

**Mornington Peninsula Planning Scheme  
Hastings Energy Generation Facility**

**Priority Projects Standing Advisory Committee Report – Referral 24**

*Planning and Environment Act 1987*

**23 December 2022**

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Planning Panels Victoria acknowledges the Wurundjeri Woi Wurrung People as the traditional custodians of the land on which our office is located, and the Bunurong as the traditional custodians of the land on which the Project is proposed to be located. We pay our respects to their Elders past and present.

*Planning and Environment Act 1987*

Priority Projects Standing Advisory Committee Report – Referral 24 pursuant to section 151

Referral No. 24: Planning Permit Application PA2201533 and PA2201534

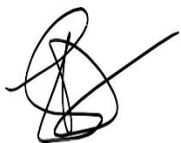
Hastings Energy Generation Facility

**23 December 2022**

Members of the Priority Projects Standing Advisory Committee who considered this referral:



Sarah Carlisle, Chair



Shannon Davies, Member



Elizabeth McIntosh, Member

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## Glossary and abbreviations

Applicant	Esso Resources Australia Pty Ltd (see Chapter 1.4 for more detail)
BMO	Bushfire Management Overlay
CASA	Civil Aviation Safety Authority
CASS	coastal acid sulphate soil
CEMP	Construction Environmental Management Plan
CFA	Country Fire Authority
Committee	Priority Projects Standing Advisory Committee considering Referral 24
Council	Mornington Peninsula Shire Council
DELWP	Department of Environment, Land, Water and Planning
DoT	Department of Transport
DTF	Department of Treasury and Finance
EPA	Environment Protection Authority Victoria
EP Act	<i>Environmental Protection Act 2017</i>
Esso	Esso Resources Australia Pty Ltd
GED	general environmental duty under section 25 of the EP Act
GHG	greenhouse gas
LIP	Long Island Point
LSIO	Land Subject to Inundation Overlay
MPS	Municipal Planning Strategy
Noise Protocol	EPA Publication 1826.4 <i>Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues</i>
PAO	Public Acquisition Overlay
PAC	Peninsula Aero Club
PE Act	<i>Planning and Environment Act 1987</i>
Planning Scheme	Mornington Peninsula Planning Scheme
Port Strategy	<i>Port of Hastings - 2018 Port Development Strategy</i>
PPF	Planning Policy Framework
Project land	the site on which the energy generation facility is proposed to be located (refer to Table 1)
PUZ	Public Use Zone

Structure Plan	<i>Hastings Port Industrial Area Land Use Structure Plan, 1996</i>
SUZ1	Special Use Zone Schedule 1
TRZ	Transport Zone
WorkSafe	WorkSafe Victoria

## Overview

### (i) Referral summary and Committee process

Referral summary	
<b>Date of referral</b>	30 August 2022
<b>Members</b>	Sarah Carlisle (Chair), Elizabeth McIntosh, Shannon Davies
<b>Committee assisted by</b>	Office of Planning Panels Victoria - Hayley Becker, Manager Major Projects - Georgia Thomas, Project Officer
<b>Description of referral</b>	Advice sought on whether or not permits should be granted and if so on what conditions. Specific advice sought on: - environmental impacts - amenity impacts including noise and air quality - aviation impacts - bushfire risks and emergency management
<b>Common name</b>	
<b>Municipality</b>	Mornington Peninsula Shire
<b>Responsible Authority</b>	Minister for Planning
<b>Permit applications</b>	- PA2201534 (Energy Generation Facility) – see Table 1 for details - PA2201533 (powerline) – see Table 2 for details
Committee process summary	
<b>Directions Hearing</b>	29 September 2022, online
<b>Site inspection</b>	8 November 2022, accompanied and unaccompanied
<b>Hearing</b>	Over 6 days between 14 and 24 November 2022, online
<b>Further material</b>	2 December 2022
<b>Parties</b>	Refer to Appendix E2
<b>Information relied upon</b>	Planning application files, delegate reports, expert evidence, referred submissions and submissions heard during Hearing. Refer to Appendix C
<b>Date of this report</b>	23 December 2022
<b>Citation</b>	Priority Projects Standing Advisory Committee Referral 24 [2022] PPV

### (ii) Findings

The Committee finds the Project can, with conditions, deliver acceptable planning outcomes and should be supported. In relation to the matters on which the Minister seeks specific advice:

- The **environmental impacts** of the Project, including native vegetation removal, are acceptable in the context of the strategic expectations for the site, its location in a state significant industrial precinct, and the need to prioritise protection of human life from bushfire risks. The Project land is sufficiently separated from the Ramsar wetland that

unacceptable impacts on the wetland or species using the wetland are unlikely. While the Project will generate greenhouse gas emissions, these would be no more than would be produced in the 'no project' scenario, and they are not of sufficient magnitude to be considered a significant environmental impact. With some minor adjustments, the proposed permit conditions are appropriate to ensure the Project's environmental impacts can be managed.

- The **amenity impacts** of the Project are acceptable in the context of the site's location in a state significant industrial precinct. Project generated **noise** is predicted to be comfortably below the applicable limits for nearby sensitive receivers (dwellings in the Cemetery Estate). Cumulative noise levels from the Long Island Point (LIP) plant and the Project are predicted to be close to the applicable limits. However, the predictions are conservative, and expert evidence confirmed that reasonably practicable measures could be taken to reduce cumulative noise emissions if required. **Air emissions** from the Project are predicted to be well below the applicable limits. With some minor adjustments, the proposed permit conditions are appropriate to ensure the Project's amenity impacts can be managed.
- **Aviation impacts** can be acceptably managed. CASA has undertaken a plume rise assessment and determined that the risks to aircraft from interference by plumes from the Project's exhaust stacks are low. Notations will be made to applicable aeronautical charts and the like informing pilots of the presence and (low) risks presented by the Project. This is sufficient to manage aviation impacts.
- **Bushfire** risks have been thoroughly assessed in accordance with the policy framework and Planning Scheme requirements, including the policy directive to prioritise human life. Defendable space will be created around the office building to minimise the bushfire risk to workers. There is nothing to suggest that the ignition risks associated with the ethane used on the Project land cannot be effectively managed.
- **Emergency management** is primarily dealt with under occupational health and safety legislation. The Committee is comfortable with the proposed approach of extending the existing emergency management plans and procedures for the LIP plant to the Project land, to ensure that safety risks and emergencies are planned for and managed in a coordinated and consistent way across the two facilities. The proposed permit conditions relating to emergency management are appropriate.

### (iii) Recommendations

The Committee recommends:

1. **Permit application PA2201534 for use and development of an energy generation facility and associated works should be granted on the conditions recommended in Appendix F1.**
2. **Permit application PA2201533 for use and development of a utility installation (powerline) should be granted on the conditions recommended in Appendix F2.**



# 1 Introduction

## 1.1 Terms of Reference and letter of referral

The Priority Projects Standing Advisory Committee (the Committee) was appointed by the Minister for Planning on 14 June 2020 under section 151 of the *Planning and Environment Act 1987* (PE Act).

The purpose of the Committee is set out in its Terms of Reference (Appendix A). It is to:

... provide timely advice to the Minister for Planning on projects referred by the Building Victoria's Recovery Taskforce (BVRT), projects affected by Covid-19 and/or where the Minister has agreed to, or is considering, intervention to determine if these projects will deliver acceptable planning outcomes.

Referral 24 relates to Planning Permit Applications PA2201534 and PA2201533 made to the Minister for Planning as Responsible Authority. Following the processing of the applications but before their determination, the Minister sought independent review of the applications through the Committee.

The Minister's letter of referral dated 30 August 2022 (Appendix B) tasked the Committee with providing advice and recommendations on whether planning approval should be granted, and if so, the appropriate conditions that should be imposed. The Minister sought specific advice about:

- environmental impacts
- amenity impacts including noise and air quality
- aviation impacts
- bushfire risks and emergency management.

## 1.2 The Committee's process

The letter of referral required further consultation with:

- the permit applicants
- Mornington Peninsula Shire Council (Council)
- referral authorities
- relevant public authorities or government agencies including:
  - Air Services Australia
  - the Civil Aviation Safety Authority (CASA)
  - the Country Fire Authority (CFA)
  - the Department of Transport (DoT)
  - the Port of Hastings Development Authority
  - WorkSafe Victoria (WorkSafe)
  - Bunurong Land Council
- objectors to the permit applications (of which there were 100).

Given the extent of further consultation sought by the Minister, a public hearing was convened to consider all views on the matter. The Committee wrote to all of the above to invite their participation in the Hearing. Those who took up this invitation are listed as parties in Appendix E2.

## 1.3 The Project

Under Clause 72.01-1 of the Mornington Peninsula Planning Scheme (Planning Scheme), the Minister for Planning (the Minister) is the Responsible Authority<sup>1</sup> for planning permits for the use and development of land for an energy generation facility with an installed capacity of 1 MW or greater, and for a utility installation directly associated with an energy generation facility.

Two planning applications were made to the Minister:

- PA2201534 – energy generation facility and associated works
- PA2201533 – utility installation (powerlines) and associated works.

Both applications propose some removal of native vegetation.

The energy generation facility (PA2201534) is proposed to be connected via the powerline (PA2201533) to the national electricity grid at the Hastings Zone Substation. Although separate applications with separate applicants, the proposals are interrelated and accordingly have been considered together.

The following tables provide a summary of the applications, based on information in the delegate reports and DELWP's Part A submission (Document 14).

**Table 1 Summary of PA2201534 (Energy generation facility)**

Key Information	Details
<b>Application No</b>	PA2201534
<b>Applicant</b>	Esso Resources Australia Pty Ltd
<b>Date received</b>	25 February 2022 Amendment (under section 50 of the PE Act) received 19 April 2022
<b>Permission sought</b>	Use and development of an energy generation facility and utility installation (pipeline) Removal of 0.857 ha of native vegetation
<b>Project description</b>	Three ethane gas fired turbine generators capable of generating up to 40 megawatts (MW) of electricity 600 metre long gas supply pipeline (150mm diameter) between the Project land and Esso's Long Island Point (LIP) Fractionation Plan Associated plant and equipment including electrical equipment building; switchyard; operations and maintenance building; sealed oily water well; noise wall (5 metres high and 41 metres long) along part of the southern boundary of the site; security fencing
<b>Subject site</b>	1, 2, 4 Long Island Drive, Hastings and 35 Cemetery Road, Hastings
<b>Zones and Overlays</b>	Special Use Zone Schedule 1 (SUZ1) Bushfire Management Overlay (BMO) Public Acquisition Overlay Schedule 4 (PAO4)

<sup>1</sup> The Committee's notification letter dated 7 September 2022 incorrectly referred to the Minister as 'planning authority'.

Key Information	Details
<b>Permit triggers</b>	<p>Use of land for an energy generation facility and utility installation (pipeline) - Clause 37.01-4 (SUZ)</p> <p>Construct a building or construct or carry out works - Clause 37.01-1 (SUZ) - Clause 45.01-1 (PAO4)</p> <p>Native vegetation removal - Clause 4.0 (SUZ1) - Clause 45.01-1 (PAO4) - Clause 52.17</p> <p>No permit trigger under the BMO</p>
<b>Notice</b>	<p>Direct mailing to owners and occupiers of adjacent land</p> <p>Mail out to owners and occupiers of lots within 500 metres of the site</p> <p>Mail out to agencies and responsible authorities</p> <p>Notice published in the Morrington News and Western Port News newspapers</p>
<b>Referrals</b>	<p>Determining referral authorities - Environment Protection Authority Victoria (EPA) (responsible for issuing a Development Licence under the <i>Environmental Protection Act 2017</i> (EP Act)) - DoT (acquiring authority under PAO4)</p> <p>Recommending referral authorities - DELWP Port Philip Region (native vegetation removal)</p> <p>Non statutory notice/referral - Council - CASA - Air Services Australia - CFA - WorkSafe - DELWP Impact Assessment Unit</p>
<b>Submissions</b>	100 (94 objections)

Table 2 Summary of PA2201533 (Powerline)

Key Information	Details
<b>Application No</b>	PA2201533
<b>Applicant</b>	United Energy Distribution Pty Ltd
<b>Date Received</b>	22 February 2022
<b>Permission sought</b>	Use and development of a utility installation (powerline) Removal of 0.001 ha of native vegetation
<b>Project description</b>	3.8 km of overhead 66 kV powerlines, with 43 power poles (15 new poles and 28 replacement poles) and associated ground stays

Key Information	Details						
<b>Subject site</b>	<p>An alignment between the Project land and the Hastings Zone Substation, via Long Island Drive, Bayview Road and Barclay Crescent, including private and public land in Hastings at:</p> <ul style="list-style-type: none"> <li>- 1 Long Island Drive</li> <li>- 7 Barclay Crescent</li> <li>- 22 Barclay Crescent</li> <li>- 28A Bayview Road</li> <li>- road reserves including Barclay Crescent, Bayview Road, Long Island Drive</li> </ul>						
<b>Zones and Overlays</b>	<p>SUZ1</p> <p>Public Use Zone Schedule 7 (PUZ7)</p> <p>Transport Zone, Category 3 (TRZ3)</p> <p>Land Subject to Inundation Overlay Schedule 1 (LSIO1)</p> <p>PAO2</p>						
<b>Permit triggers</b>	<table> <tr> <td>Use of land for a utility installation</td><td> <ul style="list-style-type: none"> <li>- Clause 37.01-1 (SUZ)</li> <li>- Clause 36.01-1 (PUZ)</li> <li>- Clause 36.04-2 (TRZ3)</li> </ul> </td></tr> <tr> <td>Construct a building or construct or carry out works</td><td> <ul style="list-style-type: none"> <li>- Clause 37.01-4 (SUZ)</li> <li>- Clause 36.01-2 (PUZ)</li> <li>- Clause 36.04-2 (TRZ3)</li> <li>- Clause 44.04-2 (LSIO)</li> </ul> </td></tr> <tr> <td>Native vegetation removal</td><td> <ul style="list-style-type: none"> <li>- Clause 4.0 (SUZ1)</li> <li>- Clause 52.17</li> </ul> </td></tr> </table>	Use of land for a utility installation	<ul style="list-style-type: none"> <li>- Clause 37.01-1 (SUZ)</li> <li>- Clause 36.01-1 (PUZ)</li> <li>- Clause 36.04-2 (TRZ3)</li> </ul>	Construct a building or construct or carry out works	<ul style="list-style-type: none"> <li>- Clause 37.01-4 (SUZ)</li> <li>- Clause 36.01-2 (PUZ)</li> <li>- Clause 36.04-2 (TRZ3)</li> <li>- Clause 44.04-2 (LSIO)</li> </ul>	Native vegetation removal	<ul style="list-style-type: none"> <li>- Clause 4.0 (SUZ1)</li> <li>- Clause 52.17</li> </ul>
Use of land for a utility installation	<ul style="list-style-type: none"> <li>- Clause 37.01-1 (SUZ)</li> <li>- Clause 36.01-1 (PUZ)</li> <li>- Clause 36.04-2 (TRZ3)</li> </ul>						
Construct a building or construct or carry out works	<ul style="list-style-type: none"> <li>- Clause 37.01-4 (SUZ)</li> <li>- Clause 36.01-2 (PUZ)</li> <li>- Clause 36.04-2 (TRZ3)</li> <li>- Clause 44.04-2 (LSIO)</li> </ul>						
Native vegetation removal	<ul style="list-style-type: none"> <li>- Clause 4.0 (SUZ1)</li> <li>- Clause 52.17</li> </ul>						
<b>Notice</b>	<p>Direct mailing to owners and occupiers of adjacent land</p> <p>Mail out to owners and occupiers of allotments or lots within 500 metres of the site</p> <p>Mail out to agencies and responsible authorities</p>						
<b>Referrals</b>	<table> <tr> <td>Determining referral authorities</td><td> <ul style="list-style-type: none"> <li>- Melbourne Water (associated with the LSIO1)</li> <li>- Council (acquiring authority under PAO2)</li> </ul> </td></tr> <tr> <td>Recommending referral authorities</td><td> <ul style="list-style-type: none"> <li>- Nil</li> </ul> </td></tr> <tr> <td>Non statutory notice/referral</td><td> <ul style="list-style-type: none"> <li>- DELWP Port Phillip Region (native vegetation removal)</li> </ul> </td></tr> </table>	Determining referral authorities	<ul style="list-style-type: none"> <li>- Melbourne Water (associated with the LSIO1)</li> <li>- Council (acquiring authority under PAO2)</li> </ul>	Recommending referral authorities	<ul style="list-style-type: none"> <li>- Nil</li> </ul>	Non statutory notice/referral	<ul style="list-style-type: none"> <li>- DELWP Port Phillip Region (native vegetation removal)</li> </ul>
Determining referral authorities	<ul style="list-style-type: none"> <li>- Melbourne Water (associated with the LSIO1)</li> <li>- Council (acquiring authority under PAO2)</li> </ul>						
Recommending referral authorities	<ul style="list-style-type: none"> <li>- Nil</li> </ul>						
Non statutory notice/referral	<ul style="list-style-type: none"> <li>- DELWP Port Phillip Region (native vegetation removal)</li> </ul>						
<b>Submissions</b>	4 (3 objections)						

## 1.4 The Applicants

Esso Resources Australia Pty Ltd is the applicant for PA2201534 (energy generation facility). United Energy Distribution Pty Ltd is the applicant for PA2201533 (powerline). The Committee wrote to both Esso and United Energy to invite them to participate in the Committee's proceedings. United Energy responded by informing the Committee that it did not intend to take

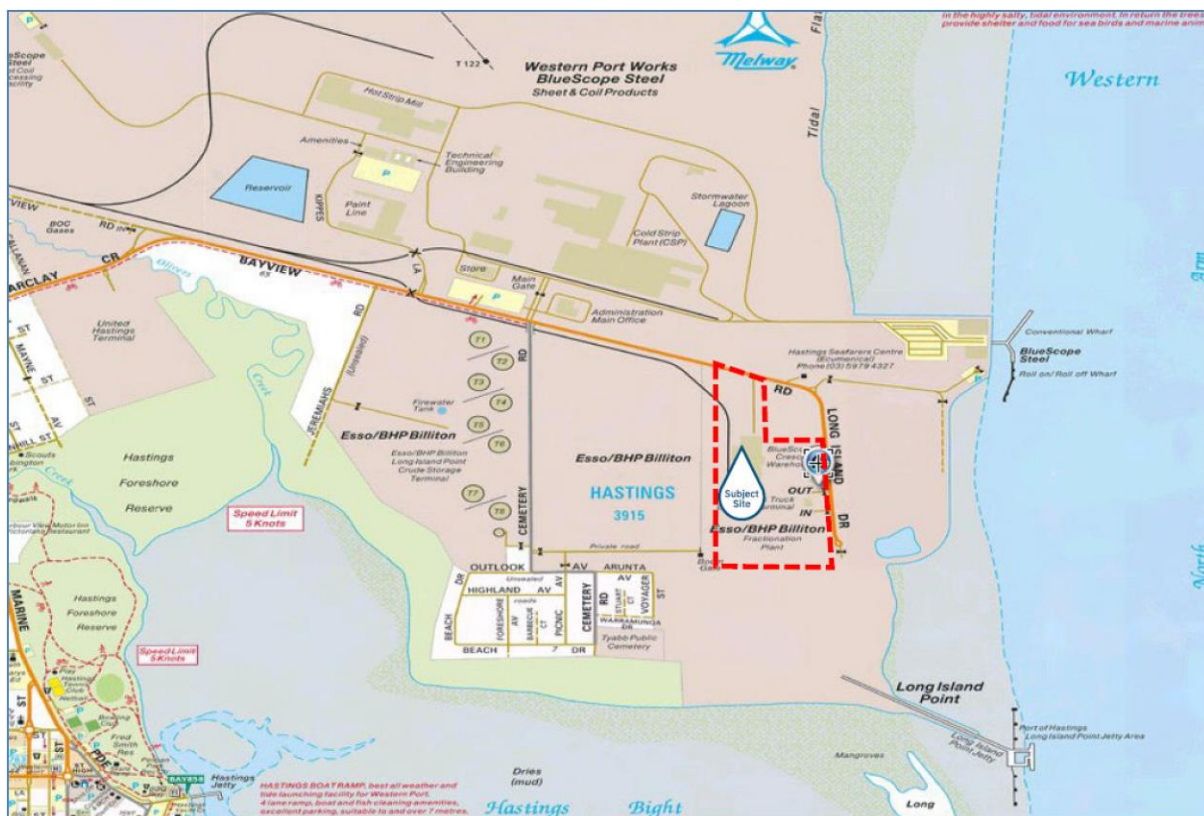
part, but would answer any questions the Committee may have through Esso. Esso confirmed this arrangement at the Directions Hearing. This report refers to Esso as the Applicant.

