

The Bonnet Hill and Bruny Island Specific Area Plans

My concerns, and the amendment I will move

Cr Aldo Antolli | Kingborough Council | Ordinary Council Meeting, 3 August 2026

Why I am publishing this

Kingborough is going through the most significant change to its planning rules in a generation, and the Specific Area Plans for Bonnet Hill, Blackmans Bay Bluff and Bruny Island are among the most contested parts of it. Residents have made representations, attended hearings and written to councillors. They are entitled to know how their elected representatives are thinking, and on what basis.

So I am publishing my reasoning. It sets out what the statutory test requires, where my concerns lie, which arguments do not hold, and the arguments that run against my own position. I have included those counter-arguments deliberately: if my reasoning cannot survive them, it is not worth relying on, and you can weigh them yourself.

I want to record at the outset that Council officers have engaged with my questions promptly, thoroughly and in good faith. I put two rounds of detailed written questions to them and received full responses to every one. Nothing here is a criticism of the professionalism of that work. Where I have reached a different conclusion, it is a difference of judgement about a statutory test, not a complaint about conduct.

This paper draws on the published Council agenda for 3 August 2026 (Item 14.1) and its attachments, on the Kingborough Council website. Advice from officers is summarised in my own words rather than quoted, and I am happy to provide the correspondence on request.

1. The terms, in plain English

Planning language is impenetrable, and that is part of the problem. Here is what the main terms mean.

- **Tasmanian Planning Scheme.** The new statewide planning scheme replacing each council's own scheme. It has two halves: the State Planning Provisions, which are uniform statewide rules, and each council's Local Provisions Schedule.
- **State Planning Provisions.** The uniform statewide rulebook: standard zones, codes, exemptions and the assessment framework. Identical in every municipality. Councils cannot rewrite them.
- **Local Provisions Schedule.** Kingborough's local part of the new scheme: where the zones go on the map, which overlays apply, and any permitted local variations. This is what is currently before the Commission.
- **Specific Area Plan.** A local planning overlay within the Local Provisions Schedule that adds to, modifies or replaces the standard statewide rules for one defined area.
- **Kingborough Interim Planning Scheme 2015.** Our current planning scheme, which the statewide scheme will replace. The proposed provisions are frequently compared against it.
- **Tasmanian Planning Commission.** The independent statutory body that assesses and approves the Local Provisions Schedule. It is the final decision-maker, not Council. Council proposes; the Commission determines.
- **Natural Assets Code and the Priority Vegetation Area.** The statewide code dealing with vegetation, and its mapped overlay identifying vegetation warranting assessment. It does not apply in the Agriculture Zone, and in the Low Density Residential Zone applies only to subdivision.
- **The Pitt & Sherry review.** The independent planning review of the Specific Area Plans themselves, commissioned by Council in October 2025 and attached to the 3 August agenda. It supports the Bonnet Hill and Bruny Island plans in principle but found they require modification and refinement before proceeding, and in the case of the Bruny Island plan that it should not proceed in its current form. Where I refer below to the independent review, this is the one I mean.
- **The Irene Inc report.** A separate and quite different piece of work, by Irene Inc Planning & Urban Design, which reviewed the Landscape Conservation Zone and assessed what zone would be appropriate for various parcels of land. Council endorsed it on 16 March 2026 and submitted it to the Commission. It is this report, not the Pitt & Sherry review, that raised the possibility of a different zone for part of Apollo Bay.

- **Section 32(4).** The provision of the Land Use Planning and Approvals Act 1993 that sets the test a Specific Area Plan must satisfy. It has two limbs, and the one that applies here is explained next. It is the heart of the question.
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2. The test a Specific Area Plan must meet

A Specific Area Plan is not lawful simply because it would be beneficial. Section 32(4) of the Land Use Planning and Approvals Act 1993 permits one only if at least one of two alternative limbs is satisfied. The first, in paragraph (a), is that a use or development to which the provision relates is of significant social, economic or environmental benefit to the State, a region or a municipal area. The second, in paragraph (b), is that the land has particular environmental, economic, social or spatial qualities that require provisions unique to that area, applying in addition to, in substitution for, or as a modification of the statewide rules. The Act then requires the Commission to be satisfied that a draft Schedule meets the criteria in section 34, which include the requirements of section 32, before the Schedule can proceed.

The first limb is directed at a use or development that itself delivers significant benefit, the classic case being a major facility or project enabled by unique provisions. It has no natural application to these plans, because the use or development these provisions relate to is ordinary building and subdivision, houses, sheds and lots, and nobody contends that this development is itself of significant benefit to the State, the region or the municipality. The benefit claimed for these plans comes from the controls, not from the development the controls regulate, and that is not what paragraph (a) asks. Even the provision with the clearest environmental purpose, the Swift Parrot control, is described in officers' written answers to me as having a conservation benefit that may be modest over a relatively limited area, which does not approach significant. Council's officers have, consistently with this, justified these provisions to me in writing under paragraph (b), not paragraph (a).

So the operative limb is paragraph (b), and its word is require. Not useful, not tidy, not convenient. And the burden of demonstrating it rests with the Planning Authority, which is Council, not with the Commission and not with objectors. If the standard zones, the statewide codes or other legislation already manage the issue, then an additional local provision is not required, it is duplication, and duplication is what the statewide reform was designed to remove.

