
From: Olga Poduskova [REDACTED]
Sent: Monday, 4 May 2026 8:45 AM
To: Kingborough LPS
Subject: TPC Submission_[REDACTED]
Attachments: TPC Submission_[REDACTED].docx; TPC Submission_[REDACTED]
[REDACTED]_Signature page.pdf

Good day

Please find as attached.

Kind regards
Olga

WRITTEN SUBMISSION TO THE TASMANIAN PLANNING COMMISSION

Kingborough Local Provisions Schedule — Direction 69 / Ireneinc Report

Submission by Olga Poduskova and Dmitry Beygul
[REDACTED], Allens Rivulet

In addition to our individual submission herein, we are also a signatory to the
Collective Allens Rivulet/Margate Submission Solution

PART A — PROCEDURAL OPENING

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 remains within the Landscape Conservation Zone (LCZ) under the draft Kingborough Local Provisions Schedule (LPS). This recommendation follows the original Council proposal to apply LCZ to our property.

We did not make a formal representation during the public exhibition period, however we understand that the Commission has received correspondence from us or on our behalf in relation to the draft LPS. We understand that this letter provides us the opportunity to formally participate in this stage of the LPS process by making a written submission. We understand that making a submission does not confer a right to be heard, but that the Commission may decide to invite us to discuss the matters raised.

We take up that opportunity and submit that the Rural Living Zone D (RLZ-D) is the correct and appropriate zone for this property.

PART B — PROPERTY DETAILS

Landowner name(s)	Olga Poduskova and Dmitry Beygul
Property address	[REDACTED], Allens Rivulet TAS 7150
Title reference (folio)	[REDACTED]
Lot size (approx.)	13.04 ha
Locality	Allens Rivulet
Current IPS zone	Environmental Living Zone (ELZ) – Kingborough Interim Planning Scheme 2015
Draft LPS exhibited zone	Landscape Conservation Zone (LCZ)
Ireneinc recommended zone	Landscape Conservation Zone (LCZ)

Zone sought in this submission	Rural Living Zone (RLZ-D)
Contact email	[REDACTED]
Contact phone	[REDACTED]

The subject property is a 13.04ha rural residential holding situated almost at the end of [REDACTED], Allens Rivulet. The property forms 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 living since 2019 under its current Environmental Living Zone designation of KIPS 2015.

The property comprises of a cleared residential living land, manmade dam and native vegetation.

Access to the property is via a Crown road reserve. The property is subject to the following overlay codes under the proposed TPS:

- Waterway and Coastal Protection Area
- Scenic Protection Area
- Priority Vegetation Area
- Bushfire-Prone Area

PART C — STATEMENT OF POSITION

We submit that the application of the Landscape Conservation Zone (LCZ) to our 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).

We request that the Commission determine that the Rural Living Zone (RLZ) is the appropriate zone for our property under the draft Kingborough LPS.

The specific subcategory we seek is Rural Living Zone D (minimum lot size 10 ha), reflecting the existing lot size and settlement pattern of our property at 13.04 ha. RLZ-D is consistent with and does not reduce the minimum lot size threshold that already applies under the ELZ (1 dwelling per 10 ha). It does not create a viable two-lot subdivision pathway that is not already managed by zone standards and applicable code overlays.

PART D — GROUNDS FOR THIS SUBMISSION

D1 — 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]. We submit that the application of LCZ to our property does not comply with the Zone Guidelines as demonstrated below.

D1.1 — 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.'

The property contains a dwelling constructed in 2019, has been continuously occupied as a residence and is connected to the grid as well as using solar power. The primary use and strategic intention of the land is and has always been residential. This is a residential use in a rural and landscape setting – which is the defining purpose of the Rural Living Zone, not the Landscape Conservation Zone.

D1.2 — The LCZ is not a replacement zone for the ELZ (Zone Guidelines 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 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 our property. The Ireneinc report applies the LCZ to our property 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 our title. The Ireneinc Locality Report does not identify any conservation values on our 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 our property differs from the neighbouring properties on Maudsleys Road 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 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 our property: a 13 ha rural residential living lot with a dwelling and manmade dam.

