
From: Greg Whitten [REDACTED]
Sent: Monday, 4 May 2026 9:53 PM
To: TPC Enquiry; Kingborough LPS
Subject: Submission - Kingborough LPS Direction 69 - [REDACTED], Allens Rivulet
Attachments: TPC_Kingborough_LPS_Submission_[REDACTED] Greg Whitten 4th May.docx

You don't often get email from grwhitten@gmail.com. [Learn why this is important](#)

Title References 130581/1 & 111534/3

Please see my attached submission regarding Kingborough LPS Direction 69 - [REDACTED]
[REDACTED] Allens Rivulet

Kind Regards

Greg Whitten

[REDACTED], Allens Rivulet TAS 7150

WRITTEN SUBMISSION TO THE
TASMANIAN PLANNING COMMISSION

Kingborough Local Provisions Schedule — Direction 69 / Ireneinc Report

Submission by Greg Whitten | [REDACTED] Allens Rivulet | Representation 556

PLEASE NOTE: In addition to my individual submission herein, I am also a signatory to the **Collective Allens Rivulet/Nierinna Corridor Submission**

PART A

To the Tasmanian Planning Commission,

I write in response to the letter dated 2 April 2026 (ref: DOC/26/36829) advising that the Ireneinc Planning & Urban Design report (*Locality Baseline and Alternative Zone Evaluation*, Stage Two, Version 1.1, 19 March 2026) recommends that my property be split-zoned Landscape Conservation Zone (LCZ) and Rural Zone (RZ) under the draft Kingborough Local Provisions Schedule (LPS). This revised recommendation follows the original Council proposal to apply LCZ to the full property, which itself had been the subject of my earlier representation.

I previously made a representation on the draft LPS (Representation 556). I understand that my representation has not yet been heard and will be heard at a future hearing. I understand that this letter provides me the opportunity to make a further written submission specifically in relation to the Ireneinc recommendations, and that I may speak to this submission when I appear before the Commission.

I take up that opportunity and submit as follows. This submission addresses both the Landscape Conservation Zone element retained from the original Council proposal and the Rural Zone element introduced by the Ireneinc recommendation.

Please Note: I am one of 35 landowners in the Allen's Rivulet / Nierinna corridor who have jointly lodged a Collective Submission dated 4/5/2026. I adopt the arguments in that collective submission and incorporate them into this individual submission by reference.

PART B — PROPERTY DETAILS

Landowner name(s)	Greg Whitten
Property address	[REDACTED], Allens Rivulet TAS 7150
Title reference (folio)	130581/1 & 111534/3
Lot size (approx.)	19.94 ha & 0.88 ha TOTAL 20.82 ha
Locality (Ireneinc report)	Allens Rivulet — Section 2.7, Stage Two report (19 March 2026)

Current IPS zone	Environmental Living Zone (ELZ) — Kingborough Interim Planning Scheme 2015
Draft LPS exhibited zone	Landscape Conservation Zone (LCZ)
Ireneinc recommended zone	Rural Zone (RZ) + Landscape Conservation Zone (LCZ) split (Section 2.7.2.2, Stage Two report, 19 March 2026)
Zone sought in this submission	Rural Living Zone D (RLZ-D) — full property
Representation number	Representation 556
Contact email	[REDACTED]
Contact phone	[REDACTED]

The subject property is a 20.82 ha rural residential holding situated near the end of [REDACTED], Allens Rivulet. The property is part of the Allens Rivulet locality assessed by Ireneinc in Section 2.7 of the Stage Two report. It has been lawfully used for residential occupation, commercial herb growing and processing, home garden, land stewardship, biodiversity and passive recreation throughout the period of its current Environmental Living Zone designation under KIPS 2015 and Environmental Management Zone under KPS 2000.

There are two titles. The main lot of 19.94 ha comprises most of the property and a small lot of 0.88 ha contains part of the former Kaoota Tramway that passes through the main lot and Kingborough Council maintains a public right of way over it, for use by walkers, cyclists and horseriders. It is only 20m wide, the old railway formation being about 2m wide, with native vegetation along most of it. I use it frequently for recreation, so it does have a residential related use, though it would not be suitable for a dwelling.

The whole property comprises approximately 25% clear land, with forest and open woodland on the remainder (predominantly stringybark, blue gum and white peppermint).

The within the clear land there is about 2 ha devoted to horticultural activity, and about another 1 ha used for a number of sheds for machinery and equipment, and herb drying, processing and storage. There is a small dwelling. There are three dams that supply water for irrigation, and water tanks for collection and storage of rainwater. The property is connected to the electricity grid, and there is an onsite wastewater system.

Access to the property is via a right of carriageway over private land and a Crown road reserve.

The property is subject to the following overlay codes under the proposed TPS:

- C7.0 Natural Assets Code (Priority Vegetation Area and Waterway and Coastal Protection Area)
- C8.0 Scenic Protection Area Code
- C13.0 Bushfire-Prone Areas Code
- C15.0 Landslip Hazard Code.