One further point about how the test operates. It applies to each provision, and passing it makes a provision lawful to include, not mandatory to include. It is a gateway, not a directive. Even a provision that satisfied the test would still face the separate question of whether Council should adopt it, and one provision passing the gateway does not carry the others through with it.

It is the test I have tried to apply consistently, and the standard against which I have assessed each provision.

3. The bundling problem, and the amendment I will move

The recommendation before Council asks the Planning Authority to endorse the modifications as a single package. That package does three quite different things. It withdraws the Blackmans Bay Bluff component. It modifies the Bonnet Hill plan. And it modifies the Bruny Island plan.

Those three things rest on different evidence and different findings. The independent review found the Blackmans Bay Bluff component is not supported in its current extent and form. It found the Bonnet Hill and Bruny Island plans justified in principle but requiring modification and refinement before they proceed, and in the case of Bruny Island it said the plan should not proceed in its current form. Three different conclusions, and as drafted we express them in one vote.

That has a practical cost. A councillor who supports withdrawing the Blackmans Bay Bluff plan, but who has concerns about Bonnet Hill or Bruny Island, is forced to choose between them. I do not think that is a sound way to make a statutory decision, and I do not think the Blackmans Bay Bluff outcome should be tied to the more contested components.

There is a legal reason as well. Section 32(4)(b) asks whether the particular land in question has particular qualities requiring unique provisions. Bonnet Hill and Bruny Island are different places, with different values and different evidence. The Act contemplates that each is justified separately, so it is consistent with the Act that Council consider each separately.

The amendment

I will move this at the outset of the item. It is procedural. It changes no wording in any plan, advances no view about the merits of any of them, and asks nobody to vote a particular way. Colleagues who support all three lose nothing: they vote in favour three times and the outcome is identical to the recommendation as drafted.

That Recommendation (b) and (c) be replaced with the following, and that the resolutions be put separately:

That the Planning Authority:

- (a) Receives the report titled Expert Review – Bruny Island Specific Area Plan (KINS6.0) and the Blackmans Bay Bluff & Bonnet Hill Specific Area Plan (KINS7.0) prepared by Pitt & Sherry and notes its findings.
- (b) Determines to consider each of the three Specific Area Plan components separately, on the basis that section 32(4)(b) of the Land Use Planning and Approvals Act 1993 requires each Specific Area Plan to be justified by reference to the particular qualities of the land to which it applies.
- (c) In respect of the Blackmans Bay Bluff component of KINS7.0, resolves not to proceed with that component, consistent with the finding of the Pitt & Sherry review that it is not supported in its current extent and form.
- (d) In respect of the Bonnet Hill component of KINS7.0, endorses the modifications set out in the attachments as the Planning Authority's position for the purposes of the ongoing Local Provisions Schedule hearings.
- (e) In respect of the Bruny Island Specific Area Plan (KINS6.0), endorses the modifications set out in the attachments as the Planning Authority's position for the purposes of the ongoing Local Provisions Schedule hearings.
- (f) Provides the Pitt & Sherry review, together with any modifications endorsed under paragraphs (d) and (e), to the Tasmanian Planning Commission for consideration as part of its assessment of the Local Provisions Schedule.
- (g) In respect of any component for which endorsement is not carried, resolves not to proceed with that component and authorises the Chief Executive Officer to advise the Commission accordingly, recording the reasons given by the Planning Authority.

Paragraph (g) is a safeguard. Without it, a component that is not endorsed is left unresolved, and the earlier and more restrictive exhibited version remains before the Commission by default. Paragraph (g) ensures anything Council does not endorse is properly withdrawn and the Commission told why. That protects every councillor's vote, whichever way it is cast.

4. My concerns about endorsing the Bonnet Hill and Bruny Island plans

These are the reasons I am not persuaded, as matters stand, that I can vote to endorse these two plans. They are concerns, not conclusions I am unwilling to revisit. If they are answered in debate, I will weigh that.

Each provision has not been shown to be required

Justification material is attached to the agenda, and it does address the provisions. My concern is what it demonstrates. The test asks not whether a provision is sensible or consistent with the current scheme, but whether the land requires it. In my reading, the justification largely explains the provisions by the general character of Bruny Island and Bonnet Hill and their consistency with the current scheme, rather than showing, provision by provision, that each is required. When I asked officers to make that case for each provision, the fullest answer addressed the Agriculture Zone vegetation control. For the others, including wastewater, lot design, residential density, building height and the Bonnet Hill provisions, I am not persuaded the case has

been made. The test applies to each provision, and the burden rests with Council, so this is the most significant gap for me.

The agenda report describes the plans as an interim measure

These are the report's own words. Paragraph 5.13 states that the approach generally maintains the status quo. Paragraph 5.15 states that the provisions maintain outcomes comparable to those currently achieved under the existing scheme. Paragraph 5.16 acknowledges a risk that some locally specific matters may not be addressed as comprehensively in the short term, and describes the position as an appropriate interim position and a holding point.

An instrument its authors describe as an interim holding position, which largely reproduces what already applies, sits uneasily with a test of present necessity. That is a genuine difficulty, not one I have manufactured.

