
From: [REDACTED]
Sent: Monday, 4 May 2026 10:10 PM
To: Kingborough LPS
Subject: [REDACTED] - 239632/1 - Direction 69 Response and Additional Information
Attachments: [REDACTED] - 239632_1 - Direction 69 Response and Additional Information.docx.pdf

You don't often get email from [REDACTED]. [Learn why this is important](#)

I write to you in response to letter ref: DOC/26/36829. Contained is our response to the Ireneinc report to Direction 69. We wish to further discuss our representation at a hearing to be rescheduled at the Commissions direction.

Kind Regards,

Joel Hodson

WRITTEN SUBMISSION TO THE

TASMANIAN PLANNING COMMISSION

Kingborough Local Provisions Schedule — Direction 69 / Ireneinc Report & Additional Information Submission



[REDACTED]
[REDACTED], Middleton, TAS, 7163

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Introduction & Property Details

To the Tasmanian Planning Commission,

We write in response to the letter dated 2 April 2026 (ref: DOC/26/36829) advising that the Ireneinc report recommends our property be included within the **Rural Zone** under the draft Kingborough Local Provisions Schedule (LPS), rather than remaining in the Landscape Conservation Zone (LCZ) as exhibited.

We previously made a representation on the draft LPS. We understand that our representation has not yet been heard and will be heard at a future hearing. We understand that this letter provides us the opportunity to make a further written submission in relation to the Ireneinc recommendations, and that we may speak to this submission when we appear before the Commission. We take up that opportunity and submit as follows.

Landowner name(s)	Anna Eugenie Nicholls & Joel Iain Hodson
Property address	██████████ Middleton, TAS, 7163
Title reference (folio)	239632/1
Lot size (approx.)	14 Hectares
Locality	Middleton
Current IPS zone	Environmental Living Zone (ELZ)
Draft LPS exhibited zone	Landscape Conservation Zone (LCZ)
Ireneinc recommended zone	Rural Zone
Zone sought in this submission	Rural Living Zone (RLZ) - Subzone D

We welcome the Ireneinc recommendation to move our property away from the Landscape Conservation Zone (LCZ) as exhibited. The LCZ is not an appropriate zone for our property and we are pleased that the review has recognised this.

However, we are unsure if the Rural Zone (RZ) is the most appropriate outcome. We submit that both RZ and Rural Living Zone (RLZ) reflect the existing use, settlement character, and residential intention of our land, and due to the broad and sometimes vague definitions found within the State Planning Provisions, both may be 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), and the Southern Tasmania Regional Land Use Strategy (STRLUS).

We request that the Commission determine whether RLZ is the appropriate zone for our property under the draft Kingborough LPS or if there is potential to have split zoning of RZ and RLZ.

The specific RLZ subcategory we seek is either:

- **Rural Living Zone D** (minimum lot size 10 ha) — appropriate where lot sizes exceed 10 ha.
- **Rural Living Zone A/B/C** - dependant on potential to have split zoning.

GROUNDINGS FOR THIS SUBMISSION

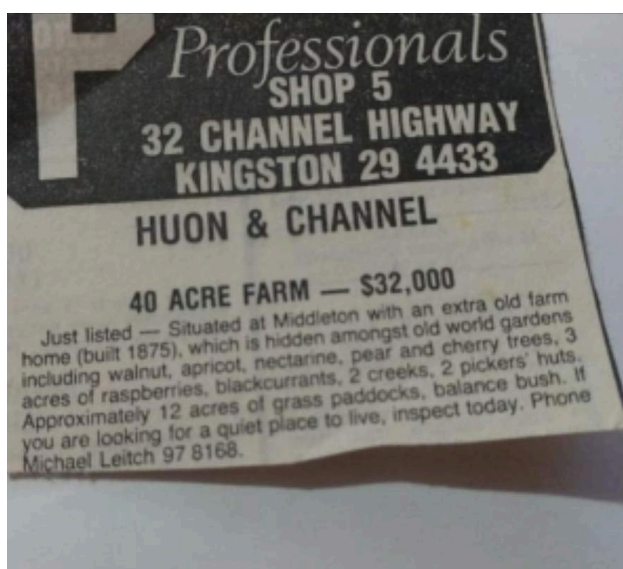
Rural Zone does not adequately recognise the residential character of our property