PART C — STATEMENT OF POSITION

Commented [1]: Insert map of property location and refer to an appendix where additional images are provided

This Second Submission

When I submitted my initial representation, it did not appear that Rural Living Zone could be an option for my property because it did not adjoin other properties with that zoning, so I advocated for Rural Zone because it seemed the best available zoning option for its current land use, and at the time I was not aware that there was such a strong case and strong interest for much of the adjacent area to be zoned Rural Living.

I therefore am now of the opinion that the Rural Living Zone D (RLZ-D) is the most appropriate zone for this property and surrounding properties, with the proviso that the Rural Zone would be the next most appropriate zone.

I submit that both the application of Landscape Conservation Zone (LCZ) to my property, as originally proposed by Kingborough Council, and the Ireneinc recommendation of a Rural Zone (RZ) and LCZ split, are each inconsistent 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), and the South East Tasmania Regional Land Use Strategy (STRLUS).

I request that the Commission determine that the Rural Living Zone D (RLZ-D) is the appropriate zone for my property under the draft Kingborough LPS.

The specific subcategory I seek is **Rural Living Zone D (minimum lot size 10 ha)**, reflecting the existing lot sizes and settlement pattern of my property titles of 19.94ha and 0.8ha. The Acceptable Solution for RLZ-D subdivision does not reduce the minimum lot size threshold that already applies under the ELZ (1 lot per 10 ha). The Performance Criteria do not create a viable two-lot subdivision pathway for up to 20% smaller lots due to the limitations of the site and the road access.

The commercial horticultural production and processing operation on the property is very compatible with the RLZ. It easily meets the use standards for discretionary uses in the RLZ as it does not cause any unreasonable loss of amenity, through noise, scale, intensity, traffic generation and movement, or other offsite impacts. The operation is certified organic/biodynamic and doesn't use any toxic chemicals, and maintains acceptable noise, lighting or other emission levels. The operation currently uses about 3 ha overall, and has almost reached its limit in terms of scale due to the lack of additional land that is already clear with suitable soil and slope. The organic standards as well as the planning scheme prohibit the clearing of land for production and our management plan places a strong emphasis on maintaining and enhancing biodiversity and natural values.

Future development on the property would likely be to increase residential use on the property, extending it to a larger single dwelling that includes a secondary dwelling so some of the farm staff are able to live on the property and be readily available for doing some tasks afterhours, on weekends and public holidays. The nature of the operation is such that cultivation and harvesting needs to be carried out at optimum times and the drying and processing require regular monitoring each day. The RLZ, with its permitted residential use and less restrictive access requirements would better facilitate this extension of residential use.

The RLZ, with its stated purpose "to provide for residential use or development in a rural setting where . . . existing natural and landscape values are to be retained", and its discretionary uses of Resource Development and Resource Processing, and the applicable Natural Assets, Scenic Protection, Landslip, and Waterways Codes and Overlays, is the zone most suited to this property that also has the capacity to appropriately regulate development in order to protect natural and landscape values.

PART D — GROUNDS FOR THIS SUBMISSION

D1 — The LCZ (and RZ) do 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 set out in section 34, which include compliance with the Zone Guidelines. The Commission confirmed at the Day 2 hearing that it will decide on the basis of section 34 criteria 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 2, 06:45:48]. The application of LCZ (and RZ) to my property does not comply with the Zone Guidelines, as demonstrated below.

D1.1 — The Zone Guidelines prohibit LCZ where the 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 (see also Rural Living Zone). The Zone Guidelines further note expressly 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 ELZ under KIPS 2015. The primary use and strategic intention of the land is residential in conjunction with small scale resource development and processing. The property contains an established dwelling that has been continuously occupied as a principal place of residence since 2013. It is connected to the electricity grid and is used for residential living, food production for household self-sufficiency, recreation, and active land stewardship.

This is in accord with the stated purpose of the RLZ

- "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."

While the Rural Zone might be an option for this property, in that there are some commercial scale uses of the land for horticulture and associated processing, these are of a nature and scale that also fit well within the standards for the RLZ.

There is also a question of whether the existing nearby Rural Resource Zone properties are actually correctly designated for Rural Zone. Zone Guideline RZ 4(a) provides that the RZ should not be applied where the primary use is residential rather than primary production. Those nearby properties at 86 and 87 Maudsleys Rd have had no commercial agricultural enterprise at any scale for over 30 years. They were once part of a large apple orchard that went out of business in the late 1980s. Since then they have been exclusively used for residential purposes. The Rural Zone purpose "to sustain primary production and prevent conversion of agricultural land" really doesn't apply to them, and any possible commercial-scale agricultural use of them could easily be accommodated in the Rural Living Zone.

D1.2 — The LCZ is not a replacement zone for the ELZ (Zone Guideline note)

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 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 Council LPS designation of LCZ and the Ireneinc recommendation of RZ+LCZ split to my property were on the basis of generalised locality-level landscape values identified in Section 2.7.1, not on the basis of demonstrated landscape values specific to my title. The Ireneinc Locality Report does not identify any

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Commented [3R2]: Consider whether noting that the transition from EMZ to ELZ signals a strategic intention for residential use and development by the Council of all properties in the Allen's Rivulet locality

conservation values on my property that are not already comprehensively protected by the mandatory code overlays described in D6 below. No site-specific analysis has been undertaken to identify how my property differs from the nearby properties on [REDACTED] or those in the broader locality for which the decision tree produces an RLZ outcome.

