

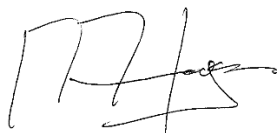
# TASMANIAN PLANNING COMMISSION

## DECISION

<b>Planning scheme</b>	Kingborough Interim Planning Scheme 2015
<b>Amendment</b>	PSA-2021-2 - update to Table E24.1 Significant Tree Register in the Significant Trees Code
<b>Planning authority</b>	Kingborough Council
<b>Applicant</b>	Kingborough Council
<b>Date of decision</b>	24 August 2022

## 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.



Michael Hogan  
Delegate (Chair)



Robin Nolan  
Delegate



Rohan Probert  
Delegate

### 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 update Table E24.1 Significant Tree Register in the Significant Trees Code.

#### Site information

The draft amendment proposes to include 11 new listings (representing 245 trees) at:

- 10 Kingston View Drive, Kingston
- 1/12 Wyburton Place, Margate
- 2 Dallas Avenue, Tarooma
- Blackmans Bay Foreshore
- Adventure Bay Foreshore
- Kingston Beach Reserve
- Tarooma Foreshore
- 5 Belhaven Avenue, Tarooma
- 7 James Avenue, Kingston
- Road casement between 958 and 960 Killora Road, North Bruny
- 25A Osborne Esplanade, Kingston Beach

Delete two listings at:

- Southlea - 342 Proctors Road
- In the road reserve adjacent to 212 Summerleas Road

Amend one listing at:

- Lot 1 Alfreds Garden

The planning authority's assessments for the draft amendment also included another 24 nominations for either listing on, delisting from or review of an existing listing on the Significant Tree Register.

#### Issues raised in representations

The representors raised the following issues:

- support for the listings;
- concern about the reason for listing in the planning scheme;
- concern with risk assessments and liability of trees listed on Council owned land;
- concern regarding the ability to remove or maintain trees once they are listed.

#### Planning authority's response to the representations

The planning authority considered the representations and recommended:

- (a) That the Initiated Planning Scheme Amendment, PSA-2021-2 to update the Significant Tree List and as initiated by Council on 7 January 2022, proceed with the following modification:

That the White Gum (*Eucalyptus viminalis*) at 25A Osborne Esplanade, Kingston Beach TRN 2017-3, not be listed.

- (b) Pursuant to Section 39 of the former provisions of the *Land Use Planning and Approvals Act 1993*, Council forward a copy of this report to the Tasmanian Planning Commission.

### **Date and place of hearing**

The hearing was held at the Commission's office on Level 3, 144 Macquarie Street, Hobart on 14 July 2022.

### **Appearances at the hearing**

Planning authority:       Adriaan Stander, Strategic Planner  
                                      Liz Quinn, Natural Areas and Biodiversity Coordinator

Representors:             Peter Hodgman  
                                      Mike Meerding

### **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. A hearing was convened to assist the Commission consider the issues in the representations.
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. 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.
6. Subsection 32(1)(e) is not relevant to the draft amendment as the site does not adjoin an adjacent municipal area.
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. Subsections 300(2)-(5) inclusive relate to the effect of amending a local provision with respect to common provisions. These matters are not relevant, as the draft amendment has 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 2010-2030 (regional strategy).

### **Regional land use strategy**

10. The planning authority's section 35 report submitted the draft amendment is not directly related to any of the policy directions contained in the strategy, however it will contribute to the following outcomes sought by the strategy:

BNV 1.1 Manage and protect significant native vegetation at the earliest possible stage of the land use planning process.

BNV 1.2 Recognise and protect biodiversity values deemed significant at the local level.

CV 4.2 Ensure the key values of regionally significant landscapes are not significantly compromised by new development through appropriate provisions within planning schemes.

### **Commission consideration**

11. The Commission agrees with the planning authority that the protection of significant trees is not directly addressed by the regional strategy. The Commission considers that the draft amendment is generally in accordance with the regional policies referenced by the planning authority.
12. The Commission finds that the draft amendment is, as far as is practicable, consistent with the regional strategy.

