
From: Carl von Savageri [REDACTED]
Sent: Wednesday, 20 May 2026 11:20 AM
To: Kingborough LPS
Subject: CM: Re: Kingborough Local Provisions Schedule (LPS-KIN-TPS) — Supplementary Representation regarding proposed zone allocation for [REDACTED] Margate
Attachments: 2026_Revised_Submission_Final_compressed.pdf; Appendix_compressed.pdf; 2024_Representation_201_Kingborough Council.pdf

Property: [REDACTED] Margate, TAS 7054 (titles [REDACTED] PID [REDACTED])

Representation Number: 201 (lodged with the 2024 exhibition of the draft LPS)

Dear Commissioners,

As per your letter dated 22/04/26 please find attached our supplementary submission.

Our position on the property is unchanged from 2024. The Tasmanian Planning Scheme directs Rural Living Zone D for land of this character. Representation 201 sets out the property-specific evidence that supports that conclusion: 160 years of continuous residential and agricultural use, an approved planning permit (DA-2018-344) under construction, a council-funded road extension to the property boundary, an 8-lot subdivision in preparation under the existing ELZ provisions, an SVA3 result under the Southern TRG Scenic Assessment Methodology that Kingborough Council co-authored, and approximately 70 residential properties within a 1 km radius. The property is part of a contiguous corridor of numerous rural-living properties extending from Margate through Allens Rivulet, all seeking Rural Living Zone allocation through coordinated representations and a separately lodged collective submission.

This letter accompanies a supplementary representation that we lodge with the Commission under section 34 of the Land Use Planning and Approvals Act 1993, in support of and alongside Representation 201. Representation 201 remains our primary representation. We file the supplementary material because Council did not substantively engage with the property at the individual level in its s.35F report, the independent reviewer commissioned under Direction 69 did not assess the property either, and material new facts have arisen since Rep 201 was lodged.

The supplementary representation addresses what has changed since 2024 and the procedural treatment Rep 201 has received in the interim, on the following grounds.

1. Council's s.35F report did not address Rep 201 at the individual property level. Council bundled the representation within the LCZ section with representations of materially different character, and did not engage with any of its property-specific evidence on its own terms.
2. The independent review commissioned under Direction 69 (Ireneinc Planning + Urban Design, February and March 2026) did not assess this property either. Representation 201 is not referenced anywhere in the LCZ Review and Findings Report or the Locality-Baselining and Evaluation Report.
3. On 20 April 2026 [VERIFY: OpenViking records the s.56 minor amendment approval as 16 April 2026; confirm 20 April for the officer endorsement or reconcile the dates], during the Commission's LCZ hearings and three weeks after the Commission's letter to LCZ-affected representors, Council's planning officers endorsed a minor amendment to DA-2018-344. The endorsement contradicts the LPS-drafting position that the priority of the property is landscape conservation.

4. The Commission has, in this LPS, accepted RLZ outcomes for materially comparable localities at the April 2026 hearings (Allens Rivulet, Kettering East, Howden, Albion Heights) [VERIFY: confirm each locality and the nature of the Commission's acceptance against the hearing transcripts]. The s.34(2)(g) consistency requirement applies.
5. On the textual reading of the Section 8A Guideline No. 1 LCZ application criteria (including the Guideline's express statement at p.20 [VERIFY page reference] that LCZ is not a replacement zone for the Environmental Living Zone in interim planning schemes), the LCZ tests are not met for this property. The burden of demonstration sits with Council, and on the property-specific evidence available, Council have not discharged that burden. The Commission has stated this principle directly in Information Sheet No. 2/2024 [VERIFY: confirm sheet number and that the cited principle is in that sheet].

Schedule of Documents

1. Supplementary Representation: the principal supplementary document, organised in five parts (the positive case for RLZ-D; the corridor; the role of code overlays; procedural fairness; and the rural living mosaic as the landscape character that warrants protection).
2. Appendix A, Inconsistency Analysis (Margate and Allens Rivulet Localities): within-locality and across-locality comparison tables setting out the inconsistency between the Ireneinc framework's outputs and its own substantive findings for materially comparable parcels.
3. The LCZ Paradox: Landscape, Baseline and Management in the Proposed Kingborough LPS Landscape Conservation Zone. A standalone supplementary document setting out peer-reviewed landscape and fire-ecology evidence that supports the rural-living-mosaic argument.
4. The Allens Rivulet / Margate Collective Submission (lodged separately by a significant group of contiguous landowners across the corridor) is cross-referenced in the supplementary representation and contains the 1965–2025 aerial photographic record, LiDAR canopy-height data, and the Crofton Drive / Hickmans Hill scenic comparison. We fully support and endorse this collective submission.

Hearing

We confirm our availability to be heard on this representation and intend to present at the hearing. We ask the Commission to provide an opportunity to respond before any final determination if the Commission proposes any alternative outcome to those identified at section 9 of the supplementary representation.

We request the Commission allocate Rural Living Zone D to the property in accordance with Representation 201, supported by the supplementary material filed with this letter.

If the Commission requires any additional information or clarification, we are available on the contact details already provided.

Yours sincerely

SUPPLEMENTARY REPRESENTATION TO THE TASMANIAN PLANNING COMMISSION

Kingborough Local Provisions Schedule (LPS-KIN-TPS)

Proposed Zone Allocation: Environmental Living Zone to Landscape Conservation Zone

To: Tasmanian Planning Commission

Re: Kingborough Local Provisions Schedule (LPS-KIN-TPS), Supplementary Representation regarding proposed zone allocation for [REDACTED] Margate

Submitter: C S von Savageri & V M von Savageri

Contact: [REDACTED]

Postal Address: [REDACTED] Sandy Bay, 7005

Representation Number: 201

Date: 04/05/2026

Detail	Value
Property Address	[REDACTED] Margate, TAS, 7054
Title References	[REDACTED] [REDACTED] [REDACTED] [REDACTED]
PID	[REDACTED]
Current Zone	Environmental Living Zone (KIPS 2015)
Council’s Proposed Zone	Landscape Conservation Zone
Ireneinc Recommendation	LCZ retained, no change proposed
This Submission Seeks	Rural Living Zone D

1. Executive Summary

This is a supplementary representation that supports (and is filed alongside) Representation 201, lodged during the 2024 exhibition period of the Kingborough draft Local Provisions Schedule. Rep 201 is the primary representation on the record. It is reaffirmed in full and remains the substantive case for Rural Living Zone D at [REDACTED]. This supplementary submission addresses only what has changed since 2024 and the procedural treatment Rep 201 has received in the interim.

The position is unchanged from 2024: **Rural Living Zone D is the zone the Tasmanian Planning Scheme directs for this property.** It accurately describes the established character of the land, the use to which it is put, and the use to which it is intended to be put. It maintains the existing 10 Ha minimum lot size set under the Environmental Living Zone, adding no new subdivision potential. Landscape values, where they exist, are properly protected by code overlays that operate regardless of which zone is applied. The zone selects for the use; the codes protect the values. That is the architecture of the Tasmanian Planning Scheme, and it is the architecture this representation invites the Commission to apply. (Our position on the overlays as currently applied to this property is set out at §9 below and reaffirms Rep 201 §§8–9.)

Five matters have shifted since Rep 201 was lodged:

- **Rep 201 was not addressed by Council on its merits.** Council's s.35F report bundled Rep 201 within the LCZ section with representations of materially different character (including mass meta-submissions and template representations) and did not engage with the property-specific evidence Rep 201 contained. The Commission is therefore the first body in the LPS process to which the Rep 201 evidence has been put for substantive consideration.
- **The independent review commissioned to address the LCZ representations under Direction 69 also did not assess this property.** Representation 201 is not referenced anywhere in the Ireneinc *LCZ Review and Findings Report* or *Locality-Baselining and Evaluation Report*. Neither are the four concurrent representations from the immediately neighbouring Nierinna Road properties.
- **Council have reaffirmed the residential priority of the property after the LCZ review process began.** On 20 April 2026 (three weeks after the Commission's letter to representors and during the LCZ hearings) Council's planning officers endorsed a minor amendment to the substantially commenced DA-2018-344. Council cannot consistently hold (through their planning function) that the priority of this property is residential development, and (through their LPS function) that the priority is landscape conservation.
- **The corridor argument has hardened.** [REDACTED] sits within a continuous, contiguous corridor of **rural-living properties** running from Margate through Allens Rivulet, all of which are seeking Rural Living Zone allocation through coordinated representations and a separately lodged collective submission. The corridor is one physical and cultural landscape, with a single settlement pattern, shared overlays, and a community of interest whose members are seeking the same zoning outcome on materially identical reasoning. The Commission's task under s.34(2)(g) LUPAA is to apply the LPS

criteria consistently across the spatial pattern of the LPS as a whole. The corridor is the relevant spatial pattern.

- **Council’s own endorsed position now points to RLZ where more than one zone is appropriate.** In its 19 March 2026 response to Direction 69, Council’s General Manager advised the Commission that “*where more than one zone is considered appropriate for a particular area, the least restrictive alternative should be applied*”. The Ireneinc review, commissioned by Council, found for materially similar Margate properties carrying the same code overlays as [REDACTED] (the Fehres Road and Miandetta Drive clusters) that overlay-managed RLZ is appropriate (low and medium-to-low risk respectively). On Council’s own least-restrictive principle, applied to its own consultant’s findings for materially similar properties in the same locality, RLZ-D is the directed outcome.

The supplementary material is organised in five parts.

- **Part A** makes the positive case for RLZ-D under the Zone Guidelines and the Tasmanian Planning Scheme, and addresses the LCZ application criteria as drafted. On the textual reading of LCZ 1, LCZ 2(a)(b)(c) and LCZ 4(a), and applying the Commission’s own definitional framework for “locally or regionally important native vegetation” (Information Sheet No. 2/2024), the LCZ tests are not met for this property. The burden of demonstration sits with Council, and on the property-specific evidence available (the same evidence placed before Council in 2024 and that has not been engaged with since) that burden has not been discharged.
- **Part B** sets out the corridor evidence: the Lawless / Nierinna / Allens Rivulet corridor is a contiguous community of rural-living properties stretching west to east along Perrins Ridge and Knotts Hill, whose coordinated representations and collective submission place before the Commission a single physical and cultural landscape requiring consistent treatment under s.34(2)(g) LUPAA.
- **Part C** addresses how the code overlays, not the underlying zone, protect the landscape values that have been identified for the wider locality.
- **Part D** addresses procedural fairness: the s.35F treatment of Rep 201, the omission of Rep 201 and other corridor representations from the Ireneinc review, and the contradiction between Council’s contemporaneous endorsement of residential development on the property (20 April 2026) and Council’s LPS-drafting position that the priority of the same property is landscape conservation.
- **Part E** sets out what the rural living mosaic actually is, why it is the landscape character that warrants protection in this part of Kingborough, and why RLZ-D combined with the existing scenic and vegetation overlays is the planning instrument best suited to its preservation.

2. Relationship to Representation 201 (2024)

This supplementary representation does not restate, narrow or replace Representation 201. Rep 201 stands as the primary representation on the record. It is reaffirmed in full,

and is filed with this submission as a separately referenced primary document. The arguments, evidence and outcomes sought in Rep 201 remain our position.

The 2026 submission has a narrower purpose. It is directed at what has changed since the 2024 exhibition period and at the procedural treatment Rep 201 has received in the interim. Specifically:

- **Council’s s.35F report did not address Representation 201 at the individual property level.** Rep 201 was bundled within the LCZ section of the s.35F report (Part 2, §2.15) with representations of materially different character, including mass meta-submissions and template representations addressing properties across the municipality. None of the property-specific evidence Rep 201 contained (the historical use record, the SVA3 mapping, the REM calculation, the approved DA, the council road extension, the 70-property cadastral analysis) was engaged with on its own terms. Council’s own framing of the s.35F report (§1.7) confirms this approach: *“Representations are summarised in this report... If a representation highlights an issue in their representation which is not mentioned or discussed in detail in this report, the representor still can raise and discuss that matter with Council and the TPC at the public hearings”*. That is the procedural posture in which Rep 201 has remained from 2024 to the present.
- **The Ireneinc independent review, commissioned to address the LCZ representations under Direction 69, did not assess this property either.** Representation 201 is not referenced anywhere in the *LCZ Review and Findings Report* (6 February 2026) or the *Locality-Baselining and Evaluation Report* (19 March 2026). Neither “Lawless Road” nor “Nierinna Road” appears in the 26-page Margate and Electrona locality section. The four concurrent representations from contiguous Nierinna Road properties are also entirely absent from the review. This is addressed in detail at Part D below.
- **Council have, on the planning side of their statutory functions, formally reaffirmed the residential priority of the property during the LPS process.** On 20 April 2026 Council’s planning officers endorsed a minor amendment to the substantially commenced planning application DA-2018-344, for the construction of a residential dwelling and associated structures on this property. This is a material new fact since Rep 201 and is addressed at §3.4 below.
- **The same LPS process has produced RLZ recommendations for materially identical localities.** The Ireneinc review (commissioned by Council) recommended RLZ for Allens Rivulet, Kettering East, Howden and Albion Heights on the same overlay-management reasoning relied on in this representation. The s.34(2)(g) consistency requirement is engaged.
- **The peer-reviewed evidentiary record on Tasmanian landscape history and fire ecology has continued to develop** since Rep 201 was lodged, in directions that reinforce Rep 201’s §6 observation about the active management that maintains the rural mosaic. This is addressed at Part E and in the standalone *LCZ Paradox* document.

The substantive arguments for RLZ-D are made in Rep 201 and are not repeated in this supplementary material.

3. Part A: The Positive Case for Rural Living Zone D

3.1 What the Tasmanian Planning Scheme Says RLZ Is For

The Rural Living Zone is defined at clause 11.1.1 of the State Planning Provisions:

“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.”

This is the zone purpose, not an exception within the zone purpose. The Tasmanian Planning Scheme expressly contemplates that natural and landscape values can be retained *within* a Rural Living Zone. The framing that LCZ is necessary because landscape values exist is not consistent with what the scheme says about RLZ.

The zone description corresponds to the established character of [REDACTED]. The land is in a rural setting. Services are limited. Natural and landscape values, where present, are protected by code overlays that operate independently of the zone. The use of the land is residential. It has an approved dwelling under construction, and sits within an established residential area of approximately 70 properties with existing residential dwellings within a 1 km radius (expanding to approximately 270 properties within a 2 km radius).

3.2 The Zone Guidelines Direct RLZ for Land of This Character

Guideline No. 1, the Commission’s instrument under s.8A LUPAA for zone allocation, sets three principal bases on which RLZ may be applied to former ELZ land. Each is satisfied here.

RLZ 1(a). RLZ should be applied to “residential areas with larger lots, where existing and intended use is a mix between residential and lower order rural activities, but priority is given to the protection of residential amenity.” The Lawless / Nierinna / Allens Rivulet corridor is exactly that. Approximately 70 properties carry existing residential dwellings within a 1 km radius. Existing residential use is established on adjoining titles to the north, south and east. The road access is council-maintained. An approved residential development is under substantially commenced construction. The corridor is, on the cadastral and use record, a residential area with larger lots.

RLZ 2(b). RLZ may be applied to former ELZ land where “the primary strategic intention is for residential use and development within a rural setting and a similar minimum allowable lot size is being applied, such as, applying the Rural Living Zone D where the minimum lot size is 10 ha or greater.” The Guideline names RLZ-D specifically as the worked example for ELZ translation at the 10 ha minimum. The property’s primary strategic intention is residential, and both the existing ELZ minimum lot size and the RLZ-D minimum lot size are 10 ha. Parity is exact.

RLZ 4(b). RLZ remains available where landscape values, if present, can be appropriately managed through the application of relevant codes. As set out in Part C

below, every value that has been invoked to justify LCZ on this property is regulated by code overlays that apply irrespective of zone.

3.3 The “Similar Minimum Lot Size” Test

Guideline No. 1 RLZ 2(b) sets the lot-size test for ELZ-to-RLZ translation as “a *similar* minimum allowable lot size is being applied.” The drafters wrote *similar*; they did not write “no further subdivision” or “a more restrictive minimum lot size”.

For [REDACTED] the test is satisfied, as the minimum lot size under the existing ELZ is 10 Ha and the minimum lot size under RLZ-D is 10 Ha. Whatever subdivision yield is theoretically achievable on the property under RLZ-D is already achievable under the existing ELZ. The translation creates no new subdivision potential at any parent lot size. A 10 ha title yields one lot under both zones.

The “no further subdivision” formulation that appears in the Ireneinc decision tree (LCZ Review p.87, repeated in the Margate locality chapter) is a consultant-authored gloss on RLZ 2(b). It is not in the Guideline, State Planning Provisions, nor LUPAA and it cannot be elevated above the instruments it purports to implement. Under the Guideline as written, the lot-size test is parity, and parity is met.

The same point applies with greater force to STRLUS SRD 1.3, which addresses rezoning to RLZ where existing rural-living communities are recognised. Where the strategy contemplates a subdivision-potential test at all, it is framed in terms of “limited” potential, not “none”. Zero additional potential, which is what RLZ-D produces on this property, is necessarily within “limited”.

3.4 The Established Use Is Residential, Reaffirmed by Council

The convergence of Council's own actions establishes that the priority for this property is residential use and development:

- **DA-2018-344** approved by Kingborough Council in June 2019 for a residential dwelling on title [REDACTED]
- **Start works notice** issued February 2022 for vegetation clearance and earthworks.
- **Crown land purchases** completed to remove reserve-road reliance for access.
- **Lawless Road** extended by Council to the property boundary at public expense and is now council-maintained.
- **Substantial commencement** confirmed in writing by Council's Coordinator Statutory Planning (May 2025): Council is "satisfied that substantial commencement has been achieved with approved works, including access upgrades, earthworks within the dwelling and outbuilding site, and tree removal, being undertaken" and "the Planning Permit DA-2018-344 remains valid".
- **Minor amendment to DA-2018-344** endorsed by Council on 20 April 2026.



IMAGE 1: Council-maintained Lawless Road at property boundary

Photograph of the council-maintained Lawless Road terminating at the property boundary, demonstrating Council's public infrastructure investment in residential access to the property. Recent photograph, 29/04/26.



IMAGE 2: Completed driveway from property boundary to dwelling envelope

Photograph of the completed driveway constructed under DA-2018-344, showing the access from the council-maintained road through to the dwelling site. Recent photograph, 29/04/26.



INSERT IMAGE 3: Completed earthworks at the dwelling envelope

Photograph of the completed earthworks at the approved dwelling site, ready for the start of construction. Recent photograph, 29/04/26. The state of works on the ground confirms substantial commencement of DA-2018-344.

Hi Carl,

Thank you for submitting evidence of substantial commencement for your approved development at [REDACTED] Margate (DA-2018-344).

I have discussed the evidence you submitted with Council's Coordinator Statutory Planning and I can confirm that Council is satisfied that substantial commencement has been achieved with approved works, including access upgrades, earthworks within the dwelling and outbuilding site, and tree removal, being undertaken. Accordingly, the Planning Permit DA-2018-344 remains valid.

In relation to your intention to submit a minor amendment application to adjust the location of the approved dwelling, you are welcome to lodge the application with Council for assessment. However, please note that if the proposed changes do not satisfy the criteria for a minor amendment under Section 56 of the Land Use Planning and Approvals Act 1993, a new planning application would be required.

If you have any questions regarding the above, please do not hesitate to contact me.

Kind regards,

[REDACTED] Planner | Kingborough Council

Address Civic Centre, 15 Channel Hwy Kingston TAS 7050
Email rftriani@kingborough.tas.gov.au | **Web** www.kingborough.tas.gov.au



Kingborough Council acknowledges and pays respect to the Tasmanian Aboriginal Community as the traditional owners and continuing custodians of this land and acknowledge Elders – past, present, and emerging.

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DOCUMENT 1: Council written confirmation of substantial commencement

Email from Council's Coordinator Statutory Planning (May 2025) confirming that substantial commencement of DA-2018-344 has been achieved and the planning permit remains valid. Filed as a supporting document.



20 April 2026

Our Ref: DA-2018-344/A

Mr C S Von Savageri

Delivered by email only:

Dear Mr Von Savageri

MINOR AMENDMENT TO PERMIT – DWELLING, OUTBUILDINGS (CARPORT AND SHED), BUSHFIRE BUNKER, SWIMMING POOL AND CONSTRUCTION OF ACCESS ROAD AT [REDACTED] MARGATE (FORMERLY [REDACTED] ALLENS RIVULET) (CT 226422/1)

Your minor amendment application under section 56 of the *Land Use Planning and Approvals Act 1993* (the Act) in relation to DA-2018-344/A has been approved. The approved minor amendment includes removal of basement, minor increase in roofed area, relocation of shed and swimming pool, access road realignment, removal of net cut, reduction of vegetation clearance.

An amended planning permit and amended plans, containing the amended conditions, is attached. Please note that all conditions of your permit still apply. If there are further amendments desired, a fresh minor amendment application will need to be applied for.

DOCUMENT 2: Council endorsement of minor amendment to DA-2018-344,

Documentation of Council's planning officers' formal endorsement of the minor amendment to DA-2018-344 on 20 April 2026.

The 2025 substantial commencement and 2026 minor amendment endorsement are materially new facts since Rep 201. Council's planning officers, exercising delegated authority, have formally affirmed during the LPS process itself that a residential

development on this property is the active, current, lawful and ongoing use of the land. Council cannot simultaneously hold (through their planning function) that the priority for this property is residential development, and (through their LPS-drafting function) that the priority is landscape conservation.

3.5 Substantial Commencement and the Continuing Right to Use

Substantial commencement of DA-2018-344 has the consequence that the development rights conferred by the permit are crystallised. Under LUPAA the rights survive the LPS transition and continue to authorise the development to completion regardless of the zone the LPS finally applies. Allocating LCZ to this property would therefore produce a zoning outcome that is structurally inconsistent with the lawful use being made of the land: a residential development being completed under an approved and substantially commenced permit, on land zoned for landscape conservation.

That outcome is avoidable. RLZ-D describes the use that is occurring. LCZ does not.

3.6 Consistency Across the LPS: Section 34(2)(g) LUPAA

Section 34(2)(g) of LUPAA requires the spatial application of zones in an LPS to be, as far as practicable, consistent and coordinated. The Ireneinc review (commissioned by Council) recommended RLZ outcomes (on overlay-management reasoning) for materially comparable localities within this LPS:

- **Allens Rivulet** (RLZ for ELZ properties with similar landscape values, identical code overlays, comparable settlement pattern);
- **Kettering East** (RLZ on overlay-management reasoning);
- **Howden and Blackmans Bay** (full ELZ-to-RLZ transition recommended);
- **Albion Heights** (RLZ recommended).

The reasoning advanced in each case is the same reasoning underpinning the 2023 Huon Valley rezoning direction, which moved over 450 properties from proposed LCZ to RLZ. The land was already in rural-residential use, the overlays already regulated the values invoked for LCZ, and LCZ was being used as a default replacement for ELZ in a manner inconsistent with the Guideline. The same reasoning is being advanced for adjoining and nearby localities within the current Kingborough LPS.

The Lawless / Nierinna / Allens Rivulet corridor is not materially distinguishable from those localities. It carries the same code overlays, settlement pattern, lot-size distribution, residential character, and history of established residential use. The s.34(2)(g) consistency requirement is engaged on these facts.

3.7 The LCZ Application Tests Are Not Met: The Burden Lies With Council

The case for RLZ-D set out at §§3.1 to 3.6 stands on its own. The Tasmanian Planning Scheme directs RLZ-D for land of this character. The Guideline criteria are positively satisfied, the lot-size test is met exactly, and the established use is residential and reaffirmed by Council. Substantial commencement of the residential development is

on the record, and consistent application of the Guideline across comparable localities should result in RLZ as the outcome here.

Given that the Guideline criteria positively direct RLZ-D for this property, the question for the LCZ analysis is narrow: have Council shown why RLZ-D, with the existing code overlays, cannot serve, and why LCZ must instead be applied? LCZ application requires positive identification of values, and the burden of that demonstration sits with Council. On the property-specific evidence available, Council have answered neither half of the question.

3.7.1 The Burden of Demonstration Sits With Council

The architecture of Section 8A Guideline No. 1 for LCZ places the burden of demonstration squarely on Council. LCZ 1 directs that the zone “should be applied” where landscape values are “*identified for protection and conservation*”: identification is the trigger, and identification is an active act, not a passive characteristic of the land. LCZ 2 then sets discretionary application bases (“may be applied”), and LCZ 4 prohibits application in the listed cases (“should not be applied”). The determination of the suitability of LCZ can only be undertaken on the evidence Council have produced, the architecture does not allow LCZ to be applied by default in the absence of property-specific identification.

The Commission has stated the burden allocation directly. In Information Sheet No. 2/2024 the TPC records that:

“It is a matter for an applicant or planning authority to determine the nature and extent of information provided to the Commission to enable it to undertake an assessment of the conservation significance of native vegetation of local importance.”

The reasoning extends across the LCZ application criteria. The Commission cannot make a positive identification of landscape values where Council have not provided the information on which such an identification could be made. A landowner is not required to disprove a negative, and a representor is entitled to require Council to show, on the record, that the LCZ criteria are positively satisfied at the property level, on evidence specific to that property.

For [REDACTED] that property-specific demonstration has not been produced. The position has been on the record since Rep 201 was lodged in 2024. Nothing in Council’s s.35F report, in Council’s response to Direction 69, or in the Ireneinc review has supplied the property-specific identification of landscape values, the property-specific viewshed analysis, the property-specific scenic-values assessment, or the property-specific ecological evidence of “locally or regionally important native vegetation” that the Guideline criteria require. Our contention is unchanged from 2024: **Council have not done the work that LCZ application requires.**

3.7.2 LCZ 1: No Property-Specific Landscape Values Have Been Identified

LCZ 1 reads: “*The Landscape Conservation Zone should be applied to land with landscape values that are identified for protection and conservation, such as bushland*

areas, large areas of native vegetation, or areas of important scenic values, where some small-scale use or development may be appropriate.”

