

**Resource Planning and Development Commission**

***Land Use Planning and Approvals Act 1993 and  
Resource Planning and Development Commission Act 1997***

**Decision and Reasons for Decision**

**BREAK O'DAY PLANNING SCHEME 1996  
Draft Amendment 1/2007**

The purpose of the amendment is to rezone land at Green Point, Scamander from Environment Protection to Urban.

**Date and Place of Hearing**

31<sup>st</sup> October, 2007 at the Council Chambers, St Helens.

**Delegation**

At its meeting on 24th September 2007 and pursuant to Section 8 of the *Resource Planning and Development Commission Act 1997*, the Commission delegated to Mr John Vandenberg and Dr Frances Mowling, jointly and severally:

1. its powers and functions under sections 40, 41, 41A, 41B, 42(1) and 42(2) of the *Land Use Planning and Approvals Act 1993* in relation to draft amendment 01/2007 to the Break O'Day Planning Scheme 1996; and
2. in connection with the exercise of those powers in performance of those functions, its powers under Part 3 of the *Resource Planning and Development Commission Act 1997*.

**Representors**

B. Galbraith obo Scamander and Beaumaris Community Development Association  
J. McCann  
C. Mackeen  
T Dudley obo North East Bioregional Network

**Appearances**

*Scamander and Beaumaris Community Development Association*  
Polly Buckhorn  
*North East Bioregional Network*  
Todd Dudley

*Applicant*

Glen Bromfield obo Glen Bromfield, Gary Keys and John Zar

*Council*

Matthew Hutchings, Town Planner  
Tony Walker, Manager – Development Services

### **Amendment**

The certified draft amendment proposes to rezone land known lots 1 & 2 Riverview Road, Scamander from Environment Protection to Urban.

The land subject of the certified draft amendment is located on an elevated promontory (Green Point) on the southern shore of the Scamander River, west of the urban area of Scamander. There is a Crown reservation approximately 30m wide between the subject land and the river. There are two adjacent titles in separate ownership involved in the application. Lot 1 (CT 125849/1) comprises 17.14 hectares. Lot 2 (CT 125849/2), to the east of lot 1, comprises 5.77 hectares and derives access, over a right-of-way across lot 1, from Riverview Road. On the eastern boundary of lot 2, the land abuts the partially developed Urban zone of the southern part of the Scamander town.

The owners were willing to co-operate in a joint development of the two titles and Council supports an integrated proposal through a requirement for a Part 5 agreement with the several owners.

### **Issues raised in Representations**

- (a) sufficient land already zoned Urban, as yet undeveloped;
- (b) residential infill should be developed before zoning additional land;
- (c) absence of comprehensive long-term plan for Scamander - draft amendment is piecemeal, inconsistent with settlement strategy and not strategically justified;
- (d) draft amendment inconsistent with State Coastal Policy
- (e) draft amendment does not further Schedule 1 Objectives 1(a) and 1(g);
- (f) ribbon development along the Scamander River and downstream sedimentation;
- (g) residential development will have adverse impact on skyline, will lead to destruction of vegetation and wildlife corridors and will lead to introduction of weeds;
- (h) inappropriate to expand residential population without other community services
- (i) inappropriate to rely on a Part 5 agreement to protect natural values;
- (j) impact on water supply.

### **Additional issues identified by the Commission**

- (k) role of a Part 5 Agreement;
- (l) uncertain of actual need for lots in light of recent approvals;
- (m) effect of rezoning on take up of land already zoned Urban;
- (n) absence of substantive assessment by Council against LUPA objectives.

### **Council's Report**

Council reported that four representations had been received and responded in some detail to the representors' concerns. Council's evidence will be discussed in the following section in relation to the issues noted above. Council concluded that no modifications to the certified draft amendment were necessary.

### **Summary and discussion of evidence**

The issues noted above can be conveniently grouped into the following themes: -

1. Strategic planning, population growth and community services;
2. Supply of and demand for lots, and building rates;
3. Infrastructure, particularly water supply, sewerage and roads;
4. Environmental impacts of proposed development;
5. Development control mechanisms.

### ***1. Strategic planning, population growth and community services***

Mr Hutching supplied a copy of an undated, unattributed report entitled 'Break O'Day Settlement Strategy' which is understood to have been prepared about 13 years ago. The report disclaims that it represents the opinions of the Council, elected members or officers of the Council. Nevertheless, the Settlement Strategy appears to have been generally accepted by Council and the representors as a reasonable basis for the planning scheme.

