

## 1. Referral Authorities

No.	Authority/Submitter	Summary of submission	Response
1	(S2) Wathaurung Aboriginal Corporation	No objection to the amendment. Concerned that proposed changes to the ESO1 may impact on assessments of buildings and works under the Aboriginal Heritage Regulations.	The Aboriginal Heritage Regulations apply independently of the planning scheme and requires a cultural heritage management plan for significant buildings or works within 200m of a waterway. The proposed changes to the ESO1 will not influence this process. Refer submission to panel.
2	(S3) Southern Rural Water	No objection	Submission noted.
3	(S6) Country Fire Authority	Objects to the amendment and is seeking stronger references within Clause 21.03, the 'Environmental Management' strategy, to the risks associated with bushfire.	An amended version of the 'Environmental Management' strategy has been prepared which incorporates the issues raised by the CFA. Refer submission and amended version of the strategy to panel.
4	(S10) Barwon Water	Supports the amendment subject to modifications being made to the ESO1.	An amended version of the 'ESO1' has been prepared which incorporates the requests made by Barwon Water. Barwon Water advised in writing on 20/12/15 that they are satisfied with the changes. Refer submission and amended version of the ESO1 to panel.
5	(S12) Corangamite Catchment Management Authority	Supports the amendment and requests minor wording changes to the ESO1.	An amended version of the 'ESO1' has been prepared which incorporates the requests made by the CCMA. Refer submission and amended version of ESO1 to panel.
6	(S14) Vic Roads	No objection to the amendment subject to modifications being made to the ESO1.	Clause 42.01-3, the head Clause to the ESO1 already includes the exemptions being sought by Vic Roads, changes to the schedule are therefore not required. Refer submission to panel.
7	(S16) Department Environment, Land, Water and Planning	Supports the amendment and requests minor wording changes to Clause 21.03, 'Environmental Management' strategy and the ESO1.	An amended version of the 'Environmental Management' strategy and the 'ESO1' has been prepared which incorporates the requests made by the DELWP. Refer submission and amended version of the strategy and ESO1 to panel.
8	(S21) VicTrack	Objects to / queries application of ESO1 close to railway line. Query / objection resolved and withdrawn 4/9/2015.	Clause 42.01-3, the head Clause to the ESO1 includes the exemptions being sought by VicTrack, changes to the schedule are therefore not required. VicTrack advised in writing on 4/9/15 that they were satisfied with this and their submission is considered withdrawn on this basis. Withdrawal noted.

## 2. Public Submissions

No.	Submitter	Type of submission	Summary of submission	Response
9	(S1) Bellbrae	Support	Supports the amendment	Submission noted
10	(S5) Aireys / Anglesea district	Support	Supports the amendment	Submission noted.
11	(S4) Jan Juc	Objection (withdrawn)	Objects to the mapping of the LSIO on their property on the grounds that it is too extensive.	<p><i>Issues with the current mapping of the LSIO on Spring Creek</i></p> <p>The mapping of the LSIO along Spring Creek was applied through Amendment C7 in 2005. Amendment C85 did not make any changes to its coverage. The amendment did however completely remove the Flood Overlay in acknowledgement of the fact that hydrology studies have not recently been undertaken for the Spring Creek.</p> <p>In response to a number of submissions - that highlighted the extensive coverage of the LSIO in this area, the CCMA reviewed the mapping. New modelling and mapping was undertaken which showed a significant reduction in the flood extent, completely removing the LSIO from a number of properties. A modified map with explanatory letter was sent to all affected landowners. Letters sent to landowners within the Spring Creek Urban Growth Zone (UGZ) [sent on 31<sup>st</sup> July 2015] varied slightly from the letter sent to landowners located outside this area [sent on 22<sup>nd</sup> June 2015] covering additional issues. The submitter's property is within the UGZ.</p> <p>This submission was withdrawn.</p> <p>Withdrawal of submission noted.</p> <p>Refer modified mapping of the LSIO to panel.</p>
12	(S7) Winchelsea	Objection (verbal withdrawal)	Objects to the mapping of the ESO1 on his property on the grounds that the mapped wetland was drained some years ago and is no longer present.	<p>A site inspection of the wetland was undertaken with biodiversity officers from DELWP. The submitters allegations were confirmed. A modified map of the ESO1 (with the wetland removed) and explanatory email was sent to the landowner on the 10<sup>th</sup> June 2015. Landowner advised that submission has been resolved by phone 14/12/16, with written withdrawal to follow.</p> <p>Refer submission and modified mapping of the ESO1 to panel.</p>
13	(S8)	Objection	Objects to ESO1 on the following	<i>The ESO1 will require the landowner to erect a fence along the creek</i>

