

## H.12 Proposed Planning Scheme Amendment - Cape Paterson North

### Conflict of Interest

Cr Phillips declared a Conflict of Interest in agenda item H.12 under section 78 of the *Local Government Act 1989*. He left the meeting at 7.42pm and took no part in the debate or decision.

<b>File No:</b>	<b>CMI6/557</b>
<b>Department:</b>	<b>Sustainable Development and Growth</b>
<b>Council Plan Strategic Objective:</b>	<b>Sustainable Development &amp; Growth</b>
	Our built environment complements our landscape, lifestyle and climate.

### Declaration

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

### Purpose

The purpose of this report is for Council to consider a request to be made to the Minister for Planning, to authorise the preparation and exhibition of a proposed amendment to the Bass Coast Planning Scheme, in accordance with Section 8A of the *Planning and Environment Act 1987*.

### Summary

Council has received a request to rezone land in the north of Cape Paterson. The land is located to the north of Seaward Drive and bordered by Cape Paterson Road to the east. The land lies immediately to the north of the existing residential area of Cape Paterson.

The application proposes to rezone the land from the current Farming Zone to General Residential Zone, and apply a Development Plan Overlay. The rezoning will enable the land to be used for a residential subdivision. The use is consistent with the intent of the Strategic Framework Plan for Cape Paterson. The application site was first identified for residential growth of Cape Paterson through the Bass Coast Strategic Coastal Planning Framework 2005, and formally identified in the Planning Scheme via Amendment C119 in 2012. Accordingly the land has a history of being designated for residential development.

The proposed Planning Scheme Amendment seeks to:

- Rezone the land from Farming to General Residential;
- Remove the Environmental Significance and Significant Landscape Overlays from the land; and
- Apply a new Development Plan Overlay schedule to the land.

This report is the initial stage of the Planning Scheme Amendment Process. Council is being requested to consider whether to proceed with the process or not.

As well as the land rezoning request, the applicant is seeking consent to have the development plan endorsed as part of the agreed project documentation. The proposed concept development plan sets the guiding principles for the long-term development of the site including landscape and movement corridors (AT -I).

The plan includes:

- Approximately 900 new residential lots;
- 8.39 hectares of parks;
- 12.24 hectares of open space for drainage and vegetation protection; and
- Development Contributions of:
  - \$1.1 million allocated for Cape Paterson Bay Beach Activity Area;
  - \$600k for shared path links to the township and foreshore; and
  - \$16 million of infrastructure works within the site and to Cape Paterson Road and Seaward Drive.

Inclusion of the development plan as part of the rezoning documentation provides decision makers and the community with an understanding of how the site could be developed.