The trigger is “*landscape values that are identified for protection and conservation*”. The phrase “*such as bushland areas, large areas of native vegetation, or areas of important scenic values*” is illustrative of where landscape values may be found. It is not definitional. It does not collapse vegetation cover into landscape value. The drafters chose “*such as*”, an exemplifying construction. If they had intended that all vegetated land qualified for LCZ, they would have written “*land with bushland or native vegetation cover*” without the qualifier. The textual reading is that landscape values must be *identified*, through method, at the property level, before LCZ 1 is engaged.

Council have produced no such identification for [REDACTED]. The Southern TRG Scenic Assessment Methodology that Council co-authored has not been applied. The Forest Practices Authority *Manual for Forest Landscape Management*, the only operational statewide scenic framework, has not been applied either. No property-specific viewshed analysis from sensitive receptors has been tabled. No heritage landscape listing applies. The Scenic Protection Code overlay was applied using a blanket 50 m elevation threshold that Council itself admitted is “*somewhat arbitrary*” (Kingborough Land Use Strategy, May 2019), and Council have confirmed the systematic mapping was not undertaken due to “*resource constraints*”. Our own SVA assessment using the methodology Council co-authored yields **SVA3**, with approximately 90% of the property not visible from any sensitive receptor (Rep 201 §8). Council have identified no landscape values for protection and conservation on this property. Positive identification, not assumption, is what LCZ 1 requires.

3.7.3 LCZ 2(a): The Textual Reading and the TPC’s Own Definitional Framework

LCZ 2(a) reads: “*The Landscape Conservation Zone may be applied to: (a) large areas of bushland or large areas of native vegetation which are not otherwise reserved, **but contains** threatened native vegetation communities, threatened species or other areas of locally or regionally important native vegetation;*”

The conjunction “*but contains*” is a qualifier, not a comma. LCZ 2(a) is not triggered by the existence of large areas of native vegetation alone; the vegetation must also contain threatened native vegetation communities, threatened species, or other areas of locally or regionally important native vegetation. Council and Ireneinc have proceeded as if vegetation cover alone were sufficient to engage LCZ, it is not. A reading that treats LCZ 2(a) as triggered by vegetation cover alone reads the qualifying clause out of the criterion.

Information Sheet No. 2/2024 sets out the test for the qualifying ecological elements. The test is ecological, not social, and vegetation that fails both the composition and structure parameters is unlikely to qualify under NAC C7.3.1(d). The Information Sheet addresses “*native vegetation of local importance*” under NAC C7.3.1(d). LCZ 2(a) uses the broader phrase “*locally or regionally important native vegetation*” for the same kind of vegetation, and the broader threshold still requires the local-importance test to be met as one of its possible bases. The Commission’s framework therefore directs the LCZ 2(a) assessment to at least the same standard as the Natural Assets Code.

Applied to [REDACTED] on each of the Commission's six parameters:

TPC Parameter	What the Commission Asks	Evidence for the Property
1. Vegetation composition	TASVEG classification; threatened-community status; limited range; reserve representation	TASVEG 3.0 mapping records no threatened native vegetation communities on the property (Rep 201 §6 LCZ 2(i); §9.6 NAC 7). Vegetation type is well-represented in the conservation reserve estate, including in the adjoining Snug Tiers Nature Recreation Area to the west. Parameter 1 not met.
2. Vegetation structure	Old-growth or regrowth; age and maturity; senescence and hollows; weed-free condition	Current vegetation is 42-year regrowth on land cleared and cultivated through the historical record (1865, 1905, 1915 surveys; 1948, 1972 aerial imagery; abandonment phase 1975 to 2017 documented in Rep 201 §3). Not old-growth. Not at maturity for hollows or senescence-derived habitat. Parameter 2 not met.
3. Significance of vegetation in the area	Only remaining stand? Surrounding vegetation extent and reserve status	Same vegetation type is extensive in the surrounding Channel district and reserved at scale in Snug Tiers Nature Recreation Area. Not the only remaining stand. Parameter 3 does not elevate significance.
4. Suitability for reserve status	JANIS criteria; biodiversity, old-growth, wilderness	Property is regrowth on historically cultivated land within established rural-residential corridor. Does not meet JANIS reserve suitability criteria. Parameter 4 not met.
5. Native fauna	Threatened species recorded; breeding/foraging habitat	Natural Values Atlas records no threatened flora on the property (Rep 201 §9.7 NAC 8) and no threatened fauna records on the property (Rep 201 §9.9 NAC 10). Parameter 5 not met.
6. Connectivity	Important link between other vegetation areas; maintained under alternative zoning	Vegetation continuity with the Snug Tiers Nature Recreation Area is maintained regardless of which zone is applied to private titles. The reserved area to the west does the connectivity work. Parameter 6 does not require LCZ to maintain connectivity.

The property meets neither Parameter 1 nor Parameter 2, the Commission's two most heavily weighted parameters. On the Commission's framework the vegetation is unlikely to qualify as priority vegetation under NAC C7.3.1(d), and the same conclusion follows for LCZ 2(a)'s broader "*locally or regionally important native vegetation*": the property does not contain it within the meaning the Commission has given the phrase. On the textual reading of LCZ 2(a), the conjunctive requirement is not satisfied. The criterion is not engaged. Scenic-character impressions, narrative descriptions of locality vegetation cover, and visual assessments from the Channel Highway are not ecological tests, and Council and the consultant have not produced one.

Scenic and Priority Vegetation Overlays Cannot Substitute for the Ecological Test

We argued in Rep 201 (§§8 and 9), and reaffirm here, that neither the Scenic Protection Code overlay nor the Priority Vegetation Area overlay, as applied across Kingborough, can serve as evidence of landscape values for LCZ 2(a) purposes:

- **The Scenic Protection Code overlay was applied using a blanket 50 m elevation threshold which Council itself admitted is “*somewhat arbitrary*”** (Kingborough Land Use Strategy, May 2019). This concession is reinforced by Ireneinc, which records at p.57 of its review that the continuation of the Interim Scheme’s Scenic Protection Areas is a “*limitation in the context of being able to provide controls to protect landscape values that fall outside of the adopted methodology*”. The overlay does not represent a systematic identification of scenic value through method.
- **The Priority Vegetation Area overlay covers the great majority of the council area.** When an overlay becomes practically universal across a municipality, it ceases to perform the discriminating function its name implies. Not all vegetation can be priority. An overlay applied to most vegetated parcels in the council area cannot, by itself, be evidence that any particular property contains “locally or regionally important native vegetation” in the qualifying sense Information Sheet 2/2024 sets out. The overlay has been used as a proxy for landscape value, and it is the wrong instrument for that question. Where ecological assessment of conservation significance is required, the overlay’s broad coverage is not a substitute for the property-specific ecological assessment Information Sheet 2/2024 calls for.

The substantive analysis on these points is at Rep 201 §§8 and 9 and is reaffirmed in this supplementary representation.

3.7.4 LCZ 2(b) and LCZ 2(c): Not Engaged

LCZ 2(b) requires “*significant constraints on development through the application of the Natural Assets Code or Scenic Protection Code*”. On the property-specific evidence (the SVA3 Scenic Value Assessment, the REM score of 55, the absence of threatened communities, and the demonstrated capacity of the codes to regulate development at the application stage, where DA-2018-344 was approved through these overlay codes and they did not prevent development) the constraints are not “significant” in the sense LCZ 2(b) contemplates. The overlays operate; they do not preclude the residential and rural use the property has carried for 160 years.

LCZ 2(c) requires that “*the primary intention is for the protection and conservation of landscape values*”. The primary intention for [REDACTED] is residential: The property is currently within a living zone with the KIPS2015 planning scheme (ELZ), the property was acquired for residential development, has an approved residential planning permit (DA-2018-344) that has reached substantial commencement, sits within an established residential corridor, and has been formally reaffirmed as residential by Council on 20 April 2026 through the endorsement of the minor amendment to the planning permit. The “primary intention” test in LCZ 2(c) is not met.

3.7.5 LCZ Is Not a Replacement Zone for ELZ: The Guideline Says So Expressly

A separate textual point closes the LCZ analysis. Section 8A Guideline No. 1, in the Note to the LCZ section at p.20, states:

“The Landscape Conservation Zone is not a replacement zone for the Environmental Living Zone in interim planning schemes. There are key policy differences between the two zones. The Landscape Conservation Zone is not a large lot residential zone, in areas characterised by native vegetation cover...”

This is not guidance that requires interpretation. It is the Commission’s express direction on how translation from ELZ should proceed. The note distinguishes the two zones at the policy level and identifies, by name, the precise category of land at issue here, areas characterised by native vegetation cover. The Guideline itself states that LCZ is not the appropriate replacement zone for ELZ on such land.

The Council and Ireneinc allocation has proceeded as if LCZ were the default replacement for ELZ on vegetated former-ELZ titles. Approximately 75% of former ELZ land in the draft LPS is allocated to LCZ. The Ireneinc review records (p.56) that *“council have focused on demonstrating alignment between the LCZ and the ELZ and have given limited detailed consideration to the RLZ as an appropriate zone”*.

The Commission identified the same problem to Council in pre-exhibition correspondence (recorded in the Ireneinc LCZ Review at p.66): *“the LCZ appears to have been used quite extensively to replace the ELZ. These two zones have quite different purposes such that application of the LCZ could signify a shift in council policy or strategy, which generally ought to be comprehensively justified using data specific to the site and with reference to the regional strategy, council strategy, and guidelines.”*

The “comprehensive justification using data specific to the site” that the Commission called for has not been provided for [REDACTED]. The Rep 201 site-specific evidence (applying the Southern TRG methodology Council co-authored, calculating REM and SVA values for the property, and documenting 160 years of cultivated and residential use) was not engaged with in Council’s s.35F report and is not referenced in the Ireneinc review (see Part D). The threshold the Commission set in 2021 has not been met for this property.

3.7.6 LCZ 4(a): The Prohibition Operates

LCZ 4(a) prohibits LCZ application *“to land where the priority is for residential use and development (see Rural Living Zone)”*. The Guideline architecture is hierarchical: LCZ 4 (“should not be applied”) operates above LCZ 2 (“may be applied”). Where LCZ 4(a) is engaged on the facts, no permissive criterion in LCZ 2 can override it.

LCZ 4(a) is engaged for this property. The convergence of Council’s own actions (DA approval, start works notice, council-funded road extension, written confirmation of substantial commencement, and 2026 endorsement of the minor amendment) establishes the residential priority on Council’s own administrative record. The cross-reference in LCZ 4(a) is to *“see Rural Living Zone”*. The Guideline directs the alternative zone for this category of land on its own face.

3.7.7 Synthesis: *The Burden Has Not Been Discharged*

On the LCZ application criteria as drafted, with the TPC's own framework applied, and on the property-specific evidence available:

- LCZ 1: landscape values have not been identified for this property through any defined method.
- LCZ 2(a): the conjunctive textual requirement is not met; the test the Commission has identified is ecological, not based on social or perceptual values; on the Commission's own six-parameter framework for "native vegetation of local importance", the property does not qualify (it meets neither Parameter 1 nor Parameter 2, and on the Commission's own framing is *"quite unlikely to qualify"*).
- LCZ 2(b): the constraints are not "significant" in the sense the criterion contemplates; DA-2018-344 was approved through the existing overlay codes.
- LCZ 2(c): the primary intention is residential, not conservation.
- The Guideline p.20 Note: LCZ is expressly not a replacement zone for ELZ on areas characterised by native vegetation cover. Council's allocation has proceeded as if it were.
- LCZ 4(a): the residential-priority prohibition operates on Council's own administrative record.

The burden of demonstration for LCZ application sits with Council, and the Commission has stated this in terms in Information Sheet No. 2/2024. The community is not required to fill the evidentiary gap. On the record before the Commission, Council have not justified the LCZ allocation for [REDACTED] on its own criteria. The Guideline directs the alternative zone (Rural Living Zone), and on the analysis at §§3.1 to 3.6 above, RLZ-D is the correct sub-category for this property.

4. Part B: The Lawless / Nierinna / Allens Rivulet Corridor

4.1 The Corridor and the Coordinated Community Response

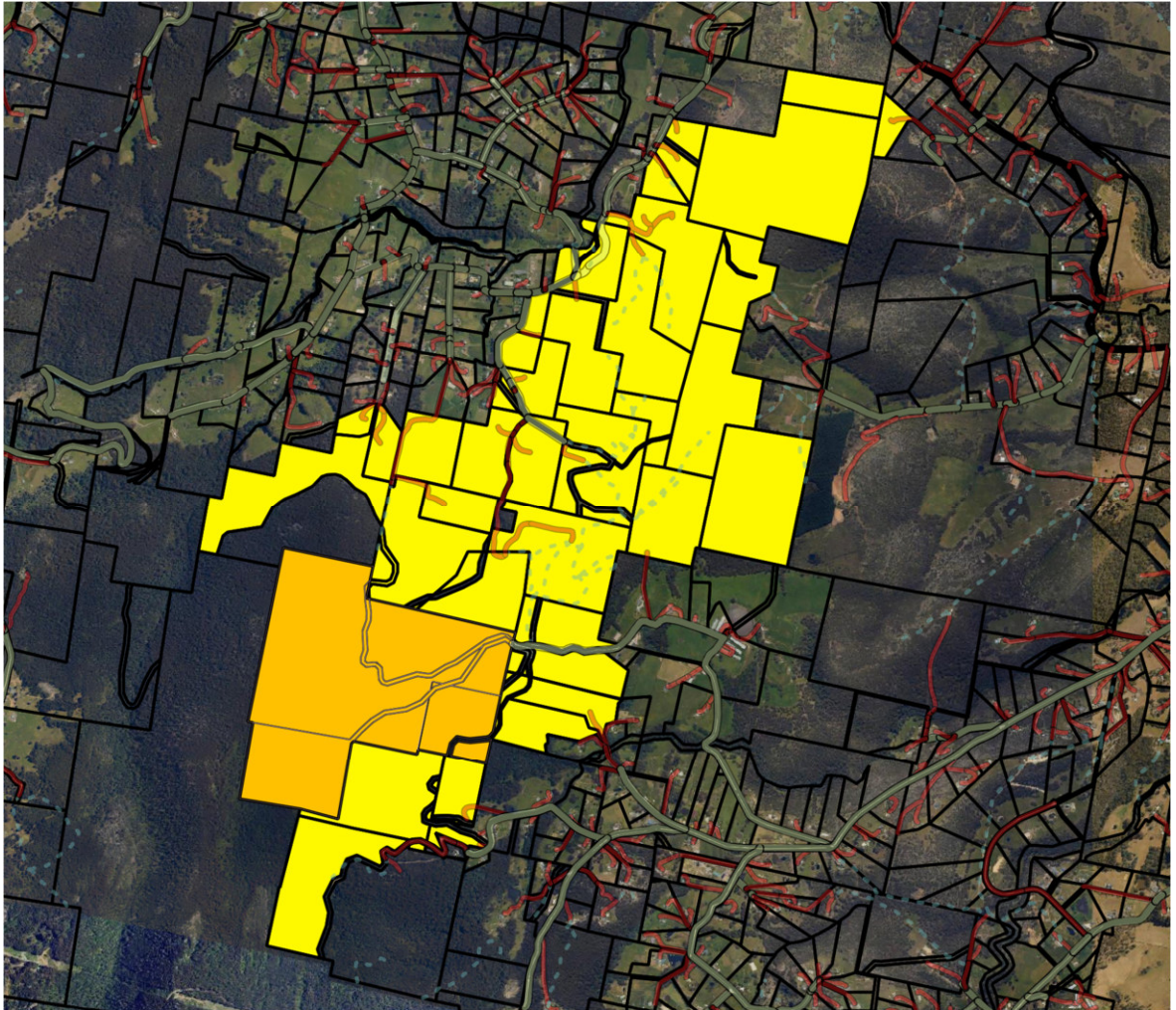
The LCZ allocation across the Lawless / Nierinna / Allens Rivulet corridor cannot be assessed property by property in isolation. The corridor is a continuous and contiguous community of rural-living properties stretching from Nierinna Road in Margate, through Lawless Road, and through to the Allens Rivulet locality. The coordinated representations and collective submissions filed across the corridor are themselves evidence of that fact: landowners along its length have organised themselves around a common identification, namely that their properties function as part of an established rural living settlement, share common settlement, vegetation and overlay characteristics, and are entitled to the consistent zoning allocation that s.34(2)(g) LUPAA requires.

The point of the coordination is to counter the gating effect of Council's and Ireneinc's locality-by-locality and property-by-property assessment process. Where that process treats the corridor as a series of separate localities and individual titles, the

coordinated community response places before the Commission a single physical and cultural landscape, with one settlement pattern, shared overlays, common landscape character, and a community of interest whose members are seeking the same zoning outcome on materially identical reasoning. The Commission's task under s.34(2)(g) is to apply the LPS criteria consistently across the spatial pattern of the LPS as a whole. The corridor is the relevant spatial pattern. Council have failed in their engagement and have failed to understand the rural nature of this community, and so the community has done the work of demonstrating that it exists. The burden now shifts to Council.

■■■■■ sits within that corridor. The corridor itself is the **contiguous community of rural-living landowners** stretching west to east across Allens Rivulet Road, Maudsleys Road, Mudges Road, Mountain Road, Cliff View Drive, Lawless Road, Cuthberts Road and Hillcrest Road, and a separate **Allens Rivulet / Margate Collective Submission** has been lodged on behalf of these properties. We are signatories to that collective submission and adopt its analysis where applicable to this property. The collective submission addresses the shared settlement, landscape, vegetation and overlay characteristics of the corridor; the post-Apple-Tree-Pull cadastral history; the panel observations from the recent hearings; and the local empirical evidence for why the codes (not the underlying zone) protect the landscape values that have been identified for the area. Where the present supplementary representation differs from the collective submission it is in matters specific to ■■■■■ ■■■■■ the approved DA, the substantial commencement, the 2026 endorsement, the council-funded road extension, and the s.35F treatment of Rep 201.

Within this wider corridor, the four Nierinna Road properties, directly contiguous and immediately adjoining ■■■■■ have lodged separate representations on materially identical grounds (Reps 164, 166, 563, 576), as has the Maudsleys Road / Allens Rivulet group (Reps 391, 430, 505, 556) for the eastern continuation. Three of the Maudsleys Road properties have been recommended by Ireneinc for transition to Rural Zone or RLZ. The corridor is therefore unbroken and consistent in its character through its full length, and yet is being treated inconsistently in the draft LPS.



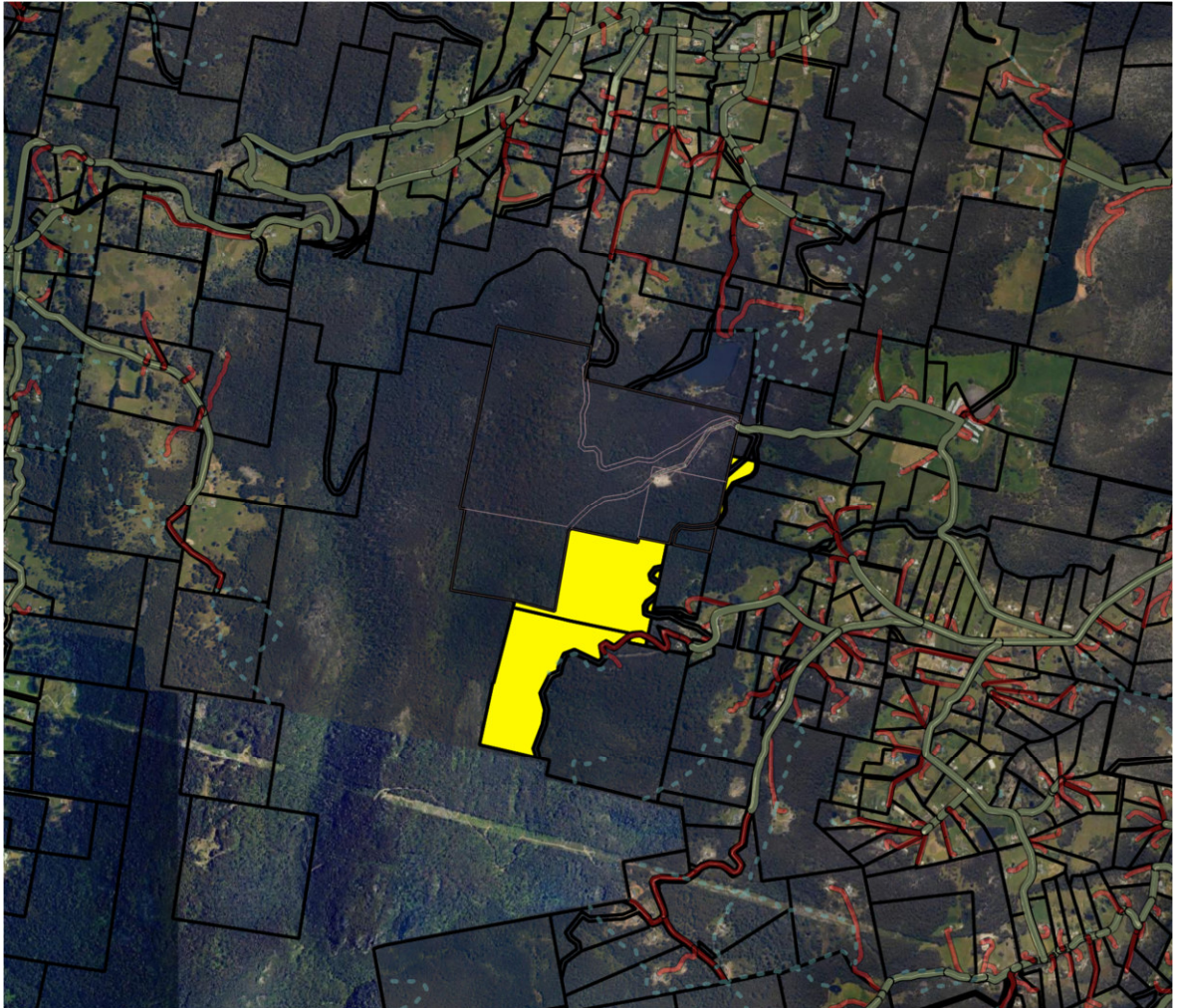
MAP 1: The Lawless / Nierinna / Allens Rivulet corridor

Cadastral map showing the contiguous corridor through [REDACTED] and the immediately adjoining Nierinna Road titles, with current ELZ zoning, proposed LCZ allocation, and the relationship to the Snug Tiers Nature Recreation Area to the west and the broader Margate residential context. Forms part of the wider property corridor addressed by the Allens Rivulet / Margate Collective Submission.



MAP 2: Properties within 1 km radius with existing residential development

Cadastral map (from Rep 201) showing approximately 70 properties with existing residential dwellings within a 1 km radius of [REDACTED] (expanding to approximately 270 within a 2 km radius), demonstrating the established residential character of the surrounding area.



MAP 3: Vacant titles in the immediate vicinity currently seeking residential development approval

Cadastral map (from Rep 201) showing four further vacant titles in active development application for residential use, demonstrating that the residential character of the corridor is not only established but expanding.

Each property along the corridor:

- is currently zoned Environmental Living under KIPS 2015 (with the exception of those parcels along the eastern extension that are currently or proposed for Rural Zone or RLZ);
- has been recommended for LCZ retention or LCZ-related treatment in the draft LPS for the substantial majority of the corridor's titles;
- has lodged a representation seeking Rural Living Zone allocation appropriate to its lot size;
- carries the same code overlays (Priority Vegetation, Scenic Protection, Waterway and Coastal Protection, Bushfire-Prone Areas, and, variably, Landslip Hazard);

- forms part of an established residential settlement of approximately 70 properties with existing residential dwellings within a 1 km radius of the subject title (expanding to approximately 270 within a 2 km radius);
- has a documented continuous history of rural-residential use.

4.2 Origins of the Cadastral Pattern, and the Locality

██████████ formed part of a larger apple orchard until the post-Apple-Tree-Pull subdivision era of the 1970s through 1990s, when the holdings were progressively subdivided into rural-residential blocks. The Valuer-General Tasmania sales records along the corridor list the purpose of purchase as either “vacant, rural residential” or “large lot or rural residential”. The wider cadastral and settlement history of the corridor is set out in the Allens Rivulet / Margate Collective Submission.

Until 2021 the property was administratively located within the **Allens Rivulet** locality, not the Margate locality. The locality boundary was changed in 2021 at our request, for postal and administrative purposes; no physical or settlement-context change accompanied the reassignment. The property’s natural community of interest in landscape, settlement history, cadastral origin, and code overlays remains equally between Margate and Allens Rivulet.

This matters for the s.34(2)(g) consistency requirement. Ireneinc have reached DP6 RLZ findings for sub-sections of the Lawless / Nierinna / Allens Rivulet corridor: Maudsleys Road in the Allens Rivulet end (p.140), and Fehres Road and Miandetta Drive in the Margate end (pp.240 to 241). The Lawless / Nierinna section between them sits on the same continuous Perrins Ridge / Knotts Hill / Hickmans Hill landscape. The locality boundaries on which Ireneinc’s framework relies are administrative artefacts; the landscape on which the s.34(2)(g) test must be applied is one corridor.

4.3 The Snug Tiers Reserve Already Discharges the Public Landscape Function

Immediately to the west of ██████████ lies the **Snug Tiers Nature Recreation Area**, reserved Crown land established to protect the landscape values of the area. The Reserve covers the ridgeline and skyline of Perrins Ridge and protects the dominant topographical features of the locality, including a 50 m buffer below the skyline.

Our property sits below the protected ridgeline, on its southern fall, and is screened by topography from the primary identified scenic receptors (the Channel Highway and the broader Channel viewing zone). Approximately 90% of the property is not visible from any sensitive receptor as defined in the Southern TRG methodology.



MAP 4: Snug Tiers Nature Recreation Area boundary and the property

Map showing the Snug Tiers Nature Recreation Area to the west of the property, with the protected ridgeline and the 50 m skyline buffer. Demonstrates that the public-good landscape protection function for this locality is already in place on Crown reserved land.



IMAGE 4: Topographic screening view from ridge to property

Photograph and topographic cross-section showing the southern fall of Perrins Ridge from the protected skyline through to the property, demonstrating the topographic screening from primary identified scenic receptors. Only to top of the ridge line, which is entirely protected within the Snug Tiers Nature reserve, is barely visible (excluding vegetation screening).

