
From: Brett Gibson <[REDACTED]>
Sent: Thursday, 30 April 2026 11:10 PM
To: Kingborough LPS
Subject: Submission for [REDACTED] - Opposition to Landscape Conservation Zone (LCZ)
Attachments: Submission - Opposition to LCZ [REDACTED] Tinderbox.pdf

Hello,

Please find attached our formal submission in opposition to the proposed application of the Landscape Conservation Zone (LCZ) on our property [REDACTED] Tinderbox Tas.

We very much appreciate your consideration in this matter.

Sincerely,

Brett and Rowen Gibson

SUBMISSION TO THE TASMANIAN PLANNING COMMISSION

Kingborough Draft Local Provisions Schedule

Response to Direction 69 and the Ireneinc Planning & Urban Design Report dated 20 March 2026

Submission in Objection to the Proposed Rezoning of Land in East Tinderbox from Environmental Living Zone (ELZ) to Landscape Conservation Zone (LCZ)

Property details

Property Address: [REDACTED] TAS 7054

Lot Size: **2.17 hectares**

Current Interim Scheme zone: Environmental Living Zone (ELZ)

Exhibited Draft LPS zone / Ireneinc recommended zone: Landscape Conservation Zone (LCZ)

Submitted by: The Gibson Family

Date of submission: 30/04/2026

Part 1 — Executive Summary and Relief Sought

1.1 Nature of this submission

This submission is made to the Tasmanian Planning Commission (the Commission) in response to the letter issued to us ('the landowner') on 2 April 2026, inviting further written submissions on the recommendations of the Ireneinc Planning & Urban Design report titled "Response to Direction 69 – Locality Baseline and Alternative Zone Evaluation" dated 20 March 2026 (the Ireneinc Report), and on the evidence given on behalf of the Planning Authority by Ms Kate Heckelmann of Ireneinc at Day 2 of the resumed Kingborough LPS hearings.

Our property is located in the East Tinderbox locality. Under the Kingborough Interim Planning Scheme 2015 (the Interim Scheme), the land is within the Environmental Living Zone (ELZ). The draft Kingborough Local Provisions Schedule (draft LPS), as exhibited, proposed to transition the land to the Landscape Conservation Zone (LCZ). Following the Commission's rejection of the proposed Bushland and Coastal Living Particular Purpose Zone (PPZ) and the issuing of Direction 69, Council engaged Ireneinc to re-examine the appropriate alternative zone for all ELZ land in the municipality. The Ireneinc Report and Ms Heckelmann's evidence recommend that the East Tinderbox land, including our property, remain within the LCZ.

This submission formally objects to that recommendation. The submission contends that the proposed application of the LCZ to our property is inconsistent with the State Planning Provisions (SPP), Zone Application Guidelines, the Tasmanian Planning Commission's prior reasoning in comparable LPS decisions, Council's own resolution of 16 March 2026, and with the internal logic and evidentiary record of the Ireneinc Report itself. The submission contends that the Rural Living Zone (RLZ), in a lot-size category that does not enable further subdivision (that is, RLZ B with a 2 ha minimum, RLZ C with 5 ha minimum, or RLZ D with a 10 ha minimum, as calibrated to the existing pattern), is the appropriate zone.

1.2 Summary of argument

The Ireneinc recommendation for East Tinderbox fails for at least fifteen independent and cumulative reasons. Any one of these reasons is, on its own, a basis for the Commission to reject Ireneinc's recommendation and direct the substitution of the RLZ for the LCZ. Taken together, they are overwhelming. They are:

1. Breach of Zone Guideline LCZ 4(a). The SPP Zone Guidelines expressly direct that the LCZ "should not be applied to land where the priority is for residential use and development". The East Tinderbox land — including our property — is, on the Ireneinc Report's own evidence, land whose existing and primary use is residential, with dwellings on the overwhelming majority of lots, very few vacant lots, and no material agricultural or landscape-management enterprise. The LCZ is therefore, by the clear terms of the Guideline, prohibited.
2. Breach of the Zone Guideline note prohibiting use of the LCZ as a replacement zone for the ELZ. The SPP Zone Guidelines contain two express, italicised notes: (a) "The LCZ is not a

replacement zone for the ELZ in interim planning schemes. There are key policy differences between the two zones."; and (b) "The LCZ is not a large lot residential zone, in areas characterised by native vegetation cover and other landscape values." Ireneinc's recommendation, in effect, treats the LCZ as a direct translation of the ELZ for large bushland residential lots — the exact outcome the Guideline forbids.

3. Failure of the "risk" differentiator. Ireneinc's entire case for differentiating East Tinderbox from Howden, Blackmans Bay, Albion Heights, Bonnet Hill, Western Tinderbox, and Leslie Vale rests on assigning a "high" risk rating rather than a "medium" risk rating. On Ms Heckelmann's own evidence at hearing, there is no defined threshold between low, medium and high risk; the assignment is made without empirical evidence; and the Panel expressly identified this as a flaw. A methodology whose controlling variable cannot be defined or audited is not a rational basis for imposing a more restrictive zone.
4. No evidence of actual landscape degradation or precedent of inappropriate development. At the hearing Ms Heckelmann expressly confirmed that no analysis of examples of inappropriately high buildings, or of landscape compromise, had been undertaken. The "risk" is purely hypothetical and theoretical, and is directed to a handful of performance-criteria differences between the LCZ and the RLZ that the Natural Assets Code, Waterway and Coastal Protection Area Code, and Scenic Protection Area Code (as extended, if necessary) can manage.
5. Internal inconsistency with the Howden and Blackmans Bay recommendation. Ireneinc has recommended RLZ for Howden and Blackmans Bay on landscape-value descriptions that are, on Ms Heckelmann's own evidence, substantively identical to those for East Tinderbox. This was identified at the hearing as unexplained; Ms Heckelmann conceded the landscape values were "not necessarily very different". Arbitrary differential treatment of like cases is impermissible in a statewide, standardised zoning framework premised on consistency.
6. Internal inconsistency with Western Tinderbox. The Ireneinc Report recommends that the western side of the Tinderbox peninsula transition from ELZ to RLZ, even though Ireneinc itself describes the peninsula as a whole as having a "central elevated ridgeline" and "bushland-covered slopes forming a highly prominent landscape". The two sides of the peninsula form a single landscape unit viewed from the D'Entrecasteaux Channel; differential zoning of one contiguous landscape without a clear evidentiary basis is not a defensible strategic outcome.
7. Internal inconsistency with Albion Heights and Bonnet Hill. Ireneinc recommends RLZ for Albion Heights and Bonnet Hill, despite its own finding that those localities have "highly significant landscape values" that are an "inter-urban break" between Hobart and Kingston, with "elevated ridgelines", "steeply contoured terrain", "long-distance views" and status as a "visually prominent landscape within the municipality". On any objective reading, those values are of greater municipal significance than those of East Tinderbox. If RLZ is adequate there, it is adequate here.
8. Inconsistency with the Huon Valley LPS precedent. In deciding the Huon Valley LPS, the Tasmanian Planning Commission expressly accepted that land in the ELZ with identified landscape values could appropriately transition to the RLZ where those values could be

managed through the operation of the relevant codes. The Ireneinc Report acknowledges this precedent. Applying it to East Tinderbox produces the same outcome.

9. Absence of a Scenic Protection Area overlay is a mapping problem, not a zoning problem. Ireneinc's principal substantive justification is the absence of the Scenic Protection Area overlay along the East Tinderbox coastal corridor. This point was expressly made at the hearing that, if that is the only substantive difficulty, the correct response under the TPS framework is to extend the Scenic Protection Area — not to impose a more restrictive zone. The TPS framework is explicitly premised on zones implementing strategic settlement intent and overlays / codes managing specific values. Using a zone as a proxy for a missing overlay is not a legitimate planning technique.
10. The Natural Assets Code (Priority Vegetation) and other codes already manage the value. On Ms Heckelmann's own evidence, the Priority Vegetation overlay extends across essentially the entire East Tinderbox area. Clearing of priority vegetation triggers a discretionary application, which must be assessed against the performance criteria of the Natural Assets Code. The incremental capacity of the RLZ to support additional building footprint or height is subject to the same overlay controls and to the RLZ's own performance criteria.
11. The RLZ category recommended by Ireneinc for neighbouring localities eliminates the main "risk" identified. Ireneinc's recommended RLZ categorisation is one that "does not provide for further subdivision". The principal vector of intensification — additional lots — is therefore removed before the risk assessment even begins. What remains is alteration / extension of existing dwellings, which is already subject to the height, setback, site coverage, reflectance, cut-and-fill and landscape-value performance criteria of the RLZ code and the overlay codes.
12. The Ireneinc recommendation is explicitly acknowledged as provisional and second-best. Ms Heckelmann expressly told the Panel that the recommendation was the appropriate zone "at this point in time" and "based on the parameters of what we're being asked to look at", and acknowledged that Council may in future pursue the PPZ and may want to undertake "further strategic work". A recommendation whose own author concedes it is a default fallback is not an adequate basis for imposing the most restrictive non-environmental zone on our property.
13. Inconsistency with Council's 16 March 2026 resolution. Council resolved, and formally advised the Commission, that where more than one zone is considered appropriate, the zone applied should be the "least restrictive alternative". The Ireneinc evidence is that the RLZ is "not the most comfortable fit" but is on balance appropriate in neighbouring localities, and that the LCZ is the appropriate "at this time" zone for East Tinderbox. Between two zones each acknowledged as arguably appropriate, Council's stated position compels selection of the less restrictive — the RLZ.
14. Procedural and evidentiary deficiencies. The Ireneinc assessment was principally desk-based, relying on aerial imagery and realestate.com.au photographs, with no property-level ground-truthing, no land-use survey, no consideration of existing Part 5 agreements, conservation covenants or private land management regimes, and no structured analysis of actual visibility or viewshed from the Channel. A methodology of this kind cannot rationally found the imposition of a more restrictive zone on an established residential landholding.

15. Overwhelming representations in opposition and primacy of the landowner's strategic intention. A significant quantity of Tinderbox submissions identified in the Ireneinc Report opposed the LCZ and advocated the RLZ. Although representations are not a decisive factor, their weight, consistency and the articulation of primary residential intention go directly to the first branch of the decision tree (residential intention) and confirm that the priority of the land is for residential use and development.

1.3 Relief sought

For the reasons set out in Parts 2 to 15 of this submission, the landowner respectfully asks the Commission to direct that our property, and the balance of the East Tinderbox cluster that is of comparable character, be transitioned from the Interim Scheme ELZ to the Rural Living Zone, in a categorisation (RLZ B, C or D) that reflects the existing pattern and density of development and does not enable further subdivision. In the alternative, the landowner asks the Commission to direct split zoning, applying LCZ only to any demonstrably undeveloped, unmodified coastal-edge portion of the subject title (if any), and RLZ to the balance of the title that is occupied by dwellings, gardens, cleared areas and residential curtilage.

In the further alternative, if the Commission is not minded to direct RLZ immediately, the landowner asks the Commission to direct that the extension of the Scenic Protection Area along the East Tinderbox coastline be considered as the primary mechanism for managing the scenic values identified by Ireneinc, and that the LCZ not be imposed as a proxy for a missing overlay.

Part 2 — Statutory and Policy Framework

This Part sets out the statutory framework that governs the Commission's decision on the alternative zone to apply to our property. The submission that follows in Parts 3 to 14 must be read against this framework. The framework is, in summary: the Commission's task is to apply the zones available under the State Planning Provisions (SPP), in a manner that is "as far as practicable" consistent with the Southern Tasmania Regional Land Use Strategy (the Regional Strategy), and in a manner that achieves the zone purpose of each zone "to the greatest extent possible". The Zone Guidelines are not statutory, but the Commission has consistently applied them as the primary interpretive instrument for questions of zone application.

