

# TASMANIAN PLANNING COMMISSION



## DECISION

Planning scheme	Kingborough Interim Planning Scheme 2015
Amendment	PSA-2022-3 - Update Appendix 1 - Referenced and Incorporated Documents
Planning authority	Kingborough Council
Applicant	Kingborough Council
Date of decision	15 February 2024

## 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.

John Ramsay  
Delegate (Chair)

Dan Ford  
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 modify the Kingborough Interim Planning Scheme 2015 (planning scheme) Appendix 1 - Referenced and Incorporated Documents by updating the listing for the following incorporated documents:

- the Kingborough Public Open Space Contribution Policy, Policy 6.3, dated May 2019 to November 2021; and
- Kingborough Biodiversity Offset Policy 6.10, dated November 2016 to August 2022.

The draft amendment also proposes to correct the relevant references to each of the respective documents within the planning scheme text.

#### **Background**

The Kingborough Public Open Space Contribution Policy provides guidance on the exercise of Council's discretion on the allocation of public open space land and cash in lieu of it through the subdivision process.

The Kingborough Biodiversity Offset Policy provides a mechanism to mitigate and compensate for the loss of biodiversity values. The Policy applies where it has been established that all opportunities to avoid and mitigate impacts have been exhausted and the impacts will not significantly affect the conservation status of biodiversity values.

At its meetings on 15 November 2021 and 15 August 2022 the Council resolved to amend the Kingborough Public Open Space Contribution Policy and Kingborough Biodiversity Offset Policy respectively. The intent of the draft amendment is to give effect to the most recently endorsed versions of the policies by updating the listing and references to the policies in the planning scheme.

#### **Issues raised in representations**

The representors raised the following issues:

- public exhibition process and community consultation;
- concerns that it has not demonstrated how the amendment will provide for the fair and orderly use and development of land as required under Schedule 1, Part 1 Objectives of the Act;
- the inclusion of the Biodiversity Policy in the current planning scheme and proposed Tasmanian Planning Scheme (TPS);
- concerns with the content and impact of the policies.

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

The planning authority considered the representations and recommended no modifications to the draft amendment.

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

The hearing was held at the Commission's office on Level 3, 144 Macquarie Street, Hobart on 5 September 2023.

## Appearances at the hearing

Planning authority:	Liz Quinn, Manager Environmental Services Nikki den Exter, Coordinator Environmental Planning Adriaan Stander, Senior Strategic Planner Olusegun Yussuff
Representors:	Charles Biggins Samantha Woodhouse Nick Rudenno Amy Robertson Jo Landon Nathanael Elcock (observing via Teams)

## 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 was initiated and certified by the Kingborough Council, in its capacity as planning authority, and further supported in the reports under sections 35 and 39 of the Act.
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 directly relevant as the draft amendment applies broadly across the municipality and would not introduce land use conflict with adjacent municipal areas.
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 30O(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 2010-2035 (regional strategy).

### **Regional land use strategy**

10. The planning authority's report supporting the draft amendment (supporting report) submitted that the draft amendment is not directly linked to any of the regional policies in the regional strategy. The planning authority considered that the proposal will result in the formal inclusion of incorporated documents which are essential to the proper functioning of the planning scheme and decision making.
11. The planning authority considered that the policies that are proposed to be incorporated into the planning scheme will be strategically aligned with the regional strategy as follows:

#### **Policy 5 - Biodiversity and Geodiversity**

The proposal will assist in maintaining and managing the regions biodiversity. It will provide improved guidance for the application of biodiversity offsets if, at the local level, it is considered appropriate to compensate for the loss of biodiversity values.

#### **Policy 10 - Recreation and Open Space**

The proposal will ensure residential areas, open spaces and other community destinations are provided to meet the demands of growing communities. It will also provide guidance to the application of monetary contributions in lieu of providing open space where appropriate.

12. Ms Jo Landon's submission, dated 10 October 2023, submitted that the draft amendment was not consistent with NMV1.4 of the regional strategy as:

The Kingborough Interim Planning Scheme already protects the natural environment - from not only clearance but also disturbance - to a greater degree than any other planning authority in the region. The revised policy would add to the inconsistency eg [sic] a Kingborough Council Officer could consider potential habitat, and the decision-making could be based on unpublished scientific literature. More developments in Kingborough involving vegetation/habitat disturbance would require offsets than in the other municipalities. The revised policy would also increase the inconsistency in outcomes due to the introduction of a 6:1 replacement ratio and a significant increase in the financial offset rates. I don't agree that the revised policy would provide greater certainty for applicants; I believe the outcomes would be harder for most people to predict.