## 2 Site and planning context

### 2.1 The Project land

The Project is located roughly 55 kilometres south-east of Melbourne, on the western side of Western Port Bay, within the Mornington Peninsula Shire. The energy generation facility and associated works are proposed to be located on the site outlined in Figure 1 (the Project land), which is adjacent to Esso's Long Island Point (LIP) Fractionation Plant.

**Figure 1** Project land

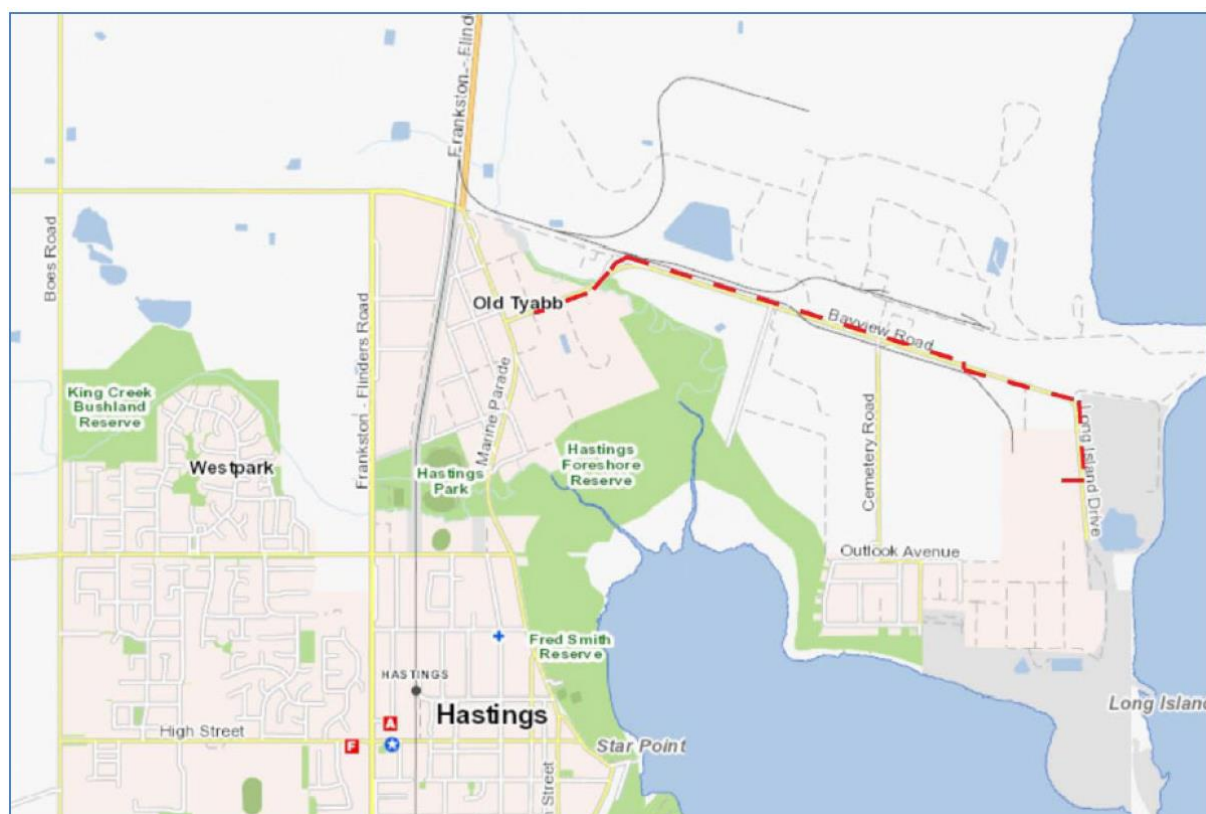


Source: DELWP Part A submission (Document 14)

The Project land as described in PA2201534 does not include Lot 37 on Lodged Plan 3732, which is the part of the LIP plant site and on which the proposed pipeline from the LIP site to the Project land originates. The Applicant suggested in its closing submissions that there may be merit in including Lot 37 in the Project land.

The Committee agrees, and has added Lot 37 to the description of the development parcels in Appendix F1 (the Committee's recommended conditions for Permit PA2201534). This may require a formal amendment to Application PA2201534 before the Minister decided on the application (see section 57A(2)(b) of the PE Act).

The proposed alignment of the powerline is shown as a red dashed line in Figure 2 below.

**Figure 2** Proposed powerline alignment

Source: DELWP Part A submission (Document 14)

## 2.2 Planning framework

This section identifies planning context relevant to the Amendment. Appendix D provides further details regarding relevant provisions and policies.

**Table 3** Planning context

Source	Relevant reference
<b>Victorian planning objectives</b>	Section 4 of the PE Act
<b>Planning Policy Framework (PPF)</b>	Clause 11 (Settlement) Clause 12 (Environmental and landscape values) Clause 13 (Environmental risks and amenity) Clause 14 (Natural resource management) Clause 15 (Built environment and heritage) Clause 17 (Economic Development) Clause 19.01 (Energy)
<b>Municipal Planning Strategy (MPS)</b>	Clause 02.03-2 (Environment and landscape values) Clause 02.03-3 (Environmental risks and amenity) Clause 02.03-5 (Built environment and heritage) Clause 02.03-8 (Infrastructure)



Source	Relevant reference
<b>Other strategies and policies</b>	<i>Hastings Port Industrial Area Land Use Structure Plan, 1996</i> (Structure Plan)
	<i>Port of Hastings – Port Development Strategy, 2018</i> (Port Strategy)
<b>Planning scheme provisions</b>	Zones and Overlays – refer to Tables 1 and 2 in Chapter 1.3
	Clause 52.17 (Native vegetation)
	Clause 53.02 (Bushfire planning)
	Clause 65 (Decision guidelines)
	Clause 71.02-3 (Integrated decision making)



## 3 The Committee's approach

### 3.1 The process

The Committee is mindful of the context in which this matter has been referred to it – namely as a (non-statutory) part of the (statutory) permit application process under the PE Act. While the matters on which the Minister seeks advice are broadly framed, that advice is sought to inform the Minister's decisions (as responsible authority) on the permit applications under section 61 of the PE Act. The Committee has therefore framed its advice having regard to the requirements and guidelines of the PE Act and the Planning Scheme that apply to decisions under section 61, including the matters a responsible authority must consider under section 60.

The energy generation facility requires a Development Licence under the EP Act. The EPA granted a Development Licence on 11 August 2022. The Applicant tabled copies of the Development Licence (Document 50) and the EPA's assessment report (Document 51).

The Applicant submitted that the permit application process should not be seen as an opportunity to look behind decision making processes under other legislation. This is a well established principle in planning permit assessments. The Committee has adopted this approach and has not sought to look behind the EPA's decision on the Development Licence, or to revisit matters that have been dealt with under the EP Act. That said, the Committee has been assisted by the EPA's assessment report and Development Licence conditions in assessing the energy generation facility application against the requirements of the PE Act and the Planning Scheme.

### 3.2 Community consultation and engagement

Save Westernport made submissions about consultation and engagement, both by the Applicant and as part of the Committee's process. They felt the consultation and engagement was not sufficient to allow the community to fully participate in the permit application process. In particular, they felt that notice of the permit applications should have extended to French Island residents. Save Westernport and Ms King made submissions that the Committee process had been somewhat rushed. Ms King indicated that she did not have sufficient time to engage an expert to appear at the Hearing.

Notice procedures for a permit application are governed by the PE Act. DELWP (on behalf of the Minister as responsible authority) followed the requirements of the Act, and in fact directed that direct notice to landowners and occupiers extend beyond the requirements in section 52. In response to a question from the Committee, DELWP explained that direct notice was not extended to French Island because the application material indicated that direct impacts would not extend that far. DELWP noted that the permit applications had been made publicly available, and notice had been provided in local newspapers in accordance with the requirements of the PE Act.

The timing of the Committee's process was driven by its terms of reference, which require the Committee to provide timely advice to the Minister for Planning. Save Westernport requested and was granted a two week adjournment. Despite her difficulties in retaining an expert, Ms King did not request an adjournment.

Further, the opportunity to participate in the Committee process is in addition to the community's statutory rights to participate in the permit application process. This includes the right under

section 82 of the PE Act to seek a review of the Minister’s decisions in the Victorian Civil and Administrative Tribunal should they wish to do so (unless the Minister exercises powers of intervention, which have so far not been exercised).

The Committee is satisfied that the consultation and engagement undertaken to date has met statutory requirements, and the community has been provided with an appropriate opportunity to be heard given the nature of the Committee’s process.

### 3.3 Matters not addressed by the Committee

The Committee has not addressed the following matters raised by submitters or parties, as they are not relevant planning considerations or are outside the Committee’s remit:

- the appropriateness of a port related industrial precinct being located next to Ramsar wetlands
- whether further environmental studies are needed to fill knowledge gaps about Western Port fauna to determine, in general terms, industrial limits
- existing operations at the LIP plant and other surrounding industrial sites, including the impacts of existing flaring of ethane at LIP
- historical approvals and non-compliances by the Applicant and others within the port related industrial precinct
- whether the Project should be assessed under the *Environment Effects Act 1978*
- whether the Project should be approved in the absence of a social licence
- whether the Applicant is a fit and proper person to operate the facility (noting this matter has already been considered by the EPA in its decision on the Development Licence application).

## 4 Matters on which specific advice is sought

### 4.1 Environmental impacts

Submissions raised concerns in relation to the following general themes:

- impacts of native vegetation removal, including cumulative impacts of the two applications
- impacts on threatened species, including the appropriateness of the assessment
- impacts on Ramsar wetlands
- greenhouse gas (GHG) and climate change impacts.

#### (i) Native vegetation removal

Native vegetation removal is proposed under both applications:

- Application PA2201533 proposed 0.001 ha of removal for the powerline.
- Application PA2201534 proposed 0.857 ha for the energy generation facility.

Material for Application PA2201533 included a Biodiversity Assessment dated April 2021. The Assessment:

- measured 8 square metres of removal was required
- calculated offsets at 0.002 General Habitat Units.

Material for Application PA2201534 included a Native Vegetation Assessment dated April 2022. The Assessment:

- measured 0.857 ha of removal was required (0.753 ha of which was required for defensible space)
- determined the extent of removal triggered a detailed assessment pathway
- calculated offsets at 0.222 General Habitat Units and confirmed these could be secured.

#### Planning policy

Policy requires a three step approach in relation to native vegetation removal – avoid, minimise and offset. More broadly, the policy framework requires consideration of cumulative impacts on biodiversity, and ranks the protection of human life against bushfire risk as the highest priority within the decision making framework. Refer to Appendix D for more detail.

#### Submissions and evidence

Submissions expressed concern for the impacts of native vegetation removal on flora and fauna. They considered removing the native vegetation, even though it is not remnant and partly replanted, could impact on local ecology. Ms King requested that the extent of removal be limited. Save Westernport was concerned that the separate lodgement and assessment of the two applications did not allow for the proper consideration of cumulative impacts.

The DELWP officer's assessments of the permit applications (Documents 3(o) and 4(y)) determined the proposed vegetation removal was acceptable, subject to conditions including preparation of a Construction Environmental Management Plan (CEMP). This was based on the following:

- DELWP as the referral authority for native vegetation removal did not object.
- The development footprint for the energy generation facility is located in already cleared areas.
- The applications demonstrated suitable efforts to avoid removal of native vegetation.
- Most removal on the Project land is needed to create defensible space.

- Suitable offsets are able to be secured.

The Council officer's view (set out in Document 49) was:

- The impacts of removal would be minimal.
- The vegetation to be removed is of low quality.
- The extent and condition of vegetation to be removed meets the relevant decision guidelines under the Planning Scheme.
- Native vegetation removal was no reason to object.

Mr Lane gave evidence on behalf of the Applicant. He was satisfied each application met the requirements of Clause 52.17 including the avoid, minimise and offset steps. Mr Lane noted:

- The site layout sought to avoid and minimise native vegetation removal by locating new structures for the energy generation facility on already cleared land and micro-siting the powerline poles to avoid vegetation removal.
- Most of the native vegetation needed to be removed for bushfire defensible space purposes, although some understorey vegetation along the main access drive also needed to be removed.
- The native vegetation proposed for removal was of low value, highly degraded, contained exotic species and comprised some replanted vegetation.
- The vegetation was unlikely to support threatened species.
- Calculated offsets can be secured.

The Committee questioned both Mr Lane (who gave ecology evidence on behalf of the Applicant) and Mr McBride-Burgess (who gave planning evidence on behalf of the Applicant) on whether the 'avoid' step required consideration of alternative site layouts for the energy generation facility. Mr Lane accepted the Applicant's advice that the proposed location of the office was necessary for emergency access and egress, and he did not think that consideration of alternative layouts was needed. Mr McBride-Burgess considered that the application met the avoid and minimise steps as the buildings are logically located. He noted that the planning framework encourages alternative outcomes to be considered where the proposed outcomes are unacceptable, which was not the case.

Mr Lane's evidence was that the offsets were calculated on an assumption of wholesale removal of native vegetation within the defensible space area. This is conservative, as not all vegetation would need to be removed. He considered that canopy trees should be retained within the defensible space area where possible, guided by Clause 53.02 (Bushfire planning) of the Planning Scheme. Both he and Mr Potter, who provided bushfire evidence for the Applicant, supported the Applicant's Day 3 permit conditions (Document 76) to guide this outcome.

In response to a request from the Committee, Mr Lane tested the cumulative impacts of both applications using the DELWP toolkit. He deemed the cumulative impacts were negligible due to the small amount of additional native vegetation removal (0.001 ha) required for the powerline.

## Discussion

On balance, the Committee considers the extent of native vegetation removal is acceptable. It is satisfied the three step 'avoid, minimise, offset' approach required under the planning framework (in particular Clause 52.17) has been met.

Native vegetation removal is one of the few components of the applications that are assessed solely under the planning framework, rather than the EP Act. The decision guidelines under the

various permit triggers for native vegetation removal (being SUZ1, Clause 52.17 and PAO4) require consideration of a number of matters, including:

- the need to create defensible space
- consideration of alternative site layouts
- impacts on biodiversity
- ability to secure offsets.

Extent and quality of vegetation are specific matters to consider under the detailed assessment pathway.

The material presented to the Committee demonstrated to its satisfaction that the proposed site layout is based on safety factors. The applications were supported by documents relating to safety procedures, as already assessed by the EPA and by WorkSafe. The Committee sees no reason to doubt the appropriateness of the layout from a safety perspective. Safety is discussed in more detail in Chapters 4.4 and 4.5.

DELWP (in its capacity as the referral authority for native vegetation removal) accepted that the quality of vegetation to be removed is low. Most of the vegetation has been replanted and limited remnant vegetation remains. This accords with the Committee's observations on its site visit. The Committee accepts Mr Lane's evidence that the vegetation holds low biodiversity value and is unlikely to provide suitable habitat for threatened fauna.

The extent of native vegetation removal is relatively modest when considered in the broader context of the Western Port Bay and the surrounding hinterlands. The proposed site layout has sought to maximise the use of existing cleared areas. Where removal is proposed, almost all the extent is needed to create defensible space that accords with the dimensions stipulated by Clause 53.02 (Bushfire planning).

The Applicant has accepted that canopy trees within the defensible space area should be retained where possible. This means the extent of removal could be less than estimated in the Native Vegetation Assessment. The Committee is satisfied this is a balanced way to ensure protection against bushfire risk whilst reducing biodiversity impacts, and notes that the approach was supported by both the ecology and bushfire experts.

The cumulative impacts of the applications have been assessed by Mr Lane as negligible and the Committee sees no reason to disagree with his findings. The calculations show the impact of adding removal for the powerline with removal for the energy generation facility is almost imperceptible. Further, DELWP as the referral authority has accepted that suitable offsets are available. These offsets are likely to be conservative given they assume full vegetation removal within the defensible space area.

Both Mr Lane and Mr McBride-Burgess were satisfied with the Applicant's Day 3 permit conditions. Consistent with Mr Lane's advice, similar conditions for native vegetation removal are included across both permits. The Committee agrees that this is a sound approach and one that reflects the shared ecology of the adjoining sites. Ms King sought various changes to the Day 3 permit conditions which generally aligned with the changes proposed by the Applicant but provided greater detail. The Committee regards this additional detail as unnecessary to ensure the requirements can be effectively implemented.

The Committee recommends some minor changes to strengthen the Applicant’s Day 3 permit conditions for PA2201534, largely in response to DELWP’s comments on the Day 3 permit conditions (Document 82):

- revise the timing trigger in condition 3 to require endorsement of the Environmental Management Plan before development, rather than use, to ensure the native vegetation removal components can be appropriately addressed
- revise condition 3(k) to require ‘identification and retention’ rather than just ‘identification’ of canopy trees in the defendable space.

These changes are reflected in the Committee’s recommended conditions in Appendix F1.

## **(ii) Impacts on threatened species**

### **Planning policy**

Relevant planning policies seek to avoid impacts of land use and development and native vegetation removal on biodiversity. Policies do not confine biodiversity to threatened species and specifically list the Ramsar wetlands as a site of biodiversity value. Refer to Appendix D for more detail.

### **Submissions and evidence**

Submissions raised concern about the potential impacts of new industrial development on threatened species near the Project land and extending to French Island. Ms King and the Shoreham Community Association raised concerns about impacts on koalas (which are not listed as threatened). Related impacts include light spill and noise from the energy generation facility, as well as native vegetation removal (discussed in Chapter 4.1(i)). Impacts associated with water quality are discussed at Chapter 4.10 below.

Application PA2201534 was accompanied by a document titled ‘Hastings Generation Project Threatened Species Likely to Occur in the Project Area’, undated and prepared by Esso (Document 4(l)). The document assessed that:

- eight fauna species had potential to occur
- no threatened flora species were likely to occur.

The DELWP officer’s assessments determined the proposal would be unlikely to cause unacceptable impacts to fauna on the Project land or in the surrounding area. This was based on:

- the Project land’s context being highly industrialised
- the distance between the Project land and the coastline
- the ability for permit conditions to manage the potential impacts of native vegetation removal on fauna
- DELWP (as a referral authority) raising no objection or concern with the Esso-prepared threatened species list.

The Council officer’s assessment also determined that fauna impacts were acceptable.

Mr Lane’s evidence included a Threatened Species Assessment dated October 2022 as an appendix. This document was not part of the application material, and its purpose is unclear. The Assessment found that no threatened flora or fauna would be significantly impacted by the proposal.

Mr Lane considered the assessment was systematic and comprehensive. His evidence was that the highly degraded nature of the vegetation on the Project land was not conducive to threatened

flora species or communities and does not provide high quality habitat on which threatened fauna species rely. This was supported by records and site surveys, including for the southern brown bandicoot and the orange bellied parrot.

The Committee sought clarification on the difference between Mr Lane’s threatened species list and the Esso list submitted with the application (Document 4(l)). Mr Lane responded that his was the most relevant assessment that considered impacts of construction and operation of the Project and native vegetation removal for all species listed in the *Flora and Fauna Guarantee Act 1998* and the *Environmental Protection and Biodiversity Conservation Act 1999*.

The Committee questioned Mr Lane on the appropriateness of setting a five kilometre study area for the Threatened Species Assessment, noting that this excluded French Island. He explained that five kilometres is the typical radius used where there is sufficient data (as there is for the Western Port Bay area) to properly inform an assessment of the likelihood of species occurrence. He deemed this radius appropriate for both flora and fauna threatened species. He concluded that as the impacts on fauna species in Western Port Bay would be minimal, so too would be the impacts on the farther French Island environs.

