



# **Surf Coast Planning Scheme Review**

Version 2.1

October 2023

Consultation version



Planning and Environment Act 1987

Planning scheme review pursuant to Section 12B of the Act

Surf Coast Planning Scheme

<b>Version</b>	<b>Author</b>	<b>Issue date</b>
1.0 – Draft	CM/CR/MM	May 2023
2.0 – Redink response to Council comments	CR/MM	September 2023
2.1 – Pre community consultation revisions	CR	October 2023

# Abbreviations

Abbreviation	Meaning
ABS	Australian Bureau of Statistics
BAL	Bush Fire Attack Level
BAO	Buffer Area Overlay
BMO	Bushfire Management Overlay
C amendment	Planning scheme amendment to the local (Surf Coast) planning scheme
CASBE	Council Alliance for Sustainable Built Environment
CFA	Country Fire Authority
CCMA	Corangamite Catchment Management Authority
DAL	Distinctive Areas and Landscapes
DDO	Design and Development Overlay
DEECA	Department of Energy, Environment and Climate Action
DPO	Development Plan Overlay
DTP	Department of Transport and Planning
ESD	Environmentally Sustainable Development
ESO	Environmental Significance Overlay
FZ	Farming Zone
FSW	Further Strategic Work
GC amendment	Planning scheme amendment to a group of councils planning schemes
GORCPA	Great Ocean Road Coast and Parks Authority
LSIO	Land Subject to Inundation Overlay
MDFC	Ministerial Direction: the form and content of planning schemes
MPS	Municipal Planning Strategy
NCO	Neighbourhood Character Overlay
P&E Act	<i>Planning and Environment Act 1987</i>
PG	Practitioner's Guide to Victoria's Planning Schemes

<b>Abbreviation</b>	<b>Meaning</b>
PPAR	Planning Permit Activity and Reporting System
PPF	Planning Policy Framework
PSR	Planning Scheme Review
PPN	Planning Practice Note
PCRZ	Public Conservation and Resource Zone
PPRZ	Public Park and Recreation Zone
PUZ	Public Use Zone
RCZ	Rural Conservation Zone
SLO	Significant Landscape Overlay
SMO	Salinity Management Overlay
SUZ	Special Use Zone
UFS	Urban Futures Strategy
VC amendment	Planning scheme amendment to the Victorian Planning Provisions and council planning schemes
VCAT	Victorian Civil and Administrative Tribunal
VIF	Victoria in Future population forecasts
VPO	Vegetation Protection Overlay

# Contents

<b>1</b>	<b>Executive summary</b>	<b>7</b>
1.1	Why is the planning scheme being reviewed?	7
1.2	Surf Coast Statement of Planning Policy (DAL)	7
1.3	Urban Futures Strategy	7
1.4	Health check and findings	8
1.5	Top priorities for Council	8
1.6	Consolidated recommendations	9
<b>2</b>	<b>Introduction</b>	<b>14</b>
2.1	Purpose	14
2.2	Methodology	15
<b>3</b>	<b>What's driving change</b>	<b>17</b>
3.1	Population, growth and economy	17
3.2	Climate change and other environmental risks	18
3.3	Victorian government projects	18
3.4	Victorian government amendments and advice	20
<b>4</b>	<b>Previous planning scheme review</b>	<b>22</b>
4.1	Previous planning scheme review	22
4.2	Progress since last review	23
4.3	Outstanding work since last review	23
4.4	Findings	23
<b>5</b>	<b>Audit and assessment of current scheme</b>	<b>24</b>
5.1	Methodology	24
5.2	Drafting matters to include in Council's next 'housekeeping' amendment	24
5.3	Matters requiring further review	25
5.4	Conclusion	25
<b>6</b>	<b>Planning scheme performance</b>	<b>27</b>
6.1	Planning permit activity	27
6.2	Planning Panels Victoria	35
6.3	Amendment C130surf	38
6.4	VCAT	38
<b>7</b>	<b>Stakeholder engagement</b>	<b>43</b>
7.1	Planners' feedback	43
7.2	Internal staff	43
7.3	Councillors and Executive team	44
7.4	Referral and notice agencies	44
7.5	Other stakeholders	46

7.6	Registered Aboriginal Parties	46
7.7	Coastal Character Engagement 2023	47
<b>8</b>	<b>New strategic work</b>	<b>47</b>
8.1	Council projects and documents	47
8.2	Regional projects and documents	50
<b>9</b>	<b>Key issues</b>	<b>52</b>
9.1	Plan for and improved resilience to climate change and other environmental risks	53
9.2	Finalise the Urban Futures Strategy.	54
9.3	Strategic planning for Winchelsea and Torquay.	54
9.4	Refine planning controls in coastal townships.	55
9.5	Undertake infrastructure planning in response to planned growth.	59
9.6	Aboriginal and Historical Heritage	60
9.8	Environmentally sustainable development and design policy	62
9.9	Infrastructure Design Manual and Sustainable Infrastructure Guidelines	63
9.10	Zones in Rural Areas	63
9.11	Restructure Overlay (RO3)	64
9.12	Tenement policy in the Farming and Rural Conservation Zones	64
<b>10</b>	<b>Further strategic work</b>	<b>65</b>
10.1	Highest priority work	65
10.2	Other important work	65
10.3	Updating Clause 74.02 Further strategic work	66

# 1 Executive summary

## 1.1 Why is the planning scheme being reviewed?

Council as the planning authority for the Surf Coast Planning Scheme is required to review its planning scheme every four years under Section 12(B) of the Planning and Environment Act 1987.

Council last undertook a comprehensive review of the planning scheme in 2014. The findings of this review were adopted by Council on 26 August 2014 and translated into the planning scheme via Amendments C101, C102 and C121, which were gazetted on 6 August 2015, 12 February 2015 and 12 April 2018 respectively.

Recently the planning scheme was restructured to insert a new Municipal Planning Strategy and local planning policies to replace the former Local Policy Planning Framework. This was done via Amendment C136surf in September 2021 and was a policy neutral amendment undertaken by the Victorian government.

This review will be forwarded to the Minister for Planning as required under section 12(B) of the Act once complete.

## 1.2 Surf Coast Statement of Planning Policy (DAL)

The Surf Coast region was recently declared a Distinctive area and landscape pursuant to section 46AO of the Planning and Environment Act 1987. The Surf Coast Statement of Planning Policy (STATEMENT OF PLANNING POLICY), together with proposed landscape planning controls, primarily affect land in and around Torquay. The Minister intends to prepare an amendment to the Surf Coast Planning Scheme to reflect the inclusion of the Statement of Planning Policy in the Victoria Planning Provisions.

Although a separate and distinct project, given its breadth, it would be remiss of this review not to acknowledge the Statement of Planning Policy and identify the significant impact that it will have on the planning scheme's ability to accommodate future urban growth. Currently, the planning scheme expects the strong population growth evident in the Shire's coastal towns to continue. It identifies Torquay-Jan Juc and Winchelsea as the only towns with capacity to accommodate any substantial urban growth and seeks to concentrate growth in both townships. The Statement of Planning Policy does not envisage any significant future urban growth at Torquay-Jan Juc. As a result, the existing strategic planning work undertaken by Council in relation to municipal-wide settlement planning requires updating.

## 1.3 Urban Futures Strategy

Council is currently preparing the Urban Futures Strategy, which will provide a clear indication of where urban growth will be accommodated in the municipality in the future. It is expected that there will be a significant shift in where new settlement will occur. Once the capacity of each township and urban area is known, the strategy will include an implementation plan for further strategic planning in existing and proposed urban areas. It is expected that Council will have significant work to resolve the best layering of planning controls to accommodate the projected growth, protect environmental values, preserve life through managing bushfire risk and support the achievement of the preferred neighbourhood character for each township.

## 1.4 Health check and findings

Surf Coast is a highly desirable area to live in and attracts a significant visitor population during the year. This has resulted in a high proportion of housing being used for short term accommodation and holiday houses rather than as permanent residences. Accommodation is at a premium, particularly in summer, in an area that has extremely high bushfire risk. A major appeal of the area is its environmental and landscape values, which have been identified in the planning scheme for protection through a complex array of zones and overlays. This has led to three competing objectives within the planning scheme that are currently unresolved. These are:

- Safeguarding life and property as the highest planning priority in bushfire prone areas
- Protecting native vegetation and significant landscapes
- Accommodating 15 years' supply of urban growth

## 1.5 Top priorities for Council

Many of the priorities that have been identified in this review are linked to settlement issues, which have clearly fallen out of this review as the most important for Council to address comprehensively and are where Council should be focusing strategic planning resources. This list highlights the importance of the work being undertaken in the Urban Futures Strategy.

Through the review process, the five highest priority tasks for Council to undertake over the next four years to improve the planning scheme have been identified as:

- Plan for and improve resilience to climate change and other environmental risks.
- Finalise the Urban Futures Strategy to determine how growth will be accommodated in the municipality.
- Once the Urban Futures Strategy is complete, undertake the necessary strategic planning work for Winchelsea and Torquay to define their roles in the settlement hierarchy and determine how future urban development will be accommodated considering the need for housing, employment land and community infrastructure across the municipality.
- Review and consider refinements to the planning controls for coastal townships from Anglesea to Lorne, to ensure the right balance between preserving significant landscapes, preferred character outcomes and managing bushfire risk.
- Develop infrastructure plans that support projected growth, as identified in the Urban Futures Strategy considering development infrastructure, integrated water management, recreation facilities and open space, community infrastructure and transport infrastructure.

Figure 1 shows diagrammatically the key issues (priorities) that are expanded on in Chapter 9 and how they link to the Urban Futures Strategy and the Statement of Planning Policy. This diagram provides an indication of the sequencing of the work recommended in the planning scheme review. The diagram also shows the other key issues that emerged through the planning scheme review process, none of which are intrinsically linked to the Urban Futures Strategy.



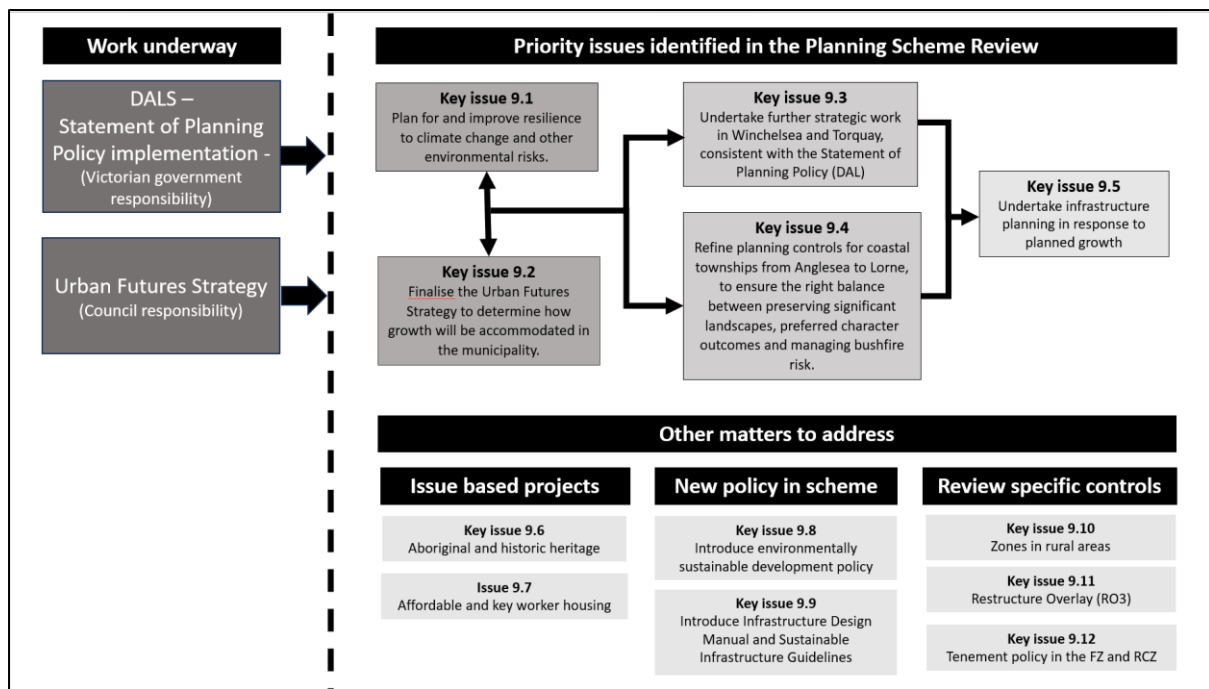


Figure 1: Diagram showing highest priority issues and other matters to address

## 1.6 Consolidated recommendations

This section of the report outlines the recommendations and next steps for this planning scheme review. Recommendations are grouped as follows:

- Planning scheme recommendations.
- Further strategic work recommendations.
- Advocacy recommendations.
- Minister for Planning recommendation.

### 1.6.1 Planning scheme amendment

These recommendations relate to the planning scheme amendment that should be progressed to implement the findings of this review relating to administrative matters or to incorporate Council or State adopted strategic planning work into the scheme.

The planning scheme review has identified many policy neutral changes that should be made to the planning scheme to bring it into alignment with the Ministerial Direction: the Form and Content of Planning Schemes. These are administrative matters and do not change the policy intent of the scheme.

There are several factual changes that should be made to the Municipal Planning Strategy to bring it up to date with the most recent Australian Bureau of Statistic (ABS) and economic data, and the Council Plan.

The planning permit audit and consultation with referral authorities and Council staff identified:

- Future urban growth and development.
- The application and interaction of planning controls.
- The need to protect existing and preferred neighbourhood character.

- Climate change.
- Environmentally Sustainable Design.
- The need to continue assessing and conserving places of heritage significance.
- The need for municipal-wide infrastructure planning.
- Infrastructure Design Manual.
- Commencement of community planning across the municipality.
- The need for more integrated social, open space and recreation planning.
- Lack of affordable housing.
- Short term accommodation and its impact on longer term housing needs.
- The changing nature of business and employment trends, and emerging enterprises.

There is an opportunity to make small changes to the planning scheme to reflect Council practice including:

- Introducing consideration of the Infrastructure Design Manual and the Sustainable Infrastructure Guidelines.
- Removing conflicts with the requirement of Clause 52.12 Bushfire protection exemptions and Clause 52.17 Native vegetation.

An audit of local and regional strategies and policies that have been completed since the last planning scheme review has been done and planning policy from these strategies should be incorporated into the planning scheme as relevant.

### **Recommendation:**

It is recommended that Council:

1. **Prepare a planning scheme amendment or amendments to the Surf Coast Planning Scheme to:**
  - a) **Incorporate the policy neutral changes identified in Chapter 5 to align the ordinance with the Ministerial Direction: the Form and Content of Planning Schemes.**
  - b) **Include new policy to implement the:**
    - **Surf Coast Shire Council Plan Incorporating the Health and Wellbeing Plan 2021-2025.**
    - **Surf Coast Shire Climate Emergency Corporate Response Plan 2021 – 2031.**
    - **Affordable Housing Accommodation and Action Plan 2022.**
    - **Growing Adventure Tourism in Barwon South West Region Regional Trails Action Plan 2015-2025.**
    - **Surf Coast Open Space Strategy 2015-2025.**
    - **Surf Coast Safer Cycling Strategy 2022-2027.**
    - **Surf Coast Shire Economic Development Strategy 2021-2031.**
  - c) **Introduce Clause 15.01-2L Environmentally sustainable development to apply to residential and non-residential development, excluding subdivisions.**
  - d) **Amend Clause 19.03-2L Infrastructure design and provision to include a strategy, policy guideline and policy document that directs applications and decision makers to consider the Infrastructure Design Manual when approving development.**

- e) **Split the Farming Zone schedule 1 into three separate schedules to cover the three different subdivision minimums.**
- f) **Amend the schedule to Clause 43.01 Heritage overlay to clarify that the application requirements requiring the preparation of a Conservation Management Plan relates only to a major development or subdivision of a large or complex site.**
- g) **Move references to Alcoa, Barwon Water, CCMA, CFA, DEECA and DTP from policy, zone and overlay local provisions to the schedule to Clause 66.04.**

## **1.6.2 Further strategic work**

Through the review process, numerous pieces of further strategic work to improve the performance of the Surf Coast Planning Scheme have been identified. These are included throughout the report and many of the changes identified are administrative changes that will be made to the planning scheme as part of Council's 'business as usual' management of the planning scheme. Projects that will require dedicated project funding to complete are:

- Plan for and improve resilience to climate change and other environmental risks.
- Finalise the Urban Futures Strategy to determine how growth will be accommodated in the municipality.
- Subject to the outcomes of the Urban Futures Strategy, undertake further strategic work in Winchelsea and Torquay, consistent with the Statement of Planning Policy (DAL).
- Review and consider refinements to the planning controls for coastal townships from Anglesea to Lorne, to ensure the right balance between preserving significant landscapes, preferred character outcomes and managing bushfire risk.
- Undertake infrastructure planning in response to planned growth.
- Review of the extent and significance of the Bells Beach Hinterland and Viewshed areas and review all planning controls applying to the land to ensure the appropriate planning tools apply and that all controls interrelate to one another. This task may be resolved through the implementation of the Statement of Planning Policy.
- Review and update the Thematic Environmental History of the Surf Coast Shire 2009 against the themes identified in Victoria's Framework of Historic Themes to ensure they align.
- Consider reviewing and updating the citations for existing places in the Heritage Overlay and incorporating them, if not already done so, in the planning scheme. This will ensure that the significance and the future management of changes in these places is better understood. (Although not required by PPN01: Applying the Heritage Overlay, it is still recommended).
- Finalise and implement Stage 3 of the Surf Coast Shire Heritage Study to assess places of significance in Moriac and its surrounding areas.
- Prepare and implement further stages of the Surf Coast Shire Heritage Study to assess outstanding places in areas that have not been thoroughly reviewed yet.
- Update flood mapping, especially in the Thompsons Creek catchment.
- Continue implementation of the Surf Coast Shire Affordable Accommodation Action Plan 2022.
- Review the Rural Hinterlands Strategy to address the application of zones and the operation of the tenements policy.
- Review the Restructure Overlay (RO3) and Design and Development Overlay applying to Deans Marsh to understand whether there may be further development potential within the township.