D1.3 — The RLZ is the appropriate zone under the Zone Guidelines (RLZ 1(a) 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 which is a 20.82 ha rural holding (two titles of 19.94ha and 0.8ha) with a dwelling, small-scale commercial horticulture and associated processing and storage, domestic scale vegetable production, recreation and active land stewardship.

Zone Guideline RLZ 2(b) further provides that the RLZ may be applied to ELZ land 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: the strategic intention is residential use and development within a rural setting, and RLZ-D (10 ha minimum lot size). The RLZ subdivision Acceptable Solution maintains an identical minimum lot threshold to the ELZ of 1 dwelling per 10 ha (as mentioned above, the Performance Criteria do not create a viable two-lot subdivision pathway for the 19.94ha title due to the limitations of the site and the road access)

All three criteria in Guideline No. 1 for ELZ-to-RLZ translation are met:

- **Criterion 1 — Primary strategic intention is residential use in a rural setting:** The property has been used for residential purposes since 2013. The owner resides on the property and conducts low intensity commercial horticulture and related activities that are compatible with residential amenity. The RLZ purpose precisely describes the strategic intention for this property. Criterion 1 is satisfied.
- **Criterion 2 — Similar minimum lot size maintained:** Under ELZ, the minimum lot size is 1 dwelling per 10 ha. Under RLZ-D, the effective minimum lot size of 10 ha is identical. There is no change in the subdivision threshold and no planning consequence for housing density or lot proliferation. Criterion 2 is satisfied.
- **Criterion 3 — Landscape values maintainable under RLZ:** The RLZ purpose statement explicitly requires development to retain natural and landscape values. Additionally, mandatory code overlays C7.0 (Priority Vegetation Area and Waterway Protection), C8.0 (Scenic Protection), C13.0 (Bushfire), and C15.0 (Landslip) apply regardless of zone, providing comprehensive area-specific protection. Over the 30-year period that I have owned the property the native vegetation cover has significantly grown in height, size and area, while the clear areas have been developed for residential and horticultural use. It is clear that the property can sustain these activities while maintaining and improving the natural and landscape values. The Commission's own guideline expressly contemplates and supports this zone allocation. Criterion 3 is satisfied.

The Commission's own guideline therefore **expressly supports RLZ** for this property. The proposed application of LCZ or RZ is contrary to the Guideline and contrary to the correct application of TPS zone architecture.

D2 — 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 2 of the hearing that this framework is not a statutory instrument — it is a tool, not a rule [Kate Heckelmann, Transcript Day 2, 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 or RZ, as explained below.

D2.1 — My property has a strategic residential intention (Decision Point 1: YES)

The first decision point in the Ireneinc evaluation pathway asks whether there is a strategic intention for residential use. The Ireneinc report's own locality baseline (Section 2.7.2.1) found Decision Point 1 = YES for the Allens Rivulet locality, concluding that 'the majority of parcels have existing residential use occurring or have small cleared areas potentially intended for residential use.'

My property clearly and unambiguously satisfies this criterion. It contains an established dwelling, associated agricultural outbuildings, and a tractor shed. It has been continuously occupied as a principal place of residence since 2013. Approximately one-quarter of the property is clear or open woodland supporting residential living and associated rural activities. Aerial photography confirms the consistently residential character of the property over an extended period. There is no question that Decision Point 1 is satisfied in respect of my title.

D2.2— My property has the characteristics of a rural living settlement

The Ireneinc framework asks at Decision Point 4 whether the locality has the characteristics of a rural living settlement, defined by indicators including: at least 10 smaller blocks generally ranging in size between 1–15 ha with a consistent lot pattern; a consistent pattern of detached dwellings with associated outbuildings; and visual evidence of rural activities.

The Ireneinc report identified three specific sub-areas within Allens Rivulet as satisfying DP4 (the yellow parcels on Ireneinc's maps) — lots of 2–7 ha with existing residential uses and rural activities.

My two lots of 19.4 ha and 0.8ha, have 4 adjoining lots of under 15 ha, and there are further 6 lots adjoining those that are under 15 ha. Of these 12 lots 11 have residences on them. I think it could be argued that this is could be interpreted as falling within the Decision Point 4 requirement of "10 smaller blocks generally ranging in size between 1–15 ha", given that the limit of 15ha is qualified by the word "generally", and that the intention of the 15 ha limit was to exclude subdividable blocks, and my 19.94ha block is effectively un-subdividable, as mentioned above.

D2.3 — The identified landscape values can be managed outside LCZ (Decision Point 6: LOW RISK)

The Ireneinc evaluation framework requires consideration at Decision Point 6 of whether identified landscape values can be appropriately managed outside LCZ, specifically through the Natural Assets Code (C7.0), the Scenic Protection Code (C8.0), or a Specific Area Plan. For the three sub-areas within Allens Rivulet that reached DP6, Ireneinc found 'a low risk where RLZ is applied' and acknowledged

that Priority Vegetation and Scenic Protection Mapping ‘would provide for appropriate management of landscape values.’

