

Deputy Premier  
Treasurer  
Minister for Infrastructure and Transport  
Minister for Planning



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Mr Gary Arnold  
General Manager  
Kingborough Council  
[kc@kingborough.tas.gov.au](mailto:kc@kingborough.tas.gov.au)

Dear Mr Arnold,

### Kingborough Interim Planning Scheme 2015

#### Declarations under Schedule 6 of the *Land Use Planning and Approvals Act 1993* (the Act)

I refer to the transitional provisions under Schedule 6 of the Act which provide for the transitioning of certain provisions in existing planning schemes to the Local Provisions Schedules (LPS).

Following consultation with Kingborough Council and the Commission, I have made declarations in accordance with Schedule 6, Clauses 8(4), 8A(1), 8D(3) and 8D(5) of the Act and have issued the relevant notices (attachments 1, 2, 3 & 4).

I have also enclosed a further non-statutory document prepared by the Department's State Planning Office to clarify the declarations (attachment 5). This document provides important information for Kingborough Council and the Commission on:

- PPZs, SAPs and SSQ required to be transitioned to the LPS in accordance with Schedule 6, Clause 8(1) of the Act; and
- PPZs, SAPs and SSQs which are not subject to the Schedule 6, Clause 8A of the Act;
- code-applying provisions required to be transitioned to the LPS in accordance with Schedule 6, Clause 8D(2) of the Act;
- code-applying provisions that are not required to meet certain requirements of the State Planning Provisions (SPPs); and
- provisions which do not meet the definition of a SSQ under Schedule 6, Clause 1 of the Act.

If you require further information, please contact Leigh Stevens, Senior Planning Adviser with the Department's State Planning Office, phone 6232 7063 or email [leigh.stevens@dpac.tas.gov.au](mailto:leigh.stevens@dpac.tas.gov.au)

Yours sincerely

22/128584

A handwritten signature in blue ink, appearing to be "L. Stevens".



Hon Michael Ferguson MP  
**Minister for Planning**

Attachments

- 1 – Kingborough IPS 2015 – Notice of Declaration – Schedule 6, Clause 8(4)
- 2 – Kingborough IPS 2015 – Notice of Declaration – Schedule 6, Clause 8A(1)
- 3 – Kingborough IPS 2015 – Notice of Declaration – Schedule 6, Clause 8D(3)
- 4 – Kingborough IPS 2015 – Notice of Declaration – Schedule 6, Clause 8D(5)
- 5 – Kingborough IPS 2015 – Transitional Provisions Declarations Clarification Document

# Kingborough Interim Planning Scheme 2015

## *Land Use Planning and Approvals Act 1993*

### Section 87C & Schedule 6, Clause 8(4)

#### DECLARATION

I, MICHAEL DARREL JOSEPH FERGUSON, Minister for Planning, acting in accordance with Schedule 6, Clause 8(4) of the *Land Use Planning and Approvals Act 1993* ("the Act") after having consulted with the Tasmanian Planning Commission, declare the specific area plans, particular purpose zones and site specific qualifications identified in the Schedule to this declaration to be plans zones and qualifications to which Schedule 6, Clause 8 of the Act does not apply.

Dated this 13 day of April, 2023

MICHAEL DARREL JOSEPH FERGUSON

Minister for Planning

#### The Schedule

#### **Specific Area Plans, Particular Purpose Zones and Site-specific Qualifications declared not subject to Schedule 6, Clause 8 of the Act**

<b>Provision</b>	<b>Reason</b>
32.0 Particular Purpose Zone – Urban Growth Zone	The Particular Purpose Zone is provided for by the State Planning Provisions Future Urban Zone
F1.0 Kingston Green Specific Area Plan	Council have advised that they wish to revise this SAP and include it in the draft LPS as a new SAP.
E3.0 Landslide Code	The provision is provided for by the State Planning Provisions Landslip Hazard Code.
E9.0 Attenuation Code	The provision is provided for by the State Planning Provisions Attenuation Code
E10.0 Biodiversity Code	The provision is provided for by the State Planning Provisions Natural Assets Code.
E11.0 Waterway and Coastal Protection Code	The provision is provided for by the State Planning Provisions Natural Assets Code.
E13.0 Historic Heritage Code	The provision is provided for by the State Planning Provisions Local Historic Heritage Code.
E14.0 Scenic Landscapes Code	The provision is provided for by the State Planning Provision Scenic Protection Code

