
From: Kim Talbert [REDACTED]
Sent: Monday, 4 May 2026 4:00 PM
To: Kingborough LPS
Subject: Kingborough LPS - multiple submissions
Attachments: Adrian and Kim Phillips Kingborough LPS.pdf; John Talbert Kingborough LPS.pdf; David Talbert Kingborough LPS.pdf; Talbert Phillips - Group Submission.pdf

Good afternoon,

I am forwarding submissions on behalf of myself, my father John Talbert and my brother David Talbert

I hope that it is ok to attach them here together, rather than sending multiple emails.

There are 4 attachments

1. Submission from Adrian and Kim Phillips regarding [REDACTED], Margate
2. Submission from David Talbert, regarding [REDACTED], Gordon (42233/1)
3. Submission from John Talbert, regarding [REDACTED], Gordon on 3 titles
4. Group submission from us as a group, regarding the 4 properties at Gordon.

Kind regards
Kim Phillips
[REDACTED]

WRITTEN SUBMISSION TO THE

TASMANIAN PLANNING COMMISSION

Kingborough Local Provisions Schedule — Direction 69 / Ireneinc Report

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 report recommends my property remains within the Landscape Conservation Zone (LCZ) under the draft Kingborough Local Provisions Schedule (LPS).

I previously made a representation on the draft LPS. 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.

PART B — PROPERTY DETAILS

Landowner name(s)	John & Thu Talbert
Property address	██████████
Title reference (folio)	██████████
Lot size (approx.)	██████████ - 3.93ha, ██████████ – 2.79ha and ██████████ 3.81ha
Locality	Gordon
Current IPS zone	Environmental Living Zone (ELZ)
Draft LPS exhibited zone	Landscape Conservation Zone (LCZ)
Ireneinc recommended zone	Landscape Conservation Zone (LCZ)
Zone sought in this submission	Rural Living Zone – RLZ-C

PART C — STATEMENT OF POSITION

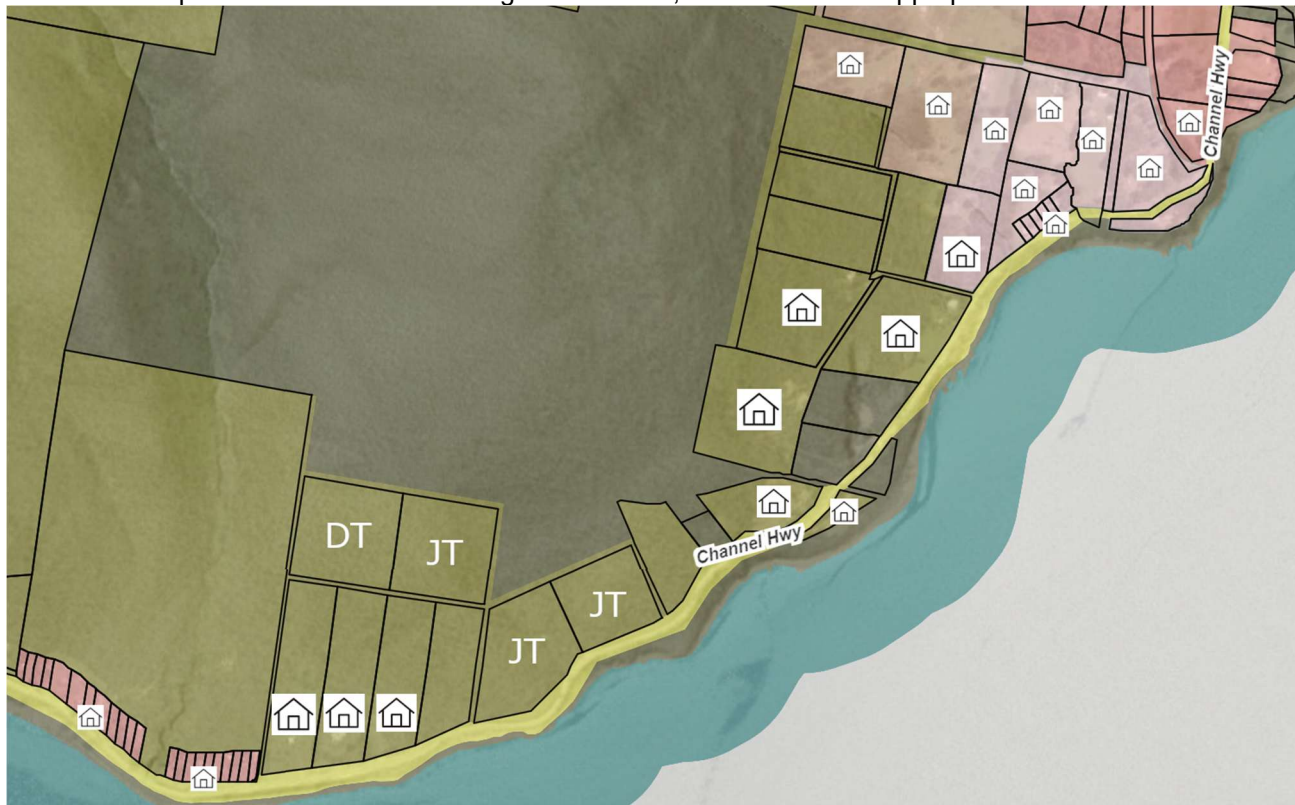
I submit that the application of the Landscape Conservation Zone (LCZ) to my property is not consistent with the requirements of section 34 of the Land Use Planning and Approvals Act 1993 (LUPAA), the Section 8A Guideline No. 1 — Local Provisions Schedule: Zone and Code Application (the Zone Guidelines),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

