

**Glenelg Planning Scheme Amendment C106gelg
Omnibus Amendment**

Panel Report

Planning and Environment Act 1987

12 August 2022

How will this report be used?

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether or not to adopt the Amendment.
[section 27(1) of the *Planning and Environment Act 1987* (the PE Act)]

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations. [section 31 (1) of the PE Act, and section 9 of the *Planning and Environment Regulations 2015*]

If approved by the Minister for Planning a formal change will be made to the planning scheme. Notice of approval of the Amendment will be published in the Government Gazette. [section 37 of the PE Act]

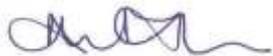
Planning and Environment Act 1987

Panel Report pursuant to section 25 of the PE Act

Glenelg Planning Scheme Amendment C106gelg

Omnibus Amendment

12 August 2022



Alison McFarlane, Chair

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Glossary and abbreviations

The Amendment	Glenelg Shire Planning Scheme Amendment C106gelg
C1Z	Commercial 1 Zone
C2Z	Commercial 2 Zone
CBD	Central Business District
Council	Glenelg Shire Council
FO	Floodway Overlay
FO1	Floodway Overlay Schedule 1
FZ	Farming Zone
FZ1	Farming Zone Schedule 1
FZ2	Farming Zone Schedule 2

Glenelg Settlement Strategy	Glenelg Sustainable Settlement Strategy 2012
GRZ1	General Residential Zone Schedule 1
LDRZ	Low Density Residential Zone
LSIO	Land Subject to Inundation Overlay
LSIO1	Land Subject to Inundation Overlay Schedule 1
MPS	Municipal Planning Strategy
PE Act	<i>Planning and Environment Act 1987</i>
Portland Framework Plan	Portland Strategic Framework Plan, 2020
PPN37	Planning Practice Note 37 Rural Residential Development, 2015
PPN42	Planning Practice Note 42 Applying the Rural Zones, 2015
PPRZ	Public Park and Recreation Zone
Practitioner's Guide	A Practitioner's Guide to Victorian Planning Schemes
RAZ2	Rural Activity Zone Schedule 2
RCZ	Rural Conservation Zone
RCZ2	Rural Conservation Zone Schedule 2
RLZ	Rural Living Zone
RLZ1	Rural Living Zone Schedule 1
Rural Living Assessment	Portland Rural Living Assessment, 2020
Rural Strategy	Glenelg Shire Rural Strategy 2019
SLO	Significant Landscape Overlay

Overview

Amendment summary

The Amendment	Glenelg Planning Scheme Amendment C106gelg
Common name	Omnibus Amendment
Brief description	The Amendment implements the recommendations of <i>Glenelg Shire Planning Scheme Review 2018, Rural Land Strategy 2019, Portland Strategic Framework Plan 2020, Portland Rural Living Assessment 2020 and Glenelg Sustainable Settlement Strategy 2012</i> (as it relates to Condah and Tyrendarra)
Subject land	All land in Glenelg Shire
Planning Authority	Glenelg Shire Council
Authorisation	30 November 2021
Exhibition	27 January to 4 March 2022
Submissions	Number of Submissions: 14 Opposed or requesting changes: 13 Refer Appendix A

Panel process

The Panel	Alison McFarlane
Directions Hearing	Video conference, 30 May 2022
Panel Hearing	Portland, 11 July 2022
Site inspections	Unaccompanied, 12 July 2022
Parties to the Hearing	Refer Appendix B
Citation	Glenelg PSA C106gelg [2022] PPV
Date of this report	12 August 2022

Executive summary

Glenelg Planning Scheme Amendment C106gelg (the Amendment) implements strategies for Portland and Glenelg's rural area. It is the culmination of many years of strategic planning and engagement with the community. The Amendment also makes significant changes to the form and content of the Glenelg Planning Scheme informed by the *Glenelg Planning Scheme Review 2018*.

Most of the Amendment was not contested by opposing submissions. Unresolved submissions focussed on farming and rural residential land in the Portland hinterland. Other unresolved submissions raised site specific issues.

Farming and rural residential land

The Amendment addresses the planning provisions that have resulted in a substantial supply of small rural lots in high quality agricultural areas on the periphery of Portland. Significantly, the Amendment resets the planning framework for these areas, informed by the *Glenelg Shire Rural Land Strategy, 2019* by proposing to rezone land from Rural Conservation Zone Schedule 2 to Farming Zone Schedule 1 or 2.

The Amendment also addresses rural residential land around Portland informed by the *Portland Rural Living Assessment, 2020*. This assessment found there is sufficient land is available to meet over 20 years demand for rural residential development within the municipality, although supply is less in Portland West and Dutton Way. The Amendment implements key recommendations from the assessment, including reducing the minimum lot size for the Portland West rural residential area from 4 hectares to 2 hectares.

Key issues raised relating to farming and rural residential land included:

- land capability for agriculture
- demand for lifestyle lots
- minimum lot size in the Rural Living Zone
- rural tourism.

Portland

The Amendment implements key recommendations arising from the *Portland Strategic Framework Plan, 2020* prepared by the Glenelg Shire Council in partnership with the Victorian Planning Authority. This plan sets a vision to guide growth and development of Portland until 2040 around themes of residential growth, economy and employment, primacy of central Portland and built environment and character. An unresolved issue relates to the potential extension of commercial land in Otway Street, north of the central business area.

Site specific issues

Several submissions raised site specific issues as follows:

- accuracy of flood mapping in Narrawong
- protection of native flora and fauna in Nelson
- correction of zoning of private land currently in a public land zone in Digby.

Conclusions

Overall, the Amendment is supported by, and implements, the Planning Policy Framework and is strategically justified.

On rural issues, the Panel concludes:

- Rezoning land from Rural Conservation Zone 2 to Farming Zone Schedule 1 or 2 is appropriate and will avoid entrenching use and development of land for rural residential purposes, including some areas where commercial agriculture continues to be viable.
- Further work is required to properly assess if any areas of Rural Conservation Zone 2 (proposed to be Farming Zone 2) land should be strategically identified for rural residential purposes.
- Reducing the minimum lot size of Rural Living Zone land in Portland West is appropriate, however there is no strategic justification to reduce the minimum lot size across all Rural Living Zone areas from 4 hectares to 2 hectares.

The Panel does not support:

- retaining the two 'stage rezoning areas' in the Rural Conservation Zone Schedule 2 because the analysis undertaken does not justify this designation
- rezoning the Maretimo Service Road land from Rural Conservation Zone 2 to Rural Activity Zone 2 because it is inconsistent with the Portland Framework Plan and further analysis is required to determine the preferred future use of the land.

These areas should be included in Farming Zone 2 in the interim while further strategic work is undertaken, however this has not formed part of the Amendment and should be subject to public notice. Retaining these areas in the current zone will likely expand and further entrench their use and development for rural residential purposes which is not desirable.

On the Portland strategy, the Panel concludes:

- Further work is required to determine the appropriate future zone of 13 and 15 Otway Street, Portland.
- A single zone should be applied to 13 Otway Street, Portland and 21 Juliani Place, Portland. GRZ1 is the appropriate single zone for the land.

On site specific issues raised by submitters, the Panel concludes:

- It is appropriate to consider how development interfaces with the proposed Vause Road Wildlife Corridor and Nelson Eastern Circuit Walk once they are committed for development.
- It is appropriate to rezone private land at 75 Russell Street, Digby from Public Park and Recreation Zone to Farming Zone 1.
- There is no justification for the reduction in flood extents in Narrawong and the existing Land Subject to Inundation Overlay and Floodway Overlay should remain in place.

On the form and content of the Amendment, the Panel concludes:

The Panel concludes:

- There is commonality between the strategies for the six precincts identified in the Rural Strategy and it is satisfactory to consolidate these strategies in local policies for agriculture.
- Local policies Clauses 14.01-1L-01 (Protection of agricultural land), 14.01-1L-02 (Farming Zone and Rural Conservation Zone – Schedule 1 areas) and 14.01-1L-03 (Farming Zone and Rural Conservation Zone – Schedule 2 areas) should be revised for consistency with *A Practitioner's Guide to Victorian Planning Schemes*.

- Permit requirements for buildings in Significant Landscape Overlay Schedules 1, 2 and 3 should be redrafted so they are clear and provide certainty.
- The location of the 'Portland West Rural Living Precinct' would be clearer if the land was included in a new Schedule 2 to the Rural Living Zone.

Recommendations

Based on the reasons set out in this Report, the Panel recommends that Glenelg Planning Scheme Amendment C106gelg be adopted as exhibited subject to the following:

- 1. Delete Rural Activity Zone Schedule 2.**
- 2. Rezone land at 75 Russell Street, Digby from Public Park and Recreation Zone to Farming Zone Schedule 1.**
- 3. Rezone part of the land at 13 Otway Street, Portland and 21 Juliani Place, Portland from Commercial 2 Zone to General Residential Zone Schedule 1, as shown in Figure 11.**
- 4. Amend Clauses 14.01-1L-01 (Protection of agricultural land), 14.01-1L-02 (Farming Zone and Rural Conservation Zone – Schedule 1 areas) and 14.01-1L-03 (Farming Zone and Rural Conservation Zone – Schedule 2 areas), as shown in Appendix E.**
- 5. Amend Significant Landscape Overlay Schedules 1, 2 and 3, as shown in Appendix F.**
- 6. Introduce and apply Schedule 2 to the Rural Living Zone to the Portland West Rural Living Precinct, as shown in Appendix G, and make associated mapping changes.**

1 Introduction

1.1 The Amendment

(i) Amendment description

The purpose of Glenelg Planning Scheme Amendment C106gelg (the Amendment) is to implement the recommendations of:

- *Glenelg Shire Planning Scheme Review, 2018*
- *Glenelg Shire Rural Land Strategy, 2019* (Rural Strategy)
- *Portland Strategic Framework Plan, 2020* (Portland Framework Plan)
- *Portland Rural Living Assessment, 2020* (Rural Living Assessment)
- *Glenelg Sustainable Settlement Strategy 2012* (Glenelg Settlement Strategy).

Specifically, the Amendment proposes to:

- Amend Clauses 02.03-1 (Settlement), 02.04 (Strategic Framework Plan), 14.01-1L (Protection of agricultural land), 15.01-1L (Urban design), 15.01-2L (Building design) and 17.04-1L (Facilitating tourism).
- Amend Schedules to the following zones:
 - Clause 32.03 (Low Density Residential Zone) (LRDZ)
 - Clause 32.05 (Township Zone)
 - Clause 32.08 (General Residential Zone)
 - Clause 35.03 (Rural Living Zone) (RLZ)
 - Clause 35.06 (Rural Conservation Zone) (RCZ)
 - Clause 35.07 (Farming Zone) (FZ)
 - Clause 36.02 (Public Park and Recreation Zone) (PPRZ)
 - Clause 37.01 (Special Use Zone)
 - Clause 42.01 (Environmental Significance Overlay)
 - Clause 42.03 (Significant Landscape Overlay) (SLO)
 - Clause 43.04 (Development Plan Overlay)
 - Clause 44.03 (Floodway Overlay) (FO)
 - Clause 44.04 (Land Subject to Inundation Overlay) (LSIO)
 - Clause 66.04 (Referral of Permit Applications Under Local Provisions)
 - Clause 72.03 (What Does this Scheme Consist of?)
 - Clause 72.04 (Documents Incorporated in this Planning Scheme)
 - Clause 72.08 (Background documents)
 - Clause 74.02 (Further Strategic Work).
- Insert new Schedules 3 and 4 to Clause 32.04 (Mixed Use Zone).
- Insert a new Schedule 2 to Clause 35.07 (Farming Zone) (FZ2).
- Insert a new Schedule 2 to Clause 35.08 (Rural Activity Zone) (RAZ2).
- Insert new Schedules 10 and 11 to Clause 43.04 (Development Plan Overlay).
- Insert the Restructure Overlay at Clause 45.05, insert a new Schedule to that clause, and insert an incorporated document listed in the Schedule to Clause 72.04.

The Amendment also proposes to correct mapping and ordinance anomalies.

(ii) The subject land

The Amendment relates to land listed in Table 1.

Table 1 Zones and overlays affected by the Amendment

Zone or overlay		Land affected by the Amendment
Residential	General Residential Zone	Portland, Heywood and Casterton
	Low Density Residential Zone	All land
	Mixed Use Zone	Portland
	Township Zone	All land
Commercial	Commercial 1 Zone	Portland
	Commercial 2 Zone	Portland
Rural	Farming Zone	All land
	Rural Activity Zone	Portland hinterland
	Rural Conservation Zone	All land
	Rural Living Zone	All land
Public land	Public Park and Recreation Zone	All land
Special purpose	Special Use Zone	All land
Overlays	Floodway Overlay	All land
	Land Subject to Inundation Overlay	All land
	Rural Floodway Overlay	All land
	Environmental Significance Overlay	All land
	Development Plan Overlay	All land
	Significant Landscape Overlay	All land
	Restructure Overlay	Tyrendarra

1.2 Background

Glenelg Shire Council (Council) provided a chronology of the key strategic documents and activities that led to the preparation and progression of the Amendment (see Appendix D). In summary, the three main strategies implemented by the Amendment; the Rural Strategy, Rural Living Assessment and Portland Framework Plan, are the product of lengthy strategic planning and community engagement processes.

Recommendations of the Panel appointed to review Glenelg Planning Scheme Amendment C78 were part of the reason for preparing the Rural Living Assessment and Rural Strategy. That Amendment sought, amongst other things, to rezone land in the Portland hinterland to RLZ. The Panel did not support the rezoning, and recommended further investigations were needed to underpin a future RLZ proposal including:

- A more complete and contemporary assessment of agricultural productivity.
- A more thorough analysis of supply and demand, based on more realistic development projections and a more appropriate timeframe.