Provision	Reason
E15.0 Inundation Prone Areas Code	The provision is provided for by the State Planning Provisions Coastal Inundation Hazard Code and the Flood-prone Areas Hazard Code.
E16.0 Coastal Erosion Hazard Code	The provision is provided for by the State Planning Provisions Coastal Erosion Hazard Code.
E20.0 Acid Sulphate Soils Code	The management of acid sulphate soils can be achieved through appropriate zoning and the operation of the waterway and coastal protection area component of the SPPs Natural Assets Code. Clause 6.11.2 in the State Planning Provisions also provides for conditions or restrictions to be imposed on a permit for construction management, which may include the management of acid sulphate soils.
E21.0 Dispersive Soils Code	The management of dispersive soils can be achieved by appropriate zoning and Clause 6.11.2 in the State Planning Provisions which provides for conditions or restrictions to be imposed on a permit for the management of soil erosion.
Low Density Residential Zone – 12.2 Use Table. Residential discretionary – ‘Only if a retirement village and located in Areas A and/or B’	The provision is inconsistent with the State Planning Provisions Low Density Residential Zone Use Table 10.2 as it downgrades the status of the Residential use class in the Zone.
Low Density Residential Zone – 12.2 Use Table. Residential permitted – ‘Only if located in Area C’	Council have advised that this provision is no longer required.

# Kingborough Interim Planning Scheme 2015

## *Land Use Planning and Approvals Act 1993*

### Section 87C & Schedule 6, clause 8A(1)

#### NOTICE OF DECLARATION

To: Kingborough Council

Take notice that in accordance with Schedule 6, Clause 8A(1) of the *Land Use Planning and Approvals Act 1993* ("the Act") I, MICHAEL DARREL JOSEPH FERGUSON, Minister for Planning, after having consulted with the Tasmanian Planning Commission, declare that the draft Kingborough Local Provisions Schedule prepared and the Kingborough Local Provisions Schedule made in relation to the municipal area of Kingborough under Part 3A of the Act must contain the specific area plans, particular purpose zones and site-specific qualifications provisions identified in the Schedule to this Notice.

Dated this 13 day of April, 2023



MICHAEL DARREL JOSEPH FERGUSON

Minister for Planning

#### The Schedule

#### **Specific Area Plans, Particular Purpose Zones and Site-specific Qualifications declared subject to Schedule 6, Clause 8A(1) of the Act**

Provision
Environmental Management Zone – 29.2 Use Table Residential discretionary – “Only if for bushfire hazard management on land known as 81 Channel Highway, Tarooma (folio of the Register volume 198412 folio 1) and directly associated with and subservient to a Residential use on land known as 83 Channel Highway, Tarooma (folio of the Register volume 167539 folio 1)”
F3.0 Former Kingston High School Specific Area Plan

# Kingborough Interim Planning Scheme 2015

## *Land Use Planning and Approvals Act 1993*

### Section 87C & Schedule 6, clause 8A(1)

#### NOTICE OF DECLARATION

To: Kingborough Council

Take notice that in accordance with Schedule 6, Clause 8A(1) of the *Land Use Planning and Approvals Act 1993* ("the Act") I, MICHAEL DARREL JOSEPH FERGUSON, Minister for Planning, after having consulted with the Tasmanian Planning Commission, declare that the draft Kingborough Local Provisions Schedule prepared and the Kingborough Local Provisions Schedule made in relation to the municipal area of Kingborough under Part 3A of the Act must contain the specific area plans, particular purpose zones and site-specific qualifications provisions identified in the Schedule to this Notice.

Dated this 13 day of April, 2023



MICHAEL DARREL JOSEPH FERGUSON

Minister for Planning

#### The Schedule

### **Specific Area Plans, Particular Purpose Zones and Site-specific Qualifications declared subject to Schedule 6, Clause 8A(1) of the Act**

Provision
Environmental Management Zone – 29.2 Use Table Residential discretionary – “Only if for bushfire hazard management on land known as 81 Channel Highway, Tarooma (folio of the Register volume 198412 folio 1) and directly associated with and subservient to a Residential use on land known as 83 Channel Highway, Tarooma (folio of the Register volume 167539 folio 1)”
F3.0 Former Kingston High School Specific Area Plan

# Kingborough Interim Planning Scheme 2015

## *Land Use Planning and Approvals Act 1993*

### Section 87C & Schedule 6, clause 8D(3)

#### DECLARATION

I, MICHAEL DARREL JOSEPH FERGUSON, Minister for Planning, acting in accordance with Schedule 6, Clause 8D(3) of the *Land Use Planning and Approvals Act 1993* ("the Act") after having consulted with the Tasmanian Planning Commission, declare that Schedule 6, clause 8D(2) of the Act does not apply in relation to the code-applying provisions identified in the Schedule to this declaration in relation to the municipal area of Kingborough.

