

Planning Report
Proposed Consolidation and 3-lot Subdivision
Palana & Cemetery Roads
Whitemark



Prepared by:
Town Planning Solutions Pty Ltd
May 2024 v2a

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Document Issue Status

Ver.	Issue Date	Description	Originator	Checked	Approved
2.0	30/05/2024	Revised proposal plan	MP	DP	MP
2a	30/05/2024	Revised proposal plan	MP		MP

Introduction

Town Planning Solutions Pty Ltd was engaged by Flinders Council to prepare a proposal for a proposed subdivision at Cann's Hill against the *Tasmanian Planning Scheme - Flinders*.

This report was prepared by Mick Purves, Principal and Director of Town Planning Solutions Pty Ltd.

Mick is a qualified and practising Town Planner with a Bachelor of Environmental Design and a Master of Town Planning from the University of Tasmania. Mick is a member of the Planning Institute of Australia, a Certified Practising Planner and current President of the Tasmanian Division of the Institute.

Mick has 32 years' experience in the development industry and 25 years post-graduate experience working as a town planner and development manager in Local Government and consultancy.

Proposal documents

Plan of Subdivision, ref 04-09(8445) by Cohen & Associates Pty Ltd, Revision 4 dated 16-05-2024:

Bush Fire Risk Assessment Report, Ground Proof Mapping (Justin Cashion) and associated documents, including Planning Certificate

Abbreviations

Plan of Subdivision	Plan of Subdivision ref 04-09 (8445) by Cohen & Assoc P/L Surveyors, Revision 4 dated 16-05-2024
Scheme	Tasmanian Planning Scheme - Flinders
Site	Lot 1, Palana Road, Whitemark, CT 252518/1, PID 6427750 Lot 2 Cemetery Road, Whitemark, CT 170380/2, PID 3445574

The Site

The project is comprised of the following:

- Lot 1, Palana Road, Whitemark, CT 252518/1, PID 6427750 and
- Lot 2 Cemetery Road, Whitemark, CT 170380/2, PID 3445574.

The titles have areas of 94.9 and 8.4 hectares respectively and accompanied the application. The site is described as follows:

- The titles have an irregular shape and are located within an existing rural area that contains mostly cleared grazing lands;
- CT 252518/1 contains the peak of Cann's Hill and an existing mining lease 2032P/M (discussed later);
- It is surrounded by existing rural lands on all sides;
- The TasWater water reservoir is located to the north of the site;
- CT 170380/2 provides access from Cemetery Road to the Taswater reservoir and the existing mining lease on CT 252518/1;
- Other access points are provided to CT 252518/1 from Palana and Virieux Roads;
- CT 252518/1 surrounds a separate title at 55 Virieux Road with an existing house (CT 250237/1);
- Other titles, adjoining and nearby the site, contain existing houses and rural lifestyle activities;
- Both titles are connected or available to connect to reticulated water services;
- CT 170380/2 and the upper extents of CT 252518/1 contain some existing vegetation;
- Lot 2 Harleys Road (PID 9228686) contains an 18 hectare sand and gravel lease (2098P/M) expiring in 2031
- The slope of the lands varies from gentle at the southern and northern ends of the site to medium slope leading up to Cann's Hill and other nearby features;
- The lower portions of CT 252518/1 contain the TasWater water supply pipe, which was shown on the Plan of Subdivision; and
- Site improvements are limited to around mining lease 2032P/M.

The existing conditions of the area are shown in Figure 1 and of the site in Figure 2. Copies of the subject titles accompany this report.

Ownership

Both titles are owned by Flinders Council.

Existing Approvals

Available records identify the site was used for grazing across the proposed lots 1 to 3 and a mix of grazing and gravel extraction for lot 3 (as shown in Figure 1 and on the Plan of Subdivision).

The site has approval for the existing Mining Lease 2032P/M on the proposed lot 3, which was granted in 2017 and expired in December 2022.

The status of Lease 2032P/M was raised in the assessment of the Flinders Local Provisions Schedule (LPS), where the Commission received the following advice in the post-hearing directions:

- the lease allowed gravel extraction and did not include crushing, screening or blasting;
- the applicable buffer under Table C9.1 of the TPS was 300 metres for both level 1 and level 2 activities;
- the materials from 2032PM were almost expired and would soon be unfit for purpose; and
- Council was seeking to have lease 2032PM removed within the next 12 months and commence rehabilitation of the site.

LISTmap identifies the following for 2032P/M:

NAME	2032P/M
DETAILS	Details
TENEMENT TYPE	LEASE
COMMODITY	Gravel
OWNER	Flinders Council
STATUS	Pending Renewal
LEASE AREA	6 hectares
APPLICATION DATE	2017-01-23
GRANT DATE	2018-01-08
EXPIRE DATE	2022-12-01
FILE ID	100926

Table 1 - LISTmap data mining lease 2032P/M
(source: LISTmap)

Gravel continues to be extracted from the lease. It is understood that Mineral Resources Tasmania (MRT) have been advised that the lease will not be renewed. The rehabilitation phase has not formally commenced.

The remainder of this portion of the site is currently under rehabilitation, under the guidance of MRT following termination of a previous mining lease adjoining the current lease area to the west.

It is understood there are no other approvals for the site nor will further be sought as the resource has expired.



Figure 1 - Existing conditions, site and area
(source: LISTmap)

Proposal

The proposal seeks to consolidate two existing titles and subdivide the amalgamated lands into three new titles, to provide for residential development fronting Virieux Road, provide a separate title to the existing quarry lease 2032P/M and enable improved land management. The proposed changes are shown in Figure 2.



Figure 2 - Extract Plan of Subdivision
(Source: Cohen & Assoc Plan of subdivision)

The proposal will see the two existing titles become the following:

- Lot 1 – 9 ha, fronting Palana & Virieux Roads, Rural Living Zone, to use existing access marked on the Plan of Subdivision:
- Lot 2 - 51 ha, fronting Palana Road, and unformed sections of Cemetery Road and Virieux Road reservations. Rural Zone. Requires new access constructed to Virieux Road shown on the plan; and
- Lot 3 – 43 ha, fronting Cemetery Road. Rural Zone. Existing access to Cemetery Road marked on the Plan of Subdivision.

Reasons for the proposal

The proposed lot 1 forms part of a longer term strategy for the provision of housing on Flinders Island, which suffers a critical shortage of affordable and available housing for residents and workers. This strategy was supported through the rezoning of the land to enable housing through the LPS process. A Specific Area Plan (SAP) also exists on the Rural Living Zone fronting Virieux Road.

The Tasmanian Planning Scheme – Code C9 – Attenuation Code - requires attenuation buffers to be calculated from the title boundary as a result of the definition at clause C9.3.1 and no longer allows attenuation areas to be taken from the activity, in this case a mining lease.

