
H.4 Proposed Planning Scheme Amendment - Cape Paterson North

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| File No: | CM18/77 |
| Division: | Advocacy, Character and Economy |
| Council Plan Strategic Objective: | Our Character |
| | Celebrating the uniqueness of our townships |

Declaration

The author has no direct or indirect interests in relation to this report.

Summary

The purpose of this report is for Council to consider commencing a Planning Scheme Amendment, which is the first stage in the Amendment process. The proposed Amendment is a proponent led application, which seeks to facilitate residential development of approximately 53 hectares of land north of Cape Paterson. This is approximately half of the area identified for growth within the settlement boundary.

A previous iteration of the proposal was considered by Council in August 2016, with Council resolving to defer the process until further consultation had been undertaken. This was in response to 73 written submissions which sought to have the proposal stopped or deferred.

In response, the proponent has now undertaken community consultation with the Cape Paterson Lifesaving Club, Wonthaggi CFA and the Cape Paterson Residents and Ratepayers Association and significantly reduced the extent of the rezoning. The proposal had originally sought to rezone all of the land included in the Cape Paterson settlement boundary (approximately 97 hectares). The current application now seeks to rezone approximately half of the land previously included (53 hectares), whilst still applying a Development Plan Overlay to the entire area included within the settlement boundary (Figure 1).

It is anticipated that the area now proposed to be rezoned could provide approximately 480 new residential lots, as well as public open space, drainage reserves and relevant infrastructure upgrades.

The proponent has also submitted a Development Plan (Figure 2) application, so that both the merits of the amendment and the Development Plan can be considered concurrently. The proposed Development Plan shows that for the most part, the area proposed to be rezoned would have lot sizes <1,000m², with lots around the north-west periphery sized "to respond to slope" (Figure 2). Should the amendment proceed, any future subdivision plans would need to demonstrate a range of lot sizes capable of accommodating a variety of dwelling types and densities. It is anticipated the land to the west will be developed in the longer term, so it is important that the current proposal under consideration includes a Development Plan for the entire area included within the settlement boundary.

This report considers Council's position on residential growth of Cape Paterson, concluding that further residential development of Cape Paterson North has strong strategic justification. Should Council resolve to commence the Planning Scheme

Amendment, the process will provide the opportunity for further community consultation through a formal exhibition (advertising) process.

This report recommends that Council commence the Planning Scheme Amendment process by seeking Authorisation from the Minister for Planning to commence and exhibit the amendment.

Background

Subject land

The Cape Paterson North area (Figure 1) is approximately 97 hectares and is bounded by Cape Paterson Road to the east, Seaward Drive and the existing Cape Paterson township to the south, and farmland to the north and west.

The precinct comprises five land parcels in separate ownership, further identified as:

- 2 Seaward Drive, Cape Paterson (Lot 1 on Plan of Subdivision 219915T)
- 20 Seaward Drive, Cape Paterson (Lot 1 on Plan of Subdivision 417548A)
- 40 Seaward Drive, Cape Paterson (Lot 2 on Plan of Subdivision 417548A)
- 140 Seaward Drive, Cape Paterson (Lot 3 on Plan of Subdivision 410049H)
- Seaward Drive, Cape Paterson (Lot 2 on Plan of Subdivision 410049H)

The land is currently used for farming and rural living and has previously been the subject of extensive vegetation clearance. The area is dominated by exotic pasture grasses throughout, with the majority of remnant vegetation being comprised of small, fragmented, low quality patches, predominantly located in the south-east part of the site. Seven scattered remnant native Manna Gums are also located on the site.

The land has been included in the Cape Paterson Strategic Framework Plan and settlement boundary in the Bass Coast Planning Scheme, since 2011.

Whether this land should be within the settlement boundary was subject to extensive consultation as part of the development of the *Bass Coast Strategic Coast Planning Framework 2011* and its implementation through Amendment C93 in 2012.