Dated this 13 day of April, 2023



MICHAEL DARREL JOSEPH FERGUSON

Minister for Planning

#### The Schedule

#### Code-applying Provisions declared not subject to Schedule 6, Clause 8D(2) of the Act

Code	Reason
E1.0 Bushfire-Prone Areas Code	The code contains no relevant Code-applying Provisions.
E2.0 Potentially Contaminated Land Code	The code contains no relevant Code-applying Provisions.
E3.0 Landslip Code	The Local Provision Schedule requirements at clause LP1.7.12 of the State Planning Provisions specify the mapping to be used for the Landslip Hazard Area overlay for the State Planning Provisions Landslip Hazard Code.
E5.0 Road and Railway Assets Code	The code contains no relevant Code-applying Provisions.
E6.0 Parking and Access Code	The code contains no relevant Code-applying Provisions.
E7.0 Stormwater Management Code	The code does not relate to an equivalent State Planning Provisions Code.
E8.0 Electricity Transmission Infrastructure Protection Code	The Local Provisions Schedule requirements at clause LP1.7.3 of the State Planning Provisions specify the mapping to be used to create the various overlays for the State Planning Provisions Electricity Transmission Infrastructure Protection Code.

Code	Reason
E9.0 Attenuation Code	The code contains no relevant Code-applying Provisions.
E10.0 Biodiversity Code	The Local Provisions Schedule requirements at clause LP1.7.5 of the State Planning Provisions and guidelines NAC 7 to NAC 12 of Guideline No.1 specify how the Priority Vegetation Area overlay is to be generated for the State Planning Provision Natural Assets Code.
E11.0 Waterway and Coastal Protection Code	Guidelines NAC 1 to NAC 3 of Guideline No.1 specify how the Waterway and Coastal Protection Area is to be created for the State Planning Provision Natural Assets Code.
<p>E13.0 Historic Heritage Code, Excluding:</p> <ul style="list-style-type: none"> <li>• Table E13.1 Heritage Places (including any figures showing extent of listing);</li> <li>• Table E13.2 Heritage Precincts;</li> <li>• The Heritage Precincts overlay;</li> <li>• The Place of Archaeological Potential figure; and</li> <li>• Table E13.4 Places of Archaeological Potential;</li> </ul> <p>Unless the place, precinct, figure or overlay has been inserted or removed by amendment after the commencement day;</p>	<p>The only relevant Code-applying Provisions are:</p> <ul style="list-style-type: none"> <li>• Table E13.1 Heritage Places (including any figures showing extent of listing);</li> <li>• Table E13.2 Heritage Precincts;</li> <li>• The Heritage Precincts figure;</li> <li>• The Place of Archaeological Potential figure; and</li> <li>• Table E13.4 Places of Archaeological Potential;</li> </ul>
<p>E14.0 Scenic Landscapes Code Excluding:</p> <ul style="list-style-type: none"> <li>• The Scenic Landscapes Area overlay, if on land that is a zone listed in clause C8.2.1 of the State Planning Provisions.</li> </ul>	<p>The only relevant Code-applying Provision is:</p> <ul style="list-style-type: none"> <li>• The Scenic Landscapes Area overlay, if on land that is a zone listed in clause C8.2.1 of the State Planning Provisions.</li> </ul>
E15.0 Inundation Prone Areas Code,	The Local Provisions Schedule requirements at clause LP1.7.9 of the State Planning Provisions specify the mapping to be used to create the Coastal Inundation Hazard Area overlay for the State Planning Provision Coastal Inundation Hazard Code. Guideline CIHC 2 of Guideline No. 1 specifies how the Coastal Inundation Hazard Bands AHD Level table is to be populated for the State Planning Provision Coastal Inundation Hazard Code.
E16.0 Coastal Erosion hazard Code	The Local Provision Schedule requirements at clause LP1.7.8 of the State Planning Provisions specify the mapping to be used to create the Coastal Erosion Hazard Area overlay for the State Planning Provision Coastal Erosion Hazard Code.
E17.0 Signs Code	The code contains no relevant Code-applying Provisions.
E18.0 Wind and Solar Energy Code	The code does not relate to an equivalent State Planning Provision code.
E19.0 Telecommunications Code	The code contains no relevant Code-applying Provisions.
E20.0 Acid Sulfate Soils Code	The code does not relate to an equivalent State Planning Provisions code.



Code	Reason
E21.0 Dispersive Soils Code	The code does not relate to an equivalent State Planning Provisions code.
E23.0 On-Site Waste Water Code	The code does not relate to an equivalent State Planning Provision Code.
E24.0 Significant Tree Code Excluding: <ul style="list-style-type: none"> <li>• Table E24.1 Significant Tree Register;</li> </ul>	The only relevant Code-applying Provision is: <ul style="list-style-type: none"> <li>• Table E24.1 Significant Tree Register;</li> </ul>
E25.0 Local Development Code	The code does not relate to an equivalent State Planning Provision Code.

# Kingborough Interim Planning Scheme 2015

## *Land Use Planning and Approvals Act 1993*

### Section 87C, Schedule 6, clause 8D(5)

#### DECLARATION

I, MICHAEL DARREL JOSEPH FERGUSON, Minister for Planning, acting in accordance with Schedule 6, Clause 8D(5) of the *Land Use Planning and Approvals Act 1993* ("the Act") after having consulted with the Tasmanian Planning Commission, declare that the requirement in Clause LP1.8.1 of the State Planning Provisions (SPPs), specifically the statement "all information requirements are to be completed in the tables", as it relates to the code applying provisions identified in the Schedule to this declaration when they are included in the draft Kingborough Local Provisions Schedule and Kingborough Local Provisions Schedule in accordance with Schedule 6, clause 8(2) of the Act does not apply in relation to the draft Kingborough Local Provisions Schedule and Kingborough Local Provisions Schedule.

