
From: Sam Davis [REDACTED]
Sent: Monday, 4 May 2026 5:31 AM
To: Kingborough LPS
Subject: LPS Submission - [REDACTED] Margate
Attachments: Submission - [REDACTED].pdf

To whom it may concern,

Please find attached our submission to the LPS following a letter received from The Commission dated 2 April 2026.

Thanks
Sam

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 firstly want to note what a stressful and mental toll this whole process has had. I still don't feel fully equipped to respond to this letter, but with the help of others and my desire for our land, here goes.

I did not make a formal representation during the public exhibition period (mainly because I didn't know about it until too late), however I understand that the Commission has received correspondence from me or on my behalf in relation to the draft LPS.

I now take up that opportunity and submit as follows.

Landowner name(s): Samantha Davis and Matthew Moloney

Property address: [REDACTED], Margate

Title reference folio: [REDACTED]

Lot size (approx.): 23,460 m² (2 hectares)

Locality: Margate

Current IPS zone: Environmental Living Zone (ELZ)

Draft LPS exhibited zone: Landscape Conservation Zone (LCZ)

Ireneinc recommended: Landscape Conservation Zone (LCZ) — unchanged

Zone sought in this submission: Rural Living Zone (RLZ) B

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 B.

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]. I submit that the application of LCZ to my property does not comply with the Zone Guidelines as demonstrated below:

The LCZ does not comply with the Zone Guidelines (Guideline No. 1 / s.34 LUPAA)

- I. **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.' My property has been used for residential purposes throughout the period it has been zoned Environmental Living Zone (ELZ) under the Kingborough Interim Planning Scheme 2015. During my tenure, the primary use and strategic intention of the land is and has always been residential. The property contains a dwelling constructed in 1986 and has continuously been occupied as a residence. There is no evidence to suggest the primary use is anything other than residential.

- II. **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. I am really confused and have not been able to find a definition of landscape values. I believe all the overlays on our land are able to mitigate any concern in this area though.
- III. **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. My property has an area of 2.3 ha. This is consistent with the RLZ B minimum lot size of 2 ha and does not provide for further subdivision under that subcategory.

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 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, I submit that even applying the framework as intended, my property satisfies the criteria for RLZ rather than LCZ.

- IV. **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. My property clearly satisfies this criterion. My property contains an established dwelling, associated outbuildings including carport, shed chicken coup and gardens. Aerial photography over a period of 21 years confirms the consistently residential character of the property.

- V. **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. My property is situated within an immediate cluster of 13 properties along [REDACTED] and [REDACTED]. There is also very similar properties along 70% of [REDACTED], [REDACTED] and other smaller courts and roads. Each of these properties tends to have lot sizes ranging from approximately 2 ha to 4 ha. The settlement pattern is consistent and has been established since the 1980s. Neighbouring properties contain detached dwellings with associated rural activities including hobby farming, small scale grazing and vegetable patch and small orchards.
- VI. **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]. I believe the same can be applied for my property. All the overlays should be able to manage this outside the lcz.
- VII. **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 B to my property 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. My property has an area of 2.3 ha. Under RLZ [B], the minimum lot size is 2 ha. Subdivision of my property under this subcategory would not be possible addressing any concern about intensification.

The TPC panel's own 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.

- VIII. **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.
- IX. **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.

Inconsistency with adjoining or comparable properties

- X. The Zone Guidelines require that the spatial application of zones be, as far as practicable, consistent with and coordinated across the LPS. Where neighbouring properties with substantially similar characteristics have been recommended for RLZ, the application of LCZ to my property is inconsistent and not supported by evidence of any material difference. All the properties on the west side of [REDACTED] have been suggested to be RLZ, which is immediately adjacent to mine and shares the same lot size, settlement character, and land cover, has been recommended for [RLZ]. There is no identified difference in landscape values, vegetation cover, or development history that would justify the different treatment of my property. It just appears that the road has been used as the boundary for LCZ/RLZ zoning. The properties over the road are Rural Living, while mine and others on the southern side of [REDACTED] are LCZ.

For the reasons set out above, I submit that:

1. The application of the LCZ to my property is inconsistent with the Zone Guidelines 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 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 resort to 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 B and if the Commission proposes any alternative outcome, that I be provided with an opportunity to respond before any final determination is made.

King regards,

Samantha Davis and Matthew Moloney