The Commission accepted this principle at Day 2 [02:33:54] where the panel effectively found that the Priority Vegetation Area overlay does the landscape-protection work, not the zone. This principle applies directly to my property. My property is subject to all of the following mandatory code overlays under the TPS, regardless of zone:

- **C7.0 Natural Assets Code — Priority Vegetation Area:** Strict controls on clearing, disturbance, and development within mapped areas protecting threatened vegetation communities, flora, and fauna habitat. This code covers the vegetated three quarters of my property.
- **C7.0 Natural Assets Code — Waterway and Coastal Protection Area:** Setbacks and controls on works near waterways and wetlands.
- **C8.0 Scenic Protection Area Code:** Controls on the visual impact of development protecting scenic and landscape values.
- **C13.0 Bushfire-Prone Areas Code:** Bushfire hazard management requirements on all development.
- **C15.0 Landslip Hazard Code:** Geotechnical assessment requirements for development in landslip-prone areas.

These codes apply regardless of zone. They cannot be contracted out of by the landowner. They impose legally binding constraints on clearing, earthworks, building, and development in sensitive areas. There is no conservation value on this property that requires LCZ or RZ to protect it. LCZ and RZ add nothing to conservation outcomes over RLZ with these codes applied. Their only additional effect is to restrict residential and agricultural use, which are in fact required for the maintenance of the mosaic of native vegetation and clear land that contribute to the natural and landscape values of the area.

D2.4 — RLZ-D provides for limited or no further subdivision

The Ireneinc framework identifies as a key RLZ suitability indicator that the transition ‘would result in limited or no further subdivision’ and that ‘a similar minimum allowable lot size is being applied.’ Applying RLZ-D to my property achieves this outcome.

My property includes a 19.4 ha lot, but as mentioned above the RLZ-D Subdivision Performance Criteria for creating a lot under 10ha could not be met owing to the limitations of the land and the road access, so it is effectively not capable of subdivision, but has been arbitrarily excluded from consideration because it is over 15ha in size.

I feel that the appropriate mechanism for ensuring limited subdivision potential should be the RLZ-D minimum lot size standard and the zone’s development assessment process, rather than a categorical exclusion from the RLZ pathway based entirely on lot size. Any subdivision application under RLZ-D would be assessed against the Scenic Protection Area overlay and Priority Vegetation Area overlay applicable to this property, both of which would impose significant constraints on any subdivision. The Commission’s own Zone Guidelines specifically created RLZ-D with a 10 ha minimum to accommodate rural residential properties of this size range. That management function belongs to the zone

standard, not to a gatekeeping test that denies larger-lot properties access to the most important question in the evaluation framework, and risks creating a fragmented application of zoning.

D3 — The TPC panel’s own statements and Commission precedent support RLZ for properties like mine

D3.2 — The LOW RISK rating applied at locality level supports RLZ for my property

For the parcels within the Allens Rivulet locality that did reach Decision Point 6, Ireneinc’s explicit finding was LOW RISK for RLZ application. Delegate Dan Ford and the panel accepted at Day 2 that the low/medium/high risk ratings are judgement calls, not defined thresholds. They were accepted only as a rule of thumb.

In the Appendix 2 of our Collective Submission there is Landscape Change Report that examines aerial photos of the Allens Rivulet area over the last 60 years which clearly indicate that residential properties containing native vegetation have generally maintained and increased the area and size of that native vegetation while sustaining the residential and other development on those properties. This confirms the LOW RISK rating for RLZ in Allens Rivulet

D3.3 — Visible rural activity is not required for RLZ

The TPC panel confirmed at Day 2 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. This confirms that there is no need for a split LCZ zoning on my property where rural activity is not visible.

D3.4 — Analogy to localities accepted for RLZ and the Huon Valley precedent

The TPC accepted full ELZ to RLZ transitions for a number of localities on Day 2, including Kettering East and Oyster Cove, Howden and Blackmans Bay, Albion Heights, and Tinderbox West. 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 properties within the Allens Rivulet locality including my property. Within the same Kingborough LPS process, the Commission has directed properties at Saddle Road and Groombridges Road, Kettering from Rural Zone and LCZ to Rural Living Zone C on the grounds that this was required to ‘apply the Rural Living Zone consistent with the purpose of the zone and Guideline No. 1.’ This direction is directly applicable to my circumstances.

More broadly, during the Huon Valley LPS process, the Commission issued a direction requiring the rezoning of **over 450 titles** from Landscape Conservation Zone (as proposed by Huon Valley Council) to Rural Living Zone. The Huon Valley TPS entered into force on 20 July 2024. The planning circumstances in the Huon Valley case are materially identical to those of the subject property: properties proposed by council for LCZ that were in fact used for rural residential and lifestyle purposes; code overlays protecting conservation values; and a Commission finding that LCZ did not accurately reflect the character of those properties, with RLZ directed as the appropriate zone.

The principle of consistency in administrative decision-making requires that like cases be decided alike. To allocate LCZ or RZ to this property while the same Commission directed RLZ for materially

identical properties in Huon Valley would be inconsistent and would require compelling justification that has not been provided by either Council or Ireneinc Planning.