- Review the method in which Council's existing tenement policy at Clause 14.01 Agriculture is applied, recognising that the current control lack transparency, and apply a more effective and easier to interpret control through the planning system or another method if appropriate.

The first five of these projects have been identified by the Council officers and the consultant team as the priority projects for the next four years. These five projects represent a large amount of work but will position Council so that it can deal with the population growth and climate change and other environmental risk the Surf Coast community must address.

### **Recommendations:**

It is recommended that Council prioritise the following further strategic work over the next four years:

2. **Plan for and improve resilience to climate change and other environmental risks.**
3. **Finalise the Urban Futures Strategy to determine how growth will be accommodated in the municipality.**
4. **Subject to the outcomes of the Urban Futures Strategy, undertake further strategic work in Winchelsea and Torquay, consistent with the Statement of Planning Policy (DAL).**
5. **Review and consider refinements to the planning controls for coastal townships from Anglesea to Lorne, to ensure the right balance between preserving significant landscapes, preferred character outcomes and managing bushfire risk.**
6. **Undertake infrastructure planning in response to planned growth.**

### **1.6.3 Advocacy**

These recommendations are generally beyond the scope of what Council can achieve in its planning scheme under the current Victoria Planning Provisions or scope of the Planning and Environment Act 1987. They are matters that Council may wish to discuss with the Victorian government to highlight the issue and advocate for change.

### **Recommendations:**

It is recommended that Council:

7. **Advocate to the Victorian government for a review of planning controls as they relate to short term accommodation to help mitigate the impact it is having on housing affordability and rental availability.**
8. **Advocate to the Victorian government to strengthen consideration of environmentally sustainable design and development, and climate change, including the currency of data relied upon, in all planning schemes.**
9. **Advocate to the Victorian government to include more context about the need to recognise, conserve and promote Aboriginal cultural heritage in the Victoria Planning Provisions.**

### **1.6.4 Minister for Planning**

Surf Coast Shire Council, with assistance from Redink Planning, has prepared a planning scheme review as required by section 12B (1) of the Planning and Environment Act 1987.

In accordance with section 12B (3) of the Act, this review identifies opportunities, set out in this report, enhances the effectiveness and efficiency of the planning scheme in achieving the objectives of planning in Victoria and the objectives of the planning framework established in the Act.

In accordance with section 12B (4) of the Act, the review evaluates the planning scheme to ensure that it:

- Is consistent with Ministerial Direction: the Form and Content of Planning Schemes.
- Sets out the policy objectives for the use and development of land.
- Makes effective use of state and local provisions to achieve state and local planning policy objectives.

**Recommendation:**

- 10. That Surf Coast Shire Council accepts this Planning Scheme Review and forwards it to the Minister for Planning as evidence Surf Coast Shire Council, as the planning authority for the Surf Coast Planning Scheme, has met its obligations in accordance with Section 12B of the Planning and Environment Act 1987 to review the planning scheme every four years.**

## 2 Introduction

### 2.1 Purpose

Council as the planning authority for the Surf Coast Planning Scheme is required to review its planning scheme every four years under Section 12(B) of the *Planning and Environment Act 1987* (The Act).

The scope of a planning scheme review is established under Section 12(B) and planning scheme reviews should focus on:

- The effectiveness and efficiency of the planning scheme in achieving the objectives of planning and the planning framework in Victoria.
- Aligning the planning scheme with the Ministerial Direction on the Form and Content of Planning Schemes.
- Ensuring the planning scheme contains a clear narrative about the way use and development of land will be managed to achieve the planning vision or objectives of the area.

Planning scheme reviews also provide the opportunity to:

- Align Council's policy position with the planning scheme.
- Update out of date or redundant information.
- Educate and inform stakeholders about how the planning scheme works and the process by which to improve it.

Council last undertook a comprehensive review of the Surf Coast Planning Scheme in 2014. The findings of this review were adopted by Council on 26 August 2014 and translated into the planning scheme via:

- Amendment C101, which amended Schedule 2 to the Parking Overlay to specify car parking space requirements for Convenience restaurant, Restaurant, Hotel and Tavern, and to adjust the financial contribution requirement affecting land in the Torquay Town Centre. It was gazetted on 6 August 2015.
- Amendment C102, which corrected obvious or technical errors, updated redundant references, and clarifies and improved the grammar and language of the scheme. It was gazetted on 12 February 2015.
- Amendment C121, which modified planning policy, and zone and overlay provisions to increase protection of the Bells Beach hinterland and areas close to the Great Ocean Road. It was gazetted on 12 April 2018.

Recently the planning scheme was restructured to insert a new Municipal Planning Strategy and local planning policies to replace the former Local Policy Planning Framework. This was done via Amendment C136surf in September 2021 and was a policy neutral amendment undertaken by the Victorian government.

This review will be forwarded to the Minister for Planning as required under section 12(B) of the Act once complete. A planning scheme amendment to implement the findings of the review will be required.

## 2.2 Methodology

A six-stage methodology has been developed by Redink Planning to undertake planning scheme reviews as shown in Stages One to Four involve the preparation of the Review.

Stage Five will involve consultation with the community on the final findings and recommendations of the review.

Stage Six will involve the preparation of a planning scheme amendment to implement the recommendations of the review, which the community will be consulted on again. The amendment will be advertised, and submissions invited from community members in accordance with the requirements of the Planning and Environment Act 1987. If submissions cannot be resolved, Council is obliged to request that the Minister for Planning appoint an independent planning panel to consider submissions and make recommendations to Council.

Figure 2. Redink Planning has been engaged to conduct Stages One to Six for the Surf Coast Shire Council.

Stages One to Four involve the preparation of the Review.

Stage Five will involve consultation with the community on the final findings and recommendations of the review.

Stage Six will involve the preparation of a planning scheme amendment to implement the recommendations of the review, which the community will be consulted on again. The amendment will be advertised, and submissions invited from community members in accordance with the requirements of the Planning and Environment Act 1987. If submissions cannot be resolved, Council is obliged to request that the Minister for Planning appoint an independent planning panel to consider submissions and make recommendations to Council.

Figure 2: Planning scheme review methodology

1	2	3	4	5	6
<b>Initiate</b>	<b>Analyse</b>	<b>Engage</b>	<b>Report</b>	<b>Consult</b>	<b>Implement</b>
<ul style="list-style-type: none"> <li>Establish timelines</li> <li>Collate materials for review</li> <li>Survey planners</li> <li>Contact referral authorities</li> <li>Inform DELWP</li> </ul>	<ul style="list-style-type: none"> <li>Audit the planning scheme</li> <li>Strategic documents and new policy</li> <li>VCAT decisions</li> <li>Planning panel recommendations</li> <li>Previous planning scheme review</li> <li>Planning permit activity</li> <li>Survey results</li> </ul>	<ul style="list-style-type: none"> <li>Councillors and executive</li> <li>Statutory and strategic planners</li> <li>Internal referrals</li> <li>External referrals</li> <li>Registered Aboriginal parties</li> <li>Other identified stakeholder groups</li> </ul>	<ul style="list-style-type: none"> <li>Planning scheme review report</li> <li>Further strategic work plan</li> <li>Marked up ordinance</li> </ul>	<ul style="list-style-type: none"> <li>Test findings with community</li> <li>Test further strategic work priorities with community</li> </ul>	<ul style="list-style-type: none"> <li>Planning scheme review to Minister for Planning</li> <li>Planning scheme amendment</li> <li>Budgeting for further strategic work</li> <li>Process improvements</li> <li>Advocacy</li> </ul>

The timing for the project is:

Stage	Timing
Initiate	February 2023

Analyse	February to April 2023
Engage	April 2023
Report	September 2023
Consult	October to November 2023
Implement	Early 2024

This planning scheme review has been prepared in consideration to the following directions and guidance provided by DTP.

Ministerial directions:

- Ministerial Direction: the Form and Content of Planning Schemes.
- Ministerial Direction No. 11 Strategic Assessment of Amendments.

Planning practice notes and advice:

- A Practitioner’s Guide to Victoria’s Planning Schemes.
- Planning Practice Note 32 – Review of planning schemes.
- Planning Practice Note 46 – Strategic Assessment Guidelines.

Other topic based Ministerial Directions and Practice Notes have been consulted on specific matters raised through the review as noted in the report.



## 3 What's driving change

### 3.1 Population, growth and economy

The Surf Coast, both the Shire and the wider region, is nationally and internationally recognised for its stunning landscape and features, as well as its renowned surfing history.

The Shire comprises Torquay-Jan Juc as its main urban centre, as well as being its key tourism centre for surfing and other water-based activity, and for walking trails, natural landforms and other emerging attractions such as wineries and food-based enterprises.

The population of Surf Coast Shire grew from 29,397 persons in 2016 (ABS, 2016) to 37,694 in 2021 (ABS, 2021).

The population is forecast to reach 45,438 persons in 2036 (VIF, 2019); however, this projection does not consider the high rate of growth that has occurred in the last census period and is probably conservative. In 2021, the Shire had an estimated 20,634 private dwellings (ABS, 2021) and this is forecast to increase to 27,352 dwellings in 2036 (VIF, 2019). This represents an additional 6,718 dwellings to be accommodated, but as noted, this number is likely to be conservative, however will also be impacted by the Surf Coast Statement of Planning Policy.

Most residents live in one of the 12 townships: Aireys Inlet, Anglesea, Bellbrae, Deans Marsh, Fairhaven, Freshwater Creek, Jan Juc, Lorne, Moggs Creek, Moriac, Torquay and Winchelsea. There is continued demand for new housing in townships, much of which is purchased for holiday houses and short term rental accommodation placing pressure on the permanent housing market. This is evident from the occupancy rate of 71.7% (ABS, 2021) and this rate is expected to be maintained over time. It indicates a high number of dwellings are used as holiday houses and short term accommodation (e.g., Airbnb, Stayz, etc.).

Surf Coast Shire supports 12,576 jobs and has an annual economic output of \$3.5 billion (Remplan, 2023). Surf Coast is a popular tourist and surfing area, and its economy is increasingly reliant on tourism. Employment is dominated by retail, tourism and hospitality, building construction, and health and community services.

Agriculture, once the dominant sector, is still growing in productive output and makes a significant contribution to the economy but employs only a small proportion of the Shire's workforce. The building construction sector makes the greatest contribution to economic output in the region, which at \$906.6 million accounts for 25.58% of total output (Remplan, 2023). This sector is also the largest employer with 1,881 jobs, which represents 14.96% of total employment within the region (Remplan, 2023).

In 2018, there was an estimated 5 to 7 years' supply of zoned broad hectare/major infill residential land stocks and an additional 9 to 12 years' supply of broad hectare/major infill residential land stocks identified for future residential zoning/development. In the interests of maintaining both a competitive land supply market and meeting underlying dwelling requirements, it was recommended then that the stock of zoned broad hectare residential land be increased in the short term.

In 2019, there was estimated to be between 5 to 8 years' supply of industrial zoned land across the municipality and an additional 17 to 26 years' supply of land identified for future industrial zoning/development. The majority of industrial land is located in Torquay and Winchelsea, but Torquay was estimated to only have between 4 to 6 years' supply of industrial zoned land and Winchelsea has between 14 to 21 years' supply. The figures for Torquay may be impacted by the possible removal of Spring Creek in the future implementation of the protected settlement boundary required by the Statement of Planning Policy for Torquay.

## **3.2 Climate change and other environmental risks**

Surf Coast Shire is in one of the most vulnerable bushfire prone regions in the world. The Great Otway National Park, the Anglesea Heath and coast landscapes are some of the most fire prone areas in the State. Forested land presents a bushfire threat to the hinterland towns of Deans Marsh and Bellbrae and the coastal towns of Anglesea through to Lorne and the western edge of Jan Juc.

Large areas of the municipality are affected by the Bushfire Management Overlay including the whole of the Great Otway National Park and its interface with urban settlement. Dense vegetation cover, limited access options and exposure of development all contribute to bushfire and grassfire risks in both urban and rural areas.

Landscapes in high bushfire risk areas are visually pleasing and are often sought after for use and development, including for tourism. With development comes the need for vegetation removal to manage bushfire risk. However, the extent of required bushfire protection measures can adversely impact landscape and neighbourhood character, and vegetation that should be protected.

In addition, the Shire's settlements, coastal reserves and hinterland support vegetation of local and State conservation significance, including a range of threatened flora and fauna. Creek corridors, heathlands, native grasslands, grassy woodland and scattered mature native eucalyptus trees are important biodiversity features of the Shire. Remnant vegetation, including riparian vegetation in wetlands, has high ecological value for the habitat it provides to native and migratory fauna.

The Shire is experiencing loss and fragmentation of vegetation, including rare endemic species due to development pressures, bushfire mitigation measures and other clearing. Pest species also adversely affect the biodiversity of coastal reserves, native grasslands and bushland areas. This causes degradation of flora and fauna habitat, biodiversity, and ecosystem processes and function.

Settlement pressure in the Shire's coastal towns is likely to continue due to sustained interest in the region's natural environment. While there is pressure to expand some settlement boundaries into areas of high landscape significance, the landscape settings between settlements should be retained and there are significant risks associated with bushfire and the impacts of coastal inundation that need to be carefully managed. Managing these risks is further complicated by the challenge of retaining the valued character of the coastal towns which are dominated by vegetation and significant views.

Surf Coast's extensive coastline, measuring 55 kilometres, adds to the challenges the Shire will face in managing climate risk. Climate modelling suggests that coastal areas will be less impacted by rainfall variability than northern parts of the State. This will place additional pressure on Surf Coast's agricultural land to provide food and fibre for the State. The coastal impacts of climate change (erosion, inundation, etc.) are already evident in the Shire, and projected impacts now form a relevant and consequential consideration before VCAT.

Surf Coast Shire Council formally declared a Climate Emergency on 2 September 2019. In the face of climate change, environmental risks and their impacts can worsen, including increased sea level rise, bushfire risk, storm surge, coastal inundation and riverine flooding.

## **3.3 Victorian government projects**

### **3.3.1 Distinctive area and landscape**

On 19 September 2019, the Surf Coast region was declared a 'distinctive area and landscape' pursuant to section 46AO of the Planning and Environment Act 1987. The declaration includes a statement that sets out the significance of the area to the people of Victoria (including the Traditional Owners of the area) and describes the attributes that qualify the declared area as a Distinctive area and landscape.

In essence, it identifies the threats of significant or irreversible land use change that would affect the environmental, social or economic values of the declared area.

Following this declaration, the Department of Transport and Planning (formerly the Department of Environment Land Water and Planning) prepared a draft Surf Coast Statement of Planning Policy together with proposed landscape planning controls. A Statement of Planning Policy for a declared area is “to create a framework for the future use and development of land in the declared area to ensure the protection and conservation of the distinctive attributes of the declared area”. The Statement of Planning Policy primarily affects land in and around Torquay in the Surf Coast Shire and a small parcel of land south of Armstrong Creek in the City of Greater Geelong.

The Minister intends to prepare an amendment to the Surf Coast and Greater Geelong planning schemes to reflect inclusion of the Statement of Planning Policy in the Victoria Planning Provisions. The amendment will also establish the Statement of Planning Policy as a policy document and align the two planning schemes with the objectives, strategies and requirements of the Statement of Planning Policy.

Although a separate and distinct project, given its breadth, it will have significant implications for Council’s existing settlement planning and strategic work program.

