
From: david russell [REDACTED]
Sent: Monday, 4 May 2026 5:32 PM
To: Kingborough LPS
Subject: [REDACTED]
Attachments: To the Tasmanian Planning Commission.pdf

To the Tasmanian Planning Commission

I write in response to the letter dated 2 April 2026 (ref: DOC/26/36829) advising that the Ireneinc report recommends my property remains within the Landscape Conservation Zone (LCZ) under the draft Kingborough Local Provisions Schedule (LPS). I did not make a formal representation during the public exhibition period, however I understand that the Commission has received correspondence from me or on my behalf in relation to the draft LPS. I understand that this letter provides me the opportunity to formally participate in this stage of the LPS process by making a written submission, that making a submission does not confer a right to be heard, but that the Commission may decide to invite me to discuss the matters raised.

Landowner name	David James Russell
Property address	[REDACTED], Margate.

Title reference	[REDACTED]
Lot size (approx)	26 Hectares
Locality	Margate
Current IPS Zone	ELZ
Draft LPS exhibited zone	LCZ
Ireneinc recommended zone	LCZ
Zone sought in this submission	RLZ

I submit that the application of the Landscape Conservation Zone (LCZ) to my property is not consistent with the requirements of section 34 of the Land Use Planning and Approvals Act 1993 (LUPAA), the Section 8A Guideline No. 1—Local Provisions Schedule: Zone and Code Application (the Zone Guidelines), or the Southern Tasmania Regional Land Use Strategy (STRLUS). I request that the Commission determine that the Rural Living Zone (RLZ) is the appropriate zone for my property under the draft Kingborough LPS.

The specific subcategory I seek is: Rural Living Zone D. This category would seem the best reflection of the blocks in my area.

Grounds For This Submission

The LCZ does not comply with the Zone Guidelines (Guideline No. 1 / s.34 LUPAA). The Commission is required by section 35L(2) of LUPAA to assess whether the LPS meets the LPS criteria, which includes compliance with the Zone Guidelines. The Commission confirmed at the Day 20 hearing that it will decide on the basis of the LPS criteria set out in section 34 of LUPAA and explicitly noted that Council's position—including its 16 March 2026 resolution favouring the 'least restrictive alternative'—is not binding on the Commission [Transcript, Day 20, 06:45:48]. I submit that the application of LCZ to my property does not comply with the Zone Guidelines as demonstrated below.

The Zone Guidelines prohibit LCZ where priority is residential (LCZ 4(a)) Zone Guideline LCZ 4(a) provides that the LCZ should NOT be applied to land where the priority is for residential use and development, instead indicating that the RLZ should be referred to. The Zone Guidelines further note explicitly that 'the LCZ is not a large lot residential zone, in areas characterised by native vegetation cover and other landscape values. My property has been used for residential purposes throughout the period it has been zoned Environmental Living Zone (ELZ) under the Kingborough Interim Planning Scheme 2015. During my tenure, the primary use and strategic intention of the land is and has always been residential. The property contains a dwelling constructed in 2009/10 and has been continuously occupied as a residence since construction. There is no evidence to suggest the primary use of the property has been anything other than residential.

The LCZ is not a replacement zone for the ELZ. The Zone Guidelines state expressly: 'The LCZ is not a replacement zone for the ELZ in interim planning schemes. There are key policy differences between the two zones.' The TPC itself noted this in its post-lodgement correspondence with Council, observing that the LCZ 'appears to have been used quite extensively to replace the ELZ' and that 'application of the LCZ could signify a shift in council policy or strategy, which generally ought to be comprehensively justified.' No such comprehensive, site-specific justification has been provided for my property. The Ireneinc report applies the LCZ to my property on the basis of generalised locality-level landscape values, not on the basis of demonstrated landscape values specific to my title.

The RLZ is the appropriate zone under the Zone Guidelines (RLZ 1 and RLZ 2(b)). Zone Guideline RLZ 1(a) provides that the RLZ should be applied to residential areas with larger lots where the existing and intended use is a mix between residential and lower order rural activities, with priority given to the protection of residential amenity. This description accurately characterises my property. Zone Guideline RLZ 2(b) further provides that the RLZ may be applied to land within the ELZ in an interim planning scheme where the primary strategic intention is for residential use and development within a rural setting and a similar minimum allowable lot size is being applied. My property satisfies both elements of this criterion.

The Ireneinc evaluation framework, applied correctly to my property, supports RLZ. The Ireneinc report applies an evaluation pathway (decision tree) to determine the appropriate zone. The Commission was told at Day 20 of the hearing that this framework is not a statutory instrument—it is a tool, not a rule [Kate Heckelmann, Transcript Day 20, 05:53:00]. Representations can depart from it with good evidence. However, I submit that even applying the framework as intended, my property satisfies the criteria for RLZ rather than LCZ. The first decision point in the Ireneinc evaluation pathway asks whether there is a strategic intention for residential use. The report identifies visual evidence of existing residential use and known strategic intention as the relevant indicators. My property clearly satisfies this criterion. My property contains an established dwelling, associated outbuildings including garage/carport/shed, and a garden/cleared areas/fruit trees/fencing. Aerial photography over a period of 15 years confirms the consistently residential character of the property.

