

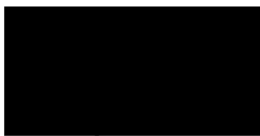
TASMANIAN PLANNING COMMISSION

DECISION

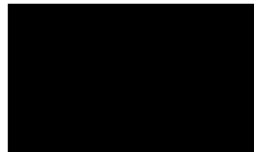
Planning scheme	Kingborough Interim Planning Scheme 2015
Amendment	PSA-2024-1 - rezone 26 Crescent Drive and 21 Gemalla Road, Margate from the Rural Resource Zone to the General Residential Zone, remove the Biodiversity Protection Area overlay and insert the Gemalla Road Specific Area Plan.
Planning authority	Kingborough Council
Applicant	Gray Planning
Date of decision	17 June 2026

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.



Claire Hynes
Delegate (Chair)



Ross Lovell
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

The original draft amendment was requested by Gray Planning for the Meredith family (landowners) under section 33 of the *Land Use Planning and Approvals Act 1993* (the Act). The request proposed to:

- rezone 26 Crescent Drive and 21 Gemalla Road, Margate (the site) from the Rural Resource Zone to the General Residential Zone
- remove the Biodiversity Protection Area overlay at the site, and
- reduce the extent of the Waterway and Coastal Protection Area overlay from 30m to 20m width (measured from the centreline of the waterway), which applies to the Tramway Creek watercourse at the site.

The planning authority proposed modifications to the draft amendment proposal and sought comment from the applicant. The draft amendment, as modified by the planning authority, proposed to:

- rezone the site from the Rural Resource Zone to the General Residential Zone
- remove the Biodiversity Protection Area overlay at the site
- retain the width of the Waterway and Coastal Protection Area overlay buffer as 30m, and
- insert a new Specific Area Plan, titled Gemalla Road Specific Area Plan.

In its response dated 5 August 2024, the applicant confirmed that it supported the following:

- rezone the site from the Rural Resource Zone to the General Residential Zone
- remove the Biodiversity Protection Area overlay from the site, and
- retain the width of the Waterway and Coastal Protection Area overlay buffer as 30m

and it will further consider application of the draft SAP to address identified site-specific issues, including mitigation of land use conflict between the site and the adjacent Light Industrial zoned land.

Amendment

The draft amendment was certified by the planning authority on 22 January 2025. It proposes to:

- rezone the site from the Rural Resource Zone to the General Residential Zone
- remove the Biodiversity Protection Area overlay from the site, and
- insert the Gemalla Road Specific Area Plan (draft SAP).

Site information

26 Crescent Drive and 21 Gemalla Road, Margate (the site) contains four titles, comprising folios of the Register 146336/1, 146336/2, 146336/3 and 187452/1, and has an area of 13.18ha. It contains a small dam and a section of the Tramway Creek watercourse. The site is vacant, currently used for grazing, and has no buildings or structures.

The site is zoned Rural Resource, and the following overlays apply to all or parts of the site:

- Biodiversity Protection Area
- Waterway and Coastal Protection Area
- Bushfire Prone Areas, and
- Attenuation Area (fish waste plant).

In a broader context, the site adjoins land zoned Low Density Residential (land to the north forming the established Margate settlement), Rural Living (land to the south), Light Industrial (land to the east) and Utilities (Channel Highway to the west). Land adjacent to the site to the west, along Channel Highway, is zoned Rural Resource and Rural Living.

The subject site has frontage onto Channel Highway, Bundalla Road, Gemalla Road and Crescent Drive. There are formalised vehicle accesses onto Crescent Drive and Gemalla Road.

Issues raised in representations

Three representations were received from the Channel Museum, Department of State Growth and TasWater. TasWater advised that it did not object to the draft amendment and had no comments.

The issues raised in representations were:

- heritage considerations of the former Sandfly Colliery Tramway
- lack of structure plan or masterplan
- potential traffic impacts
- road connectivity for passenger and active transport, and
- potential for road widening for Channel Highway.

Planning authority's response to the representations

The planning authority considered the representations at its Council meeting on 17 March 2025 and advised that:

- (a) Pursuant to s39(1) of the former provisions of the *Land Use Planning and Approvals Act 1993*, note the representations received in relation to Planning Scheme Amendment, PSA-2024-1;
- (b) Pursuant to s39(2)(b)(i) of the former provisions of the *Land Use Planning and Approvals Act 1993*, indicate to the Tasmanian Planning Commission that the Planning Authority does not recommend any changes to the initiated and certified amendment as part of this report; and

- (c) Pursuant to s39(2)(a) of the former provisions of the *Land Use Planning and Approvals Act 1993*, forward a copy of this report, and representations received 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 25 July 2025, and a reconvened hearing was held on 26 February 2026.

Appearances at the hearing on 25 July 2025

Planning authority:	Adriaan Stander, Lead Strategic Planner Nikki Den Exter, Coordinator Environmental Planning
Applicant:	Danielle Gray, Gray Planning Andrew Meredith, landowner
Applicant's consultants:	Ellen Witte, specialist in housing policy, social and economic analysis, SGS Nathan Morey, civil engineer, Aldanmark Engineers Mark Wapstra, ecologist, Environmental Consulting Options Tasmania (ECOtas)
Representors:	Jason Taylor, TasWater

Appearances at the hearing on 26 February 2026

Planning authority:	Adriaan Stander Nikki Den Exter Simon Johnson, Engineer
Applicant:	Danielle Gray, Gray Planning Andrew Meredith, Landowner
Applicant's consultants:	Nathan Morey, civil engineer, Verto Engineers and Project Managers Elliott Beswick, civil engineer, Verto Engineers and Project Managers

Consideration of the draft amendment

1. Under section 40 of the Act, the Commission is required to consider the draft amendment to the Kingborough Interim Planning Scheme 2015 (interim planning scheme) and the representations, statements and recommendations contained in the planning authority's section 39 report, and any information contained at a hearing, and any technical matters.
2. A hearing was convened to assist the Commission in considering the issues raised 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. The Commission must also consider whether it is satisfied that the draft amendment meets the following provisions of the Act. Under section 32(1), in

the opinion of the relevant decision-maker (the Commission), 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 30O;
 - (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. Subsection 32(1)(e) is not relevant to the draft amendment as the site does not adjoin an adjacent municipal area.
 6. Section 30O 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.
 7. 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.
 8. Under section 32(1)(f), regional impacts of use and development permissible under the draft amendment have been considered with reference to the Southern Tasmania Regional Land Use Strategy 2010-2035, as amended on 19 May 2025 (regional strategy), the planning scheme and representations.
 9. 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.
 10. Where relevant, these matters are discussed in the sections below.

Regional land use strategy

11. The applicant in its supporting report dated 27 February 2024 (applicant's report), noted that the proposed rezoning of the site to General Residential relied on satisfying policy SRD 2.12 of the regional strategy, as the site at that time, was located outside the Urban Growth Boundary (UGB).
12. The applicant acknowledged that the regional strategy identifies Margate as a "Major Satellite of Greater Hobart", however, further subdivision on the settlement fringes of is currently restricted due to the location of the UGB.
13. The applicant submitted that the site has been repeatedly identified as a greenfield area and specifically as one for densification as outlined under the 2013 and 2019 Kingborough strategies. The application submitted the draft amendment was consistent with the regional strategy in relation to social and

physical infrastructure, land use and transport integration, and residential settlement policy. Furthermore, the regional strategy has not been reviewed since 2011 and there is a critical need to ensure adequate supply of residential land in the region to accommodate future development demand.

14. In the planning authority's report provided under section 35, the planning authority concluded that it was satisfied that the draft amendment was, as far as practicable consistent with the regional strategy.
15. On 19 May 2025, the Minister amended the regional strategy, revising the UGB to incorporate the subject site within the boundary. Accordingly, policy SRD 2.12 is no longer a relevant consideration for assessment of the draft amendment.
16. On 27 May 2025, the Commission issued a direction requesting information on several matters, including the incorporation of the site within the UGB and how the SAP requirement to prepare a masterplan would be undertaken.
17. The applicant, in its submission dated 20 June 2025, submitted a masterplan was not required in addition to the SAP, but accepted the SAP can include appropriate controls to facilitate the desired planning outcome for the site, including layout of subdivision.
18. The planning authority, in its submission dated 10 July 2025, submitted the creation of masterplans was an accepted planning practice and that in this instance, the preparation of a masterplan within the SAP would result in a site-responsive subdivision layout.
19. The planning authority further advised that there is a clear and urgent need to meet demand for more dwellings in Margate. The planning authority advised that the Residential Demand and Supply Study prepared by RemPlan, dated 2024 indicated that, at a local level in Kingborough, if all future dwelling demand were to be met through currently vacant residential zone land, the available supply would likely be exhausted within 10 to 11 years.
20. The applicant's report also noted the subject site is adjacent to predominantly vacant Light Industrial zoned land to the east of the subject site. The applicant submitted that the layout and lot configuration of a future subdivision of the site would not lead to any new or enhanced likelihood of land use conflict between future residential development of the subject site and the ability for the Light Industrial zoned land to be appropriately developed.

Commission's consideration

21. Under section 30O(1) of the Act, the Commission must determine whether, in its opinion and to the extent practicable, the draft amendment is consistent with the regional strategy. This requires the Commission to evaluate the degree of consistency between the draft amendment and the regional strategy, taking into account the particular circumstances of the matter.
22. In terms of residential supply and growth in the southern region, the intent of the regional strategy is to achieve a more sustainable approach to residential growth and to promote:
 - ...consolidation of existing settlements and minimisation of urban sprawl and lower density development (p. 84-85).