Currently, the planning scheme expects the strong population growth evident in the Shire’s coastal towns over the previous few years to continue. It identifies Torquay-Jan Juc and Winchelsea as the only towns with capacity to accommodate any substantial growth and seeks to concentrate urban growth in both townships. The Statement of Planning Policy does not envisage significant future urban growth at Torquay-Jan Juc. As a result, the related strategic planning work previously undertaken by Council now lacks currency and work has commenced to update the growth area framework.

### **3.3.2 Great Ocean Road Strategic Framework Plan (Department of Energy, Environment and Climate Action and DTP)**

The purpose of this project is to give effect to the objectives and vision of the Great Ocean Road Action Plan (released in Oct 2018). Although background work is currently being assembled for this project, it will aim to simplify the complex and fragmented management arrangements that inhibits appropriate development projects and a holistic response to the challenges of increasing visitation, natural hazard, severe weather events and climate change along the Great Ocean Road.

### **3.3.3 Victoria’s Housing Statement. The decade ahead 2024 – 2034 (State Government of Victoria)**

The Victorian government released Victoria’s Housing Statement (the Statement) in September 2023. The Statement sets out the government’s plan to build 800,000 new homes over the next decade to accommodate Victoria’s growing population and increase the supply of social and affordable housing.

This will be achieved through numerous projects and changes to policy settings, particularly affecting planning decisions making. At the time of writing, not all the implications of the Statement on the delivery of housing in Surf Coast are clear, but at this early stage, the matters that may affect Council are:

- The Statement strongly supports intensification of development around activity centres. Council’s Urban Futures Strategy is identifying the most appropriate locations for growth in the Shire recognising that some existing settlements are highly constrained by environmental values and risks.

- 45 government owned sites will be made available to the development industry to develop housing, of which there is a target of at least 10 per cent affordable homes across the sites. The sites have not been identified yet. There is a small chance one or more sites may be in Surf Coast Shire.
- It will be easier to build a small second dwelling on a lot, and second dwellings of less than 60 square metres on a lot of more than 300 square metres will not require a permit. This is expected to have a significant impact on housing capacity of lots that are greater than 300 square metres depending on the conditions placed on this policy. At this stage it is not clear whether the rural zones will be included or whether if a site is affected by an overlay (such as Heritage or Bushfire Management) the exemption will remain.
- Planning permits for single dwellings on lots under 300 square metres that are not affected by overlays will be approved under VicSmart provisions, which should significantly speed up the approval process for single dwellings, although it won't change housing capacity figures.
- Large developments (\$15M plus) that include a 10% component of affordable housing will be fast tracked by the Victorian government Development Facilitation Team. This may incentivise development in Surf Coast Shire.
- The introduction of a 7.5 per cent levy on short term accommodation dwellings will be introduced. The money generated by this will be given to Homes Victoria to fund development of social housing. Twenty-five per cent of the money generated through this scheme will be used to fund housing in regional Victoria despite the fact that about fifty per cent of short term accommodation dwellings are located in regional Victoria. The introduction of the levy is unlikely to move short term accommodation dwellings into permanent rental dwellings due to the economics and demand for short term accommodation at play in Surf Coast Shire.

Victoria's Housing Statement also identifies several sources of funding to increase the supply of affordable, social and key worker housing in regional Victoria, and Surf Coast Shire may be eligible for these funding streams.

The government has committed to preparing 'Plan Victoria' which will be a whole of state planning document to replace 'Plan Melbourne'. Consultation on this is expected to commence shortly.

### **3.4 Victorian government amendments and advice**

The Victoria Planning Provisions are constantly being reviewed and updated at a state level with numerous VC and GC amendments occurring each year. The State also provides advice to planners in the form of updates to the Practitioner's Guide and new planning practice notes.

The way in which the Surf Coast Planning Scheme should respond at a local level to these changes to the Victoria Planning Provisions and how they should be applied has been considered in this review and includes:

#### **Managing residential character**

The introduction of more sophisticated schedules to the residential zones (through Amendment VC169), including the ability to include place-based objectives (essentially a preferred neighbourhood character statement), provides an opportunity for Council to introduce controls to manage built form in residential areas more effectively. Planning Practice Notes 90 – Planning for Housing and 91 – Using the Residential Zones provide advice about how this should be done.

The introduction of schedules would assist with achieving sustainability and neighbourhood character objectives. Council is currently preparing the Urban Futures Strategy, which will include an

implementation plan for further strategic planning in existing and proposed urban areas. This would be a good opportunity to take advantage of the flexibility afforded by planning for housing reforms. This opportunity is discussed further in Chapter 9 – Key issues.

### **Applying the Buffer Area Overlay**

Amendment VC175 introduced the Buffer Area Overlay (BAO). The BAO is a new amenity buffer that is designed to make sure sensitive land uses, like schools and residences, are not affected by odour or dust from industries operating nearby. This control may be suitable for application around a range of infrastructure assets in the Shire, including wastewater treatment plants. This work is best led by the owners of the assets.

There may be other uses in the municipality where the BAO may be appropriate, such as quarrying / mining operations; however, no obvious ones were identified in this planning scheme review.

## 4 Previous planning scheme review

### 4.1 Previous planning scheme review

Council last undertook a comprehensive review of the planning scheme in 2014. The review found:

- The Surf Coast Planning Scheme is consistent with and implements State Planning Policy.
- The planning scheme is consistent with the current adopted Council Plan 2013-2017.
- The strategic performance of the scheme is sound, as demonstrated by the Planning Scheme Monitoring and Review Project and a review of VCAT decisions and panel reports.
- A significant amount of strategic work has been completed and implemented since the previous review of the scheme.
- The Victorian government has undertaken and implemented several major planning policy and legislative reviews and reforms, including new bushfire management provisions, new residential and commercial zones, reformed rural zones and amendments to the Planning and Environment Act 1987 which require an update to local provisions, including policy relating to Bells Beach.
- The major planning issues facing the municipality are urban growth, bushfire management and development in rural areas.
- Process improvements have resulted in better service and assistance to customers.

The previous review recommended seven actions:

- Prepare a Prescribed Amendment under Section 20(A) of the Planning and Environment Act 1987 to correct minor anomalies and inconsistencies, remove redundant provisions and improve the clarity of the scheme.
- Undertake the following strategic work within the next three years:
  - Investigation of land use opportunities in rural areas (tourism, rural industries, food production using recycled water).
  - Implementation of the bushfire policy review; and
  - Review of Special Investigation Areas considering the revised bushfire planning provisions (which will be influenced by the Victorian government bushfire management overlay review).
- Undertake a customer service review in Statutory Planning.
- Investigate whether overlays within the scheme can be rationalised to avoid repetition.
- Investigate use of a new format for the schedule to 52.01 for open space contribution.
- Undertake new car parking surveys for Torquay Town Centre and investigate an amendment to the schedule to the Parking Overlay to apply an appropriate car parking rate for shops, offices and food and drink premises in a local context.
- Undertake a planning scheme amendment to improve the policy provisions applying to Bells Beach to provide better direction and expand the area to which the policy applies.

The findings of this review were adopted by Council on 26 August 2014 and translated into the planning scheme via Amendments C101, C102 and C121, which were gazetted on 6 August 2015, 12 February 2015 and 12 April 2018 respectively.

## 4.2 Progress since last review

Council has implemented all but one of the recommendations from the last review through:

- Amendment C121, which modified the planning policy, zone and overlay provisions to increase protection of the Bells Beach hinterland. The policy changes also applied to broader areas in proximity to the Great Ocean Road.
- The preparation of the Rural Hinterland Futures Strategy 2019, which was subsequently implemented via Amendment C133. The amendment implemented the strategic directions of the Strategy by providing a planning policy framework that enables increased agricultural, agritourism and tourism opportunities while protecting the environmental and landscape values of the hinterland.

## 4.3 Outstanding work since last review

The only item outstanding since the last review is updating flood mapping for the Thompsons River catchment.

Council has done an effective and impressive job in delivering all but one of the recommendations of the 2014 review.

### Recommendation:

- A. **Work with the Corangamite Catchment Management Authority to update flood mapping for the Thompsons Creek catchment.**

## 4.4 Findings

Council has introduced some important changes since the last planning scheme review, most notably the restructure of the planning scheme; and the preparation of the Surf Coast Open Space Strategy 2015-2025, the Rural Hinterland Futures Strategy 2019 and the Torquay - Jan Juc Retail and Employment Land Strategy 2021.

However, the major issue of accommodating urban growth, bushfire management, protection of environment and landscape values, and development in rural areas remains and is becoming increasingly difficult to manage. In addition, new issues have emerged related to climate change adaptation and risk management, housing affordability and protection of neighbourhood character. The STATEMENT OF PLANNING POLICY, once implemented, will fundamentally change the settlement pattern in the Shire.

These are all issues that have been clearly identified by Council in its Council Plan demonstrating the high level of awareness by Council of the highest priority planning issues that need to be addressed.

## 5 Audit and assessment of current scheme

### 5.1 Methodology

An audit of each local provision (policies and schedules) in the planning scheme has been undertaken. This audit has compared the drafting and application of each local provision against the Ministerial Direction on the Form and Content of Planning Schemes, a Practitioner’s Guide to Victoria’s Planning Schemes (Version 1.5, April 2022) and relevant planning practice notes.

Each provision has also been assessed with consideration to the work it is doing in achieving the strategic objectives that are set out in the State, regional and local planning provisions.

Generally, the planning scheme is well drafted and complies with Victorian government requirements. There are some minor matters that should be corrected in a future ‘housekeeping’ planning scheme amendment, and some matters that require a more detailed review bring the provisions in line with the form and content requirements.

### 5.2 Drafting matters to include in Council’s next ‘housekeeping’ amendment

These are minor corrections that have no policy impact that can be included in Council’s next ‘housekeeping’ planning scheme amendment.

#### **Municipal Planning Strategy**

- Update to include latest demographic and economic data.

#### **Planning Policy Framework**

- Make minor wording changes to clarify how lists should be interpreted.
- Remove ‘double verbs’ at the front of strategies to remove ambiguity about intent of strategy.
- Move CFA as a referral authority to the correct location at Clause 66.04s.

#### **Zones and overlays**

- Rationalise objectives to the number specified in the Ministerial Direction on the Form and Content of Planning Schemes where it does not change policy intent.
- Minor wording changes to various provisions so that preamble wording for provisions aligns with the Ministerial Direction on the Form and Content of Planning Schemes.
- Split the Farming Zone schedule 1 into three schedules to show the different minimum subdivisions sizes permitted.
- Relocate decision guidelines in the Special Use Zones to the correct location in the schedule.
- Reword vegetation requirement in ESO1 to clarify interpretation with Clause 52.13 and 52.17 provisions.

#### **Clause 66.04s**

- Move referral authorities where incorrectly listed in other parts of the scheme to this clause.



### **Clause 72.08s Background documents**

- Update to include all documents referred in the PPF that aren't currently listed.

### **Clause 74.02 Further strategic work**

- Update to include Council's up to date further strategic work program for the planning scheme.

## **5.3 Matters requiring further review**

These are changes that have been identified that are more than a simple correction. In some cases, policy intent may be changed (for instance when rationalising 10 objectives down to three objectives in an overlay control) and require strategic review. Other changes, such as splitting the Low Density Residential schedule into parts are complex and require consideration of the impacts before proceeding. These changes are identified in the recommendations at 5.4.

## **5.4 Conclusion**

The audit of the planning scheme has found that the local provisions are performing well. For the most part, the audit only 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 areas for concern arising from the audit relates to the:

- Schedules to the Environmental Significance, Vegetation Protection and Significant Landscape Overlays contain permit exemptions for vegetation removal that are less generous and, therefore, not consistent with the State-standard bushfire exemptions at Clause 52.12. If vegetation retention / protection is a priority in these areas, future strategic work is required to elevate the vegetation protection outcomes sought to be achieved by these overlays.
- Some of the schedules to the Environmental Significance, Design and Development, Development Plan, Neighbourhood Character and Parking Overlays contain many more objectives that permissible under the Ministerial Direction, and many objectives do not provide a clear understanding of the planning objective(s) being sought by the overlay but relate more to policy and guidelines to achieve an unclear objective. Some of the statements of significance in the Environmental Significance Overlays, Neighbourhood Character Overlays (NCOs) and Significant Landscape Overlays do not provide enough direction to help applicants understand what is expected, and planners to make consistent decisions.

### **Recommendations:**

Most of the changes resulting from the findings of the audit of the planning scheme can be made as part of the planning scheme amendment seeking to implement the planning scheme review.

- B. Amend the MPS, local PPF policies and schedules to include changes identified in the audit of the planning scheme review when preparing the next 'housekeeping' planning scheme amendment.**

The following findings of the audit are beyond the scope of this review and have been identified as further strategic work for Council:

- C. Re-draft schedules to align with the Ministerial Direction: the Form and Content of Planning Schemes and the Practitioner’s Guide to Victoria’s Planning Schemes as follows.**
- Re-draft the tables of uses for SUZ1, SUZ2, SUZ3 and SUZ6.
  - Identify the ‘land use determinations’ and introduce these into ESO2.
  - Rationalise the number of objectives in NCO1, NCO2 and NCO3.
  - Ensure the decision guidelines of DDO4 are ‘neutral’.
- D. Determine whether vegetation retention or protection is the strategic priority in areas where ESO4, ESO5, VPO1, SLO1, SLO3 and SLO4 apply, and undertake future strategic work to elevate the vegetation protection outcomes sought to be achieved by these overlays.**
- E. Incorporate relevant content from the documents listed in ESO1 and include them in the schedule to Clause 72.04.**
- F. Notify DTP of the lapse date of SLO8 (31 December 2026) in a timely manner to provide time for a planning scheme amendment to extend the date of the provision.**
- G. Consider whether the application requirement in the schedule to the Heritage Overlay necessitating the preparation of a Conservation Management Plan for all applications is required.**
- H. Consider whether the existing schedules to the LDRZ, RLZ, FZ, DDO4, DDO6 and DDO7 should be re-drafted further to apply to specific areas. This would assist in making them more legible.**

## 6 Planning scheme performance

This section contains an analysis of planning permit activity that has taken place during the last four years. It draws on both publicly available Planning Permit Activity and Reporting System (PPARs) data and data provided by Council.

### 6.1 Planning permit activity

#### 6.1.1 Number of permits assessed

##### Discussion and evidence

Table 1 shows the number of permit applications received between the 2018/19 and the 2021/22 financial years. Permit activity in Surf Coast Shire has been generally steady over this period ranging from 573 applications received in 2019/2020 and 655 applications received in 2020/2021. The average number of permits processed per year stands at 622.25. This is despite a general trend across the state in increased permit activity in regional areas, which has been attributed to the COVID-19 pandemic.

Table 1: PPARs report for permits issued between the 2018/2019 financial year and the 2021/2022 financial year

Permits (including refusals)	2018/19	2019/20	2020/21	2021/22
Received	623	573	655	638
NOD	79	77	73	87
New / Amended Permit	526	473	520	531
Refused	14	20	20	9

Source: PPARs

#### 6.1.2 Service performance

##### Discussion and Evidence

Table 2 shows that Council's processing times have steadily increased over the four-year period from an average processing time of 91 days in 2018/19 to 111 days in 2021/22. Over the past four years, 79% of applications have been determined by Council within 60 days, which is a far greater determination rate than both the rural average (69.65%) and the peri-urban group of councils (65.8%).

Table 2: Statutory processing times between 2018/2019 and 2021/2022

	2018/19	2019/20	2020/21	2021/22
Statutory days for decision making	91	99	110	111

Source: PPARs

### 6.1.3 Most common permit triggers

#### Discussion and Evidence

Table 3 shows that, over the past four years, Council’s main permit activity has related to applications for extensions to existing dwellings and associated structures and applications for one or more new buildings, with more than one-fifth of all applications relating to extensions to existing dwellings and associated structures.

Table 3: Most common types of applications from 2018/2019 to 2021/2022

Application categories	Number of applications	% of applications
Extension to an existing dwelling or structure associated with a dwelling	788	22.47%
One or more new buildings	533	15.20%
Single dwelling	431	12.29%
Other	353	10.07%
Change or extension of use	298	8.50%
Alterations to a building structure or dwelling	278	7.93%
Subdivision of land	274	7.81%
Native vegetation removal	98	2.79%
Multi-dwelling	98	2.79%
Signage	67	1.91%
Extension to existing building or structure (other than dwelling)	65	1.85%
Other buildings and works (including septic tanks, dams, earthworks)	65	1.85%
Liquor license	41	1.17%
Subdivision buildings	27	0.77%
Subdivision - Change to easement and/or restrictions	23	0.66%
Subdivision - Realignment of boundary	23	0.66%
Other vegetation removal	13	0.37%
Telecommunications facility	13	0.37%
Waiving of parking requirement	11	0.31%
Demolition	5	0.14%
Consolidation	2	0.06%
Subdivision - Removal of covenant	1	0.03%
	<b>3507</b>	<b>100.00%</b>

Source: Council

“Other” is a PPAR’s application category that is usually utilised when a proposal does not logically fit within any of the other listed categories. Council provided a further breakdown and analysis of applications within the “Other” category, and these are as shown in Table 4, this breakdown indicates that the top 5 application types to which the “Other” category was applied were:

- Other buildings and works (including septic tanks, dams, earthworks).