However, at the latest review of the policy, Council explained that the offset policy has allowed development to occur which would have otherwise been refused. Those benefits of the policy definitely need careful consideration.

A thorough analysis of the extent of the inconsistency between Kingborough's approach to biodiversity and that of the rest of the region needs clarification. If there is an inconsistency between a local planning provision and the STRLUS, I thought that the latter should prevail? Given that one of the main aims of the new planning scheme is statewide consistency, incorporating the revised policy into the planning scheme now doesn't seem appropriate.

### **Commission's consideration**

13. Section 20(2)(aa) of the Act provides that a planning scheme may make any provision which relates to the use, development, protection or conservation of any land in the area. Similarly, section 20(2)(g) provides for the application, adoption or incorporation of any document into the planning scheme for this purpose. The Commission considers that the draft amendment is consistent with these provisions and notes that the planning scheme currently includes reference to the Kingborough Biodiversity Offset Policy. In this context the scope of the draft amendment is administrative, and will assist to facilitate the development, protection or conservation land in a way that furthers the relevant policies outlined in the regional strategy.

### **Incorporated documents**

14. As noted above, the draft amendment proposes to update two Kingborough Council policies listed in the incorporated and referenced documents in Appendix 1 of the planning scheme and to update the references to these documents throughout the text of the planning scheme.
15. The documents to be updated are the Kingborough Public Open Space Contribution Policy (open space policy) and the Kingborough Biodiversity Offset Policy 6.10 (biodiversity policy), currently dated May 2019 and November 2016 respectively.
16. The draft amendment also proposes to update the references to the policies in following clauses of the planning scheme:
- Public Open Space - Clauses 10.6.3 P1 (h); 11.5.3 P1 (h); 12.5.3 P2; 13.5.3 P2; 13.5.3 P2; 14.5.4 P2; 15.5.1 P6; 16.5.3 (h); 17.5.1 P3 (h); 18.5.1 (h); 19.5.1 P3 (h); 20.5.1 P6; 21.5.1 P6; 22.5.1 P6; 23.5.1 P6; 24.5.1 P6; and 31.5.1 P6; and
  - Biodiversity Offset - Clauses E10.7.1 P1 b iv; E10.7.1P1(c)(v); E10.8.1 P1(b)(iv) and E10.8.1 P1(c)(v).
17. The planning authority's supporting report stated that one of the benefits of incorporating documents into a planning scheme is that they carry the same weight as other parts of the scheme and being part of the planning scheme, the planning authority can only change an incorporated document by a planning scheme amendment.
18. The planning authority considered that the proposed amendment does not introduce new development standards or policies, but rather updates the list of supplementary documents in Appendix 1 to reflect Council's updated policies.
19. The planning authority noted that the intent of the proposed amendment is to update the reference details (namely the date) listed in Appendix 1 of the planning scheme and to update the reference to these documents in the planning scheme text to include the full, correct and current title and date of the document.
20. The representors raised concern with the public exhibition and community engagement processes leading up to the Council endorsement, the nature of changes, strategic shift and incorporation into the planning scheme. Representors submitted that the inclusion of the Biodiversity Policy in the current planning scheme and TPS did not reflect the fair and orderly use and development of land as required in Schedule 1, Part 1 Objectives of the Act.

### **Section 20(2)(g) of the Act**

21. The Commission, by direction dated 17 August 2023, identified that section 20(2)(g) of the Act, enables documents to be applied, adopted or incorporated in the planning scheme which deal with the use, development, or protection of land. The Commission advised parties that

the hearing would focus on consideration of the policies in light of what is enabled by this provision of the Act and the effect of the application of the policies in the planning system in the Kingborough municipality.