- Further consideration of the appropriate minimum subdivision area and whether different minima should apply to different areas (including consideration of whether there is scope to apply the LDRZ in some areas).

1.3 Procedural issues

(i) Additional material requested by the Panel

In its closing submission, Council requested that it be granted leave to prepare and circulate information requested by the Panel following the Hearing. The Panel agreed to Council's request and issued directions outlining the process for circulation of material and provision of comments by parties. No responses were received from parties on the additional material provided by Council.¹

1.4 Summary of issues raised in submissions

(i) Relevant agencies

The key issues for the Environment Protection Authority Victoria were whether the Amendment had properly considered:

- if land is potentially contaminated
- the amenity impacts of potential use and development.

Council agreed to make changes to the Explanatory Report in response to these concerns. The Environment Protection Authority Victoria subsequently advised Council its concerns had been resolved by letter dated 10 March 2022.

(ii) Individual submitters

The key issues raised by submitters were:

- land capability for agriculture and the appropriate zoning of land
- demand for lifestyle lots
- minimum lot size in the RLZ
- accuracy of flood mapping
- protection of native flora and fauna
- zoning of private land in a public land zone
- rural tourism
- extension of the C1Z in Otway Street, Portland
- complexity of the Amendment and the consultation process.

1.5 The Panel's approach

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

¹ Documents 40 and 48

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from site visits, and submissions and other material presented to it during the Hearing. It has reviewed a large volume of material and has had to be selective in referring to the more relevant or determinative material in the Report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:

- Planning context
- Rural Zones
 - Existing Rural Conservation Zone
 - Proposed Rural Activity Zone
 - Rural Living Zone minimum lot size
- Other issues
 - Nelson
 - Digby
 - Flooding
 - 13-15 Otway Street, Portland.

1.6 Limitations

Most of the Amendment is not contested by opposing submissions. The Panel has not reviewed the entire Amendment in detail or specifically considered detailed drafting issues across the full suite of Amendment documents, other than those provisions related to submissions.

Some submissions raised issues that are not relevant to the Amendment and have not been considered by the Panel. This includes the submission concerning the storage of limestone and concrete products on land at 697 Henty Highway, Portland. This activity is subject to enforcement activity by Council, which is entirely separate to the Amendment process.

2 Planning context

2.1 Planning policy framework

Council submitted the Amendment is supported by various clauses in the Planning Policy Framework, which the Panel has summarised below.

Victorian planning objectives

The Amendment will assist in implementing the following State policy objectives set out in section 4 of the *Planning and Environment Act 1987* (PE Act):

- to provide for the fair, orderly, economic and sustainable use, and development of land
- to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity
- to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria
- to facilitate development in accordance with the objectives
- to balance the present and future interests of all Victorians.

Clause 11 (Settlement)

The objective of Clause 11.01-1S (Settlement) is to facilitate growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements. The objective of Clause 11.01-1R (Settlement – Great South Coast) is to attract more people to the region. Strategies to achieve this regional objective include supporting Portland to service the region's southwest and planning for a network of settlements around Portland that provide a variety of lifestyle opportunities.

The Amendment supports Clause 11 by encouraging lifestyle development in appropriate locations.

Clause 14 (Natural resource management)

The objective of Clause 14.01-1S (Protection of agricultural land) is to protect the State's agricultural base by preserving productive farmland. Clause 14.01-2S (Sustainable agricultural land use) encourages the sustainable use of agricultural land.

The Amendment supports Clause 14 by introducing new local policy on rural dwellings and subdivision.

Clause 15 (Built environment and heritage)

The objective of Clause 15.01-1S (Urban design) is to create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity. The objective of Clause 15.01-2S (Building design) is to achieve building design and siting outcomes that contribute positively to the local context, enhance the public realm and support environmentally sustainable development.

The Amendment supports Clause 15 by introducing new policy to guide urban character outcomes consistent with the identity of Portland.

Clause 16 (Housing)

The objective of Clause 16.01-1S (Housing supply) is to facilitate well-located, integrated and diverse housing that meets community needs. The objective of Clause 16.01-2S (Housing affordability) is to deliver more affordable housing closer to jobs, transport and services.

Clause 16.01-3S (Rural Residential Development) seeks to identify land suitable for rural residential development. Regional strategies to achieve this objective at Clause 16.01-3R (Rural residential development – Great South Coast) include supporting rural residential development adjacent to towns with limited growth demand to sustain population levels and communities. Additional local strategies at Clause 16.01-3L (Rural residential development) include facilitating rural living in areas surrounding towns.

Council submitted the Amendment encourages lifestyle development in the appropriate zones and locations.

Clause 17 (Economic development)

The objective of Clause 17.01-1S (Diversified economy) is to strengthen and diversify the economy. Clause 17.02-1S (Business) encourages development that meets the community's needs for retail, entertainment, office and other commercial services. Clause 17.03-1S (Industrial land supply) seeks to ensure availability of land for industry and Clause 17.03-3S (State significant industrial land) seeks to protect industrial land of state significance. The objective of Clause 17.04-1S (Facilitating tourism) is to encourage tourism development to maximise the economic, social and cultural benefits of developing the state as a competitive domestic and international tourist destination.

The Amendment supports Clause 17 through introduction of local policy for rural tourism.

2.2 Other relevant planning strategies and policies**(i) Municipal Planning Strategy**

The Glenelg Shire Council Strategic Framework Plan (Figure 1) illustrates the hierarchy of town in the municipality.

Council submitted the Amendment supports the strategic directions of the Municipal Planning Strategy (MPS) for settlement (Clause 02.03-1), transport (Clause 02.03-7) and environmental and landscape values (Clause 02.03-2) by:

- Facilitating growth in and around existing towns and settlements.
- Managing the interface of rural living areas and agricultural areas to minimise conflict with commercial agricultural operations.
- Supporting rural residential development only where it is linked to an existing urban area, where it does not impact on land capability, productive agricultural land use or water quality and where it can be serviced by infrastructure.
- Encouraging re-subdivision of existing rural residential areas within Portland to facilitate better utilisation of infrastructure.
- Encouraging land within existing towns to be developed before new land is considered for rezoning to provide housing.
- Encouraging medium density residential development in the CBD.
- Facilitating the development of Tyrendarra by facilitating eco-based tourism.

- Facilitating the development of Sandford by supporting the development of the town for tourist and rural residential development.
- Facilitating the development of Condah by encouraging tourism developments close to nearby national assets such as the Lake Condah Indigenous Protected Area and Budj Bim Cultural Landscape.
- Facilitating the development of Digby by encouraging the development of rural residential development outside the Township Zone through consolidation of fragmented rural lots on the periphery of the town.
- Maintaining locally significant views that contribute to the character of the coast and coastal hinterland region.
- Encouraging development of tourist accommodation.
- Providing effective land use buffers to the Port of Portland.
- Protecting coastal environs and significant landscapes.

Figure 1 Glenelg Shire Council Framework Plan



(ii) Great South Coast Regional Growth Plan

The *Great South Coast Regional Growth Plan, 2014* provides broad direction for land use and development across the Great South Coast region and includes detailed strategic framework plans for the key regional centres of Warrnambool, Hamilton and Portland (Figure 2).

Figure 2 Portland Strategic Framework Plan



Source: Great South Coast Regional Growth Plan

Council submitted the Amendment is consistent with the Great South Coast Regional Growth Plan because it:

- provides for the expansion of the Portland central business district
- affirms the settlement hierarchy in the growth plan.

(iii) Glenelg Sustainable Settlement Strategy

The Glenelg Settlement Strategy identifies key strategic directions for each of the towns identified in the Glenelg Planning Scheme. It established the settlement hierarchy reflected in the Great South Coast Regional Growth Plan 2014. It provides the background analysis for defining the town areas of Tyrendarra and Condah proposed to be implemented by the Amendment.

The Glenelg Settlement Strategy was introduced into the Planning Scheme by Glenelg Planning Scheme Amendment C73 in April 2014.

(iv) Rural Strategy

The Rural Strategy reviews all land in the FZ and RCZ. Its vision is:

Glenelg's rural land is integral to the economy, identity and liveability of the Shire. Natural resources, wilderness, coasts and cultural heritage support thriving rural industries, vibrant rural communities and unique visitor destinations and experiences.

Primary production (agriculture, forestry and aquaculture) sustains a thriving processing sector that capitalises on the competitive advantage afforded by the Port of Portland and is a pivotal component of the Glenelg economy. Careful planning ensures that the natural resources underpinning primary production are protected and that industries have the flexibility to innovate and adapt to changing climate and new technologies and markets.

Glenelg is a renowned tourism destination offering diverse experiences that capitalise on and complement its pre and post contact cultural heritage, natural attractions and rural industries.

Rural housing and industry are clustered around townships to promote sustainable communities and efficient infrastructure delivery, provide attractive lifestyle choices and minimise the risk of land use conflict. Regard for rural landscapes, natural hazards and environmental values ensure that new development is sustainable and located to minimise risks to human safety.

It identifies the following legacy issues that impact on the performance of the Planning Scheme:

- Anomalies arising from the direct translation of the rural zones and subdivision of historic townships.
- A substantial supply of small lots in the Farming Zone and Rural Conservation Zone.
- The need for additional policy guidance to assess planning permit applications for subdivision and dwellings in the Farming Zone and Rural Conservation Zone.
- The need to review the minimum lot size schedules in the Farming Zone and Rural Conservation Zone.

Table 2 provides a summary of the recommendations for zoning of land arising from the Rural Strategy.

Table 2 Rural Strategy recommended zones

Existing zone	Recommended zone	Purpose/rationale
Farming Zone	Farming Zone 1	Land where commercial agriculture is and will be the predominant land use
	Farming Zone 2	Farming areas that carry a mix of commercial scale agriculture, hobby farms and rural lifestyle Land on the periphery of towns where future structure planning may identify the land for future urban expansion
	Township Zone with Restructure Overlay	Tyrendarra to recognise existing developed areas
	Township Zone	Condah to recognise existing developed areas
Rural Conservation Zone 1	Farming Zone to land between Cape Nelson and Cape Bridgewater	Land that has been extensively cleared and developed for agriculture
Rural Conservation Zone 2	Farming Zone 1 or 2	Consistent with the policy objectives of Rural Conservation Zone 2 to provide for agriculture and horticulture
Rural Conservation Zone 3	Rural Conservation Zone 3	No change
Rural Activity Zone	Rural Activity Zone 1 – Bridgewater	Schedule number change only

Existing zone	Recommended zone	Purpose/rationale
New	Rural Activity Zone 2 – Maretimo Service Road, Bolwarra	Suitable for rural tourism

The Rural Strategy also recommends introduction of local policies to guide planning permit applications for subdivision, new dwellings and tourism facilities.

Earlier drafts of the Rural Strategy considered increasing the minimum lot size for a dwelling in rural areas from 40 hectares to 100 hectares. This was widely opposed by the community and Council resolved to retain the 40 hectare minimum specified in the FZ and Rural Conservation Zone Schedule 1. This is reflected in the exhibited Amendment.

Council advised that the Rural Strategy is consistent with State policy as it:

- discourages isolated small lots in rural zones for the use of dwellings or other incompatible uses
- supports the aggregation of small lots to facilitate productive farming
- directs housing to existing settlements.

The Rural Strategy is proposed to be included as a background document in the Planning Scheme and has informed the proposed zoning of rural land and policy to be included at Clause 14.01-1L (Protection of agricultural land) and Clause 17.04-1L (Facilitating tourism).

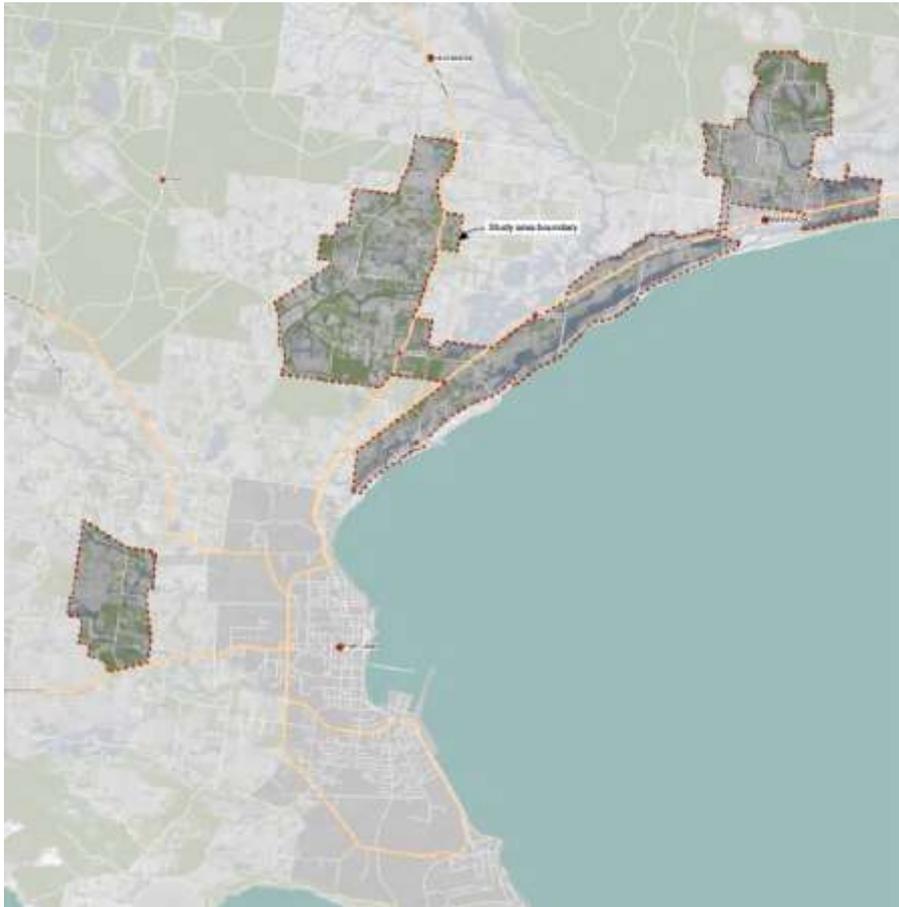
(v) Rural Living Assessment

The Rural Living Assessment was prepared to review the supply and demand of RLZ land in the 'Portland and surrounds' area (Figure 3).