- One or more new buildings.
- Single dwelling.
- Change or extension of use; and
- Subdivision of land.

Table 4: Breakdown of 'other' PPAR's application category, 2018/2019 and 2021/2022

<b>Breakdown of 'other' application category</b>	<b>Number of applications</b>	<b>% of applications</b>
Other buildings and works (including septic tanks, dams, earthworks)	106	21.59%
One or more new buildings	58	11.81%
Single dwelling	44	8.96%
Change or extension of use	43	8.76%
Subdivision of land	43	8.76%
Multi-dwelling	35	7.13%
Native vegetation removal	30	6.11%
Extension to an existing dwelling or structure associated with a dwelling	24	4.89%
Alterations to a building structure or dwelling	17	3.46%
Extension to existing building or structure (other than dwelling)	17	3.46%
Other	16	3.26%
Signage	14	2.85%
Liquor license	13	2.65%
Subdivision - Change to easement and/or restrictions	12	2.44%
Waiving of parking requirement	8	1.63%
Telecommunications facility	5	1.02%
Other vegetation removal	2	0.41%
Demolition	1	0.20%
Subdivision buildings	1	0.20%
Subdivision - Removal of covenant	1	0.20%
Subdivision - Realignment of boundary	1	0.20%

Source: Council

#### **6.1.4 Applications exceeding 60 days**

##### **Discussion and Evidence**

Table 5 shows the application categories for which the 60-day statutory timeframe was exceeded and the corresponding number.

Table 5: Application categories exceeding 60-day processing times between 2018/2019 and 2021/2022

<b>Application categories</b>	<b>No. Applications greater than 60-day timeframe</b>
One or more new buildings	104
Extension to an existing dwelling or structure associated with a dwelling	98
Single dwelling	81
Change or extension of use	77
Subdivision of land	68
Other	53
Alterations to a building structure or dwelling	37
Native vegetation removal	27
Multi-dwelling	23
Extension to existing building or structure (other than dwelling)	11
Other buildings and works (including septic tanks, dams, earthworks)	11
Subdivision - Change to easement and/or restrictions	7
Telecommunications facility	7
Liquor License	6
Signage	6
Subdivision buildings	5
Other vegetation removal	3
Subdivision - Realignment of boundary	3
Waiving of parking requirement	2

Source: Council

A comparison between Table 3 and Table 5 (refer Table 6) indicates that the top 5 application categories for which the 60-day statutory timeframe was exceeded had a strong correlation with the top 5 application categories that were dealt with by the Shire.

Table 6: Top 5 application categories compared to top 5 application categories exceeding 60-day processing times between 2018/2019 and 2021/2022

<b>Top 5 common types of applications, 2018 to 2022</b>	<b>Top 5 application categories exceeding 60 days, 2018 to 2022</b>
1. Extension to an existing dwelling or structure associated with a dwelling	1. One or more new buildings
2. One or more new buildings	2. Extension to an existing dwelling or structure associated with a dwelling
3. Single dwelling	3. Single dwelling
4. Other	4. Change or extension of use
5. Change or extension of use	5. Subdivision of land

Source: Council

## 6.1.5 Geographic spread of planning permit applications

### Discussion and Evidence

Table 7 shows the geographic spread of planning permit applications across the Shire. As the main urban growth centre of the Shire, it is no surprise that Torquay /Jan Juc have attracted the highest number of applications over the preceding four years.

Similarly, it is not surprising that the coastal settlements of Anglesea, Lorne and Aireys Inlet have attracted a high number of applications given popularity of the townships, the sensitivity of their landscape and environmental features and the range of applicable controls that trigger a planning permit.

Being the largest inland town in the Shire and the major service centre for the surrounding farming community, it is also not unexpected that Winchelsea has also attracted a high number of applications over the preceding four years.

Individually, each of these six localities attracted greater than 5% of the total number of applications received between 2018 and 2022.

Table 7: Geographic spread of applications 2018/2019 and 2021/2022

Locality	Number of applications	% of applications
Torquay	694	21.98%
Anglesea	675	21.37%
Lorne	418	13.24%
Aireys Inlet	283	8.96%
Jan Juc	205	6.49%
Winchelsea	165	5.22%
Fairhaven	140	4.43%
Bellbrae	89	2.82%
Freshwater Creek	54	1.71%
Deans Marsh	34	1.08%
Bells Beach	31	0.98%
Gherang	29	0.92%
Mount Moriac	28	0.89%
Modewarre	27	0.85%
Moggs Creek	27	0.85%
Moriac	26	0.82%
Wensleydale	26	0.82%
Gnarwarre	24	0.76%
Mount Duneed	23	0.73%
Pennyroyal	22	0.70%
Paraparap	19	0.60%
Buckley	16	0.51%
Bambra	15	0.47%

Locality	Number of applications	% of applications
Eastern View	14	0.44%
Winchelsea South	13	0.41%
Barrabool	12	0.38%
Big Hill	10	0.32%
Connewarre	10	0.32%
Inverleigh	10	0.32%
Wurdiboluc	9	0.28%
Boonah	6	0.19%
Benwerrin	2	0.06%
Birregurra	1	0.03%
Ombersley	1	0.03%
	<b>3158</b>	<b>100.00%</b>

Source: Council

Tables 8 to 13 identify the 'top 5' application categories within each locality over the past 4 years.

Table 8: 'Top 5' application categories for Torquay, 2018/2019 and 2021/2022

Torquay	No. Applications	% applications
One or more new buildings	107	13.06%
Subdivision of land	107	13.06%
Change or extension of use	103	12.58%
Other	81	9.89%
Single dwelling	79	9.65%

Source: Council

Table 9: 'Top 5' application categories for Anglesea, 2018/2019 and 2021/2022

Anglesea	No. Applications	% applications
Extension to an existing dwelling or structure associated with a dwelling	247	33.88%
Single dwelling	112	15.36%
One or more new buildings	97	13.31%
Alterations to a building structure or dwelling	75	10.29%
Other	59	8.09%

Source: Council

Table 10: 'Top 5' application categories for Lorne, 2018/2019 and 2021/2022

Lorne	No. Applications	% applications
Extension to an existing dwelling or structure associated with a dwelling	144	32.65%



<b>Lorne</b>	<b>No. Applications</b>	<b>% applications</b>
Alterations to a building structure or dwelling	59	13.38%
Other	58	13.15%
One or more new buildings	52	11.79%
Single dwelling	49	11.11%

Source: Council

Table 11: 'Top 5' application categories for Aireys Inlet, 2018/2019 and 2021/2022

<b>Aireys inlet</b>	<b>No. Applications</b>	<b>% applications</b>
Extension to an existing dwelling or structure associated with a dwelling	112	36.96%
Single dwelling	48	15.84%
One or more new buildings	35	11.55%
Other	30	9.90%
Alterations to a building structure or dwelling	22	7.26%

Source: Council

Table 12: 'Top 5' application categories for Jan Juc, 2018/2019 and 2021/2022

<b>Jan Juc</b>	<b>No. Applications</b>	<b>% applications</b>
Extension to an existing dwelling or structure associated with a dwelling	51	22.37%
One or more new buildings	41	17.98%
Other	30	13.16%
Single dwelling	24	10.53%
Subdivision of land	21	9.21%

Source: Council

Table 13: 'Top 5' application categories for Winchelsea, 2018/2019 and 2021/2022

<b>Winchelsea</b>	<b>No. Applications</b>	<b>% Applications</b>
Subdivision of land	65	34.03%
One or more new buildings	29	15.18%
Change or extension of use	27	14.14%
Other	24	12.57%
Single dwelling	13	6.81%

Source: Council

The 'top 5' application categories within each locality over the past four years reflect the nature of land use and development that would be reasonably anticipated within the key settlements within the Shire.

It is notable that the subdivision of land accounted for 34% of all applications in Winchelsea over the past 4 years. Council has undertaken a substantial amount of work to establish a planning framework to facilitate the growth and development of Winchelsea as an alternative to Torquay / Jan Juc (which, being the major urban growth centre of the Shire also experience a high number of applications for the subdivision of land), including the strategic identification of preferred greenfield and infill residential sites and associated controls. The data indicates that that framework is achieving its objectives.

## 6.1.6 Decision-making

### Discussion and Evidence

A further breakdown of the data presented above is outlined in Table 14, was provided by Council, which indicates that between 2018/2019 and 2021/2022 just nine decisions were made by Council with all other decisions made under delegation. Of the nine decisions made by Council:

- 7 were decisions to issue a Notice of Decision.
- 1 was a decision to issue a Permit; and
- 1 was a decision to refuse to issue a Permit.

Table 14: Decision making on permits between 2018/2019 and 2021/2022

Responsible authority outcome	Number	%
Permit issued by a delegate of the Responsible Authority	1926	61%
Withdrawn	318	10%
Notice of Decision issued by a delegate of the Responsible Authority	314	10%
In progress	193	6%
Permit issued by the Responsible Authority	187	6%
Lapsed	80	3%
Refusal of Decision issued by a delegate of the Responsible Authority	62	2%
Notice of Decision issued by the Responsible Authority	52	2%
Failure to determine	6	0%
Refusal of Decision issued by the Responsible Authority	1	0%
No permit required	0	0%
	<b>3139</b>	<b>100%</b>

Source: Council

## 6.1.7 VCAT matters

Surf Coast Shire appeared regularly at VCAT over the four-year period. Eighty-six planning permit applications were appealed to VCAT from July 2018 to June 2022, which is only 2.7% of the overall total. This is within the range of comparable councils and is considered reasonable. Only a small proportion was set aside or struck out.

Table 15-: VCAT outcomes between 2018/2019 and 2021/2022

Affirmed	15	17.44%
Varied	42	48.84%
Set aside	17	19.77%
Withdrawn/struck out	11	12.79%
Remit	1	1.16%
	<b>86</b>	<b>100.00%</b>

Source: Council (note: excludes 'no appeal' [3041] & 'in progress' [12])

### 6.1.8 Summary

Surf Coast Shire has got an excellent handle on the issues that are coming up through the permit application process. The only issue of concern from this data is the increasing length of time that it is taking to process decisions. Council should try and identify why this is, and what actions can be put in place to reverse the slippage if possible. The key issue is matching the resources required to process the type of applications Council is receiving.

## 6.2 Planning Panels Victoria

### 6.2.1 Summary of planning scheme amendments

Council has undertaken 45 municipal planning scheme amendments (C amendments) since the last planning scheme review. A detailed analysis of these has been provided to Council officers. Major planning scheme amendments that impacted on the planning policy framework for Surf Coast that were considered by Planning Panels Victoria are summarised below.

- **C68, in operation from 20 March 2018:** implemented the major recommendations of the Surf Coast Shire Rural Strategy.
- **C97, in operation from 19 May 2016:** implemented the land use recommendations in the Council adopted Anglesea Great Ocean Road Study 2013 by developing new zone controls (Special Use Zone schedule 8 - SUZ8) for the Tourist Development Precincts around Diggers Parade and Four Kings.
- **C120surf, in operation from 28 March 2019:** implemented the strategic directions of the Growing Winchelsea: Shaping Future Growth 2015 plan by updating the Municipal Strategic Statement and making zone and overlay changes.
- **C121surf, in operation from 12 April 2018:** modified planning policy, zone and overlay provisions to increase protection of the Bells Beach Hinterland Review. Policy changes also affect broader areas in proximity to the Great Ocean Road.
- **C125, in operation from 28 October 2020:** rezoned land at Cape Otway Road, Modewarre from Rural Conservation Zone and the Farming Zone to the Comprehensive Development Zone schedule 3 to facilitate the development of an elite sports training facility, tourism accommodation and retail development.
- **C133surf, in operation from 20 January 2023:** implemented the strategic directions of the Rural Hinterland Futures Strategy 2019 by providing a Planning Policy Framework that enables

increased agricultural, agritourism and tourism opportunities while protecting the environmental and landscape values of the hinterland.

## **6.2.2 Policy issues raised at Panels**

The issues raised by Panels that have policy implications for the planning scheme were:

- Develop preferred siting and design criteria for caravan parks as part of integrated tourism planning strategies and economic development initiatives.
- Undertake a review of the policy and planning controls applying to the Bells Beach Hinterland Area.

The matters are discussed in the following sections.

## **6.2.3 Siting and design criteria for caravan parks**

### **Evidence**

**Amendment C68 (Part 1)** sought to implement major recommendations of the Surf Coast Shire Rural Strategy 2007. The Amendment comprised two main parts:

- Part A: Strengthening recognition of the importance of rural landscapes and improved defining of landscape precincts in the Municipal Strategic Statement; and
- Part B: Introduction of the Rural Activity Zone to specific sites in the Bellbrae and Deans Marsh rural hinterland and targeted tourism provisions for rural areas

The Panel concluded that the 2007 Strategy provided a sound strategic basis for Amendment C68 and recommended adoption of the Amendment subject to a small number of changes, including clarification about the fire risk of a few properties in the Bellbrae region. The Panel also considered that Council should develop preferred siting and design criteria for caravan parks as part of integrated tourism planning strategies and economic development initiatives and investigate appropriate measures to protect environmentally sensitive sites in Freshwater Creek and adjacent the Otway foothills south of Deans Marsh.

Following receipt of the Panel Report, owing to the preparation of the revised bushfire mapping by the Department of Planning and Community Development (currently DTP), Council resolved to split the amendment and Amendment C68 (Part 1) was subsequently gazetted and Amendment C68 (Part 2) lapsed.

### **Discussion**

The Panel considered that despite in-principle support for caravan park development in Surf Coast Shire Council's economic development and tourism strategies, the Planning Scheme has failed to facilitate the development of caravan and camping park sites to compensate for the loss of existing facilities. The Panel does not consider that the planning framework for the proposed Rural Activity Zone should prevent or discourage caravan parks as small-scale caravan parks and camping are possible and should be accommodated in the Rural Activity Zone as an allowed use. The Panel also considered that the merits of larger proposals should also be capable of consideration, although a strong case would be necessary. To assist in any assessment, the Panel recommended that siting and design criteria for caravan parks be prepared.

This specific recommendation is something that has been taken into account in Council's Affordable and Key Worker housing work, discussed in Chapter 9.

The Panel stated that the Rural Strategy had recommended that environmentally sensitive sites in Freshwater Creek and adjacent the Otway foothills south of Deans Marsh should be considered for inclusion in the Rural Conservation Zone but Amendment C68 (and therefore the Panel Report) did not address those recommendations, beyond suggesting this further work should be identified in the Municipal Strategic Statement. This is work that will be picked up in future significant environment and landscape work recommended in Chapter 9.

#### **6.2.4 Bells Beach Hinterland Area**

##### **Evidence**

**Amendment C122** sought to modify planning policy, zone and overlay provisions applying to the Bells Beach hinterland to better recognise the important landscape, environmental and cultural role of Bells Beach.

The Panel determined that the Amendment was broadly strategically justified by the underpinning studies; however, it considered that there is some lack of clarity as to the extent of the Bells Beach area that is justified for the application of policies. The Panel considered that the Amendment suffered from some confusion mainly arising from definitions and descriptions of areas to which policies and related controls apply.

The Panel also considered that the Amendment sought to make a number of key changes to existing policy in the absence of any apparent thorough review of how the policies and the related zones and overlays interact to protect the Bells Beach area or indeed which parts of the Bells Beach area and its approaches were intended to be protected, why and through which planning tool.

The Panel formed the view that a broader review of relevant policies and controls, and the area of impact should be undertaken. The Panel felt that it should be clear whether a policy applies to any particular property and that leaving this as uncertain and to be judged on a case-by-case basis leads to too much uncertainty.

##### **Discussion**

As part of the adoption of Amendment C121, the Panel recommended Council consider whether there may be an opportunity through the Hinterland Futures Project to investigate the Panel's concerns. The fourth bullet point of Item 2.1 Amendment C121 - Bells Beach Hinterland Review on the agenda to the Ordinary Council Meeting held on 23 January 2018 recommended that Council 'consider at [a] future meeting whether a rezoning is required for land north of Bones Road, including how best to protect entry points into the Bells Beach Surfing Recreation Reserve, as part of any future planning scheme amendment that results from the Hinterland Futures Strategy, when completed.' Council did not resolve to include this recommendation and the Rural Hinterland Futures Strategy 2019 did not make any recommendations regarding the land.