Mr Lane considered the draft Environmental Management Plan (Document 4(e)) is appropriate to adequately protect and mitigate impacts and assessed its implementation as practicable and achievable.

The Committee questioned Mr Lane on his assessment of noise impacts on fauna, based on the Wildlife Noise Impact Assessment that was tabled by the Applicant in response to a request from the Committee (Document 35(d)). His view was that the small increase in noise would not adversely impact fauna, because:

- areas nearer to the Project land are not foraging and nesting areas (as the coastline is), meaning the potential for noise impact is lesser closer to the site
- modelled noise levels from the Project close to the Project land fall below the applied threshold of 55 dB(A), below which various studies have found fauna types reflected in the threatened species list would not be impacted
- noise levels would be even further below the threshold at the coastline
- the fauna which inhabit the area are used to background noise from existing industry
- noise from the Project will be continual background noise rather than impulsive noise which is more intrusive on fauna.

Mr Lane supported the recommendation in the Wildlife Noise Impact Assessment to undertake a post-installation noise assessment to confirm impacts on fauna. The Applicant did not include this in the Day 3 permit conditions, as the predicted noise levels are well below the threshold that would impact on fauna.

Mr Lane considered that light spill was unlikely to cause impacts on fauna because the permit required light mitigation measures consistent with the National Light Pollution Guidelines for Wildlife. He nonetheless recommended permit conditions to install a vegetation buffer (of indigenous species) to further manage light spill, as reflected in the Applicant’s Day 3 permit conditions.

Mr Lane’s view, in response to questions from the Committee, was that plume rise was not likely to cause a nuisance to fauna (birds). This was because the plume footprint would be limited, making it highly unlikely for rarer species to fly over due to their low frequency and abundance.

## Discussion

Impacts on threatened species is one of the few matters, other than native vegetation removal, which does not overlap with matters assessed by the EPA made under the Development Licence application.

The Committee considers the Project will not cause unacceptable impacts on threatened species. It acknowledges the proposal is located in a sensitive environmental context, however it is also located within the Port of Hastings, being a state and regionally significant industrial precinct that is already extensively developed for industrial purposes. The additional noise and light spill impacts of the Project on fauna are considered acceptable in this context.

The Committee considers that the Threatened Species Assessment attached to Mr Lane's evidence is suitable for informing impacts on fauna in accordance with the planning framework (although it was not included in the application material and did not form part of the DELWP officer's assessment of PA2201534). The assessment was informed by a methodology that included a vegetation assessment, a review of records and verifying site surveys. It considered all the potential impacts from the Project, including the construction and operational phases.

The Committee accepts that a study area of a five kilometre radius from the Project land is acceptable. The decades' worth of data on species records within the study area appears sufficient to determine likely presence of species. The lack of objection or concern raised by DELWP provides further comfort that these records are sufficient to inform the assessment. While the study area excludes French Island, which is an area of high ecological value, the Committee accepts Mr Lane's reasoning that if threatened species which inhabit the coastline near the Project land will not be significantly impacted, neither would those in French Island.

The Committee accepts Mr Lane's evidence that the noise impacts from the Project are unlikely to impact on threatened species. The Committee agrees the coastline is the location where threatened species are more likely to be present, and accepts the noise levels are well below the threshold at the coastline. Locations closer to the Project land, where noise is louder (but still below the threshold) are unlikely to be important foraging or nesting sites for threatened fauna. The Committee accepts Mr Lane's evidence that it is reasonable to assume fauna which inhabit the area are used to industrial background noise, and a modest increase in continual noise is unlikely to cause significant impacts.

The Committee supports the Applicant's position that post-installation assessment of noise impacts on fauna is unnecessary, given the predicted increase in noise level is well below the threshold at the coastline (being the most sensitive fauna habit area).

The Committee accepts Mr Lane's evidence in terms of potential impacts of light spill on threatened species. The Project land is located in a highly industrialised area with other light sources and the additional light spill generated by the Project is unlikely to cause detrimental impacts. The Committee supports the Applicant's Day 3 permit condition (added on Mr Lane's recommendation) that requires a vegetated buffer around the Project land to further dampen potential light spill impacts on fauna, although it considers minor amendments are required to the condition to clarify its purpose.

The Committee accepts Mr Lane's evidence that there will be limited impacts from the plume rise on threatened species. His assumptions that threatened bird species will be low in numbers and that their frequency in flying over the Project land is low, appear reasonable.



The expert evidence did not address impacts of vegetation removal on other fauna species, such as koalas. The Committee understands from submissions that koalas may inhabit areas around the Project land. However, there is no relevant strategy in the Mornington Peninsula Planning Scheme (unlike in some other municipalities) to confirm koala habit locations and explain how any local population could or should be managed. The Committee is therefore not in a position to make any recommendations aimed at protections for koalas.

The Committee accepts Mr Lane’s evidence that the Environmental Management Plan (and CEMP) are suitable tools to manage potential impacts on fauna, including during the construction phase, and that the draft Environmental Management Plan is practicable and achievable. It considers the oversight of a zoologist when the native vegetation is removed will sufficiently manage impacts on wildlife and does not see the need to require a veterinarian as requested by Ms King.

The Committee recommends condition 3(j) be amended to provide more specificity about the purpose of the vegetated buffer recommended by Mr Lane, and to make the buffer subject to bushfire requirements. These changes are reflected in the Committee’s recommended conditions in Appendix F1.

### **(iii) Impacts on the Ramsar wetlands**

#### **Planning policy**

The applicable planning policy framework for the Port of Hasting states that land use and development should consider impacts on the Ramsar wetlands. It includes reference to the various legislative requirements relating to these internationally significant waters. Clause 12 of the Planning Scheme more generally requires consideration of use and development impacts on biodiversity, water quality and coastal acid sulphate soil (CASS) in association with native vegetation removal.

The SUZ1 includes purposes to protect the environmental values of the waters, coastline and intertidal areas. The effect on these is listed under the decision guidelines as a matter to consider.

Refer to Appendix D for more detail.

#### **Submissions and evidence**

Submissions expressed concern that the proposal would impact on the biodiversity of the nearby Ramsar wetlands. Impacts included CASS disturbance and contaminated water runoff including flows from extreme weather events. Concerns were raised for consequential impacts on migratory birds, migratory shorebirds and the orange bellied parrot. Noise impacts on the wetlands are discussed in Chapter 4.1(ii).

Council’s grounds of objection included that Application PA2201534 did not adequately articulate the potential environmental impacts on its surrounds including the Ramsar wetlands.

Save Westernport sought additional measures to guard against water quality impacts:

- automated valves on the energy generation facility sump (which collects contaminated spills) with continuous monitoring
- electronic monitoring to manage stormwater flows.

The application material stated the sump is not connected to the stormwater drain system.

At DELWP's request, further information was provided in relation to Application PA2201534 to understand the impacts of the Project on the surrounding environment including the wetlands, as well as wetland health and waterway protection. The further information consisted of:

- a Surface Water and Groundwater Desktop Assessment prepared by Nuffield Consultants, dated April 2022
- a Stormwater Management Plan prepared by Esso dated April 2022.

The Surface Water and Groundwater Desktop Assessment concluded that the surface and groundwater impacts are expected to be low to negligible, as the Project would not regularly use water during operational activities, and there is no proposal to change the size of impervious areas on the Project land. It concluded that any impacts during construction could be managed through the preparation and implementation of a CEMP. The Stormwater Management Plan provides best practice site management procedures to control construction phase impacts.

The DELWP officer's assessment concluded that the Project, within a highly industrialised site and setting, would unlikely cause significant or unacceptable impacts on biodiversity including the wetlands. This was based on:

- the conclusions of the Environment Effects Statement self-assessment (Document 4(s)) that the wetlands would not be impacted due to distance from the Project land and that stormwater management measures are sufficient
- an assessment that the potential risks of water impacts were low given the energy generation facility is located within an existing industrial facility and that any risks can be appropriately managed through conditions (approval of an Environmental Management Plan and a Drainage and Stormwater Management Plan)
- confirmation that no CASS were present on site.

The EPA's assessment report (Document 51) considered stormwater only, and made no specific comments on the Ramsar wetlands, CASS, surface water or groundwater. It concluded that the risk of impacts from stormwater were low, based on:

- minimal use of water in the day-to-day operation of the plant
- mitigation measures, including the sump, to reduce the risk of contaminated stormwater leaving the Project land.

The Council officer made no specific assessment or comments in relation to the Ramsar wetlands and raised no issues in relation to CASS, drainage or water quality. Council recommended planning permit conditions relating to drainage.

The Applicant largely relied on the EPA assessment in relation to water quality. It noted that the main part of the Project land is located over 400 metres from the Ramsar wetlands, and confirmed that water use will be minimal. It submitted that the Project includes appropriate water quality measures, and confirmed that tests assessed that CASS were not present on the Project land, notwithstanding the publicly available mapping that indicates they are present.

Mr Lane considered the Project would not lead to long term change to the ecological character of the Ramsar site, provided the CEMP and Environmental Management Plan were implemented and his additional mitigation measures were adopted. He noted:

- the lack of biodiversity links between the Project land and the Ramsar wetlands, due to intervening land uses of the LIP plant and Long Island Point Drive
- existing drainage infrastructure will be used to ensure no hydrological pressures will be added

- there is minimal disturbance of the soil profile (and any potential CASS) given the proposed use of an existing cleared and level area on the Project land
- the draft Environmental Management Plan includes:
  - suitable soil and dust management measures to manage any potential impacts of soil disturbance associated with the construction of the pipeline
  - requirements that stormwater treatment ensures current nutrient levels and water quality remain unchanged at the point of discharge into the Westernport system.

Mr Lane considered the Environmental Management Plan requirements were practicable and achievable and that the water quality engineering solutions proposed were proven. He nonetheless recommended a permit condition that the proposal does not change the hydrological flow or water quality of discharge entering Western Port Bay. This was included in the Applicant's Day 3 permit conditions.

### Discussion

The Committee finds that the Project is unlikely to cause unacceptable impacts on the Ramsar wetlands in terms of water quality and disturbance of CASS, provided the proposed permit conditions are implemented (including the CEMP). It accepts Mr Lane's evidence that the proposal will not lead to long term ecological change to the Ramsar wetlands.

The Project land itself provides some protection against potential impacts on the wetlands. It is already developed and cleared and sits within a long-established industrial area. It is physically removed from the coastline by distance, and biodiversity links to the wetlands are limited by roads and existing industry.

The Committee accepts the application material and evidence that there is unlikely to be a change in hydrological flows from the Project land entering the wetlands. In large part the existing drainage infrastructure will be used. The Project itself uses minimal water during operations. These factors reduce the potential for impacts on water quality.

The proposed permit conditions include sufficient mitigation measures to manage any flows, including contaminated ones, out of the Project land. These conditions are derived from comments from DELWP, the EPA, Council and experts which collectively assessed a range of matters. The Committee sees no reason to dispute the appropriateness of these conditions, and considers that they are sufficient to ensure water quality will be suitably managed. The conditions require sign off from qualified engineers who can consider extreme weather events as relevant.

CASS were tested and not detected on the Project land. In any case, Mr Lane's evidence is that the proposed permit conditions include mitigation measures that can manage any disturbance if CASS were present.

The proposed permit conditions relating to the CEMP are appropriate and acceptable. The conditions have been reviewed by Mr Lane and are supported by him. Similarly, the draft Drainage and Stormwater Management Plan was assessed by both DELWP and the Council (the relevant drainage authority) and found to be appropriate. The Committee observes that the permit conditions require the Stormwater Management Plan to address best practice measures and explain how polluted and contaminated runoff is to be managed.

The Committee does not consider that the additional mitigation measures for managing on site water flow and soil disturbance and monitoring requirements requested by Save Westernport and Ms King are necessary, or proportional to the risks to water quality presented by the Project. The

EPA officer's assessment noted the Applicant's commitment to dispose of sump collection at a lawful place, and enforcement action can no doubt be taken by the EPA if this is not done and environmental harm results. Ongoing monitoring is unnecessary given the expected low levels of stormwater runoff and the need to meet best practice.

However, the Committee recommends a condition be added to require a report within 12 months after operations commence that demonstrates that the drainage works are sufficient to prevent the alteration of existing hydrological flows and water quality before being discharged into the Westernport Bay. This is shown as condition 6A in Appendix F1.

#### **(iv) Greenhouse gas and climate risks**

##### **Planning policy**

The *Climate Change Act 2017* is the State's principal legislation governing climate change. The Act applies to decisions made under legislation listed in the schedule to the Act. This includes the EPA's decision on the Development Licence application under the EP Act, but it does not include decisions under the PE Act.

Direct references to climate change in the Planning Scheme are more focussed on ensuring that development responds to the risks arising from climate change (such as sea level rise and increased bushfire risk), rather than an assessment of the extent to which the proposed development will contribute to climate change (refer to Clause 13.01 of the Planning Scheme).

That said, every permit application must be assessed against the Victorian planning objectives, and any significant effects the proposal may have on the environment must be considered (section 60(1) of the PE Act). Permit applications must also be assessed against the principles of net community benefit and sustainable development (Clause 71.02-3). These considerations are sufficiently broad to capture the Project's contribution to climate change.

##### **Submissions and evidence**

Submitters considered that the Project is inconsistent with climate policy, and would make it more difficult (or even impossible) to achieve Victorian and local government emissions reductions targets. The basis of many of these submissions was that all fossil fuel based projects should be refused given the current climate emergency.

Application PA2201534 was accompanied by a GHG assessment prepared by AECOM. The assessment calculated the Project's emissions during construction and operation, and compared them against Victoria's total emissions (2019 figures).

The assessment calculated that the operational emissions for the Project (averaged annually) would be 114,625 tonnes of carbon dioxide equivalent (t CO<sub>2</sub>-e) each year for 11 years (the Applicant's estimate of the Project's life), which is the equivalent of 0.13 percent of Victoria's annual greenhouse gas emissions. Construction emissions were assessed to be negligible in the context of total Victorian emissions.

Save Westernport and Ms King cast doubt on AECOM's calculations. They calculated that the Project's emissions could be much higher than AECOM's estimate of 114,625 tonnes per year, based on the maximum generation capacity of the proposed turbines. Both submitters raised concerns that alternative fuels (including methane) could be used to supplement (or even replace) the ethane supplied from the LIP plant, which could increase the generation capacity or extend the Project life, and thereby increase the Project's emissions.

Save Westernport submitted that the GHG emissions from the production of the ethane should be counted in the Project’s emissions, to provide a more accurate picture of the total GHG impacts of the Project.

## Discussion

### Impacts on emissions reduction targets

Emissions reduction targets have been adopted at all levels of government. These are matters to which the responsible authority may have regard,<sup>2</sup> although they do not carry significant weight in an assessment of a permit application as they are not referenced in the Planning Scheme. Climate policy and targets are more relevant to the EPA’s decision on the Development Licence application, as this is a decision to which the *Climate Change Act* applies.

The EPA’s assessment of the Development Licence application (Document 51) included a detailed consideration of the Project’s climate change impacts and its implications for state emissions reduction targets, including:

- biophysical impacts
- short and long-term economic, environmental, health and other social impacts
- beneficial and detrimental impacts
- direct and indirect impacts
- cumulative impacts.

The EPA found that the risk of the Project impacting the state’s emissions is low. Further, the Project would likely generate offsets from current ethane disposition, or from offsetting electricity from other more emissions-intensive sources (coal fired generation), which had not been accounted for in AECOM’s calculations. The EPA concluded (at page 58 of Document 51):

A [Development Licence] can be issued. EPA considered this in line with the *Climate Change Act*, including understanding how the proposal contributes to Victoria’s total greenhouse gas emissions and the impacts from climate change on the proposal.

The Council officer’s assessment of the permit applications (Document 49) assessed the Project against Council’s Climate Emergency Response Plan and emissions reduction targets. Council’s internal Climate Change and Sustainability Unit advised that the Project would constitute a 6 percent increase in the Shire’s total annual emissions. This was considered contrary to Council’s Climate Emergency Response Plan, including its target of net zero emissions by 2040.

Notwithstanding, the Council officer’s assessment did not object to the proposal, noting that it could result in an overall reduction in GHG emissions by displacing a (small) proportion of coal fired electricity. The assessment concluded (on page 135 of Document 49):

Overall, while the proposal would yield increased greenhouse gas emissions at a local level, when considered at a state-level and with the intended lifespan of the facility, the circumstances under which the proposal has arisen, and the alternatives available, the greenhouse gas emissions resulting from the Proposal are acceptable. On this basis, it is not considered that the Application warrants objection on climate change grounds.

The Committee acknowledges that Council (as opposed to the officer) objected to the Project on the basis that it is inconsistent with Council’s Climate Emergency Response Plan. However, the Committee found the officer’s assessment of greater assistance, as it included a detailed analysis of the Project and its impacts against the Climate Emergency Response Plan and Council’s

<sup>2</sup> Section 60(1A)(g) of the PE Act.

emissions reduction targets. Council’s objection, on the other hand, offers no substantiating analysis or supporting material explaining why Council objected on climate change grounds.

The Applicant has stated that without the Project, any ethane not supplied to Qenos would most likely be flared from the existing stacks at the LIP plant. Dr Hume confirmed that flaring would produce the same net amount of GHG emissions as using the ethane to generate electricity. Using it to generate electricity at least creates the possibility of displacing demand for electricity generated from other higher emissions intensity sources (such as coal fired generation). This could result in an (albeit small) overall reduction in the state’s total GHG emissions from the energy sector. The Committee regards this as a better and more efficient outcome in terms of climate change than simply flaring the excess ethane.

#### Are the calculated emissions ‘worst case’?

Both the EPA’s assessment and the Council officer’s assessment were based on AECOM’s calculations of the Project’s GHG emissions. AECOM’s GHG assessment states that the calculations of operational emissions were based on a “*worst case scenario*” that assumed that all three generators will operate at 100 percent capacity all day every day for each year that the Project operates. Dr Hume of AECOM confirmed this assumption in his written evidence.

Based on a broader review of the application material, AECOM’s calculations of the Project’s emissions appear to be based on the amount of ethane anticipated to be supplied to the generators from the LIP plant each year, not the maximum generation capacity of the generators. This is clear from Table 7 in the Environmental, Safety and Security Information submitted with the permit applications (Document 4(d)), which indicates that the Project’s emissions will vary from year to year based on the expected ethane supply (and the amount of power generated from that ethane).

In other words, the limiting factor in AECOM’s calculations is the amount of ethane supplied, not the capacity of the generators. As Save Westernport and Ms King pointed out, if more ethane (or other alternative fuel) is supplied, the generators have the capacity to generate more power, and the Project’s emissions could increase. AECOM’s calculations should therefore be treated with some caution, as they potentially do not represent a ‘worst case’ scenario for the Project’s GHG emissions.

That said, the Applicant made it clear in its submissions to the Committee that it does not intend to source fuel for the generators from any source other than spare ethane generated at LIP. Even if it did, and if the emissions were, say, double or triple AECOM’s estimates, they would still represent less than 0.5 percent of the State’s total annual emissions. A contribution of this magnitude is not, in the Committee’s view, sufficient to conclude that the Project would have a “*significant*” environmental impact (to quote section 60 of the PE Act).

For completeness, the Committee does not accept Save Westernport’s submission that the GHG emissions from the production of the ethane at the LIP plant should be included when assessing the Project’s climate change impacts. As long as there is a continuing demand for natural gas from Longford, these emissions will continue to be generated, irrespective of whether the Project goes ahead.

#### The climate emergency

The Committee acknowledges Save Westernport’s submissions that no further fossil fuel based projects should be approved given the climate emergency. However, Victoria does not have a ‘no

fossil fuel projects’ policy. While state government policy settings encourage a transition away from fossil fuels (including natural gas), policy recognises that gas will have an ongoing role to play in supporting Victoria’s transition to a net zero emissions economy.