The assessment categorises RLZ land as either immediate, dormant or constrained. Land considered as immediate supply is available for development or subdivision with no obvious constraints. Land identified as dormant or constrained does not preclude development but identified various factors requiring further consideration before development of realised. This includes matters like fire risk, lack of infrastructure, or other environmental considerations.

The Rural Living Assessment concludes:

- There is sufficient land available to meet the current demand for rural residential development within the Shire and the 'Portland and surrounds' beyond 20 years, however a large quantum of this supply is constrained by environment, infrastructure and land use conflicts.
- In the case of Portland West and Dutton Way, there is less than 15 years supply of land available for 'immediate' demand.

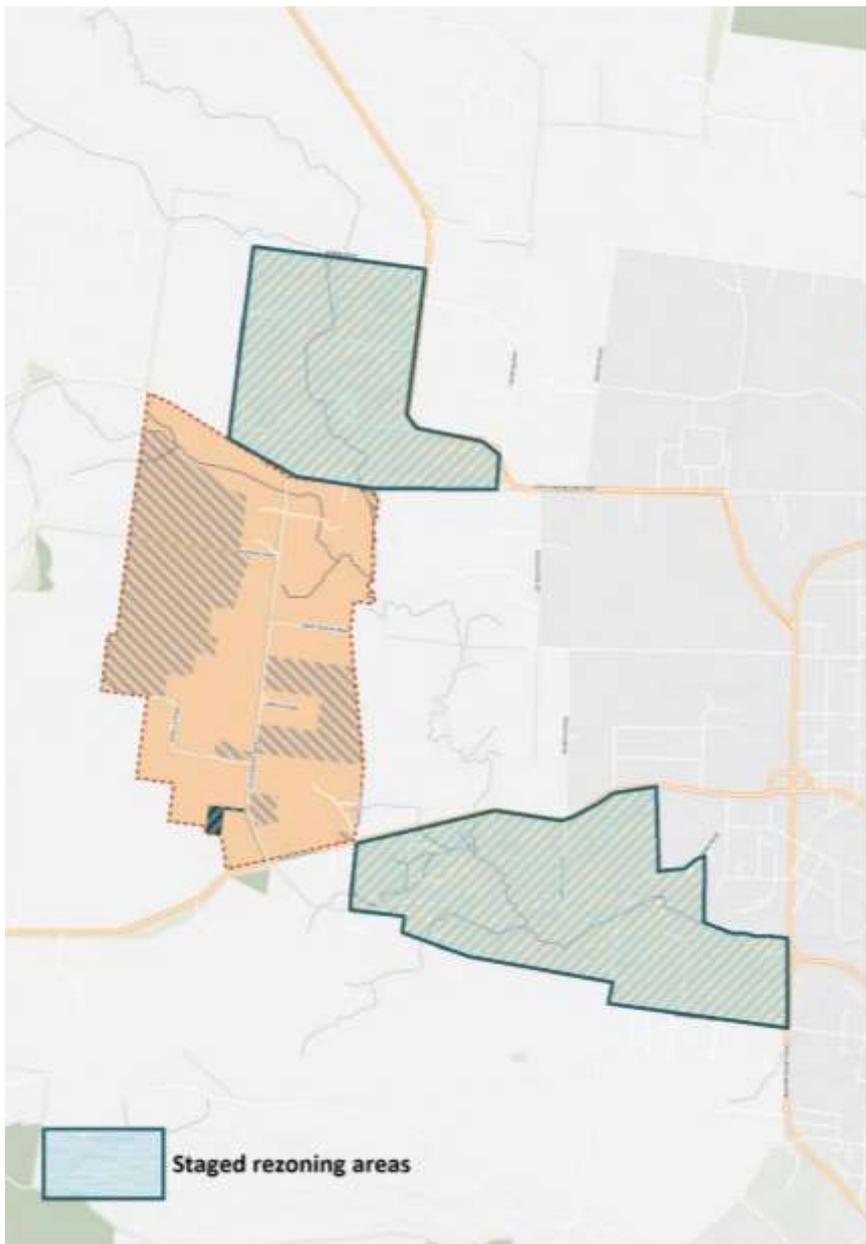
Figure 3 Portland and surrounds

Source: Rural Living Assessment Figure 1

For land in Allestree, Bolwarra, Dutton Way, Narrawong and Portland West, the Rural Living Assessment recommends the existing RLZ land should be retained and the minimum lot size for subdivision should be reduced when 'immediate' and 'dormant' land supply stocks in 'Portland and surrounds' approach 20 years of supply.

For land in Portland West, the Rural Living Assessment identifies 'two staged rezoning areas' currently in the Rural Conservation Zone Schedule 2 (RCZ2) (Figure 4). These are recommended to be retained in the RCZ2 with a 2 hectare minimum lot size until required for either rural living or urban expansion in the future. The Rural Living Assessment also recommends reducing the minimum lot size to 2 hectares for the Portland West Rural Living Precinct based on the level of supply within that precinct.

The Rural Living Assessment is proposed to be included as a background document in the Planning Scheme.

Figure 4 Portland West staged rezoning areas**(vi) Portland Framework Plan**

The Portland Framework Plan includes a four part vision:

Portland will be a regional centre that is a desirable place to live, with high residential amenity and diversity of housing stock to meet the needs of a changing population. Land is to be provided for long term residential, commercial, industrial and port related needs, where incompatible land uses are adequately separated from each other and their potential impacts are appropriately managed

Portland will remain a national and international gateway for imports and exports, with sufficient, strategically located and appropriately designated land to meet forecast demand for port related storage ensuring adequate integration of the Port to the Australian freight and logistics network. Portland has a diversified local economy, taking advantage of environmental, heritage and infrastructure assets and ample tracts of industrial land.

Portland includes a vibrant CBD that is the primary commercial centre of the Glenelg Shire. It is the hub of community, civic and cultural activity with opportunities for growth, increased tourism and a diversity of housing options.

The built environment of Portland enhances the area's accessible unique cultural heritage and natural landscape.

The vision is to be achieved by:

Maintaining and enhancing the primacy and viability of the Portland CBD.

Identifying and unlocking opportunities for development and redevelopment of infill sites to provide additional housing and more diverse housing types within Portland as a priority.

Identifying opportunities to create attractive sites to accommodate residential growth as well as investigation areas for long-term residential growth in Portland.

Ensuring that rural land around Portland can provide for a range of uses including commercial agriculture, rural industry, extractive industries, rural residential, discrete tourism and hobby farming. However, these are to be provided in such a way that they do not negatively impact each other or result in land use conflict.

The Portland Framework Plan is proposed to be included as a background document in the Planning Scheme and has informed the following components of the Amendment:

- proposed zones and overlays in Portland
- changes to the MPS at Clause 02.04 (Glenelg Shire Strategic Framework)
- policy to be included at Clauses 15.01-1L-02 (Urban Design Portland) and 15.01-2L-02 (Building Design Portland).

(vii) Portland Industrial Land Strategy

The *Portland Industrial Land Strategy, 2016* was adopted and implemented into the Planning Scheme by Glenelg Planning Scheme Amendment C90gelg in 2019. The Portland Framework Plan relies on this assessment and does not review industrial land.

(viii) Glenelg Shire Council Plan

Council submitted that the Amendment supports the following themes from the *Glenelg Shire Council Plan 2021-2025*:

- Our Natural Environment – Striving towards a carbon neutral future to protect and enhance the natural environment for future generations.
- Our Education, Employment, and Industry - Adapting and growing a diverse economy to embrace employment of the future and educational opportunities.
- Our Lifestyle, Neighbourhood and Culture - Creating enriched and vibrant lives through experiences, safe and well planned neighbourhoods.
- Our Voice and Action - A highly engaged and capable local government, leading Glenelg to ensure the needs and aspirations of our community are realised.

2.3 Planning scheme provisions

(i) Zones and overlays

The purpose of the zones and overlays relevant to Amendment are provided in Table 3.

Table 3 Zone and overlay purposes

Provision	Purposes
All	To implement the Municipal Planning Strategy and the Planning Policy Framework.
Zones	
C1Z	To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses. To provide for residential uses at densities complementary to the role and scale of the commercial centre.
C2Z	To encourage commercial areas for offices, appropriate manufacturing and industries, bulky goods retailing, other retail uses, and associated business and commercial services. To ensure that uses do not affect the safety and amenity of adjacent, more sensitive uses.
FZ	To provide for the use of land for agriculture. To encourage the retention of productive agricultural land. To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture. To encourage the retention of employment and population to support rural communities. To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision. To provide for the use and development of land for the specific purposes identified in a schedule to this zone.
GRZ	To encourage development that respects the neighbourhood character of the area. To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport. To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.
LDRZ	To provide for low-density residential development on lots which, in the absence of reticulated sewerage, can treat and retain all wastewater.
Mixed Use Zone	To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality. To provide for housing at higher densities. To encourage development that responds to the existing or preferred neighbourhood character of the area. To facilitate the use, development and redevelopment of land in accordance with the objectives specified in a schedule to this zone.

Provision	Purposes
RAZ	<p>To provide for the use of land for agriculture.</p> <p>To provide for other uses and development, in appropriate locations, which are compatible with agriculture and the environmental and landscape characteristics of the area.</p> <p>To ensure that use and development does not adversely affect surrounding land uses.</p> <p>To provide for the use and development of land for the specific purposes identified in a schedule to this zone.</p> <p>To protect and enhance natural resources and the biodiversity of the area.</p> <p>To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.</p>
RCZ	<p>To conserve the values specified in a schedule to this zone.</p> <p>To protect and enhance the natural environment and natural processes for their historic, archaeological and scientific interest, landscape, faunal habitat and cultural values.</p> <p>To protect and enhance natural resources and the biodiversity of the area.</p> <p>To encourage development and use of land which is consistent with sustainable land management and land capability practices, and which takes into account the conservation values and environmental sensitivity of the locality.</p> <p>To provide for agricultural use consistent with the conservation of environmental and landscape values of the area.</p> <p>To conserve and enhance the cultural significance and character of open rural and scenic non-urban landscapes.</p>
RLZ	<p>To provide for residential use in a rural environment.</p> <p>To provide for agricultural land uses which do not adversely affect the amenity of surrounding land uses.</p> <p>To protect and enhance the natural resources, biodiversity and landscape and heritage values of the area.</p> <p>To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.</p>
Overlays	
SLO	<p>To identify significant landscapes.</p> <p>To conserve and enhance the character of significant landscapes.</p>

2.4 Ministerial Directions and Practice Notes

(i) Ministerial Directions

The Explanatory Report discusses how the Amendment meets the relevant requirements of Ministerial Direction 11 (Strategic Assessment of Amendments). That discussion is not repeated here.

(ii) Planning Practice Note 37 Rural Residential Development

Planning Practice Note 37 Rural Residential Development, June 2015 (PPN37) establishes that reasonable opportunities should be found for rural residential development as part of providing for housing diversity and choice. It also notes rural residential development “*can have*

environmental, social and economic costs that are significantly higher than those of standard residential development". For these reasons, it identifies four strategic considerations for rural residential development to be taken into account when considering a proposed amendment.

These are:

- Strategy – how does proposal fit into the overall strategic directions and planning of the municipality?
- Housing need – what is the projected population for the next 10 years, how many new households will be required and how many of these additional dwellings will be in the form of rural residential?
- Location – how does proposed rural residential land integrate with existing and proposed residential development and how is the location responsive to landscaping, environmental and heritage values, and servicing and infrastructure requirements?
- Subdivision and design – how are subdivision and the location of buildings responsive to the features and constraints of the land?

Council did not make submissions on the alignment of the Amendment with PPN37. In response to questions from the Panel during the Hearing, Council confirmed it relied on assessments in the Rural Living Assessment in support of the proposal.

(iii) Planning Practice Note 42 Applying the Rural Zones

Planning Practice Note 42 Applying the Rural Zones, 2015 (PPN42) provides guidance about the use of the rural zones. Sound strategic planning for rural areas is essential to ensure land use and development achieves the desired vision, objectives and outcomes for an area. While there is no prescribed content or format for a rural strategy or study, it should:

- develop a vision, role and purpose for the rural area
- identify the values and features within the rural area
- identify the key opportunities and constraints
- establish a strategic direction for land use and development within the rural area
- articulate how the strategic vision for the rural area is to be implemented through the planning scheme.

In general, a rural strategy should include an assessment of:

- the State, regional and local strategic planning policies and objectives for the area, including relevant regional growth plans or strategies
- the housing needs of the municipality and likely future trends, including if relevant rural living
- the physical attributes of the land and its capacity to support productive agricultural uses
- agricultural trends in the area, including agricultural productivity
- the natural resources and environmental features in the area and their importance
- environmental hazards that could affect how the land is used and developed
- the existing lot size and land use patterns
- infrastructure available for agriculture and other relevant land uses
- settlement patterns in the area.

Council made no direct submissions on the alignment of the Amendment with PPN42. In response to questions from the Panel during the Hearing, it confirmed it relied on assessments in the Rural Strategy in support of the proposal.