This matters for the LCZ identification test under LCZ 1. Where landscape values exist on a ridgeline or skyline visible from public viewpoints, the relevant landscape protection is *already in place*, with the dominant topographic feature of the area, Perrins Ridge, protected within the reserved Crown land that contains those values. The public-good landscape protection function asserted by Council and the consultant is already being performed elsewhere, on Crown land, by an existing reserve. Applying LCZ to private titles below the protected ridgeline produces no additional public-good outcome that the Reserve does not already deliver. It transfers the cost of an already-discharged conservation outcome to private landowners.

4.4 The Community Has Invested on the Basis of Existing Zoning

The corridor community has invested in dwellings, in approved development applications, and in long-term residential occupation on the basis of the Environmental Living regime that has governed the land since 2015 and the rural-residential regime that long preceded it. A shift to Landscape Conservation Zone is not a marginal adjustment. It materially restricts residential use, dwelling entitlements and associated development.

The corridor community is not opposing vegetation protection or scenic protection. We have all chosen to live in this location because we value it. The code overlays already do that work, as set out in Part C. The community asks the Commission to apply the Tasmanian Planning Scheme Rural Living Zone to land whose residential character is well-evidenced, whose settlement history is over 160 years long, and whose people have organised themselves around a rural-living identity that the draft LPS does not describe.

5. Part C: The Code Overlays Protect the Landscape Values, Not the Zone

5.1 The Architecture of the Tasmanian Planning Scheme

The Tasmanian Planning Scheme is structured to separate the zone (which describes the character and use of the land) from the code overlays (which protect specific values). The zone selects for the use; the codes protect the values. Conservation values can and should be protected by codes, leaving the zone free to accurately reflect the character of the land.

The separation is not theoretical. Code overlays apply with identical force regardless of which zone is applied beneath them. Whether the zone is RLZ-D or LCZ, vegetation clearing on this property requires a permit under the Priority Vegetation overlay, development above the scenic threshold is assessed under the Scenic Protection overlay, bushfire-prone construction must satisfy C13.0, and landslip-hazard land requires geotechnical assessment. The zone label changes the use table; the codes protect the values.

5.2 The Overlays That Apply to [REDACTED]

Overlay	What It Protects	Operates Independent of Zone
C7.0 Priority Vegetation Area	Native vegetation; threatened species and communities	Yes
C7.0 Waterway and Coastal Protection Area	Riparian setbacks, waterway and coastal values	Yes
C8.0 Scenic Protection Area	Scenic landscape values where identified	Yes
C13.0 Bushfire-Prone Areas Code	Bushfire risk management	Yes
C15.0 Landslip Hazard Code	Landslip risk management	Yes

Every conservation value on this property that LCZ is said to protect is independently regulated by these overlays. The codes do the protective work. The zone does not. This is the position even on the Scenic Protection and Priority Vegetation Area overlays as currently drafted. We contest those overlays as not fit for purpose (Rep 201 §§8–9; this

representation §3.7 and §9) due to the lack of methodology applied or basis of fact. The current state of these overlays undermines their effectiveness and weight. Not everywhere can be scenic; not all vegetation can be priority.

5.3 The Commission and the Consultant Have Already Conceded the Point

At the recent hearings, the Commission and Ireneinc both confirmed that the overlays, not the zone, do the conservation work in cases of this kind. When pressed by Commissioner Dan Ford at Kettering West to identify a specific land use that LCZ would prevent but RLZ with overlays would not, Ireneinc was unable to do so. The Priority Vegetation Area overlay was acknowledged to make vegetation clearing discretionary regardless of the underlying zone.

Ireneinc’s own LCZ Review records the same point. At p.71, in the context of comparing the Huon Valley LPS process: *“This LPS process confirmed that zone and relevant overlay codes do have the ability to contribute to the appropriate management of certain landscape values in consideration of the application of the RLZ.”* At p.56, the Review acknowledges: *“council have focused on demonstrating alignment between the LCZ and the ELZ and have given limited detailed consideration to the RLZ as an appropriate zone prioritising the identification of landscape values over the consideration of whether landscape values could be appropriately managed via the RLZ.”*

This is a direct admission by the consultant that the work the codes can do under RLZ has not been fairly assessed by Council against the work LCZ would do.

5.4 What LCZ Adds Over RLZ With the Same Overlays

RLZ-D is materially the same as the existing ELZ on use entitlements and identical on minimum lot size and building height. LCZ alone diverges:

Feature	ELZ (KIPS 2015, current)	RLZ-D (proposed)	LCZ (proposed)
Residential dwelling	Permitted	No Permit Required	Discretionary
Grazing / agriculture	Discretionary	Permitted	Discretionary
Building height	8.5 m	8.5 m	6.0 m
Minimum lot size	10 ha	10 ha	50 ha (20 ha discretionary)

The LCZ divergences serve no additional conservation purpose not already achieved through the code overlays. They impose constraints on legitimate residential and agricultural use without adding to the scheme’s protective capacity. The Tasmanian Planning Scheme is a use-and-development framework, not a conservation acquisition mechanism. Where the codes deliver conservation, the zone should describe the character of the land.

5.5 The Commission's Own Inconsistency Question Applies Here

At the recent hearings, in the Tinderbox East / Howden comparison, Panel member Rohan Probert observed that where two areas present materially similar landscape values but receive different determinations as to whether those values can be managed, the framework must articulate the basis for the differential outcome. [VERIFY: Probert observation at the recent hearings, Tinderbox East / Howden context]

That observation applies directly to [REDACTED] The Ireneinc locality report for Margate (pp. 240 to 241) finds at DP6, for the **Fehres Road cluster**, that “a transition of the ELZ to the RLZ could be considered... the likelihood of risk occurring would be medium to low”; and for the **Miandetta Drive cluster**, that the relevant overlays “would provide for appropriate management of existing natural values... Transition of this area from ELZ to RLZ is considered... to have low risk”. For the **Maudsleys Road cluster** at Allens Rivulet (p.140), Ireneinc finds the parcels “could be reasonably managed in the same way. This presents a low risk where RLZ is applied.”

[REDACTED] carries the same code overlays as each of these three clusters, sits within the same broader rural-residential landscape, and presents the same risk profile. Where Ireneinc reached DP6 for these comparable parcels it concluded that the codes manage the values and that RLZ presents low risk. The framework has not articulated a difference between those parcels and [REDACTED] and on the evidence available, no such difference exists.

A detailed within-locality and across-locality inconsistency analysis, addressing the differential treatment of the corridor's sub-sections, is set out at **Appendix A** to this submission.

6. Part D: Procedural Fairness

6.1 Council's s.35F Report Did Not Address Rep 201 on Its Merits

Council's s.35F report on representations was tabled on 21 July 2025 and forwarded to the Commission. The LCZ-related representations are addressed at Part 2, §2.15 of that report. The structure adopted by Council in that section is to group representations by issue or theme and respond at the group level, with bulk listings of representation numbers under each theme. Council's own framing of the report's methodology (s.35F report §1.7) confirms this approach:

“Representations are summarised in this report, and the public hearings will provide an opportunity to gain a better understanding of the concerns raised in the representations and to explore suitable alternatives... If a representation highlights an issue in their representation which is not mentioned or discussed in detail in this report, the representor still can raise and discuss that matter with Council and the TPC at the public hearings, as the focus of this report is to provide a brief summary of issues and to focus on the matters that Council is willing to consider ahead of the public hearings.”

Applied to Rep 201, this approach produced the following outcome:

- Rep 201 was bundled within the LCZ section with representations of materially different character, including mass meta-submissions covering hundreds of properties across the municipality, and template representations that did not contain property-specific evidence.
- None of the property-specific evidence in Rep 201 was engaged with on its own terms. The historical use record (1865, 1905 and 1915 surveys; 1948 and 1972 aerials), the SVA3 result under the Southern TRG methodology, the REM calculation, the approved DA, the council-funded road extension, and the 70-property cadastral analysis were not addressed at the property level.
- No property-specific recommendation was made for Rep 201. The report's recommendations on the LCZ as it applies to the Margate locality treat the locality as a whole and do not engage with the Rep 201 evidence individually.

This is not a complaint about the s.35F report's overall structure or workload. The s.35F process is not designed to deliver a property-by-property merits assessment on every representation. Council expressly acknowledges this in §1.7 by directing detailed consideration to the public hearings. The relevant point for the Commission is the procedural posture in which Rep 201 has remained from 2024 to the present:

- Council's s.35F report did not engage with Rep 201 on its substantive merits;
- The Direction 69 review commissioned to address LCZ representations also did not engage with Rep 201 (see §6.2 below);
- The Commission is therefore the first body in the LPS process to which the Rep 201 evidence has been put for substantive consideration.

That posture is significant for the weight that should be given to the Rep 201 evidence at this stage of the process. We are not seeking a second hearing of arguments already considered. We are seeking the first substantive consideration of arguments and evidence that have been on the LPS record since 2024 and have not yet been engaged with at the property level by either Council or the independent reviewer.

6.2 Representation 201 Was Not Assessed by the Independent Review

The Commission issued Direction 69 on 10 October 2025, requiring Council to provide mapping showing any proposed revisions to the LCZ application "having regard to... any representations received during the exhibition period". Council's response was to commission Ireneinc Planning + Urban Design. Ireneinc was given the representations as part of the brief.

Representation 201, a 36-page evidence-based submission containing the property history, the approved DA, the active construction, the SVA mapping yielding SVA3, the REM calculation yielding 55, and the council road extension, is not referenced anywhere in the Ireneinc *LCZ Review and Findings Report* (6 February 2026) or in the *Locality-Baselining and Evaluation Report* (19 March 2026). Neither "Lawless Road" nor "Nierinna Road" appears in the 26-page Margate and Electrona locality section.

This is not a minor omission. The Commission's Direction 69 has not been discharged for this property, because the consultant tasked with discharging it did not engage with the representation it was commissioned to address.

6.3 The Same Omission Applies Systematically Across the Corridor

The omission is not specific to Rep 201. It is systematic. Adjoining and nearby property owners along the same corridor, landowners whose representations also raised property-specific evidence and made submissions on materially identical grounds, are similarly absent from the Ireneinc report. The only references in the Margate extract that touch the wider corridor are derived from meta-submissions by individuals covering all properties proposed for LCZ across the municipality, summarised in a sentence each ("The representor requested Rural Living Zone").

No detailed property-specific representation by an individual landowner along the immediate Lawless / Nierinna section of the corridor appears to have been considered in the Ireneinc review. The omission of property-specific representations on this scale is not a desktop limitation. It indicates that the consultant did not engage with the property-by-property evidence the representors lodged. Each of those landowners will make their own case to the Commission. For the purposes of this representation, the relevant point is that Rep 201's omission is not an isolated error. It is consistent with a systematic absence of property-specific engagement by the Ireneinc review across the corridor in which [REDACTED] sits.

6.4 The Consequence for This Representation

Reliance on the Ireneinc recommendation for [REDACTED] carries identifiable risk, on three grounds:

- The recommendation was made without consideration of the property-specific evidence that Rep 201 and this supplementary representation supply.
- The Direction 69 process has not, on the record, been discharged in our case.
- Adoption of the consultant recommendation for this property would mean adopting a recommendation that did not engage the property-specific evidence.

On the record, the Direction 69 process has not, for this property, produced a property-specific consideration of the representation. We ask that this property be assessed directly on the evidence in the representations themselves, including Rep 201 and this supplementary representation.

6.5 Council's Ongoing Affirmation of Residential Priority and the LPS-Drafting Position

Since 2018 Council have, on the planning side of their statutory functions, continuously affirmed residential development as the lawful and ongoing use of [REDACTED]. The record is multi-year and multi-stage:

- approval of DA-2018-344 for residential development;
- approval of two minor amendments to the planning permit, the most recent endorsed on 20 April 2026;

- approval of the Crown land purchase, removing reserve-road reliance for access;
- approval of the Crown land easement acquisition;
- approval of the land adhesion order;
- sealing of the relevant plans;
- written confirmation of substantial commencement of DA-2018-344 (Council's Coordinator Statutory Planning, May 2025); and
- a contractual agreement to build and maintain Lawless Road to the property boundary, since constructed at Council's expense and now council-maintained.

Each of these decisions, taken at separate moments across an eight-year period, treats the priority for this property as residential. The pattern is continuous and deliberate, not incidental.

Council's LPS-drafting position, advanced to the Commission in the same period, treats the priority of the same property as landscape conservation under LCZ. The two positions cannot stand together. Council have, through their planning function, treated residential development as the use of the land at every decision point since 2018; through their LPS-drafting function, they ask the Commission to find that the priority of the same land is landscape conservation. The residential-priority test in LCZ 4(a) is engaged on this conduct, not on a single endorsement.

The same conduct defeats LCZ 2(c), which requires that *"the primary intention is for the protection and conservation of landscape values"*. The primary intention for [REDACTED] [REDACTED] as confirmed by every Council planning decision on the property since 2018, is residential development. Conservation is not the primary intention.

6.6 The Direction 69 Methodology Was Not Itself Exhibited

The Ireneinc decision-tree methodology was developed and published in February and March 2026, after representations on the draft LPS had closed. The framework that has been applied to determine the zoning of this property, including the 15 Ha lot-size threshold at Decision Point 4, and the gloss that RLZ requires “no further subdivision” at Decision Point 5, was not on public exhibition. Representors had no opportunity to address the methodology by which their properties would be zoned because the methodology did not exist when they made their representations.

At the recent hearings, Ireneinc’s Kate Heckelmann confirmed that the framework is “a tool, not a rule” and that the risk ratings applied within it are “judgement calls, not defined thresholds”. The concessions confirm that the framework is indicative only, that it does not override the statutory criteria, and that the operative test remains the Zone Guidelines applied directly.

6.7 Existing Use Rights Under LCZ Are Structurally Unviable on a Bushfire-Prone Site

If LCZ were applied, the existing residential use of the property would become non-conforming. Under the Tasmanian Planning Scheme, where a building associated with a non-conforming use is destroyed (by bushfire, storm, flood or any other cause) the right to rebuild and continue the non-conforming use lapses if rebuilding does not commence within 2 years.

For a homeowner whose dwelling has been destroyed by bushfire on land carrying the C13.0 Bushfire-Prone Areas Code, that 2-year window is structurally unachievable under the LCZ discretionary pathway. Insurance and demolition consume 3 to 6 months. A discretionary planning application, assessed against conservation-purpose criteria, typically requires 6 to 12 months to lodge, notify, assess and determine. Substantial commencement must then occur before the deadline expires. The cumulative timeline against an unforgiving regulatory clock places the rebuild rights at material risk on land where the bushfire risk is precisely what the Code is intended to manage.

Under RLZ-D the same dwelling is a permitted use as of right. Rebuilding is assessed as a new permitted use, not a discretionary application. There is no conservation-purpose test, no objection-based refusal pathway, no dependence on the 2-year non-conforming use clock, because the use itself is lawfully permitted. The certainty difference between the two zones is not abstract for a family whose home is their principal asset on bushfire-prone land.

7. Part E: The Rural Living Mosaic Is the Landscape Worth Protecting

7.1 What the Landscape Actually Is

The hills south of Hobart (the Channel hinterland in which [REDACTED] and the wider corridor sit) are not a closed-canopy wilderness. They are, and historically have

been, a working rural mosaic: cleared paddocks, grazed openings, orchards, sawmilled timber, residential dwellings on large blocks, and the bushland and regrowth that fringes and surrounds these uses. The landscape value of this part of Kingborough is the *interleaving* of human use and natural cover. It is a cultural landscape, not a natural one. Its character is the product of approximately 10,000 years of Tasmanian Aboriginal patch-burning and approximately 200 years of European cultivation, grazing and sawmilling. The dense, even-aged regrowth that now covers parts of the corridor is a recent ~50-year artefact of *ceased* management, not the historical baseline.

This matters because the planning instrument applied to the landscape will determine whether the mosaic is maintained or lost. RLZ-D, paired with code overlays applied through proper methodology, keeps the landowner inside the planning conversation. Use is permitted as of right; values are protected by overlays applied at the development stage; the landowner retains the economic and practical basis for the active stewardship that maintains the mosaic. LCZ removes that basis. By making residential use discretionary and rural activities contingent on conservation-purpose criteria, LCZ disengages the landowner from the working landscape, and the disengaged landscape, on the Tasmanian evidence, trends toward canopy closure, loss of edge habitat, structural homogenisation and rising fire risk.

7.2 The Working Mosaic Is the High Scenic Standard, Not the Low

Tasmania's own statewide scenic framework, the Forest Practices Authority *Manual for Forest Landscape Management*, directly addresses what high scenic value looks like in landscapes of this character type. [REDACTED] sits within FPA Landscape Character Type 6 (South-east Coastal Hills). For that character type, the Manual rates vegetation as follows:

High Scenic Quality: *"combinations of openings of different sizes and shapes with irregular edges."*

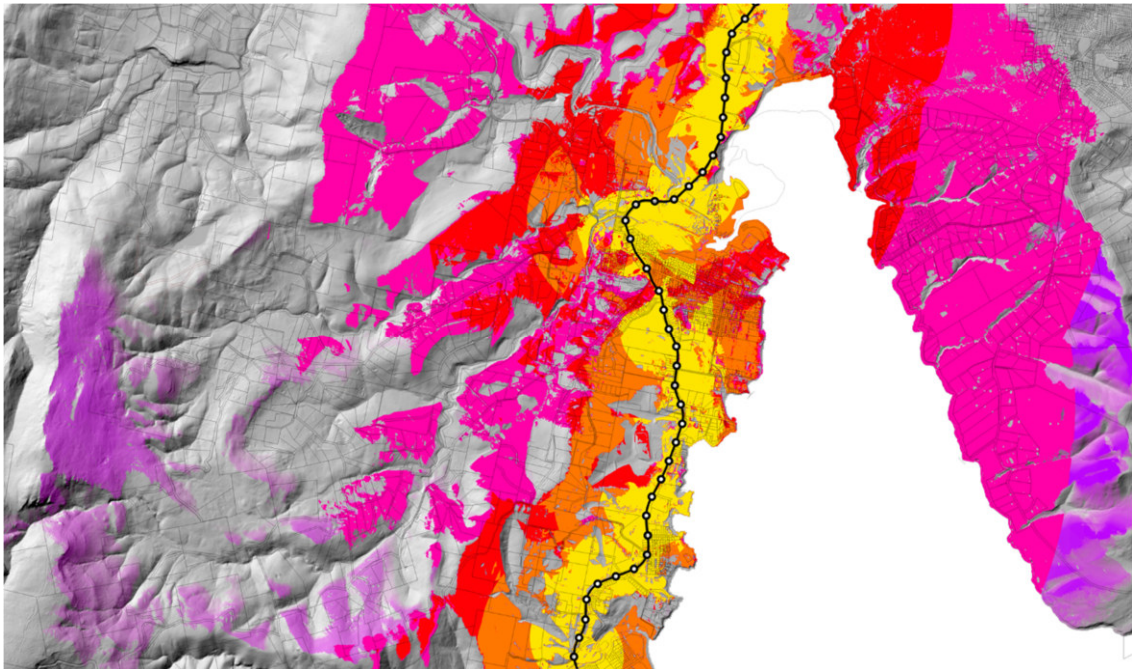
Low Scenic Quality: *"Extensive areas of similar vegetation without discernible pattern."*

The Manual's general scenic-value chapter quantifies the scenic optimum across all character types: a *"roughly 40 to 60% ratio of trees to space"* (Chapter 1, p.18), and identifies *"greater vegetative diversity and **mosaic pattern** due to crops and openings"* (Chapter 7, p.167) as a premise for High Scenic Quality.

A uniform closed-canopy regrowth slope is the FPA's *Low* for this character type. The actively managed rural mosaic is its *High*. This is consistent with the photographic examples Council and Ireneinc themselves use to illustrate high-value landscapes (Bonnet Hill / Albion Heights, southern Tinderbox Peninsula, southeastern Oyster Cove peninsula, areas west of Kettering, Figures 46 to 49 of the LPS Supporting Document). On aerial inspection each of those four examples is a mosaic of forest, open woodland and clear land. They are not closed-canopy forests. Council's own evidence of what high landscape value looks like is the rural mosaic, exactly the diminishing pattern present along the Lawless / Nierinna / Allens Rivulet corridor.

7.3 The Southern TRG Methodology Council Co-Authored Reaches the Same Conclusion

The Southern TRG Scenic Assessment Methodology, which Kingborough Council co-authored, applies a GIS-based formula that establishes scenic value through systematic visual assessment from defined receptors using viewing distance, sensitivity and visibility-distance zones. Scenic value under this methodology is the output of a defined assessment, not a function of vegetation density. Applied to [REDACTED] [REDACTED] the methodology yields SVA3, with approximately 90% of the property not visible from any sensitive receptor.



MAP 5: Southern TRG methodology applied to the property, SVA3 result

Map (from Rep 201) showing the application of the Southern TRG Scenic Assessment Methodology to the property: sensitive receptors, viewing distance zones, scenic quality classification, and the SVA3 result with approximately 90% of the property not visible from any identified receptor.

Council did not implement the methodology in its transition to the statewide planning scheme. It confirmed the systematic mapping was not undertaken due to “resource constraints”. The Ireneinc Review records (p.57) that the continuation of the Interim Scheme’s Scenic Protection Areas is a “limitation in the context of being able to provide controls to protect landscape values that fall outside of the adopted methodology”. That admission is the consultant’s own acknowledgment that the scenic overlay rests on legacy mapping rather than current method.

The Scenic Protection Code itself, as the Southern TRG explains, is narrowly targeted: it focuses on skylines and provides “limited scope for scenic protection within” rural landscapes. The Code is a targeted overlay, not a generic restriction on rural settlement. Where scenic values are identified through systematic assessment, the overlay does

the protective work. Where the values are not identified, the Code does not apply. The issue is identification through method, not zone choice.

7.4 Restricting Land Management Risks the Landscape It Purports to Protect

The argument for LCZ assumes that conserving landscape values requires restricting human activity. For the Lawless / Nierinna / Allens Rivulet corridor, the opposite is true. Peer-reviewed Tasmanian fire-ecology research establishes that withdrawal of active management (grazing, selective clearing, small-scale horticulture, cool burning) drives canopy closure, loss of mosaic, structural homogenisation and rising fire risk. Bowman et al. (2026) report that “41% of the flammable vegetation... has not been burned in the last 50 years”; many of these areas are now dense scrub. Lindenmayer et al. (2011) describe this trajectory as a “landscape trap”: entire landscapes shifted into and then maintained in a highly compromised structural and functional state. Furlaud et al. (2023) confirm that prescribed burning and mechanical treatments can re-introduce the management dynamic that maintains mosaic structure.

The 42-year abandonment period on [REDACTED] (1975 to 2017) is this phenomenon at the property scale. The current vegetation is regrowth, not remnant. The historical baseline (established by the 1865, 1905 and 1915 surveys and the 1948 and 1972 aerials) is the working rural mosaic. RLZ-D enables the active stewardship that returns the property to that baseline. LCZ entrenches the abandonment phase as the regulatory benchmark.

7.5 The Planning Implication

LCZ freezes the current vegetation structure on the assumption that it represents a landscape value worth conserving. On the Tasmanian palaeoecological and fire-ecology evidence, the structure LCZ would freeze is a recent artefact of ceased management, not a stable baseline. The working rural mosaic that the corridor still partially maintains is closer to the historical baseline than the regrowth slope that LCZ would entrench.

The planning instrument that protects the *correct* landscape, the mosaic, is RLZ-D paired with code overlays applied through proper methodology. RLZ-D keeps the use lawful, the overlays protect the values where those values are identified through method, and the landowner retains the practical basis for the active management the landscape evidence shows is essential. None of this requires the Commission to choose between competing scientific framings. It requires only that the Commission apply the planning instrument best suited to the landscape character that is present, and on the FPA’s own statewide framework, the working rural mosaic is what high scenic value looks like in this character type.

The full peer-reviewed evidence base supporting this Part is contained in the standalone supplementary document *The LCZ Paradox: Landscape, Baseline and Management in the Proposed Kingborough LPS Landscape Conservation Zone*, filed with this representation.

8. Statutory Basis

This supplementary representation is lodged under s.34 of the *Land Use Planning and Approvals Act 1993*. The directions sought are within the Commission's power under s.35K to modify a draft LPS. The representation engages the Commission's assessment under s.35L(2), which requires the Commission to consider the draft LPS against the s.34 LPS criteria, including consistency with the State Planning Provisions and the s.8A Guidelines (Guideline No. 1).

The submission relies on:

- the LCZ 4(a) prohibition on applying LCZ where residential is the priority;
- the RLZ 1(a) and RLZ 2(b) authorisations for applying RLZ to ELZ land of this character;
- the RLZ 4(b) availability of RLZ where landscape values can be managed by code overlays;
- the s.34(2)(g) requirement that the spatial application of zones be consistent and coordinated; and
- the s.35L(2) framework for assessment of each representation against the s.34 criteria.

At the close of the recent hearings the Commission Chair confirmed that the Commission decides on the s.34 LUPAA criteria and Guideline No. 1, and that Council's resolutions and the consultant's framework are not binding on the Commission. This submission is made on that basis.

9. Outcomes Sought

We ask the Commission to direct the following modifications to the draft LPS-KIN-TPS:

1. **Rezone all four titles at [REDACTED] ([REDACTED] [REDACTED] [REDACTED] [REDACTED] to Rural Living Zone D from the current Environmental Living Zone,** rather than to the proposed Landscape Conservation Zone.
2. **Direct Council to redraft the Scenic Protection Code (C8.0) and Priority Vegetation Area (C7.0) overlays using appropriate methodology.** Both overlays are arbitrary and inaccurate as currently applied across Kingborough, including to this property; the grounds are set out in Rep 201 §§8–9 and reaffirmed at §3.7 above. Properly-drafted code overlays manage the risks and outcomes on land of this character. LCZ is not necessary to do work that the overlays already do, or could do once redrafted.
3. We note that materially identical procedural and substantive issues arise across the wider contiguous corridor addressed by the Allens Rivulet / Margate Collective Submission (including, immediately adjoining [REDACTED] Reps 164, 166, 563 and 576 along Nierinna Road, and the Maudsleys Road / Allens Rivulet group at Reps 391, 430, 505 and 556), and invite the Commission to take this representation into account when considering those representations consistent with the requirements of s.34(2)(g) LUPAA.
4. If the Commission proposes any alternative outcome to those identified above, we request the opportunity to respond before any final determination is made.

