



LCZ Recommendations -- Channel Region Localities

Gordon · Flowerpot · Birchs Bay · Middleton
Direction 69 Hearing Submission



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PART 1

The Framework Problem

Why the evaluation approach is flawed -- and why it matters for all four localities



The '10-Property' Threshold Has No Statutory Basis

Where does the threshold come from?

- The Ireneinc report states settlements must show 'at least 10 smaller blocks generally ranging in size between 1-15ha'
- This phrase appears nowhere in any statutory instrument
- It does not appear in the Zone Guidelines (Section 8A Guideline No. 1)
- It does not appear in the SPPs
- It does not appear in LUPAA or the STRLUS
- Kate Heckelmann confirmed at [05:53:00]: the evaluation framework is not a statutory instrument -- it is a tool

What is the actual statutory test?

- RLZ 1(a): Is this a residential area with larger lots where the use is a mix of residential and lower-order rural activities?
- RLZ 2(b): Is the land in the ELZ with a primary strategic intention for residential use?
- SRD 1.3(a): Does an existing rural living community exist here?
- LCZ 4(a): Is the priority for this land residential? If so, LCZ must NOT be applied
- None of these tests require a minimum property count



Who Determines 'Priority for Residential Use'?

Ireneinc LCZ Review, p.82: *"There are no specific parameters prescribed in the Zone Guidelines that guide how the primary intention or primary strategic intention is to be determined."*

The ELZ IS the answer

Council itself determined that residential use was appropriate when it applied the ELZ to this land. A dwelling is a Permitted use under ELZ. That decision has never been reversed.

Uncertainty ≠ LCZ

LCZ 4(a) prohibits LCZ where the priority is residential. If Council cannot affirmatively show the priority is NOT residential, the LCZ prohibition is not satisfied. Uncertainty fails the LCZ test -- it does not pass it.

Future reviews cannot validate present decisions

The LPS must comply with Zone Guidelines when made. If strategic analysis is still needed, the answer is to complete it -- not to approve LCZ while it remains undone. Council has had 10 years.



Selective Boundary Drawing Produces Predetermined Outcomes

Delegate Probert [01:07:48]: *Near-identical landscape descriptions are producing different zone outcomes in different localities.*

- Locality boundaries were defined by the consultant -- not by statutory boundaries, historical community boundaries, or any community consultation
- Including large undeveloped parcels in the same boundary as small residential lots dilutes apparent density
- Drawing a boundary tightly around six cleared lots makes them appear isolated
- The boundary is the variable -- not the underlying settlement pattern

The correct approach

- Assess the settlement at the scale of the settlement - not at the scale of an administrative polygon
- SRD 1.3(a) asks whether an existing community exists -- not whether the count within an arbitrary boundary reaches 10
- Where similar properties in nearby localities received RLZ, consistency requires the same analysis here

Landscape Values Were Never Agreed With the Community

STRLUS CV 4.1: *“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.”*

What the STRLUS requires

- CV 4.1 is a policy of the STRLUS -- the LPS must comply with the STRLUS under LUPAA s.34(2)
- Landscape values are the foundation of the entire LCZ methodology -- every decision point depends on them
- You cannot establish a landscape priority unless you first know what those landscape values are (Delegate Ford [05:01:07])
- Landscape values are not defined in the SPPs or Zone Guidelines -- they must be agreed through consultation

What actually happened -- and why it matters

- Kate Heckelmann conceded at [05:05:10]: “no public consultation was undertaken specifically on what has ended up in the review”
- The landscape values underpinning every LCZ recommendation were defined by the consultant alone -- without community agreement
- This hearing is effectively the CV 4.1 consultation that should have happened earlier -- the TPC must give genuine weight to landowner evidence on localised landscape values
- The values are also not embedded in the scheme -- planning officers will not know what they are at DA stage (Ford [05:13:32], Stander [05:16:08])

Road Access: A Material Reduction in Use Rights

ELZ (KIPS 2015)

Existing zone

- No road-authority-maintained access requirement
- Access assessed on practical adequacy only
- Crown roads, unregistered rights of way and informal tracks were lawful access
- **Dwelling: Permitted use**

RLZ (sought)

SPP clause 11.5.1

- No road-authority-maintained access requirement
- P2/P3: access assessed on practical adequacy -- topography, length, emergency services
- Reflects real-world access conditions on ELZ properties
- **Dwelling: Permitted use**