While gas remains part of the Victorian energy mix, and Esso’s Longford plant continues to supply part of the demand for natural gas, ethane will continue to be produced at LIP (although this is likely to be in declining amounts). Ethane is a by-product of that process. There is nothing to support Save Westernport’s assertion that the Project would somehow justify extending the life of the Longford plant (and the production of natural gas at Longford) in order to meet the new demand for ethane generated by the Project.

### Mitigation measures

Finally, the Committee notes that the GHG assessment identifies and recommends mitigation measures to avoid, minimise and manage the potential climate change impacts of the Project. The key mitigation measures to minimise the impacts of operational emissions are:

- select fuel efficient plant and equipment to reduce the consumption of fossil fuels
- include energy efficiency performance standards for tendering of works associated with plant and equipment
- implement an energy management system in accordance with applicable international standards to achieve continual improvement of energy performance and efficiency and reductions in emissions
- monitor, report and review progress on implementing the energy management system, including external certification by ISO-accredited auditors every three years
- after avoiding and minimising emissions, consider purchasing certified carbon offsets to compensate for Project generated emissions.

The Committee supports these measures, but agrees with Dr Hume’s evidence that the appropriate mechanism to implement these measures is through an Environmental Management Plan under the Development Licence, not the planning permit.

### **(v) Findings**

The Committee finds:

- The amount of native vegetation to be removed is acceptable, and meets the policy framework’s required approach of avoid, minimise and offset.
- Impacts on threatened species are not likely to be significant, and are acceptable.
- Impacts on the Ramsar wetlands are not likely to be significant, and are acceptable.
- The Project will not have unacceptable GHG or climate change impacts.

## **4.2 Amenity impacts**

Submissions raised concerns in relation to the following general themes:

- noise impacting the amenity of the surrounding area including nearby residents
- negative impacts on air quality
- impacts on landscape and visual amenity.

## (i) Noise

### Planning policy

The primary legislation governing industrial noise is the EP Act and associated regulations. Assessing noise in the context of a permit application under the PE Act is a different (and less technical) exercise to noise assessments under the EP Act. That said, planning decisions must have regard to the EP Act and regulations and the Noise Protocol (Clause 13.05 of the Planning Scheme).

Clause 2.0 of the SUZ1 requires that uses must not adversely affect the amenity of the neighbourhood, including through noise. Noise levels at adjoining land must be considered.

Refer to Appendix D for more detail.

### Submissions and evidence

Submissions raised a number of concerns in relation to noise, including increased industrial noise (particularly at night) impacting on the amenity of the area, the accuracy of the noise modelling (including assumptions in relation to weather conditions and noise mitigation), and health impacts (including from infrasound). Some submitters considered that the noise assessments should have included French Island. Noise impacts on wildlife was another key concern. This issue is addressed in Chapter 4.1.

Application PA2201534 was accompanied by an Environmental Noise Impact Assessment dated 26 November 2021 (Rev 1). The Assessment:

- identified four noise sensitive receivers (all dwellings) in the vicinity of the Project land
- monitored background noise levels at the sensitive receiver locations
- determined the applicable noise limits at the sensitive receiver locations
- modelled the predicted noise levels (background plus Project noise)
- compared the predicted noise levels at the four sensitive receiver locations with the noise limits.

DELWP requested further assessment at another four dwellings in the Cemetery Estate, which are closer to the Project land than three of the four locations in the original assessment. The results were presented in an Addendum dated 1 April 2022.

The EPA requested further noise assessment to inform its assessment of the Development Licence application, including:

- cumulative noise from the Project and the LIP plant
- potential low frequency and infrasound impacts from the Project
- noise controls available for the turbine generators.

The Environmental Noise Impact Assessment was updated with the results of this further work. The final version (Rev 5) was dated 3 October 2022 (Document 35(a)). The key findings were:

- Project generated noise is predicted to be between 3 and 12 dB(A) below the noise limits at the eight dwellings assessed.
- Cumulative noise from the LIP plant and the Project is predicted to be between 1 and 4 dB(A) below the noise limits at the eight dwellings assessed.
- Noise received at the selected locations is unlikely to exhibit tonality, impulsiveness or intermittency that might require adjustments to the predicted noise levels.
- Based on the modelling results, the Project can comply with the noise limits outlined in EPA Publication 1826.4 *Noise limit and assessment protocol for the control of noise from*



*commercial, industrial and trade premises and entertainment venues* (the Noise Protocol).

- Low frequency noise is predicted to be above the threshold levels in EPA Publication 1996 *Noise guidelines: Assessing low frequency noise* at the four nearest dwellings considered in the assessment, indicating a potential risk of audibility.
- Infrasound is predicted to be below the threshold levels provided in EPA Publication 1996 at all of the receiving locations considered.
- Noise from construction works is not expected to exceed the requirements specified in EPA Publication 1834 *Civil construction, building and demolition guide*.

Mr McLoughlin gave evidence on noise on behalf of the Applicant. He summarised the noise assessment work undertaken to date (the latter stages of which he oversaw), and responded to concerns raised by submitters. Key points from Mr McLoughlin's evidence were:

- The Environmental Noise Impact Assessment provides a full evaluation of the potential noise impacts from the Project.
- The noise modelling was conservative, and assumed meteorological conditions that are most favourable for noise propagation. These conditions are only likely to be present some of the time.
- The noise limits are night time limits, which are lower than day time limits, adding another layer of conservatism to the assessment.
- The data relied on in the assessments relating to sound power outputs from the proposed Project noise sources is sound and reliable.
- The noise controls on Project equipment assumed in the assessment are readily available, proven technologies. Many are offered as standard by the equipment vendor.
- While the modelling predicted that sound power levels from some Project equipment would be over 100 dB(A), these noise levels would only be experienced directly adjacent to the source. Noise levels at nearby sensitive receivers, including nearby dwellings and the Ramsar wetland, would be well below this (as shown by the modelling).

## Discussion

While the noise assessments undertaken by the Applicant were primarily for the purpose of the Development Licence application under the EP Act, the Committee is satisfied that they are sufficient to meet the application requirements of the SUZ1, and to enable a proper consideration of noise impacts for the purposes of assessing the permit application against the requirements of the PE Act and the Planning Scheme.

The methodology of the noise assessments is sound, and reflects standard industry practice. The assessments demonstrate that the Project is predicted to achieve compliance with the applicable limits at a range of representative nearby receptors, although the margin for compliance on the cumulative assessment (of the Project together with the LIP plant) is quite small. That said, the assessments are conservative, and are based on appropriate data and assumptions.

The assessments demonstrate that noise levels will be below the applicable noise limits at all sensitive receptors (at French Island, noise levels will be well below the limits). Noise limits are designed to protect human health and amenity, to a level that is commensurate with reasonable expectations based on the zoning and expected uses of the land.

On that basis, the Committee is satisfied that the Project will not adversely impact community amenity and human health, and that an acceptable planning outcome can be achieved consistent with Clause 13.05 and other requirements of the Planning Scheme.

While low frequency noise is predicted to exceed the levels set out in EPA Publication 1996, these are threshold levels. EPA Publication 1996 makes it clear that the threshold levels are not set limits. Rather, they are levels that indicate a potential risk of problematic low frequency noise. Whether the noise is disturbing depends on the noise level, characteristics such as tonality (which are not anticipated here), and baseline noise levels. There is nothing in the assessments or the evidence before the Committee that suggests that low frequency sound will result in unacceptable outcomes.

It is important to note that the noise assessments undertaken to date are a ‘point in time’ assessment. Further work will be done if the Project proceeds. This includes the preparation of a Noise Management Plan which (according to Mr McLoughlin’s evidence) will include:

- post-construction noise monitoring to verify noise emissions
- ongoing measures to maintain the effectiveness of noise controls
- complaint response procedures.

The Committee takes additional comfort from Mr McLoughlin’s evidence (in response to a question from the Committee) that should post-construction noise testing indicate that limits are being exceeded, measures could readily be applied to reduce the cumulative noise from the LIP plant and/or the Project.

The Day 3 permit conditions require (among other things):

- ongoing compliance with noise limits in the Noise Protocol
- an updated noise assessment before plans are endorsed, that models the final design layout and demonstrates that the Project will meet the noise limits in the Noise Protocol
- further assessment post-construction demonstrating compliance with the Noise Protocol.

The Committee considers that the proposed permit conditions are appropriate to manage noise to an acceptable level, consistent with the objectives of the planning policy framework and the requirements of the SUZ1. Some minor adjustments are required to the conditions as suggested by DELWP in its review of the Day 3 conditions (Document 82), to reflect the appropriate role of the responsible authority.

The Committee takes further comfort from the fact that the EPA has undertaken a detailed assessment of noise (including cumulative and low frequency noise) for the purposes of the Development Licence application, and has found that noise impacts can be acceptably managed. The Development Licence includes detailed noise conditions, including a condition that requires further assessment of cumulative noise from all industrial sources (not just the Project and the LIP plant), and a condition requiring the Applicant to minimise the risk of tonality or other noise characteristics that could require adjustment to the noise limits.

Further, the Applicant will be required to comply with the general environmental duty under the EP Act on an ongoing basis, and to minimise noise emissions as far as reasonably practicable, irrespective of whether the noise limits are met.

**(ii) Air quality****Planning policy**

Like noise, the primary legislation governing air quality is the EP Act and associated regulations. That said, planning decisions must have regard to the EP Act and regulations, and air quality impacts are a matter to be considered under Clause 13.06-1 of the Planning Scheme and under the SUZ1.

Clause 2.0 of the SUZ1 requires that uses must not adversely affect the amenity of the neighbourhood, including through odour, fumes, smoke, vapour, soot, ash or dust. Impacts of air quality on adjoining land must be considered.

Refer to Appendix D for more detail.

**Submissions and evidence**

Submissions raised concerns that the air quality in the area would diminish as a result of the Project. Concerns related to the impact of pollution and odour from the exhaust plumes on the health of humans, flora and fauna. Some submitters considered that the assessments undertaken to support the application were inadequate and had not appropriately assessed or modelled the impacts on air quality.

Application PA2201534 was accompanied by an Air Quality Impact Assessment prepared by AECOM dated 25 October 2021. The Assessment considered:

- air quality impacts associated with operation of the ethane generators
- particulate emissions from construction activities, which may include mechanically generated dust due to vehicle movements and wind generated particulate matter from disturbed soil or stockpiles
- emissions from diesel fuelled construction vehicles.

The assessment concluded:

... the outcome of the construction and operation assessment showed that unmitigated impacts of the project would be negligible or low. With implementation of appropriate mitigation measures, it is anticipated that air quality impacts would be negligible at all nearby sensitive receptors during the decommissioning phase of the project. All modelled scenarios demonstrated there are no exceedances of criteria at any of the sensitive, or industrial receptor locations.

The Environmental, Safety and Security Information submitted with the permit applications (Document 4(d)) also concluded that the odour emissions from the Project will be negligible.

Like noise, the EPA's assessment of the Development Licence application (Document 51) considered the air quality implications of the Project in detail. The EPA found that:

- the air quality work undertaken by AECOM is technically robust and can be relied upon
- the Project is low risk from an air quality perspective
- the cumulative emissions from the Project and existing combustion sources at the LIP plant (which relevantly include several gas powered turbines running on methane and ethane, driving compressor trains, pumps and the like) will be well below relevant air quality objectives in the Environmental Reference Standard
- the proposed generators represent Best Available Techniques or Technologies<sup>3</sup>

<sup>3</sup> EPA assessed this matter in detail at section 5.4 of Document 51, including consideration of alternative combustion approaches and flaring.

- the Project has demonstrated, at the planning and design stage, consistency with the general environmental duty
- the proposed treatment of waste ethane is consistent with the principles of the waste management hierarchy at section 18 of the EP Act
- the combustion of waste ethane through clean burning, modern engines (dry low-NOx combustion as per the Development Licence DL\_W8) is preferable (cleaner), from an air quality perspective, to flaring
- overall, the air quality implications of the Project are acceptable.

Appropriately, and consistent with the requirements of the Planning Scheme, the DELWP officer's assessment (Document 4(y)) considered air quality impacts of the Project and the submissions that had raised concerns in relation to air quality. It concluded that these considerations, while relevant, were appropriately addressed within the application and were, on balance, acceptable. The draft conditions proposed by DELWP (Document 44) did not require any air quality conditions (other than construction management conditions to include dust mitigation).

Mr Rollings in his evidence for the Applicant reiterated that this proposal would not have a significant impact on air quality. He noted that in terms of construction works, the dust emissions would be small and would result in negligible impacts on overall air quality. In relation to operational impacts he concluded that the AECOM Air Quality Assessment been appropriate and had modelled the 'worst case operational scenario'. He noted that the assessment was based on:

- air quality modelling using the AERMOD atmospheric dispersion model (which he considered appropriate)
- suitable comparison of predicted ground level pollutant concentrations to the adopted air quality criteria.

Given the modelled scenarios demonstrated that there were no exceedances of criteria at any of the sensitive or industrial locations, Mr Rollings expressed the opinion that the Project would have "*minor*" air quality impacts and the emissions were "*unlikely*" to have any significant impacts on the air environment.

While some of the data and inputs into the Air Quality Assessment were challenged by submitters, no further expert evidence or Project specific reports were submitted to contest the evidence of Mr Rollings.

## **Discussion**

While the air quality assessments undertaken by the Applicant were primarily for the purpose of the Development Licence application under the EP Act, the Committee is satisfied that they are comprehensive and meet the application requirements of the SUZ1. The Committee considers that the reports and expert evidence are sufficient to enable a proper consideration of air quality impacts for the purposes of assessing the permit applications.

The Committee accepts the EPA's findings that the methodology of the Air Quality Assessment is technically robust, and can be relied upon. Based on the Committee's experience, it also reflects standard industry practice. The assessment demonstrates that the Project will result an acceptable outcome in relation to air quality.

The Project is located in an industrial precinct set aside for port related activity. Expectations relating to amenity need to be considered within the context of the Project's siting and setting. The evidence and information before the Committee conclude that the Project would result in

‘minor’ impacts and would be ‘unlikely’ to have significant impact on air quality. This has been accepted by the EPA.

On that basis, the Committee is satisfied that the Project will not adversely impact community amenity and human health, and that an acceptable planning outcome can be achieved consistent with Clause 13.06 and other requirements of the Planning Scheme.

Ongoing air quality testing and monitoring is required under the conditions of the Development Licence (Document 50). This includes a requirement to test stack emissions during commissioning and to conduct ongoing monitoring of stack emissions (see DL\_W8-9). Accordingly, the outcomes predicted by the Air Quality Assessment will be monitored and required to be reflected on the ground if the Project proceeds.

### **(iii) Visual and landscape amenity impacts**

Visual and landscape amenity impacts were raised by some submitters, who were concerned that the Project infrastructure would be visible from the surrounding area including French Island, adding to the ‘industrialisation’ of the area.

Mr McBride-Burgess assessed the visual impacts of the Project and found them to be acceptable having regard to the locational context. He noted that the extent of the proposed buildings and works was relatively limited, and that buildings, tanks and stacks are already evident within the surrounding area and from more distant views of the area from Hastings and the foreshore reserve.

The DELWP officer assessing the permit applications also considered visual impacts and found them to be acceptable. They noted that the surrounding area is largely characterised by large scale industrial uses associated with the Port, and that the proposed exhaust stacks on the Project land will be lower than the existing shed on the Project land that will be retained. Dense vegetation along Bayview Road and Long Island Drive will screen the proposed development. The DELWP officer’s assessment concludes (at page 27 of Document 4(y)):

Due to the highly developed nature of the area, existing vegetation buffers, and existing industrial structures on the site, the proposal will have a negligible impact or no impact on the landscape character and visual amenity of the area. Whilst Western Port Bay has highly significant landscape values, the proposal will not impact these values due to the distance between the proposal and the coastline, and the built and natural buffers that exist between these two locations.

No landscaping or visual amenity buffers or mitigation measures are recommended.

The Committee agrees with the assessments of the DELWP officer and Mr McBride-Burgess.

### **(iv) Findings**

The Committee finds the Project is acceptable having regard to:

- noise impacts
- air quality impacts
- visual and landscape impacts.

## **4.3 Aviation impacts**

Submissions raised concerns in relation to the following general themes:

- potential impacts on aircraft operations.

**(i) Planning policy**

The Planning Scheme seeks that land use and development does not impose a risk of safety and efficiency to airfields and does not prejudice airfield operations. Relevantly it seeks that planning preserves long-term options for a new general aviation airport south-east of Melbourne.

**(ii) Submission and evidence**

Submissions relating to potential impacts on aircraft operations were effectively resolved during the Hearing through discussions between the Applicant, the Peninsula Aero Club (PAC) and the Civil Aviation Services Australia (CASA).

The Council objection included grounds that the proposal may impact existing aircraft operations.

PAC made two submissions to PA2201534. The first requested that CASA determine the plume rise impacts from the energy generation facility on the nearby Tyabb aerodrome. It requested that Esso facility be declared a 'Danger Area'.

CASA subsequently assessed plume rise impacts against the relevant standards (Advisory Circular AC139-05) notwithstanding these only apply to certified aerodromes (Tyabb is not certified). The standards consider the impacts of plume rise on aeronautical navigation. CASA assessed the plume rise was not expected to be a risk to aircraft operations. As a further safety measure it recommended:

- adding a plume symbol to aeronautical charts before gaseous efflux
- installing hazard warning lights on each stack.

Air Services Australia assessed that the proposed development would not affect aeronautical operations of any nearby aerodrome.

Neither the DELWP officer nor Council officer raised specific concern for aviation impacts.

In its second submission shortly before the Hearing, PAC:

- accepted the plume symbol recommendation
- opposed the hazard warning light because the plume stack would not be the highest structures on the Project land and the lights could therefor confuse pilots
- requested the right to later assess whether the plume location should be added to the Aviation Public En Route Supplement Australia publication (which contains flight planning information).

Mr Jennings tabled evidence on behalf of the Applicant but did not appear before the Committee due to resolution of the PAC submission. He assessed the Project would not cause adverse impacts on the safe and efficient operation of the Tyabb aerodrome, nor be a hazard to aircraft operations. He found the Project will not impose any unreasonable restrictions on local aircraft operations, because:

- Tyabb aerodrome is used by ultralight, light aircraft and recreational flying and training and is uncertified (meaning it is not afforded the same navigation protections as certified aerodromes).
- The Tyabb aerodrome and Esso's LIP plant have coexisted for years and pilots using the aerodrome know to be at least 1,000 feet above, or laterally clear of, the LIP plant.
- It was appropriate to assess the plume rise impacts against the relevant CASA standard as high velocity plumes can cause impacts to light aircraft.

- There is no need to declare the Esso facility a ‘Danger Area’ if the plume rise assessment determines low risk to overflying aircraft (which the CASA assessment did).

In response to the CASA recommendations and PAC submissions, Mr Jennings:

- opposed the installation of hazard warning lights on the stacks as there are other (and taller) unlit obstacles in the area
- supported adding the plume symbol to aeronautical charts
- supported adding the plume location in the Aviation Public En Route Supplement Australia publication
- sought an additional and interim safety measure of including a ‘Notice to Airmen’ to alert pilots to the plume stacks whilst the plume symbol is added to relevant charts (which can take some time).

CASA then withdrew its recommendations regarding the hazard warning lights.

### **(iii) Discussion**

The Committee accepts that impacts of the Project on the Tyabb aerodrome are acceptable given CASA assessed the plume rise against its standard and found low risk.

Mr Jennings’ evidence provided a comprehensive explanation of the safety implications associated with plume rise. The material presented provides further support that the safety of pilots using the aerodrome will not be impacted by the Project. It appears there is no reason to declare the Project land a Danger Area based on Mr Jennings’ evidence that this is not needed where plume risk is low.

The evidence supports the Applicant’s submission that the Tyabb aerodrome operations will not be unreasonably impacted by the proposal. Mr Jennings’ observations that the aerodrome and the LIP plant have coexisted seemingly successfully for many years gives the Committee confidence that this relationship can continue.