(iv) A Practitioner’s Guide to Victorian Planning Schemes

A Practitioner’s Guide to Victorian Planning Schemes (Practitioner’s Guide) sets out key guidance to assist practitioners when preparing planning scheme provisions. The guidance seeks to ensure that:

- the intended outcome is within scope of the objectives and power of the PE Act and has a sound basis in strategic planning policy
- a provision is necessary and proportional to the intended outcome and applies the Victoria Planning Provisions in a proper manner
- a provision is clear, unambiguous and effective in achieving the intended outcome.

2.5 Discussion and conclusion

For the reasons set out in the following chapters, the Panel concludes that the Amendment is supported by, and implements, the relevant sections of the Planning Policy Framework, and is consistent with the relevant Ministerial Directions and Practice Notes. The Amendment is strategically justified and should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

There are recommendations in the Rural Strategy, the Portland Framework Plan and Rural Living Assessment that are not aligned and inconsistent with one another. This misalignment relates to discrete areas, and while not ideal, does not impact the overall strategic justification for the Amendment. This is discussed further in Chapter 3.

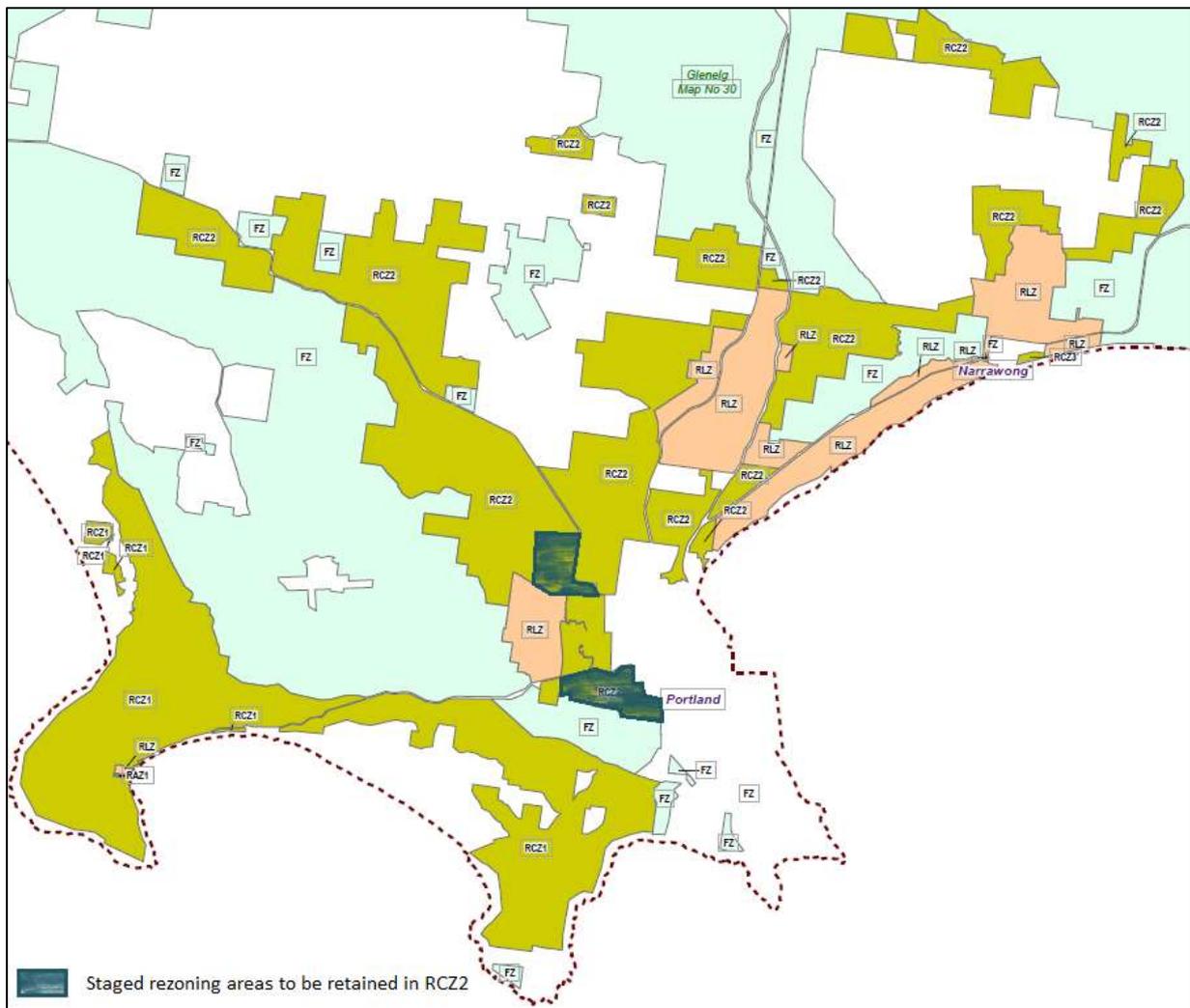
3 Rural zones

3.1 Existing Rural Conservation Zone

(i) What is proposed?

The Amendment proposes to rezone all existing RCZ2 land to either Farming Zone Schedule 1 (FZ1) or FZ2, except for two ‘staged rezoning areas’ which are to be retained in RCZ2. Figure 5 shows where RCZ2 currently applies and the location of the ‘stage rezoning areas’.

Figure 5 Existing Rural Conservation Zone 2 areas



Source: Document 10 modified by PPV

(ii) The issues

The issues are whether:

- RCZ2 land proposed to be rezoned to FZ should be retained in RCZ2 or rezoned to RLZ
- additional land is required to meet demand for rural living.

(iii) Submissions

Council submitted:

- The Rural Strategy recommends that RCZ2 land is rezoned to FZ because its policy basis “to provide for agricultural and horticultural uses as the primary land use” is inconsistent with the purposes of the RCZ which focus on the protection of the environment and natural values.
- Pressure has existed for it to allow subdivision of land in the RCZ2 to the minimum (2 hectare) lot size for rural living purposes.
- VicSmart provisions introduced by Amendment VC148 allow subdivision into two-hectare lots without assessment against rural policy.^{2 3}
- Subdivision of RCZ2 land for housing is influencing the uptake of existing RLZ land despite RLZ being the preferred zone for small lot housing in rural areas.
- The two areas to remain RCZ2 have been identified as ‘staged rezoning areas’ in the Rural Living Assessment (Figure 4 and Figure 5) and the existing 2 hectare minimum lot size is to be retained until future rezoning to a residential zone or RLZ is strategically justified.
- A significant amount of strategic planning work over the past 12 years has attempted to identify additional rural living land in the Shire, however there is no strategic justification for this as part of the Amendment.
- The Country Fire Authority (CFA) and Fire Rescue Victoria are unlikely to support expansion of the RLZ area north of Narrawong and that high fire risk limits the zoning options for the land.

In response to questions from the Panel during the Hearing, Council advised ‘productive agricultural land’ mapped in the Rural Strategy had informed the application of rural zones.

Community submissions on land west of Portland variously submitted:

- the supply and demand assessment for rural living has been superseded by growth experienced over the past two years
- land is already too small for agriculture and better suited to rural living
- a minimum lot size of 2 hectares should be applied to all land in RLZ
- rural living opportunities should be supported.

Mr Noske and Ms Miller submitted the RLZ was more appropriate for their land and an enclave of seven adjoining properties north of Narrawong (Figure 6, blue outlined area). They said that there is “no possible future” in which the land would have an agricultural land use because it is already in smaller lots or is heavily treed.

Mr Noske and Ms Miller further submitted the Rural Living Assessment had over-estimated supply in Narrawong and that rezoning the land to RLZ would meet demand for rural lifestyle living in the area. They disagreed with the proposition that rezoning would change demand for emergency services given most properties were already developed with a dwelling and that any future dwellings would need to be constructed to an appropriate Bushfire Attack Level standard approved by the CFA. In the absence of support for rezoning the land to RLZ, Mr Noske and Ms Miller submitted it should remain as RCZ2.

² VicSmart is a streamlined assessment process for straightforward planning permit applications.

³ Amendment VC148 introduced widespread changes to the Victoria Planning Provisions as part of Stage 2 of the Smart Planning Program.

Figure 6 North Narrawong enclave



Source: Document 32

Mr and Mrs Towers submitted the land north of Narrawong is a high fire danger area and the accessibility and quality of the road network is a major safety concern. Council advised this submitter had verbally expressed the view that only one dwelling should be permitted per lot in the RCZ2.

During the Hearing, Council circulated a copy of the CFA's referral response to an application to subdivide land at 62 Devlins Road, Narrawong into two lots (Figure 6). The CFA advised that it did not object to the subdivision of the land. It noted that no buildings and works are proposed by the application and a permit would be required to construct a dwelling in the future under the provisions of the Bushfire Management Overlay.

(iv) Discussion

The Panel observes that the Rural Strategy and Rural Living Assessment are anchored to the following three inter-related strategic directions of the MPS (Clause 02.03-1):

- Facilitating growth in and around existing towns and settlements.
- Supporting rural residential development only where it is linked to an existing urban area, where it does not impact on land capability, productive agricultural land use or water quality and where it can be serviced by infrastructure.
- Encouraging re-subdivision of existing rural residential areas within Portland to facilitate better utilisation of infrastructure.

The Panel is concerned that neither the Rural Strategy nor Rural Living Assessment provide a thorough analysis of the RCZ2 areas surrounding Portland. The Panel is surprised this is the case given much of the RCZ2 land is identified as 'Investigation Area – Proposed Rural Living Zone (subject to detailed planning processes)' in the Portland Strategic Framework Plan contained in the *Great South Coast Regional Growth Plan, 2014* (Figure 2).

While the Panel agrees with Council the policy basis for the current RCZ2 areas and zone purpose are misaligned, the Rural Strategy takes a simplistic, one-dimensional approach to its analysis and

has not meaningfully considered the current reality of these areas. The Panel disagrees the rezoning of the land to the RLZ should be wholly discounted because it *“cannot be justified given the supply of land zoned for this purpose”*. The legacy of past approaches and decisions cannot be ignored, and an integrated and balanced approach is needed.

The Panel considers the land use, infrastructure and physical constraints of two ‘staged rezoning areas’ have not been sufficiently evaluated in the Rural Living Assessment to warrant this designation. The assessment provides no analysis or discussion confirming how these areas have been prioritised above other similarly positioned and fragmented areas on the periphery of Portland. This is an unusual approach and creates uncertainty.

There is inconsistency between Rural Living Assessment and the Rural Strategy for the ‘staged rezoning areas’; the former which proposes the land be retained in RCZ2 while the latter recommends the land be rezoned to FZ2. This is further confused by the Portland Framework Plan which identifies the southern ‘staged rezoning area’ as a strategic outcome area for long term residential growth. It would have assisted the Panel if Council had explained its approach to resolving the competing recommendations.

The limitations and competing recommendations of the Rural Strategy and Rural Living Assessment are a dilemma for the Panel. In reaching its conclusions, the Panel has given significant weight to State policies for protection of agricultural land (Clause 14.01-1S and Clause 14.01-2S). These policies emphasise the need to avoid unnecessary or inappropriate loss of productive agricultural land as once these values are lost, they are rarely (if ever) retrieved.

On balance, the Panel favours rezoning land from RCZ2 to FZ2 as is proposed, over retaining land in the RCZ2 as suggested by submitters. Retaining the RCZ2 will likely expand and further entrench use and development of this land for rural residential purposes, including some areas where commercial agricultural continues to be viable. This would be entirely inconsistent with the objectives of the Planning Policy Framework which seeks to protect significant agricultural land and strategically identify land for rural living. The Panel is mindful if the RCZ2 is retained, VicSmart provisions provide an efficient pathway for subdivision and may perpetuate undesirable outcomes on land that should be retained in productive agricultural units.

The Panel acknowledges that this broad approach does not account for the clusters of RCZ2 land that are already used for rural residential purposes where opportunities for commercial farming are gone. This was a primary concern of submitters and the Panel shares their concern. A fit for purpose strategic study on the RCZ2 land is required before long term decisions are made about this land.

The Panel expects that once properly evaluated, some of this land could be strategically identified for rural residential purposes. The benefit of a fit for purpose strategic approach will be identification of opportunities and constraints, and application of appropriate planning tools to ensure the outcome provides for an efficient use of rural land that is responsive to land capability, environmental values and fire risk. It will also inform the appropriate minimum lot size of areas.

The Panel’s preferred approach for the ‘staged rezoning areas’ is that they also be rezoned to FZ2 to ensure any land with commercial farming potential and value is not further subdivided until a proper strategic evaluation is carried out. This would be consistent with the approach taken for

other RCZ2 areas. However, these areas were not included in the Amendment, and it is not appropriate to include them without further public notice.⁴

The Panel is satisfied that rezoning RCZ2 land to FZ will not restrict the rural residential land supply. The Panel notes the Rural Living Assessment estimated that there is between 14-43 years supply of rural residential land in existing RLZ areas.⁵ While take up of rural residential land may have spiked over the past years as suggested by community submitters, there is ample supply available in the short term. Council has demonstrated that it is actively monitoring take up of rural living land which will be prompt for future action.

(v) Conclusions

The Panel concludes:

- Rezoning the land from RCZ2 to FZ is appropriate and will avoid entrenching use and development of land for rural residential purposes, including some areas where commercial agricultural continues to be viable.
- Further work is required to properly assess if any areas of the former RCZ2 should be strategically identified for rural residential purposes.
- Assessment of the 'staged rezoning areas' does not justify this designation and it is preferred that they be rezoned to FZ2. These areas were not included in the Amendment, and it is not appropriate to include them without further public notice.

3.2 Proposed Rural Activity Zone

(i) The issues

The issues are whether:

- the Maretimo Service Road area proposed to be rezoned RAZ2 should be retained in the RCZ2
- a minimum lot size of 2 hectares should be applied to the land.

(ii) Context and what is proposed?