The Tasmanian Planning Scheme separates the zone from the codes. The zone selects for the use; the codes protect the values. For [REDACTED] and the contiguous corridor, the use is residential and rural-residential. The values, where identified through method, are protected by the overlays that apply regardless of the zone. The zone that accurately describes the land is RLZ-D. That is what we ask the Commission to direct.

Endnotes

1. Tasmanian Planning Commission, *Guideline No. 1, Local Provisions Schedule Zone and Code Application* (v2.0, June 2018).
 2. Tasmanian Planning Commission, *Huon Valley Local Provisions Schedule, Directions* (2023).
 3. Representation 201, C S von Savageri & V M von Savageri, lodged with the Kingborough draft LPS exhibition period, 2024.
 4. State Planning Provisions, clause 11.1.1 (Rural Living Zone purpose).
 5. Ireneinc Planning + Urban Design, *LCZ Review and Findings Report* (6 February 2026); *Locality-Baselining and Evaluation Report* (19 March 2026).
 6. Tasmanian Planning Commission, Direction 69 (10 October 2025).
 7. Kingborough Council, Coordinator Statutory Planning, written confirmation of substantial commencement of DA-2018-344 (May 2025).
 8. Kingborough Council, endorsement of minor amendment to DA-2018-344 (20 April 2026).
 9. Forest Practices Authority, *A Manual for Forest Landscape Management* (1990, republished 2006). Chapter 1 (p.18); Chapter 7 (p.167); Appendix B Landscape Character Type 6 (p.177).
 10. Inspiring Place Pty Ltd & Geoscene International, *Guidelines for Scenic Values Assessment Methodology and Local Provisions Schedules for the Scenic Protection Code* (Southern Technical Reference Group, 2018).
 11. Mariani, M. et al. (2017), 'How old is the Tasmanian cultural landscape? A test of landscape openness using quantitative land-cover reconstructions', *Journal of Biogeography*, 44(10), pp.2410 to 2420.
 12. Bowman, D.M.J.S. et al. (2026), 'Fire regime change in western Tasmania between 1830 and 2025', *Geographical Research*, 64(1).
 13. Lindenmayer, D.B. et al. (2011), 'Newly discovered landscape traps produce regime shifts in wet forests', *Proceedings of the National Academy of Sciences*, 108(38).
 14. Furlaud, J.M., Williamson, G.J. & Bowman, D.M.J.S. (2023), 'Mechanical treatments and prescribed burning can reintroduce low-severity fire in southern Australian temperate sclerophyll forests', *Journal of Environmental Management*, 344.
 15. den Exter, N. (2018), *Biodiversity on the fringe: the (dis)integration of biodiversity in land use planning*, University of Tasmania.
 16. Tasmanian Planning Commission, Day 20 hearing transcript, April 2026.
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Supporting Documents Filed With This Representation

The following documents are filed in support of and alongside this supplementary representation. **Representation 201 (2024)** is the primary representation on the record and is referenced first. The remaining documents support the supplementary submission.

1. **Representation 201 (2024 submission)**, primary representation, 36 pages, lodged during the exhibition period of the draft Kingborough LPS.
2. **Council written confirmation of substantial commencement of DA-2018-344** (Available on request).
3. **Council endorsement of minor amendment to DA-2018-344** - 20 April 2026 (Available on request).
4. **Photographic record of works on the ground**, including the council-maintained Lawless Road at the property boundary, the completed driveway, and the completed earthworks at the dwelling envelope (recent photographs, 29/04/2026).
5. **Cadastral maps**: (a) the Lawless / Nierinna / Allens Rivulet corridor; (b) approximately 70 properties with existing residential dwellings within a 1 km radius (expanding to approximately 270 within a 2 km radius); (c) four further vacant titles in active development application for residential use.
6. **Southern TRG Scenic Assessment Methodology mapping** applied to the property: receptors, viewing distance zones, scenic quality classification, and SVA3 result.
7. **Map of the Snug Tiers Nature Recreation Area** in relation to the property, showing the protected ridgeline and the 50 m skyline buffer.
8. **Historical aerial imagery** (1948, 1972, current) and historical surveys (1865, 1905, 1915), as referenced in Rep 201.
9. **Appendix A, Inconsistency Analysis: Margate and Allens Rivulet Localities**, companion document filed with this representation.
10. **The LCZ Paradox: Landscape, Baseline and Management in the Proposed Kingborough LPS Landscape Conservation Zone**, standalone supplementary document, full peer-reviewed evidence base with citations.
11. **Allens Rivulet / Margate Collective Submission** (lodged separately by contiguous landowners across the corridor), incorporated by reference where its analysis applies to this property, including its landscape character change report and its empirical Crofton Drive / Hickmans Hill scenic comparison.

Submitter: C S von Savageri & V M von Savageri

Property: [REDACTED] Margate, TAS, 7054

Date: 04/05/2026

End of supplementary representation.

THE LCZ PARADOX

Landscape, Baseline and Management in the Proposed Kingborough LPS Landscape Conservation Zone

Standalone supplementary document filed with the Supplementary Representation of C S von Savageri & V M von Savageri (Representation 201) regarding the Kingborough Local Provisions Schedule (LPS-KIN-TPS).

Property: [REDACTED] Margate, TAS, 7054

Title References: [REDACTED] [REDACTED] [REDACTED] [REDACTED]

Submitter: C S von Savageri & V M von Savageri

Date: 04/05/26

1. Purpose and Scope

This standalone document supplements Part E of the Supplementary Representation. It addresses the substantive landscape question that sits beneath the LCZ allocation across the Lawless / Nierinna / Allens Rivulet corridor: what landscape is being protected, and what planning instrument is best suited to its protection. The Commission's task under s.34 LUPAA is to apply the planning instrument best suited to the character of the land. This document supports that task on the peer-reviewed Tasmanian record.

The central proposition is supported by the peer-reviewed Tasmanian palaeoecological, fire-ecology, and landscape-management record:

The diverse rural-living mosaic that the corridor still partially maintains is the landscape character that warrants protection. RLZ-D paired with code overlays applied through proper methodology is the planning instrument best suited to its preservation. LCZ entrenches as the regulatory baseline a recent, fire-ecology compromised, abandonment-phase regrowth that is, on Tasmania's own statewide scenic and ecological frameworks, the opposite of what high landscape value looks like in this character type.

2. What Landscape Is, in the Framework Tasmania Actually Uses

The Tasmanian Planning Scheme distinguishes between *zones* (which describe character and use) and *codes* (which protect identified values). The State Planning Provisions and the Section 8A Guideline No. 1 do not define “landscape value” as equivalent to “vegetation cover”. They contemplate identification of scenic, ecological and cultural values through methods, with the protective work performed by the Scenic Protection Code, the Natural Assets Code, the Waterway and Coastal Protection Code, the Bushfire-Prone Areas Code, and the Landslip Hazard Code. Each of these codes applies regardless of the underlying zone.

Scenic assessment in Tasmania has two operative instruments: the FPA’s *A Manual for Forest Landscape Management* (Forestry Commission 1990; FPA 2006), the only statewide operational framework for scenic assessment; and the Southern Tasmania Regional Landscape Assessment Methodology (Inspiring Place Pty Ltd / Geoscene International 2018), prepared for the twelve Southern Tasmanian Councils including Kingborough, whose Strategic Planner and GIS Officer co-authored it. Both contemplate landscape as the product of natural and human factors over time, not as a function of vegetation density alone.

The landscape question relevant to this corridor is therefore not “is there vegetation”. It is: what is the landscape character of this part of the South-east Coastal Hills, what is its historical baseline, and what planning instrument is best suited to its preservation.

3. The Historical Baseline: A Managed Open Mosaic

Quantitative palaeoecological reconstruction establishes that pre-colonial Tasmania was not a closed-canopy wilderness. Mariani et al. (2017) report **average landscape openness of approximately 50 per cent** across the 10,000-year Holocene record at a southeast Tasmanian site, drawn from sediment-based pollen analysis. Fletcher, Hall and Alexandra (2021) and Fletcher et al. (2024) extend the analysis: the pre-colonial Tasmanian landscape was the product of approximately 10,000 years of cultural burning by Tasmanian Aboriginal communities maintaining a patch-mosaic structure. The contemporary forested landscape of the Channel district is, on this evidence, a recent state measured in decades, not millennia.

The Channel district was, from the 1820s onwards, a landscape of selective timber harvest, cleared paddock, orchard, and rural-residential occupation. The 1865, 1905 and 1915 surveys for the subject property (filed with Rep 201) record cultivation, structures, an access road built to service a sawmill, and industrial use. Aerial imagery from 1948 and 1972 shows the property largely clear of native vegetation and under cultivation. The period from approximately 1975 to 2017 was an abandonment phase, during which the property was left unproductive and revegetated with regrowth. The wider hinterland followed the same trajectory: the collapse of Tasmania’s apple export market (the “Apple Tree Pull”) drove the progressive abandonment of orchard and pastoral agriculture from the late 1960s, and the post-Apple-Tree-Pull subdivision era of the 1970s through 1990s produced the current rural-residential title pattern, with public sale records listing the purpose of those titles as either “vacant, rural residential”

or “large lot or rural residential” in the contemporaneous Valuer-General Tasmania record.

The historical baseline for the Channel landscape is therefore a managed open mosaic, sustained for approximately 10,000 years through Aboriginal patch-burning and approximately 200 years through European cultivation and rural occupation. The closed-canopy regrowth slope that now covers parts of the corridor is not the historical baseline; it is the abandonment-phase artefact of approximately 50 years of withdrawn management.

4. The Trajectory: Aerial Photographic and LiDAR Evidence

The Allens Rivulet / Margate Collective Submission has lodged a separate annexure (*Landscape Character Change 1965 to 2025*) containing a chronological sequence of TASMAP aerial survey images covering the corridor over a continuous 60-year period. We adopt that evidence. The trajectory documents a progressive transition from peak agricultural mosaic (1960s, with cleared paddocks, orchard rows, managed grasslands), through agricultural decline in the 1970s and 1980s, accelerating regrowth in the 1990s, consolidation of forested character through the 2000s, and a predominantly forested 2025 landscape with ridgelines under almost continuous closed canopy and open mosaic surviving only on actively managed parcels. The transition occurred under unchanged planning zones, driven by changed management practice at the parcel level. Zone allocation alone does not determine landscape character; active management does. The landscape outcome that has occurred under withdrawn management is the outcome that LCZ would lock in as the regulatory baseline.

LiDAR-derived canopy height data for the Allens Rivulet locality (Collective Submission §4.4) shows the same trajectory at the property scale. The high-canopy forest is concentrated in the adjoining RL-zoned and Rural-zoned land, where dwelling occupation and active management have continued; the parcels currently proposed for LCZ have less canopy structure than the surrounding RL land. LCZ is being applied to the abandoned mosaic phase, not to the high-quality canopy structure the zone might be thought to protect. The protective rationale and the spatial application are inverted.

Raptor habitat data from the same source shows the same inversion: across the LCZ-proposed area, no verified raptor nest sites and minimal raptor habitat; verified nest sites are concentrated in the adjoining RL-zoned and Rural-zoned land. Threatened species depending on edge habitat, hollow-bearing trees, and the structural variability that mosaic management produces are not maintained by closed-canopy regrowth. They are maintained by the working rural mosaic.

5. The Mechanism: Ceased Management Drives Canopy Closure

The trajectory documented in §4 is a regional and continental pattern, well-described in the peer-reviewed fire-ecology and ecosystem-management literature. Lindenmayer et al. (2011) describe it as a “landscape trap”: withdrawn management, combined with altered fire regimes, produces landscapes shifted into and then maintained in a highly compromised structural and functional state. Bowman et al. (2026) document the contemporary phenomenon at regional scale across western Tasmania between 1830 and 2025: **41 per cent of flammable vegetation has not been burned in the last 50 years**, and many of these areas are now dense scrub. This is the first time scrubby thickening on this scale has been documented at regional scale in Tasmania.

Kirkpatrick (2005, 2020) and Kirkpatrick, Marsden-Smedley and Leonard (2011) document the mechanism for lowland eastern Tasmania at site scale. Grazing, selective clearing and cool burning maintain low-flammability understoreys; cessation of those activities drives structural homogenisation, loss of open-ground habitat, and encroachment of dense *Poa*, scrub and (in wetter areas, over time) rainforest species. Short understoreys created by browsing and grazing rarely burn at high intensity; the withdrawn-management pathway produces denser vegetation that burns at higher intensity when it ignites. Furlaud, Williamson and Bowman (2023) confirm that prescribed burning and mechanical treatments can re-introduce the management dynamic that maintains mosaic structure. The capacity for active management to restore the open mosaic is established; the planning question is whether the regulatory framework selected for the corridor enables or disables that capacity.

The peer-reviewed Tasmanian and southern Australian fire-ecology record supports a single, consistent finding: withdrawal of active management drives canopy closure, structural homogenisation, loss of edge habitat, and rising fire risk; active management at parcel scale (grazing, selective clearing, low-intensity fire, dwelling occupation) maintains the open mosaic that gives the Channel landscape its scenic and ecological identity. The 42-year abandonment period on [REDACTED] (1975 to 2017) is the property-scale instance of the regional-scale phenomenon.

6. The Tasmanian Frameworks: Mosaic Is the High Scenic Standard

The argument set out in §§3 to 5 is the framing reflected in Tasmania's own statewide scenic frameworks. Both treat the working rural mosaic as the high scenic standard and the closed-canopy regrowth slope as the low.

6.1 The FPA Manual for Forest Landscape Management

The FPA's *A Manual for Forest Landscape Management* (Forestry Commission 1990; FPA 2006) is the operational statewide framework for scenic assessment, referenced by the FPA's current *Process for Visual Landscape Special Values Assessment and Planning* (FPA 2022). The Manual quantifies the scenic optimum as a roughly 40 to 60% ratio of trees to space (Chapter 1, p.18) and identifies "*greater vegetative diversity and mosaic pattern due to crops and openings*" as a premise for High Scenic Quality (Chapter 7, p.167). [REDACTED] and the surrounding properties sit within the FPA's **Landscape Character Type 6, South-east Coastal Hills**, for which the Scenic Quality Frame of Reference (Manual, Appendix B, p.177) rates vegetation as:

High Scenic Quality: "*combinations of openings of different sizes and shapes with irregular edges.*"

Low Scenic Quality: "*Extensive areas of similar vegetation without discernible pattern.*"

A uniform closed-canopy regrowth slope is the FPA's *Low Scenic Quality* for this character type; the actively managed rural mosaic is its *High*. Applying LCZ, which suppresses the active management that creates "openings of different sizes and shapes" and converges the land toward "extensive areas of similar vegetation", inverts the FPA's own character-specific framework. This is consistent with the photographic examples Council and Ireneinc themselves use to illustrate high-value landscapes (Bonnet Hill / Albion Heights, southern Tinderbox Peninsula, southeastern Oyster Cove peninsula, areas west of Kettering, Figures 46 to 49 of the LPS Supporting Document); on aerial inspection each is a mosaic of forest, open woodland and clear land, not closed-canopy forest.

6.2 The Southern TRG Methodology

The Southern Tasmania Regional Landscape Assessment Methodology (Inspiring Place / Geoscene International 2018), prepared for the twelve Southern Tasmanian Councils, applies a GIS-based formula combining scenic quality, viewpoints, viewer sensitivity and visibility distance zones to produce defined Scenic Value Areas. Scenic value under this methodology is the output of a defined assessment from defined sensitive receptors, not a function of vegetation density. Applied to [REDACTED] the methodology yields a Scenic Value Assessment of **SVA3** (the rating at which the Scenic Protection Code overlay should not apply), with approximately 90 per cent of the property not visible from any sensitive receptor; the land sits on the southern fall of Perrins Ridge, screened from the Channel Highway corridor by the protected ridgeline of the Snug Tiers Nature Recreation Area.

Council co-authored this methodology (Kingborough's Strategic Planner and GIS Officer were workshop participants per the Guidelines, p.5) but did not implement it in

the transition to the statewide planning scheme. Council confirmed the systematic mapping was not carried out due to “resource constraints”, and the Ireneinc Review acknowledges at p.57 that the continuation of the Interim Scheme’s Scenic Protection Areas is a *“limitation in the context of being able to provide controls to protect landscape values that fall outside of the adopted methodology”*. The scenic overlay rests on legacy mapping rather than current method. Where scenic values are identified through systematic assessment, the Scenic Protection Code does the protective work; where they are not, the Code does not apply.

6.3 What the Frameworks Together Establish

Both the FPA framework and the Southern TRG methodology direct the same conclusion: the working rural mosaic is the high scenic standard for this character type, the closed-canopy regrowth slope is the low, and the Scenic Protection Code is the protective instrument where systematic assessment identifies values worth protecting. Council and the consultant have not justified the LCZ allocation through either framework, have not applied the methodologies the State and the regional body endorse, and on the record the LCZ scenic rationale rests on assertion.

7. The Local Empirical Evidence

Two local empirical comparisons drawn from the Allens Rivulet / Margate Collective Submission are decisive.

7.1 Crofton Drive (RL-zoned) versus Hickmans Hill (proposed LCZ)

The Crofton Drive area in Allens Rivulet is currently zoned RL; Hickmans Hill is proposed for LCZ. Photographs prepared for the Collective Submission show the two areas side by side. The RL-zoned Crofton Drive ridgeline presents an unbroken forested backdrop with Cathedral Rock and Wellington Park visible in the distance, a landscape of substantial scenic variety and quality. The proposed-LCZ Hickmans Hill area shows a broken ridgeline with visible residential and farming activity, exactly the working rural mosaic the FPA framework rates as High Scenic Quality. The land that on the FPA’s framework presents the higher scenic quality (Crofton Drive’s continuous canopy) is zoned RL; the land that presents the working rural mosaic (Hickmans Hill, with active residential and farming use) is proposed for the more restrictive LCZ. The zoning recommendation is inverted with respect to the scenic-values framework.

7.2 Four-Property Inconsistency in Margate/Allens Rivulet

The Collective Submission also presents four neighbouring properties in Margate and Allens Rivulet with identical land use characteristics, similar lot sizes, the same topographic and vegetation conditions, and a shared settlement history, allocated different zones for reasons that, on the ground, cannot be substantively distinguished. The detailed comparison set out in Appendix A demonstrates the same within-locality inconsistency in Margate (Van Moray Road LCZ versus Fehres Road and Miandetta Drive RLZ) and across-locality between Margate and Allens Rivulet. Where the Ireneinc framework reaches DP6, it concludes that codes manage the values and RLZ is

appropriate at low risk; where DP4's 15 ha lot-size threshold blocks access to DP6, the framework defaults to LCZ without engaging the substantive landscape-values question at all. The local empirical evidence does not support a substantive landscape-values distinction between the corridor's RL and proposed-LCZ properties; the distinction operates through the framework's procedural mechanics, not through the underlying landscape character.

8. The Planning Consequence

8.1 What LCZ Does

LCZ freezes the current vegetation structure on the assumption that it represents a landscape value worth conserving. On the Tasmanian palaeoecological, fire-ecology and aerial-photographic evidence, that structure is a recent artefact of ceased management, not a historical baseline. LCZ removes the practical and economic basis for the active management that maintains the mosaic: it makes residential dwelling discretionary, agricultural use discretionary, reduces building height to 6.0 m, and increases the minimum lot size to 50 ha. These restrictions remove the use-table levers that, on the fire-ecology evidence, drive the management activity the landscape needs. The protective consequence is therefore inverted: the landscape outcome under LCZ over decades is the closed-canopy regrowth slope that the FPA framework rates as Low Scenic Quality, with rising fire risk, declining edge habitat, and structural homogenisation. The landscape values the zone purports to protect are the values it operationally undermines.

8.2 What RLZ-D + Code Overlays Does

RLZ-D paired with the code overlays performs the protective work the LCZ rationale invokes. The overlays apply with identical force regardless of the underlying zone: whether the zone is RLZ-D or LCZ, vegetation clearing requires a permit under the Priority Vegetation overlay, development above the scenic threshold is assessed under the Scenic Protection overlay, bushfire-prone construction must satisfy C13.0, and landslip-hazard land requires geotechnical assessment. We contest the Scenic Protection and Priority Vegetation Area overlays as currently drafted (Rep 201 §§8 and 9; Supplementary Representation §3.7 and §9), and on the proper application of those overlays neither would engage on this property at all. What RLZ-D adds, and what LCZ removes, is the use entitlement that maintains the working rural management at parcel scale: dwelling as of right, compatible agricultural uses, the 8.5 m building height that supports practical residential occupation, and the 10 ha minimum lot size that matches the existing ELZ entitlement and produces the cadastral pattern the FPA framework rates as scenically optimal. The planning instrument best suited to the corridor's landscape character is therefore RLZ-D paired with code overlays applied through proper methodology: the codes do the value-protection work, the zone keeps the use entitlement that supports active management.

8.3 The Burden of Proof Has Not Been Met

The LCZ allocation across the corridor would, if maintained, entrench the closed-canopy regrowth trajectory as the regulatory baseline. The burden of demonstrating that this is the correct landscape outcome, and that LCZ rather than RLZ-D + overlays is the correct planning instrument, sits with Council. The s.34 LPS criteria, the Section 8A Guidelines, and the s.34(2)(g) consistency requirement all require it.

On the record before the Commission, Council have not met that burden:

- No property-specific landscape-values assessment has been produced for the subject property or for the contiguous corridor of representations.
- Council have not applied the Southern TRG methodology they co-authored, and have confirmed the systematic mapping was not undertaken.
- Council have not applied the FPA *Manual for Forest Landscape Management*, the only operational statewide framework, either.
- The Ireneinc review acknowledged at p.57 that the continuation of the Interim Scheme's Scenic Protection Areas is a known limitation; at p.56, that Council prioritised LCZ-to-ELZ alignment over considering whether values could be managed via RLZ; and at p.5, that landscape-value identification was not consistent across LCZ-proposed areas.
- At the recent hearings, Ireneinc's Kate Heckelmann confirmed that the framework is indicative rather than binding, the risk ratings are judgement-based rather than fixed thresholds, and residual risk can be mitigated through future action.

The combined effect is that the landscape-values claim underpinning the LCZ allocation across the corridor rests on assertion rather than method. We invite the Commission to find that Council have not discharged the burden, that the operative scenic and ecological frameworks do not support the LCZ rationale, and that the appropriate planning instrument for this corridor (consistent with the Ireneinc review's contemporary RLZ recommendations for Allens Rivulet, Kettering East, Howden and Albion Heights, and with the 2023 Huon Valley LPS direction) is Rural Living Zone D paired with the code overlays.

9. Conclusion

We invite the Commission to apply the planning instrument best suited to the corridor's landscape character: Rural Living Zone D paired with code overlays applied through proper methodology. The Tasmanian Planning Scheme is designed for that combination. The peer-reviewed Tasmanian palaeoecological and fire-ecology record establishes that the corridor's historical baseline is a managed open mosaic, and that withdrawal of active management (which LCZ entrenches as the regulatory baseline) drives the canopy closure, structural homogenisation, and rising fire risk that compromise the values LCZ purports to protect. Tasmania's own statewide scenic frameworks rate the working rural mosaic as the high scenic standard for Landscape Character Type 6 and the uniform closed-canopy regrowth slope as the low. The codes do the value-protection work; the zone keeps the use entitlement that supports the active management the landscape needs.

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Companion Documents

This document is filed with, and relies on the evidence in, the following separately lodged documents:

1. **Supplementary Representation of C S von Savageri & V M von Savageri (Rep 201)**, main submission to which this document is supplementary.
2. **Representation 201 (2024)**, primary representation on the LPS record.
3. **Appendix A, Inconsistency Analysis (Margate and Allens Rivulet)**, companion to the main Supplementary Representation.
4. **Allens Rivulet / Margate Collective Submission**, separate submission by 33 contiguous landowners across the wider corridor, including its annexure *Allen's Rivulet / Margate: Landscape Character Change 1965 to 2025: Aerial Photographic Evidence of Progressive Canopy Closure*.

End of supporting document.

APPENDIX A: INCONSISTENCY ANALYSIS

Margate and Allens Rivulet Localities

Companion document to the Supplementary Representation of C S von Savageri & V M von Savageri (Representation 201) regarding the Kingborough Local Provisions Schedule (LPS-KIN-TPS).

Property: [REDACTED] Margate, TAS, 7054

Title References: [REDACTED] [REDACTED] [REDACTED] [REDACTED]

Submitter: C S von Savageri & V M von Savageri

Date: [04/05/2026]

A.1 Purpose of This Appendix

This appendix supports Part B and Part C of the Supplementary Representation by demonstrating that the Ireneinc evaluation framework produced inconsistent zone outcomes for localities with materially similar landscape value descriptions, settlement patterns, code overlays and risk profiles. The within-locality and across-locality inconsistencies set out below engage s.34(2)(g) of the *Land Use Planning and Approvals Act 1993*, which requires the spatial application of zones in an LPS to be, as far as practicable, consistent and coordinated.

The analysis is based on:

- Ireneinc Planning + Urban Design, *LCZ Review and Findings Report* (6 February 2026);
- Ireneinc Planning + Urban Design, *Locality-Baselining and Alternative Zone Evaluation Report* (19 March 2026);
- Tasmanian Planning Commission Day 19 and Day 20 hearing transcripts (April 2026).

Page references throughout are to the Ireneinc reports as cited.

A.2 Margate and Electra: Within-Locality Inconsistency

The Ireneinc Margate locality chapter recommends LCZ for the majority of the locality, with three principal exceptions: the Fehres Road cluster, the Miandetta Drive cluster, and certain parcels in the Old Bernies Road / Van Morey Road sub-area. The within-locality inconsistency examined here is between the Van Moray Road LCZ-retained area and the Fehres Road / Miandetta Drive RLZ-recommended areas (both within the same locality, and both subject to the same evaluation framework).

