

# Kingborough

## AGENDA

# Special Meeting of Council

NOTICE is hereby given that a Special Meeting of the  
Kingborough Council will be held in the Civic Centre, Kingston on  
**Monday, 4 September 2017 at 5.30pm**



*Back (L – R): Cr Paul Chatterton, Cr Mike Percy, Cr Sue Bastone, Cr Dean Winter, Cr Richard Atkinson  
Front (L – R): Cr Dr Graham Bury, Cr Flora Fox, Mayor Cr Steve Wass, Deputy Mayor Cr Paula Wriedt, Cr David Grace*

**PUBLIC MINUTES**

These Minutes are provided for the  
assistance and information of members  
of the public.

## QUALIFIED PERSONS

In accordance with Section 65 of the *Local Government Act 1993*, I confirm that the reports contained in Special Council Meeting Agenda No. 19 to be held on Monday, 4 September 2017 contain advice, information and recommendations given by a person who has the qualifications or experience necessary to give such advice, information or recommendations.



Gary Arnold  
GENERAL MANAGER

29 August 2017

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AGENDA of a Special Meeting of the Kingborough Council to be held at the Kingborough Civic Centre, Kingston on Monday, 4 September 2017 at 5.30pm.

	<b>From</b>	<b>To</b>	<b>Time Occupied</b>
Open Council	5.30pm		
Planning Authority			
Open Council			
<b>TOTAL TIME OCCUPIED</b>			

## **AUDIO RECORDING**

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The Chairperson is to direct commencement of the recording.

Declare meeting open (time), welcome all in attendance and read:

*“All persons in attendance are advised that it is Council policy to record Council Meetings.*

*The audio recording of this meeting will be made available to the public on Council’s web site for a period of twelve months.*

*In accordance with Council Policy, I now ask staff to confirm that the audio recording has commenced.”*

## **ACKNOWLEDGEMENT OF TRADITIONAL OWNERS**

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The Chairman will acknowledge and pay respect to the Tasmanian Aboriginal Community as the traditional and original owners and continuing custodians of the land on which we now meet, and acknowledge elders past and present.

## **ATTENDEES**

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### **Councillors:**

		<b>PRESENT</b>
Mayor	Councillor S Wass	
Deputy Mayor	Councillor P Wriedt	
	Councillor R Atkinson	
	Councillor Dr G Bury	
	Councillor P Chatterton	
	Councillor F Fox	
	Councillor D Grace	
	Councillor M Percey	
	Councillor D Winter	

### **Staff:**

<b>TITLE</b>	<b>NAME</b>

## **APOLOGIES**

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Cr Sue Bastone

## **DECLARATIONS OF INTEREST**

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In accordance with Regulation 8 of the *Local Government (Meeting Procedures) Regulations 2015* and Council's adopted Code of Conduct, the Mayor requests Councillors to indicate whether they have, or are likely to have, a pecuniary interest (any pecuniary benefits or pecuniary detriment) or conflict of interest in any item on the Agenda.

## OFFICERS REPORTS TO COUNCIL

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FILE NO SPA-2017-3  
DATE 10 AUGUST 2017  
OFFICER MELISSA STEVENSON – SENIOR PLANNING OFFICER  
ENDORSED BY TASHA TYLER-MOORE – MANAGER DEVELOPMENT SERVICES

### HEARING

### **PETITION TO AMEND SEALED PLAN 23227 AFFECTING PROPERTIES AT NOLAN CRESCENT, ADELONG DRIVE AND FOLEY ROAD, KINGSTON FOR EMMA RILEY & ASSOCIATES ON BEHALF OF DAVALON DEVELOPMENTS PTY LTD**

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Application Number:	SPA-2017-3
Applicant:	Emma Riley & Associates
Zoning:	General Residential

## 1. PURPOSE

- 1.1 This matter relates to a hearing of affected parties to an application to amend a sealed plan.
- 1.2 The purpose of this report is to consider the application by the owners of 33 Nolan Crescent, Kingston for an amendment to Sealed Plan No. 23227 which affects all of the lots in the Sealed Plan which are in Nolan Crescent, Adelong Drive and Foley Road, Kingston. The affected properties are shown in Figure 1 below.



Figure 1 – Plan showing all lots within Sealed Plan No. 23227

- 1.3 Parties seeking to be heard are:

The Applicant: Mrs C Lindus from Emma Riley & Associates on behalf of the petitioners:

Davalon Developments Pty Ltd  
Mr P & Mrs L McNeill  
Mr N & Mrs C McGrath  
Mr D & Mrs I Hastie  
Mr B & Mrs A Keygan  
Mr H & Mrs J Nugteren  
Dr R & Mrs E O'Leary  
Mr G R & Mrs A Simson  
Mr L & Mrs M Adams

The Respondents: Ms J Paul  
Mr D King  
Mr G Mallam  
Mrs C Mallam

## 2. BACKGROUND

- 2.1 The original subdivision that created the lot known as 33 Nolan Crescent included a covenant on each of the titles to the lots on the Sealed Plan to the effect that development within each property was restricted to no more than one residential dwelling.
- 2.2 Council has considered three previous applications to amend Sealed Plan No 23227. On each of these occasions Council resolved to refuse the applications.
- 2.3 The first application to amend Sealed Plan No 23227 was submitted in 2009 on behalf of the owners of 30 Nolan Crescent (SPA-2009-12). This application was for an amendment to the covenant *by adding the following words after the phrase "1. Not to erect on the said Lot any more than one residential dwelling" "except on Lot 8, on which there may be a maximum of two residential buildings"*. This application was refused by Council for the following reasons:
1. *The Committee was not satisfied that the evidence was sufficient to persuade them to overturn the rights of those parties who wished to retain the covenant.*
  2. *The covenant was present when all owners purchased their land.*
  3. *There were local residents who were opposed to the amendment.*
  4. *Equity considerations existed where the wishes of one party should not be shown preference over the interests of others.*
  5. *Other parties purchased their land in the belief that the covenant would prevent higher density development in the future.*
- 2.4 An application to subdivide Lot 5 (33 Nolan Crescent) into two lots was submitted to Council on 16 December 2014 (DAS-2014-46). That application was approved on 13 January 2015 subject to a range of conditions. The following advice clause was included on the Permit:

*"The existing covenant on the title prevents the construction of more than one residential dwelling on the lot. Accordingly, a dwelling cannot be constructed on Lot 1*

*unless and until an amendment to Sealed Plan No 23227 is approved to remove the covenant so that it no longer applies to the subject land.”*

- 2.5 The existence of the covenant did not preclude the subdivision of the land but the covenant on the parent title carries through to the new lots. This means that even though the subdivision may create two separate lots, only one dwelling is permitted on the whole of the land. The owners are yet to act on the subdivision permit. On 18 January 2017 Council approved an extension of the Planning Permit and it now expires on 13 January 2019.
- 2.6 In early 2015 an application was made for an amendment to Sealed Plan No 23227 on behalf of the owners of 33 Nolan Crescent (SPA-2014-9). The purpose of the proposed amendment was to enable the owners to complete the subdivision of the land as approved and to enable residential development on the newly created vacant lot. It was the intention of that amendment that the covenant was removed in relation to all lots in the Sealed Plan. The proposed amendment was not supported by Council and the amendment was not agreed to.
- 2.7 A further request to amend the Sealed Plan was submitted on behalf of the owner of 33 Nolan Crescent in 2016 (SPA-2016-8). The intention of this amendment was to amend the covenant to allow for the erection of no more than two detached residential dwellings on each lot. This application was considered by Council in November 2016. Council did not agree to the requested amendment.
- 2.8 A third request to amend the Sealed Plan has now been submitted on behalf of the owner of 33 Nolan Crescent and forms the basis of this report.

### **3. STATUTORY REQUIREMENTS**

#### **3.1 Relation to Planning Provisions**

- 3.1.1 The land is zoned General Residential under the Kingborough Planning Scheme 2000 (the Scheme).

#### **3.2 Legislative Requirements**

- 3.1.2 The application for Petition to amend sealed plan 23227 is subject to the provisions of section 103 of the *Local Government (Building and Miscellaneous Provisions) Act 1993* (the Act).
- 3.1.3 Section 103(1) of the Act provides that the Council may amend a sealed plan on the application of any person having an interest in land subject to the plan. A person is to make application by petition and serve a copy of the petition on all persons appearing by the registers under the *Land Titles Act 1980* and the *Registration of Deeds Act 1935* to have an estate or interest at law affected by the proposed amendment. Any person affected by the proposed amendment may ask to be heard in support or opposition.
- 3.1.4 The applicant has provided evidence that a copy of the petition has been served on all relevant persons. Four (4) of these parties have requested to be heard in relation to the proposed amendment, three (3) in opposition and one (1) in support.
- 3.1.5 Section 104 of the Act provides that where a hearing is proposed, the Council or a Council Committee may hear the persons who have so requested and upon conclusion of the hearing may:

- (a) cause the amendment to be made with or without modification; and
- (b) require as a condition of so doing that any person who benefits the amendment is to make compensation in money or land to a person who is injured by it.

#### **4. DISCUSSION**

4.1 The proposal is for an amendment to Sealed Plan No. 23227, which affects a number of properties at Nolan Crescent, Adelong Drive and Foley Road, Kingston and has been requested on behalf of the owner of 33 Nolan Crescent, Kingston (Lot 5), Davalon Developments Pty Ltd. The petition has also been signed by the owners of eight (8) other lots on the sealed plan.

4.2 The proposal seeks approval for an amendment to the sealed plan as follows:

Amending the Covenant as follows in the Schedule of Easements SP23227 by:

- deleting the word “one” and replacing it with the word “two” and
- including an “s” at the end of the word “dwelling”

Such that it reads:

*“1. Not to erect on the said Lot any more than two detached residential dwellings”*

4.3 This amendment will enable the owners of Lot 5 to develop a new residential lot previously approved by Council (DAS-2014-46). Under the provisions of the current covenants, the lot can be subdivided but construction of a dwelling on the new lot would not be permissible.

4.4 A total of four (4) submissions were received requesting to be heard in relation to the amendment. One (1) of the submissions was in support of the amendment, whilst the other three (3) were in opposition to the amendment. The parties were requested to provide further submissions regarding their position with respect to the proposed amendment prior to the hearing. The applicant was also provided the opportunity to submit additional documentation in support of the requested amendment. Submissions were received from Emma Riley & Associates, as well as some of the individual petitioners. A copy of all submissions has been provided under separate cover to the Councillors.

#### **5. CONCLUSION**

5.1 Council must hear and consider the presentations made to the hearing by the applicant/petitioners and the affected parties and then determine the proposed amendment. The parties were requested to provide written submissions to Council in advance of the formal hearing. Copies of those submissions have been forwarded to Councillors under separate cover.

5.2 Council has three options in determining this matter as follows:

- (a) Approval without modification;
- (b) Approval with modification; or
- (c) Refusal

5.3 Council is under no obligation to make a decision at the hearing. The decision can be deferred pending further advice or other information being provided to Council.

## 6. RECOMMENDATION

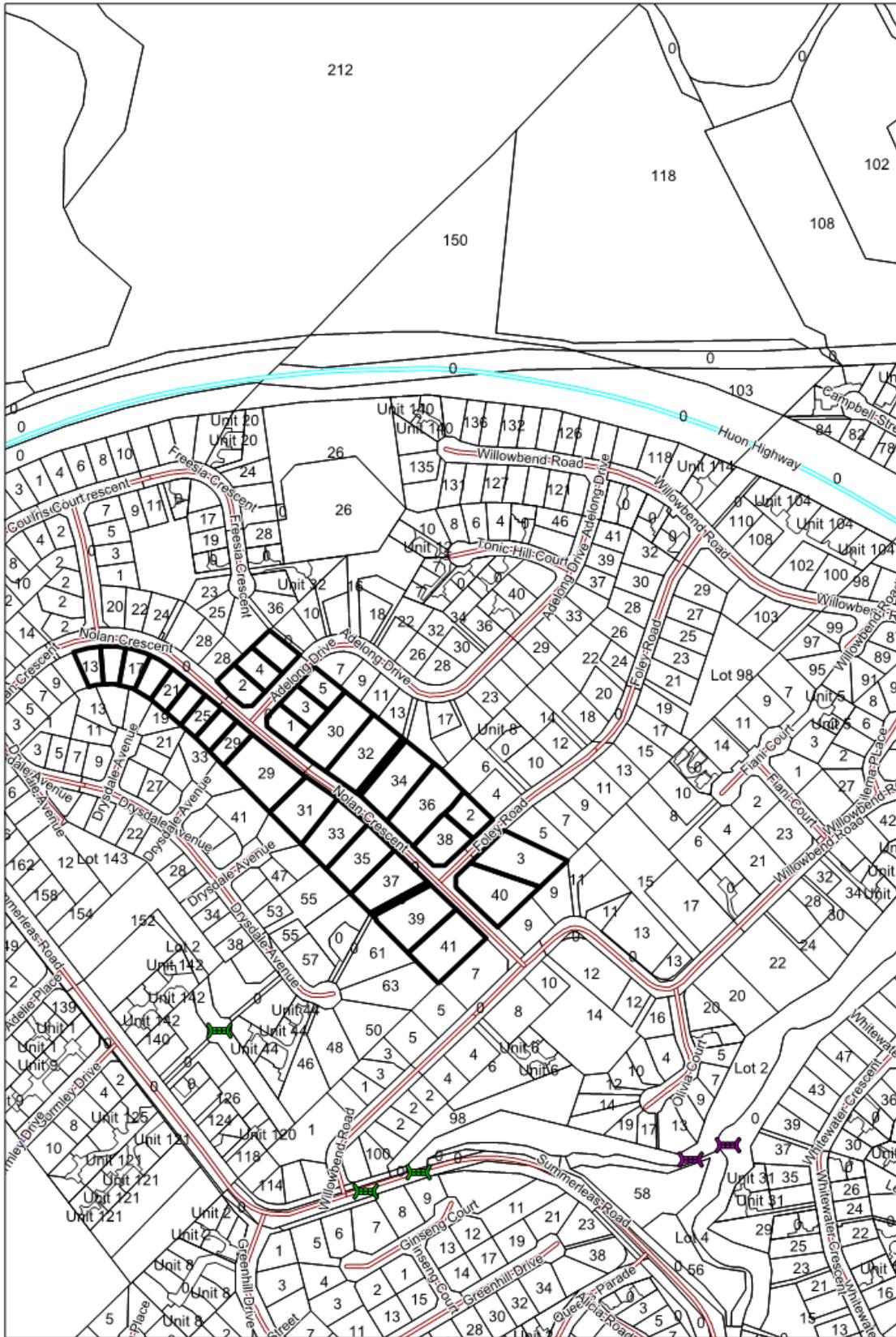
MOVED  
SECONDED

That Council consider the submissions made at the hearing and determine the proposed amendments.

Name	For	Against	Name	For	Against
Cr Atkinson			Cr Percey		
Cr Dr Bury			Cr Wass		
Cr Chatterton			Cr Winter		
Cr Fox			Cr Wriedt		
Cr Grace					

Attachments:

1. Location Plan (1)



**OPEN SESSION OF COUNCIL ADJOURNS**

## PLANNING AUTHORITY IN SESSION

Planning Authority session commenced at

### OFFICERS REPORTS TO PLANNING AUTHORITY

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FILE NO                    PSA-2016-3  
DATE                        14 August 2017  
OFFICER                    DIANNE COWEN – STRATEGIC PLANNING OFFICER  
ENDORSED BY            TASHA TYLER-MOORE – MANAGER DEVELOPMENT SERVICES

**PSA-2016-3 - PLANNING SCHEME AMENDMENT APPLICATION FOR AMENDMENT TO THE KINGBOROUGH INTERIM PLANNING SCHEME 2015 FOR THE PARTIAL REZONING FROM ENVIRONMENTAL LIVING TO LOW DENSITY RESIDENTIAL (AREA A) AND AMENDMENT TO CLAUSE 14.5.1(P1) OF THE ORDINANCE TO INCLUDE A SITE SPECIFIC MINIMUM LOT SIZE AFFECTING THE LAND AT 105 FERRY ROAD, KETTERING FOR MRS C LINDUS OBO EMMA RILEY & ASSOCIATES**

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<b>Application Number:</b>	PSA-2016-3
<b>Applicant:</b>	Mrs C Lindus obo Emma Riley & Associates
<b>Existing Zoning:</b>	Environmental Living
<b>Existing Land Use:</b>	Residential
<b>Proposal in brief:</b>	The proposal is to rezone a portion of land near the road frontage (including an access strip) to Low Density Residential (Area A) to facilitate the subdivision of one lot and to protect the remainder of the environmental values across the balance lot which is zoned Environmental Living, into perpetuity
<b>No. of Representations:</b>	Not advertised as yet. Draft amendments are advertised for public comment following initiation by the Planning Authority for a period of 28 days
<b>Recommendation:</b>	Initiate and certify the draft amendment in accordance with Section 12 of this report.

#### 1. EXECUTIVE SUMMARY

This report considers a proposed amendment to the *Kingborough Interim Planning Scheme 2015* (KIPS 2015) to partially rezone land from Environmental Living to Low Density Residential (Area A). In addition to this, an amendment to clause 14.5.1(P1) is proposed to provide a minimum lot size requirement that is specific to 105 Ferry Road, Kettering. The assessment takes into account the following matters:

- The ability of the subject land to facilitate additional low density residential development to a standard required by the *Kingborough Interim Planning Scheme 2015*.
- Any environmental and landscape values.
- Site constraints.
- Strategic justification for the rezoning and site specific minimum lot size qualification.
- Consistency with the Kingborough Council Strategic Plan 2015-2025.
- Consistency with the Southern Tasmania Regional Land Use Strategy.
- Consistency with the Kingborough Land Use Strategy.
- Compliance with the requirements of the former provisions of the *Land Use Planning and Approvals Act 1993*.

Listed above are the core issues assessed in order to determine whether the proposed amendment is strategically justified. The draft amendment provides opportunity for the environmental values and vegetation on the site to be maintained as a result of the proposal. The site itself is also a prominent entry feature to the port of Kettering when travelling via the Bruny Island Ferry and has significant visual landscape value.