LCZ / Rural Zone

SPP clause 20.4.3 / 22.4.3

- **NEW REQUIREMENT:** Access must terminate at a road maintained by a road authority
- Crown roads and informal access arrangements do not satisfy A1 or P1
- Council has acknowledged the problem and raised it with the State Planning Office (s35F Report)
- **Dwelling: Discretionary -- additional barrier beyond use rights downgrade**

Framework Credibility: The Threshold and 'Consistent' Are Undefined

The '10 smaller blocks' threshold

- The number 10 appears in no statutory instrument -- not Zone Guidelines, SPPs, LUPAA, or STRLUS
- The rationale column says it embeds RLZ 2(b) -- but RLZ 2(b) contains no number
- If derived from SRD 1.3(a)(i), that policy speaks to communities "substantial in size" -- a qualitative standard, not a count of 10
- Kate Heckelmann confirmed [05:53:00]: the framework is a tool -- not a statutory instrument

'Consistent lot pattern' is undefined

- The word 'consistent' is undefined in the framework and the report -- yet it determines the outcome at Decision Point 4
- At Dennes Point: 10 lots ranging 0.8ha to 5.5ha (spanning RLZ A through D) were found to have "a consistent evident pattern of subdivision" -- and recommended RLZ
- Gordon's Channel Highway corridor -- tight cluster of 2-5ha lots -- did not receive the same finding
- Delegate Probert [01:07:48]: near-identical landscape descriptions producing different zone outcomes -- the same inconsistency applies to settlement pattern assessments

Framework Credibility: The Threshold and 'Consistent' Are Undefined



Bruny Island – Dennes Point:
No consistent shape, size or alignment.



Oyster Cove
No consistent shape, size or alignment.

ELZ-Only Scope Fails the SRD 1.3(a) Test

STRLUS SRD 1.3(a): *“Recognition of existing rural living or environmental living communities, regardless of current zoning.”*

What Ireneinc reviewed

- ELZ-zoned parcels only -- the review was explicitly scoped to ELZ and former PPZ land
- Adjacent Rural Zone, LDRZ, and Rural Living parcels that form part of the same settlement were never assessed
- The methodology replicates the exact error SRD 1.3(a) was designed to prevent -- using zone boundaries to define community membership

What the Gordon corridor actually shows

- The Gordon locality spans LDRZ (5148–5214 Channel Hwy), the ELZ parcels recommended for LCZ, and established residential at 5120 Channel Hwy -- all part of one community
- Gordon locality analysis (all zones): 234 titles, 91% under 15ha, median 1.6ha — a clear rural living community pattern
- SRD 1.3(a) requires this community be assessed as it exists on the ground -- not as filtered by interim zone boundaries
- The 10-block threshold is met many times over when the correct scope is applied

Baseline Quality: The Cadastral Data Tells a Different Story

GORDON -- LCZ-Recommended Titles (cadastral data)

83%

under 15ha

3.1ha

median lot size

44/53

LCZ titles sub-15ha

- Lots cluster tightly at 2-5ha along Channel Highway and Russell Street -- consistent with RLZ pattern
- The framework reached LCZ at Decision Point 5/6 (landscape values) -- not because settlement characteristics were absent at DP4
- Overlays (SPA, PVA, NAC) manage those landscape values -- RLZ is the correct zone

DISCREPANCY NOTED -- Flowerpot & Birchs Bay

Ireneinc DP4 evaluation (Flowerpot p.340, Birchs Bay p.328): "There is no consistent pattern of subdivision or sufficient visual evidence to demonstrate the characteristics of a rural living settlement are present noting the majority of parcels within the locality are 15ha+."

- **Cadastral data:** 73% of Flowerpot ELZ titles are under 15ha -- median 7.9ha; 78% of Birchs Bay ELZ titles are under 15ha -- median 9.8ha
- The baseline statement is factually incorrect -- the true position is almost exactly the reverse of what was stated
- The same methodology and evaluator produced the Gordon baseline -- the TPC should scrutinise qualitative assessments where cadastral data exists to test them
- Source: LIST cadastral dataset (government-authorised), queried May 2026



PART 2

Gordon

Settlement pattern · The 5050 Channel Highway parcels · Fragmentation



Gordon -- An Established Residential Corridor

Looking north to Gordon Reserve - 4856 to 4804 Channel Highway including Clifford's Road - LDRZ