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. Our property satisfies both elements of this criterion: the strategic intention is unambiguously residential, and RLZ-D (10ha minimum lot size) maintains an identical minimum lot threshold to the ELZ (1 dwelling per 10 ha).

Landscape values are maintainable under RLZ: the zone purpose explicitly requires retention of natural and landscape values, and mandatory code overlays provide comprehensive site-specific protection regardless of zone. The Commission's own guideline therefore expressly supports RLZ for this property, and the proposed application of LCZ or RZ is contrary to the Guideline and contrary to the correct application of TPS zone architecture.

The detailed analysis of each criterion, including the shared evidence base across all properties in the submission group, is set out in Part 5, Argument A of the collective submission lodged simultaneously by the Allens Rivulet and Margate group.

D1.4 — The STRLUS provides positive statutory authority for RLZ-d

The STRLUS, as substituted by the Tasmanian Planning Scheme Addendum, provides three independent statutory bases for applying RLZ-D to this property: TPS Addendum SRD 1.3, subclause 2, which directly authorises ELZ-to-RLZ translation where the RLZ purpose accurately describes the land; SRD 1.3(a), which recognises the Allens Rivulet corridor as an existing rural living community; and SRD 1.3(c), which authorises Rural Living Zone allocation where land provides for the infill or consolidation of an existing rural living community and shares common boundaries with existing RLZ land. Our property at [REDACTED] satisfies all three bases without reference to the Ireneinc framework.

The full statutory analysis of all three bases, including the applicable criteria and how they are satisfied across the group, is set out in Argument F of the collective submission.

D2 — The Ireneinc evaluation framework, applied correctly to our 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, we submit that even applying the framework as intended, our property satisfies the criteria for RLZ rather than LCZ.

D2.1 — Our property has a strategic residential intention

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. Our property fully satisfies this criterion. It contains an established dwelling, associated outbuildings and a garden. It has been continuously occupied as a principal place of residence since 2019.

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

The Ireneinc framework identifies rural living settlement characteristics as: 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's own locality baseline confirms that the broader settlement in which our property sits displays these characteristics.

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. Our property at 13 ha, together with the other [REDACTED] properties at 10–20+ ha, was not included in those three sub-areas. This means the [REDACTED]

properties were routed through the DP3 pathway, which leads directly to LCZ consideration once landscape values are found, without ever reaching Decision Point 6 — the single most important balancing question in the entire framework.

We submit that this DP4 routing is incorrect for our property.

The DP4 flaw is compounded by a further circularity in the Ireneinc zoning recommendations for this part of the [REDACTED] corridor. The LCZ recommendation for [REDACTED] appears to have been influenced by their adjacency to the Rural Zone properties at [REDACTED] — as though those Rural Zone designations mark a genuine planning boundary between residential and agricultural land. However, Rural Zone recommendations for those intermediate properties are themselves unsupported: none of the three carries genuine agricultural activity, all appear on the LIST with structural constraints against agricultural use, and the LIST itself flags the adjacency of Rural Living Zone land as a reason that agricultural zoning conflicts with the actual character of those properties. If the Rural Zone designations of the intermediate properties are incorrect — and we submit they are — then the LCZ recommendations for their neighbours that rely on those designations for spatial justification are also built on a false foundation. The Commission is asked not to allow an unsupported Rural Zone designation to anchor a more restrictive outcome for adjacent properties.

The consequence of the DP4 structural flaw is that the question ‘Could the landscape values of the [REDACTED] properties be appropriately managed outside LCZ?’ was never asked and never answered within the Ireneinc framework. For the three yellow sub-areas that did reach DP6, Ireneinc found explicitly: *‘These parcels also have characteristics which are consistent with the existing other RLZ land and could be reasonably managed in the same way. This presents a low risk where RLZ is applied.’* (Section 2.7.2.1, p. 140). The [REDACTED] properties share those characteristics.

