

**Surf Coast Planning Scheme Amendment C147surf
Surf Coast Planning Scheme Review**

Panel Report

Planning and Environment Act 1987

5 March 2026

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 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 Wurrung 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

Surf Coast Planning Scheme Amendment C147surf

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5 March 2026



Michael Ballock, Chair

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Glossary and abbreviations

Council	Surf Coast Shire Council
DAL	Distinctive Areas and Landscapes project
DEECA	Department of Energy, Environment and Climate Action
DTP	Department of Transport and Planning
PCRZ	Public Conservation and Resource Zone
PE Act	<i>Planning and Environment Act 1987</i>
the Review	Surf Coast Planning Scheme Review 2024
SJAL	The Society of Jesus in Australia Limited

Overview

Amendment summary

The Amendment	Surf Coast Planning Scheme Amendment C147surf
Common name	Surf Coast Planning Scheme Review
Brief description	The Amendment proposes to introduce new and revised local content into the Municipal Planning Strategy, Planning Policy Framework and schedules to zones, overlays, particular provisions, general provisions and operational provisions to implement the Surf Coast Planning Scheme Review 2024
Subject land	All land in the Surf Coast Shire
The Proponent	Council
Planning Authority	Council
Authorisation	2 December 2024, with conditions
Exhibition	13 March to 18 April 2025
Submissions	Number of Submissions: 5 Opposed: 1 - Corangamite Catchment Management Authority - Department of Transport and Planning - Southern Rural Water - Asplan on behalf of The Society of Jesus in Victoria - Department of Energy, Environment and Climate Action

Panel process

The Panel	Michael Ballock, Chair
Directions Hearing	By video, 2 February 2026
Panel Hearing	By video, 24 February 2026
Site inspections	Unaccompanied, 11 February 2026
Parties to the Hearing	Council represented by Steven Lionakis of Olive Urban The Society of Jesus in Australia Ltd represented by Paul Beeson of HWLE Lawyers calling evidence on: - Town Planning from John Glossop of Glossop Planning
Citation	Surf Coast PSA C147surf [2026] PPV
Date of this report	5 March 2026

Executive summary

Surf Coast Planning Scheme Amendment C147surf (the Amendment) seeks to introduce new and revised local content into the Municipal Planning Strategy, Planning Policy Framework and schedules to zones, overlays, particular provisions, general provisions and operational provisions to implement the Surf Coast Planning Scheme Review 2024.

Key issues raised in submissions included:

- changes to some provisions that refer to the Department of Energy, Environment and Climate Action
- the anomalous public land zoning of the property at 16-20 Harvey Street, Anglesea.

Of the five submissions to the Amendment, one remained unresolved and was the only one referred to the Panel. This submission identified the Public Conservation and Resource Zone that applied to the land as an error that needed to be corrected.

Council agreed that the zoning of the land was an anomaly that should be corrected but given its current work load the rezoning was not a priority. The landowner sought a change to a residential zone while Council submitted a zone that did not increase the development potential of the land was more appropriate.

The Panel concluded that the current zoning of the land was anomalous and should be corrected but it was premature to identify an appropriate zone until the site had been examined and assessed given the characteristics, location and topography of the land.

The Panel concludes:

- The Public Conservation and Resource Zone applied to the land at 16-20 Harvey Street, Anglesea is not appropriate.
- The Amendment should include a provision in Clause 74.02 to rezone the land within a 1 to 2 year time frame.

Recommendations

Based on the reasons set out in this report, the Panel recommends that Council:

1. **Adopt Surf Coast Planning Scheme Amendment C147surf as exhibited with the changes recommended in this report.**
2. **Amend the Environmental Significance Overlay Schedule 2 as shown in the Panel recommended version in Appendix B of this report.**
3. **Amend the Significance Landscape Overlay Schedule 6 as shown in the Panel recommended version in Appendix C of this report.**
4. **Amend the Clause 66.04 Schedule as shown in the Panel recommended version in Appendix D of this report.**
5. **Amend Clause 74.02 to include the following strategy:**
Rezone the land at 16-20 Harvey Street, Anglesea to an appropriate zone and apply any appropriate overlay within 1 to 2 years.

1 Introduction

1.1 The Amendment

(i) Amendment description

The purpose of the Amendment is to introduce new and revised local content into the Municipal Planning Strategy, Planning Policy Framework and schedules to zones, overlays, particular provisions, general provisions and operational provisions to implement the Surf Coast Planning Scheme Review 2024 (the Review).

The Amendment proposes to revise the Surf Coast Planning Scheme to:

- implement the land use and development directions of Council's adopted strategies and documents, including the:
 - Surf Coast Shire Council Plan Incorporating the Health and Wellbeing Plan 2021-2025
 - Surf Coast Shire Climate Emergency Response Plan 2021 – 2031
 - Affordable Accommodation Action Plan 2022
 - Growing Adventure Tourism in Barwon South West Region Regional Trails Action Plan 2015-2025
 - Surf Coast Safer Cycling Strategy 2022-2027
 - Surf Coast Shire Economic Development Strategy 2021-2031
- clarify and improve the style, format, language or grammatical form of content in accordance with the requirements of the *Ministerial Direction: the Form and Content of Planning Schemes* and principles set out in A Practitioner's Guide to Victoria's Planning Schemes, March 2024 where the intended effect of that clause or any other clause is not changed
- update clause references, department names, legislation names, document references, terminology and statistical data
- delete and adjust content that conflicts with State planning policy of the Victoria Planning Provisions
- remove repetitive content
- remove and update outdated content.