Gordon -- An Established Residential Corridor

Properties opposite Gordon jetty – 18 to 30 Kregors Road, Edward Street - LDRZ





Gordon -- An Established Residential Corridor

9 Kregors Road – Rural Living





Gordon -- An Established Residential Corridor

4921 Channel Highway – Rural Living





Gordon -- An Established Residential Corridor

4936 Channel Highway – Rural Living





Gordon -- An Established Residential Corridor

5120 Channel Highway - LCZ





Gordon -- An Established Residential Corridor

5140 & 5144 Channel Highway - LCZ





Gordon -- An Established Residential Corridor

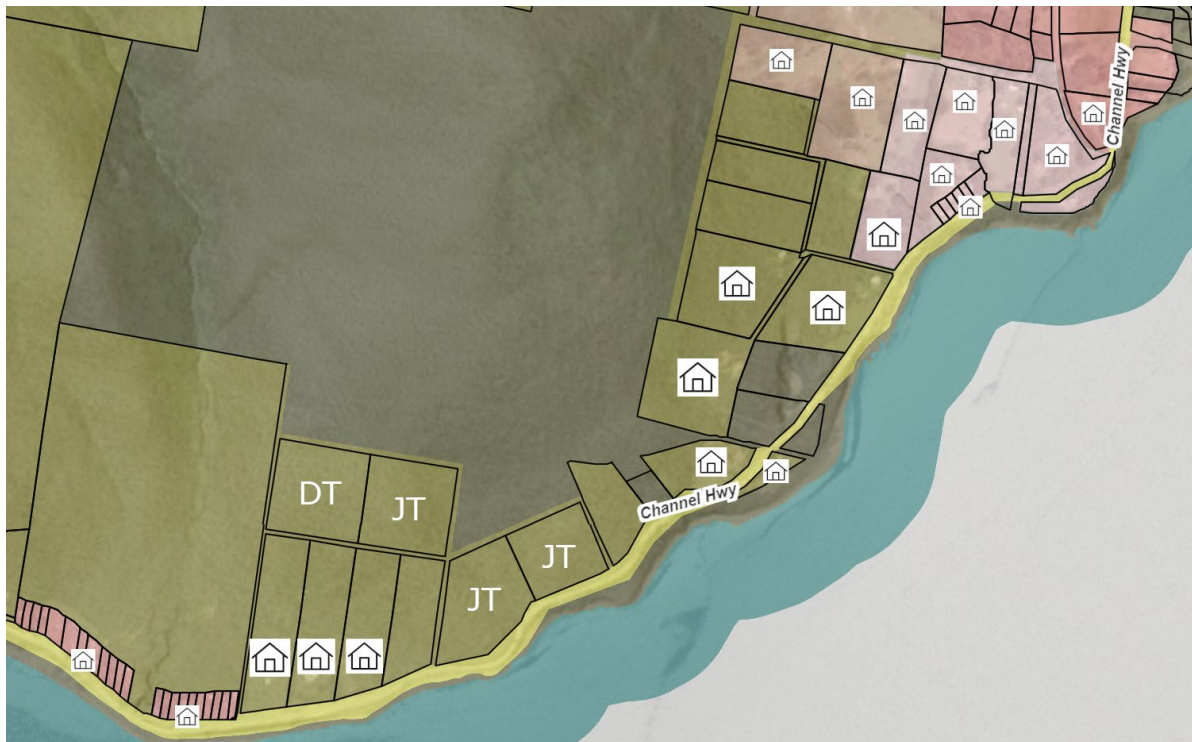
Looking north coming into Gordon from the south – 5120 to 5148 Channel Highway - LDRZ





Gordon -- An Established Residential Corridor

Settlement Pattern around our properties





Gordon -- An Established Residential Corridor

Interactive Map – another view



Channel_Region_Zone_Map.html



Gordon -- An Established Residential Corridor

53

ELZ→LCZ
Recommended for LCZ

75

Low Density
Residential

17

Existing Rural
Living Zone

84

Rural Zone
(many occupied)

234

Total
Properties

What Ireneinc found -- and what it missed

- Ireneinc acknowledged 'some rural living settlement characteristics' exist in Gordon but recommended LCZ regardless
- The evaluation used desktop-only aerial mapping -- dwellings hidden by vegetation were systematically undercounted
- The Report's own language concedes 'some of the lots are identified as having existing residential uses'
- LIST cadastral data confirms 234 titles across the Gordon locality -- the full extent of the settled corridor
- The settlement pattern is visible on any fair reading of aerial imagery when assessed at the right scale
- No other locality in the Channel Region with a similar profile has been recommended entirely for LCZ



