

**Bass Coast Planning Scheme Amendment C162basc
Lot 1 LP 149977 Bass Road, Bass**

Panel Report

Planning and Environment Act 1987

11 May 2023

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 Panels Victoria acknowledges the Wurundjeri Woi urrung People as the traditional custodians of the land on which our office is located. We pay our respects to their Elders past and present.

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the PE Act

Bass Coast Planning Scheme Amendment C162basc

Lot 1 LP 149977 Bass Road, Bass

11 May 2023

A handwritten signature in dark ink, appearing to read 'David Merrett', with a stylized flourish at the end.

David Merrett, Chair

Contents

	Page
Executive summary	6
1 Introduction.....	7
1.1 The Amendment.....	7
1.2 Background	8
1.3 Bass Coast Planning Scheme Amendment C93	9
1.4 Bass Coast Distinctive Areas and Landscape assessment	9
1.5 Procedural issues	10
1.6 Issues raised and the Panel’s approach	10
1.7 Limitations	11
2 Strategic issues	12
2.1 Planning context	12
2.2 Strategic justification.....	12
3 Housing need.....	15
3.1 The issue	15
3.2 Submissions.....	15
3.3 Discussion and conclusion	16
4 Other issues	17
4.1 Protection of agricultural land	17
4.2 Flooding and drainage.....	18
4.3 Contamination and land use compatibility.....	20
Appendix A Submitters to the Amendment	21
Appendix B Document list.....	22
Appendix C Planning context	23
C:1 Planning policy framework.....	23
C:2 Planning scheme provisions	24
C:3 Ministerial Directions, Planning Practice Notes and guides	24

List of Tables

	Page
Table 1 Planning context	12

List of Figures

	Page
Figure 1	Amendment map 7
Figure 2	Site context within Bass 8
Figure 3	Aerial photo of land 8
Figure 4	Bass Coast Strategic Coastal Framework 2011 9
Figure 5	Bass Strategic Framework Plan 13
Figure 6	Bass agricultural precincts 18
Figure 7	Flooding along Statter Misson Road showing the western boundary of the land 19

Glossary and abbreviations

the Amendment	Bass Coast Planning Scheme Amendment C162basc
Amendment C93	Bass Coast Planning Scheme Amendment C93
Council	Bass Coast Shire Council
PE Act	<i>Planning and Environment Act 1987</i>
Planning Scheme	Bass Coast Planning Scheme
PPN37	Planning Practice Note 37 Rural residential development
the Proponent	Katelea Pastoral Pty Ltd

Overview

Amendment summary

The Amendment	Bass Coast Planning Scheme Amendment C162basc
Common name	Lot 1 LP 149977 Bass Road, Bass
Brief description	Rezone the land from Farming Zone to Low Density Residential Zone
Subject land	Lot 1 LP 149977 Bass Road, Bass
The Proponent	Katelelea Pastoral Pty Ltd
Planning Authority	Bass Coast Shire Council
Authorisation	17 October 2022
Exhibition	15 December 2022 to 16 January 2023
Submissions	<p>Number of Submissions: 8 Opposed: 5</p> <p>Three Ranchers Pty Ltd</p> <p>Nathan Cleeland</p> <p>Jessica Whiteroad</p> <p>George Sargious</p> <p>Lorraine Ingbritsen</p> <p>Caroline Ferguson</p> <p>Country Fire Authority</p> <p>Katrina Stuart</p>

Panel process

The Panel	David Merrett
Directions Hearing	Wonthaggi, 16 March 2023 (hybrid format)
Panel Hearing	Wonthaggi, 20 and 21 April 2023 (hybrid format)
Site inspections	Unaccompanied, 16 March 2023
Parties to the Hearing	<p>Bass Coast Shire Council represented by Emily Thompson, Strategic Planner</p> <p>Katelelea Pastoral Pty Ltd, represented by James Livingston of JLP Melbourne who called expert evidence on:</p> <ul style="list-style-type: none"> stormwater management from Mark Noyce of Noyce Environmental Engineering <p>Three Ranchers Pty Ltd, represented by Sophia Michailides of Gadens</p> <p>Lorraine Ingbritsen</p> <p>Katrina Stuart</p>
Citation	Bass Coast Planning Scheme PSA C162basc [2023] PPV
Date of this report	11 May 2023

Executive summary

Bass Coast Planning Scheme Amendment C162basc (the Amendment) seeks to rezone Lot 1 LP 149977 Bass Road, Bass from the Farming Zone to the Low Density Residential Zone. It has an area of 23.61 hectares. The land is located on the south east corner of Bass Road and Statter Misson Road.

Key issues raised in submissions were:

- whether the Amendment should include additional land
- land supply and demand
- retention of agricultural land
- drainage, stormwater and coastal inundation
- land capability
- traffic
- character and minimum lot size
- bushfire.

Submitter 1 (Three Ranchers Pty Ltd), owner of land to the east, initially requested the Amendment be altered to include its land in the Amendment. This was adjusted to a 'no objection' position before the Hearing and this landowner has made a separate request to rezone its land.

The Panel finds the proposed rezoning is strategically justified. The land, and land to the east, is located within the Bass settlement boundary and marked as a short term low density residential opportunity. This formed part of the approval of Bass Coast Planning Scheme Amendment C93 in 2012 that introduced the Bass Coastal Strategic Framework.