Undertake a review of the extent and significance of the Bells Beach Hinterland and Viewshed areas and review all planning controls applying to the land to ensure the appropriate planning tools apply and that all controls interrelate to one another.

Some of this work will be picked up in the Statement of Planning Policy amendment being progressed by the Victorian government, the Urban Futures Strategy being prepared by Council and the recommendations in Chapter 9 of this report if pursued by Council.

## 6.3 Amendment C130surf

The Sands Torquay Residential Lakes and Golf Course Development is zoned Comprehensive Development Zone. Schedule 2 to the Comprehensive Development Zone applies to the land, which is an integrated golf course development (including privately owned lots/dwellings, a golf course, a club house and common property (including drainage through the site)). Recently, Council prepared Amendment C130surf to translate the residential buildings and works controls that are set out in the Sands, Torquay Building and Environmental Management Code (the Code), in schedule 2. The Code was administered by the then defunct The Sands Torquay Architectural Review Committee and operated outside of the planning scheme.

Schedule 2 is currently seen as being too long and difficult to determine whether or not a permit is required. It must also be read in conjunction with a Section 173 Agreement, which includes, among other things, requirements relating to colours and fences, etc. This makes it cumbersome for users of the planning scheme to understand. The schedule also references the Golden Beach Concept Plan, which has long since been superseded by an approved comprehensive development plan.

The Section 173 Agreement also sets out obligations in relation to the stormwater infrastructure running through the site. The stormwater from the site ultimately outfalls into the Karaaf Wetlands. Council is currently working with Barwon Water on a concept to divert stormwater away from the Karaaf Wetlands, to mix it with recycled water from Black Rock Water Reclamation Plant and to use it to support high value agricultural activities in the Thompson Valley.

Once this project is complete, there will be a need to review the Section 173 Agreement. Given that the Comprehensive Development Zone is generally seen as an interim zone awaiting the development of land, any review of the Section 173 Agreement would also be an opportune moment to review the planning controls applying to the Sands Torquay Residential Lakes and Golf Course Development.

- I. **Undertake a review of the Section 173 Agreement and the planning controls applying to the Sands Torquay Residential Lakes and Golf Course Development following the completion of the Karaaf Wetlands project.**

## 6.4 VCAT

### 6.4.1 VCAT cases reviewed

Council officers provided the following list of VCAT cases to review.

- Amerl Industries Pty Ltd v Surf Coast SC [1 November 2021] VCAT1258
- Goldschlager v Surf Coast SC [28 August 2019] VCAT1311
- Heading v Surf Coast SC [9 March 2018] VCAT337
- Luso Pty Ltd v Surf Coast SC [15 March 2022] VCAT271
- R and L Bell Pty Ltd v Surf Coast SC [12 April 2021] VCAT332
- Regional Billboard Co Pty Ltd v Surf Coast SC [6 July 2020] VCAT735
- Walker v Surf Coast SC [8 November 2019] VCAT1725

## **6.4.2 Policy issues raised at VCAT**

The issues raised with policy implications at VCAT related to:

- Discretionary building heights in Schedules 2 and 3 to the Neighbourhood Character Overlay.
- Neighbourhood character standards modified in Schedule 3 to the Neighbourhood Character Overlay versus those at Clause 54 One dwelling on a lot.
- Building heights and neighbourhood character at the Esplanade in Torquay.
- Electronic promotion sign that 'should be dominated by images and pictures of surfing and the coast.'

## **6.4.3 Discretionary building heights in the Neighbourhood Character Overlay**

### **Summary**

In *Goldschlager v Surf Coast SC* [28 August 2019] VCAT1311, Council granted a planning permit for the construction of a two-storey dwelling (P15/0486) and a planning permit for a boundary realignment (P16/0357). In 2018, the applicant applied to increase the overall building height by 1.1m and change the external materials to meet BAL-40 requirements, and to extend both permits. The applicant argued that the recent application of the Bushfire Management Overlay, which was applied after the permits were granted, required changes to the height and materials proposed.

Among several reasons given, Council opposed the change to building height on visual impact and character grounds.

The Tribunal determined that the proposed change to building height complied with the 11m mandatory height in the General Residential Zone but exceeded the preferred (discretionary) 7.5m building height in the Neighbourhood Character Overlay and would result in an acceptable built form outcome and not unreasonably impact upon views. The Tribunal found that the material changes were necessitated by and appropriate given the site's bushfire risk, and that the new materials proposed were consistent with neighbourhood character and would not unreasonably add to the visual bulk and prominence of the dwelling.

In *Heading v Surf Coast SC* [9 March 2018] VCAT337, the applicant appealed Council's Planning Committee's decision to refuse permission for a proposal seeking the construction of single dwelling on a lot. Council opposed the proposal on visual bulk and unreasonable sharing of views grounds. In part, Council argued the proposal would create a built form that relied upon manufactured (as opposed to natural) ground levels. This was disputed by the applicant and the Tribunal found that, regardless of characterisation of ground level (which influenced whether the maximum but discretionary building height in schedule 2 to the Neighbourhood Character Overlay was exceeded), the proposed built form would result in an acceptable neighbourhood character outcome and not result in reduced residential amenity by loss of views, overlooking or overshadowing.

### **Discussion**

The issue of whether building height requirements under the Victoria Planning Provisions should be expressed as mandatory or discretionary has been the subject of detailed consideration by several Panels. The conclusions reached by these Panels have established the principle that the appropriate or preferred means of expressing building height requirements in planning schemes is as a 'discretionary' provision, with 'mandatory' height limits being applied only in exceptional circumstances.

If Council wishes to limit the height of buildings within areas where Schedules 2 and 3 to the Neighbourhood Character Overlay apply, it could consider using the residential suite of zones, which were recently reformed to strengthen maximum building height controls.

Consider amending the varied building height in Schedules 2 and 3 to the Neighbourhood Character Overlay using the residential suite of zones, which were recently reformed to strengthen maximum building height controls, as part of the preparation of a neighbourhood character study for the major urban areas (current and emerging) recommended later in this review.

This should be addressed in the proposed future project outlined in Chapter 9 to review the controls in each coastal settlement, to ensure that the overall objectives for each settlement are being achieved in the context of the introduction of the Bushfire Management Overlay (BMO) (which occurred after the NCO was applied) and other controls.

#### **6.4.4 Neighbourhood character standards – conflict between the NCO and Clause 54 and 55.**

##### **Summary**

In *R and L Bell Pty Ltd v Surf Coast SC* [12 April 2021] VCAT332 the applicant appealed Council's refusal of a proposal for alterations and additions to an existing dwelling. The existing dwelling was part of a medium density development approved prior to the application of the NCO to the land, and all dwellings in the development fail to meet the overlay's modified Clause 54 standards.

Council argued the proposal would exacerbate existing non-compliance and result in an unreasonable planning outcome refusing the application based on failure to meet a number of the modified Clause 54 standards. Substituted plans later amended the proposal and the Tribunal only considered a proposal that failed to meet the overlay's modified Clause 54 standard in relation to plot ratio (at 0.76 while the preferred value was 0.4).

The Tribunal's view was that the key question was not whether the preferred plot ratio was exceeded, but rather whether the proposed increase in plot ratio was likely to adversely impact built form and neighbourhood character. The Tribunal found the extensions were largely obscured from direct views from the street and would not result in excessive building or massing towards adjoining dwellings. The Tribunal found that despite non-compliance with the modified plot ratio standard, the proposal achieved an appropriate outcome.

##### **Discussion**

If Council wishes to limit development like this within areas where Schedule 3 to the Neighbourhood Character Overlay apply, it could consider making the modified Clause 54 standards mandatory.

Council should consider amending the modified Clause 54 standards in Schedule 3 to the Neighbourhood Character Overlay from a discretionary to a mandatory requirement in accordance with Planning Practice Note 59: the Role of Mandatory Provisions in Planning Schemes as part of the preparation of a neighbourhood character study for the major urban areas (current and emerging) recommended later in this review.

This should be addressed in the proposed future project outlined in Chapter 9 to review the controls in each coastal settlement, to ensure that the overall objectives for each settlement are being achieved in the context of the introduction of the BMO (which occurred after the NCO was applied) and other controls.



## 6.4.5 Building heights and neighbourhood character at the Esplanade in Torquay

### Summary

In *Luso Pty Ltd v Surf Coast SC* [2022] VCAT 271, the applicant appealed Council's refusal to amend a permit that allowed for a three-storey mixed use development. The key amendment sought to introduce a fourth storey to the building.

Council opposed the amendments, particularly the fourth storey. Council's view was that existing two-three-storey building forms along the Esplanade have been highly successful in reacting to the planning scheme's desired outcomes in terms of building height.

The height controls in the Special Use Zone and Schedule 6 to the Design and Development Overlay are discretionary. The Tribunal was not persuaded that a fourth storey would achieve the design objectives of the overlay that sought to create a casual and relaxed built form that reinforces the general modest and human scale. On this basis, the Tribunal found that the proposed fourth storey would not be an acceptable design response.

The Tribunal noted that at the time of the decision:

- Council had adopted the Torquay Town Centre Project Urban Design Framework 2017 subject to changes including a maximum building height of 10.5m (three storeys) for the subject land. Limited weight was given to the Urban Design Framework in the Tribunal's decision in relation to height as it is not implemented in the planning scheme; and
- The draft Statement of Planning Policy documentation associated with the declaration of the Surf Coast Distinctive Areas and Landscape acknowledges a recommendation to retain the prevailing two-three-storey height along the Esplanade and up to four-storeys across 'most of the town centre' could be established. This was also given limited weight as it is yet to be implemented as it is not implemented in the planning scheme.

The Tribunal also noted that Schedule 6 to the Design and Development Overlay is not explicit about what constitutes a "coastal response" in Precinct 3.

In *Amerl Industries Pty Ltd v Surf Coast SC* [2021] VCAT 1258, the applicant appealed Council's refusal to amend a permit that proposal was for three-storey apartment complex (33 units).

Council acknowledged the proposal responded to broad directions of policy for more intensive residential development in established residential areas but refused the application as an overdevelopment that did not acceptably respond to overlays and policies relating to building height, landscape and neighbourhood character.

The Tribunal agreed and considered that a three-storey building on a wide frontage at this prominent location would not adequately responds to the preferred neighbourhood character policy and design objectives of the schedule 13 to the Design and Development Overlay. The Tribunal considered that a reduction of building mass, greater articulation and landscaping would be required to respond to the existing and preferred character and the interface with the foreshore reserve.

Of note, in its deliberations the Tribunal noted that the draft Statement of Planning Policy documentation associated with the declaration of the Surf Coast Distinctive Areas and Landscape provided a clear indication that planning controls in Torquay-Jan Juc were progressing towards more certainty and less flexibility in areas with significant development pressure.

## Discussion

The land use planning components of the Torquay Town Centre Project Urban Design Framework 2017 have not been implemented in the planning scheme. As a result, its findings and recommendations are being given little regard in the assessment of development proposals.

When Council prepares further work for the Torquay Structure plan, it should review Schedule 6 to the Design and Development Overlay and consider whether it should be more explicit about what constitutes an appropriate “coastal response” within Precinct 3 as part of the preparation of a neighbourhood character study for the major urban areas (current and emerging) recommended later in this review.

Implement the Torquay Town Centre Project Urban Design Framework 2017 into the Surf Coast Planning Scheme.

### **6.4.6 Electronic promotion sign that 'should be dominated by images and pictures of surfing and the coast'**

#### **Summary**

In *Regional Billboard Co Pty Ltd v Surf Coast SC* [6 July 2020] VCAT735, the applicant sought a review of the conditions on a planning permit. Council had granted a permit allowing the installation and display of an electronic promotion sign. Condition 4 stated ‘the sign hereby permitted must only contain materials/imagery that complement the surf and beach culture of Torquay through the dominance of images and pictures of surfing and the coast, to the satisfaction of the responsible authority.’

The applicant argued that the condition unreasonably restricted and mandated content of the sign. Council argued that the condition reinforced policy with the wording reflecting both design objectives and decision guidelines of Schedule 7 to the Design and Development Overlay, which Council determined provided clear direction on signage imagery reflecting the relevant performance criteria that ‘signs should be dominated by images and pictures of surfing and the coast.’ Council indicated it would not have supported the sign without the condition.

The Tribunal determined that condition 4 should be deleted as there was a lack of clarity about the outcome(s) that arise from the condition and that it, therefore, failed the test of certainty. The Tribunal found that Council had issued a permit that allowed electronic promotional advertising, which by nature has changeable imagery and content, that may include the advertising of goods, services, an event or any other matter that is not located on the land on which the sign is located. The Tribunal also found that the wording of the condition would require assessment of terms that are not defined in the planning scheme including ‘surf and beach culture’ and ‘dominated by images and pictures.’ The Tribunal found these words have no definable meaning and, therefore, required a subjective assessment that provided no certainty to the parties. The Tribunal also found that Council was unable to articulate with any certainty the nature of signage that would be supported / deemed compliant with the requirements of the overlay.

#### **Discussion**

Council may wish to consider whether it needs to more clearly articulate preferred / desired signage outcomes within tourism development Precinct T2 (Surf City Precinct) of schedule 5 to Clause 37.01 Special Use Zone; however, the Redink team is of the view that the condition imposed responds appropriately to the requirements of Schedule 7 to the Design and Development Overlay and is reasonable.

# 7 Stakeholder engagement

This section contains an overview and analysis of stakeholder engagement that has informed the planning scheme review. It includes data collected as part of a Council planners' survey, responses from key referral agencies and external stakeholders as well as feedback provided by planning staff, key internal staff, and Councillors through a series of workshops.

The intention of this part of the review is to provide context from those who most use the planning scheme and Councillors, as the community representatives. The findings of this engagement help refine the key issues that Council needs to address and prioritise the scope of further strategic work that should be undertaken during the next four years.

## 7.1 Planners' feedback

Council officers were asked to respond to a survey about the Surf Coast Planning Scheme. The Survey included questions to determine, from an officer perspective, how well the planning scheme is performing, controls that need refining or could be removed, applications that are taking more time than they should, and policy gaps. This survey assisted with the analysis of the planning scheme (Chapter 5) by identifying minor formatting and operational issues and helped identify the key issues that are explored in Chapter 9.

- Feedback from the initial planners' survey provided the basis for a workshop with Council planners held on 27 March 2023. The workshop expanded on the issues raised in the survey and analysed planning scheme performance more broadly.

Refer to Chapter 9 for a more detailed discussion about the matters raised.

## 7.2 Internal staff

Council staff identified as having an interaction with the Surf Coast Planning Scheme, either in an internal referral capacity or as an administrator of its policies, were asked to participate in a series of workshops held on 4 and 5 April 2023. A wide range of matters were raised by internal staff, many of which had already been identified by the planning team. The meetings with internal staff provided the opportunity to clarify internally what can and can't be controlled by the planning scheme, and the role different parts of Council need to play in planning infrastructure, responding to climate change impacts and community building activities.

The discussions with Council staff reinforced the findings made to date and identified some advocacy actions for Council to consider relating to affordable housing and use of data to assist with decision making relating to climate change adaptation and environmentally sustainable development.

### Recommendations:

- J. **Advocate to the Victorian government for a review of planning controls as they relate to short-term accommodation to help mitigate the impact it is having on housing affordability and rental availability.**
- K. **Advocate to the Victorian government to strengthen consideration of environmentally sustainable design and development and climate change, including the currency of data relied upon, in all planning schemes.**

### **7.3 Councillors and Executive team**

The Councillors and Executive team participated in a workshop on 4 April 2023. The workshop introduced the planning scheme review, discussed the objectives of planning in Victoria, and included a summary of analysis findings to date.

The Councillors were active and engaged participants in the workshop. The discussion with Council has provided an insight on the matters that are important to the Surf Coast community and assisted in developing the priority actions discussed in more detail in Chapter 9. Topics related to:

- Neighbourhood character standards including:
  - How they should be applied across the different settlements and where ‘existing character’ or ‘preferred character’ control should apply.
  - To what degree the tendency for larger housing is impacting the character of urban areas and how this can be managed.
  - The level of character change that is occurring in coastal communities.
- Aboriginal and historic heritage including:
  - Identifying gaps in the current suite of heritage work that has been done to date.
  - Ensuring that local heritage policy is robust enough to protect valued places which are under development pressure.
- Safeguarding green belts or wedges between urban areas as visitors and residents of Surf Coast alike enjoy the journey between urban centres.
- How to protect views of coastal landscapes when viewed from the beaches and water.

Some other more general issues were discussed including:

- How alcohol or bottle shop numbers can be controlled given the lack of discretion to do this in the planning system.
- What is best practice for reconciliation with First Nations peoples.
- If planning policies change, what happens for home owners who bought five years ago, are they stuck with the new standards.