D4 — Consistency, fragmentation, and a landscape-scale proposal

D4.1 — A landscape-scale RLZ corridor resolves spot-zoning concerns

The Ireneinc report itself identifies avoidance of fragmented zone application as a key principle. Rather than seeking RLZ for an isolated single parcel, I propose that the Commission consider applying RLZ-D to a continuous belt of properties in this area, addressing any spot-zoning concern.

On the northern boundary of my property there are seven adjacent properties forming a continuous spatial belt running from the western boundary of land already proposed for RLZ through to the eastern boundary of land proposed for LCZ. Under the current LPS proposal, all of these properties are proposed to be zoned Rural Zone. Their characteristics are - lot sizes generally 7 to 12 ha (with one outlier of approximately 1 ha), no agricultural activities on any of the properties, and all appear to be used for residential or lifestyle purposes.

The Rural Zone is inappropriate for these properties as its purpose is to sustain primary production and prevent conversion of agricultural land to residential use. None of the six properties has any agricultural activity. Allocating RZ to properties with no agricultural activity is inconsistent with the RZ purpose statement and would render their existing residential uses non-conforming.

Applying RLZ-D to nine lots (the seven northern properties plus my two lots) as a landscape-scale designation would:

- Resolve spot-zoning concerns by creating a coherent seven-property zone corridor rather than a single isolated parcel;
- Create a continuous belt of RLZ land connecting existing RLZ-proposed areas to the west and south with LCZ areas to the east and north, producing an orderly and logical zone transition;
- Accurately describe the character of all nine properties, which are used for residential, lifestyle, or limited rural land uses, all with limited scope to support primary production;
- Be consistent with STRLUS policy explicitly supporting the consolidation and retention of existing rural living areas.
- There are potentially at least two contiguous properties that could join this belt that have indicated a preference to be zoned RLZ.

I note that one of the six adjacent properties is approximately 1 ha, which is below the RLZ-D minimum of 10 ha. The minimum lot size in a zone is a subdivision standard, not a zoning eligibility threshold. Lots of any size may be zoned RLZ and simply cannot be further subdivided below the minimum. The Commission may separately consider whether LDRZ or another zone is more appropriate for the 1 ha outlier — the submitter does not oppose separate treatment for that property if it assists in achieving a coherent zone for the remaining six.

D4.2 — Consistency with representations from neighbouring [REDACTED] landowners

The Ireneinc Stage Two report (Section 2.7) documents that multiple neighbouring [REDACTED] landowners have independently made representations opposing LCZ and/or seeking RLZ, confirming the rural living character of the corridor:

- **Representation 391** ([REDACTED]): Rejects LCZ and requests Rural Zone. Notes a long history of agricultural use including small fruit, potato farming, livestock grazing, and herb cultivation. States that LCZ is incompatible with agricultural use. Notes the adjacent property at [REDACTED] is already zoned Rural. *NOTE: This landowner is now expressing a preference for RLZ and is putting in a submission to that effect.*
- **Representation 505** ([REDACTED]): Opposes LCZ and RZ; seeks RLZ-D.
- **Representation 556** ([REDACTED] - This submission, now requesting RLZ): Concerned that LCZ will restrict an existing herb farming operation that previously received planning approval under the Kingborough Planning Scheme 2000. States LCZ would severely restrict existing productive use.

The convergence of three independent representations from adjacent properties, all making essentially the same argument — that the [REDACTED] corridor has a rural living character incompatible with LCZ and RZ — corroborates this submission. The Ireneinc report's own locality photograph in Section 2.7.1 is taken from [REDACTED] looking south-east, illustrating the rural residential character of the corridor that these representations collectively describe.

D5 — Council's historical approach has been inconsistent — and the planning system is not an instrument of conservation acquisition

D5.1 — Council's approach to LCZ allocation has been progressively narrowed

The Ireneinc LCZ Review report documents a significant evolution in Council's approach. At the time of the draft LPS' first submission 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 public exhibition, the proportion had been reduced to approximately 75%, with the balance transitioning to RLZ, Rural Zone, and other zones.

This history demonstrates that the initial presumption in favour of LCZ was not well-founded and has been progressively narrowed as the evidence base has been tested. The Ireneinc report is a further iteration of this process. Kingborough Council's Resolution of 16 March 2026 explicitly endorsed a 'least restrictive alternative' approach and a 'high risk appetite' for zone transitions where evidence supports it. Ireneinc found LOW RISK for RLZ at DP6 for the Allens Rivulet locality. Council's own policy therefore supports RLZ as the least restrictive appropriate zone for this property.

D5.2 — The planning system is not a substitute for conservation acquisition

The planning system has a defined and proper role: to describe the character of land and regulate use and development in an orderly, fair, and sustainable manner. It is not an instrument of conservation acquisition. Tasmania's statutory framework provides a distinct suite of mechanisms for achieving conservation outcomes on private land where those outcomes are genuinely required such as conservation covenants under the Nature Conservation Act 2002 (binding on title, negotiated

voluntarily, typically supported by financial consideration); private conservation reserves; and compulsory acquisition under the Land Acquisition Act 1993 with payment of market compensation.