The strategy endorses St Helens as the "key commercial, industrial and administrative centre of the municipality" and a number of smaller settlements, including Scamander, as foci for development which should be contained within settlement boundaries. The strategy recorded a 1991 municipal population of 6023 and projected that this would increase by 6.5% over the period 1994-2000.

Specifically, the strategy recommended for Scamander is,

*"Infill of existing serviced areas through resubdivision and reuse of existing sites. Redevelopment of existing sites at higher densities. Protection of skyline and remaining areas of coastal heath. Commercial tourism node. Purpose built holiday developments. No industrial development. Consider further comprehensive development options to west of highway."*

(6<sup>th</sup> page of unpaginated document)

The Delegates obtained population and dwelling statistics recorded by recent Censuses, which are as follows: -

	<b>2001</b>	<b>2006</b>
<b>Break O'Day</b>		
Population	5552	6071
Total Dwellings	4022	4232
Occupied Dwellings	2396	2620
Separate houses	2182	2485
<b>Scamander (urban locality)</b>		
Population	466	506
Total Dwellings	342	353
Occupied Dwellings	210	229
Separate houses	191	213

(Source: Australian Bureau of Statistics)

Representors complained of a lack of recent strategic planning to justify the proposed amendment. Council officers advised that the Strategy was being reviewed but that Council lacked the resources to map natural values and undertake strategic planning to the level of detail desired by the representors. Mr Hutching noted that the amendment was consistent with the existing settlement strategy in that it did not impact on coastal heathland but was abutting the Urban zone west of the town, thereby reducing pressure for urban sprawl along the (coastal) Tasman Highway. Services were available and the amendment would assist planning for a comprehensive development proposal by adjoining owners. A comprehensive proposal was to be preferred to separate proposals by each owner under the current zoning, which might still allow a development footprint of up to 20% of the title area.

Mr Hutchings submitted that further development and population growth in Scamander should be encouraged in order for the town to reach an optimal size for the provision of community services and facilities.

Mr Walker commented that the planning scheme did not offer a 'reserved residential' zone and the choice of available zones was only between Urban and Environment Protection. The subject land had been zoned 'low density residential' in the previous planning scheme. He noted that on the edge of the Scamander settlement, which had historically been developed for rural-residential purposes, the Environment Protection zone did not necessarily represent land with important natural values, but was a logical location for urban expansion. The Environment Protection zone was applied, he submitted, to a wide range of non-urban lands, ranging from environmentally important national parks and coastal reserves to unremarkable areas of forest within town boundaries, such as the subject land. Mr Walker advised that Council had no intentions to provide recreational space along the southern bank of the Scamander River.

Mr Dudley contended that the rezoning proposal was not based on strategy, there was no certainty of outcomes and it represented premature urban expansion into an environmentally sensitive area.

**2. Lot supply and demand, and building rates;**

Mr Dudley's evidence identified four locations in the Scamander/Beaumaris area where recently approved subdivisions established a potential for 205 residential lots to be created. In addition one developer had given notice to clear 13.5 hectares of bushland for urban subdivision, with a potential future lot yield of approximately 100 lots.

Council did not dispute Mr Dudley's figures but noted that such subdivisions proceeded in stages over several years and the rate of development of new lots was related to market demand. Mr Hutchings supplied the following statistics, drawn from Council's development application records for the municipality as a whole.

	2004/05	2005/06	2006/07
Development type			
Subdivisions approved (no. of lots)	36 (228)	17 (104)	7 (83)
Units	24	15	11
Dwellings	90	72	51

Mr Hutchings also advised that in the period from (July?) 2005 to date, there had been 51 development applications for dwellings at Scamander.

Mr Bromfield submitted that his proposal was in accordance with the Council's settlement strategy and that development would take several years to complete. Recent subdivisions reflected a common assessment by developers of the potential demand over a 5 – 10 year timeline. This reflected a national demographic shift towards coastal locations.

***3. Infrastructure, particularly water supply, sewerage and roads;***

Council submitted that it was economical and appropriate to extend Council's infrastructure and services to the land and that the available services had the capacity to service the land to urban densities. By contrast, Mr Hutchings said, "low density development is not conducive to the provision of services, restricts access and is unsustainable at the settlement scale." Council considered it inappropriate to permit low density development in the EPZ when the land has considerable merit under the Urban Zone.

