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Bass Coast Shire Council

12 August 2022

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To: All Councillors

CEO Ali Wastie

PICS recently responded to the inappropriately named “Unlocking Rural Tourism” Council draft strategy which recommends wide-reaching planning scheme changes that have the potential to significantly change Phillip Island without support or effective communication with the community that would be directly affected.

We encourage you to read PICS researched and detailed response to this draft strategy that we provided to Council which is attached.

The draft strategy:

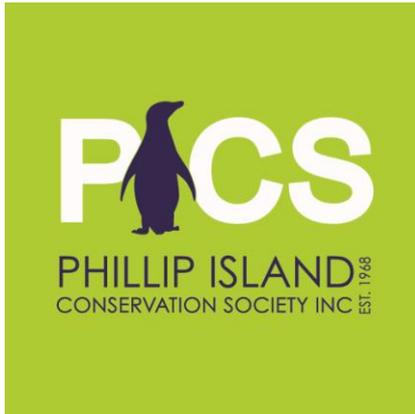
- Is purely commercial and directed at incentivising investors with very little reference to negative impacts that large scale developments have on the natural environment and landscapes;
- Is opportunist in that it seeks to introduce significant large scale tourism impacts on Phillip Island in the absence of a Council tourism policy;
- Recommends changes that are incompatible with the requirements of the DAL;
- Ignores the desirability of high-end small scale tourism opportunities on farms;
- Purports that current controls of RAZ and FZ are perceived barriers without evidence;
- Cites case studies that are purportedly beneficial whilst ignoring negative impacts;
- Cites a case study on alleged constraints of RAZ that is not accurate;
- Recommends types of tourism uses that are not based on any empirical studies;
- Cites longstanding community input and backlash to developments and then ignores it;
- Recommends Special Use Zones on the State significant southern coast at Newhaven, Ventnor and Kitty Miller Bay that are in direct conflict with DAL and Council policies and the planning scheme; and
- Ignores Victorian Planning Provision controls and constraints as outlined in Amendment VC216.

We urge the Council to put this draft strategy aside and work on an unbiased, overarching and sustainable tourism policy for Bass Coast including Phillip Island.

Regards

A handwritten signature in black ink, appearing to read "J. Nottle", with a long horizontal flourish extending to the right. The signature is set against a light yellow rectangular background.

J Nottle
President



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**Bass Coast
Unlocking Rural Tourism
Draft Strategy**

Submission by the Phillip Island Conservation Society Inc.

The Phillip Island Conservation Society acknowledges and pays respect to the regions first people, the Bunurong and Boon Wurrung, part of the Kulin Nation, who are the traditional custodians of these lands and waters.

PICS Introduction

The Phillip Island Conservation Society (PICS) was formed in 1968 – one of the first grass-roots conservation societies in the nation - with the mantra “save wildlife today for tomorrow”. A PICS guiding principle is to recognise that Phillip Island’s unique environment is part of Western Port, a UNESCO biosphere reserve encompassing a Ramsar wetland of international significance.

Since that time we recognise that our state and our region have come a long way in conservation. Indeed, Phillip Island conservationists have helped to create the iconic and world class Penguin Parade and PICS has continued to be a voice for the preservation and enhancement of Phillip Island’s and Western Port’s natural assets. This has occurred at the community level, with government agencies and at planning and environmental hearings.

In November 2019, the PICS committee endorsed “PICS the next 50 years”, setting out its guiding principles, key aspirations and key challenges.

The Guiding Principles include:

- Conserve, enhance and restore Phillip Island’s native fauna and flora with climate change in mind, whilst educating the wider community.
- Ensure Phillip Island is protected from over and inappropriate development and tourism that is not ecological sustainable.
- Conserve and protect the marine environment ecosystem around Phillip Island.

The Key Aspirations include:

- That Phillip Island become a National or State Park or receives similar formal protection.
- That PICS leads the recognition of “the environment in the economy”.