The Rural Strategy recognises tourism is a well-established key industry in Glenelg owing to its scenic coastline, National Parks and cultural heritage. It identifies an area located at Maretimo Service Road, Bolwarra as suitable for rural tourism and recommends it be rezoned from RCZ2 to RAZ2 with a minimum lot size of 14 hectares (Figure 7).

This land is preferred for rural tourism because:

- it is adjacent to the Great South West Walk
- overlooks Portland Bay and has direct access to the beach
- is enclosed by the Henty Highway, the coast and RLZ land on the northern edge
- adjoins GRZ land that provides a number of tourism services including accommodation.

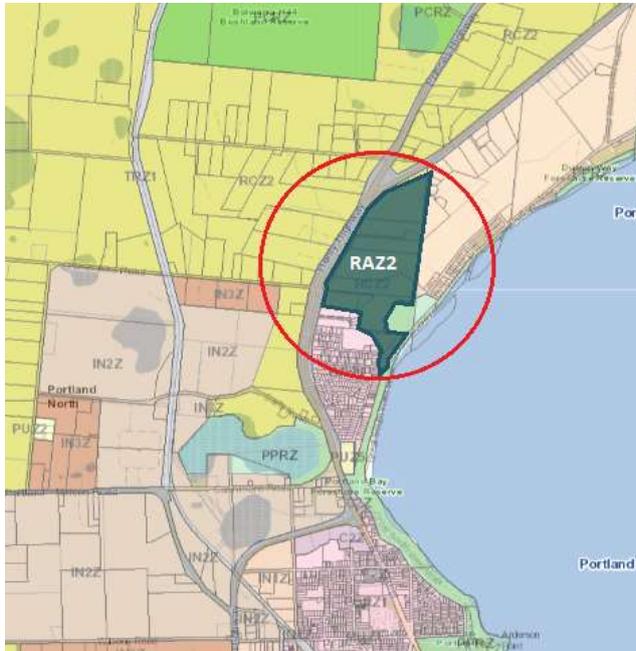
The land is located partly within the boundary of the Portland Framework Plan and is identified as a 'strategic outcome area' within this plan (Figure 8). Actions for strategic outcome areas are:

⁴ Section 32 of the *Planning and Environment Act 1987* includes notice provisions that may be applied when a planning authority changes an amendment at the adoptions stage.

⁵ Document 43

- A1.1.1 Identify the capability of land in the identified strategic outcome areas to accommodate future long-term growth.
- A4.4.3 Identify the capability of land in the identified strategic outcome areas to accommodate future residential growth.

Figure 7 **Maretimo Service Road RAZ2 area**



Source: PPV

Figure 8 **Portland Framework Plan Strategic Outcome Area North Portland**



Source: Portland Framework Plan

(iii) Submissions

Submitters variously requested:

- the existing 2 hectare minimum lot size for subdivision be retained
- the land be rezoned to RLZ with a 2 hectare minimum lot size for subdivision.

Council’s submissions acknowledged an inconsistency between the Rural Strategy and Portland Framework Plan concerning proposed RAZ2 land. If alternative zoning was considered appropriate by the Panel, Council recommended:

- land at 756 and 764 Henty Highway, Bolwarra (within the Portland Framework boundary) be rezoned RAZ2
- land at 774, 798 and 808 Henty Highway (north of the Portland Framework boundary) be retained in the existing RCZ2.

During the Hearing, Council confirmed the suggested ‘alternative’ recommendation was not subject to a Council resolution. It also confirmed there is no current tourism development proposal before Council for the proposed RAZ2 land.

(iv) Discussion

The Panel is not convinced that the Rural Strategy provides a robust justification for rezoning the Maretimo Service Road area to RAZ2. The area has locational advantages that favour tourism, particularly the outlook to Portland Bay, but this must be examined alongside other opportunities and constraints, including environmental values, servicing capacity and bushfire risk.

The purpose of the RAZ2 favours a “one off, high quality and large scale development” that “maintains an attractive rural entrance into Portland”. A supporting overlay, like the Design and Development Overlay, would assist in setting out how these purposes could be acceptably delivered across multiple parcels. This is an indication the RAZ2 outcome is poorly considered.

Adding to the Panel’s concerns is the inconsistency between the Rural Strategy and Portland Framework Plan. They propose two different outcomes for the land, one for high quality and large scale tourism, and the other as a long term residential growth area (subject to further investigations). The Amendment proposes to concurrently rezone the land for rural tourism and recognise it as a strategic outcome area for residential growth in the MPS. Council offered no explanation on how this inconsistency could be resolved. Inconsistency between zones and policy is a highly undesirable outcome.

No material was provided to the Panel to confirm the timeline for assessment of the strategic outcome areas for future residential growth. The Panel anticipates no urgency for this given the commentary in the Portland Framework Plan is “*there are currently over 1,200 vacant lots in existing residential areas of Portland...more than what is required to accommodate the forecast population growth expected ...*”⁶.

Submitters suggested the land should stay in the existing RCZ2. The Panel has commented on the outcomes that will likely result from retaining land in the RCZ2 in Chapter 3.3. This is not favoured.

The future outcome for the land, whether rural tourism or residential growth, requires further analysis and consideration. On this basis, a preferred approach for the land now, is to apply a zone that preserves it in the best condition for its potential future purpose. The Panel considers that this would be by applying the FZ2 which is introduced and applied by the Amendment to land on the periphery of towns where future structure planning may identify the land for future urban expansion.

Unfortunately, the FZ2 was not proposed for the land by the Amendment, and it would be beyond the scope of what has been exhibited if it was applied at this stage of the process.

(v) Conclusions and recommendation

The Panel concludes:

- Rezoning the Maretimo Service Road land from RCZ2 to RAZ2 is inconsistent Portland Framework Plan. Further analysis is required to determine the preferred future use of the land.
- It is not appropriate to retain the Maretimo Service Road area in the RCZ2 with the existing 2 hectare minimum lot size. It is preferred the land be rezoned to FZ2 however this change should subject to further public notice.

The Panel recommends:

1. Delete Rural Activity Zone Schedule 2.

⁶ The forecast population growth period of the Portland Framework Plan is 20 years.

3.3 Rural Living Zone minimum lot size

(i) The issue

The issue is whether the minimum lot size for all RLZ1 land should be decreased from 4 hectares to 2 hectares.

(ii) Submissions

Council advised the 2 hectare minimum lot size for Portland West is proposed because supply has fallen below 20 years which is the trigger in increase supply in the Rural Living Assessment. Reduction in minimum lot size is expected to ensure efficient use of existing rural residential supply stocks.

Council advised a reduction in the minimum lot size for all other land in the RLZ is not recommended by the Rural Living Assessment and as such was not proposed by Council or exhibited in the Amendment. However, Council submitted that it had no objection to a reduction to the default 2 hectare minimum lot set by the zone because:

- It would be consistent with the State default.
- The demand for a 2 hectare lot size compared to a 4 hectare lot size is evident to Council based on the number enquiries and subdivision applications received in the RCZ2 versus the RLZ.
- The proposed dwelling excision policy for the FZ recommends a maximum 2 hectare lot size for the existing dwelling subject to conditions.
- The 4 hectare minimum lot size in the RLZ reduces the potential lot yield and as such may affect the viability of subdivision proposals in the zone.

(iii) Discussion

The Panel is satisfied the decreasing the minimum lot size to 2 hectares for Portland West is an appropriate outcome. It accepts the constraints identified in the Rural Living Assessment do not fundamentally make a 2 hectare outcome unachievable. The Panel would have preferred that the reduction in minimum lot sized was paired with increased strategic direction on the preferred outcome for the precinct, potentially through application of a design or development planning control (such as the Development Plan Overlay or Design and Development Overlay). However, the absence of this direction, is not fatal to this aspect of the Amendment.

The Panel does not accept Council's invitation to recommend the minimum lot size for the RLZ should be reduced from 4 hectares to 2 hectares in areas beyond Portland West. Even if a strategic justification was provided, this would transform the Amendment well beyond what was authorised and exhibited.

Chapter 7 discusses the form and content of the exhibited RLZ1.

(iv) Conclusions

The Panel concludes:

- Reducing the minimum lot size of RLZ1 land in Portland West from 4 hectares to 2 hectares is appropriate.
- There is no strategic justification to reduce the minimum lot size across all RLZ1 areas from 4 hectares to 2 hectares.

4 Other issues

4.1 Nelson

(i) Issue

The issue is whether the Amendment takes proper account of the Vause Road Wildlife Corridor and Nelson Eastern Circuit Walk.

(ii) Submissions

Mr and Ms Hossack agreed with the proposed FZ1 and FZ2 and protection of farming land from non-agricultural uses. Their submissions sought support for the Vause Road Wildlife Corridor and Nelson Eastern Circuit Walk, which they considered had been compromised by recent development in the SLO.

Council advised the Vause Road Wildlife Corridor is a proposed wildlife crossing of Portland-Nelson Road and the Nelson Eastern Circuit Walk is a proposed walking trail. It confirmed that neither project was proposed to be progressed as part of the Amendment because infrastructure delivery is not its focus.

Council submitted that action through the Victorian Civil and Administrative Tribunal is the appropriate course to resolve concerns about planning permit applications. It noted the Amendment seeks to resolve drafting issues in the SLO schedules to improve outcomes under these provisions.

(iii) Discussion

The Panel observed recent development on its inspection of the Nelson area, however based on the information before it, makes no comments on the merits of this development.

The Panel accepts Council's advice that redrafting of the SLO schedules is required to clarify permit triggers and improve outcomes. The Panel has discussed the form and content of the exhibited SLO schedules in Chapter 7.

The Panel acknowledges Mr and Mr Hossack's desire to achieve Council support for the wildlife corridor and trail projects. Based on the material presented to it, these projects appear to be uncommitted and/or unfunded infrastructure projects. It would be premature to judge the if the planning scheme is effectively protecting these projects given their status.

(iv) Conclusion

The Panel concludes:

- It is appropriate to consider how development interfaces with the proposed Vause Road Wildlife Corridor and Nelson Eastern Circuit Walk once they are committed for development.

4.2 Digby

(i) The issue

The issue is whether private land at 75 Russell Street, Digby should be rezoned from a public land zone to FZ1.

(ii) Submissions

Mr Houzet submitted land at 75 Russell Street, Digby is privately owned however is currently included in the PPRZ. He requested that the land be rezoned to FZ. Council supported the request noting the land is outside the township area and should be included in FZ1.

(iii) Discussion

As privately held land, 75 Russell Street, Digby should be rezoned from the PPRZ consistent with A *Ministerial Direction – The Form and Content of Planning Schemes*. The Panel agrees that the FZ1 is likely to be the appropriate zone for the land.

The Panel considers this change is within the scope of the Amendment because it includes correction of anomalous provisions.

(iv) Conclusion and recommendation

The Panel concludes:

- Rezoning of private land at 75 Russell Street, Digby from PPRZ to FZ1 is appropriate.

The Panel recommends:

- 2. Rezone land at 75 Russell Street, Digby from Public Park and Recreation Zone to Farming Zone Schedule 1.**

4.3 Flooding

(i) The issue

The issue is whether flood mapping on land surrounding Ocean View Drive West is strategically justified and should be removed.

The exhibited Amendment proposes to make administrative changes by remapping all existing land in FO and LSIO as 'FO1'⁷ and 'LSIO1'⁸ and introducing a new schedule for each overlay into the Planning Scheme.

(ii) Submissions

Mr Hardman requested removal of the LSIO and FO from the area immediately north of Ocean View Drive East and Ocean View Drive West.

Mr Hardman said the existing overlays are based on a connection between the land north of Ocean View Drive and the Surry River Estuary which does not exist, and the error should be

⁷ Floodway Overlay Schedule 1

⁸ Floodway Overlay Schedule 2

corrected. Apart from wanting “accuracy” in the Planning Scheme, Mr Hardman said the overlays created an unnecessary and costly burden to obtain planning permits for development.

Figure 9 Ocean View Drive, Narrawong



Source: Charles Hardman

Council sought advice from the Glenelg Hopkins Catchment Management Authority in response to Mr Hardman’s submission. It advised that no justification exists for any reduction in the extent of the FO and LSIO. It also noted the currently overlays are a product of modelled flood extents using best practice methodologies endorsed through a peer review process.

(iii) Discussion

Mr Hardman made similar submissions to the Panel for Glenelg Planning Scheme Amendment C74. That Panel concluded flooding in the Ocean View Drive area needed to be better understood before overlays were applied. It is not the role of this Panel to review conclusions and recommendations of earlier panels or decisions of the Minister for Planning.

Based on the material presented to it, the Panel is satisfied the existing overlay should remain in place, albeit with the administrative change proposed by the Amendment to number the mapping overlay schedules. The Panel gives significant weight to the advice of the Glenelg Hopkins Catchment Management Authority as the responsible floodplain management authority. No alternative expert advice was provided to the Panel to suggest removal of the overlays is warranted.

(iv) Conclusion

The Panel concludes:

- Flood mapping on land surrounding Ocean View Drive West should not be removed.

4.4 13 and 15 Otway Street, Portland

(i) The issue

The issue is whether land at 13 and 15 Otway Street should be rezoned from part C2Z and part GRZ1 to C1Z.

(ii) Planning context

Land at 13 Otway Street, Portland is partly in C2Z and part in GRZ1. The site is developed with a single dwelling used as a medical centre. Land at 15 Otway Street, Portland is zoned GRZ1 and is developed with a dwelling. Neither property was included in the exhibited Amendment.