2.1 The Land Use Planning and Approvals Act 1993

Section 34 of the Land Use Planning and Approvals Act 1993 (LUPAA) sets out the criteria that must be satisfied before the Commission may approve a draft LPS. Relevantly, section 34(2) requires the Commission to be satisfied that the LPS, amongst other things, "furthers the objectives set out in Schedule 1 of the Act", is "as far as practicable, consistent with" the relevant Regional Land Use Strategy, and "as far as practicable, is consistent with the LPS of a municipal area adjoining the municipal area to which the draft LPS relates". The Schedule 1 objectives include promotion of the sustainable use of resources, the fair, orderly and sustainable use of land, the maintenance or enhancement of environmental quality, and the security of use and development rights.

The objectives in Schedule 1 are not weighted, and the Commission is required to balance them. Imposing the most restrictive non-environmental zone available under the SPP on established residential lots, solely on the basis of a theoretical and undefined "risk" that additional height or site coverage could eventuate in future, is not consistent with the security of use and development rights, is not a "fair" or "orderly" outcome, and is not the minimum intervention consistent with the environmental objective.

2.2 The State Planning Provisions and the Tasmanian Planning Scheme

The Tasmanian Planning Scheme comprises the SPP (the statewide component) and an LPS for each municipal area. The SPP establishes twenty-three standard zones. The Interim Scheme ELZ is not one of them. The SPP therefore does not provide a direct translation path for ELZ land; the Commission must allocate ELZ land to one of the twenty-three SPP zones on a site-specific and cluster-based basis.

The zone purpose statement of each SPP zone is the primary instrument of statutory interpretation. Guideline No. 1 issued by the Minister under section 8A of the LUPAA confirms that "the primary objective in applying a zone should be to achieve the zone purpose to the greatest extent possible". If an applied zone systemically fails to achieve its own purpose on the ground (as explained in Part 5 below for the LCZ in East Tinderbox, where the "landscape" is, in fact, largely a residential settlement), the Commission is not required — indeed, is not authorised — to apply it.

2.3 The Landscape Conservation Zone

Clause 22.1 of the SPP sets out the purpose of the Landscape Conservation Zone:

22.1.1 To provide for the protection, conservation and management of landscape values.

22.1.2 To provide for compatible use or development that does not adversely impact on the protection, conservation and management of the landscape values.

Under the LCZ Use Table, Residential is classified as Permitted only if it is "(a) a home-based business; or (b) a single dwelling located within a building area, if shown on a sealed plan". A single dwelling that is not located within a building area on a sealed plan is Discretionary. That is, the LCZ does not provide a baseline permitted right to a dwelling in the way a residential zone does. The practical consequences for the owners of established dwellings in East Tinderbox (and for prospective purchasers of their properties) are material, and are discussed in Part 5.

The Zone Application Guidelines for the LCZ (Guideline No. 1, section 5) are as follows:

- LCZ 1: The LCZ 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 2: The LCZ 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; (b) land that has significant constraints on development through the application of the Natural Assets Code or Scenic Protection Code; or (c) land within an interim planning scheme ELZ and the primary intention is for the protection and conservation of landscape values.
- LCZ 3: The LCZ may be applied to a group of titles with landscape values that are less than the allowable minimum lot size for the zone.
- LCZ 4: The LCZ should not be applied to: (a) land where the priority is for residential use and development (see RLZ); or (b) State-reserved land (see EMZ).

Critically, the Zone Guidelines contain two explicit italicised notes at the conclusion of the LCZ section:

Note: The LCZ is not a replacement zone for the ELZ in interim planning schemes. There are key policy differences between the two zones.

Note: The LCZ is not a large lot residential zone, in areas characterised by native vegetation cover and other landscape values. Instead, the LCZ provides a clear priority for the protection of landscape values and for complementary use or development, with residential use largely being discretionary.

These notes are not optional or advisory. They were placed in the Guidelines by the Minister specifically to prevent the outcome that the Ireneinc recommendation now produces — the wholesale translation of bushland residential ELZ land to the LCZ simply because the land has native vegetation on it. The TPC itself, in deciding the Huon Valley LPS in July 2024, expressly quoted these notes and

relied upon them to reject a similar translation approach. That reasoning is binding (in the sense of being the Commission's settled reasoning) on the Commission's approach to this LPS.

2.4 The Rural Living Zone

Clause 11.1 of the SPP sets out the purpose of the Rural Living Zone:

11.1.1 To provide for residential use or development in a rural setting where: (a) services are limited; or (b) existing natural and landscape values are to be retained.

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

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

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

RLZ 1(a) in the Zone Guidelines provides that the 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 (e.g. hobby farming), but priority is given to the protection of residential amenity". RLZ 2(b) provides that the RLZ may be applied to land "within the ELZ 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".

Most importantly for present purposes, RLZ 4(b) is as follows:

RLZ 4(b): The RLZ should not be applied to land that contains important landscape values that are identified for protection and conservation, such as bushland areas, large areas of native vegetation, or areas of important scenic values (see LCZ), unless the values can be appropriately managed through the application and operation of the relevant codes.

That is, the Zone Guidelines expressly contemplate the application of the RLZ to land containing important landscape values, provided those values can be managed through the relevant codes. This is the textual hinge on which the entire Ireneinc analysis turns; and it is the hinge at which, for the reasons given in Parts 6 to 9 below, the Ireneinc analysis breaks.

2.5 The Environmental Living Zone under the Interim Scheme

The ELZ under the Kingborough Interim Planning Scheme 2015 is described in Kingborough Fact Sheet No. 10 as a zone that "mainly provides for residential options in rural areas" and is "generally applied to unserviced, residential 'bush blocks' that contain native vegetation". The principal purposes of the zone include: "To provide for residential use or development in areas where existing natural and landscape values are to be retained"; and "To protect the privacy and seclusion that residents of this zone enjoy".

This is important for two reasons. First, the ELZ's primary purpose is residential, with environmental values as a coupled but secondary consideration. Second, the acceptable solution minimum lot yield under the Interim Scheme ELZ is 1 lot per 10 hectares; front, side and rear setbacks are 30 metres; maximum height is 7.5 metres; and combined gross floor area of buildings is limited to 300 square metres. These standards already produce a low-intensity development pattern that has shaped the existing settlement at East Tinderbox over decades. Transition to the RLZ (categorised with no further subdivision) does not represent a material intensification vis-à-vis the existing ELZ baseline; transition to the LCZ, by contrast, downgrades the residential status of land that is already overwhelmingly residential.

2.6 Applicable overlay codes on East Tinderbox

On the Ireneinc Report's own mapping, the East Tinderbox locality is subject to the following overlays under the SPP / LPS:

- Bushfire-Prone Area
- Landslip Hazard Area
- Waterway and Coastal Protection Area
- Scenic Landscape Area (partial — centralised core of the peninsula, not extending to coastline properties)
- Priority Vegetation Area (Natural Assets Code — covering substantially the entire locality)

These overlays apply in addition to any zone. They are not diluted by the choice of zone; their operation is independent of it. Any attempt to clear priority vegetation — whether in the LCZ, the RLZ or the ELZ — triggers a permit, a discretionary pathway, and the substantive performance criteria of the Natural Assets Code. Any development in the Waterway and Coastal Protection Area is subject to that Code. The practical consequence of imposing LCZ rather than RLZ is therefore a narrower and more speculative set of differences than the Ireneinc Report treats as controlling. Those differences are examined in detail in Part 8.

2.7 Direction 69 and the scope of this reconsideration

Direction 69 required the Planning Authority to reconsider the application of the LCZ in the light of representations received, and specifically to confirm its preferred alternative zone for land that had been recommended for the PPZ. The Tasmanian Planning Commission expressly identified, in correspondence and in the hearings, that the Direction also provided an opportunity to consider the application of the RLZ more broadly to ELZ land. The scope of the present reconsideration is therefore the correct identification of the appropriate alternative zone; it is not a presumption in favour of the LCZ. The default position, at the point of Direction 69, is that the LCZ is in question, not that it is confirmed pending demonstration that something else is better.

2.8 Council's resolution of 16 March 2026

Kingborough Council, at its meeting on 16 March 2026, resolved, amongst other things, to advise the Commission that "its risk appetite in relation to questions of impact on landscape values is high", and that "where more than one zone is considered appropriate for a particular area, the zoning that should be applied to that area would be the least restrictive alternative". That resolution is the Planning Authority's formal instruction to the Commission as to how to weight marginal cases. It is considered in detail in Part 12.

Part 3 — Structural Defects in the Ireneinc Methodology

The Ireneinc Report purports to apply a "decision tree" methodology to produce a consistent, transparent allocation of alternative zones for ELZ land across the municipality. On examination, the methodology suffers from a series of structural defects that render its East Tinderbox recommendation unsound. This Part addresses the methodology at a structural level; Parts 4, 5 and 10 address its specific outcomes.

3.1 The decision tree is not a decision tree

A genuine decision tree is deterministic: given the same inputs, it produces the same output. The Ireneinc methodology, as described in section 6.3 of the report, is not deterministic. Having traversed the branches concerning residential intention (Q1–Q2), rural living characteristics (Q3–Q4) and the presence of landscape values (Q5), the methodology arrives at a dispositive question (Q6): "Could the identified landscape values be appropriately managed outside of the Landscape Conservation Zone?" This is then converted into a further, sub-textual enquiry: "What is the risk, in this locality, that the landscape values will be compromised by the application of the alternative zone?"

At that point the methodology ceases to be a decision tree and becomes an open-textured evaluative exercise calibrated by an undefined variable ("risk"). That is precisely the issue identified at the hearing when it was observed that the descriptions of the landscape values at Howden and East Tinderbox were "very similar", and that the only word which could explain the differential outcome was "risk". Ms Heckelmann acknowledged the Panel's concern, but did not resolve it.

A methodology whose dispositive step is not reducible to ascertainable criteria is not, in any real sense, more "transparent" or "consistent" than a lot-by-lot analysis. It merely re-locates the discretion from the individual lot to the locality while preserving all of its subjectivity.

3.2 The "risk" variable is undefined

At Day 2 of the hearing, Ms Heckelmann was expressly asked: "What's your definition of a medium risk?" Ms Heckelmann's answer was, in substance, that low-to-medium risk is acceptable for RLZ allocation and high risk tips the scale to LCZ. That answer restates the taxonomy but does not define the terms within it. There is no:

- threshold of probability, recurrence or magnitude at which low becomes medium or medium becomes high;
- statement of the consequence against which probability is being measured (partial vegetation clearing; new dwelling; extension of existing dwelling; change of use; site coverage increase; height increase; all of the above?);
- time-horizon over which the risk is being assessed (5 years, 20 years, permanent?);
- distinction between the risk of a thing happening and the risk of it mattering if it does;
- counterfactual baseline (risk relative to the ELZ? relative to the LCZ? relative to no zone?); or

- method of calibration linking the categorical output ("high") to the locality inputs (topography, settlement pattern, overlays, etc.).

Without these, the "risk" output is not an analytical finding. It is a conclusion dressed up as an analytical finding. That is not an adequate basis on which to impose a more restrictive zone on a landowner's property.

3.3 Risk assessment is applied inconsistently across localities

The same methodology applied to similar inputs produces different outputs. The paradigmatic examples are Howden and Blackmans Bay (adjoining East Tinderbox), Western Tinderbox (the other side of the same peninsula), Albion Heights and Bonnet Hill, and Leslie Vale. Part 10 of this submission sets out the detailed comparison. The short point for present purposes is that, on Ms Heckelmann's own evidence:

- For Howden and Blackmans Bay: "bushland residential", elevated, similar lot sizes, same priority vegetation overlay, same Coastal Protection Area — risk rated medium, RLZ recommended.
- For Albion Heights and Bonnet Hill: "highly significant landscape values" arising from "elevated ridgelines and hilltops", "steeply contoured terrain overlooking Tarroona, Kingston and the Derwent Estuary", forming a "visually prominent landscape within the municipality", explicitly designated an "inter-urban break" — risk rated medium, RLZ recommended.
- For Western Tinderbox: same peninsula as East Tinderbox, same bushland coastal setting, same priority vegetation, same Tinderbox Nature Reserve context — risk rated medium, RLZ recommended.
- For East Tinderbox: landscape value described in substantively identical terms to Howden; elevation higher in places but also the same peninsular topography; dwellings on virtually every lot; very limited new development potential; risk rated high, LCZ recommended.