The impact of this change is shown at Figure 3. The subject lands are identified in red and the attenuation buffers shown in black (based on the mining lease). The blue is based on the title boundaries as required by the definition. The green line approximates the change to the attenuation buffer under the code that the proposed subdivision will deliver.

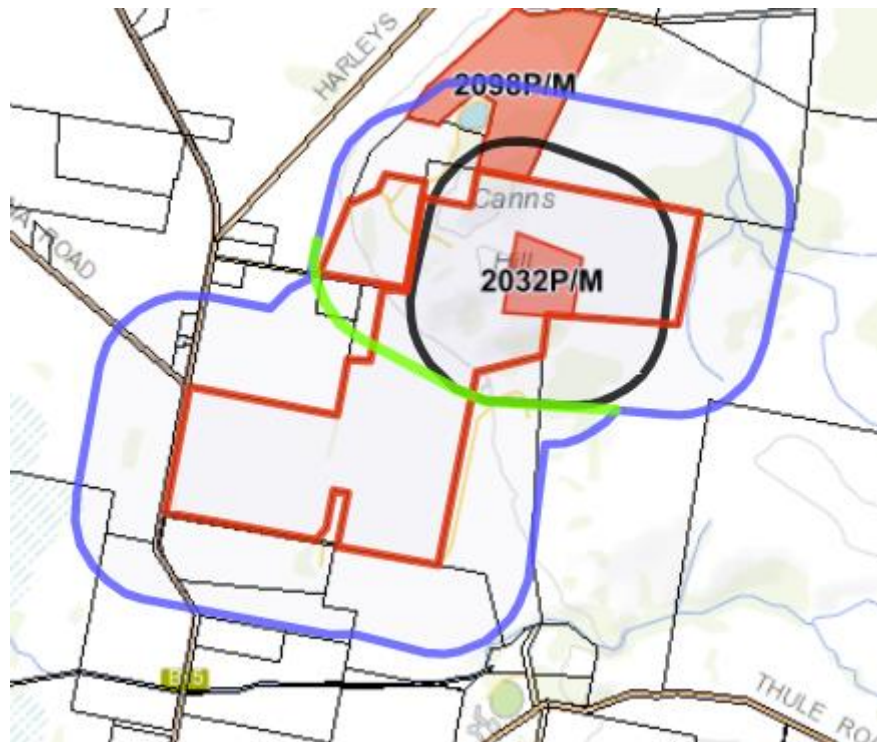


Figure 3 - change in attenuation buffers - 2032P/M

The proposed subdivision is necessary to enable the funding and construction of residential projects on the proposed lot 1. Those projects will be subject to future planning applications.

Public Open Space Contribution

We submit that no public open space is required for the creation of the proposed lots. The future subdivision of Lot 1 will trigger an open space contribution, while the changes between lots 2 and 3 are a boundary rearrangement and not impact the need for or use of public open space on Flinders.

A contribution may be required for public open space on Lot 1 under the relevant legislation and Council policy, for creation of new lots that generate demand for public open space facilities.

We ask that the Council condition this issue on any permit that may be issued.

Planning Scheme

The site is located within the Flinders Council and therefore subject to the *Tasmanian Planning Scheme - Flinders* (Scheme).

Zoning and overlay information is obtained from LISTmap and identifies the site as:

- located within the Rural Living A Zone (proposed lot 1) and Rural Zone (lots 2 and 3);
- subject to various overlays under the Scheme for the following (refer Figure 5):
- subject to the Bushfire Prone Areas overlay across all lots (not shown on Figure 5 for clarity);
- subject to Airport Obstacle Limitation Area across all lots (as shown Figure 8);
- partially subject to the Landslip Hazard Area on land above 51.5m AHD as shown in Figure 5 and detailed in Figure 7;
- subject to the Waterway & Coastal Protection Area as shown in Figure 5;
- partially within the FLI-S2.0 Whitemark Rural Living Specific Area Plan for all of the proposed lot 1, as shown in Figure 6 (SAP); and
- not subject to any other identified overlays.

All planning scheme documents (TPS +LPS) referred to were current as at 29 January 2024.