### **7.4 Referral and notice agencies**

All relevant referral and notice agencies, and Registered Aboriginal Parties were invited to provide their written comments and feedback regarding the current performance of the Surf Coast Planning Scheme, in relation to their specific area(s) of responsibility.

#### **Alcoa**

Alcoa agreed to moving planning scheme references to the company from Clauses 1.0 and 2.0 of schedule 1 to Clause 37.01 (Special Use Zone) to Clause 66.04 (according to the Ministerial Direction: the Form and Content of Planning Schemes).

#### **Barwon Water**

Barwon Water agreed to moving planning scheme references to the organisation from Clauses 3.0 and 5.0 of Schedule 2 to Clause 42.01 (Environmental Significance Overlay) to Clause 66.04 (according to the Ministerial Direction: the Form and Content of Planning Schemes).

Barwon Water also requested amendments to Schedule 2 to Clause 42.01 (Environmental Significance Overlay).

#### **Corangamite Catchment Management Authority**

The Corangamite Catchment Management Authority (CCMA) stated that it had not received an application to date under Clause 3.0 of schedule 1 to Clause 42.01 (Environmental Significance Overlay) and that the Secretary to the Department of Energy, Environment and Climate Action was the appropriate referral authority in this instance.

The CCMA also agreed to moving planning scheme references to the organisation from Clause 4.0 of Schedule 3 to Clause 37.02 (Comprehensive Design Zone) to Clause 66.04 (according to the Ministerial Direction: the Form and Content of Planning Schemes).

#### **Country Fire Authority**

The Country Fire Authority (CFA) did not support any changes to the referrals included at Clause 14.01-1L-04, Clause 17.04-1L and Clause 4.0 of Schedule 3 to Clause 37.02 (Special Use Zone) and stated that any policy changes recommended by the review should be prepared with consideration for Clause 13.02-1S. The CFA's comments have been considered and are not supported as they are contrary to the Ministerial Direction: the Form and Content of Planning Schemes.

#### **Department of Energy, Environment and Climate Action**

The Department of Energy, Environment and Climate Action (DEECA) agreed to moving planning scheme references to the organisation from Clause 4.0 of Schedule 1 to Clause 37.01 (Special Use Zone), Clause 3.0 of Schedules 1, 4 and 5 to Clause 42.01 (Environmental Significance Overlay), Clause 3.0 of Schedule 1 to Clause 42.02 (Vegetation Protection Overlay) and Clause 3.0 of Schedule 1 to Clause 42.03 (Significant Landscape Overlay) to Clause 66.04 (according to the Ministerial Direction: the Form and Content of Planning Schemes).

DEECA was also contacted to explore further the feedback from Council planners that neither Council nor DEECA currently have the necessary expertise to assess or provide comment regarding development proposals within the Salinity Management Overlay or Significant Landscape Overlay. DEECA has not commented on this request.

#### **Department of Transport and Planning (formerly Department of Environment Land Water and Planning)**

The Department of Transport and Planning (DTP) agreed to moving the informal referral to DTP from Clauses 1.0, 2.0 and 4.0 of Schedule 1 to Clause 37.01 (Special Use Zone) – Alcoa Lease Land, Clause 3.0 of Schedules 1, 4 and 5 and Clause 5.0 of Schedule 2 to Clause 42.01 (Environmental Significance Overlay), Clauses 3.0 and 5.0 of Schedule 1 to Clause 42.02 (Vegetation Protection Overlay) and Clause 3.0 of Schedule 1 and Clause 5.0 of Schedule 6 to Clause 42.03 (Significant Landscape Overlay) to Clause 66.04 (according to the Ministerial Direction: the Form and Content of Planning Schemes).

#### **Department of Transport and Planning (formerly Department of Transport)**

DTP was contacted but no comment was received to the proposal to move the informal referral to DTP from Clause 5.0 of Schedule 9 to Clause 37.01 (Special Use Zone) – Surf Coast Christian College Campus to Clause 66.04 (according to the Ministerial Direction: the Form and Content of Planning Schemes).

#### **Parks Victoria**

Parks Victoria stated that the appropriate zone for Crown Land managed by Parks Victoria is the Public Conservation and Resource Zone signalling to an applicant the public status of the land and the need

for land manager consent offering the authority early input into a proposal. Parks Victoria highlighted a few examples of anomalous zones for parks and reserves managed by the authority including: Penny Royal Creek Bushland Reserve in Pennyroyal, which is zoned Rural Conservation Zone; Anglesea Heath Park, which is zoned Special Use Zone; Ombersley Streamside Reserve, which is zoned Farming Zone; and a small number of instances where parts of the Great Otway National Park are not zoned correctly.

The authority also advised that it would generally support amendments to the Surf Coast Planning Scheme to implement the Surf Coast Statement of Planning Policy, which may include new Significant Landscape Overlays or other statutory controls to help realise the strategies of the Statement of Planning Policy and protect sensitive saline coastal environments from stormwater and freshwater incursion.

### **Recommendations:**

- L. Move references to Alcoa, Barwon Water, CCMA, CFA, DEECA and DTP from policy, zone and overlay local provisions to the schedule to Clause 66.04.**
- M. Include Barwon Water's requested amendments to Schedule 2 to Clause 42.01 (Environmental Significance Overlay).**
- N. Include the zone anomalies on land identified and managed by Parks Victoria in Council's next anomalies planning scheme amendment.**

## **7.5 Other stakeholders**

### **Great Ocean Road Coast and Parks Authority**

The Great Ocean Road Coast and Parks Authority (the Authority) was established on 1 December 2020 to be a dedicated public land and parks manager with the primary purpose of protecting and managing visitation of the Great Ocean Road coast and parks.

The Authority was initially appointed as the committee of management for the coastal reserves formerly managed by Great Ocean Road Coast Committee and Otway Coast Committee. Over the next few years, the Authority will expand its functions and scale-up its operations and take on responsibility for managing public land and parks within the Great Ocean Road coast and parks by 1 November 2025.

The Authority made a submission outlining several queries about the planning system and the role of the authority. The Authority also queried whether exemptions from the buildings and works provisions of the BMO, EMO, ESO, LSIO and SMO could be considered.

These queries from the authority are outside of the scope of this project and have been forwarded to Council to consider.

## **7.6 Registered Aboriginal Parties**

The Victorian Aboriginal Heritage Act 2006 recognises Traditional Owners as the primary guardians, keepers and knowledge holders of Aboriginal cultural heritage. At a local level, Registered Aboriginal Parties are the voice of Aboriginal people in the management and protection of Aboriginal cultural heritage in Victoria.

The Registered Aboriginal Parties (Eastern Maar Aboriginal Corporation and the Wadawurrung Traditional Owners Aboriginal Corporation) were invited to participate in the planning scheme review but chose not to participate at this point.

## **7.7 Coastal Character Engagement 2023**

Council held a series of workshops in February and March 2023 in Aireys Inlet, Anglesea and Lorne to explore coastal character with local residents. In addition to the workshops, an online survey provided an opportunity for people to comment on those elements of coastal character that are important to them. Key themes that emerged from the engagement include the need to consider:

- buildings that complement the natural environment;
- buildings of a modest size and footprint;
- style, shape and bulk of buildings;
- maintaining the small town / village feel; and
- responding to challenges like housing affordability, climate change and sustainability more broadly.

The information from this engagement process was considered as part of this review.

## **8 New strategic work**

New strategic work that has been adopted by Council and prepared for the Barwon South West Region was reviewed to identify whether any policy should be incorporated into the planning scheme.

The intention of this part of the review process is to incorporate policy that may have been developed by another part of Council (for example, Economic Development, Sustainability, Community Planning, etc.,) and that is unlikely to be incorporated into the planning scheme through a stand-alone amendment.

The scope of this does not include significant strategic land use planning projects such as structure plans for activity centres, or housing strategies, which should go through a separate, dedicated planning scheme review process.

Regional documents, such as catchment management plans, are also reviewed, to identify if there are any Council specific proposals that should be reflected in the planning scheme. (For example, the construction of a new wetland).

### **8.1 Council projects and documents**

#### **8.1.1 Documents reviewed**

The Council documents that have been prepared since the last planning scheme review that may have planning scheme implications that were reviewed as part of the planning scheme review are:

- Affordable Accommodation Action Plan 2022
- Coasting Towards Zero: Road Safety Strategy 2022-2027
- Surf Coast Open Space Strategy 2015-2025
- Surf Coast Shire Climate Emergency Corporate Response Plan 2021-2031
- Surf Coast Shire Council Plan Incorporating the Health and Wellbeing Plan 2021-2025
- Surf Coast Safer Cycling Strategy 2022-2027
- Surf Coast Shire Economic Development Strategy 2021-2031

- Torquay – Jan Juc Retail and Employment Land Strategy 2021. This strategy is currently being implemented into the planning scheme via Amendment C143surf.

### **8.1.2 Documents with policy implications**

Five documents had policy implications. A summary of each and the recommended changes to the planning scheme for each are outlined below. Note that sometimes recommendations repeat as they may appear in more than one strategic document.

#### **Affordable Accommodation Action Plan 2022**

At the Council meeting of 22 January 2022, Council adopted the Affordable Accommodation Action Plan. This Plan was prepared in response to the Key Worker Accommodation Crisis that Council declared in May 2021.

The Action Plan identified significant issues with the availability of accommodation for key workers because of:

- A high number of unoccupied and underutilised buildings, especially in tourism areas.
- High property prices and median rental prices.
- A lack of long term rental properties.

Planning related actions that were identified in the Affordable Accommodation Action Plan were:

- Utilising government owned land for key worker accommodation.
- Investigating tiny houses.
- Advocating to the Victorian government to introduce methods of facilitating key worker housing in the planning system, which Council is already doing.

#### **Recommendation:**

- O. Include a new strategic direction at Clause 02.03-6 Housing planning scheme to facilitate delivery of key worker accommodation.**

#### **Surf Coast Open Space Strategy 2015-2025**

The plan sets the direction for open space planning and provision. To implement the Surf Coast Open Space Strategy 2015-2025 in the planning scheme:

#### **Recommendation:**

- P. Include policy in the planning scheme to implement the Surf Coast Open Space Strategy 2015-2025.**
  - **Insert a new strategy and policy document at Clause 19.02-6L Open space in Surf Coast to continue to deliver high quality, connected and sustainable open spaces that will provide the community with environmental, social, health and economic benefits.**

#### **Surf Coast Shire Climate Emergency Corporate Response Plan 2021-2031**



The plan demonstrates the Shire's commitment to immediate and longer term environmental actions to protect the Surf Coast and its communities. It sets important goals for Council to take the lead in the community to show how to address climate change.

Council intends to include a new Environmentally Sustainable Design policy into the planning scheme a result of this planning scheme review, to reflect the strong commitment to Environmentally Sustainable Development (ESD). To implement the Surf Coast Shire Climate Emergency Corporate Response Plan 2021-2031 in the planning scheme:

**Recommendation:**

- Q. Include policy in the planning scheme to implement the Surf Coast Shire Climate Emergency Corporate Response Plan 2021-2031.**
- R. Introduce an Environmentally Sustainable Development policy at Clause 15.01-2L of the Surf Coast Planning Scheme.**

**Surf Coast Shire Council Plan incorporating the Health and Wellbeing Plan 2021-2025**

The Council Plan Incorporating the Health and Wellbeing Plan sets out Council's strategic direction for the four years until 2024. It describes the goals the current Council has and provides a road map for how it will achieve these goals. The plan sets out a four year 'program of work' structured around seven themes and 19 strategies. Each of the strategies has a strategic outcome that describes some of the substantial changes that need to be affected in order to achieve the plan's Community Vision. Under each strategy, there are between two and five actions. These 'headline' actions do not capture the full breadth of work that Council undertakes to support a thriving community and environment but represent a new 'course of action' that will be implemented, tested and refined over the next four years. Two of the plan's seven themes (Environmental Leadership and Sustainable Growth) have significant land use planning considerations (climate change resilience, heritage, identifying preferred neighbourhood character, infrastructure planning, settlement planning, etc.) and these have been examined in detail by this review.

To implement Surf Coast Shire Council Plan Incorporating the Health and Wellbeing Plan 2021-2025 in the planning scheme:

**Recommendation:**

- S. Update Clause 02.02 Vision to include the Community Vision and the eight land use and development related principles outlined in the Surf Coast Shire Council Plan Incorporating the Health and Wellbeing Plan 2021-2025.**

**Surf Coast Safer Cycling Strategy 2022-2027**

The Surf Coast Safer Cycling Strategy has been developed to inform Council policy and approach to improving safety and access for cyclists within Surf Coast Shire over the next five years. To implement the Surf Coast Safer Cycling Strategy 2022-2027 in the planning scheme:

**Recommendation:**

- T. Insert a new Clause 18.02-2L Cycling to complete priority routes and missing links to provide improved connections to key destinations across Surf Coast Shire and facilitate safe access by all types of cyclists in line with the policy contained in the Surf Coast Safer Cycling Strategy 2022-2027.**

## **Surf Coast Shire Economic Development Strategy 2021-2031**

The Economic Development Strategy sets out a vision and supporting principles that are focused on a growing a more diverse and sustainable economy for the Surf Coast. To implement the Surf Coast Shire Economic Development Strategy 2021-2031 in the planning scheme:

### **Recommendation:**

- U. Include policy in the planning scheme to implement the Surf Coast Shire Economic Development Strategy 2021-2031.**
- **Insert a new paragraph at Clause 02.01 Context to outline the recent changes to the Surf Coast economy.**
  - **Insert a new paragraph at Clause 02.03-7 Economic development to include ways that Council can foster local economic growth.**
  - **Include new Strategies at Clause 17.02-1L (Business in Surf Coast) to include ways that Council can support business growth.**
  - **Include new strategies at Clause 17.04-1L Facilitating tourism in Surf Coast to include ways that Council can invest in major events that celebrate Surf Coast's identity and event strengths of surfing, trails, arts, food and community, and support tourism opportunities.**
  - **Insert a strategy at Clause 18.02-1L (Walking) to enhance the Shire's network of trails and footpaths.**
  - **Include new Strategies in Clause 19.02-6L Open space in Surf Coast to include ways that Council can deliver high quality, place-appropriate infrastructure for our active outdoor lifestyle.**

## **8.2 Regional projects and documents**

The regional documents that were reviewed were:

- Corangamite Regional Catchment Strategy 2022
- Eastern Maar Country Plan 2015
- Growing Adventure Tourism in Barwon South West Region Regional Trails Action Plan 2015-2025
- Wadawurrung Country Plan 2020-2030

### **8.2.1 Documents with policy implications**

Only one document had policy implications. A summary of it and the recommended changes to the planning scheme are as outlined below.

#### **Growing Adventure Tourism in Barwon Southwest Region Regional Trails Action Plan 2015-2025**

Outlines the actions to be taken to strengthen and develop the trail network in the Barwon South West region over the next 10 years that will support Victoria to become a leading trail destination. To implement the Action Plan in the planning scheme:

### **Recommendation:**

- V. Include policy in the planning scheme to implement the Growing Adventure Tourism in Barwon Southwest Region Regional Trails Action Plan 2015-2025.**
- **Insert a new context paragraph at Clause 02.03-7 (Economic development – tourism) to outline the importance of the Shire’s regional trails and mountain bike parks.**
  - **Insert new strategic directions at Clause 02.03-7 (Economic development – tourism) to promote the Surf Coast Walk as an internationally significant trail, to support the Anglesea Mountain Bike Trail Network and support the further development of cycle tourism in the region.**

## 9 Key issues

This section expands on the key issues that have emerged from the planning scheme review, as well as other less significant matters that have emerged and require discussion.

Surf Coast is a highly desirable area to live in and the coastal townships attracts a significant high visitor population during the year, meaning a much housing is used for short term accommodation and holiday houses rather than for permanent residents. Accommodation is at a premium in an area that has extremely high bushfire risk. A major appeal of the area is its environmental and landscape values, which have been identified in the planning scheme for protection. Projected sea level rise will impact on parts of Surf Coast Shire, including coastal and riverine areas. This leads to four competing objectives within the planning scheme. These are:

- Safeguarding life and property as the highest planning priority in bushfire prone areas.
- Protecting native vegetation and significant landscapes.
- Accommodating 15 years' supply of land for urban growth.
- Planning for a 0.8 metre increase in sea level by 2100.

Surf Coast Shire has correctly identified that resolving settlement issues is the highest priority planning issue facing the municipality. In recent years there has been a high level of change in the Victorian government policy settings associated with planning for settlements. These changes include:

- State policy that requires protection of human life above all other considerations in bushfire prone areas (Clause 13.02-1S).
- State policy that requires planning authorities to respond to the risks associated with climate change (Clause 13.01-1S) and plan for sea level rise of not less than 0.8 metres by 2100.
- Legislation to recognise and safeguard the state's Distinctive areas and landscapes, of which parts of Surf Coast have been nominated. A Statement of Planning Policy has been prepared for Surf Coast and is currently being translated into the Surf Coast Planning Scheme by the Victorian government.
- Adjustments to the suite of residential zones that indicate a review of the application of the General Residential Zone to many coastal settlements should be undertaken.