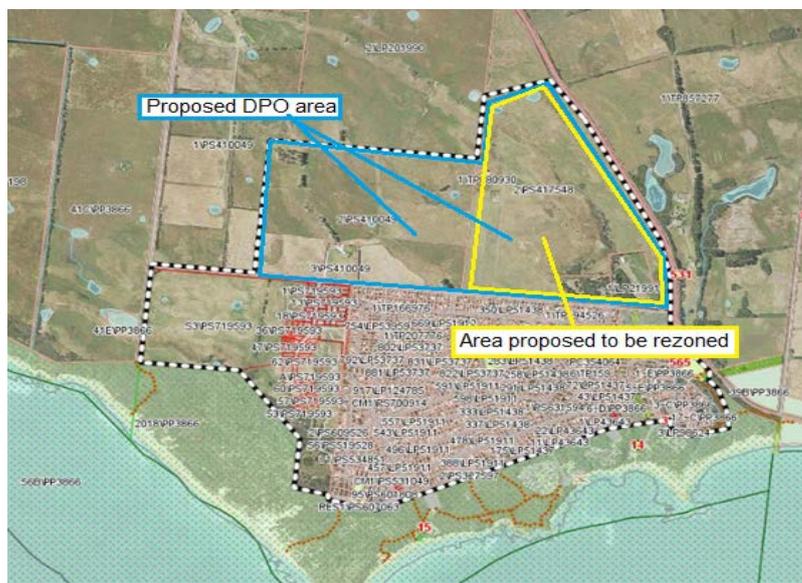


Figure 1. Cape Paterson North proposal – showing the proposed rezoning area (hatched).

The Proposal

The proposal seeks to facilitate residential development of Cape Paterson North and includes two components:

1. A Planning Scheme Amendment; and
2. A Development Plan application.

By providing the two applications concurrently, the proponent has provided the opportunity for Council to consider the physical layout of the development. Should Council decide to commence the planning scheme amendment process, the community have an opportunity to comment on both the merits of the amendment and those of the proposed Development Plan.

1. Proposed Planning Scheme Amendment

The proposal seeks to

1. Rezone 53 hectares of land from Farming Zone (FZ) to General Residential I Zone (GRZI) comprised of the following properties:
 - 2 Seaward Drive, Cape Paterson (Lot 1 on Plan of Subdivision 219915T);
 - 20 Seaward Drive, Cape Paterson (Lot 1 on Plan of Subdivision 417548A); and
 - 40 Seaward Drive, Cape Paterson (Lot 2 on Plan of Subdivision 417548A).
2. Apply the Development Plan Overlay to approximately 97 hectares of land comprised of the following properties:
 - 2 Seaward Drive, Cape Paterson (Lot 1 on Plan of Subdivision 219915T);
 - 20 Seaward Drive, Cape Paterson (Lot 1 on Plan of Subdivision 417548A);
 - 40 Seaward Drive, Cape Paterson (Lot 2 on Plan of Subdivision 417548A);
 - 140 Seaward Drive, Cape Paterson (Lot 3 on Plan of Subdivision 410049H); and
 - Seaward Drive, Cape Paterson (Lot 2 on Plan of Subdivision 410049H).
3. Introduce a new Schedule to the Development Plan Overlay which would apply to the properties listed above at (2).
4. Remove the Environmental Significance Overlay (ESO) and the Significant Landscape Overlay (SLO) from property numbers 2, 20 and 40 Seaward Drive, Cape Paterson.
5. Insert a new Schedule to Clause 52.01 *Public Open Space Contribution and Subdivision*.

2. Development Plan application

The proposed Development Plan is shown at Figure 2 (below) and attachment one (AT-1) and has been prepared to cover all of the Cape Paterson North area.

Should the amendment proceed, it is a requirement of the proposed Schedule to the Development Plan Overlay that there must be:

“measures to promote greater housing choice through the delivery of a range of lots capable of accommodating a variety of dwelling types and densities.”



Figure 2. Proposed Development Plan (also included at AT-1)

History

The site has a long history of being identified for future residential growth as follows:

| Planning history | Status |
|--|----------------|
| Bass Coast Strategic Coastal Planning Framework (Draft) recommends Cape Paterson North be included within the settlement boundary. | Completed 2005 |
| Amendment C119 completed – Introduced the Cape Paterson Strategic Framework Plan, which included the Cape Paterson North land as within the settlement boundary. Also rezones the Eco Village land (now rebranded as The Cape) to Comprehensive Development Zone | May 2011 |
| Amendment C93 completed - Bass Coast Strategic Coastal Planning Framework included as a Reference Document (includes Cape Paterson North land as within the settlement boundary, consistent with the changes introduced by C119. | January 2012 |
| The Gippsland Regional Growth Plan 2014 (GRGP) identifies Wonthaggi as a regional centre and Cape Paterson as a small town which is part of the sub regional network. Further the policy direction from the GRGP is for Cape Paterson is to ‘support growth.’ | May 2014 |
| | |
| Application received which sought to rezone all Cape Paterson North land. | July 2016 |
| Council considers application and resolves to defer pending further community consultation by the proponent | August 2016 |

| | |
|---|---------------------------|
| Community consultation undertaken by the proponent with: <ul style="list-style-type: none"> • Cape Paterson Lifesaving Club • Wonthaggi CFA • Cape Paterson Residents & Ratepayers Association at Cape Paterson Hall Outcomes discussed further in this report | February 2017 – June 2017 |
| Current application received. | October 2017 |

The Process

This report forms the first stage of a Planning Scheme Amendment Process (Figure 3). Should Council decide to commence the process, Council is not making a decision on the proposal, but to commence the process to determine the proposal.

