

Kim and Adrian Phillips

[REDACTED], Margate TAS 7054

Kim: [REDACTED] | Adrian: [REDACTED] | [REDACTED]

26 September 2023

Tasmanian Planning Commission
By email: tpc@planning.tas.gov.au

**Re: Draft Kingborough Local Provisions Schedule, Direction 69 hearings.
Representation 144 ([REDACTED], Margate, CT [REDACTED] and related representations
185 to 196**

Dear Commissioners,

1. Unable to attend the hearing

We are unable to attend the hearings scheduled for September 29 and October 1. Adrian is working and Kim runs a small business that she cannot leave during the day. Joining by phone or video link is also not practical, as neither of us would be free to listen or speak at the scheduled time.

We ask the Commission to consider the following options, in order of preference:

- (a) that our representations be heard at a later hearing session; or
- (b) if that is not possible, that this letter and our earlier submissions be taken as read and considered in our absence.

Our earlier submissions are our representation of December 2024 and our further submission of 30 April 2026, made in response to the Commission's letter of 2 April 2026 (ref DOC/26/36829).

2. Our property: [REDACTED], Margate (CT [REDACTED])

Zone

We support the Ireneinc recommendation to include our property in the Rural Living Zone (RLZ). We ask the Commission not to return to the exhibited Landscape Conservation Zone. We bought the land in 2003, built our home in 2008 and have lived here ever since. Along with the house, we have a large workshop, container storage and a music studio. We have raised pigs and planted fruit trees. In time, we plan to add a small second home so that our family can live on the property across generations. This mix of residential and lower-order rural use matches Zone Guideline RLZ 1(a).

Sub-area

We understand the Planning Authority now recommends Rural Living Zone D. We ask for RLZ A or, as an alternative, RLZ B, for these reasons:

- **Lot size.** Our title is about 2.13 ha. RLZ D has a 10 ha minimum lot size, nearly five times the size of our lot.
- **Existing lot pattern.** Zone Guideline RLZ 3 says the sub-area should reflect the existing pattern and density of development. Of the 26 properties along [REDACTED] and [REDACTED] 12 are under 2.5 ha. RLZ D does not reflect this pattern.

- **Close to urban growth.** The Spring Farm subdivision now reaches Maddocks Road, and the Huntingfield subdivision is about a kilometre from our property. A 10 ha sub-area does not suit an area this close to the growth of Kingston.
- **No further subdivision.** Ireneinc supported RLZ only where the sub-area allows no further subdivision. RLZ B meets that test for our title. The minimum lot size is 2 ha, and the lowest size allowed under the performance criteria is 1.6 ha. A 2.13 ha lot cannot be divided under either.
- **Like-for-like with ELZ.** The former Environmental Living Zone allowed about one lot per 10 ha, so our title could not be subdivided under it. RLZ B keeps that same outcome for our title. It does this without mapping the area at a lot size far larger than most titles in it.
- **Our preference for RLZ A.** We acknowledge that under RLZ A our title could, in theory, be divided into two lots of just over 1 ha. We prefer RLZ A because nearby lots of around 1 ha form part of the existing pattern. If the Commission prefers a sub-area that allows no further subdivision, RLZ B achieves that and should be preferred over RLZ D.

Correction to our 30 April 2026 submission

The table in that submission gave the RLZ B performance criterion as 1.4 ha. The correct figure is 1.6 ha, which is 20% less than 2 ha. The error came from the Ireneinc LCZ Review report. It does not change our position.

Priority Vegetation Area overlay

We ask that the Priority Vegetation Area overlay be removed from the house and garden area shown in red on Figure 3 of our 30 April 2026 submission. We also ask that the overlay be pulled back so it covers only land where priority vegetation is actually present, as Guideline No. 1 (NAC 7 to NAC 11) intends.

Our property is in a mapped bushfire-prone area. The house and garden area is our established living area, where the land has long been used for our home, garden and day-to-day activities. We believe it is fair and reasonable that a vegetation protection overlay should not apply over the area where a family lives.

Both the State Planning Provisions and the Interim Scheme already exempt landscaping and vegetation management within a private garden, where the vegetation is not otherwise protected by law, a permit condition, an agreement or a covenant. Keeping the overlay over our garden therefore adds little, but it does create confusion about which fire safety and garden work needs a permit.

The general exemptions only allow clearing within 2 m of buildings. That is not enough to maintain a safe defensible space around a home in bushland. Where the overlay applies, wider fire protection work needs either a formally endorsed fire management plan or a planning permit. This adds cost and delay to basic fire safety for an existing home.

The overlay was carried over from the Interim Scheme's Biodiversity Protection Area under a transitional declaration. Guideline No. 1 (NAC 11) allows the overlay to be refined through field checking, but we are not aware of any site-level checking of the overlay on our title. As noted in our earlier submission, we ask the Commission to use its powers to modify the overlay as part of its decision on the Local Provisions Schedule.

Scenic Protection Area overlay

Our property is within the Scenic Protection Area. As set out in our December 2024 representation, this overlay was applied under the Interim Scheme to all land above the 100 m

contour, rather than to land assessed as having particular scenic value. In the Kingborough Land Use Strategy 2019, Council committed to a landscape assessment of the whole municipality, due in 2020. That assessment has not been done.

The Southern Tasmania Regional Land Use Strategy (policy CV 4.1) requires state and local government, in consultation with the community, to agree a set of criteria for deciding the relative significance of important landscapes and key landscape values. The Local Provisions Schedule must be consistent with that strategy under section 34 of the Act.

At the Direction 69 hearings, Council's consultant confirmed that "no public consultation was undertaken specifically on what has ended up in the review", and that landscape values are not a defined term in the State Planning Provisions or the Zone Guidelines. Delegate Ford also noted the risk that, once named, these values would not be known to planning officers when applications are assessed.

The scenic values that the overlay is meant to protect fall into the same gap. They have never been defined, assessed or agreed with the community. We ask the Commission to:

- (a) not carry the Scenic Protection Area overlay into the Local Provisions Schedule in its current form; or
- (b) if it must be carried over, treat it as a temporary arrangement, and require Council to complete a municipality-wide scenic assessment by a suitably qualified person within two years, with any revised overlay publicly exhibited.

3. Our other representations

Representations 185 to 196 relate to neighbouring properties on [REDACTED] and [REDACTED]. We made these only to make sure our neighbours had the chance of a hearing. Where a landowner has made their own representation, we ask the Commission to rely on that representation rather than ours.

While we cannot speak for our neighbours, we maintain that the Rural Living Zone is the correct zone for these properties, based on their existing residential use and the character of our area. We also maintain that the Priority Vegetation Area overlay should only apply where actual natural values are present.

Thank you for considering our request and this letter.

Yours sincerely,

Kim Phillips and Adrian Phillips