Dated this 13 day of April, 2023



MICHAEL DARREL JOSEPH FERGUSON

Minister for Planning

#### The Schedule

Code-applying Provision
E13.0 Historic Heritage Code
Table E13.1 Heritage Places

# Kingborough Interim Planning Scheme 2015

## *Land Use Planning and Approvals Act 1993*

### Section 87C and Schedule 6, Clauses 1, 8, 8A(1), 8D(2)

This document has been prepared by the Department of Premier and Cabinet, State Planning Office to clarify the operation of the of the Minister's declarations made in accordance with Schedule 6, Clauses 8(4), 8A(1), and 8D(3) of the *Land Use Planning and Approvals Act 1993* ("the Act"). This document identifies the provisions to which the Minister's declarations do not apply, specifically:

- particular purpose zones, specific area plans and site-specific qualifications that are subject to Schedule 6, Clause 8(1) of the Act (refer to Schedule 1);
- particular purpose zones, specific area plans and site-specific qualifications that are not subject to Schedule 6, Clause 8A(1) of the Act (refer to Schedule 2); and
- code-applying provisions that are subject to Schedule 6, Clause 8D(2) (refer to Schedule 3).

This document also provides information on specific provisions in the Kingborough Interim Planning Scheme 2015 that do not meet the definition of site-specific qualification or specific area plan under Schedule 6, Clause 1 of the Act.

### Schedule 1

#### Particular Purpose Zones, Specific Area Plans and Site-specific Qualifications subject to Schedule 6, Clause 8 of the Act

Provision	Application
33.0 Particular Purpose Zone – Future Road Corridor	Particular Purpose Zone
F2.0 Margate Marina Specific Area Plan	Specific Area Plan
F4.0 Wellington Park Specific Area Plan	Site-specific Qualification
Recreation Zone – 18.2 Use Table. Visitor Accommodation discretionary – "Only at 1393 Channel Highway, Margate (CT 150926/1)"	Site-specific Qualification

### Schedule 2

**Particular Purpose Zones, Specific Area Plans and Site-specific Qualifications not subject to Schedule 6, Clause 8A(1) of the Act**

<b>Provision</b>	<b>Reason</b>
Low Density Residential – Table 12.1. Permitted minimum lot size of 2000m <sup>2</sup> for 38-42 Lynden Road, (CT 102688/1).	Council have advised that this provision is no longer required.
Environmental Living Zone – 14.2 Use Table 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).”	The provision is provided for by the State Planning Provisions through the zone applied to the site in the LPS.
Environmental Living Zone – 14.2 Use Table Food Services discretionary – “Only if a restaurant or cafe associated with a tourist use or a Visitor accommodation use class at 1005 Adventure Bay Road, Adventure Bay (CT 143862/10) or associated with a tourist use at 1565 Channel Highway, Margate (CT 134382/1).”	The provision is provided for by the State Planning Provisions through the zone applied to the site in the LPS.
Community Purpose Zone – 17.2 Use Table Research and Development discretionary – “Only if at 31-47 Nubeena Crescent, Tarooma, (folios of the Register volume 111935 folio 1, volume 203333 folio 1 and volume 171411 folio 2)”	The provision has been superseded by a further amendment (approved on 21 November 2019) and will be included in the LPS by a direction from the Commission to modify the draft LPS under section 35(5)(b) of the Act.
Environmental Management Zone – 29.2 Use Table Educational and Occasional Care discretionary – “Only if at 31-45 Nubeena Crescent, Tarooma (folio of the Register volume 203333 folio 1)”	The provision is inconsistent with the State Planning Provision Environmental Management Zone as it downgrades the status of the Educational and Occasional Care use class in the zone, specifically for Crown Land.
Inundation Prone Areas Code – E15.4.1(b) Exemption for development at 141 Cemetery Road, Lunawanna (CT 201948/1) from the Inundation Prone Areas Code.	The site is not subject to the Coastal Inundation Hazard Code or the Flood-prone Hazard Areas Code in the draft LPS, which means the exemption has no effect.