5050 Channel Highway -- Four Parcels, No Dwelling, Clear Residential Intention

Folio	Area	Location	Status
26909/1	3.93 ha	Channel Highway frontage -- southern title	Driveway & turning circle constructed
26909/2	2.79 ha	Channel Highway frontage -- northern title	Undeveloped
26909/3	3.81 ha	Rear / inland of highway titles	Undeveloped
42233/1	3.96 ha	Rear / inland, adjacent to 26909/3	Undeveloped

Why LCZ is wrong for these parcels

- All four lots fall within the 1-15 ha range Ireneinc's own indicator identifies as rural living
- Sandwiched between LDRZ (5148-5214) to the north and residential 5120 CH to the south
- A single dwelling is a Permitted use under the current ELZ -- LCZ would make it Discretionary
- Combined area: ~14.49 ha across four titles -- the configuration is rural residential, not conservation

The correct zone is RLZ

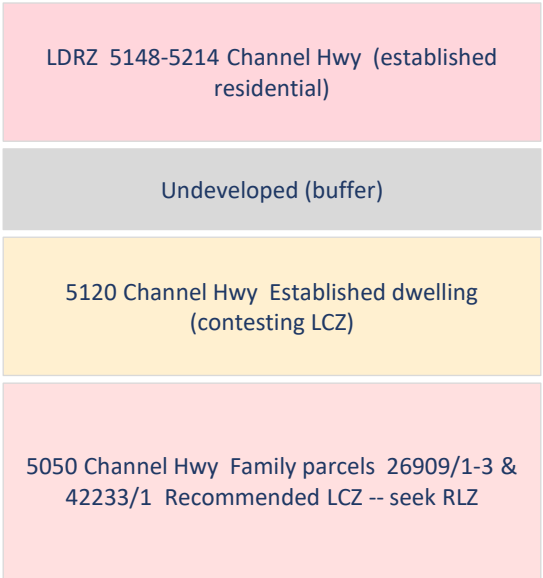
- RLZ C or D (5-10 ha minimum) reflects existing lot sizes without enabling further subdivision
- Resolves the fragmented LCZ pocket between two established residential areas
- Absence of a dwelling reflects a development choice -- not a disqualification from RLZ
- The driveway on 26909/1 evidences active residential intention



The LCZ Recommendation Creates Fragmented Zone Application

TPC direction recorded by Ireneinc: *"Fragmented LCZ application to be avoided -- few (2-3) LCZ properties surrounded by Rural Zoned land were modified to retain Rural Zone."*

- Family parcels sit between LDRZ to the north and an established residential property (5120) to the south
- Applying LCZ creates an isolated conservation pocket within a residential corridor
- This is the exact fragmentation pattern the TPC has previously directed against
- RLZ provides zone consistency with the surrounding corridor



- Rep 371 (5120 Channel Hwy): primary use is residential -- house, outbuildings, fenced area, cultivated gardens
- Rep 146/158 (5050 Channel Hwy): objects to LCZ, seeks RLZ
- No representations support LCZ in this corridor
- The absence of LCZ support is itself relevant to priority assessment



PART 3

The Pattern Repeats

Flowerpot · Birchs Bay · Middleton -- same framework, same flawed outcome



Middleton -- 30 ELZ Properties Recommended for LCZ Within an Established Settlement

30

ELZ→LCZ
Recommended for LCZ

29

Existing
Rural Living

33

Low Density
Residential

64

Rural Zone
Properties

193

Total
Mapped

Ireneinc finding: *"In part scattered residential uses are identified which are either associated with rural activities or on parcels where the residential use makes up a small, cleared portion of an otherwise heavily vegetated lot."*

- 29 properties are already formally zoned Rural Living -- this is an existing recognised settlement
- The 30 ELZ properties recommended for LCZ sit adjacent to or within this recognised RLZ area
- SRD 1.3(a) says an existing community can be recognised regardless of current zoning -- the RLZ already here satisfies this
- LCZ 4(a) prohibits LCZ where priority is residential -- and Middleton's settlement pattern makes that priority clear
- Ireneinc's own DP1 evaluation for Middleton found residential uses ARE present ('in part')
- The framework then pivoted to landscape values rather than completing the RLZ pathway
- The same arguments that apply in Gordon -- RLZ 1(a), RLZ 2(b), anti-fragmentation -- apply here with even greater force given the existing RLZ context