On its own, this differential treatment is a first-order problem for the Ireneinc Report. An applied methodology that produces inconsistent outputs for inputs that the methodology itself describes in materially identical language is not a rational basis for the Commission to choose between zones. The Commission is entitled, indeed required, to notice and correct inconsistency of this kind.

3.4 The baseline is predominantly desk-based

The Ireneinc baseline information for East Tinderbox is drawn principally from: Council's existing s35F Report; the LIST; hillshade mapping; desktop aerial review; and, in several cases, photographs sourced from realestate.com.au (the Report itself cites realestate.com.au as the source of the photographs of, amongst others).

Ms Heckelmann confirmed at hearing that the analysis for each locality involved no ground-truthing of individual properties, and that ground-truthing would occur, if at all, at the later representations-and-hearings phase. At the same time, Ms Heckelmann was asked whether the presence of Part 5 agreements, vegetation covenants or conservation covenants (of which there are many in East

Tinderbox) would alter her assessment, and her answer was that they would not, at the locality scale, be decisive.

The consequence is that Ireneinc's recommendation to retain LCZ on East Tinderbox is made without property-specific verification of: (a) the actual extent and age of dwellings; (b) the actual extent of cleared curtilage on individual lots; (c) the actual visibility of individual lots from the Channel or Bruny Island; (d) existing on-title vegetation management agreements; (e) the consistency of lot-by-lot residential use within the cluster; or (f) the topographical screening of individual dwellings. Imposing the most restrictive non-environmental zone on a property without verifying any of these matters on the ground is, with respect, a planning outcome that the Commission should not endorse.

3.5 Representations are functionally excluded

The Ireneinc Report acknowledges many individual representations were received from Tinderbox landowners. The overwhelming majority oppose the LCZ and advocate the RLZ. These representations contain granular, property-specific evidence of existing residential use, land-management history and settlement pattern that is absent from the desk-based baseline.

Ms Heckelmann said at hearing that the representations "formed part of the information that was considered in forming views around the way in which zoning could be applied", but that "they weren't necessarily a deciding factor". The result is a methodology that discounts the only source of property-level evidence available to it. This is a defect of both weight and procedure — weight, because a balanced assessment of residential priority under Guideline Q1 requires evidence of actual use; procedure, because the representations are the principal mechanism by which the landowner exercises the right to be heard.

3.6 The methodology conflates "landscape value" with "bushland cover"

The Ireneinc landscape values statement for Tinderbox is principally a statement about bushland: "bushland coastal setting", "bushland-covered slopes", "continuous green belt", "extensive native bushland". The analytical work done in the decision tree is, on inspection, work on bushland retention. The RLZ and the ELZ are both zones that are designed to retain bushland. The Natural Assets Code is the instrument that regulates clearing of priority vegetation.

The actual content that distinguishes "landscape value" from "bushland cover" (scenic prominence from particular vantage points, ridgeline silhouette, coastal backdrop, etc.) is, on the Ireneinc Report's own mapping, primarily the subject of the Scenic Protection Area overlay. The Scenic Protection Area overlay does not, on Council's current mapping, extend to the majority of the East Tinderbox coastal residential corridor. If the scenic distinction is the operative concern, the mapping of the overlay is the controlling instrument; the choice of zone is a second-order question. Part 9 of this submission develops this point.

3.7 The methodology does not test the residential priority limb of LCZ 4(a)

Nowhere in the Ireneinc Report or in Ms Heckelmann's evidence is there a structured test of whether the priority for the East Tinderbox cluster is residential use and development. The closest the methodology comes is Q4 (rural living characteristics), which asks a related but different question. LCZ 4(a) is a prohibition: the LCZ "should not be applied to" land where the priority is for residential use. That prohibition must be tested independently of the landscape-value analysis, because it does not depend on it. Part 5 of this submission shows that, when properly tested, East Tinderbox clearly fails LCZ 4(a).

Part 4 — The "Risk" Argument Fails on Its Own Terms

The Ireneinc Report treats the identification of "high risk" at East Tinderbox as the dispositive answer to Q6 of its decision tree. This Part shows that, even accepting the decision-tree methodology on its own terms, the "high risk" rating cannot be sustained. The identified risk is (a) speculative and unsupported by evidence, (b) concerned with a narrow and controlled set of performance-criteria differences, (c) already mitigated by the Ireneinc Report's own RLZ categorisation choice, and (d) indistinguishable from the "medium risk" accepted elsewhere.

4.1 The risk is framed as the risk of future hypothetical development

At the hearing, Ms Heckelmann expressly identified the risk as arising from "additional building height" permitted in the RLZ relative to the LCZ, and from potential "extensions and changes to existing properties" that could become more prominent in the landscape. It was asked "Have you done any analysis of finding examples of inappropriately high buildings that have compromised landscapes?" Ms Heckelmann answered that the analysis was a comparison of "the capability of... additional building height" — that is, of permissible envelopes under the zone codes — and acknowledged that the exercise was "a consideration of potential risk" rather than a management of any observed issue.

In other words: there is no empirical case. There is no precedent of inappropriate development in East Tinderbox that a more restrictive zone would have prevented. There is no cohort of pending applications that would be tipped by a zone change. There is no pattern of incremental compromise of landscape values traceable to the Interim Scheme ELZ over the last decade. The risk, as framed, is a theoretical construct built from a comparison of permissible building envelopes under two standard zone codes.

A theoretical comparison of permissible envelopes is not, on the settled approach of the Commission in the Huon Valley LPS and in other LPSs, a basis for the application of the LCZ. The LCZ is for land with "landscape values that are identified for protection and conservation" where the value is at risk from the cumulative pattern of anticipated use and development — not for land where a generic envelope difference could theoretically, over decades, produce cumulative change. Every zone creates envelope differences relative to every other zone; that cannot be a sufficient justification or the LCZ would be the default zone for all ELZ land — the very outcome the Zone Guideline notes forbid.

4.2 The height delta between RLZ and LCZ is small and controllable

The LCZ (SPP clause 22.4.2 A1) provides an acceptable-solution building height of 6 metres. The RLZ provides an acceptable-solution building height of 8.5 metres. The delta is 2.5 metres of acceptable-solution height. Anything above the acceptable solution is required to be assessed against the performance criteria of each zone, which include in both cases consideration of visual impact, landscape values and character of surrounding development. The RLZ acceptable-solution building height of 8.5 metres is, moreover, lower than the Interim Scheme ELZ acceptable-solution height of 7.5 metres by only 1 metre — and the ELZ has produced the existing settlement pattern that Ireneinc itself describes as "visually recessive" and "responsive to the elevation".

A zone decision driven by a 1-metre or 2.5-metre acceptable-solution height difference — which is in any event further controlled by the Scenic Protection Area Code performance criteria where mapped, by the Natural Assets Code, and by the Waterway and Coastal Protection Area Code — is a decision entirely disproportionate to the planning concern it seeks to address.

4.3 The site-coverage and setback deltas are also small

The LCZ provides for site coverage of not more than 400 square metres (AS). The RLZ provides for a site coverage acceptable solution of not more than 400 square metres or 10% of the site area, whichever is the lesser. For the typical East Tinderbox lot of 1 hectare to 5 hectares, the 10% alternative is not engaged; the two zones converge. Front-boundary setbacks are 10 metres in the LCZ (AS) and 20 metres in the RLZ (AS) — a 10-metre delta that favours the RLZ. Side and rear setbacks are 20 metres in the LCZ and, in the RLZ, depend on categorisation, but again produce outcomes that are of comparable order and, in places, more protective of boundary relationships.

No structured analysis of these standard comparisons is presented in the Ireneinc Report. The Report's statement that the RLZ permits "a little bit more intensive" development than the LCZ is an assertion of direction rather than a quantification of magnitude. When the quantification is done (as above), the differences are marginal, and many of them favour the RLZ. The "risk" thesis cannot support its weight.

4.4 The exterior-finish control in the LCZ is equally achievable under the RLZ performance criteria

SPP clause 22.4.2 A5 (LCZ) requires exterior building finishes to have a light-reflectance value of not more than 40 per cent, in dark natural tones of grey, green or brown. This is a specific acceptable solution unique to the LCZ. Its absence from the RLZ is one of the matters sometimes advanced in support of the LCZ.

However, the RLZ's own site-coverage, siting, height and amenity performance criteria — and, more importantly, the Scenic Protection Area Code where it applies — require equivalent consideration of the visual impact of buildings when viewed from roads and public places. If the concern is that reflective finishes on coastal properties could compromise scenic values as viewed from the Channel, the answer is the extension of the Scenic Protection Area Code overlay to those properties, not the imposition of a zone. This is again a mapping point, not a zoning point.

4.5 The principal intensification vector is removed by the Ireneinc categorisation itself

The single largest source of risk to landscape value in any large-lot residential area is further subdivision. Additional lots multiply the number of dwellings, curtilage footprints, driveways, vegetation-clearing permits, utility connections and associated works. The RLZ category chosen by Ireneinc for the rest of Tinderbox, Howden, Blackmans Bay, Albion Heights, Bonnet Hill, Margate, Coningham, Kettering East, Kingston West, Allen's Rivulet, Sandfly/Kaoota, Longley and Leslie Vale is

one that does not provide for further subdivision (typically RLZ C at 5 ha or RLZ D at 10 ha, depending on existing lot size).

If the RLZ in East Tinderbox is categorised on the same basis — that is, with a minimum lot size that produces no further subdivision given the existing lot pattern — the principal risk vector is eliminated before the risk assessment begins. What remains is: alterations and extensions to existing dwellings; replacement dwellings; and potential discretionary use applications for tourism, visitor accommodation and similar. Each of these is subject to substantive performance criteria, many of them common to the RLZ and the LCZ, all subject to overlay codes where applicable.

4.6 The risk at Howden is, on Ireneinc's own evidence, indistinguishable

At the hearing, the following proposition was put to Ms Heckelmann (paraphrasing): "The description for Howden fits very similar to the description of Tinderbox. So we're talking about bushland, we're talking about coastal settings, all those sorts of things. You work your way through the decision criteria, and it looks like you get to that step six... one we say they can be managed and the other one we say they can't be managed. What we really need to see is a difference between those two."

Ms Heckelmann's answer was that the Tinderbox eastern side has "less consistent" land uses, a higher elevation in places, and an absence of Scenic Protection Area overlay on the coastal corridor. The Panel expressly put to Ms Heckelmann that the landscape-value descriptions themselves were not meaningfully different, and that the assessment did not articulate why one medium risk and one high risk was defensible. Ms Heckelmann conceded that "the landscape values in those two places are not necessarily very different". That concession is fatal. If the values are not different, the zones should not be different unless something else intervenes. The "something else" offered is not enough.

4.7 The "less consistent land uses" argument mischaracterises East Tinderbox

Ms Heckelmann's final differentiating argument at the hearing was that East Tinderbox has "not as clearly consistent" land uses, with "some more intensive kind of agricultural and resource production uses occurring in the mix". On the evidence in the Ireneinc Report itself, this is an over-statement. The two large parcels to the north of East Tinderbox to which Ms Heckelmann alluded do not constitute an "inconsistency" of settlement pattern; they constitute a discrete zone-allocation question in their own right, capable of being answered by either (a) applying the RLZ to the cluster and the Rural Zone or the EMZ to the two large parcels, or (b) a site-specific qualification. The existence of those parcels cannot rationally dictate the zone of the surrounding smaller residential lots. The transcript shows Ms Heckelmann acknowledging that the two parcels "detracted from the consistency" but that "on balance there was kind of a consideration that there are rural living characteristics across that whole area".

In fact, the consistency argument works the other way. East Tinderbox south of those two large parcels is an exceptionally consistent large-lot residential cluster: 1–15ha lots; road frontages; single dwellings with curtilage; limited rural activity; near-total overlay coverage by Priority Vegetation. It is more

consistent as a residential cluster than Albion Heights (for which the RLZ is recommended), and at least as consistent as Howden (for which the RLZ is recommended).