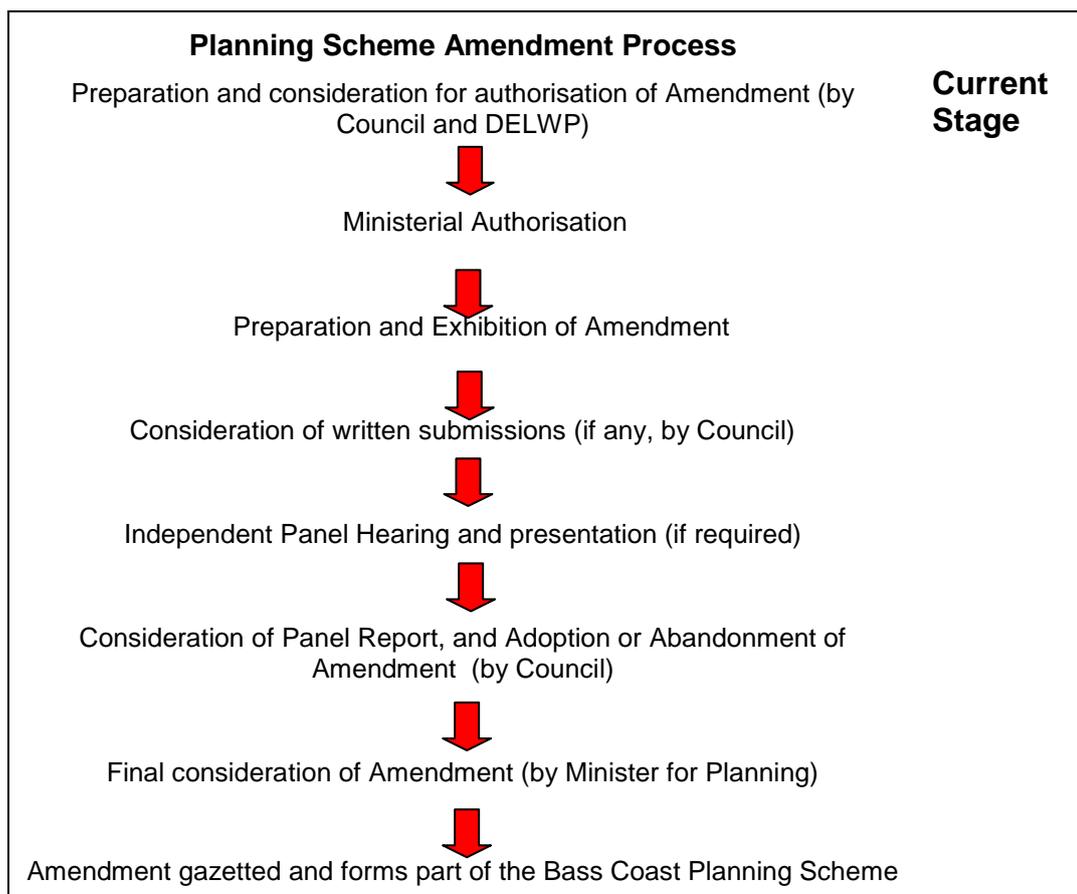
The development plan cannot be approved until after the Planning Scheme amendment has been gazetted (approved) by the Minister for Planning.

### **Statutory Requirements**

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 (note below).



## Background

The proposed use of the land for residential purposes has been considered over a number of stages and years, as detailed in the table below:

Project Component	Status
Bass Coast Strategic Coastal Planning Framework	Completed 2005
Bass Coast Strategic Coastal Planning Framework Review – Part of Amendment C93	Completed 2009
Cape Paterson Community Plan	Completed 2010
Amendment C119 – Local Areas Policy Cape Paterson	Completed 2012
Application to Rezone the Land	Current

Amendment C93 - Bass Coast Strategic Coastal Planning Framework Review was considered by an independent Planning Panel in 2009. This included the identification of the subject site as a future growth area for Cape Paterson, the panel commented:

*‘The 100 hectare extension to the north (of Cape Paterson) is consistent with the coastal planning policies and the potential environmental impacts are low. This area is able to accommodate all the projected growth’.*

The result of the C93 work was that the township boundary for Cape Paterson was moved to identify the land in this application as being within the residential area, as per the Strategic Framework Plan shown in Figure I below:

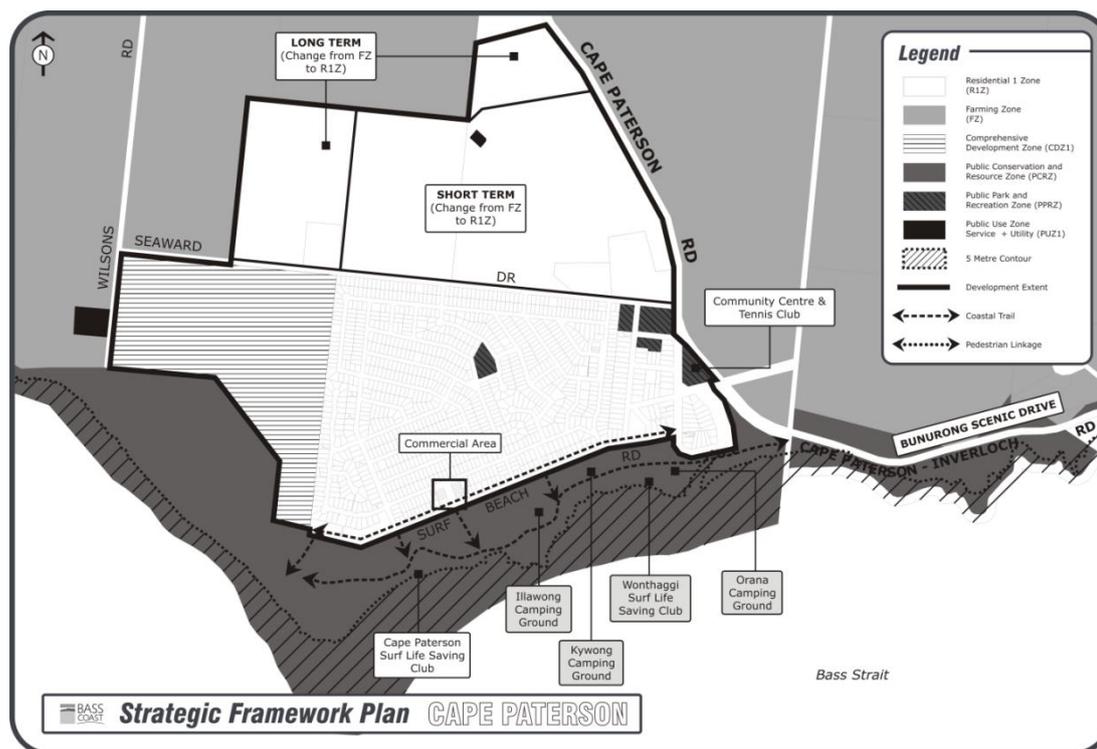


Figure 1: Cape Paterson Strategic Framework Plan

Amendment C93 identified the short term and long term potential of the land to the north of Seaward Drive for residential use; the site is the subject of this rezoning application. As such the recommendations of the Planning Panel were incorporated into the Bass Coast Planning Scheme.

### Subject Site

The subject site covers 97 hectares and is the combined area of five lots. The land is contained within the following titles:

- 2 Seaward Drive, Lot 1 on PS219915T
- 20 Seaward Drive, Lot 1 on PS417548A
- 40 Seaward Drive, Lot 2 on PS417548A
- 140 Seaward Drive, Lot 3 on PS410049H
- Seaward Drive, Lot 2 on PS410049

At present the site is used for agricultural grazing. Dwellings are located on two of the lots.

Patches of remnant native vegetation exist in the south east part of the site, where seven Manna Gum trees are located. The site topography is varied, from lower lying areas, which include a creek line (drainage line) in the south and south east to more prominent ridge lines within the central areas. A number of drainage systems and small dams have been created through the site to retain water for agricultural purposes.

The applicant has not identified any constraints in terms of obtaining the necessary water, electric, telephone and sewer systems. Figure 2 below, shows the site in the context of its immediate surrounds. The black and white dashed line indicates the settlement boundary for Cape Paterson.