### **Listing of significant trees**

13. The listing or delisting of significant trees relates to Table E24.1 Significant Tree Register to E24.0 Significant Trees Code of the Kingborough Interim Planning Scheme 2015. The Code describes its purpose as 'to recognise and protect trees that are considered to be significant within Kingborough due to aesthetics, size, age, contribution to landscape, historical value, rarity of species or unusual physical features'.
14. The Council's Significant Tree Policy September 2021 (the policy) outlines the process and the criteria to be considered for the listing or delisting of significant trees in the planning scheme. Under the policy, a person can nominate trees to be listed or delisted in the planning scheme and nominations are able to be received at any time.
15. Clause 5.5 of the policy requires that an assessment as to whether a tree ought to be listed or delisted from the significant tree list is to be made against the categories of significance in Clause 5.4 and the guidelines provided in Section 6 of the policy.
16. Clause 5.4 states that a tree or group of trees may be nominated for listing based on one or more categories of significance including:
  - Aesthetic significance
  - Size (height, circumference, canopy)
  - Age
  - Landscape significance
  - Historical significance
  - Rarity of species, variety or genome
  - Unusual physical features

17. The proposed categories of significance are described in more detail in Clause 6.3 of the policy as:
- a) Trees whose form, seasonal beauty and/or placement are such that they are a significant aesthetic component of the streetscape, park, garden or natural landscape in which they grow.
  - b) Trees of outstanding dimensions in height, trunk circumference or canopy spread for their species or for the area.
  - c) Trees that are particularly old either for their species or for the area.
  - d) Trees which occur in a unique location or context and so provide a key contribution to the environmental, cultural and/or historical landscape.
  - e) Trees commemorating a particular broader community interest associated with an historical significance or event.
  - f) Trees of a species or variety that is rare or of very localised distribution or has known genetic values.
  - g) Trees which exhibit a curious growth form or physical feature such as abnormal outgrowths, natural fusion of branches, severe lightning damage or unusually pruned forms.
18. The planning authority advised that a total of 33 nominations were received for new listings. Of those, the planning authority considered 11 nominations (representing 245 trees) to meet one or more of the categories of significance. Those 11 nominations are recommended for listing in the draft amendment. Three further nominations were for the delisting of trees currently on the Significant Tree Register, with two of those delistings included in the draft amendment. Two requests were received to review existing listings.

#### **Commission consideration**

19. The Commission notes the alignment between the purpose of the planning scheme's Significant Tree Code and the categories of significance within the Council's Significant Tree Policy, and that the draft amendment is the first review of entries included on the Register since 2015.
20. The Commission also notes that while one consequence of a tree being included on the Significant Tree Register is the potential need for discretionary planning approval prior to a tree's removal, the planning scheme contains a number of exemption clauses that enable certain types of maintenance, and in some circumstances, removal of listed trees to occur without planning approval being required. The planning authority stated that following this process it would expand the information on its website on how general and code specific planning exemptions relate to applications for works to listed trees.
21. During the hearing, the Commission also heard submissions from the planning authority that all trees located on Council-owned land were actively managed whether listed on the Significant Tree Register or not. The planning authority indicated that in allocating resources to assess and manage risk, the recognition of a tree as significant may increase its relative priority. The Commission notes this advice.

## **Planning Authority supported nominations**

### **10 Kingston View Drive, Kingston - Eucalyptus globulus subsp. globulus (Blue Gum) [TRN-2021-12]**

22. The planning authority's section 35 report recommends the tree at 10 Kingston View Drive, Kingston be listed in the planning scheme.
23. The planning authority's assessment against clauses 5.4 and 6.3 of the policy considers that the tree meets the age and unusual physical features criteria.
24. The planning authority's section 35 report advises that:

The arborist assessment indicates that the tree is more than 100 years old with a life expectancy of another 30 to 50 years.

In terms of its structure, there is some decay and fire damage to the lower trunk. There are very large dead sections, decay and hollows in crown scaffold framework, but is still worthy of being listed.
25. No representations were received in relation to the listing.

### **Commission consideration**

26. No representations or further evidence contrary to that of Council has been submitted for this listing. The Commission finds that the tree meets the age and unusual physical features criteria in the policy and supports the listing.