In summary, the amendment must be consistent with the requirements of the Kingborough Council Strategic Plan 2015-2025, the Southern Tasmania Regional Land Use Strategy, the Kingborough Land Use Strategy and the *Land Use Planning and Approvals Act 1993*.

The following comprehensive assessment of the relevant strategic matters provides sufficient evidence on which to base a decision on whether to initiate and certify the amendment as suitable for public exhibition. As a result of the assessment, it is considered there is strategic justification for the proposed amendment.

Upon a decision being made by the Planning Authority to initiate the amendment, the draft amendment is then forwarded to the Tasmanian Planning Commission for a final decision and in the meantime, publicly advertised for a period of 28 days. A report on any representations received will be tabled at a Planning Authority meeting at a later date as required under section 39 of the former provisions of the *Land Use Planning and Approvals Act 1993* and any recommendations in relation to the representations forwarded to the Tasmanian Planning Commission for final assessment.

## **2. THE PROPOSAL IN DETAIL**

### **2.1 The Proposal**

The proposal is an application to amend the *Kingborough Interim Planning Scheme 2015* (The Scheme) in accordance with section 33(1) of the *Land Use Planning and Approvals Act 1993*. The application is made by Mrs C Lindus on behalf of Emma Riley and Associates and is accompanied by a planning submission in support of the proposal.

Section 43A of the *Land Use Planning and Approvals Act 1993* provides a mechanism for the Planning Authority to consider an application for a combined permit for a use or development that cannot be approved unless the planning scheme is amended. Accordingly, a subdivision application has been submitted to Council concurrently with the amendment proposal and should the Planning Authority decide to initiate and

certify the draft amendment, the request for a combined permit is able to be subsequently considered at the same time. This report deals with the proposed amendment, whilst a separate report has been prepared for the subdivision application (DAS-2016-33).

The draft amendment seeks to rezone a portion of the site currently zoned Environmental Living to Low Density Residential (Area A) (see figure 1). The amendment would result in sufficient area zoned Low Density Residential being able to be subdivided into one additional lot. A secondary component to the draft amendment is to include a site specific qualification within clause 14.5.1(P1) of the Environmental Living zone that allows the remainder of the site that is zoned Environmental Living to be subdivided into a balance lot containing the entirety of land within that zone. This is required because ordinarily the minimum lot size for the Environmental Living zone is based on a lot yield of 1 lot per 10 hectares and therefore requires that the property have a minimum area of 20 hectares to allow for subdivision.



**Figure 1: Proposal plan demonstrating the extent of the proposed Low Density Residential zone in pink**

The proposed amendment is consistent with an amendment to clause 14.5.1(P1) that has recently been approved by the Tasmanian Planning Commission (PSA-2016-5) which provided opportunity for subdivision of specified lots that were split zoned in a similar manner. The minimum lot size proposal is consistent with the previously approved amendment and the site specific qualification would provide for the remaining area zoned Environmental Living for 105 Ferry Road being retained as a single balance lot upon future subdivision. The draft amendment is also consistent with a similar amendment (PSA-2016-4) currently being considered by the Commission.

The draft amendment appears in clause 14.5.1 and is underlined as follows:

*The size of lots may be less than that specified in A1 provided all of the following are satisfied:*

- (a) *the number of lots is no more than 1 lot per 10ha, or 1 lot per 20ha on Bruny Island; **except for:***

(i) **105 Ferry Road, Kettering (CT 239256/1)**

**where the minimum lot size is determined as the entire portion of the land in this zone.**

- (b) *lots are clustered so that their building areas are in proximity to each other thereby reducing overall impact on natural values;*
- (c) *a net conservation benefit is provided through mechanisms on titles for collective responsibility and management of natural values on private land outside those areas required for building areas, private open space and bushfire protection measures;*
- (d) *mechanisms on large titles, with nominal future subdivision potential under A1, prevent further subdivision.*

It is noted that the amendment's reference to 105 Ferry Road as shown above may result in a different number configuration, e.g. (iv) or (v), due to the recent approval of PSA-2016-5 by the Commission and a pending decision on PSA-2016-4. Further to this, the proposed amendment wording as above will need to vary slightly due to the recent approval of a similar amendment – PSA-2016-5 following the submission of this draft amendment. The wording “except for:” and “where the minimum lot size is determined as the entire portion of the land in this zone” is now included within the Scheme. It is considered that the Commission has the capability to make minor changes to the wording to reflect these previous applications and as such, request that any changes are made to correlate with these approvals should the draft amendment be approved.

The area proposed for the rezoning to Low Density Residential measures 3992 sqm which is in excess of the minimum lot size for that zone. No opportunity for further subdivision within this zone would be available at a minimum of 5,000 sqm would be provided to gain two lots.

## **2.2 The Site**

The subject land is known as 105 Ferry Road, Kettering and is identified by Certificate of Title: Volume 239256, Folio 1 which measures 4.648 hectares (see figures 2 & 3 below). A small “road” lot is also owned by the property owner and is identified by Certificate of Title: Volume 12828, Folio 100. The draft amendment does not involve any zone or Ordinance changes to the road lot, however this lot is impacted upon by the accompanying subdivision application in order to provide frontage to a road.



The subject site is located at the end of Ferry Road which is maintained by Council after the point of access to the Bruny Island Ferry Service. There are a number of properties adjoining the site which access in a similar location via access strips of land with reciprocal rights of way over a single constructed access.

The size of the existing lots zoned Low Density Residential on the western side are similar to the area proposed under the draft amendment to be zoned Low Density Residential. In addition to this, the location of the area proposed to be zoned as such at 105 Ferry Road, is directly adjacent to the existing area zoned Low Density Residential. Lots zoned Low Density Residential further to the west, range in size from approximately 680sqm to around 1.5 hectares (see figure 4).



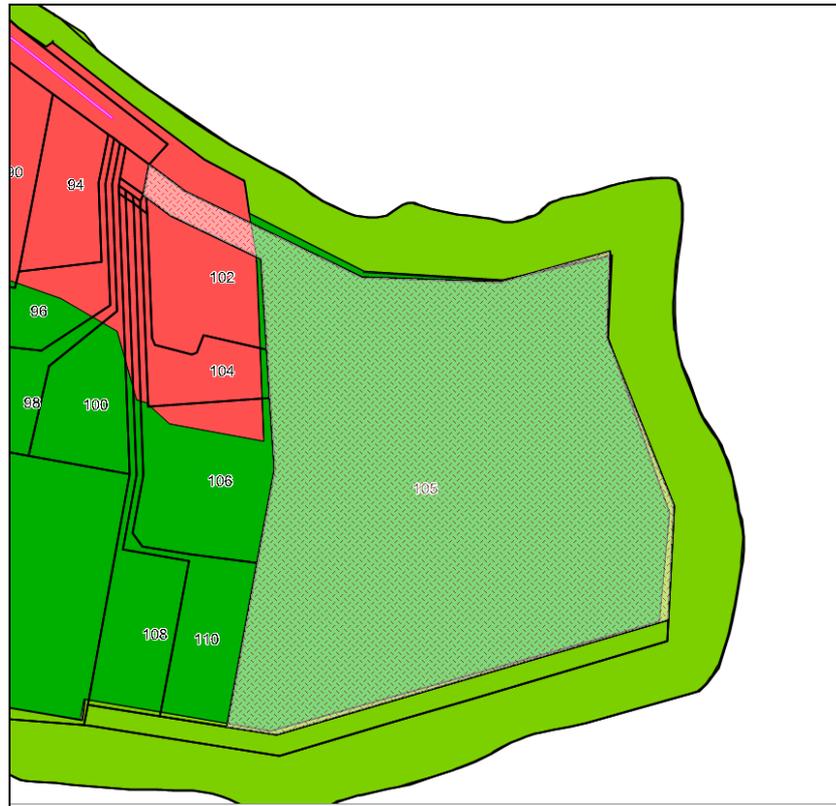
**Figure 4: Map demonstrating existing lot sizes for Kettering as follows:**  
**Lots less than 900 sqm – outlined in purple**  
**Lots 900 sqm to less than 3000 sqm – outlined in blue**  
**Lots 3000 sqm to 6000 sqm – outlined in green**  
**Surrounding lots not defined – greater than 6000 sqm**

The locality of Kettering does not have access to reticulated water, sewerage or stormwater. The existing dwelling is currently serviced by a septic system.

Significant vegetation occurs generally across the site, however, is relatively cleared surrounding the existing dwelling. Radiata pines are the predominant vegetation within close proximity to the dwelling.

### **2.3 Background to the application**

Council received the application for a draft amendment to the KIPS 2015 zone maps and Ordinance in December, 2016. The property was mostly zoned Environmental Management under the former *Kingborough Planning Scheme 2000* (KPS 2000), apart from the access strip which was zoned Residential (see figure 5). Translation from the KPS 2000 to the KIPS 2015, resulted in the property being zoned entirely Environmental Living. Public consultation for the KIPS 2015 was held from 18<sup>th</sup> July, 2015 until 31<sup>st</sup> August, 2015. During this period, the property owner made a submission to Council regarding the zoning of this property, requesting an alternative zone of Low Density Residential or part Low Density Residential.



**Figure 5: Former zone map from the Kingborough Planning Scheme 2000**

Section 33(5) of the Act requires the Planning Authority to give notice to the Commission where a planning scheme amendment application is submitted by a representor where a submission has been made under section 30I. Although the property owner made a submission at that time, the draft amendment application goes beyond a rezoning and requires further changes to the written Ordinance.

Following submission of the application and associated subdivision proposal, a preliminary assessment of the proposal led to further information being requested in relation to the wording of the amendment, owners consent, Crown Lands consent to lodge an application, extent of zoning proposed, access, Title documentation, natural values and general engineering requirements. All of the requested information has been provided and forms part of the assessment below.

### **3. LEGISLATIVE REQUIREMENTS**

#### **3.1 *Land Use Planning and Approvals Act 1993***

Amendments to the *Land Use Planning and Approvals Act 1993* (the Act) came into effect on 17 December 2015. Section 3(2)(b) of Schedule 6 of the Act provides for a planning scheme amendment application under the KIPS 2015 to be considered under the former provisions of the Act.

In accordance with s33(1) of the Act, a person may request a planning authority to amend a planning scheme administered by it. In accordance with s33(2B), *before making a decision as to whether or not to initiate an amendment of the planning scheme, the planning authority must consider –*

- (a) *whether the requested amendment is consistent with the requirements of section 32; and*

(ab) *any representation made under s30I, and any statements in any report under section 30J as to the merit of the representation, that may be relevant to the amendment; and*

(b) *any advice referred to in section 65 of the Local Government Act 1993 received by it.*

Under s32(1), a draft amendment of a planning scheme, and an amendment of a planning scheme, in the opinion of the relevant decision-maker within the meaning of section 20(2A) -

(a) .....

(b) .....

(c) .....

(d) .....

(e) *must, as far as practicable, avoid the potential for land use conflicts with use and development permissible under the planning scheme applying to the adjacent area; and*

(ea) *must not conflict with the requirements of section 30O; and*

(f) *must have regard to the impact the use and development permissible under the amendment will have on the use and development of the region as an entity in environmental, economic and social terms.*

Section 33(2B)(ab) requires that any representations made under s30I and any statements in a report under s30J of LUPAA that may be relevant to the amendment application, must be considered. A total of one representation was received in relation to this property. In this case, the amendment sought more changes to the Scheme than simply the zoning and as such was considered to require an assessment under the s43A process.

In accordance with s65 of the Local Government Act 1993, the Council must take into account the advice provided by a person with the necessary qualifications and experience necessary to give such advice. This report is prepared by such persons and provides the appropriate advice and recommendations.

The initiation requirements for the proposed scheme amendment are assessed in accordance with the requirements of s32 of the Act and the Planning Advisory Note 4 prepared by the Tasmanian Planning Commission.

Assessment against the legislative requirements is discussed later in this report.

#### **4. PLANNING DISCUSSION**

A planning submission was prepared by Emma Riley & Associates. The report provides strategic justification in support of the proposal which is discussed throughout this report.

The draft amendment sought is in response to the public hearings held for the KIPS 2015 where the property owners attended to present their case. At the hearing it was flagged by the panel that the scope of the amendment was considered to go beyond the powers of the

Commission and that the property owner would be better placed to engage a planning consultant and proceed through the full planning scheme amendment process. As a result, the property owner has engaged Emma Riley & Associates to implement their draft amendment proposal.

The zoning proposed is considered consistent with the adjoining lot sizes and land use pattern to the west of the site and as such is not considered to be out of place with the surrounding locality. The rezoning would allow for the creation of one additional lot that has very minimal effect on the land use pattern for Kettering in general.

The most significant benefit of approving such a draft amendment is that the balance lot, which comprises the majority of the headland, would be protected into perpetuity by way of a conservation area over the heavier vegetated area on the balance. This is enabled by the subdivision potential gained and facilitated under the Environmental Living zone subdivision provisions. Given the highly visual location of the subject site there are significant benefits in ensuring no further subdivision or development of the site, that would be capable of impacting on the vegetation, will occur in future within the conservation zone. The site is then able to retain its current characteristics, with minimal intrusion from the proposed one lot.

The associated development application submitted demonstrates how the land could be subdivided in future. There is no alternative to the subdivision proposal submitted so far as the potential lot yield other than to create one additional lot.

The site specific amendment to the Ordinance allows subdivision of the balance lot from the area proposed to be zoned Low Density Residential, which would incorporate the entire area zoned Environmental Living. This ensures the land is subdivided in an orderly manner along the zone boundary and will not result in split-zoning. This component of the amendment is purely a mechanical process to the Ordinance to ensure that the proposed zoning is able to provide for the intended subdivision and appropriate use in future. The Environmental Living zoned lot is then able to be developed for the purpose for which the zone allows, with the benefit of mechanisms on any permit issued for subdivision that protects and maintains environmental values as a conservation outcome.

## **Site Constraints**

### **4.1 Bushfire risk**

The subject site is located within a bushfire prone area and accordingly future subdivision of the site will be subject to the Bushfire Prone Areas Code. The planning submission accompanying the application provides detail as to how the proposal is able to comply with the requirements of the KIPS 2015 for future subdivision.

The Bushfire Hazard Management Plan submitted provides clarity on how the land is able to be managed as a result of subdivision that achieves a minimum rating of BAL 19 for a future dwelling. As such, it is reasonable to consider future development of the site would be able to meet bushfire hazard management requirements. Any impacts on vegetation for the site as a result of bushfire hazard management will be discussed below under the assessment for environmental values.

## 4.2 Visual Impact

As discussed earlier in this report, the subject site holds a prominent position as far as visual landscape is concerned for Kettering. The Bruny Island Ferry Service is taken to be a main road managed by the Department of State Growth and carries a considerable amount of traffic to and from Bruny Island. The key result from the draft amendment is the ability to “lock up” the existing vegetation across the site into perpetuity which has the twofold effect of maintaining the visual landscape in this instance.

The impact of one additional lot being created, which will result in a new dwelling being located between the existing dwelling on the site and adjoining development to the west, is considered insignificant in its potential to have a detrimental impact on the locality. The location has historically been modified as part of the existing dwelling surrounds. Minimal impact on vegetation located on the proposed lot will occur, other than some understorey modification, however the existing larger trees will remain.

## 4.3 Environmental Values

Council’s Environmental Planner provides the following comments in relation to the natural values of the site:

One of the critical issues to consider in determining whether or not to initiate the proposed amendment is how the proposed rezoning considers and provides for the natural values on the site, including threatened native vegetation and threatened species habitat. A detailed ecological assessment by North Barker was submitted as part of the application. The following discussion on the impacts of the rezoning application on natural values is based on this assessment in conjunction with data and Council information.

### *Native vegetation*

Based on vegetation mapping undertaken by North Barker in June 2017, the 4.648 hectare site includes a mix of cleared land and remnant native vegetation, including:

- 0.95 hectares of *Eucalyptus ovata* forest and woodland (DOV)
- 1.49 hectares of *Eucalyptus pulchella* forest and woodland (DPU)

The balance of the site is mapped as extra-urban miscellaneous (FUM).

There are also individual *E. ovata* trees scattered throughout the FUM, which provide potential foraging habitat for the endangered swift parrot. Each of these vegetation communities are discussed below in relation to their biodiversity significance, including conservation status, condition, habitat values and importance in maintaining ecological function across the landscape.

### *Eucalyptus ovata* forest and woodland (DOV) (0.95 hectares)

DOV is a threatened vegetation community and is listed as a high priority under Code E10.0 of the KIPS 2015. A small proportion of this community is located on the lot proposed to be rezoned to Low Density Residential (0.08ha or 8.4%) and the majority is located on the balance lot being retained as Environmental Living (0.87ha or 91.6%).

The DOV in the vicinity of the proposed rezoning is generally in reasonably good condition, with a condition score of 75 out of 100. The broader landscape context, limited recruitment of some species and limited understorey diversity were the key factors reducing the condition in this part of the site. There are also scattered weed infestations throughout the DOV. In the large cleared area on the point there is an extensive Spanish heath infestation which encroaches into the DOV, reducing the condition of the vegetation in this area.

Please note, there are a few discrepancies in the Natural Values Determination (North Barker, 19 December 2016), the Planning Submission (Emma Riley and Associates, 14 June 2017) and the updated vegetation mapping in Appendix H of the Planning Submission (North Barker, June 2017) in relation to extent of DOV impacted and the extent of DOV retained. These discrepancies arise from a combination of revisions to the proposed zone boundaries and field verification of vegetation mapping for the site in response to further information requests. In undertaking our assessment, Council relies upon the updated vegetation mapping by North Barker in Appendix H of the Planning Submission and final rezoning proposal. To avoid confusion, these discrepancies are further explained below.

In relation to the extent of DOV impacted, there is a discrepancy between the Natural Values Determination and the Planning Submission, including the updated vegetation mapping by North Barker in Appendix H. The basis for this discrepancy is a revision to the proposed Low Density Residential zone boundary to minimise impacts. As a result of this revision, the extent of DOV impacted is reduced from 0.12ha as identified in the Natural Values Determination to 0.08ha as identified in Planning Submission and updated vegetation mapping. Therefore, while the Natural Values Determination assesses the extent of impact as 0.12ha, it is accepted as being 0.08ha.