A.2.1 Comparison Table

Characteristic	Van Moray Road area (LCZ retained)	Fehres Road / Miandetta Drive (RLZ recommended)	
Landscape value description	Significant natural and scenic landscape values; elevated; full SPA coverage on elevated portions; visually prominent from the Channel	Landscape values present but described as manageable through codes and the existing settlement context	Not on the elevated ridge; not prominent from the Channel; protected ridgeline to the west; SVA3 result with approximately 90% not visible from sensitive receptors
Settlement characteristics	Limited rural-residential subdivision pattern	Recognisable rural-residential subdivision pattern; lots in the 2 to 7 ha range	Approved DA with substantial commencement; council-maintained road extension; part of a contiguous corridor of approximately 70 residential properties within 1 km
SPA coverage	Significant coverage on the elevated area	Partial	Partial (blanket 50 m elevation threshold, admitted by Council to be “somewhat arbitrary”; the SVA assessment under the Southern TRG methodology yields SVA3)
PVA / NAC overlay	Yes	Yes	Yes
Risk rating	High (elevated block)	Low to medium	Code overlays identical to the Fehres Road / Miandetta Drive cluster
DP6: codes manage values?	Recorded as no (elevated prominence cited)	Yes, codes manage values (p.240 to 241)	Never reached. DP4’s 15 ha lot-size threshold blocked access to DP6
Key Ireneinc differentiator	Elevation, full SPA coverage, visual prominence from the Channel	Settlement pattern; existing blocks already effectively developed; low risk with RLZ	The “effectively developed” description applies on the same reasoning. DA approved, road extended, subdivision ready. The 15 ha threshold operated to exclude the property before the substantive test was applied

A.2.2 Ireneinc's DP6 Findings for Comparable Margate Parcels

Where Ireneinc reached DP6 in the Margate locality for parcels not blocked by DP4, the conclusions on RLZ suitability were as follows:

Fehres Road cluster (DP6 assessment, p.240): *"A transition of the ELZ to the RLZ could be considered where RLZ categorisation provides for no further subdivision and any further clearing is minimised. Considering these mechanisms and that most of the lots within this area are already effectively developed to the capacity provided for within the RLZ, and the existence of the priority vegetation area in this part of the locality, it is determined that the **likelihood of risk occurring would be medium to low.**"*

Miandetta Drive cluster (DP6 assessment, p.241): *"It is considered that the existing developed state of this area in the Rural Living Zone with a categorisation that provided for no further subdivision, coupled with the waterways and coastal protection areas and priority vegetation area controls that would apply, **would provide for appropriate management of existing natural values** in the area. Areas surrounding this area which are included within the Rural Living Zone display similar landscape characteristics to this area... **Transition of this area from ELZ to RLZ is considered in the context of surrounding zoning and uses, to have low risk.**"*

A.2.3 The Inconsistency

The Van Moray Road LCZ retention is the most defensible LCZ outcome in the Margate locality because of its specific elevation, its full SPA coverage, and its visual prominence from the Channel. [REDACTED] does not share those characteristics. The property's landscape value profile aligns with the Fehres Road / Miandetta Drive cluster: partial SPA coverage on legacy mapping, established residential character, identical code overlays, screened from primary receptors by the ridgeline to the west.

The Ireneinc finding for the Fehres Road / Miandetta Drive cluster, that codes and the existing settlement pattern manage the values with low risk under RLZ, applies to [REDACTED] on the same reasoning. The exclusion of the property from that finding operates through DP4's 15 ha lot-size threshold, not through any substantive landscape-values determination at DP6. The threshold has no statutory basis in the Zone Guidelines, the State Planning Provisions, or LUPAA. Its operation produces an outcome that the substantive evaluation, applied consistently, does not support.

A.3 Allens Rivulet: Within-Locality Inconsistency

The Allens Rivulet locality presents the same pattern. Ireneinc recommends LCZ retention for the locality balance but applies RLZ, and in some cases Rural Zone, to the Maudsleys Road / Allens Rivulet Road parcels.

A.3.1 Comparison Table

Characteristic	Allens Rivulet LCZ balance (LCZ retained)	Mountain Rd / Allens Rivulet Rd RLZ parcels (RLZ recommended)	
Landscape value description	Bushland; native vegetation; no meaningful difference in landscape value description from the RLZ parcels in the same locality	Same locality, same landscape values; RLZ recommended on the basis of consistency with adjoining RLZ and the established settlement pattern	Comparable: regrowth on former cultivation; interfacing with the adjoining RLZ corridor; same code overlays
Settlement characteristics	Residential uses across LCZ portions	Rural living settlement consistent with the adjoining RLZ	Active residential construction; corridor connecting to the Allens Rivulet RLZ
Lot sizes	Variable	Comparable to adjoining RLZ	Existing title pattern compatible with the RLZ-D 10 ha minimum, which matches the existing ELZ minimum (parity)
PVA / NAC overlay	Yes	Yes	Yes
DP6: codes manage values?	Not explicitly concluded	“Could be reasonably managed in the same way”, low risk where RLZ is applied (p.140)	Never reached. DP4 blocked
Key differentiator cited	(none)	Consistency with and proximity to adjoining RLZ; characteristics match	Same logic applies: forms part of the Lawless / Nierinna / Allens Rivulet corridor; characteristics match; same code overlays

A.3.2 Ireneinc’s DP6 Finding for the Maudsleys Road Cluster

Maudsleys Road / Allens Rivulet (DP6 assessment, p.140): *“These parcels also have characteristics which are consistent with the existing other RLZ land and could be reasonably managed in the same way. **This presents a low risk where RLZ is applied.**”*

The Allens Rivulet recommendations at p.141 go further still, recommending the Maudsleys Road properties (134, 135, 136 Maudsleys Road) for transition to **Rural Zone** rather than RLZ, reflecting the existing rural uses and consistency with adjoining Rural-zoned land. That outcome reinforces the analysis: where the substantive evaluation is applied, the result is a less restrictive zone, not a more restrictive one.

A.3.3 The Inconsistency

Ireneinc granted RLZ to specific Allens Rivulet parcels on the basis of consistency with adjoining RLZ land, using the same landscape-and-code-management reasoning it declined to apply to the LCZ balance. The locality report does not identify any meaningful difference in landscape values between the RLZ and LCZ sub-areas of the locality. The Maudsleys Road finding, *“could be reasonably managed in the same way. This presents a low risk where RLZ is applied”*, applies on identical reasoning to [REDACTED] [REDACTED] which carries the same code overlays and forms part of a contiguous residential corridor extending into Allens Rivulet.

A.4 Across-Locality Consistency: Allens Rivulet to the Lawless / Nierinna Corridor

The Lawless / Nierinna / Allens Rivulet corridor is one continuous east-west residential geography running along Perrins Ridge through the southern Margate hinterland. There is no meaningful planning boundary between the Allens Rivulet RLZ parcels and the Lawless / Nierinna section of the corridor.

A.4.1 The Continuous Corridor

Locality	Properties	Ireneinc / Council Recommendation
Allens Rivulet, Maudsleys Road	134, 135, 136 Maudsleys Road (Reps 391, 505, 556)	Rural Zone (p.141)
Allens Rivulet, Mountain Rd / Allens Rivulet Rd RLZ parcels	Various	RLZ (p.140)
Margate, Lawless / Nierinna section	[REDACTED] (Rep 201); 470, 510, 530, 540 Nierinna Road (Reps 576, 563, 164, 166)	LCZ retained , none assessed individually

The s.34(2)(g) consistency principle requires the Commission to apply the same reasoning to materially identical facts across locality boundaries. The reasoning applied to Maudsleys Road / Allens Rivulet, that the parcels are consistent with adjoining RLZ land, the codes manage the values, and RLZ presents low risk, applies on its terms to the Lawless / Nierinna section of the same corridor. The corridor’s properties share the code overlays, settlement history, and lot-size distribution of the

Maudsleys Road parcels. They form a continuous residential geography along Perrins Ridge.

A.5 Panel Observations from the Recent Hearings

The Commission panel itself drew the inconsistency point at the recent hearings. The exchanges below are directly relevant.

Commissioner Rohan Probert, in the Tinderbox East / Howden comparison, observed that where two areas present materially similar landscape values but receive different determinations as to whether those values can be managed, the framework must articulate the basis for the differential outcome.

For [REDACTED] and the rest of the Lawless / Nierinna section of the corridor, neither Council nor Ireneinc have articulated the difference between the RLZ findings for the corridor's Margate (Fehres Road, Miandetta Drive) and Allens Rivulet (Maudsleys Road) sub-sections and the LCZ retention recommendation here. On the evidence available, no such difference exists.

Commissioner Dan Ford, at the Kettering West hearing, pressed the question of which specific land uses or values cannot be managed through the existing code overlays.

This is the question at the heart of every DP6 assessment. For [REDACTED] no answer has been provided. The property has not reached DP6 because DP4's 15 ha lot-size threshold operated to exclude it before the substantive test was applied. The threshold has no statutory basis. Its operation produces a structural inconsistency between the framework's outputs and the framework's own substantive findings for comparable parcels.

Kate Heckelmann (Ireneinc) confirmed at the recent hearings that the evaluation framework is indicative rather than binding, that the risk ratings within it are judgement-based rather than fixed thresholds, and that residual risk can be mitigated through future action. [VERIFY: substance of these exchanges against the recent hearing transcripts]

The concessions establish that the framework is indicative only, that its outputs do not override the s.34 statutory criteria, and that the Commission is not bound to accept those outputs where they conflict with the Zone Guidelines applied directly. On that footing, the Commission can apply the same reasoning consistently across the corridor (the reasoning Ireneinc itself applied to comparable parcels at Margate (Fehres Road, Miandetta Drive) and Allens Rivulet (Maudsleys Road)) and direct RLZ-D for [REDACTED] and the contiguous Nierinna Road properties.

Chair Heath confirmed at the close of the recent hearings that the Commission decides on the s.34 LUPAA criteria and Guideline No. 1, and that Council's resolutions and the consultant's framework are not binding on the Commission. The s.34 criteria require the LPS to be consistent with Guideline No. 1; Guideline No. 1 requires consistent application of zone criteria; s.34(2)(g) requires the spatial application of zones to be consistent. The within-locality and across-locality inconsistencies documented in this Appendix are therefore directly relevant to the Commission's statutory task.

A.6 Conclusion

On the Ireneinc framework's own substantive findings at Margate and Allens Rivulet (that codes can manage landscape values under RLZ; that the existing settlement pattern is the relevant indicator; that low risk attaches to RLZ where the parcels are effectively developed and consistent with adjoining RLZ land) [REDACTED] satisfies the substantive RLZ test on identical reasoning. The code overlays, settlement context, and corridor neighbours match those of the comparable parcels. The "codes can manage landscape values" conclusion reached for comparable parcels applies here without material distinction.

We ask the Commission to apply the same reasoning consistently and to direct RLZ-D for [REDACTED] and the contiguous Nierinna Road properties identified at §4.1 of the Supplementary Representation.

End of Appendix A.

Kingborough Draft LPS Representation

Representor		Representation address			
C S von Savageri & V M von Savageri		[REDACTED] Margate, TAS, 7054			
Postal Address		Contract email		Contact Phone	
13 Wandeet Place, Sandy Bay, 7005		carl@savageri.com		0427 774 942	
Title Reference	PID	Area Size	Kingsborough Interim Planning Scheme	Proposed Zone	Preferred Alternate Zone
[REDACTED]	[REDACTED]	109.7 Ha	Environmental Living	Landscape Conservation	Rural Living Zone D

Kingborough Kingborough Draft Local Provisions Schedule (LPS)

9126946 (4 of 4)

Parcel Information

Property address: [REDACTED] Margate TAS 7054

PID: 9126946

Current Zoning (KIPS2015):
[14.0 Environmental Living](#)

Proposed Zoning (TPS):
[22.0 Landscape Conservation](#)

Tenure: Private Freehold

Current Code Overlays (KIPS2015):
[E1.0 Bushfire-Prone Areas Code](#)
[E3.0 Landslide Code](#)
[E10.0 Biodiversity Code](#)
[E11.0 Waterway and Coastal Protection Code](#)
[E14.0 Scenic Landscapes Code](#)

Proposed Code Overlays (TPS):
[C7.0 Waterway and Coastal Protection Area](#)
[C7.0 Priority Vegetation](#)
[C8.0 Scenic Protection Area](#)
[C13.0 Bushfire-Prone Areas](#)
[C15.0 Landslip Hazard](#)

Current Additional Overlays (KIPS2015): (none)

Proposed Additional Overlays (TPS): (none)

For the Attention of Mr David Stewart, CEO Kingborough Council

I am writing to you to lodge the following representation to the Kingborough Council's LPS Exhibition of proposed zoning and overlays.

I object, without reservation, to Kingborough Council's proposal to rezone our property, at [REDACTED] Margate, to Landscape Conservation Zone under the new Statewide planning scheme. I believe it should be rezoned to the more appropriate Rural Living Zone D as per TPC guidelines RLZ 2 (b), RLZ 4 (b) and LCZ 4 (a).

Rural Living Zone (RLZ) D, together with suitable Scenic Protection and Natural Values overlays, would perfectly be sufficient to allow protection of landscape values, particularly those associated with Native Vegetation. While I agree that rural character should be preserved, and I have demonstrated my willingness to be an active and sensitive custodian of my property in this respect, I am strongly opposed to the rezoning of any privately owned property to Landscape Conservation Zone (LCZ). I believe, and evidence indicates, that this will be detrimental to the existing and future use of my property, land value, insurance costs, fire prevention requirements and active management to improve the biodiversity and overall condition of the property.

I strongly oppose the proposed Landscape Conservation Zoning as the priority of my property is residential use and development. The proposed Landscape Conservation Zoning imposes restrictive limitations. My property, like the many other residential properties nearby, was purchased for residential development and use in a bushland setting.

The Council, in its exhibited materials, have not demonstrated or justified why Rural Living Zone is not applicable to our property and Landscape Conservation Zoning is needed instead.

The reliance on Landscape Conservation Zoning instead of Rural Living Zone D, with suitable Scenic Protection and Natural Values overlays, would indicate that Kingborough Council either believe our property contains Landscape values so exceptional that systematic and well thought out overlay codes would not be sufficient to protect them or that the proposed overlay codes are not fit for purpose and the best course of action is over regulation.

Experience informs me that the main likely outcome of a change to Landscape Conservation Zoning will to provide friction, making the process painful, bureaucratic and time consuming to a point where it becomes cost and time prohibitive, preventing myself and owners undertaking useful and lawful development of their property, with little to no additional environmental or community benefit.

Private landowners need to be engaged with rather than regulated. Most people who live in the bush, or have large rural properties, have purchased these properties because they value those environments. Kingborough Council should try working collaboratively with

landowners rather than presuming to always go to the highest level of control and regulation.

Private landowners should not have to shoulder the burden of the “public good”. Private property is not there to provide public amenity, that is the role of reserved land.

Kingborough Council’s proposed implementation of the Landscape Conservation Zoning seems to be ideological rather than a practical application of planning guidelines. The proposed LCZ application is so far out of step with other implementations that it would seem to go against the intent of the statewide planning scheme entirely.

I also reject the suitability of the Scenic Overlay. The council have chosen not to invest the required resources in appropriate Scenic values assessments and instead have chosen to arbitrarily apply the interim Scenic Overlay. This is a choice on the part of Kingborough Council. This was not forced on the Council by the State Planning office. This choice will adversely affect the rights of 1000’s of landowners across the council area, including myself.

Additionally, the Natural Values Overlay is inappropriately applied and should be removed in whole. The application of the proposed methodologies is fundamentally flawed and the overlay wholly fails to identify natural values that should be protected.

Further, I oppose the inclusion of the Biodiversity Offset Policy. This policy has been introduced, reviewed and revised without any opportunity for the community to contribute to the decision-making process.

1. Summary of Representation

1.1. Rural Living Zone D Zoning is more suitable.

The property was purchased for residential development, is located within an established “rural” residential area, has existing residential development approvals, there are plans for further future residential development and has an established and demonstratable primary intention for residential development.

The property is located in a rural area characterised by existing large lot residential developments with native vegetation cover.

The property has a demonstratable historic land use of cultivation, forestry, industrial activities and residential occupation stretching back more than 160 years.

Zoning Rural Living (RLZ) Zone D, together with adequate, systematic and well thought out overlay codes, would appropriately manage any potential important landscape values of our property. Rural Living zoning also maintains the current residential use of the property.

It is there for requested that the proposed zoning be changed to Rural Living Zone D as per TPC guidelines **RLZ 2 (b)**, **RLZ 4 (b)** and **LCZ 4 (a)**.

The proposed zoning changes, to Landscape Conservation Zoning (LCZ) from the current Environmental Living zoning, introduces the presumption of preventing development, make residential development discretionary and required assessment against undefinable performance criteria.

This is an unacceptable loss of amenity, unfair additional burden, an unacceptable negative financial impost, and substantial change from the current zoning of Environmental Living, which has allowable residential development use.

Kingborough Council have failed to demonstrate, in their exhibition, the need for Landscape Conservation Zoning on our property instead of the more suitable Rural Living Zone. There has been no consultation or dialogue from Kingborough Council on the suitability of the proposed zone changes.

1.2. Scenic Protection Code Overlay need reworking.

Kingborough Council have failed to meet the requirements of **SPC 1** and **SPC 2**.

The proposed Scenic Protection Code Overlay has been transitioned from the Kingborough Interim Planning Scheme 2015. The required assessments, using the accepted systematic methodology, has not been completed. This overlay has been arbitrary applied to our property without any regard to the actual scenic value.

Important landscape values have not been identified. The desired scenic values and landscape character have not been defined.

There has been no community consultation or dialogue from Kingborough Council to define the scenic values and landscape characteristics to be protected.

“Specific Scenic Landscape Value” has have not been defined. *“Scenic Landscape Corridors”* have not been defined or mapped. The definition of *“Scenic Landscape Area”* is broad, arbitrary and covers the majority of the local government area.

The proposed Scenic Protection Code Overlay is arbitrary, punitive, causes an unnecessary loss of amenity and imposes an unfair additional burden. The use of this overlay to justify the application of LCZ zoning under **LCZ 2 (b)** is unreasonable.

The application of the proposed Scenic Protection Code Overlay to our property, in its current form, is contest.

Kingborough Council needs to dedicate the required resources to develop a suitable Scenic Protection Code Overlay.

1.3. Natural Assets Code Overlay need reworking.

Kingborough Council have failed to meet the requirements of **LP1.7.5(c)**.

Kingborough Council have failed to meet the requirements of **LP1.7.5(d)** as **NAC 7 – 10** and **NAC 12 (a), NAC 12 (b), NAC 12 (c)** and **NAC 12 (D)** are not applicable to our property.

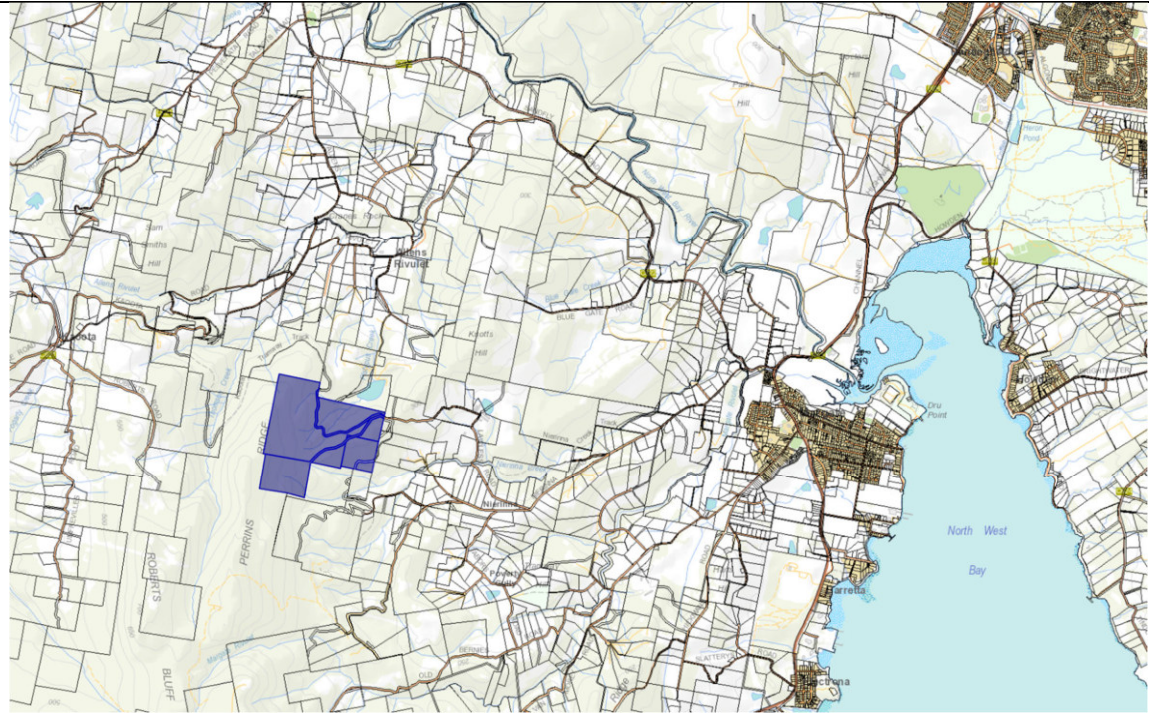
Kingborough Council have failed to provide sufficient information to assess the applicability and suitability of **NAC 11** in the LPS Exhibition material and supporting information. The Regional Ecosystem Model (REM), developed by Natural Resource Planning (NRP) Pty Ltd, is not publicly available and does not form part of Kingborough Council’s Exhibition and should therefore be discounted as relied upon information.

The use of this overlay to justify the application of LCZ zoning under **LCZ 2 (a)** is unreasonable.

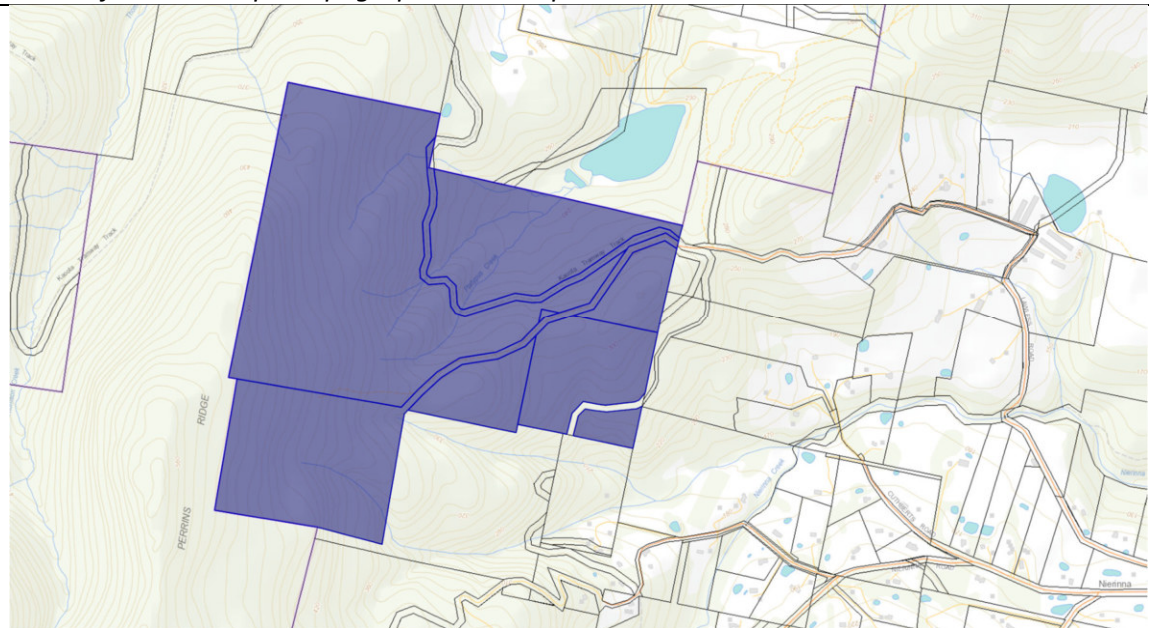
The application of the proposed Natural Assets Code Overlay to our property, in its current form, is contest.

2. Location of Property

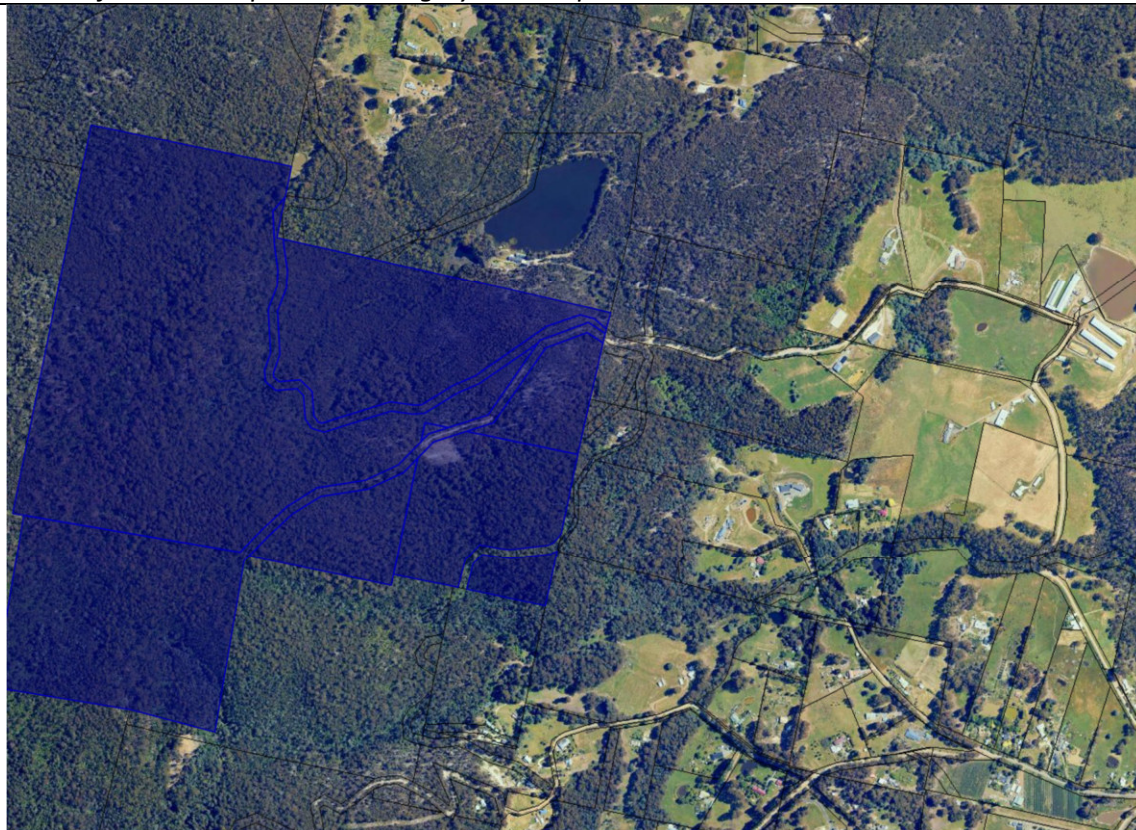
Regional extract from LISTmap – Topographic Basemap



Extract from LISTmap – Topographic Basemap



Extract from LISTmap – Aerial Imagery Basemap



Extract from Site GIS model – Recent Hi-Res Drone Aerial Imagery



3. Historic use of property

- 3.1. The earliest available records after European settlement demonstrate that the property has been used for forestry, agriculture, industrial and residential purposes.
- 3.2. The earliest records available are the land surveys undertaken in 1865 which show title [REDACTED] cultivated and predominantly clear of native vegetation. Several structures are recorded on the property at this time. It is understood that this cultivation extended to our other titles.
- 3.3. In 1905 an additional survey was undertaken of title [REDACTED] which shows the access road, which is still in use today, having been formed and constructed. This road was used to access a sawmill which was located on the property. The survey notes indicate the property has been clear of native vegetation.
- 3.4. Additional survey was undertaken in 1915 showing several structures located on the property, additional cleared areas and industrial use.
- 3.5. The first available aerial imagery of the property is from 1948 which shows the property largely clear of native vegetation and under cultivation.
- 3.6. Additional historic aerial imagery of the property is from 1972 also show the majority of the property clear of native vegetation and areas under cultivation.
- 3.7. From the 1975 until 2017 the property was left unproductive and has revegetated.
- 3.8. Historical records suggest that this area had been actively burnt and managed to maintain hunting clearings by the Tasmanian Aboriginal community.