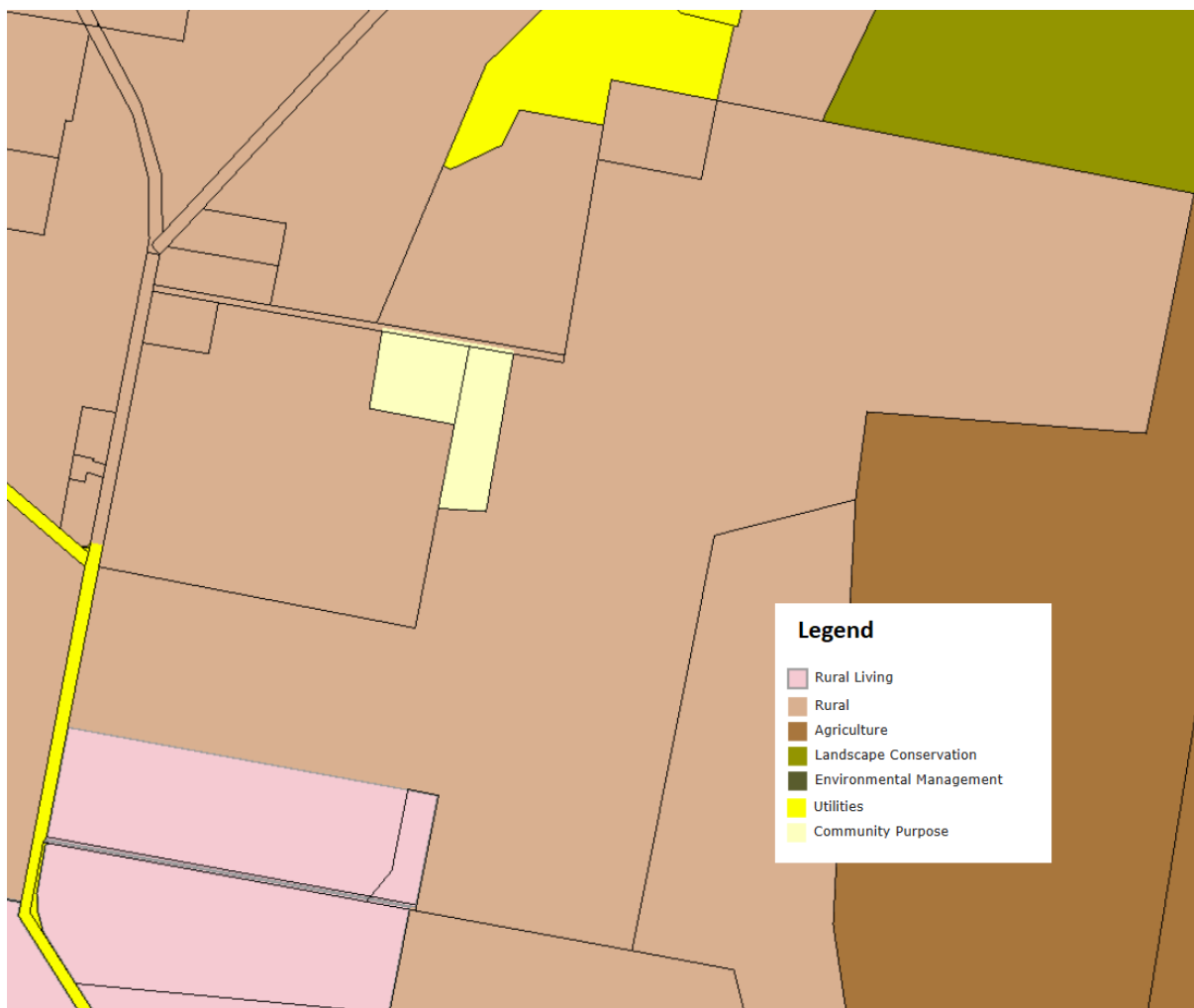


Figure 4 - Extract - Zoning
(source: Modified from LISTmap)

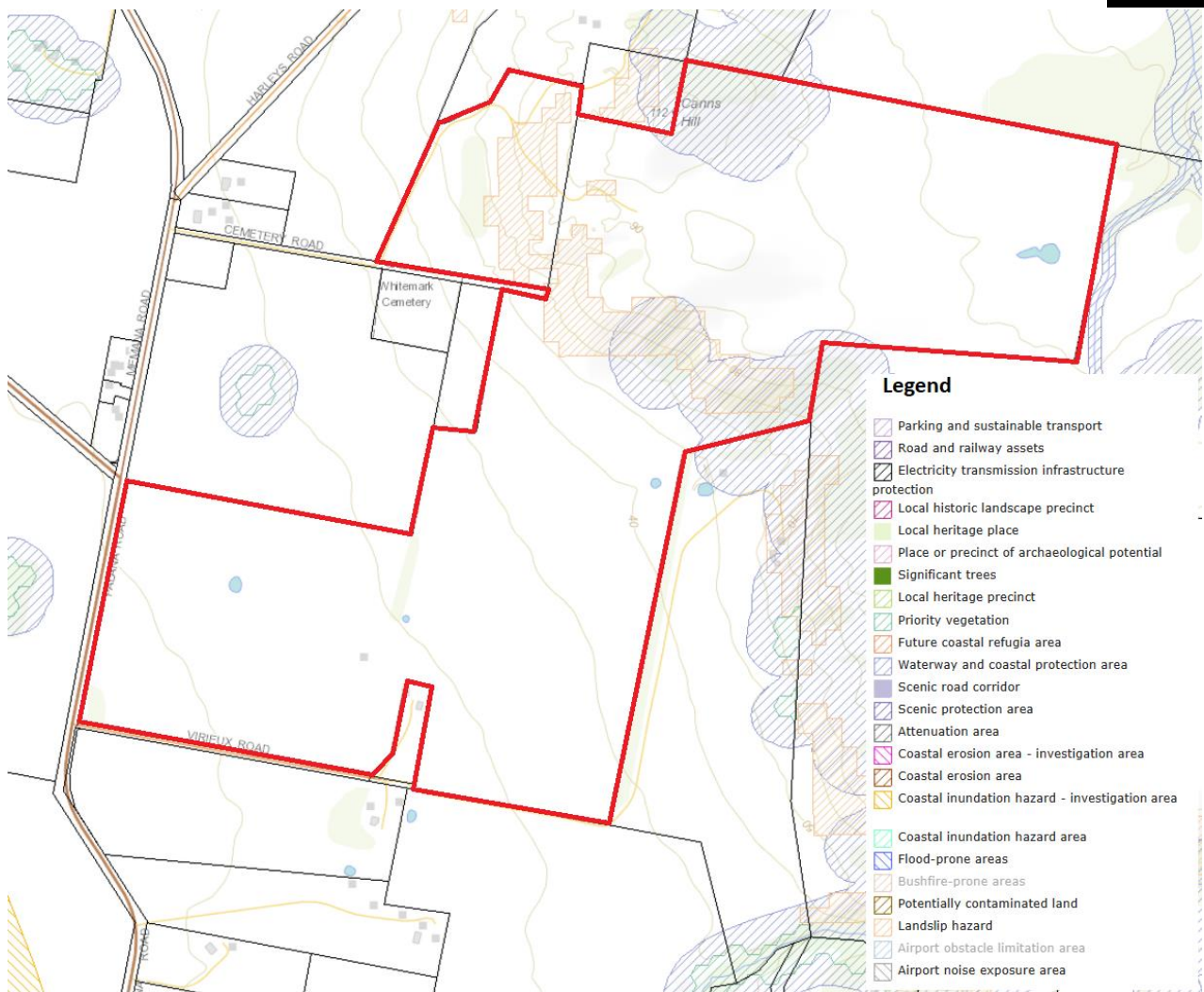


Figure 5 - Extract - Code overlays
 (source: Modified from LISTmap)



Figure 6 - Extract – Extent of FLI-S2.0 Whitemark Rural Living Specific Area Plan
 (source: Modified from LISTmap)

The application does not seek to alter any existing use of land but does seek to consolidate the existing two titles and create four new titles, as shown in Figure 2.

The subdivision is defined under Table 3.1 of the Scheme as the act of subdividing, as follows:

- subdivide* means to divide the surface of a lot by creating estates or interests giving separate rights of occupation otherwise than by:
- (a) a lease of a building or of the land belonging to and contiguous to a building between the occupiers of that building;
 - (b) a lease of airspace around or above a building;
 - (c) a lease of a term not exceeding 10 years or for a term not capable of exceeding 10 years;
 - (d) the creation of a lot on a strata scheme or a staged development scheme under the Strata Titles Act 1998; or
 - (e) an order adhering existing parcels of land.

The scheme provides that subdivision is not required to be allocated a use at clause 6.2.6, as follows:

- 6.2.6 *Notwithstanding sub-clause 6.2.1 of this planning scheme, development which is for subdivision, a sign, land filling, retaining walls or coastal protection works does not need to be categorised into one of the Use Classes.*

Subdivision is therefore subject to the provisions of clause 7.10 of the General Provisions established under the Scheme, as follows:

7.10 Development Not Required to be Categorised into a Use Class

7.10.1 *An application for development that is not required to be categorised into one of the Use Classes under sub-clause 6.2.6 of this planning scheme and to which 6.8.2 applies, excluding adjustment of a boundary under sub-clause 7.3.1, may be approved at the discretion of the planning authority.*

7.10.2 *An application must only be approved under sub-clause 7.10.1 if there is no unreasonable detrimental impact on adjoining uses or the amenity of the surrounding area.*

7.10.3 *In exercising its discretion under sub-clauses 7.10.1 and 7.10.2 of this planning scheme, the planning authority must have regard to:*

- (a) *the purpose of the applicable zone;*
- (b) *the purpose of any applicable code;*
- (c) *any relevant local area objectives; and*
- (d) *the purpose of any applicable specific area plan.*

The proposal will not be allocated a use class, is therefore discretionary and may be approved or refused following consideration against the relevant criteria.