	Winchelsea South		<p>grounds;</p> <ul style="list-style-type: none"> <li>▪ Submits that the schedules will require the landowner to fence off all land subject to an overlay.</li> <li>▪ States that the land subject to the overlay is the most fertile part of the property and the overlay will prevent the landowner from farming the land.</li> <li>▪ Concerned that the overlay will lead to the spread of vermin and noxious weeds within fenced areas.</li> <li>▪ Does not agree with the need to get a planning permit for buildings/works or vegetation removal within the overlay area.</li> </ul> <p><i>Issues with the current mapping of the LSIO on Wormbete Creek</i> The submitter attended a meeting with the CCMA and Council officers relating to the flooding of the Wormbete Creek. The submission did not raise any issues with the flood mapping.</p>	<p>The application of an ESO1 does not require a landowner to fence out the creek. The landowner has been advised of this in a meeting with officers (with ward Councillors present).</p> <p><i>Permit triggers under the ESO1</i> The application of the ESO1 to the Wormbete Creek and its environs will trigger the need for a planning permit for buildings, works and native vegetation removal close to the waterway. Uses and minor works such as grazing, cropping and the erection of a fence to keep stock out of the creek will not need a permit under the schedule.</p> <p><i>Proposed changes to native vegetation permit triggers</i> The schedule has been reworded to enable the removal of native vegetation that has been planted for agroforestry, without a permit. This activity is seen to benefit the health and management of the creek over the long term and is therefore supported as an environmentally sustainable practice by the CCMA, DELWP and Shire officers.</p> <p>Agro forestry is occurring in the hinterland of the Surf Coast Shire and has significantly improved the health of a number of significant waterways such as the Yan Yan Gurt. It is hoped that this practice will continue and the application of the ESO1 will not deter landowners from planting native vegetation in these areas. An exemption has been included in the schedule on this basis.</p> <p>Refer submission and modified version of the ESO1 to panel.</p> <p><i>Issues with the current mapping of the LSIO on Wormbete Creek</i> The mapping of the LSIO along Wormbete Creek was applied through Amendment C7 and Amendment C85 did not make any changes to its coverage.</p> <p>A landowner/Surf Coast Shire/CCMA meeting was held adjacent to the creek to discuss flooding issues. At this meeting the CCMA resolved to undertake flood modelling for the Wormbete Creek. The revised mapping showed a significant reduction in the flood extent, completely removing the LSIO from a number of properties.</p> <p>The revised mapping of the LSIO and an explanatory letter was sent to all affected landowners on 9<sup>th</sup> July 2015.</p>
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14	(S9) Bellbrae	Objection (Withdrawn)	<p>Objects to the mapping of the LSIO on their property on the grounds that it is too extensive.</p>	<p><i>Issues with the current mapping of the LSIO on Spring Creek</i> Refer to comments under <u>S4</u> (note: this submitter is located outside the UGZ).</p> <p>This submission was withdrawn based on the modifications made to the coverage of the LSIO.</p> <p>Withdrawal of submission noted.</p> <p>Refer modified mapping of the LSIO to panel.</p>
15	(S11) Bellbrae	Objection	<p>Requests that wording be included in C85 stating that any future development of land subject to inundation can be incorporated into public open space.</p>	<p>A Precinct Structure Plan (PSP) is currently being developed for Spring Creek and this plan will consider what land needs to be set aside for public open space (POS), biodiversity and community infrastructure. The impacts of flooding from the Spring Creek will inform the allocation and location of the above.</p> <p>The submitter's property is not within the PSP area and it is unclear what other scenario would require a landowner to provide public open space on a large scale. This issue is not a relevant consideration through Amendment C85 .</p> <p><i>Issues with the current mapping of the LSIO on Spring Creek</i> The submission did not object to the LSIO but as discussed under submission 4 above, all landowners affected by the changes received a modified map and letter. Refer to comments under <u>S4</u>.</p> <p>Refer submission and modified mapping of the LSIO to Panel.</p>
16	(S13) Aireys Inlet district	Objection	<p><i>Removal of the ESO1 from crown land &amp; along the creek</i> Objects to the removal of the ESO1 from crown land and the reduction in coverage along the Painkalac Creek.</p> <p><i>Removal of the ESO4</i> Objects to removal of ESO4 from the valley (to be undertaken through Amendment C96) on the grounds that the valley forms an important part of the</p>	<p><i>Proposed changes to the ESO1</i> Amendment C85 seeks to modify the current coverage of the ESO1 in Aireys Inlet as it applies to the Painkalac Creek and its environs. The changes include;</p> <ul style="list-style-type: none"> <li>• removing the ESO1 from crown land (on the sand dunes)</li> <li>• more accurately plotting the location of the creek (using lidar technology) and confining the schedule to 50m either side of the creek.</li> <li>• Application of the schedule to known areas of high biodiversity value associated with the estuary/wetland values.</li> </ul>