There is also a discrepancy between the Natural Values Determination and the Planning Submission and the vegetation mapping undertaken by North Barker in relation to the extent of DOV outside the area of impact. The Natural Values Determination and Planning Submission identify at least 1.23ha of DOV present outside the area impacted by the rezoning, whereas the updated vegetation mapping identifies 0.87ha of DOV in this area. It appears that the figure in the earlier Natural Values Determination and Planning Submission are relying upon TASVEG v3.0 mapping, rather than subsequent field-verified mapping by North Barker. While field verification confirms the extent of DOV is less than shown in TASVEG v3.0, this makes no material difference to the rezoning as there is still sufficient DOV on the balance lot to offset impacts on DOV and satisfy the requirements of the Scheme.

#### *Eucalyptus pulchella* forest and woodland (DPU) (1.49 hectares)

While TASVEG v3.0 indicates the majority of the remnant vegetation on the site is DOV, the field verified mapping by North Barker identifies over 60% of the remnant vegetation is DPU. DPU is not listed as a threatened vegetation community and is listed as a high priority under Code E10.0 of the KIPS 2015. This community predominantly occurs to the south of the proposed rezoning and in another smaller patch to the east of the DOV. No condition assessment was undertaken within this community. However it is evident that from the weed mapping that the DPU contains scattered weed infestations. While the DPU is low priority, it contains scattered *Eucalyptus ovata* (black gum) trees and an area of a threatened flora species (*Epacris virgata* subsp. *Kettering*), both of which are of conservation value.

### *Flora and Fauna Values*

In total 48 species of vascular plants were recorded within the area proposed to be rezoned during the site survey by North Barker, including 15 introduced species, 2 of which are declared weeds and a number of others are environmental weeds. Of the native species within the area proposed to be rezoned, none are listed as threatened under the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* (EPBCA) or under the *Tasmanian Threatened Species Protection Act 1995* (TSPA). There are two threatened flora species outside the area of impact, including a population of Pretty heath (*Epacris virgata subsp. Kettering* located within an area of DOV and DPU vegetation in the south western corner of the site) and *Juncus amibilis* in the DOV in the centre of the site. While previous surveys within 5 km of the property have identified a number of other species of threatened flora variously listed under the TSPA and EPBCA, the likelihood of these species occurring is considered low.

The DOV vegetation and individual black gum trees on the site provides potential habitat for the endangered swift parrot. The site is within the core range for this species and the site contains at least 75 black gum trees with a diameter over 25cm, which are a secondary foraging source. 8 of these trees are within the area proposed to be rezoned, with 5 of these trees potentially impacted. A further mature black gum tree will be impacted by the upgrading of the access. The Tasmanian devil has been recorded within 500m of the site. The area proposed to be rezoned is not considered likely to be used for nesting, roosting or denning by the species. It is unclear whether or not there is any suitable habitat within the balance lot site. The site also provides potential habitat for the eastern barred-bandicoot. The proposal is not considered to present a risk to this species as the greatest threat to this species is considered to be the naturalisation of the European fox.

A map of native vegetation communities and potential threatened fauna habitat is provided in Figure 6 below.

### *Weeds*

The most extensive declared weed present on the site is Spanish heath (*Erica lusitanica*), which is scattered throughout the bushland and also present in a larger infestation in the cleared area on the balance lot. Gorse (*Ulex europeae*) is also present within the bushland on the lot proposed to be rezoned to Low Density Residential zone and blackberry scattered throughout the site. There are also other environmental weed species present within the bushland and in the degraded cleared areas, including radiata pine, cotoneaster and sally wattle. The proposed rezoning and subsequent development of the site provides an opportunity to address the weed issues on the site.



Figure 6: Remnant vegetation and threatened fauna habitat

## Landscape Context

When assessing the significance of the vegetation on the site it is important to consider it in the context of other remnant vegetation within the broader Kettering area. As indicated in the vegetation condition assessment undertaken for the DOV on and adjacent to the lot proposed to be rezoned, the remnant vegetation is part of a relatively large patch of native vegetation. This means the landscape context for this vegetation is relatively good. The main factor reducing the landscape context score on the subject land is the extent and configuration of native vegetation present in the broader Kettering area. The lower score here is a reflection that the vegetation around Kettering has been fragmented to some extent. This fragmentation highlights the importance of retaining the remaining native vegetation in the area, especially given some of this vegetation is listed as endangered under the *Nature Conservation Act 2002* and provides potential foraging habitat for a critically endangered threatened species. Any retention and improvement of remnant vegetation on the subject land as a result of the proposed rezoning and subsequent development would therefore contribute to a broader conservation outcome.

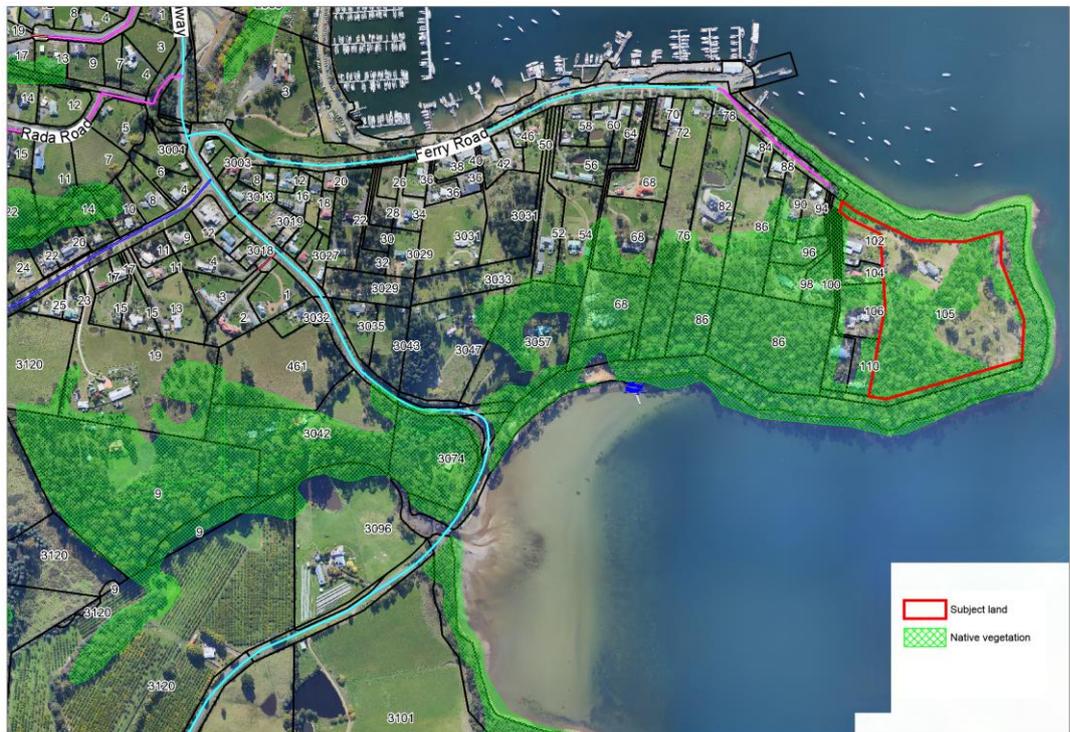


Figure 7: Landscape context of the subject land

## Impacts of the proposed rezoning

The proposed rezoning will result in the modification of a relatively small area of DOV (0.08ha) on the lot proposed to be rezoned to Low Density Residential. This modification is the result of relying upon this area for wastewater disposal. While it is anticipated that the 8 black gum trees in this area can be retained, the use of this area as the wastewater application area is considered to result in the conversion of the DOV to a modified understorey over time due to introduction of nutrients, changes in hydrology and soil disturbance. On this basis, the proposal has been assessed as if these values were to be impacted. An additional black gum tree will be impacted by the upgrade to the access. Due to the impacts on black gums trees, the proposed rezoning will also result in some loss of threatened fauna habitat. There

will be no encroachment into the DOV for the purposes of bushfire hazard management.

While the area proposed to be rezoned to Low Density Residential contains DOV, which is of very high conservation value, the balance of the remnant vegetation within the Environmental Living zone will be protected under a Part 5 Agreement as a result of the proposal. This includes 0.87ha of DOV and 1.49 ha of DPU as well as a number of threatened flora populations. It is therefore considered that the impacts of the rezoning are avoided to the extent practicable and are able to be adequately assessed, mitigated and offset through the assessment of the proposed subdivision.

As such, while there will be some impacts on significant natural values, overall the rezoning application has been designed to largely avoid and minimise impacts remnant native vegetation on the site and retain threatened fauna habitat to the extent practicable. Accordingly, these values will be largely retained irrespective of whether or not the current proposal is acted upon. Furthermore, it is considered that the current provisions of the Kingborough Interim Planning Scheme 2015 are sufficient to enable any residual impacts on significant values as a result of the rezoning to be adequately assessed, mitigated and offset.

#### **4.4 Wastewater**

Council's Environmental Health Officer provides the following comments in relation to the wastewater management of the site:

The proposed planning scheme amendment will potentially allow for subdivision creating a new lot at 105 Ferry Road Kettering. A wastewater report from a suitably accredited wastewater designer has been submitted demonstrating that any potential new lot would have suitable area to accommodate an onsite wastewater treatment system that complies with the provisions of the *Kingborough Interim Planning Scheme 2015* (the Scheme). The submitted report specifies that the new lot would potentially support a four bedroom residential dwelling serviced by an Aerated Wastewater Treatment System (AWTS) with 600m<sup>2</sup> of irrigation area. The report uses a more conservative approach than the requirements of the Scheme and hence it is likely that any future subdivision of the land would be able to accommodate an onsite wastewater system compliant with the Scheme.

#### **4.5 Road networks, traffic management and drainage**

Council's Development Engineering Officer provides the following comments in relation to roads and traffic issues:

The proposal plans submitted for the accompanying subdivision application demonstrate the capability of the site to facilitate one additional lot. Sufficient road infrastructure is available to provide access to the site, in addition to the provision of stormwater drainage and disposal that is capable of meeting the Scheme requirements in a similar manner to the existing dwelling on-site.

Accordingly, there are no development engineering concerns that would impede future subdivision of one additional lot for the subject site.

#### **4.6 Codes**

The following Codes contained within the KIPS 2015 are identified on the subject site as follows:

Waterway and Coastal Protection Code



**Figure 8: Map demonstrating the extent of coverage of the Waterway and Coastal Protection Code overlay for 105 Ferry Road, Kettering**

The Waterway and Coastal Protection Code encroaches on the property in various locations around the perimeter of the site. The part of the site that is earmarked for Low Density Residential zoning is affected in a minor way by this Code overlay as it encroaches over the access strip. The access is already in place to service the existing dwelling, however, some minor upgrade will be required to facilitate future subdivision of the site. This upgrade is capable of being managed under the provisions of the Scheme and accordingly, this Code would not restrict the proposed zoning of the site.

Landslide Code

The Landslide Code affects the subject site in the vicinity of the access and is defined as “low” risk. Subdivision of no more than two lots is exempt from this Code in any case. Buildings within a low risk area are also exempt, however, it would appear that the extent of the code coverage will not intrude upon the area where a new dwelling would be anticipated. Accordingly, the Landslide Code would not impede future development of the site and is not considered to restrict the potential for zoning of Low Density Residential.



**Figure 9: Map demonstrating the extent of coverage of the Landslide Code overlay for 105 Ferry Road, Kettering**

*Biodiversity Code*

The Biodiversity Code affects the entire site as it does across most of the Kingborough rural landscape. The presence of the Code does not restrict the potential zoning of Low Density Residential for a small portion of the site where a cleared area exists for facilitate future development. The Biodiversity Code will in fact implement a number of mechanisms to protect the vegetation on-site as part of the assessment of any future subdivision proposal. The code is therefore not considered to adversely affect the potential zoning of Low Density Residential.



**Figure 10: Map demonstrating the extent of coverage of the Biodiversity Code overlay for 105 Ferry Road, Kettering**

## 5. STRATEGIC DISCUSSION AND JUSTIFICATION

### 5.1 Existing situation under the Environmental Living Zone - Kingborough Interim Planning Scheme 2015

The subject lot is currently zoned Environmental Living under the *Kingborough Interim Planning Scheme 2015*. The proposed amendment is for a partial rezoning of the site to Low Density Residential (Area A) which is consistent with adjoining land to the west.

There are a range of zone purpose statements contained within the KIPS 2015 relevant to each zone that establish what each zone seeks to achieve through future use and development. Attainment of these objectives forms a critical part of the assessment of the planning scheme amendment.

*Assessment of the Environmental Living zone purpose statements:*

Zone Purpose Statement	Comment on compliance
<i>To provide for residential use or development in areas where existing natural and landscape values are to be retained. This may include areas not suitable or needed for resource development or agriculture and characterised by native vegetation cover, and where services are limited and residential amenity may be impacted on by nearby or adjacent rural activities.</i>	The site is currently zoned Environmental Living in its entirety and the proposal results in the majority of the site remaining zoned as such. The portion of the site affected by the rezoning is located between the dwelling and adjoining development and results in limited impact on the priority vegetation.
<i>To ensure development is reflective and responsive to the natural or landscape values of the land.</i>	The location of the proposed Low Density Residential zone is in the best location that is responsive to the landscape values associated with the land. Additionally, there is opportunity for the landscape values to be better protected.
<i>To provide for the management and protection of natural and landscape values, including skylines and ridgelines.</i>	Potential subdivision of the site as a result of the partial rezoning would provide opportunity for this zone purpose to be attained through mechanisms placed on the balance lot to improve and protect vegetation into perpetuity.
<i>To protect the privacy and seclusion that residents of this zone enjoy.</i>	The balance lot would remain zoned Environmental Living and vegetation will be substantially maintained to provide privacy and seclusion.
<i>To provide for limited community, tourism and recreational uses that do not impact on natural values or residential amenity.</i>	Not applicable.
<i>To encourage passive recreational opportunities through the inclusion of pedestrian, cycling and horse trail linkages.</i>	Not applicable.

There are no Local Area Objectives or Desired Future Character Statements contained in clause 14.1.2 or 14.1.3 for the Environmental Living zone.

## 5.2 Proposed situation under the Low Density Residential Zone (Area A) – Kingborough Interim Planning Scheme 2015

Assessment of Low Density Residential zone purpose statements:

Zone Purpose Statement	Comment on compliance
<i>To provide for residential use or development on larger lots in residential areas where there are infrastructure or environmental constraints that limit development.</i>	The minimum lot size for the Low Density Residential Zone (Area A) is 2,500 sqm. The proposed area to be zoned Low Density Residential is in excess of this requirement and supports low density residential development in a locality where environmental constraints are evident.
<i>To provide for non-residential uses that are compatible with residential amenity.</i>	The locality is already well developed by low density residential housing. Non-residential uses allowable in the Low Density Residential zone will make little to no difference through the creation of one additional lot.
<i>To avoid land use conflict with adjacent Rural Resource or Significant Agricultural zoned land by providing for adequate buffer areas.</i>	No Rural Resource or Significant Agricultural zoned land is adjacent to the subject site.
<i>To provide for existing low density residential areas that usually do not have reticulated services and have limited further subdivision potential.</i>	The character of Kettering is well established by larger residential lots, particularly on the northern side of the escarpment that faces Oyster Cove. No reticulated services are available and no further subdivision potential would be available once an additional lot is created through the accompanying subdivision application.

Further to these zone purpose statements, there is a Local Area Objective and Desired Future Character Statement contained within clauses 12.1.2 and 12.1.3 of the Scheme that are in place to guide development that supports the zone purpose statements listed above. This local area objective and desired future character statement sets out the values associated with this zone and identifies any accompanying strategies to assist future development proposals for Kettering as follows:

Local Area Objective	Implementation Strategy
<b>Kettering</b>	
(a) Kettering's natural values should be protected – including water views, foreshore access and vegetated visual surrounds.	(a) Future development will strive to protect water quality, native vegetation, views and public access.

Desired Future Character Statement	Implementation Strategy
<b>Bonnet Hill</b>	
(a) Kettering is to remain a relatively small, low-density coastal village.	(a) Future development is constrained by the absence of reticulated water and sewer and future suburban type development is to be avoided.

The main thrust of the local area objective and desired future character statement for Kettering, is to ensure the protection of environmental values, public access and water quality. This is achieved by constraining development to avoid development that displays suburban characteristics. In this case, the draft amendment is for an area to be zoned Low Density Residential that is in excess of the minimum lot size for that zone, however, the extent of rezoned land does not provide opportunity for any increase in the subdivision potential beyond one lot. The creation of one additional lot as a result of the draft amendment is minimal in its impact on Kettering by way of potential new development, however, there are beneficial impacts via the conservation of the headland landscape.

The area proposed to be zoned Low Density Residential is situated between an existing dwelling on the same site and existing low density residential development to the west. The newly created lot therefore is contained within existing development and does not contribute to urban sprawl. The proposal is considered to be consistent with the local area objective and desired future character statement for Kettering.

*Comparison of uses for the Environmental Living and Low Density Residential zones*

Each zone chapter within the KIPS 2015 includes a Table of Uses that sets out the allowable uses for that zone. The draft amendment has potential to change the allowable uses for the subject property should it be approved. A comparison of the allowable uses within each zone is outlined below (noting that any prohibited uses in both zones are not listed).

