
From: Lydia Moore <[REDACTED]>
Sent: Monday, 4 May 2026 9:26 AM
To: Kingborough LPS
Subject: Submission - Kingborough LPS Direction 69 - [REDACTED] Allens Rivulet
Attachments: [REDACTED] Allens Rivulet_TPC Submission.pdf

Further to your reference, DOC/26/36829, please find attached my formal submission for [REDACTED] Allens Rivulet, title reference [REDACTED] to be considered by the Commission.

Regards,
John Smillie

03/05/2026

John Smillie

Allens Rivulet TAS, 7150

Tasmanian Planning Commission
Level 3, 144 Macquarie Street
Hobart TAS 7000
Via email: KingboroughLPS@planning.tas.gov.au

To the Tasmanian Planning Commission,

This submission responds to the correspondence dated 2 April 2026 (reference DOC/26/36829), advising that the Irene Inc report proposes a **split application of the Rural Zone (RZ) and Landscape Conservation Zone (LCZ)** to our property within the draft Kingborough Local Provisions Schedule (LPS), in place of the exhibited Landscape Conservation Zone.

We understand that this letter has been sent to ensure procedural fairness and provide us with a clear opportunity to formally participate in this stage of the process. We welcome that opportunity and submit as follows.

Landowner name(s)	John Smillie
Property address	[REDACTED] Allens Rivulet
Title reference (folio)	[REDACTED]
Lot size (approx.)	14.78ha
Locality	Kaoota and Sandfly
Current IPS zone	Environmental Living Zone (ELZ)
Draft LPS exhibited zone	Landscape Conservation Zone (LCZ)
Irene Inc recommended zone	Split Landscape Conservation Zone & Rural Zone
Zone sought in this submission	Rural Living Zone (RLZ)

1. Introduction and Basis of Submission

This submission responds to the proposed **split application of the Landscape Conservation Zone (LCZ) and the Rural Zone (RZ)** to 124 Thomsons Road, Allens Rivulet. It contends that the proposed zoning arrangement does not accord with the Zone Application Guidelines for the LCZ, fails to appropriately reflect the land's dominant planning function, and produces arbitrary and internally inconsistent zoning outcomes along Thomsons Road.

The submission further contends that neither component of the proposed split zoning appropriately reflects the land's established use. It is therefore submitted that the Rural Living Zone is the only classification consistent with statutory intent, the land's use history, and the prevailing settlement context.

2. Established Residential Use and Planning Function

A dwelling has existed on the subject land since at least the **1930s**. This long-standing use is neither incidental nor peripheral. For close to a century, the land has functioned as **residential land in a rural setting**, underpinned by private ownership, active land management, and permanent occupation.

From a planning standpoint, this history establishes the land's **principal role** within the locality. The planning system does not treat residential use of this duration as provisional or subordinate. Reclassification of such land as conservation-priority land requires compelling, parcel-specific justification. No such justification has been provided.

3. Landscape Conservation Zone — Failure to Satisfy Zone Application Guidelines

3.1 LCZ Purpose and Guideline 1(a)

The **Purpose of the Landscape Conservation Zone** is to protect areas where **landscape or conservation values are the primary management objective**.

Zone Application Guideline 1(a) confines application of the LCZ to land where such values constitute the land's primary role. While the subject land contains vegetation and slope, these characteristics are widespread throughout Allens Rivulet and southern Kingborough and do not, of themselves, confer a conservation-dominant function.

No evidence has been advanced that the subject land:

- Performs a landscape conservation role distinct from adjoining residential land;
- Contains regionally significant or intact conservation assets; or
- Is managed principally for conservation purposes.

Absent such evidence, the threshold requirement under Guideline 1(a) is not met.

3.2 LCZ Guideline 4(a) — Residential Use as a Determining Constraint

Guideline 4(a) provides that the LCZ **should not be applied where residential use and development is the priority**, and expressly directs consideration to alternative zones, including the **Rural Living Zone**, in such circumstances.

In this case, residential use is not merely present — it is **established, enduring, and defining**. Applying the LCZ would invert the zone hierarchy by subordinating the very use that has historically defined the land. This outcome is directly contrary to Guideline 4(a) and cannot be supported.

3.3 LCZ Is Not a De Facto Replacement for Environmental Living Zone

The former Environmental Living Zone accommodated residential use subject to environmental restraint. The LCZ is materially different in intent and effect, prioritising conservation outcomes over residential occupation.

Treating LCZ as a default successor to ELZ land, regardless of use history, constitutes a **policy escalation rather than a translation**. Such an escalation requires clear justification at the parcel level, which is absent here.

4. Thomsons Road — Arbitrary and Inconsistent Zoning Outcomes

Thomsons Road exhibits a coherent rural-living settlement pattern characterised by long-established residential use. The proposed zoning departs from this pattern by reclassifying **only the final five properties** on

the road as Landscape Conservation Zone, without any corresponding change in land use, servicing, or settlement form.

The zoning boundary coincides with:

- The **end of the constructed road**, and
- A **topographic rise or hill feature**.