While we welcome the Ireneinc recommendation to move away from LCZ, the RZ purpose is directed at land in non-urban areas where agricultural use is limited or marginal and where the primary function is rural rather than residential. The RZ does not give priority to residential amenity and treats dwellings as a discretionary use that must demonstrate compatibility with surrounding rural activities.

The Rural Zone purpose does not reflect the current primary intention of our land

The purpose of the RZ (Zone Guidelines, clause 20.1.1) is to provide for use or development in a rural location where agricultural use is limited or marginal, that requires a rural location for operational reasons, and that minimises adverse impacts on surrounding uses. While our property is rural in setting, its primary existing and intended use is residential — not agricultural or resource-based. The RZ does not give priority to the protection of residential amenity in the way the RLZ does.

Reportedly built in 1875, [REDACTED] has operated as a rural property initially clearing trees for timber use, and subsequently operated as a berry and small fruit farm until 1983 when the Gordon family sold.



C. 1983 - Nigel Gordon



1965 High Resolution Aerial Image - NRE

During c. 1984 the residence had substantial works undertaken to modernise. This reportedly happened 1 year prior to the construction of the residence at 54 Hill Street.

There is no clear indication what the property was used for between the time the Gordon family sold and 1995, when it became a registered deer farm.

Byrne, Matt (DPIPWE) <Matt.Byrne@dipwwe.tas.gov.au>
To: [REDACTED]

31 May 2018 at 14:08

Hi Joel,

Thank you for your phone call yesterday.

Following a search of Department records, I can now confirm for you that the deer farm at [REDACTED] Middleton was first registered in the year 1995 and has been in lawful operation ever since. This particular farm has an excellent history as far as complying with relevant deer farming legislation requirements.

The term 'deer farm' is used legislatively to define deer held behind high wire for the purposes of commercial and non-commercial (hobby purposes).

If you require any further information, please feel free to contact me directly.

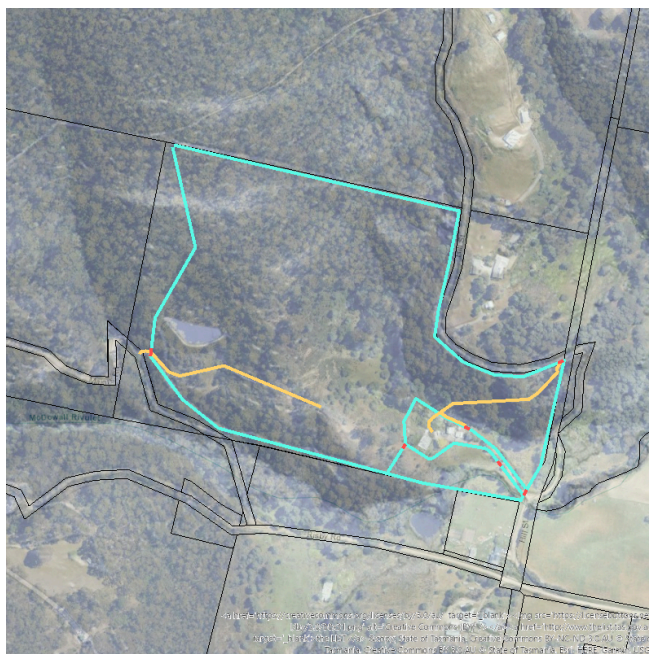
Kind regards,

Matt.



Matt Byrne
Game Management Officer
Game Services Tasmania
AgriGrowth Tasmania
Department of Primary Industries, Parks, Water & Environment
13 St Johns Avenue New Town TAS 7008
Ph: 0429 408 103
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During this time, our understanding is that the property did not run the deer farming as a commercial interest, only as a hobby farm. However the property did have deer fencing constructed around the entire perimeter of the property including an internal section, as documented below. Note the orange road access can be seen in historic aerial imaging.