23. The Commission notes the regional strategy was amended on 19 May 2025, incorporating the site within the UGB. It also notes the previous position of the planning authority in relation to the need for a masterplan for the site, and its view upon the use of such a mechanism to guide future subdivision on the site.
24. The Commission finds that the overarching policy (SRD 1), which is to provide for a sustainable and compact network for settlements capable of meeting projected demand, provides the context for applying the policies, including SRD 1.1 and 1.5.
25. The Commission also acknowledges that the site is identified in the *Kingborough Land Use Strategy 2019* as being suitable for inclusion in the General Residential Zone, and this Strategy specifically refers to areas south of Margate.
26. The regional strategy aims for residential growth to occur in established settlements, either by densification and or by expansion.
27. The Commission notes the site is located within the UGB and is identified as a greenfield area and specifically as one for densification. The Commission further notes the site is relatively flat, able to be fully serviced, has good connections to existing the road network, is located within a short distance of the township, and there is a demonstrated need for additional residential land in Margate.
28. The Commission finds the site does not contain significant native vegetation (see discussion below), notes it is not identified as significant agricultural land, and considers the site's unique planning issues (including connectivity, flooding risk, proximity to industrial land, and vegetation values) can be addressed through appropriate controls in the draft SAP. The Commission's consideration on whether the proposed SAP is sufficient to address the unique planning issues is discussed in further detail below.
29. The Commission agrees with the planning authority and the applicant that demand for housing in Margate is strong, and accepts the evidence that there is insufficient suitable, residential zoned land available to meet this demand in the Margate area.
30. Based on the submitted evidence and site-specific planning circumstances, the Commission is satisfied that the draft amendment is, as far as is practicable, consistent with SRD1 of the regional strategy for Settlement and Development.
31. With regarding to the adjacent industrial zone land to the site, the Commission notes that strategy IA 1 recognises the need to identify, protect and manage the supply of well-sited industrial land that will meet regional need across the 5-30 year horizons. Neither the regional strategy nor the Southern Tasmania Industrial Strategy 2013 specifically identify the Bundalla Road industrial area.
32. As Bundalla Road is an existing industrial zoned site that is already adjacent to residential use, the Commission considers that a balance must be reached between providing for residential use and the impacts of that residential use on the industrial site.
33. The Commission is satisfied that the inclusion of the setback buffer distance in the draft SAP for locating sensitive uses on the site and other measures will be

adequate to provide residential amenity from the industrial uses (see discussion below).

34. The Commission considers that these measures can mitigate the potential to fetter the ongoing viability of the future activities in the adjacent light industrial area.
35. On this basis, the Commission is satisfied that the draft amendment is, as far as practicable, consistent with the regional land use strategy.

Strategic Plan

36. The relevant strategic plan is the Kingborough Council Strategic Plan 2025-2035 (strategic plan). The planning authority submitted that the draft amendment furthers the key priorities of the strategic plan which are:
 - encourage and support a safe, healthy and connected community
 - deliver quality infrastructure and services, and
 - sustain the natural environment whilst facilitating development.
37. The planning authority concluded that the draft amendment as certified, will ensure appropriate land use planning systems are in place to manage the current and future impacts of development in relation to this site.

Commission's consideration

38. The Commission finds that the draft amendment has regard to the strategic plan prepared under section 66 of the *Local Government Act 1993*.

Waterway and Coastal Protection Area overlay and potential flooding risk

Waterway and Coastal Protection Area overlay

39. Tramway Creek is identified as a Class 2 watercourse within the Waterway and Coastal Protection Area overlay in the Waterway and Coastal Protection Code, as its catchment measures approximately 105ha. This means the watercourse is subject to an overlay buffer width of 30m, measured from the centreline of the creek.
40. The planning authority certified the draft amendment without any proposed change to the spatial extent of the Waterway and Coastal Protection Area overlay on the site.
41. In the planning authority's report supporting the draft amendment (the supporting report), the planning authority stated that the Waterway and Coastal Protection Area overlay at the site contains most of the very high conservation value trees, which is important for the ecological function of the watercourse. The supporting report further submitted that the Tramway Creek Flood Study prepared by Flussig Engineers (expert flood engineers) dated January 2023 identified the overlay area as having the highest risk of flood in a 1% AEP storm event.
42. The study did not extend to the investigation of mitigation measures or policy creation. Furthermore, recommendation 3 of the study states "review the risk on the overall catchment associated with rezoning of the lower section of

Meredith's Orchard land". The study summarised the flood hazard of the site as:

Under existing conditions, the main creek and tributaries for the most part experience inundation to <300mm flood depth and ,1m/s velocity. This places the hazard rating as adopted by Australian Flood Resilience and Design Handbook as a maximum *H1 – safe for children, elderly, and vehicles* as shown in Appendix A – Figure A3, 7, 11. This excludes mainstream areas and areas of ponding either through dams or behind culverts. These areas experience hazard ratings of between H3 and H5 and should be treated with care during storm events (p. 15)

43. The planning authority stated that the draft amendment could proceed if a SAP is included that requires the overlay to remain unobstructed from roads and property.
44. Following the exhibition period, the applicant provided a pre-hearing submission to the Commission dated 20 June 2025 (applicant submission, June 2025). In this submission, the applicant acknowledged that while it had originally agreed with the position to not amend the waterway classification on the site, it now intended to seek the reduction of the width to a Class 4 waterway (30m to 10m).
45. It reiterated that in the applicant's report, it requested that the Waterway and Coastal Protection Area overlay buffer be reduced from 30m (Class 2) to 10m (Class 4). It stated that this was appropriate for the site due to the lack of riparian environmental values along Tramway Creek. Furthermore, the guidelines under Table C7.3 of the Natural Assets Code of the State Planning Provisions (SPPs) for applying waterway and coastal protection area overlay, states the buffer should be 10m for residential zoned land.
46. The applicant submitted a Natural Values Assessment for the site, prepared by ECOtas dated 13 June 2023. The Natural Values Assessment considered that:

Tramway Creek is a highly modified watercourse. For much of its length through the paddocks it is not much more than a poorly-drained part of the pasture (Plates 9 & 10). There is a moderate-sized dam in the approximate middle of the creek (Plate 11). The entry point of Tramway Creek near the Channel Highway is highly modified with a council-managed walkway across the creek (Plate 12) and culverts under the Channel Highway (Plate 13) and walkway (Plate 14). Similarly, the eastern exit point of Tramway Creek near Bundalla Road is modified by a concrete culvert (Plates 15 & 16) (p. 7)
47. At the hearing, Mr Mark Wapstra of ECOtas (ecologist) for the applicant stated that there is no vegetation value along Tramway Creek, which is a consideration under E11.0 Waterway and Coastal Protection Code of the interim planning scheme, and C7.0 Natural Assets Code of the SPPs.
48. Dr Nikki Den Exter, environmental planner for the planning authority disagreed with this assessment, stating that 16 of the 19 native trees in the 30m wide buffer are of high conservation value and the overlay is important for the natural

ecological function of the watercourse. Further, environmental flows form part of the environmental values of the waterway. Dr Den Exter further stated that as the catchment is over 100ha and the catchment drains into the North West Bay, the watercourse is appropriately classified as a Class 2 watercourse.

49. Following the hearing, the planning authority and applicant provided separate opinions on whether reducing the Waterway and Coastal Protection Area overlay from Class 2 to Class 4 is appropriate for the site. Both submissions reiterated the parties' opinions on the matter that were heard at the hearing.
50. At the reconvened hearing on 26 February 2026, the matter was further discussed by parties.
51. Following the hearing, the Commission directed the planning authority to consider preparing a concept plan to form part of the draft SAP and to advise of any subsequent modifications to the proposed SAP.
52. On 24 March 2026, the planning authority responded advising that it would support the reduction of the spatial extent of the Waterway and Coastal Area overlay from 30m to 10m. It noted that this support is contingent upon the inclusion of measures within the draft SAP to provide waterway treatment requirements to protect water quality. The applicant responded to the content of the planning authority's submission and noted the changed position.

Flooding and Inundation Impacts

53. The Tramway Creek Flood Study identifies parts of the site as being subject to a high risk of flood in a 1% AEP storm event. This area generally aligns with the Waterway and Coastal Protection Area overlay. Other parts of the site are also identified as being prone to flooding, albeit lower risk.
54. In the applicant's report, it stated that it engaged Flussig to conduct further work for the site. The advice from Flussig was summarised as stating that "significant environmental and infrastructure improvements can be obtained by the reshaping/realigning of Tramway Creek and that the vast majority of flooding can be accommodated in a 5m wide x 1m deep creek channel".
55. In its supporting report, the planning authority noted that more detailed flood modelling is required to determine how flooding risk will affect future development and impacts downstream. It stated that the rezoning should only proceed if the draft SAP provides a means to address flooding as part of the future subdivision design.
56. As such, the planning authority included the following provisions in the draft SAP:

F.6.5 Development Standards for Subdivision

- F.6.5.1 This clause is in addition to the General Residential Zone – Clause 10.6.1 Lot design

...