Specifically, the Amendment proposes to:

Maps

- amend Zoning Map Nos. 1 to 40, 42 and 43 to include schedule numbers in the map code for the Rural Conservation Zone (RCZ1-7) and Farming Zone (FZ1-3) in accordance with the *Ministerial Direction: the Form and Content of Planning Schemes*

Municipal Planning Strategy and Planning Policy Framework

- amend Clauses 02.01 (Context), 02.02 (Vision) and 02.03 (Strategic Directions) to add land use and development directions from local and regional documents and strategies; to recognise First Nations peoples; to update Council's vision; and to include policy guiding economic development and tourism
- amend Clause 02.04 (Framework plans) to relocate the plan *Areas of Conservation Value* from the Schedule to Clause 35.06 (Rural Conservation Zone) to Clause 02.04-11

- amend Clause 12 (Landscapes in the Great Ocean Road and southwest coast) to conform with the Ministerial Direction: the Form and Content of Planning Schemes
- amend Clause 15.01-1L-01 (Design in Deans Marsh) to add Policy application
- amend Clause 15.01-5L.01 (Coastal towns preferred neighbourhood character) and Clause 15.01-5L.02 (Torquay-Jan Juc preferred neighbourhood character) to conform with the Ministerial Direction: the Form and Content of Planning Schemes
- insert Clause 15.01-2L (Environmentally Sustainable Development)
- amend Clauses 17.02-1L (Business in Surf Coast) and 17.04-1L (Facilitating tourism in Surf Coast) to add content from adopted strategies and make administrative changes
- delete Clause 18.01-1L (Sustainable personal transport) and move existing content to Clause 18.02-1L (Walking)
- insert Clause 18.02-2L to include content from the adopted Surf Coast Safer Cycling Strategy 2022-2027
- amend Clause 19.02-6L (Open space in Surf Coast) to add new content from Council adopted strategies
- amend Clause 19.03-2L (Infrastructure design and provision in Surf Coast) to reflect Council's use of the Infrastructure Design Manual.

Zones

- renumber the Schedule to the Rural Conservation Zone to Schedule 1 to and apply it to Breamlea Wetlands
- apply a new Rural Conservation Zone Schedule 2 to Bells Beach and Addis Point
- apply a new Rural Conservation Zone Schedule 3 to Bellbrae Southwest
- apply a new Rural Conservation Zone Schedule 4 to Great Ocean Road hinterland
- apply a new Rural Conservation Zone Schedule 5 to Otways and hinterland
- apply a new Rural Conservation Zone Schedule 6 to Pennyroyal and Bambra
- apply a new Rural Conservation Zone Schedule 7 to Lake Modewarre
- renumber the Schedule to the Farming Zone to Schedule 1 and apply it to areas with a minimum subdivision area (hectares) of 40 hectares
- apply a new Farming Zone Schedule 2 to areas with a minimum subdivision area (hectares) of 60 hectares
- apply a new Farming Zone Schedule 3 to areas with a minimum subdivision area (hectares) of 80 hectares
- amend Special Use Zone Schedule 1 to remove referral requirements set out at Clauses 4.0 (to be relocated to the Schedule to Clause 66.04), in accordance with the Ministerial Direction: the Form and Content of Planning Schemes
- Special Use Zone Schedule 3 to rationalise the purpose from six points to five points to align with the Ministerial Direction: the Form and Content of Planning Schemes
- amend Special Use Zone Schedule 9 to relocate decision guidelines to align with the Ministerial Direction: the Form and Content of Planning Schemes
- amend Comprehensive Development Zone Schedule 2 to replace the word shall with must, to comply with standard drafting practice

Overlays

- amend Environmental Significance Overlay Schedule 2 which applies to Special Water Supply Catchment Areas to include a more detailed statement of environmental significance at Clause 1.0, reduce the number of objectives from 3 to 1, include

application requirements and update the decision guidelines in line with Barwon Water's requested changes and to align with the *Ministerial Direction: the Form and Content of Planning Schemes*. This includes removing the referral to Barwon Water (to be relocated to the Schedule to Clause 66.04)

- amend Environmental Significance Overlay Schedule 5 which applies to parts of the settlements and hinterlands of Aireys Inlet to Eastern View to correct the spelling of Sheoak, include application requirements and remove referral requirements that are reflected in the Schedule to Clause 66.04
- amend Vegetation Protection Overlay Schedule 1 to remove the referral requirement set out in Clause 5.0 (to be relocated to the Schedule to Clause 66.04) to align with the *Ministerial Direction: the Form and Content of Planning Schemes*
- amend Significant Landscape Overlay Schedule 6 to remove the referral requirement set out in Clause 5.0 (to be relocated to the Schedule to Clause 66.04) to align with the *Ministerial Direction: the Form and Content of Planning Schemes*
- amend Design and Development Overlay Schedule 2 to rationalise the number of design objectives from 6 to 5 to align with the *Ministerial Direction: the Form and Content of Planning Schemes*
- amend Schedule 5 to Clause 43.02 (Design and Development Overlay) to remove the reference to Background Documents to align with the *Ministerial Direction: the Form and Content of Planning Schemes*
- amend Design and Development Overlay Schedule 8 to rationalise the number of design objectives from 6 to 5, remove the reference to Background Documents and replace with a new decision guideline to align with the *Ministerial Direction: the Form and Content of Planning Schemes*
- amend Design and Development Overlay Schedule 13 to rationalise the number of design objectives from 6 to 5 to align with the *Ministerial Direction: the Form and Content of Planning Schemes*
- amend Design and Development Overlay Schedule 15 to clarify the requirements relating to buildings and works
- amend Design and Development Overlay Schedule 17 to reorder the requirements under buildings and works to a more logical structure
- amend Design and Development Overlay Schedule 18 to clarify the permit requirements relating to buildings and works
- amend Design and Development Overlay Schedule 22 to rationalise the number of design objectives from 6 to 5 to align with the *Ministerial Direction: the Form and Content of Planning Schemes*
- amend Design and Development Overlay Schedule 23 to relocate application requirements to align with the *Ministerial Direction: the Form and Content of Planning Schemes*
- amend Design and Development Overlay Schedule 29 to make minor spelling corrections
- amend Development Plan Overlay Schedule 5 to insert the correct introductory text to Clause 3.0 and Clause 4.0 to align with the *Ministerial Direction: the Form and Content of Planning Schemes*
- amend Development Plan Overlay Schedule 6 to insert the correct introductory text to Clause 3.0 and Clause 4.0 to align with the *Ministerial Direction: the Form and Content of Planning Schemes*