<b>Use</b>	<b>Existing zone -</b>	<b>Proposed zone -</b>	<b>Change as a result of amendment</b>
<b>No permit required</b>			
Educational and occasional care	No permit required – only if for home based child care	No permit required - only if for home-based child care	Remains the same
Natural and cultural values management	No permit required	No permit required	Remains the same
Passive recreation	No permit required	No permit required	Remains the same
Residential	N/a	No permit required – only if single dwelling or home based business	Single dwellings become allowable as No Permit Required
Utilities	No permit required – only if minor utilities and located underground	No permit required – only if minor utilities	No requirement for underground power
<b>Permitted</b>			
Residential	Permitted – only if single dwelling or home based business	Permitted – except if no permit required. Only located in Area C	Not limited to single dwelling or home based business
Visitor accommodation	Permitted	Permitted	Remains the same

<b>Discretionary</b>			
Community meeting and entertainment	Discretionary – only if church, art & craft centre or public hall	Discretionary – only if church, art & craft centre or public hall	Remains the same
Domestic animal breeding, boarding or training	N/a	Discretionary	Provides for a potential new use
Education and occasional care	N/a	Discretionary – except if no permit required. Only if day respite facility	Provides for a potential new use
Emergency Services	Discretionary - only if a fire station	Discretionary	Not limited to a fire station
Food Services	Discretionary – only if a restaurant or café associated with tourist use or a visitor accommodation use class at 1005 Adventure Bay Road, Adventure Bay (CT143862/10) or associated with a tourist use at 1565 Channel Highway, Margate (CT134382/1)	N/a	Remains the same
Resource development	Discretionary – only if agricultural use or crop production on predominantly cleared land	N/a	No longer allows resource development
Residential	N/a	Discretionary - only if a retirement village and located in Areas A and/or B	Remains the same as not Area A or B
Sports and recreation	Discretionary	Discretionary	Remains the same
Tourist operation	Discretionary – only if booking office or visitor centre at 1005 Adventure Bay Road, Adventure Bay (CT 143862/10) or at 1565 Channel Highway, Margate (CT 134382/1)	N/a	Remains the same
Utilities	Discretionary -except if no permit required	Discretionary – except if no permit required	Remains the same

Assessment of the above table indicates that the change of allowable uses will not have a detrimental impact on the locality or property itself.

### 5.3 Southern Tasmania Regional Land Use Strategy

The *Southern Tasmania Regional Land Use Strategy* (STRLUS), as amended on 1 October 2013, has been implemented to provide guidance and direction for future development and use in the Southern Region. S300 of LUPAA requires that a proposed amendment must be consistent with the STRLUS.

The STRLUS outlines a “Regional Growth Management Strategy” that indicates the level of growth envisaged for specific localities throughout the Municipality. These growth strategies are supported by a “growth scenario” for each locality. For Kettering, the proposed regional function is as a “village”, with a growth strategy of “low” and a growth scenario of “mixed”.

The low growth strategy anticipates less than 10% increase in the number of potential dwellings for Kettering. The mixed growth scenario is outlined in the STRLUS to *“indicate that residential growth should come from a mix of both greenfield and infill circumstances and that expansion of the residential zone may be required dependent upon an assessment of the yield capacity and vacancy of existing zoned land”*.

The low growth strategy for Kettering was explored at the time of a previous planning scheme amendment for Selby Road in 2014. A number of options were considered in the calculations for potential growth capability. As outlined in the accompanying planning report for this application, the latest statistics according to the Bureau of Statistics in 2011, indicate that a total of 431 dwellings existed within the state suburb of Kettering. At the time of approval of the Selby Road amendment and as a result of the options considered, it was indicated that the potential growth for Kettering as a result of the proposal was not entirely clear, however, it was in the range of 10%. It is also worth noting that the Selby Road amendment constituted greenfield development.

The current proposal results in the potential for one additional lot to be created. In this case however, the proposal facilitates “infill” development and supports the “mixed” growth scenario for Kettering. A balance between greenfield and infill development is supported by the KLUS.

The proposal not only has minimal impact on the STRLUS and can be considered consistent with the growth strategy but the proposal also contributes to the attainment of the strategic direction for Biodiversity within the STRLUS. This is achieved through protection of the priority vegetation across the balance lot into perpetuity and is an action that could not be achieved without the planning scheme amendment process unless the property owner chose to do so outside of the planning scheme requirements.

It is considered that SRD 1.6 of the STRLUS which is determined in the Strategy to *“utilise the low density residential zone only where it is necessary to manage land constraints in settlements or to acknowledge existing areas”* is achieved through the proposed zoning of Low Density Residential. The zoning is consistent with the zoning of adjoining land to the west and it’s location between the existing dwelling on the site. There are also a number of constraints associated with Kettering which will impede any further development of existing lots within Kettering, i.e. topography, vegetation coverage and lack of reticulated servicing. The subject site is well placed within the Kettering locality for minor infill development.

## **5.4 Kingborough Land Use Strategy**

Kettering has been identified in the Kingborough Land Use Strategy (KLUS) as having potential for minor infill within Kettering to facilitate future residential development. The Strategy identifies the opportunity for further Low Density Residential zoning to the west of the highway which has now occurred as a result of the Selby Road planning scheme amendment from 2014.

The KLUS also mentions there may be opportunity for the occasional lot to be subdivided elsewhere in Kettering and generally encourages the focus for future development within Kettering as being likely to the east of the highway. The subject site falls within this locality.

The KLUS also highlights the constraints associated with the narrow nature of Ferry Road which existed at the time of writing the Strategy but has now been upgraded to a substantial State road. This upgrade is also conducive to accommodating minor additional residential development in this location.

It is not possible to specifically capture all future development opportunities for a proposal of this minimal size within the KLUS. The proposal however, is considered to be consistent with the relevant strategy contained within the KLUS.

## **6. STATUTORY ASSESSMENT**

The draft amendment is assessed against the provisions of s32 of the Act as follows.

### **6.1 Potential Land Use Conflicts**

The proposal would result in the same zoning as land located directly adjacent to the west. Therefore, future development of the site is in keeping with the surrounding locality and will not create any potential for land use conflict. It could also be argued that the protection of the headland would reduce any opportunity for land use conflict from the existing residential use of the site in relation to the priority vegetation and its future management.

### **6.2 Conflict with the requirements of section 300**

Section 300 of the Act requires that an amendment to an interim planning scheme is as far as practicable, consistent with the STRLUS. Section 300 also sets a number of requirements relating to the insertion of a local provision and its relationship to a common provision. The proposed amendment is in relation to a local provision of the KIPS 2015. As discussed earlier in this report, the proposal is considered to be consistent with the Southern Tasmania Regional Land Use Strategy. No conflict with common provisions or other local provisions of the Scheme is evident. In consideration of the issues discussed under the STRLUS and KLUS, the proposal is considered to meet the requirements of s300 of the *Land Use Planning and Approvals Act 1993*.

### **6.3 Impact on the Use and Development of the Region – s32(1)(f)**

The Southern Tasmania Regional Land Use Strategy sets out a strategy to meet the ongoing housing demands for the Region. As discussed earlier in this report, the zoning of Low Density Residential and Environmental Living for this site is considered to be consistent with the growth scenario for Kettering. The STRLUS and KLUS are both supportive of the proposed amendment as being a suitable site to facilitate minor infill residential development.

#### 6.4 Consideration of the draft amendment against s33(2B)(ab)

The requirements of s33(2B)(ab) are set out earlier in this report under the section headed legislative requirements. The report establishes consistency with the requirements of s32 of the Act. In addition to this, any previous representations received during the formal public consultation period must be considered.

In this case, one representation was received in relation to this property. This representation sought a zoning or partial zoning change from Environmental Living to Low Density Residential which is consistent with this proposal. Council's response in the s30J report to the Commission, was that any future change to the zone "*should be considered as part of a Planning Scheme Amendment application that provides the necessary justification and further details on site suitability (eg landscape protection, meeting frontage requirements for a subdivision etc.)*" This proposal meets with Council's statement.

#### 7. OBJECTIVES OF SCHEDULE 1 OF THE LAND USE PLANNING AND APPROVALS ACT 1993

The following table assesses the draft amendment against the objectives of Schedule 1 of the *Land Use Planning and Approvals Act 1993*.

Objectives of Schedule 1 of the <i>Land Use Planning and Approvals Act 1993</i>		
Part 1 Objectives		
Objective	Summary of Proponent response	Comment
(a) <i>to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity</i>	<i>Rezoning and subdivision of the land has been carefully positioned to minimise impact on ecological values and furthers this objective.</i>	Agreed. The application provides opportunity for the priority vegetation across the site to be protected into perpetuity and the scale of development proposed will have minimal impact on a relatively cleared area. The objective is satisfactorily addressed.
(b) <i>to provide for the fair, orderly and sustainable use and development of air, land and water</i>	<i>The development of one lot adjacent to existing low density residential development at a comparable density represents orderly and sustainable development.</i>	Agreed. The proposal is considered as appropriate infill development. The objective is satisfactorily addressed.
(c) <i>to encourage public involvement in resource management and planning</i>	<i>Public involvement can be achieved through the public exhibition process.</i>	Agreed. The strategic planning process for the STRLUS and KLUS also involved extensive public involvement. The objective is satisfactorily addressed.

(d) <i>to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c)</i>	<i>The proposed amendment will facilitate economic development through the proposed residential use and strengthen the nearby economic viability of local commercial uses by increasing population.</i>	Agreed. The objective is satisfactorily addressed.
(e) <i>to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State</i>	<i>The amendment process demonstrates the sharing of responsibility for resource management and planning between different spheres of government, the community and industry.</i>	Agreed. The objective is satisfactorily addressed.
<b>Part 2 Objectives</b>		
<b>Objective</b>	<b>Summary of Proponent response</b>	<b>Comment</b>
(a) <i>to require sound strategic planning and co-ordinated action by State and Local Government</i>	<i>The proposed amendment is consistent with the STRLUS and therefore represents sound strategic planning. The process provides opportunity for co-ordinated involvement by State and Local Government.</i>	Agreed. There is an existing strategic framework in place under the STRLUS and KLUS through both the local and State government processes. The objective is satisfactorily addressed.
(b) <i>to establish a system of planning instruments to be the principal way of setting objectives, policies and controls for the use, development and protection of land</i>	<i>The proposed amendment does not affect the established system of planning instruments and will allow for future development to be assessed against the provisions of the Scheme.</i>	Agreed. The objective is satisfactorily addressed.
(c) <i>to ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land</i>	<i>The planning report submitted with the application demonstrates further development of the lot cannot occur without further re-zoning. Environmental factors have been considered in the report. There will be no adverse impacts in relation to social or economic effects and no further provisions are necessary.</i>	Agreed. A significant component of the justification is the ability to protect priority vegetation into perpetuity. The planning scheme contains the provisions required to facilitate the future development of a minor nature. The objective is satisfactorily addressed.
(d) <i>to require land use and development planning and policy to be easily integrated with environmental, social,</i>	<i>The proposed amendment does not affect the attainment of this objective.</i>	Agreed. The objective is satisfactorily addressed.

<p><i>economic, conservation and resource management policies at State, regional and municipal levels;</i></p>		
<p><i>(e) to provide for the consolidation of approvals for land use or development and related matters and to co-ordinate planning approvals with related approvals</i></p>	<p><i>The proposed amendment does not affect the attainment of this objective.</i></p>	<p>Agreed. The s43A process provides for the consolidated approval process. The objective is satisfactorily addressed.</p>
<p><i>(f) to secure a pleasant, efficient and safe working, living and recreational environment for all Tasmanians and visitors to Tasmania</i></p>	<p><i>The proposed amendment will not contravene this objective.</i></p>	<p>Agreed. The objective is satisfactorily addressed.</p>
<p><i>(g) to conserve those buildings, areas or other places which are scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value</i></p>	<p><i>The proposed amendment will have no impact upon listed or identified places of value.</i></p>	<p>Agreed. The site to be zoned Low Density Residential has been modified over time as part of the existing dwelling surrounds. There are also a number of introduced pine trees within this location. Aboriginal Heritage Tasmania have also provided advice to the effect that there is no requirement for a further study of the area and they have no objection to the proposal proceeding. The objective is satisfactorily addressed.</p>
<p><i>(h) to protect public infrastructure and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community</i></p>	<p><i>The proposed amendment will support the orderly provision of housing and will have no adverse impact on public utilities and other facilities.</i></p>	<p>Agreed. The objective is satisfactorily addressed.</p>
<p><i>(i) to provide a planning framework which fully considers land capability</i></p>	<p><i>The proposed amendment does not affect the attainment of this objective.</i></p>	<p>Agreed. The objective is satisfactorily addressed.</p>

## 8. OBJECTIVES OF SCHEDULE 1 OF THE *LAND USE PLANNING AND APPROVALS ACT 1993*

State Policies are made under the State Policies and Projects Act 1993. As specified by section 13C of this Act, the Council is bound by State Policies and under section 13(1), if a Planning Scheme is inconsistent with a State Policy; the Planning Scheme is void to the extent of that inconsistency. The proposed draft amendment is assessed against the provisions of the relevant State Policies as follows:

### 8.1 State Coastal Policy 1996

As the subject site is located adjacent to the Coast at Oyster Cove, it is within the coastal zone and consideration must be given to the *State Coastal Policy 1996*. The Policy seeks to protect natural and cultural values of the coastal zone, ensure the sustainable development of coastal areas and resources and share responsibility for integrated management of coastal areas and resources. The policy is guided by the following 3 main principles:

1. Natural and cultural values of the coast shall be protected.
2. The coast shall be used and developed in a sustainable manner.
3. Integrated management and protection of the coast zone is a shared responsibility.

Environmental values associated with the site are discussed in detail earlier in this report. As demonstrated, there are mechanisms as a result of this proposal that would result in an excellent planning outcome for the protection of this vegetation.

The proposed area to be zoned Low Density Residential has been modified over the years by way of introduced species and clearing around the curtilage of the existing dwelling. One of the objectives of the State Coastal Policy is to ensure that natural and cultural values of the coast shall be protected. Advice has been provided by Aboriginal Heritage Tasmania (AHT) that it is believed there would be a low probability of Aboriginal heritage being present for this location. AHT have provided their written advice that *“there is no requirement for an Aboriginal heritage investigation and AHT have no objection to the project proceeding”*.

The proposal results in one additional dwelling being allowable which is located between existing dwellings that also abuts the coast. The Scheme provisions ensure that development of a new lot is able to be assessed as compliant with this Policy. There is good connectivity from the site to the services provided within Kettering. As such, the proposal is considered to comply with the *State Coastal Policy 1996*.

### 8.2 State Policy on Water Quality Management 1997

There are existing provisions contained within the KIPS 2015 that relate to issues associated with wastewater disposal and the protection of water quality that may result from future development as a result of the proposed amendment.

The proposed minimum lot size of 3992 sqm is further considered to be of a sufficient size to manage any constraints associated with wastewater and stormwater. Accordingly, the draft amendment is consistent with the State Policy on Water Quality Management 1997.

### **8.3 State Policy on the Protection of Agricultural Land 2009**

The subject site is not zoned Significant Agriculture, nor is it identified as being used for a rural resource use. The land capability is also restricted by the current land use of the area. Therefore this site is not agricultural land' for the purposes of the State Policy and the State Policy does not apply to this amendment.

### **8.4 National Environmental Protection Measures (NEPMs)**

There are no National Environmental Protection Measures relevant to the assessment of the draft amendment.

## **9. ASSESSMENT OF DRAFT AMENDMENT AGAINST TASMANIAN PLANNING COMMISSION PLANNING ADVISORY NOTE 4**

Assessment of a draft amendment for initiation and certification must meet the criteria set out in the Planning Advisory notes prepared by the Tasmanian Planning Commission. Each of these criteria and the way in which this draft amendment meets them is addressed below.

### **9.1 The draft amendment is clear and concise and will achieve its intended purpose**

The draft amendment is considered in detail in this report. It is considered that the draft amendment is clear and concise and will achieve a fair, orderly and sustainable outcome for the development of the site.

### **9.2 The effect on the strategy, intent and all relevant objectives and provisions of the Planning Scheme and any necessary consequential amendments**

The proposed amendment is consistent with the strategy, intent and all relevant objectives and provisions of the *Kingborough Interim Planning Scheme 2015*.

The proposed zoning of Low Density Residential and Environmental Living does not require any necessary consequential amendments. The capability and suitability of that part of the site proposed to be zoned Low Density Residential for residential use has been verified throughout this report. In effect, the proposed zoning of Low Density Residential in the location proposed is consistent with the residential pattern of development for Kettering in this setting.

### **9.3 The effect on the status of use and development**

The proposed amendment would provide for subdivision to a low density residential standard required by the KIPS 2015, with the balance lot being maintained as a single title zoned Environmental Living. The existing provisions contained within the KIPS 2015 are capable of managing the use and development for this site which is consistent with nearby and adjoining land uses.

### **9.4 The effect on any specific land and adjacent land**

The proposed amendment provides opportunity for the site to retain vegetation into perpetuity. No detrimental impact on adjacent land is envisaged given the proposal would facilitate the same type of development and is therefore consistent with the locality. As such, it is considered that the proposed amendment is consistent with and will have a positive impact on adjoining land uses and the established character of the area.

## 10. CONCLUSION

The proposed planning scheme amendment identifies the areas to be zoned Low Density Residential and Environmental Living for this site and enables the subdivision of the balance lot zoned Environmental Living from a new lot zoned Low Density Residential. This ensures that any environmental values on the balance lot are maintained in conjunction with any further development of the site and protection of the headland landscape is established. The proposal demonstrates compliance with the Southern Tasmania Regional Land Use Strategy and the Kingborough Land Use Strategy.

Assessment of the proposed amendment has taken into account the suitability of the land to be zoned Low Density Residential for future residential development and the suitability of the zones proposed for the site. Any constraints have been taken into consideration, along with the potential impacts of residential development in this location. The proposal is considered to have merit in the planning outcomes it achieves by way of conserving a visually prominent locality for Kettering.

As the proposal has been submitted and is governed by a legislative process, it is a requirement that a decision be made by Council as to whether the draft amendment should be initiated. It is considered that a sufficient strategic justification exists in support of the proposed amendment. The Southern Tasmania Regional Land Use Strategy and the Kingborough Land Use Strategy have been considered in conjunction with this proposal and are supportive of such a zone amendment.

The application has been assessed taking all relevant issues into account and as a result of assessment of the draft amendment the proposal demonstrates consistency with the Kingborough Interim Planning Scheme 2015, the requirements of the *Land Use Planning and Approvals Act 1993* and the relevant State Policies. The proposal is therefore considered strategically sound.