Each of these mechanisms shares a common feature: the **cost of conservation is borne by the community**, through negotiated compensation or public expenditure. This is the correct and principled approach. Conservation that benefits the wider community should be funded by the wider community.

All conservation values on this property are already comprehensively protected by mandatory code overlays (detailed in D6 below). The only additional effect of LCZ over RLZ with the same codes applied is to render residential and agricultural uses discretionary.

D6 — Any landscape values present are fully managed by mandatory code overlays without LCZ

The Tasmanian Planning Scheme is deliberately structured to separate the zone (which describes the character and use of the land) from code overlays (which protect specific values independently of the zone). As the State Planning Provisions provide: code overlays supply ‘extra protection over and above the zoning.’ This separation is architecturally fundamental.

Where landscape values are present on or near my property, they can be appropriately managed through the applicable overlay controls without the need for LCZ. The Commission acknowledged at Day 2 [02:33:54] that the Priority Vegetation overlay and Scenic Protection Code do the landscape-protection work in many cases, removing the justification for LCZ in those areas. Ireneinc itself acknowledged that Priority Vegetation and Scenic Protection Mapping ‘would provide for appropriate management of landscape values’ in the Allens Rivulet locality.

The following table maps the conservation values on my property to the code overlays that protect them, demonstrating that LCZ adds no additional conservation protection:

Conservation value	Code overlay protecting it	What the code does
Native vegetation / threatened communities	C7.0 Natural Assets Code — Priority Vegetation Area	Strict controls on clearing, disturbance, and development; covers the vegetated majority of the property
Waterway setbacks	C7.0 Natural Assets Code — Waterway and Coastal Protection Area	Setbacks and controls on works near waterways and wetlands
Scenic and landscape values	C8.0 Scenic Protection Area Code	Controls visual impact of development; protects scenic views and landscape character

Bushfire risk	C13.0 Bushfire-Prone Areas Code	Bushfire hazard management requirements on all development
Landslip risk	C15.0 Landslip Hazard Code	Geotechnical assessment requirements for development in landslip-prone areas

The only additional effects of LCZ over RLZ-D (with the same code overlays applied) are: reducing the height limit from 8.5 m (RLZ) to 6.0 m (LCZ), preventing construction of the planned agricultural equipment shed; rendering the residential dwelling discretionary rather than permitted as of right; and rendering grazing and agricultural uses discretionary. None of these additional restrictions serves any conservation purpose not already achieved by the code overlay system. They impose real and disproportionate constraints on legitimate existing and proposed uses without any conservation benefit.

D7 — Structural inconsistency in the Ireneinc evaluation framework

The structural inconsistency in the Ireneinc evaluation framework can be demonstrated by comparing the Allens Rivulet locality to those localities where the TPC accepted RLZ on Day 2.

Delegate Rohan Probert [01:07:48] directly identified that landscape descriptions for Tinderbox East and Howden are near-identical yet produced opposite zone outcomes, asking Ireneinc to identify the actual difference between those two localities. The same principle applies here. The Allens Rivulet locality has: a strategic residential intention (DP1 = YES); no state-reserved land (DP2 = NO); landscape values (DP3 = YES); rural living settlement characteristics in portions of the locality (DP4 = YES for yellow parcels); and landscape values that Ireneinc itself found can be managed at LOW RISK outside LCZ (DP6). The outcome for the yellow parcels is 'Consider RLZ' — yet the [REDACTED] properties with identical residential and rural activity characteristics are routed to RZ simply because their lots are larger.

The Zone Guidelines contain no rationale for treating a 19.94 ha lot fundamentally differently from an 8 ha property with identical use characteristics. Both are residential rural living properties. Both satisfy the Zone Guidelines RLZ criteria. The DP4 indicators add a lot-size threshold that the Zone Guidelines do not contain, and use it to deny access to the DP6 balancing question that the Zone Guidelines require.

Furthermore, Ireneinc's Section 2.7.2.2 recommendation of Rural Zone for the [REDACTED] properties is internally inconsistent with the decision-tree analysis. The decision tree, applied correctly, leads to a 'Consider RLZ' outcome for land with residential intention, rural living characteristics, and landscape values that can be managed at low risk outside LCZ. The recommendation does not follow this logic. Ireneinc's stated reasoning — that the [REDACTED] properties should be zoned RZ for 'consistency with adjoining Rural Zoned parcels which have similar characteristics' — is circular: properties were assigned Rural Zone based on prior, less rigorous analysis, and now that assignment is used to justify further Rural Zone allocation. The Commission is not bound by this reasoning. What matters is whether the zone purpose accurately reflects the character of the land.

The Commission is respectfully requested to apply the Zone Guidelines criteria directly to my property — rather than relying on the Ireneinc framework in a case where the framework’s structural features have produced a result inconsistent with those Guidelines.