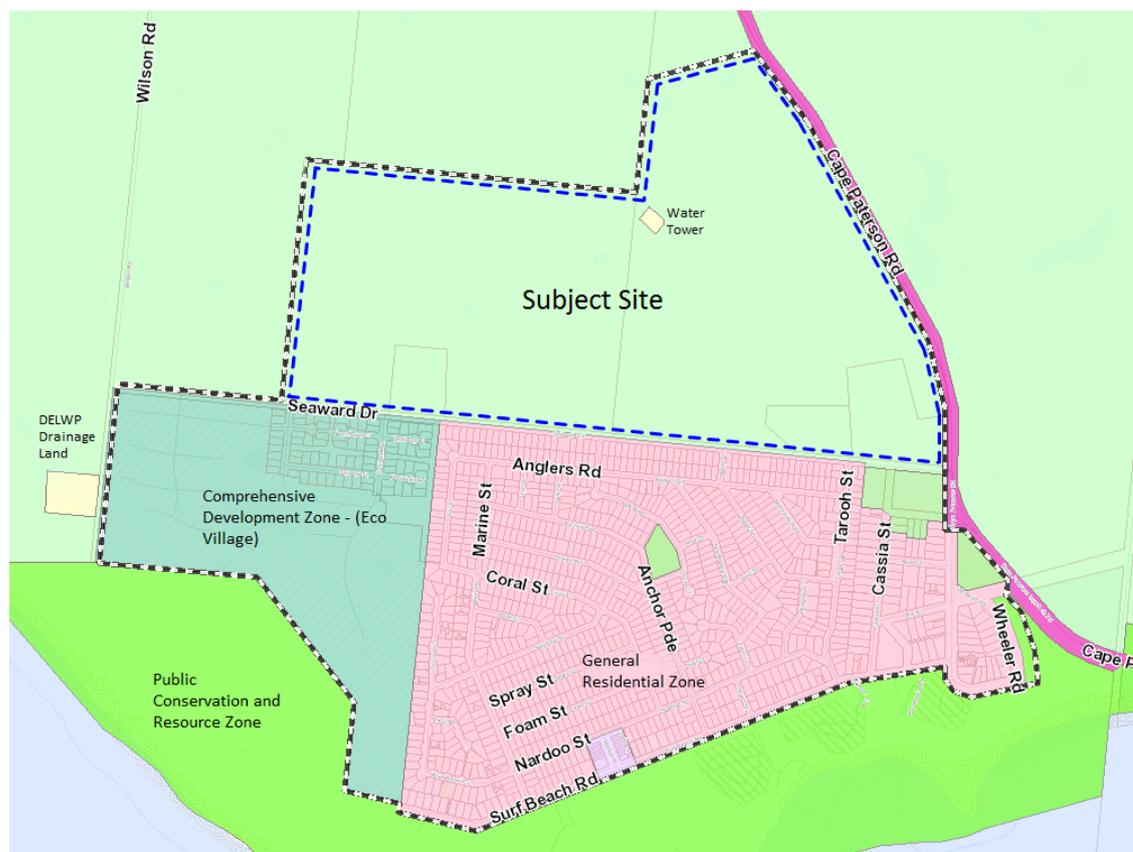


Figure 2 – Cape Paterson

## Proposed Amendments to Bass Coast Planning Scheme

### Rezoning

It is proposed to rezone the land to General Residential to facilitate a standard residential subdivision. The land is nominated in the Cape Paterson Strategic Framework Plan as being suitable for the short and long term residential expansion of the town.

Whilst the proposal is for the whole site to be rezoned, the provisions for the proposed Development Plan require a staging strategy to ensure the site is developed in a sequential and logical manner.

### Overlays

The amendment also proposes to delete the Significant Landscape Overlay Schedule 4 and the Environment Significance Overlay Schedule 1 from the land. The intent of both overlays is to retain the rural character of the area and restrict the form of development outside of settlement boundaries. These existing overlays are not generally applied to General Residential Zoned land as they would result in planning permits being required for every new dwelling on every lot. Should the rezoning to residential land be approved the rural landscape character that both overlays seek to protect would be superseded by the residential use and therefore are considered no longer appropriate.

The Development Plan Overlay which is proposed to be applied to the site would provide measures to protect biodiversity and key landscapes in a residential area. This overlay requires the applicant to prepare a plan for the site which will set the

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guiding principles for the layout of the residential lots, roads, open spaces and community facilities. A development plan must address the following requirements:

- Township Character, Housing, Landscape and Topography;
- Open Space and Community Facilities;
- Biodiversity and Bushfire Management;
- Transport and Movement;
- Integrated Water Management and Utilities; and
- Sequencing, Staging and Infrastructure Delivery.

Attachment 1 (AT-1) shows a concept layout which will assist in visualising how the site could be developed. This is the indicative development plan that would form part of the exhibition material for the project. This layout is not finalised and is for indicative purposes only.

### **Consultant Reports**

The applicant has provided documents to support the rezoning application and also for the indicative development plan for the site. The reports provided to support the proposed Planning Scheme Amendment include:

- Planning Report;
- Explanatory Report (AT-2);
- Biodiversity Assessment;
- Integrated Water Management Drainage Strategy;
- Cultural Heritage Assessment;
- Community Infrastructure Needs Assessment;
- Traffic Management Assessment;
- Retail Needs Assessment;
- Infrastructure Servicing Report; and
- Concept Landscape Plans.

Officers have reviewed the detailed reports and it is considered that sufficient information has been provided to proceed with the amendment process. However, Council at this stage is only considering whether to proceed with the rezoning request or not.

### **Internal and External Consultation**

The proposed planning scheme amendment will be subject to a public exhibition period of at least one calendar month, should the option to proceed with the proposal be agreed to by Council. The public exhibition is likely to occur in early 2017.