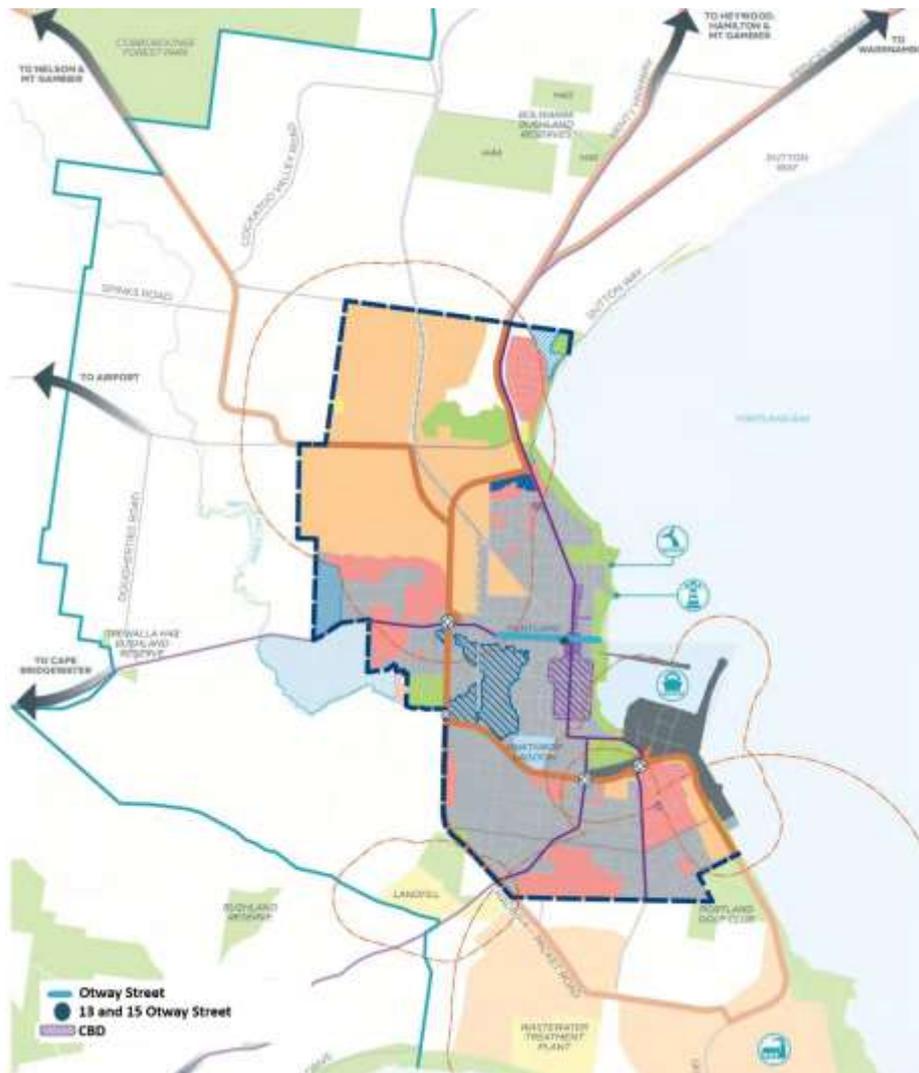
The Portland Framework Plan includes the objective:

O2.3 To provide more commercial opportunities and an enhanced retail environment to service both the local community and increased tourism demand.

This objective is accompanied by the following strategy:

Apply a boundary to the CBD and introduce a policy of consolidation within the existing CBD, including identifying opportunities for catalyst projects.

Figure 10 Portland Framework Plan



Source: Portland Framework Plan adapted by PPV

(iii) Submissions

Portland Property Developments Pty Ltd supported the proposed rezoning of 127-137 Percy Street, Portland from C2Z to C1Z, and requested the adjoining land at 13 and 15 Otway Street be included in the Amendment. This would:

- provide clear separation between residential and commercial land
- provide a large single parcel of commercial land in one ownership
- have an inconsequential impact on loss of existing residential land.

Council submitted that 13 and 15 Otway Street would be a “logical inclusion” within C1Z. It noted the current Portland CBD is heavily restricted by many smaller allotments owned by multiple owners and Heritage Overlay protections that make it difficult for new larger scale opportunities. Creation of larger lots within C1Z provides for greater economic opportunities and diversification. Council sought a recommendation from the Panel supporting the rezoning as a post exhibition change.

Council sought a recommendation from the Panel supporting rezoning of the land from part C2Z and part GRZ1 to C1Z. It submitted neighbouring residents did not oppose adjoining land being

rezoned, and in any case would receive notice of any redevelopment that requires a planning permit in the future. Council submitted that in these circumstances re-exhibition is not required to make such a change.

Council confirmed the CBD boundary shown in Portland Framework Plan is high level and does not define the location of the boundary on individual lots.

(iv) Discussion

The Panel considered whether directions should be issued requiring Council to give notice of this proposed change to owners and occupiers of land that might be materially affected. It decided this was not appropriate as 13 and 15 Otway Street were not authorised or exhibited as part of the Amendment and owners and occupiers potentially affected by the rezoning may extend beyond adjoining land at 17 Otway Street. In addition, the Portland Framework Plan is insufficiently clear to determine the location of the Portland Central Business District (CBD) boundary. The proposal should be subject to a separate statutory exhibition process.

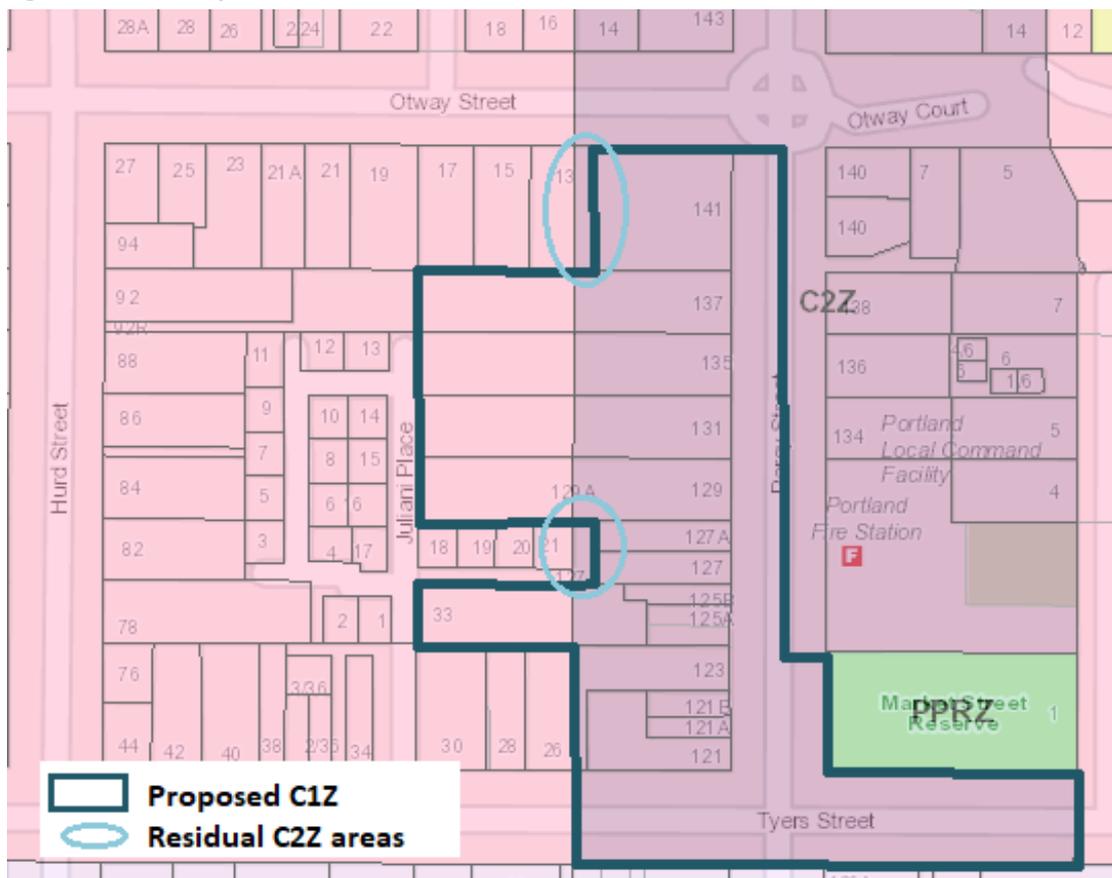
For the benefit of future consideration of this matter, the Panel makes the following observations:

- By Council's admission, the CBD boundary shown on the Portland Framework Plan is high level. It is unclear whether 13 and 15 Otway Street are intended to be included in the CBD.
- The Amendment, if approved as exhibited, will result in a hotchpotch of zones east of Juliani Place which may present challenges in achieving the "consolidation" desired by the Portland Framework Plan (Figure 11).
- The Otway/Hurd/Tyers/Percy Street block should be looked at holistically to determine the appropriate zone configuration for the area, including the placement of the CBD boundary. This assessment should consider supply and demand of commercial land consistent with Clause 11.02-1S.

The exhibited Amendment results in a sliver of C2Z remaining over 13 Otway Street (Figure 11 marked as 'residual C2Z areas'). As discussed above, the Panel considers it premature to rezone this property to C1Z. On this basis, it is appropriate that the sliver is rezoned to GRZ1 so that the whole property is in the one zone. Aligning zone boundaries with property boundaries is consistent with the approach set out in the Practitioner's Guide.

The exhibited Amendment also results in a residual sliver of C2Z remaining over land at 21 Juliani Place, Portland (Figure 11 marked as 'residual C2Z areas'). Consistent with the approach recommended for 13 Otway Street, the Panel recommends this residual area also be rezoned to GRZ1 to align the zone boundaries with property boundaries.

Figure 11 Otway Street commercial zones



Source: PPV

(v) Conclusions and recommendation

The Panel concludes:

- Further work is required to determine the appropriate future zone of 13 and 15 Otway Street, Portland.
- A single zone should be applied to 13 Otway Street, Portland and 21 Juliani Place, Portland. GRZ1 is the appropriate single zone for the land.

The Panel recommends:

- 3. Rezone part of the land at 13 Otway Street, Portland and 21 Juliani Place, Portland from Commercial 2 Zone to General Residential Zone Schedule 1, as shown in Figure 11.**

5 Form and content of the Amendment

5.1 Submissions

(i) Complexity of the Amendment

Several individual submitters noted the Amendment is too large, complex and lacking clarity for most people to understand.

Council submitted the Amendment is culmination of many years of strategic planning work which it elected not to pursue via individual amendments so that the broader outcome could be seen as a complete picture. It considered this approach to be a transparent process and a prudent use of Council's resources.

Council noted the exhibition of the Amendment is a statutory process that has requirements set out in the PE Act which it has met. Council supplemented formal exhibition material with 'Frequently Asked Questions' to assist the community to navigate the complexity of the Amendment documents.

(ii) Drafting issues

In response to questions from the Panel during the Hearing, Council advised:

- It opted not to implement separate policy for the six precincts identified in the Rural Strategy as it considered these were not sufficiently differentiated to warrant individual recognition in the scheme.
- Proposed headings to Clauses 14.01-1L-02 and 14.01-1L-03 are considered to be sufficiently clear, but the abbreviations FZ1, RCZ1⁹, FZ2, and RCZ2 could be included to add further clarity if recommended by the Panel.
- The 'Portland West Rural Living Precinct' is the only RLZ land west of Portland and is easily identified by viewing the Planning Scheme maps.
- The permit triggers for buildings in the SLO Schedules 1, 2 and 3:
 - are intended to be for a new structure up to 70 square metres or the combined total area of a building where an addition to a new structure is proposed.
 - rely on measurements being shown on a site plan for Council to review and determine if the specified separation distances are met (for example 500 metres from the edge of the coastal cliffs or dunes).
 - The Great South West Walk is mapped and cadastral boundaries are available for the Glenelg River and estuary.

5.2 Discussion

(i) Complexity of the Amendment

The Amendment is necessarily complex because it makes extensive changes to the Planning Scheme, informed by new strategic planning work. The Amendment is required to be prepared in

⁹ Rural Conservation Zone Schedule 1

accordance with *Ministerial Direction – The Form and Content of Planning Schemes*, with detailed drafting of the planning provisions guided by the Practitioner’s Guide.

The Panel appreciates the combination of zones, overlays, policy and background documents that make up the Amendment is complex for the layperson to follow. The Panel notes it is common for Councils to publish supporting information and guides to communicate key messages about planning scheme amendments. The information published by Council on its website is an excellent example of this.

(ii) Drafting issues

Rural policy

The Panel agrees with Council that there is commonality in the strategies for the Rural Strategy’s six precincts and it is unnecessary to list these separately in the Planning Scheme.

The Panel has reviewed the policies for agricultural land in the context of its findings on the application of rural zones proposed by the Amendment. It makes the following high level observations about the policies as exhibited:

- the headings are not clear
- objectives require review for alignment with State policy and to be either elevated as high level ‘strategic directions’ in the MPS or redrafted as strategies
- many strategies duplicate strategies of Clause 14.01-1S (Protection of agricultural land)
- many strategies duplicate decision guidelines in the FZ or RCZ or other provisions
- some strategies are drafted as both strategies and objectives (and confuse the ‘how’ with the ‘why’)
- some policy guidelines lack certainty and do not meet the tests contained in the Practitioner’s Guide.

Appendix E contains the Panel preferred versions of policies.

Rural Living Zone Schedule

The Panel considers that without clear mapping of the ‘Portland West Rural Living Precinct’ it is difficult for infrequent users of the Planning Scheme to understand where the minimum lot size requirement in RLZ1 applies. This could be overcome by identifying the land in a separate schedule to the RLZ, as is allowed in *Ministerial Direction – The Form and Content of Planning Schemes*.

Appendix F contains the Panel preferred versions of a proposed new RLZ schedule ‘Rural Living Zone Schedule 2’.