Cyan = Fencing; Orange = Access; Red = Gate

We purchased the property in 2016, with 6 deer (all female) still on the property. The property is heavily infested with weeds including Spanish Heath, Foxglove, thistles, and Sycamores which we have been working on controlling and eradicating. It is worth noting that since we are no longer operating as a deer farm, controlling these weeds has become more difficult and one option we are looking at is the use of other grazing animals such as goats to assist in weed eradication and for potential economic returns. The ground is heavily impacted by prior farming and grazing. We subsequently ceased operating as a deer farm when the legislation changed in 2023 and the deer were removed by the Department of Natural Resources and Environment in 2024.

We purchased the property for its living purpose as identified under its KIPS zoning of Environmental Living.

The RLZ purpose more accurately describes our property

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 is a precise description of our property. Zone Guideline RLZ 2(b) further confirms that the RLZ may be applied to ELZ land where the primary strategic intention is for residential use and development within a rural setting.

Our property contains 2 large sheds/workshops (~50m² each); a number of garden structures; native, cottage and vegetable/fruit gardens and a large dam - estimated to be in the order of 1-2ML - which gravity feeds our garden area via a 50mm pipe. Our property also has residual fruit trees, such as pear and hawthorn trees, which we make produce from in a residential, non commercial capacity. This corresponds with the descriptions found within RLZ 1(a).

We would seek to discuss at our hearing, what constitutes use of land, and the scope of that use. In our situation, we are primarily using a large dam that is over 250m away for use around our immediate home.

Our property satisfies the Ireneinc criteria for RLZ, not merely RZ

The Ireneinc evaluation framework identifies specific suitability indicators for RLZ, including: evidence of residential use; a settlement pattern of 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. Our property and the surrounding settlement satisfy these indicators, which is why RLZ — not RZ — is the appropriate outcome. We would like to discuss the methodology behind a distinct parcel amount in order to determine whether an area constitutes a 'settlement pattern'. This figure seems arbitrary and illogical when considering topographic, geological and geographical constraints that may inhibit this methodology.

Residential intention is clearly established

The Ireneinc framework's first decision point asks whether there is a strategic intention for residential use. Our property clearly satisfies this: it contains an established dwelling, has been occupied as a residence, and the ELZ under which it has operated was a residential zone that permitted dwellings as of right. As outlined above, there is a clear and identified primary use for residential purposes, however this is supplemented with uses that are for rural non-residential purposes. This raises the question regarding what uses and characteristics of a property take precedence and is something we wish to discuss at our hearing.

RZ was applied to resolve fragmentation, not because RLZ is inappropriate

The Ireneinc report applies RZ in some localities primarily to avoid fragmented LCZ application and to reflect the Rural Resource Zone under the KIPS2015 — not because the land lacks residential character. The modifications table in the Ireneinc Locality Report confirms that RZ was considered 'another alternative in place of RLZ' in some instances, not necessarily the preferred outcome where residential character exists. Where our property has residential characteristics, RLZ is more appropriate than RZ even where Ireneinc defaulted to RZ for administrative consistency reasons.

TPC panel statements from the hearing support RLZ over RZ

RZ was described as an alternative to RLZ, not a preferred outcome

The Ireneinc modifications consistently note that 'RZ should be considered as another alternative in place of RLZ, potentially as being more suitable than LCZ in some instances.' This framing makes clear that RZ is a fallback — not a

preference over RLZ — where residential settlement characteristics do not clearly establish RLZ. Where those characteristics are present, as on our property, RLZ is the preferred outcome.

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 across Howden, Albion Heights, and Kingston West. Properties do not need to demonstrate active farming or grazing — residential use in a rural setting is sufficient. The absence of active agricultural use on our property does not preclude RLZ. Furthermore, we have had existing use of agriculture on our property, and while we are no longer a registered deer farm, we still fit within the existing use timeframe of 2 years. Both RZ and RLZ allow for rural activities, and this is something we feel needs to be discussed with the commission during our hearing.