The public exhibition will include advertising in the government gazette and local newspapers as well as written notification to landowners and occupiers that may be materially affected by the amendment.

Council Departments and External Stakeholders (for example, Vic Roads and West Gippsland Catchment Management Authority) will be formally notified of the proposed amendment.

Initial discussions with Council's internal departments and key external agencies such as Vic Roads, South Gippsland Water and West Gippsland CMA have taken place. No key issues/concerns have been raised by these agencies that would warrant not proceeding to the next stages in the planning scheme amendment process to allow detailed consideration of the proposal.

## **Strategic Basis**

### **State and Local Planning Policy Framework**

A detailed response to the State and Local Planning Policy Framework provisions has been provided in Attachment 3 (AT-3).

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, the proposed amendment would add two additional years to this. The Cape Paterson Strategic Framework Plan identifies the site as being suitable to accommodate the short and long term growth of the town. Therefore the proposed rezoning of the subject site is supported by State Policy for land supply and also the Local Policy for location of residential growth.

State and Local Policy also identifies the requirements of protecting biodiversity and planning for water management and infrastructure. The applicant 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.

## **Key Issues**

### **Land Supply**

State Planning Policy seeks to support detailed consideration of urban growth within identified township boundaries. The site has been previously identified in Planning Scheme Amendments which have been supported by the Minister for Planning including Amendment C93. The site is therefore considered to be an appropriate location for residential growth. The site is identified in the Strategic Framework Plan found in Clause 21.09-7 as being able to support the short and long term growth of Cape Paterson.

Council's most recent Land Supply review indicated that the municipality has at present between 17-20 years of available land. Clause 11.02-1 Supply of urban land requires a minimum of 15 years of residential land supply. Considering the time required for the rezoning process and the current land supply figures, it is considered that the 2 years of additional supply that the proposal would generate is considered appropriate and would not result in an over-supply of residential land in the municipality.

### **Community Views**

In 2012 community consultation took place in regard to the development of the site which is being considered in this application. The community consultation included

meetings with the Cape Paterson Community Planning Group and Cape Paterson Residents and Ratepayers Association (159 responses received). Whilst objections were received, the community consultation also provided feedback in regards to the lack of community facilities and footpaths in the town. Other messages from the community during the 2012 consultation was the need to retain the seaside village feel, retention of wildlife corridors and the need for more recreational spaces useable for children. Further community discussion will be required through the planning scheme amendment process and the community will have opportunity to input into the proposed rezoning of the land.

### **Water Management**

The applicant has provided a draft report which informs the proposed concept development plan for the site. This proposal has been discussed over the past 4 years, where the applicant has worked with Councils Engineers and the relevant water providers and catchment management bodies.

As the project progresses more detailed modelling work will be required, but there is no reason to expect the land will be unable to cope with the sewerage and stormwater management demands.

### **Road Intersections**

Three main interfaces or intersections are addressed by the proposed amendment:

- Seaward Drive;
- Seaward Drive/ Cape Paterson Road intersection; and
- Development Spine Road/ Cape Paterson Road intersection.

The applicant has provided information and traffic modelling data in regards to the treatments required to address the proposed development. Seaward Drive will be sealed and appropriate intersection treatments provided to connect the subject site to the existing town. Two intersections to Cape Paterson Road will be provided; the detailed design for these intersections is part of the ongoing discussions with Vic Roads.

There is no reason to expect the location of the intersections proposed will not be acceptable to Vic Roads; subject to detailed design requirements.

### **Connectivity to Cape Paterson**

The application before Council seeks consent to rezone both the short term and long term identified land at the same time. Considering the subject land as one development front is considered advantageous as it will allow for a comprehensive development plan to be produced which covers the entire area to ensure provision of open space, infrastructure (especially drainage) and key walking and road connections through the subject site and to the existing town are planned in an integrated manner. By planning for the whole site, Developer Contributions can be levied on the landowners/developers, including upgrading Seaward Drive in a fair and equitable manner.

As part of the developer contributions scheme prepared for the proposed development, contributions will be made to the Cape Paterson Beach Bay Area project.