Some representors questioned whether water supply capacity was adequate to support population growth and seasonal demand at Scamander, while maintaining adequate environmental flows in the Scamander River. Mr Dudley's representation included evidence from Break O'Day Waterwatch which noted that rainfall and river flows had been decreasing over recent decades. Average flow in the Scamander River had been 142.5 megalitres/day but by the early 2000s this had declined to 89.8 MI/day. Mr Dudley warned that past experience of flows was not a reliable guide to reductions that might emerge from global climate change.

Council replied that there was ample spare capacity and tabled an email response from David Klye, municipal engineer. Mr Klye is also a specialist river rehabilitation engineer. His evidence, in summary, was that flows for December–February ranged between 8.6 and 860 MI/day. The lowest flow ever recorded was 3 MI/day. The current average off-take is 0.2 MI/day and the maximum off-take is 0.7 MI/day, sufficient to supply Scamander's 500 equivalent tenements. Mr Klye opined that 17MI/day was an extremely robust minimum supply capacity and that water supply and availability would not need to be reviewed until there were 6000 equivalent tenements at Scamander, i.e. a 12-fold increase in the size of the town.

Council officers advised that sewerage is available in the adjacent Cherrywood Drive subdivision and can be extended onto the subject land, although pump stations may be required.

Access to the land is presently via Riverview Road and this offers a somewhat circuitous link to shopping and other community facilities along the Tasman Highway. However, Council officers indicated that Council had acquired land from the Cherrywood Drive subdivision which would facilitate construction of a public road linking Riverview Road and Cherrywood Drive and thus provide a more direct access to the Scamander urban area.

Mr Bromfield advised that detailed planning of roads and accesses would be done in consultation with the Tasmanian Fire Services. In addition, a neighbour, Mr Gribble, would allow emergency egress across his land to Cherrywood Drive.

#### **4. Environmental impacts of proposed development;**

##### (a) Flora and fauna.

Expert evidence was provided by North Barker Ecosystem Services in a report commissioned by the owners, dated October 2006. The report described the study area (lots 1 & 2) as a relatively homogenous native forest/woodland community dominated by ironbark (*Eucalyptus sieberi*). The forest had been selectively logged and lacked old growth characteristics but retained mature trees up to 25m in height and regrowth of 6 -8 metres. This forest community is well reserved and not regarded as threatened.

A total of 76 plant species were recorded from the study area. Only one rare species, possibly the shade plantain *Plantago debilis*, was found at a site near the southern boundary of the study area. No species of threatened fauna are known to utilise the study area but the Wedge-tailed Eagle (endangered), White Bellied Sea Eagle (vulnerable) and Tasmanian Masked Owl (endangered) may visit the area.

Mr Dudley did not contradict North Barker's findings but observed that the area was regenerating well after last summer's fires and exhibits a good diversity of native species with virtually no weeds. He submitted that the natural values of the area should not be regarded as expendable merely because the forest type was represented in reserves and did not contain old growth forest. The requirements of the planning scheme's bushfire code made it difficult to retain substantial areas of forest vegetation in an urban subdivision. He warned that the reality of urban development would be clearing of vegetation and increased nutrient levels. This would lead to invasion by weeds and introduced species such as cats, rats, mice, rabbits, sparrows and starlings, with consequent adverse impacts on native habitats and species. Future residents would tend to remove existing trees and were unlikely to replant local native species, in his opinion.

Mr Bromfield acknowledged that the land had environmental values but contended that these values had been reduced by past logging activity. He emphasised the developers' intentions to retain vegetation along the gullies as habitat corridors. The provisions of the planning scheme would also ensure retention of important environmental values. Comprehensive development planning would be carried out but, from a commercial viewpoint, could not commence without the certainty provided by Urban zoning.

##### (b) Landscape values

Mr Dudley and Ms Mackeen advocated retention of connected areas of natural vegetation at a landscape scale as part of a revised settlement strategy, rather than piecemeal assessment by Council of individual development applications. Mr Dudley submitted that views from the Scamander River of the subject land and other riverside parts of the EPZ contributed to an almost 'wilderness feel' which was a rare feature so close to an urban settlement. Mr Dudley presented photographs of the locality and considered that the land was visually and environmentally sensitive and that development could not be justified.

Mr Bromfield disagreed with Mr Dudley's opinion and countered that from other viewpoints, houses along Riverview Road could be seen on the skyline.

### ***5. Development control mechanisms.***

In his report to Council, Mr Hutchings noted, "Although the developers sound sincere in their intent, without an application for development pursuant to the rezone, the [developers'] submission provides no guarantee that the lots will be developed in an appropriate, integrated manner."