PARISH OF KINGBOROUGH

Scale Three chains to an inch.

9
35

Purchaser

100 AC

WILLIAM YOUNG

4600
0

Soldiers Settlement

See Survey by CH & Co

15/8/22

Lot 3105

PAT & VALE 100 AC

Purchaser

Lot 3605

7-3-19

William Young Purchaser

(Cash 1st Sec.)

Auction

Lot 3606

7-3-19

William Young Purchaser

(Cash 1st Sec.)

P.W. ROAD 60 LKS WIDE

RES. ROAD 4 LKS

329

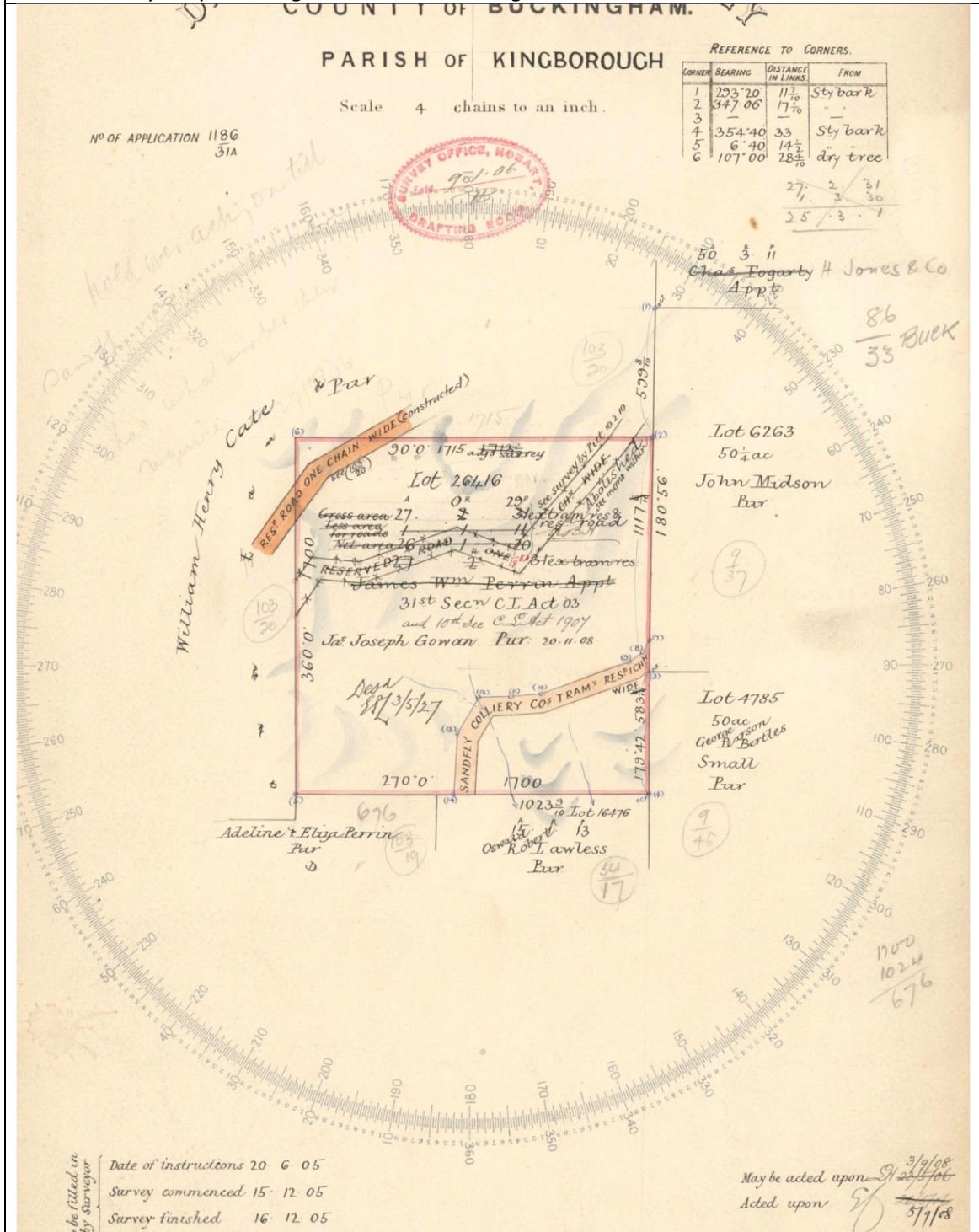
The Line at 06 of map

Dragon by Matthews

Instructions { 3rd Oct 1864.
9th Feb 1865.

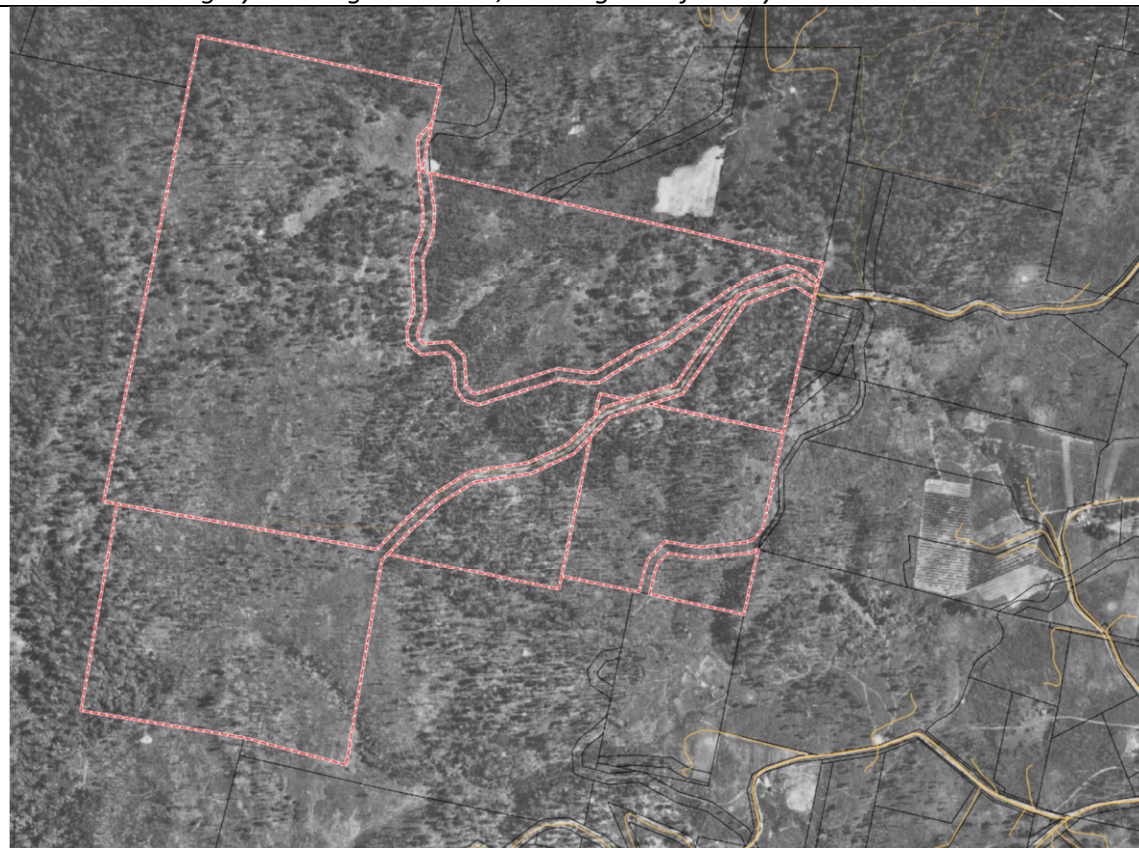
commenced { Jan 24th 1868
Jan 27th
March 9th

1905 – Survey Map showing construction and vegetation clearance

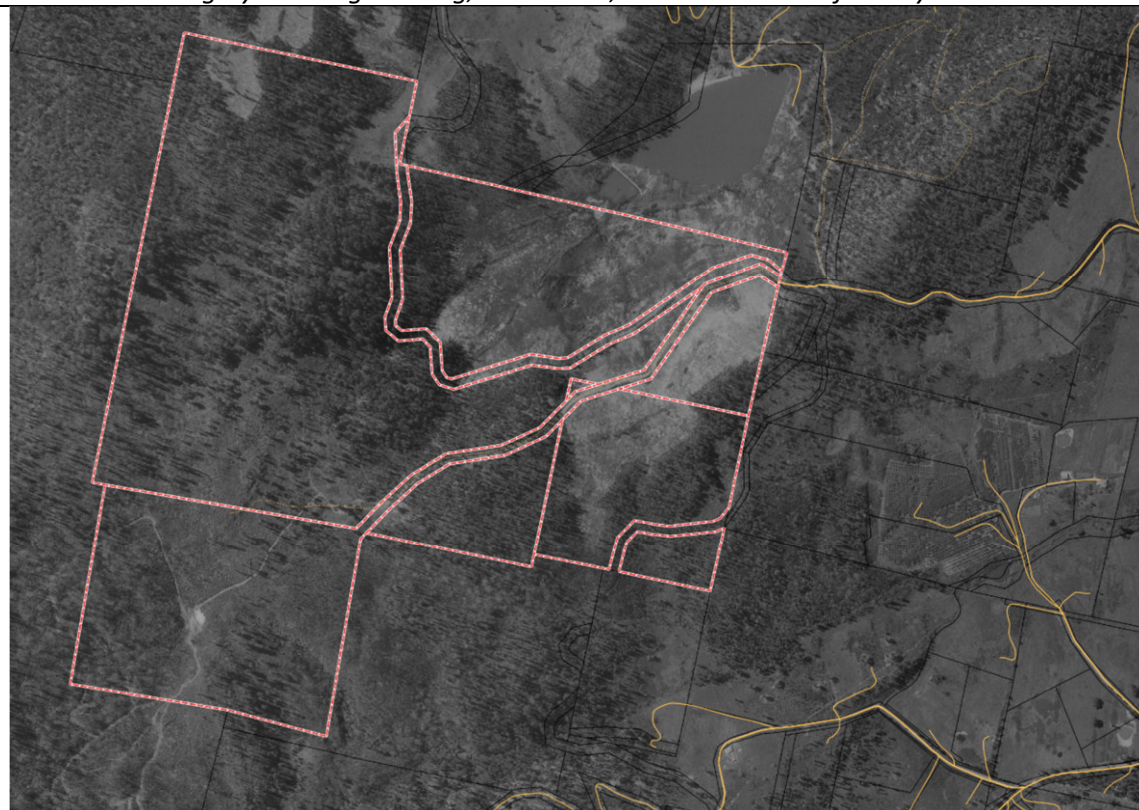


[illegible]

1948 Aerial imagery showing cultivation, buildings and forestry



1972 Aerial imagery showing clearing, cultivation, construction and forestry



4. Current use of property

- 4.1. Property covered by four individual titles, ranging in size from 2.4 Ha to 74 ha.
- 4.2. The property was purchased in 2017 with the express purpose of residential development of the property.
- 4.3. A planning application was submitted in 2018 (DA-2018-344) for a single residential dwelling on title [REDACTED]. This permit was approved in June 2019.
- 4.4. The extensive list of planning conditions worked through and subsequently met, and a start works notice issued in February 2022 for vegetation clearance and earthworks.
- 4.5. Crown land purchases were completed to remove the reliance on Reserve Roads for access. Negotiations were also entered into with the Council for the adoption and construction of a Council maintained road up to our property boundary. Lawless Road, Margate, now extends to the boundary and services our property.
- 4.6. Work is ongoing to complete the vegetation clearance, earthworks and completion of the foundations of the shed to meet substantial commencement of the project.
- 4.7. Privately maintained access road, the ex-Crown Reserve Road constructed prior to 1905, provides vehicular access to all titles. This road is actively maintained under existing use provisions, and it currently being upgraded to bushfire standard.
- 4.8. Parts of Title [REDACTED] are used as walking track by Kingborough Council, with use governed by private agreement. This land is not Public Space and remains in our private ownership.
- 4.9. The property is located in a rural area characterised by existing large lot residential developments with areas of native vegetation cover.
- 4.10. The majority of adjoining properties either have existing residential use or are undergoing residential development. There are approximately 70 properties within a 1Km radius that have existing residential developments. There are 4 additional properties that are currently seeking approval for residential development.

Approved Plans



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K	Bushfire Hazard Management Plan	
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N	Heritage Certificate of Exemption	
O	Crown Access Licence	
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Q	Bushfire Shelter Specs	
R	Swimming Pool Plan	
S	Back Fill Area	

Kingborough Council
Minor Amendment to Planning
Permit Document
 Development Application: DA-2018-344/A
 Approved via Delegated Authority
 Amendment Decision Date: 5 August 2021

Notes:

1). All window panes larger than 2m² will be fitted with Birdsafe, Safety Bird Strike Safety Film, Cellulose High Performance or similar approved bird strike protection film in accordance with manufacturer's specifications and recommendations.

Rev#	Change Name	Date
01	Issued for Info	20/04/2021
02	Revised	05/05/2021
03	Revised	20/06/2021
04	Window and Floor LRV	20/06/2021

Revision History	
Rebel Base Pty Ltd	info@rebelbase.com.au ABN: 78 477 540 700
Project Number	DA-2018-344
Client	C S & V M von Savageri
Project	315 Lawless Road Margate TAS, 7054
Drawing Name	Coversheet and Index
Drawing Status	For Approval
Checked by	Cv5
Date	23/04/2021
Drawing Scale	Not to Scale
Layout ID	A.01.1
Revision	03

General Notes

Title Reference 226422/1

Title Area 11 Ha

Building Footprint 286 m²

Site Classification

Design Wind Speed N 3

Soil Classification S

Climate Zone 7

Bushfire Attack Level BAL19

Alpine Area N/A

Corrosion Environment N/A

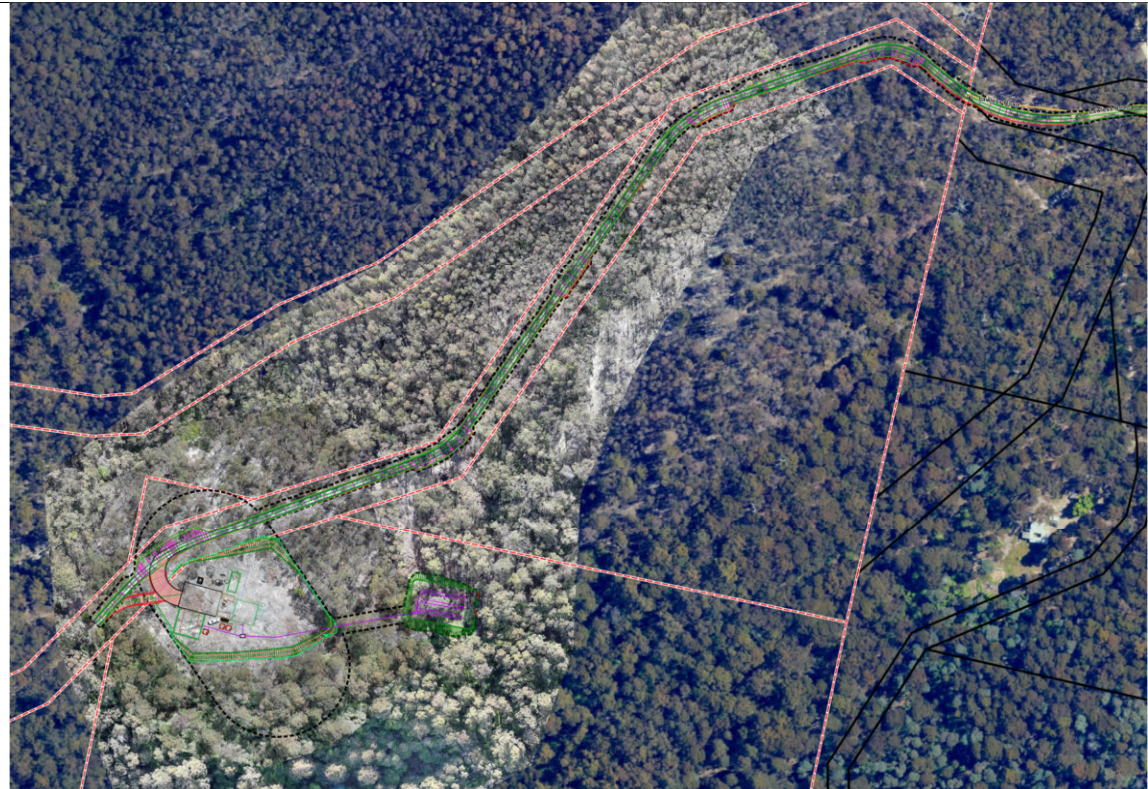
Area Summary

Ground Floor	77.6 m ²
Ground Floor - STG2	28.6 m ²
First Floor	77.6 m ²
Habitable Area	196.2 m ²
Basement	107m ²
Attic	12.4 m ²
Car Port Area	36.2 m ²
Shed Area	86.6 m ²

Building Finish

Corten Steel Cladding	LRV <40%
CFC Sheet Cladding	LRV <40%
Rock Gabbion	LRV <40%

Extent of permitted works



Commenced Works – December 2024



Council Upgraded Road (Lawless Road, Margate)



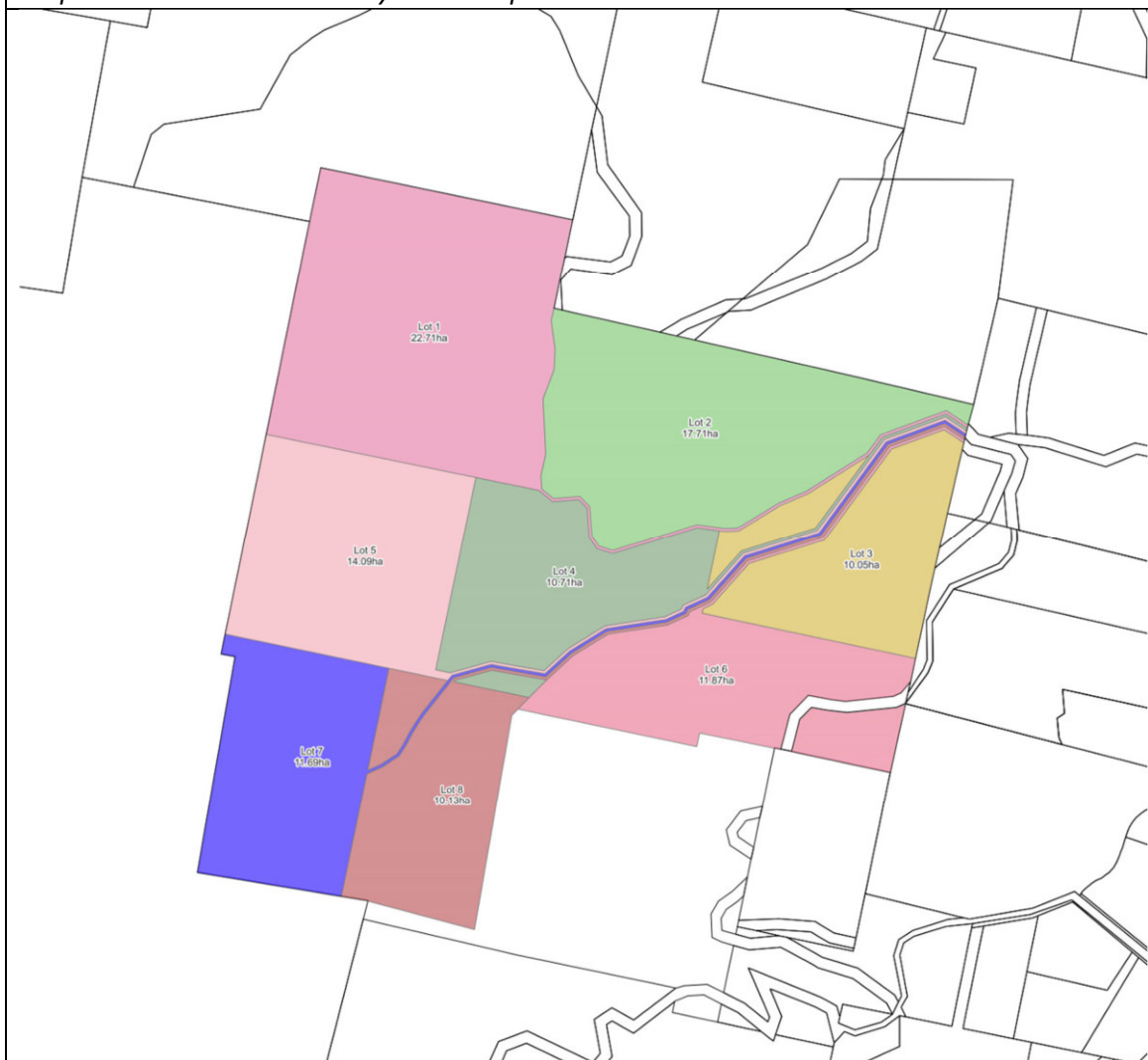
Council Maintained Lawless Road termination at Property Boundary



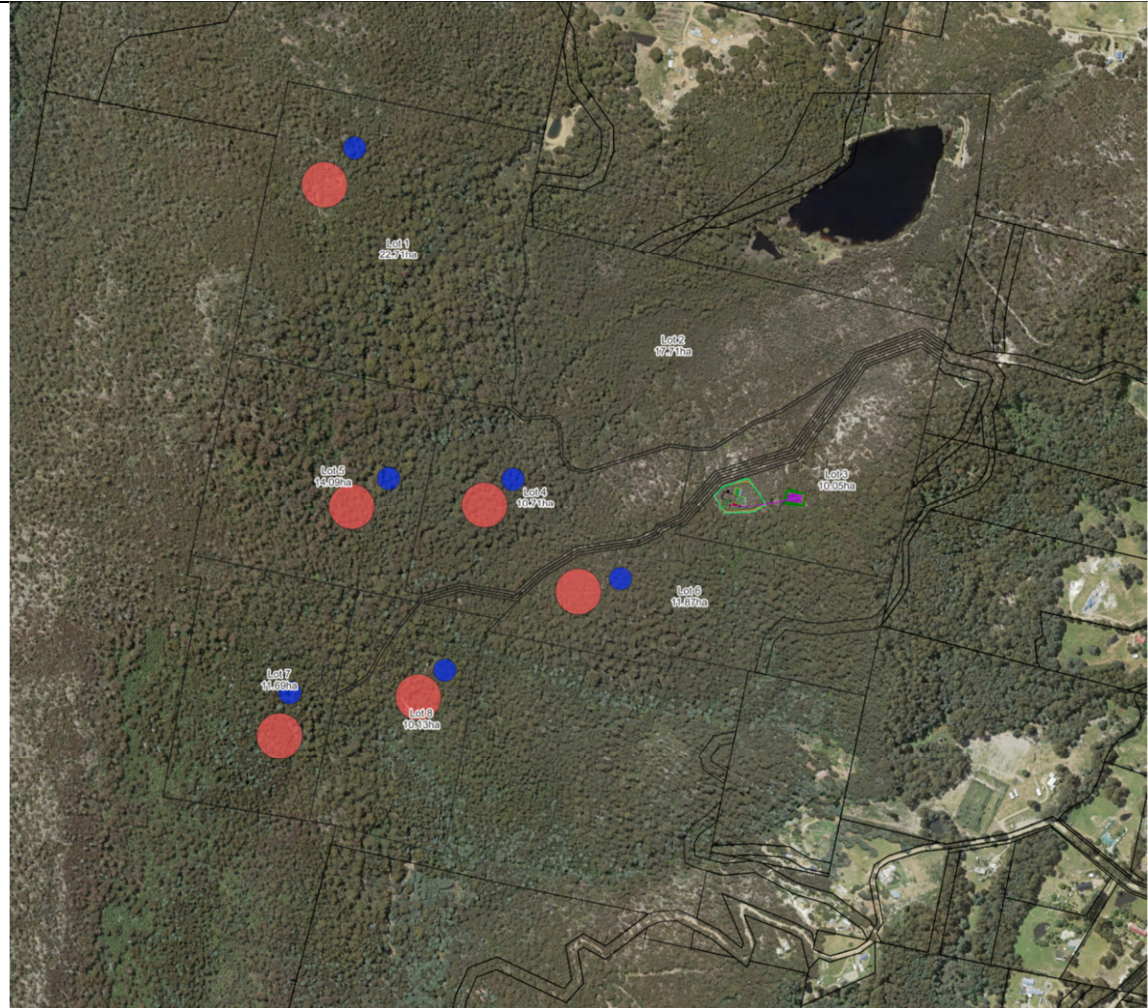
5. ***Proposed Future use of the Property***

- 5.1. Work is currently ongoing for the submission of a subdivision application and development application for additional residential development under the current Environmental Living zone provisions.
- 5.2. It is proposed to create eight lots from the existing four titles.
- 5.3. This would provide six additional residential properties in addition to the already approved residential property.
- 5.4. All proposed lots would have full legal access to the Council maintained Lawless Road

Proposed Subdivision Currently in Development



Proposed Building Envelopes and Wastewater Disposal Areas



Proposed Earthworks, Roads and Vegetation Management Areas



6. How the property doesn't meet Council's proposed Landscape Conservation Zone

- 6.1. **LCZ 1, LCZ 2 (a), LCZ 2 (b), LCZ 2 (c) and LCZ 4 (a)** are not satisfied for our property.
- 6.2. The Council has stated that the *"rationale for the application of the Landscape Conservation Zone in Kingborough is to maintain the land use and development outcomes in the rural or bush area parts of Kingborough as close as possible to the current KIPS2015."*
- 6.3. Our property is currently zoned as Environmental Living. The Environmental Living zone purpose is defined as *"To provide for residential use or development in areas where existing natural and landscape values are to be retained"*.
- 6.4. *The purpose of the Landscape Conservation Zone is:*
(a) *To provide for the protection, conservation and management of landscape values.*
(b) *To provide for compatible use or development that does not adversely impact on the protection, conservation and management of the landscape values.*
- 6.5. Kingborough Council has stated the *"Landscape Conservation Zone discourages residential uses"*, which is a significant departure from the current zoning and does not meet the stated zone rationale.
- 6.6. Kingborough Council has not demonstrated that any landscape values exist for our property (see Scenic Protection Code Overlay submission below). The vast majority of the property cannot be seen at all.
- 6.7. The LPS guidelines states that *"The Landscape Conservation Zone is not a large lot residential zone, in areas characterised by native vegetation cover and other landscape values. Instead, the Landscape Conservation Zone provides a clear priority for the protection of landscape values and for complementary use or development, with residential use largely being discretionary."* Kingborough Council have stated in the Supporting LPS report that *"The Landscape Conservation Zone has been applied to land that has characteristics that could be similar to areas where residential communities exist"*. This demonstrates that the LCZ zoning has been misapplied to areas where priority is for residential use and development. This is the case with our property.
- 6.8. **LCZ 4** states that *"The Landscape Conservation Zone should not be applied to: (a) land where the priority is for residential use and development (see Rural Living Zone)"*. The current zoning of the property, as Environmental Living, prioritises, through the zone purpose, residential use. The property currently has an approved residential planning permit, which is currently being implemented. The intended future use of the property is for continued residential development. It is therefore clear that residential use is prioritised for the site and this use has been established.