Council has commenced the development of an Urban Futures Strategy that will set out, at a high level, the settlement framework for Surf Coast and detail issues that need to be addressed further. In addition, the Statement of Planning Policy, once implemented in the planning scheme by the Victorian government, is likely to impact on the way growth is accommodated in Surf Coast Shire.

The highest priority issues that have been identified in this planning scheme review are linked to the Urban Futures Strategy and the outcomes of the Statement of Planning Policy, and the findings in this review will help inform the work that will flow out of the Urban Futures Strategy. Figure 3 **Error! Reference source not found.** provides a visual indication of the way that the key issues that have been identified in this planning scheme review are linked to these pieces of work.

Other important issues that have been identified are related to key issues (heritage and affordable housing), introducing new design policies into the planning scheme (environmentally sustainable design and the infrastructure design manual) or related to review of specific policy and controls. These pieces of work can be undertaken independently of the finalisation of the Urban Futures Strategy and Statement of Planning Policy.

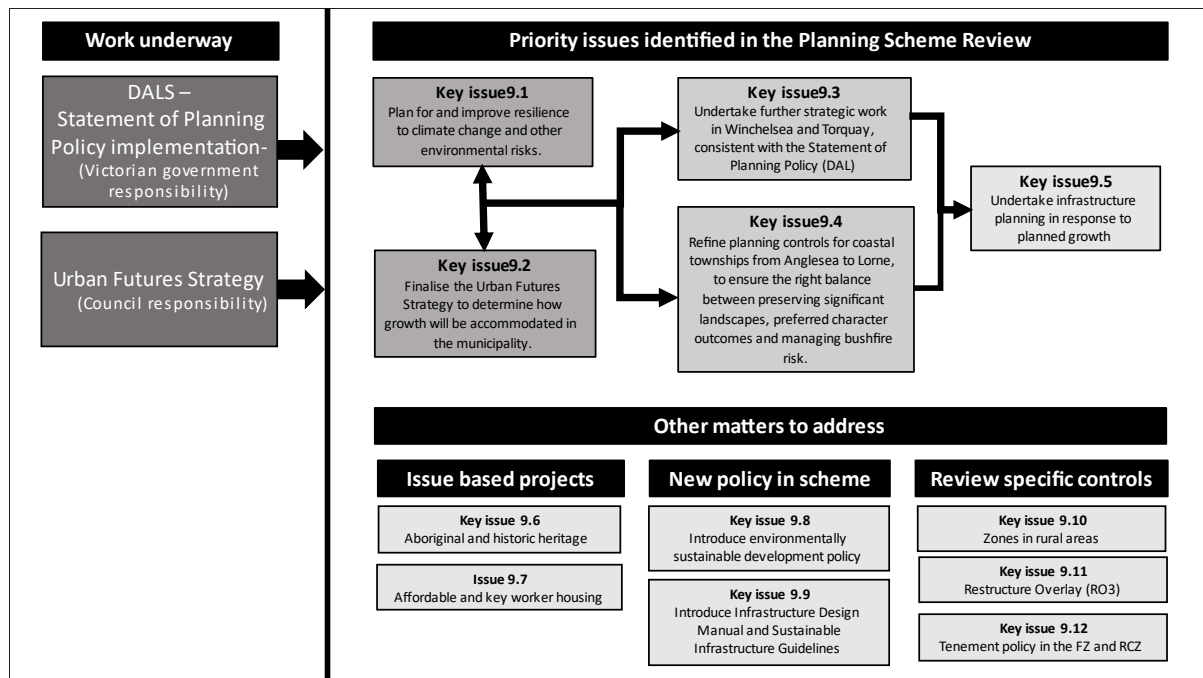


Figure 3: Priority issues identified in the Planning Scheme Review and other matters to address.

## 9.1 Plan for and improved resilience to climate change and other environmental risks

Surf Coast is particularly vulnerable to climate change impacts and other environmental risks including bushfire, coastal inundation, flooding and coastal erosion.

Surf Coast declared a climate emergency in 2019, responding to significant petitioning from the community. The impacts of climate change that would affect the community were identified as:

- Temperature increase.
- Bushfire.
- Heatwaves.
- Coastal and oceanic changes.
- Water scarcity and quality.
- Ecosystem and biodiversity impacts.
- Health and wellbeing.

While not being a panacea, the planning system can be used to help ensure that communities are designed so that the impacts of climate change can be minimised. Planning choices include where development is located, how buildings are designed, use of materials, supporting renewable energy, protecting vegetation and so on.

All planning that Council undertakes should take the likely impacts of climate change and other environmental risks into account as a starting point, and decision making should be focused on mitigating risks and increasing community resilience.

### Recommendation

- W. Plan for an improve resilience to climate change and other environmental risks.**

## **9.2 Finalise the Urban Futures Strategy.**

Council is preparing a major piece of strategic work called the Urban Futures Strategy which will establish how growth will be accommodated in the municipality.

Finalising this piece of work will establish the framework for delivering the following priority recommendations in the planning scheme review relating to settlement and infrastructure planning.

### **Recommendation**

- X. Finalise the Urban Futures Strategy to determine how growth will be accommodated in the municipality.**

## **9.3 Strategic planning for Winchelsea and Torquay.**

### **9.3.1 Issue**

Subject to the outcomes of the Urban Futures Strategy, further strategic work in Winchelsea and Torquay will be required, consistent with the Distinctive areas and landscape (DAL) Statement of Planning Policy for Surf Coast.

The Statement of Planning Policy will necessitate changes to the Shire's current settlement planning and the ability of existing urban areas to accommodate intensification of development.

### **9.3.2 The future role and function of Winchelsea**

Structure planning in Winchelsea began with the Winchelsea Structure Plan 2021 and the Winchelsea Growth Area Outline Development Plan 2011 in 2005, and the Growing Winchelsea Shaping Future Growth in 2015. These documents informed and updated the Winchelsea Framework Plan currently found in the Municipal Planning Strategy.

The implementation of the Surf Coast Statement of Planning Policy will likely necessitate significant changes to the Shire's current settlement planning and result in Winchelsea needing to accommodate most of the Shire's future urban growth: industrial and residential. The demand for property in Winchelsea is currently originating from a different market to that seeking property in the coastal townships; however, Clause 11.02-1S of the planning scheme sets out that planning schemes must plan to accommodate projected population growth over at least a 15-year period and provide clear direction on locations where growth should occur. This exercise must be undertaken on a municipal basis, rather than a township-by-township basis. The Shire's Urban Futures Strategy, which is currently underway, will explore questions about growth and land supply. However, it is likely that Winchelsea (and to a much lesser degree other inland towns) will have a key role in accommodating growth in the future.

The Winchelsea Framework Plan provides for industrial development to the west, accommodates the wastewater treatment plant to the north, has extensive rural residential growth fronts to the north, east and south-west, and one conventional residential growth front to the south-east. The framework plan as it is currently drafted, seeks to reinforce Winchelsea as a moderate hinterland township. The Urban Futures Strategy will test this and determine its future role in accepting urban growth.

The Winchelsea Framework Plan will need to be reviewed considering the change to the likely role and function that Winchelsea will play in accommodating the majority of growth for the municipality.

This includes identifying the community infrastructure that will be required. Previous work undertaken by Council has identified that a primary school site is required, and more employment land will be needed.

### **9.3.3 The future role and function of Torquay**

As identified in Chapter 3, because of the Distinctive areas and landscapes legislation, the State Government has recently prepared a Statement of Planning Policy for Surf Coast. The area covered by the Statement of Planning Policy includes Torquay – Jan Juc, Bellbrae, Breamlea, Mount Duneed and Connewarre.

Under the legislation, Statement of Planning Policy's may include a long term vision supported by objectives and strategies, a strategic framework plan for guiding the future use and development of land in declared areas, and settlement boundaries.

The Statement of Planning Policy for Surf Coast has been approved by the Governor in Council, however, a planning scheme amendment is still in preparation by the Victorian government to implement the settlement boundaries proposed in the Statement of Planning Policy.

Once the Victorian government has completed the planning scheme amendment, Council will need to review the existing strategic planning in place and, in the context of the Urban Futures Strategy, undertake the necessary strategic planning to guide Torquay's development.

During consultation, planners highlighted that VicSmart provisions may be suitable for some types of applications and identified some unnecessary permit triggers relating to carports etc. that should be considered in the review of the planning controls in Torquay and Jan Juc.

There is a Parking Overlay that applies to the Torquay Activity Centre. The background that supports this document (Torquay Town Centre Parking and Access Strategy) outlines that contributions will be collected to deliver the actions identified in the strategy, and this is implemented through the Parking Overlay, however, the actions in the strategy can't be achieved. A review of the strategy for this purpose alone is required. Council may also wish to review the Parking Overlay considering the increasing pressure on areas adjacent to the Torquay CBD, including nearby industrial estates, regarding the provision of car parking, and that further development, including proposals where car parking requirements are being waived, is putting additional pressure on-street car parking.

### **9.3.4 Recommendation**

- Y. Once the Urban Futures Strategy is complete, undertake the necessary strategic planning work for Winchelsea and Torquay to define their roles in the settlement hierarchy and determine how future urban development will be accommodated considering the need for housing, employment land and community infrastructure across the municipality.**

## **9.4 Refine planning controls in coastal townships.**

### **9.4.1 Issue**

Review and consider refinements to the planning controls for coastal townships from Anglesea to Lorne, to ensure the right balance between preserving significant landscapes, preferred character outcomes and managing bushfire risk.

### **9.4.2 Context**

Currently, the planning scheme seeks to facilitate residential development in areas where the BMO and Environmental or Landscape overlays apply (Aireys Inlet, Anglesea, Fairhaven, Lorne and Moggs Creek). These controls have been applied to land or strengthened at different times by either the Victorian government or Council and, as a result, some of these places may no longer be able to accommodate any significant urban growth or intensification of development. In addition, some of these places have already been developed, and the bushfire and native vegetation exemptions provided by the planning scheme are seeing the continued removal of vegetation which is affecting the character of these areas. Essentially, in parts of Surf Coast where environmental values are protected by the scheme, future development in these areas will see the undermining of these values, as bushfire protection takes precedence over protection of vegetation when considering new development.

This is further compounded when you consider the frequency and severity of climate change events and the well-documented loss of biodiversity. It is strongly recommended that one of the outcomes of the Urban Futures Strategy is the development and implementation of planning policy that provides clear and appropriate direction for the future of these areas.

The implementation of the Surf Coast Statement of Planning Policy could result in added pressure on coastal townships to help accommodate the growing demand for housing, compounding the issues discussed above. Supporting further growth and increased development density that would expose additional people and property to climate change risks and associated hazards is not considered to be an appropriate or acceptable planning outcome as required by Clause 13.02-1S Bushfire planning. Further growth in those areas could also have the effect of undermining the environmental values that have been identified in coastal towns, and which are protected by environment and landscape overlays.

### **9.4.3 Evidence**

The strongest theme evident through consultation with Council's planners related to the application and interaction of planning controls that address building design, environment and landscape issues, bushfire and native vegetation, particularly in coastal settlements.

The planners' survey and workshop identified a significant number of examples where both the application and interaction of planning controls were unclear. Examples are outlined below:

#### **Development Plan Overlay**

The provisions of Schedule 12 the Development Plan Overlay applying to the former Anglesea School site conflicts with the neighbourhood character provisions of Schedule 3 to the Neighbourhood Character Overlay. The site is almost fully developed.

#### **Design and Development Overlay**

The design objectives of Schedules 7, 18, 20, 21, 22 and 25 to the Design and Development Overlay are poorly drafted, and it is unclear what they are seeking to achieve.

The permit triggers in Jan Juc for private open space areas, and in Torquay for garage setbacks, were identified as not appearing to serve a useful purpose.

Schedule 11 to the Design and Development Overlay (Eastern View) currently has limited built form control (i.e., no site coverage) compared to nearby township areas (Moggs Creek and Fairhaven) despite being a highly prominent location and a significant landscape.



There is currently no trigger for subdivision under Schedules 20, 21, 22 and 25 to the Design and Development Overlay, but future development proposals must have regard to the provisions of the overlay. Compliance with these objectives on small or narrow lots is very difficult and creates conditions where conflict with the Design and Development Overlay is likely. It is recommended that if the planning scheme seeks to achieve better neighbourhood character outcomes through the use of the Design and Development Overlay, subdivision should trigger permission to achieve this outcome in the decision-making process.

### **Environmental Significance Overlay**

The application of the Environmental Significance Overlay in urban areas, which requires referral of an application to DEECA, was questioned by planners as referral is increasingly causing delays in the assessment of planning permits. There are two options to resolve this: Option 1 is the preparation of a memorandum of understanding between both organisations on which applications should be referred and which can be considered by Council, and Option 2 is to delete the referral from the Schedules to Clause 66.04 if Council is confident that it has sufficient internal expertise to inform decision-making.

The application requirements in the schedules to the Environmental Significance Overlay are not consistent and should be.

### **Neighbourhood Character Overlay**

There is significant tension between the landscaping requirements of the Neighbourhood Character Overlay, and the objectives of the BMO and the vegetation removal exemptions contained within Clause 52.12 Bushfire protection exemptions.

Many schedules contain conflicting 'policy' between setbacks, landscaping and bushfire and that the altered standards in the schedules in many cases cannot be reasonably met.

It was suggested that the schedules to the Neighbourhood Character Overlay should be amended to address the changes implemented by the BMO to have a greater emphasis on creating space around buildings rather than seeking to achieve buildings in a bush setting, and to allow applicants to better design to the constraints and orientation of the lot.

### **Significant Landscape Overlay**

The Shire contains several significant landscapes that are not covered by a Significant Landscape Overlay, e.g., along the coastline.

The Significant Landscape Overlays that apply in Lorne and Anglesea only control vegetation removal, and not buildings and works, which can only be considered under the Neighbourhood Character Overlay. As a result, if a building has a landscape impact, this cannot be considered by the Significant Landscape Overlay.

### **General conflicts with State provisions**

There are significant areas of the Shire where the removal of native vegetation is exempt under Clauses 52.12 Bushfire protection exemptions and 52.17 Native vegetation but local provisions like the Environmental Significance Overlay, the Significant Landscape Overlay, Design and Development Overlay and the Vegetation Protection Overlay regularly also apply to the land and these seek to protect this vegetation or use it as screening in lieu of fencing. Examples include DD011, which is generally applied to areas zoned Rural Conservation Zone and Eastern View, not permitting fences in Aireys Inlet has resulted in residents using screen plantings, which is a bushfire risk. The conflict between the State and local provisions needs to be resolved in the local provision.

There were also comments that newer schedules to overlays provide greater guidance on common planning issues and it was suggested that older schedules should be amended to include this guidance. Examples of this are:

- Schedule 1 to the Neighbourhood Character Overlay, which does not include guidance on parking considerations where no undercover parking is proposed but Schedules 2 and 3 provide such guidance.
- Schedule 11 to the Design and Development Overlay currently has limited built form control (i.e., no site coverage) compared to nearby township areas (Moggs Creek and Fairhaven) despite being a highly prominent location and a significant landscape.
- Council officers also stated that vegetation 'native to Victoria, as included in some schedules to the Environmental Significance Overlay, can include environmental weeds in Surf Coast. This can result in a conflict between state-wide protections for native vegetation and preferred local environmental outcomes. Schedule 5 to the Environmental Significance Overlay does include the term 'not indigenous to the Aireys Inlet to Eastern View area' and this is an exception; however, it applies to land with the highest value vegetation from Aireys Inlet to Eastern View where biodiversity is a greater focus. In any review of the planning controls applying to the coastal settlements, Council should consider the role of vegetation in the landscape and then identify appropriate tools to achieve this.

Schedule 8 to the Special Use Zone (SUZ8) was originally intended to focus on tourism so that the areas that it zoned did not compete with the commercial core areas of Torquay that are zoned Commercial 1 Zone; however, some landowners with properties in the SUZ8 are of the view that the restrictions on land uses are too limiting.

#### **9.4.4 Discussion**

The controls, mainly overlays, have not kept pace with the rate of development or changes in the Victoria Planning Provisions. Controls tend to have been prepared and implemented on a theme-basis rather than a place-based approach. This is understandable given the length of time that such projects can take to prepare and implement in the planning scheme, and the iterative nature of planning controls; however, with the many layers of controls now applying to some locations, a more place-based approach to refine the controls in place is warranted in order to resolve tensions between the different layers of controls and ensure that the suite of controls is working towards the overall strategic vision for each place. This is relevant to the coastal settlements from Anglesea to Lorne in particular, where there are numerous issues to balance.