He recommended, and Council agreed, that a Part 5 agreement be entered into with the developer that would prohibit subdivision and strata subdivision unless the designs included, "integrated development, curvilinear road designs, best practice water sensitive urban design, reticulated sewer and the retention of all natural values through habitat corridors."

Mr Bromfield confirmed that the owners of lots 1 & 2 were willing to enter into such an agreement. He submitted that integrated development of the two lots would enable innovative designs that worked with the contours and vegetation on the land and the placement of building envelopes to protect views available from house sites. He was unable to specify how many lots might be created on the subject land until more detailed planning had been undertaken. In his view it was not a question of maximising lot yield but of creating attractive lots that satisfied the various siting and environmental standards of the planning scheme.

Mr Walker was questioned about other planning control mechanisms, such as a specified departure, that would tie a zoning change more closely to a particular form of development and thus provide more certainty about ultimate development outcomes. He indicated that that kind of mechanism was not available through the current planning scheme. The scheme is a performance-based one which requires applications to demonstrate how scheme standards will be met and the values of the municipal area maintained.

### **Commission's assessment**

#### *Strategic planning, population growth and community services*

The Break O'Day Planning Scheme 1996 includes the following relevant settlement objectives, at clause 2.2.1:

- a) To ensure that existing towns and settlements are the primary focus for residential, commercial and industrial development.
- b) Redevelopment and expansion of existing settlement nodes is to be the main means of providing for new residential, commercial and industrial growth.
- c) Land and resources outside towns and settlements are to be utilised primarily for agriculture, forestry, tourism, resource protection and conservation.
- d) Growth of minor centres is to be based on meeting needs for living space with self sufficiency in infrastructure with minimal impact on surrounding agricultural uses and on key environmental assets.

- e) Where settlement occurs outside major nodes it is to be self sufficient in services.
- f) Settlement in coastal areas is not to contribute to ribbon development nor to the creation of new development nodes, and is to be self sufficient and self contained.
- g) 'Lifestyle' residential development is only to be allowed as part of comprehensive planning proposals that address issues of services, access, impact on the environment and management of natural resources and meeting community needs.

The rezoning proposal is considered to be largely consistent with all the objectives listed above, and should be allowed to proceed, subject to a qualification that arises from settlement objective (d). The question is the extent to which the Scamander River and its environs, which is considered by the Delegates to be a 'key environmental asset', should be protected from impacts, both environmental and visual.

Other objectives of the scheme are also relevant to this consideration, in particular the environmental protection objectives 2.2.3 (b), (e) & (f)

- "b) Diffuse and point sources of pollution are not to prejudice the achievement of water quality objectives and pollutants discharged to waterways are to be reduced by the use of best practice environmental management;
- e) The design and siting of buildings is to be managed to ensure that environmental values are not diminished;
- f) Design and siting of developments is to be managed to ensure that important visual landscapes are protected from inappropriate development; "

and secondarily, the transport and infrastructure objectives 2.2.4 (b), (d), (f), (g) & (h)

- "b) The development of land is to take into consideration the likely impacts on the road network.
- d) Where new development creates a demand for community services, developers are to make a contribution to the provision of those services.
- f) Additional road capacity required to service development should be fully funded by those creating the additional demand.
- g) Stormwater should be managed to ensure that pollution and erosion does not occur.
- h) Levels of access to and provision of community facilities should be maintained."

The municipal strategy predicted a population increase of 6.5%, or 391 persons in the period 1994-2000. In fact municipal population declined by 471 between 1991 and 2001 but reversed by 2006. Between 2001 and 2006 population increased by 40 people in Scamander and the increase in dwellings for the same period was 11. This may reflect a national 'sea change' trend that has occurred in many coastal centres in Australia.

At the hearing Council officers were dismissive of the need for additional recreational/environmental space to be provided along the southern side of the Scamander River. Perhaps this reflected a view that Council did not have sufficient resources to manage additional public open space, or that the existing coastal reserves were sufficient. However, in the Delegates' opinion it is necessary to look beyond the perceived

immediate needs for open space and consider the desirability of providing open space for an expanding town in a manner which can offer a diversity of locations and qualities.

The delegates, during their inspection of the subject lands, observed that there is a steep escarpment rising from the river to the boundaries of lots 1 and 2, but it was not clear (because those boundaries are not obviously fenced or marked) how much of that escarpment is contained within the foreshore reserve. In any case it would appear that the public reserve alongside the river is not especially accessible or usable by the general public. It is considered that further investigations should be carried out by Council, in consultation with the landowners, to provide usable public open space as a continuous band at the top of the escarpment along the whole river frontage.