### **1/12 Wyburton Place, Margate - Eucalyptus ovata (Black Gum) [TRN-2021-11]**

27. The planning authority's section 35 report recommends the tree at 1/12 Wyburton Place, Margate be listed in the planning scheme.
28. The planning authority's assessment against clauses 5.4 and 6.3 of the policy considers that the tree meets the aesthetic significance, size (height, circumference, canopy) and landscape significance criteria.
29. The planning authority's section 35 report advises that:

The arborist assessment indicates that the tree is well formed and overhangs onto 4 properties. The tree is approximately 60 to 80 years old with a life expectancy of another 30 to 50 years.
30. The representors raised safety concerns due to the tree being in close proximity to four homes, the cost of ongoing maintenance requirements and large branches falling from the tree.
31. At the hearing, Mr Stander acknowledged that there was a maintenance cost associated with listed trees located on private property. He noted that Council had already spoken to some of the surrounding landowners regarding their concerns about this tree, and that if the listing proceeded, Council could discuss those concerns and potentially offer assistance in relation to the tree's management.
32. Mr Stander advised that some management works could be completed under exemptions in the planning scheme, and where exemptions did not apply, Council could recommend an arborist. Mr Stander noted that Council had previously assisted with some tree management costs for trees located on private land.

### **Commission consideration**

33. The Commission notes the concerns of the representors, but considers that many of these concerns, specifically as they relate to management of tree limbs, can be addressed by Council via ongoing consultation with residents.
34. The Commission agrees with the planning authority that the tree meets the criteria in the policy for aesthetic significance, size and landscape significance.
35. The Commission was concerned about several aspects of this listing. Primarily, these concerns related to:
  - the location of the tree directly affecting four houses;
  - the comments of the arborist that as the tree ages there would be increasing risk of branch failure, and that to reduce that risk, some crown management would be required in 10-20 years;
  - issues associated with safety and the tree's impact on residential amenity and wellbeing; and
  - the regulatory burden should there be a decision that the tree should be removed.
36. The Commission discussed the exemptions for vegetation management and tree removal that exist in the planning scheme and how these are administered in practice by the planning authority. The Commission considers that the planning scheme would not hamper the management of the crown or removal of the tree in the event of there being an unacceptable risk to safety or the threat of damage to a building.
37. The Commission considered the overall significance of the tree, how this relates to the objectives of the underlying zone, the information on the health and risks associated with the tree, the exemptions within the planning scheme, and the views of the representors. Based on a balanced consideration of these matters, the listing of the tree is supported.

### **2 Dallas Avenue, Taroom - Eucalyptus viminalis (White Gum) [TRN-2021-10]**

38. The planning authority section 35 report recommends the tree at 2 Dallas Avenue, Taroom be listed in the planning scheme.
39. The planning authority's assessment against clauses 5.4 and 6.3 of the policy considers that the tree meets the aesthetic significance, size (height, circumference, canopy) and landscape significance criteria.
40. The planning authority's section 35 report advises that:

The arborist assessment indicates that the tree is approximately 60 to 80 years old, in fair condition with a life expectancy of another 15 to 30 years.

As the tree [ages], there is potential for branch failure over the roof and garden space at 2 Dallas Ave and 6 Oakleigh Ave. There is a need for periodic crown maintenance (this may impact on tree's aesthetics and longevity), however it is still worthy of being listed.
41. Two representations were received from the owners and an adjoining neighbour in support of the listing.

### **Commission consideration**

42. The Commission finds that the tree meets the aesthetic significance, size and landscape significance criteria in the policy and supports the listing.

**Blackmans Bay Foreshore - two Eucalyptus globulus subsp. Globulus (Blue Gums)  
[TRN-2021-6]**

43. The planning authority's section 35 report recommends that the two trees located on the Blackmans Bay Foreshore be listed in the planning scheme.
44. The planning authority's assessment against clauses 5.4 and 6.3 of the policy considers that the trees meet the aesthetic significance and landscape significance criteria.
45. The planning authority's section 35 report advises that:

The arborist assessment indicates that both trees are approximately 50 to 60 years old, in good health with a life expectancy of another 30 to 50 years.
46. No representations were received in relation to the listing.

**Commission consideration**

47. No representations or further evidence contrary to that of Council has been submitted for this listing. The Commission finds that the trees meet the aesthetic and landscape significance criteria in the policy and supports the listing.