22. At the hearing on 5 September 2023, the Commission advised parties, that in the context of section 20(2)(g), the Commission as part of its assessment would consider whether:
1. there is a head of power in an act of parliament or the planning scheme that authorises the making of the policy;
  2. the terms of the policy supplement the practical application of the planning scheme provisions;
  3. the terms of the policy are consistent with the planning scheme and specifically the biodiversity code;
  4. the terms of the policy are clear and understandable;
  5. the document is usable from the public perspective;
  6. the documents referred to in the policy are readily accessible to the public; and
  7. the criteria for assessment and decision making set out in the policy are clear.
23. The Chair confirmed that were the Commission persuaded that the policy did not satisfy one (or more) of the tests in some particular way, it was not open for the Commission to amend the policy. The only option available to the Commission would be to reject the draft amendment, which would preclude the updated policies from being incorporated and referenced in the planning scheme. In this circumstance the references to the now outdated policies would remain.
24. Ms Landon's submission dated 30 August 2023 submitted:
- It seems that the revised Public Open Space policy would generally result in subdivisions including less public open space, which conflicts with LUPAA's objective of securing a pleasant living environment for all Tasmanians. Most housing developments would be improved by even small areas of trees or other vegetation for example. I think the future residents of the high-density subdivisions would consider it unfair that Council chose to take cash in lieu of open space, and then potentially have spent that money on projects in another area. I think the current policy – as opposed to the revised policy – would be more certain to enable an orderly provision of public facilities for the benefit of the community.

#### **Head of power**

25. The planning authority submission dated 23 September 2023 noted that section 20(2)(g) of the Act provides for an amendment to apply, adopt or incorporate any document which relates to use, development or protection of land and that the policies are already existing incorporated documents in the planning scheme.
26. The planning authority submitted that the *Local Government (Buildings and Miscellaneous Provisions) Act 1993* provides a head of power for public open space contributions.

27. The planning authority submitted that:

While the legislation and scheme provide a head of power for public open space contributions and biodiversity offsets, they do not provide the procedural detail on how these requirements are satisfied. The policies provide guidance on how public open space contributions or offset requirements are calculated in a strategic, transparent and consistent manner. The planning scheme amendment will ensure that the updated versions of the two Council policies will continue to supplement the scheme as the previous versions did in the past.

28. The planning authority considered that without the policies, the provisions relating to public open space contributions and biodiversity offsets in the planning scheme will not be clear and the aim of the policies is to supplement the practical operation of the scheme.

29. Mr Charles Biggins' submission dated 3 October 2023 strongly disagreed with the incorporation of the biodiversity policy into the planning scheme, as:

The Policy creates and maintains a constitutional conflict between the Federal Government and our Local Council (body corporate's) ability to levy Taxes. If Council tries to do something they're not empowered to do, it's therefore repugnant to the Commonwealth Constitution and contravenes section 109 of the Constitution.

30. Ms Landon's submission dated 10 October 2024 submitted that:

There is undoubtedly a very significant legal, financial and reputational risk if Council hasn't established whether it has the necessary head of power to charge financial offsets.

It seems that the revised Public Open Space Policy could result in subdivisions including less public open space, which conflicts with LUPAA's objective of securing a pleasant living environment for all Tasmanians. The amenity of most urban housing developments would be improved by even small areas of trees or other vegetation for example. The shade provided by trees, and the potential to lower the stormwater levels due to the reduction of impervious surfaces, would further the RMPS objectives of sustainable development and climate change resilience.

With the exception of subdivisions very close to existing areas of open space, I doubt that the future residents of the high-density subdivisions would consider it fair that Council chose to take cash in lieu of open space, and then spend that money on projects in another area. I think the current policy – as opposed to the revised policy – would be more certain to enable an equitable, orderly provision of public facilities. There needs to be transparency regarding these decisions however. There is only selective information available to the public regarding open space decisions and where those contributions are spent. I imagine that most decisions will benefit Kingston as usual.

The revised Public Open Space Contributions Policy was endorsed in 2021. Has it already been applied to any subdivision applications or expenditure decisions? The revised versions of both these policies are the only versions on Council's website, despite them not yet having been incorporated into the planning scheme.

### Terms of the policies

31. In its submission dated 23 September 2023 the planning authority submitted that even though the policies are technical in nature, they are useable and provide guidance on how public open space contributions and biodiversity offsets will be required and calculated in a strategic, transparent, and consistent manner.

32. The planning authority considered that that without the policies, the provisions in the planning scheme would not be clear or readily interpreted.

### **Biodiversity Offset Policy**

33. Detailed representations and submissions were received from the representors, focusing on the Biodiversity Offsets Policy and in particular Council's processes for implementing the policy and the content of the policy.

