The Phillip Island Conservation Society Inc (The Society) is a community-based conservation organisation established in 1968 and has been active ever since in a wide range of areas such as: environment restoration, environmental and history research and publication, funding of and helping with the development of management plans for public reserves on Phillip Island, the preservation of the RAMSAR listed Western Port environment, negotiation with developers and representation at VCAT and Planning Panels Victoria for better environmental outcomes in urban planning, and many other matters, including those on which we are specifically commenting in this submission. The Society works co-operatively as required with a wide range of environmental groups and agencies including the Bass Coast Shire, both on Phillip Island and in the Bass Coast area.

The Society would like to comment on the EPA Amendment Act 2018 under six headings:

1. PROTECTION OF RAMSAR WETLANDS
2. WASTE, PLASTIC AND LITTER
3. FUNDS
4. CLIMATE CHANGE
5. NOISE
6. PUBLIC ACCESS TO THE PUBLIC REGISTER

1. PROTECTION OF RAMSAR WETLANDS

The EPA must be able, under the Act, to prohibit new sources of pollution from entering RAMSAR systems, in order to protect these sensitive environments.

The commitment under the RAMSAR convention is to: "formulate and implement planning to promote conservation of listed wetlands and as far as possible the wise use of all wetlands". The new General Environment Duty should retain clause 22(3) of the current SEPP (water).

The objective is "for the protection of human health and the environment from pollution and waste" including in sensitive areas such as Victoria's 12 RAMSAR sites. But the GED should not take the place of stipulating in the Act what action is necessary and enforceable for Ramsar Protection.

In the Parliament of Victoria News of 28.10.19, it was reported that:

"The Victorian Parliament’s Public Accounts and Estimates Committee has commenced a public inquiry that will investigate the response to an Auditor-General’s report on Victoria’s wetlands."
The audit report, released in 2016, examined whether Victoria was meeting its obligations to protect wetlands under the international Ramsar Convention.

Victoria’s wetlands are a critical part of our state’s natural environment. The Auditor-General wanted to know that they are well-managed and that international obligations in relation to their conservation were being met.

The Auditor-General concluded that general management of Ramsar wetland sites needed to improve for Victoria to effectively meet its obligations."

This is a clear indication that government agencies such as the EPA need powers such as are in 22(3) of the SEPP (water) to help Victoria meet its RAMSAR obligations.

On Phillip Island - within the Western Port RAMSAR site - we are all too aware of the pressures under which wetland species exist, and these pressures are certainly being exacerbated by the effects of climate change and development. It is therefore absolutely necessary that the EPA be given the power under the Act to prevent damage being done to RAMSAR sites and other environmentally sensitive areas, BEFORE damage can be done, rather than just reacting to the damage once it has occurred.

In response to a question on this matter from PICS to the EPA, a Regulations team member responded:

The Society is convinced that the best way to do this is to give the EPA power under the Act to prevent industry and others from having the means of causing pollution rather than, for example, issuing them with a permit to discharge pollution of any sort into RAMSAR sites and hoping that no damage ensues. In this regard, we note that in Part 2.3, 15, it states that prevention of harm is preferable to mitigation. This principle should underline provisions in the Act to prevent discharge of polluting substances into RAMSAR wetlands.

2. WASTE, PLASTIC AND LITTER

There is a great deal of emphasis in the Act on the problem of illegal and/or polluting mishandling, storage and disposal of waste and of littering.

These are extremely important issues to deal with and the Society commends the government for significantly tightening the law regarding waste and litter, and significantly increasing penalties. Exposure in the media of dumps of toxins in urban and rural environments, and the terrible fires in toxic premises which our firefighters have to somehow deal with, has brought this huge problem into sharp focus.

Living on Phillip Island we also see the consequences of illegal littering and proliferation of plastics every day on the beaches and in the water, and see the awful effects on marine wildlife. We therefore sincerely request that state government:

- Enforces the provisions in the Act,
- Funds appropriate levels of staffing to enforce the provisions,
Puts in place strategies which require the community and business to significantly reduce the scourge of plastic waste and contribute to any means which make the cost of recycled plastic considerably less than virgin plastic.

Contribute to funding of appropriate research and development programs.

The world is at the crisis stage where we should be producing virgin plastics products in tiny amounts compared with using recycled plastics, and we need R&D to give us the technology to make this possible. The Society believes that combined with the waste provisions in the Act, this will go a long way towards helping us solve the problem of our huge plastic materials stockpiles, landfill 'cloggers' and littering of plastic waste.