The Planning Scheme Amendment process provides an opportunity for the Cape Paterson community and others affected by the proposal to make submissions through a formal exhibition process. Following assessment of submissions, Council will then make a decision to either abandon or refer to an independent planning panel.

Council will then have a further opportunity to consider the recommendations of the Panel and then make a decision about whether to proceed with the amendment. Council is not bound by the recommendations of the Panel.

The requirements of the process are stipulated in the *Planning and Environment Act 1987*.



Figure 3: The Planning Scheme Amendment process

Strategic Basis

Council Plan Objective:

Our Character – *Celebrating the uniqueness of our townships*

Strategic Outcome:

- Partnering with our community to protect and enhance the unique character of our townships, open spaces and rural landscape
- Ensure the review of the Municipal Strategic Statement improves the controls within our townships to ensure that the character is protected
- **Strengthen the role of Wonthaggi as our regional centre**

Growth in Cape Paterson would strengthen the role of Wonthaggi as a regional centre, with Wonthaggi servicing the retail, health, sporting and educational needs of residents of Cape Paterson.

- **Manage the sensitivities of development and growth pressures**

The sensitivities of development and growth pressures will be managed throughout the Planning Scheme Amendment process, which requires that amendments have regard to social, environmental and economic impacts.

- Be proud of, and share, our history and cultural life

Strategic Indicators:

| Strategic Indicators | Measures |
|--|--|
| Build capacity in community planning | Host quarterly community building events and networking opportunities each year |
| Overall Community Satisfaction Rating | Achieve the top quartile of Large Rural Councils |
| Advocate on behalf of the community on key planning issues * | Make representation to state and federal government on key planning matters |
| Review the Municipal Strategic Statement | Completed by June 2018 |
| Develop a strategic vision/plan for Wonthaggi as regional centre | Implement actions identified in Wonthaggi Dalyston Structure Plan review Strategic vision developed and adopted |
| Wonthaggi North East Precinct Structure Plan | Implement into Planning Scheme by June 2018 |
| Sites and Theme Plan 2014-24 | Action Plan completed annually |
| Incorporate the Phillip Island and San Remo Visitor Economy Strategy 2035 – Growing Tourism in the Planning Scheme as a reference document | Planning Scheme updated by June 2018 |

Strategies / Policies

State and local planning policy framework

A detailed response to the State and Local Planning Policy Framework provisions has been provided in attachment two (AT-2).

The key policy considerations for the proposed amendment are the impact on the residential land supply for Bass Coast. At present Council has a healthy but not excessive land supply of between 17-20 years (there is a state planning policy requirement for Council to maintain a 15 year land supply).

State and Local Policy also identifies the requirements of protecting biodiversity and planning for water management and infrastructure. The proponent has prepared reports to address these key site considerations, including the requirement to retain important areas for biodiversity and habitat, and to identify drainage catchments and future road connections. The proposed amendment seeks to apply a Development Plan Overlay to the site, which will ensure key policy directives are retained in the ongoing consideration of the project.

Statutory Requirements/Codes/Standards/Policies

An amendment to the Planning Scheme is subject to the provisions of the *Planning and Environment Act 1987* which stipulates the process Council must follow when preparing an amendment.

The proposed rezoning has had regard to Planning Practice Note 46 (*Strategic Assessment Guidelines for preparing and evaluating planning scheme amendments*).

The Practice Note advises Council as to the environmental, social and economic objectives that must be considered as part of a Planning Scheme Amendment process. The application is considered to have appropriately addressed the statutory requirements.

Ministerial Direction No. 15: *The Planning Scheme Amendment Process* sets out timeframes for completing steps in the planning scheme amendment process. The timeframe requirements commence following receipt of Authorisation for the amendment from the Minister for Planning.

Discussion

The key matters for consideration of residential development of Cape Paterson North are discussed below.