Significant Landscape Overlay

Permit triggers that rely on Council verifying dimensions on a site plan, as is proposed for SLO Schedules 1, 2 and 3, do not meet the drafting rules of the Practitioner’s Guide. Rule 7 provides that a provision “*must not make a permit requirement contingent on the opinion or satisfaction of a decision-maker or other body (including the responsible authority)*”. Simply put, the need for a permit should be able to be established without consulting with Council. This provides certainty to users of the planning system and avoids an unnecessary burden on Council resources.

The SLO Schedules 1, 2 and 3 also require redrafting to clarify the as-of-right requirement for agricultural buildings, consistent with Council's advice. The Panel's preferred version of SLO1 is provided in Appendix E. This approach should be replicated for SLO2 and SLO3.

5.3 Conclusions and recommendations

The Panel concludes:

- There is commonality between the strategies for the six precincts identified in the Rural Strategy and it is satisfactory to consolidate these strategies in local policies for agriculture.
- Local policies Clauses 14.01-1L-01 (Protection of agricultural land), 14.01-1L-02 (Farming Zone and Rural Conservation Zone – Schedule 1 areas) and 14.01-1L-03 (Farming Zone and Rural Conservation Zone – Schedule 2 areas) should be redrafted to meet requirements of the Practitioner's Guide.
- Permit requirements for buildings in SLO Schedules 1, 2 and 3 should be redrafted so they are clear and provide certainty.
- The location of the 'Portland West Rural Living Precinct' would be clearer if the land was included in a new Schedule 2 to the Rural Living Zone.

The Panel recommends:

4. **Amend Clauses 14.01-1L-01 (Protection of agricultural land), 14.01-1L-02 (Farming Zone and Rural Conservation Zone – Schedule 1 areas) and 14.01-1L-03 (Farming Zone and Rural Conservation Zone – Schedule 2 areas), as shown in Appendix E.**
5. **Amend Significant Landscape Overlay Schedules 1, 2 and 3, as shown in Appendix F.**
6. **Introduce and apply Schedule 2 to the Rural Living Zone to the Portland West Rural Living Precinct, as shown in Appendix G, and make associated mapping changes.**

Appendix A Submitters to the Amendment

No.	Submitter
1	Ian and Gwen Towers
2	Andrew and Cindy Hossack, Ainsea Pastoral Company and Ainsea Beez
3	Charles Harman
4	David Butcher
5	Environment Protection Authority Victoria
6	Berry and Whyte Surveyors
7	Adrian and Dale Thornton
8	Michael Noske and Anne Miller
9	Murray Arthur
10	R and S Mellblom
11	Leo and Wendy Finnegan
12	Neil and Milly Cameron
13	Julian Houzet and Anna Eriksson
14	Portland Property Developments Pty Ltd

Appendix B Parties to the Panel Hearing

Submitter	Represented by
Glenelg Shire Council	Jacob Clements, Strategic Planner and Matt Berry, Regulatory Services Manager
Charles Hardman	
Leo and Wendy Finnegan	Leo Finnegan
Julian Houzet and Anna Eriksson	Julian Houzet
Andrew and Cindy Hossack	
Portland Property Developments Pty Ltd	James Iles of iPlanning Services Pty Ltd
Michael Noske and Anne Miller	Michael Noske
David Butcher (did not appear)	

Appendix C Document list

No.	Date	Description	Provided by
1	30/5/22	Glenelg Planning Scheme Review 2018	Council
2	"	Glenelg Sustainable Settlement Strategy June 2012	"
3	"	Environment Protection Authority letter 10 March 2022	"
4	7/6/22	Panel Directions and Hearing Timetable	Planning Panels Victoria (PPV)
5	9/6/22	Glenelg Shire Council Meeting Minutes 26 April 2022	Council
6	14/6/22	Proposed zone and overlay maps with submitter locations	"
7	28/6/22	Hearing Timetable Version 1	PPV
8	1/7/22	Glenelg Shire Council Panel Part A Submissions with Attachments (Documents 9 to 17)	Council
9	"	Attachment 1 – Department of Environment, Land, Water and Planning letter 6 July 2018	"
10	"	Attachment 2 – Consolidated map of existing rural zones	"
11	"	Attachment 3 – Consolidated map of proposed rural zones	"
12	"	Attachment 4 – Glenelg Shire Council Meeting Minutes 26 October 2021	"
13	"	Attachment 5 – Amendment C106gelg submissions	"
14	"	Attachment 6 – Current zone and overlay maps with submission numbers	"
15	"	Attachment 7 – Proposed zone and overlay maps with submission numbers	"
16	"	Attachment 8 – Amended Explanatory Report	"
17	"	Attachment 9 Glenelg Shire Council Meeting Minutes 26 April 2022	"
18	8/7/22	Glenelg Shire Council Panel Part B Submissions	"
19	"	Charles Hardman Submissions	C Hardman
20	"	Portland Property Developments Pty Ltd submissions with Attachments (Documents 21 to 32)	Portland Property Developments Pty Ltd
21	"	Attachment 1 – Location plan and aerial photography	"
22	"	Attachment 2 – Copy of titles	"
23	"	Attachment 3 – Copy of contracts	"
24	"	Attachment 4 – Photos of the site and surrounds	"
25	"	Attachment 5 – Proposed rezoning map 39	"

No.	Date	Description	Provided by
26	“	Attachment 6 – Copy of late submission	“
27	“	Attachment 7 – Current zoning and overlays maps	“
28	“	Attachment 8 – CBD Context Plan – Portland Integrated Growth Plan 2011	“
29	“	Attachment 9 – CBD Growth Options Report – Portland Integrated Growth Plan 2011	“
30	“	Attachment 10 – Proposed Options Portland Integrated Growth Plan 2011	“
31	“	Attachment 11 – Portland Framework Plan Great South Coast Regional Growth Plan 2011	“
32	“	Attachment 12 – Plan 1 and 1a Portland Strategic Framework Plan 2020	“
32	11/7/22	Noske and Miller Submissions	M Noske and A Miller
33	“	Julian Houzet Submissions	J Houzet
35	“	Glenelg Shire Council Planning Permit TP 250/03	C Hardman
36	12/7/22	A and C Hossack Submissions	A and C Hossack
37	“	Glenelg Shire Council letter regarding Nelson Eastern Circuit Walk 22 June 2011	“
38	“	Glenelg Shire Council letter regarding Nelson Eastern Circuit Walk proposal 30 November 2011	“
39	“	Public Information Bulletin December 2017 ‘A Wildlife and Pedestrian Overpass for Nelson’	“
40	14/7/22	Panel Further Directions	PPV
41	15/7/22	L Finnegan Submissions	L Finnegan
42	“	Planning Report Proposed 3 Lot Subdivision 83 The Broadway Portland South	“
42	“	Glenelg Shire Council Response to Further Directions with Attachments (Documents 42 to 47)	Council
43	“	Portland Rural Living Assessment 20 September 2019 Appendix A	“
44	“	Glenelg Shire Council Planning Permit TP250/03 Endorsed Plans	“
45	“	Residential land demand around Portland and its hinterland	“
46	“	Country Fire Authority Advice 62 Devlins Road, Narrawong	“
47	“	Bushfire Management Plan 62 Devlins Road, Narrawong	“
48	“	Panel letter confirming close of Hearing	PPV

Appendix D Chronology of studies and activities

Date	Event
2010	Glenelg Land Use Study prepared
2011	Portland Integrated Growth Plan prepared
2012	Glenelg Sustainable Settlement Strategy prepared
2013	Glenelg Land Use Study – Rural Living Areas prepared
May 2013	Panel Report received for Glenelg Planning Scheme Amendment C73 (Implementation of Glenelg Sustainable Settlement Strategy)
April 2014	Glenelg Planning Scheme Amendment C73 (Implementation of Glenelg Sustainable Settlement Strategy) gazetted
February 2015	Rural Residential Supply and Demand Assessment prepared as part of Glenelg Planning Scheme Amendment C78
June 2015	Consultation commenced on Rural Strategy
September 2015	Panel Report received for Planning Scheme Amendment C78. Panel recommended that Council should first complete a rural land strategy prior to attempting to rezone additional land to RLZ
July 2016	Further consultation of Rural Strategy accounting for recommendations of the Amendment C78 Panel
October 2017	Background Report for the Portland Framework Plan endorsed by Council executive
April – May 2018	Consultation on Portland Framework Plan
May 2018	Planning Scheme Review adopted by Council
July 2018	Draft Issues and Options prepared for the Portland Framework Plan prepared
August 2018	Consultation with Victorian Government agencies and authorities on Portland Framework Plan
September – October 2018	Workshops with Victorian Government agencies and authorities, and key stakeholders on Portland Framework Plan
November 2018	Glenelg Planning Scheme Amendment C92 (Cape Bridgewater Structure Plan) gazetted
January 2019	Preparation of Rural Living Assessment commenced
January 2019	Glenelg Planning Scheme Amendment C89 (Portland Heritage Gaps Study 2016) gazetted
February – June 2019	Draft Portland Framework Plan refined
May 2019	Rural Strategy completed
August 2019	Victorian Planning Authority issued final version of Portland Framework Plan to Council. Stakeholder consultation commenced

Date	Event
August 2019	Glenelg Planning Scheme Amendment C95gelg (Casterton Structure Plan) gazetted
September 2019	Glenelg Planning Scheme Amendment C90gelg (Portland Industrial Land Strategy) gazetted
September 2019	Draft Rural Living Assessment completed
December 2019 – February 2020	Consultation on draft Portland Framework Plan and draft Rural Living Assessment
October 2021	Council adopted Portland Framework Plan, Rural Strategy and Rural Living Assessment and resolved to seek authorisation to prepare and exhibit the Amendment

Appendix E Panel recommended changes to rural policies

[Tracked Added](#)

~~Tracked Deleted~~

(Panel explanatory comments)

14.01-1L-01 Protection of agricultural land

Policy application

This policy applies to all planning applications for subdivision in the Farming Zone and Rural Conservation Zone.

Objective

To provide for ~~the incremental~~ growth of farming enterprises.

~~To support subdivision as a tool primarily to facilitate rearrangement of land parcels to suit contemporary agricultural practices and incremental business growth. (Panel note: duplicates strategies under Clause 14.01-1S 'give priority to the re-structure of inappropriate subdivisions where they existing on productive agricultural land' and 'encouraging consolidation of existing isolated small lots in rural zones'.)~~

Strategies

~~Discourage the creation of small lots and further fragmentation of rural land by subdivision.~~

~~Discourage small lot subdivision to create lots for 'rural lifestyle' purposes.~~

[Discourage fragmentation of rural land.](#)

[Discourage subdivision of land below the minimum lot size.](#)

~~Encourage the creation of large square or rectangle shaped parcels, where irregular shaped lots, including those with narrow access way frontages, should be avoided.~~

[Avoid creation of lots with narrow access way frontages.](#)

~~Encourage the consolidation of rural land with parcels less than 40 hectares (small lots) to be consolidated with other lots to create one larger parcel of land preferably over 40 hectares in size and/or the re-subdivision of existing lots resulting in fewer or no small lots.~~

~~Maintain larger lots over 40 hectares to support broad-acre agriculture.~~

~~Discourage small lot subdivision that is not for the purposes.~~

[Discourage subdivision unrelated to the rural use of the land.](#)

~~Avoid multiple small lot subdivisions from the one lot. Support small lot subdivision only for the purpose of excising an existing habitable dwelling, that is in excess to the requirements of an agricultural use.~~

Policy guidelines

Consider as relevant:

~~For re-subdivision proposals the proposal~~ [Whether re-subdivision results in:](#)

- An overall reduction in the number of lots.
- A lower number of lots with an area less than 40 hectares.

[Whether](#) subdivision ~~proposals~~ to create a lot for an existing dwelling ~~(excision of dwellings)~~ [meets all of the following:](#)

- ~~▪ Discourage the excision of dwellings constructed after August 1999 on lots less than 40 hectares considering they were supported on the basis that they were required for agriculture.~~
- ~~▪ Be through the re-subdivision of existing lots so that a new small lot is not created. Excision through subdivision that increases the number of lots is discouraged.~~
- ~~▪ Be satisfied that the existing dwelling is no longer reasonably required for the carrying out of agricultural activities in the long term.~~
- ~~▪ Ensure that the dwelling is set back at least 30 metres from lot boundaries other than a road.~~
- ~~▪ Contain the dwelling near the front of the property.~~
- ~~▪ Discourage the creation of long narrow lots, battle axe or similar island style lots.~~
- ~~▪ Not include significant farm infrastructure.~~
- ~~▪ Have a maximum size of 2 hectares, with the balance lot to be, or as otherwise required by a provision of this planning scheme, a minimum of 40 hectares.~~
- ~~▪ Discourage further subdivision by any method to accommodate another existing dwelling from land where a dwelling has previously been excised.~~
- The dwelling is in a habitable condition.
- The dwelling is not required for the carrying out of agricultural activities on the land in the long term.
- The dwelling was not constructed after August 1999.
- No other dwelling has been excised from the lot.
- The subdivision applies to multiple existing lots and the number of lots is not increased.
- The dwelling is setback 30 metres from lot boundaries other than a road.
- The dwelling is located near the road frontage.
- The shape and configuration of the lot will have minimal impact on the continuing agricultural use and management of the balance of the land.
- The lot does not include significant infrastructure required for agricultural use.
- The lot is a maximum size of 2 hectares with the balance lot to be a minimum of 40 hectares.

Policy documents

Consider as relevant:

- Rural Land Strategy (RMCG, 2019)

14.01-1L-02 Farming Zone [Schedule 1](#) and Rural Conservation Zone [Schedule 1](#) –~~Schedule 4~~ areas

Policy application

~~This policy applies to planning applications for the use and development of a Dwelling in the Farming Zone and Rural Conservation Zone – Schedule 4 areas.~~

[This policy applies to an application for use and/or development of a dwelling in the Farming Zone Schedule 1 and Rural Conservation Zone Schedule 1.](#)

Objective

To ensure that the use and development of dwellings in rural areas is secondary to commercial agriculture and does not prejudice existing and future agricultural activities.