We note that for 141 "Guidelines for alternatives to waste disposal" have not been done yet. Given our points above, the Society considers that this needs to be a priority action by the EPA.

3. FUNDS

The Society therefore suggests that another category of Fund be added to Part 14.4 of the Act, being a Research and Development Fund for the purpose suggested above and possibly funded by a levy on businesses (e.g. recycling companies, manufacturing companies) sending potentially recyclable plastics to landfill. The Fund could give grants to, for example, materials scientists to develop technologies that enable certain commonly used plastics to be recycled repeatedly to keep them from landfill and littering, or other scientists to come up with a way of dealing with 'spent' plastics that removes them (e.g. special bacteria eating them) rather than allows them to break down into tiny portions of polluting plastic.

With regard to Part 14.4, we support the creation and operation of the Funds - Environment Protection, including the two Waste Levies and the Restorative Project Account, and the Sustainability Fund, which we note seems to have the only reference to climate change in the Act. However, given the vital importance of the aims of all of these Funds, we would hope that if necessary for the effective operation and effective use of the Funds, the government would be prepared to allocate budget funding towards these Funds. The Society is sure that the community would support this, providing the work of the Funds is publicized and transparent so that it can be fully appreciated.

4. CLIMATE CHANGE

While the Sustainability Fund is a good step, it is a far cry from what is required of the climate change situation we are facing, and the Act does nothing to help this.

The Act was a golden opportunity to legislate against excessive emissions which directly contribute to both the negative effects of climate change and the unacceptable pollution levels we face in our cities from industrial and transport pollution.

The business sector has had many, many years’ warning that we MUST reduce our emissions. They did so to some extent under the carbon tax, but since it was repealed by the Federal government, emissions have continued to rise alarmingly, and many businesses continue to ignore their contribution to this. We salute those businesses who have taken measures to reduce their emissions, such as introducing plant efficiencies and solar arrays on their buildings.
It is past time that businesses that have not taken any steps to reduce their emissions should be forced to do so under new provisions in the Act, with new penalties introduced into the Act if they do not comply within a reasonable time. The cost to business of implementing a range of changes to reduce their emissions will be miniscule compared to the cost to governments at all levels if emissions are not reduced as a matter of utmost urgency. We are in a climate emergency and the EPA needs the power under the Act to require polluters to respond to that emergency as quickly as possible or face the penalties. This should be the main purpose of the Act, yet climate change is not mentioned at all in the purposes.

All the Act has to offer in any way towards solving this crisis is to ask businesses to voluntarily produce plans under the General Environmental Duty with the threat of penalties if a pollution event occurs and they have neglected to do their risk assessments.

The pollution events are occurring every second and no amount of GEDs are going to solve the problem. Give the Act real teeth to enable the EPA to prosecute polluters and really get emissions down.

The community is screaming out for our leaders to take action on the climate change emergency, and even if such provisions in the Act are unpopular with business, they would certainly be supported wholeheartedly by the community.

Under Par 7.5, 159 "The Minister may propose that an issue be declared to be an issue of environmental concern if the Minister reasonably believes that declaration would promote a purpose or an object of this Act."

This section seems to us to give the Minister the power to declare a Climate Emergency and insist that offender reduce their emissions, should the appropriate provisions be written into the Act. We also note that under 159 (3) (e) once a notice of a declaration is published the public has at least 20 days to comment. The Society believes this should be at least 30 days.

Community organisations are mainly made up of volunteers, many of whom are volunteering in other groups as well, and it sometimes takes a few weeks for news such as this to filter through and then be acted upon. Likewise, most community members are busy with their own day-to-day commitments, and likewise time can often lapse before they are aware of such a notification and can respond. While the 20 days minimum may suit bureaucrats and professionals who are constantly on the lookout for such notices, community groups and general members of the community do not have this facility. A minimum of 30 days is therefore more inclusive of the community.

5. NOISE

On our reading of the Environment Reference Standard it appears that much of the NIRV still applies.

Living on a tourist island such as Phillip Island, being visited by millions of people from Australia and all over the world, we are subject to various forms of noise.

Helicopters, jet skis, hoons, constant heavy traffic for much of the year, and noise from various activities from the Grand Prix circuit, all contribute to a heavy noise load at various times, while in non-
tourist times the background noise is often quiet, apart from bird calls. However, the joy flight helicopter business operating from the old Phillip Island Airfield flies several to many times daily, especially during holiday times, and is quite intrusive over Newhaven and Cape Woolamai, so those areas are now rarely quiet during the day and dusk and there is little let-up for residents.