Neither feature constitutes a defensible planning distinction. Roads terminate for physical and historical reasons, not because land function changes. Similarly, topography is pervasive throughout the locality and is already addressed through overlays.

The result is **internal inconsistency and spot zoning**, contrary to principled zone application.

5. Lot Size, Infrastructure, and Settlement Intent

The size of the subject lot does not justify its reclassification as conservation or rural production land. The Rural Living Zone expressly accommodates large lots where residential use is dominant and subdivision pressure is managed through minimum lot size controls.

Importantly, electricity reticulation extends to the **end of** [REDACTED], including the subject land.

Infrastructure provision of this nature reflects long-term settlement intent and is inconsistent with land whose primary planning function is landscape conservation.

6. Rural Zone Is Not an Appropriate Alternative

While the Rural Zone may apply broadly to non-urban land, it is **not an appropriate classification** for [REDACTED] when assessed against its **Purpose and Zone Intent**.

6.1 RZ Purpose and Intent Test

The **Purpose of the Rural Zone** is to support land where **rural production, resource use, or agricultural activity is the primary objective**, with residential use being **incidental** to that function.

This test is not satisfied.

The dwelling on the subject land is not ancillary to farming or production. Residential occupation is the **principal and defining use**, not a subordinate one. The land does not operate as part of a productive rural landscape, nor is it managed primarily for agricultural outcomes.

Zoning the land Rural would therefore mischaracterise its function and impose a zone whose assumptions and assessment framework do not align with reality.

6.2 Avoiding Zoning by Elimination

The planning system requires the **positive identification of the correct zone**, not defaulting to another zone simply because LCZ is inappropriate.

In this case:

- LCZ fails because conservation is not the primary function;
- RZ fails because rural production is not the primary function;
- RLZ succeeds because residential occupation within a rural setting is the primary function.

Applying the Rural Zone would represent a residual, not reasoned, outcome and would undermine clarity and integrity in zone application.

7. Environmental Management and Bushfire Risk

The subject land is already subject to overlays addressing scenic values, vegetation, landslip, and bushfire risk. These instruments regulate environmental outcomes without misclassifying the land's fundamental use.

As bushfire risk increases, land containing dwellings must remain capable of active management. A conservation-dominant or production-oriented zone introduces unnecessary regulatory tension. The Rural Living Zone provides a coherent framework where residential use, environmental controls, and risk mitigation coexist.

8. Appropriate Zone — Rural Living Zone

The **Rural Living Zone** is expressly designed for land that:

- Contains established residential use;
- Is located outside urban and village boundaries;
- Supports low-density residential occupation in a rural setting;
- Relies on overlays, not zoning, for environmental protection.

Applying the Rural Living Zone does not enable intensification or inappropriate subdivision. It simply ensures that the planning framework accurately reflects land function and settlement pattern.

9. Planning Integrity and Consequences of Misclassification

Beyond the parcel-specific issues addressed above, the proposed zoning outcome raises a broader matter of planning integrity. Applying the Landscape Conservation Zone to long-established residential land such as [REDACTED] risks blurring the functional distinction between conservation land and settled rural-living areas.

This concern is illustrated in Appendix A, which shows the effective division of a single title at [REDACTED] into different proposed zones despite no internal change in land use, character, or function.

That concern is amplified in this instance by the effective splitting of a single title into different planning classifications, despite the land operating as a single, integrated residential holding. The Commission has consistently found that intra-lot zoning is only appropriate where there is a clear and durable internal distinction in land use or planning function within the title, and that absent such a distinction, split zoning undermines coherent zone application. Over time, this approach would erode the clarity and purpose of each zone, particularly where overlays already provide targeted environmental protection.

Equally, defaulting to the Rural Zone where agricultural primacy is absent would dilute the intended role of that zone and mischaracterise residential land as productive rural land by assumption rather than fact, contrary to the Purpose of the Rural Zone, which requires rural or agricultural use to be the primary land function, with residential use only incidental.

The planning system is strongest where zones are applied because they accurately describe land function, not because competing zones have been ruled out. In this instance, the Rural Living Zone provides that accurate description. Confirming that outcome would promote consistency, fairness, and confidence in the principled application of the Planning Scheme.

10. Conclusion and Requested Determination

The proposed application of the Landscape Conservation Zone to [REDACTED]

- Fails LCZ Zone Application Guidelines 1(a), 3, and 4(a);
- Produces arbitrary and inconsistent outcomes along [REDACTED]
- Misclassifies long-established residential land;
- Cannot be remedied by application of the Rural Zone.

Requested Outcome

That the Tasmanian Planning Commission modify the draft Kingborough Local Provisions Schedule to apply the **Rural Living Zone** to [REDACTED], Allens Rivulet, with a minimum lot size that reflects existing development and prevents further subdivision.

This modification would constitute a **correction of zone misapplication**, ensuring consistency with statutory intent and land use reality.

Yours sincerely,

[REDACTED]

John Smillie

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