~~To ensure the cost effective servicing of towns and communities by avoiding the impacts of a dispersed population base in rural zones. (Panel note: duplicates strategy under Clause 14.01-1S 'Directing housing growth into existing settlements'. Objective should be reflected in the Municipal Planning Strategy.)~~

Strategies

~~Ensure that agricultural land is maintained for the cost effective production of food and raw materials. (Panel note: this is an objective.)~~

Ensure that the agricultural use has been established on the land prior to the construction of a dwelling.

~~Ensure that a dwelling is sited to minimise impacts on existing and potential agricultural operations on nearby land. [Panel note: duplicates decision guideline in Farming Zone and Rural Conservation Zone.]~~

Discourage dwellings on land adjacent to commercial agriculture other than that used for grazing animal production. [Panel note: commercial agriculture is not defined.]

~~Discourage dwellings, including those in association with agriculture, on lots less than the minimum area for which no permit is required. [Panel note: a strategy cannot propose to regulate a matter where a permit is not required.]~~

Ensure that a proposed new dwelling is located on a lot that has:

- Legal frontage to a road.
- The potential for land to be consolidated with other land ~~to enhance agricultural productivity.~~

~~Ensure that applications for a new dwelling to support a horticultural activity can demonstrate access to adequate water supply, groundwater entitlement or water storage. [Panel note: duplicates the strategy 'ensure that the agricultural use has been established on the land prior to the construction of a dwelling'.]~~

Ensure that a new dwelling is clustered with other dwellings ~~to promote efficient use of resources, infrastructure, and to minimise rural land use conflict.~~ [Panel note: deleted content is an objective.]

~~Ensure that a new dwelling is not located within buffers established under an industry code of practice, the Industrial Land Strategy, or EPA guidelines. [Panel note: duplicates policy in Clause 13.07-1S and requirements of Clause 53.10.]~~

Support the construction of ~~two or more dwellings~~ [more than one dwelling](#) on a lot only where:

- ~~The additional dwelling/s is/are required for a caretaker assisting in the operation of the farm, such as a farm manager and farm workers. [Panel note: rural worker accommodation provisions apply.]~~
- The ~~second and subsequent~~ dwellings ~~are on properties comprising multiple lots and are~~ [is](#) located on the same lot as the existing dwelling [where the property is comprised of multiple lots in the same ownership.](#)

- ~~Consolidation of existing lots is included to ensure that the dwelling(s) remain connected to the agricultural use of the land.~~ Existing lots in the same ownership are consolidated.

Policy guidelines

Consider as relevant:

- ~~Maintain a setback of 100 metres to a boundary on land adjacent to commercial agriculture or land with potential for commercial agriculture not in the same ownership.~~ Whether the dwelling is setback 100 metres from the boundary of land used for agriculture. *[Panel note: commercial agriculture is not a defined term in the Planning Scheme.]*

Policy documents

Consider as relevant:

- Rural Land Strategy (RMCG, 2019)

14.01-1L-03 Farming Zone [Schedule 2](#) and Rural Conservation Zone [Schedule 2](#) – ~~Schedule 2 areas~~

Policy application

- ~~• This policy applies to planning applications for the use and development of a Dwelling in the Farming Zone and Rural Conservation Zone – Schedule 2 areas.~~
- [This policy applies to an application for use and/or development of a dwelling in the Farming Zone Schedule 2 and Rural Conservation Zone Schedule 2.](#)

Objective

- ~~To ensure that the use and development of dwellings in rural areas does not prejudice existing agricultural, forestry or industrial activities. (Panel note: duplicates strategy under Clause 14.01-1S 'Limit new housing developments in rural areas (and associated dot points').)~~
- ~~To ensure the cost-effective servicing of towns and communities by avoiding the impacts of a dispersed population base in rural zones. (Panel note: duplicates strategy under Clause 14.01-1S 'Directing housing growth into existing settlements'. Objective should be reflected in the Municipal Planning Strategy'.)~~

Strategies

~~Discourage dwellings in locations that will limit the operation of surrounding commercial agriculture and industrial uses, including buffers required by industry codes of practice or EPA guidelines. [Panel note: duplicates policy in Clause 13.07-1S and requirements of Clause 53.10.]~~

Discourage ~~second or subsequent dwellings~~ [more than one dwelling on a lot.](#)

~~Ensure that buildings are designed, scaled and sited to protect the landscape characteristics of the area. [Panel note: repeats decision guideline in Farming Zone and Rural Conservation Zone.]~~

Discourage the construction of a new dwelling unless the lot has:

- Legal frontage to a road.
- The potential to be consolidated with another lot ~~to enhance agricultural productivity.~~
- ~~The capacity to retain all waste water on site. [Panel note: repeats requirements of Clause 35.07-2 and Clause 35.06-2.]~~

Ensure that a new dwelling is clustered with other dwellings ~~to promote the efficient use of resources and infrastructure, and to minimise rural land use conflict. [Panel note: deleted content is an objective.]~~

[Avoid siting](#) ~~A new~~ dwellings and associated structures ~~should avoid sites~~ on ridge-lines or hilltops.

Use ~~Encourage~~ landscaping to ~~provide effective~~ screening [dwellings](#) from neighbouring dwellings, roads and adjoining commercial agriculture or industrial uses.

[Support](#) ~~Encourage the development of~~ dwellings ~~on land identified adjacent to a designated rural town (as shown in the maps below) and in the Rural Dwelling Policy Areas shown on the maps to this policy when lots in the same ownership are consolidated~~ ~~consolidation of existing lots is included to ensure an agricultural use of the land.~~

Appendix F Panel preferred version of the Significant Landscape Overlay Schedule 1

[Tracked Added](#)

~~Tracked Deleted~~

SCHEDULE 1 TO CLAUSE 43.02 SIGNIFICANT LANDSCAPE OVERLAY

Shown on the planning scheme map as **SLO1**.

GLENELG RIVER ESTUARY AND SURROUNDS

1.0 Statement of nature and key elements of landscape

The Glenelg River Estuary and surrounds is a regionally significant landscape as the confluence of the Glenelg River estuary, the Southern Ocean, and the coastal edge.

The Glenelg River Estuary has a wild and windswept character that is dominated by the intersection of its strong landscape elements, including the sea, beaches, sand dunes, and remnant vegetation.

It is open and uncluttered, with the settlement of Nelson nestled discreetly within the landscape, its buildings largely concealed by vegetation. The strong coastal edge is dominated by sandy beaches, providing a contrast with the dunes and lakes behind. This type of landscape is increasingly rare on the Victorian coast.

The landscape's visual significance is enhanced by environmental and visitor attractions. The Glenelg River Estuary is the longest in Victoria extending 75 ~~km~~ kilometres from its mouth near Nelson and flowing through the Lower Glenelg National Park and the Discovery Bay Coastal Park. It is a Ramsar wetland of international significance with a gazetted boundary under the *Environment Protection and Biodiversity Conservation Act 1999*. Nelson is the starting point for one of the most well known long distance walks in Victoria, the Great South West Walk. In addition, the Glenelg River Heritage Area is listed under the *Heritage Rivers Act 1992* for high natural, cultural and landscape values.

2.0 Landscape Character objectives to be achieved

To protect locally significant views and vistas, to the ocean, the Glenelg River Estuary and other natural landforms from Nelson-Portland Road, the Great South West Walk and other publicly accessible locations.

To protect the indigenous coastal vegetation and ensure that it is the dominant feature of the landscape when viewed from the foreshore.

To retain the undeveloped and vegetated character of coastal dunes, waterways and estuaries near the coastal edge of this landscape.

To minimise any increase in development visible above the dunes and coastal vegetation outside settlements, when viewed from the beach, foreshore or offshore by discouraging:

- buildings set high on dunes.
- development that will be visible on the skyline.
- buildings set on visible ridge lines and visually prominent hill faces.

To encourage vegetated landscape edges to the settlement of Nelson, which soften the interface of built and rural areas, and avoids expansion of built areas beyond current boundaries.

3.0 Permit requirement

A permit is required to:

Construct a fence, except transparent fences (e.g. timber post, rail, wire fencing) and solid fencing below 1.5 metres in height.

Remove any vegetation, except:

- Vegetation required to be lopped or removed for works associated with the maintenance of a minor utility installation.
- To remove any vegetation to enable the construction or maintenance of up to 6 metre wide vehicle access across a road reserve from a property boundary to a public road, subject to authorisation from the relevant public land manager, unless there is a practical opportunity to site the access to avoid the removal or destruction of vegetation.
- To remove dead vegetation.
- To lop or remove non-native vegetation, if it includes:
 - pruning, hedging or mowing.
 - vegetation less than 6 metres in height with a trunk diameter of less than 40 ~~em~~ centimetres at 1.3 metres above ground level.

A permit is not required to:

- ~~Construct buildings that are:~~
 - ~~for agricultural purposes with a combined gross floor area less than 70 square metres and a height less than 6 metres above natural ground level with a minimum setback of:~~
 - ~~500 metres from the edge of the coastal cliffs or dunes;~~
 - ~~500 metres from the Great South West Walk; and~~
 - ~~100 metres from the Glenelg River and Estuary.~~
 - ~~a dwelling with a height of less than 6 metres above natural ground level and a minimum setback of:~~
 - ~~500 metres from the edge of the coastal cliffs or dunes;~~
 - ~~500 metres from the Great South West Walk; and~~
 - ~~100 metres from the Glenelg River and Estuary.~~
- Construct a building or alter or extend an existing building used for agriculture where all of the following are met:
 - the gross floor area is 70 square metres or less
 - building height is 6 metres or less above ground level
 - the building is setback a minimum:
 - 500 metres from the edge of the coastal cliffs or dunes as identified [to be specified]
 - 500 metres from the Great South West Walk as identified [to be specified]; and
 - 100 metres from the Glenelg River and Estuary.
- Construct a dwelling where all of the following are met:
 - dwelling height is 6 metres or less above ground level
 - the dwelling is setback a minimum:
 - 500 metres from the edge of the coastal cliffs or dunes as identified [to be specified]
 - 500 metres from the Great South West Walk as identified [to be specified]; and
 - 100 metres from the Glenelg River and Estuary.
- Undertake works by a public authority relating to water management or environmental improvements.
- Undertake development by or on behalf of the public land manager that is generally in accordance with plans approved under the *Marine and Coastal Act 2018*, the *National Parks Act 1975* or the *Crown Land (Reserves) Act 1978*.

4.0 Application requirements

The following application requirements apply to an application for a permit under Clause 42.03, in addition to those specified elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- A detailed site evaluation which considers the existing landscape context including topography, vegetation (species, location and character), and views to the site from roads, settlements, publicly accessible waterways, recreation, and tourism locations.
- A landscape plan that demonstrates the use of species appropriate for the locality, including non-invasive native/exotic plants that are a feature of the character of the area, and how the affected area will be remediated after development.

5.0 Decision guidelines

The following decision guidelines apply to an application for a permit under Clause 42.03, in addition to those specified in Clause 42.03 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- Whether the development encroaches into or is visible within 500 metres of scenic coastal viewpoints, lookouts, and the Great South West Walk (outside the urban area of Nelson).
- Whether the development is designed and sited:
 - low on slopes;
 - amongst vegetation; and
 - has a form conforming to the topography of the land retaining natural and/or rural character.
- Whether development sited outside of the urban area of Nelson:
 - retains views and vegetation.
 - intrudes into undeveloped areas visible from the Portland-Nelson Road, Beach Road, and the Glenelg River.
- Whether development located within the urban area of Nelson is set back a sufficient distance:
 - from the Glenelg River so that it is not visible behind indigenous vegetation from the river edge.
 - to allow for the protection or rehabilitation of a substantial area of riparian vegetation.
- Whether buildings near the Glenelg River Estuary are low scale.
- Whether the development within the coastal strip is:
 - sited on the inland slope of dunes and does not protrude above the dune ridgeline;
 - sufficiently set amongst existing vegetation and maximises the retention of indigenous coastal vegetation;
 - utilising appropriate indigenous vegetation to integrate the development into the landscape;
 - designed to follow the natural contours or step down the site;
 - sited to avoid visually dominant elevations;
 - minimising overlooking of the foreshore; and
 - avoiding access into highly visible or undisturbed areas.
- Whether development has regard to *Coastal Spaces Landscape Assessment Study, Planisphere 2006*, in particular the relevant Character Area Paper.

Appendix G Panel preferred version of Rural Living Zone Schedule 2

Portland West Rural Living Precinct to be mapped as 'RLZ2'.

SCHEDULE 2 TO CLAUSE 35.03 RURAL LIVING ZONE

Shown on the planning scheme map as **RLZ2**.

1.0 Subdivision and other requirements

25/05/2017

	Land	Area/Dimensions/Distance
Minimum subdivision area (hectares)	All land	2 hectares
Minimum area for which no permit is required to use land for a Dwelling (hectares)	All land	None specified
Maximum floor area for which no permit is required to alter or extend an existing dwelling (square metres)	None specified	None specified
Maximum floor area for which no permit is required to construct an out-building associated with an existing dwelling (square metres)	None specified	None specified
Maximum floor area for which no permit is required to alter or extend an existing building used for Agriculture (square metres)	None specified	None specified
Minimum setback from a road (metres)	None specified	None specified
Minimum setback from a boundary (metres)	None specified	None specified
Minimum setback from a dwelling not in the same ownership (metres)	None specified	None specified
Permit requirement for earthworks	Land	
Earthworks which change the rate of flow or the discharge point of water across a property boundary	All land except where a permit to construct and operate works on a waterway has been granted by the relevant Catchment Management Authority.	
Earthworks which increase the discharge of saline groundwater	All land	