D2.3 — The identified landscape values can be managed outside of LCZ

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].

Our property is subject to all of the following mandatory code overlays under the TPS, regardless of zone:

- Waterway and Coastal Protection Area
- Scenic Protection Area
- Priority Vegetation Area
- Bushfire-Prone Area

These codes apply regardless of zone. 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 — an effect that is disproportionate, contrary to the zone purpose architecture of the TPS.

The full analysis, including supporting evidence from the peer-reviewed literature on landscape traps and a detailed regulatory and ecological outcome comparison table, is set out in Section 4.5 of the collective submission.

D2.4 — The RLZ subcategory provides for limited or no further subdivision

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 our property of 13 ha 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.

D3 — The TPC panel's own statements support RLZ for properties like ours

The following exchanges from the Day 19 and Day 20 TPC hearings directly support the argument that the RLZ is more appropriate than the LCZ for our property. These statements were made by TPC Commissioners and are on the public record.

D3.1 — The evaluation framework is not a statutory instrument

Kate Heckelmann (Ireneinc) conceded at Day 20 [05:53:00] that the evaluation framework is not a statutory instrument — it is a tool, not a rule. The Commission is not bound by its application in any individual case and must assess our property against the statutory criteria in section 34 of LUPAA and the Zone Guidelines.

The TPC panel effectively found at [02:33:54] that the Priority Vegetation Area overlay and Scenic Protection Code do the landscape-protection work in areas where those overlays apply, removing the justification for LCZ in those areas.

D3.2 — Visible rural activity is not required for RLZ

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 [Day 20 guide]. Properties need not demonstrate active farming or grazing to satisfy the RLZ criteria — residential use in a rural setting is sufficient.

D3.3 — Analogy to accepted RLZ localities

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. 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 our property.

D4 — Consistency and fragmentation arguments

D4.1 — Consistency with representations from neighbouring landowners

The Ireneinc Stage Two report (Section 2.7) documents that multiple neighbouring [REDACTED] [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.
- **Representation 430** ([REDACTED]): Requests Rural Living Zone.
- **Representation 505** ([REDACTED] — **this submission**): Requests Rural Living Zone.
- **Representation 556** ([REDACTED]): 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 four 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 approach has been historically inconsistent

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. 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.

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

Where landscape values are present on or near our property, we submit that they can be appropriately managed through the application of the relevant overlay controls mentioned in D2.3, without the need for LCZ. The TPC panel acknowledged on Day 20 [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.

D7 — 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 20.

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 LCZ or RZ simply because their lots are larger.

The Zone Guidelines contain no rationale for treating a 13 ha property 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 our 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 [REDACTED] 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 134, 135, and rather than RLZ. This recommendation is inconsistent with the decision-tree analysis and should not be adopted.

E12— Crown Road Reserve Access

A critical locality-specific issue compounds the rebuilding risk created by LCZ or RZ allocation. Access to our 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 our 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. 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.

PART F — CONCLUSION AND RELIEF SOUGHT

For the reasons set out above, we submit that:

1. The application of the LCZ to our property is inconsistent with the Zone Guidelines (Guideline No. 1) and does not satisfy the requirements of section 34 of LUPAA.
2. The LCZ is prohibited by Zone Guideline LCZ 4(a) where, as here, the priority of the land is residential use.
3. The Rural Living Zone satisfies the criteria in Zone Guidelines RLZ 1(a) and RLZ 2(b) and is the appropriate zone for our property.
4. Any landscape values identified in the locality can be appropriately managed through existing overlay controls without resort to LCZ.

We respectfully request that the Commission:

- Determine that the draft Kingborough LPS should be modified to include the folio of the Register [REDACTED] at [REDACTED] Allens Rivulet within the **Rural Living Zone D**.
- If the Commission proposes any alternative outcome, that we be provided with an opportunity to respond before any final determination is made.

Signed:

Olga Poduskova

Dmitry Beygul

Date:

04 MAY 2026

04 May 2026