- amend Development Plan Overlay Schedule 7 to rationalise the objectives from 6 to 5 and insert the correct introductory text to Clause 4.0 to align with the *Ministerial Direction: the Form and Content of Planning Schemes*
- amend Development Plan Overlay 8 to insert the correct introductory text to Clause 3.0 and Clause 4.0 to align with the *Ministerial Direction: the Form and Content of Planning Schemes*
- amend Development Plan Overlay 9 to insert the correct introductory text to Clause 3.0 and Clause 4.0 to align with the *Ministerial Direction: the Form and Content of Planning Schemes*
- amend Development Plan Overlay 10 to remove dot points from the objectives and insert the correct introductory text to Clause 3.0 and Clause 4.0 to align with the *Ministerial Direction: the Form and Content of Planning Schemes*.
- amend Development Plan Overlay 11 to insert the correct introductory text to Clause 4.0 to align with the *Ministerial Direction: the Form and Content of Planning Schemes*
- amend Development Plan Overlay Schedule 12 to add Clause 1.0 Objectives with no content, renumber subclauses and insert the correct introductory text to Clause 3.0 and Clause 4.0 to align with the *Ministerial Direction: the Form and Content of Planning Schemes*
- amend Development Plan Overlay Schedule 13 to insert the correct introductory text to Clause 3.0 and Clause 4.0 to align with the *Ministerial Direction: the Form and Content of Planning Schemes*
- amend Development Plan Overlay Schedule 14 to insert the correct introductory text to Clause 3.0 and Clause 4.0 to align with the *Ministerial Direction: the Form and Content of Planning Schemes*
- amend Parking Overlay Schedule 1 to correct the numbering of subclauses to align with the Ministerial Direction: the Form and Content of Planning Schemes
- amend Parking Overlay Schedule 2 to rationalise the number of objectives from 6 to 5 to align with the Ministerial Direction: the Form and Content of Planning Schemes

General Provisions

- amend the Clause 66.04 (Referral of permit applications under local provisions) Schedule to reflect the referrals that were previously incorrectly located in Schedules 1, 3 and 9 to Clause 37.01 (Special Use Zone), and Schedule 6 to Clause 42.03 (Significant Landscape Overlay) and update Victorian Government Department names

Operational Provisions

- amend the Clause 72.08 (Background documents) Schedule to include the following background documents:
 - Surf Coast Highway Urban Design Guidelines (David Lock Associates, 2006)
 - Surf Coast Industrial Zone Outdoor Advertising Sign Guidelines (Surf Coast Shire, 2011)
 - Surf Coast Open Space Strategy 2015-2025 (ROSS Planning, 2016)
 - Surf Coast Safer Cycling Strategy 2022-2027 (O'Brien Traffic, 2021)
 - The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance (2013)
 - Torquay Community and Civic Precinct Master Plan (Surf Coast Shire, 2007)
 - Torquay Town Centre – Foreshore Zone Design Guidance (author, 2007)
 - Torquay Town Centre Revitalisation Project (author, 2001)

- Torquay Town Centre Revitalisation Project – Urban Design Guidelines (author, 2007)
- Torquay Town Centre Parking Precinct Plan (Surf Coast Shire, 2012)
- amend the Clause 74.01 (Application of zones, overlays and provisions) Schedule to update schedules to the Farming Zone and Rural Conservation Zone
- amend the Clause 74.02 (Further strategic work) Schedule to include further strategic work identified in the *Surf Coast Planning Scheme Review 2024* as a Council priority for the next 4 years.

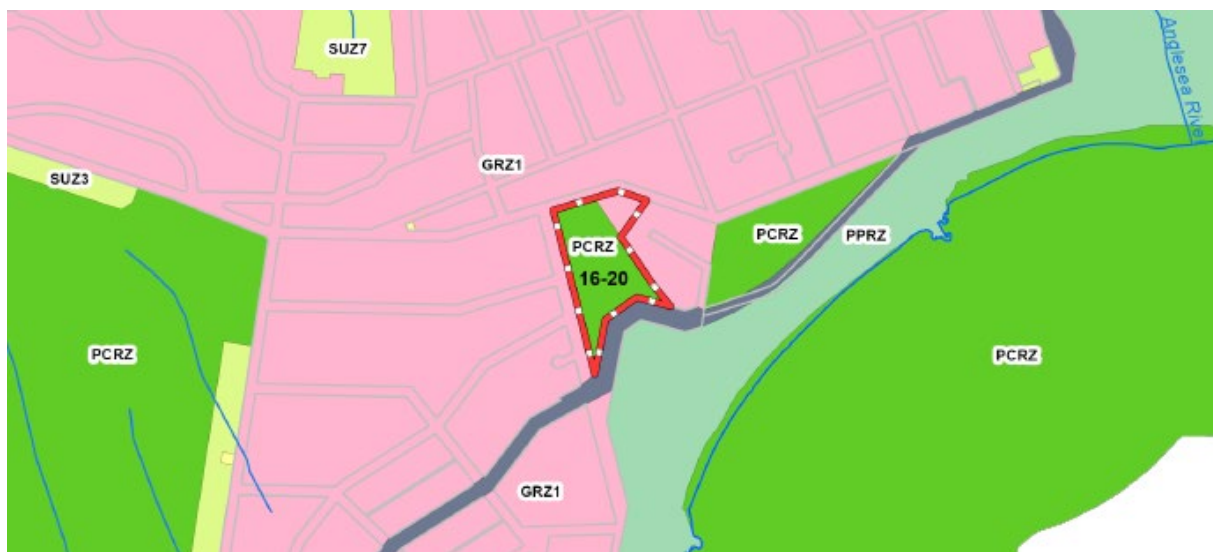
(ii) The subject land

The Amendment applies to all land in the municipality. The one unresolved submission relates to the property at 16-20 Harvey Street, Anglesea shown in Figure 1 which is currently in a Public Conservation and Resource Zone (PCRZ) as shown in Figure 2.