Acceptable Solutions	Performance Criteria
A2 No Acceptable Solution.	P2

	Subdivision must incorporate flood mitigation and stormwater measures and a stormwater disposal system that maintains, protects and enhances the natural flow and water quality values of the Tramway Creek Catchment having regard to: (a) water sensitive urban design principles; and (b) the topography of the land and its natural pattern of drainage.
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57. The applicant's and planning authority's respective reports focussed on the area covered by the Waterway and Coastal Protection Area overlay. However, Figure 4 of the Site Servicing Report prepared by Aldanmark dated 13 March 2024, which was submitted by the applicant, identified other areas outside the Waterway and Coastal Protection Area overlay that may be subject to flooding.
58. In a direction letter dated 27 May 2025, the Commission requested parties to provide submissions on whether mitigation or other considerations are necessary for future lots outside the overlay, when this would occur and whether works in Tramway Creek have been addressed.
59. Submissions from the applicant and planning authority provided opposing views on the classification of the overlay at the site.
60. In the applicant's submission dated 9 July 2025, it considered that flood risk can be assessed at the subdivision design stage, as part of a future development application. It considered that there are various mitigation options available for the site to address flooding and inundation impacts, including:
 - detention/retention on individual lots
 - detention/retention within the existing watercourse
 - detention/retention of water upstream on the proponents adjoining property
 - minimum floor heights to a minimum specific AHD, as covenants on titles
 - widening and deepening of the watercourse
 - building envelopes on titles, and
 - general layout and design of future subdivision.
61. The applicant further stated that:

Due to the presence of the Flood Study and the draft LPS Flood Hazard Overlay proposed to apply to the subject site, it is considered appropriate that flooding is dealt with during the design stage of a future subdivision, which may require a new Flood Study to address the risks and model the proposed subdivision design (p. 17)
62. The planning authority's submission dated 10 July 2025 did not directly address the Commission's request about areas outside the overlay. Rather it focussed on the area subject to the overlay and the need to retain the existing buffer

width. It reiterated that detailed flood modelling is required, as without the modelling there is no ability to confirm how the site can be developed. It further stated that:

Council strongly opposes replacing the existing watercourse with underground stormwater infrastructure, as this is contrary to the purpose and the requirements of the Waterway and Coastal Protection Code (irrespective of buffer width) and is contrary to current best practice stormwater management (p. 3)

63. Following the hearing, the Commission issued a direction letter, requesting submissions on the inclusion of new clause F7.8.3 in the SAP to manage flooding and inundation impacts on the site in context of subdivision within Tramway Creek flood-prone areas code and a reduction of the Waterway and Coastal Protection Area overlay to Class 4 (10m).
64. Submissions from the applicant and planning authority provided opposing views on assessing and managing flooding at the site.
65. In its submission dated 11 December 2025, the planning authority stated it would be premature to support the reduction of the overlay without a comprehensive flood study for the site. The planning authority further stated that:

Although the waterway buffer in the planning scheme is not intended to address flooding directly, its configuration and width provided a practical mechanism to manage flood risk alongside other urban design considerations... (p. 5)

66. In its submission dated 17 December 2025, the applicant supported the inclusion of the flood provision for managing future subdivision of the site (consistent with the Flood Prone Area Code in the SPPs) and a reduction of spatial extent of the overlay to 10m. The applicant further considered that reducing the overlay is appropriate on the site, as the 10m buffer either side of the watercourse would accommodate most of the identified H3 flood hazard areas on the site.
67. At the hearing on 26 February 2026, flooding matters were further discussed, and it was agreed by the parties that management of flood risk would largely be addressed through assessment of subdivision design in a future application.
68. The planning authority in its submission dated 24 March 2026 expressed the view that the inclusion of a flood map within the SAP was not necessary. The applicant, in its submission dated 10 April 2026, requested that any flood provisions in the SAP should be suitable for a smooth transition into the future Kingborough Local Provisions Schedule (LPS). The applicant suggested that the replication of the relevant provision in the Flood-Prone Hazard Areas Code of the SPPs within the draft SAP would achieve this.

Commission's consideration

69. The Commission accepts the evidence contained within the Tramway Creek Flood Study prepared by Flussig Engineers and acknowledges that the site is identified as flood-prone and notes the hazard band mapping on the site.

70. The Commission finds that it is appropriate to include provisions within the SAP to manage flood risk for future subdivision of land, and an associated flood-prone hazard area map for the site. This will ensure future subdivision on the site maintains and protects the natural flow and water quality of the wider catchment, and future use and development on the site can adequately respond to its exposure to flood risk and surrounding land would not be impacted.
71. The Commission also finds it is appropriate for the draft SAP to includes flood provisions within the SAP, mirroring the subdivision-related provisions in the Flood-Prone Areas Code of the SPPs. This alignment with the established (and approved) state-wide policy setting for managing subdivision in a flood-prone hazard area in the SPPs, will support a smooth transition of the SAP from the current interim planning scheme to the future Kingborough LPS.
72. The Commission is satisfied that these provisions in the draft SAP will ensure that flood-related hazards are appropriately identified and assessed as part of any future subdivision on the site through a development application process.
73. The revision of the draft SAP to include this provision is considered a modification only, as it mirrors the policy position in existing clause E15.8.3 of the interim planning scheme and the statewide policy established in clause C12.7.1 of the SPPs.

Potential land use conflict

74. The site is adjacent to vacant and developed land in the Light Industrial Zone.
75. The applicant's report stated that new uses proposed on the adjacent vacant land zoned Light Industrial would be required to consider impacts on residential use and development through the zone provisions.
76. The applicant considered that the likely conflict between future residential use on the site and industrial use on adjacent land would be related to noise emissions. It stated that there are numerous mitigation options available for future residential design including at the subdivision stage and building and works provisions.
77. Prior to certifying the draft amendment, the planning authority prepared a draft SAP to accompany the proposed rezoning of the site and consulted with the applicant. The draft SAP proposed a 30m setback from Bundalla Road frontage, for development of new residential lots intended for a sensitive use to minimise adverse impacts by emissions from existing activities in the adjacent Light Industrial Zone.
78. The proposed provision at clause F.6.5.1 A3/P3 of the certified draft SAP is:

A3	P3
Each lot, or a lot proposed in a plan of subdivision, within a distance of 30m from the Bundalla Road frontage, must be for the creation of a lot: (a) where a building for a sensitive use can be located entirely outside	Each lot, or a lot proposed in a plan of subdivision, within a distance a distance [sic] of 30m from the from the [sic] Bundalla Road frontage, must not result in the potential for a sensitive use to be impacted by emissions, having regard to:

the 30m distance from Bundalla Road frontage; or (b) not be for the creation of a lot intended for a sensitive use.	(a) the nature of the existing activity in the Light Industrial Zone and potential to cause emissions, including: (i) operational characteristics of the activity; (ii) scale and intensity of the activity; and (iii) degree of emissions from the activity; and (b) the potential future use of land in the Light Industrial Zone; (c) the intended use of the proposed lot; and (d) recommendations from a suitably qualified person for mitigation of emissions.
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79. In its response to further information request prepared by Gray Planning dated 5 August 2024 (applicant's response), the applicant submitted the 30m setback is 'above and beyond the protections in place for existing Light Industrial zoned land in Kingborough'. It stated that a setback greater than 30m would not be supported by the applicant.
80. In the planning authority's report supporting the draft amendment dated 22 January 2025 (supporting report), the planning authority stated that one of the reasons for applying the draft SAP to the site was to manage potential land use conflicts with the adjacent land zoned Light Industrial. It stated that:
- Noting that scarcity of industrial land in the region and in particularly in the Kingborough municipality, the proposed SAP is introduced to ensure that the rezoning of the land to General Residential will not have a detrimental impact on the existing and future development in the Light Industrial Zone. The SAP is essentially proposing an increased setback for sensitive land uses and will work in conjunction with the provisions of the Attenuation Code to protect the industrial land, but also to protect the amenity of future residents (p. 13)
81. On 27 May 2025, the Commission issued a direction to the parties requesting information on whether the use standards for the Light Industrial Zone will effectively manage the avoidance of potential conflict with future uses on the site.
82. The applicant provided a further submission to the Commission dated 20 June 2025 (applicant's submission, June 2025), which stated that the rationale for the draft SAP should be to manage and mitigate potential land use conflict between the proposed General Residential Zone and the existing vacant Light Industrial zoned land. The applicant also considered that the draft SAP should require design considerations for sensitive uses (residential).
83. In its submission dated 10 July 2025, the planning authority raised concerns that the use standards in the Light Industrial Zone do not adequately manage

land use conflict, and the zone standards focus on immediate impacts, not impacts in a broader, strategic sense. The planning authority advised that without the SAP provisions, there are risks that the Light Industrial zoned land will be sterilised, due to industrial operators struggling to meet the Light Industrial Zone requirements.

84. At the hearing, the parties agreed that mitigation measures applied through the draft SAP are appropriate to reduce impacts on activities in the Light Industrial Zone, with the primary concern relating to potential noise emissions.
85. Based on discussions at the hearing, the Commission directed parties to provide a response to a revised draft SAP which included the following two new clauses to manage sensitive uses in proximity to the adjacent industrial land:

F6.7.1 -

Objective:	That habitable buildings for a sensitive use located within a 100m buffer area from land zoned Light Industrial does not unreasonably interfere with or constrain the potential for use and development of vacant light industrial land.
Acceptable Solutions	Performance Criteria
A1 Habitable buildings for a sensitive use must be separated from the title boundary of land zoned Light Industrial a distance of: (a) not less than 100m; or (b) if the setbacks of an existing building is within 100m, not less than the existing building and must incorporate noise attenuation measures as specified in an acoustic assessment report prepared by a suitably qualified person for mitigation of noise.	P1 Habitable buildings for a sensitive use must be designed, constructed and sited to not conflict or interfere with potential uses of vacant Light Industrial zoned land, having regard to: (a) the size, shape and topography of the site; (b) the separation of any existing buildings for a sensitive use on adjoining properties; (c) the existing and potential use of adjoining properties; (d) any proposed attenuation measures; (e) any proposed mitigation measures including materials of construction, building layout, orientation or building siting; and (f) any buffers created by natural or other features.