Clause 7.10.3 establishes additional assessment criteria for the proposal. Compliance is assessed as follows:

(a) the purpose of the applicable zone;

Clause 11.1 establishes the Rural Living Zone purpose as:

The purpose of the Rural Living Zone is:

11.1.1 *To provide for residential use or development in a rural setting where:*

- (a) *services are limited; or*
- (b) *existing natural and landscape values are to be retained.*

11.1.2 *To provide for compatible agricultural use and development that does not adversely impact on residential amenity.*

11.1.3 *To provide for other use or development that does not cause an unreasonable loss of amenity, through noise, scale, intensity, traffic generation and movement, or other off site impacts.*

11.1.4 *To provide for Visitor Accommodation that is compatible with residential character.*

Clause 20.1 establishes the Rural Zone purpose as:

- 20.1.1 *To provide for a range of use or development in a rural location:*
 - (a) *where agricultural use is limited or marginal due to topographical, environmental or other site or regional characteristics;*
 - (b) *that requires a rural location for operational reasons;*
 - (c) *is compatible with agricultural use if occurring on agricultural land;*
 - (d) *minimises adverse impacts on surrounding uses.*
- 20.1.2 *To minimise conversion of agricultural land for non-agricultural use.*
- 20.1.3 *To ensure that use or development is of a scale and intensity that is appropriate for a rural location and does not compromise the function of surrounding settlements.*

The proposed subdivision seeks to create lots to enable residential use of proposed lot 1, while establishing boundaries to enable the ongoing rural use of lots 2 and 3 while managing the attenuation buffers to Mining Lease 2032P/M (soon to extinguish viable product and to commence rehabilitation).

The proposal is consistent with the zone purpose of the respective zones for the proposed lots.

(b) the purpose of any applicable code;

As identified later in this report, the following codes were applicable to the proposal:

Clause C2.1 establishes the purpose of the Parking and Sustainable Transport Code as follows:

- C2.1.1 To ensure that an appropriate level of parking facilities is provided to service use and development.*
- C2.1.2 To ensure that cycling, walking and public transport are encouraged as a means of transport in urban areas.*
- C2.1.3 To ensure that access for pedestrians, vehicles and cyclists is safe and adequate.*
- C2.1.4 To ensure that parking does not cause an unreasonable loss of amenity to the surrounding area.*
- C2.1.5 To ensure that parking spaces and accesses meet appropriate standards.*
- C2.1.6 To provide for parking precincts and pedestrian priority streets.*

Subdivision does not specifically impact delivery of the Code purpose. The proposal can be taken to comply with the purpose of the Parking and Sustainable Transport Code.

Clause C3.1 establishes the purpose of the Road and Railway Assets Code as:

- C3.1.1 To protect the safety and efficiency of the road and railway networks; and*
- C3.1.2 To reduce conflicts between sensitive uses and major roads and the rail network.*

The proposed subdivision complies with the relevant standards of the Code and does not propose sensitive use within road or rail attenuation areas. The proposal is taken to comply with the defined code purpose statements.

Clause C7.1 defines the purpose of the Natural Assets Code:

- C7.1.1 To minimise impacts on water quality, natural assets including native riparian vegetation, river condition and the natural ecological function of watercourses, wetlands and lakes.*
- C7.1.2 To minimise impacts on coastal and foreshore assets, native littoral vegetation, natural coastal processes and the natural ecological function of the coast.*
- C7.1.3 To protect vulnerable coastal areas to enable natural processes to continue to occur, including the landward transgression of sand dunes, wetlands, saltmarshes and other sensitive coastal habitats due to sea-level rise.*
- C7.1.4 To minimise impacts on identified priority vegetation.*
- C7.1.5 To manage impacts on threatened fauna species by minimising clearance of significant habitat.*

Development from this proposal is limited to construction of two new accesses, water connections and fencing for the proposed lots. It does not propose any other works or development within the waterway and coastal protection area and can be taken to comply with the Code purpose.

Clause C9.1 defines the purpose of the Attenuation Code as:

C9.1.1 To minimise adverse impacts on the health, safety and amenity of sensitive use from activities which have the potential to cause emissions.

C9.1.2 To minimise the likelihood for sensitive use to conflict with, interfere with, or constrain, activities which have the potential to cause emissions.

Sensitive uses are not proposed on lot 1 to reflect their Rural Living zoning, as established by the Tasmanian Planning Commission (TPC) through the LPS assessment and decision process. The proposed boundary between lots 2 and 3 will enable the defined attenuation distance to be calculated in a way more consistent with the activities that surround Mining Lease 2032P/M. The proposal is taken to comply with the purpose of the Attenuation Code.

The purpose of the Bushfire Prone Areas Code is defined at clause C13.1 as:

C13.1.1 To ensure that use and development is appropriately designed, located, serviced, and constructed, to reduce the risk to human life and property, and the cost to the community, caused by bushfires.

The proposed subdivision was assessed by an accredited person as compliant with the relevant acceptable solutions and is therefore consistent with the defined Code Purpose.

Clause C15.1 defines the purpose of the Landslip Hazard Code as:

C15.1.1 To ensure that a tolerable risk can be achieved and maintained for the type, scale and intensity and intended life of use or development on land within a landslip hazard area.

The proposal was identified as being within the tolerable limits for the exemptions under the Code and is therefore consistent with its purpose.

Clause C16.1 defines the purpose of the Safeguarding of Airports Code as:

C16.1.1 To safeguard the operation of airports from incompatible use or development.

C16.1.2 To provide for use and development that is compatible with the operation of airports in accordance with the appropriate future airport noise exposure patterns and with safe air navigation for aircraft approaching and departing an airport.

The proposal is for subdivision and includes minor works for connection to reticulated water services and construction of accesses for lot 2, all of which are below the 51.5m AHD contour and are therefore exempt from the Code. No development that requires assessment under the Scheme was proposed above the 51.5m AHD contour and therefore within the airport Obstacle limitation area. The proposal complies with the purpose of the code.

(c) any relevant local area objectives; and

No local area objectives were identified within the subject lands. Not applicable.

(d) the purpose of any applicable specific area plan.