Figure 1 Aerial photo of the site at 16-20 Harvey Street, Anglesea



Figure 2 Zoning map including the site at 16-20 Harvey Street, Anglesea



1.2 Background

Council submitted that, as the planning authority for the Surf Coast Planning Scheme, it is required under section 12B of the Planning Environment Act, 1987 (PE Act) to review the Planning Scheme every four years. The previous planning scheme review was completed in 2014. The delay occurred because Council sought and was granted, an extension due to the significance of the State Government's Surf Coast Distinctive Areas and Landscapes (DAL) project, which was approved in October 2022.

Implementation of the Review seeks to ensure that the Planning Scheme remains contemporary, efficient and aligned with State and local policy expectations. With the adoption of the Surf Coast

Shire Council Plan on 23 September 2025, the next (2026) planning scheme review is now due and required to be completed by September 2026.

As part of the Review, Council undertook what it termed a comprehensive 'health check' focused on the effectiveness, clarity and alignment of the Surf Coast Planning Scheme with State requirements. The Review identified a series of priorities for Council to undertake in the next four years. These include:

- planning for and improved resilience to climate change and other environmental risks
- finalising the Urban Futures Strategy to determine how growth will be accommodated in the municipality
- undertaking work to identify the location, form and density of growth for areas identified for urban growth in Torquay
- preparation of a new strategic plan for Winchelsea that plans for its role in the settlement hierarchy and the future growth of the township
- reviewing planning controls in the coastal towns from Anglesea to Lorne to ensure the balance between preserving significant landscapes, preferred character outcomes and managing bushfire risk
- developing infrastructure plans that support projected growth.

In addition, major Victorian planning reforms, including introduction of new planning tools further necessitate updates to ensure the Planning Scheme remained aligned with State policy directions and fulfilled its statutory intent.

Council adopted the Review at its the 25 June 2024 meeting and resolved to seek authorisation from the Minister for Planning to prepare and exhibit a planning scheme amendment.

Table 1 **Chronology of events**

Date	Action
25 June 2024	At its Ordinary Meeting, Council resolved that it: 1. <i>Adopts the Surf Coast Planning Scheme Review 2024 (Attachment 1) pursuant to section 12B (1) of the Planning and Environment Act 1987.</i> 2. <i>Forwards the Surf Coast Planning Scheme Review 2024 to the Minister for Planning in accordance with section 12B (5) of the Planning and Environment Act 1987.</i> 3. <i>Seeks authorisation from the Minister for Planning to prepare and exhibit a planning scheme amendment generally in accordance with the Planning Scheme ordinances and explanatory report at Attachments 2 and 3 of this report, to implement the Surf Coast Planning Scheme Review 2024.</i>
2 December 2024	Letter from the Department of Transport and Planning (DTP), under delegation from the Minister, authorising Council to prepare the Amendment subject to the following conditions: - include Environmentally Sustainable Development related content and strategic directions in Clause 02.03-5 to ensure the proposed policy at Clause 15.01-2L is strategically linked to the Municipal Planning Strategy - amend the ordinance as per the enclosed edited clauses and schedules - update the Instruction Sheet as per the enclosed track changes version - update the Explanatory Report to provide further strategic justification for the proposed policy changes that implement Council adopted

plans/strategies (in particular Clause 15.01-2L) and make changes as per the enclosed track changes version.

13 March-18 April 2025	The Amendment was exhibited through notice in: - the Winchelsea Star - the Government Gazette - the Surf Coast Times newspaper - www.surfcoast.vic.gov.au/C147surf. Five submissions were received.
28 October 2025	At its meeting, Council resolved to: - refer the unresolved submission to 'Amendment C147surf' to a Panel appointed by the Minister for Planning in accordance with Part 8 of the PE Act - consider the report of the Panel and the adoption or abandonment of 'Amendment C147surf' at a future Council meeting.
1 December 2025	The Planning Panel was appointed.

1.3 The Panel's approach

Key issues raised in submissions were:

- the current zoning of the land is inappropriate
- the 2012 Anglesea Structure Plan included a commitment to rezone the land in the short term which had not occurred
- the zoning of the land should be addressed before completing the review of planning scheme controls for the coastal townships.

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.

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from site visits 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.

This report deals with the issues under the following headings:

- Strategic issues
- Zoning of 16-20 Harvey Street, Anglesea

2 Strategic issues

2.1 Planning context

Table 2 Planning context

	Relevant references
Victorian planning objectives	- section 4 of the PE Act
Other planning strategies and policies	- Plan for Victoria - Surf Coast Planning Scheme Review 2024
Planning scheme provisions	- Comprehensive Development Zone - Farming Zone - Rural Conservation Zone - Special Use Zone - Design and Development Overlay - Development Plan Overlay - Environmental Significance Overlay - Parking Overlay - Significant Landscape Overlay - Vegetation Protection Overlay
Ministerial directions	- Ministerial Direction 11 (Strategic Assessment of Amendments) - Ministerial Direction 19 – Amendments with Potential Environmental and Health Impacts
Planning practice notes	- Planning Practice Note 46: Strategic Assessment Guidelines

2.2 Strategic justification

(i) The issue

The issue is whether the Amendment is strategically justified.

(ii) Submissions

Council submitted that the Amendment implements the recommendations of the Review which was finalised in May 2024 as required by section 12B of the PE Act. These periodic reviews ensure planning schemes provide the necessary framework to achieve a Council's land use vision for the municipality.

Council added that the Review found that the Planning Scheme is generally well drafted and complies with Victoria government requirements and that the local provisions are performing well. While there were a few gaps identified, the Review predominantly identified minor drafting issues when assessed against the *Ministerial Direction: the Form and Content of Planning Schemes*, the Practitioner's Guide to Victoria's Planning Schemes and relevant planning practice notes.

The main changes proposed as a result of the Review relate to:

- updating the Municipal Planning Strategy and Planning Policy Framework to reflect recent work undertaken and adopted by Council but not yet translated into the planning scheme
- inserting a new Environmentally Sustainable Development policy at Clause 15.01-2L based on the template developed by the Council Alliance for Sustainable and Built Environment
- policy neutral changes required to align with the *Ministerial Direction: the Form and Content of Planning Schemes* and the principles set out in A Practitioner's Guide to Victoria's Planning Schemes, March 2024; to make factual changes to the Municipal Planning Strategy to include the most recent Australian Bureau of Statistics and other economic data and to include land use and development directions from local and regional strategies in the Planning Policy Framework.