The potential for any impact from the proposal on a future airport within the south-east of Melbourne was not discussed in Mr Jennings’ written evidence, nor in the DELWP officer report. It seems reasonable that if evidence shows the proposal will not cause adverse impacts on aircraft or operations of the Tyabb aerodrome, neither would it for a future airport in the region.

The recommendations in Mr Jennings’ evidence were supported by PAC and CASA. The Committee also supports them. Including the plume rise symbol on aeronautical charts and interim pilot notification measures of the plume location before the aeronautical charts are updated is a sound approach to manage aircraft safety. The Committee agrees there is no need for the hazard warning lights.

The Committee considers notification of the plume location on the Aviation Public En Route Supplement Australia publication can be addressed outside of the permit conditions should it be later required. It trusts that relevant authorities and experts have identified the conditions required, and was not persuaded that the further recommendations from Ms King are necessary.

Consistent with the above, the Committee recommends the following changes to the Day 3 permit conditions (which are reflected in Appendix F1):

- separate condition 25 into two parts, one seeking the plume symbol on aeronautical charts and the other seeking the ‘Notice to Airmen’

- delete condition 26 relating to hazard warning lights based on CASA withdrawal of this recommendation.

#### (iv) Findings

The Committee finds:

- The proposal will not cause adverse impacts on the safe and efficient operation of the Tyabb aerodrome, nor be a hazard to aircraft operations.

## 4.4 Bushfire risks

Submissions raised concerns in relation to the following general themes:

- location of the Project within a fire prone area
- inadequate bushfire emergency management plans
- ethane had not been adequately considered as a contributing factor for bushfire.

#### (i) Planning policy

Bushfire is addressed at Clause 13.02-1 of the Planning Scheme, the objective of which is to *“strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life”*. Clause 52.03 (Bushfire planning) provides further guidance and includes the following strategies to achieve this aim:

Identify bushfire hazard and undertake appropriate risk assessments

Ensure settlement growth and development approvals can implement bushfire protection measures without unacceptable biodiversity impacts by discouraging settlement growth and development in bushfire affected areas that are important areas of biodiversity

Refer to Appendix D for more detail.

No permit is triggered under the BMO (Clause 44.06).

#### (ii) Submissions and evidence

Despite no permit being triggered under the BMO, both applications were accompanied by Bushfire Management Statements prepared by Fire Risk Consultants. The Assessments included:

- a landscape assessment
- consideration of likely bushfire scenarios
- a bushfire hazard site assessment
- a bushfire management statement.

The Bushfire Assessment identified that the Project can be undertaken safely in relation to bushfire risks subject to mitigation strategies, including:

- appropriate fire hydrant systems
- equipment monitoring systems
- development of an Emergency Management Plan.

The Bushfire Assessment concluded that the clearing of vegetation to create appropriate defensible space will further reduce the likelihood of the facility being impacted by bushfire.

The CFA were notified of the applications under section 52 of the PE Act. No response was received in relation to the powerline application. The CFA did not object to the issue of a planning permit for the energy generation facility, but recommended three conditions relating to bushfire



and emergency management for the site. These conditions include specific conditions relating to the ongoing maintenance of nearby vegetation/fuel, and a requirement to prepare relevant management plans in consultation with the CFA.

Consistent with the requirements of the Planning Scheme, the DELWP officer's assessments considered bushfire and emergency management risks and the objections based on bushfire risks. DELWP concluded that any bushfire risk could be appropriately managed by conditions.

The EPA also assessed the bushfire risk of the Project. Given the potential elevated bushfire risk with the predicted hotter climate, the EPA considered it appropriate that a Bushfire Management Plan be required as a part of the conditions for the Development Licence. This is reflected in the planning permit conditions.

Mr Potter gave bushfire evidence for the Applicant. He considered that an appropriate level of assessment had been undertaken, and concluded that the Project can be undertaken safely with respect to bushfire risk provided appropriate bushfire mitigation strategies are included. He considered that the energy generation facility application has taken a conservative approach and the proposed office building has been designed to a BAL12.5 standard meeting AS3959. He considered that the risks associated with the powerline application were negligible given it will mostly involve upgrades to existing powerlines.

Mr Potter noted that the Development Licence required a fire hydrant system to be installed, which is reflected in the proposed permit conditions. In addition, the Bushfire Management Plan requires additional water storage tanks. Mr Potter supported this requirement, as having access to different water sources in a bushfire emergency would be a good outcome. In response to questions from the Committee Mr Potter stated that he was comfortable with the proposed planning conditions and that the Bushfire Management Plan would outline access requirements.

### **(iii) Discussion**

Planning for bushfire and bushfire management has a special and elevated status within the Victorian planning system, reflected within the planning provisions. Bushfire planning is fundamental to protect not only new development, but can also be an opportunity to provide protection for existing townships and communities.

Throughout the application process there have been numerous assessments of bushfire through various documents including:

- the Fire Risk Consultants' assessments submitted with the permit applications
- the EPA officer's assessment of the Development Licence application
- the DELWP officer's assessment for both planning applications
- the CFA's response to the energy generation facility application (refer to conditions 32 and 33 in Appendix F1)
- Mr Potter's evidence with respect to both applications.

The Committee considers that appropriate regard has been given to the risks associated with bushfire during the application process. It accepts the evidence of Mr Potter that bushfire risk has been assessed conservatively and the assessments are appropriate for both permit applications. No evidence or information to the contrary was provided. The Committee considers that, subject to appropriate conditions, an acceptable planning outcome can be achieved consistent with Clause 13.02 and other requirements of the Planning Scheme. The conditions in the Day 3 versions are appropriate.

#### (iv) Findings

The Committee finds:

- bushfire risks have been appropriately considered and addressed.

### 4.5 Emergency management

Submissions raised concerns in relation to the following general themes:

- inadequate emergency management plans
- insufficient analysis of safety and hazard given the cumulative risks with the LIP plant.

#### (i) Submission and evidence

Esso's existing LIP plant is designated as a Major Hazard Facility under occupational health and safety legislation due to its storage of potentially hazardous materials. The proposed energy generation facility is not classified as a Major Hazard Facility. However, the operations of the two facilities are likely to overlap to some extent. In particular, emergency access for the Project land will be via the LIP plant access along Long Island Drive. No upgrades are required to modify these access points which are designed to accommodate heavy vehicles and are designed for potential emergencies. The access points are shown in Figure 3 (which is on a different orientation to Figure 1).

**Figure 3** Primary and emergency site access points



The Applicant submitted that the design response for the location of the office building (which included staff accommodation) has been driven by practical considerations, including occupational health and safety, in particular the appropriate siting of the building to enable access and egress from the facility for emergency vehicles and workers.

The Environmental, Safety and Security Information submitted with the permit applications (Document 4(d)) identified that any oil, fuel, chemicals and other hazardous materials requiring

storage on site will be stored and contained in designated areas in accordance with WorkSafe Victoria's Code of Practice on the Storage and Handling of Dangerous Goods. The Applicant submitted:

The Safety Case for the LIP, which is regularly reviewed and for which the proposed facility is integrated, includes risk assessment processes, storage of dangerous goods, access and emergency management. Importantly, this includes safe separation distances premised on the protection of human life from both the Project as well as other aspects of LIP.

WorkSafe Victoria received notice of the energy generation facility application under section 52 of the PE Act. Its response stated no objection to a permit being granted. WorkSafe Victoria confirmed that it had regard to:

- the distance of the proposed development to the boundary of hazardous areas within the LIP plant Major Hazard Facility
- the numbers, occupancy and vulnerability of persons likely to be present at the Project land
- the ability of those persons to be organised and safely respond to an emergency at the LIP plant.

The CFA recommended an emergency management plan be prepared in consultation with the CFA (refer to condition 33 in Appendix F1). This plan would form part of an overall emergency strategy for appropriately responding to emergency situations. A similar condition was applied to the Development Licence.

The EPA assessment appropriately addressed a finer grained consideration of the impacts and potential risks of the flaring of ethane. The EPA required an emergency management plan to be prepared which includes consideration of off-site impacts as part of the risk management processes at the Esso LIP plant, as well as requirements under AS3745-2010 in relation to storing of dangerous goods (condition DL\_R1 on the Development Licence).

Having considered the objections in relation to emergency management, the DELWP officer's assessment concluded:

... hazardous materials and the safety of on-site personnel is considered to be appropriately managed under the relevant legislation and regulations, including the OHS Act as administered by WorkSafe Victoria. No additional mitigation measures are recommended to be included as part of the planning permit process.

## **(ii) Discussion**

While the PE Act does not directly govern emergency management, planning decisions must have regard to the relevant clauses of the Planning Scheme dealing with bushfire management (discussed in the previous section) and ensuring safe access/egress for pedestrians and vehicles to a site. Planning permits often require emergency management documents including plans or strategies for mitigating any identified risk for a proposal.

Generally, the Committee agrees with the conclusions of the DELWP officer's assessment that *"No additional mitigation measures are recommended to be included as part of the planning permit process"*, given that management of hazardous materials and safety of on-site personnel is managed under other relevant legislation. The adjacent LIP plant already operates within the bounds of occupational health and safety legislation and manages a variety of plans including emergency management plans. The Committee supports the proposed approach of extending

any such plan to ensure that risks for the Project land are planned for and mitigated in a coordinated way with the LIP plant.

While the Committee acknowledges submitter concerns, the information provided with the application is comprehensive and sufficient for a planning assessment. There has been no substantiation of concerns that the Project will result in a heightened risk of emergencies, or that appropriate plans for responding to risks or emergencies will not be put in place.

The Committee is comfortable with condition 33 on the energy generation facility permit, and notes that it is consistent with condition DL\_R1 on the Development Licence. It considers that this is sufficient for emergency management under the planning regime, noting that there is a more detailed emergency management regime in place under occupational health and safety legislation for the LIP Major Hazard Facility (that will be extended to include the Project land).

### **(iii) Findings**

The Committee finds:

- Emergency management issues have been appropriately considered and addressed, and acceptable outcomes can be achieved.

## 5 Reasons and recommendations

### 5.1 Reasons

In considering whether or not to recommend the permits be granted, the Committee has considered:

- the strategic policy settings and land use and development expectations for the Project land set by the Planning Scheme
- the Project's specific impacts (discussed in the previous chapter)
- the matters a responsible authority is required to consider under the PE Act and the Planning Scheme when considering a permit application.

The Committee has applied the key decision making principles outlined in Appendix D5, including net community benefit and sustainable development.

Mr McBride-Burgess' evidence was:

As a matter of principle, the proposed use and development of the subject land is consistent with the role and functioning of the existing industrial uses within the Port; is strategically important and aligned with the long-term planning of the Port area; will generate a net community benefit from an existing state significant service provider; and is acceptable in strategic planning terms.

Furthermore, the generation of electricity and connection to the national electricity grid utilising a by-product from the existing operations on the land will generate a net community benefit for the wider community.

The Committee is satisfied that the proposed use is consistent with the strategic framework and the purposes of the SUZ1. The strategic framework identifies the Port of Hastings Industrial Precinct as state significant industrial land, and highlights the need to protect the long-term potential of the precinct to be used for port-related industrial uses.

The Committee is satisfied that the Project is consistent with the Structure Plan's objectives, and its designation of the Project land as 'PR – Port Related Use Zone'. The LIP plant is identified in Council's MPS, the Port Strategy and the Structure Plan as a significant port-related industrial use. The Project is a 'downstream industry' that is proposed to be co-located and connected with the LIP plant, and its use of ethane produced as a by-product in the LIP plant would increase the utilisation of an existing port-related asset, consistent with the Port Strategy.

The Project does not prejudice opportunities for land-extensive, port-related industries, and will not constrain or interfere with other port-related uses. It is suitably separated from surrounding residential communities, and will not impact on their safety or amenity.

The policy framework recognises the importance of the environment surrounding the Project land, including the Ramsar wetland. The Committee has found in Chapter 4.1 that the environmental impacts of the Project are acceptable.

Parts of the land are in public land zones, or reserved for public purposes under the PAO. The permit applications were referred to DTF and Council (the relevant authorities under the public land zones or PAOs). Neither objected.<sup>4</sup> The Committee is therefore satisfied that the permits are

<sup>4</sup> Council objected in its capacity as a notified party, not as a referral authority

not inconsistent with the public uses of the land or the purposes for which the land has been reserved under the PAO.

Small parts of the land in the powerline alignment are subject to the LSIO. The powerline application was referred to Melbourne Water, who did not object to the application. The Committee is therefore satisfied that the powerline application is not inconsistent with the purposes of the LSIO.

In relation to other key matters to be considered under Clause 65, the Committee finds:

- The amount of native vegetation to be removed is relatively modest, and the vegetation to be removed is not unique in terms of quality or potential habitat. Canopy trees are proposed to be retained to the extent consistent with defensible space requirements. Additional planting is proposed under the proposed permit conditions. Impacts on native vegetation are considered acceptable.
- The Project will not have an unacceptable impact on the amenity of the area, for the reasons set out in Chapter 4.2.
- There are no factors likely to cause or contribute to a significant reduction in water quality, including in the Ramsar wetland.
- The Project does not pose an unacceptable flood or fire risk. Bushfire risks have been thoroughly assessed, and appropriate risk management measures have been adopted in both the site layout and in the creation of defensible space around the office building. While ethane is flammable, there is nothing to suggest that ignition risks cannot be appropriately managed.
- No referral authorities opposed the grant of the permits. Comments from referral authorities are summarised in the delegate reports and in DELWP's Part A submission, and the Committee is satisfied that their comments are (where applicable) reflected in the proposed permit conditions.

On the basis of the above, the Committee is satisfied that the Project will deliver acceptable planning outcomes.

The Applicant does not need to demonstrate that the Project will deliver a net community benefit and sustainable development in order to gain approval. Rather, net community benefit and sustainable development are relevant where there is a need to balance competing policy objectives. In this case, given the environmental impacts of the Project will be relatively contained, the balance between competing policy objectives is relatively straightforward.

That said, the Committee considers that the Project will deliver a net community benefit when compared to the 'no project' scenario, which would likely involve an increase in the amount of flaring that occurs on the LIP plant site. Flaring clearly has environmental and amenity impacts, and the Project presents an opportunity to avoid those impacts.

Further, if the Project proceeds, the ethane will be used for a productive purpose (to generate electricity), instead of being disposed of as a waste by-product by flaring. The use of the ethane to generate electricity produces no more GHG than flaring, and creates the possibility of displacing demand for electricity generated from other higher emissions intensity sources (such as coal fired generation). The Project could therefore result in an (albeit small) overall reduction in the state's total GHG emissions from the energy sector.

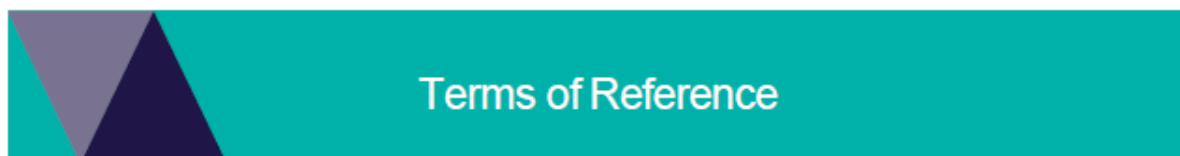
On balance, the Panel considers that permits should be granted.

## 5.2 Recommendation

The Committee recommends:

1. **Grant permit application PA2201534 for use and development of an energy generation facility and associated works on the conditions recommended in Appendix F1.**
2. **Grant permit application PA2201533 for use and development of a utility installation (powerline) on the conditions recommended in Appendix F2.**

## Appendix A Terms of Reference



### Priority Projects Standing Advisory Committee

Standing Advisory Committee appointed pursuant to Part 7, section 151 of the *Planning and Environment Act 1987* to advise the Minister for Planning on referred priority planning proposals.

#### Name

1. The Standing Advisory Committee is to be known as the 'Priority ProjectsPriority Projects Standing Advisory Committee' (the Committee).
2. The Committee is to have members with the following skills:
  - a. statutory and strategic land use planning
  - b. land development and property economics
  - c. urban design and architecture
  - d. heritage
  - e. civil engineering and transport planning
  - f. social impacts
  - g. environmental planning
  - h. planning law.
3. The Committee will include a lead Chair, Chairs, Deputy Chairs and not less than ten other appropriately qualified members.

#### Purpose

4. The purpose of the Committee is to provide timely advice to the Minister for Planning on projects referred by the Building Victoria's Recovery Taskforce (BVRT), projects affected by Covid-19 and or where the Minister has agreed to, or is considering, intervention to determine if these projects will deliver acceptable planning outcomes.

#### Background

5. The Victorian Government has identified Victoria's building and construction sector as a key mechanism to revitalise Victoria's economy during the coronavirus (COVID-19) pandemic.
6. The Government has committed to a fast-track assessment process for priority projects of state and regional significance that are shovel-ready and that will provide immediate benefits to Victoria's economy, keeping Victorians in work and priority infrastructure on track for completion.
7. The BVRT was formally announced on 26 April 2020. The Taskforce was established by the Minister for Planning and Treasurer to help keep Victoria's building and development industry running during the coronavirus crisis. The Taskforce will investigate planning and investment opportunities to boost Victoria's building and development industry over the short, medium and long term.

#### Method

8. The Minister for Planning or delegate will refer projects by letter to the Committee for advice on whether the project achieves acceptable planning outcomes.
9. The referral letter must specify:
  - a. the specific issues the Minister for Planning seeks advice about
  - b. the mechanism of intervention being considered
  - c. whether, or which previously collected, submissions are to be considered by the Committee
  - d. how the costs of the Committee will be met.

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Environment,  
Land, Water  
and Planning



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**Terms of Reference | Priority Projects Standing Advisory Committee**

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10. The letter of referral will be a public document.
11. In making a referral, the Minister for Planning or delegate must, either:
  - a. be satisfied that any proposed planning controls for the land make proper use of the Victoria Planning Provisions and are prepared and presented in accordance with the Ministerial Direction on The Form and Content of Planning Schemes, or
  - b. seek advice from the Committee on the drafting of the planning controls or permit conditions.
12. The Committee may inform itself in anyway it sees fit, but must consider:
  - a. The referral letter from the Minister for Planning,
  - b. referred submissions,
  - c. the comments of any referral authority,
  - d. the views of the project proponent,
  - e. the views of the relevant Council,
  - f. The relevant planning scheme.
13. The Committee is not expected to carry out additional public notification or referral but may seek the views of any relevant referral authority, responsible authority or government agency.
14. The Department of Environment, Land, Water and Planning (DELWP) will be responsible for any further notification required. New submissions will be collected by DELWP.
15. The Committee may seek advice from other experts, including legal counsel where it considers this is necessary.
16. The Committee is not expected to carry out a public hearing but may do so if it is deemed necessary and meets its quorum.
17. The Committee may:
  - a. assess any matter 'on the papers'.
  - b. conduct discussions, forums, or video conferences when there is a quorum of:
    - i. a Chair or Deputy Chair, and
    - ii. at least one other member.
18. The Committee may apply to vary these Terms of Reference in any way it sees fit.

### **Submissions are public documents**

19. The Committee must retain a library of any written submissions or other supporting documentation provided to it directly to it in respect of a referred project until a decision has been made on its report or five years has passed from the time of the referral.
20. Any written submissions or other supporting documentation provided to the Committee must be available for public inspection until the submission of its report, unless the Committee specifically directs that the material is to remain confidential. A document may be made available for public inspection electronically.

### **Outcomes**

21. The Committee must produce a concise written report to the Minister for Planning providing the following:
  - a. A short description of the project.
  - b. A short summary and assessment of issues raised in submissions.
  - c. A draft planning permit including relevant conditions from Section 55 referral authorities, or draft planning scheme control depending on the nature of the referral.
  - d. Any other relevant matters raised in the course of the Committee process.
  - e. Its recommendations and reasons for its recommendations.
  - f. A list of persons or authorities/agencies who made submissions considered by the Committee.
  - g. A list of persons consulted or heard, including via video conference.

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22. Following the completion of a report, the Committee may deliver an oral briefing to the Minister for Planning and/or DELWP. The briefing may be by video conference or telephone.