- 6.9. The surrounding properties, to the North, South and East all have existing and established residential use. The property is serviced by a council-maintained road to the boundary. Our property is located in an existing residential area and has established residential use.
- 6.10. It is therefore contended that **LCZ 4 (a)** precludes LCZ zoning, and the more suitable Rural Living zoning should therefore be applied.
- 6.11. Furthermore, it is contended that **LCZ 1** and **LCZ 2** has been misapplied (see below).
- 6.12. **LCZ 3** is not relevant given the property size.
- 6.13. The application of the Landscape Conservation Zone will have a significant negative impact upon our family, given residential development is no longer allowable and becomes discretionary. This is an important and material loss of amenity from the current Environmental Living zoning.
- 6.14. Even though important landscape values have yet to be demonstrated by the Council (see Scenic Protection Code Overlay submission below), the provisions of the relevant codes would allow any potential landscape values to be appropriately managed, meeting the requirements of **RLZ 4 (b)**.

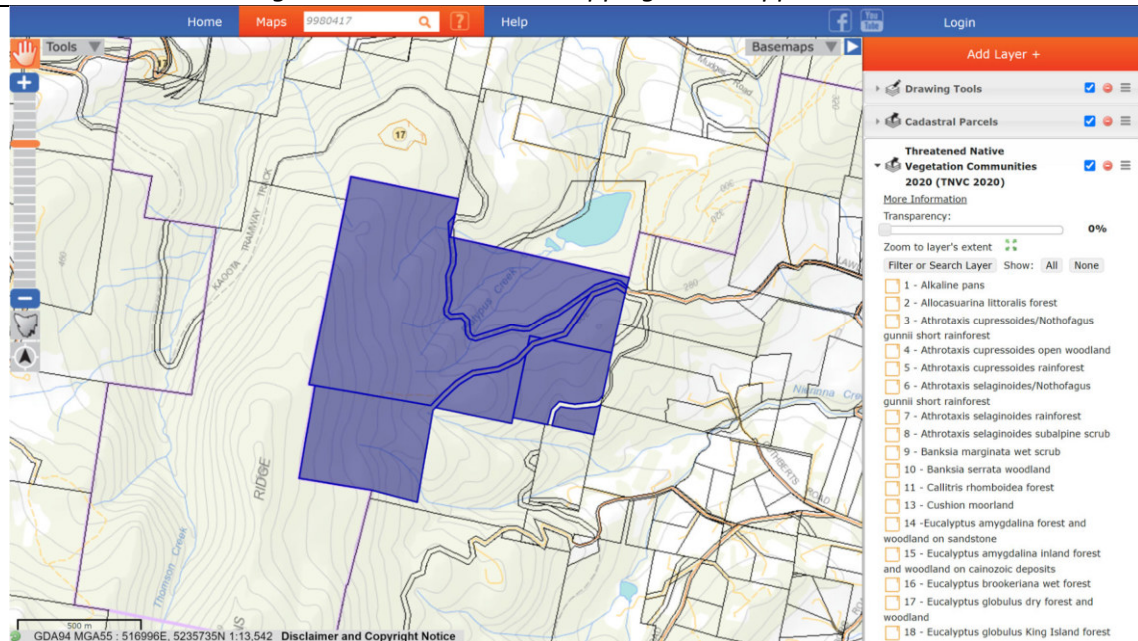
LCZ 1: The Landscape Conservation Zone should be applied to land with landscape values that are identified for protection and conservation, such as bushland areas, large areas of native vegetation, or areas of important scenic values, where some small-scale use or development may be appropriate.

- LCZ 1 (i). **LCZ 1** is not applicable to our property due to the landscape values not being identified.
- LCZ 1 (ii). Kingborough Council has not defined or identified these values, apart from a few generic statements in the supporting report about areas “*appreciated by residents or visitors when viewed from either their homes, roads, other elevated areas or nearby waters.*” None of these generic statements are valid for our property. The application of an arbitrary Scenic Protection Code Overlay does not meet the requirements of **identifying** these landscape values.
- LCZ 1 (iii). Kingborough Council have also failed to detail what landscape values are aimed to be retained. As outlined in the Section - *Historic use of Property* above our property has been cleared and cultivated for more than 120 years in the past 160 years. Prior to European settlement this area was actively burnt and managed by the Tasmania Aboriginal Community to provide hunting clearings.
- LCZ 1 (iv). A perfectly reasonable argument could be made that the current partially vegetated condition of the site is abnormal and that an actively managed landscape, including additional residential development, would provide a more sustainable, ecologically biodiverse and aesthetically pleasing landscape.

LCZ 1 (v).	A more detailed analysis is made in the “ <i>Scenic Protection Code Overlay submission</i> ” below.
	This demonstrates that if the systematic approach to identify scenic and landscape values, that Kingborough Council had intended to do, was completed that LCZ 1 and the Scenic Protection Code Overlay should not be applied to our property and that SPC 1 is not satisfied.
LCZ 1 (vi).	The Snug Tiers Nature Recreation Area, which borders our property to the West, was established to protect the landscape values of the area. The Nature Recreation Area covers the ridgeline and skyline of Perran’s Ridge and protects the dominant topographical features of the area. Kingborough Council have not demonstrated that additional protection would improve the already protected landscape. The entirety of our property is below 50m from the Skyline.
<i>LCZ 2: The Landscape Conservation Zone may be applied to:</i> <i>(a) large areas of bushland or large areas of native vegetation which are not otherwise reserved, but contains threatened native vegetation communities, threatened species or other areas of locally or regionally important native vegetation;</i> <i>(b) land that has significant constraints on development through the application of the Natural Assets Code or Scenic Protection Code; or</i> <i>(c) land within an interim planning scheme Environmental Living Zone and the primary intention is for the protection and conservation of landscape values.</i>	
LCZ 2 (i).	LCZ 2 (a) is not applicable to our property as it does not contain threatened native vegetation communities, threatened species or other areas of locally or regionally important native vegetation.
LCZ 2 (ii).	LCZ 2 (b) should not be applicable due to the arbitrary Scenic Protection Code Overlay being applied. See below for more details. If the appropriate detailed mapping, as detailed in the Kingborough Land Use Strategy, May 2019, was completed this overlay would not be relevant or applied to our property.
LCZ 2 (iii).	LCZ 2 (b) should not be applicable as irrespective of the suitability of the Natural Assets Code or Scenic Protection Code, nothing within these codes would present significant constraints on development, given that development have been previously approved under the existing planning scheme and the provisional transitioned overlay codes.
LCZ 2 (iv).	Kingborough Council are proposing to vary the Priority Vegetation Area overlay via amendments NAC 7 – 11 . These variations effectively make all vegetation priority. This does not meet the original intent of the zone where LCZ 2 should apply to “threatened native vegetation communities, threatened species or other areas of locally or regionally important native vegetation”. The proposed Natural Assets Code covers all vegetation.

LCZ 2 (v). The primary intention of the property, under the Environmental Living Zone in the interim planning scheme, was for residential development as outlined in the Section - *Current use of Property*. **LCZ 2 (c)** is therefore not applicable to our property.

Threatened Native Vegetation Communities Mapping – no mapped occurrences.



LCZ 3: The Landscape Conservation Zone may be applied to a group of titles with landscape values that are less than the allowable minimum lot size for the zone.

LCZ 3 (i). **LCZ 3** is not relevant given the property size.

LCZ 3 (ii). The lot sizes on our property are 74 Ha, 2.4 Ha, 10.9 Ha and 21.5 Ha. These would be suitable for inclusion under Rural Living Zone D as per **RLZ 2 (b)**.

LCZ 4: The Landscape Conservation Zone should not be applied to:

(a) land where the priority is for residential use and development (see Rural Living Zone); or

(b) State-reserved land (see Environmental Management Zone).

LCZ 4 (i). **LCZ 4 (a)** is relevant as the property currently has an approved residential planning permit, for which work has started. The intended future use of the property is for continued residential development.

LCZ 4 (ii). Furthermore, the property is serviced by a council-maintained road to the boundary. Our property is located in an existing residential area and has established residential use. The surrounding properties, to the South and East all have existing and established residential use.

- LCZ 4 (iii). Kingborough Council have not demonstrated that the priority of our property is for the conservation of Landscape Values. The property was purchased in 2017 with the express purpose of residential development of the property.
- LCZ 4 (iv). Kingborough Council have previously approved and supported residential use and development of the property, clearly establishing the priority for these uses.
- LCZ 4 (v). It is therefore clear that residential use is prioritised for the property and this use has been established.
- LCZ 4 (vi). It can therefore be established that the Rural Living Zone would be more suitable as per **LCZ 4 (a)**.
- LCZ 4 (vii). **LCZ 4 (b)** is not relevant.

Comparison of Proposed LCZ coverage in Kingborough compared to other Planning areas in Southern and Eastern Tasmania.

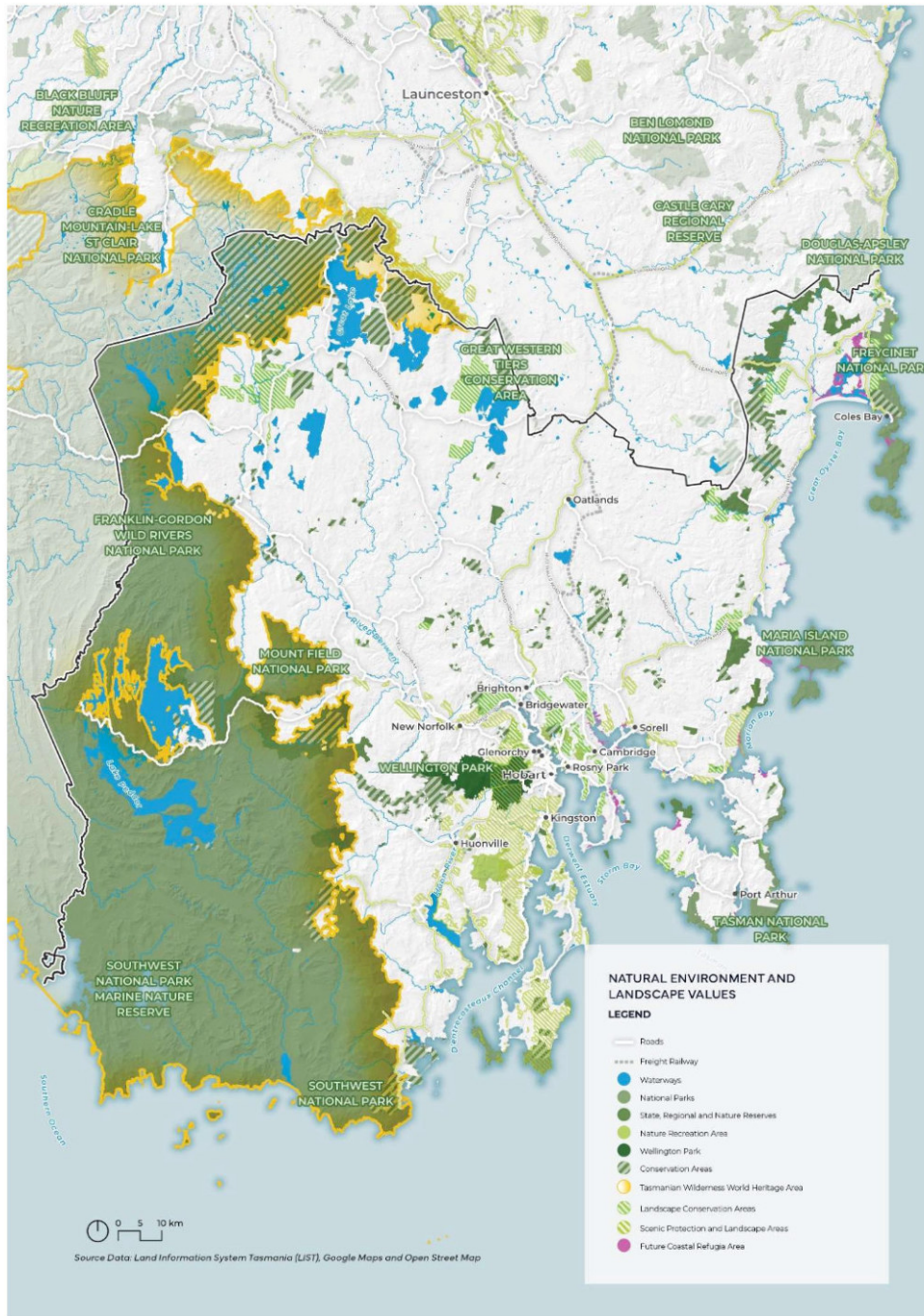


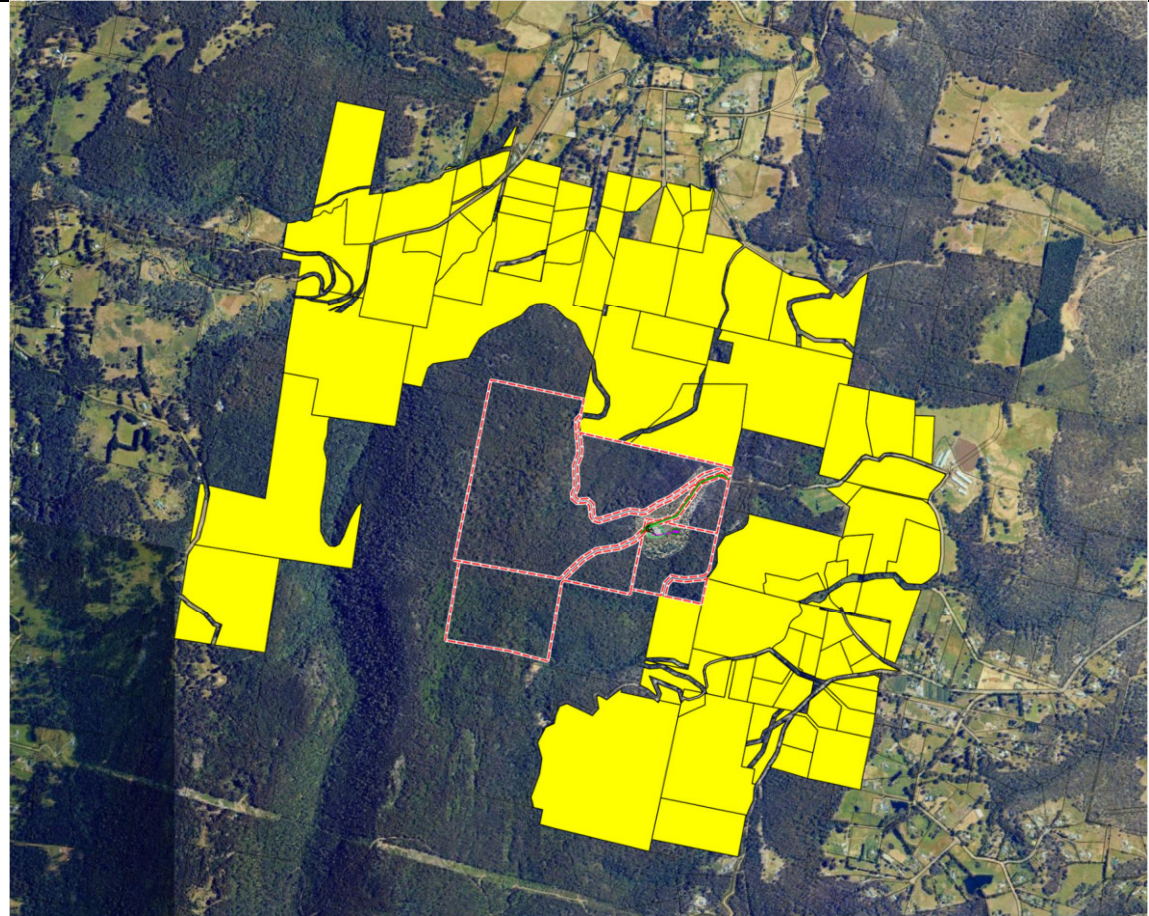
Figure 8 Natural Environment and Landscape Values

7. Why proposed Alternative Rural Living Zone D Zone should be applied

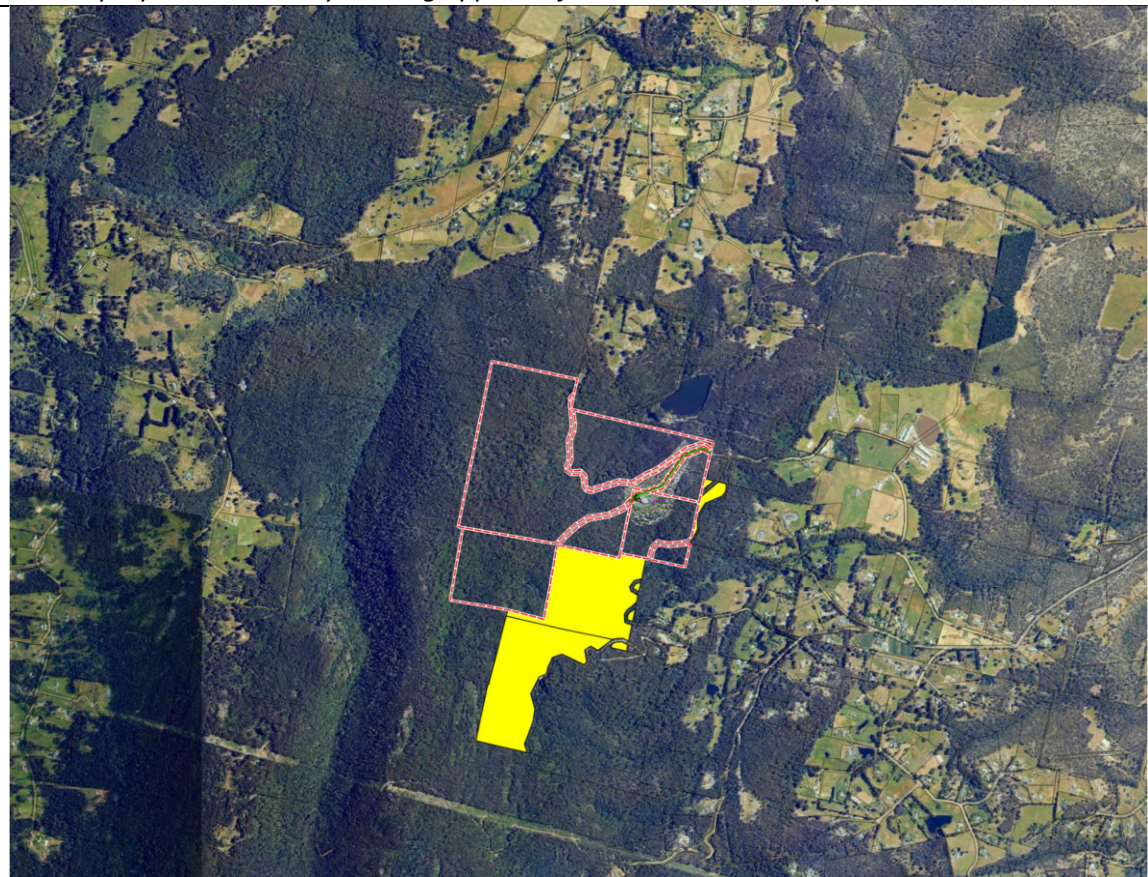
- 7.1. The purpose of the Rural Living Zone is to provide for residential use or development in a rural setting where:
- (a) services are limited; or
 - (b) existing natural and landscape values are to be retained.
- 7.2. **RLZ 1 (a)** states that the Rural Living Zone should be applied to *“residential areas with larger lots, where existing and intended use is a mix between residential and lower order rural activities (e.g. hobby farming), but priority is given to the protection of residential amenity”*.
- As our property has an existing planning permit, with works started for the residential development and the intention for future use is additional residential development, the protection of residential amenity currently available under the environmental Living zone is relevant.
- 7.3. **RLZ 1 (b)** is not relevant.
- 7.4. **RLZ 2 (a)** is not relevant.
- 7.5. **RLZ 2 (b)** states that the Rural Living Zone should not be applied unless *“the land is within the Environmental Living Zone in an interim planning scheme and the primary strategic intention is for residential use and development within a rural setting and a similar minimum allowable lot size is being applied, such as, applying the Rural Living Zone D where the minimum lot size is 10 ha or greater.”*
- Our property is currently zoned Environmental Living, has existing established residential use and has a sufficient minimum lot size to meet **Rural Living Zone D**. The proposed future subdivision, as outlined in the Section - *Proposed Future use of the Property* would also maintain a minimum 10 Ha lot size. **RLZ 2 (b)** is therefore relevant, and its requirements are met.
- 7.6. **RLZ 3 (a)** is relevant to the mix of existing residential development in the immediate vicinity of our property and in the broader context of rural properties along Lawless and Nierinna Roads. Kingborough Council states that *“There are three main transport spines that emanate out of Margate into the rural areas – these being Sandfly Road, Nierinna Road, and Van Morey Road. These are all quite lengthy roads with many other smaller roads that contain many small farms, residential properties and bush blocks”*. Our property is within this area and has a block size sufficient to meet the requirements of the Rural Living Zone.
- There are approximately 70 existing residential properties within a 1Km radius of our property.
- 7.7. **RLZ 4 (a)** is not relevant.

- 7.8. **RLZ 4 (b)** can be satisfied by the provisions of the relevant codes which would allow any potential landscape values to be appropriately managed. The Natural Assets Code and other provisions currently within the Interim Planning Scheme are perfectly adequate to manage any potential Important landscape values. Important landscape values have yet to be identified or demonstrated by the Council (*see Scenic Protection Code Overlay submission below*)
- 7.9. **RLZ 4 (c)** is not relevant.