The Key Challenges include:

- Climate change.
- Population growth and maintenance of settlement boundaries.
- Visitor numbers, footprint and demand management.
- Identification of environmentally significant land/features.
- Lack of consensus on how Phillip Island should be presented.

We have read the Draft Strategy prepared by Urban Enterprise for the Bass Coast Shire Council. PICS committee members have also attended local drop-in information sessions.

Although PICS shares a passion for conservation and protection of the natural environment, together with other Conservation groups throughout the Bass Coast Shire, we have limited our submission to Millowl, Phillip Island, and to Moonar'mia, Churchill Island.

This draft Strategy document appears to be purely commercial and business based with references throughout the document relating to “product”, “demand”, “economy”, “investment” and “development” and with very little reference to the negative impacts of inappropriate tourist development on the natural environment and landscapes.

To PICS it appears that the draft Strategy is responding to pressure from investors who are agitating for a review of the control presented by the Rural Activity Zone. The recognised community backlash has been ignored and the need for this appears to just ignore the backlash. We believe that the starting point should have been to recognise that the Council does not have an overarching Tourism Policy and should not concentrate on just one sector in limited locations. The preparation of this current draft Strategy makes an overarching Tourism Policy, one without compromise, even more difficult to achieve.

A Tourism Policy and terms of reference should be developed in consultation with the community. The terms should include a review of the total number of visitors, seasonal fluctuations, attracting long stay visitors and developing sustainable tourism. The terms should also look at population limitation on short term accommodation to enable long term residential tenants to have the ability to afford to live on Phillip Island and support and work for the tourism sector.

Putting our overarching concerns aside, the draft Strategy should recognise the desirability of high-end small-scale tourism on farms to counter the author's claims about the necessity for large scale 5-star accommodation. Tourists are looking for secluded getaways in the natural environment, often cycling or walking, hiking, surfing and visiting wineries. Destination Phillip Island and the Bass Coast Shire Council should do more to support this type of accommodation for landholders and support them to create it.

PICS comments on the draft Strategy are as follows:

Executive Summary

This Summary makes reference to the Phillip Island and San Remo Visitor Economy Strategy 2035. In part 3 of this Strategy, under the heading **Taking Action**, there is a list of High Priority Actions.

These Actions include some described as GAME CHANGERS. The 10 GAME CHANGERS are prioritised in order of importance. GAME CHANGER 1 states: “Recognise that **the environment is the economy** of Phillip Island and San Remo and work towards gaining international **certification as a sustainable tourism destination** under the GSTC.

This PI & SR Economy Strategy also encourages investment in land for conservation and increase of native vegetation from 7% to 30%.

PICS supports these actions and warns that the suggested changes to the RAZ being put forward in BURT would be in direct conflict with the above goals of the Economy Strategy.

Under the subheading *Tourism Investment in Rural Areas*, the authors appear to single out the proposed Hot Springs Resort as an opportunity for the BCS to become a premium wellness and nature based destination.

Later on in our comments we point out the negative features of this proposed Resort and its adverse effects on the local natural environment. Earlier in our submission we made the point about the desirability of high-end, smaller-scale tourism on rural land. The current controls of the RAZ and FZ do not restrict this type of diversification for rural activity.

Introduction

In this section of the draft Strategy the authors have outlined the background objectives and methodology. One of the Objectives listed is *Assess the current real and perceived barriers to growing rural tourism investment and development in Bass Coast*.

PICS is of the opinion that this description is very subjective and that the perception of barriers is too loose a term to be used. Throughout the draft Strategy we note references to examples and numbers of so called perceived barriers to tourism which under scrutiny cannot be justified.