**Schedule 3**

**Code-applying Provisions subject to Schedule 6, Clause 8D(2) of the Act**

<b>Code-applying Provision</b>	<b>Application</b>
E13.0 Historic Heritage Code	Table E13.1 Heritage Places is for application through the Local Provisions Schedule as the Local Heritage Places list

Code-applying Provision	Application
<ul style="list-style-type: none"> <li>• Table E13.1 Heritage Places (including any figures showing extent of listing);</li> <li>• Table E13.2 Heritage Precincts;</li> <li>• The Heritage Precincts overlay;</li> <li>• The Place of Archaeological Potential figure; and</li> <li>• Table E13.4 Places of Archaeological Potential;</li> </ul> <p>Unless the place, precinct, figure or overlay has been inserted or removed by amendment after the commencement day;</p>	<p>and overlay for the State Planning Provisions Local Historic Heritage Code.</p> <p>Table E13.2 Heritage Precincts and the Heritage Precincts overlay is for application through the Local Provisions Schedule as the Heritage Precincts list and overlay for the State Planning Provisions Local Historic Heritage Code.</p> <p>Table E13.4 Places of Archaeological Potential and the Place of Archaeological Potential figure is for application through the Local Provisions Schedule as the Places or Precincts of Archaeological Potential list and overlay for the State Planning Provisions Local Historic Heritage Code.</p>
<p>E14.0 Scenic Landscapes Code</p> <ul style="list-style-type: none"> <li>• The Scenic Landscapes Area overlay, if on land that is a zone listed in clause C8.2.1 of the State Planning Provisions.</li> </ul>	<p>For application through the Local Provisions Schedule as the Scenic Protection Area for the State Planning Provisions Scenic Protection Code.</p>
<p>E24.0 Significant Trees Code</p> <ul style="list-style-type: none"> <li>• Table E24.1 Significant Tree Register;</li> </ul>	<p>For application through the Local Provisions Schedule as the Significant Trees list for the State Planning Provisions Local Historic Heritage Code.</p>

## Schedule 4

### Provisions that do not meet the definition of a Specific Area Plan or Site-specific Qualification under Schedule 6, Clause 1 of the Act

Provision	Reason
<p>Low Density Residential – Table 12.1.</p> <p>Permitted minimum lot size:</p> <ul style="list-style-type: none"> <li>• Low Density Residential Area A (all other areas) – 2,500m<sup>2</sup></li> <li>• Low Density Residential Area B – 5,000m<sup>2</sup>,</li> <li>• Low Density Residential Area C – 1,000m<sup>2</sup></li> </ul>	<p>Does not meet the definition of a Site-specific Qualification under Schedule 6, Clause 1 of the Act as the provision:</p> <ul style="list-style-type: none"> <li>• does not modify, substitute or add to the provisions of the planning scheme as it simply establishes minimum lot sizes for different areas; and</li> <li>• applies to multiple areas.</li> </ul> <p>Does not meet the definition of a Specific Area Plan under Schedule 6, Clause 1 of the Act as the provision:</p> <ul style="list-style-type: none"> <li>• does not modify, substitute or add to the provisions of the planning scheme as it simply establishes minimum lot sizes for different areas; and</li> <li>• does not specifically map Area A.</li> </ul>
<p>Rural Living Zone – Table 13.1</p> <p>Permitted minimum lot size of:</p> <ul style="list-style-type: none"> <li>• Rural Living Zone Area A – 2.5ha</li> <li>• Rural Living Zone Area B – 5ha.</li> </ul>	<p>Does not meet the definition of a Site-specific Qualification under Schedule 6, Clause 1 of the Act as the provision:</p> <ul style="list-style-type: none"> <li>• does not modify, substitute or add to the provisions of the planning scheme as it simply establishes minimum lot sizes for different areas; and</li> <li>• applies to multiple areas.</li> </ul> <p>Does not meet the definition of a Specific Area Plan under Schedule 6, Clause 1 of the Act as the provision:</p> <ul style="list-style-type: none"> <li>• does not modify, substitute or add to the provisions of the planning scheme as it simply establishes minimum lot sizes for different areas; and</li> <li>• does not specifically map Area A.</li> </ul> <p><i>Note: The State Planning Provisions Rural Living Zone provides for four minimum lot sizes of 1ha, 2ha, 5ha and 10ha.</i></p>
<p>Urban Mixed Use Zone – 15.4.2 A1</p> <p>Permitted building setback from frontage of not less than:</p> <ul style="list-style-type: none"> <li>• 3 m if fronting the Channel Highway.</li> <li>• nil m, if fronting any other street.</li> </ul>	<p>Does not meet the definition of a Site-specific Qualification under Schedule 6, Clause 1 of the Act as the provision does not specify a particular area of land to which it applies (only identifies a general class of land that abuts a particular road).</p> <p><i>Note: The State Planning Provisions Urban Mixed Use Zone requires a setback from frontage of not less than 3m, not less than existing buildings on the site, or not more or less than the maximum and minimum setbacks of the buildings on adjoining properties.</i></p>
<p>Community Purpose Zone – 17.4.2 A1.</p> <p>Permitted building setback from frontage of not less than:</p> <ul style="list-style-type: none"> <li>• 6 m, if fronting Channel Highway.</li> </ul>	<p>Does not meet the definition of a Site-specific Qualification under Schedule 6, Clause 1 of the Act as the provision does not specify a particular area of land to which it applies (only identifies a general class of land that abuts a particular road).</p>