In the main problem situation faced by Phillip Islanders, the Grand Prix circuit operates as both a venue for sporting events, and as an industrial use for such things as testing of motor bikes, parts, tyres, etc. by riders riding their bikes very fast around the track for hours at a time, and for days and even weeks at a time from about 8 a.m. until 6 p.m.

In fact, the GP circuit is in use daily for most of the year. After many years of trying in response to numerous requests from community members, the Society has been unable to get either the Bass Coast Shire or the EPA to take responsibility for the noise issue emanating from the Grand Prix circuit, and we were hopeful that the Act would clarify the situation. This does not seem to be the case. However, we note that the definition of ‘unreasonable noise’ states:

**unreasonable noise** means noise that—

(a) is unreasonable having regard to the following—

(i) its volume, intensity or duration;
(ii) its character;
(iii) the time, place and other circumstances in which it is emitted;
(iv) how often it is emitted;
(v) any prescribed factors; or

(b) is prescribed to be unreasonable noise;

For the Phillip Island community (iv) above, is often the problem and it is good that it is included in the definition. It is also good that unreasonable noise can be either prescribed or not, as the actual db levels from the GP circuit can be within NIRV limits in nearby residential or farm areas, but it is their frequent nature that affects human wellbeing and the ambience of the local environment.

Many locals do not object to the sporting events, even though they are often 90 dBA trackside and the noise carries easily on the right wind to not only nearby residences but to places as far away as Churchill Island and Rhyll.

It is the frequent industrial use of the track and the apparent lack of any permit control or redress which is the main issue for many members of the community.

In our reading of the Act we have been unable to find any provisions which tackle this type of noise problem. If that is the case, then we would ask for a section to be included in the Act based on (iv) above which enables the EPA to control how often unreasonable noise occurs from the industrial use of the Grand Prix circuit.

We would prefer that the EPA had the power under the Act to do this, rather than the local shire council as the permit situation is equivocal for them given the previous use of the circuit as a race track.
We believe this situation sits within the authority of the EPA, given one of the Functions of the Authority is:

(h) to promote the prevention of harm, and the elimination and reduction of risks of harm, to human health and the environment from pollution and waste.

The Society believes that community members who have communicated with us on this situation are at risk of harm to their health from the noise pollution to which they are being subjected so often from the industrial use of the GP circuit.

It may well be that the provisions of Part 8.6 'Conference of Interested persons', could be an acceptable approach which could be taken in this case, should the EPA take this issue as a matter under their consideration.

If such a Conference did take place, it would be preferable that it was located on Phillip Island to enable as many 'interested persons' to attend as possible. We note that under 240(2) participation is voluntary and that an interested person may leave at any time.

While this is reasonable it does raise the possibility that the Conference may 'break down' before a satisfactory resolution is produced. The Society would therefore prefer that the Act had provisions to enable the EPA to enforce controls over the number of days the track was permitted to operate outside of sporting events. Such provisions could apply to any similar facility operating in this way in Victoria now or in the future.

The Society agrees with the principle in the Act of allowing persons to take an appropriate pollution matter to court, but in this case we are confident that that is not the course of action the community would prefer.

6. PUBLIC ACCESS TO THE PUBLIC REGISTER

We note that under 457 (1) (b) a prescribed fee must be paid before the Public can have access to the Public Register.

The Society believes this is not in the best interests of Victorians, especially those on low incomes who are living in areas suffering from high pollution levels, contaminated soil or near noxious or noisy industrial areas.

Nor is it in the interests of volunteer community environment groups such as ours which believe in inclusiveness and consequently have low membership fees.

Our Public Fund donations are used specifically for our environmental work such as revegetation, weed removal and the development of vegetation management plans on public land on Phillip Island. Like so many volunteer groups, we contribute hugely to the benefit of society and the environment. In order to continue our work of protecting and enhancing the Phillip Island environment and our Western Port environs, we need access to the Public Register. It is unfair of the government to expect low income earners, who are often the most directly affected by pollution, and volunteers who devote much of their lives to looking after the environment, to pay to access the Public Register.
The Society also believes that the imposition of a payment to view the Public Register does not contribute to the transparency of the operations of the EPA or of the businesses and others listed on the Register. This provision should be withdrawn from the Act.

End of submission. Sign off next page.

Thank you for the opportunity to comment and for taking our submission into account. We wish to be kept informed.

Yours sincerely,

Christine Grayden
Secretary.
30.10.2019