There is a current shire-wide lack of supply, and increased demand, for low density residential lots. The *Bass Coast Residential Market Supply and Demand Assessment 2022* prepared by Urban Enterprise established there was a need for additional supply to meet this demand.

The land is generally free from environmental and locational constraints, apart from flooding which is caused by poor drainage on the land and its broader surrounds, known as the Bass Flats. There are no statutory controls reflecting this and the flood plain manager, Melbourne Water, supported the Amendment. The Panel finds that, subject to a Stormwater Management Plan, the low density residential development of the land will enable formal drainage infrastructure to be constructed that can collect, retard and convey stormwater to a discharge point to the Bass River.

The Panel finds that with its inland coastal location, the land will not be impacted by sea level rise or storm surge impacts.

Recommendation

Based on the reasons set out in this Report, the Panel recommends:

- 1. Adopt Bass Coast Planning Scheme Amendment C162basc as exhibited.**

1 Introduction

1.1 The Amendment

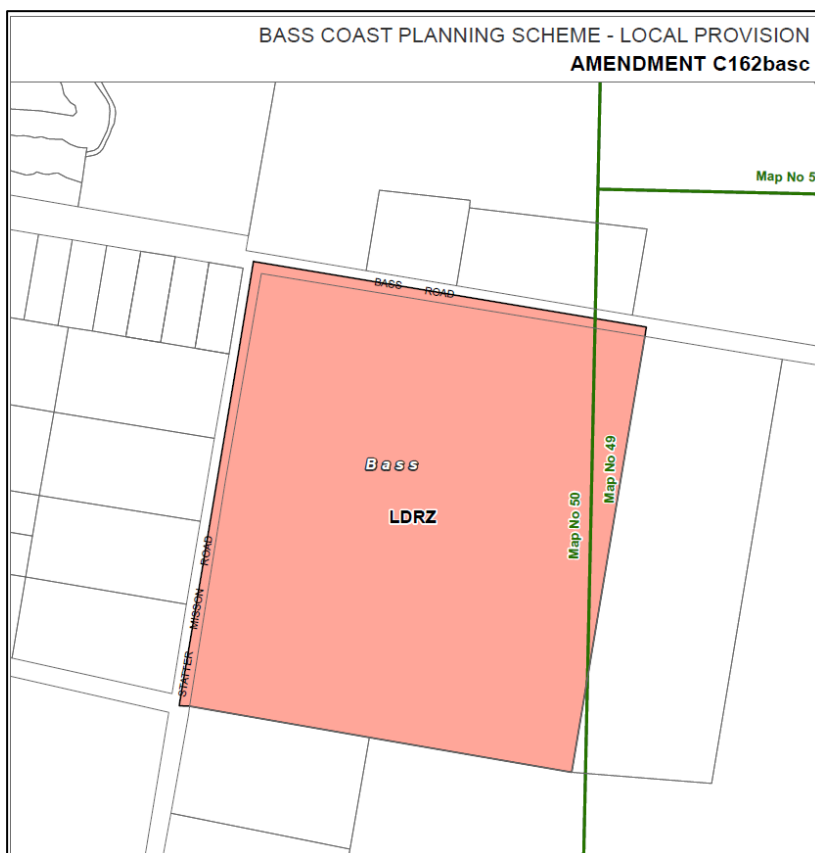
(i) Amendment description

The purpose of the Amendment is to rezone Lot 1 LP 149977 Bass Road, Bass from the Farming Zone to the Low Density Residential Zone (LDRZ).

(ii) The subject land

The Amendment applies to land shown in Figure 1.

Figure 1 Amendment map



Source: Council Part A submission

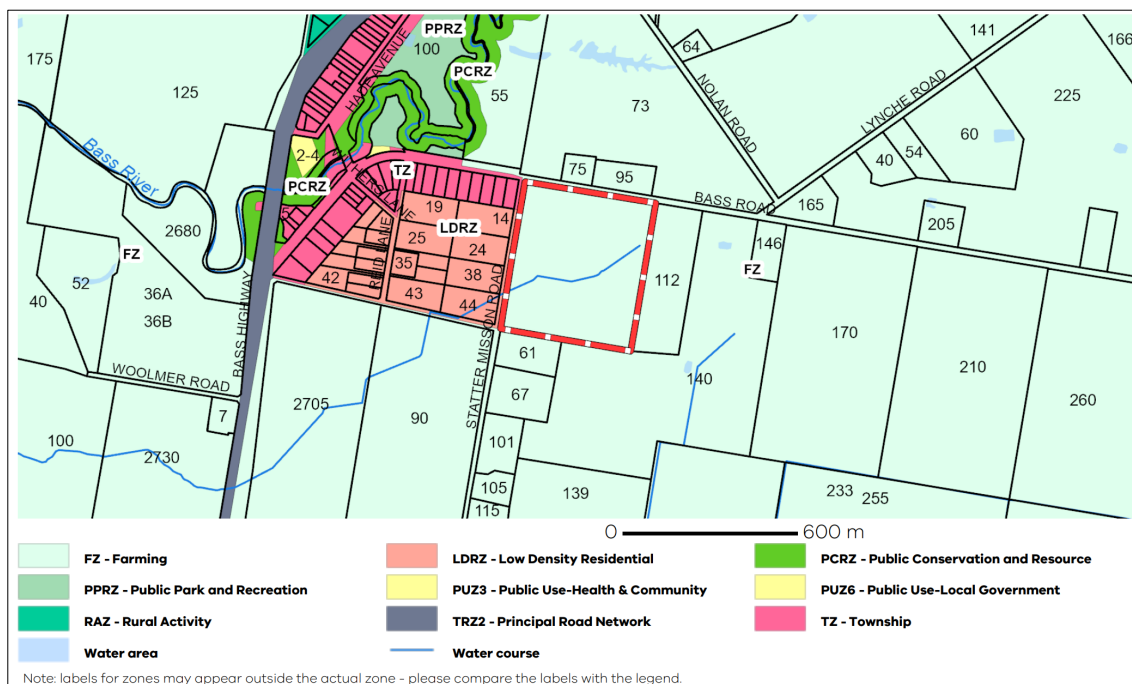
The land is located on the south east corner of Bass Road and Statter Misson Road, Bass. It has an area of 23.61 hectares, is vacant and generally flat. It is currently used for agriculture, such as grazing pasture and hay production.