34. Mr Biggins' submission dated 28 August 2023 submitted that:

Another effect of having this Policy incorporated into the Interim Planning Scheme along with a blanket Biodiversity Protection Overlay that covers some 80% of the municipality is that any loss of native vegetation on private land now needs to be compensated for and the beneficiary of that compensation is the Local Council's own Environment Fund or alternatively Land holders are coerced into having a Conservation Covenant placed across their private land, a Covenant that could potentially be harvested for Biodiversity Credits in the not too distant future. A Conservation Covenant that renders private land unusable for future development, adding to a private land Conservation Reserve stretching across an extreme fire risk municipality. Please show me the State or Federal legislation that grants our Local Council (body corporate) a pecuniary interest in the native vegetation growing on private property?

An alarming precedent has been set when a State controlled body corporate entity is allowed to create their own By-Laws and de facto Taxes. A Policy that was written without any legal advice because as Ms Liz Quinn stated Kingborough Council Meeting 5 December 2022 "We haven't sought legal input into the policy as Council hasn't believed that it was required". I'll also remind everyone that Kingborough Council also regulated the removal of trees on private land through a The Health and Environmental Services By-Law 3 (2011), that regulated the removal of trees and was itself removed in 2022, after eleven years of bureaucratic overreach Council finally got legal advice and ceased prosecuting landowners under that By-Law. The original Biodiversity Offset Policy 2016 was also not incorporated into the KIPS until 2020 after the Kingborough Ratepayers Association exposed the oversight in a report to Council.

35. Ms Landon's submission dated 10 October 2023 submitted that:

An application that requires assessment against the Biodiversity Code introduces the potential for requests for information and specialist reports costing significant amounts of money, while also adding very significant, additional timeframes to the project. The impacts of the offset policy on the planning process have been mentioned in several representations. Council stated at the hearing that there hasn't ever been any community consultation regarding the Biodiversity Offset Policy in the 20 years they have been charging financial offsets, which is completely unjustifiable. At present there is no data on any of the social or economic impacts of this policy, the length of time taken to process applications where the offset policy has been triggered, the number of cases that are taken to the tribunal, the cost of the necessary legal representation etc.

### **Commission consideration**

36. The Commission notes the concerns raised by Mr Biggins and Ms Landon. Their submissions raise matters concerning the policies and practices of the Council and the extent of the Council's powers.
37. The Commission is satisfied that the provisions of the Act provide authority for the planning authority to incorporate relevant policies into the planning scheme and that the two policies that are to be updated by this amendment fall into category of relevant policies.



## The content of the policies

38. During the hearing, a number of editorial matters were discussed with the planning authority and the Commission directed the planning authority, on 11 October 2023, to consider editorial changes to the biodiversity policy, including:

2.7	Delete 'DPIPWE' and replace with 'NRE'.
2.10	Insert 'is' after 'Therefore, what is in the vicinity'.
5.2.1	Correct the reference to the 'Guidelines for the use of Biodiversity Offsets from 'Pitt & Sherry 2011' to 'Southern Tasmanian Councils Authority 2013'.
5.2.2	Delete reference to 'as amended from time to time' to remove uncertainty as to which document is referenced.
6.3	Correct the reference to 'special circumstances (iii)' to 2.8.3.
6.4	Correct the reference to 'special circumstances (iv)' to 2.8.4.
6.6.1	Amend reference to the Tasmanian Reserve Estate to include 'as shown on the LIST'.
6.12.1	Change the reference to the Vegetation Condition Manual including adding the version number and date and include it as related document.
6.13.2	Insert the words 'in light of specialist advice' after 'threatened species that have a greater risk of extinction'.
6.14	Amended the policy as required to identify that the Guidelines for Kingborough Environmental Fund are made publicly available on the Kingborough Council website.
Table 1	Offsetting Options - Consider removing the words 'up to' or alternatively modify the,  c) financial offsets  policy to identify the rationale/criteria as to how Council must exercise the discretion to vary the quantum.
Table 2	Consider providing a reference, such as a footnote, for the associated documents that specify the required distances in relation each species.  Consider providing more information on what the IUCN criteria are for priority species.
Related documents	Correct the reference to the Guidelines for the use of Biodiversity Offsets from Pitt & Sherry 2011 to Southern Tasmanian Councils Authority 2013.  Add the Kingborough Environmental Fund

39. The planning authority submission dated 14 November 2023 provided a revised biodiversity policy 6.10 Approved by Council November 2023 (revised biodiversity policy). The submission also addressed additional matters in response to the Commission's requested changes to the policy.