**Adventure Bay Foreshore - 1 Eucalyptus obliqua (Stringybark) and a large group of 181 trees largely made up of mature E. obliqua (Stringybark) and E. globulus subsp. Globulus (Blue Gum) [TRN-2021-4]**

48. The planning authority's section 35 report advises that the listing includes one tree on the Adventure Bay Foreshore and a large group of 181 trees growing on the northern and southern side of Adventure Bay Road incorporating the foreshore and roadside plantings essentially opposite the Captain Cook Holiday Park and opposite the Adventure Bay General Store.
49. The planning authority recommends the trees be listed in the planning scheme.
50. The planning authority's assessment against clauses 5.4 and 6.3 of the policy considers that the trees meet the aesthetic significance and landscape significance criteria.
51. The planning authority's section 35 report advises that:

The arborist assessment [indicates] that the Stringy bark tree is between 80 and 100 years old, in good health with a life expectancy of another 30 to 50 years.

The grouping of trees has reached considerable size, with impressive specimens of E. obliqua, E. globulus, and E. viminalis, some reaching 38m in height. The trees are approximately 80 to 100 years old, and generally in good health.

It is likely that more detailed inspections of some individual trees and crown maintenance works will be necessary in the coming years to manage risk. This may impact on the natural form and aesthetics of the individual trees.
52. No representations were received in relation to the listing.

**Commission consideration**

53. No representations or further evidence contrary to that of Council has been submitted for this listing. The Commission finds that the trees meet the aesthetic and landscape significance criteria in the policy and supports the listing.



**Kingston Beach Reserve - group of 19 trees including Eucalyptus globulus subsp. Globulus (Blue Gum) and other contributory species [TRN-2021-3]**

54. The planning authority's section 35 report recommends the trees at the Kingston Beach Reserve be listed in the planning scheme.
55. The planning authority's assessment against clauses 5.4 and 6.3 of the policy considers that the trees meet the aesthetic significance, landscape significance and historical significance criteria.
56. The planning authority's section 35 report advises that:
- The trees line the very popular promenade along the Kingston [Beach] foreshore and marry the distant views of treed hills with the urban landscape of Kingston Beach. The gums, despite the irregular spacing lead the eye along the promenade and provide valuable shade for walkers and vehicles.
- The arborist assessment indicates that the trees are between 60 and 80 years old, in good health with a life expectancy of another 30 to 50 years.
57. Four representations were received for this listing (two in support and two objecting). The representations raise concern with ongoing maintenance and the need to list the trees. The planning authority's section 39 report submits that the ongoing maintenance of the trees is not a consideration under the policy and listing in the planning scheme does not prohibit ongoing maintenance of the trees.

**Commission consideration**

58. The Commission finds that the trees meet the aesthetic, landscape and historical significance criteria in the policy and supports the listing.

**Taroona Foreshore - group of 36 trees Eucalyptus globulus subsp. Globulus (Blue Gum) [TRN-2021-1]**

59. The planning authority's section 35 report recommends the group of 36 trees at the Taroona Foreshore be listed in the planning scheme.
60. The planning authority's assessment against clauses 5.4 and 6.3 of the policy considers that the trees meet the aesthetic significance and landscape significance criteria.
61. The planning authority's section 35 report advises that:
- The trees range in size and form, from 12m high individual by the water's edge to the tallest approximately 32m high.
- The trees form a canopy over the park, including the amenities building and playground.
- These are mature trees, 60-80 years old with the typical range of features for trees of this age and location: decay in trunks, dead branches, historic storm damage and long heavy branches. The trees are generally in good condition, with fair to good structure.
62. No representations were received in relation to the listing.

**Commission consideration**

63. No representations or further evidence contrary to that of Council has been submitted for this listing. The Commission finds that the trees meet the aesthetic and landscape significance criteria in the policy and supports the listing.

### **5 Belhaven Avenue, Tarooma - two Quercus Palustris (Pin Oaks) [TRN-2018-2]**

64. The planning authority's section 35 report recommends that the two trees at 5 Belhaven Avenue, Tarooma be listed in the planning scheme.
65. The planning authority's assessment against clauses 5.4 and 6.3 of the policy considers that the trees meet the aesthetic significance and size (height, circumference, canopy) criteria.
66. The planning authority advises that:

The trees contribute to the deciduous landscape. The arborist assessment indicates that the trees are approximately 50 to 70 years old, in fair to good health with a life expectancy of at least another 50 years.
67. One representation was received from the owners of 5 Belhaven Avenue (Mike and Evelyn Meerding), who raised concerns that the listing was only meant to be for the tree on the front boundary of the property due to its prominence. The representation also raised concern with the ongoing maintenance and pruning of the trees.
68. At the hearing, Mr Meerding submitted that the front tree on his property will eventually interfere with power lines and that he cannot prune the tree due to its height. Mr Meerding also questioned the listing of the second tree, which is located back off the road and close to the side boundary with 7 Belhaven Avenue, as he understood that the nominee only requested the listing of the front tree. Mr Meerding also advised that the branches of the second tree extended over his neighbour's property at 7 Belhaven Avenue and affected their ability to use their driveway.
69. Mr Stander acknowledged that pruning of the trees needed to be undertaken and that Council would consult with the owner to discuss the scope of planning scheme exemptions and potential assistance. Mr Meerding then submitted that he didn't mind if both trees were listed.