4.8 Summary of Part 4

On the Ireneinc Report's own methodology, the "risk" rating for East Tinderbox cannot be sustained as "high". The identified risks are (i) speculative rather than observed, (ii) quantitatively marginal, (iii) addressed by overlay codes that apply irrespective of the zone, (iv) disarmed by the no-further-subdivision categorisation choice that Ireneinc applies elsewhere, and (v) indistinguishable from the "medium" risks accepted at Howden, Albion Heights, Bonnet Hill, Western Tinderbox, Leslie Vale, Allen's Rivulet, Sandfly and Longley. Re-scoring the East Tinderbox risk at "medium" collapses Q6 of the decision tree in favour of the RLZ — which is the outcome this submission seeks.

Part 5 — Breach of Zone Guideline LCZ 4(a): the Residential Priority Problem

This Part addresses what is, at its simplest, the most decisive statutory argument against the application of the LCZ to our property. Zone Guideline LCZ 4(a) provides that the LCZ "should not be applied to... land where the priority is for residential use and development (see RLZ)". On the evidence collected by Ireneinc itself, East Tinderbox is land where the priority is for residential use and development. The Guideline therefore directs that the LCZ not be applied.

5.1 The evidence of residential priority

The evidence that the priority on East Tinderbox land is residential, and has been residential for decades, is both uncontested and voluminous. It is drawn from the Ireneinc Report itself, from the Interim Scheme, from the s35F Report, and from the representations. The relevant evidentiary strands are set out below.

(a) The history of the zone

The land is zoned ELZ under the Interim Scheme. Kingborough Fact Sheet No. 10 confirms that the ELZ "mainly provides for residential options in rural areas and is generally applied to unserviced, residential 'bush blocks' that contain native vegetation". The primary purpose identified in the Fact Sheet is "To provide for residential use or development in areas where existing natural and landscape values are to be retained" — a dual purpose in which residential use is first. The land has been zoned ELZ since at least 2015, and under predecessor zones of similar residential character for longer. Residential priority is baked into the zone history.

(b) The lot pattern

On Ireneinc's own assessment, East Tinderbox south of the two large northern parcels comprises a cluster of lots predominantly in the 1–15ha range, with dwellings present on "virtually every lot" (to adopt the observation at the hearing). The Ireneinc Report identifies "very few vacant parcels" in the immediately comparable Howden locality, and the East Tinderbox cluster is of comparable density. A lot pattern in which every lot is already a residential lot is the paradigm for the RLZ, not the LCZ.

(c) The building stock

The dwellings on East Tinderbox lots are, on Ireneinc's own observation, integrated into the vegetation, set in cleared curtilage, and typically of a type and form consistent with rural residential life. They are not mere camps, shacks or incidental buildings; they are principal places of residence served by driveways, on-site wastewater, mains power and (in most cases) sealed or all-weather road access. The pattern of the building stock is residential, and has been for as long as building permits have been issued.

(d) The representations

The expansive Tinderbox representations assert residential priority and seek the RLZ. Majority of the representations identifies the property's "principal" or "dominant" use as residential. These representations are not a mass production of identical concerns; they are individual statements of individual uses. That weight of individual evidence, considered in aggregate, is a body of material that the Commission is not only entitled but required to consider under section 35F.

(e) The strategic intention

The landowner's strategic intention for our property is residential use and development of a single dwelling (or retention of the existing dwelling) within a rural setting, with compatible ancillary residential and low-order rural uses. That intention aligns with RLZ 1(a) and RLZ 2(b). It is not, and has never been, for the protection and conservation of landscape values as a principal land use in the sense required by LCZ 1 and 2(c).

5.2 The Macquarie Dictionary test of "priority"

In the Huon Valley LPS decision (July 2024), the TPC was asked to determine the meaning of "priority" in the phrase "land where the priority is for residential use and development" (LCZ 4(a)). The Ireneinc Report expressly cites and applies the TPC's approach: the relevant dictionary meaning of "priority" includes "first or highest in rank or importance; chief; principal" and "first in time; earliest; primitive".

Applying that test to our property:

- First or highest in rank or importance — residential use is the principal use of the land and the reason the land was first settled, cleared and developed. No other land use has been, or is, more important on our property.
- Chief or principal — the principal building is a dwelling; the principal private activity is residential occupation; the principal private purpose of the owner is residential.
- First in time; earliest — the land has been used for residential purposes from the point of its first modern occupation. Any incidental rural activity (a horse, a flock of sheep, a hobby orchard) is subordinate and post-dates residential use.
- Primitive — residential use is the foundational, non-derivative use. The land is not, and never has been, primarily a commercial bushland reserve, a commercial forestry operation, a grazing enterprise of any scale, or a commercial landscape-conservation holding.

On any of these tests, the priority on our property is residential. On all of them taken together, the conclusion is unavoidable. LCZ 4(a) therefore operates, on its express terms, to preclude the application of the LCZ.

5.3 The Ireneinc Report does not properly engage with LCZ 4(a)

The Ireneinc Report's decision tree asks, at Q1–Q2, whether the land is within the ELZ and has a primary strategic intention for residential use, and then at Q3–Q4 whether it has rural-living characteristics. It does not ask — anywhere — whether LCZ 4(a) operates to prohibit the application

of the LCZ. Instead, Q9 of the decision tree is framed as "Criteria not to convert to LCZ — where the priority is for residential use and development LCZ4(a)", but the operation of that criterion is not pursued in the East Tinderbox analysis. Ms Heckelmann's evidence at hearing was that the priority-for-residential-use analysis is collapsed into the "can the values be managed?" question at Q6, on the premise that if values cannot be managed, the LCZ must be applied.

That is not how the Guideline operates. LCZ 4(a) is an independent prohibition. It is not a tiebreaker to be invoked only if the Q6 analysis is negative. The Zone Guideline does not say "the LCZ may be applied to land where the priority is for residential use provided the values cannot be managed elsewhere". It says "the LCZ should not be applied to... land where the priority is for residential use". The "should not" is a directive in the planning sense adopted by the TPC consistently.

5.4 The practical consequences of LCZ for residential landowners

Applying the LCZ to East Tinderbox residential lots produces a set of practical consequences that the Guideline was expressly drafted to avoid. These include:

- A single dwelling becomes Permitted only if it is within a building area shown on a sealed plan. If there is no sealed-plan building area on the title — as is the case with almost every existing East Tinderbox residential title — any new single dwelling becomes Discretionary, with the associated assessment, notification, objection and appeal exposure.
- Replacement of an existing dwelling (for example after a bushfire loss, of which the landslip and bushfire overlay mappings for East Tinderbox attest to real risk) becomes Discretionary in the same circumstances.
- Any alteration or extension that cannot satisfy the acceptable solutions in clauses 22.4.1 to 22.4.4 is Discretionary. The practical impact of the 400 square metre site-coverage acceptable solution, the 6 metre height, the 10 metre frontage setback, the 20 metre side and rear setbacks, and the exterior-finish reflectance limits is to bring a substantial proportion of routine residential alterations within the Discretionary envelope.
- Discretionary applications attract the LCZ Performance Criteria, which require each proposal to be "compatible with the landscape values of the site and surrounding area". That is a substantive, judgement-laden test that adds cost, time, uncertainty and appeal risk to ordinary domestic decisions.
- Value of the land is affected because the LCZ materially changes the development status of the land. Various representations cite this point; whilst not in themselves a zoning ground, the materiality of the value effect confirms that the zone change is not a mere re-labelling — it is a substantive change to the regulatory status of the land.
- Insurance premiums, where they are calibrated to bushfire-overlay interaction and zoning, may be affected.

These consequences are not incidental. They are the direct manifestation of the policy difference between the LCZ and the RLZ that the Guideline note identifies. They are the reason that LCZ 4(a)

exists. Applying the LCZ to land where the priority is residential is to import these consequences into land that was not intended to bear them.

5.5 Conclusion on LCZ 4(a)

Our property, and the East Tinderbox cluster of which it forms part, is land where the priority is for residential use and development. LCZ 4(a) operates, in terms, to preclude the application of the LCZ. The Commission should give effect to that preclusion and direct the application of the RLZ.

Part 6 — The LCZ Is Not a Replacement Zone for the ELZ

The LCZ Zone Guideline contains two express italicised notes. The first states that "The LCZ is not a replacement zone for the ELZ in interim planning schemes. There are key policy differences between the two zones." The second states that "The LCZ is not a large lot residential zone, in areas characterised by native vegetation cover and other landscape values." This Part shows that the Ireneinc recommendation for East Tinderbox, if accepted, produces precisely the outcome the two notes forbid.

6.1 The origin and purpose of the two notes

The TPC set out the history of these notes in the Huon Valley LPS decision (July 2024). The SPP was made in 2017 as the new statewide scheme replacing the thirty or so interim planning schemes then in force. The ELZ, which had been widely applied in southern Tasmanian interim planning schemes (including Kingborough), was not included in the new suite of zones. Guideline No. 1 was issued by the Minister under section 8A of the LUPAA to assist councils with the translation. The two notes were included specifically to address the foreseeable risk that councils would treat the LCZ as a simple successor for the ELZ for large bushland residential lots.

The TPC observed, in terms, that the LCZ "provides a clear priority for protection of landscape values and for complementary use and development, with residential use largely being discretionary", and that this is "reflected in the LCZ purpose statements and use table". The TPC concluded that the correct approach is to determine the relevant applicable definition of "landscape" (adopting the Macquarie Dictionary definition, "an area of land with distinguishing features or landforms"), and to apply the LCZ accordingly. The Huon Valley decision then expressly approved the translation of large portions of ELZ land to the RLZ where the landscape values could be managed through the relevant codes.

6.2 The Ireneinc recommendation produces the forbidden outcome

The Ireneinc recommendation for East Tinderbox is, in substance, that the whole of the ELZ on the eastern side of the Tinderbox peninsula transition uniformly to the LCZ, subject to minor fringe adjustments. The rationale offered is that the values "cannot be appropriately managed" by the RLZ given a theoretical risk of future height / footprint differences. The outcome is: an area currently zoned ELZ (a residential-priority zone) is transitioned to the LCZ (a landscape-protection-priority zone) in its entirety, as a block conversion.

That is a replacement. It is a direct block conversion from the ELZ to the LCZ across hundreds of residential lots. The only way to describe it is as the use of the LCZ as the successor zone for the ELZ. The Guideline note is explicit that this is impermissible. The fact that Ireneinc supplies a decision-tree narrative to accompany the block conversion does not change its character. Wherever a whole ELZ area is converted wholesale to the LCZ, the replacement prohibition is engaged; the narrative is not a cure.

6.3 "Large lot residential zone" — the second note

The second note expressly prohibits the use of the LCZ "as a large lot residential zone in areas characterised by native vegetation cover and other landscape values". East Tinderbox is exactly such an area: large lots (1–15ha typically), native vegetation cover, identified landscape values, established residential use. Applying the LCZ to such an area converts the LCZ, in effect, into a de facto large lot residential zone, because residential use is the only substantive private activity the zone is regulating.

The note identifies this as the risk the Minister, in issuing the Guideline, sought to avert. The Ireneinc recommendation walks directly into it.

6.4 Consistency with the Commission's own Huon Valley reasoning

The Commission's reasoning in Huon Valley was that, where the land in the ELZ had an existing residential pattern and the landscape values could be managed by the relevant codes, the RLZ was the appropriate zone notwithstanding the presence of landscape values. The Ireneinc Report sets out that reasoning expressly and agrees with it as a matter of principle. The divergence from the Huon Valley reasoning occurs only at the risk step for East Tinderbox, which has been shown in Part 4 to be unsupportable.

The Commission, in applying its own reasoning consistently across LPSs (as it is required to do to maintain the integrity of the TPS as a statewide scheme), should reach the same conclusion in Kingborough East Tinderbox that it reached in Huon Valley. The RLZ is the appropriate zone.

Part 7 — The Rural Living Zone Is the Appropriate Zone

This Part sets out the positive case for the Rural Living Zone. It demonstrates that the RLZ Zone Guidelines are satisfied, in terms, by the East Tinderbox cluster and by our property; that the RLZ Purpose is achieved; and that an appropriate RLZ categorisation (B, C or D) manages whatever residual risk remains after the operation of the codes.