Bass is a small township located 113 kilometres from Melbourne, 23 kilometres from Wonthaggi and two kilometres inland from Westernport Bay. The Bass River runs through the town. In 2016 the population of Bass was 359. Bass does not have reticulated sewerage infrastructure.

Figures 2 and 3 show the context of the land within Bass. Land to the west side of Statter Misson Road, opposite the site, is in the LDRZ and contains lots between 0.4 and 1.8 hectares in area. Land to the north, east and south is in the Farming Zone. Land to the immediate east at 112 Bass Road, Bass contains a dwelling and is 8.1 hectares in area.

Bass is defined as a hamlet where growth should be contained within the settlement boundary.

Figure 2 Site context within Bass



Source: Planning Property Report

Figure 3 Aerial photo of land



Source: Council Part A submission

1.2 Background

Initially Katelea Pastoral Pty Ltd (the Proponent), proposed a rezoning only. Following discussions with Council it lodged a section 96A combined planning scheme amendment and planning permit request in September 2020. This request was supported by several technical assessments, that addressed bushfire risk, traffic impacts, ecology, flora and fauna, land capability and stormwater

management. The planning permit proposed 35 lots which was then revised to 52 lots in October 2021.

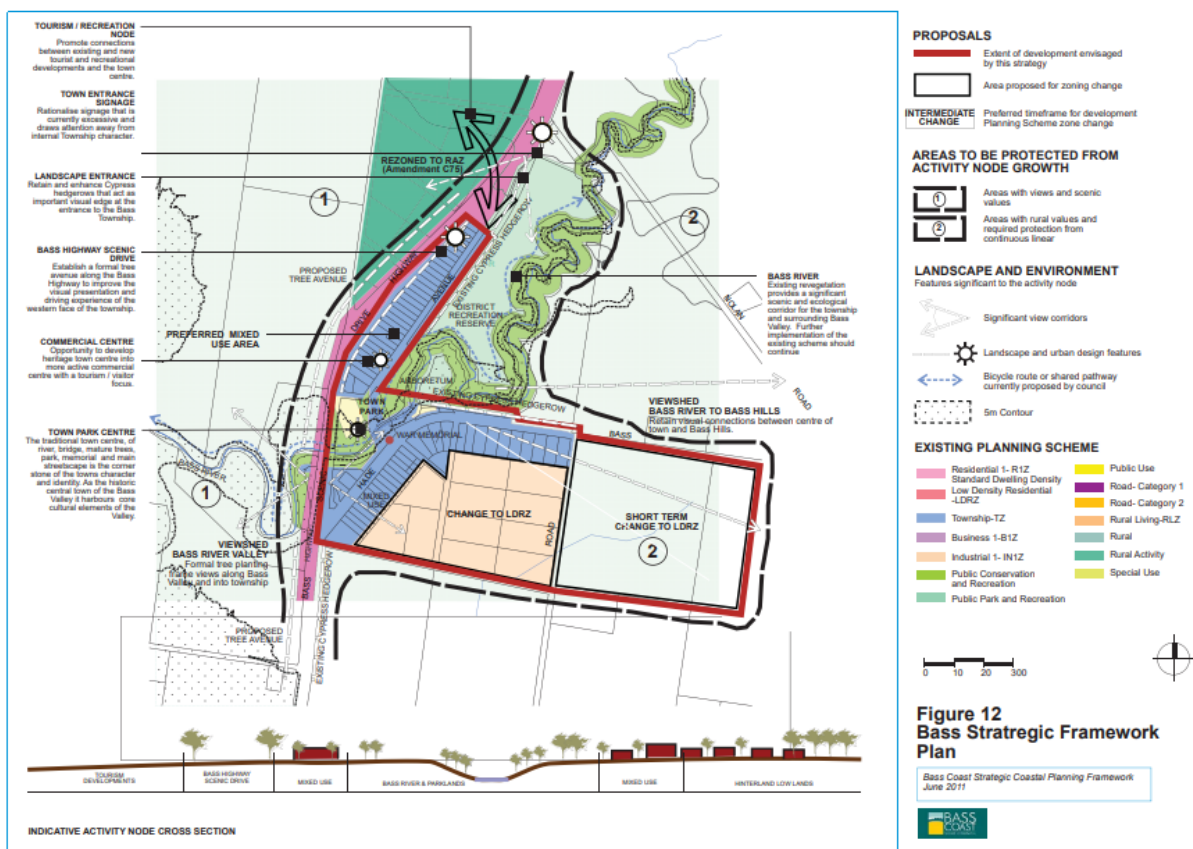
Council's position is that a Cultural Heritage Management Plan may be required for the outfall drain from Bass Road to the Bass River. This had not been prepared and the proposal was then revised to a rezoning only amendment. A future planning permit application would address this issue.