The version proposed has not been exhibited or consulted upon

Paragraph 5.2 records that the proposed modifications extend beyond the recommendations of the independent review. Paragraph 9.1 records that no additional formal public consultation has been undertaken specifically for this review. The community survey and the representations relate to the earlier exhibited version, and the independent review assessed a different version again. So the instrument now proposed for submission has not itself been exhibited, consulted upon, or assessed by the independent reviewer.

The report does not set out the statutory test

Section 6 of the agenda report, headed Statutory Requirements, records that the review sits outside the formal statutory processes prescribed by the Act and that final decisions rest with the Commission. Section 32(4)(b) does not appear in the body of the report, and there is no demonstration within it, provision by provision, that the test is met. The supporting justification sits in attachments. I would have expected the test to be stated plainly in a report asking the Planning Authority to adopt a statutory position.

Clarifications given to councillors that are not reflected in the agenda report

In responding to my questions officers clarified several matters. I set them out here because they are material to the decision, and because I want to be transparent about what has informed my thinking. In summary, officers advised:

- that the inclusion of the Swift Parrot collision provision is ultimately a policy decision for Council, that its conservation benefit may be modest, that the area affected is relatively limited, and that the statewide provisions would be a preferable long-term home for such a measure;
- that the Priority Vegetation Area mapping is not intended to be fully ground-truthed at property scale, operating as a trigger for assessment rather than a determination of what is present on any particular block; and
- that the statutory test is not whether a Specific Area Plan avoids a particular zoning outcome, and that potential alternative zoning consequences are not relied upon as a justification for retaining the plans.

I appreciate the candour of those answers, and all councillors have seen them.

My point is narrow, and not a criticism of anybody. What goes to the Commission is the agenda report and its attachments, not the correspondence. As drafted, paragraph 5.3 records the Swift Parrot provisions as justified and appropriate, but not the later advice that their inclusion is ultimately a policy decision for Council.

I do not suggest anything has been withheld; the report was finalised before my questions. But a reader of the report alone, the Commission included, would not have the clarifications that councillors do.

So I will be asking questions during the meeting, on each of these points, so that the answers are given in open session and recorded in the minutes. That places them on the public record where they belong, and it means that whatever Council resolves, the position it puts forward is complete. If these plans proceed, I will also ask that the clarifications be reflected in the submission to the Commission. That is a request any councillor could support, whichever way they intend to vote.

Where the officers' answers sit awkwardly with the formal justification

This is not a criticism of anyone's good faith. It is simply that, on two provisions, the advice officers gave me in correspondence does not sit easily beside the formal justification attached to the agenda. I set both out because the words are on the record and readers can judge for themselves.

The Swift Parrot control. The formal justification for the Bruny Island plan states that the Swift Parrot collision provisions are “a targeted and proportionate response to a locally significant environmental issue and are necessary to address an identified gap”, and the agenda report describes “sound strategic justification for its inclusion”. In answer to my questions, however, officers advised that the conservation benefit “may be modest”, that the area affected is “relatively limited”, that the statewide provisions would be a “preferable” home for such a measure, and that whether to include it “is ultimately a policy decision for Council”. A provision described in the formal document as necessary is described in the correspondence as a modest, discretionary policy choice. Both cannot comfortably be true, and it is not my characterisation that creates the gap.

The Apollo Bay controls. The formal justification supports the Apollo Bay building design controls partly on the basis that, without them, the land might be “more suitable to be zoned as the Landscape Conservation Zone”, expressly invoking “Council's preference for the least restrictive zoning outcome”. In answer to my questions, officers agreed that the statutory test is not whether a Specific Area Plan avoids a particular zoning outcome, and that zoning consequences “are not relied upon as a justification for retaining the plans”. The difficulty is plain: the written justification for this provision leans on avoiding a zone, while officers have since confirmed that avoiding a zone is not a lawful justification.

I raise these not to embarrass anybody, but because they go directly to the question the Commission must answer, which is whether each provision is required. Where the justification and the later advice pull in different directions, that is a matter councillors are entitled to weigh, and I intend to ask about both in open session so the position is clear on the record.

5. My assessment of the individual provisions

A Specific Area Plan is not one thing to be accepted or rejected as a whole. It is a set of provisions, each of which must independently satisfy the statutory test. This is how I assess them on the published material. Reasonable people may assess them differently, and I set my view out so it can be tested.

Bruny Island

Provision	What it does	My assessment
Priority Vegetation, Agriculture Zone	The gap is real, but it exists statewide, not particularly here, and officers confirm the same protection is available by applying the Rural Zone under the standard provisions. A provision unique to the area is therefore preferable, not required.	Does not meet the test
Priority Vegetation, Low Density Residential	A real gap for development, not just subdivision, though the private garden exemption limits its reach on built-out lots.	Arguable
Apollo Bay building design	Landscape controls. The 6 m height limit is less restrictive than the current 5 m.	Arguable
Swift Parrot collision risk	The only genuinely new control. Officers advise the benefit may be modest, that the statewide provisions would be a better home, and that inclusion is a policy decision for Council.	Not demonstrated
On-site wastewater	Generally consistent with the current scheme; brings an already regulated matter forward in the assessment	Not demonstrated

	process.	
Multiple dwelling density	More permissive than the current scheme, which allows no multiple dwellings here at all.	Not demonstrated
Lot design, Low Density Residential	Stated to be no more onerous than the current scheme and broadly aligned with the statewide provisions.	Not demonstrated

Bonnet Hill

Provision	What it does	My assessment
Prominent trees	A genuine gap: the statewide scheme has no equivalent control protecting trees for their landscape value. The justification rests on visual amenity.	Arguable
Building height, three lots	Carries forward the existing 5 m limit on three lots in a substantially developed area.	Not demonstrated
Lot design, three lots	More permissive than the current scheme: 3,000 m ² with a 1,500 m ² pathway, down from 5,000 m ² .	Not demonstrated
On-site wastewater	A small unsewered pocket; no stricter than the current scheme.	Not demonstrated

On that assessment, no provision has been shown to meet the test, three are arguable, and the remainder have not been demonstrated to me to be required in the statutory sense.