As identified in chapter five, there are significant issues in some of the environmental and landscape schedules that apply to the coastal townships that cannot be resolved without further work. The actions that should be addressed in the future work to be undertaken for the coastal townships are:

- Delete Schedule 12 to the Development Plan Overlay that applies to the former Anglesea School site.
- Prepare planning reviews for each coastal township (Aireys Inlet, Anglesea, Fairhaven, Lorne and Moggs Creek) to review the application of zones and overlays for each township, and ensure provisions work effectively together to achieve the preferred future growth (if any) and character of each township, recognising the significant risks associated with bushfire in these parts of the municipality. This work should address the guidance of PPN90 and 91. It should also resolve the issue of whether removal, destruction or lopping of indigenous, rather than native, vegetation is not exempt from a permit in the environmental overlays.

- Review the suite of overlays that (Environmental Significance Overlay, the Significant Landscape Overlay and the Vegetation Protection Overlay) apply to each coastal township by place to resolve conflicts with State policy (particularly relating to native vegetation and bushfire) and ensure that, as a collective, the suite of tools that applies to each township works towards achieving the overall strategic vision for that township.
- Undertake further strategic work to assess all land where the Environmental Significance Overlay, the Significant Landscape Overlay and the Vegetation Protection Overlay apply to ensure the overlays are applied appropriately and consistently to land that has been determined to have significance.
- Review the schedules to the Environmental Significance Overlay, the Significant Landscape Overlay and the Vegetation Protection Overlay to ensure the design objectives, requirements and decision guidelines are appropriate given the objective of the controls. This review should be cognisant of changes to the bushfire and native vegetation controls at Clauses 52.12 Bushfire protection exemptions and 52.17 Native vegetation.
- Review the application and table of uses in Schedule 8 to the Special Use Zone.

#### **9.4.5 Recommendations**

- Z. **Review and consider refinements to the planning controls for coastal townships from Anglesea to Lorne, to ensure the right balance between preserving significant landscapes, preferred character outcomes and managing bushfire risk.**

### **9.5 Undertake infrastructure planning in response to planned growth.**

#### **9.5.1 Issue**

Undertake infrastructure planning in response to planned growth identified in the Urban Futures Strategy.

#### **9.5.2 Discussion**

The Urban Futures Strategy will determine how growth will be accommodated for Surf Coast Shire. This will guide where future urban growth will be located and supported by further work to undertake the necessary planning for Winchelsea and Torquay and review the policy settings for the coastal townships (as outlined in key issues 9.3 and 9.4). Once this is established, infrastructure planning will be required to ensure growth is properly supported. The type of infrastructure communities need includes:

- Development infrastructure such as roads, footpaths and power.
- Integrated water management including water supply, reuse, treatment and disposal.
- Open space.
- Community infrastructure such as recreational facilities, community centres, libraries and meeting places.
- Transport infrastructure.

To date, the lack of knowledge about future infrastructure needs has made it difficult for engineers and planners to ensure that development proposals equitably contribute to the realisation of this infrastructure.

Planning for future infrastructure across Surf Coast has tended to be fragmented and concentrated mainly on new growth fronts in isolation of the impact on wider urban centres or the municipality in the past, and the introduction of the settlement framework will enable more strategic planning for the communities infrastructure needs.

By designing, costing and apportioning these costs to greenfield and infill development, Council can ensure that the needs of future residents can be met, be equitably funded and that infrastructure is used efficiently.

Council has a range of planning tool options for managing and collecting development contributions including:

- Development Contributions Plans.
- Parking Overlays
- Open space contributions at time of subdivision.
- Section 173 voluntary agreements.

Some of these tools are already used in the Surf Coast Planning Scheme.

### **9.5.3 Recommendations**

- AA. Develop infrastructure plans that support projected growth, as identified in the Urban Future Strategy considering development infrastructure, integrated water management, recreation facilities and open space, community infrastructure and transport infrastructure.**

## **9.6 Aboriginal and Historical Heritage**

### **9.6.1 Issues**

Council officers identified several policy deficiencies in the planning scheme in relation to acknowledging Aboriginal cultural heritage and historical heritage.

Currently, the planning scheme does not contain any local policy in relation to providing context for or conserving and promoting Aboriginal cultural heritage.

There are a significant number of places of historical heritage significance that have not been identified in the schedule to Clause 43.01 Heritage Overlay as Stage 3 of the Surf Coast Heritage Study, which concentrates on places in Moriac and surrounding areas, has not yet been implemented.

Some parts of the municipality have not yet been assessed and these places of historical heritage remain to be identified and appropriate planning controls applied.

In addition, although not a requirement of PPN01: Applying the Heritage Overlay, the statements of significance for some of the existing places in the Heritage Overlay are not contemporary or incorporated into the Surf Coast Planning Scheme.

### **9.6.2 Discussion**

#### **Aboriginal heritage**

The planning scheme at Clause 02.01 Context acknowledges traditional occupation of the region and places of Aboriginal cultural heritage significance are included in Areas of Aboriginal Cultural Heritage

Sensitivity, which must be considered as part of the consideration of development proposals on this land.

### **Historical heritage**

The Thematic Environmental History of the Surf Coast Shire was initially prepared in 1998 and updated in July 2009. It provides a framework to better understand the historical context of heritage places in Surf Coast and to allow an assessment of their significance to be undertaken. In 2010, the Heritage Council of Victoria published Victoria's Framework of Historic Themes. The themes identified in the Thematic Environmental History should be reviewed against the themes identified in Victoria's Framework of Historic Themes to ensure they align.

Council has prepared three heritage studies to date and three of these have been implemented in the planning scheme. Some of the existing statements of significance included in earlier place citation reports should be updated to reflect DTP's requirements outlined in Planning Practice Note PPN01: Applying the Heritage Overlay. The Stage 3 of the Surf Coast Shire Heritage Study, currently assessing places in Moriac and surrounding areas, must be finalised and implemented via a planning scheme amendment in the future. A fourth heritage study or studies will be required to assess remaining areas of the Shire.

The themes identified in the Thematic Environmental History of the Surf Coast Shire 2009 should be reviewed against the themes identified in Victoria's Framework of Historic Themes to ensure they align.

Earlier statements of significance should be updated to reflect DTP's requirements outlined in Planning Practice Note PPN01: Applying the Heritage Overlay and appropriately incorporated into the planning scheme.

### **9.6.3 Recommendations**

- BB. Advocate to the Victorian government to include more context about the need to recognise, conserve and promote Aboriginal cultural heritage in the Victoria Planning Provisions.**
- CC. Review and update the Thematic Environmental History of the Surf Coast Shire 2009 against the themes identified in Victoria's Framework of Historic Themes to ensure they align.**
- DD. Consider reviewing and updating the citations for existing places in the Heritage Overlay and incorporating them, if not already done so, in the planning scheme. This will ensure that significance and the future management of changes in these places is better understood.**
- EE. Finalise and implement Stage 3 of the Surf Coast Shire Heritage Study to assess places of significance in Moriac and its surrounding areas.**
- FF. Prepare and implement further stages of the Surf Coast Shire Heritage Study to assess outstanding places of significance in areas that have not been thoroughly reviewed yet.**

## **9.7 Affordable and Key Worker Housing**

### **9.7.1 Issue**

Council officers identified several policy deficiencies in the planning scheme in relation to realising affordable and key worker housing. This is a major issue for Surf Coast and local government more broadly. In January 2022, Council adopted the Affordable Accommodation Strategy 2022 that sets out the actions it will take to address this issue.

### **9.7.2 Discussion**

Housing demand during the COVID-19 pandemic exacerbated housing affordability issues in the Surf Coast Shire. Median rental and property prices have increased and vacancy rates and 'average time on market' have decreased. The number of available properties affordable to lower income households has dropped significantly and housing affordability is making it difficult for workers in key sectors such as health, education, administration, retail and hospitality to live in the community they are serving. Council has prepared the Surf Coast Shire Affordable Accommodation Action Plan 2022 that seeks to enhance Council's capacity and the capacity of others to deliver safe, secure, appropriate and affordable housing as part of planning and supporting healthy, prosperous and sustainable communities. Council also participates on the G21 Alliance Social Housing Project Group and Great South Coast Key Worker Housing Working Group to realise a regional and state level solution to the worsening housing affordability issues.

### **9.7.3 Recommendation**

- GG. Introduce a new Strategic Direction at Clause 02.03-6 Housing to support the delivery of key worker accommodation.**
- HH. Continue implementation of the Surf Coast Shire Affordable Accommodation Action Plan 2022.**

## **9.8 Environmentally sustainable development and design policy**

### **9.8.1 Issue**

Including an Environmentally Sustainable Development policy in Surf Coast Planning Scheme to guide residential and non-residential development.

### **9.8.2 Discussion**

Council is a member of the Council Alliance for a Sustainable Built Environment (CASBE), a collective of councils from across Victoria that are committed to ensuring future generations can enjoy a sustainable built environment.

Numerous councils who are part of CASBE have introduced an Environmentally Sustainable Development policy into Clause 15.01-2L of local planning schemes. This policy sets out a range of strategies to achieve best practice in environmentally sustainable development from the design stage through to construction and operation.

Council officers have recommended the inclusion of this policy in the Surf Coast Planning Scheme through the process of this planning scheme review.

The policy has been prepared by officers using metrics appropriate to Surf Coast and should be included in the planning scheme amendment to implement the planning scheme review.

Council's participation in the Sustainable Subdivisions Framework being progressed by CASBE, which is an association of 21 Victorian councils committed to ensuring sustainability is embedded at the subdivision scale will also assist in giving effect to Environmentally Sustainable Design principles in the planning scheme.

### **9.8.3 Recommendation:**

- II. **Include a new Environmentally Sustainable Development policy at Clause 15.01-2L of the Surf Coast Planning Scheme.**

## **9.9 Infrastructure Design Manual and Sustainable Infrastructure Guidelines**

### **9.9.1 Issue**

Including the Infrastructure Design Manual in the Surf Coast Planning Scheme to indicate to developers the development infrastructure standards expected.

### **9.9.2 and discussion**

The Infrastructure Design Manual is produced and maintained by the Local Government Infrastructure Design Association. Like many rural and regional councils, it is used by Council planners and engineers to specify standards to be met for infrastructure upgrade and provision in new development.

Planning schemes where the Infrastructure Design Manual is used generally have a local policy that supports a consistent approach to the provision of infrastructure and references the Infrastructure Design Manual. This local policy is proposed to be duplicated at Clause 19.03-2L Infrastructure design and provision, through the planning scheme amendment to implement this review.

Recently, the Sustainable Infrastructure Guidelines have been developed. These include a higher standard of infrastructure than what is included in the Infrastructure Design Manual focused on achieving more sustainable design outcomes. If Council adopt the Sustainable Infrastructure Guidelines, it will be listed as such as in the Infrastructure Design Manual. If Council decides to do this, it will mean that Council's engineers will apply the higher standard Sustainable Infrastructure Guidelines instead of the Infrastructure Design Manual guidelines to new developments.

This aligns with Council's Climate Emergency Declaration of August 2019, and the intent of Council's Climate Emergency Corporate Response Plan 2021-2031 (Surf Coast Shire Council, 2021).

### **9.9.3 Recommendation**

- JJ. **Amend Clause 19.03-2L Infrastructure design and provision to include a strategy, policy guideline and policy document that directs applications and decision makers to consider the Infrastructure Design Manual when approving development.**
- KK. **Adopt the Sustainable Infrastructure Guidelines.**

## **9.10 Zones in Rural Areas**

### **9.10.1 Issue and discussion**

The planners have highlighted that some land in rural areas is inappropriately zoned. The planners consider that some land in rural areas is zoned Farming Zone but is not being used for productive farming purposes and contains obvious environmental values and attributes and should be rezoned Rural Conservation Zone.

This work should be undertaken the next time Council reviews the Rural Hinterlands Strategy.

### **9.10.2 Recommendation**

- LL. Review the Rural Hinterlands Strategy and identify if land zoned Farming Zone that is not being used for productive agricultural purposes should be rezoned to Rural Conservation Zone or another suitable zone.**

## **9.11 Restructure Overlay (RO3)**

### **9.11.1 Issue and discussion**

The Restructure Overlay (RO3) applies to land in Deans March Township. Deans Marsh is not connected to reticulated sewerage and the land generally provides poor wastewater treatments. RO3 broadly references the need to ensure that the minimum developable lot size is reflective of the capacity of a site to contain and treat wastewater within its boundaries. The overlay is supported by an incorporated Restructure Overlay Plan, the Deans Marsh Township Restructure Plan December 2010 (revised October 2013), which sets out the development potential and requirements that apply to the restructured lots. It was originally applied to the land via Amendment C67 in 2008 and, since then, a small number of lots may have capacity to support two dwellings but this development is prevented by RO3.

The Design and Development Overlay also applies to the land, which includes a preferred minimum lot size of 4000sqm.

### **9.11.2 Recommendation**

- MM. Review the Restructure Overlay (RO3) and Design and Development Overlay applying to Deans Marsh to understand whether there may be further development potential within the township.**

## **9.12 Tenement policy in the Farming and Rural Conservation Zones**

### **9.12.1 Issue and discussion**

The existing tenement policy at Clause 14.01 Agriculture applies to land in the Farming and Rural Conservation Zones. It seeks to guide development and subdivision proposals to help effect the long term protection of rural land for agricultural purposes and to protect the landscape character of rural land.

The planners find this confusing to implement and not transparent. It was suggested that the existing policy would benefit from a review to clearly identify which lots may and may not have tenement provisions, and the translation of the policy into an appropriate planning tool to ensure prospective purchasers are aware of its implications.

### **9.12.2 Recommendation**

- NN. Review the method in which Council's existing tenement policy at Clause 14.01 Agriculture is applied, recognising that the current control lack transparency, and apply a more effective and easier to interpret control through the planning system or another method if appropriate.**



# 10 Further strategic work

## 10.1 Highest priority work

Through the review process, the five highest priority tasks for Council to undertake over the next four years to improve the planning scheme have been identified as:

- Plan for and improve resilience to climate change and other environmental risks.
- Finalise the Urban Futures Strategy to determine how growth will be accommodated in the municipality.
- Once the Urban Futures Strategy is complete, undertake the necessary strategic planning work for Winchelsea and Torquay to define their roles in the settlement hierarchy and determine how future urban development will be accommodated considering the need for housing, employment land and community infrastructure across the municipality.
- Review and consider refinements to the planning controls for coastal townships from Anglesea to Lorne, to ensure the right balance between preserving significant landscapes, preferred character outcomes and managing bushfire risk.
- Develop infrastructure plans that support projected growth, as identified in the Urban Futures Strategy considering development infrastructure, integrated water management, recreation facilities and open space, community infrastructure and transport infrastructure.

## 10.2 Other important work

The list below represents the other further strategic work that has been identified in this report that the consultants believe will have the most positive impact for the Surf Coast community and the efficient functioning of the planning service. It amalgamates the recommendations for further strategic work throughout this report into logical packages of work.

- Review of the extent and significance of the Bells Beach Hinterland and Viewshed areas and review all planning controls applying to the land to ensure the appropriate planning tools apply and that all controls interrelate to one another. This task may be resolved through the implementation of the Statement of Planning Policy.
- Review and update the Thematic Environmental History of the Surf Coast Shire 2009 against the themes identified in Victoria's Framework of Historic Themes to ensure they align.
- Consider reviewing and updating the citations for existing places in the Heritage Overlay and incorporating them, if not already done so, in the planning scheme. This will ensure that the significance and the future management of changes in these places is better understood. (Although not required by PPN01: Applying the Heritage Overlay, it is still recommended)
- Finalise and implement Stage 3 of the Surf Coast Shire Heritage Study to assess places of significance in Moriac and its surrounding areas.
- Prepare and implement further stages of the Surf Coast Shire Heritage Study to assess outstanding places in areas that have not been thoroughly reviewed yet.
- Update flood mapping, especially in the Thompsons Creek catchment.
- Continue implementation of the Surf Coast Shire Affordable Accommodation Action Plan 2022.
- Review the Rural Hinterlands Strategy to address the application of zones and the operation of the tenements policy.

- Review the Restructure Overlay (RO3) and Design and Development Overlay applying to Deans Marsh to understand whether there may be further development potential within the township.
- Review the method in which Council's existing tenement policy at Clause 14.01 Agriculture is applied, recognising that the current control lack transparency, and apply a more effective and easier to interpret control through the planning system or another method if appropriate.

### **10.3 Updating Clause 74.02 Further strategic work**

Once the planning scheme review is finalised, the schedule to Clause 74.02 should be updated to set out the planning work Council intends to complete over the next four years.