The evaluation framework is not a statutory instrument

Kate Heckelmann (Ireneinc) conceded at Day 2 [05:53:00] that the evaluation framework is not a statutory instrument — it is a tool, not a rule. The Commission must assess my property against the Zone Guidelines, not the Ireneinc framework alone. Where the framework defaults to RZ but the Zone Guidelines support RLZ, the Zone Guidelines prevail. Again, as our uses can potentially fit criteria for both RZ and RLZ, we wish to understand how the presiding use of the land is and how the appropriate zone will be applied.

The SPP overlays provides adequate protection of landscape values

The Ireneinc report and the Zone Guidelines both identify the risk that RLZ could enable further subdivision that might adversely affect landscape values. However, this risk is addressed by selecting the appropriate RLZ subcategory. Zone Guideline RLZ 2(b) specifically contemplates applying RLZ D (minimum 10 ha) to ensure no further subdivision occurs where lot sizes are large. Similarly, RLZ C (minimum 5 ha) or B (minimum 2 ha) can limit subdivision where current lots are in that range. Our property is 14ha, which if wholly rezoned as RLZ-D, would limit subdivision, even with the 20% buffer found within the zones performance criteria.

Furthermore, where landscape values exist in the broader locality, they can be appropriately managed through the Natural Assets Code, the Priority Vegetation Area overlay, and the Scenic Protection Code. Ireneinc's position was that landscape values can be managed through overlays. The Commission has not yet determined this matter. [02:33:54], finding that overlay controls do the landscape-protection work, not the zone itself.

Our property contains a number of overlays. We do not have issues with the Bushfire or Landslip overlays.

We do have concerns about the application of a number of overlays on our title. We seek clarity from the Planning Authority on its methodology and implementation of the Scenic Protection Overlay.

The Scenic Protection overlay purpose is:

C8.1.1 *To recognise and protect landscapes that are identified as important for their scenic values.*

Within the Southern Tasmanian Regional Land Use Strategy, scenic values can be found within regional policies

WR 2 *Manage wetlands and waterways for their water quality, scenic, biodiversity, tourism and recreational values.*

C 1 *Maintain, protect and enhance the biodiversity, landscape, scenic and cultural values of the region's coast.*

CV 4 *Recognise and manage significant local historic and scenic landscapes throughout the region to protect their key values.*

The Planning Authority needs to explain how the application of the code takes these policies and sub policies into account. There has been no application of the scenic protection overlay on wetlands, waterways, or along the coast. As identified previously, under **CV 4.1** the Planning Authority has failed to engage and consult with the community regarding scenic landscapes.

Our understanding is that Kingborough Council may have previously investigated an alternative method of identifying scenic values in 2018, and we question why the methodology used was not carried forward into the Kingborough Interim Planning Scheme overlay.

We also have contention with the application of the Priority Vegetation Overlay. Clause C7.3.1 of the Natural Assets Code in the State Planning Provisions (SPPs) defines priority vegetation as:

means native vegetation where any of the following apply:

- (a) it forms an integral part of a threatened native vegetation community as prescribed under Schedule 3A of the Nature Conservation Act 2002;
- (b) is a threatened flora species;
- (c) it forms a significant habitat for a threatened fauna species; or
- (d) it has been identified as native vegetation of local importance.

On our property, the overlay has been applied to areas of non-native vegetation including declared and environmental weeds, vegetation that does not meet the above conditions, internally fenced cottage garden, and areas of open paddock. We wish to discuss this application of the overlay with the commission and council delegates. The application of TASVEG Live is incorrect over parts of our property, specifically in the southern portion. The vegetation is predominantly regrowth across the property, with some areas of existing older trees (as identified in the 1965 through 1997 High Resolution and historical aerial images). The Tree Canopy Height layer found on the LIST also gives an indication of age of overstory based on height of the tree canopy. This is not entirely accurate however as we have vegetation that is fast growing, and are subsequently looking at vegetation management for production through a Forest Practice Plan.