F6.8.4 -

Objective:	That the design of subdivision minimises the likelihood for sensitive uses to conflict with, interfere with, or constrain an existing activity on adjacent land zoned Light Industrial with potential to cause emissions.
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Acceptable Solutions	Performance Criteria
A1 Each lot, or a lot proposed in a plan of subdivision, within a distance of 30m from the Bundalla Road frontage, must be for the creation of a lot: (a) where a building area for a sensitive use can be sited to meet the recommendations of an acoustic assessment report prepared by a suitably qualified person for mitigation of noise, and included in the development framework; or (b) not be for the creation of a lot intended for sensitive use.	P1 Each lot, or a lot proposed in a plan of subdivision, within a distance of 30m from the Bundalla Road frontage, must not result in the potential for a sensitive use to be impacted by emissions, having regard to: (a) the nature of the activity in the Light Industrial Zone with the potential to cause emissions, including: (i) operational characteristics of the activity; (ii) scale and intensity of the activity; and (iii) degree of emissions from the activity; and (b) the intended use of the proposed lot; and (c) recommendations from a suitably qualified person for mitigation of emissions.

86. In its submission dated 11 December 2025, the planning authority advised that it supported the revised provisions in the draft SAP. However, in its submission dated 24 March 2026, the planning authority submitted an altered position, supporting the insertion of a new clause F6.7.1 – sensitive use within proximity of industrial buffer areas. This clause requires habitable buildings or a sensitive use located within 100m buffer from vacant Light Industrial zoned land to consider attenuation mitigation measures.

87. The applicant, in its submission dated 17 December 2025, submitted the following:

The Light Industrial Zone does not include any use standards to consider impacts on residential amenity. Likewise, the attenuation Codes under both the Interim Planning Scheme and the State Planning Provisions only consider existing uses/activity in terms of avoiding fettering of industrial uses by encroaching sensitive use.

Both the SPPs and the *Kingborough Interim Planning Scheme 2015* are silent on the protection of vacant Light Industrial zoned land. The adjacent Light Industrial land to the east of the subject site remains the largest undeveloped area of such zoned land in Kingborough and possibly, in the south of Hobart.

Therefore, given the subject site is requested to be rezoned to General Residential zone and is adjacent to a Light Industrial Zone, additional standards are required to manage potential impacts on Light Industrial zoned vacant land, not just existing light industrial uses and activity.

The proposed changes to the SAP in this submission do not represent a material change in policy direction or content from that originally advertised.

88. The applicant, in its submission dated 10 April 2025, further advised that it preferred the wording as originally submitted to the Commission in the SAP on 17 December 2025. Responding to Council's 11 December 2025 submission, it stated that it was not necessary for the interface mapping in Figure 2 showing a buffer from industrial land, because the provisions of the draft SAP adequately described the distance.

Commission's consideration

89. The Commission notes the general agreement between the planning authority and the applicant, as well as the clarification provided by parties at the hearing that the primary issue relates to potential noise emissions from the adjoining Light Industrial zoned land and the impact on future sensitive uses within the site. The Commission accepts standards in the Light Industrial Zone, and the attenuation codes in both the interim planning scheme and in the SPPs only consider existing uses/activity in terms of avoiding fettering of industrial uses by encroaching sensitive uses.
90. In context of existing planning scheme controls, the Commission finds it appropriate for the SAP to include a building and works development standard, that provides for habitable buildings for a sensitive use to consider mitigation measures to manage potential impacts on adjacent vacant Light Industrial zoned land, not just existing light industrial uses and activity. The Commission notes the planning authority and the applicant both acknowledged this matter during the hearing process and agreed to this modification to the SAP.
91. The Commission also finds it is appropriate for a provision in the SAP to ensure that subdivision design minimises the likelihood of sensitive uses conflicting with, interfering with, or constraining existing activities on the adjacent Light Industrial land is appropriate, given the site's proximity to that land.
92. The Commission is satisfied that such a provision is warranted due to the potential risk of noise emissions arising from activities on adjacent industrial zoned land. The Commission also finds that, to ensure clarity in interpretation and application of this provision, it is appropriate to depict a 30m buffer area within the Gemalla Road Development Framework figure included in the SAP.
93. Accordingly, the Commission is persuaded that the draft SAP should be modified to include provisions that apply specifically to the creation of lots within 30m of land zoned Light Industrial where a sensitive use could be established. This will ensure that appropriate consideration is given to noise attenuation measures at the development application stage, reflecting the context and sensitivity of this zone interface.
94. Clause F6.7.4 on the modified SAP gives effect to the policy intent contained in the certified draft SAP (clause F6.5.1 P1(j) and A3/P3), and all affected parties have been provided with reasonable opportunity to provide comment and participate in the process. These modifications do not substantially alter the policy framework of the certified SAP and clarifies the focus relates to noise emissions.

Road network, traffic and streetscape

95. The planning authority referred the initial draft amendment to the Department of State Growth (the Department) who provided preliminary advice raising concerns about the broader impact of the proposal on the wider road network. The Department, in their representation, raised concerns about how the draft amendment may impact the road and transport network in the area. It noted that upgrades of the Channel Highway, including road widening at this location and through Margate to cater for traffic growth will be difficult to achieve due to the constrained corridor. It sought the consideration of traffic impacts associated with the development of the site to be considered prior to subdivision and recommended that the road widening be an extension of land set aside south of Gemalla Road for the Margate to Snug Pathway by Council.
96. The planning authority in their section 39 report, stated that it agreed that a structure plan for the area south of Margate consistent with the recommendations of the Kingborough Land Use Strategy 2019 should be developed. However, it could not progress this work now due to limited resources. The planning authority submitted that the draft SAP will bring this work forward in a master-planned approach for the site and require consideration of the future subdivision potential of the site. In addition, the standard subdivision provisions in the General Residential Zone and applicable codes will trigger (as part of a future subdivision permit) consideration of the more detailed comments by the Department in their representation.
97. Regarding traffic and connectivity, the applicant submitted a Traffic Impact Statement (TIS) prepared by Hubble Traffic dated February 2024 with its report. Diagram 2.0B of this statement includes a concept residential subdivision plan. This plan shows lots along Gemalla Road as gaining access from within the site, as internal lots.
98. At the hearing, the Commission asked the applicant whether lots along Gemalla Road could gain access from Gemalla Road, so houses front the street rather than as internal lots. The reason for this was for future neighbourhood aesthetics and urban design principles, such as Crime Prevention Through Environment Design (CPTED), require passive surveillance. The Commission raised concerns that this could not be achieved if the lots are internal lots, as the houses would have rear fences along Gemalla Road, up to a height of 2.1m.
99. Ms Danielle Gray of Gray Planning advised that the TIS did not support these lots having access to Gemalla Road, as it is a road used for heavy vehicles associated with the industrial use. Therefore, the lots are appropriate as internal lots with access from within the site.
100. On 15 September 2025, the Commission directed the planning authority and applicant to provide submissions on whether the draft SAP should include a development standard requiring building design to address Gemalla Road.
101. In its submission dated 11 December 2025, the planning authority advised that it had no further comment on the matter, and on 17 December 2025, the applicant submitted that:

A development standard requiring building design to address streetscape goes beyond the development standards in the

General Residential zone under both the Interim Planning Scheme and the State Planning Provisions (p.24)

102. The applicant stated that Bundalla and Gemalla roads carry high levels of industrial traffic and heavy vehicles. It considered that requiring dwellings to face onto these roads would not be conducive to avoiding land use conflict with the adjacent land zoned Light Industrial.
103. To assist in achieving streetscape enhancement, the applicant submitted the following provision relating to fencing and street tree landscaping be included in the SAP:

F6.8.5 Fencing

Objective:	To ensure that frontage fencing does not detract from the appearance of the site or the locality and provides for passive surveillance.
Acceptable Solutions	Performance Criteria
A1 Frontage fencing fronting onto a boundary shared with Gemalla Road or Bundalla Road must comply with all of the following: (a) fences, walls and gates of greater height than 1.8m must not be erected within 10m of the frontage boundary; (b) fences along the frontage with Gemalla or Bundalla Road must be at least 50% transparent above a height of 1.5m.	P1 Fencing must not contribute negatively to the streetscape, having regard to all of the following: (a) the height of the fence; (b) the degree of transparency of the fence; (c) the design of the fence; (d) the fence colours and materials; (e) any landscaping to soften the appearance of the fence; or (f) the demonstrated need to provide for acoustic screening as provided from a suitably qualified person for mitigation of noise emissions.

Commission's consideration

104. The Commission acknowledges concerns raised by the Department in their representation. However, the Commission agrees with the planning authority in their response, and is satisfied that the provisions in the draft SAP, in addition to the General Residential Zone and applicable codes, will provide appropriate controls to consider road network matters, as part of any future subdivision application.
105. The Commission accepts the evidence contained in the TIS prepared by Hubble Traffic and is satisfied that the existing road network can accommodate the anticipated additional traffic generated by future residential use and development of the site.
106. Having considered the proposed fencing provisions discussed above, the Commission is not persuaded that inclusion in the draft SAP is necessary.

Provisions relating to fencing were raised during the hearing, with the intention of preventing high fencing along Gemalla and Bundalla roads, which would likely present an undesirable streetscape outcome.

107. However, the Commission finds that such provisions would not adequately address the underlying issue of lot orientation, including the need to ensure that lots are designed to present active frontages to Gemalla and Bundalla roads. Parties were afforded the opportunity to comment on this issue through the hearing process.
108. The Commission is persuaded that provisions addressing lot orientation are the more appropriate response for the context of the site and in the SAP. Accordingly, the draft SAP has been modified to include provisions requiring that future lots are created with frontage to Gemalla and Bundalla roads. This approach will support appropriate streetscape presentation and avoid the potential for rear fencing to define the interface with these roadways.
109. This modification to the draft SAP is considered moderate and it aligns with the broader policy position of the draft amendment and the policy strategy of the master-planned approach for the site in the certified SAP.