Birchs Bay -- 17 ELZ Properties Recommended for LCZ Along the Channel Highway Corridor

17

ELZ→LCZ
Recommended for LCZ

49

Rural Zone
Properties

16

Agriculture
Zone

84

Total
Mapped

Ireneinc finding: *Transition of ELZ to LCZ is recommended throughout the locality -- with exception only of land where rural farming practices including grazing appear to occur. The evaluation did not consider whether the eastern corridor of smaller lots constitutes a rural living settlement.*

- The 17 ELZ properties recommended for LCZ have lot sizes and configurations consistent with rural living
- The framework pivoted to landscape values without adequately completing the settlement identification step
- The framework's 10-block indicator was applied without adequately distinguishing the northern/eastern corridor of smaller lots from the larger vegetated parcels to the west
- Ireneinc found no consistent subdivision pattern, citing lot sizes 'majority 15ha+' — cadastral data shows 88% of Birchs Bay parcels are in fact under 15ha, with a median of 5.36ha
- Many properties have existing dwellings confirmed by LIST address data
- The same RLZ 1(a) and RLZ 2(b) arguments that apply in Gordon apply here
- The SPA and NAC overlays would continue to manage landscape values under RLZ -- the zone does not need to do that work



Flowerpot -- 20 ELZ Properties Recommended for LCZ

20

ELZ→LCZ
Recommended for LCZ

48

Rural Zone
Properties

2

Env. Mgmt
Zone

70

Total
Mapped

Ireneinc baseline finding for Flowerpot: *"Evidence of a small number of residences (single dwelling with cleared area surrounding with balance of site vegetated -- potential grazing activities) along the eastern boundary along Gallaghers Road, Beadles Road and Rainbirds Road."*

- Ireneinc acknowledged rural living settlement characteristics on the eastern fringe — the contested properties meet the very test Ireneinc itself applied — but the framework then pivoted to landscape values without adequately considering whether overlays could manage those values under RLZ
- The 1-10 ha parcels on Gallaghers, Beadles and Rainbirds Roads exactly match the lot type RLZ 1(a) describes
- All 20 ELZ properties recommended for LCZ have confirmed LIST addresses -- the settlement is physically present
- SPA and NAC overlays protect landscape values independently of zone -- LCZ is not needed for this purpose
- Flowerpot is part of the same continuous Channel Highway community as Birchs Bay, Middleton and Gordon



The Channel Highway Corridor -- One Connected Community

Locality	ELZ→LCZ Recommended	Existing RLZ/LDRZ context	Settlement acknowledged?	Threshold met?
Middleton	30 titles	29 RLZ + 33 LDRZ -- strong context	Yes -- Ireneinc DP1: residential present	Irrelevant -- no statutory basis
Birchs Bay	17 titles	49 Rural Zone in corridor	Partially -- eastern fringe acknowledged	Irrelevant -- no statutory basis
Flowerpot	20 titles	48 Rural Zone in corridor	Yes -- DP4 settlement characteristics confirmed on eastern fringe	Irrelevant -- no statutory basis
Gordon	53 titles	75 LDRZ + 17 RLZ + 84 Rural	Yes -- DP1: residential present along highway	Irrelevant -- no statutory basis
TOTAL	120 titles	Continuous Channel Highway corridor	All localities -- residential intention present	Wrong test -- apply Zone Guidelines



PART 4

The Statutory Case for RLZ

LCZ 4(a) · RLZ 1(a) · RLZ 2(b) · SRD 1.3



The Zone Guidelines Require RLZ -- Four Reasons

LCZ 4(a) -- LCZ must NOT be applied

Where the priority is for residential use and development, LCZ must not be applied. This is a prohibiting criterion, not a discretionary consideration. The ELZ permitted residential use. That use was intended. LCZ 4(a) bars the LCZ.

RLZ 2(b) -- ELZ → RLZ pathway

Where land is in the ELZ and the primary strategic intention is for residential use within a rural setting, RLZ should be applied. The ELZ itself established that intention -- Council applied it and cannot now disavow it.

RLZ 1(a) -- RLZ should be applied

The RLZ should be applied to residential areas with larger lots, where the existing and intended use is a mix of residential and lower-order rural activities. Every affected property in all four localities meets this description.