Council submitted that the submission by the Department of Energy, Environment and Climate Action (DEECA) requested the following changes to some of the exhibited planning scheme provisions:

- Environmental Significance Overlay Schedule 2: Special water supply catchment areas
 - amend Clause 5 (decision guidelines), to reinstate the reference to DEECA at dot point 3. Reference to Barwon Water to be deleted in the same dot point.
- Significant Landscape Overlay Schedule 6: Central Torquay and Jan Juc residential areas
 - amend Clause 5 (decision guidelines), to reinstate the reference to DEECA in the last dot point. That is, the last dot point will no longer be deleted.
- Clause 66.04 Schedule – Referral of permit applications under local provisions
 - add the words, “(as constituted under Part 2 of the *Conservation Forests and Lands Act 1987*)” after each reference to DEECA
 - delete row three that refers to DEECA as a determining referral authority under the Special Use Zone (Clause 37.01 Schedule 3)
 - amend row seven to delete DEECA as a referral authority (and associated referral authority type) for the Environmental Significance Overlay (Clause 42.01 Schedule 2)
 - delete final row that refers to DEECA as a determining referral authority for the Significant Landscape Overlay (Clause 42.03 Schedule 6.)

Council accepted all the recommended changes and altered the exhibited documents which were provided to the Panel in Document 10.

(iii) Discussion

No submission challenged the Review or the strategic basis for the Amendment. The Panel acknowledges the requirement for Council to periodically undertake a review of its planning scheme. The process undertaken to prepare the Review is appropriate and that it forms the strategic basis for the Amendment. For this reason, the Panel agrees that the Amendment is strategically justified and consistent with Ministerial Direction 11 and Planning Practice Note 46.

The Panel accepts the post exhibition changes to Environmental Significance Overlay Schedule 2, Significant Landscape Overlay Schedule 6 and Clause 66.04 Schedule to address the DEECA submission.

(iv) Conclusions and recommendations

For the reasons set out in this report, 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.

The Panel recommends Council:

- 1. Adopt Surf Coast Planning Scheme Amendment C147surf as exhibited with the changes recommended in this report.**
- 2. Amend the Environmental Significance Overlay Schedule 2 as shown in the Panel recommended version in Appendix B of this report.**
- 3. Amend the Significance Landscape Overlay Schedule 6 as shown in the Panel recommended version in Appendix C of this report.**
- 4. Amend the Clause 66.04 Schedule as shown in the Panel recommended version in Appendix D of this report.**

3 Zoning of 16-20 Harvey Street, Anglesea

(i) The issues

The issues are:

- whether the zone applied to the land is appropriate.
- what action, if any is needed to address the situation.

(ii) Background

Council provided the following background on the subject land:

The subject land was originally part of Crown Allotment 12, Parish of Angahook and was the last allotment transferred from Volume 5030 Folio 1005895, becoming Volume 8414 Fol 056 on 3 April 1963 when it was transferred to Francis and Agnes Lynch by Instrument B630196.

On 15 July 1963, the subject land (still incorporating CA12E) was transferred to John O'Donohue and Peter O'Donohue by Instrument B703082. It was then gifted to the Society for Jesus in Australia Limited (SJAL) on 31 July 1963 by Instrument B7154010.

In terms of the zoning of the land:

- 1960s: Zoned Reserve – Recreation under the Barrabool Planning Scheme.
- 1980s: Translated to Public Park / Reserved Land.
- 2000: Translated into the modern PCRZ in the Surf Coast Planning Scheme.

The Anglesea Structure Plan 2012 described the land in the following way:

A large parcel of privately owned land bordered by Harvey Street, Great Ocean Road and Melba Parade is zoned PCRZ. The land is undeveloped and used by the public as quasi open space, but the zoning is inappropriate given its private ownership. The land should be rezoned to a more appropriate zone that reflects the private ownership but also limits development given the environmental and landscape qualities and constraints of the land

Action 0.1 of the Anglesea Structure Plan contained the following recommendation for Planning Scheme changes:

Rezone land at 16-20 Harvey Street from PCRZ to a more appropriate zone that reflects its private ownership as well as the environmental constraints

(iii) Evidence and submissions

Council acknowledged the inappropriateness of a public land zone on privately owned land but submitted that the historic zoning appeared to be deliberate decision. However, limited records prevented a conclusive determination of whether this was the case. Council added that the Anglesea Structure Plan 2012 recognised that the PCRZ was inappropriate and recommended rezoning the land to one that *“reflects private ownership while limiting development due to environmental and landscape constraints.”*

Council referred to the Review which sets out its priorities for the next four years which are significant strategic undertakings dealing with land supply, housing targets and other obligations. It submitted that this:

...work will not prevent Council from meeting its obligations in reviewing and maintaining the scheme; however, with finite resources, there is little capacity for significant new projects that do not result in a significant community benefit.

Council advised that the subject land was fully covered by the Bushfire Management Overlay and was a Landscape Type 4 area which is deemed to be an extreme bushfire risk location and unsuitable for urban growth. It added the subject land's proximity to the Otway National Park *"posed a catastrophic threat to both lives and property."* Council supported correcting the zoning anomaly where it:

- is of community benefit
- does not increase the development potential of the land
- is proportionate to the site's environmental and bushfire constraints
- occurs with the cooperation of the landowner, which has not been forthcoming to date.

Council submitted the Amendment is not the appropriate vehicle for resolving zoning anomalies, and Clause 74.02 should only contain a concise list of strategic work items, not administrative corrections. It added that the Panel's task is not to determine the appropriate zoning for 16-20 Harvey Street, but rather whether the Amendment should be changed to reference the correction of zoning anomalies at Clause 74.02.

Council perspective was while the PCRZ is an anomaly:

- rezoning that increases development potential would not constitute a mere 'correction' but rather a strategic rezoning, which is outside the scope of the Amendment
- including the anomaly in Clause 74.02 would incorrectly frame it as strategic work rather than an administrative correction
- Clause 74.02 should not be used to advance site-specific proposals, particularly where broader township planning work is intended to address neighbourhood character and risk-mitigation issues.