7.1 RLZ 1(a) — residential areas with larger lots

RLZ 1(a) provides that the 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 (e.g. hobby farming), but priority is given to the protection of residential amenity". East Tinderbox south of the two large northern parcels is an archetype of a RLZ 1(a) area:

- Lot size: predominantly 1–15ha, with scattered larger holdings — within the typical RLZ range.
- Use: overwhelmingly residential, with some lots hosting low-order rural activities (hobby animals, small orchards, kitchen gardens) consistent with hobby-farming intensity.
- Priority: residential amenity (quiet, privacy, bushland outlook, safe road access) is the priority of the overwhelming majority of landowners.
- Existing improvements: driveways, dwellings, garages, sheds, water tanks, on-site wastewater, bushfire protection zones and, in many cases, conservation covenants — the hallmarks of established residential occupation.

7.2 RLZ 2(b) — transition from ELZ where strategic intention is residential

RLZ 2(b) provides that the RLZ may be applied to land "within the ELZ 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". Our property is within the ELZ in an interim planning scheme. The strategic intention of the landowner, of the representations, and of the settlement pattern itself, is residential use and development within a rural setting. A similar minimum allowable lot size — 1 hectare (RLZ A or B), 2 hectares (RLZ B), 5 hectares (RLZ C) or 10 hectares (RLZ D) — can be applied to reflect the existing lot pattern without enabling further subdivision. RLZ 2(b) is satisfied.

7.3 RLZ 3 — differentiation between categories

RLZ 3 provides that the differentiation between RLZ A, B, C or D should reflect the existing pattern and density of development in the rural-living area. The appropriate categorisation for East Tinderbox is RLZ C (5 ha minimum) for parcels that are between 2 and 5 ha on average, with RLZ D (10 ha minimum) applied to any larger parcels. Alternatively, where the prevailing pattern is 1–2 ha, RLZ B (2 ha minimum) with a site-specific qualification precluding further subdivision may be appropriate. In each case, the categorisation should be chosen to preserve the existing pattern and to eliminate subdivision as a vector of future intensification. The Ireneinc Report adopts exactly this principle for Howden, Blackmans Bay, Western Tinderbox, Albion Heights, Bonnet Hill, Margate, Coningham, Kettering East,

Kingston West, Allen's Rivulet, Sandfly, Longley and Leslie Vale. There is no reason not to apply the same principle at East Tinderbox.

7.4 RLZ 4(b) — landscape values managed through the codes

RLZ 4(b) is the textual hinge on which the Commission's decision turns. It provides that the RLZ should not be applied to land with identified landscape values "unless the values can be appropriately managed through the application and operation of the relevant codes". The relevant codes for East Tinderbox are:

- The Natural Assets Code (NAC) and the Priority Vegetation Area overlay, which extends across substantially the entire East Tinderbox locality.
- The Waterway and Coastal Protection Area Code and overlay, which applies to the coastal fringe of the locality and to waterways.
- The Scenic Protection Area Code and overlay, which currently applies to the centralised core of the peninsula, but which can and should be extended to the coastal corridor if scenic protection is the operative concern (see Part 9).
- The Bushfire-Prone Areas Code.
- The Landslip Hazard Code.

Those codes, in combination, manage: (a) clearing of native vegetation that is the primary driver of landscape-value degradation; (b) siting and form of new buildings near waterways and coastal margins; (c) siting and form of new buildings in scenic-sensitive areas (if the overlay is extended); (d) bushfire protection measures that shape the relationship between buildings and vegetation; and (e) hazard avoidance. Together with the RLZ's own performance criteria (site coverage, setbacks, landscape-value consideration under the subdivision performance criterion), the codes are adequate to manage the landscape values on East Tinderbox. Part 8 addresses this proposition in detail.

7.5 The RLZ Zone Purpose is achieved

Guideline No. 1 directs that "the primary objective in applying a zone should be to achieve the zone purpose to the greatest extent possible". The RLZ purpose (clause 11.1) is:

- 11.1.1(a) residential use or development in a rural setting where services are limited — East Tinderbox is unserved by reticulated sewer; water is predominantly tank-based;
- 11.1.1(b) residential use or development in a rural setting where existing natural and landscape values are to be retained — East Tinderbox's landscape values are to be retained through the operation of the codes;
- 11.1.2 compatible agricultural use and development that does not adversely impact on residential amenity — small-scale agricultural use (hobby livestock, orchards) continues to be compatible;
- 11.1.3 other use or development that does not cause unreasonable loss of amenity — the performance criteria of the RLZ and the codes prevent inappropriate scale, noise, traffic and off-site impacts;

- 11.1.4 Visitor Accommodation that is compatible with residential character — an appropriate category of use given the Tinderbox tourist context.

Each limb of the RLZ purpose is satisfied by the existing and intended use of our property. The LCZ purpose, by contrast, is met partially — the land has landscape values that are to be protected, but "compatible use or development" (LCZ 11.1.2) that is not "small-scale" (as the LCZ is expressly limited under LCZ 1) is, in practice, the principal use of the land. Residential use in established dwellings is not "small-scale"; it is the dominant use. The RLZ achieves the zone purpose more completely than the LCZ for this land.

Part 8 — Codes and Overlays Adequately Manage the Identified Values

The operative question for Zone Guideline RLZ 4(b), and therefore for Q6 of the Ireneinc decision tree, is whether the identified landscape values can be "appropriately managed through the application and operation of the relevant codes". This Part shows that they can. It examines, code by code, the specific provisions that operate on the East Tinderbox landscape values, and demonstrates that the controls are substantive, enforceable and sufficient for the values described in the Ireneinc landscape-values statement.

8.1 The Natural Assets Code (NAC) and Priority Vegetation Area overlay

The Priority Vegetation Area (PVA) overlay identifies, on an overlay map in the LPS, areas of native vegetation identified for protection. On Ireneinc's own evidence at the hearing, the PVA "is probably one that almost don't need to pop up because it's... pretty much the whole thing" — that is, the PVA covers substantially the entire East Tinderbox locality.

The Natural Assets Code regulates the removal, destruction or lopping of priority vegetation. It applies irrespective of the zone. Any proposed clearing of priority vegetation triggers a permit; in the overwhelming majority of cases, the permit is Discretionary, and the application is assessed against the NAC's performance criteria. Those performance criteria require consideration of, amongst other things:

- the extent of priority vegetation proposed to be removed, including area, number of trees, and whether the vegetation is of a threatened community or contains threatened species;
- the ecological function of the vegetation, including habitat connectivity, corridor function, and support for threatened fauna (e.g. wedge-tailed eagles, masked owls, Tasmanian devils);
- the mitigation and offset measures proposed, including retention areas, revegetation and long-term management plans;
- the alternatives considered, including siting alternatives, redesign and reduction of footprint;
- the cumulative impact on the broader priority vegetation area, including the integrity of any identified landscape value.

These are the controls that actually regulate the clearing of vegetation — the single most important determinant of landscape value on East Tinderbox. Whether the underlying zone is LCZ or RLZ has no material effect on the operation of the NAC; the PVA mapping and the code performance criteria do the work either way.

8.2 Waterway and Coastal Protection Area Code

The Waterway and Coastal Protection Area Code applies an overlay on land within a defined distance of waterways and the coast. On Ireneinc's own mapping, the East Tinderbox coastal corridor is within the Waterway and Coastal Protection Area overlay. The Code regulates, amongst other things, building works within the overlay, land disturbance, wastewater and effluent management, and

vegetation clearing in riparian zones. The performance criteria expressly address visual impact and protection of the coastal edge.

Again, the Code operates irrespective of the zone. The RLZ does not displace or weaken it. The coastal scenic sensitivity identified by Ireneinc is, to the extent it is a coastal sensitivity, managed by this Code.

8.3 Scenic Protection Area Code

The Scenic Protection Area Code applies to land within the Scenic Protection Area overlay. The SPP draft LPS identifies ten Scenic Protection Areas for Kingborough, including "the prominent topography and native vegetation of the hills on the Tinderbox Peninsula". On the current exhibited mapping, the Scenic Protection Area overlay covers the centralised core of the peninsula but does not extend to the coastal residential corridors on either side. This is the specific matter Ireneinc relies on as the point of differentiation for East Tinderbox.

If scenic protection of the coastal residential corridor is the operative concern — as Ireneinc's risk assessment ultimately reveals it to be — the appropriate planning response is to extend the Scenic Protection Area overlay to cover the coastal residential corridor. That is the mechanism that the TPS framework provides for managing scenic values. Extending the overlay brings the Scenic Protection Area Code's performance criteria into play: siting, height, form, reflectance, screening, colour, and visual impact when viewed from roads, public places and the D'Entrecasteaux Channel are all expressly addressed by the performance criteria of the Code.

If the Commission is not prepared to direct the immediate extension of the overlay, it can direct Council to consider such extension through a scheme amendment. Imposing the LCZ in the meantime — as a proxy for a missing overlay — is not the correct response. Part 9 develops this further.

8.4 RLZ's own performance criteria do further work

The RLZ code itself contains substantive performance criteria that operate on development intensity. These include:

- Site coverage: maximum 400m² acceptable solution (or 10% of site for large lots); where exceeded, performance criteria require consistency with the pattern of development on established properties in the area, with regard to the need to remove vegetation and the character of development existing on established properties.
- Building height: the acceptable solution is 8.5 metres; alternatives are assessed by performance criteria that include visual impact, adjoining amenity and landscape values.
- Setbacks from frontage: acceptable solutions of 20 metres (front) and standard side / rear setbacks, with performance criteria assessed against the pattern of frontages in the area and, where applicable, the Scenic Protection Area.
- Subdivision lot design: proposed lots must have sufficient useable area and dimensions suitable for intended use, having regard to, amongst other things, any natural or landscape values.

These criteria are not merely formal. The last of them (subdivision lot design, natural and landscape values) is the very mechanism the TPC has identified in previous LPS decisions as the basis for concluding that the RLZ can appropriately manage landscape values. The RLZ is a more sensitive and a more modern zone than the Ireneinc risk analysis acknowledges.

8.5 Codes operate additively, not competitively

A feature of the TPS framework often under-appreciated by advocates of the LCZ is that the codes operate in addition to the zone. The Code provisions prevail over zone provisions where there is any conflict (as Kingborough Fact Sheet No. 10 itself notes for the Interim Scheme, and as the SPP replicates). An application to clear priority vegetation for a dwelling extension in the RLZ does not avoid NAC scrutiny; it adds it. An application in the Waterway and Coastal Protection Area adds that Code's scrutiny. An application in the Scenic Protection Area adds that Code's scrutiny. The LCZ does not add anything that the codes do not already add; what it adds is additional zone-level controls (the discretionary status of residential use outside a building area) that are, as Part 5 shows, directed to a different problem entirely.

8.6 Part 5 agreements and conservation covenants

Many East Tinderbox properties are subject to Part 5 agreements under the *Nature Conservation Act 2002* (Tas) or to private conservation covenants registered on title. Ms Heckelmann acknowledged at hearing that there are “many Part 5 agreements that exist across the region”, but said they “didn’t necessarily form the basis of recommending a zone” at locality scale.

In the case of the subject property, there are already multiple applicable environmental and hazard controls under the planning scheme, including:

- **E1.0 Bushfire-Prone Area**, which regulates siting, design and vegetation management to address bushfire risk;
- **E3.0 Landslip Code**, which constrains development on unstable land and requires geotechnical consideration;
- **E10.0 Biodiversity Protection Area**, which manages impacts on native vegetation and habitat values; and
- **E14.0 Scenic Landscapes Code**, which controls development to protect identified landscape and visual values.