6. The Agriculture Zone question, explained

This is the most important provision in the package and the one most easily misunderstood, so it is worth setting out properly.

How the problem arose

The State Government mapped land across Tasmania with agricultural capability, and the LPS Guidelines require councils to apply the Agriculture Zone to that land. Kingborough's 2020 draft had no Agriculture Zone on Bruny Island at all, only Rural Zone. The Commission directed Council to apply the statewide agricultural mapping, and the result was a far broader Agriculture Zone across the island than Council had proposed.

That collided with a second rule. Under the Natural Assets Code, the Priority Vegetation Area provisions do not apply in the Agriculture Zone at all. That exclusion is deliberate state policy: the state does not want vegetation controls impeding farming.

On Bruny the two rules meet awkwardly, because land can be agriculturally capable while still carrying native forest and threatened species habitat, much of it on private land outside any reserve. Apply the Agriculture Zone as directed, and across a large part of the island there is no planning trigger to consider vegetation when someone builds or subdivides.

What Council is actually proposing

Council is not saying the Specific Area Plan protects agriculture. That protection comes from the zone, which restricts competing non-agricultural uses. What the plan does is add a vegetation assessment the state deliberately left out of that zone, so Council can apply the zone the state directed while keeping a vegetation trigger.

Why officers are concerned about the gap

- **Incremental loss with nobody counting.** Each clearing looks trivial in isolation. Cumulatively it can fragment habitat, and without a trigger nobody is tallying it.
- **A planner cannot lawfully raise it.** With no vegetation provision in the zone, a Council planner assessing an application has no basis to consider vegetation at all.
- **Inconsistency across the island.** The rest of Bruny is covered by the standard code; these zones would be gaps in that coverage.

Why the law does not require this, on Council's own advice

There is a further point, and it goes to the statutory test rather than to proportionality. Section 32(4)(b) permits a provision unique to an area only where the land's qualities require it. Required means more than useful. It means the ordinary scheme cannot achieve the same result.

On this provision, Council's own officers have confirmed that the ordinary scheme can. In answer to my questions they advised that, if the plan is not supported, the same land could be given the Rural Zone, and that the standard Priority Vegetation Area provisions of the Tasmanian Planning Scheme apply within the Rural Zone without the need for any plan specific control. In other words, the vegetation protection Council seeks does not depend on a provision unique to Bruny Island. It is already available through the ordinary operation of the scheme, by a zoning choice officers themselves have identified.

Officers prefer the Agriculture Zone because applying the Rural Zone would depart from the statewide agricultural mapping and the LPS Guidelines. That is a reasonable planning preference. But it is a preference, not a necessity, and section 32(4)(b) asks about necessity. Once Council accepts that the protection can be delivered by ordinary means, the case that the land requires a provision unique to the area is, on Council's own evidence, materially weakened. I do not raise this to score a point. It is Council's advice, not my argument, and it goes to the centre of what the Commission must decide.

The risk to landowners if the plan does not proceed

There is a genuine risk here and I will not pretend otherwise, because it falls on landowners rather than on wildlife.

The swift parrot is listed as Critically Endangered and the forty-spotted pardalote as Endangered under the Commonwealth Environment Protection and Biodiversity Conservation Act. That Act works on a self-assessment and referral model: it is the landowner, not the council, who must judge whether an action is likely to have a significant impact on a listed species. Commonwealth approval is required in addition to any state or local approval. A Council planning permit is not a defence.

At present the planning trigger acts as a free early-warning screen. An application prompts a natural values assessment, and the landowner learns of any issue before clearing. Without that trigger, a landowner could obtain a permit with vegetation never mentioned, clear the land, and afterwards find they have a Commonwealth problem, having believed they did everything properly.

How high is that risk? Honestly assessed, it is low in likelihood but high in consequence. Most modest clearing for a single dwelling will not reach the significant impact threshold. Bruny is, however, the place in this municipality where it is most likely to be crossed.

That calibration is why I am not persuaded it justifies the plan. A low-likelihood, high-consequence risk is the classic case for warning people rather than regulating everyone. You do not impose a mandatory assessment on every landowner in a zone in order to catch a rare event. You tell every landowner in that zone what the law requires of them.

If the Bruny Island plan does not proceed, I will seek a commitment that Council write to landowners in the Agriculture and Low Density Residential zones on Bruny Island, and publish guidance with its planning application material, explaining their obligations under Commonwealth law and recognised bird-safe building design guidance. That costs very little, captures most of the protective benefit for landowners, and adds no additional layer of Council control.