**Timing**

23. The Committee is required to submit its reports in writing as soon as practicable, depending upon the complexity of the referred project between 10 and 20 business days from either:
- a. the date of receipt of referral, if no further submissions or information are to be sought, or
  - b. receipt of the final submission of material or final day of any public process in respect of a referral.

**Fee**

24. The fee for the Committee will be set at the current rate for a Panel appointed under Part 8 of the *Planning and Environment Act 1987*.

The costs of the Advisory Committee will be met by each relevant proponent.



Richard Wynne MP  
Minister for Planning

Date: 14 / 06 / 2020

## Appendix B Letter of Referral



Hon Lizzie Blandthorn MP

Minister for Planning

8 Nicholson Street  
East Melbourne, Victoria 3002  
DX210098

Ms Kathy Mitchell AM  
Chair (Lead), Priority Projects Standing Advisory Committee  
Planning Panels Victoria  
[planning.panels@delwp.vic.gov.au](mailto:planning.panels@delwp.vic.gov.au)

Ref: MBR048350



Dear Ms Mitchell

**APPLICATIONS FOR PLANNING PERMITS PA2201534 AND PA2201533 HASTINGS GAS ENERGY GENERATION FACILITY AND POWERLINE REFERRAL TO PRIORITY PROJECTS STANDING ADVISORY COMMITTEE**

I refer to the planning permit applications for the use and development of a 40-megawatt gas (ethane) fired energy generation facility and powerline and associated buildings and works, including the removal of native vegetation.

Application PA2201534 seeks approval for the use and development of the energy generation facility and the removal of native vegetation. Application PA2201533 seeks approval for the use and development of a 3.8-kilometre-long powerline and the removal of native vegetation.

I have decided to refer both applications to the Priority Projects Standing Advisory Committee for advice and recommendations on whether planning approval should be granted for the proposals, and if so, the appropriate conditions that should be imposed.

The specific issues I am seeking advice about are environmental impacts, amenity impacts including noise and air quality, aviation impacts, bushfire risks and emergency management.

No mechanism of intervention is currently being considered for the applications.

Both applications were subject to public notice in accordance with section 52 of the *Planning and Environment Act 1987*. 93 objections were received for application PA2201534, and two objections were received for PA2201533.

All application documents, draft conditions, referral responses, officer assessments, submissions and objections will be referred to the advisory committee for consideration.

Further consultation is required with the following parties:

- **Permit applicants:** Esso Resources Australia Pty Ltd (PA2201534), United Distribution Pty Ltd (PA2201533).
- **Relevant council:** Mornington Peninsula Shire Council.
- **Referral authorities:** Environment Protection Authority Victoria, Secretary to DELWP (C/- DELWP Port Phillip Region), Melbourne Water, Department of Treasury and Finance.
- **Relevant public authorities/government agencies:** Airservices Australia, Civil Aviation Safety Authority, Country Fire Authority, Department of Transport, Port of Hastings Development Authority, WorkSafe Victoria and Bunurong Land Council.
- **Objectors to permit applications PA2201533 and PA2201534 (95)**



The cost of the advisory committee will be met by the Department of Environment, Land, Water and Planning.

If you have any questions about this matter, please contact Dr Jane Homewood, Executive Director, Statutory Planning Services, Department of Environment, Land, Water and Planning by email [jane.homewood@delwp.vic.gov.au](mailto:jane.homewood@delwp.vic.gov.au).

Yours sincerely



**Hon Lizzie Blandthorn MP**  
**Minister for Planning**

30 / 8 / 22

## Appendix C Document list

No.	Date	Description	Provided by
1	25 Jun 21	Terms of Reference	Minister for Planning
2	30 Aug 22	Letter of Referral	Minister for Planning
3	1 Sep 22	Referred material PA2201533 including: <ul style="list-style-type: none"> <li>a. Application Form</li> <li>b. Town Planning Report Apr 2021</li> <li>c. MPL Certificate and Land Titles</li> <li>d. Construction Plan Dec 2021</li> <li>e. Site Layout Plans, Apr 2022</li> <li>f. Biodiversity Report, Apr 2021</li> <li>g. Report of available native vegetation credits, Jun 2022</li> <li>h. Arborist Report, Nov 2021</li> <li>i. Heritage Statement Dec 2021</li> <li>j. DELWP RFI, March 2022</li> <li>k. Response to request for further information April 2022</li> <li>l. Mornington Peninsula Shire Council referral response 17 Mar 2022</li> <li>m. Mornington Peninsula Shire Council referral response 22 Jul 2022</li> <li>n. Melbourne Water referral response 18 Mar 2022</li> <li>o. DELWP Officer Assessment Report 22 Jul 2022</li> <li>p. DELWP Draft NOD to grant a permit</li> </ul>	Department of Environment, Land, Water and Planning (DELWP)
4	1 Sep 22	Referred material PA2201534 including: <ul style="list-style-type: none"> <li>a. Application Form, Town Planning Report, Feb 2022, titles and MPL Certificate</li> <li>b. Town Planning Report, Apr 2022</li> <li>c. Bushfire Management Statement, Feb 2022</li> <li>d. Environmental, Safety and Security Information, April 2022</li> <li>e. Environmental Management Plan, Mar 2022</li> <li>f. Site Layout Plans, Dec 2021</li> <li>g. Traffic Management Plan, Mar 2022</li> <li>h. Cultural Heritage Assessment, Jun 2022</li> <li>i. Environmental Noise Impact Assessment, Nov 2021 and Addendum, Apr 2022</li> <li>j. Air Quality Impact Assessment, Oct 2021</li> <li>k. Greenhouse Gas Assessment, Oct 2021</li> <li>l. Threatened Flora and Fauna Report</li> </ul>	DELWP

No.	Date	Description	Provided by
		<ul style="list-style-type: none"> <li>m. Surface Water and Groundwater Assessment, Apr 2022</li> <li>n. Stormwater Management Plan, Apr 2022</li> <li>o. Native Vegetation Assessment, Jun 2022</li> <li>p. Response to further information, Apr 2022</li> <li>q. Response to submissions, Jun 2022</li> <li>r. Response to Council, Jul 2022</li> <li>s. EES Self Assessment, Nov 2021</li> <li>t. DELWP RFI, March 2022</li> <li>u. DELWP Port Phillip Region referral response, Mar 2022</li> <li>v. DELWP Port Phillip Region referral response, Jul 2022</li> <li>w. Department Treasury and Finance referral response, Jul 2022</li> <li>x. EPA referral response, Jun 2022</li> <li>y. DELWP Officer Assessment Report 22 Jul 2022</li> <li>z. DELWP Draft NOD to grant a permit</li> </ul>	
5	7 Sep 22	Notification letter	Planning Panels Victoria
6	16 Sep 22	Letter to Committee on procedural matters	Esso Australia Resource Pty Ltd (Applicant)
7	19 Sep 22	Letter from Committee responding to Applicant letter	PPV
8	21 Sep 22	Letter to Committee seeking revised hearing dates	Save Westernport Inc
9	26 Sep 22	Letter from Committee responding to Save Westernport Letter	PPV
10	6 Oct 22	Directions, Distribution List and Timetable	“
11	7 Oct 22	List of expert witnesses	Applicant
12	21 Oct 22	Letter to PPV regarding file share	“
13	24 Oct 22	Updated Committee Direction in relation to site inspection 241022	PPV
14	24 Oct 22	Part A submission	DELWP
14a	24 Oct 22	Port Development Strategy (2018)	DELWP
14b	24 Oct 22	Hastings Port Industrial Area Land Use Structure Plan (1996)	DELWP
15	24 Oct 22	Extension request in respect of town planning evidence	Applicant
15a	26 Oct 22	Granting of extension request	PPV



No.	Date	Description	Provided by
16	26 Oct 22	Email from Chair regarding etiquette and behaviour	PPV
17	26 Oct 22	Late submission	Peninsula Aero Club
18	26 Oct 22	Nominated site inspection locations	Save Westernport
19	26 Oct 22	Submission (written on 22 Oct)	Fred Crump
20	28 Oct 22	Email regarding French Island Community Association Group	David Paonetti
21	28 Oct 22	Response to Mr Paonetti	PPV
22	31 Oct 22	Letter filing evidence	Applicant
23	31 Oct 22	Expert Witness Statement of Anthony Hume	Applicant
24	31 Oct 22	Expert Witness Statement of Brett Lane	Applicant
25	31 Oct 22	Expert Witness Statement of David Rollings	Applicant
26	31 Oct 22	Expert witness statement of Ian Jennings	Applicant
27	31 Oct 22	Expert Witness Statement of James McLoughlin	Applicant
28	31 Oct 22	Expert Witness Statement of Mark Potter	Applicant
29	1 Nov 22	Email to Applicant requesting further noise assessment information	PPV
30	2 Nov 22	Site inspection information	Applicant
31	4 Nov 22	Nominated site inspection locations	Sue King
32	4 Nov 22	Letter to Committee	Save Westernport
32a	4 Nov 22	Correspondence with Save Westernport members	Save Westernport
33	4 Nov 22	Response to Save Westernport	PPV
34	4 Nov 22	Email to site inspection attendees	PPV
35	4 Nov 22	Letter in response to Committee request for further noise assessment information (document 29)	Applicant
35a	4 Nov 22	Noise Assessment dated 3 October 2022	Applicant
35b	4 Nov 22	Hastings noise control addendum dated 31 May 2022	Applicant
35c	4 Nov 22	Hastings infrasound addendum dated 1 June 2022	Applicant
35d	4 Nov 22	Draft report assessing noise impacts on wildlife dated 19 Oct 2022	Applicant
35e	4 Nov 22	James McLoughlin witness statement - Addendum 4 Nov 2022	Applicant
36	7 Nov 22	Town Planning Statement - Tim McBride-Burgess	Applicant
37	7 Nov 22	Letter filing evidence	Applicant
38	10 Nov 22	Letter in response to Committee letter (document 33)	Save Westernport
39	11 Nov 22	Timetable and Distribution List (version 2)	PPV

No.	Date	Description	Provided by
40	11 Nov 22	Questions for Applicant	Save Westernport
41	11 Nov 22	Request for further site inspection and questions for the Applicant on notice	Sue King
42	11 Nov 22	Request for the Hearing to be transcribed	Sue King
43	11 Nov 22	Draft permit conditions - PA2201533	DELWP
44	11 Nov 22	Draft permit conditions - PA2201534	DELWP
45	11 Nov 22	Letter filing submission	Applicant
46	11 Nov 22	Submission	Applicant
47	11 Nov 22	Draft permit conditions	Applicant
48	11 Nov 22	Project overview presentation	Applicant
49	14 Nov 22	Planning Services Committee Meeting Agenda 20 June 2022	Applicant
50	14 Nov 22	EPA License DL000300015 - granted 11 August 2022	Applicant
51	14 Nov 22	PAS012370 development licence assessment report	Applicant
52	14 Nov 22	Presentation of Mr McBride-Burgess	Applicant
53	14 Nov 22	Signed declaration for Mr McBride-Burgess	Applicant
54	15 Nov 22	Signed declaration for Mr Potter	Applicant
55	15 Nov 22	Clause 13.02 Assessment for United Energy powerline	Applicant
56	15 Nov 22	Clause 13.02 Assessment for Hastings Generation Project	Applicant
57	15 Nov 22	Signed declaration for Mr Rollings	Applicant
58	15/16 Nov 22	August 2022 - Air Quality Impact Assessment <ul style="list-style-type: none"> <li>a. Updated Report (August 2022)</li> <li>b. Cover letter explaining differences between August 2022 report and</li> <li>c. Tracked change version outlining the differences between the Oct 2021 and Aug 2022</li> </ul>	Applicant
59	15 Nov 22	Presentation of Mr Hume for GHG	Applicant
60	15 Nov 22	Presentation of Mr McLoughlin for Noise	Applicant
61	15 Nov 22	Signed declaration for Mr Hume	Applicant
62	15 Nov 22	Signed declaration for Mr McLoughlin	Applicant
63	15 Nov 22	Hastings Power Generation piping distances to RAMSAR	Applicant
64	16 Nov 22	Presentation of Mr Lane for Ecology	Applicant
65	16 Nov 22	Signed declaration for Mr Lane	Applicant
66	16 Nov 22	Email from David Rollings regarding differences between Oct 2021 and August 2022 Air Quality Impact Assessment	Applicant



No.	Date	Description	Provided by
66a	16 Nov 22	Air Quality Impact Assessment - October 2021 versus August 2022	Applicant
67	17 Nov 22	Ramsar wetland proximity aerial	Applicant
68	21 Nov 22	Submission and attachments: <ul style="list-style-type: none"> <li>a. Esso Development Licence Application 2021</li> <li>b. Save Westernport Community Against Climate Change survey 2022</li> <li>c. Save Westernport Community Against Fossil Fuels survey 2022</li> <li>d. Esso's Project Alternatives for EPA Development Licence Application</li> <li>e. Solar Titan Technical Specifications</li> <li>f. Esso Environmental Audit 2010SW7</li> <li>g. Esso Stakeholder Engagement Plan for EPA Development Licence Application</li> <li>h. IAP Quality Assurance Standards 2015</li> <li>i. AA1000 Stakeholder Standard 2015</li> <li>j. Victorian Ombudsman Report Investigation into EPA decisions on West Gate Tunnel Project, May 2022</li> <li>k. David McCord, CEO Esso, Western Port News 12th October 2022</li> <li>l. Property Politics and Power, Leonie Sandercock thesis 1974</li> <li>m. Mornington Peninsula Council, Minutes of Planning Services Committee Meeting, 20th June 2022, p108</li> <li>n. 2022 AEMO Victorian Gas Planning Report Update, March 2022</li> <li>o. Mornington Peninsula Climate Emergency Response Plan 2022</li> <li>p. Stakeholder Engagement Summary and newspaper articles</li> </ul>	Save Westernport
69	22 Nov 22	Letter filing day 2 draft permit conditions	Applicant
70	22 Nov 22	Day 2 Draft Permit Conditions PA2201533 - without prejudice	Applicant
71	22 Nov 22	Day 2 Draft Permit Conditions PA2201534 - without prejudice	Applicant
72	22 Nov 22	Letter filing email from David Rollings	Applicant
72a	22 Nov 22	Email from David Rollings	Applicant
73	23 Nov 22	Presentation and attachments: <ul style="list-style-type: none"> <li>a. Presentation notes</li> <li>b. Western Port aerial photo 1957 Hastings</li> <li>c. 1971 Lysaght site Long Island Point Hastings aerial photo</li> <li>d. 1978 Hastings Port Industrial Area map</li> </ul>	Dale Stohr

No.	Date	Description	Provided by
		<ul style="list-style-type: none"> <li>e. EPA Victoria Esso DL Attachment 3 Project Alternatives</li> <li>f. EPA Esso Development Licence Application</li> <li>g. Esso Long Island Point license</li> <li>h. 2021 Oct 6 EPA Victoria email odour complaint case closed</li> <li>i. Parliament of Victoria - Public Accounts and Estimates Committee: Meeting Obligations to Protect Ramsar Wetlands, 2016</li> <li>j. 1999 RAMSAR information sheet Westernport</li> <li>k. Port of Hastings 2018 Port Development Strategy</li> <li>l. 2017 Port Development Strategy PDS-Ministerial-Guidelines-July-2017</li> <li>m. 2022 Oct Victoria's Air Quality Strategy</li> <li>n. EPA email</li> </ul>	
74	23 Nov 22	Letter filing closing submission and day 3 permit conditions	Applicant
75	23 Nov 22	Closing submission	Applicant
76	23 Nov 22	Day 3 Draft Permit Conditions - without prejudice PA2201534	Applicant
77	23 Nov 22	Day 3 Draft Permit Conditions - without prejudice PA2201533	Applicant
78	23 Nov 22	Submission	Shoreham Community Association
79	23 Nov 22	Submission (in two parts)	Sue King
80	23 Nov 22	Wildlife Presentation by Michelle Thomas	Sue King
81	23 Nov 22	Submission amended to include document numbers (updated version of document 68)	Save Westernport
82	2 Dec 2022	Mark-up of Day 3 permit conditions	DELWP
83	2 Dec 2022	Comments on permit conditions	Save Westernport
84	2 Dec 2022	Comments on permit conditions	Dale Stohr
85	2 Dec 2022	Mark-up of Day 3 permit conditions	Sue King

## Appendix D Planning context

### D1: Planning policy framework

Key parts of the Planning Policy Framework are summarised below.

#### Victorian planning objectives

The Victorian planning objectives are set out in section 4 of the PE Act. They include:

- provide for the fair, orderly, economic and sustainable use, and development of the land
- provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity
- secure a pleasant, efficient and safe working, living and recreating environment for all Victorians and visitors
- protect public utilities and other assets to enable the orderly provision of public utilities and facilities for the community's benefit
- facilitate development in accordance with other objectives
- balance the present and future interests of all Victorians.

#### Clause 11 (Settlement)

The objective of Clause 11.02-1S is to ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.

#### Clause 12 (Biodiversity)

Clause 12 includes the following objectives and strategies:

- protect and enhance Victoria's biodiversity, and consider impacts of any change in land use or development that may affect the biodiversity value of national parks and Ramsar wetlands (12.01-1S)
- ensure no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation
- protect and enhance the marine and coastal environment by (12.02-1S):
  - protecting and maintaining the extent and condition of native habitats and species diversity distributions
  - maintaining natural drainage patterns, water quality and biodiversity in and adjacent to coastal wetlands
  - avoiding disturbance of CASS
  - protecting and enhancing natural features, landscapes, seascapes and public visual corridors
- design, locate and maintain buildings and structures to effectively manage coastal hazard risk including (12.02-2S):
  - sea level rise
  - public health and safety risks
  - impacts on neighbouring land and the environment
  - impacts on marine and coastal functions and processes
- protect the environmental, cultural and landscape values of all water bodies and wetlands (12.03-1S).

Clause 12.01-2S references the *Guidelines for the removal, destruction or lopping of native vegetation* (DELWP, 2017) which outline a three step approach:

- avoid the removal, destruction or lopping of native vegetation
- minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided
- provide an offset to compensate for the biodiversity impact if a permit is granted to remove, destroy or lop native vegetation.

### Clause 13 (Environmental risks and amenity)

Key objectives and strategies in Clause 13 include:

- decision making must respond to the risks associated with climate change (13.01)
- ensure new development proposals assess the vulnerability of the proposed development to climate change effects (13.01-1L)
- strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life (13.02-1S)
- ensure contaminated and potentially contaminated land is used and developed safely (13.04-1S)
- assist the management of noise effects on sensitive land uses (13.05)
- protect community amenity, human health and safety while facilitating appropriate industrial, infrastructure or other uses with potential adverse off-site impacts by ensuring use or development of land is compatible with adjoining and nearby land uses (13.07).

Air quality is addressed Clause 13.06-1, the objective of which is to “*assist the protection and improvement of air quality*”. Relevant strategies include:

Ensure, wherever possible, that there is suitable separation between land uses that pose a human health risk or reduce amenity due to air pollutants, and sensitive land uses (residential use, child care centre, school, education centre, residential aged care centre or hospital).

Minimise air pollutant exposure to occupants of sensitive land uses near the transport system through suitable siting, layout and design responses.

Planning decisions should have regard to:

- EPA Publication 1518 *Recommended separation distances for industrial residual air emissions* (March 2013)<sup>5</sup>
- the Environment Reference Standard.<sup>6</sup>

### Clause 14 (Water)

The objective of Clause 14.02-2S is to protect water quality.

### Clause 15 (Built environment and heritage)

Clause 15.01-2S seeks to achieve building design and siting outcomes that contribute positively to the local context and support environmentally sustainable development. Strategies include:

- ensure development responds and contributes to the strategic and cultural context of its location
- minimise the detrimental impact of development on neighbouring properties, the public realm and the natural environment

<sup>5</sup> Clause 13.06-1 of the Planning Scheme

<sup>6</sup> Clause 13.06-1 of the Planning Scheme and section 60(1A)(f) of the PE Act.