Residential development of Cape Paterson North

The subject land has been identified in the Bass Coast Planning Scheme as within the settlement boundary since 2011 (Figure 4). Since this time, it has been described as suitable for short and long term change from farming to residential (at Clause 21.09-7 *Cape Paterson*). The inclusion of this land within the Cape Paterson settlement boundary was underpinned by the *Bass Coast Strategic Coastal Planning Framework 2011*.

The Bass Coast settlement hierarchy defines Cape Paterson as a village with “*low spatial growth capacity*”. In terms of its capacity to accommodate growth, policy direction is to “*Encourage growth within existing urban or appropriately zoned land, primarily through infill capacity and defined settlement boundaries.*”

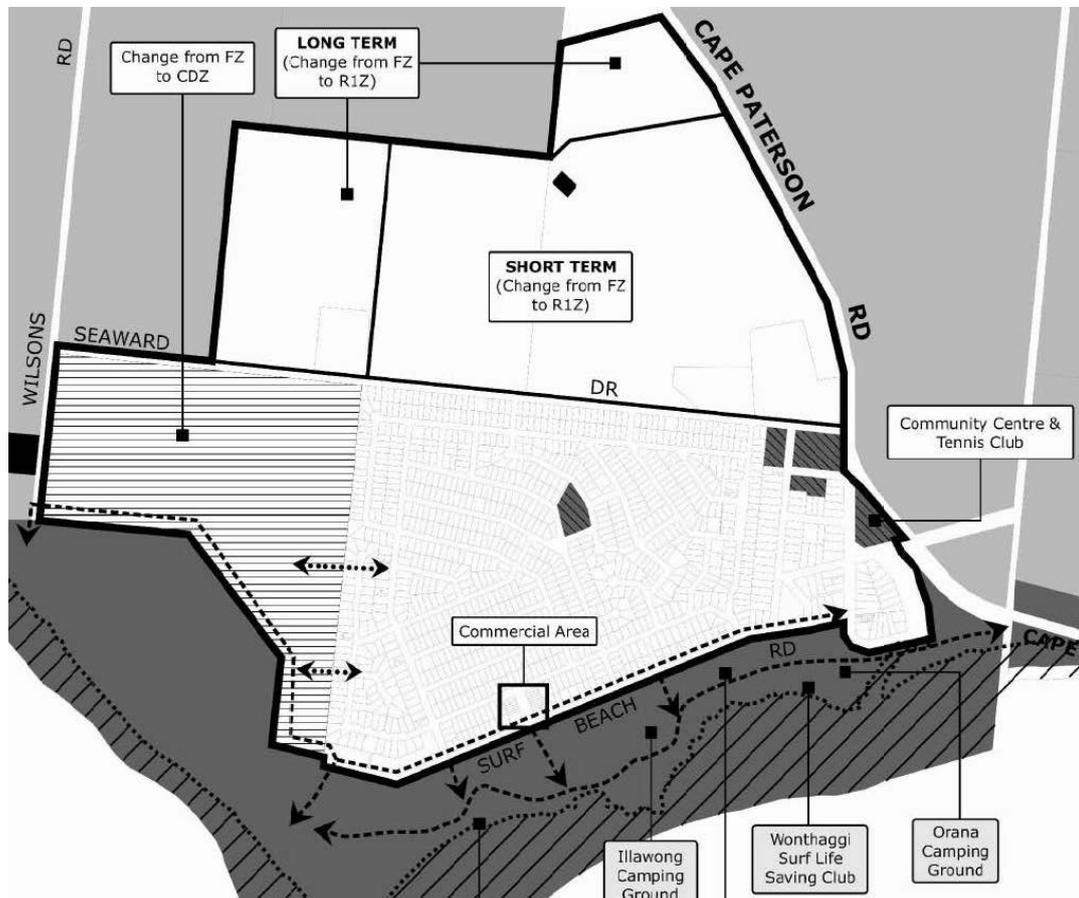


Figure 4. Cape Paterson Strategic Framework Plan

Land Supply

Council's most recent *2016 Land Supply and Demand Assessment* a snapshot of residential land supply in July 2016, finding that there is between 17-20 years of available residential land across the municipality.

State policy requires a minimum of 15 years of municipal wide residential land supply (at Clause 11.02-1 *Supply of urban land*). Council is approaching July 2018 (and two years since July 2016) and since the completion of the study no further residential land has been rezoned.

It is anticipated that by July 2018 Council will be nearing, or not meeting requirements for the provision of 15 years of residential land supply.