Part A: Strategy and Policy Review

Regional and local government strategy

Under this heading there is reference to the Phillip Island and San Remo Visitor Economy Strategy 2035 which lists a number of product and experience gaps. These include a *Spa/Wellness experience including rural retreats* and it also includes *Eco/Luxury accommodation with restaurant*. The Visitor Economy Strategy was written well before the recent DAL policy, which will include additional or expanded ESO's and SLO's, as well as other controls in sensitive landscapes and particularly along the south coast. Of course smaller scale facilities offering these above experiences and accommodation will still be achievable as long as they comply with the controls of the FZ, the RAZ and the DAL.

Planning Scheme Review

Farming Zone Constraints

We support the retention of the minimum standard of 80ha for subdivision. A lesser number will weaken the controls necessary to protect existing and future farming on Millowl, Phillip Island.

PICS has serious concerns about the amount of disturbance that has been caused by large scale earth works associated with tourist development in farming zoned land. For example, the Cape Kitchen/Hot Springs resort. Recently, extremely high artificial mounds have been formed using material excavated to form the thermal pools.

Recent proposed examples include the major earth works proposed at the Museum and Café at 24 Churchill Road, Newhaven and the perimeter earth berms surrounding the proposed Caravan Park at 1285 Phillip Island Road, Newhaven. Currently there are no controls over earth works in the Schedule to the Farming Zone apart from where they impact on surface drainage.

This is just one case where the authors of the draft Strategy have failed to point out negative outcomes of tourist development.

Rural Activity Zone Constraints

We support the retention of the existing Rural Activity Zones as they are.

The Rural Activity Zone was included in the Victoria Planning Provisions at a time coinciding with the introduction of planning control that restricted the size of subdivision of farming land. In some ways, it was seen as balancing the approach to the restrictive controls that were being introduced.

As with the Farming Zone noted above, PICS has concerns about the lack of controls over earth works associated with tourist development in the RAZ. We urge Council to make planning changes or include a Local Law so that there can be control over inappropriate earthworks that have a detrimental effect on the natural environment and the landscape.

Part B: Rural Tourism Assessment

Tourism Investment in Rural Areas

This part of the Strategy provides an overview of existing tourism product and key tourism projects, including those on Millowl, Phillip Island.

Under the subheading of *Leisure and Recreation*, the Strategy cites the example of the Phillip Island Hot Springs as a major leisure and recreational project. This project is within the Farming Zone.

PICS is of the opinion that this project is inappropriate for the sensitive natural coast dunes system site. The earth mounds that have been built are huge. Nearly the whole landscape of the site has been altered. This project will be massive and yet it immediately adjoins the shearwater breeding and nesting sites in the sand dune system of the south coast. Conditions on the Permit prohibits access by the patrons to the beach and sea. This project is a high energy use project with “open to the air” heated pools. Construction of the earth works and the concrete buildings contain a high level of embodied energy. We are of the opinion that this project would not meet the ESD provisions and constraints of Amendment VC216. There is a description of the VPP Amendment towards the end of our submission.

This project is an example of the type of inappropriate development that should **not and need not** be built close to an environmentally sensitive part of the coastline. This example should not have been used in the draft Strategy.

Under the subheading *Arts, Culture and Heritage*, the Strategy cites the example of the proposed Military Museum and Café at 24 Churchill Road. This project is within the Farming Zone and the land was previously grazed. This proposed building will also include a very large amount of earthworks on the site. Approx 26,000 cubic metres of earth will be required for the creation of the earth berms and mounds. As noted above for the Hot Springs project, large volumes of concrete (using sand from sand mining) will be used for this building.

This is an example of an inappropriately located tourist development which will have a negative impact on the natural environment and landscape. This example should not have been used in the draft Strategy.

Planning Permit activity

Case study RAZ - Hotel Development, Coronet Bay

This project should not have been cited as an example of a project that “fell over” because of the constraints of the RAZ. We are familiar with the history and the outcome of this project. The problem with the Proposed Resort at Coronet Bay was that it was too large, too remote, too disruptive to the natural coastal environment and was a design of very poor ESD quality. The proposal also was not appropriate as it did not respect the reports that identified indigenous cultural artefacts and a possible burial site. The drawings that were submitted to Council were not finalised and there were shortcomings in the design.