Clause FLI-S2.1 defines the purpose of the Whitemark Rural Living Specific Area Plan as:

FLI-S2.1.1 To provide for a broader range of housing options in the rural living area near Whitemark.

FLI-S2.1.2 To increase dwelling density and to provide for a range of housing styles without diminishing the rural character of the land.

The proposed lot 1 will enable residential development within the Rural Living Zone under FLI-S2 to increase the housing options available near Whitemark at densities consistent with the nature of the area and made possible under the SAP.

The proposal was assessed as compliant with the relevant criteria established at clause 7.10.3 and can be considered for approval.

As each lot takes access from frontage without crossing another zone, clause 7.6 is not considered to be relevant to the proposal.

Fencing of the proposed lots is subject to the exemptions at Table 4.6 Miscellaneous Exemptions, as follows:

4.6.6	fences in the Rural Zone or Agriculture Zone	Fences within the Rural Zone or Agriculture Zone, unless the Local Historic Heritage Code applies and requires a permit for the use or development.
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11 Rural Living Zone

The proposed lot 1 is located within the Rural Living Zone and must be assessed against the relevant requirements of Zone 11 of the TPS.

The Use Table and standards established at clauses 11.2 and 11.3 of the Scheme do not apply to the proposal. The proposal does not include any development or works that require assessment against the standards established at clause 11.4 of the Scheme.

Standards established at 11.5 Development standards for subdivision apply to the proposal.

11.5.1 Lot design	
<p>A1 Each lot, or a lot proposed in a plan of subdivision, must:</p> <ul style="list-style-type: none"> (a) have an area not less than specified in Table 11.1 and: <ul style="list-style-type: none"> (i) be able to contain a minimum area of 15m x 20m clear of: <ul style="list-style-type: none"> a. all setbacks required by clause 11.4.2 A2 and A3; and b. easements or other title restrictions that limit or restrict development; and (ii) existing buildings are consistent with the setback required by clause 11.4.2 A2 and A3; (b) be required for public use by the Crown, a council or a State authority; (c) be required for the provision of Utilities; or (d) be for the consolidation of a lot with another lot provided each lot is within the same zone. 	<p>Lot 1:</p> <ul style="list-style-type: none"> (a) Table 11.1 specifies a minimum lot size of 1 hectare within the Rural Living zone A. Lot 1 is 9 hectares. (i) the dimensions of lot 1 can contain a 15m x 20m rectangle clear of setbacks, restrictions, easements and other restrictions; and (ii) there are no existing buildings. <p>Complies with A1.</p>
<p>A2 Each lot, or a lot proposed in a plan of subdivision, excluding for public open space, a riparian or littoral reserve or Utilities, must have a frontage not less than 40m.</p>	<p>The Plan of Subdivision confirms that lot 1 has more than 40 metres frontage.</p> <p>Complies with A2</p>

<p>A3 Each lot, or a lot proposed in a plan of subdivision, must be provided with a vehicular access from the boundary of the lot to a road in accordance with the requirements of the road authority.</p>	<p>Lot 1 will be provided with vehicular accesses from Virieux Road. Complies with A3.</p>
<p>11.5.2 Roads</p>	
<p>A1 The subdivision includes no new roads.</p>	<p>The subdivision does not include roads. Complies with A1.</p>
<p>11.5.3 Services</p>	
<p>A1 Each lot, or a lot proposed in a plan of subdivision, excluding for public open space, a riparian or littoral reserve or Utilities, must:</p> <p>(a) be connected to a full water supply service if the frontage of the lot is within 30m of a full water supply service; or</p> <p>(b) be connected to a limited water supply service if the frontage of the lot is within 30m of a limited water supply service, unless a regulated entity advises that the lot is unable to be connected to the relevant water supply service.</p>	<p>Water connections will be provided to lot 1 in accordance with the requirements of Taswater. An easement will be provided over lot 1 for the water connection to 55 Vireaux Road. Complies with A1(a).</p>
<p>P2 Each lot, or a lot proposed in a plan of subdivision, excluding within Rural Living Zone C or Rural Living Zone D or for public open space, a riparian or littoral reserve or Utilities, must be capable of accommodating an on-site wastewater treatment system adequate for the future use and development of the land.</p>	<p>Reticulated sewer services are not available on Flinders Island. The proposal must be assessed against P2. Lot 1 is within a residential base zoning and of a suitable size to accommodate onsite wastewater systems. Complies with P2.</p>

The proposed lot 1 complies with all relevant acceptable solutions or performance criteria for subdivision within the Rural Living Zone and can be supported for approval .

20 Rural zone

The proposed lots 2 and 3 are located in the Rural Zone and must be assessed against the relevant requirements of the zone.

The Use Table and standards established at clauses 20.2 and 20.3 of the Scheme do not apply to the proposal. The proposal does not include any development or works that require assessment against standards established at clause 20.4 of the Scheme.

Development standards for Subdivision established at 20.5 Development standards for subdivision apply to the proposal.

<p>20.5.1 Lot design</p>	
<p>A1 Each lot, or a lot proposed in a plan of subdivision, must:</p> <p>(a) be required for public use by the Crown, a council or a State authority;</p>	<p>The proposal is for and by the Council, with lots of 43 and 51 hectares within the Rural zone. Complies with A1.</p>

<p>(b) be required for the provision of Utilities or irrigation infrastructure;</p> <p>(c) be for the consolidation of a lot with another lot provided each lot is within the same zone; or</p> <p>(d) be not less than 40ha with a frontage of no less than 25m and existing buildings are consistent with the setback and separation distance required by clause 20.4.2 A1 and A2.</p>	
<p>A2 Each lot, or a lot proposed in a plan of subdivision, must be provided with a vehicular access from the boundary of the lot to a road in accordance with the requirements of the road authority.</p>	<p>Lot 2 will have a new access point via Vireux Road, as shown on the plans to Council standards.</p> <p>Lot 3 has vehicular access by existing access points to Cemetery Road.</p> <p>Complies with A1</p>

The proposed lots 2 and 3 comply with the subdivision requirements for the Rural Zone and can therefore be considered for approval.

The proposal complies with all relevant acceptable solutions for subdivision within the Rural zone and is therefore eligible for approval.