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

The specific subcategory I seek is:

- Rural Living Zone C (minimum lot size 5 ha) — reflecting the existing lot pattern in my locality

Properties around the Gordon coastline are a mix of larger residential blocks, typically less than 4ha in size, flanked by much smaller residential lots of less than .25ha in size at the southern and northern ends. Given the number of permanent residences along the coastline, RLZ is the most appropriate zone.



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, Hearing Day 20, 06:45:48]. I submit that the application of LCZ to my property does not comply with the Zone Guidelines as demonstrated below.

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.'

As evidenced by the surrounding properties and dwellings, this coastal area in Gordon is an established rural living settlement.

The Natural Assets code (Priority Vegetation) along with Council's discretionary planning pathway more than adequately provides for the protection and management of native vegetation on these properties.

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 my property. The Ireneinc report applies the LCZ to my property on the basis of generalised locality-level landscape values, not on the basis of demonstrated landscape values specific to my title.

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 my property.

Zone Guideline RLZ 2(b) further provides that the RLZ may be applied to land within the ELZ in an interim planning scheme where the primary strategic intention is for residential use and development within a rural setting and a similar minimum allowable lot size is being applied. My property satisfies both elements of this criterion.

D1.4 — Properties have been grouped together to meet the 20ha LCZ

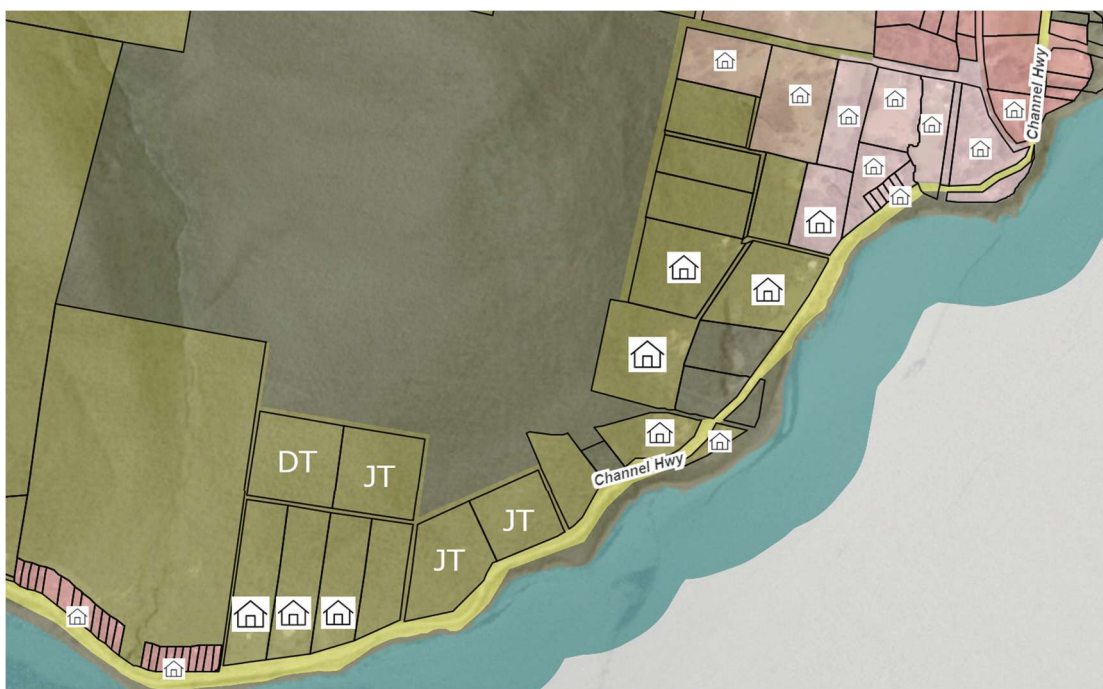
Zone Guideline LCZ 3 provides that LCZ may be applied to a group of titles that are less than the allowable minimum lot size for the zone, where landscape values exist