It takes approximately 5 years from the commencement of the rezoning process for land to be subdivided with individual lot titles. This is because the rezoning can take at least 9 months, then is followed by development and infrastructure provision, and issuing the titles.

Cape Paterson North is not currently considered as land supply because it is not appropriately zoned for residential development.

Community Views

In 2012, community consultation took place in regard to the development of the subject land. The community consultation included meetings with the Cape Paterson Community Planning Group and Cape Paterson Residents and Ratepayers Association. During consultation, 159 written responses were made.

The community consultation also provided feedback in regards to:

- The lack of community facilities;
- The lack of footpaths;
- The need for more recreational spaces for children; and
- The need to retain the seaside village feel and retention of wildlife corridors.

In August 2016, 73 submissions were made to Council prior to a Council meeting, where Council was considering a report which recommended commencing a planning scheme amendment to rezone the land. The submissions sought to stop or defer the proposal. Council responded by resolving:

“to defer consideration of this matter until March 2017 to provide the opportunity for the proponent to consult with the community on the Development Plan, proposed land release staging, and the land supply analysis for Cape Paterson.”

Since this time, the proponent has undertaken community consultation, with the following outcomes as follows:

| Date | Planning history | Outcome |
|--------------------------|--|---|
| 21 February 2017 | Discussion with the Cape Paterson Lifesaving Club regarding the proposed development and implications / flow on effects to the life saving club. | <p>The increase in population and likely increase the role and operation of the club houses (particularly during peak periods) was discussed.</p> <p>In response to these discussions, the proponent offered to donate a block of land from Stage I of the development to each of the lifesaving clubs to subsequently sell off as a way of fundraising for improvements to the club houses.</p> |
| 23 February 2017 | Meeting with Wonthaggi CFA regarding relocation of Cape Paterson CFA | <p>In later correspondence to Wonthaggi CFA, the proponent confirmed an offer to gift land (approximately 1 acre) to the CFA as well as payment for:</p> <ul style="list-style-type: none"> Town Planning application, including drawings and reports; Legal and other fees for creation of the title; Survey and pegging; Provision of power to the site; Vic Roads approved truck crossover to Cape Paterson Road. <p>The land proposed to be gifted is immediately north of the proposed development area (refer image below).</p>  |
| 27 March and 9 June 2017 | Meetings with Cape Paterson Residents and Rate Payers Association | <p>This meeting resulted in the proponent resolving to reduce the extent of the rezoning to that included in the current proposal.</p> <p>The proponent agreed to limit the number of lots permitted to be built per year to no more than 50.</p> <p>Lastly it was resolved to further increase the diversity of lot sizes shown on the Development Plan.</p> |

Other matters

The proponent has provided the following documents to support the proposal:

- Biodiversity Assessment;
- Drainage Strategy;
- Cultural Heritage Preliminary Review;
- Traffic Management Assessment;
- Infrastructure Servicing Report; and
- Design Principles for new homes.

The information and findings of these reports have been used to prepare the Schedule to the Development Plan Overlay, which stipulates requirements for permits and development plans, which will require further approvals following the planning scheme amendment process, should Council decide to proceed.

Further to this, should the amendment proceed there will be an expectation that contributions are made to on-site and off-site infrastructure, including:

- Road and intersection works (including upgraded frontages to Seaward Drive);
- Shared path and footpath works;
- Drainage works; and
- Open space works.

There will be an opportunity to secure this through legal agreements.

Finances

This is a developer initiated planning scheme amendment that requires fees to be paid to Council to process the amendment. Planning Panel costs associated with the consideration of any submissions will be at the cost of the proponent/developer, should Council proceed.

Costs to Council would principally involve officer time and could include additional resources such as legal representation and/or expert witnesses for a panel hearing. Budget for presenting Council's position regarding developer led amendments are included in the 2017/18 and the 2018/19 Budgets, as processing Planning Scheme Amendment applications is considered Core Business.

Stakeholders

- Cape Paterson residents
- Cape Paterson holiday home owners
- Cape Paterson Residents and Ratepayers Association
- Cape Paterson business owners
- Wider Bass Coast Shire community

There is a statutory process for the exhibition of Planning Scheme Amendments, which stipulates notification requirements. Council leads the process as the Responsible Authority considering the application.

In terms of the IAP2 spectrum of community participation, stakeholders will be informed and consulted. They will be able to put in submissions and matters raised must be considered by Council. Where issues cannot be resolved, stakeholders will have an opportunity to be heard by an independent Planning Panel, appointed by the Minister for Planning, who will consider their submissions and make recommendations to Council about how the amendment should proceed.