Accordingly, the proposal is considered to be consistent with the objectives of the RMPS, the Kingborough Land Use Strategy (December 2013) and the planning principles, strategic directions and regional policies of the Southern Tasmania Regional Land Use Strategy 2010-2035. It is therefore recommended that the draft amendment to the Kingborough Interim Planning Scheme be initiated and certified.

## 11. RECOMMENDATION

MOVED  
SECONDED

That the Planning Authority Committee resolves that the report of the Manager Development Services be received and that:

1. In accordance with section 34(1)(a) of the former provisions of the *Land Use Planning and Approvals Act 1993*, Council initiates draft amendment PSA-2016-3.
2. In accordance with section 35(1)(a) of the former provisions of the *Land Use Planning and Approvals Act 1993*, Council certifies draft amendment PSA-2016-3 as meeting the requirements of section 32 of the Act.
3. In accordance with section 35(4) of the former provisions of the *Land Use Planning and Approvals Act 1993*, Council forwards a copy of the sealed Instrument of Certification and the draft amendment to the Tasmanian Planning Commission.

4. In accordance with section 56S of the *Water and Sewer Industry Act 2008*, Council refers draft amendment PSA-2016-3 to TasWater.
5. In accordance with section 38 of the former provisions of the *Land Use Planning and Approvals Act 1993*, Council publicly exhibits the draft amendment PSA-2016-3 for a period of 28 days.

Name	For	Against	Name	For	Against
Cr Atkinson			Cr Percey		
Cr Dr Bury			Cr Wass		
Cr Chatterton			Cr Winter		
Cr Fox			Cr Wriedt		
Cr Grace					

Attachments:

1. Location Plan (1)
2. Draft Amendment (1)



# KINGBOROUGH INTERIM PLANNING SCHEME 2015 DRAFT AMENDMENT PSA-2016-3

The Kingborough Interim Planning Scheme 2015 is amended as follows:

1. Amend the Ordinance by –

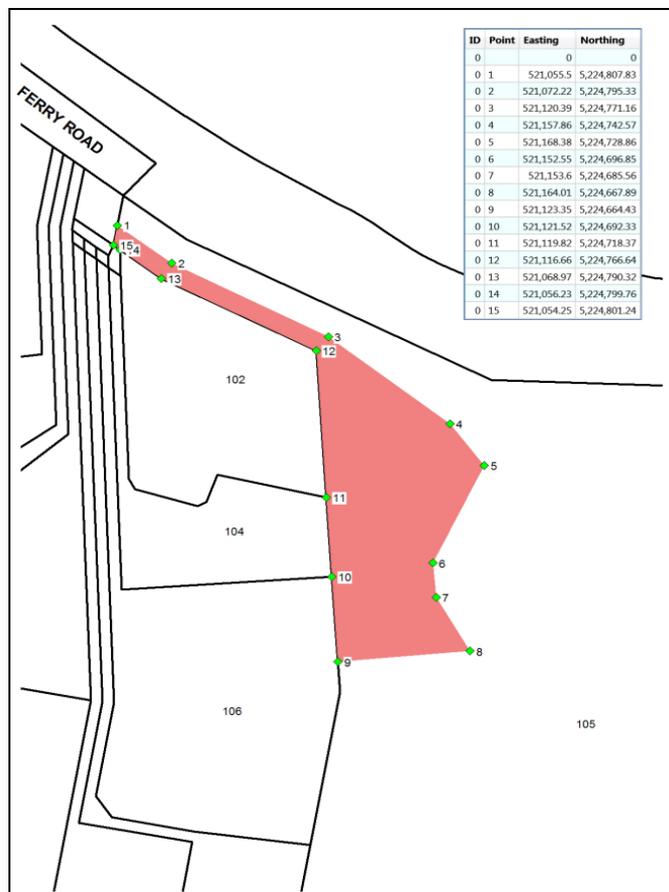
Inserting the words –

“; **except for:**

- (i) **105 Ferry Road, Kettering (CT 239256/1)**

**Where the minimum lot size is determined as the entire portion of the land in this zone”**

2. Rezone a portion of the land zoned Environmental Living to Low Density Residential (Area A) at 105 Ferry Road, Kettering (CT 239256/1) as follows:



**Existing Zone:** Environmental Living Zone  
**Proposed Zone:** Low Density Residential (Area A)

The COMMON SEAL of the Kingborough Council is affixed below, pursuant to the Council's resolution of \_\_\_\_\_, in the presence of:-

..... Councillor  
 ..... General Manager

FILE NO DAS-2016-33  
 DATE 16 AUGUST 2017  
 OFFICER MELISSA STEVENSON - SENIOR PLANNING OFFICER  
 ENDORSED BY TASHA TYLER-MOORE – MANAGER DEVELOPMENT SERVICES

**DAS-2016-33 - DEVELOPMENT APPLICATION FOR SUBDIVISION OF TWO LOTS AT 105 FERRY ROAD, FERRY ROAD ROAD RESERVATION AND ADJOINING CROWN LAND, KETTERING FOR C LINDUS OF EMMA RILEY & ASSOCIATES**

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<b>Application Number:</b>	DAS-2016-33
<b>Applicant:</b>	C Lindus of Emma Riley & Associates
<b>Owner:</b>	M J Cooper
<b>Zoning:</b>	Low Density Residential Area A, Environmental Living, Environmental Management and Utilities
<b>Discretions:</b>	Building area, internal lot, setbacks, public open space, stormwater, minimum lot size, passing areas, surface treatment of parking areas, Biodiversity, and Waterway and Coastal Protection Area
<b>Existing Land Use:</b>	Residential
<b>No. of Representations:</b>	N/A
<b>Planning Issues:</b>	Lot sizes and dimensions, setbacks, public open space, natural values impacts
<b>Recommendation:</b>	Approval subject to conditions

**1. THE PROPOSAL IN DETAIL**

**1.1 The Proposal**

The proposal is for the subdivision of two lots at 105 Ferry Road, Kettering. Proposed Lot 1 is 3992m<sup>2</sup> in area and is contained within the Low Density Residential zone. Lot 2 has an area of 4.248ha and is contained wholly within the Environmental Living zone. Both lots have frontage to a Road Lot at the end of the Ferry Road road reservation which is zoned Utilities. Lot 1 has a 6.65m frontage, whilst Lot 2 has a frontage of 10.03m. Reciprocal rights-of-way over the access strips are proposed for each lot.

The lots are serviced by an existing gravel driveway which partly traverses the adjoining Crown land to the north which is zoned Environmental Management. The owners were not previously aware that the driveway was outside the property boundaries until the land was surveyed for the current application. The existing access will be upgraded to meet current standards. As there are works required on the Crown land, the consent of the Crown was required for the making of the application. The required consent was received and the owners are pursuing an application with the Crown for an access licence over the existing driveway location.

An alternative access design has been submitted for an access wholly contained within the private property boundaries in the event that a Crown Licence cannot be secured. This plan has only been submitted to demonstrate that it is possible to construct a driveway wholly within the property boundaries if required but is not the applicant's preference.

## 1.2 The Site

The subject land is located at the end of Ferry Road at Kettering. It is contained within Certificate of Title Volume 239256 Folio 1 which is 4.648ha in area. The land has frontage to a Road Lot (CT 12828/100) which, whilst still in the name of Marion Jean Cooper, is shown on a Sealed Plan as a “Road Lot” and is therefore taken to be dedicated to the public. The existing access servicing the dwelling on the subject land is also currently partly constructed over adjoining Crown Land to the north which has no title.

The site is located on the headland at the end of Ferry Road and is surrounded by a Crown coastal reserve to the north, east and south. Low density residential lots are located to the west. The existing dwelling and some outbuildings are located within Lot 2, whilst Lot 1 contains an existing shed. The buildings are located on the north facing slope overlooking Little Oyster Cove. The land is partly cleared and partly vegetated with a mix of domestic gardens, non-natives and *Eucalyptus ovata* forest and woodland on the southern part of the site (refer Plate 1 below).



Plate 1 – Aerial image of subject land and surrounding properties

## 1.3 Background

The Council has received an application for an amendment to the Kingborough Interim Planning Scheme 2015 to rezone part of the land from Environmental Living to Low Density Residential Area A. Should the draft amendment be successful, this would create opportunities for further development of the subject land. Section 43A of the former provisions of the *Land Use Planning and Approvals Act 1993* enables an application for use or development to be submitted concurrently with an application for a planning scheme amendment.

Emma Riley & Associates has applied for a subdivision of the land at 105 Ferry Road, Kettering. The subdivision proposal involves the subdivision of two (2) lots. The assessment of this subdivision forms the subject of this report. The planning scheme amendment application (PSA-2016-3) is the subject of a separate report to be considered by Council.

## 2. PLANNING ASSESSMENT

### 2.1 Statutory Implications

This subdivision proposal has been lodged in accordance with section 43A of the former provisions of the *Land Use Planning and Approvals Act 1993* (the Act) which states as follows:

*43A. Application for a permit when amendment requested*

- (1) A person who requests a planning authority to amend a planning scheme may also request the planning authority to consider, in accordance with this Division, an application for a permit which would not be allowed if the planning scheme were not amended as requested.*
- (2) Where a planning authority has decided to initiate an amendment under section 33(3), it may consider the application for a permit under section 43A(1) concurrently with the preparation of the requested amendment to the planning scheme.*
- (3) An application may be made for a permit under this section even if it could not be granted under the existing planning scheme.*

Accordingly, the application has been assessed as though the draft amendment to the Planning Scheme has been approved and is in place.

The land affected by the proposed development is therefore zoned Low Density Residential Area A, Environmental Living, Environmental Management and Utilities under the Kingborough Interim Planning Scheme 2015 (the Scheme). The proposal has been assessed under the Residential Use Class provisions of the Scheme. The proposal is discretionary.

The relevant parts of the Scheme are:

- Part 12.0 – Low Density Residential Zone
- Part 14.0 – Environmental Living Zone
- Part 28 – Utilities Zone
- Part 29 – Environmental Management Zone
- Code E1.0 – Bushfire-Prone Areas Code
- Code E3.0 – Landslide Code
- Code E5.0 – Road and Railway Asset Code
- Code E6.0 – Parking and Access Code
- Code E7.0 – Stormwater Management Code
- Code E10.0 – Biodiversity Code
- Code E11.0 – Waterway and Coastal Protection Code

The following discretions apply to the development:

- (a) Clause 12.5.1(A2) – Building area
- (b) Clause 12.5.1(A4) – Internal lot
- (c) Clause 12.5.1(A5) - Setback
- (d) Clause 12.5.3(A2) – Provision of public open space
- (e) Clause 12.5.4(A3) – Stormwater
- (f) Clause 14.5.1(A1) – Minimum lot size
- (g) Clause 14.5.1(A2) – Building area
- (h) Clause 14.5.1(A5) – Setbacks
- (i) Clause 14.5.4(A2) – Services
- (j) Clause E6.7.3(A1) of Code E6.0 – Vehicular passing areas along an access
- (k) Clause E6.7.6(A1) of Code E6.0 – Surface treatment of parking areas
- (l) Clause E7.7.1(A1) of Code E7.0 – Stormwater drainage and disposal
- (m) Clause E10.8.1(A1) of Code E10.0 – Subdivision within a Biodiversity Protection Area
- (n) Clause E11.8.1(A1) of Code E11.0 – Subdivision within a Waterway and Coastal Protection Area

Council's assessment of this proposal should also consider the issues raised in the representations, the outcomes of any relevant State Policies and the objectives of Schedule 1 of the *Land Use Planning and Approvals Act 1993*.

## **2.2 Public Consultation**

As the application has been lodged in accordance with section 43A of the Act, it has not yet been advertised. If the Council initiates and certifies the draft planning scheme amendment and approves the subdivision, both applications will then be advertised. With regards to the subdivision application, both the proposal plans and Council's decision, including any Planning Permit issued, will be advertised and members of the public will be able to submit representations regarding any component of the applications including the conditions imposed in the Planning Permit. If representations are received during this public exhibition period, a report will come back to the Planning Authority for consideration of the issues raised in the representations.

## **2.3 Strategic Planning**

The relevant strategies associated with the Scheme are as follows:

### *Zone Purpose Statements of the Low Density Residential Zone*

The zone purpose statements of the Low Density Residential zone are to:

- 12.1.1.1 *To provide for residential use or development on larger lots in residential areas where there are infrastructure or environmental constraints that limit development.*
- 12.1.1.2 *To provide for non-residential uses that are compatible with residential amenity.*
- 12.1.1.3 *To avoid land use conflict with adjacent Rural Resource or Significant Agricultural zoned land by providing for adequate buffer areas.*
- 12.1.1.4 *To provide for existing low density residential areas that usually do not have reticulated services and have limited further subdivision potential.*

The proposed subdivision is consistent with these zone purpose statements as the residential lot is larger in size, being 3992m<sup>2</sup> in area, which is greater than minimum 2500m<sup>2</sup> required. The lot is consistent with other low density development in the area and there is no land zoned Rural Resource or Significant Agricultural in close proximity to the site. The size of the lots provides sufficient area to maintain reasonable setbacks and to provide bushfire hazard management within the lot boundaries.

*Clauses 12.1.2 and 12.1.3 – Local Area Objectives and Desired Future Character Statements*

The Scheme details separate Local Area Objectives and Desired Future Character Statements for the main towns in the municipal area. The following Local Area Objectives and Desired Future Character Statements are relevant to the assessment of this application.

*12.1.2 Local Area Objectives*

Local Area Objectives		Implementation Strategy	
<b>KETTERING</b>			
<b>(a)</b>	<i>Kettering's natural values should be protected - including water views, foreshore access and vegetated visual surrounds</i>	<b>(a)</b>	<i>Future development will strive to protect water quality, native vegetation, views and public access.</i>

The proposed subdivision creates an additional development lot in an area that is already disturbed and future development of the lot will have minimal impact on the existing vegetation on the site. The subdivision will result in the priority vegetation on the site being protected in perpetuity through a Part 5 agreement.

The proposal will not result in any adverse impacts to public foreshore access or water views.

Accordingly, the proposed subdivision is considered to be consistent with the Local Area Objectives for Kettering.

12.1.3 Desired Future Character Statements

Desired Future Character Statements	Implementation Strategy
<b>KETTERING</b>	
(a) <i>Kettering is to remain a relatively small, low-density coastal village.</i>	(a) <i>Future development is constrained by the absence of reticulated water and sewer and future suburban type development is to be avoided.</i>

The subdivision results in only one additional lot. Proposed Lot 1 has a lot size greater than the minimum lot size for the zone, thereby maintaining an even lower density of development. The proposal is therefore considered to be consistent with the Desired Future Character Statements for Kettering.

*Zone Purpose Statements of the Environmental Living Zone*

The zone purpose statements of the Environmental Living zone are to:

- 14.1.1.1 *To provide for residential use or development in areas where existing natural and landscape values are to be retained. This may include areas not suitable or needed for resource development or agriculture and characterised by native vegetation cover, and where services are limited and residential amenity may be impacted on by nearby or adjacent rural activities.*
- 14.1.1.2 *To ensure development is reflective and responsive to the natural or landscape values of the land.*
- 14.1.1.3 *To provide for the management and protection of natural and landscape values, including skylines and ridgelines.*
- 14.1.1.4 *To protect the privacy and seclusion that residents of this zone enjoy.*
- 14.1.1.5 *To provide for limited community, tourism and recreational uses that do not impact on natural values or residential amenity.*
- 14.1.1.6 *To encourage passive recreational opportunities through the inclusion of pedestrian, cycling and horse trail linkages.*
- 14.1.1.7 *To avoid land use conflict with adjacent Rural Resource or Significant Agriculture zoned land by providing for adequate buffer areas.*

The proposed subdivision of Lot 2 is consistent with the zone purpose statements of the Environmental Living zone as there is only one lot created, the lot contains the existing dwelling and it maintains and enhances the natural values of the land through the protection, rehabilitation and maintenance of the vegetated parts of the site through the establishment of a conservation area under a Part 5 agreement. There is no land zoned Rural Resource or Significant Agriculture in close proximity to the site.

*Clauses 14.1.2 and 14.1.3 – Local Area Objectives and Desired Future Character Statements*

There are no Local Area Objectives or Desired Future Character Statements for the Environmental Living zone.

### *Zone Purpose Statements of the Utilities Zone*

The zone purpose statements of the Utilities zone are to:

- 28.1.1.1 *To provide land for major utilities installations and corridors.*
- 28.1.1.2 *To provide for other compatible uses where they do not adversely impact on the utility.*

The only works that will be undertaken within the Utilities zone are some upgrading works to provide a turning bay at the end of Ferry Road. This is entirely consistent with the zone purpose statements for the Utilities zone.

### *Clauses 28.1.2 and 28.1.3 – Local Area Objectives and Desired Future Character Statements*

There are no Local Area Objectives or Desired Future Character Statements for the Utilities zone.

### *Zone Purpose Statements of the Environmental Management Zone*

The zone purpose statements of the Environmental Management zone are to:

- 29.1.1.1 *To provide for the protection, conservation and management of areas with significant ecological, scientific, cultural or aesthetic value, or with a significant likelihood of risk from a natural hazard.*
- 29.1.1.2 *To only allow for complementary use or development where consistent with any strategies for protection and management.*
- 29.1.1.3 *To facilitate passive recreational opportunities which are consistent with the protection of natural values in bushland and foreshore areas.*
- 29.1.1.4 *To recognise and protect highly significant natural values on private land.*
- 29.1.1.5 *To protect natural values in un-developed areas of the coast.*

The only works proposed within the Environmental Management zone are minor upgrading to the existing driveway access. The driveway is existing and has been for a long time. The upgrade works include passing bays and sealing of the driveway, however the only works within the land zoned Environmental Management relate to sealing of the driveway. These works will not impact natural values and do not contradict the zone purpose statements for the Environmental Management zone.

### *Clauses 29.1.2 and 29.1.3 – Local Area Objectives and Desired Future Character Statements*

There are no Local Area Objectives or Desired Future Character Statements for the Environmental Management zone.