## 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. Costs to Council will principally involve officer time and could include additional resources such as legal representation and/or expert witnesses for a panel hearing if required. Budget for presenting Council's position regarding developer led amendments has been included in the 2016/17 Budget.

## Options

The options available to Council are as follows:

### Option 1

The first, as recommended by this report, is to commence the planning scheme amendment and request authorisation from the Minister for Planning for preparation and exhibition of the Planning Scheme Amendment. Future stages would also include public exhibition of the amendment for one calendar month. If submissions are received and issues cannot be resolved, request the appointment of an independent planning panel.

#### Implications

The subject site is within the settlement boundary for Cape Patterson and has been identified as the short and long term residential growth area for Cape Paterson. The applicant's approach to Council to consider rezoning the land is justified as the project accords with the Strategic Framework Plan for Cape Paterson.

### Option 2

The second option is to not seek authorisation from the Minister for Planning to prepare the amendment.

#### Implications

Not proceeding with the planning scheme amendment would be inconsistent with the Strategic Plan for Cape Paterson.

## Conclusion

The proposed amendment seeks to rezone land within the existing settlement boundary for Cape Paterson from Farming to General Residential Zone. The subject site has been identified in the Strategic Framework Plan to be capable of accommodating the short and long term needs for the township. The proposed Amendment is considered to have addressed the requirements of the Bass Coast Planning Scheme.

It is recommended that the Council seek authorisation to prepare and exhibit the proposed amendment from the Minister for Planning.

## Recommendation

That Council resolves to:

1. **Seek authorisation from the Minister for Planning in regards to Amendment C136 in accordance with Section 8A of the Planning and Environment Act 1987 to prepare an amendment to the Bass Coast Planning Scheme that affects the following parcels of land:**
  - a. **2 Seaward Drive, Lot 1 on PS219915T;**
  - b. **20 Seaward Drive, Lot 1 on PS417548A;**
  - c. **40 Seaward Drive, Lot 2 on PS417548A;**
  - d. **140 Seaward Drive, Lot 3 on PS410049H; and**
  - e. **Seaward Drive, Lot 2 on PS410049.**
2. **Subject to authorisation from the Minister for Planning, exhibit the amendment to the Bass Coast Planning Scheme that seeks the following changes:**
  - a. **Include the Land in the General Residential Zone;**
  - b. **Apply the Development Plan Overlay;**
  - c. **Add a Schedule to Clause 52.01 (Public Open Space Contributions); and**
  - d. **Delete the Significant Landscape Overlay and Environmental Significance Overlay from the land.**
3. **That a further report be prepared for Council's consideration once exhibition is complete to consider any submissions received.**
4. **Pursuant to Section 8 of the Planning and Environment Act 1987 Council refers any submissions received during the exhibition to C136 that could not be resolved to Planning Panels Victoria for further consideration and recommendation.**

## Attachments

<b>AT-1</b>	Concept Masterplan- Cape Paterson North	1 Page
<b>AT-2</b>	Bass Coast Planning Scheme C136 - Explanatory Report	11 Pages
<b>AT-3</b>	Strategic Policy Response - State and Local Planning Policy Framework	3 Pages

**Council Decision**

**Moved: Cr. Bradley Drew / Seconded: Cr. Jordan Crugnale**

**That the recommendation be adopted.**

**LOST**

<b>For</b>	<b>Against</b>
Cr Crugnale	Cr Brown
Cr Drew	Cr Le Serve
	Cr Rankine
	Cr Wright

**Moved: Cr. Phil Wright / Seconded: Cr. Neil Rankine**

**That Council rejects authorisation of the proposed planning scheme amendment for Cape Paterson on the grounds of creating an oversupply of residential land in Cape Paterson.**

**LOST on the casting vote of the Chair**

<b>For</b>	<b>Against</b>
Cr Le Serve	Cr Brown
Cr Rankine	Cr Crugnale
Cr Wright	Cr Drew
	Casting Vote

**Moved: Cr. Neil Rankine / Seconded: Cr. Phil Wright**

**That Council resolves 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.**

**CARRIED**

<b>For</b>	<b>Against</b>
Cr Brown	Cr Crugnale
Cr Drew	
Cr Le Serve	
Cr Rankine	
Cr Wright	