### **Commission consideration**

70. The Commission notes the Council's commitment to consult with the owner regarding maintenance of the trees and Mr Meerding's support for the listing of both trees. The Commission finds that the trees meet the aesthetic significance and size criteria in the policy and supports the listing of both trees.

### **7 James Avenue, Kingston - two Eucalyptus viminalis (White Gum) [TRN-2016-1]**

71. The planning authority's section 35 report recommends that the two trees at 7 James Avenue, Kingston be listed.
72. The planning authority's assessment against clauses 5.4 and 6.3 of the policy considers that the trees meet the aesthetic significance, size (height, circumference, canopy) and landscape significance criteria.
73. The planning authority's section 35 report advises that:

The arborist assessment indicates that the trees are approximately 80 to 100 years old, in good health with a life expectancy of another 20 to 40 years.
74. Two representations were received in support of the listing from the owners of 9 James Avenue.
75. At the hearing, the Commission noted that the two nominated trees were part of a group of four similar trees, and queried why all four hadn't been included in the draft amendment.

76. Mr Stander advised that the initial nomination was for two trees only, and that the Council only became aware of the two additional trees during the amendment process, by which time it was too late for them to be included.

#### **Commission consideration**

77. The Commission notes the representations in support and that no further evidence contrary to that of Council has been submitted for this listing. The Commission finds that the trees meet the aesthetic significance, size and landscape significance criteria in the policy, and supports the listing of the two trees on the Register.

#### **Road casement between 958 and 960 Killora Road, North Bruny – Eucalyptus obliqua (Stringybark) [TRN-2021-21]**

78. The planning authority's section 35 report recommends the tree in the road casement between 958 and 960 Killora Road, North Bruny be listed in the planning scheme.
79. The planning authority's assessment against clauses 5.4 and 6.3 of the policy considers that the tree meets the aesthetic significance and unusual physical features criteria.
80. The planning authority's section 35 report advises that:  
The arborist report indicates that the tree is approximately 100 years old and in good health with a life expectancy of another 30 to 50 years.
81. No representations were received in relation to the listing.

#### **Commission consideration**

82. No representations or further evidence contrary to that of Council has been submitted for this listing. The Commission finds that the tree meets the aesthetic significance and unusual physical features criteria in the policy and supports the listing.

#### **25A Osborne Esplanade, Kingston Beach - Eucalyptus viminalis (White Gum) [TRN-2017-3]**

83. The planning authority's section 35 report recommends the tree at 25A Osborne Esplanade, Kingston Beach be listed in the planning scheme.
84. The planning authority's assessment against clauses 5.5 and 6.3 of the policy considers that the tree meets the aesthetic and landscape significance criteria in the policy.
85. The planning authority's section 35 report advises that:  
The arborist assessment indicates that the tree is approximately 50 to 70 years old, in poor health with a life expectancy of less than 10 years, however the significance of the tree in the landscape warrants listing with appropriate maintenance.
86. Representations were received in support of and objecting to the listing. Concerns regarding the use of the site, future development, the poor health of the tree and a potential risk to pedestrians and users of the space around the tree were raised.
87. In response to those concerns, the planning authority's section 39 report recommends that the tree not be listed and that a reassessment of the health and safety of the tree be undertaken by the end of 2022.
88. At the hearing, Ms Quinn noted that the Council had had a productive discussion with the community regarding the tree, and that in general terms, the tree was of high value but declining health. More specifically, Ms Quinn noted that there is fungus armillaria in the soil around the tree, that the Kingston Beach Public Toilets had been designed around the tree, and that the tree will be replaced with a suitable species when it eventually dies.