The authors of the draft Strategy appear to suggest that the Planning Scheme was the problem here. In fact, it was the inappropriateness and size of the project that led to the outcome. We also understand that there were financial reasons and project delivery problems that prevented this project from proceeding.

Part C: Agriculture, Landscape and Environment Assessment

This part includes an analysis of the supply of rural land by zone and an agricultural land assessment.

Quote from the Executive Summary on page 3... *"Bass Coast Shire has some of the highest value agricultural land in Victoria"*

Also on page 3 there is a warning that *as the climate becomes volatile and urban growth continues to pressure agricultural land, land use policy should support farmers to sustain their land through diversification, creating multiple streams of revenue and reducing risk.* We have pointed out in our Introduction that there is opportunity for small-scale high-end tourism development.

PICS considers that rural land is generally very well managed on Millowl, Phillip Island. The Landcare Group is one of the most active in the country. Some farmers have even received awards for excellence.

PICS supports the continuation of farming use within the Farming Zone.

Environment Assessment

Under this heading the Strategy outlines the various assessments that are required to meet the goals and requirements of the SLO and the ESO. It goes on to make the claim that tourism development has been a key driver for positive conservation outcomes. No examples are put forward. We have given examples above that demonstrate that in many cases the opposite outcomes have occurred.

Developments and projects by Phillip Island Nature Parks are an exception.

Their nature based developments have driven tourism.

Many tourist developments on Millowl, including caravan parks, the boat ramp car park upgrades and even the recent new transport hub in Cowes have resulted in a loss of vegetation and, in some cases, large trees.

DAL Bass Coast Distinctive Landscape Statement of Planning Policy

The BURT's recommendations for large-scale developments on Phillip Island, and in particular the Western and Southern Coast in the Rural and Farming Zones, and areas flagged for change to Special Use Zone, is incompatible with the requirements of the DAL.

The Bass Coast Proposed Landscape Planning Controls¹ for this region through the proposed expanded SLO2 when implemented

“.....would protect the wild, undeveloped character of the coastal edge of the state-significant Phillip Island Western and Southern Coast landscape and further protect it from development detrimental to the much valued landscape attributes, especially within the coastal viewshed and green breaks between settlements. Development would be sited and designed to fit within the landscape and not detract from significant views or impose visually on the landscape. The main view corridors and viewing locations would be given added protection, so that the landscape's iconic views are not degraded over time. The clear edges of settlements would be retained, and the undeveloped, natural coast between them would be protected. The removal of native vegetation for development would also be minimised, to preserve the landscape's character

The Bass Coast Draft Planning Policy (Distinctive Area Landscapes)² describes the landscape of the Shire, provides binding objectives for the protection of these landscapes, and highlights the damage caused by human impacts and the need to protect and safeguard them for current and future generations:

“The Bass Coast declared area is among Victoria's most preferred places to live, work, visit and recreate. Consequently, its unique values and distinctive attributes — its Aboriginal cultural and historic heritage, biodiversity, significant landscapes, natural resources, productive land, strategic infrastructure and built form — need protection against overuse, overdevelopment and climate change impacts.”

“Continued pressure from human impacts — urban development and encroachment, visitation and trespass, water contamination from pollutants and run-off, vegetation removal and other damaging land management practices — and from climate change — rising sea levels, flooding, storm surges, changes in ocean temperature, erosion and bushfires — put the declared area's landscapes at high risk of incremental, cumulative and irreversible damage. Undertaking long-term planning for the declared area now can help to address these issues and safeguard its landscapes for current and future generations.”

...and describes the State Significance of the wild and rugged coast of cultural importance to the traditional owners, the Bunurong tribe, saltwater people.