Vegetation

110. The draft amendment proposes to remove the Biodiversity Protection Area overlay from the site.
111. The Natural Values Assessment prepared by ECOtas dated 13 June 2023, for the applicant concluded that it is appropriate to remove the Biodiversity Protection Area overlay from the site, as the site does not support priority vegetation (as defined by clause C7.3.1 of the Natural Assets Code in the SPPs).
112. The assessment identified several native tree species, including *Eucalyptus amygdalina* (black peppermint), *Eucalyptus obliqua* (stringybark) and *Eucalyptus ovata* (black gum). Fifteen of these trees are considered to have a high conservation value when assessed against Table 10.1 by reference to the Kingborough Biodiversity Offset Policy 6.10 (November 2016).
113. At the hearing, Mr Wapstra of ECOtas (ecologist) submitted that there is no significant vegetation values associated with native tree species in the Tramway Creek corridor. ECOtas concluded that it would be appropriate for provisions in the SAP to address the longer-term management of these trees to be included as part of any future subdivision proposal. Given that many of the identified trees are located along Tramway Creek, it was considered that their retention would not conflict with any future servicing requirements, bushfire hazard management and other site constraints.
114. In its submission of 24 March 2026, the planning authority stated that the mapped vegetation within the Tramway Creek corridor area should be retained unless their removal is unavoidable, and that any removal of trees should be subject to the Council's Biodiversity Offset Policy.
115. In its submission of 10 April 2026, the applicant reiterated the findings of the Natural Values Assessment prepared by ECOtas, maintaining that priority vegetation is not present on the site. The applicant also submitted that the

Council's Biodiversity Offset Policy should not apply to the site, on the basis that the relevant vegetation would be located within future public open space areas (following the natural flow path of the Tramway Creek watercourse) as part of the future subdivision of the site, to be vested in Council as part of the subdivision, which constitutes, and achieves, an appropriate offset response.

Commission's consideration

116. The Commission accepts the expert evidence provided by Mr Wapstra at the hearing and contained in the Natural Values Assessment prepared by ECOtas.
117. Based on this evidence, the Commission finds that it is appropriate for the vegetation mapped within the Tramway Creek corridor to be retained, and that the draft SAP should include provisions to this effect. The Commission also finds that, to ensure clarity in interpretation and application of this provision, it is appropriate to depict the mapped vegetation within the Gemalla Road Development Framework diagram included in the draft SAP.
118. With consideration of the local context and natural values on the site, the Commission does not consider it appropriate for the draft SAP to contain provisions that would activate application of Council's Biodiversity Offset Policy. This conclusion reflects both the accepted expert evidence regarding the limited conservation significance of the vegetation on the site, and the proposed transfer of vegetated land as public open space to Council as part of future subdivision of the site.
119. This modification to the draft SAP is considered moderate, and it aligns with the broader policy position of the draft amendment and policy strategy of the master-planned approach in the certified SAP.

Site suitability - Gemalla Road SAP and General Residential Zone

120. In its supporting report, the planning authority submitted that the proposed (certified) Gemalla Road SAP and the General Residential Zone are suitable for the site. The planning authority noted that the draft amendment is necessary to apply to the site to address the unique planning circumstances of the site and to achieve the desired planning outcomes, which includes addressing the projected housing demand in the Margate settlement and Kingborough municipal area and the site's logical extension of the Margate settlement.
121. Both the applicant and the planning authority confirmed that the site, and any future use or development, are capable of being fully serviced. TasWater, in its representation, raised no objection to the draft amendment.
122. In terms of stormwater management, the proposed SAP requires that the future subdivision design of the site incorporate water sensitive urban design principles.
123. The planning authority submitted that without the SAP controls, simply rezoning the site to General Residential would likely result in ad hoc development of the land and associated infrastructure. This approach would likely not achieve the desired residential yields necessary to ensure a 15-year supply of residential land. It would also fall short in providing the required connectivity, high levels of amenity, and addressing the flooding and inundation impacts, the natural

values and measures to minimise land use conflict with adjacent land zoned Light Industrial, in a holistic and sensitive manner.

124. Specifically, the planning authority submitted the draft SAP will provide provisions in addition to the General Residential Zone and applicable codes, to facilitate the future development of the site through a master-planned approach, to ensure that the subdivision design provisions provide an outcome that:
- a) integrates with existing development on adjoining the land;
 - b) provides a lot layout with a range of lot sizes to suit the construction of different housing typologies;
 - c) provides road connections to the adjoining road network demonstrating a clear road hierarchy;
 - d) provides public open space that is designed in a manner that is aligned with the natural flow path of the Tramway Creek and incorporates the recommendations of Council's Public Open Space Strategy;
 - e) provides pedestrian and cycle paths that connect to adjoining networks incorporating the recommendations of Council's footpath and cycle strategies;
 - f) avoids or mitigates the presence of any natural hazards on site;
 - g) reduces the risk of inundation of properties in the broader Tramway Creek catchment area;
 - h) minimises and mitigates adverse direct and indirect impacts on natural values;
 - i) provides for adequate on-site stormwater management; and
 - j) avoids or mitigates land use conflicts.

Commission's consideration

125. The Commission agrees with the planning authority that the site is suitable for residential development and to be rezoned to General Residential, considering its location adjoining the established settlement of Margate and represents a logical extension of the settlement.
126. The Commission notes that the General Residential Zone Purpose Statements include providing for development where full infrastructure services are available or can be provided, and that is connected to the transport network. The site is not severely constrained by any natural hazards or other restrictive development overlays.
127. The Commission accepts evidence and information in relation to servicing of the site and is satisfied that there are no identified constraints which would make the subject site otherwise unsuitable for inclusion in the General Residential Zone.
128. The Commission considers that that the site is constrained due to its proximity to the adjacent light industrial zoned land which may impact future residential amenity on the site. The Commission is satisfied this matter can be appropriately mitigated and managed with specific controls in the draft SAP.

129. The Commission is satisfied that the site has particular qualities that need unique provisions in the draft SAP, specifically:
- the proposed introduction of sensitive uses on the site necessitates specific controls to mitigate land use conflict between the subject site and adjacent land zoned Light Industrial
 - the opportunity for increased housing on well serviced land located close to existing industrial zoned land, and the need to ensure residential amenity in this context
 - specific controls are needed to address several desired planning outcomes on the site, including:
 - to ensure future subdivision of the land appropriately considers layout of lots, roads and road and pedestrian connections, including connectivity with the existing networks and streets, provision of public open space along the flow path of Tramway Creek (to align with Tramway Creek and recommendations in Council's Open Space Strategy), and lot orientation to facilitate passive surveillance and active frontage to roads
 - to provide for the retention of identified vegetation as shown in the Gemalla Road Development Framework, and
 - to manage stormwater to maintain and protect the quality of water systems, and to avoid or mitigate flooding and inundation impacts on site, as part of the future subdivision design.
130. The Commission concludes, based on the evidence provided by the applicant and planning authority, that the additional controls proposed in the draft SAP to the General Residential Zone and applicable code provisions, are warranted to manage the above site-specific and unique planning matters.
131. The Commission finds that modifications to the certified draft SAP are necessary to address some matters raised in the representations, and during the hearing process. These modifications, discussed above, are outlined in more detail below.
132. The Commission considers the modifications to the draft SAP are necessary to address the site's unique planning circumstances and achieve the desired planning outcome for the site.

State Policies and Resource Management and Planning System Objectives

133. Both the applicant and the planning authority submitted that the draft amendment is not inconsistent with the outcomes sought by the relevant State Policies.

State Coastal Policy 1996

134. The planning authority addressed the proposal under the *State Coastal Policy 1996* and considered that the policy is not relevant to the draft amendment.

State Policy on Water Quality Management 1997

135. The planning authority addressed the proposal's alignment with the *State Policy on Water Quality Management 1997* and stated that any future development

application would appropriately address the management of stormwater and its impact upon water quality.

State Policy on the Protection of Agricultural Land 2009

136. The planning authority addressed the proposal's alignment with the *State Policy on the Protection of Agricultural Land 2009* and stated that the policy is not relevant to the proposed amendment.

National Environment Protection Measures (NEPMs)

137. The planning authority considered that the site and the proposal do not involve any potential use or development that require environmental considerations under NEPMs.

Commission's consideration

138. The Commission acknowledges the evidence presented by the planning authority and the applicant, and the Commission is satisfied that the draft amendment is consistent with all the State Policies and NEPMs. The Commission remains satisfied that the draft amendment, with the modifications outlined below, remains consistent with all the State Policies and NEPMs.
139. The Commission also finds that the draft amendment, with the modifications outlined below, furthers the objectives set out in Schedule 1 of the Act as it supports the sustainable, fair and orderly use and development of the land by:
- supporting sustainable, efficient land use (e.g. logical expansion of a settlement)
 - aligning with strategic planning frameworks (e.g. regional strategy, local strategies)
 - facilitating an increase in housing supply, supporting population growth needed for the local economy and making efficient use of infrastructure investment.