We argue:

- no landscape values were identified for protection or management and no clear definition of landscape values has been validated
- despite the need to avoid zone fragmentation, it appears that properties along the coastal strip at Gordon have been grouped together to achieve the '20 hectare' minimum to meet the Landscape Conservation Zone threshold. If these properties were zoned Rural Living, it would be consistent with the adjoining Rural Living properties to the north and would complement the Low-Density Residential Living zone to the south. This would then align with Kingborough Council 2019 Supporting Report which states that Gordon should be a mix of Rural Living and Low Density Residential zone.

These properties:

- have no differing landscape values than properties further north, and further south on the highway
- demonstrate a rural living settlement pattern. Most of these properties have full time permanent residents. The majority of these houses have been established and lived in for many decades
- have single dwellings along with other outbuildings such as sheds, shipping containers, vegetable gardens and fruit trees
- are of differing lot sizes - around the 3 hectare lot size as an average.



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 Hearing Day 20 of the hearing that this framework is not a statutory instrument — it is a tool, not a rule [Kate Heckelmann, Transcript Hearing Day 20, 05:53:00]. Representations can depart from it with good evidence. However, I submit that even applying the framework as intended, my property satisfies the criteria for RLZ rather than LCZ.

D2.1 — My property has a strategic residential intention

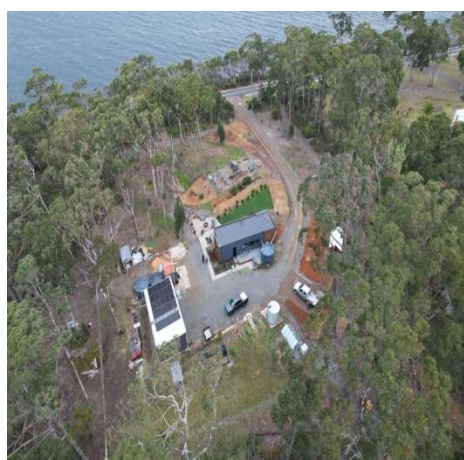
The first decision point in the Ireneinc evaluation pathway asks whether there is a strategic intention for residential use. The report identifies visual evidence of existing residential use and known strategic intention as the relevant indicators. The settlement pattern along the Gordon coastline clearly demonstrates this.

We purchased this land in 1984 intending to build a home for our family. Three separate titles provide us the opportunity for intergenerational family living. Our son owns the adjoining property at Title [REDACTED], which he purchased with the intent of building a home for his family also.

D2.2 — My 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 (cleared areas, hobby farming, grazing etc.). The Ireneinc report's own locality baseline confirms that the broader settlement in which my property sits displays these characteristics.

Our closest neighbours at [REDACTED] have a property approx. 8 acres, with just over 1 acre of developed land, with a 2 bedroom dwelling, a large outbuilding and a shipping container. They have 2 small garden sheds, a temporary carport, large vegetable garden and an extensive fruit orchard. They have numerous garden beds containing both flowers and flowering native bushes.