1.3 Bass Coast Planning Scheme Amendment C93

Bass Coast Planning Scheme Amendment C93 (Amendment C93) was approved in 2012. The purpose of Amendment C93 was to define long-term settlement boundaries for 10 coastal settlements, including Bass.

Amendment C93 introduced a key change for Bass to include the land within the settlement boundary, shown in Figure 4 as “*extent of development envisaged by this strategy*” in the Bass Strategic Coastal Framework 2011. This also includes land to the east at 112 Bass Road, Bass owned by Submitter 1. The land is shown in the LDRZ with the notation “*Short Term Change to LDRZ.*” This has been translated into Clause 11.01-1L-22 which contains the Bass Strategic Framework Plan.

Figure 4 Bass Coast Strategic Coastal Framework 2011



Source: Council Part A submission, page 21

1.4 Bass Coast Distinctive Areas and Landscape assessment

Bass Coast has been declared a Distinctive Area and Landscape under Part 3AAB of the PE Act. A Statement of Planning Policy (SPP) will create a framework for the future use and development of

land in declared area to ensure the protection and conservation of distinctive attributes of the declared area.

The Bass Coast draft SPP and landscape planning controls were exhibited in 2022. A Standing Advisory Committee concluded its hearing on 27 April 2023 and is preparing its report.

The Bass Coast draft SPP is of relevance to the Amendment as it proposes to:

- introduce a protected settlement boundary for the township of Bass (consistent with the settlement boundary set out by the Bass Framework Plan at Clause 11.01-1L-22)
- apply the proposed Schedule 1 to Clause 42.03 Significant Landscape Overlay to the land.

While the land is within the settlement boundary, the Significant Landscape Overlay is proposed as a new control as it is not currently considered within the extent of 'urban' zoned land.

1.5 Procedural issues

Following the Directions Hearing, Council received a late submission from a landowner to the south (Katrina Stuart). The submission was formally considered by Council and referred to the Panel. The Panel considered this and added Ms Stuart as a party. There were no objections from other parties. Ms Stuart became Submitter 8.

Submitter 1 initially objected to the Amendment as it sought to include the rezoning of land to the east (112 Bass Road, Bass) in the Amendment. By letter dated 17 April 2023 (Document 6), the submitter stated it had reconsidered its position and confirmed:

- its full and unconditional support for the Amendment
- it agreed with the Proponent not to require a change to introduce land at 112 Bass Road, Bass as part of the Amendment.

Based on this revised submission, the Panel has not considered inclusion of this land in the Amendment in this Report.

Submitter 1 lodged a request to rezone this land on 5 March 2023 which Council is currently assessing.

1.6 Issues raised and the Panel's approach

Key issues raised in submissions were:

- whether the Amendment should include additional land
- land supply and demand
- retention of agricultural land
- drainage, stormwater and coastal inundation
- land capability
- traffic
- character and minimum lot size
- bushfire.

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 Bass Coast Planning Scheme (Planning Scheme).

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from the site visit, and submissions, evidence and other material

presented to it during the Hearing. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

The Panel accepts there was a degree of confusion for the community regarding the composition of the Amendment. Many of the supporting documents were prepared at the time when a combined rezoning and planning permit was proposed and referred to subdivision concept plans.

Subdivision and lot design will be considered in the planning permit application for the subdivision. The Panel does not consider detailed design issues further as there is no subdivision proposal before the Panel. This includes land capability, traffic and character and minimum lot size, noting that no technical reports identified any issues that could not be overcome.

Regarding bushfire risk, the Country Fire Authority lodged a submission but elected not to appear at the Hearing. This was based on discussions between it, Council and the Proponent (Panel Direction 1). The Panel understands there will be a section 173 agreement to ensure development does not exceed a BAL 12.5, which is a requirement of Clause 13.02 (Bushfire). This matter will be addressed more fully at the planning permit application stage when development detail is known.

The Report deals with issues under the following headings:

- Strategic issues
- Housing need
- Other issues
 - Protection of agricultural land
 - Flooding and drainage
 - Land use compatibility.

1.7 Limitations

Several submitters considered the Amendment would result in the devaluation of their properties. This is not an issue the Panel can consider.

2 Strategic issues

2.1 Planning context

This chapter identifies planning context relevant to the Amendment. Appendix C highlights key imperatives of relevant provisions and policies.