### **Commission consideration**

89. The Commission notes that the Council's arborist reassessed the tree following the draft amendment's public exhibition period and found that the tree's health had declined since its assessment earlier in the draft amendment process. The Commission also notes the evidence provided by the planning authority that the tree has a life expectancy of less than 10 years, which is one of the mitigating factors against listing specified in Section 6.4 of the Council's Significant Tree Policy. The Commission finds that this tree should not be listed in the planning scheme and modifies the draft amendment accordingly.

### **Southlea, 342 Proctors Road, Kingston - *Crataegus monogyna* (Hawthorn) [TRN-2012-11]**

90. The nomination to the planning authority for this tree at Southlea, 342 Proctors Road, Kingston is for it to be delisted from the Significant Tree Register as the tree has fallen down. The planning authority recommends the tree be delisted.

### **Commission consideration**

91. The Commission finds that as the tree no longer exists, the listing should be deleted from the planning scheme.

### **Road reserve adjacent to 212 Summerleas Road, Kingston - *Eucalyptus viminalis* (White Gum) [TRN-2012-35]**

92. The nomination to the planning authority for this tree located in the road reserve adjacent to 212 Summerleas Road, Kingston is for it to be delisted from the Significant Tree Register as the tree no longer exists due to being removed as part of roadworks to the Huon Highway.
93. The planning authority recommends the tree be delisted.

### **Commission consideration**

94. The Commission finds that as the tree no longer exists, the listing should be deleted from the planning scheme.

### **Lot 1 Alfreds Garden, Kingston – group of 5 *Pinus muricata* (Bishop Pine) [TRN-2012-13]**

95. The nomination to the planning authority is for a review of the existing listing in the planning scheme for Lot 1 Alfreds Garden, Kingston.
96. The planning authority's section 35 report recommends that the listing be amended to refer to four trees rather than five.
97. The planning authority advises that:  
The listing relates to a grouping of trees. One of the trees has fallen down. The remainder of the group of trees still holds significance as per the original assessment.

### **Commission consideration**

98. The Commission finds that as one of the trees has fallen down, the listing in the planning scheme should be modified to refer to four trees.

**Road reserve adjacent to 59 Roslyn Avenue, Kingston Beach - Eucalyptus globulus subsp. Globulus (Blue Gum)**

99. Six representations were received in relation to the tree in the road reserve adjacent to 59 Roslyn Avenue, Kingston Beach, which is currently listed within the planning scheme's Significant Tree Register (TRN 2012- 50). One representation was in support of the tree remaining listed and five requested delisting of the tree. Concerns were raised regarding the inconsistency of the tree with the Significant Tree Policy criteria, safety, the arborists' reports and the tree's location on Roslyn Avenue.
100. At the hearing, representor Peter Hodgman submitted that the tree is dangerous and is not in a suitable location. Mr Hodgman reiterated the recent experience of large branches falling from the tree onto Roslyn Avenue, and the safety of passing vehicular traffic, pedestrian traffic and neighbours should the tree fall down. Mr Hodgman submitted that the Council's recommendations were based on arborists' reports which were inadequate and inferior to the advice provided in his representation by a John McDonald. Mr Hodgman indicated that Mr McDonald was better qualified and had more expertise than Council's arborists, and that his view was that the tree was inherently unsafe in this urban environment and should be removed.
101. Further, Mr Hodgman referenced advice from Tasmania Parks and Wildlife Service that 'blue gums can quickly reach heights in excess of 40m. With large, spreading roots and potentially dangerous falling limbs, blue gums are not suitable species for residential gardens, urban parks or school yards', which he submitted clearly disputed Council's argument that the tree is suitably located.
102. Mr Hodgman noted that the risk assessment conducted for Council by arborist Jerry Romanski used the Quantified Tree Risk Assessment (QTRA) model, and submitted that this model now has failed values, with State Roads abandoning its use.
103. Mr Stander, in reply, submitted that Council-engaged arborists had undertaken risk assessments that indicated that the risks associated with the tree were acceptable. He advised that Council's recommendation to retain the tree on the Significant Tree Register was based on those assessments and that Council does not consider that there is a compelling argument to remove the listing of the tree.
104. Mr Stander referred to the risk assessment by Element Tree Services (28 January 2021) that advised that the tree is of good vitality and that there is no indication that the tree has become defective. This risk assessment concluded that the risk is acceptable for the tree to remain. Subsequently, another risk assessment was completed by Tree Inclined (25 October 2021) to specifically assess Council's risk of public liability. That assessment found that the tree is of good condition and appears to be stable and generally well structured.
105. In terms of risk, Ms Quinn submitted that the advice to Council was that the most likely risk scenario was a failing branch impacting passing vehicular traffic. Ms Quinn noted that the arborists' reports considered the level of risk associated with that scenario to be within acceptable limits.
106. Mr Stander advised that, given the complaints and submissions received in relation to the tree, the Council intended to undertake regular inspections and establish a management plan for the tree that would include the following:
  - Tomography of the upper mid-trunk section of the tree to establish baseline data of trunk decay at this location.
  - Establishment of trunk lean monitoring sites to determine the rate (if any) of trunk subsidence over the road.