			<p>overall biodiversity of the township (with possible seed bank still present in the topsoil). If significant works were ever undertaken in the valley acid sulphate soils could be released into the estuarine system causing significant environmental damage.</p> <p><i>Changes to the flood mapping</i> Objects to modelling of flood mapping on the grounds that climate change and storm surges hasn't informed the mapping.</p> <p><i>Wording changes</i> Requests minor wording changes within the Environmental Management Strategy and the ESO1.</p>	<p><i>Removal of the ESO1 from crown land</i> Amendment C85 seeks to remove the ESO1 from the sand dunes. This is proposed for the following reasons;</p> <ol style="list-style-type: none"> <li>1) The sand dunes feature Coastal rather than wetland vegetation classes (Coastal Alkaline Scrub and Coastal Dune Scrub) that are not directly associated with the estuary.</li> <li>2) This land is reserved under the Crown land Act and is also subject to the Coastal Management Act. Any proposed buildings or works in these areas will be subject to a rigorous approval process managed by the DELWP.</li> </ol> <p>The application of the ESO1 in these areas is therefore considered to be unwarranted.</p> <p><i>Waterway buffers</i> The buffers being applied is being consistently applied to all waterways across the Surf Coast Shire based on the recommendations from the Biodiversity Mapping Project 2014. The project found that 50m either side of a higher order creek is the optimum width for biodiversity protection and management. The current ESO1 varies in its application and is between 60m-100m either side of a waterway. Amendment C85 seeks to standardise its application based on current best practice.</p> <p><i>Adjustments to the ESO1 mapping</i> The ESO1 is to be retained on all areas of high biodiversity importance associated with the wetland/ estuary. Following a thorough examination of the mapping as part of the consideration of this submission an anomaly in the mapping has become apparent. The mapping applied to the wetland areas is based on EVC mapping undertaken by Arthur Rylah Institute in 2005. A portion of land (owned by the Surf Coast Shire and subject to a conservation covenant) has been removed from the ESO1 by mistake but contains significant wetland/grassland vegetation. This mapping error should be corrected and the ESO1 extended to cover this area. The error impacts on Council owned land only.</p> <p><i>Removal of the ESO4</i> Amendment C96 (being processed concurrently) seeks to remove the ESO4 from the Painkalac valley and amendment C81 intended to replace it with the ESO6 (a similar control that protects biodiversity values, but</p>
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17	(S15) Wensleydale	Objection	<p><i>Permit triggers under the ESO1</i> Objects to the ESO1 being applied to the creek on their property because it is situated within the most fertile part of the farm.</p> <p><i>What is considered to be 'works' in the planning scheme?</i> Concerned that the permit trigger for 'works' will include cropping.</p> <p><i>Proposed changes to native vegetation permit triggers</i> Concerned that any planting of native vegetation in the future may be subject to an overlay.</p>	<p><i>Permit triggers under the ESO1</i> Refer discussion under <u>S8</u>.</p> <p><i>What is considered to be 'works' in the planning scheme?</i> A landowner/Surf Coast Shire/DELWP meeting was held on site to discuss the submission. The submitter is mostly concerned that the planting of crops on their land will be considered as 'works' thereby requiring a permit under the ESO1. This view point is not supported for the following reasons;</p> <ol style="list-style-type: none"> <li>1) The land owner has been lawfully planting crops in this area prior to the introduction of the ESO1 and Clause 63 of the planning scheme 'existing use rights,' enables the land owner to continue to do so without needing a planning permit.</li> <li>2) Works associated with a lawful use is permitted without the need for a planning permit provided it does not significantly alter the land. Current case law supports this. In the matter of Great Southern Property Managers v Colac Otway Shire [2005] VCAT ruled that planting trees and the associated preparation of the land did not constitute 'works' as defined in the Planning and Environment Act. This was based on the view point that planting trees did not require a permit under the zone and the works undertaken to plant those trees would not significantly alter the topography or physical characteristics of the land.</li> </ol> <p><i>Proposed changes to native vegetation permit triggers</i> Refer discussion under <u>S8</u>.</p> <p>Refer submission and modified ESO1 to panel.</p>
18	(S17) Buckley	Objection	<p><i>Mapping changes to the ESO1</i> Supports the reduction to the ESO1 over Lake Modewarre.</p> <p><i>Flood overlays and the building regulations</i> Objects to CCMA consent requirement under the Building Act.</p> <p><i>Objection to the Salinity Management</i></p>	<p><i>Mapping changes to the ESO1</i> Support noted.</p> <p>A landowner/Surf Coast Shire/CCMA meeting was held on site to discuss the submission.</p> <p><i>Flood overlays and the building regulations</i> The land owner wasn't concerned with the overlays being on his property as it only covered a small portion of the site. His concern related to the building regulations which requires consent from the CCMA when 'the site'</p>

