item 2.1 - 2.12
Oliver Ward	Works and Services Manager	Item 2.1 - 2.12
Sue Mythen	Executive Officer (Note Taker)	Item 2.1 - 2.12
Jo Brzeska	Governance & Corporate Services Officer	Item 2.1 - 2.12
Marissa Walters	Contract Accountant	Item 2.9
Mick Purves	Strategic Planning Consultant	Item 2.1
David Harris	Bass Strait Freight	Item 2.10
Jana Monnone	Furneaux Collective	Item 2.12
Andrew Killengray	Furneaux Collective	Item 2.12

Voting Requirement
Simple Majority.

RECOMMENDATION
That the Council Workshops held on 5th May 2026 and 13th May 2026 be noted.

DECISION
97.05.2026 Moved: Cr Ken Stockton Seconded: Deputy Mayor Vanessa Grace
That the Council Workshops held on 5th May 2026 and 13th May 2026 be noted.

CARRIED UNANIMOUSLY: (4-0)
Mayor Rachel Summers, Deputy Mayor Vanessa Grace, Cr Carol Cox and Cr Ken Stockton.

13 Publications and Reports Tabled For Information

Nil.