Table 1 Planning context

	Relevant references
Victorian planning objectives	- section 4 of the PE Act
Municipal Planning Strategy	- Clause 2
Planning Policy Framework	- Clauses 11.01-1S (Settlement), 11.01-1L-22 (Bass) - Clause 12.02-1L (Protection of coastal areas) - Clause 13.02 (Bushfire) - Clause 13.04-1S (Contaminated and potentially contaminated land) - Clause 14.01-2S (Catchment planning and management) - Clauses 16.01-1S (Land supply), 16.01-3S and 3L (Rural residential development)
Other planning strategies and policies	- Gippsland Regional Growth Plan - Bass Coast Strategic Coastal Planning Framework
Planning scheme provisions	- Farming Zone
Ministerial directions	- Ministerial Direction 1 (Potentially contaminated land) - Ministerial Direction 11 (Strategic assessment of amendments)
Planning practice notes	- Planning Practice Note 30: Potentially contaminated land, July 2021 - Planning Practice Note 37: Rural Residential Development, June 2015 - Planning Practice Note 46: Strategic Assessment Guidelines, August 2018

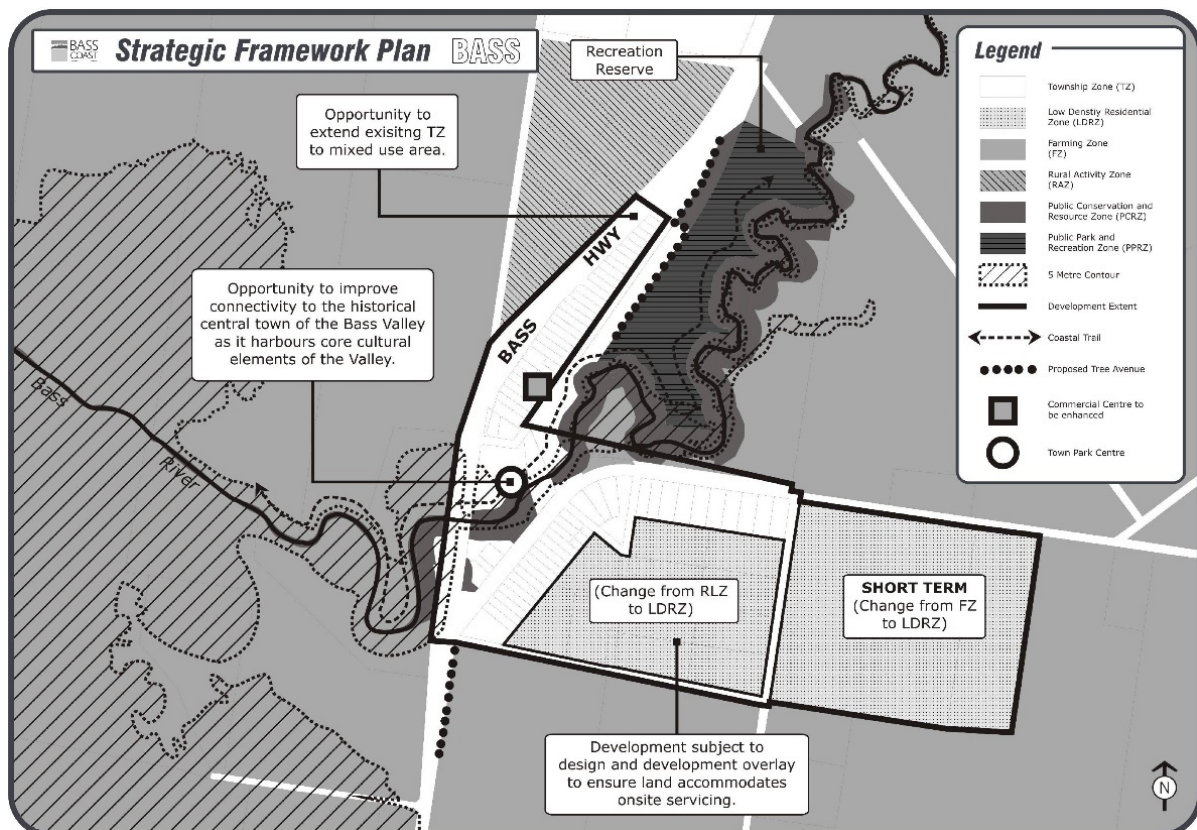
2.2 Strategic justification

(i) Submissions

Council submitted the Amendment had strong strategic justification due to the identification of the land within the Bass settlement boundary and its identification for future low density residential development. Figure 5 contains the Bass Strategic Framework Plan from Clause 11.01-1L-22 that shows the land within the settlement boundary.

The Proponent made similar submissions in support of the Amendment's strategic justification.

Submitter 5 considered no development should occur and the land be retained for agriculture. Submitter 8 had similar views.

Figure 5 Bass Strategic Framework Plan

Source: Bass Coast Planning Scheme, Clause 11.01-1L-22

The Panel asked whether a Development Plan Overlay had been considered as part of the Amendment with its movement back to a map only amendment. Council and the Proponent both submitted it was not required and noted that a Development Plan Overlay would exempt third party notification and not afford neighbours continued involvement in the development of the land.

(ii) Discussion

The Panel has been guided by Planning Practice Note 37 Rural residential development (PPN37) in considering unresolved issues. PPN37 provides guidance on assessing proposals for rural residential use and development, including the LDRZ.

A significant element of strategic support for the Amendment was confirmed 11 years ago with the approval of Amendment C93 that included the land within the Bass settlement boundary and identified it for low density residential rezoning.

The Panel acknowledges the 'no development' position of the submitters to the south in the Farming Zone, however this is inconsistent with the planning history of Bass and the current Planning Scheme. The Panel has not been presented with an argument to overturn this strategic support and notes the many technical documents prepared to support the Amendment and eventual development of the land do not conclude there are insurmountable issues.