## **2.4 Zone**

The site is zoned Low Density Residential Area A, Environmental Living and Utilities under the Scheme. This zone provides a range of Use and Development Standards and the proposal is assessed against the relevant provisions as follows:

## 12.0 – Low Density Residential Zone

Lot 1 is located within the Low Density Residential zone and therefore must be assessed against the standards of this zone.

### Section 12.5 – Development Standards for Subdivision

#### *Clause 12.5.1 – Lot Design*

##### A1.

Lot 1 is contained within the Low Density Residential zone and this lot complies with the minimum lot size specified in Table 12.1 for Low Density Residential Area A of 2500m<sup>2</sup>. Compliance with the Acceptable Solution A1 is therefore achieved.

##### A2.

Lot 1 has sufficient dimensions to provide the required building area of 20m x 20m clear of the required setbacks and easements and the site has an average slope of less than 1 in 5, however the building area is not clear of an area subject to a Code under the Scheme, as the Biodiversity Code applies to the site. Therefore, the proposal must be assessed against the Performance Criteria P2 which states as follows:

*P2 The design of each lot must contain a building area able to satisfy all of the following:*

- (a) is reasonably capable of accommodating residential use and development;*
- (b) meets any applicable standards in codes in this planning scheme;*
- (c) enables future development to achieve reasonable solar access, given the slope and aspect of the land;*
- (d) minimises the requirement for earth works, retaining walls, and cut & fill associated with future development;*
- (e) avoids, minimises and mitigates environmental impact arising from future use and development;*
- (f) offsets impacts on trees of high conservation value.*

As the building areas meet the dimension, location and slope requirements of the Acceptable Solution, the only relevant issues under the Performance Criteria relate to the environmental impacts, including the Biodiversity Code.

The building area for Lot 1 is located in an area subject to the Biodiversity Code under the Scheme. An Environmental Values Assessment has been submitted in support of the application. A detailed assessment of the proposal against the provisions of the Biodiversity Code and the impacts on environmental values is provided in by Council's Environmental Planner in the Natural Resource Management section below.

The Planning Submission by the applicant and assessments by North Barker demonstrate that the building envelope for Lot 1 has been located to avoid encroachment into environmental values. Whilst up to 6 black gum trees of high conservation value may be impacted by the proposal, for wastewater disposal and

upgrading the access, the loss of these trees is adequately offset through the retention and protection of the remaining black gum trees on Lot 2.

It is considered that the proposal meets the applicable standards of the Biodiversity Code and avoids, minimises, mitigates and offsets environmental impact. Therefore, the proposed subdivision is considered to be consistent with the requirements of the Performance Criteria P2.

A3.

Under the Acceptable Solution A3, the frontage for each lot must be no less than 30m unless a lot is an internal lot. Lot 1 is an internal lot and therefore the proposal meets the requirements of the Acceptable Solution A3.

A4.

Lot 1 is an internal lot and therefore the proposal must be assessed against the provisions of the Performance Criteria P4 which states:

*An internal lot must satisfy all of the following:*

- (a) access is from a road existing prior to the planning scheme coming into effect, unless site constraints make an internal lot configuration the only reasonable option to efficiently utilise land;*
- (b) it is not reasonably possible to provide a new road to create a standard frontage lot;*
- (c) the lot constitutes the only reasonable way to subdivide the rear of an existing lot;*
- (d) the lot will contribute to the more efficient utilisation of living land;*
- (e) the amenity of neighbouring land is unlikely to be unreasonably affected by subsequent development and use;*
- (f) the lot has access to a road via an access strip, which is part of the lot, or a right-of-way, with a width of no less than 3.6m;*
- (g) passing bays are provided at appropriate distances along the access strip to service the likely future use of the lot;*
- (h) the access strip is adjacent to or combined with no more than three other internal lot access strips and it is not appropriate to provide access via a public road;*
- (i) a sealed driveway is provided on the access strip prior to the sealing of the final plan;*
- (j) the lot addresses and provides for passive surveillance of public open space and public rights of way if it fronts such public spaces.*

The parent title is already an existing lot as it is serviced by a rear access strip. There are no other road frontages that would allow subdivision other than for an internal lot and it is not feasible to construct any new roads. The subdivision will facilitate the use of the land for residential purposes and the amenity of neighbouring land is not considered likely to be unreasonably affected by subsequent use of the lot.

The access strip servicing Lot 1 is in excess of 3.6m, adequate passing is provided for and a shared access with Lot 2 is provided for. The driveway can be sealed to the lot property as part of the subdivision and a condition to this effect should be included in any permit issued. Adequate passive surveillance of the coastal reserve can be provided from the lot.

Compliance with the provisions of the Performance Criteria P4 is therefore achieved.

A5.

Acceptable Solution A5 requires that the setback from a new boundary for an existing building must comply with the relevant Acceptable Solution for setback.

The only existing building on Lot 1 is an existing shed which is located approximately 2m off the new boundary which is a rear boundary given that the lot is an internal lot. The building envelope requirements of Clause 12.4.2(A3) require a rear boundary setback of 4m, therefore the proposal must be assessed against the Performance Criteria of 12.4.2(P3) which states:

*The siting and scale of a dwelling must:*

*(a) not cause unreasonable loss of amenity by*

- (i) reduction in sunlight to a habitable room (other than a bedroom) of a dwelling on an adjoining lot; or*
- (ii) overshadowing the private open space of a dwelling on an adjoining lot; or*
- (iii) overshadowing of an adjoining vacant lot; or*
- (iv) visual impacts caused by the apparent scale, bulk or proportions of the dwelling when viewed from an adjoining lot; and*

*(b) provide separation between dwellings on adjoining lots that is compatible with that prevailing in the surrounding area.*

The separation between the shed and the existing dwelling on Lot 2 is approximately 30m. Accordingly, there will be no impact in relation to overshadowing of the dwelling or its private open space. The proposed setback is consistent with the side boundary setback requirements of the Scheme and this boundary essentially operates like a side boundary rather than the rear boundary that it technically is. Visual impacts are not considered to be an issue as there is no visual change to the existing situation. The separation between the buildings is consistent with that in the surrounding area. Compliance with the Performance Criteria is achieved.

*Clause 12.5.2 – Roads*

A1.

The application does not involve the construction of a new road and therefore compliance with the Acceptable Solution A1 is achieved.

*Clause 12.5.3 – Ways and Public Open Space*

The application does not involve the provision of public open space. As the proposal involves the creation of new lots there will be an increased demand on public open

space. It is not considered appropriate to take land for public open space in this location as it is surrounded by Coastal Reserve on three sides and as such, in accordance with Council's Policy, a cash contribution to the provision of public open space is required. As Lot 1 is the additional lot the required contribution should be based on the unimproved value of this lot only. A condition to this effect should be included in any permit issued.

#### *Clause 12.5.4 – Services*

##### *A1.*

There is no reticulated water service available and as such Acceptable Solution A1 is not relevant to the assessment of the application.

##### *A2.*

There is no reticulated sewer service available and as such Acceptable Solution A2 is not relevant to the assessment of the application.

##### *A3.*

There is no reticulated stormwater system available and as such the application must be assessed against the Performance Criteria P3 which states:

*Each lot must be capable of accommodating an on-site stormwater management system adequate for the likely future use and development of the land.*

The application demonstrates that there is sufficient area on site to accommodate an on-site stormwater management system for any future development on the site. As there is no reticulated water available to the lot, rain water tanks will be required for re-use on the site, thereby reducing the amount of stormwater requiring disposal.

#### 14.0 – Environmental Living Zone

Lot 2 is located within the Environmental Living zone and therefore must be assessed against the standards of this zone.

#### Section 14.5 – Development Standards for Subdivision

##### *Clause 14.5.1 – Lot Design*

##### *A1.*

Lot 2 is contained wholly within the Environmental Living zone and therefore must meet the subdivision requirements of Clause 14.5.1. As the lot is not for “*public open space, a riparian or littoral reserve, or a Utilities, Emergency services, or Community meeting and entertainment use class, by or on behalf of the State Government, a Council, a statutory authority, or a corporation all the shares of which are held by or on behalf of the State or by a statutory authority*” it must be assessed against the provisions of the Performance Criteria P1 which states:

*“The size of lots may be less than that specified in A1 provided all of the following are satisfied:*

- (a) *the number of lots is no more than 1 lot per 10ha, or 1 lot per 20ha on Bruny Island; except for:*
  - (i) *105 Ferry Road, Kettering (CT 239256/1)*

*where the minimum lot size is determined as the entire portion of the land in this zone.*
- (b) *lots are clustered so that their building areas are in proximity to each other thereby reducing overall impact on natural values;*
- (c) *a net conservation benefit is provided through mechanisms on titles for collective responsibility and management of natural values on private land outside those areas required for building areas, private open space and bushfire protection measures;*
- (d) *mechanisms on large titles, with nominal future subdivision potential under A1, prevent further subdivision."*

Lot 2 contains the entire portion of the land in the Environmental Living zone and therefore meets the requirements of Clause (a)(i). There is only one lot within the Environmental Living zone and therefore there is no opportunity for clustering of lots within this zone. Notwithstanding this, Lot 2 already contains a dwelling.

Clause (c) requires a net conservation benefit be provided through mechanisms on the title for collective responsibility and management of natural values on private land outside those areas required for building areas, private open space and bushfire protection measures. To satisfy this requirement, all remnant native vegetation on Lot 2 will require protection under a Part 5 Agreement. Providing a condition is included in the permit requiring a Part 5 Agreement to this effect be developed and registered on the title, it is considered that the proposal will result in a net conservation outcome. Given Lot 2 already contains an existing dwelling, this outcome is considered to be well beyond that which could be achieved in the absence of the subdivision proposal.

There is no future subdivision potential due to the limitations of subclause (a)(i). Therefore the proposed subdivision is considered to be consistent with the requirements of the Performance Criteria P1.

A2.

Lot 2 has sufficient dimensions to provide the required building area of 30m x 30m clear of the required setbacks and easements and the site has an average slope of less than 1 in 5, however it does not have the building area clear of an area subject to a Code under the Scheme as the Biodiversity Code applies to the site. Therefore, the proposal must be assessed against the Performance Criteria P2 which states as follows:

- P2 *The design of each lot must contain a building area able to satisfy all of the following:*
  - (a) *is reasonably capable of accommodating residential use and development;*
  - (b) *meets any applicable standards in codes in this planning scheme;*
  - (c) *enables future development to achieve reasonable solar access, given the slope and aspect of the land;*

- (d) *minimises the requirement for earth works, retaining walls, and cut & fill associated with future development;*
- (e) *is located to minimise environmental impacts;*
- (f) *does not impact on native vegetation subject to any codes in this planning scheme.*

As the building areas meet the dimension, location and slope requirements of the Acceptable Solution, the only relevant issues under the Performance Criteria relate to the environmental impacts and the Biodiversity Code.

As Lot 2 contains an existing dwelling in an area clear of environmental impacts, the provisions of Clauses (e) and (f) are met. Compliance with the Performance Criteria P2 is therefore achieved.

A3.

Under the Acceptable Solution A3, the frontage for each lot must be no less than 40m unless a lot is an internal lot. Lot 2 is an internal lot and therefore the proposal meets the requirements of the Acceptable Solution A3.

A4.

Lot 2 is already an internal lot. Whilst the total frontage for Lot 2 is reduced, it still has in excess of 3.6m frontage. Compliance with the provisions of Clause 14.5.1 is achieved.

A5.

Acceptable Solution A5 requires that the setback from a new boundary for an existing building must comply with the relevant Acceptable Solution for setback.

The existing buildings on Lot 2 are located approximately 7m off the new boundary which does not meet the 30m setback requirement for the Environmental Living zone. Therefore the proposal must be assessed against the Performance Criteria of 14.4.2(P2) which states:

*Building setback from side and rear boundaries must maintain the desirable characteristics of the surrounding landscape and protect the amenity of adjoining lots, having regard to all of the following:*

- (a) *the topography of the site;*
- (b) *the size and shape of the site;*
- (c) *the location of existing buildings on the site;*
- (d) *the proposed colours and external materials of the building;*
- (e) *visual impact on skylines and prominent ridgelines;*
- (f) *impact on native vegetation;*
- (g) *be sufficient to prevent unreasonable adverse impacts on residential amenity on adjoining lots by:*

- (i) *overlooking and loss of privacy;*
- (ii) *visual impact, when viewed from adjoining lots, through building bulk and massing.*

The proposed setback is similar to that found on other lots zoned Environmental Living in the vicinity. The separation between the existing dwelling and the building area for Lot 1 is approximately 23m which will ensure minimal impact from overlooking, loss of privacy and visual impact. Compliance with the Performance Criteria is considered achieved.

#### *Clause 14.5.2 – Roads*

A1.

The application does not involve the construction of any new road and therefore compliance with the Acceptable Solution A1 is achieved.

#### *Clause 14.5.3 – Ways and Public Open Space*

The application does not involve the provision of public open space. A cash contribution will be required for Lot 1 as per Clause 12.5.3, however there will be no requirement for a contribution for Lot 2 as it contains the existing dwelling and there is no further subdivision potential.

#### *Clause 14.5.4 – Services*

A1.

Reticulated water is not available to the site; therefore this clause is not relevant.

A2.

There is no Acceptable Solution and therefore, in accordance with the Performance Criteria P2, Lot 2 must be capable of accommodating an on-site wastewater treatment system adequate for the future use and development of the land. The application is accompanied by an Environmental Site Suitability Assessment which concludes that *“the existing dwelling has a functioning wastewater disposal system installed with no evidence on failure. There is ample land space available should it need to be replaced or upgraded in the future”*. Compliance with the Performance Criteria P2 is therefore achieved.

A3.

Acceptable Solution A3 requires that each lot is connected to a stormwater system able to service the building area by gravity. There is an existing stormwater discharge point for the parent title and this will continue to service proposed Lot 2.

### 28.0 – Utilities Zone

The only works to occur in the Utilities zone are the upgrade to the existing crossover and the construction of a turning bay at the end of Ferry Road. These works are associated with the provision of utilities which is a permitted use in the zone. There are no relevant standards under the zone provisions to assess such works.

## 29.0 – Environmental Management Zone

The only works proposed within this zone are the sealing of the existing driveway. Clause 9.6.1 states that:

*If an application for use of land includes access or connection of services that runs through a different zone to the land upon which the use is proposed to take place, the use status of the application is to be determined disregarding the use status of the access or services in the different zone.*

The access works are associated with a Residential use which would ordinarily be prohibited in the Environmental Management zone as they are not associated with a reserve management plan. Clause 9.6.1 enables the works to proceed as the use status in the Environmental Management zone can be disregarded.

As the works only relate to the sealing of an existing driveway, the standards of the Environmental Management zone are not applicable to the assessment of the application.

## **2.5 Code Matters**

### Code E1.0 – Bushfire-Prone Areas Code

The subject land is considered to be bushfire prone as it is within 100m of an area of bush-fire prone vegetation greater than 1ha. Therefore Code E1.0 applies to the proposal.

A Bushfire Hazard Management Assessment prepared by Clare Hester of Emma Riley & Associates was submitted with the application. This assessment determined that the proposed subdivision was consistent with the requirements of Code E1.0 and provided a Bushfire Hazard Management Plan for approval as part of the application. As Ms Hester is not fully accredited for assessing bushfire risk associated with subdivisions, the bushfire hazard assessment has been endorsed by Mark Chladil from the Tasmania Fire Service. A Certificate under s51(2)(d) of *Land Use Planning and Approvals Act 1993* signed by Ms Hester and Mr Chladil demonstrates that the application is compliant with the relevant Acceptable Solutions of the Code. The proposal complies with the following provisions:

E1.6.1.1.A1(a)

E1.6.1.1.A1(b)

E1.6.1.2.A1(a)

E1.6.1.2.A1(b)

E1.6.1.3.A2(a)

E1.6.1.3.A2(b)

A condition of approval should be included on any permit issued requiring that the bushfire hazard management plan form part of the permit and be implemented accordingly.

### Code E5.0 – Road and Railway Assets Code

Council's Development Engineer has assessed the proposal for compliance with Code E5.0 and has determined that the proposal meets all relevant Acceptable Solutions – refer Engineering section of this report.

### Code E6.0 – Parking and Access Code

Council's Development Engineer has assessed the proposal for compliance with Code E6.0 and has determined that the proposal meets all relevant Acceptable Solutions and/or Performance Criteria – refer Engineering section of this report.

### Code E7.0 – Stormwater Management Code

Council's Development Engineer has assessed the proposal for compliance with Code E7.0 and has determined that the proposal meets all relevant Acceptable Solutions and/or Performance Criteria – refer Engineering section of this report.

### Code E10.0 – Biodiversity Code

Council's Environmental Planner has assessed the proposal for compliance with Code E10.0 as follows:

#### *Clause E10.8.1 – Subdivision Standards in the Biodiversity Code*

As the proposed subdivision involves clearance and conversion of vegetation within a Biodiversity Protection Area, the proposal must be assessed under the Performance Criteria P1. The priority of the biodiversity values on the site as defined in Table E10.1 of the Scheme is summarised below.

- Moderate - individual trees of high conservation value, potential foraging habitat for the critically endangered swift parrot and a threatened flora species listed as rare (*Juncus amibilis*); and
- High – *Eucalyptus ovata* forest and woodland (DOV) and a threatened flora species listed as vulnerable (*Epacris virgata* subsp. Kettering).

Therefore, the proposal is assessed in relation to P1 (b) and (c). Each of the requirements of these performance criteria are addressed below.