Consistency with comparable properties and localities

Applying RZ rather than RLZ to a property with clear residential settlement characteristics creates an inconsistency with comparable properties in the municipality that have been recommended for or confirmed in RLZ. Where neighbouring or nearby properties with substantially similar characteristics — lot size, existing dwelling, rural setting — have been recommended for RLZ, there is no principled basis for treating our property differently.

Inconsistency in the Ireneinc evaluation framework

A formal inconsistency analysis has been prepared within this section. This analysis compares the landscape value descriptions, settlement characteristics, lot sizes, SPA coverage, PVA/NAC overlay coverage, and risk ratings applied by Ireneinc to this locality against one or more analogous localities that received a more favourable zone outcome using the same or near-identical evidence.

The analysis draws on the following key statements from the Day 2 TPC hearing:

- 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. This principle applies to the inconsistency documented in Attachment A for this locality.
- Delegate Dan Ford [02:33:54]: Forced the concession that the Priority Vegetation Area overlay does the landscape-protection work, not the zone. This principle applies where PVA overlay is present on my property.
- Kate Heckelmann (Ireneinc) [05:53:00]: The evaluation framework is a tool, not a statutory instrument. Submissions can depart from it with good evidence.

Ireneinc outcome: LCZ for bulk; eastern yellow block → Rural Zone (some split zoning). Ireneinc recommendation at Day 20: Pattern consistent with Birchs Bay, Flowerpot, Gordon.

Characteristic	Middleton (LCZ bulk) — Outcome: LCZ retained	Kettering East & Oyster Cove — Outcome: Full RLZ
Ireneinc landscape value description	'Elevating bushland features retained around existing development; large areas of native vegetation hills behind settlement along ridgeline; consistent bushland corridor extending south to Gordon and north to Flowerpot; Majors Hill prominent scenic feature'	'Scenic landscape; coastal interface; bushland; dwellings integrated into natural setting' — same Channel coastal language; no Majors Hill equivalent cited
Settlement characteristics found	Eastern cluster: cleared; rural activities. LCZ bulk: larger vegetated lots on ridgeline	Yes — consistent rural living settlement throughout; lots 1–10 ha
Lot sizes	Eastern cluster: smaller/cleared. LCZ bulk: larger/vegetated ridgeline	1–10 ha
SPA coverage	Significant — Majors Hill and ridgeline area	Partial
PVA / NAC overlay	Yes	Yes
Risk rating applied	Medium-high — LCZ bulk	Medium — full RLZ
DP6 — codes manage landscape values?	Ireneinc did not reach this conclusion for the LCZ bulk — Majors Hill and ridgeline corridor cited as requiring LCZ	YES — codes and min lot size; full RLZ
Key differentiator cited	Majors Hill prominent scenic feature; ridgeline native vegetation hills; continuous corridor to Gordon and north to Flowerpot	Consistent settlement pattern; existing blocks already fully used; codes manage values
Zone outcome for Middleton (LCZ bulk)	LCZ retained	⚠ INCONSISTENCY: Middleton has the most specifically explained landscape value in the southern Channel group — Majors Hill and the vegetated ridgeline hills are named features. However, not every lot within the LCZ bulk is ON the Majors Hill ridgeline or contributes to the elevated bushland corridor. Cleared, lower-elevation, or settled lots in the LCZ area that sit below or away from the ridgeline are not characterised by those specific landscape values.

We request that the Commission have regard to this section in assessing this submission, and in particular to the specific comparison rows identified above, which demonstrate that the Ireneinc recommendation for this locality is inconsistent with the outcome produced by the same evaluation framework applied to comparable localities elsewhere in the municipality.