Just as importantly, that approach educates and empowers landowners rather than placing another layer of regulation over them. Over-regulation is the most consistent complaint I hear from Bruny Island landowners,

and it runs through Council's own consultation more strongly than any other single theme. A landowner who understands their obligations is better placed to meet them than one who is merely subject to another control.

Weighing the two, my judgement is that the certain, universal burden on every landowner in these zones outweighs a conservation benefit officers themselves call modest, aimed at a threat the Commonwealth ranks below habitat loss, and confined to a limited area. Others will weigh it differently, and I accept it is a judgement, not a calculation. But it is the one I have reached, and I would rather state it plainly.

7. Not proceeding with a plan is not unusual

An objection I expect is that declining to endorse would disrupt the process. The record of this very process says otherwise.

- **Council has already done it in these hearings.** The Commission asked whether the Planning Authority intended to proceed with the Kingston Southern Gateway Specific Area Plan. Council resolved that it did not, and lodged its response on 25 June 2026, which is published on the Commission's website. Its reasons included that existing statutory mechanisms were adequate and that a precinct-wide instrument would introduce unnecessary duplication and complexity. Council did not simply walk away: it proposed a narrower Site-Specific Qualification over a single site as a more proportionate mechanism.
- **Council is doing it again in this very report.** The recommendation includes not proceeding with the Blackmans Bay Bluff component. If withdrawal were damaging to the process, officers would not be recommending it on the same page.
- **The 2020 suite did not survive.** When Council lodged its draft in February 2020 it proposed new plans for Blackmans Bay Bluff, Burwood Drive, Coningham and Lower Snug, Kettering and Dennes Point. The Commission indicated it did not support them in the format presented and directed Council to reconsider. The process continued and was reworked, which is what these processes are for.
- **Other plans remain under active direction.** The Commission has issued directions on the Burwood Drive and Kingborough Coastal Settlement plans seeking advice on potential modifications. Modification and withdrawal are ordinary features of this process rather than exceptional events.

8. Two ways of looking at it

I have set the two courses side by side against the same considerations, so the choice can be judged on consistent criteria rather than impressions.

	If Council endorses the plans	If Council does not
Landowner freedom	Additional provisions apply. Bruny landowners in two zones face a vegetation assessment; Bonnet Hill an area-wide prominent tree control; new dwellings on Bruny bird-safe glazing requirements.	No additional local layer. Landowners are subject to the same statewide zones and codes as comparable land elsewhere.
Cost and delay	More consultant reports, longer assessment, higher cost, falling hardest on ordinary landowners rather than well-resourced applicants.	Lower cost and fewer triggers at application stage.
Section 32(4)(b)	On my assessment no provision has been shown to satisfy the test, and most are plainly not required.	Consistent with the test, and the burden stays where the Act puts it, on the Planning Authority.
Equity	Bruny and Bonnet Hill carry controls that comparable land elsewhere does not, for gaps	Same rules for the same zoning across the municipality.

	that exist statewide.	
Environmental protection	Closes a real gap in the Agriculture and Low Density Residential zones.	Leaves that gap open. This is a genuine policy cost. Commonwealth and state species law continues to apply to landowners directly.
Bushfire	Vegetation controls are perceived by many residents as friction on hazard reduction.	No local vegetation controls beyond the statewide code.
Reversibility	Once in the scheme, removing a provision requires a full amendment.	Reintroduction also requires a full amendment, which is a real cost.

What the community told Council

Council's consultation is public and worth quoting, because these are residents' words rather than mine.

"That people are able to use their properties without overly restrictive and expensive planning process and overlap."

"The standard planning conditions are more than adequate for the area. The SAP simply provides over governance."

"Property owners should be afforded natural justice to receive the same planning requirements as all other Kingborough residents."

"I understand the push for environmental values, but these need to be balanced against individual freedoms."

Two threads deserve particular weight because they go beyond amenity. Council's own analysis records significant concern that vegetation and tree-retention controls impede effective bushfire mitigation, and a strong sentiment that human safety is being subordinated to landscape objectives. And a submission from an agricultural enterprise argued that flexibility to diversify revenue, through cottage industry and sustainable agri-tourism, leads to better ecological outcomes because it gives farmers the financial security to reduce stock numbers and inputs. That is a stewardship argument made by a landowner.

I should add the obvious qualification. Community views, for or against, are not among the statutory criteria. They cannot decide the question either way, and the independent review applied exactly that reasoning when it declined to treat community support as sufficient justification at Blackmans Bay Bluff. I record the feedback because it is relevant to workability and cost, not because it settles the test.

9. Arguments I have tested, and the costs of not endorsing

Two arguments in this debate that do not hold

Two arguments are commonly made against the vegetation controls proposed for Bruny Island, which are the rules requiring a landowner to have the effect on native vegetation assessed before certain development or subdivision goes ahead. I have tested both arguments, and I do not rely on either. I set them out here so that the public debate is not carried on a false footing, because both are still being repeated.

- **That the standard statewide codes already cover this ground. They do not.** Under the Natural Assets Code, the priority vegetation provisions do not apply to development or subdivision in the Agriculture Zone, and in the Low Density Residential Zone they apply only to subdivision. The gap is genuine, and any argument that proceeds on the basis that the codes already handle it is mistaken.
- **That the standard scheme exemptions would leave the vegetation control largely ineffective. That overstates the position.** The private garden exemption applies only where a garden is already established, so clearing native bush elsewhere on a large vegetated lot would still be assessed. On Bruny Island, where many developed lots retain extensive bush beyond the house, that is a meaningful category of development.