Other Options

Option 1

The first, as recommended by this report, is for Council to commence the planning scheme amendment process.

Implications:

- This would allow Council to commence the process. Should Council decide to proceed, any submissions received would be provided to Council in a report following the exhibition, where Council would be required to make a decision about whether to proceed with the amendment. Should Council then decide to request an independent Planning Panel, any recommendations of the Panel would then be provided in a report following the Panel's report being received. Again, Council would be required to make a decision about whether to proceed with the amendment.
- Residential development of this land is consistent with the Bass Coast Planning Scheme and will assist Council to meet land supply requirements.
- This will reduce development pressure and speculation in areas of Bass Coast where growth is discouraged in smaller coastal hamlets.
- Growth in Cape Paterson will help to strengthen the role of Wonthaggi as a regional centre, providing a coastal living choice within close proximity to the regional centre.

Option 2

The second option is to not proceed with the amendment.

Implications:

- Not proceeding with the planning scheme amendment would be inconsistent with Council's policy position on growth in this area, as the land is included within the settlement boundary and has been since 2011.

Option 3

The third option is to make changes.

Implications:

- Council may resolve to make changes. Any changes would need to be considered on their merits and in consideration of the planning scheme, which includes the land within the Cape Paterson settlement boundary.

Conclusion

The subject land has been identified in the Bass Coast Planning Scheme as within the settlement boundary since 2011 and Council has not altered this position since this

time. Further, much of the land included was designated for 'short term' rezoning. Therefore, there has been a considerable amount of time for stakeholders to understand that the subject land has been identified for growth.

In August 2016, a report recommended that the planning scheme amendment process be commenced. Council resolved to defer the matter until further consultation had been undertaken by the proponent. This has now been undertaken and the area to which the application had originally applied has now been halved. Land to the west will be considered at a future stage.

The planning scheme amendment process provides a formal opportunity for the community to have their say on the development of this area. In many ways the amendment process provides a better opportunity for 'natural justice,' in that submitter issues must be considered by Council. The process also provides the opportunity for independent review of submitter issues, through the appointment of an independent Planning Panel, which is anticipated to be required for this proposal given the previous interest generated.

Based on these matters, it is concluded that residential development of the subject land has strong strategic justification and that a planning scheme amendment should be commenced to ensure that all have an opportunity to make comment, which will then inform the application through the process.

Recommendation

That Council:

- I. Seeks Authorisation from the Minister for Planning in accordance with Section 8A of the Planning and Environment Act 1987 to prepare Planning Scheme Amendment C136 to:**
 - a) Rezone the following properties from Farming Zone to General Residential Zone;**
 - **2 Seaward Drive, Cape Paterson (Lot 1 on Plan of Subdivision 219915T);**
 - **20 Seaward Drive, Cape Paterson (Lot 1 on Plan of Subdivision 417548A);**
 - **40 Seaward Drive, Cape Paterson (Lot 2 on Plan of Subdivision 417548A).**
 - b) Apply the Development Plan Overlay and introduce a new Schedule to the properties listed above, as well as the following properties:**
 - **2 Seaward Drive, Cape Paterson (Lot 1 on Plan of Subdivision 219915T);**
 - **20 Seaward Drive, Cape Paterson (Lot 1 on Plan of Subdivision 417548A);**
 - **40 Seaward Drive, Cape Paterson (Lot 2 on Plan of Subdivision 417548A).**

- 140 Seaward Drive, Cape Paterson (Lot 3 on Plan of Subdivision 410049H); and
 - Seaward Drive, Cape Paterson (Lot 2 on Plan of Subdivision 410049H).
- c) Remove the Environmental Significance Overlay (ESO1) and the Significant Landscape Overlay (SLO4) from property numbers 2, 20 and 40 Seaward Drive, Cape Paterson.
- d) Insert a new Schedule to Clause 52.01 Public Open Space Contribution and Subdivision
2. Subject to Ministerial Authorisation, prepares and exhibits the amendment in accordance with Section 19 of the Planning and Environment Act 1987.
3. If submissions are received, requests the Minister for Planning appoint a Panel (in accordance with Part 8 of the Planning and Environment Act 1987).

Attachments

- AT-1** Attachment 1: Development Plan, Cape Paterson North 1 Page
- AT-2** Attachment 2: Planning Policy Review, Cape Paterson North 3 Pages