Codes

The proposal was assessed against the Codes of the Scheme and the following were identified as relevant to the proposal:

- C2.0 Parking and Sustainable Transport Code
- C3.0 Road and Railway Assets Code
- C9.0 Attenuation Code
- C13.0 Bushfire-Prone Areas Code
- C15.0 Landslip Hazard Code
- C16.0 Safeguarding of Airports Code

The assessment identified that the following codes were not applicable to the application:

- C1.0 Signs Code
- C4.0 Electricity Transmission Infrastructure Protection Code
- C5.0 Telecommunications Code
- C6.0 Local Historic Heritage Code
- C7.0 Natural Assets Code
- C8.0 Scenic Protection Code
- C10.0 Coastal Erosion Hazard Code
- C11.0 Coastal Inundation Hazard Code
- C12.0 Flood-Prone Areas Hazard Code
- C14.0 Potentially Contaminated Land Code

C2 Car Parking and Sustainable Transport Code

<p>C2.2.1 This code applies to all use and development of land.</p>	<p>The Code applies to the proposal and is not exempt under C2.4.</p>
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C2.2.2 – C2.2.5 standards for specific uses.	The proposal does not include any of the specified uses, the clauses do not apply.
C2.6 Development Standards for Buildings and Works	
C2.6.3 Number of accesses for vehicles	
A1 The number of accesses provided for each frontage must: (a) be no more than 1; or (b) no more than the existing number of accesses, whichever is the greater.	Each of the proposed lots include a single access per frontage. Complies with A1.
A2 Within the Central Business Zone or in a pedestrian priority street no new access is provided unless an existing access is removed.	Not applicable.
C2.6.4 Lighting of parking areas within the General Business Zone and Central Business Zone	Not applicable.

The following standards were not applicable to the proposal:

- C2.5 Use Standards
- C2.6.1 Construction of car parking spaces
- C2.6.2 Design and layout of parking areas
- C2.6.5 Pedestrian access
- C2.6.6 Loading bays;
- C2.6.7 Bicycle parking and storage facilities within the General Business Zone and Central Business Zone;
- C2.6.8 Siting of parking and turning areas;
- C2.7 Parking Precinct Plan

The application complies with the relevant acceptable solutions for the Car Parking and Sustainable Transport Code and can be considered for approval.

C3 Road and Rail Asset code

C3.2.1 This code applies to a use or development that: (a) will increase the amount of vehicular traffic or the number of movements of vehicles longer than 5.5m using an existing vehicle crossing or private level crossing; (b) will require a new vehicle crossing, junction or level crossing; or (c) involves a subdivision or habitable building within a road or railway attenuation area if for a sensitive use.	Lot 2 requires a new access off Virieux Road, as shown on the proposal plan. The Code applies to the proposal and is not exempt at C3.4.
C3.5.1 Traffic generation at a vehicle crossing, level crossing or new junction	

<p>A1.1 For a category 1 road or a limited access road, ...</p> <p>A1.2 For a road, excluding a category 1 road or a limited access road, written consent for a new junction, vehicle crossing, or level crossing to serve the use and development has been issued by the road authority.</p> <p>A1.3 For the rail network, written consent for a new private level crossing to serve the use and development has been issued by the rail authority.</p> <p>A1.4 Vehicular traffic to and from the site, using an existing vehicle crossing or private level crossing, will not increase by more than:</p> <p>(a) the amounts in Table C3.1; or</p> <p>(b) allowed by a licence issued under Part IVA of the Roads and Jetties Act 1935 in respect to a limited access road.</p> <p>A1.5 Vehicular traffic must be able to enter and leave a major road in a forward direction.</p>	<p>A1.1 Not applicable.</p> <p>A1.2 The Road Authority (Council) provided written consent for the proposed crossovers for lot 2.</p> <p>A1.3 The site does not relate to the Rail network. Not applicable.</p> <p>A1.4 Vehicular traffic using the existing accesses is not expected to change as a result of the subdivision. The proposed new access for lot 1 will serve a single existing use, which will not change from current use. The potential future residential use of this lot is taken to generate up to 12 vehicle movements per day, which is consistent with Table C3.1.</p> <p>A1.5 The size and shape of the proposed lots enables vehicles to enter and exit the site in a forward gear.</p> <p>Complies with the relevant standards at A1.2, A1.4 and A1.5.</p>
<p>C3.6.1 Habitable buildings for sensitive uses within a road or railway attenuation area</p>	<p>Not applicable.</p>
<p>C3.7.1 Subdivision for sensitive uses within a road or railway attenuation area</p>	<p>Not applicable.</p>

The application complies with the relevant acceptable solutions of the Road and Rail Assets Code and can be considered for approval.

C7 Natural Assets Code

<p>C7.2.1 This code applies to development on land within the following areas:</p> <p>(a) a waterway and coastal protection area;</p>	<p>Lots 2 and 3 contain the waterway and coastal protection area overlay.</p> <p>The Code applies to the proposal and is not exempt at C7.4.</p> <p>Development within the overlay is limited to boundary fencing and is subject to the exemption from the Scheme at clause 4.6.6.</p>
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Development within the waterway and coastal protection area overlay is exempt from the Scheme under clause C4.6.6.

C9 Attenuation Code

<p>C9.2 Application of this Code</p>	
<p>C9.2.1 This code applies to:</p> <p>(a) activities listed in Tables C9.1 and C9.2;</p> <p>(b) sensitive uses; and</p>	<p>Table C9.1 identifies quarries or extractive pits with a 300m attenuation buffer for level 1 activities.</p> <p>The proposal includes subdivision for sensitive use (lot 1) within the existing attenuation buffer.</p>

(c) subdivision if it creates a lot where a sensitive use could be established, within an attenuation area.	Code applies.
C9.5 Use Standards	Use standards are not applicable to subdivision.
C9.6 Development Standards for Subdivision	Development standards apply.
C9.6.1 Lot design	
<p>A1 Each lot, or a lot proposed in a plan of subdivision, within an attenuation area must:</p> <p>(a) be for the creation of separate lots for existing buildings;</p> <p>(b) be for the creation of a lot where a building for a sensitive use can be located entirely outside the attenuation area; or</p> <p>(c) not be for the creation of a lot intended for a sensitive use.</p>	<p>The proposed boundary between lots 2 and 3 will establish the attenuation buffer based on the extent of the Mining Lease 2032P/M being contained in lot 3.</p> <p>Lots 2 and 3 are within the Rural zone, where the primary purpose is for primary industry and associated activities and do not have an automatic right for residential use.</p> <p>The proposed lot 1 is within a residential zone and will be located outside the attenuation buffer for Mining Lease 2032P/M.</p> <p>Lot 1 complies with A1(b), and lots 2 and 3 with A1(c).</p>

The proposal complies with the relevant Acceptable Solutions under the Attenuation Code and can be considered for approval.