Neighbours further south — [REDACTED]
[REDACTED] — both around 8 acres.

These properties are proposed to be zoned Landscape Conservation zone.

The properties adjoining these properties are zoned Low Density Residential due to the smaller lot size.

D2.3 — 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-C to my property achieves this outcome, as the minimum lot size under that subcategory is consistent with the existing lot size.

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

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 my 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 my property against the statutory criteria in section 34 of LUPAA and the Zone Guidelines.

D3.2 — Risk ratings are judgement calls, not defined thresholds

At Day 20, the low/medium/high risk ratings applied by Ireneinc to LCZ recommendations were described as judgement calls, not defined thresholds. Ireneinc's position was that these ratings are a rule of thumb only. The Commission has not yet determined what weight to give these ratings. Where the risk rating applied to my locality is medium or high, this is not a determinative finding — it is an assessment that can be challenged with site-specific evidence.

D3.3 — 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. Properties need not demonstrate active farming or grazing to satisfy the RLZ criteria — residential use in a rural setting is sufficient.

D3.4 — The management of landscape values via codes – no need for LCZ

A panel member asked (Day 19 - 05:40:02)

"What I'm trying to understand is if you've got a land, a zone that might be rural living and you've got a natural asset code sitting on top of that, I can't think of a single use that would require the trees removed. It's the development that would require trees to be removed and then you've got a trigger in which to assess that development against the appropriateness of removing those trees. So why do we care? Why do we care what the underlying zone is if we're protecting the trees which are managed by a code? I'm just trying to understand the connection between an established identified landscape value which we're going to work through — that's not a tree because the trees are covered — and what use could compromise it?"

The expert's response agreed in substance: "I probably agree with you in terms of that it's not so much... there probably are some exceptions where there is the provision of uses that might be considered... but again that likelihood of those things happening on the land that we're talking about in terms of the environmental living zone land is again probably quite limited in its ability to significantly restrict the management of the appropriate management of the landscape values."

Another panel member added "the application of the landscape conservation zone is not to protect the vegetation — that's the natural asset code's job. The landscape conservation zone is to protect our landscape values so whilst there is some very strong similarities between the two that we do have to try to compartmentalise those differences."

A panel member asked (Day 20 - 02:31:29)

"If you're saying that the risk is associated with the removal of vegetation, but that removal of vegetation is going to be subject to the provisions of the Natural Assets Code presumably, what is the risk?"

The expert's response shifted away from vegetation to uses — visitor accommodation, fuel sales — as the concern, and acknowledged "there are mechanisms in the scheme to address it..."

All three titles are 100% covered by the Priority Vegetation overlay and the Scenic Protection overlay applies to a large portion of Title [REDACTED] and our son's property. As such, we would argue that these overlays provide the required management, without the need for LCZ.

D4 — Consistency and fragmentation arguments

D4.1 — Fragmented LCZ application should be resolved in favour of the surrounding zone

The Ireneinc report itself identifies avoidance of fragmented LCZ application as a key principle. The report notes that areas where only 2–3 LCZ-zoned properties are surrounded by Rural Zone (RZ) or RLZ land should be modified to resolve the fragmentation. Where my property is located within or adjacent to an area predominantly zoned RLZ or RZ, the application of LCZ creates exactly the kind of spot-zoning that the Ireneinc framework seeks to avoid. As noted in part C of our submission, the properties recommended for LCZ along the coastline in Gordon are flanked at each end by properties recommended for Low Density Residential or Rural Living Zone. To avoid zoning fragmentation, Rural Living Zone should be applied to these properties.

D4.2 — 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 my property.

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, but where the evidence specific to my property supports RLZ, the LCZ recommendation should not be allowed to stand.

D6 — Any landscape values present can be managed without LCZ

Where landscape values are present on or near my property, I submit that they can be appropriately managed through the application of the relevant overlay controls, without the need for LCZ. The TPC panel acknowledged on Day 20 [02:33:54] that the PVA overlay and SPC do the landscape-protection work in many cases, removing the justification for LCZ in those areas.