SRD 1.3(a) -- Existing community recognition

Where an existing rural living community has not been formally recognised, rezoning to RLZ is supported. The Channel Highway corridor is that community. Individual development status does not change community membership. Ireneinc identified that Council never assessed the likelihood of RLZ risks materialising at locality level - and Ireneinc's own recommendations for this corridor did not complete that assessment either.



Landscape Values Are Protected by Overlays -- Not by the Zone

Delegate Ford [02:33:54]: *"The PVA overlay does the landscape-protection work -- not the zone."*

Scenic Protection Area (SPA)

Applies to elevated portions of all four localities. Controls the visual impact of development regardless of zone. Operates under RLZ exactly as under LCZ.

Priority Vegetation Area (PVA)

Maps significant native vegetation. Triggers assessment requirements for clearing regardless of zone. The vegetation is protected whether the zone is RLZ or LCZ.

Natural Assets Code (NAC)

Provides environmental offsetting requirements for development affecting natural values. Applies to all zones including RLZ. Clause 6.4 on-site offsetting applies regardless.

Waterway & Coastal Protection

Applies to coastal and riparian areas. Protects the Channel foreshore and watercourses independently of zone classification.

The Huon Valley Precedent -- Apply the Same Test Here

The TPC's test -- Huon Valley 2024

- ELZ land can transition to RLZ where the settlement pattern is akin to rural living in lot size and density
- Landscape values can be maintained under RLZ where the RLZ subcategory eliminates further subdivision
- Ireneinc's framework relies on this decision -- it is the basis for the ELZ-to-RLZ pathway existing at all
- The Commission is not being asked to break new ground -- it is being asked to apply its own established approach

Apply that test to the Channel Highway corridor

- Lot sizes akin to rural living? Yes -- 83% of Gordon's LCZ parcels under 15ha, median 3.1ha; all four 5050 parcels 2.79--3.96ha
- RLZ subcategory eliminates subdivision? Yes -- RLZ C (5ha minimum) means none of the four 5050 parcels can be further subdivided
- Landscape values manageable through overlays? Yes -- SPA, PVA and NAC operate independently of zone (Delegate Ford [02:33:54])
- **On the Huon Valley test, we ask the Commission to reach the same conclusion**



PART 5

Relief Sought

What we are asking the TPC to determine



Relief Sought -- RLZ for All Affected ELZ Properties

Gordon -- all 53 ELZ titles recommended for LCZ

Primary: Rural Living Zone C or D -- reflecting existing lot sizes, no further subdivision enabled

Alternative: *If not all: split zone with RLZ on highway-fronting and accessible portions, LCZ limited to upper vegetated hillside only*

Middleton -- 30 ELZ titles recommended for LCZ

Primary: Rural Living Zone -- consistent with the 29 existing RLZ and 33 LDRZ titles already in the locality

Alternative: *At minimum: RLZ for those ELZ properties that directly adjoin or are surrounded by existing RLZ/LDRZ land*

Birchs Bay -- 17 ELZ titles recommended for LCZ

Primary: Rural Living Zone for the eastern corridor properties -- reflecting the Channel Highway residential pattern

Alternative: *Split zone where individual parcels have significant upper vegetated portions that genuinely warrant LCZ*

Flowerpot -- 20 ELZ titles recommended for LCZ

Primary: Rural Living Zone for properties along Gallaghers, Beadles and Rainbirds Roads -- the eastern fringe acknowledged in Ireneinc's own baseline

Alternative: *Split zone where individual site characteristics genuinely support a partial LCZ application*



Three Propositions for the TPC

1

The ELZ established residential priority

Council's own decision to apply the ELZ to these properties was a determination that residential use was appropriate and intended. That determination cannot now be disavowed to justify LCZ. The ELZ is the answer to the 'who determines priority' question.

2

Uncertainty about priority fails the LCZ test

LCZ 4(a) prohibits LCZ where the priority is residential. If Council cannot affirmatively show the priority is not residential, the prohibition is not satisfied. An unresolved tension does not satisfy the statutory gateway -- it fails it.

3

120 titles across four localities deserve the correct zone now

The LPS process has taken 10 years. The strategic analysis that Council says is still needed should have been completed as part of this exercise. The TPC should not approve a zone that is prohibited by LCZ 4(a) on the basis that further work will be done later. Across all four localities, not a single representor has sought LCZ. The complete absence of community support for this zone is itself evidence that the residential priority has not been displaced.