Council concluded that the subject land's bushfire context, topography and vegetation, potential slope stability considerations, landscape sensitivity on the Great Ocean Road and cultural heritage sensitivity all point to the need for robust investigations before contemplating any zone that increases development potential. Nevertheless, Council agreed that work could be undertaken in the next 12 to 24 months.

SJAL submitted that the PCRZ was applied to the land in error and the zone only should apply to public land because it prohibits almost all private use or development unless carried out by a public land manager. It explained this does not exist for this land and as a consequence, the land is effectively sterilised, with almost all use and development prohibited. It considered the zoning is inconsistent with the *Ministerial Direction: The Form and Content of Planning Schemes*.

SJAL stated the Review recommended as further strategic work with the highest priority:

Review the planning controls for each coastal township from Anglesea to Lorne to ensure that the best suite of controls has been applied to achieve the identified character for each coastal township and the preferred form of housing while managing bushfire risk.

In its original submission, SJAL requested Clause 74.02 be revised to add:

All current zoning anomalies in Surf Coast Planning Scheme be identified and rectified prior to introducing the revised planning controls for each coastal township so that the optimum suite of controls are introduced.

SJAL submitted that to satisfy Council's obligations under section 12B(4) of the PE Act to keep the Planning Scheme up to date, the Amendment should be changed to address the anomalous zoning of the SJAL land by including it in a residential zone rather than the Rural Conservation Zone proposed by Council.

Mr Glossop gave evidence that the PCRZ at 16-20 Harvey Street was the result of a historic zoning translation error, not a deliberate planning strategy because when the Victorian planning schemes were translated in 2000. He added the land's reservation status was incorrectly carried over into the PCRZ, which is a public land zone intended for Crown or public authority ownership; not privately held land.

Mr Glossop identified the following elements as relevant in influencing the selection of appropriate planning controls:

- Strategic settlement policy identifies Anglesea as a coastal township within a defined settlement boundary, reinforced by the Anglesea Framework Plan. The site is located inside this boundary and is surrounded by residentially zoned land.
- The Anglesea Structure Plan 2012 identifies the site as being inappropriately zoned and recommended a short-term action to rezone the land to reflect private ownership and environmental constraints.
- Housing pressure, limited infill opportunities and the permanent settlement boundary around Torquay further heighten the importance of appropriately zoning well-located residential land within the township.
- Environmental and other constraints including bushfire risk, vegetation, slope, biodiversity, cultural heritage sensitivity, and access would need detailed assessment but do not in themselves preclude development which may be managed through the application of appropriate overlay controls.

Regarding the appropriate zone for 16-20 Harvey Street, he concluded:

...final zone selection would be derived from the investigations that I foreshadow above, which will give a better picture of the developability of the site. It seems to me though that the site could accommodate at least some residential land uses and it offers a good opportunity to contribute some well located, local, infill housing.

Mr Glossop stated that Council should not be bound to consider all anomalies at this time, a view agreed by Council. Nevertheless, he concluded that the matter could be resolved by inserting the following provision in Clause 74.02:

Rezone the 16-20 Harvey Street, Anglesea to an appropriate residential zone that makes efficient use of the land and reflects its location within the Anglesea settlement boundary and apply any appropriate overlay.

(iv) Discussion

Both Council and SJAL agreed that the PCRZ zone applied to the land is an anomaly and should be corrected. However, their views diverged on how and when this correction would take place but, in its closing, Council agreed that it could be within the next 12 to 24 months.

The Panel acknowledges that Council has a significant body of strategic work to undertake which it is prioritising. However, this issue was identified around 14 years ago in the Anglesea Structure Plan 2012 and the Panel accepts the evidence of Mr Glossop and agrees with the SJAL submission that applying the PCRZ is inconsistent with the *Ministerial Direction: the Form and Content of Planning Schemes* and consequently inconsistent with the planning authority's obligations listed in section 12B of the PE Act. In the Panel's view, the matter needs to be resolved in a reasonable timeframe which, to date, has not occurred.

The Panel accepts that correcting this anomalous zoning within 12 to 24 months is an appropriate time frame because of the site assessment, evaluation and background work which both Council

and Mr Glossop acknowledged would be required. Mr Glossop recommended that a residential zone be identified, Council's preferred options which did *"not increase the development potential of the land."*

In the Panel's view, both these options are premature and pre-empt the outcome of the work required for a full evaluation and assessment of 16-20 Harvey Street. The subject land has a number of challenges including a significant escarpment as well as potential issues with land instability, flora and fauna, access, slope, cultural heritage and bushfire management. These need to be investigated and assessed before a rational decision on what is an appropriate zone for the land can be made.

In his evidence, Mr Glossop said that that planning scheme provisions often nominate a land use outcome for land designated for investigation. The Panel agrees with that observation, but this is not one of those instances where it is appropriate. As discussed above, this land has a number of challenges which may explain its lack of development and initial reservation.

The Panel considers it appropriate to include a strategy in Clause 74.02 to rezone 16-20 Harvey Street. This is far from a simple rezoning. While the Panel Supports Mr Glossop's proposal to include a provision in Clause 74.02 identifying the rezoning the land as future strategic work, it does not support nominating a residential zone as the outcome nor reflecting the location in the Anglesea settlement boundary. Instead, the following should be added to Clause 74.02.

Rezone the land at 16-20 Harvey Street, Anglesea to an appropriate zone and apply any appropriate overlay within 1 to 2 years.

(v) Conclusions and recommendations

The Panel concludes:

- The PCRZ applied to 16-20 Harvey Street, Anglesea is not appropriate.
- The Amendment should include a strategy in Clause 74.02 to rezone the land and apply any appropriate overlay within 1 to 2 years.

The Panel recommends:

5. Amend Clause 74.02 to include the following strategy:

Rezone 16-20 Harvey Street, Anglesea to an appropriate zone and apply any appropriate overlay.