Ireneinc itself acknowledged in the LCZ Review report that a future rural living settlement review may reconsider current RLZ decisions, and that any short-term risk is 'not something that's a definitive or a risk that can't be mitigated with future action' [Transcript, 03:06:18]. This acknowledgement of residual risk mitigation further supports the appropriateness of RLZ rather than LCZ for my property.

D7 — No Community Consultation on Landscape Values

Council and Ireneinc rely on STRLUS CV 4.2 and CV 4.3 to justify applying LCZ to ELZ land in preference to RLZ — arguing that LCZ is necessary to ensure the key values of regionally significant landscapes are not compromised by development.

Before CV 4.2 and CV 4.3 can be engaged in this way, the foundational sub-policy CV 4.1 must be satisfied.

CV 4.1 requires State and local government, in consultation with the community, to determine an agreed set of criteria for determining the relative significance of important landscapes and key landscape values. The significance of the landscape values Council seeks to protect through LCZ must first be established through that agreed criteria process.

No independent community consultation on landscape significance criteria has been conducted in Kingborough.

CV 4.1 was designed to address a recognised gap: the STRLUS narrative identifies 'the limited understanding of cultural landscape values and the lack of an overarching policy with respect to determining relative significance' as an existing problem at the time of the strategy's publication. The landscape significance determinations underpinning the LCZ recommendations were made by Council without community input on the criteria used.

The community's assessment of these landscapes, as expressed in exhibition representations, consistently identified residential use as the primary land use and the Scenic Protection, Priority Vegetation and Natural Assets codes as adequate for landscape value protection. That is the only available community evidence on the significance question, and it does not support the criteria Council applied.

D8 — Road Access concerns

A material consequence of the proposed LCZ application is its interaction with the dwelling access standard in the State Planning Provisions.

SPP clause 20.4.3 requires, at both the Acceptable Solution (A1) and Performance Criterion (P1) level, that new dwellings have frontage or legal access — by right of carriageway — to a road maintained by a road authority. Under the SPPs, a road authority means, for local roads, the relevant council under the Local Government (Highways) Act 1982. Private access tracks, unvested Crown roads, and rights of carriageway over third-party land do not satisfy this definition, regardless of their physical adequacy or length of use.

Under KIPS 2015, this constraint did not exist. The ELZ expressly accommodated access via private rights of carriageway of no less than 3.6 metres, with no requirement that access terminate at a council-maintained road. A single dwelling was a permitted use within a building area on a sealed plan, and discretionary otherwise — either pathway was achievable on privately-accessed land. The transition to LCZ imports a standard that forecloses what the previous scheme expressly permitted. That loss falls entirely on landowners whose parcels are physically and legally unchanged — it is not a consequence of their landscape character, but of zone selection.

It is significant that Council has itself acknowledged this problem in its Section 35F Report, conceding that the road authority access requirement produces unreasonable outcomes on transitioning ELZ land and that it has formally raised the matter with the State Planning Office. That concession — that the standard is not fit for purpose in this context — should weigh against a zoning decision that subjects landowners to its burden in the interim.

The Rural Living Zone does not carry this consequence. SPP clause 11.5.1 P2 and P3 require a contextual, merits-based assessment of whether access is sufficient for the intended use — having regard to topography, length, emergency vehicle access, and the pattern of established development — without requiring that the access terminate at a road authority-maintained road. A privately-accessed parcel that fails the LCZ threshold can satisfy the RLZ standard on its merits.

The Commission is asked to find that applying the LCZ to privately-accessed ELZ parcels where residential use is the established primary intention would disproportionately extinguish development rights without planning justification, and that the RLZ is the appropriate zone for those parcels.

PART E — CONCLUSION AND RELIEF SOUGHT

For the reasons set out above, I submit that:

1. The application of the LCZ to my 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 my property.
4. Any landscape values identified in the locality can be appropriately managed through existing overlay controls without LCZ.

I respectfully request that the Commission:

- Determine that the draft Kingborough LPS should be modified to include my property within the Rural Living Zone, subcategory C;
- If the Commission proposes any alternative outcome, that I be provided with an opportunity to respond before any final determination is made.

Date:

3/05/2022

Contact email / phone: