



Kingborough

Kingborough Interim Planning Scheme 2015

PSA-2018-5

In accordance with section 42(3)(d) of the former provisions of the *Land Use Planning and Approvals Act 1993*, notice is hereby given that the amendment known as PSA-2018-5 to the *Kingborough Interim Planning Scheme 2015* has received approval by the Tasmanian Planning Commission. The amendment may be viewed during normal office hours at the public office of Kingborough Council, 15 Channel Highway, Kingston and Council's website www.kingborough.tas.gov.au from Wednesday, 1 May 2019 to Wednesday, 8 May 2019. A copy of the amended *Kingborough Interim Planning Scheme 2015* can also be viewed at www.iplan.tas.gov.au.

The approved amendment came into operation on 26 April 2019, and is as follows:

- Rezone a portion of the land at 86 Burwood Drive, Blackmans Bay from Low Density Residential to General Residential. The rezoned area is approved as a residential subdivision and development has substantially commenced.

TASMANIAN PLANNING COMMISSION

DECISION

Planning scheme	Kingborough Interim Planning Scheme 2015
Amendment	PSA-2018-5 - rezone part of 86 Burwood Drive, Blackmans Bay (CT 175211/26, CT 175210/5, CT 175210/2 and CT 167629/25) and part of Lomandra Drive, Blackmans Bay (CT 175210/100) from Low Density Residential to General Residential
Planning authority	Kingborough Council
Applicant	All Urban Planning Pty Ltd obo Ashley and Yeng Dales
Date of decision	11 April 2019

Decision

The draft amendment is modified under section 41(ab) of the *Land Use Planning and Approvals Act 1993* as set out in Annexure A and is approved under section 42.



Sandra Hogue
Deputy Executive Commissioner

Note:

References to provisions of the *Land Use Planning and Approvals Act 1993* (the Act) are references to the former provisions of the Act as defined in Schedule 6 – Savings and transitional provisions of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015*. The former provisions apply to an interim planning scheme that was in force prior to the commencement day of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015*. The commencement day was 17 December 2015.

REASONS FOR DECISION

Background

Amendment

The draft amendment proposes to rezone part of 86 Burwood Drive, Blackmans Bay (including part of CT 175211/26, and the entirety of CT 175210/5, CT 175210/2 and CT 167629/25) and the adjoining road reserve (Lomandra Drive - CT 175210/100) from Low Density Residential to General Residential.

Site information

The land subject to the rezoning is located in Blackmans Bay, adjacent to the Peter Murrell Reserve. A 13 lot subdivision is currently being developed at the site, with four lots already created including a road lot which forms an extension to Lomandra Drive. The area to be rezoned to General Residential includes all lots to be developed as part of the subdivision, with the balance lot to remain within the Low Density Residential zone.

The planning authority advises that a planning permit has been granted for nine multiple dwellings over two of the lots already developed (CT 175210/2 and CT 175210/5), and that construction is underway. Both subdivision and multiple dwelling permits were approved under the Kingborough Planning Scheme 2000 (the previous planning scheme).

The site is within the Biodiversity Protection Area overlay and partially within the Scenic Landscape Area overlay.

Neighbouring land to the north is zoned General Residential and contains a relatively high density mix of single and multiple dwellings. Land to the northwest, east and south is zoned Low Density Residential, land to the west (the Peter Murrell Reserve) is zoned Environmental Management. A TasWater lot immediately to the east and south of the site is zoned Utilities and contains two large water tanks.

Issues raised in representations

A representation from TasWater was received, which advised that it does not object to the amendment, has no formal comments and does not require to be notified of nor attend any subsequent hearings.

Planning authority's response to the representations

The planning authority considered the representation and recommended that the draft amendment be approved as presented.

Consideration of the draft amendment

1. Under section 40 of the *Land Use Planning and Approvals Act 1993* (the Act), the Commission is required to consider the amendment and the representations, statements and recommendations contained in the planning authority's section 39 report.
2. One representation was received and after consultation under section 40(2A) of the Act, the Commission dispensed with holding a hearing.

3. The amendment has been initiated and certified by the Kingborough Council, in its capacity as planning authority, and further supported in the reports under sections 35 and 39.
4. Under section 32(1), in the opinion of the relevant decision-maker, a draft amendment:
 - (a)-(d) . . .
 - (e) must, as far as practicable, avoid potential for land use conflicts with use and development permissible under the planning scheme applying to the adjacent area;
 - (ea) must not conflict with the requirements of section 300;
 - (f) must have regard to the impact that 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.
5. Section 32(1)(e) is not relevant to the draft amendment as the subject site does not adjoin an adjacent municipal area.
6. Under section 32(2), the provisions of section 20(2)-(9) inclusive apply to the amendment of a planning scheme in the same manner as they apply to a planning scheme.
7. Section 300 includes that:
 - (1) An amendment may only be made under Division 2 or 2A to a local provision of a planning scheme, or to insert a local provision into, or remove a local provision from, such a scheme, if the amendment is, as far as is, in the opinion of the relevant decision-maker, practicable, consistent with the regional land use strategy for the regional area in which is situated the land to which the scheme applies.
8. Section 300(2)-(5) inclusive relates to the effect of amending a local provision with respect to common provisions. These matters are not relevant to the draft amendment as there are no implications for any common provisions.
9. Under section 32(1)(f), regional impacts of use and development permissible under the amendment have been considered with reference to the Southern Tasmania Regional Land Use Strategy 2010-2035, 9 May 2018 (the regional strategy).

Strategic Justification

10. In the report under section 35, the planning authority considered the draft amendment against the regional strategy and the Kingborough Council Strategic Plan 2015-2025 (the strategic plan).
11. The planning authority considers the draft amendment is consistent with the Settlement and Residential policies within the regional strategy. The planning authority notes that the site is within the Urban Growth Boundary and supports the aim of the regional strategy for 50 percent of residential growth to occur as infill and densification on unconstrained land.
12. The planning authority notes the strategic plan envisages a high population increase compared to other municipalities and lists the following strategies as particularly relevant:
 - Ensure sound strategic land use planning and asset management provides the basis for sustainable future development and infrastructure investments. (2.1.1)
 - Assess long term accommodation needs within the community and support housing diversity and choice. (2.1.3)
13. The planning authority advises that limited undeveloped General Residential land is available in Blackmans Bay and that the rezoning of the subject site would further the above strategies.

14. The applicant, All Urban Planning, provided a supporting report to the draft amendment. The applicant supports the assertion that limited General Residential land is available in Blackmans Bay, referring to the Dwelling Yield Analysis background paper to the regional strategy:

The regional analysis identified the market segments and where different growth potential might occur. It stated that the area of Blackmans Bay demonstrated potential growth in the middle/upper market segment.

15. The applicant also notes that residential growth in Kingborough was considered in detail by the planning authority in the Kingborough Land Use Strategy 2013 (the local strategy) and quotes the following:

...there are many constraints on existing residentially zoned land - to the extent that much of it may never be eventually developed for this purpose. For example, in the Kingston area, a major constraint is the need to protect high priority vegetation communities that border many existing residential areas. Some large areas of residentially zoned land are so constrained and some may need to be back-zoned in the new planning scheme. Ideally, land which is zoned Residential should be able to be developed for that purpose without any significant constraints impeding this future development (4.4.1).

16. The applicant states that the approved permits for the land demonstrate that the site is suitable for residential development at General Residential zone densities. The applicant further notes that a 60 metre buffer of Low Density Residential zoned land will be retained between the land to be rezoned and the Peter Murrell Reserve, in order to:

...protect the environmental values and respond to the bushfire hazard management considerations for development adjacent to the Reserve.

Commission's consideration

17. The Commission agrees that the subject site is within the Greater Hobart Urban Growth Boundary and that the rezoning will allow infill development consistent with the regional strategy.

18. The Commission also notes that the amendment supports the Settlement and Residential Strategy 1.6:

Utilise the Low Density Residential Zone only where it is necessary to manage land constraints in settlements or to acknowledge existing areas.

19. Given the area to be rezoned is already being developed at densities higher than permitted by the Low Density Residential Zone, it is clear the Low Density Residential Zone is not required to manage land constraints or to acknowledge an existing low density area.

20. The Commission agrees that the rezoning is also consistent with the strategic plan and the local strategy for Kingborough by providing additional housing choice on unconstrained land.

21. The Commission finds the draft amendment is, as far as is practicable, consistent with the regional strategy.

Suitability of the General Residential Zone

22. The applicant advises that the purpose of the zone change to General Residential is to reflect the density of the existing approved subdivision and multiple dwelling development. The applicant reviewed the zone purpose statements for the Low Density Residential Zone and states:

The approved and constructed subdivision and unit development demonstrate that the land is suitable for smaller lots and higher density consistent with the Purpose of the General Residential Zone rather than the Low Density Residential Zone.

23. The applicant also notes the Low Density Residential Zone Local Area Objectives and Desired Future Character Statements for Blackmans Bay are to protect the visual landscape and environmental values of the area. The applicant considers that retaining the balance of the lot within the Low Density Residential Zone forms a 60 metre wide buffer to the Peter Murrell Reserve and therefore protects the environmental values of the reserve.
24. The applicant also considers the proposal is consistent with the General Residential Zone Application Guidelines of the Section 8A 'Guideline No. 1 – Local Provisions Schedule (LPS): zone and code application' as the site is within the Urban Growth Boundary, fully serviced, and unconstrained by hazards or biodiversity values.

Commission's consideration

25. The Commission agrees that the densities allowed under the General Residential Zone are more in line with the density of the developments being progressed on the site. The rezoning will allow the owner to apply for even higher densities than already approved, however this would be in keeping with the higher density development north of the subject site.
26. The Commission also notes that, as the subdivision has already removed much of the native vegetation on the area of the site subject to the rezoning, the Local Area Objectives and Desired Future Character Statements of the Low Density Zone are no longer particularly relevant to the site.
27. The Commission agrees that the retention of the Low Density Zone on the remainder of the site will provide an appropriate transition between the higher density development and the Peter Murrell Reserve.
28. The Commission notes that the Section 8A Guideline is not directly applicable to the assessment of amendments to interim planning schemes. However, the document does serve as a useful guide to indicate whether the proposed zoning will be consistent with the zoning under the Local Provision Schedule. The Commission agrees with the applicant that the site is consistent with the guidelines for the General Residential Zone.

Environmental and scenic values

29. The site is almost entirely within the Biodiversity Protection Area overlay under the planning scheme. The planning authority notes that the site contains remnant threatened native vegetation listed as a high priority under the Biodiversity Code. However, the planning authority states:

The loss of this vegetation was assessed at the time of the subdivision in accordance with the requirements of the planning scheme in effect at the time. The outcome of the subdivision was the loss of the vegetation community within the footprint of the subdivision. As the subdivision has substantially commenced, the proposed rezoning has no implications for impacts on biodiversity values.
30. Areas of the subject site above the 100 metre contour are also subject to the Scenic Landscape Area overlay. The planning authority notes:

The Scenic Landscapes Code will apply to current and any future development on the site, and therefore the proposed rezoning has no implications for impacts on scenic values.

Commission's consideration

31. The Commission agrees that the existing development has already altered the biodiversity and scenic values of the site. The Biodiversity Code and the Scenic Landscapes Code will continue to apply to the site. The Commission notes that these codes are not incompatible with the General Residential Zone provisions.

State Policies and Resource Management and Planning System Objectives

32. The Commission finds that no State Policies are particularly relevant to the draft amendment and that it seeks to further the Objectives of the Resource Management and Planning System in Schedule 1.

Modifications required to draft amendment

33. The certified draft amendment contained a minor typographical error in the text referring to the 'Lower' Density Residential Zone instead of the Low Density Residential Zone. There are no modifications required to the map. The error has been corrected by modification as set out in Attachment A.

Decision on draft amendment

34. Subject to the modification described above, the Commission finds that the draft amendment is in order and gives its approval.

Attachments

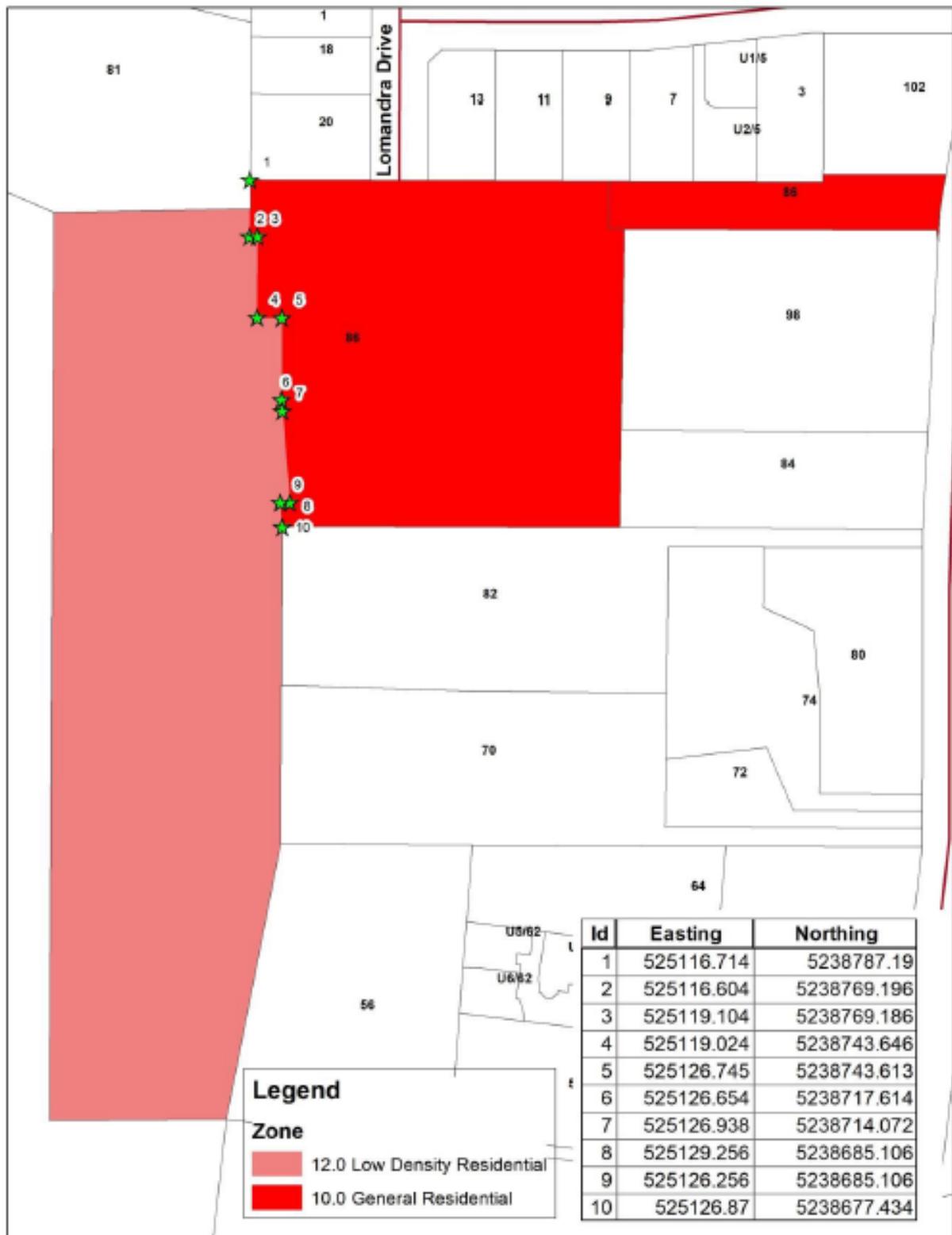
Annexure A – Modified amendment

Annexure A

Modified amendment PSA-2018-5

The Kingborough Interim Planning Scheme 2015 is amended as follows:

1. Rezone a portion of the land zoned Low Density Residential to General Residential at 86 Burwood Drive, Blackmans Bay (CT- 175211/26; CT- 175210/5; CT- 175210/2; CT- 167629/25) and a portion of Lomandra Drive, Blackmans Bay (CT- 175210/100) as follows on the following page:



**TASMANIAN
PLANNING COMMISSION**

Approved



Operative date: 26 April 2019

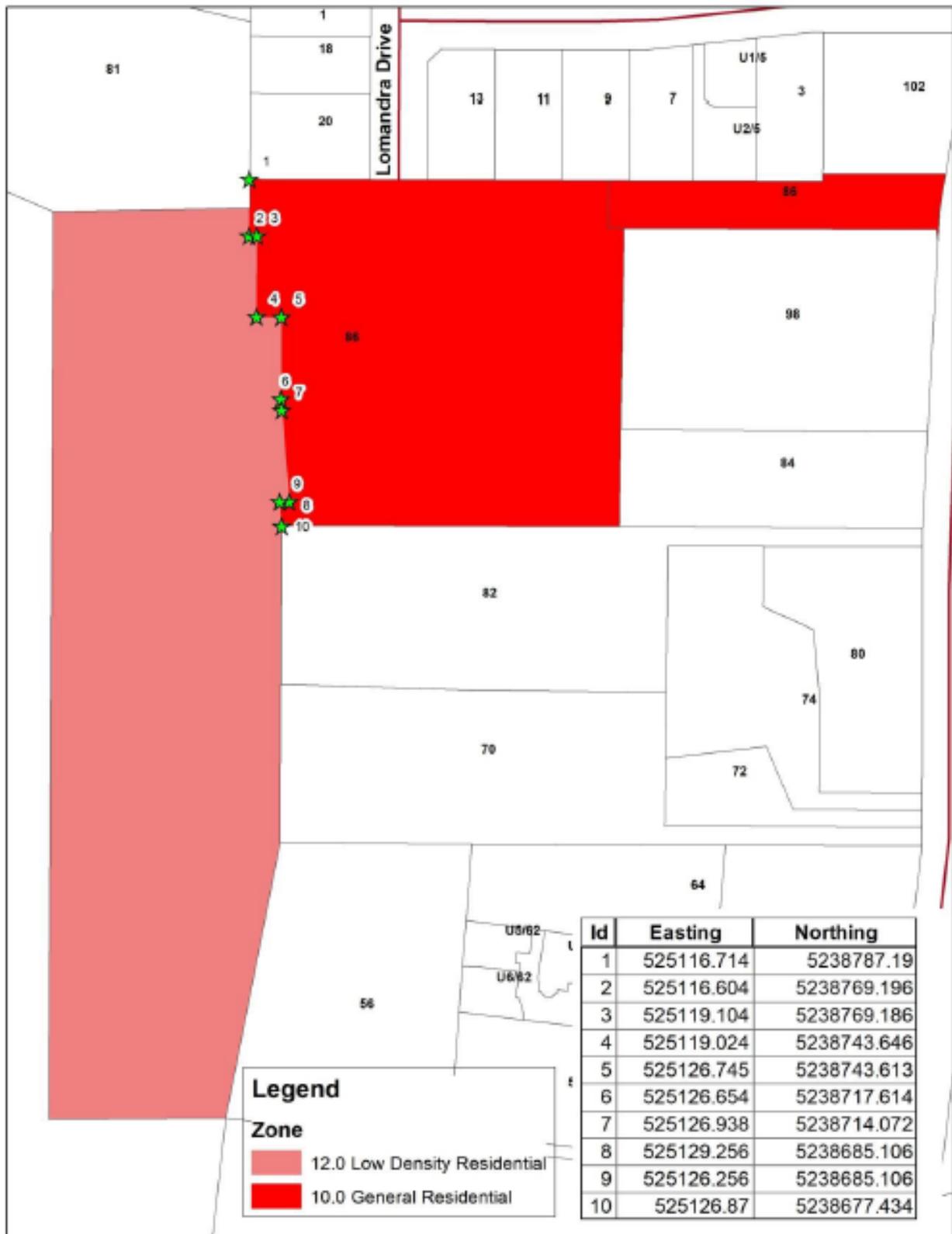
TASMANIAN PLANNING COMMISSION

Kingborough Interim Planning Scheme 2015

Draft amendment PSA-2018-5

The Kingborough Interim Planning Scheme 2015 is amended as follows:

1. Rezone a portion of the land zoned Low Density Residential to General Residential at 86 Burwood Drive, Blackmans Bay (CT- 175211/26; CT- 175210/5; CT- 175210/2; CT- 167629/25) and a portion of Lomandra Drive, Blackmans Bay (CT- 175210/100) as follows on the following page:





Kingborough

Kingborough Interim Planning Scheme 2015

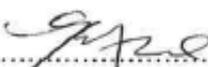
INSTRUMENT OF CERTIFICATION PSA-2018-5

It is hereby certified that draft Amendment PSA-2018-5 to the *Kingborough Interim Planning Scheme 2015* meets the requirements in section 32 of the former provisions of the *Land Use Planning and Approvals Act 1993*.

The Common Seal of the Kingborough Council is affixed hereto, pursuant to the Council's resolution on 10 December 2018, in the presence of:



.......... Councillor

.......... General Manager

..... 12 December 2018 Date