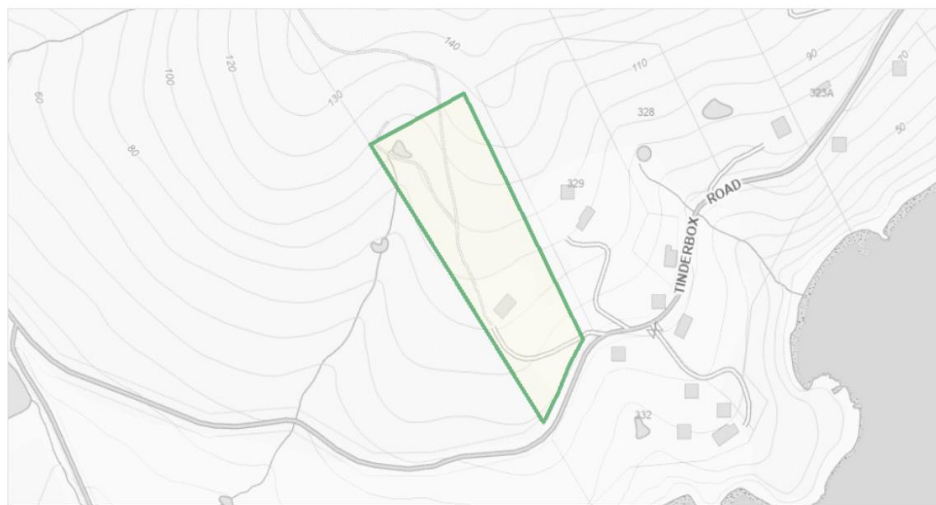
These provisions impose direct and substantive constraints on use and development at the site-specific level.

With respect, the treatment of covenants as irrelevant is mistaken. Where a landowner has voluntarily entered into a legally enforceable covenant to manage vegetation and landscape values on the land, that covenant is a substantive and enduring control on future use and development. It operates

alongside the existing planning controls and adds a further, site-specific layer of environmental management.

The existence of such covenants is direct evidence that the relevant landscape and environmental values are already being actively managed by mechanisms other than the LCZ. A methodology that treats those covenants as irrelevant, while simultaneously concluding that those same values cannot be adequately managed outside the LCZ, is internally inconsistent.

Property report for 333 TINDERBOX RD TINDERBOX TAS 7054



Property Identification Number	Certificate of Title Reference (Volume/Folio)
5764894	57114/1
Locality	Municipality
Tinderbox	Kingborough
Planning Zones	Planning Codes Overlay
14.0 Environmental Living	Scenic Landscape Area, Biodiversity Protection Area, Landslide Hazard Area, Bushfire Prone Areas
Total Area	Planning Scheme
21727 sqm	Interim Planning Scheme

8.7 Conclusion on Part 8

The landscape values identified by Ireneinc for East Tinderbox are, on analysis, values managed by overlay codes that operate irrespective of zone, supplemented by the RLZ's own performance criteria, and further supplemented (on individual properties) by Part 5 agreements and conservation covenants. The "residual" landscape-value risk not being managed by this suite of instruments is marginal, speculative, and no larger than the residual risk the Ireneinc methodology accepts as "medium" for Howden, Blackmans Bay, Albion Heights, Bonnet Hill, Western Tinderbox, and every other ELZ locality in the municipality recommended for RLZ transition. Q6 of the decision tree is therefore answered in favour of the RLZ.

Part 9 — The Absence of Scenic Protection Area Is a Mapping Issue, Not a Zoning Justification

This Part addresses in more detail what is, on analysis, the single substantive point of differentiation that Ireneinc offers between East Tinderbox and the neighbouring localities: the absence of the Scenic Protection Area overlay along the East Tinderbox coastal corridor. The argument of this Part is straightforward: the TPS framework is expressly premised on the use of overlays to manage identified values, and zones to manage settlement-intent. Using a zone as a proxy for a missing overlay is not a legitimate planning technique, and was expressly identified as problematic by the Panel at the hearing.

9.1 The TPS architecture — zones vs. overlays

The TPS architecture separates settlement-pattern controls (the zones) from thematic value-based controls (the overlay codes). The twenty-three zones reflect strategic settlement intent. The sixteen codes, applied through LPS-specific overlay maps, reflect identified values that cut across settlement categories. Priority vegetation, scenic protection, waterway and coastal protection, bushfire-prone areas, landslip hazard, historic heritage, karst, road and railway assets — each is a value that can occur in any zone, and each is managed by an overlay code that applies in addition to whatever zone the land is in.

This architecture is a deliberate and elegant feature of the TPS. It prevents over-use of zones as proxies for value-based controls. It also allows the Commission, a Council or a landowner to extend the operation of a code by mapping more land into its overlay, without having to rezone the land. The architecture is described, in substance, in the SPP and the Zone Guidelines.

9.2 This point was made at the hearing

It was put to Ms Heckelmann at the hearing that "the whole Tasmanian planning scheme framework is premised on the fact that the primary strategy should be implemented through the application of zones" and that "if this area is deficient from having a Scenic Landscape Code, or that amendment follow that you put the Scenic Protection Code on there rather than put arguably an inappropriate zone on [it]".

Ms Heckelmann's response was that she would "argue that the zone is not inappropriate because the other zones or the other zone with the mechanisms available at this point in time aren't sufficient to appropriately manage the values". That answer restates the conclusion; it does not engage with the architectural point. Under the TPS architecture, if the Scenic Protection Area Code is the mechanism designed for scenic values, the answer to a perceived gap in scenic protection is to extend the overlay, not to impose a zone that happens to have similar performance criteria. That is the point of having an overlay at all.

9.3 Extending the SPA is the correct planning response

If the Commission accepts that there is a scenic value on the East Tinderbox coastal corridor that requires protection — and the landowner does not dispute that the Tinderbox peninsula has scenic

values — the appropriate response is to extend the Scenic Protection Area overlay along the coastal corridor. The Scenic Protection Area Code then applies to any development in the mapped area, with substantive performance criteria in relation to siting, height, form, reflectance, screening, landscape integration and visual impact as viewed from roads, public places, the D'Entrecasteaux Channel and Bruny Island. Those performance criteria cover everything that the LCZ purportedly adds (exterior reflectance, landscape compatibility, viewshed considerations) and more.

The Ireneinc Report itself, in "Future steps to mitigate risk" (section 1 of the introduction), identifies as one of the additional actions "review and expansion of the scenic protection areas identified within Kingborough". The Commission can give effect to this recommendation directly, by directing Council to consider extension of the Scenic Protection Area along the East Tinderbox coastal corridor as part of a subsequent scheme amendment, while approving the RLZ for the underlying land. That approach honours the TPS architecture and achieves the substantive protection at issue.

9.4 Using LCZ as a proxy has collateral costs the overlay does not impose

Using the LCZ as a proxy for the missing Scenic Protection Area produces collateral costs that the overlay itself would not: the discretionary status of residential use outside a sealed-plan building area (which causes practical difficulty for every residential approval), the 6 metre height ceiling (as against 8.5 metres in the RLZ), the Food Services 200 m² cap on the most innocuous small hospitality uses, and so on. These collateral costs are unrelated to the scenic concern that is the supposed justification. They are the cost of using a zone as a proxy for an overlay.

Extending the Scenic Protection Area does not impose any of these collateral costs. It targets the actual value — scenic visibility — and leaves residential entitlements intact. It is both more precise and less restrictive. Under Council's own resolution of 16 March 2026 (Part 12 below), the Commission is directed to select the less restrictive alternative where both are appropriate. Extending the overlay is less restrictive; imposing the LCZ is more restrictive; therefore the overlay is the correct response on Council's own stated position.

Part 10 — Inconsistency with Other Localities

This Part sets out, in detail, the inconsistency between the Ireneinc recommendation for East Tinderbox and the Ireneinc recommendations for materially comparable localities. The purpose is to demonstrate that the differential treatment cannot be rationally justified on the inputs the methodology itself records, and that correcting the inconsistency produces the RLZ outcome this submission seeks.

10.1 Comparator 1 — Howden and Blackmans Bay

Howden and Blackmans Bay is the most direct comparator: it is immediately adjacent to East Tinderbox, shares the same peninsula topography, the same bushland-coastal setting, the same Priority Vegetation Area overlay coverage, the same Waterway and Coastal Protection Area overlay, the same Bushfire-Prone Area mapping, and, notably, the same absence of Scenic Protection Area overlay on most of its coastal corridor. The Ireneinc landscape-values description for Howden and Blackmans Bay includes: "Native bushland is present throughout the locality... Residential development is often visually recessive, as dwellings are often screened by retained vegetation and responsive to the elevation. The elevated topography provides scenic views to and from surrounding private properties, while the relatively continuous bushland cover contributes to the area's natural and scenic landscape qualities."

That description is substantively identical to the description of East Tinderbox. The Ireneinc recommendation for Howden and Blackmans Bay is that the ELZ transition to the RLZ with a categorisation that does not provide for further subdivision, on the basis that the landscape values can be appropriately managed by the operation of the codes. Risk rating: medium.

This comparison was put directly to Ms Heckelmann at the hearing. Ms Heckelmann's response was that East Tinderbox has "not as clearly consistent" land uses, higher elevation in places and no Scenic Protection Area on the coastal corridor. None of those three answers is a landscape-value difference; they are structural and mapping matters. As Part 4 demonstrates, the "consistency" argument is overstated, the elevation difference is modest, and the absence of Scenic Protection Area is a mapping matter (Part 9). There is no articulable landscape-value ground on which to differentiate the two.

10.2 Comparator 2 — Western Tinderbox (same peninsula)

The western side of the Tinderbox peninsula is the immediately comparable locality. It shares the same peninsula, the same ridgeline, the same bushland-coastal setting, and the same regional identity as a defining visual feature of the D'Entrecasteaux Channel. The Ireneinc recommendation for Western Tinderbox is transition from ELZ to RLZ, on the basis that the land "appears as an extension of the rural settlement identified to the north... it exhibits generally similarly consistent settlement characteristics... to that area in terms of subdivision pattern and pattern of land use" and that "the provisions of the scheme and the mechanisms available within the zone would be capable of appropriately managing the landscape values on this side of the peninsula" (Ms Heckelmann's evidence).

The two sides of the Tinderbox peninsula are, from the perspective of the overarching landscape-values statement for Tinderbox, a single landscape. The distinguishing feature advanced by Ms Heckelmann — relative elevation of the eastern coastline — is real but modest: the eastern side rises more steeply in places. That topographical distinction is a scenic-visibility distinction, not a settlement-pattern distinction. It is the scenic-visibility distinction that the Scenic Protection Area Code, properly mapped, is designed to manage. Applying different zones to the two sides of the same peninsula, where the settlement pattern and the landscape-value description are the same, is the paradigm of differential treatment that the TPS's statewide standardisation is designed to prevent.

10.3 Comparator 3 — Albion Heights and Bonnet Hill

Albion Heights and Bonnet Hill is a Kingston-adjacent locality with, on Ireneinc's own evidence, "highly significant landscape values arising from elevated ridgelines and hilltops... steeply contoured terrain overlooking Taroona, Kingston and the Derwent Estuary... long distance views to and from the estuary... a visually prominent landscape within the municipality". It is described as the "inter-urban break" between Hobart and Kingston — one of the most strategically significant landscape-value statements in the entire Kingborough LPS.

The Ireneinc recommendation for Albion Heights and Bonnet Hill is transition from ELZ to RLZ. Risk rating: medium. The relevant overlay instrument is said to be adequate. That is, for a landscape described by Ireneinc in the most emphatic municipally significant terms available, the RLZ is considered adequate. East Tinderbox, described in materially less emphatic terms, is said not to be. The differential treatment is rationally unsustainable.

10.4 Comparator 4 — Leslie Vale, Longley, Allen's Rivulet, Sandfly, Kingston West

The Ireneinc Report recommends RLZ for ELZ land in Leslie Vale, Longley and Lower Longley, Allen's Rivulet, Sandfly and Kaoota, and the eastern part of Kingston West. Each of these localities has identified landscape values, bushland coverage, elevated topography and priority-vegetation mapping. Each is treated as being capable of having its landscape values managed by the operation of the codes. The qualitative difference between the landscape values in each of those localities and East Tinderbox is not one of kind, but of degree — and in many cases, not even of degree. Applying the RLZ uniformly, with appropriate lot-size categorisation, to all of them is the only intellectually consistent outcome.