The costs of not endorsing the Bonnet Hill and Bruny Island plans

These are the consequences that follow if the Bonnet Hill and Bruny Island plans do not proceed. I would rather state them myself than have them put to me.

- **A real gap opens on Bruny Island.** Without the Bruny Island plan, there is no vegetation assessment for development or subdivision in the Agriculture Zone, and none for development in the Low Density Residential Zone, from the commencement of the new scheme. I have weighed that risk carefully, and I set out my reasoning in section 6. In short, I would rather close a known gap properly, after the strategic work the independent review itself recommended, than adopt a control that has not been justified and that would be difficult to remove once it is in the scheme. I accept it is a risk. On balance I think it is a risk worth taking, and I would rather say so openly than pretend the gap does not exist.
- **Bruny Island landowners lose an early warning** that helps keep them clear of Commonwealth obligations, as set out in section 6.
- **Part of Apollo Bay may face a more restrictive zone, though the risk is smaller than it first appears.** It has been raised as a reason to support the Bruny Island plan, so it is worth explaining.

The source of this concern is a report by Irene Inc Planning & Urban Design, a different consultancy from Pitt & Sherry and engaged for a different purpose. Irene Inc reviewed zoning, including the Landscape Conservation Zone, and Council endorsed and submitted its work to the Commission in March 2026. Its evaluation examined nine Bruny Island localities and asked what zone would be appropriate under the new scheme. For eight of the nine, it found that removing the Specific Area Plan would make no difference to the zoning recommendation. For part of the Apollo Bay locality it reached a different view: its recommendation of the Rural Living Zone assumed the plan's building height and exterior finish controls would be in place, partly because the statewide Scenic Protection Code does not apply to that area. Without those controls, it suggested the Landscape Conservation Zone might become the more appropriate zone.

That matters because the Landscape Conservation Zone is considerably more restrictive than the Rural Living Zone. Its primary purpose is protecting landscape and environmental values rather than accommodating residential use, and it treats dwellings far less permissively. For the landowners affected, that would be a real detriment, and I am not going to pretend otherwise.

Three things put the size of that risk in perspective, and I established each of them by putting the question directly to Council officers in writing.

- **It is confined.** It applies to part of one locality, not to Bruny Island as a whole, and on Irene Inc's own assessment the other eight localities would be unaffected.
- **Nothing in writing from the Commission supports it.** Officers confirmed that the Tasmanian Planning Commission has made no formal comment during the hearings suggesting alternative zoning outcomes for Bruny Island. The Landscape Conservation Zone suggestion for Apollo Bay is an implication drawn from the Irene Inc report, not a position the Commission has taken. Officers also describe the methodology behind that report as a starting point to inform professional judgement, not a determinative answer, and note that the Commission is not bound by it.
- **It is not a lawful reason to adopt a plan in any case.** Officers agreed that the statutory test is not whether a Specific Area Plan avoids a particular zoning outcome, and that zoning consequences are not relied upon as a justification for retaining these plans.

One related matter, easily blurred. Officers advised that alternative approaches were discussed with the Commission at post-lodgement conferences, meetings held while a draft scheme is assessed. Those discussions touched on zoning, but on a different question: whether, if the Bruny Island plan were not supported, agricultural land might be zoned Rural rather than Agriculture. They did not concern Apollo Bay.

A suggestion made in a post-lodgement conference is not a direction and binds nobody. The Commission acts formally through directions and its final determination, and officers confirmed no such comment has been made here. And the Rural Zone is generally more permissive than the Agriculture Zone, so that alternative would not obviously disadvantage landowners at all.

- **There is a timing risk, though it is smaller than it sounds.** It is easy to overstate, so it is worth stating precisely.

If declining to endorse the Bonnet Hill and Bruny Island plans led the Commission to require further work, the new scheme could take longer to commence for Kingborough. Until it does, the current Kingborough Interim Planning Scheme 2015 continues to apply, and that scheme is generally more restrictive than either option now on the table. At Bonnet Hill it imposes a 5,000 m² minimum lot size on the relevant land. On Bruny Island it does not allow multiple dwellings in the Low Density Residential Zone at all. Anyone wanting to subdivide or build in the interim is worse off for as long as that continues.

But this is a risk about timing, not outcomes. Once the new scheme commences, the standard Low Density Residential provisions allow a 1,500 m² minimum lot size, with smaller lots through the performance pathway. That is more generous than the 3,000 m² the Bonnet Hill plan prefers. The same holds on Bruny Island, where the standard provisions are more permissive than the plan for both lot size and multiple dwellings. So in the longer run, not proceeding is the less restrictive outcome in both areas. The cost, if any, is confined to the period of delay.

- **Reintroduction is genuinely hard.** Bringing either plan back later requires a full scheme amendment, with exhibition, representations and hearings, and the same statutory test.
- **Even the strongest provision is, on my assessment, not required, though it is the closest case.** I should be candid about it.