PART E — LOCALITY-SPECIFIC CONTEXT

E1 — Allens Rivulet Locality: Ireneinc Assessment

The subject property falls within the Allens Rivulet locality assessed by Ireneinc in Section 2.7 of the Stage Two report. Ireneinc’s own baseline characterises the locality as *‘the bushland fringe surrounding the semi-rural area of Allens Rivulet’* with residential uses and rural activities evident on vegetated land throughout. The representative locality photograph included in Section 2.7.1 is taken from [REDACTED] looking south-east — confirming that the [REDACTED] corridor is considered representative of the rural residential character of the broader locality.

Ireneinc’s decision-point summary for the locality is:

- **DP1 (Strategic residential intention): YES** — majority of parcels have existing residential use.
- **DP2 (State-reserved land): NO** — no state reserved land identified.
- **DP3 (Landscape values): YES** — corridor of bushland with vegetated state and elevating topography. Ireneinc also noted areas ‘predominantly cleared or evidenced to have portions of the site utilised for rural activities’ (the Maudsleys Road corridor).
- **DP4 (Rural living settlement characteristics): YES** — for three specific sub-areas (yellow parcels, 2–7 ha lots). The [REDACTED] properties (10–20+ ha) were not included.
- **DP5 (Landscape values in rural living areas): YES** — qualified; values described as ‘consistent with that anticipated in a rural living settlement within the region.’
- **DP6 (Landscape values manageable outside LCZ): LOW RISK** — ‘These parcels also have characteristics consistent with the existing other RLZ land and could be reasonably managed in the same way.’ (Section 2.7.2.1, p. 140)

Despite the LOW RISK finding, the Section 2.7.2.2 recommendation proposes Rural Zone for the [REDACTED] parcels (including [REDACTED] and [REDACTED]) rather than RLZ. The submitter argues that this recommendation is inconsistent with the decision-tree analysis and should not be adopted.

E2 — Crown Road Reserve Access: A Critical Additional Barrier to Rebuilding

A critical locality-specific issue compounds the rebuilding risk created by LCZ or RZ allocation. Access to my property — and to several other [REDACTED] properties — is provided via a Crown road reserve, not a public road maintained by a road authority.

TPS State Planning Provisions clauses 20.4.3 (Rural Zone) and 22.4.3 (Landscape Conservation Zone) impose identical access requirements for new dwellings: new dwellings must have frontage with access to a road maintained by a road authority (Acceptable Solution A1), or legal access by right of

carriageway to such a road (Performance Criteria P1). A Crown road reserve managed by the Parks and Wildlife Service does not satisfy A1 (Parks is a reserve manager, not a road authority). An access licence or informal use of the Crown road reserve does not satisfy P1 (P1 requires a registered right of carriageway, which is a permanent interest in land, not a personal and revocable licence).

The consequence, when combined with the TPS non-conforming use protections, is severe. If the dwelling on my property is destroyed by a bushfire (a real and documented risk given the C13.0 Bushfire-Prone Areas code), the right to rebuild lapses if rebuilding does not substantially commence within 2 years of destruction. Under LCZ or RZ:

1. A destruction event triggers the 2-year clock. Insurance assessment and demolition typically consume 3–6 months.
2. Legal access (a registered right of carriageway over the Crown road reserve) must be established before a planning application can satisfy clause 22.4.3 or 20.4.3. This process — application, survey, Crown assessment, registration — may take 12 months or more and is not guaranteed to succeed.
3. A planning application under LCZ or RZ is a discretionary application assessed against conservation or primary production criteria. Preparation, lodgement, public notification, assessment, and determination require a further 6–12 months minimum.
4. Substantial commencement of rebuilding must occur before the 2-year deadline. This sequence cannot fit within 2 years even without delays.

Under RLZ, a dwelling is a permitted use as of right. Rebuilding is assessed as a permitted use application — not a discretionary application against conservation criteria. The 2-year clock does not create the same cliff under a permitted use pathway. RLZ provides the certainty that LCZ and RZ cannot. For a family whose primary residence is their only substantial asset, the ability to rebuild after an emergency should not be contingent on the outcome of a discretionary planning process.

The Commission is respectfully requested to consider this issue for all affected properties when determining the appropriate zone, and to recommend that the relevant Crown land administrator consider whether the Crown road reserve can be proclaimed as a public road or formalised with registered rights of carriageway as part of LPS implementation.

E3 — Zone Comparison Summary

The following table summarises the key differences between the current zone (ELZ) and the four candidate zones, demonstrating that RLZ-D is the appropriate allocation:

Feature	ELZ (current)	RLZ-D (sought — preferred)	LCZ (Council proposal)	RZ (Ireneinc proposal)
Primary purpose	Residential in bush setting	Residential in rural / landscape setting	Landscape & biodiversity conservation	Primary production / agriculture
Height limit (non-dwelling)	7.5 m	8.5 m	6.0 m	No specific limit

Min lot size (subdivision)	1 per 10 ha	10 ha (RLZ-D)	50 ha (20 ha discretionary)	Determined by production need
Residential dwelling	Permitted as of right	Permitted as of right	Discretionary	Not a primary purpose
Grazing / agriculture	Permitted	Explicitly compatible use	Discretionary	Primary purpose
Farm outbuildings	Max 300 sqm combined GFA; 7.5 m	Farm shed exemptions; 8.5 m	6 m limit; discretionary for larger structures	Agricultural buildings permitted
Conservation overlays	E10.0, E11.0, E14.0, E1.0, E3.0	C7.0 PVA, C7.0 Waterway, C8.0, C13.0, C15.0	Same codes apply	Same codes apply
Residential subdivision	Not below 10 ha lots	Not below RLZ-D 10 ha minimum	Not below 50 ha (20 ha discretionary)	Not for residential subdivision

Consideration of Ireneinc recommendation of LCZ Split Zoning.