Properties within a 1km radius of our property that have existing residential developments

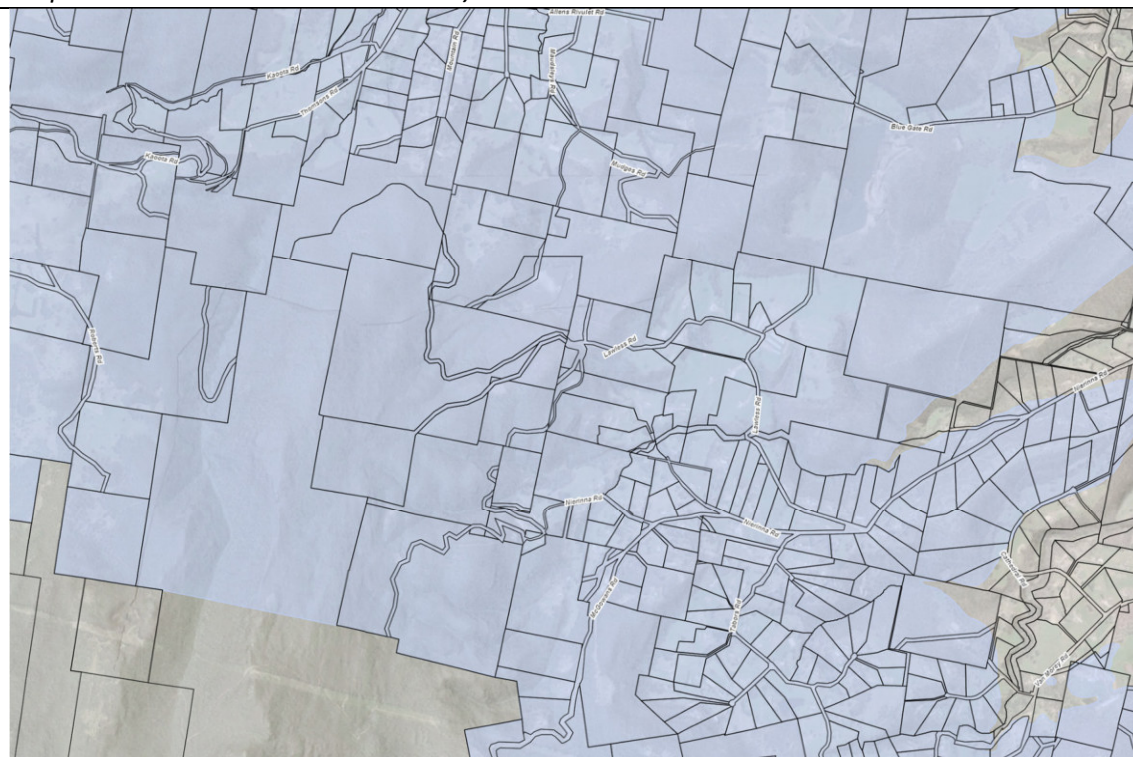


Vacant properties currently seeking approval for residential developments



8. Objection to the Scenic Protection Code Overlay

Proposed Scenic Protection Code Overlay



- 8.1. I am objecting to the Proposed Scenic Protection Code Overlay, as applied to my property.
- 8.2. I object that an arbitrary code overlay is being applied to my property, particularly when it is being relied upon by Kingborough Council as a justification under **LCZ 2 (b)**.
- If the adequate resources had been allocated to undertake the appropriate mapping and analysis of “*Scenic Values*” then the scenic protection overlay would not be applicable to our property (see below). Kingborough Council have failed in their duty to demonstrate reasonable care and justification of potential “*Scenic Values*” in applying this code overlay and have failed to meet the requirements of **SPC 1** and **SPC 2**.
- 8.3. This overlay has been made subject to transitional provisions from the Kingborough Interim Planning Scheme 2015.
- 8.4. Kingborough Council states in the Kingborough Land Use Strategy, May 2019, that the KIPS2015 Scenic Landscapes Code has been applied to “*land that is above an elevation of 50 metres is subject to this Code. A specific mapping exercise has not yet been conducted and this criteria of 50m is somewhat arbitrary*”. This fails to meet the requirements of **SPC 1**.
- 8.5. Kingborough Council further states in the Kingborough Land Use Strategy, May 2019, that the “*Council will be conducting a more detailed mapping exercise to determine a suitable overlay to define where the Code will apply*” using the

	<i>“Guidelines for Scenic Values Assessment: Methodology and Local Provisions Schedules for the Scenic Protection Code”</i>. This additional mapping exercise has not been completed. Kingborough Council have confirmed that this additional work was not undertaken due to <i>“resource constraints”</i>. This fails to meet the requirements of SPC 2.
8.6.	Kingborough Council have applied a blanket coverage with the proposed Scenic Protection Code Overlay without regard to suitability. Justification for the application of the overlay has not been provided. This fails to meet the requirements of SPC 2 .
8.7.	<i>“Scenic Landscape Corridors”</i> have not been defined or mapped. This fails to meet the requirements of SPC 2 .
8.8.	No scenic landscape values have been provided in Table E14.1 <i>“Specific Scenic Landscape Value”</i> .
8.9.	E14.7.3 - <i>“Removal of Bushland and Exotic Vegetation within Scenic Landscape Corridors”</i> is irrelevant as no Scenic Landscape Corridors have been defined.
8.10.	SPC 3 is not relevant to this submission.
<i>Response to questions asked at Kingborough Council meeting 02/12/24</i>	
Officer’s Response: 1. In 2017, the State Planning Office (then the Planning Policy Unit) undertook an audit of items in the interim planning schemes that could be transitioned to the Tasmanian Planning Scheme. The audit recommended that the Scenic Landscape Overlay of the Kingborough Interim Planning Scheme 2015 be made subject to the transitional provisions. Other than the ability for this to occur under the Act, no reasoning was provided. 2. The Kingborough Land Use Strategy of 2019 provides a broad overview of the visual landscape qualities in Kingborough and how it could be managed and protected in the proposed new planning scheme. The document acknowledges that a local landscape analysis may be required to rank the landscape quality for Kingborough (i.e. to inform a review of the Scenic Landscape Overlay) however that work was not completed due to resource constraints.	
<i>Sample mapping exercises using the “Guidelines for Scenic Values Assessment: Methodology and Local Provisions Schedules for the Scenic Protection Code”.</i>	
I have completed a sample data set mapping exercise for my property using the <i>“Guidelines for Scenic Values Assessment: Methodology and Local Provisions Schedules for the Scenic Protection Code”</i>. This is the accepted methodology for assessing and justifying <i>“Scenic Values”</i>. The Southern Technical Reference Group (TRG), of which Kingborough council is a member and participant, developed this methodology. Assessment by this method would be suitable to satisfy the requirements of SPC 1 and SPC 2.	

The following inputs have been used:

Sensitivity level 1: **Freeways and State Highways (Southern Edge Drive Journey)**

Scenic Quality Class:

Landform Features: **Moderate**

Vegetation Features: **Moderate**

Viewing Distance Ranges: **Far Middleground (FM)**

This would result in a Scenic Quality Class of Moderate and a Scenic Value of **SVA3** for our property. This rating should result in our property not having the Scenic Protection Code Overlay applied.

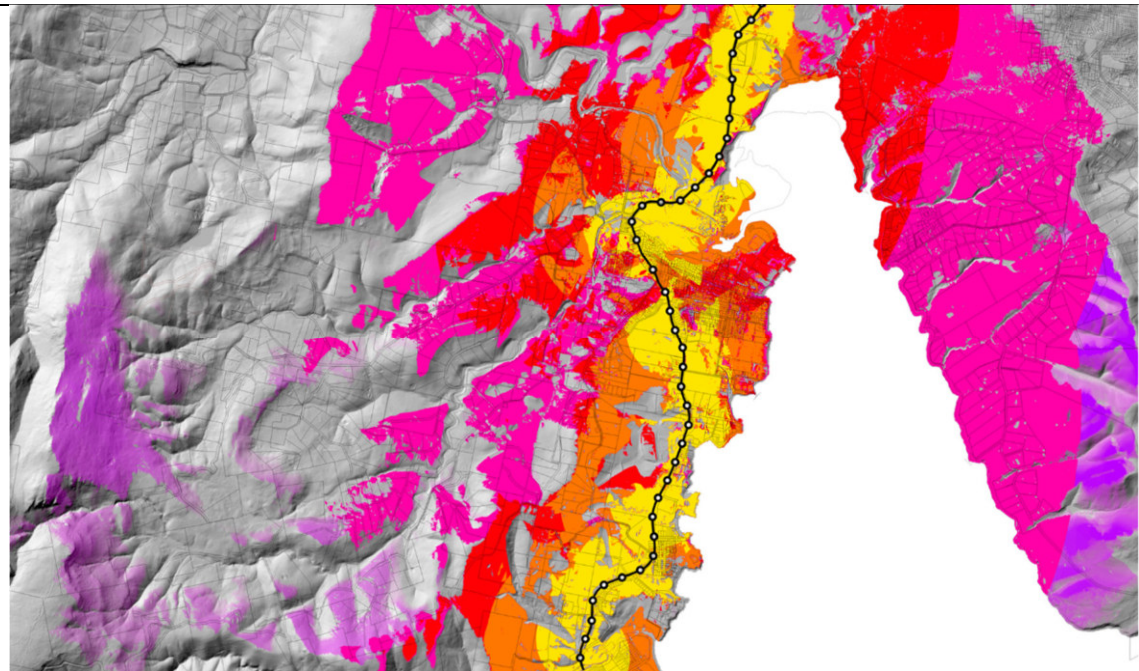
Furthermore, this Scenic Value result of SVA3 would only be applied to approximately 10% of the total property area. The remaining 90% is not visible from any sensitive receptors or possible Scenic Landscape Corridors.

Therefore, using the appropriate systematic assessment methodology the Scenic Protection Code Overlay should not be applied to our property.

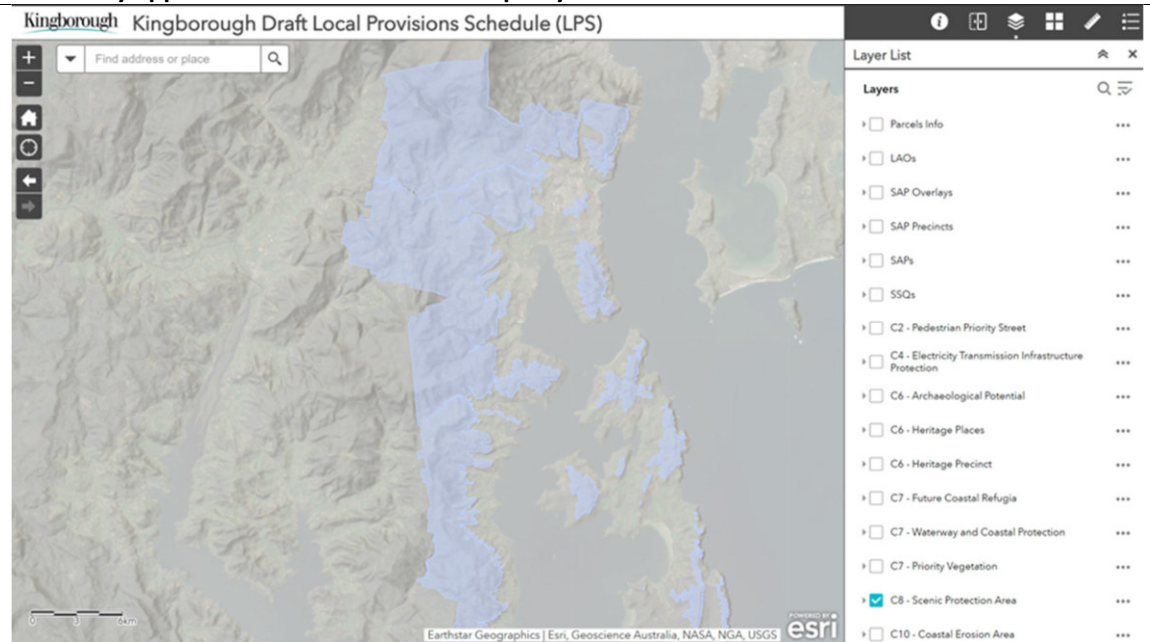
This sample assessment also indicates that the Scenic Protection overlay should not be applied to the majority of properties to the North and to the properties to the East of our property.

The dominant visible feature, to the south of our property, is Roberts Bluff which is within the Snug Tiers Nature Recreation Area and the Huon Valley Council Area. The ridge line to the West of our property, and a buffer of 50m below the ridgeline, is also protected within the Snug Tiers Nature Recreation Area.

Sample mapping results

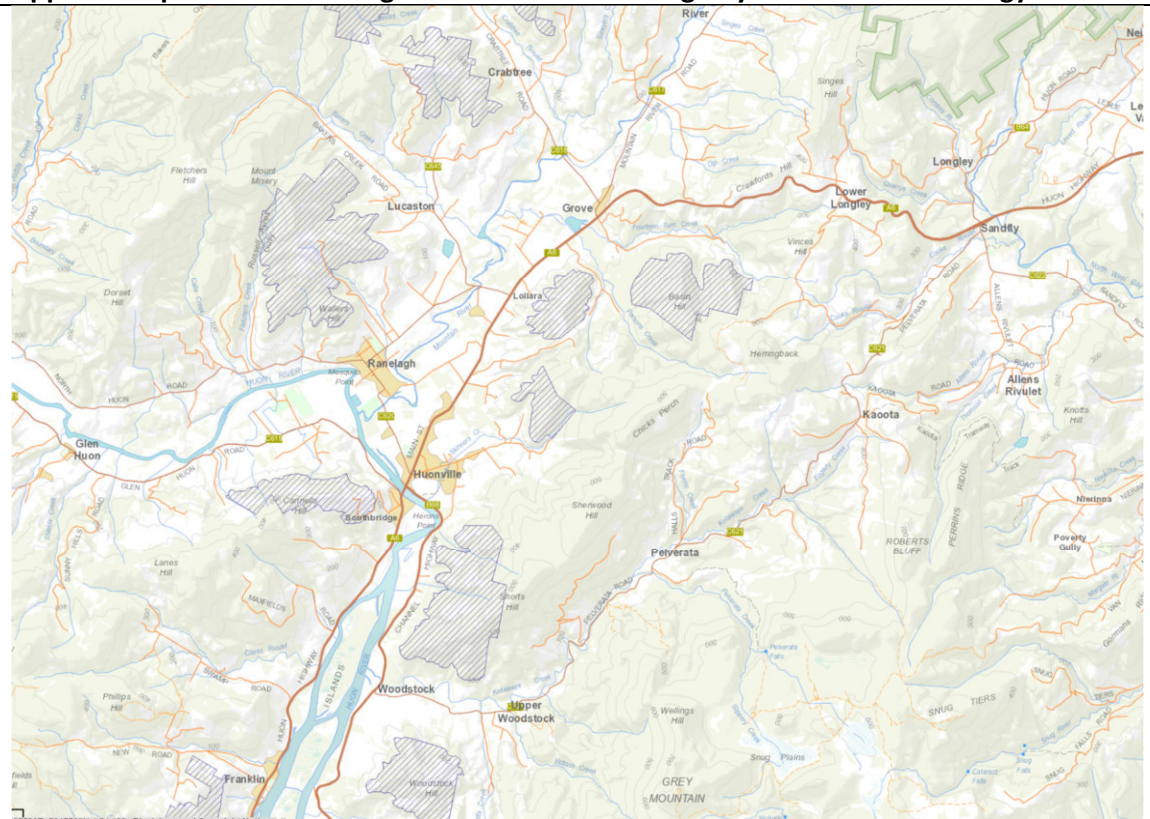


Proposed Kingborough Scenic Protection Areas
Arbitrarily applied across the whole municipality

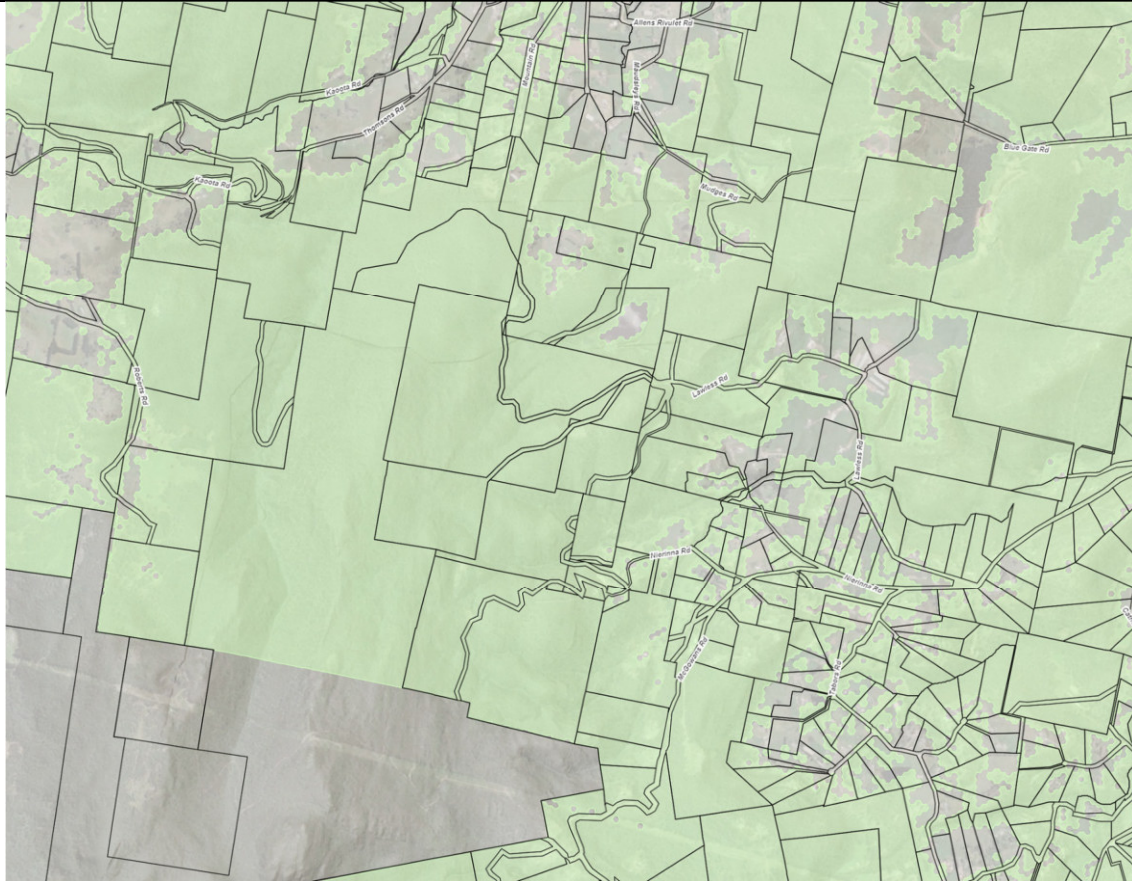


Example - Huon Valley Scenic Protection Areas

Applied to specific areas of High Scenic Value following a systematic methodology.



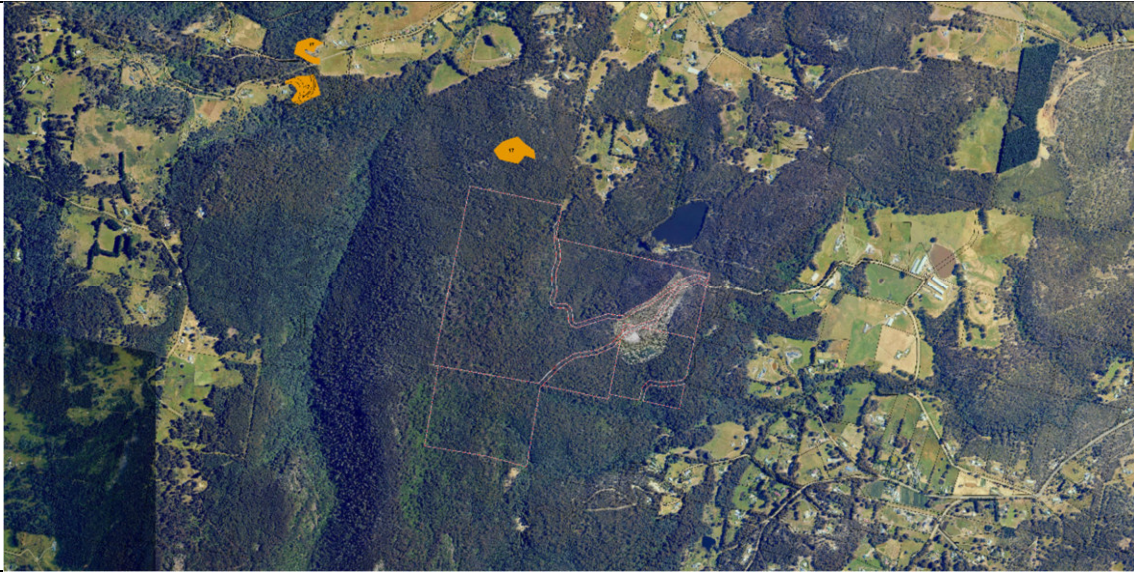
Proposed Scenic Protection Code Overlay



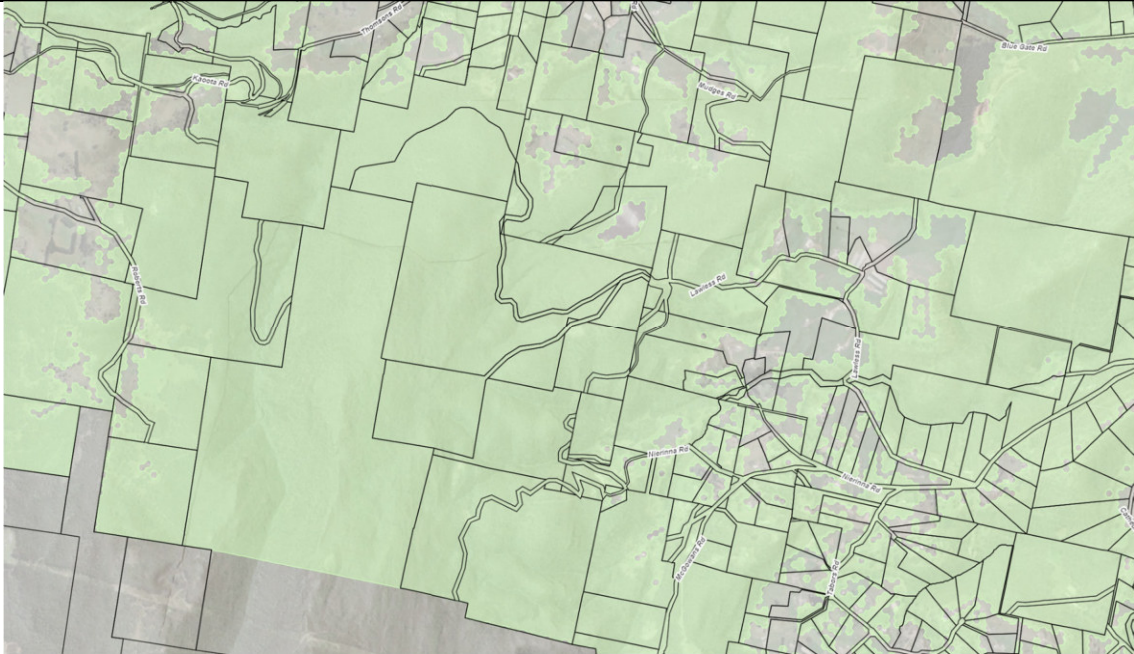
- ██████████ Margate

- 9.7. **NAC 8** is not applicable as there are no recorded threatened flora records in the Natural Values Atlas for our property.
- 9.8. **NAC 9** is not applicable to our property. The Regional Ecosystem Model (REM), developed by Natural Resource Planning (NRP) Pty Ltd, proposed by the Council to assess natural values, has a ranking system going from 1 – 64, with 1 being the highest rated natural values.
- The council have not applied this ranking to the proposed Natural Assets Code Overlay. The reliance of the Regional Ecosystem Model (REM), as a justification for **NAC 9**, is therefore contested.
- Kingborough Council appear to have not applied this methodology correctly and instead choosing to apply the proposed overlay to all zones that it can be applied to irrespective of the REM ranking.
- A sample calculation, using the REM methodology, for our property yields a result of 55. This rating should result in the overlay not being applied to our property.
- Furthermore, the Regional Ecosystem Model (REM), developed by Natural Resource Planning (NRP) Pty Ltd, is not publicly available and does not form part of Kingborough Council's LPS Exhibition Material and Supporting Information. Th
- 9.9. **NAC 10** is not applicable as there are no recorded threatened fauna records in the Natural Values Atlas for our property.
- 9.10. **NAC 11** can't be verified as no information has been issued or published by Kingborough Council of the verification, analysis or mapping undertaken by the third party. **NAC 11** is a catch-all clause. The relied upon information has not been made available to landowners and should therefore not be clause for the application of the proposed Natural Assets Code Overlay.
- 9.11. **NAC 12 (a), NAC 12 (b), NAC 12 (c) and NAC 12 (D)** are not valid for our property. None of the outlined criteria are relevant or applicable to our property.

Mapped Threatened Vegetation Species (Extract LISTmap Threatened Flora layer)



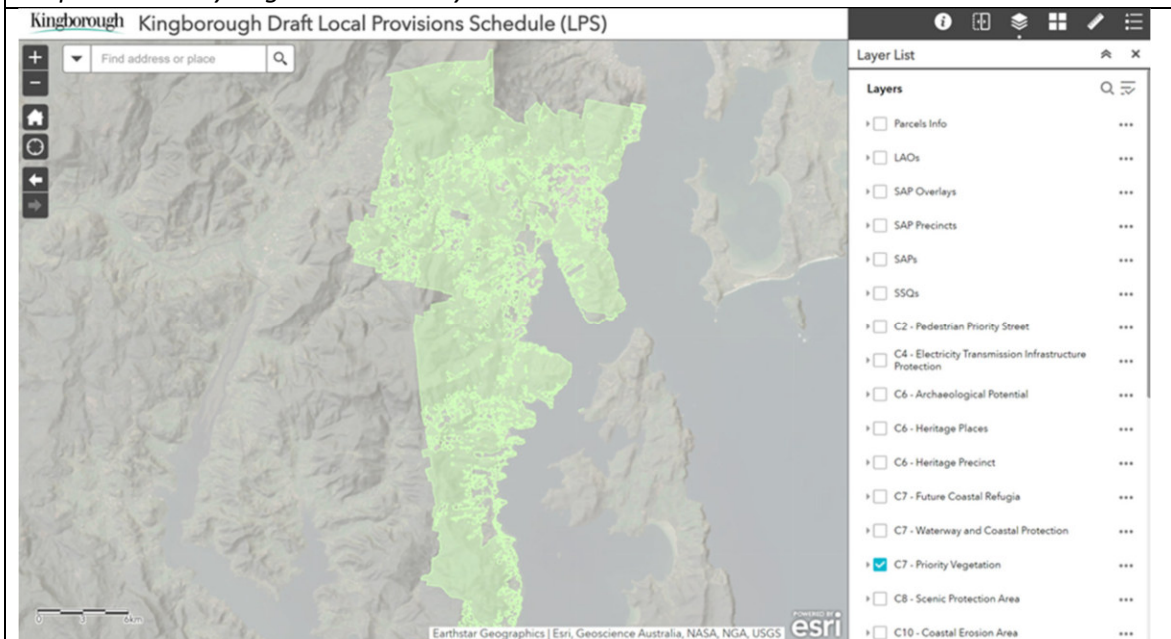
Proposed Natural Assets Code Overlay



Regional Mapped Threatened Vegetation Species (Extract LISTmap Threatened Flora layer)



Proposed Priority Vegetation Overlay



Attachment 2. Tasmanian Regional Ecosystem Model - Indicators, Content & Prioritisation Matrices