The Ireneinc framework identifies rural living settlement characteristics as: at least 10 smaller blocks generally ranging in size between 1–15 ha (my larger 25 ha block is not typical of the blocks surrounding me) with a relatively consistent lot pattern; a consistent pattern of detached dwellings with associated outbuildings; and visual evidence of rural activities (cleared areas, hobby farming, grazing etc.). The Ireneinc report's own locality baseline confirms that the broader settlement in which my property sits displays these characteristics. There is a long and clear history of this type of settlement and land use in my area of [REDACTED].

The Ireneinc evaluation framework requires consideration of whether identified landscape values can be appropriately managed outside of LCZ, specifically through the Natural Assets Code (NAC), the Scenic Protection Code (SPC), or a Specific Area Plan (SAP). The Commission itself accepted this argument in relation to Kettering West at Day 20, where the panel effectively found that the Priority Vegetation Area (PVA) overlay does the landscape-protection work, not the zone [Transcript, Day 20, 02:33:54].

The Ireneinc framework identifies as a key RLZ suitability indicator that the transition 'would result in limited/no further subdivision' and that 'a similar minimum allowable lot size is being applied.' Applying RLZ D to my property achieves this outcome, as the minimum lot size under that subcategory is consistent with the existing lot size and does not create a viable subdivision pathway beyond the creation of two blocks (limited) from my existing single block.

The TPC panel confirmed at Day 20 that visible rural activity is not a prerequisite for RLZ. This was applied consistently across multiple localities including Howden, Albion Heights, and Kingston West. Properties need not demonstrate active farming or grazing to satisfy the RLZ criteria—residential use in a rural setting is sufficient.

The Ireneinc report recommended full ELZ to RLZ transitions for a number of localities, including Kettering East and Oyster Cove, Howden and Blackmans Bay, Albion Heights, and Tinderbox West. No questions were asked about these recommendations at the hearing, though this does not indicate acceptance by the Commission. The characteristics of those localities—established residential settlement, lots generally between 1 and 15 ha, mixed residential and rural activities, limited evidence of significant landscape values requiring LCZ protection—are shared by my property.

The Zone Guidelines require that the spatial application of zones be, as far as practicable, consistent with and coordinated across the LPS. Where neighbouring properties with substantially similar characteristics have been recommended for RLZ, the application of LCZ to my property is inconsistent and not supported by evidence of any material difference.

The Ireneinc LCZ Review report documents a significant evolution—and inconsistency—in Council's approach to the application of the LCZ to ELZ land. At the time the draft LPS was first submitted to the TPC in 2020, approximately 85% of ELZ parcels were proposed for LCZ. The TPC noted that this approach was often inconsistent with the Zone Guidelines and that 'often when assessing particular sites the zone proposed does not seem to match these criteria or those of Guideline

No.1.' By the time of public exhibition the proportion had been reduced to approximately 75%, with the balance transitioning to RLZ, RZ, and other zones. This history demonstrates that the initial presumption in favour of LCZ was not well-founded and that the LCZ application has been progressively narrowed as the evidence base has been tested. The Ireneinc report represents a further iteration of this process. The evidence specific to my property supports RLZ and the LCZ recommendation should not be allowed to stand.

Where landscape values are present on or near my property, I submit that they can be appropriately managed through the application of the relevant overlay controls, without the need for LCZ. The TPC panel acknowledged on Day 20 [02:33:54] that the PVA overlay and SPC do the landscape-protection work in many cases, removing the justification for LCZ in those areas. Ireneinc itself acknowledged in the LCZ Review report that a future rural living settlement review may reconsider current RLZ decisions, and that any short-term risk is 'not something that's a definitive or a risk that can't be mitigated with future action' [Transcript, 03:06:18]. This acknowledgement of residual risk mitigation further supports the appropriateness of RLZ rather than LCZ for my property.

Lastly I would like to point out how unreasonable it is to gradually ramp up planning restrictions on properties such as mine over time. I purchased my block in 2008, my planning for this block is life long and decisions are made based on an understanding of the planning rules and regulations at the time. For most people their home and property are their major asset and source of wealth, we plan lifestyle, employment, families and retirement around an understanding of these assets. I have children who I would like to help acquire housing by subdividing

my block, I would like the option of building an ancillary dwelling for myself, my family or a carer as I age here. How are people like me to make long term plans around housing and investment if council keeps changing the rules? The new planning scheme being implemented is the third in the 20 years I have lived in this area.

I come across many negative attitudes toward the Kingborough Council in the community I live in, a feeling that that the council is an opponent rather than a partner. It should not be like this, and I don't think historically it was, the implementation and nature of the zoning changes currently in progress is a good example of why this attitude has become so prevalent.

Yours Faithfully

David Russell