¹ Bass Coast Proposed Landscape Planning Controls

² Bass Coast Draft Statement of Planning Policy

Retrieved from <https://engage.vic.gov.au/project/distinctive-areas-and-landscapes-program/page/bass-coast> 24/07/2022

“The Bass Coast’s coastal and rural landscapes are of outstanding natural beauty. The beaches and bays, rugged coastlines, rock platforms and formations, seascapes and bush provide stunning views, recreation and other enjoyments for residents and visitors. There are countless panoramic seascapes and other views across Western Port and along the Bass Strait coastline.”

“The coastal and rural landscapes are also important to the region’s Aboriginal cultural and historic heritage: there are many reminders of the declared area’s agricultural, industrial and maritime past.”

MAP 6: Landscape character: types and areas



(Source: DELWP)

The BURT describes the land on the Phillip Island Southern Coast as unsuitable for farming and asserts this as a justification for large-scale tourism development by conversion to Special Use Zones at Ventnor- Cat Bay, Pyramid Rock and Newhaven. The DAL repeatedly directs that the environment of the island be enhanced, not turned over to development because it has been stripped of natural vegetation causing degradation of the soil, ie:

Objective 4a

The following objective is binding on RPEs.

To conserve and enhance the declared area’s biodiversity and associated ecosystem services by increasing the quality and quantity of habitat, particularly for endangered and vulnerable indigenous plant and animal species.

Objective and strategies

Objective 3

The following objective is binding on RPEs.

To protect and enhance the declared area's significant landscapes, including their distinctive characters, physical features and cultural values.

Strategies

RPEs must consider where relevant the following strategies to achieve the objective when performing a function or duty or exercising a power in relation to the declared area.

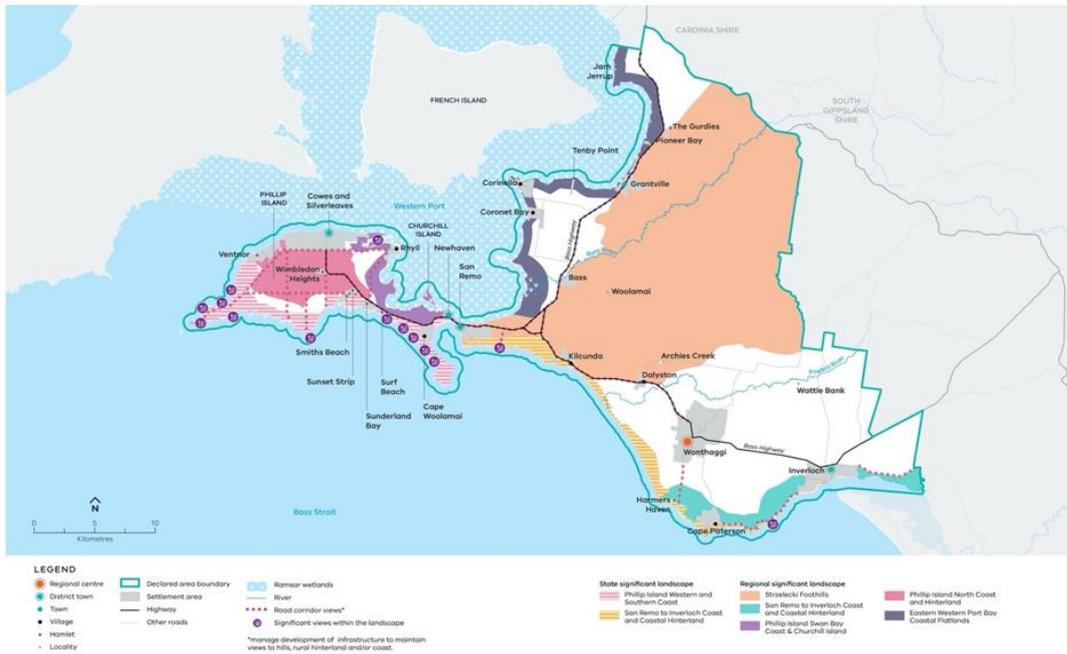
Strategies include:

- 3.1 Ensure landscape and seascape features that are sensitive to change are identified and threats to them identified and addressed in strategic planning processes.
- 3.5 Ensure development is located away from and does not protrude above hilltops and ridgelines, so the natural contours and vegetation remain visible.
- 3.6 Manage land use, development and infrastructure to ensure that the dominance of significant landscapes, views and vantage points is conserved and enhanced by:
 - retaining the rural outlook from inland, main road corridors, particularly the scenic panoramas available of the Bass Hills from the Bass Highway
 - retaining views to the coastline and water from scenic coastal drives (such as the Bunurong Coastal Drive between Cape Paterson and Inverloch)
 - retaining and planting native and indigenous vegetation
- 3.7 Retain and enhance remnant native vegetation in coastal reserves, along road and waterway corridors and on private land (for example in shelterbelts, along fence lines and on steep agricultural land), where appropriate and in accordance with bushfire risk management requirements.

These objectives are consistent with PICS vision for Phillip Island landscapes to be restored to their original natural state to support endangered flora and fauna.

Map 7 shows the area along the Southern Coast which is of State Significance.

MAP 7: Landscape significance



(Source: DELWP)

Planning Overlays

The various Overlays are listed and explained in this part of the draft Strategy. PICS supports the retention of these overlays and encourages Council to carry out future studies that will result in a wider range of the Environment Significant Overlay.

Conclusions

Here the authors state that between 2014 and 2021, there were a total of 68 tourism applications lodged, with an average of 9 tourism permit applications each year. Of these applications only 44 were granted a permit. The authors then list four reasons why the Rural Tourism Precincts have not delivered. The authors, however, have not presented any detail as to the scope or quality of the planning permit applications that were not approved.

PICS has been involved in several planning permit matters over recent years, including those that have proceeded to a VCAT hearing.

For example, the recent refusal by Council of a proposed caravan park at 1285 Phillip Island Road, Newhaven, was upheld by VCAT for what they described as accumulative reasons. The authors should give recognition to the fact that some of the permits refused were of poor quality or failed to comply for reasons other than non-compliance with a Zoning Schedule.

Part D: Strategy and Recommendations

Strategy

We agree with the *Rural Tourism Objective 5, Environment Improvement. Through tourism use, encourage positive environmental outcomes through investment in re-vegetation of native flora and subsequently supporting fauna.* But this should not be at the expense of the negative impacts of large scale tourism development.

Strategic directions

Sub-regional Approach

This section provides guidance to the types of tourism uses for each sub-region. This does not make sense. Why would you not have farm stay accommodation on Phillip Island and/or wineries in the Bass Hills etc.? These uses are gleaned from what developers want, not any empirical study. We are concerned about the division of the Shire into sub-regions. It appears that Phillip Island is stacked with references to large developments, coastal views etc. We are concerned that the suggested activities will be included in the Planning Scheme as approved activities that do not require a planning permit.

Nexus Between Tourism and other Rural Land Uses

The authors describe a Nexus between tourism and other rural land uses. We find this description somewhat confusing. Putting this aside, we point out that the authors have not addressed the rehabilitation of land that is low quality or unsuitable for farming. We support rehabilitation of land that is unsuitable for farming, to its natural state i.e., vegetation, flora and protected by Nature Parks or other environmental entity. A successful example of this outcome is the Scenic Estate Reserve in Newhaven. We do not want to have planning outcomes where large 5-star developments are approved on the basis that the developer offers to rehabilitate adjacent land. The proposed Military Museum and café at Newhaven is an example of this.

Special Use Zones (SUZ)

PICS is opposed to the creation of the Special Use Zones that have been recommended for the south coastline of Phillip Island. These recommendations are incomprehensible

The recommendations to support development by means of Special Use Zones along the Southern Coastline of Phillip Island are in direct conflict with the Vision for Bunurong cultural heritage, Climate change mitigation, Landscape, Environment and biodiversity and Historic Heritage as set out in the Draft Bass Coast Statement of Planning Policy, DWELP.