### 5.2.1

40. The planning authority noted that the wording 'as amended from time to time' is not consistent with current drafting conventions (Practice Note 5, Tasmanian Planning Commission, May 2017), but considered that the conventions apply to the drafting of planning schemes, not drafting of incorporated or referenced documents.
41. The planning authority considered that applying the same conventions to incorporated or referenced documents is unreasonable and impractical, noting there are 29 documents currently incorporated into the State Planning Provisions, which themselves reference hundreds of other documents.
42. The planning authority submitted that:

In their feedback, NRE also highlighted that their guidelines were due for review and recommended there is an ability for the Biodiversity Offset Policy to be updated as required should the referred documents in the section be modified over time. To require a policy amendment followed by a planning scheme amendment every time this occurs is impractical, unnecessary and inconsistent with expectations of other regulators, noting NRE and FPA are not subject to such requirements in order to update and use the guidelines.

### Commission consideration

43. The Commission is not persuaded by the planning authority's submission. The Commission considers that planning controls that require consideration of incorporating policies are constructed to ensure that they are considered, and weighted, as part of the assessment. This is the intent. It follows that changes to any relevant incorporated document will impact development potential and affect property rights. Were an incorporated document able to be amended by the Council from time to time, it may through a policy shift, significantly limit a person's use of land through its own internal processes. Accordingly, the Commission maintains that reference to the biodiversity policy should delete 'as amended from time to time' in accordance with the Commission's direction.

### 5.4

44. The planning authority submitted that in relation to clause 5.4 the Commission advised that the wording should be amended to replace the words 'in accordance with' in relation to the Regional Offset Guidelines and RMPS Offset Principles, as 'in accordance' requires the Commission to also consider the content of this document.
45. The planning authority considered the advice to be confusing and noted that the Commission also advised the RMPS Offset Principles need to be included as an incorporated document and the Regional Offset Guidelines are already incorporated.
46. The planning authority submitted that:

In consideration of both pieces of advice, it is assumed that if the policy is amended to only require the Planning Authority to have regard to the RMPS Offset Principles when assessing each offset, this document does not need to be formally incorporated. While the Regional Offset Guidelines are already incorporated into the planning scheme, the Planning Authority is also supportive of only requiring it to have regard to the Regional Offset Guidelines when assessing each offset. An updated version of the policy, with this change, can be provided to the Commission before a final decision is made.

### **Commission consideration**

47. The Commission considers that all documents relevant to an assessment must be readily identifiable and discoverable. The incorporation of such documents into the planning scheme provides clarity and certainty and for this reason the Guidelines for the Use of Biodiversity Offsets should be listed as an incorporated document.

#### **6.6.1**

48. The planning authority submitted that a reference to what the Tasmanian Reserve Estate is, could be achieved through a reference to the LIST, but considered it was not necessary as the meaning of 'Tasmania Reserve Estate' is easily accessible and discoverable via an internet search.
49. The planning authority submitted that the Guidelines for Expenditure of the Kingborough Environmental Fund referenced in Clause 6.14 of the biodiversity policy are now available on their website.
50. The planning authority submitted that any document referenced in an incorporated document should not be required to be separately incorporated into the planning scheme as it is not required in the drafting conventions, is completely unmanageable and has not been applied to any other incorporated documents in any planning scheme in the state.
51. The planning authority also considered that it is inconsistent and unequitable to require a planning authority to go through a planning scheme amendment to be able to reference a State Government policy that itself wasn't required to go through any legislative process to be adopted by the State Government.
52. The planning authority modified the policy in accordance with the Commission direction to include the statement 'as published on Kingborough Council's website'.

### **Commission consideration**

53. Whilst the Commission appreciates the representors concerns with the updated biodiversity policy, the content of the policies is a matter for the Kingborough Council. The Commission's consideration is limited to whether the updated policies and associated references should be incorporated into the planning scheme.
54. The Commission notes the planning authority's submission that an internet search may assist with the meaning of many terms such as the 'Tasmania Reserve Estate'. However, the Commission does not accept that this approach is any substitute for defining a term within a regulatory instrument.
55. The process leading up to the modification of an incorporated document is not regulated under the Act, however, the Commission considers that any document used to inform a statutory assessment should be incorporated into the planning scheme.
56. The Commission accepts the changes made by the planning authority and considers the updated version of the biodiversity policy should be included in the planning scheme as an incorporated document.