			<p><i>Overlay (SMO)</i> Objects to the SMO which was applied through Amendment C38 and believes if the ESO1 is being reduced in coverage the SMO should also be reduced.</p>	<p>is subject to a flood overlay irrespective of whether a proposed building is affected or not. This issue has been referred to the Shire's building officer as it is not a matter that can be resolved under Amendment C85.</p> <p><i>Objection to the Salinity Management Overlay (SMO)</i> A small portion of the submitters site is subject to the SMO. The land owner objected to the application of the SMO when it was introduced through Amendment C38 and is now requesting that the extent of the SMO be modified in line with the proposed changes to the ESO1. Amendment C85 does not have the ability to alter the extent of the SMO. These matters were discussed on site with the landowner.</p> <p>Refer submission to Panel.</p>
19	(S18) Winchelsea South	Objection	Objects to the mapping of the LSIO on their property on the grounds that it is too extensive.	<p><i>Issues with the current mapping of the LSIO on Wormbete Creek</i> Refer to comments under <u>S8</u>.</p> <p>Refer submission and modified mapping of the LSIO to panel.</p>
20	(S19) Winchelsea	Objection	Objects to the mapping of the LSIO on their property on the grounds that it is too extensive.	<p><i>Issues with the current mapping of the LSIO on Barwon River</i> The hydrology studies undertaken for the Barwon River updated the flood mapping just south of the submitters property. However in response to this submission the CCMA contracted GHD to review the flood modelling to complete the north and eastern reaches of the river. The landowner provided photographic flood evidence to the CCMA and this information was utilised in their remodelling.</p> <p>A modified map and explanatory letter was sent to all affected land owners on 22<sup>nd</sup> December 2015.</p> <p>Refer submission and modified mapping of the LSIO to panel.</p>
21	(S20) Anglesea	Objection	Objects to the increased coverage of the LSIO on the property and is worried it may restrict future development, specifically relating to access. Does not dispute that the property may flood.	<p>The front of the property is currently covered by the LSIO but amendment C85 will greatly extend the schedule across this property. The flood mapping for this area is based on a hydrology study undertaken for the Anglesea river in 2013. The CCMA has reviewed the submission and proposed LSIO on this property and is satisfied that the study modelling and subsequent mapping is accurate.</p> <p>The CCMA provided the landowner with a preliminary assessment of flood issues for their property, highlighting that in the future access to the property may be an issue. A planning permit would need to be formally lodged for any conclusive advise to be given.</p>



				<p>The site currently contains a dwelling and tennis court. There are three individual properties. All properties are zoned General Residential Zone and a permit is not required under the zone to use or develop the land for a dwelling. Flood and access issues will need to be assessed as part of a future planning permit application.</p> <p>Refer submission to panel.</p>
<b>22</b>	<b>(S22)</b> Mount Duneed	Support	Supports the amendment and the proposed reduction in coverage of the FO, LSIO and ESO1 on his property.	Submission noted.