Of the eleven provisions across the two plans, the one with the strongest case is the priority vegetation control for the Bruny Island Agriculture Zone. The gap it fills is genuine, the statewide code does not reach that zone at all, and the natural values on the island are recognised at national level. Even so, I do not think it meets the test as required. The gap it addresses exists statewide rather than particularly here, and officers have confirmed that the same protection could be delivered by applying the Rural Zone, where the standard priority vegetation provisions operate without any need for a provision unique to the area. Where the ordinary scheme can achieve the same end, a unique provision is preferable, not required, and it is necessity that section 32(4)(b) demands.

Voting against the Bruny Island plan as a package means voting against that provision along with the rest, and officers are entitled to point that out. My answer is that it has been presented as a bundle of seven provisions, without the provision-by-provision justification I asked for, and **I do not think I should have to accept seven provisions bundled together when not one of them has been shown to be required.**

10. The lens I bring, stated openly

Rules and regulations are made by people, for the order and benefit of people. Some rules are made for the benefit of the environment, and rightly so. But even those are, in the end, rules about people, because people are the ones who have to manage and nurture the environment. A rule protecting a stand of trees is really a rule about what the person who owns that land may do, and how they go about caring for it.

The responsibility for this place rests with us, and our task is to meet it in a way that is orderly and sustainable. That is why I keep coming back to people. A planning rule succeeds when it equips a landowner to be a good steward of their land. It fails when it simply constrains them, or makes the cost of doing the right thing so high that ordinary people give up or move away.

My starting position, then, is that the people who choose to live on Bruny Island, and who love the place enough to stay, are the ones most likely to look after it. Our job is to give them the tools and the freedoms to do that well, rather than to load them with burdens that deter people from ever becoming part of the island in the first place.

That is a worldview, not a legal argument, and I will not put it to the Commission as though it were one. But it properly informs how I weigh a genuine choice, and there is evidence in Council's own material that supports it: the farmer who argued that financial security is what allows reduced stock numbers and inputs; the residents who want to keep their trees and also want to be safe from fire; the repeated concern that additional layers price out ordinary people while well-resourced development absorbs the cost without difficulty.

The strongest argument against my view, and my answer

The counter is the collective action problem. Individual good faith does not prevent cumulative harm. Twenty landowners can each make an entirely reasonable decision, and the twenty-first discovers the habitat corridor is gone, with no single person at fault. Planning controls exist precisely because good intentions do not always aggregate into good outcomes. And a planning scheme regulates for future owners as much as for current ones.

My answer is in two parts, and the first requires me to be fair to officers. I asked them to name real development outcomes that these plans would change and that the standard statewide scheme would not. They answered that question properly and gave four examples.

- On Bruny Island, a subdivision or development in the Agriculture Zone involving the clearing of mapped priority vegetation would have to be assessed for its effect on vegetation and habitat. Under the standard scheme there is no such requirement in that zone at all.
- On Bruny Island, whether a site can actually handle its own wastewater would be considered when the planning application is assessed, rather than emerging later at the plumbing approval stage.
- At Bonnet Hill, subdivision of three prominent lots would be assessed against its effect on the landscape when viewed from Kingston and Kingston Beach. The standard scheme contains no mechanism for weighing that.
- At Bonnet Hill, development encroaching on a prominent tree would have to show that the impact on that tree and its contribution to the landscape had been minimised. Again, the standard scheme has no equivalent.

Two of those, the Agriculture Zone vegetation assessment and the prominent tree control, are genuine gaps. I do not dispute them and I have said so throughout this paper.

But showing that a provision would operate differently is not the same as showing that the land requires it. That is the distinction the statutory test turns on. What has not been demonstrated is that incremental loss is actually occurring at a rate that makes these controls necessary now, as opposed to a risk that could occur in future.

The second part of my answer is about sequence. The proper response to a cumulative impact problem is strategic rather than incidental. It is the Bruny Island structure plan and precinct framework that the independent review itself identified as the appropriate mechanism, developed with the community and informed by proper technical work. That is a considered answer to a cumulative problem. A broad overlay adopted as an interim measure, with the strategic work postponed to some later date, is not.

11. Where this leaves me

I have not approached this looking for reasons to say no. I asked two rounds of questions, I received full answers, and I have set aside two arguments commonly made against these provisions because they do not hold. On the material as it stands, I am not persuaded that the Bonnet Hill and Bruny Island provisions have been demonstrated to meet the test that section 32(4)(b) sets, and the burden of demonstrating it rests with Council.

I support not proceeding with the Blackmans Bay Bluff component, consistent with the independent review. That is precisely why I want the three separated: so each can be decided on its own evidence, and so a view on one is not forced to stand in for a view on the others.

Whatever Council resolves, the Tasmanian Planning Commission remains the decision-maker and will assess the merit and justification of these plans itself. My concern is that Council should put forward only what can stand on its own merits under the statutory test.

I welcome disagreement with any of this. If residents or colleagues think I have misread the material, I would rather hear it before Monday than after.

Cr Aldo Antolli, Kingborough Council. Prepared from the published Council agenda of 3 August 2026 (Item 14.1) and its attachments. This paper reflects my personal view as one councillor. It is not a statement of Council policy and is not legal advice.

Appendix: the questions I asked, and what officers advised

I put two rounds of written questions to Council officers, copied to all councillors, and officers replied to all. What follows is a plain English summary. Officers' answers are summarised in my own words rather than quoted. My own comment is included so readers can see how I weighed each answer.