The assessment of strategic justification usually involves a balance between competing planning principles. To a large degree the future of this land was resolved 11 years ago with its inclusion in the settlement boundary. The Panel is comfortable the Amendment has met a suitable strategic threshold when assessed against the Planning Scheme and PPN37. The Amendment will deliver a

net community benefit and sustainable development as required by Clause 71.02-3 (Integrated decision making).

(iii) Conclusions

The Panel concludes that the Amendment:

- is supported by, and implements, the relevant sections of the Planning Policy Framework
- is consistent with the relevant Ministerial Directions and Practice Notes
- is well founded and strategically justified
- should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

3 Housing need

3.1 The issue

The issue is whether there is a need for additional rural residential housing supply.

3.2 Submissions

Council referred to the Amendment C93 process and the consideration of housing need in a report prepared by consultant Tim Nott. Mr Nott's report has now been updated and superseded by the *Bass Coast Residential Market Supply and Demand Assessment 2022* prepared by Urban Enterprise. Council submitted this report found, similar to Mr Nott's report, there was insufficient supply of land in the LDRZ to meet market demand to 2036. This was based on:

- 534 to 656 dwelling per annum (in total 10,000 dwellings) would be required to meet the growing population for the next 15 years.
- Five to ten per cent of these dwellings would be in the Farming Zone, Rural Living Zone or the LDRZ.
- There was high demand for lots between 0.2 hectare and 2 hectares in size.
- The demand for rural living housing (including low density residential housing) would be between 500 and 1,000 dwellings.
- There was a lack of lower density sites across the Shire to meet this demand.

Council submitted that *"the land and adjoining land to the east represent some of the last pieces of unzoned land within existing settlement boundaries designated for Low Density Residential Development"* and that the additional supply created by the development of the land would assist in meeting current and future demand. It referred to the Urban Enterprise report which stated:¹

there is a clear lack of lower density and rural broad hectare sites across the Shire which is likely to limit the diversity of housing products available to the market over the planning period without provision of further lower density opportunities.

The market for low density and rural living housing and property is relatively poorly supplied. Without further opportunities for new dwellings in the Low Density Residential Zone and Rural Living Zone, this market will have relatively few options remaining.

Council confirmed the only other future low density residential areas shown on framework plans are in Wonthaggi South, Corinella and Grantville. There have been no requests to rezone these areas to date.

The Proponent referred to subdivisions that have occurred in Bass since the approval of Amendment C93. Between 2017 and 2019, 16 lots were created in the Reid Lane area. The Proponent concluded that *"the housing demand for lots in the vicinity of 4000 square metres within proximity of the Bass township, continues."*

Submitter 5 referred to census population data between 2001 and 2021 that showed the population had declined by 3.15 per cent as demonstrating a lack of demand for housing in Bass.

Submitters 2 and 3 supported the Amendment as it would provide lifestyle lots and more affordable housing.

¹ Bass Coast Market Supply and Demand Assessment 2022, page 109

3.3 Discussion and conclusion

Housing need in Bass was considered in the Amendment C93 Panel Report in 2010. At the time the Panel found *“Bass has a higher rate of permanent population than the Bass Coast average, and there is an established demand for low density lots in the area.”* Some further subdivision has occurred without any additional supply. On this basis it would be reasonable to conclude that land supply is still an issue in Bass.

The Panel also has the benefit of an updated land supply assessment that considers the shire-wide demand for small rural living lots. The 2022 Urban Enterprise supply and demand assessment found there remains a high demand for smaller rural living lots. Development of the land will in part meet a demand for this market segment in the Shire.

During a specific period, the population of Bass may have declined but the Panel has not been provided with any evidence explaining this and it relies on the 2022 Urban Enterprise report referred to by Council.

The Panel concludes there is an existing demand for low density lots across the Shire and in Bass and future development of the land will, in part, meet this demand with additional supply.

4 Other issues

4.1 Protection of agricultural land

(i) Issue

The issue is whether agricultural use of the land should be protected.

(ii) Submissions

Council submitted the recommendation of the Amendment C93 Panel to include the land in the settlement boundary but retain it in the Farming Zone considered the limited agricultural value of the land and described this situation as a “holding zone” pending the rezoning of the land. Council concluded *“by ensuring the demand for rural residential development is met within defined settlement boundaries and away from surrounding agricultural areas, the long-term continuation of agriculture in the surrounding area is protected.”*

The Proponent stated²:

Although the subject site is within a main commercial agriculture area, it does not contribute to productive agricultural land. The Land Capability Assessment for Agricultural Purposes prepared by Ag Challenge Consulting Pty Ltd, states that the land is not suitable to pasture for cropping due to the soil, although it is suitable for cattle grazing. In addition, the subject site is not pinpointed in The Bass Coast Rural Land Use Strategy (2014- Section 3.6.1) and it is established through the Landscape Assessment as having landscape value ...

Therefore, the proposed rezoning of the site to Low Density Residential Zone is appropriate and will not cause the loss of agricultural value as there is no existing value.

The Proponent referred to the Bass Coast Rural Land Use Strategy 2014 which confirmed the land was within Precinct 1 – east of Bass Highway known as the main commercial agricultural area with a strong future for agriculture (Figure 6). The main agricultural industries are dairy, horticulture and grazing.