10.5 The two large northern parcels are a separate sub-issue

Ms Heckelmann referred in her evidence to "two fairly significant lots to the north" of East Tinderbox as the basis for her view that the East Tinderbox cluster had "less consistent" land use. As noted in Part 4, those two parcels constitute a discrete zone-allocation question. If those parcels do not fit the RLZ pattern, they can be allocated to the Rural Zone, the Environmental Management Zone, or be the subject of a site-specific qualification. Their existence cannot rationally drive the zone allocation of the 100+ surrounding small residential lots. Any careful treatment of East Tinderbox can separate these two different questions.

Part 11 — The Recommendation's Own Concessions and Caveats Undermine It

On careful reading of the Ireneinc Report and the hearing transcript, the recommendation for East Tinderbox is made with an extensive series of caveats, concessions and acknowledgments that, taken together, substantially undermine its weight. This Part collects those concessions.

11.1 The recommendation is expressly a snapshot — "at this time"

Ms Heckelmann told the Panel that the LCZ was "considered to remain the most appropriate zone at this time for that land". The phrase "at this time" was repeated by Ms Heckelmann on multiple occasions in her East Tinderbox evidence. It was deployed deliberately. A zone allocation that is expressly stated by its author to be "the most appropriate at this time" is, by the author's own characterisation, transitory and defeasible. Such a characterisation is not a sound basis for imposing the most restrictive non-environmental zone on a property in a scheme that will regulate that land indefinitely into the future.

11.2 The recommendation is acknowledged as dependent on unavailable options

Ms Heckelmann expressly acknowledged that the PPZ "obviously cannot be considered currently" but is a zone that "could potentially mitigate" the identified risk and "provide for a more appropriate zone... if it were to be available or if it were to be pursued by council in the future". In other words: the LCZ is recommended because the author's preferred zone is not available; not because the LCZ is the correct zone on the merits.

The Commission cannot, as a matter of LPS-making, direct the PPZ into the scheme now. But it can direct the least restrictive available zone that achieves the relevant zone purpose to the greatest extent possible — which, for the reasons set out in Parts 5 to 10, is the RLZ.

11.3 The recommendation is acknowledged as inviting further strategic work

Ms Heckelmann expressly acknowledged at the hearing that "this is an area where I feel like council need to do some more strategic work in being able to appropriately zone... land on this peninsula... going forward in terms of setting a strategic direction for what should be occurring here... which felt a little bit beyond the exercise of a zone transition at this time". That is, the author acknowledges that the appropriate long-term strategic treatment has not been undertaken, and that the LCZ is a placeholder pending such treatment.

11.4 The recommendation is acknowledged as not "the most comfortable fit"

At the Groombridges Road discussion on the western side of the scheme, Ms Heckelmann said of the RLZ (in that context) that "the rural living zone from my perspective is not the most comfortable fit but based on the framework it is the most appropriate zone". The mirror of that logic is that the LCZ at East Tinderbox is not the most comfortable fit either — but the framework has been pushed, by a

contestable risk rating, to produce the LCZ output. If the framework produces uncomfortable fits at its margins, then the framework, not the land, is the issue.

11.5 The hearing Panel expressed concern about the differentiator

The differentiator between East Tinderbox and Howden was expressly identified in the hearing as not being clear from the assessment and the establishment of landscape values. It was noted that "landscape values in those two places are not necessarily very different". Further, the SPA-vs-LCZ architectural point was made. These are not peripheral comments; they are the Commission Panel's own contemporaneous record that the Ireneinc differentiation is not convincingly made out. The Panel is the relevant audience; the Panel has signalled its doubts.

11.6 The recommendation explicitly contemplates being revisited

The Ireneinc Report, in its "Future steps to mitigate risk" section, identifies five future actions that could strengthen the management of landscape values in Kingborough: initiation of planning scheme amendments to incorporate the PPZ; review and expansion of the Scenic Protection Areas; consideration of new or varied SAPs; undertaking of a Rural Living Settlement Review; and engagement with the State Government's proposed review of zones under the SPP. Each of these is an action that sits outside the current LPS. The recommendation for LCZ at East Tinderbox is expressly made on the understanding that these later actions may alter the outcome. That is the opposite of a confident, permanent planning recommendation.

Part 12 — Council's 16 March 2026 Resolution and the Least-Restrictive-Alternative Principle

On 16 March 2026, Kingborough Council resolved to advise the Commission that, in its formal planning position, "where more than one zone is considered appropriate for a particular area, the zoning that should be applied to that area would be the least restrictive alternative". That resolution is the Planning Authority's formal instruction to the Commission on how to weight marginal cases. This Part analyses its operation.

12.1 The logical structure of the resolution

The resolution operates in two steps. First, the Commission identifies whether there is more than one zone that is "considered appropriate" for the land. Second, if so, the Commission applies the less restrictive of the appropriate alternatives.

12.2 Step 1 — Is more than one zone appropriate for East Tinderbox?

The Ireneinc Report and Ms Heckelmann's evidence, properly analysed, establish that more than one zone is appropriate for East Tinderbox. Specifically:

- Ms Heckelmann expressly stated that the East Tinderbox land "definitely has rural living characteristics" — a finding that opens the RLZ pathway.
- Ms Heckelmann expressly stated that the landscape values at East Tinderbox "are not necessarily very different" from those at Howden, where the RLZ was found to be appropriate.
- The Ireneinc Report's own Q6 analysis acknowledged "some rural living characteristics" and the possibility that the values could be managed by codes; the "risk" analysis was the dispositive step, and that risk analysis is, on the evidence, not defensibly differentiated from the medium-risk Howden assessment.
- The Ireneinc Report's own "Future steps" section acknowledges that the PPZ or an expanded Scenic Protection Area would provide a more appropriate mechanism — implying that the LCZ is not the uniquely appropriate zone, but one of several possibilities.
- The Ireneinc Report does not foreclose the RLZ; it ranks the LCZ above it on a risk basis.

That is the record of the Planning Authority's own advising consultant. On that record, more than one zone is appropriate — the LCZ and the RLZ both being possible on the Ireneinc framework. The condition in Council's resolution is therefore satisfied.

12.3 Step 2 — Which is the less restrictive?

Between the LCZ and the RLZ, the less restrictive is unambiguously the RLZ. Under the RLZ, a single dwelling is Permitted (without any sealed-plan building-area requirement); under the LCZ, a single dwelling is Permitted only within a sealed-plan building area and is otherwise Discretionary. Under the RLZ, the acceptable-solution height is 8.5 metres; under the LCZ it is 6 metres. Under the RLZ, site coverage is the lesser of 400 m² or 10 per cent (engaging only for small lots); under the LCZ, 400 m²

applies regardless. Under the RLZ, exterior finishes are controlled by amenity and scenic performance criteria; under the LCZ, a specific reflectance cap of 40 per cent and a palette of "dark natural tones of grey, green or brown" is applied as an acceptable solution.

Every material respect in which the zones differ is the RLZ being less restrictive. The Council resolution therefore directs the Commission, on its own terms, to the RLZ.

12.4 The resolution is not the Commission's decision, but it is Council's formal position

The Commission is, of course, the ultimate decision-maker under the LUPAA. The Council's resolution does not displace the Commission's function. But where the Planning Authority has formally resolved that in marginal cases the less restrictive zone should be applied, the Commission is entitled to give substantial weight to that formally adopted position in discharging its assessment function under section 34. The Council's resolution is before the Commission. The Commission should give it the weight appropriate to a formal resolution of the Planning Authority.

Part 13 — Procedural and Evidentiary Deficiencies

This Part sets out, more briefly, a collection of procedural and evidentiary criticisms of the Ireneinc Report and Ms Heckelmann's evidence that, cumulatively, further undermine the East Tinderbox recommendation. Each one, taken alone, would not be determinative; taken together, they warrant scrutiny.

13.1 Absence of structured landscape-value rating

The Ireneinc methodology does not include any formal scale for rating the magnitude or significance of the landscape values that it identifies. Landscape values are described in qualitative narrative terms ("highly valued", "significant", "visually prominent", "highly significant"), but the terms are not defined, calibrated or cross-referenced to specific criteria. This point was made at the hearing. The absence of a rating scale means that every locality appears to have landscape values of comparable significance, which is why the risk analysis ends up being the sole differentiator — and the risk analysis, as Part 4 showed, is undefined.

13.2 Absence of structured visibility / viewshed analysis

Ireneinc asserts scenic visibility of East Tinderbox from the D'Entrecasteaux Channel, Bruny Island and "surrounding waterways". No formal viewshed analysis is presented. The photographs in the Report are general-locality photographs sourced from realestate.com.au, not viewshed analyses. A genuine landscape-sensitivity assessment would include formal visibility mapping — typically through GIS-based viewshed software — to identify the specific areas of greatest scenic impact. Where such work has not been undertaken, statements of high visibility are assertions not conclusions.

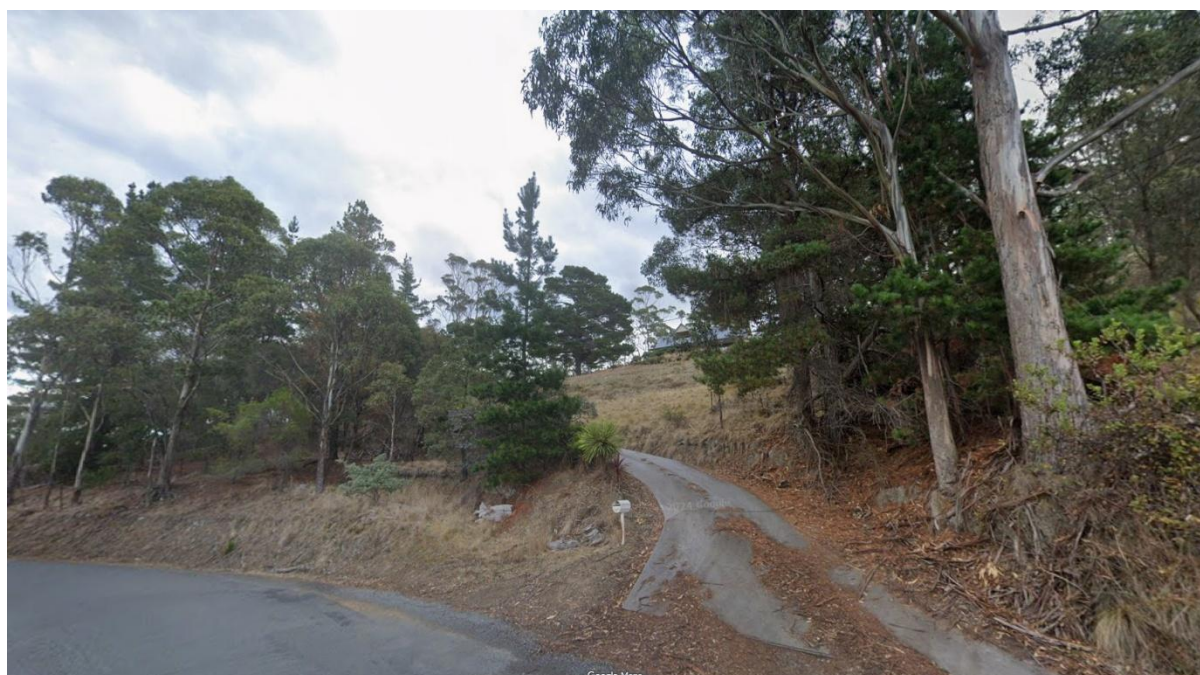


Figure 1: View from [REDACTED] Coming Towards the Property



Figure 2: View from [REDACTED] Going Past the Property

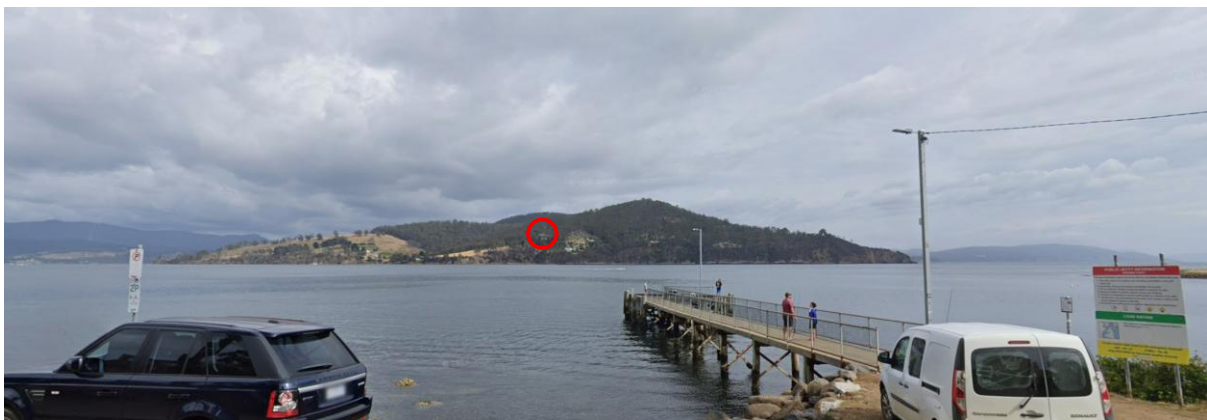


Figure 3: View of Subject Property from Dennes Point

13.3 Absence of social and economic impact analysis

The LUPAA Schedule 1 objectives include social and economic considerations. The Ireneinc Report does not address the social or economic consequences of the LCZ allocation for East Tinderbox residents. It does not, for example, address the likely impact on property values, on insurance premiums in a bushfire-prone locality, on the resale market and on intergenerational family succession on rural-residential titles. These are relevant considerations; their absence is a gap.