The benefits of this suggestion are manifold; it would augment the riverside habitat corridor, protect native vegetation from clearing, assist in mitigating the effect of prevailing winds, provide space for a recreational trail; assist to screen urban development from the viewscape of the river; provide some 'insurance' from possible riverbank erosion and provide additional space to manage and absorb stormwater run-off from development.

Within the context of potential residential development being setback (by a yet to be determined distance) from the riverside boundaries, the rezoning proposal represents a reasonable expansion of an existing settlement node in a manner which does not contribute to ribbon development but which should safeguard the environmental asset of the Scamander River.

Also within that context the environmental and infrastructure objectives noted above can be addressed through comprehensive site planning, guided by an appropriately drafted Part 5 agreement between Council and the several owners involved.

The Delegates consider that pending the comprehensive site planning foreshadowed by the developers, the extent of the Urban zone should be modified so as to be set back approximately 100 metres (measured horizontally) from the toe of the cliff. That 100m wide corridor (which may include parts of the existing riparian reserve) should remain within the Environment Protection zone, at least until more detailed development proposals are available for further consideration by Council. To describe the modified zone boundary with more certainty, it is considered that a line parallel to, and 70 metres from the landward side of the existing riparian reserve (the Crown Reservation shown on SP 125849) should be adopted.

The two titles have a frontage to the riparian reserve of approximately 1155 metres. Therefore the area recommended to be excluded from urban zoning would not exceed about 8 hectares. This is a conservative buffer for the interim purposes of further detailed site planning and does not imply any proposition for public acquisition. The dedication or acquisition of any land for public purposes (if any) is a matter for negotiation between Council and any developer of the subject lands.

Following further investigation, the boundary between the Urban and the Environment Protection zones may be refined by a subsequent amendment.

It is considered that the modified Urban zoning as described above will facilitate long term planning for the future population of the Scamander settlement but still provide the landowners with adequate certainty to proceed with comprehensive site planning of lots 1 and 2.

*Lot supply and demand, and building rates*

It appears from the available municipal statistics noted previously that there has been an upsurge in subdivision approvals since 2001, although annual approvals have declined since 2004/05, suggestive of a market coming back into balance following a property boom. How many approved lots have been realised and put on the market is not clear from Council's statistics. Council and the landowner noted that subdivision development was a long term proposition that generally occurred in stages over many years, with the release of lots tempered by market demand.

The number of approved lots has exceeded the rate of dwelling construction over the past three years at least. However, short term imbalances between supply and demand for lots are not uncommon and are generally not, on their own, a sufficient reason to refuse a rezoning that is acceptable on other criteria.

*Infrastructure, particularly water supply, sewerage and roads*

The evidence provided by the municipal engineer, Mr Klye and other Council officers suggest that, even in a regime of possibly reducing river flows, the peak off-take of water for the Scamander settlement is well below the available supply, there being a comfortable margin for expansion of the town's foreseeable demands. Reticulated services of water and sewer are capable of being extended through the subject land without undue difficulty. Drainage is required by Council to be constructed to achieve 'best practice water sensitive urban design'. The road network is foreshadowed to be improved by Council to provide better intercommunication between the land and the rest of the town, via Cherrywood Drive.

In summary, the proposal is considered to be capable of being adequately served by urban infrastructure.

*Environmental impacts of proposed development*

Urban development inevitably changes the environment in which it is located. The magnitude of change will be related to the density and form of development that may be approved in the Urban zone.

Certainly, implementation of acceptable solutions of the 'Objectives and Standards for Use or Development of Bushfire Prone Areas' will require trees to be felled within the 'building protection zones' and 'fuel modified buffer zones' of dwellings. Referring to Table 22.2 of the planning scheme shows for example that, on a forested slope of 5-10 degrees, a BMZ of 20 metres and a FMBZ of 25 metres is required. A 45 metre radius circle contains an area of 2028 sq metres, to which should be added the floor area of the building itself to arrive at the area of vegetation removal/modification required for each dwelling.

Perhaps counter-intuitively, low density residential development on individual lots with areas of 2000-4000 square metres would be likely to have the worst outcomes in terms of retaining forest vegetation. Higher density development, in suitably designed clusters, may allow for some overlapping of fire protection zones and the retention of intervening vegetated corridors between clusters of dwellings.