### **The draft amendment**

57. During the hearing editorial matters relating to errors in Biodiversity Code of the planning scheme were discussed. On 11 October 2023 the Commission directed the planning authority to consider changes to the draft amendment, including:

- |                            |  |
|----------------------------|--|
| 2.1 incorporated documents | Revise the draft amendment to insert the following incorporated documents: <ul style="list-style-type: none"><li>• The Guidelines for Natural Values Surveys; and</li><li>• The Vegetation Condition Manual (with references).</li></ul>   |
| 2.2 Biodiversity Code      | Consider editorial corrections to the Biodiversity Code including: <ul style="list-style-type: none"><li>• E10.7.1 P1 - inclusion of 'and/or';</li><li>• E10.7.1 P1 - delete full stop and replace with '; and';</li><li>• E10.81 - inclusion of 'and/or' and delete full stop and replace with '; and';</li><li>• Any other incidental corrections to the Code.</li></ul> |

58. On 14 November 2023 the planning authority provided a modified draft amendment for the Commission's consideration.

### **Commission consideration**

59. The Commission accepts the changes made by the planning authority and modifies the draft amendment to include the changes. The Commission further modifies the draft amendment to correct several references in the planning scheme.

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

60. The Commission finds that no State Policies are 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**

61. The draft amendment requires modification to:
- include the changes in the planning authority submission dated 14 November 2023; and
  - delete the references to the existing incorporated documents in the planning scheme.

### **Decision on draft amendment**

62. Subject to the modifications described above and shown in Annexure A, the Commission is satisfied that the draft amendment meets the LPS criteria and gives its approval.

### **Attachments**

Annexure A - modified amendment

## Annexure A

### Modified amendment PSA-2022-3

1. Update the listing for the Kingborough Public Open Space Contribution Policy and Kingborough Biodiversity Offset Policy in Appendix 1 - Reference and Incorporated Documents as follows:

Document Title	Description	Date
Kingborough Public Open Space Contribution Policy, Policy 6.3	Prepared by Kingborough Council	November, 2021
Kingborough Biodiversity Offset Policy 6.10	Prepared by Kingborough Council	November, 2023

2. Update Appendix 1 - Reference and Incorporated Documents to include new incorporated documents, as follows:

Document Title	Description	Date
Natural and Cultural Heritage Division Guidelines for Natural Values Surveys - Terrestrial Development Proposals	Published by the Department of Primary Industries, Parks, Water and Environment	2015 (Version 1.2 - May 2021, minor updates)
TASVEG VCA Manual: A manual for assessing vegetation condition in Tasmania, Version 2.0	Published by the Department of Primary Industries, Parks, Water and Environment	2020

3. Amend the reference to the following incorporated documents in the text of the planning scheme.

Relevant clause in the Kingborough Interim Planning Scheme 2015	Amend text reference to the following documents
Clauses 10.6.3 P1 (h); 11.5.3 P1 (h); 12.5.3 P2; 13.5.3 P2; 14.5.3 P2; 15.5.1 P6; 16.5.3 P1 (h); 17.5.1 P3 (h); 18.5.1 P3 (h); 19.5.1 P3 (h); 20.5.1 P6; 21.5.1 P6; 22.5.1 P6; 23.5.1 P6; 24.5.1 P6; and 31.5.1 P6	Kingborough Public Open Space Contribution Policy, Policy 6.3, to November 2021
Clauses E10.7.1 P1 b (iv); E10.7.1 P1 (c) (v); E10.8.1 P1 (b) (iv) and E10.8.1 P1 (c) (v)	Kingborough Biodiversity Offset Policy 6.10, to November 2023

4. Amend the following text in the planning scheme.

Clause E10.7.1 P1	<p>Include 'and' after E10.7.1 P1 (a)(i), E10.7.1 P1 (b)(i), (ii),(iii), and E10.7.1 P1 (c)(i), (ii), (iii), (iv) and(v)</p> <p>Include 'and/or' after E10. 7.1 (a)(ii) and E10.7.1 P1 (b)(iv)</p>
Clause 10.8 P1	<p>Include 'and' after E10.8.1 P1(a)(i), E10.8.1 P1(b)(i), (ii), (iii), E 10.8.1 P1 (c)(i), (ii), (iii), (iv) and (v) Include 'and/or' after E10.8.1 (a)(ii) and E10.8.1 P1 (b){iv)</p>