13.4 Limited engagement with representations

The large quantity of representations from Tinderbox are listed in the Ireneinc Report but are not substantively analysed. Specific points of individual evidence raised by representations — the history of a property, the nature of its management, the relationship of buildings to landscape, and so on — are not engaged with in the East Tinderbox zone evaluation. The representations are treated as background, not as evidence.

13.5 No analysis of the interaction with adjoining council area (section 34(2)(g) LUPAA)

Section 34(2)(g) of the LUPAA requires consistency, as far as practicable, with the LPS of adjoining council areas. The Ireneinc Report notes, correctly, that the Tinderbox locality is not identified as adjoining a neighbouring council area. However, the integrity of the peninsula's landscape extends to views from Hobart (City of Hobart), from the Channel (a boundary shared with multiple local government areas), and from Bruny Island (Kingborough). The relationship of the proposed zoning to the broader, cross-jurisdictional landscape is not examined. Where it matters, the analysis is absent.

Part 14 — Property-Specific Considerations

This Part sets out the specific factual and practical considerations that apply to the subject land at [REDACTED] **Tinderbox** ([REDACTED]). These matters provide an additional layer of evidence demonstrating that the proposed application of the Landscape Conservation Zone (LCZ) is unnecessary, disproportionate, and inconsistent with the established and ongoing use of the land.

14.1 Description of Our Property

The subject property comprises approximately **2.17 hectares (21,727 sqm)** within the **Environmental Living Zone** under the Kingborough Interim Planning Scheme. The property has been held within the same family for three generations, reflecting a longstanding and continuous connection to the land and locality. The site contains an established dwelling that has been present for many decades and has been maintained and renovated over time.

The land is characterised by:

- A cleared and actively managed building envelope in the lower portion of the site; and
- A substantial vegetated upper area, which retains biodiversity and landscape values.

This pattern of partial clearing and partial vegetation retention is typical of established residential properties in East Tinderbox and reflects a balanced approach to residential use and environmental management.

14.2 Existing Use of Our Property

The property is used primarily for residential purposes.

In addition:

- Limited, non-commercial rural activity (occasional grazing of sheep) is undertaken solely for vegetation management and bushfire risk reduction;
- No agricultural enterprise of any scale operates on the land.

The use is therefore clearly and consistently residential in nature, with any ancillary activities being incidental and subordinate.

14.3 Strategic Intention of the Landowner

The long-term intention for the property is:

- Continued residential occupation;
- Ongoing garden establishment and maintenance;
- Responsible bushland management, including vegetation retention and fuel reduction.

There is no intention to:

- Develop the land for commercial rural production;
- Subdivide intensively;
- Undertake activities inconsistent with its established residential character.

14.4 Visibility of Our Property from the Channel and Public Places

While the broader Tinderbox locality contributes to the visual landscape of the Channel area, the subject property:

- Contains an established dwelling and cleared area that are consistent with existing residential development patterns;
- Retains substantial vegetation, which softens visual impact and integrates the property into the surrounding landscape;
- Does not present as a prominent or intrusive visual element when viewed from the Channel or public vantage points.

Accordingly, the property already achieves an appropriate balance between residential use and landscape protection, consistent with the objectives of the Scenic Landscape provisions.

14.5 Private Conservation Arrangements on Our Property

The subject property is already subject to multiple environmental and hazard controls under the planning scheme, including:

- E1.0 Bushfire-Prone Area, regulating siting, design and vegetation management;
- E3.0 Landslip Code, constraining development on unstable land;
- E10.0 Biodiversity Protection Area, managing impacts on native vegetation and habitat; and
- E14.0 Scenic Landscapes Code, protecting landscape and visual values.

These controls impose direct, site-specific constraints on use and development.

In addition, like many properties in East Tinderbox, private land management practices (including vegetation retention and controlled grazing) actively contribute to maintaining environmental values.

Taken together, these mechanisms already:

- Protect biodiversity
- Manage landscape values
- Control development impacts

without the need for LCZ.

14.6 Direct Consequences of LCZ for Our Property

The proposed rezoning to LCZ would have significant and disproportionate impacts on the reasonable use and enjoyment of the land.

(a) Restriction on ordinary residential use

LCZ would introduce constraints inconsistent with established residential use, including:

- Potential limitations on keeping domestic animals;
- Reduced flexibility in how the land can be used and enjoyed as a residential holding.

This represents a material change to the character of permitted use, not a refinement of existing controls.

(b) Impact on bushfire management

Effective bushfire management on the property currently relies on:

- Maintaining a cleared defensible space;
- Using low-intensity grazing (sheep) to control fuel loads.

LCZ risks:

- Constraining vegetation management;
- Discouraging or limiting practical fuel reduction measures.

This creates a tension between:

- Bushfire safety obligations, and
- Landscape conservation restrictions

which is neither practical nor desirable.

(c) Limitation on future development and adaptation

The property already operates within a defined and constrained building envelope.

The introduction of LCZ would:

- Further restrict the ability to adapt, extend, or improve the dwelling;
- Limit reasonable future changes to meet evolving family or environmental needs;
- Impose additional approval burdens without delivering meaningful additional protection.
- Prevent a reconstruction of the existing property (dwelling approximately 7m high) should extensive damage and/or loss to the structure occur through events such as fire.

(d) Duplication of existing controls

The environmental values cited as justification for LCZ — including:

- Biodiversity
- Landscape character
- Hazard management

are **already comprehensively regulated** through:

- E10 Biodiversity Code
- E14 Scenic Landscape Code
- E1 and E3 hazard codes

Therefore, as outlined in Part 9 of this submission, the LCZ would:

duplicate existing controls rather than introduce a necessary or distinct planning outcome.

Conclusion

In the case of the subject property, the proposed application of the LCZ is:

- **Unnecessary**, given the extensive existing planning controls;
- **Disproportionate**, having regard to the established residential use of the land; and
- **Inconsistent**, with both the current function of the property and the practical requirements of land management, including bushfire mitigation.

The evidence demonstrates that the environmental and landscape values of the land are already being effectively managed through existing mechanisms. The imposition of LCZ would not materially improve those outcomes, but would instead impose additional and unwarranted constraints on a long-established residential property.

Part 15 — Conclusion and Relief Sought

This submission has set out, at length, the reasons why the Ireneinc recommendation that our property in East Tinderbox transition from the ELZ to the LCZ is not a sound planning outcome and should not be accepted by the Commission.

15.1 Summary of findings

The cumulative effect of Parts 2 to 14 is that:

1. Zone Guideline LCZ 4(a) prohibits, in terms, the application of the LCZ to our property, because the priority on the land is for residential use and development.
2. Zone Guideline notes prohibit, in terms, the use of the LCZ as a replacement for the ELZ or as a large-lot residential zone — both of which the Ireneinc recommendation effectively produces.
3. Zone Guideline RLZ 4(b) expressly permits the application of the RLZ to land with important landscape values where those values can be managed by the operation of the relevant codes — which they can, at East Tinderbox, through the Natural Assets Code, the Waterway and Coastal Protection Area Code, the Scenic Protection Area Code (as extended), the Bushfire-Prone Areas Code, the Landslip Hazard Code, and the RLZ's own performance criteria, together with any Part 5 agreements and conservation covenants on individual titles.
4. The Ireneinc methodology relies, at its dispositive step (Q6), on an undefined "risk" rating that is applied inconsistently across localities; when re-scored to "medium" on the evidence available, East Tinderbox transitions to the RLZ as a matter of Ireneinc's own framework.
5. The Ireneinc recommendation for East Tinderbox is inconsistent with the Ireneinc recommendations for Howden and Blackmans Bay (same description of landscape values), Western Tinderbox (same peninsula), Albion Heights and Bonnet Hill (more emphatic landscape description, RLZ recommended), Leslie Vale, Longley, Allen's Rivulet, Sandfly and Kingston West (all ELZ to RLZ).
6. The single substantive point of differentiation — the absence of the Scenic Protection Area overlay on the East Tinderbox coastal corridor — is a mapping issue, not a zoning issue, and is to be addressed (if at all) by extension of the overlay, not by imposition of a zone.
7. The Ireneinc recommendation is expressly caveated by its author as being "at this time", dependent on unavailable zones, inviting further strategic work, and ultimately a provisional outcome.
8. Council's 16 March 2026 resolution, formally adopted and advised to the Commission, directs the application of the less restrictive zone in marginal cases — the RLZ.

15.2 Relief sought (reiterated)

For the reasons set out in this submission, the landowner respectfully requests that the Commission:

9. Direct the substitution of the Rural Living Zone (in an appropriate RLZ B, C or D categorisation, to be determined by reference to the existing pattern and density of development and not to enable further subdivision) for the Landscape Conservation Zone, in respect of our property and of the balance of the East Tinderbox residential cluster of comparable character.
10. In the alternative, direct split zoning of the subject title, with the Rural Living Zone applied to the built envelope and residential curtilage, and the Landscape Conservation Zone applied only to any demonstrably undeveloped, unmodified coastal-edge portion of the title (if any).
11. In the further alternative, direct Council to consider, as a matter of scheme amendment or subsequent review, the extension of the Scenic Protection Area overlay to the East Tinderbox coastal corridor, as the proper mechanism for managing the scenic-visibility concern identified by Ireneinc, and approve the Rural Living Zone for the underlying land in the interim.
12. Invite the landowner to be heard at the hearing for the East Tinderbox locality, to speak to this submission and to answer any questions the Commission may have in relation to our property, the Ireneinc methodology or the comparable localities.

15.3 Closing

The Commission is asked to note that this submission does not dispute the fact that the Tinderbox peninsula has significant landscape values. It does not dispute that those values are worthy of protection. It does not dispute that the Kingborough Council has acted conscientiously in seeking to protect those values through the PPZ and, after the PPZ was rejected, through the Direction 69 review. What it disputes is the translation of that protection-intention into the most restrictive non-environmental zone available under the SPP, imposed wholesale on established residential lots, without a sound Guideline-based justification, in a manner inconsistent with the treatment of neighbouring localities, and in breach of the express prohibition in LCZ 4(a).

The Rural Living Zone, in a categorisation that does not provide for further subdivision, achieves the Planning Authority's protection-intention through the operation of the relevant codes, whilst recognising the established residential character of the land. It is the zone that the SPP, the Zone Guidelines, the Commission's own Huon Valley reasoning, and Council's own least-restrictive-alternative resolution all point to. It is the outcome this submission seeks.

Signed:

Brett and Rowena Gibson

Landowners, [REDACTED]

Dated: 30/04/2026