Submitters 5 and 8 considered the land should be retained in the Farming Zone to support its use for agriculture.

(iii) Discussion and conclusion

While the land is within the Bass settlement boundary the Panel is still required to address the loss of agricultural land. The Panel inspected the land and observed many large roles of hay from the previous season. The Panel does not agree with the Proponent that there is no existing agricultural value, as there clearly is. The land has agricultural capability however the Ag Consulting Challenge report submitted by the Proponent questioned its suitability for agriculture, with soil composition limiting cropping opportunities.

The context of the land also impacts its suitability for agriculture as it is on the eastern edge of Bass next to a small rural lot to the south and small low density residential lots to the west. This is a factor that limits the agricultural use of the land.

Overall, the Panel considers the land is not high quality agricultural land and is satisfied that the loss of this land from agriculture will not diminish the role of agriculture in the local economy.

² Katelea submission, page 26

Figure 6 Bass agricultural precincts



Source: Proponent submission, page 27

4.2 Flooding and drainage

(i) The issue

The issue was whether potential flooding of the land and drainage had been adequately considered.

(ii) Evidence and submissions

Both Ms Stuart and Ms Ingbritsen provided the Panel with many photos showing areas of poor drainage or flooding of the land and its surrounds. The photos were mainly taken during the very wet Spring of 2022. Figure 6 contains a sample photo.

The Proponent relied on the evidence of Mr Noyce on stormwater and drainage issues. Mr Noyce outlined the drainage strategy for the land:

- Flooding is from poor drainage where excessive rainfall cannot drain quickly enough. Flooding is not from riverine flooding.
- The development of the land will enable improved drainage infrastructure on the site and in its vicinity, principally along Bass Road and Statter Misson Road.
- Development will be low density, not medium or high density, resulting in a 16 per cent increase in impervious surfaces.
- Each dwelling would be provided with a 20,000 litre water tank to store roof water for use on site.
- A small three megalitre dam is proposed on site to retard drainage water and control its discharge to external pipe into the Bass River.

- The land is elevated at Reduced Level 7 metres and the pipe discharge to the Bass River will be at Reduced Level 3 metres which provides for gravity fall to the river.

Figure 7 Flooding along Statter Misson Road showing the western boundary of the land



Source: Ms Ingbritsen submission, page 22

The Proponent advised a Stormwater Management Plan based on Water Sensitive Urban Design principles would be a requirement of the statutory process to subdivide the land. It submitted the Panel should be satisfied with the evidence of Mr Noyce and his technical report that all stormwater issues can be resolved.

Council submitted *“the infrastructure improvements necessary for rural residential development can be managed by the subdivision process.”* Council confirmed that Melbourne Water, the Floodplain Management Authority, is supportive of the Amendment and there are currently no statutory controls that indicate the land is subject to flooding.

Submitter 5 was concerned the land would be affected by sea level rise from Westernport Bay into the Bass River.

Mr Noyce gave evidence the land will not be impacted by the combined effects of sea level rise and storm surge because the land has sufficient elevation to meet the State policy to accommodate a 0.8 metre sea level rise plus a storm surge rise.

(iii) Discussion and conclusion

The Panel agrees with submitters there is a drainage issue for the site that should be addressed. It is a common issue for the Bass Flats. Flooding is derived from poor drainage in a very flat landscape where there is insufficient fall to drain water, not from riverine flooding. The Panel generally agrees the development of 23 hectares of land in a low density development should be able to improve the drainage of the land and its surrounds, particularly where the drainage infrastructure is currently restricted to ‘landing up’ furrows and generally poorly maintained swale drains along roadsides.

A Stormwater Management Strategy will be required to subdivide the land. The evidence of Mr Noyce and his technical report indicate an appropriate strategy can be put in place to mitigate stormwater and drainage impacts.

Regarding sea level rise, consistent with State policy the Panel has restricted its consideration to 0.8 metre rise expected by 2100 for sea level rise, and notes there is no impact on the land or its drainage infrastructure connection to the Bass River.

4.3 Contamination and land use compatibility

(i) Submissions

The Proponent referred to the preliminary site investigation conducted by Edge Group which concluded the land has a low to medium potential for contamination and that no further assessment was required. This investigation researched the land use history of the land which was limited to broad acre grazing.

Council supported the position of the Proponent.

The Proponent considered the detailed design of subdivision would address lot size interface with the rural lot to the south and the integration of subdivision with potentially similar development on land to the east.

Submitter 8 was concerned a low density residential development next to her farm would result in amenity issues for the new residents and stock safety with increased ownership of dogs.

(ii) Discussion and conclusion

The Panel accepts the agreed position of the Proponent and Council because the review of the lands' use history indicates it has only been used for grazing purposes and hay production which are low risk activities.

The Panel can confirm the land is not impacted by any land use separation requirements of PPN37 these issues and subject to detailed subdivision design, the location of adjoining rural uses to the south can be accommodated.

Regarding amenity issues, the Panel considers the rural interface with the Amendment land can be addressed in subdivision design with the use of varied lot sizes to provide for an appropriate transition and the use of building envelopes, if required.