Round one

1. Necessity

I asked: If the plans are described as an interim, holding measure pending future work, how can they be required now, which is what the law demands?

Officers advised: that describing them as interim does not make them unnecessary. They are the minimum needed to move from the old scheme to the new one without leaving gaps. Without them, the Commission might have to consider other tools, including zoning that landowners may like less.

My comment: This reframes the question rather than answering it. It also leaned on the zoning argument, which officers later agreed is not a lawful justification.

2. What would actually change

I asked: Name a real development outcome these plans would change that the standard statewide scheme would not.

Officers advised: four examples: vegetation assessment in the Bruny Island Agriculture Zone, where the standard scheme has no equivalent; wastewater capacity considered at the planning stage on Bruny Island; subdivision of three Bonnet Hill lots assessed for landscape effect; and prominent trees at Bonnet Hill, where again the standard scheme has no equivalent.

My comment: A fair and responsive answer, and the strongest of the round. Two of the four are genuine gaps. The other two are about the timing of an assessment, or are more permissive than what applies now.

3. The vegetation mapping

I asked: Has the priority vegetation mapping been checked on the ground, property by property?

Officers advised: no, and it was never intended to be, because that would not be feasible. It operates as a trigger for assessment rather than a determination of what is on any block. Kingborough's mapping is more refined than that of many councils, and the Commission may direct refinements during the hearings.

My comment: A candid answer and I credit it. It does not address who bears the cost when a landowner believes the map is wrong on their land.

4. Overlap with the statewide code

I asked: What would the plan actually capture that is not already exempt, and is a local plan or the statewide review the right way to fix this?

Officers advised: that alignment with the statewide code is deliberate, that exempt activities remain exempt, and that the purpose is to catch non-exempt development in the two zones the code does not reach.

My comment: This did not answer the specific question in round one. It was answered properly in round two.

5. Swift Parrot collision controls

I asked: Given collision with windows is a secondary threat to the species, why a mandatory control on Bruny Island alone?

Officers advised: that collision is not the primary threat but is the one the planning system can influence; that the control is risk-based and does not prohibit development; that it fills a gap because neither the old scheme nor the new one covers it; and that the benefit may be modest but is better than nothing.

My comment: This accepts the premise of my question. A modest benefit is a weak footing for the only genuinely new restriction in the package.

6. Bonnet Hill

I asked: Why an area-wide plan when the main controls affect three lots, rather than a targeted control over those lots?

Officers advised: that it is not only three lots. The prominent tree control applies across the whole area and the wastewater provisions to the unsewered part. Height and subdivision controls apply to the three lots that most affect the landscape.

My comment: A fair answer on the choice of instrument. It does not establish that the area-wide tree control is required in the legal sense, which was the underlying question.

Round two

7. The zoning argument

I asked: What is the evidence that refusing these plans leads to a more restrictive zone, and how can avoiding a zoning outcome justify a plan when that is not part of the legal test?

Officers advised: that there is nothing formal from the Commission; the matter was raised in post-lodgement discussions, and those concerned applying the Rural Zone rather than the Agriculture Zone to agricultural land. For Apollo Bay, the Landscape Conservation Zone suggestion comes from the Irene Inc report. That report's methodology is a starting point rather than determinative, and the Commission is not bound by it. Officers agreed expressly that the statutory test is not whether a plan avoids a zoning outcome, and that zoning consequences are not relied upon as a justification for retaining the plans.

My comment: This resolved the point. The zoning argument is not a lawful basis for adopting these plans, and officers have said so. I note that, when I asked for each provision to be shown to be required, the fullest case made in reply was for the Agriculture Zone vegetation control.

8. What the vegetation control captures

I asked: Give one worked example of clearing on a developed lot that the plan would capture and that is not already exempt, and how is Bruny Island particular when this gap exists statewide?

Officers advised: that the private garden exemption applies only where a garden is already established, so clearing native bush elsewhere on a lot, for a new dwelling, shed or driveway, would still be assessed. On Bruny Island many developed lots retain extensive bush beyond the house. The control does not prohibit clearing. On the statewide point, they advised that the legal test asks whether the land's qualities are particular, not whether the regulatory gap is unique, and that Bruny Island's natural values are exceptional.

My comment: Their strongest answer. I am not pressing the exemptions argument, and their reading of the legal test is correct as far as it goes. But it does not answer the Rural Zone point: if the same protection is available by applying the Rural Zone under the standard provisions, the land does not require a provision unique to the area. On that footing I am not persuaded even this provision meets the test.

9. Swift Parrot proportionality

I asked: The Commonwealth recovery plan for the swift parrot encourages good building design rather than requiring it through planning rules, so why a mandatory control on Bruny Island alone rather than promoting the voluntary guidance?

Officers advised: that my reading of the recovery plan is correct and it does not require collision measures to be imposed through planning controls. They noted the plan recognises collision as a threat, gives local government a role, and names Bruny Island as a key breeding location. The control targets higher-risk features such as large opposing panels of clear glass and highly reflective glazing, applies only where a risk is identified, and treats the design guidelines as guidance rather than mandatory requirements. Whether to include it is ultimately a policy decision for Council.

My comment: This confirms my reading and hands the decision to Council. Of all the provisions, this is the one most clearly open to being left out.