I am not supportive of Ireneinc's recommendation for a split zoning of LCZ for part of my property. I think this a clumsy arrangement that creates problems for both the landowner and the planning authority.

- It can be difficult and time consuming process to properly define where a split zone boundary should be located, as natural values and landscape features typically don't follow straight lines and, being dynamic in their nature, can shift over time.
- It generates complexities for development proposals and decisions.
- Who is responsible for administering these boundaries, and how is this done?
- As the RLZ is demonstrably able to adequately protect natural and landscape values why apply LCZ?
- There is no significant risk to the landscape values on this property whatever the zoning, because of the inherent nature of the site.
- Several other properties nearby with similar natural and landscape values that are recommended for Rural Zone don't have split LCZ zoning proposed.

PART F — CONCLUSION AND RELIEF SOUGHT

For the reasons set out above, I submit that:

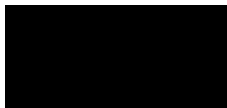
5. The application of Landscape Conservation Zone to my property is inconsistent with the Zone Guidelines (Guideline No. 1) and does not satisfy the requirements of section 34 of LUPAA. The LCZ is expressly prohibited by Zone Guideline LCZ 4(a) where, as here, the priority of the land is residential use.
6. The application of Rural Zone to my property is a possible alternative, it places more restrictions on residential development and does not protect the natural values and landscape as Rural Living Zone D.

7. The Rural Living Zone D satisfies the criteria in Zone Guidelines RLZ 1(a) and RLZ 2(b). All three criteria in Guideline No. 1 for ELZ-to-RLZ translation are met. The Commission's own guideline expressly contemplates and supports this zone allocation.
8. All landscape values identified in the Allens Rivulet locality can be appropriately managed through mandatory code overlays C7.0, C8.0, C13.0, and C15.0, which apply regardless of zone. Ireneinc itself found LOW RISK for RLZ application in this locality. LCZ adds no additional conservation protection over RLZ with these codes applied.
9. The Ireneinc evaluation framework contains a structural flaw — the DP4 gatekeeping test — that denies larger-lot properties (>15 ha) access to the DP6 balancing question that the Zone Guidelines require. The Commission should apply the Zone Guidelines directly rather than relying on a framework that produces results inconsistent with those Guidelines.
10. The Commission's own decision in the Huon Valley LPS directed over 450 materially identical properties to RLZ rather than LCZ. Consistency in administrative decision-making requires the same outcome here.

I respectfully request that the Commission:

- **Preferred outcome:** Determine that the draft Kingborough LPS should be modified to include the folio of the Register 130581/1 & 111534/3 at [REDACTED], Allens Rivulet within the **Rural Living Zone D**, together with the other six adjacent northern properties currently proposed for Rural Zone, as a landscape-scale zone corridor connecting existing RLZ areas to the west and south with the LCZ boundary to the east and north.
- **Additional request:** If the Commission proposes any alternative outcome, that I be provided with the opportunity to respond before any final determination is made.

Signed:



Gregory Richard Whitten

Date:

4th May 2026
[DATE OF SUBMISSION]

LODGE: Email your completed submission to tpc@planning.tas.gov.au with the subject line: 'Submission - Kingborough LPS Direction 69 - [REDACTED], Allens Rivulet'. Include your title reference in the body of the email. The deadline is midnight Monday 4 May 2026.

APPENDIX — DOCUMENTS REFERENCED

The following documents are referenced in this submission. Copies of relevant provisions may be attached as appendices at the submitter's discretion:

- Tasmanian Planning Scheme — State Planning Provisions: s.11.0 Rural Living Zone, s.20.0 Rural Zone, s.22.0 Landscape Conservation Zone, s.7.0 Natural Assets Code (C7.0), s.8.0 Scenic Protection Area Code (C8.0)

- Kingborough Interim Planning Scheme 2015: s.14.0 Environmental Living Zone
- TPC LPS Guideline No. 1 (s.8A LUPAA) — Zone and Code Application, Version 3
- Huon Valley LPS Commission Direction Schedule, 30 May 2023
- Kingborough LPS-KIN-TPS Stage Two Locality Baseline and Alternative Zone Evaluation (Ireneinc Planning & Urban Design, Version 1.1, 19 March 2026) — Section 2.7 (Allens Rivulet locality)
- Kingborough Council Response to TPC Direction 69, including Council Resolution of 16 March 2026
- Southern Tasmania Regional Land Use Strategy 2010–2035 (STRLUS) — relevant rural living policies
- TPC Day 1 and Day 2 hearing transcripts (Kingborough LPS-KIN-TPS)