Appendix A Submitters to the Amendment

No	Submitter
1	Three Ranchers Pty Ltd
2	Nathan Cleeland
3	Jessica Whiteroad
4	George Sargious
5	Lorraine Ingbritsen
6	Caroline Ferguson
7	Country Fire Authority
8	Katrina Stuart

Appendix B Document list

No.	Date	Description	Provided by
1	17 Mar 23	Panel Directions and Timetable (version 1)	Planning Panels Victoria (PPV)
2	29 Mar 23	Panel Timetable (version 2)	PPV
2	12 Apr 23	Council Part A submission with appendices A – G and Direction 7 documents	Bass Coast Shire Council (Council)
4	12 Apr 23	Marc Noyce expert witness statement	Katelea Pastoral Pty Ltd
5	12 Apr 23	Submission	Three Ranchers Pty Ltd
6	17 Apr 23	Letter to Panel with revised position on the Amendment	Three Ranchers Pty Ltd
7	18 Apr 23	Submission and videos	Katrina Stuart
8	18 Apr 23	Submission	Lorraine Ingbritsen
9	19 Apr 23	Council Part B submission	Council
10	19 Apr 23	Submission	Katelea Pastoral Pty Ltd
11	20 Apr 23	Western Port Local Coastal Hazard Assessment 2014	Council
12	20 Apr 23	Map Sea Level Rise Storm Surge 2100	Council
13	20 Apr 23	Map Sea Level Rise 0.82 metre	Council
14	20 Apr 23	Map Land Subject to Inundation Overlay	Council
15	20 Apr 23	Map 49LSIO	Council
16	20 Apr 23	Map 50LSIO	Council
17	20 Apr 23	Bass Coast PSA C82 Explanatory Report	Council
18	20 Apr 23	Bass Coast PSA C82 Panel Report	Council
19	20 Apr 23	Draft Bass Coast Statement of Planning Policy: Proposed landscape planning controls	Council
20	20 Apr 23	Site photo	Lorraine Ingbritsen
21	21 Apr 23	Council closing submission	Council

Appendix C Planning context

C:1 Planning policy framework

Council submitted that 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 State policy objectives set out in section 4 of the PE Act by providing land for low density residential development in a location that is strategically supported and orderly.

Clause 2 (Municipal Planning Strategy)

The Amendment supports the Municipal Planning Strategy by:

- ensuring the loss of agricultural land has been addressed previously in Bass Coast Planning Scheme Amendment C93
- rezoning land in Bass that is within the settlement boundary.

Clause 11 (Settlement)

The Amendment supports Clause 11 by rezoning land that is identified and supported by Clause 11.01-1L-22 (Bass) for low density residential development.

Clause 12.02 (Protection of marine and coastal environment)

The Amendment supports Clause 12 by proposing development on land that will not be impacted by a 0.8 metre sea level rise by 2100.

Clause 13 (Environmental risks and amenity)

The Amendment supports Clause 13 by locating development on land that is generally free from environmental constraint and where flooding from poor drainage can be mitigated by improved drainage infrastructure.

Clause 14.01 (Natural resource management)

The Amendment supports Clause 14.01 by locating development on land within the settlement boundary where development is anticipated and protecting agricultural land outside of the settlement boundary.

Clause 16.01-3S (Rural residential development)

The Amendment supports Clause 16.01 by providing for low density residential housing on land where it is anticipated and where there is a shire-wide limited land supply.

Clause 19 (Infrastructure)

The Amendment supports Clause 19 as it facilitates development that will provide improve drainage and road infrastructure for the area.

i) Gippsland Regional Growth Plan

The Gippsland Regional Growth Plan provides broad direction for land use and development across the Gippsland region, including Bass Coast Shire.

Council did not provide an assessment of the Gippsland Regional Growth Plan however the Panel is satisfied that the Amendment is consistent with the broader framework as it provides for development in a location where it is anticipated consistent with the Planning Scheme.

C:2 Planning scheme provisions

A common zone and overlay purpose are to implement the Municipal Planning Strategy and the Planning Policy Framework.

The land is in the Farming Zone. The purposes of the Zone are to:

- provide for the use of land for agriculture.
- encourage the retention of productive agricultural land.
- ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.
- encourage the retention of employment and population to support rural communities.
- encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.
- provide for the use and development of land for the specific purposes identified in a schedule to this zone.

There are no planning overlay controls.

C:3 Ministerial Directions, Planning Practice Notes and guides

Ministerial Directions

The Explanatory Report discusses how the Amendment meets the relevant requirements of Ministerial Direction 11 (Strategic Assessment of Amendments) and *Planning Practice Note 46: Strategic Assessment Guidelines*, August 2018 (PPN46). That discussion is not repeated here.

Ministerial Direction 1 (Potentially contaminated land) was considered in the preparation of the Amendment. A Preliminary Site Investigation assessed the historical use of the land for agriculture and concluded the land has a low risk of contamination and no further investigation was required, including the need for an environmental audit.

Planning Practice Notes

The provisions of Planning Practice Note 30 (Potentially contaminated land) are addressed above and recommends a Preliminary Site Investigation to determine whether the land is potentially contaminated.

Planning Practice Note 37 (Rural residential development) requires an assessment of strategy, housing need, location and subdivision design. The Panel is satisfied the Amendment addresses these issues.

Practitioner's Guide

A Practitioner's Guide to Victorian Planning Schemes Version 1.5, April 2022 (Practitioner's Guide) sets out key guidance to assist practitioners when preparing planning scheme provisions. The guidance seeks to ensure:

- 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.