Appendix A Document list

No.	Date	Description	Provided by
1	02 Feb 2026	Panel Directions and Hearing Timetable (version 1)	Planning Panels Victoria (PPV)
2	02 Feb 2026	Request for a change in the Hearing date	Society of Jesus in Australia Ltd (SJAL)
3	06 Feb 2026	Confirmation of expert witness	SJAL
4	09 Feb 2026	Council Part A submission	Surf Coast Shire (Council)
5	10 Feb 2026	Request for additional planning information	SJAL
6	12 Feb 2026	Council response to request for additional planning information	Council
7	16 Feb 2026	Expert witness statement of John Glossop	SJAL
8	23 Feb 2026	Council Part B submission	Council
9	23 Feb 2026	Society of Jesus in Australia Ltd submission	SJAL
10	25 Feb 2026	Post exhibition version of Clauses 37.01s3, 42.01s2, 42.03s6 and 66.04s6	Council

Appendix B Panel recommended version of Clause 42.01 Environmental Significance Overlay - Schedule 2

30/07/2018

SCHEDULE 2 TO CLAUSE 42.01 ENVIRONMENTAL SIGNIFICANCE OVERLAYShown on the planning scheme map as **ESO2****SPECIAL WATER SUPPLY CATCHMENT AREAS****1.0 Statement of environmental significance**06/02/2020
C128surf
Proposed
C147surf

The sites, comprising parts of water supply catchment areas of the Pennyroyal Creek, Matthews Creek, Dewings Creek, St George River, Erskine River and Painkalac Creek, are used for the provision of water for domestic use and are also declared as special water supply catchments under Schedule 5 of the Catchment and Land Protection Act 1994.

The cumulative impacts of development within the catchments has the potential to gradually diminish the quality and quantity of water in the special water supply catchments. Diminished water quality also increases the risk to human health and the health of all communities that rely on water from the catchments.

The protection, restoration and enhancement of all waterways (as defined by section 3 of the Water Act 1989) within the catchments is an essential component in ensuring the continued availability of water quantity and quality while also protecting the health of the natural resources and environmental systems within the catchments.

2.0 Environmental objective to be achieved06/02/2020
C128surf
Proposed
C147surf

~~To protect and maintain water quality and water yields in the catchments.~~

To ~~ensure that subdivision, land~~ focus on the long term protection of the natural resources and environmental systems in the catchment by encouraging use and development ~~meets the requirements of the land use determinations for~~ that avoids detrimental impacts on the quality and quantity of water in the catchment

3.0 Environmental objective to be achieved06/02/2020
C128surf

None specified

4.0 Application requirements06/02/2020
C128surf
Proposed
C147surf

~~None specified~~ The following application requirements apply to an application for a permit under Clause 42.01, in addition to those specified elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- A scaled and dimensioned site context plan showing the site and surrounding land including the location of all waterways, drainage lines, water bodies, bores, water supply channels or springs and vegetation.
- A scaled and dimensioned plan showing the location and use of existing and proposed buildings and works, including proposed or existing waste water disposal areas and vehicle access.
- Details of degree and direction of slope, soil type, vegetation and drainage systems.
- A geotechnical report and land capability assessment prepared by a suitability qualified person(s) demonstrating:
 - Details of degree and direction of slope, soil, type, vegetation and drainage systems on the site.
 - That the land is capable of absorbing effluent generated on the lot.
 - The likely impact of any on-site wastewater treatment system on surface and ground water resources and how such impact is to be mitigated.
 - A land management or environmental management plan to be implemented as part of the proposal, outlining the restoration and enhancements of land or waterways.

- [An onsite wastewater and stormwater treatment and management plan.](#)

5.0

Decision guidelines

06/02/2020
C128surf

[Proposed
C147surf](#)

The following decision guidelines apply to an application for a permit under Clause 42.01, in addition to those specified in Clause 42.01 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- ~~The land use determinations if any, for the respective catchment~~
- [The proximity of the development to waterways, drainage lines and water supply reservoirs in the catchment.](#)
- The written comments of the Department of Environment, Land, Water and Planning ~~and Barwon Water.~~
- [The possible impact and effect of the development on the quantity and quality of water in waterways, drainage lines, water supply reservoirs and springs.](#)
- [The need and measures to:](#)
 - [Provide buffers for or separation from waterways, drainage lines, gullies, property boundaries and any existing disposal areas or systems.](#)
 - [Minimise and reduce nutrient loads, turbidity and siltation in waterways, drainage lines and water supply reservoirs.](#)
 - [Decrease or reduce the velocity of stormwater into waterways, drainage lines and water supply reservoirs.](#)
 - [Prevent erosion of natural features, including banks, streambeds and adjoining land.](#)
 - [Improve filtration and infiltration of water.](#)
 - [Retain and increase native vegetation to prevent or limit adverse effects on waterways, drainage lines and water supply reservoirs.](#)
 - [The means of treatment and disposal of all sewage, sullage, stormwater and other wastes on site having regard to the slope, soil type and other environmental factors including the potential for pollution of waterways and ground water.](#)

Appendix C Panel recommended version of Clause 42.03 Significant Landscape Overlay - Schedule 6

06/02/2020
C128surf**SCHEDULE 6 TO CLAUSE 42.03 SIGNIFICANT LANDSCAPE OVERLAY**Shown on the planning scheme map as **SLO6****CENTRAL TORQUAY AND JAN JUC RESIDENTIAL AREAS****1.0 Statement of nature and key elements of landscape**06/02/2020
C128surf

Vegetation is a key element of neighbourhood character in the coastal townships of Torquay and Jan Juc. The vegetation helps to screen the appearance of buildings from the street and neighbouring properties and reinforces the casual coastal character of the towns. Bellarine Yellow Gums (*Eucalyptus leucoxylon subsp. bellarinensis*) and Moonah (*Melaleuca lanceolata subsp. lanceolata*) are very important indigenous species listed under the *Flora and Fauna Guarantee Act 1988* and, along with other indigenous species, are also a link to the pre-settlement landscape. Whilst indigenous species are particularly significant, all mature trees and shrubs (except for environmental weeds) play an important role in defining the coastal character of Torquay and Jan Juc and hence are to be protected.