- minimise stormwater discharge through site layout and landscaping measures that support on-site infiltration and stormwater reuse
- ensure development is designed to protect and enhance valued landmarks, views and vistas
- encourage development to retain existing vegetation.

Clause 15.03-2S seeks to ensure the protection and conservation of places of Aboriginal cultural heritage significance.

### **Clause 17 (Economic Development)**

The objective of Clause 17.01 is to strengthen and diversify the economy. Strategies include:

- minimise inter-industry conflict and encourage like industries to locate within the same area (17.03-2S)
- protect State significant industrial land, including the Port of Hastings Industrial Precinct (17.03-3S).

### **Clause 19.01 (Energy)**

The objective of Clause 19.01 is to facilitate appropriate development of energy supply infrastructure by:

- supporting energy infrastructure projects in locations that minimise land use conflicts and take advantage of existing resources and infrastructure networks
- developing appropriate infrastructure to meet community demand for energy services
- supporting the development of energy generation, storage, transmission, and distribution infrastructure to transition to a low-carbon economy
- ensuring energy infrastructure projects are resilient to the impacts of climate change
- facilitating energy projects that help diversify local economies and improve sustainability and social outcomes
- facilitating renewable energy generation and storage to meet on-site energy needs.

## **D2: Municipal Planning Strategy**

Council's MPS is in Clause 02 of the Planning Scheme. The MPS provides an overview of important local planning issues in an introductory context, sets out the vision for future use and development in the municipality, and establishes strategic directions about how the municipality is expected to change through the implementation of planning policy and the planning scheme.

Clause 02.02 sets out the vision for the municipality, including to:

- protect the Peninsula's landscapes, coastlines, seascapes and rural area
- protect the important values and resources of Western Port, having regard to existing settlements and the importance of recreation, nature conservation and tourism
- protect and enhance the Shire's biodiversity and coastal experience
- demonstrate leadership in climate change mitigation and adaptation.

Clause 02.03 sets out the strategic directions for the municipality, including:

- protecting and conserving habitat areas and linking corridors to encourage wildlife survival (02.03-2)
- facilitating the expansion of existing industries and supporting new industries that (02.03-6):
  - provide services to the Peninsula community

- contribute to the local employment base
- are compatible with the Peninsula’s character and environment, and the amenity of the local area
- ensuring development does not contribute to the pollution of groundwater or surface waters, and is designed to protect the environment from polluting discharges and activities (02.03-8).

Clause 02.03-7 acknowledges the Port of Hastings makes an important contribution to the Victorian economy and has several competitive advantages, among which are:

- the three major industries associated with the Port (including the LIP Fractionation Plant)
- readily developed land and accessible infrastructure, including pipelines.

The clause states “*considering these factors, planning for Western Port has been directed towards maintaining long-term port potential*”.

Clause 02.03-7 recognises that Western Port Bay is an area of environmental significance and sensitivity, and that planning for this area must balance the pursuit of economic advantages with the protection of the environment.

The strategic framework plan in Clause 02.04 identifies the Project land and surrounds as “*Port-related Use Area*”.

### **D3: Other relevant planning strategies and policies**

#### **(i) Plan Melbourne**

Plan Melbourne identifies the Port of Hastings as a designated State-significant transport gateway where future employment and economic development opportunities are to be supported. The Port of Hastings is also identified as one of Melbourne’s five State Significant industrial precincts and encouraged to keep generating economic activity, jobs and future growth.

#### **(ii) Melbourne Industrial and Commercial Land Use Plan**

The Melbourne Industrial and Commercial Land Use Plan overviews the current and future needs for industrial and commercial land across metropolitan Melbourne and provides a planning framework for these areas. It identifies the Port of Hastings area as existing state and regionally significant industrial land.

#### **(iii) Hastings Port Industrial Area Land Use Structure Plan**

The Structure Plan identifies the Project land as ‘PR – Port Related Use Zone’. It sets out objectives for the Port and the surrounding industrial precinct which are “*of equal priority*”:

- To provide for the needs, safety and amenity of the residential community and work-force.
- To preserve options for port and industrial development for possible long-term future requirements.
- To preserve the area for industries which depend on or gain significant economic advantage from the natural deep water channels of Western Port.
- To preserve and protect the natural and ecological systems of Western Port and its catchment area from damage or degradation by port-related or other development, particularly recognised sites of significance.
- To maintain land in large holdings suitable for land-extensive industries.

- To provide opportunities for support and or downstream industries which do not prejudice opportunities for land-extensive, port-related industries.
- To maintain and upgrade existing buffer areas between port and industrial development and township areas.
- To control the use of industrial land and surrounding areas consistent with proper standards of risk management and amenity, while taking adequate account of the present established port-related uses.

**(iv) Port of Hastings Port Development Strategy**

The *Port of Hastings - Port Development Strategy* 2018 (the Port Strategy) includes the vision:

... to be a vibrant and growing port facilitating continued growth and development of existing and new bulk trades in a sustainable manner.

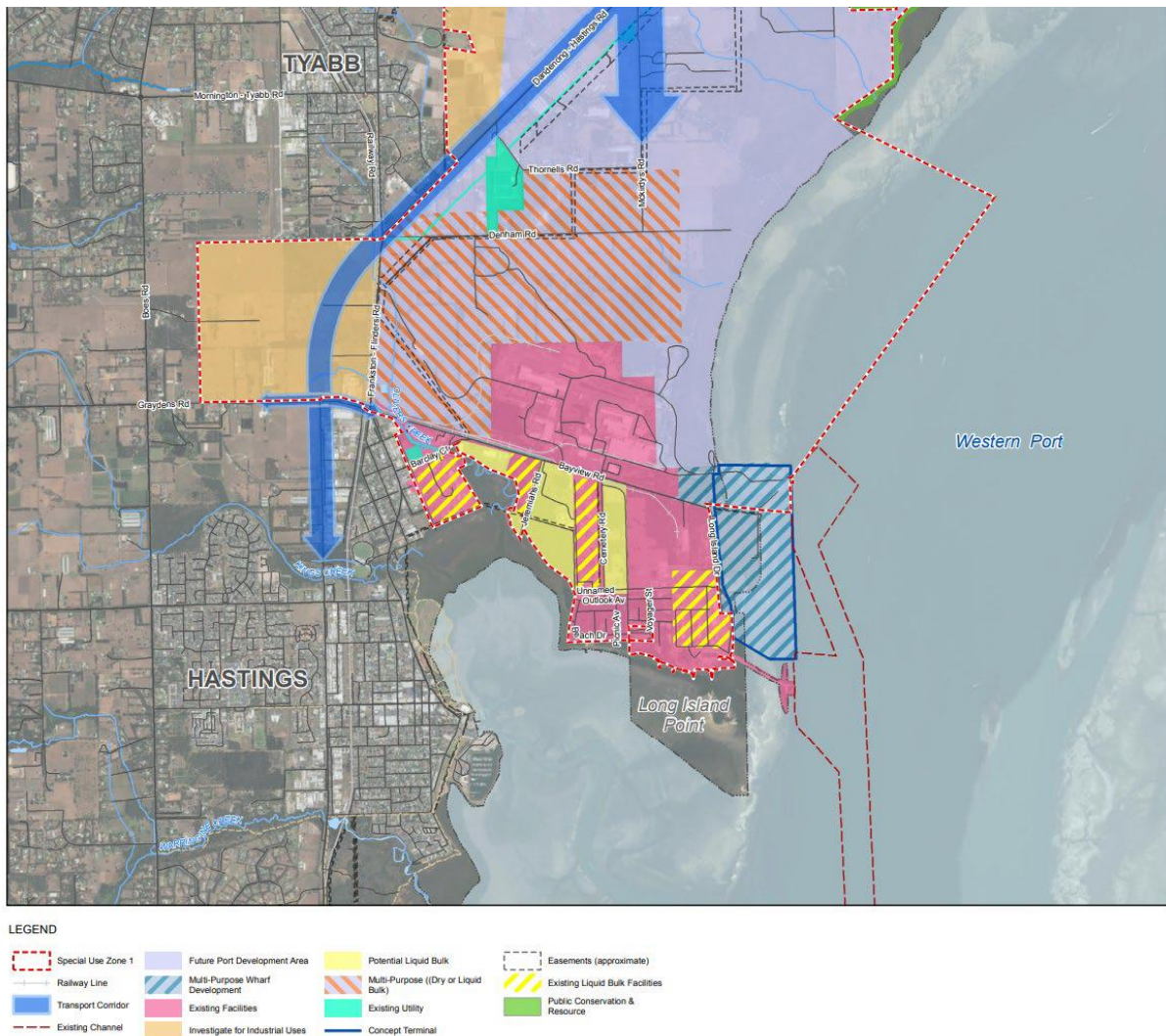
Matters identified as critical to the Port of Hastings' success include:

- Being attractive for our customers (port users)
- Port has a citizen / leadership role in the region
- Removing barriers to development within the Port
- Increasing utilisation of existing assets.

The Port Strategy's Future Land Use Planning Framework Plan identifies the Project land as part of the existing facilities (shown in pink on Figure 4 below), which are encouraged under the Strategy to be maintained and strengthened.



**Figure 4 Future Land Use Planning Framework Plan from the Port Strategy**



Source: Mr McBride-Burgess' Expert Witness Statement (Document 36)

#### (v) **Morrington Peninsula Localised Planning Statement**

The Morrington Peninsula Localised Planning Statement acknowledges the strategic significance of the Port of Hastings and the care needed in the planning and management of the area for port and port related purposes to ensure the protection of important values and resources of Western Port for recreation, nature conservation and tourism.

#### (vi) **Siting and design guidelines for structures on the Victorian Coast**

The *Siting and design guidelines for structures on the Victorian Coast* (DELWP, May 2020) consider siting and design challenges of development in the coastal environment (including land within 5 kms of the coastline) in response to pressures of population growth and climate change. They identify practices to reduce the vulnerability of the coastline while managing coastal land and infrastructure, maintaining public access and enhancing visitor experience.



## (vii) Adopted climate policy and targets

### Council's Climate Emergency Response Plan

*Our Climate Emergency Response From 2020 to 2030* details Council's response to its August 2019 Climate Emergency declaration. The Plan commits Council to proactive leadership to support and encourage individuals, organisations, businesses and all levels of government to integrate Climate Emergency responses into their operations and daily lives. Through the Plan, Council has adopted targets of:

- a 65 percent reduction in greenhouse gas emissions by 2030
- net zero emissions by 2040.

### Climate Change Act

The *Climate Change Act 2017* provides Victoria with a legislative foundation to manage climate change risks and drive the transition to a climate resilient community and economy with net zero emissions by 2050. The Act embeds a target of net zero emissions by 2050 and provides for setting five yearly interim targets, climate change strategies, and adaptation action plans to ensure the 2050 target is achieved. The current interim targets are to cut the State's GHG emissions by:

- 28 to 33 percent by 2025
- 50 percent by 2030.

The Act does not apply to decisions made under the PE Act, but it does apply to decisions made under the EP Act (ie the Development Licence application).

## D4: Planning scheme provisions

A common zone and overlay purpose is to implement the MPS and the PPF.

### (i) Zones

The Project land is in the SUZ1. The purposes of the SUZ1 are:

To enable the effective implementation of the Hastings Port Industrial Area Land Use Structure Plan (Department of Planning and Development 1996).

To provide a location for selected port and industrial uses which depend upon or gain significant economic advantages from the natural deep water channels in Westernport.

To protect the environmental values of the waters, coastline and intertidal areas of Westernport and adjoining land.

To protect the towns of Tyabb, Hastings, Crib Point and Bittern by ensuring that no port industrial development which may have an adverse effect on the amenity or safety of residents occurs in proximity to residential areas.

The SUZ1 includes the following requirement:

A use must not adversely affect the amenity of the neighbourhood, including through the:

- Transport of materials, goods or commodities to or from the land.
- Appearance of any stored goods or materials.
- Emission of noise, artificial light, vibration, odour, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.

Access for industry must not be made through a residential area. This does not apply to emergency access.

Decision guidelines under the SUZ1 include:

- the effect the use may have in terms the proper future use and development of the land and adjoining areas for port and port related purposes
- the effect that the use may have on the waters and intertidal areas of Westernport and the environmental values of adjoining land and the need for appropriate environmental assessment studies.
- the need for and adequacy of risk assessment and environmental response plans
- the effect that the use may have on nearby existing or proposed residential areas or other uses which are sensitive to industrial off-site effects
- the effect that nearby industries and other forms of activity may have on the proposed use
- whether there is a demonstrated need or significant benefit associated with any proposed industrial use being located near port facilities or associated uses
- drainage, services and provision for fire protection and other emergency services
- State or local policy guidelines relating to the protection, use or development of port facilities and associated areas, including the Structure Plan.

The proposed powerline alignment includes land in the SUZ1, as well as land in two public land zones:

- the PUZ7 (Other public uses)
- the TRZ3 (Significant municipal road).

The purposes of the public land zones are (as relevant) to ensure that use and development of the land is not inconsistent with the public purposes for which the land has been set aside. The permit applications were referred to Council in its capacity as the relevant public land manager under the PUZ7 and the relevant road management authority under the TRZ3. Council did not object to the grant of the permits in those capacities. The permit applications were also informally referred to DoT, who did not object. The Committee is therefore satisfied that the permit applications are not inconsistent with the purposes of the applicable public land zones.

## **(ii) Overlays**

The Project land is subject to the BMO. The purposes of the BMO are:

To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.

To identify areas where the bushfire hazard warrants bushfire protection measures to be implemented.

To ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.

The Project land includes land in the PAO4, and the powerline alignment includes land in the PAO2. The purposes of the PAO are:

To identify land which is proposed to be acquired by a Minister, public authority or municipal council.

To reserve land for a public purpose and to ensure that changes to the use or development of the land do not prejudice the purpose for which the land is to be acquired.

To designate a Minister, public authority or municipal council as an acquiring authority for land reserved for a public purpose.

The PAO4 reserves land for “*port services and access corridor*”, and identifies DTF as the acquiring authority. The PAO2 reserves land for “*municipal purposes*”, and identifies Council as the acquiring authority.

The powerline alignment includes land in the LSIO1. The purposes of the LSIO are:

To identify flood prone land in a riverine or coastal area affected by the 1 in 100 (1 per cent Annual Exceedance Probability) year flood or any other area determined by the floodplain management authority.

To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, responds to the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.

To minimise the potential flood risk to life, health and safety associated with development. To reflect a declaration under Division 4 of Part 10 of the Water Act, 1989.

To protect water quality and waterways as natural resources by managing urban stormwater, protecting water supply catchment areas, and managing saline discharges to minimise the risks to the environmental quality of water and groundwater.

To ensure that development maintains or improves river, marine, coastal and wetland health, waterway protection and floodplain health.

### (iii) Particular provisions

Relevant particular provisions include:

- Clause 52.17 Native vegetation
- Clause 53.02 Bushfire planning.

## D5: Key decision making principles

Clause 71.02-3 of the Planning Scheme requires a Responsible Authority considering a permit application to take an integrated approach, and to balance competing objectives in favour of net community benefit and sustainable development.

Clause 65 of the Planning Scheme states:

Because a permit can be granted does not imply that a permit should or will be granted. The Responsible Authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this clause.

Clause 65.01 requires the Responsible Authority to consider:

- the PPF and the purposes of the applicable zones, overlays or other provisions
- the orderly planning of the area
- the effect on the amenity of the area
- factors likely to cause or contribute to a reduction in water quality
- the extent and character of native vegetation, the likelihood of its destruction, and whether it can be protected, planted or allowed to regenerate
- the degree of flood or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.

Other matters to be taken into account include:

- objections
- comments and decisions of referral authorities

- other matters a Responsible Authority must and may take into account under section 60 of the PE Act, including the Victorian planning objectives and the economic, social and environmental impacts of the proposed use and development
- adopted government policy.

## Appendix E Submissions and persons consulted/heard

### E1: Submissions considered

*Terms of Reference clause 21(f)*

#### PA2201534 (Energy Generation Facility)

No.	Submitter	No.	Submitter
<b>Authorities and agencies</b>			
01	Peninsula Aero Club	93	Air services Australia
50	Country Fire Authority	94	Western Port Biosphere
77	Westernport and Peninsula Protection Council	95	Victorian National Parks Association
78	Civil Aviation Safety Authority	97	Department of Transport
91	Morrington Peninsula Shire Council	99	WorkSafe Victoria
<b>Individual submitters</b>			
02	Raymond Aspinall	22	Vicky Karitinos
03	Brianna Lee	23	Melody Chittenden
04	Paul Ashton	24	Mary Daley
05	Lance Sheppard	25	Karen Scatchard
06	Brenda Tucker	26	Richard Harrison
07	Melanie Attard	27	KT
08	Jane Russell	28	Philippa Ransome
09	Hannah Lewis	29	Amy Ryan
10	Lauren Curson	30	Lea Oakes
11	Lee May	31	Jane Webster
12	David Skoblar	32	Jamie Edgerton
13	Amanda Lee	33	Amy Champion
14	Penelope Gebhardt	34	Liam Mangan
15	Lisa Nolan	35	Anthony Grimes
16	Geoff Champion	36	Marnee Wills
17	Diana Harris	37	Kerry Macdonald
18	Caron and Peter Horton	38	Rachel Coffey
19	J Heron	39	Amanda Rampton
20	Lee Oakes	40	Bri Horne
21	Jessie Tucker	41	Laura Moso

42	Ed Neff	69	Rosie Brooks
43	Christine Kirkpatrick	70	Chris Alger
44	David Green	71	Margaret Wong
45	Tess Pearson	72	J. Russell Thompson
46	Oscar Capp	73	Eddy Carroll
47	Sarah Bell and Michael Hall	74	Alasdair MacKinnon
48	Christian Gorrie	75	Don Juniper
49	Dale Stohr	76	Michael Upston
51	Geoff Heyes	79	David Paonetti
52	Maddi Fletcher	80	Julia Collin
53	Gabrielle Nolan	81	Oscar Velo
54	Jack Clarke	82a, 82b	Save Westernport Inc
55	Barbara Wilson	83	Lee Carmody
56	Ann Lazzaro	84	Rebecca Power
57	Leigh Nichols-Thompson	85	Julia Symons
58	Emily Worsteling	86	Sam Barry
59	Jason Wilkins	87	Phil Thomas
60	Zalie Cranwell	88	Phil Zachariah
61	David Cranwell	89a, 89b	Frederick Crump
62	Ella Walker	90	Anna Just
63	Bernadette Young	92	Cynthia Johnston
64	Jeannine Wilson	96	Veronica Sive
65	Talei Kenyon	98	Shoreham Community Association
66	Madeleine Neff	100	Sue King
67	Shaun Flynn		
68	Bridget de Lange		

### PA2201533 (Powerline)

No.	Submitter	No.	Submitter
01	Western Port Biosphere	03	Save Westernport Inc
02a, 02b	Bunurong Land Council Aboriginal Corporation	04	Mornington Peninsula Shire Council

## E2: Persons consulted or heard

*Terms of Reference clause 21(g)*

Submitter	Represented by
Eso Resources Australia Pty Ltd (Applicant for PA2201534)	Chris Townshend KC with Jennifer Trewellah and Sean McArdle, instructed by White and Case
Department of Environment, Land, Water and Planning (DELWP),	Sam Mason and Michael Juttner
Save Westernport Inc	Jane Carnegie, Julia Stockigt and Bill Genat
Shoreham Community Association	Sue Boggan
Sue King	
Dale Stohr	
Frederick Crump	<i>Note: Mr Crump provided written submissions and attended the accompanied site inspection, but did not appear at the Hearing</i>

## Appendix F Committee recommended permit conditions

The Committee’s recommended permit conditions are tracked against clean versions of the Applicant’s ‘Day 3’ without prejudice permit conditions (Documents 76 and 77).