- (i) the subdivision works are designed and located to avoid and minimise impacts on the high priority biodiversity values by locating the low density residential lot in a predominantly cleared area and adjacent to services. All threatened flora populations are avoided. While the low density residential lot does contain an area of DOV and a number of high conservation value trees, the potential impacts on these values are considered to be minimised and offset;
- (ii) impacts resulting from future bushfire hazard management measures are minimised as far as reasonably practicable within the low density residential lot through the inclusion of the hazard management areas which achieve BAL-19 within the cleared part of the site. The existing dwelling on Lot 2 does not result in additional impacts on native vegetation as a result of bushfire hazard management;

- (iii) priority biodiversity values outside the area impacted by subdivision works and subsequent development of dwellings are proposed to be retained and protected under a Part 5 Agreement;
- (iv) special circumstances exist for impacts on the DOV as the extent of DOV being impacted is insignificant relative to the extent being retained and protected on and in the vicinity of the development;
- (v) the proposal involves an in-situ offset package that includes protection and management in perpetuity of 0.87 hectares of DOV, 1.49ha of DPU and at least 66 *E. ovata* trees under a Part 5 Agreement. As detailed below, it is considered that this offset package adequately compensates for impacts on priority biodiversity values in accordance with the Guidelines for the Use of Biodiversity Offsets in the Local Planning Approval Process, Southern Tasmanian Councils Authority 2013 and Council Policy 6.10, subject to the inclusion of appropriate conditions. Therefore, this clause is satisfied; and
- (vi) given the small scale of the impact, the clearance and conversion of high priority values will not substantially detract from the conservation status of the biodiversity values in the vicinity of the development.

The proposed subdivision satisfies clause E10.8.1(A2) as it is not prohibited by the relevant zone standards.

#### *Offset proposal*

The proposed offset involves the retention and improvement of 2.36 hectares (or >95%) of the remnant vegetation on the site under a Part 5 Agreement. This offset area results in an offset ratio of >10:1 for the DOV as well as all of the DPU. There is also the opportunity to improve the condition of the remnant vegetation through weed control and recruitment of black gum trees. As shown in Table 1, the offset proposal exceeds the offset ratios specified in Council's Biodiversity Offset Policy.

Providing the proposed Part 5 Agreement includes a requirement for development of management prescriptions, encompassing but not limited to weed control, maintenance of understorey and facilitation of recruitment of black gum trees, it is considered that impacts on priority biodiversity values are able to be offset in accordance with in accordance with the Guidelines for the Use of Biodiversity Offsets in the Local Planning Approval Process, Southern Tasmanian Councils Authority 2013 and Council Policy 6.10.

#### Code E11.0 – Waterway and Coastal Protection Code

The Waterway and Coastal Protection Area applies to the perimeter of the subject land, including the access.

#### *Clause E11.8.1 – Subdivision Standards in the Waterway and Coastal Protection Code*

The Planning Submission indicates the proposal complies with the Acceptable Solution as no works are proposed within this area. However access works are required and these works encroach into the Waterway and Coastal Protection Area. Therefore the proposal must be assessed against the performance criteria. Council's Environmental Planner has assessed the proposal for compliance with the performance criteria as follows:

- (a) the works will require the removal of at least one (1) black gum tree of high conservation value. As demonstrated above, this loss has been minimised to the extent practicable. No other natural values will be impacted;
- (b) the proposal provides for the building area and any associated bushfire hazard management area to be outside the Waterway and Coastal Protection Area.

#### Code E23.0 – On-Site Wastewater Management Code

The On-Site Wastewater Management Code applies to the proposal as it involves the subdivision of a lot less than 5000m<sup>2</sup>. An Environmental Site Suitability Assessment was submitted in support of the application and this has been assessed by Council's Environmental Health Officer.

#### *Clause E23.9.1 – Development Standards for New Lots*

##### A1.

Lot 1 has an area less than 5000m<sup>2</sup> and therefore the proposal must be assessed under the Performance Criteria P1 which states:

*The area of a new lot must be adequate to accommodate a land application area of sufficient size to comply with the requirements of AS/NZ1547 for a dwelling containing a minimum of 3 bedrooms.*

The Site Suitability Assessment report concludes that the use of an Aerated Wastewater treatment System (AWTS) is required and that the size of the lot must be no less than 2500m<sup>2</sup> to allow for sufficient space to incorporate the wastewater management system as well as a dwelling, other outbuildings and access. An area to the south of the building area has been highlighted as the best location for wastewater disposal due to the large amount of space available, with no buildings or driveways constricting the area. It is also stated that the wastewater is not expected to impact upon the established vegetation that exists to the south of the dwelling. Council's Environmental Health Officer is satisfied that the proposal meets the Performance Criteria P1.

##### A2.

The proposed subdivision satisfies Acceptable Solution A2 as it is not prohibited by the relevant zone standards.

#### *Clause E23.9.2 – Development Standards for New Boundaries*

##### A1.

Clause E23.9.2(A1) requires that a new boundary must have a separation distance from an existing land application area that complies with Clause E.23.10.1(A3). Council's Environmental Health Officer is satisfied that the new boundary meets the required separation distances. Compliance with the Acceptable Solution A1 is therefore achieved.

### 3. REFERRALS AND REPRESENTATIONS

#### 3.1 Internal Referrals

##### Health

The proposal relies on on-site wastewater disposal and is subject to the On-site Wastewater Management Code. Council's Environmental Health Officer has assessed the proposal against the provisions of this Code and this is discussed in detail above.

##### Engineering

The following report was prepared by Council's Development Engineering Officer.

##### "Roads and Traffic"

The proposed development is located off Ferry Road which is owned and maintained as road by Council.

The submitted plans and details comply with all of the relevant acceptable solutions of Code E5.0 Road and Rail Asset Code of Kingborough Interim Planning Scheme 2015.

##### Parking and Access

The submitted plans and details have been assessed for compliance with E6.0 Parking and Access Code of Kingborough Interim Planning Scheme 2015 as follows:

##### *E6.7.3 Vehicular Passing Areas Along an Access*

The plans and supporting documentation address the performance criteria because the applicant has almost complied with the acceptable solution but the first passing bay is over the required 30m. The driveway will only serve two dwellings and will have very low traffic volumes and with good sight distances therefore it has been deemed to be suitable to the type of development.

##### *E6.7.6 Surface Treatment of Parking Area*

The plans and supporting documentation address the performance criteria because a spray seal is to be applied along the existing gravel driveway and any upgraded sections for a 75m length of this driveway. This will cover the entirety of the access way until the driveway gets to the lot proper. The seal will reduce any dust from the driveway, impacting upon neighbouring properties.

##### *E6.7.14 Access to a Road*

The plans and supporting documentation address the performance criteria. Access to the Council maintained section of Ferry Road is via a Road Lot shown on a sealed plan. Although the title to the road lot is still in the name of the original subdivider, which is the applicant, it is shown as a Road Lot on a Sealed Plan and is therefore taken to be public. The developer will be required to construct a turning bay at the end of Ferry Road which will be located within this Road Lot. Upon the completion of the turning bay, and prior to the issue of the title to the new subdivision lots, this Road Lot must be transferred to Council ownership at the cost of the developer. A condition to this effect has been recommended for inclusion in any permit issued.

## Stormwater Management

The submitted plans and details have been assessed for compliance with Code E7.0 Stormwater Management Code of Kingborough Interim Planning Scheme 2015 as follows:

### *E7.7.1 Stormwater Drainage and Disposal*

The plans and supporting documentation address the performance criteria because there is no stormwater infrastructure located near the proposed development it is not possible for the proposed development to comply with the acceptable solution. The applicant has demonstrated how they intend to provide a stormwater discharge point for the new lot via the existing swale drain along the driveway to the existing discharge point for the parent lot. The application has been conditioned to provide the required drainage easement in favour for new lot for stormwater discharge.

## Water and Sewer

The applicant will be required to comply with the requirements of TasWater with respect to any water and sewer connections or upgrades required to service the proposed development.

## Telecommunications and Electricity

The provision, removal or relocation of electricity and/or telecommunications infrastructure must be in accordance with the Kingborough Interim Planning Scheme 2015 and the requirements of TasNetworks and/or telecommunication authorities who supply these services.”

## **Environmental Planning**

The following report was prepared by Council’s Environmental Planner.

### “Native vegetation

Based on vegetation mapping undertaken by North Barker in June 2017, the 4.648 hectare site includes a mix of cleared land and remnant native vegetation, including:

- 0.95 hectares of *Eucalyptus ovata* forest and woodland (DOV)
- 1.49 hectares of *Eucalyptus pulchella* forest and woodland (DPU)

The balance of the site is mapped as extra-urban miscellaneous (FUM). There are also individual *E. ovata* trees scattered throughout the FUM, which provide potential foraging habitat for the endangered swift parrot. Each of these vegetation communities are discussed below in relation to their biodiversity significance, including conservation status, condition, habitat values and importance in maintaining ecological function across the landscape.

### *Eucalyptus ovata forest and woodland (DOV) (0.95 hectares)*

DOV is a threatened vegetation community and is listed as a high priority under Code E10.0 of the Scheme. A small proportion of this community is located on Lot 1 (0.08ha or 8.4% of the total extent) and the majority is located on Lot 2 (0.87ha or 91.6%).

The DOV on Lot 1 is generally in reasonably good condition, with a condition score of 75 out of 100. The broader landscape context, limited recruitment of some species and limited understorey diversity were the key factors reducing the condition in this part of the site. There are also scattered weed infestations throughout the DOV. In the large cleared area on the point there is an extensive Spanish heath infestation which encroaches into the DOV, reducing the condition of the vegetation in this area.

Please note, there are a few discrepancies in the Natural Values Determination (North Barker, 19 December 2016), the Planning Submission (Emma Riley and Associates, 14 June 2017) and the updated vegetation mapping in Appendix H of the Planning Submission (North Barker, June 2017) in relation to extent of DOV impacted and the extent of DOV retained. These discrepancies arise from a combination of revisions to the proposed zone boundaries and field verification of vegetation mapping for the site in response to further information requests. In undertaking our assessment, Council relies upon the updated vegetation mapping by North Barker in Appendix H of the Planning Submission and final rezoning proposal. To avoid confusion, these discrepancies are further explained below.

In relation to the extent of DOV impacted, there is a discrepancy between the Natural Values Determination and the Planning Submission, including the updated vegetation mapping by North Barker in Appendix H. The basis for this discrepancy is a revision to the proposed size and configuration of Lot 1 to minimise impacts. As a result of this revision, the extent of DOV impacted is reduced from 0.12ha as identified in the Natural Values Determination to 0.08ha as identified in the Planning Submission and updated vegetation mapping. Therefore, while the Natural Values Determination assesses the extent of impact as 0.12ha, it is accepted as being 0.08ha.

There is also a discrepancy between the Natural Values Determination and the Planning Submission and the vegetation mapping undertaken by North Barker in relation to the extent of DOV outside the area of impact. The Natural Values Determination and Planning Submission identify at least 1.23ha of DOV present on Lot 2, whereas the updated vegetation mapping identifies 0.87ha of DOV in this area. It appears that the figure in the earlier Natural Values Determination and Planning Submission are relying upon TASVEG v3.0 mapping, rather than subsequent field-verified mapping by North Barker. While field verification confirms the extent of DOV is less than shown in TASVEG v3.0, this makes no material difference to the proposal as there is still sufficient DOV on Lot 2 to offset impacts on DOV and satisfy the requirements of the Scheme.

*Eucalyptus pulchella forest and woodland (DPU) (1.49 hectares)*

While TASVEG v3.0 indicates the majority of the remnant vegetation on the site is DOV, the field verified mapping by North Barker identifies over 60% of the remnant vegetation is DPU. DPU is not listed as a threatened vegetation community and is listed as a high priority under Code E10.0 of the Scheme. This community predominantly occurs to the south of the proposed rezoning and in another smaller patch to the east of the DOV. No condition assessment was undertaken within this community. However, it is evident that from the weed mapping that the DPU contains scattered weed infestations. While the DPU is a low priority vegetation community under Code E10.0 of the Scheme, it contains scattered *Eucalyptus ovata* (black gum) trees and an area of a threatened flora species (*Epacris virgata subsp. Kettering*), both of which are of conservation value and elevate the priority of the vegetation to moderate-to high.

## Flora and Fauna Values

In total 48 species of vascular plants were recorded within the area potentially impacted by the proposal during the site survey by North Barker, including 15 introduced species, 2 of which are declared weeds and a number of others are environmental weeds. Of the native species within the area of impact on Lot 1, none are listed as threatened under the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* (EPBCA) or under the *Tasmanian Threatened Species Protection Act 1995* (TSPA). There are two threatened flora species outside the area of impact, including a population of Pretty heath (*Epacris virgata subsp. Kettering* located within an area of DOV and DPU vegetation in the south western corner of the site) and *Juncus amibilis* in the DOV in the centre of the site. While previous surveys within 5km of the property have identified a number of other species of threatened flora variously listed under the TSPA and EPBCA, the likelihood of these species occurring is considered low.

The DOV vegetation and individual black gum trees on the site provides potential habitat for the endangered swift parrot. The site is within the core range for this species and the site contains at least 75 black gum trees with a diameter over 25cm, which are a secondary foraging source. Eight (8) of these trees are within Lot 1, with five (5) potentially impacted. A further mature black gum tree will be impacted by the upgrading of the access. The Tasmanian devil has been recorded within 500m of the site. The area impacted within Lot 1 is not considered likely to be used for nesting, roosting or denning by the species. It is unclear whether or not there is any suitable habitat within Lot 2. The site also provides potential habitat for the eastern barred-bandicoot. The proposal is not considered to present a risk to this species as the greatest threat to this species is considered to be the naturalisation of the European fox.

A map of native vegetation communities and potential threatened fauna habitat is provided in Figure 1 below.

## Weeds

The most extensive declared weed present on the site is Spanish heath (*Erica lusitanica*), which is scattered throughout the bushland and also present in a larger infestation in the cleared area on Lot 2. Gorse (*Ulex europea*) is also present within the bushland on the lot proposed to be rezoned to Low Density Residential zone and blackberry scattered throughout the site. There are also other environmental weed species present within the bushland and in the degraded cleared areas, including radiata pine, cotoneaster and sally wattle. The proposed rezoning and subsequent development of the site provides an opportunity to address the weed issues on the site.



Figure 1: Remnant vegetation and threatened fauna habitat

### Landscape Context

When assessing the significance of the vegetation on the site it is important to consider it in the context of other remnant vegetation within the broader Kettering area. As indicated in Figure 2 and the vegetation condition assessment undertaken for the DOV on and adjacent to the lot proposed to be rezoned, the remnant vegetation is part of a relatively large patch of native vegetation. This means the landscape context for this vegetation is relatively good. The main factor reducing the landscape context score on

the subject land is the extent and configuration of native vegetation present in the broader Kettering area. The lower score here is a reflection that the vegetation around Kettering has been fragmented to some extent. This fragmentation highlights the importance of retaining the remaining native vegetation in the area, especially given some of this vegetation is listed as endangered under the *Nature Conservation Act 2002* and provides potential foraging habitat for a critically endangered threatened species. Any retention and improvement of remnant vegetation on the subject land as a result of the proposed rezoning and subsequent development would therefore contribute to a broader conservation outcome.



**Figure 2: Landscape context of the subject land**

Impacts of the proposed subdivision

The proposed subdivision and subsequent development of Lot 1 will result in the modification of a relatively small area of DOV (0.08ha). This modification is the result of relying upon this area for wastewater disposal. While it is anticipated that the eight (8) black gum trees in this area can be retained, the use of this area as the wastewater application area is considered to result in the conversion of the DOV to a modified understorey over time due to introduction of nutrients, changes in hydrology and soil disturbance. On this basis, the proposal has been assessed as if these values were to be impacted. An additional black gum tree will be impacted by the upgrade to the access, providing the access can be constructed on the existing alignment. As this is reliant upon a Crown licence which hasn't yet been granted, there is the need to provide for an alternative location for the access. A concept plan has been provided showing how the access could be constructed to be located entirely within the subject land. It is unclear whether this approach will require the removal of any further black gums trees. Given the extent of black gums available within the balance area previously identified, the removal of a few additional black gums is considered to be adequately mitigated by the extent of black gums being retained within the balance area.

Due to the impacts on black gums trees, the proposed subdivision will also result in some loss of threatened fauna habitat. There will be no encroachment into the DOV for the purposes of bushfire hazard management.

Table 1 below indicates the extent of each vegetation type that is present, the area impacted by the proposed subdivision and associated infrastructure and the extent to be retained and protected under a Part 5 Agreement on Lot 2.

<b>Vegcode Area</b>	<b>DOV (0.95ha)</b>	<b>DPU (1.49ha)</b>	<b>Individual E. ovata (black gum) trees</b>	<b>Total</b>
<b>Development footprint, including building envelope &amp; access works</b>	0	0	1	Min 1 black gum tree
<b>Bushfire hazard management area</b>	0	0	0	0
<b>Wastewater</b>	0.08	0	5	0.08 ha + 5 black gums trees
<b>Total impacted</b>	0.08	0	6	0.08 ha + 6 black gums trees
<b>Total retained under Part 5 on Lot 2</b>	0.87	1.49	66 minimum	2.36ha + minimum 66 black gum trees
<b>Offset ratio required</b>	5:1 (0.4 ha)	N/A	5:1 for large (2 trees) 3:1 for small (4 trees) Totalling 22 trees	3:1-5:1
<b>Offset ratio achieved</b>	<b>&gt;10:1 (0.87ha)</b>	<b>N/A</b>	<b>10:1 (66 black gum trees)</b>	<b>10:1</b>

**Table 1: Extent of vegetation communities and high conservation value trees to be retained or modified (based on the Planning Submission (Emma Riley and Associates, 14 June 2017) and updated vegetation mapping (North Barker, June 2017)**

As this table shows, while the subdivision proposal will impact upon significant values, the extent of impact is minimal relative to the extent of vegetation being retained. It is therefore considered that impacts from the subdivision are avoided to the extent practicable and are able to be adequately assessed, mitigated and offset through the assessment of the proposed subdivision.”

### **3.2 External Referrals**

There were no external referrals required as part of this application.

### **3.3 Representations**

The application has not been advertised at this time as it has been lodged in accordance with s43A of the Act. Advertising will only occur if the associated planning scheme amendment is initiated and certified by Council.

#### **4. STATE POLICIES AND ACT OBJECTIVES**

The proposal is consistent with the outcomes of the State Policies, including those of the State Coastal Policy.

The proposal is consistent with the objectives of Schedule 1 of the *Land Use Planning and Approvals Act 1993*.