Modifications required to draft amendment

140. Based upon the evidence and information submitted in the representations and during the hearing, the Commission determines that modifications are required to the draft amendment. The key modifications include:
- a reduction in the width of the Waterway and Coastal Protection Area overlay buffer on the site from 30m to 10m
 - the insertion of an overlay into the planning scheme maps showing the boundaries of the SAP, consistent with planning scheme mapping conventions, and
 - modifications to the SAP, to incorporate the following key changes:
 - purpose statements have been revised to better reflect the scope of the revised provisions
 - introduce new definitions for 'flood hazard report' and 'tolerable risk', to ensure consistency with the policy position set out in the substituted clause E15.8.3 of the interim planning scheme and

clause C12.7.1 of the SPPs, in relation to flood and inundation impacts

- insert new clause F6.7.1, to address habitable buildings for sensitive uses within proximity to adjacent vacant industrial land, as agreed by the planning authority and the applicant during the hearing process
- clause F6.5.1 in certified SAP has been replaced with new clause F6.8.1 Subdivision layout, to ensure subdivision design is consistent with the Gemalla Road Development Framework and provide greater clarity and certainty - the policy intent of F6.5.1 and the master-planned subdivision approach are retained in the modified SAP
- modify clause F6.8.1 P1 to require future lots to be orientated with frontage to Gemalla and Bundalla roads - this supports appropriate streetscape presentation and avoids rear fencing defining the interface with these roadways
- modify clause F6.8.1 subdivision layout to include A2/P2 (requiring street planting, as agreed during the hearing process) and A3/P3 (requiring retention of mapped vegetation within the Tramway Creek corridor as part of future subdivision, as set out in the Gemalla Road Development Framework)
- insert new clause F6.8.2, to address stormwater management and protect water quality in water systems
- insert new clause F6.8.3, to address flooding and inundation impacts, aligning with the policy intent of substituted clause E15.8.3 of the interim planning scheme and clause C12.7.1 of the SPPs – a new Figure F6.3 (Tramway Creek flood-prone hazard area) supports the interpretation and application of this provision
- modify clause F6.5.1 P1(j) and A3/P3 (now shown as clause F6.8.4), to address subdivision design for sensitive uses within proximity to industrial land – this change does not alter the strategic intent or policy position of the certified SAP
- delete Figure F2 (mapped vegetation areas) – the Commission accepted the evidence of the applicant’s ecologist expert, and vegetation to be retained within the Tramway Creek Corridor is now identified in new Figure F6.2 (Gemalla Road Development Framework), and
- insert new Figure F6.2 (Gemalla Road Development Framework) to clarify and support the interpretation of revised clause F6.8.1 subdivision layout.

141. The Commission is satisfied that the above modifications to the draft amendment, including their cumulative effect, do not constitute a substantial modification amounting to an “alteration to a substantial degree” within the meaning of section 41(a) of the Act. The Commission considers that the modified draft amendment retains the same planning strategy and policy position for the site as the certified draft amendment and continues to facilitate the same use and development outcomes.

142. Both individually and collectively, the changes are consistent with the policy intent underpinning the masterplan concept required by the certified draft SAP. The modified provisions of the draft SAP remain reflective of the originally intended master-planned approach established under the certified SAP.
143. Further, the Commission is satisfied that no issues of natural justice arise because of the modifications. All affected landowners and interested parties have participated in the Commission's hearing process and have been provided with adequate opportunity to respond to the modifications, with particular focus on the provisions in the SAP, and participate, make submissions, comment, and otherwise engage throughout the process.

Decision on draft amendment

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

Attachments

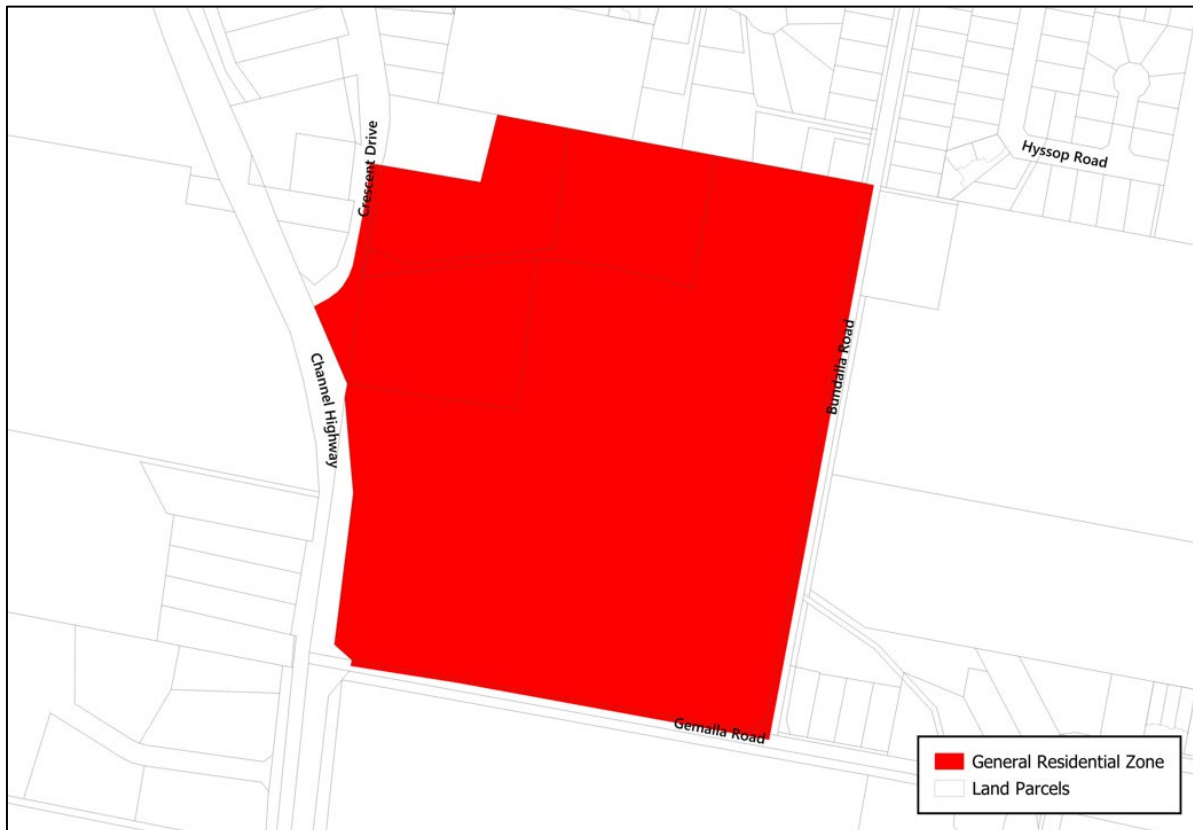
Annexure A - Modified amendment

Annexure A

Modified amendment PSA-2024-1 of the Kingborough Interim Planning Scheme 2015

The *Kingborough Interim Planning Scheme 2015* is amended as follows:

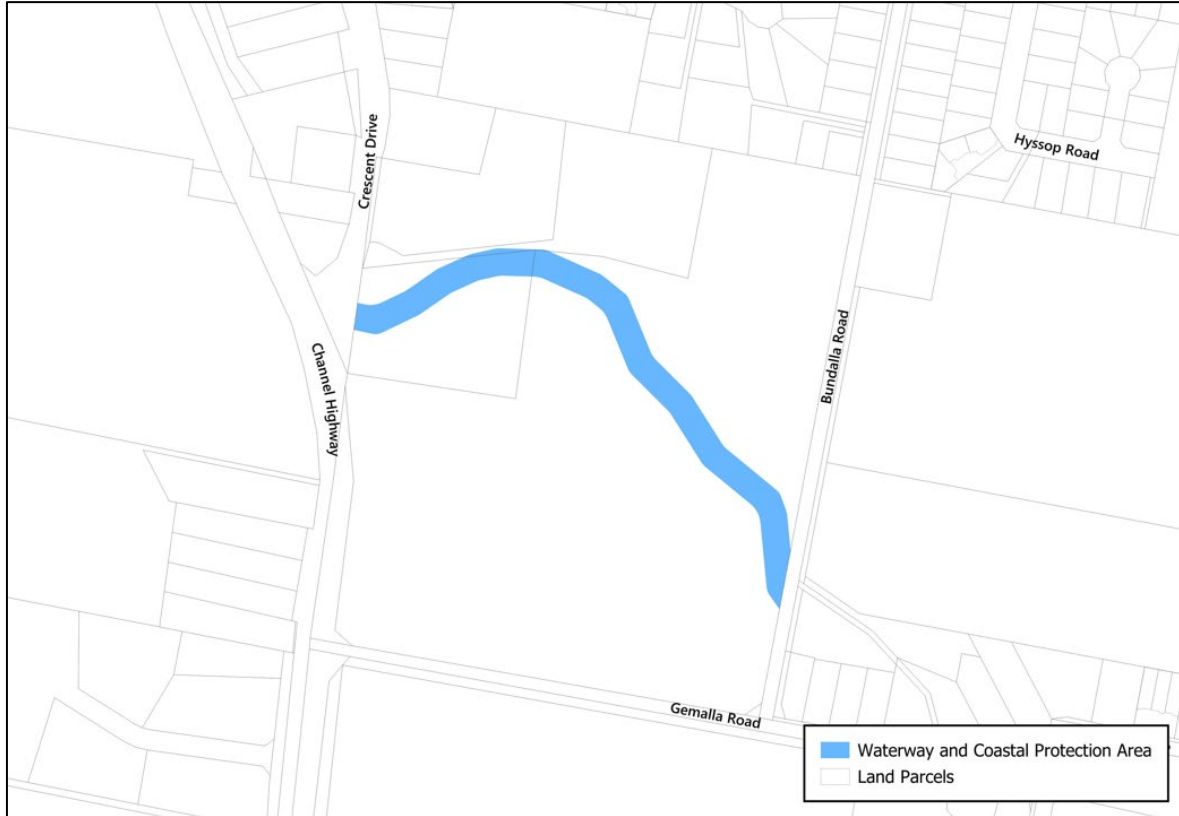
1. Amend the planning scheme map to revise the zoning of land at 26 Crescent Drive (folios of the Register 146336/1, 146336/2 and 146336/3) and 21 Gemalla Road (folio of the Register 187452/1), Margate from Rural Resource to General Residential, as shown below:



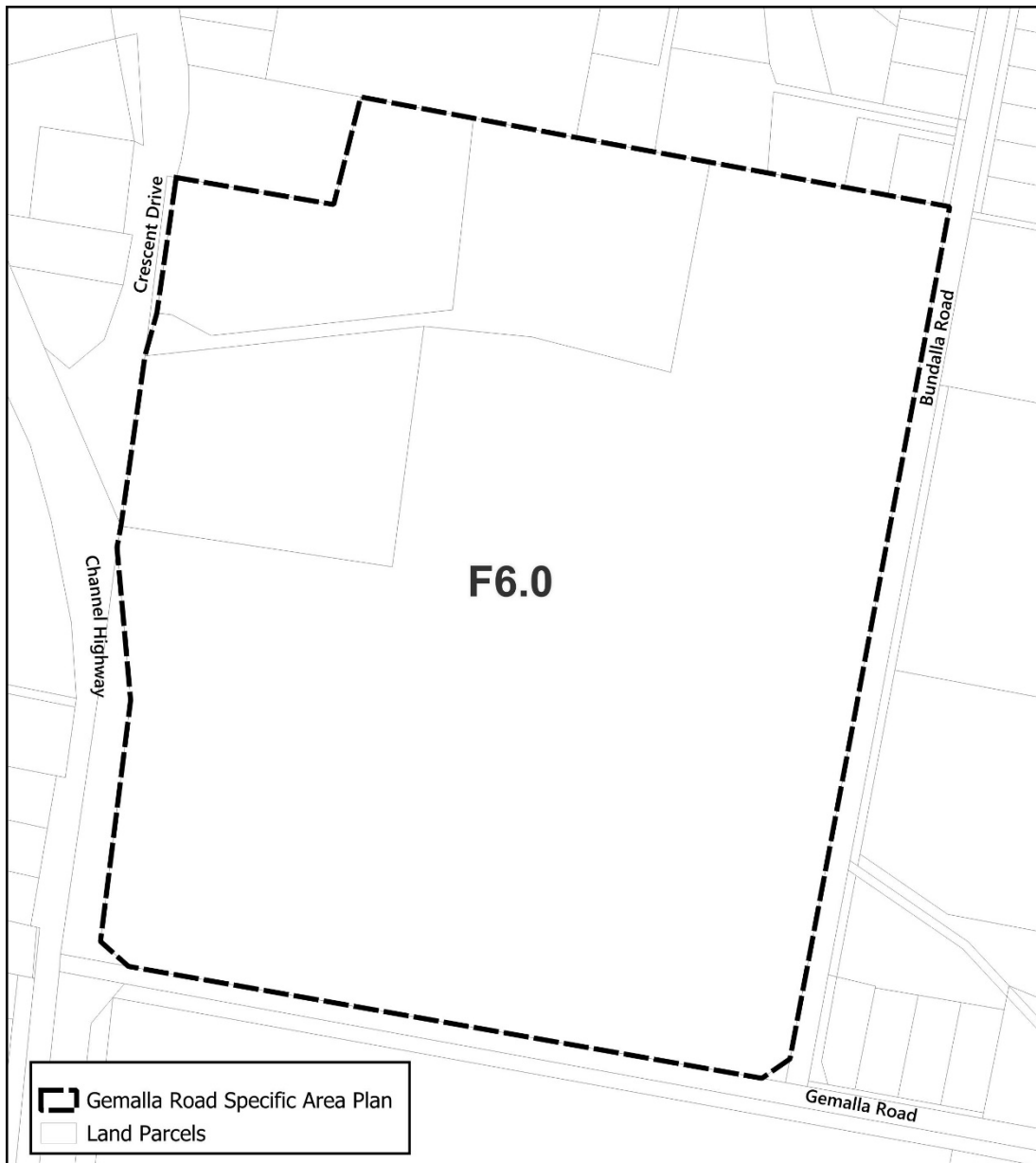
2. Amend the planning scheme map to delete the Biodiversity Protection Area overlay that applies to land at 26 Crescent Drive (folios of the Register 146336/1, 146336/2 and 146336/3) and 21 Gemalla Road (folio of the Register 187452/1), Margate, as shown below:



3. Amend the planning scheme map to revise the Waterway and Coastal Protection Area overlay that applies to land at 26 Crescent Drive (folios of the Register 146336/1, 146336/2 and 146336/3) and 21 Gemalla Road (folio of the Register 187452/1), Margate to reduce the buffer width from 30m to 10m (measured from the centreline of the watercourse), as shown below:



4. Amend the planning scheme map to add the outline and notation of the area contained in F6.0 Gemalla Road Specific Area Plan, to apply to land at 26 Crescent Drive (folios of the Register 146336/1, 146336/2 and 146336/3) and 21 Gemalla Road (folio of the Register 187452/1), Margate, as shown below:



5. Insert F6.0 Gemalla Road Specific Area Plan into the *Kingborough Interim Planning Scheme 2015*, as follows:

F6.0 Gemalla Road Specific Area Plan

F6.1 Plan Purpose

- F6.1.1 The purpose of the Gemalla Road Specific Area Plan is to ensure that future development of the land is appropriately planned, located and designed to:
- (a) Provide for a neighbourhood layout responsive to the site's physical characteristics, with a high level of internal connectivity and access to public open space, and neighbourhood design that fits well with surrounding streetscapes and enhances the public realm.
 - (b) Encourage new residential development with direct connectivity with the surrounding roads and public open space networks.
 - (c) Ensure that areas subject to flooding are managed to protect private property with minimal impact on natural processes, and that use or development subject to risk from flood is appropriately located and managed, so that:
 - (i) people, property and infrastructure are not exposed to an unacceptable level of risk;
 - (ii) future costs associated with options for adaptation, protection, retreat or abandonment of property and infrastructure are minimised; and
 - (iii) it does not increase the risk from flood to other land or public infrastructure.
 - (d) Minimise adverse impacts on natural values as a result of subdivision or development.
 - (e) Manage stormwater quality and quantity to protect natural assets, infrastructure and property through the incorporation of water sensitive urban design principles.
 - (f) Provide buffers which manage potential land use conflicts with the adjacent Light Industrial Zone.

F6.2 Application of this Plan

- F6.2.1 The specific area plan applies to the area of land designated as the Gemalla Road Specific Area Plan on the Planning Scheme maps and Figure F6.1.
- F6.2.2 In the area of land to which this plan applies, the provisions of the specific area plan are in substitution for, and/or in addition to the provisions of the:
- (a) 10.0 General Residential Zone;
 - (b) E7.0 Stormwater Management Code;

- (c) E9.0 Attenuation Code; and
 - (d) E15.0 Inundation Prone Areas Code.
- as specified in the relevant provision.

F6.3 Local Area Objectives

This clause is not used in this specific area plan.

F6.4 Definition of Terms

F6.4.1 In this Specific Area Plan, unless the contrary intention appears:

Terms	Definition
flood hazard report	means a report prepared by a suitably qualified person for a site, that must include: (a) Details of, and be signed by, the person who prepared or verified the report; (b) confirmation that the person has the appropriate qualifications and expertise; (c) confirmation that the report has been prepared in accordance with any methodology specified by a State authority; and (d) conclusions based on consideration of the proposed use or development: (i) as to whether the use or development is likely to cause or contribute to the occurrence of flood on the site or on adjacent land; (ii) as to whether the use or development can achieve and maintain a tolerable risk for the intended life of the use or development, having regard to: a. the nature, intensity and duration of the use; b. the type, form and duration of any development; c. the likely change in the level of risk across the intended life of the use or development; d. the ability to adapt to a change in the level of risk; e. the ability to maintain access to utilities and services; f. the need for flood reduction or protection measures beyond the boundary of the site; g. any flood management plan in place for the site and/or adjacent land; h. any advice relating to the ongoing management of the use or development; and (iii) any matter specifically required by Performance Criteria in this specific area plan.
Gemalla Road Development Framework	means the area shown in Figure F6.2.

tolerable risk	means the lowest level of likely risk from the relevant hazard: (a) to secure the benefits of a use or development in a relevant hazard area; and (b) which can be managed through: (i) routine regulatory measures; or (ii) by specific hazard management measures for the intended life of each use or development.
Tramway Creek corridor	means the area of land shown in Figure F6.2 as the Tramway Creek corridor.
Tramway Creek flood-prone hazard area	means the area shown in Figure F6.3

F6.5 Use Table

This clause is not used in this specific area plan.

F6.6 Use Standards

This clause is not used in this specific area plan.

F6.7 Development for Buildings and Works

F6.7.1 Sensitive use within proximity of industrial buffer areas

This clause is in addition to the General Residential Zone – Clause 10.4
Development Standards for Dwellings and Attenuation Code – E9.7 Development Standards.

Objective:	That habitable buildings for a sensitive use located within a 100m buffer area from land zoned Light Industrial do not unreasonably interfere with or constrain the potential for use and development of vacant light industrial land.	
Acceptable Solutions		Performance Criteria
A1 Habitable buildings for a sensitive use must be separated from the title boundary of vacant Light Industrial zoned land, a distance of: (a) not less than 100m; or (b) if the setbacks of an existing building is within 100m, not less		P1 Habitable buildings for a sensitive use must be designed, constructed and sited to not conflict or interfere with potential uses of vacant Light Industrial zoned land, having regard to: (a) the size, shape and topography of the site;

than the existing building and must incorporate noise attenuation measures as specified in an acoustic assessment report prepared by a suitably qualified person for mitigation of noise.	(b) the separation of any existing buildings for a sensitive use on adjoining properties; (c) the existing and potential use of adjoining properties; (d) any proposed attenuation measures; (e) any proposed mitigation measures including materials for construction, building layout, orientation or building siting; and (f) any buffers created by natural or other features.
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F6.8 Development Standards for Subdivision

F6.8.1 Subdivision layout

This clause is in addition to the General Residential Zone – clause 10.6 Development Standards for Subdivision.