- Removal of large and moderate size dead wood when required.
- Risk assessment by an Arborist annually or shorter timeframe at the discretion of the General Manager.

107. In closing, Mr Stander submitted that as the tree is located within a Council-owned road reserve, its ongoing operational management clearly falls on Council. Further to this, Ms Quinn added that while listed trees potentially received a higher level of attention from the Council in relation to maintenance and risk assessment, all trees located on Council-owned land were actively managed whether listed on the Significant Tree Register or not.

### **Commission consideration**

108. The Commission acknowledges the concerns of Mr Hodgman and the other representors regarding the tree in the road reserve adjacent to 59 Roslyn Avenue, Kingston Beach.

109. Council has submitted that it is managing the risk associated with the tree and referred to the intent to establish a maintenance plan that includes ongoing monitoring, removal of dead wood when required and regular risk assessment by an arborist. The Council has also sought arborist advice regarding the current risk posed by the tree and is satisfied that that risk is within acceptable limits.

110. The Commission notes Council's advice that:

- any decisions made by the Council as the owner of the tree would be based on professional advice and established methodologies
- the listing of the tree as significant would not alter the processes relating to safety and the potential need to remove the tree.

111. The planning authority has considered the tree's delisting and has formed the view that as the tree still meets categories of significance within the Significant Tree Policy, its current listing should be maintained.

112. The Commission accepts the evidence of Mr Stander and Ms Quinn on the significance of the tree and finds that the tree should remain listed on the Significant Tree Register.

### **Other nominations**

113. In addition to the above proposed or existing entries on the Interim Planning Scheme's Significant Tree Register, the planning authority examined an additional range of trees that had been nominated for new listing.

114. Advice was provided to the planning authority that recommended not pursuing the listing of the nominated trees. The primary reasons for this included that the individual trees nominated did not exhibit values that constitute a significant tree, did not meet the relevant policy criteria, or that they had a limited life or were slated for removal under existing permits. The planning authority accepted the officer recommendations that the trees did not qualify for inclusion on the Register. Those trees were at:

26-38 Channel Highway, "Grange Villas", Tarooma - Maple, Pine, Conifer and Eucalyptus  
26 Groningen Road, Kingston – English Oak  
1287 Channel Highway, Kingston – Cypress, Monterey Cypress and Blue Gum  
Tarooma Foreshore Reserve - Blue Gum  
28 Groningen Road, Kingston - White Gum  
139 Maudsleys Road, Allens Rivulet - Blue Gum  
104 Channel Highway, Tarooma - Blackwood  
22 Grange Avenue, Tarooma - Blue Gum  
54 Mount Pleasant Road, Kingston – White Gum  
30 Powell Road, Blackmans Bay - Cypress  
Browns River Foreshore Reserve, Kingston Beach - Monterey Pine  
211 Nicholas Rivulet Road, Oyster Cove - English Oak  
52 Channel Highway, Tarooma – White Gum  
72 Burwood Drive, Blackmans Bay - Black Peppermint  
Lot 38 Bluebush Crescent, Blackmans Bay - White Gum  
6 Opal Drive, Blackmans Bay - Brittle Gum  
2 Opal Drive, Blackmans Bay - Brittle Gum

### **Commission consideration**

115. For the reasons examined in the planning authority's section 35 and section 39 reports, the Commission finds that the trees listed above should not be listed on the Significant Tree Register.

### **Southlea, 342 Proctors Road, Kingston - *Aesculus hippocastanum* (Horse Chestnut) [TRN-2012-10]**

116. The planning authority also received a nomination from the landowner at Southlea, 342 Proctors Road, Kingston to review the existing listing of a horse chestnut on that property.
117. Although the owner initially advised that the tree's health has deteriorated over the last 10 years, they agreed during discussions with the Council that delisting may not be appropriate at this point in time. The planning authority submits that the tree still meets criteria within the Significant Tree Policy as per the original assessment, and recommends that the tree remain listed.