LOCALITY-SPECIFIC AND WIDER CONSIDERATIONS

Application of Rural Living Zone on Agriculture land

We seek to discuss with the Commission and council delegates the methodology behind the application, or failure to apply the Agriculture Zone (AZ) within Kingborough. Within the SPP, there are a number of factors that impact AZ application, which can be found within the AZ SPP Zone Purpose, along with the Rural Zones Fact sheet, the State Policy

on the Protection of Agricultural Land (2009), the Agricultural Land Mapping Project (2017). Additionally, the following policies apply:

SRD 1.3, (iii) *the land rezoned to rural living use is not designated as Significant Agriculture Land.*

RLZ 4 *The Rural Living Zone should not be applied to land that:*

(c) is identified in the 'Land Potentially Suitable for Agriculture Zone' available on the LIST (see Agriculture Zone), unless the Rural Living Zone can be justified in accordance with the relevant regional land use strategy, or supported by more detailed local strategic analysis consistent with the relevant regional land use strategy and endorsed by the relevant council.

We would like to discuss why numerous areas of agricultural land have been zoned RLZ or RZ, instead of AZ. As identified, the land use rights between those zoned AZ, RZ and RLZ are significantly different. While current owners may continue their current use, if they wish to change use that is still compatible with the potential that their land can offer, there are significant restrictions in place that can inhibit these uses from occurring. Topographically, Kingborough has a much smaller portion of land that is capable of supporting higher end agricultural practices. However not all agricultural uses need to have vast tracts of land to be viable. Due to the nature of Kingboroughs remaining agricultural land, should there be an emphasis on either protecting what is remaining and focus on higher end value added products (remain AZ/RZ), or allow it to be used for residential development (RLZ).



Middleton AZ and RLZ on Agricultural land. Only used for grazing and hay.



Flowerpot RZ with successful vineyard



Middleton AZ with grazing and garlic production.

Private Timber Reserves (PTR), Forest Practice Plans (FPP) and Existing Uses

We would like to discuss at our hearing the interconnectedness between Land Use and PTRs, FPPs and existing uses, such as tree removal for firewood or other uses, for example fencing, garden beds, other internal/external residential uses, or uses such as for boat building. This is one reason we purchased our property, to sustainably make use of the resources we have, in a financially sustainable manner, rather than take risks of where materials are sourced from external to our property.

We are currently in the process of having an FPP applied to sections of our property, and understand that we need to care for and be thoughtful custodians of the land, both from an ecological and financial perspective. This correlates with our intention to allow vegetation that does not meet the benchmarks for the Priority Vegetation overlay to grow on a section of our property with the express intent to use that for firewood or small scale timber production. This area now has the PVAO applied incorrectly, and creates a grey area for us in terms of our existing use rights.

CONCLUSION AND RELIEF SOUGHT

For the reasons set out above, we submit that:

1. While we welcome the Ireneinc recommendation to move away from the Landscape Conservation Zone, the RZ may not adequately recognise the established residential character of our property.
2. Our property satisfies the criteria for Rural Living Zone under Zone Guidelines RLZ 1(a) and RLZ 2(b): it is a residential property with larger lots in a rural setting, with a mix of residential and lower-order rural activities, and the primary strategic intention is residential.
3. The appropriate RLZ subcategory for my property is RLZ D, which reflects the existing lot size and settlement pattern and does not create a pathway for further subdivision.
4. Any landscape values in the broader locality can be appropriately managed through existing overlay controls — Natural Assets Code, Priority Vegetation Area overlay, and Scenic Protection Code — in combination with the lot size controls of the RLZ subcategory, without requiring RZ.

We respectfully request that the Commission:

- Discuss with us in order to determine that the draft Kingborough LPS should be modified to include our property within the Rural Living Zone D, Rural Zone and whether code overlays should be amended.
- If the Commission proposes any alternative outcome, that we be provided with an opportunity to respond before any final determination is made.

We request that the folio of the Register 239632/1 at [REDACTED], Middleton, TAS, 7163, be included within the Rural Living Zone [D] in the Kingborough Local Provisions Schedule.

Signed: [REDACTED] Full name: Anna Nicholls [REDACTED] Full name: Joel Hodson	Date: 4 May 2016 Contact email / Phone: [REDACTED] [REDACTED]
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