Objective:	That subdivision of land provides for consistency with the purpose of the specific area plan and the Gemalla Road Development Framework.
Acceptable Solutions	Performance Criteria
A1 No Acceptable Solution.	P1 The layout of lots, roads, and pedestrian connections within a subdivision must be consistent with the purpose of this Specific Area Plan and the Gemalla Road Development Framework, having regard to: (a) the existing local road network, including Bundalla Road, Crescent Drive, Gemalla Road, Lotus Court and surrounding streets, and its established hierarchy; (b) road capacity, intersection safety, sight distances, and road widths and alignments suitable for residential traffic; (c) the efficient and safe movement of pedestrians, cyclists, and public transport; (d) the provision of public open space within the Tramway Creek Corridor, in a manner generally consistent with

	Council's Public Open Space Strategy, where appropriate; (e) avoidance of the orientation of side and rear boundaries of residential lots to Gemalla Road and Bundulla Road, to ensure passive surveillance of, and active frontage to, future streetscapes; (f) any advice in a traffic impact assessment, including any proposed road upgrades or works to Channel Highway, Bundalla Road, or Crescent Drive; and (g) any advice received from the road authority.
A2 A plan of subdivision must include a proposed street planting plan showing planting to be included within new nature strips as part of the proposed layout and subdivision works.	P2 A plan of subdivision may include a layout to enable the future planting of street trees within public nature strips, where appropriate.
A3 A plan of subdivision must retain and incorporate mapped vegetation, shown in the Gemalla Road Development Framework, into the lot layout.	P3 A plan of subdivision must provide for the retention of mapped vegetation, shown in the Gemalla Road Development Framework, unless its removal is deemed necessary, having regard to: (a) the practical and functional requirements of the road network, including roads, intersections, sight-lines, and emergency access; (b) any other public infrastructure requirements including the provision of sewer, water, stormwater or flood mitigation infrastructure; or (c) a report from an arborist which determines that the trees can either not be retained given the proximity of the trees from proposed public infrastructure or are in poor health and retention is unviable.

F6.8.2 Stormwater management – water sensitive urban design

This clause is in addition to the General Residential Zone – clause 10.6
Development Standards for Subdivision and Stormwater Management Code – E7.7
Development Standards.

Objective:	That subdivision of land provides for management of stormwater to maintain and protect the quality of water systems.	
Acceptable Solutions		Performance Criteria
A1 No Acceptable Solution.		P1 Subdivision must incorporate a stormwater disposal system adequate for the future use and development of the lot that maintains and protects water quality of the catchment, having regard to: (a) water sensitive urban design principles; (b) the topography of the site and its natural drainage paths; and (c) any report from a suitably qualified person for stormwater engineering.

F6.8.3 Flooding and inundation impacts

This clause is in addition to the General Residential Zone – Clause 10.6
Development Standards for Subdivision and in substitution for the Inundation Prone Areas Code – Clause E15.8.3 Subdivision within a Riverine Inundation Hazard Area.

Objective:	That subdivision within the Tramway Creek flood-prone hazard area does not create an opportunity for: (a) the natural flood flow and water quality of the Tramway Creek catchment to be compromised; and (b) use or development that cannot achieve a tolerable risk from flood.	
Acceptable Solutions		Performance Criteria
A1 Each lot, or a lot proposed in a plan of subdivision, within the Tramway Creek flood-prone hazard area, must: (a) be able to contain a building area, vehicle access, and services, that		P1 Each lot, or a lot proposed in a plan of subdivision, within a flood-prone hazard area shown in Figure F6.3, must not create an opportunity for use or development that

are wholly located outside a flood-prone hazard area; (b) be for the creation of separate lots for existing buildings; (c) be required for public use by the Crown, a council or a State authority; or (d) be required for the provision of Utilities.	cannot achieve a tolerable risk from flood, having regard to: (a) any increase in risk from flood for adjacent land; (b) the level of risk to use or development arising from an increased reliance on public infrastructure; (c) the need to minimise future remediation works; (d) any loss or substantial compromise by flood of access to the lot, on or off site; (e) the need to locate building areas outside the flood-prone hazard area; (f) any advice from a State authority, regulated entity or a council; and (g) the advice contained in a flood hazard report.
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F6.8.4 Sensitive uses within proximity to industrial land

This clause is in addition to the General Residential Zone – Clause 10.6 Development Standards for Subdivision.

Objective:	That the design of subdivision minimises the likelihood for sensitive uses to conflict with, interfere with, or constrain an existing activity on adjacent land zoned Light Industrial with potential to cause noise emissions.	
Acceptable Solutions		Performance Criteria
A1 Each lot, or a lot proposed in a plan of subdivision, located within a distance of 30m from the Bundalla Road frontage, must be for the creation of a lot: (a) where a building area for a sensitive use can be sited entirely outside the 30m distance from Bundalla Road frontage; or (b) not be for the creation of a lot intended for a sensitive use.		P1 Each lot, or a lot proposed in a plan of subdivision, located within a distance a distance of 30m from the Bundalla Road frontage, and where that lot is intended for a sensitive use, and a building area cannot be located outside of 30m from Bundalla Road frontage, must not result in the potential for a sensitive use to be impacted by noise emissions, having regard to: (a) the nature of the activity in the Light Industrial Zone with the potential to cause emissions, including:

	(i) operational characteristics of the activity; (ii) scale and intensity of the activity; and (iii) degree of emissions from the activity; and (b) the intended use of the proposed lot; and (c) recommendations from a suitably qualified person for mitigation of noise emissions.
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F6.9 Tables

This clause is not used in this specific area plan.

Figure F6.1 – Gemalla Road Specific Area Plan

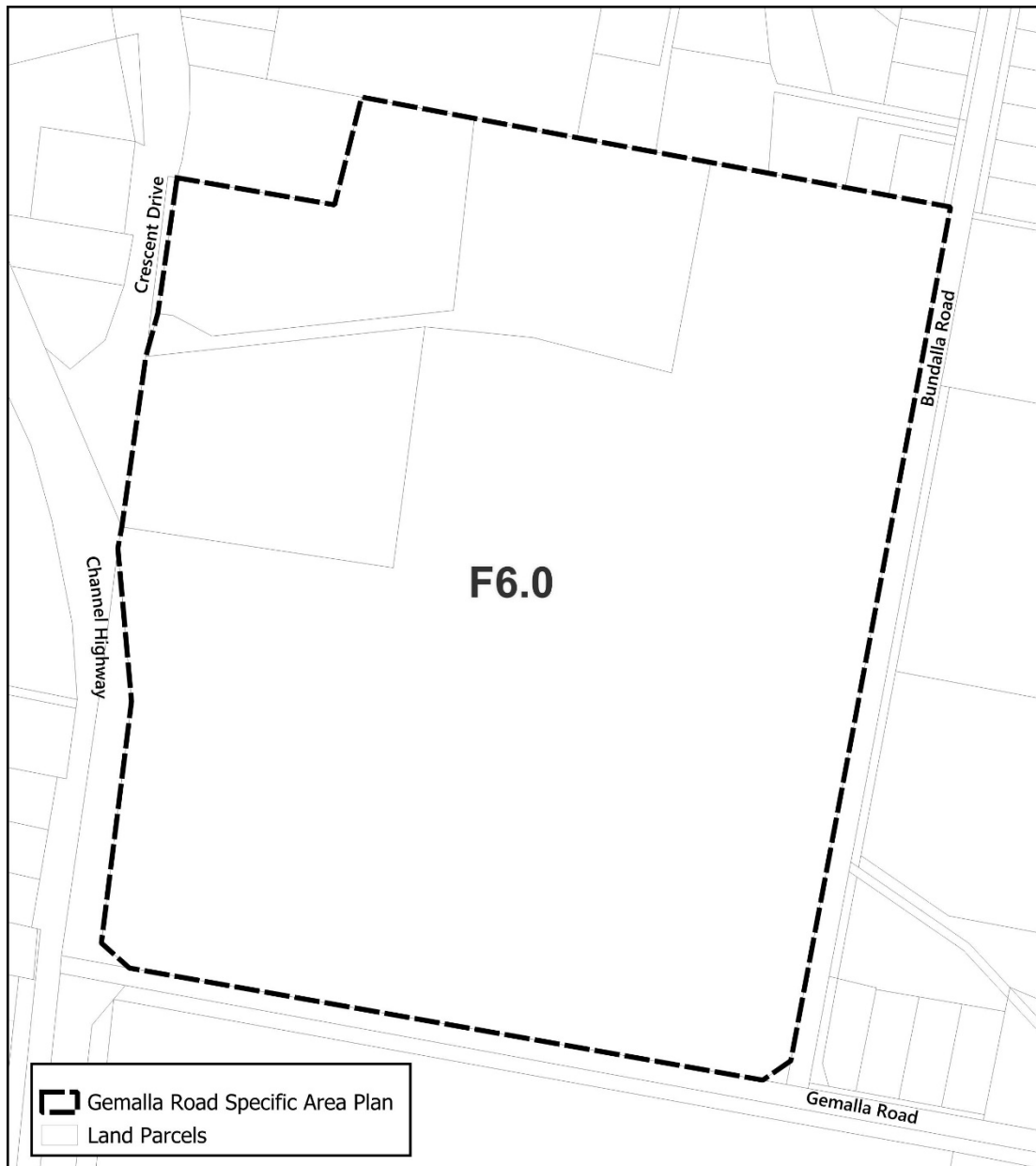


Figure F6.2 – Gemalla Road Specific Area Plan Gemalla Road Development Framework



Figure F6.3 – Gemalla Road Specific Area Plan Tramway Creek flood-prone hazard area