Provision	Reason
<ul style="list-style-type: none"> <li>• 3m, if fronting any other street.</li> </ul>	<p><i>Note: The State Planning Provisions Community Purpose Zone provides a similar permitted frontage setback of 5m, or not more or less than the maximum and minimum setbacks of buildings on adjoining properties, whichever is lesser.</i></p>
<p>Recreation Zone – 18.4.2 A1.</p> <p>Permitted building setback from frontage of not less than:</p> <ul style="list-style-type: none"> <li>• 20 m, if fronting Channel Highway.</li> <li>• 10m, if fronting any other street.</li> </ul>	<p>Does not meet the definition of a Site-specific Qualification under Schedule 6, Clause 1 of the Act as the provision does not specify a particular area of land to which it applies (only identifies a general class of land that abuts a particular road).</p>
<p>Local Business Zone – 20.4.2 A1.</p> <p>Permitted building setback from frontage of not less than:</p> <ul style="list-style-type: none"> <li>• 5 m, if fronting Channel Highway.</li> <li>• 2m, if fronting any other street.</li> </ul>	<p>Does not meet the definition of a Site-specific Qualification under Schedule 6, Clause 1 of the Act as the provision does not specify a particular area of land to which it applies (only identifies a general class of land that abuts a particular road).</p>
<p>General Business Zone – 21.4.2 A1.</p> <p>Permitted building setback from frontage of not less than:</p> <ul style="list-style-type: none"> <li>• 5 m, if fronting Channel Highway.</li> <li>• 3m, if fronting any other street.</li> </ul>	<p>Does not meet the definition of a Site-specific Qualification under Schedule 6, Clause 1 of the Act as the provision does not specify a particular area of land to which it applies (only identifies a general class of land that abuts a particular road).</p>
<p>Central Business Zone – 22.4.2 A1.</p> <p>Permitted building setback from frontage of not less than:</p> <ul style="list-style-type: none"> <li>• 3 m, if fronting Channel Highway.</li> <li>• nil m, if fronting any other street.</li> </ul>	<p>Does not meet the definition of a Site-specific Qualification under Schedule 6, Clause 1 of the Act as the provision does not specify a particular area of land to which it applies (only identifies a general class of land that abuts a particular road).</p>
<p>Commercial Zone – 23.4.2 A1.</p> <p>Permitted building setback from frontage of not less than:</p> <ul style="list-style-type: none"> <li>• 10 m, if fronting Channel Highway.</li> <li>• 5m, if fronting any other street.</li> </ul>	<p>Does not meet the definition of a Site-specific Qualification under Schedule 6, Clause 1 of the Act as the provision does not specify a particular area of land to which it applies (only identifies a general class of land that abuts a particular road).</p>

# Kingborough Interim Planning Scheme 2015

## *Land Use Planning and Approvals Act 1993*

### Section 87C and Schedule 6, Clauses 1, 8, 8A(1), 8D(2)

This document has been prepared by the Department of Premier and Cabinet, State Planning Office to clarify the operation of the of the Minister’s declarations made in accordance with Schedule 6, Clauses 8(4), 8A(1), and 8D(3) of the *Land Use Planning and Approvals Act 1993* (“the Act”). This document identifies the provisions to which the Minister’s declarations do not apply, specifically:

- particular purpose zones, specific area plans and site-specific qualifications that are subject to Schedule 6, Clause 8(1) of the Act (refer to Schedule 1);
- particular purpose zones, specific area plans and site-specific qualifications that are not subject to Schedule 6, Clause 8A(1) of the Act (refer to Schedule 2); and
- code-applying provisions that are subject to Schedule 6, Clause 8D(2) (refer to Schedule 3).

This document also provides information on specific provisions in the Kingborough Interim Planning Scheme 2015 that do not meet the definition of site-specific qualification or specific area plan under Schedule 6, Clause 1 of the Act.

### Schedule 1

#### Particular Purpose Zones, Specific Area Plans and Site-specific Qualifications subject to Schedule 6, Clause 8 of the Act

Provision	Application
33.0 Particular Purpose Zone – Future Road Corridor	Particular Purpose Zone
F2.0 Margate Marina Specific Area Plan	Specific Area Plan
F4.0 Wellington Park Specific Area Plan	Site-specific Qualification
Recreation Zone – 18.2 Use Table. Visitor Accommodation discretionary – “Only at 1393 Channel Highway, Margate (CT 150926/1)”	Site-specific Qualification

### Schedule 2



**Particular Purpose Zones, Specific Area Plans and Site-specific Qualifications not  
subject to Schedule 6, Clause 8A(1) of the Act**