Once it is accepted that the land is suitably located and serviceable for expansion of urban development at Scamander, the remaining question for the Delegates is whether rezoning to Urban is likely to encourage development that will create unacceptable impacts on the wider environment.

The expert evidence was that the *E.sieberi* forest/woodland community is not regarded as threatened and is adequately represented in reserves elsewhere. No threatened faunal species were found on the land and only one rare plant species was recorded. This species should be protected by a combination of subdivision design and permit conditions.

Fully serviced urban development incorporating best practice water sensitive design is considered not to present a risk to the environment. The conclusion is that, with the modification suggested previously, rezoning the majority of the land to Urban will not pose unacceptable environmental impacts.

#### *Development control mechanisms.*

The rezoning proposal before the Commission is simply to change a large area, of approximately 23 hectares in two adjacent but separately held titles, from Environmental Protection to Urban zoning. There is no specific development proposal to be considered. The Commission's decision can say nothing about how the Urban zone might or should be developed, within the standards of the Break O'Day planning scheme.

To some extent the Delegates rely on the intentions expressed by Council officers and the owners that a Part 5 agreement will be entered into to guide the form of development on the land. However, the Commission cannot require a Part 5 agreement as a condition of approval of the draft amendment. Nor can it guarantee that such an agreement will be signed or even that the current owners will be the eventual developers, if the rezoning is approved.

It is with those reservations in mind that the Delegates have decided that the draft amendment should be modified, as discussed above, to set back the boundary of the Urban zone from the Scamander River, pending further investigation, consultation and site planning. Thus, if the land is sold prior to development, or if Council and the owners cannot resolve a Part 5 agreement, there will at least be some buffer to the Scamander River to assist in the protection of its environmental and visual values.

### **Schedule 1 Objectives**

#### **Part 1 objectives**

(a) *to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity;*

Comment: Development in the Urban Zone in accordance with the standards of the Break O'Day Planning Scheme 1996 is considered to promote sustainable development of natural and physical resources.

- (b) *to provide for the fair, orderly and sustainable use and development of air, land and water;*

Comment: The proposed Urban zone is contiguous to the existing Urban zone and is capable of being fully serviced. This will enable the land to be developed in a fair, orderly and sustainable manner.

- (c) *to encourage public involvement in resource management and planning;*

Comment: There has been adequate opportunity for public involvement through the exhibition and public hearing into the draft amendment.

- (d) *to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c);*

Comment: The draft amendment will facilitate economic development for residential or other urban uses at Scamander in accordance with the foregoing objectives.

- (e) *to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State.*

Comment: Operation of the planning scheme, and development of Urban land depends on cooperation between Council, State agencies, the development industry and the community.

## **Part 2 objectives**

These objectives have been considered in respect of strategic planning, operation of the planning scheme, environmental effects, conservation of key environmental assets and the creation of a pleasant, efficient and safe living and recreational environment at Scamander.

### **Application of State Policies**

The *State Policy on the Protection of Agriculture Land 2000* is not applicable. The land has not been used for agriculture and its residential use will not fetter any nearby agricultural uses.

The *State Policy on Water Quality Management 1997* is applicable and can be addressed through subsequent permit conditions for the management of sewerage and stormwater.

The *State Coastal Policy 1996* is applicable as the land is within 1 kilometre of the coast. However the draft amendment, with modification, provides for planned urban expansion within an existing settlement and is considered to be in accordance with the Policy.

The *National Environmental Protection Measures* are assessed as not being relevant to the draft amendment.

**Conclusion**

The draft amendment allows for the expansion of the Urban zone within the town of Scamander. However, to safeguard the values of the Scamander River and its immediate environs, pending detailed site planning, the boundaries of the proposed Urban zone should be set back further from the river.

**DECISION**

Pursuant to Section 41(a) of the *Land Use Planning and Approvals Act 1993* the Commission requires the planning authority to modify the draft amendment as set out in Annexure A and gives its approval to the draft amendment as modified pursuant to Section 42 of the Act.

John Vandenberg  
**Delegate**

Dr Frances Mowling  
**Delegate**

18 February 2008

Attachment  
Annexure A: Direction to modify the draft amendment

**Annexure A**

Pursuant to Section 41(a) of the *Land Use Planning and Approvals Act 1993* the Commission requires the planning authority to modify the draft amendment to reduce the area of Urban zoning shown on the draft amendment plan by adopting a revised boundary between the proposed Urban zone and the current Environment Protection Zone. The boundary is to be located by drawing a line parallel to and 70 metres from the landward boundary of the Crown Reservation shown on Sealed Plan 125849.