2.0 Landscape character objectives to be achieved06/02/2020
C128surf

To reinforce a landscape character that comprises:

- A moderate tree canopy supported by understorey shrubs, with emphasis on indigenous vegetation.
- An open vegetated streetscape where the vegetation acts to filter and soften the appearance of buildings and hard surface areas.

3.0 Permit requirement06/02/2020
C128surf

A permit is not required to construct a building or construct or carry out works.

A permit is required to remove, destroy or lop any Bellarine Yellow Gum (*Eucalyptus leucoxylon subsp. bellarinensis*) or Moonah (*Melaleuca lanceolata subsp. lanceolata*), any exotic tree greater than 5 metres in height or native vegetation greater than 3 metres in height. This does not apply:

- If the vegetation is dead.
- If the vegetation is within 2 metres of the outer edge of the roof of a building or overhangs this area.
- If the vegetation is listed as an environmental weed in the incorporated document *Weeds of the Surf Coast Shire (2013)*.
- To the reasonable trimming of vegetation for the purpose of maintaining its on-going health and proportion within the garden landscape.

4.0 Application requirements06/02/2020
C128surf

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:

An application to remove, destroy or lop vegetation must be accompanied by a report that:

- Includes a site plan (drawn to scale) showing the boundaries of the site, existing and proposed buildings and works, existing vegetation and the vegetation to be removed.
- Describes the vegetation to be removed, including the extent and type of vegetation, and the number and size of any trees to be removed.
- Specifies the purpose of the proposed removal, destruction or lopping of vegetation.
- Demonstrates that the extent of removal, destruction or lopping has been reduced as much as is reasonable and practicable.

- Where applicable, details measures to protect vegetation during construction of buildings and works and identifies on-going management requirements of vegetation post construction.
- Specifies proposals for revegetation following disturbance, including proposed species and ground stabilisation.

5.0 Decision guidelines

06/02/2020
C128surf

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 vegetation to be removed is identified in the report *Bellarine Yellow Gums in the Surf Coast Shire* (Mark Trengove, 2001).
- Whether the vegetation to be removed is of the species Bellarine Yellow Gum (*Eucalyptus leucoxylon subsp. bellarinensis*) or Moonah (*Melaleuca lanceolata subsp. lanceolata*).
- Whether the removal, lopping and/or destruction of Bellarine Yellow Gum (*Eucalyptus leucoxylon subsp. bellarinensis*) or Moonah (*Melaleuca lanceolata subsp. lanceolata*) can be avoided.
- Whether the removal, lopping and/or destruction of vegetation that contributes to the screening of development from property boundaries has been avoided.
- Whether replacement planting and/or the revegetation of sparsely vegetated sites with predominantly indigenous and native plants are needed to provide effective filtering of development from property boundaries.
- Whether the lopping or removal of vegetation would substantially improve the passive or active solar performance of the dwelling on the site or neighbouring property.
- The type, significance and condition of vegetation to be removed and/or retained.
- The capacity of the site to accommodate offset planting that will be able to be maintained in a healthy condition and that will positively contribute to the landscape character objectives.
- Whether protective measures are needed to prevent disturbance of vegetation associated with building construction activities.
- Any written comments from the Department of [Energy](#), Environment ~~Land, Water~~ and ~~Planning~~ Climate Action (as constituted under Part 2 of the Conservation, Forests and Lands Act 1987) for applications to remove, lop and/or destroy Bellarine Yellow Gum (*Eucalyptus leucoxylon subsp. bellarinensis*) and/or Moonah (*Melaleuca lanceolata subsp. lanceolata*).

Appendix D Panel recommended version of Schedule Clause 66.04 Referral of Permit Applications under Local Provisions – Schedule

12/04/2018
C121**SCHEDULE TO CLAUSE 66.04 REFERRAL OF PERMIT APPLICATIONS UNDER LOCAL PROVISIONS****1.0 Referral of permit applications under local provisions**06/02/2020
C428surf
Proposed
C147surf

Clause	Kind of application	Referral authority	Referral authority type
Clause 4.0 of Schedule 1 to Clause 37.01 (SUZ)	All applications for buildings and works	Secretary to the Department of ~~Environment, Land, Water and Planning~~ Energy, Environment and Climate Action (as constituted under Part 2 of the Conservation, Forests and Lands Act 1987)	Determining referral authority
Clause 4.0 of Schedule 1 to Clause 37.01 (SUZ)	All applications	Alcoa	Recommending referral authority
Clause 4.0 of Schedule 3 to Clause 37.02 (CDZ)	All applications	Corangamite Catchment Management Authority Country Fire Authority	Recommending referral authority
Clause 3.0 of Schedule 1 to Clause 42.01 (ESO)	All applications.	Secretary to the Department of ~~Environment, Land, Water and Planning~~ Energy, Environment and Climate Action (as constituted under Part 2 of the Conservation, Forests and Lands Act 1987)	Determining referral authority
		~~Corangamite Catchment Management Authority~~	~~Recommending referral authority~~
Clause 3.0 of Schedule 2 to Clause 42.01 (ESO)	All applications	Relevant water, drainage or sewerage authority	Determining referral authority
Clause 3.0 of Schedule 4 to Clause 42.01 (ESO)	All applications on sites known to contain Merran's Sun Orchid as shown on map 1 to the schedule. All applications for native vegetation removal on sites within the Anglesea Heathland as shown on map 2 to the schedule.	Secretary to the Department of ~~Environment, Land, Water and Planning~~ Energy, Environment and Climate Action (as constituted under Part 2 of the Conservation, Forests and Lands Act 1987)	Determining referral authority

Clause 3.0 of Schedule 5 to Clause 42.01 (ESO)	All applications.	Secretary to the Department of ~~Environment, Land, Water and Planning~~ Energy, Environment and Climate Action (as constituted under Part 2 of the Conservation, Forests and Lands Act 1987)	Determining referral authority
Clause 3.0 of Schedule 1 to Clause 42.02 (VPO)	All applications	Secretary to the Department of ~~Environment, Land, Water and Planning~~ Energy, Environment and Climate Action (as constituted under Part 2 of the Conservation, Forests and Lands Act 1987)	Determining referral authority