C13 Bushfire-Prone Areas Code

C13.2 Application of this Code	
<p>C13.2.1 This code applies to:</p> <p>(a) subdivision of land that is located within, or partially within, a bushfire-prone area; and</p> <p>(b) a use, on land that is located within, or partially within, a bushfire-prone area, that is a vulnerable use or hazardous use.</p>	<p>The proposal is for subdivision and the site is mapped as within the overlay.</p> <p>The code therefore applies.</p>
C13.5 Use Standards	Use standards are not applicable to subdivision.
C13.6 Development Standards for Subdivision	
C13.6.1 Provision of hazard management areas	
<p>A1 ...</p> <p>(b) The proposed plan of subdivision:</p> <p>(i) shows all lots that are within or partly within a bushfire-prone area, including those developed at each stage of a staged subdivision;</p> <p>(ii) shows the building area for each lot;</p>	<p>The <i>Planning Certificate from a Bushfire Hazard Practitioner</i> and Bushfire Hazard Management Plans were provided.</p> <p>Complies with C13.6.1 A1(b).</p>

<p>(iii) shows hazard management areas between bushfire-prone vegetation and each building area that have dimensions equal to, or greater than, the separation distances required for BAL 19 in Table 2.6 of Australian Standard AS3959:2018 Construction of buildings in bushfire-prone areas; and</p> <p>(iv) is accompanied by a bushfire hazard management plan that addresses all the individual lots and that is certified by the TFS or accredited person, showing hazard management areas equal to, or greater than the separation distances required for BAL 19 in Table 2.6 of Australian Standard AS3959:2018 Construction of buildings in bushfire-prone Areas; and ...</p>	
C13.6.2 Public and fire fighting access	
<p>A1...</p> <p>(b) A proposed plan of subdivision showing the layout of roads, fire trails and the location of property access to building areas, is included in a bushfire hazard management plan that:</p> <p>(i) demonstrates proposed roads will comply with Table C13.1, proposed property accesses will comply with Table C13.2 and proposed fire trails will comply with Table C13.3 and</p> <p>(ii) is certified by the TFS or an accredited person.</p>	<p>The <i>Planning Certificate from a Bushfire Hazard Practitioner</i> and Bushfire Hazard Management Plans were provided.</p> <p>Complies with C13.6.2 A1(b).</p>

The proposal complies with the relevant Acceptable Solutions under the Code. Assessment against the requirements of C13 Bushfire Hazard Code supports approval of the application.

C14 Potentially Contaminated Land Code

C14.2 Application of this Code	
<p>C14.2.1 This code applies to a sensitive use, a use listed in a Use Class in Table C14.1 as one of the specified uses, or development, on land that:</p>	<p>The proposal is for subdivision and does not include a sensitive use or a use listed in Table C14.1.</p> <p>While the proposed lot 1 is within a residential zone, there are no available records that identify a potentially contaminating land use under Table C14.2 occurred within the proposed lots.</p> <p>It is noted that the site includes Mining Lease 2032P/M on the proposed lot 3. This zoning and use of this part of the site will not change as part of this subdivision.</p> <p>The code does not apply.</p>

Clause 14.2.1 establishes that the Code does not apply to the proposal.

C15 Landslip Hazard Code

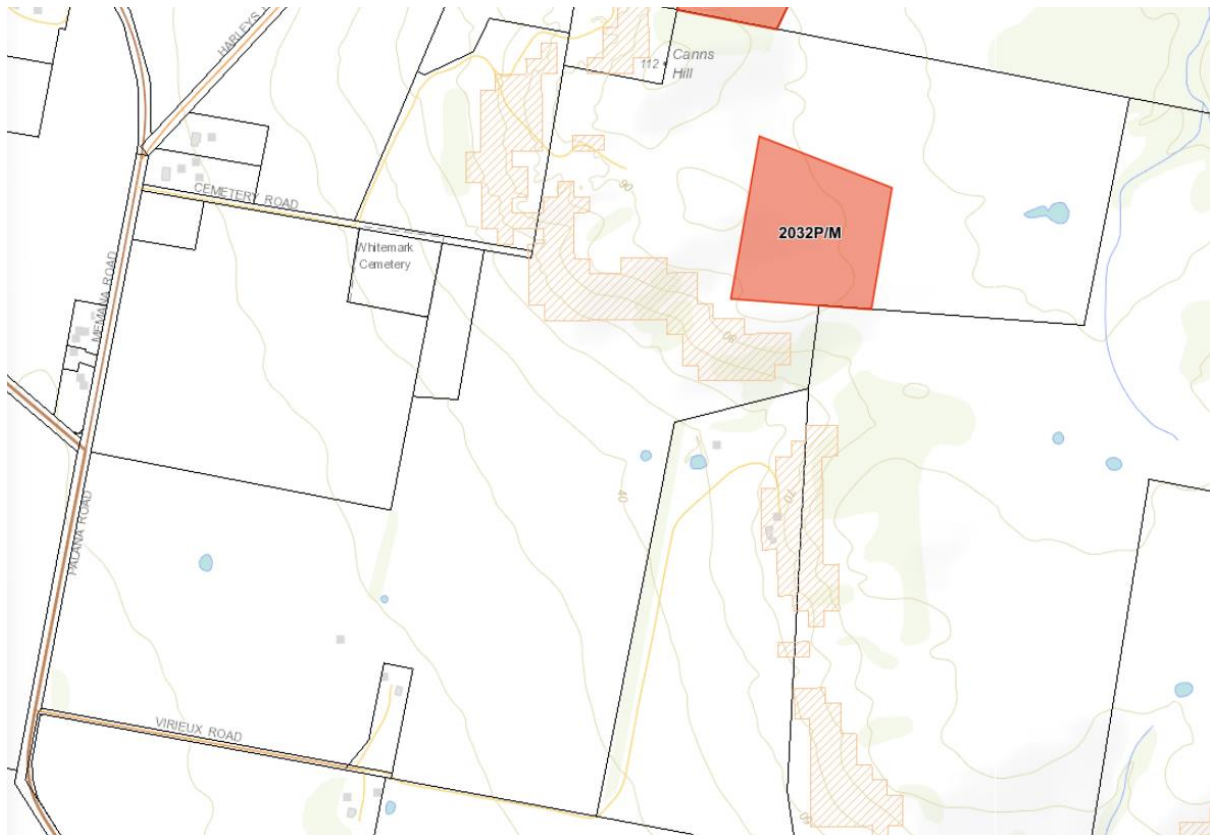


Figure 7 - Landslip Overlay extract through site, shown with Mining Lease 2032P/M (source: LISTmap)

<p>C15.2.1 This code applies to:</p> <p>(a) use or development of land within a landslip hazard area; or</p> <p>(b) use or development of land identified in a report, that is lodged with an application, or required in response to a request under section 54 of the Act, as having potential to cause or contribute to a landslip.</p>	<p>The subject site is partly located within the low hazard area overlays, as shown in Figure 7.</p> <p>The code applies.</p>
<p>C15.4.1 The following use or development is exempt from this code:</p> <p>(e) development, including subdivision, on land within a low landslip hazard band, if it does not involve significant works;</p>	<p>The subdivision was partly subject to the low hazard overlay and does not include significant works, as defined.</p> <p>The application is therefore exempt from the Code.</p>

Clause 15.4.1 (e) clearly establishes that the proposal is exempt from the Code.