These SUZ recommendations are also at logger heads with the proposed Landscape Planning Controls, DWELP, for the Phillip Island Western and Southern Coast (state significance) and for Phillip Island Swan Bay and Churchill Island. Most of the south coast is already covered by Significant Landscape Overlays, SLO's. Under the DAL controls, the SLO's will be enlarged.

It appears that the authors have failed to understand the significance of the effects and constraints that the DAL controls will have in controlling development of all types along the southern coastline. We have commented on this in detail above.

The authors set out their Proposed Framework for applying the SUZ. But the framework fails in not emphasising the importance of the native fauna that would be affected by the introduction of large scale tourism development. Most of the southern coastline has colonies of shearwaters that nest and breed in the dunes and along the cliff tops. A wide range of other native bird species, including the protected hooded plover are found along this coast line.

To suggest a SUZ that would include the so called Lukey Lakes wetlands and the Kitty Miller Bay hinterland is just unfathomable. This area abounds in a wide range of native wildlife, including swans, ducks and other water birds, swamp wallabies, frogs and bandicoots. Any large scale tourism development would impact on the habitat of these creatures.

The recommendation for a SUZ at Newhaven on the south side of the Phillip Island Road is equally unacceptable. Under the BCSC Planning Scheme, this area is to remain as a natural break between settlements. This area immediately adjoins the established shearwater colony in the sensitive coastal dunes system. Recently the Council refused a permit for a caravan park in the Farming Zone in this area. The applicant appealed this at a VCAT hearing and VCAT upheld the refusal on accumulative grounds, which included surface drainage, access to an extremely dangerous beach, disruption to the rural landscape and, of course, the impact on the shearwater colony.

On Page 91, the authors outline the barriers to investment for new land owners looking to begin a tourism enterprise. This includes: *Inhibits potential to provide large scale amenities for both residents and visitors that cannot be accommodated by rural areas or settlements.* This is a difficult sentence to understand, but the authors appear to be supporting large development outside of the designated settlements just because there is insufficient space in the settlements. This is unacceptable.

PICS considers it irresponsible for the Council to accept the recommendations for the SUZ's in these environmentally sensitive areas. If implemented they would have the potential to detrimentally affect the natural landscape and the flora and fauna along the southern coastline.

VICTORIA PLANNING PROVISIONS, AMENDMENT VC216

The draft Strategy has not addressed Amendment VC216 (10th June, 2022). This amendment to the VVP makes changes to the Planning Policy Framework (PPF) in the Victoria Planning Provisions (VPP) and all planning schemes to support environmentally sustainable development. The ESD policy changes and constraints in the Amendment should be assessed as part of the draft Strategy. We suggest that an amendment to the draft be circulated to the community as soon as possible to address this omission.

Amendment VC216 includes changes to the following Clauses:

- 12 Environment and Landscape Values
- 12.01-1S Protection of biodiversity
- 13.01-1S Natural hazards and climate change
- 13.05-1S Noise abatement
- 15.01-1S Building design, ESD
- 19.01-2S Renewable energy,
- 19.03-5S Integrated water management.

PICS summary

As stated in our Introduction at the start of our submission, PICS does not support the BURT.

We are of the opinion that the proposed changes, including the creation of Special Use Zones, will not support the Principles and Aspirations of PICS in conserving the natural environment, the natural landscape and the biodiversity of Phillip Island.

We have pointed out that the proposed changes in BURT are not compatible with the landscape objectives and controls of the DAL policy.

We have also pointed out that the draft Strategy has failed to place any weight on the controls and constraints of the VPP Amendment VC216 which brings in controls that support all aspects of environmentally sustainable development, ESD, including all those listed above.

We ask Council to put this draft Strategy aside and to commence work on an unbiased, overarching and sustainable Tourism Policy for Bass Coast Shire.

End of Submission.

PICS President

Jeff Nottle