<b>Provision</b>	<b>Reason</b>
Low Density Residential – Table 12.1. Permitted minimum lot size of 2000m <sup>2</sup> for 38-42 Lynden Road, (CT 102688/1).	Council have advised that this provision is no longer required.
Environmental Living Zone – 14.2 Use Table 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).”	The provision is provided for by the State Planning Provisions through the zone applied to the site in the LPS.
Environmental Living Zone – 14.2 Use Table Food Services discretionary – “Only if a restaurant or cafe associated with a tourist use or a Visitor accommodation use class at 1005 Adventure Bay Road, Adventure Bay (CT 143862/10) or associated with a tourist use at 1565 Channel Highway, Margate (CT 134382/1).”	The provision is provided for by the State Planning Provisions through the zone applied to the site in the LPS.
Community Purpose Zone – 17.2 Use Table Research and Development discretionary – “Only if at 31-47 Nubeena Crescent, Taroona, (folios of the Register volume 111935 folio 1, volume 203333 folio 1 and volume 171411 folio 2)”	The provision has been superseded by a further amendment (approved on 21 November 2019) and will be included in the LPS by a direction from the Commission to modify the draft LPS under section 35(5)(b) of the Act.
Environmental Management Zone – 29.2 Use Table Educational and Occasional Care discretionary – “Only if at 31-45 Nubeena Crescent, Taroona (folio of the Register volume 203333 folio 1)”	The provision is inconsistent with the State Planning Provision Environmental Management Zone as it downgrades the status of the Educational and Occasional Care use class in the zone, specifically for Crown Land.
Inundation Prone Areas Code – E15.4.1(b) Exemption for development at 141 Cemetery Road, Lunawanna (CT 201948/1) from the Inundation Prone Areas Code.	The site is not subject to the Coastal Inundation Hazard Code or the Flood-prone Hazard Areas Code in the draft LPS, which means the exemption has no effect.

**Schedule 3**

**Code-applying Provisions subject to Schedule 6, Clause 8D(2) of the Act**

<b>Code-applying Provision</b>	<b>Application</b>
E13.0 Historic Heritage Code	Table E13.1 Heritage Places is for application through the Local Provisions Schedule as the Local Heritage Places list

Code-applying Provision	Application
<ul style="list-style-type: none"> <li>• Table E13.1 Heritage Places (including any figures showing extent of listing);</li> <li>• Table E13.2 Heritage Precincts;</li> <li>• The Heritage Precincts overlay;</li> <li>• The Place of Archaeological Potential figure; and</li> <li>• Table E13.4 Places of Archaeological Potential;</li> </ul> <p>Unless the place, precinct, figure or overlay has been inserted or removed by amendment after the commencement day;</p>	<p>and overlay for the State Planning Provisions Local Historic Heritage Code.</p> <p>Table E13.2 Heritage Precincts and the Heritage Precincts overlay is for application through the Local Provisions Schedule as the Heritage Precincts list and overlay for the State Planning Provisions Local Historic Heritage Code.</p> <p>Table E13.4 Places of Archaeological Potential and the Place of Archaeological Potential figure is for application through the Local Provisions Schedule as the Places or Precincts of Archaeological Potential list and overlay for the State Planning Provisions Local Historic Heritage Code.</p>
<p>E14.0 Scenic Landscapes Code</p> <ul style="list-style-type: none"> <li>• The Scenic Landscapes Area overlay, if on land that is a zone listed in clause C8.2.1 of the State Planning Provisions.</li> </ul>	<p>For application through the Local Provisions Schedule as the Scenic Protection Area for the State Planning Provisions Scenic Protection Code.</p>
<p>E24.0 Significant Trees Code</p> <ul style="list-style-type: none"> <li>• Table E24.1 Significant Tree Register;</li> </ul>	<p>For application through the Local Provisions Schedule as the Significant Trees list for the State Planning Provisions Local Historic Heritage Code.</p>

## Schedule 4

### Provisions that do not meet the definition of a Specific Area Plan or Site-specific Qualification under Schedule 6, Clause 1 of the Act