#### **5. CONCLUSION**

The application is for the subdivision of one low density residential lot in close proximity to other low density residential lots. The lot will have sufficient frontage and access. The size, dimensions and location of the lot is adequate to enable future residential development and to ensure that wastewater, vegetation retention and bushfire hazard management can occur within the lot boundaries.

Whilst, the site is in a bushfire prone area, the application is accompanied by an assessment by an accredited person confirming that the relevant provisions of the Scheme are met.

The proposal provides for the retention of the majority of the existing vegetation on the site, which will be rehabilitated, managed and protected through conditions on the permit and a Part 5 agreement.

The subdivision is recommended for approval subject to standard conditions for residential subdivisions as well as conditions relating to the protection of remaining vegetation and the offset of the loss of a small amount of vegetation.

#### **6. RECOMMENDATION**

MOVED  
SECONDED

That the Planning Authority resolves that the report of the Manager Development Services be received and that the development application for subdivision of two lots at 105 Ferry Road and Ferry Road road reservation, Kettering for C Lindus be approved subject to the following conditions:

1. Except as otherwise required by this Permit, use and development of the land must be substantially in accordance with Development Application No. DAS-2016-33 and Council Plan Reference No. P2 submitted on 15 June 2017. This Permit relates to the use of land or buildings irrespective of the applicant or subsequent occupants, and whoever acts on it must comply with all conditions in this Permit. Any amendment, variation or extension of this Permit requires further planning consent of Council.
2. As no provision has been made for recreation space or improvements thereto, and having formed the opinion that such a provision should be made, Council invokes the provisions of Section 117 of the Local Government (Building and Miscellaneous Provisions) Act 1993 and requires security equivalent of 5% of the unimproved value of Lot 1. This should be in the form of a direct payment made before the sealing of the Final Plan, or alternatively, in the form of security provided under Section 117 of the Local Government (Building and Miscellaneous Provisions) Act 1993.

The subdivider is to obtain a valuation from a registered Valuer for the purposes of determining the unimproved value of Lot 1.

3. The Bushfire Hazard Management Plan prepared by Brooks, Lark and Carrick Surveyors (Drawing No. COORO01 9842-01 and dated 18/08/2017) forms part of this Permit and the measures contained within the Plan must be implemented in relation to any future development on the lots.
4. The Final Plan of Survey must include an endorsement that on-site wastewater disposal for Lot 1 is to be via an Aerobic Wastewater Treatment System (AWTS) only.
5. Prior to the commencement of works, detailed engineering drawings submitted for approval for the access must:
  - (a) identify the location, diameter at chest height and species of all trees with a DBH >25cm or height >10m within and directly adjacent to the access works;
  - (b) show the location of these trees relative to access and associated infrastructure, including but not limited to, stormwater/drainage, telecommunications and power;
  - (c) clearly identify which trees are to be removed and which are to be retained;
  - (d) demonstrate that the proposed development and associated infrastructure is located to avoid the removal of trees to the extent practicable;
  - (e) identify reasonable mitigation and/or protection measures to be implemented to minimise the impacts of the development on the health of the trees being retained and avoid their loss within the scope of the approved development;
  - (f) be in accordance with Australian Standard 4970-2009 for the protection of trees on development sites; and
  - (g) be to the satisfaction of the Manager Development Services.

Only those trees identified for removal in the endorsed tree plan may be removed as part of the proposed development unless otherwise approved by Council in writing.

6. To meet the requirements of Clause 14.5.1 (P1) of the Kingborough Interim Planning Scheme 2015 and offset the loss of at least one Eucalyptus ovata tree for the purposes of access and 0.08ha of Eucalyptus ovata forest and woodland (DOV) for the purposes of on-site wastewater disposal, prior to the permit coming in to effect and the removal of any vegetation on site, the applicant must enter into a Part 5 Agreement under the Land Use Planning and Approvals Act 1993 with and to the satisfaction of Kingborough Council to retain and protect the vegetation and habitat values on Lot 2. This Part 5 Agreement must:
  - (a) verify the extent of the conservation zone, which is to encompass all native vegetation communities on Lot 2;
  - (b) provide for the protection for all native vegetation and habitat values within the conservation zone; and
  - (c) identify management prescriptions including, but not limited to, a weed management plan, to ensure that environmental values are managed for their long term survival. These management prescriptions are to be drafted by a suitably qualified environmental consultant and include timeframes and details for each action.

All costs associated with drafting and registering this Part 5 Agreement on the title are to be borne by the applicant.

ADVICE: planning permits containing a requirement for a Part 5 Agreement are not valid until such time as the Agreement is executed, as specified in the Land Use Planning and Approvals Act 1993. Therefore the above Agreement must be signed and sealed, and proof of lodgement of the Agreement with the Land Titles Office for registration on the property title provided to Council, prior to the issue of a start of works notice. A template, and a checklist for the process of drafting and lodging such an Agreement, may be obtained from Council's planning team.

7. Ongoing management of the site must be in accordance with the Part 5 Agreement and all management prescriptions must be satisfactorily implemented.

In addition, prior to Sealing of the Final Plan of Survey, a bond must be paid to Council equivalent to the cost of implementing any outstanding management prescriptions identified in the Part 5 Agreement. This bond must include the cost of monitoring and reporting these prescriptions by a suitably qualified consultant not less than once annually for a minimum period of five (5) years from completion of primary works. The bond will be repaid to the payer in stages on an annual basis once each annual report is received, in accordance with the cost schedule identified in the Agreement.

8. Due to the presence of environmental weeds, prior to the commencement of on-site works, a Weed Management Plan developed by a suitably qualified consultant and to the satisfaction Council's Manager Development Services must be submitted. This Plan needs to include:
  - (a) timeframes and methods of primary and follow up treatment for all declared and environmental weeds on Lot 1;
  - (b) weed hygiene measures required to ensure the risk of the spread of weeds from the site during construction is minimised;
  - (c) a fully costed implementation, monitoring and reporting plan for a minimum of five (5) years (including actions and timeframes).

Primary treatment of all weeds is required in accordance with this Plan and to the satisfaction of the Manager Development Services prior to the sealing of the Final Plan of Survey.

In addition, a weed management bond equivalent to the costs of implementing, monitoring and reporting on outstanding actions in the Weed Management Plan is to be bonded to Council prior to the sealing of the Final Plan of Survey.

Reporting on the progress with respect to the Weed Management Plan outcomes for the site is to be to Council no less than once a year for a minimum of five (5) years.

The bond will be repaid to the payer in stages on an annual basis upon completion of the plan to the satisfaction of Council's Manager Development Services and receipt of the annual report, in accordance with the cost schedule identified in the Agreement.

9. Prior to the commencement of works, engineering design drawings must be submitted to Council for approval. Plans must be to satisfaction of the Executive Manager - Engineering Services and comply with the following:

- (a) incorporate the details required in condition 5 relating to vegetation impacts;
- (b) be in accordance with the Tasmanian Standard construction drawings;
- (c) include, but not be limited to, adequately detailed internal vehicular and pedestrian access, carparking, manoeuvring areas, water reticulation and drainage services;
- (d) the driveway/access road design must detail the following:
  - long and cross sections of the driveway/access road;
  - cut and fill batters and any stabilisation works required;
  - contours, finish levels and gradients of the driveway/access road;
  - drainage and scour protection;
  - sealed pavement construction for the first 75m of the driveway; and
  - the provision of passing bays;
- (e) a 'Y' shape turning head must be constructed at the end of the Council maintained section of Ferry Road and incorporating the land contained within CT 12828/100,
- (f) long section details must be provided for the proposed stormwater infrastructure and supporting documentation and associated hydraulic calculations must be submitted;
- (g) drainage easements must be provided within the subject property boundaries and the stormwater main must be located centrally within the easement;

The engineering plans and specifications must be prepared and certified by a professional Civil Engineer approved by the Executive Manager - Engineering Services. The engineer must supervise the construction works.

Approval of the plans and specifications is required prior to the issue of a Building Permit.

10. The construction works must be undertaken in accordance with the approved drawings. Works must be to the satisfaction and approval of the Executive Manager - Engineering Services and include the following:
- (a) The stormwater runoff from all concrete, paved, or otherwise sealed areas must be collected and contained within the property or discharged by gravity to a Council approved discharge point;
  - (b) The vehicular access must be constructed in accordance with the Tasmanian Standard Drawings (TSD-RO3, TSD-RO4, TSD-E01 and TSD-RF01) and be sealed to match the existing road surface from the edge of the carriageway to the lot boundary. A permit to carry out works within a Council road reservation must be obtained prior to any works commencing within the Council road reservation;
  - (c) Prior to the commencement of site works a soil and water management plan must be submitted to Council for approval. The plan must be in accordance with

NRM South Soil and Water Management of Construction Sites – Guidelines and Tasmanian Standard Drawings (TSD-SW28). A site inspection of the implemented plan by the Council's Development Inspector must be satisfactorily undertaken with the principal contractor prior to the commencement of any work on site.

11. A Council fee of 2% of the estimated value of the civil engineering construction works (including GST, provisional items and contingencies) for the development or the current minimum fee, whichever is the greater, must be paid at the time of submission of the engineering design plans for approval. The actual amounts payable shall be based on the rates adopted by Council and prevailing at the time of payment.

12. Any services to become Council infrastructure assets must be constructed in accordance with the Council approved engineering design drawings. All such works must be inspected by Council.

Upon completion "As Constructed" drawings certified by a professional Civil Engineer with the checklist signed by a Registered Land Surveyor must be submitted to Council as per Kingborough Council's "Survey Brief for Subdivisions and Development Works".

13. The applicant must arrange for the transfer of the Road Lot at the end of Ferry Road (CT 12828/100) to Kingborough Council at the time of lodgement of the Final Plan of Survey for sealing. All costs associated with the transfer must be at the developer's cost.

14. All existing and proposed water, sewer and stormwater pipelines shall be provided with all necessary drainage easements and shown on the Final Plan of Survey lodged for sealing.

Specific easements as required by other authorities shall also be provided and shown on the Final Plan of Survey lodged for sealing.

15. The provision of power to each lot must be in accordance with the requirements of TasNetworks.

16. The provision of telecommunications services to each lot must be in accordance with the requirements of relevant telecommunication agencies.

17. No works shall commence on site, or within a Council roadway, without a 'Start of Works Subdivisions' and 'Development Application' notice being lodged with, and accepted by the Executive Manager - Engineering Services.

A least 5 working days notice of intention shall be given:

- To commence works.
- To resume works after works on site has ceased for a period of six (6) working days or more.

18. All works associated with this subdivision are to be completed to the satisfaction of the Executive Manager – Engineering Services prior to the sealing of the Final Plan of Survey by Council.

19. A re-peg survey is to be undertaken by a registered surveyor upon completion of subdivision construction works. A copy of the re-peg survey notes are to be lodged with Council, together with evidence that they have been registered at the Land Titles

Office. In cases where a Bond and Bank Guarantee are lodged, the cost of the re-peg survey is to be included in the Bond and Bank Guarantee.

20. The satisfactory completion of all public infrastructure shall be considered achieved when:
- A Certificate of Practical Completion has been issued;
  - Minor defects and any defective works have been satisfactorily rectified at the completion of the statutory 26 week maintenance period;
  - A further 26 week maintenance period may be applied to the defective works after rectification;
  - Council shall be entitled to call upon the bond and bank guarantee funds to complete or rectify any outstanding defective works after the expiry of the maintenance period;
  - At the end of the statutory 26 week maintenance period, the supervising Engineer shall request a joint on site inspection with the Council's authorised representative to confirm that all outstanding practical completion minor defects and defective works have been satisfactorily rectified;
  - Upon satisfactory completion of all outstanding practical completion, minor defects and defective works;
  - Council will issue a notice of satisfactory 'Final Inspection' and all of the works shall be the sole responsibility of Council;
  - The effective date of the Certificate of Final Inspection shall be the latest on site inspection date; and
  - After take over of the works, it shall be the responsibility of the supervising engineer or applicant to request Council to release all Bond and Bank Guarantee monies.

#### **ADVICE**

- A. A Final Plan of Survey must be submitted to Council for sealing, together with a Schedule of Easements, a copy of the survey notes, and a copy of the balance plan (where applicable). Payment of Council's fee for sealing the Final Plan of Survey and Schedule of Easements must be made upon submission of plans.
- B. In accordance with section 53(5) of the Land Use Planning and Approvals Act 1993 this permit lapses after a period of two years from the date on which it is granted if the use or development in respect of which it is granted is not substantially commenced within that period.
- C. The Developer should not allocate any property address numbers for the proposed lots.

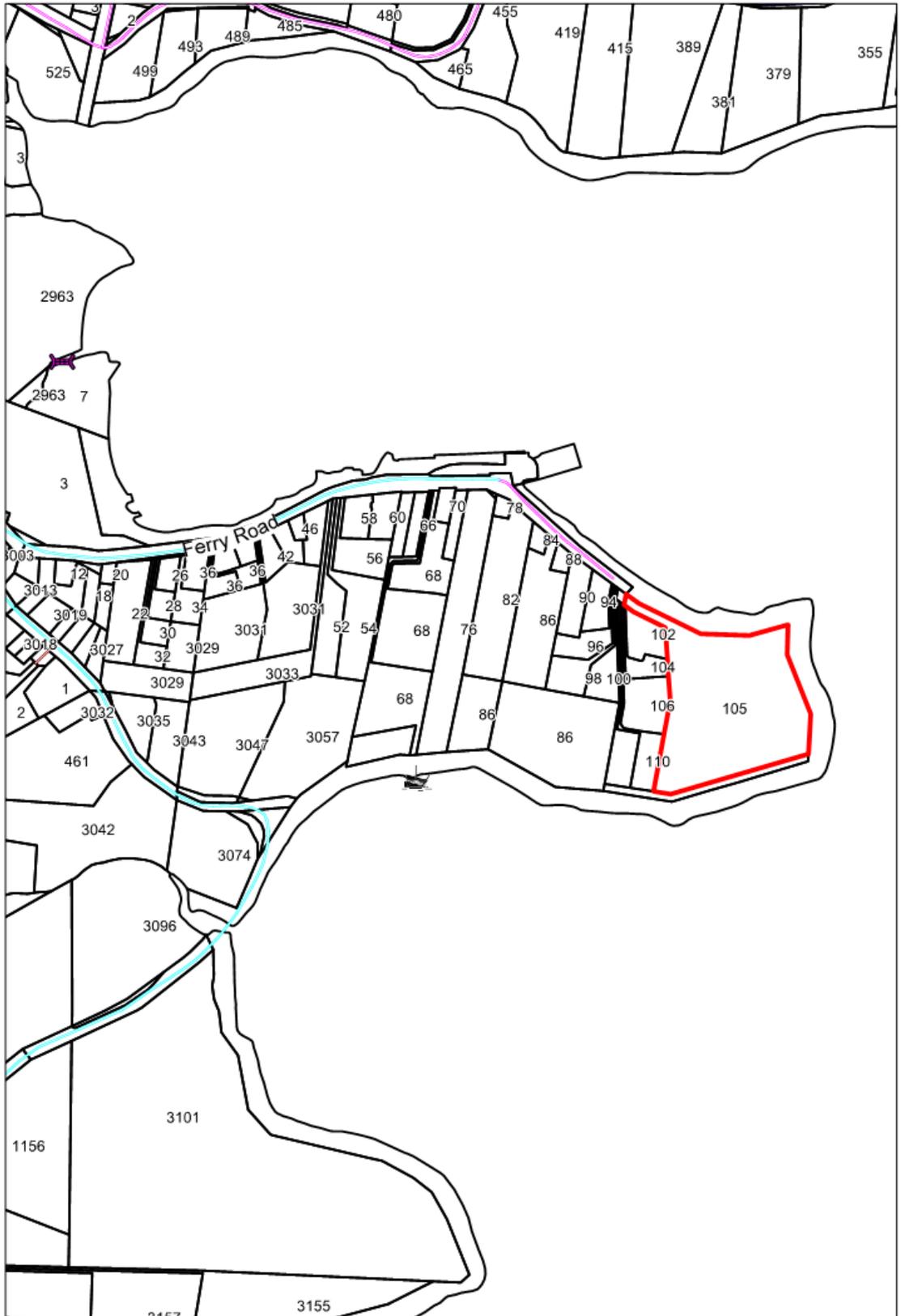
New property addresses have been allocated as follows:

<b>Lot No.</b>	<b>Allocated Property Address</b>
1	105A Ferry Road, Kettering
2	105 Ferry Road, Kettering (existing dwelling)

Name	For	Against	Name	For	Against
Cr Atkinson			Cr Percey		
Cr Dr Bury			Cr Wass		
Cr Chatterton			Cr Winter		
Cr Fox			Cr Wriedt		
Cr Grace					

Attachments:

1. Location Plan (1)
2. Proposal Plans (2)



**Brooks, Lark  
and Carrick  
SURVEYORS**

UNIT 1, 2 KENNEDY DRIVE  
CAMBRIDGE 7170  
PHONE: (03)6248 5898  
EMAIL: admin@blcsurveyors.com.au  
WEB: www.rbsurveyors.com



Denotes 600m<sup>2</sup> Application Area for Wastewater Treatment



Denotes 20m x 20m Indicative Building Area

Development Application: DAS-2016-33  
Plan Reference No.: P2  
Date Received: 15 June 2017

This plan has been prepared only for the purpose of obtaining preliminary subdivisional approval from the local authority and is subject to that approval. All measurements and areas are subject to the final survey.

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Base data from the LIST (www.thelist.tas.gov.au), © State of Tasmania

**OWNER:** M.J. COOPER  
**TITLE REFERENCE:** C.T.239256-1  
**LOCATION:** 105 FERRY ROAD  
KETTERING

**Proposed Subdivision**

<b>Date:</b> 30-01-2017	<b>Reference:</b> COOR001 9842-01
<b>Scale:</b> 1:1250 (A3)	<b>Municipality:</b> KINGBOROUGH



**OPEN SESSION RESUMES**

Open Session of Council resumed at

**CLOSURE**

There being no further business, the Chairperson declared the meeting closed at

.....  
(Confirmed)

.....  
(Date)