C16 Safeguarding of Airports Code

<p>C16.2.1 This code applies to:</p> <p>(a) a sensitive use within an airport noise exposure area; and</p> <p>(b) development within an airport obstacle limitation area.</p>	<p>Part of the site is located within the Obstacle Limitation Area overlay at 51.5m, as shown in Figure 8.</p>
<p>C16.4.1 The following use or development is exempt from this code:</p> <p>(a) development that is not more than the AHD height specified for the site of the development in the relevant airport obstacle limitation area.</p>	<p>Figure 8 identifies that the elevation portions of the site in the proposed lot 2 and all of 3 are located above the 50m AHD contour and approximates that portion of the site subject to the code by the red shading.</p> <p>Development (including subdivision) that is below 51.5m AHD is exempt from the code. The proposed lot 1 is therefore exempt from the Code.</p>
<p>C16.5.1 Sensitive use within an airport noise exposure area</p>	
<p>A1 A sensitive use must not be located within an airport noise exposure area.</p>	<p>Noting that use standards do not apply to subdivision, the lots proposed for sensitive use are not proposed within the Overlay.</p> <p>Not applicable.</p>
<p>C16.6.1 Buildings and works within an airport obstacle limitation area</p>	<p>No buildings or works are proposed within the Overlay.</p> <p>Not applicable.</p>
<p>C16.7.1 Subdivision</p>	
<p>A1 Each lot, or a lot proposed in a plan of subdivision, within an airport noise exposure area must be:</p> <p>(a) be for the creation of separate lots for existing buildings;</p> <p>(b) be required for public use by the Crown, a council or a State authority;</p> <p>(c) be required for the provision of Utilities;</p> <p>(d) be for the consolidation of lots;</p> <p>(e) be for the creation of a lot that contains a building area not less than 10m x 15m entirely located outside of the airport noise exposure area; or</p> <p>(f) not be intended for a sensitive use.</p>	<p>The proposed lots 2 and 3 are required for use by the Council and are not intended for a sensitive use.</p> <p>Complies with A1(b) and (f).</p>

The proposal complies with the relevant Acceptable Solutions for subdivision. Assessment against the requirements of C16 Safeguarding of Airports Code supports approval of the application.

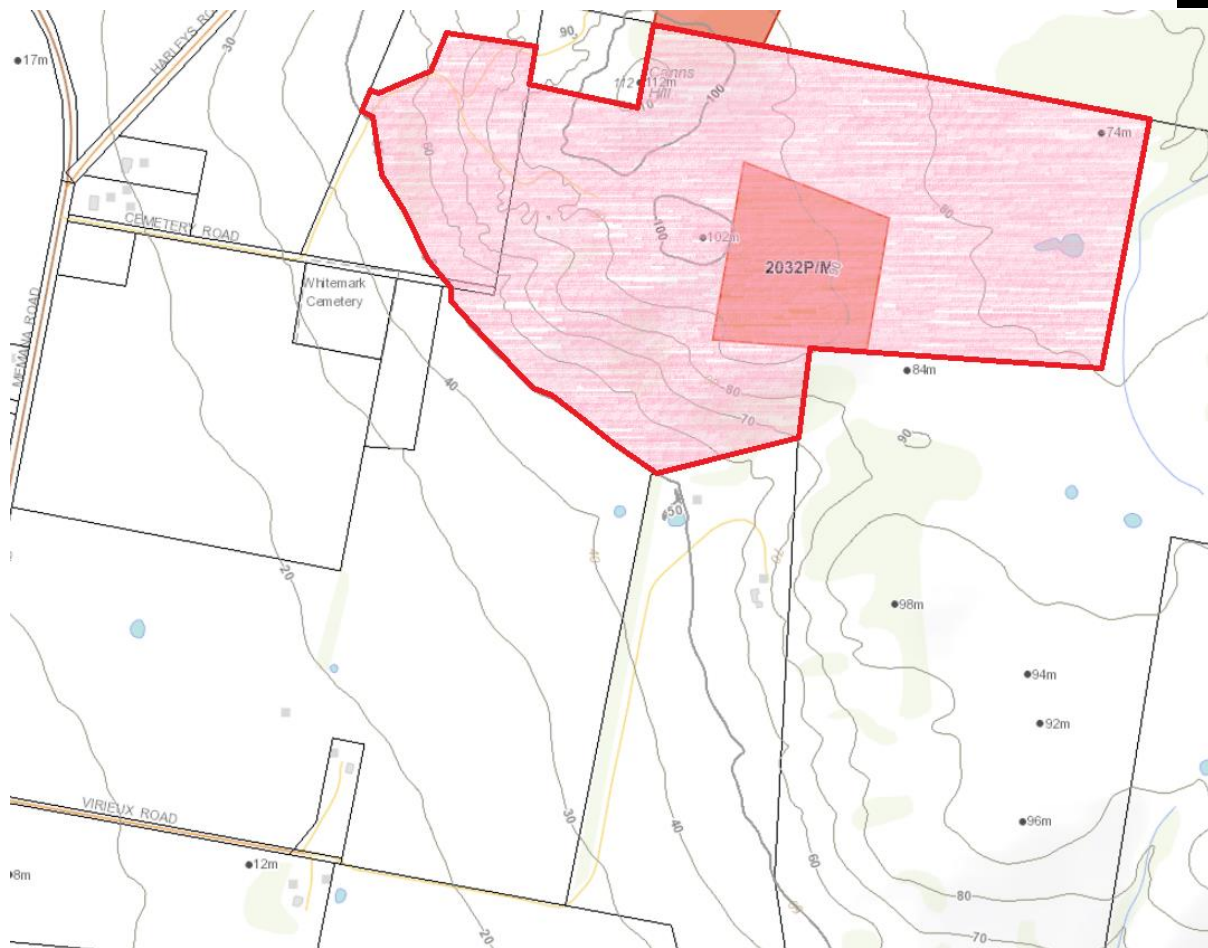


Figure 8 - land above 50m AHD
(source: adapted from LISTmap)

Conclusion

The proposal seeks approval for the consolidation of two existing lots and subdivision to create three new lots to separate an existing quarry lease on the proposed lot 3 and enable the residential development of the proposed lot 1 within the Rural Living zone. Lot 2 will contain the balance lands and continue existing grazing operations.

The proposal demonstrated compliance with all relevant standards under the Scheme. A single discretion was sought for onsite wastewater systems under clause 11.5.3 for lot 1, which demonstrated compliance with the relevant performance criteria.

The application demonstrated compliance with the requirements of the Scheme.

In addition, the application was assessed as compliant with the relevant purpose statements under clause 7.10.3.

Pursuant to clauses 6.7, 6.8 and 6.10 of the Scheme, the application can be considered for approval.

We request the application be assessed, notified and that a planning permit is issued in due course.