Provision	Reason
<p>Low Density Residential – Table 12.1.</p> <p>Permitted minimum lot size:</p> <ul style="list-style-type: none"> <li>• Low Density Residential Area A (all other areas) – 2,500m<sup>2</sup></li> <li>• Low Density Residential Area B – 5,000m<sup>2</sup>,</li> <li>• Low Density Residential Area C – 1,000m<sup>2</sup></li> </ul>	<p>Does not meet the definition of a Site-specific Qualification under Schedule 6, Clause 1 of the Act as the provision:</p> <ul style="list-style-type: none"> <li>• does not modify, substitute or add to the provisions of the planning scheme as it simply establishes minimum lot sizes for different areas; and</li> <li>• applies to multiple areas.</li> </ul> <p>Does not meet the definition of a Specific Area Plan under Schedule 6, Clause 1 of the Act as the provision:</p> <ul style="list-style-type: none"> <li>• does not modify, substitute or add to the provisions of the planning scheme as it simply establishes minimum lot sizes for different areas; and</li> <li>• does not specifically map Area A.</li> </ul>
<p>Rural Living Zone – Table 13.1</p> <p>Permitted minimum lot size of:</p> <ul style="list-style-type: none"> <li>• Rural Living Zone Area A – 2.5ha</li> <li>• Rural Living Zone Area B – 5ha.</li> </ul>	<p>Does not meet the definition of a Site-specific Qualification under Schedule 6, Clause 1 of the Act as the provision:</p> <ul style="list-style-type: none"> <li>• does not modify, substitute or add to the provisions of the planning scheme as it simply establishes minimum lot sizes for different areas; and</li> <li>• applies to multiple areas.</li> </ul> <p>Does not meet the definition of a Specific Area Plan under Schedule 6, Clause 1 of the Act as the provision:</p> <ul style="list-style-type: none"> <li>• does not modify, substitute or add to the provisions of the planning scheme as it simply establishes minimum lot sizes for different areas; and</li> <li>• does not specifically map Area A.</li> </ul> <p><i>Note: The State Planning Provisions Rural Living Zone provides for four minimum lot sizes of 1ha, 2ha, 5ha and 10ha.</i></p>
<p>Urban Mixed Use Zone – 15.4.2 A1</p> <p>Permitted building setback from frontage of not less than:</p> <ul style="list-style-type: none"> <li>• 3 m if fronting the Channel Highway.</li> <li>• nil m, if fronting any other street.</li> </ul>	<p>Does not meet the definition of a Site-specific Qualification under Schedule 6, Clause 1 of the Act as the provision does not specify a particular area of land to which it applies (only identifies a general class of land that abuts a particular road).</p> <p><i>Note: The State Planning Provisions Urban Mixed Use Zone requires a setback from frontage of not less than 3m, not less than existing buildings on the site, or not more or less than the maximum and minimum setbacks of the buildings on adjoining properties.</i></p>
<p>Community Purpose Zone – 17.4.2 A1.</p> <p>Permitted building setback from frontage of not less than:</p> <ul style="list-style-type: none"> <li>• 6 m, if fronting Channel Highway.</li> </ul>	<p>Does not meet the definition of a Site-specific Qualification under Schedule 6, Clause 1 of the Act as the provision does not specify a particular area of land to which it applies (only identifies a general class of land that abuts a particular road).</p>

Provision	Reason
<ul style="list-style-type: none"> <li>• 3m, if fronting any other street.</li> </ul>	<p><i>Note: The State Planning Provisions Community Purpose Zone provides a similar permitted frontage setback of 5m, or not more or less than the maximum and minimum setbacks of buildings on adjoining properties, whichever is lesser.</i></p>
<p>Recreation Zone – 18.4.2 A1.</p> <p>Permitted building setback from frontage of not less than:</p> <ul style="list-style-type: none"> <li>• 20 m, if fronting Channel Highway.</li> <li>• 10m, if fronting any other street.</li> </ul>	<p>Does not meet the definition of a Site-specific Qualification under Schedule 6, Clause 1 of the Act as the provision does not specify a particular area of land to which it applies (only identifies a general class of land that abuts a particular road).</p>
<p>Local Business Zone – 20.4.2 A1.</p> <p>Permitted building setback from frontage of not less than:</p> <ul style="list-style-type: none"> <li>• 5 m, if fronting Channel Highway.</li> <li>• 2m, if fronting any other street.</li> </ul>	<p>Does not meet the definition of a Site-specific Qualification under Schedule 6, Clause 1 of the Act as the provision does not specify a particular area of land to which it applies (only identifies a general class of land that abuts a particular road).</p>
<p>General Business Zone – 21.4.2 A1.</p> <p>Permitted building setback from frontage of not less than:</p> <ul style="list-style-type: none"> <li>• 5 m, if fronting Channel Highway.</li> <li>• 3m, if fronting any other street.</li> </ul>	<p>Does not meet the definition of a Site-specific Qualification under Schedule 6, Clause 1 of the Act as the provision does not specify a particular area of land to which it applies (only identifies a general class of land that abuts a particular road).</p>
<p>Central Business Zone – 22.4.2 A1.</p> <p>Permitted building setback from frontage of not less than:</p> <ul style="list-style-type: none"> <li>• 3 m, if fronting Channel Highway.</li> <li>• nil m, if fronting any other street.</li> </ul>	<p>Does not meet the definition of a Site-specific Qualification under Schedule 6, Clause 1 of the Act as the provision does not specify a particular area of land to which it applies (only identifies a general class of land that abuts a particular road).</p>
<p>Commercial Zone – 23.4.2 A1.</p> <p>Permitted building setback from frontage of not less than:</p> <ul style="list-style-type: none"> <li>• 10 m, if fronting Channel Highway.</li> <li>• 5m, if fronting any other street.</li> </ul>	<p>Does not meet the definition of a Site-specific Qualification under Schedule 6, Clause 1 of the Act as the provision does not specify a particular area of land to which it applies (only identifies a general class of land that abuts a particular road).</p>