### **Commission consideration**

118. The Commission finds that as the tree still meets criteria within the Significant Tree Policy as per the original assessment, its listing upon the Register within the planning scheme should be maintained.

### **State Policies and Resource Management and Planning System Objectives**

119. The State *Coastal Policy 1996* and *State Policy on Water Quality Management 1997* have application to nominated trees identified in the draft amendment. The Commission finds that the draft amendment has been prepared in accordance with State Policies.
120. The Commission finds that the draft amendment furthers the Objectives of the Resource Management and Planning System in Schedule 1, specifically:
121. Part 1 1(a) 'to encourage public involvement in resource management and planning'.
122. Part 2 (g) 'to conserve ... places which are of ... aesthetic ... historic interest, or otherwise of special cultural value'

### **Modifications required to draft amendment**

The draft amendment requires modification to delete the proposed listing for 25A Osborne Esplanade, Kingston Beach.

### **Decision on draft amendment**

The draft amendment should be approved with the modifications as shown in Annexure A.

### **Attachments**

Annexure A – Modified amendment



## Annexure A

Modified amendment PSA-2021-2

The Kingborough Interim Planning Scheme 2015 is amended as follows:

1. Include the following additional listings in Table E24.1 of the Significant Trees Code.

Tree reference	Location	Common Name	Botanical Name	Number Trees	Tenure
TRN-2021-12 (KIN-C6.5.24)	10 Kingston View Drive, Kingston	Blue gum	Eucalyptus globulus subsp. globulus	1	Public
TRN-2021-11 (KIN-C6.5.25)	1/12 Wyburton Place, Margate	Black gum	Eucalyptus ovata	1	Private
TRN-2021-10 (KIN-C6.5.26)	2 Dallas Avenue, Tarooma	White gum	Eucalyptus viminalis	1	Private
TRN-2021-6 (KIN-C6.5.27.1 & KIN-C6.5.27.2)	Blackmans Bay Foreshore	Blue gums	Eucalyptus globulus subsp. Globulus	2	Public
TRN-2021-4 KIN-C6.5.28.1 & KIN-C6.5.28.2 to KIN-C6.5.28.152 & KIN-C6.5.28.153 to KIN-C6.5.28.183	Adventure Bay Foreshore	Stringybark and Blue gums	E. obliqua and E. globulus subsp. globulus.	181	Public
TRN-2021-3 (KIN-C6.5.29.1 to KIN-C6.5.29.13 & KIN-C6.5.29.14 to KIN-C6.5.29.20)	Kingston Beach Reserve	Blue Gums and other contributory species	Eucalyptus globulus subsp. Globulus and other contributory species	19	Public
TRN-2021-1 (KIN-C6.5.30.1 to KIN-C6.5.30.14 & KIN-C6.5.30.15 & KIN-C6.5.30.16 to KIN-C6.5.30.37)	Tarooma Foreshore	Blue gums	Eucalyptus globulus subsp. Globulus	36	Public

TRN-2018-2 (KIN-C6.5.31.1 & KIN-C6.5.31.2)	5 Belhaven Avenue, Taroona	Pin oaks	Quercus Palustris	2	Private
TRN-2016-1 ( KIN-C6.5.32)	7 James Avenue, Kingston	White gums	Eucalyptus Viminalis	2	Private
TRN-2021-21 (KIN-C6.5.33.1 & KIN-C6.5.33.2)	Road casement between 958 and 960 Killora Road, North Bruny	Stringybark	Eucalyptus obliqua	1	Public

2. Delete the following listings in Table E24.1 of the Significant Trees Code.

Tree reference	Location	Common Name	Botanical Name	Number Trees	Tenure
2012-11	Southlea - 342 Proctors Road	Hawthorn	Crataegus monogyna	1	Private
2012-35 (refers 2012-44)	In the road reserve adjacent to 212 Summerleas Road	White gum	Eucalyptus viminalis	1	Public (DIER)

3. Amend the listings in Table E24.1 of the Significant Trees Code to state as follows:

Tree reference	Location	Common Name	Botanical Name	Number Trees	Tenure
2012-13	Lot 1 Alfreds Garden	Bishop Pines	Pinus muricata	4	Public (DIER)