[Tracked Added](#)

~~Tracked Deleted~~

### F1: Permit PA2201534

#### ADDRESS OF THE LAND:

#### Development Parcels:

1 Long Island Drive, Hastings (Lot 40, PS 003732)

2 Long Island Drive, Hastings (Lot 39, PS 003732)

4 Long Island Drive, Hastings (Lot 1, TP 851238E)

35 Cemetery Road, Hastings (Lot 41, PS 003732)

[Lot 37, Lodged Plan 3732](#) [\[note that statutory requirements may apply under section 57A of the PE Act\]](#)

#### THE PERMIT ALLOWS:

Use and development of land for an energy generation facility and utility installation and the removal of vegetation, including native vegetation.

#### THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT

#### DEVELOPMENT PLANS

1. Before development starts, amended plans must be submitted to, approved and endorsed by the responsible authority. When endorsed, the plans will form part of this permit. The plans must be fully dimensioned and drawn to scale. The plans must be generally in accordance with *Hastings Generation Site Layout Plans*, Revision F (prepared by White Technics Pty Ltd, dated 8 April 2022) and *Long Island Point Trench Alignment Plan*, Revision E1 (prepared by Wood, dated 1 February 2022), but modified to show:
  - a. Detailed, fully dimensioned location / site layout, floor, elevation and other typical detail plans (including specifications, model, dimensions and materials) of all proposed buildings, structures, fencing and works, including:
    - i. Operations and maintenance facility, including all associated car parking.
    - ii. All noise attenuation measures, including those recommended by the Predictive Noise Assessment required by condition 13.
    - iii. Internal access tracks, including indicative sections.
    - iv. Site access points, including emergency / secondary site access points.
    - v. Laydown areas.
    - vi. Equipment / material storage areas.
  - b. Detailed plans of all proposed piping infrastructure, including elevations.



- c. Emergency management features required to comply with the Country Fire Authority conditions at 29-33, inclusive.
- d. Any other design changes required to comply with any other condition of this permit.

#### WRITTEN CONSENT TO MODIFY ENDORSED PLANS

- 2. The use and development must be generally in accordance with the endorsed plans. The endorsed plans must not be altered or modified without the prior written consent of the responsible authority.

#### ENVIRONMENTAL MANAGEMENT PLAN

- 3. Before ~~use~~ development starts, an Environmental Management Plan (EMP) must be submitted to, approved and endorsed by the responsible authority.

Once endorsed the EMP will form part of this permit.

The EMP must be generally in accordance with the *Hastings Generation Project Environmental Management Plan, Revision 1* (prepared by Esso Australia Pty Ltd, dated 22 March 2022) but modified to include:

- a. Measures to avoid and minimise amenity and environmental impacts during the operation of the facility.
- b. Measures to mitigate any impacts on native vegetation retained on and off the site, including tree protection zones.
- c. Design measures and / or procedures to manage dust, odour, light spill, mud, flood, surface water quality and stormwater run-off.
- d. Fuel load management measures that are to be implemented including but not limited to vegetation management.
- e. Any other measures required to address the Country Fire Authority's conditions at 29-33, inclusive.
- f. Measures to manage, monitor and review erosion and control sediment-laden runoff.
- g. Response measures to environmental incidents.
- h. A program for recording and reporting environmental incidents.
- i. The person(s) responsible for implementing the above measures, including procedures for staff training and communication.
- j. ~~The installation of a~~ A densely vegetated buffer (of indigenous species only with species selection based on the appropriate Ecological Vegetation Class (EVC)) beyond the defensible space area, to mitigate the impacts of light spill from the site on fauna in the area. The buffer must meet the Bushfire Management Plan requirements.
- k. The identification and retention of canopy trees in the defensible space area that can be retained in accordance with the Bushfire Management Plan requirements (i.e. to achieve a 5-metre canopy separation). Tree retention should prioritise the trees with the highest biodiversity value.
- ~~l. As part of the documentation required by conditions 8-11 of this permit the documentation must show how the proposal does not alter existing hydrological flows and water quality before being discharged into the Westernport Bay.~~

#### CONSTRUCTION ENVIRONMENT MANAGEMENT PLAN

4. Before the development starts, including the removal of native vegetation, a Construction Environment Management Plan (CEMP) must be submitted to, approved and endorsed by the responsible authority, in consultation with the Mornington Peninsula Shire Council. Once endorsed the CEMP will form part of this permit.

The CEMP must include:

- a. Be drafted to be generally consistent with the Mornington Peninsula Shire Council's standard Major Construction Management Plan (available on Council's website).
  - b. Measures to avoid and minimise amenity and environmental impacts during construction.
  - c. Procedures to manage construction noise and vibration in accordance with the requirements of *EPA Publication 1834: Civil construction, building and demolition guide*.
  - d. Erosion and sediment control measures to ensure that no polluted and / or sediment laden run-off or other stormwater is discharged directly or indirectly onto adjoining land or into drains, watercourses or wetlands, including Western Port Bay.
  - e. Locations of any construction waste storage and the method of storage and disposal.
  - f. The location of any temporary buildings or works (including storage and stockpiling) and procedures to remove these and reinstate the affected parts of the land when construction is complete.
  - g. A construction timetable, including typical daily start and end times.
  - h. Procedures to manage mud and debris on the surrounding road network which may occur during construction.
  - i. Measures to protect native vegetation to be retained during construction works including:
    - i. A suitably qualified zoologist to undertake a pre-clearance survey of planted trees to be removed during the week prior to removal to identify the presence of any nests or hollows;
    - ii. If recommended by the pre clearance survey, a suitably qualified zoologist to be on site during any tree removal works to capture and relocate any misplaced fauna that may be present.
    - iii. 'Any other measures required to address the Department of Environment, Land, Water and Planning (DELWP) Port Phillip Region's native vegetation management conditions at 23 and 24 of this permit.
  - j. The person(s) responsible for implementation and compliance of each of the CEMP requirements.
5. All persons undertaking works on-site must be fully briefed on all aspects and requirements of the endorsed CEMP. All works constructed or carried out must be in accordance with the endorsed CEMP, to the satisfaction of the responsible authority.

#### **DRAINAGE AND STORMWATER MANAGEMENT PLAN**

6. The CEMP must include a Drainage and Stormwater Management Plan (DSWMP). The DSWMP must [be prepared by a suitably qualified engineer, and must](#) include:
  - a. [Measures to ensure the proposal does not alter existing hydrological flows and water quality before being discharged into the Westernport Bay.](#)
  - b. Details and computations of how the works on the land are to be drained, including drains conveying stormwater to the legal point of discharge.

- c. Details of how the drainage design affects the continuation of existing overland flow paths and flood patterns across the land.
- d. Details on how polluted or contaminated runoff is to be managed.
- e. Any other measures required to address Mornington Peninsula Shire Council's conditions at 8-11, inclusive.

6A. Within 12 months after the use commences, a report prepared by a suitably qualified engineer must be submitted to the responsible authority demonstrating to the responsible authority's satisfaction that the drainage works are sufficient to prevent the alteration of existing hydrological flows and water quality discharged into the Westernport Bay.

#### **TRAFFIC MANAGEMENT PLAN**

- 7. Before development starts, a Traffic Management Plan (TMP) must be submitted to, approved and endorsed by the responsible authority. The TMP must be prepared in consultation with Mornington Peninsula Shire Council prior to submission to the responsible authority.

Once endorsed, the TMP will form part of this permit.

The TMP must be generally in accordance with *Traffic Management Plan EAPL Hastings Power Station*, prepared by White Technics Pty Ltd, dated December 2021, but modified to include:

- a. Measures to manage traffic impacts associated with the construction of the facility.
- b. Designation of all appropriate construction and transport vehicle routes to and from the site.
- c. A program to inspect, maintain and (where required) repair public roads used by construction traffic.

#### **MORNINGTON PENINSULA SHIRE COUNCIL (NOT A REFERRAL AUTHORITY)**

- 8. After the endorsement of plans, and before development starts, Engineering Plans must be submitted to and approved by Mornington Peninsula Shire Council. The Engineering Plans must be drawn to scale with dimensions and emailed to [devengadmin@mornpen.vic.gov.au](mailto:devengadmin@mornpen.vic.gov.au) in .pdf format.

The Engineering Plans must show:

- a. All areas of the development being drained by means of a drainage system connected to the existing drainage system within the property.
- b. A drainage system on the site designed to ensure stormwater runoff exiting the site meets the current best practice performance objectives for stormwater quality, as contained in the *Urban Stormwater Best Practice Environmental Management Guidelines (Victorian Stormwater Committee, 1999)*.
- c. Details, including levels, of the driveways (if any) and parking areas within the site.
- d. Driveways (if any) and parking areas being surfaced with asphalt or reinforced concrete.
- e. The design of all vehicle movements entering and exiting the property being in a forward direction.
- f. Tree Protection Zones (TPZs) of trees impacted by the works.
- g. Drainage works designed to avoid TPZs of trees to be retained where possible.
- h. Proposed methodologies for complying with *Australian Standard 4970-2009 Protection of trees on development sites* for any works that are required within TPZs of trees which are to be retained.

9. Before Engineering Plans are approved in accordance with condition 8, drainage computations and documentation are required to be submitted to Mornington Peninsula Shire Council for:
  - a. The proposed drainage system.
  - b. A MUSIC Report, if applicable.
10. Before the use starts, all drainage works associated with the development must be constructed in accordance with approved Engineering Plans and DSWMP, to the satisfaction of the responsible authority and Mornington Peninsula Shire Council.
11. Before the use starts, areas set aside for the parking of vehicles and driveways (if any) as shown on the endorsed plans must be constructed in accordance with approved Engineering Plans, surfaced with asphalt or reinforced concrete, and drained to the satisfaction of the responsible authority and Mornington Peninsula Shire Council. Parking spaces and driveways (if any) must be kept available for these purposes at all times.

#### **OPERATIONAL NOISE**

12. The use of the land must at all times comply with *EPA Publication 1826.4: Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues* (EPA Publication 1826.4).
13. Before plans are endorsed under condition 1, an updated Predictive Noise Assessment must be submitted to, ~~approved and endorsed by~~ the satisfaction of the responsible authority, in consultation with Mornington Peninsula Shire Council. The Predictive Noise Assessment must:
  - a. Model the final design layout of the facility and assess this against EPA Publication 1826.4.
  - b. Demonstrate the proposal will comply with EPA Publication 1826.4 at all times.

All measures relied on to achieve compliance with EPA Publication 1826.4 must be implemented to the satisfaction of the responsible authority.

The Predictive Noise Assessment must be made available to the public.
14. Within 6 months of the commencement of the use, a Post-Construction Acoustic Assessment must be prepared by a suitably qualified acoustic engineer ~~and must be submitted to, approved and endorsed by~~ to the satisfaction of the responsible authority, in consultation with Mornington Peninsula Shire Council, demonstrating compliance with EPA Publication 1826.4 at all times. The report must be made available to the public.

#### **CONTROL OF LIGHTING**

15. All lighting installed and operated at the site must comply with *Australian Standard 4282 Control of obtrusive effects of outdoor lighting*, except with the prior written consent of the responsible authority.

#### **NATIVE VEGETATION (DELWP PORT PHILLIP REGION, REFERRAL AUTHORITY)**

16. Before development starts, the permit holder must advise all persons undertaking the vegetation removal or works on site of all relevant permit conditions and associated statutory requirements or approvals.
17. The total area of native vegetation permitted to be removed totals 0.857 hectares, comprised of:
  - a. 10 patches of native vegetation with a total area of 0.857 hectares [containing 0 large trees].
  - b. 0 large scattered trees.
  - c. 0 small scattered trees.

18. To offset the permitted clearing in accordance with *Guidelines for the removal, destruction or lopping of native vegetation* (DELWP 2017), the permit holder must secure a general offset of 0.222 general habitat units:

- a. Located within the Port Phillip and Westernport Catchment Management boundary or Mornington Peninsula Shire Council municipal area, and
- b. With a minimum strategic biodiversity score of at least 0.448.

19. Before any native vegetation is removed, evidence that the required offset has been secured must be provided to the satisfaction of the responsible authority.

This evidence must be one or both of the following:

- a. An established first party offset site including a security agreement signed by both parties, and a management plan detailing the 10-year management actions and ongoing management of the site, and / or
  - b. Credit extract(s) allocated to the permit from the Native Vegetation Credit Register.
20. A copy of the offset evidence will be endorsed by the responsible authority and form part of this permit. Within 30 days of endorsement of the offset evidence, a copy of the endorsed offset evidence must be provided to Planning Approvals – DELWP Port Phillip Region ([ppr.planning@delwp.vic.gov.au](mailto:ppr.planning@delwp.vic.gov.au)).
  21. Where the offset includes a first party offset(s), the permit holder must provide an annual offset site report to the responsible authority by the anniversary date of the execution of the offset security agreement, for a period of 10 consecutive years. After the tenth year, the landowner must provide a report at the reasonable request of a statutory authority.
  22. Within 6 months of the conclusion of the permitted clearing of native vegetation under this permit, the offset requirements can be reconciled with the written agreement of DELWP.
  23. Within the area of native vegetation to be retained and any tree protection zone associated with the permitted use and development, the following is prohibited:
    - a. Any vehicle or pedestrian access, trenching or soil excavation.
    - b. Storage or dumping of any soils, materials, equipment, vehicles, machinery or waste products.
    - c. Entry or exit pits for underground services.
    - d. Any other actions or activities that may result in adverse impacts to retained native vegetation.
  24. The CEMP required under condition 4 must be developed and implemented to the satisfaction of DELWP.

The CEMP must include measures to:

- a. Ensure compliance with conditions 16 and **Error! Reference source not found..**
- b. Rehabilitate any disturbed areas resulting from construction activities within any areas of native vegetation to be retained.
- c. Ensure any water flows from any excavation and newly created impervious areas are directed to the legal point of discharge and not into any area of native vegetation to be retained.
- d. Control erosion, sedimentation, and dust.

- e. Ensure that any soil and equipment is free from noxious weed seeds and other vegetative material that can grow prior to transporting any soil and equipment to or from the site during construction.
- f. Manage weed spread within the site due to construction activities.

#### **CIVIL AVIATION SAFETY AUTHORITY (NOT A REFERRAL AUTHORITY)**

- 25. Before the development starts, application must be made to have a 'plume' symbol added to relevant aeronautical charts in consultation with Airservices Australia ([vod@airservicesaustralia.com](mailto:vod@airservicesaustralia.com)) and the Civil Aviation Safety Authority (CASA) ([casa.rfc@casa.gov.au](mailto:casa.rfc@casa.gov.au)).
- 26. ~~and b~~ Before the use starts a 'Notice to Airmen' must be issued by Airservices Australia.
- 27. ~~Before the use starts, a flashing, red medium intensity obstacle light must be installed on each exhaust stack in accordance with Requirement 9.33 of Part 139 (Aerodromes) – Manual of Standards 2019, except with the prior written consent of CASA. Unless CASA agrees otherwise, these lights must be installed to the satisfaction of the responsible authority.~~
- 28. Before the use starts, the permit holder must provide a contact phone number and email address to the operators of Tyabb Airfield, which can be contacted should an issue arise whereby exhaust plumes impact the operation of the airfield.

#### **COUNTRY FIRE AUTHORITY (NOT A REFERRAL AUTHORITY)**

- 29. The use must include the provision of a hydrant system consistent with the requirements for Open Yard Protection as per Section 3.3 (Area of Yard > 9,000 m<sup>2</sup> to <27,000 m<sup>2</sup>) of *Australian Standard 2419.1-2005: Fire hydrant installations* (i.e. three fire hydrant outlets required to flow simultaneously).
- 30. Where the fire service infrastructure (e.g. ring main) for the proposed facility is extended from the Esso Long Island Point Facility (MHF), the simultaneous operation of the fire infrastructure across both facilities must meet specified minimum demand requirements at either facility.  
  
E.g. 30 L/s performance at the proposed facility can be achieved at the same time as the minimum demand requirement for identified Major Incidents at the Esso LIP facility is also achieved.
- 31. Vegetation within the Bushfire Management Zone (between 48 metres and 33 metres from the facility), as identified in the drawing titled 'Bushfire Management Plan – Hastings Generation Project – ESSO LIP' included at Appendix 1 of the submitted *Bushfire Management Statement – Hastings Generation Project*, Revision 5 (prepared by Fire Risk Consultants, dated February 2022) must be managed in accordance with the following requirements:
  - a. Grass must be short cropped and maintained during the declared fire danger period.
  - b. All leaves and vegetation debris must be removed at regular intervals during the declared fire danger period.
  - c. Within 10 metres of a building, flammable objects must not be located close to the vulnerable parts of the building.
  - d. Plants greater than 10 centimetres in height must not be placed within 3 metres of a window or glass feature of the building.
  - e. Shrubs must not be located under the canopy of trees.
  - f. Individual and clumps of shrubs must not exceed 5 m<sup>2</sup> in area and must be separated by at least 5 metres.

- g. Trees must not overhang or touch any elements of the building.
  - h. The canopy of trees must be separated by at least 5 metres.
  - i. There must be a clearance of at least 2 metres between the lowest tree branches and ground level.
32. Before development starts, a Bushfire Management Plan (BMP) must be prepared to the satisfaction of CFA. The BMP must include:
- a. The activities, roles and responsibilities for managing fire risk at the facility (including acquisition of any required permits during the Fire Danger Period, management of vegetation and removal of all weed species, inspection and maintenance of plant and equipment, and dangerous goods storage and handling).
  - b. Regular housekeeping activities prior and during the Fire Danger Period that ensure the removal of any extraneous flammable or combustible materials around the plant and buildings, clearance of vehicle access points to the facility, and access to, and serviceability of fire protection systems and equipment.
  - c. Bushfire monitoring, preparedness and emergency response.
33. Before the use starts, an Emergency Management Plan (EMP) must be prepared to the satisfaction of CFA. The EMP must include:
- a. Be consistent with the requirements of *Australian Standard 3745-2010: Planning for emergencies in facilities* and the Dangerous Goods (Storage and Handling) Regulations 2012 (as appropriate).
  - b. Include a risk management process which considers any potential for off-site impacts to the Esso Long Island Point facility.
  - c. Any potential for off-site impact to the Esso Long Island Point facility, which must be considered in risk management processes for both facilities.

## EMERGENCY SERVICES

34. Before development starts, the permit holder must provide spatial information data to Land Use Victoria via email ([vicmap.help@delwp.vic.gov.au](mailto:vicmap.help@delwp.vic.gov.au)) to be used to direct emergency services to and within the site.

This spatial data information must be in the ESRI Shapefile or Geodatabase .gdb format, GDA94 or GDA2020 datum and include:

- a. The location and boundaries of the facility extents polygon(s)
  - b. All access points onto private property
  - c. All internal roads
  - d. The locations and names of site compound, substations, maintenance facilities.
  - e. The address of the land where the facility is constructed. If there are multiple access points, then the entry point and extent of the facility at each address must be provided (the respective local government council is the authority responsible for allocating new addresses).
35. If there are any subsequent changes to infrastructure location, internal roads or access points during construction, or after completion of construction, updated data must be provided to Land Use Victoria via email ([vicmap.help@delwp.vic.gov.au](mailto:vicmap.help@delwp.vic.gov.au)) within 30 days of the change, to enable details of any changes to the energy generation facility to be known to emergency services dispatchers.

## COMPLAINTS

### Complaints Investigation and Response Plan

36. Before the use starts, a Complaint Investigation and Response Plan (CIRP) must be submitted to, approved and endorsed by the responsible authority. Once endorsed, the CIRP will form part of this permit.

The CIRP must:

- a. Respond to all aspects of the construction and operation of the facility.
  - b. Be prepared in accordance with *Australian/New Zealand Standard AS/NZS 10002:2014 – Guidelines for Complaint Management in Organisations*.
  - c. Include a process to investigate and resolve complaints (different processes may be required for different types of complaints).
37. The endorsed CIRP must be implemented to the satisfaction of the responsible authority.

### Complaints Register

38. Before the use starts, a Complaints Register must be established which records:
- a. The complainant's name and address (if provided).
  - b. A receipt number for each complaint, which must be communicated to the complainant.
  - c. The time and date of the incident, and operational conditions at the time of the incident.
  - d. A description of the complainant's concerns.
  - e. The process for investigating the complaint, and the outcome of the investigation, including the actions taken to resolve the complaint.
39. All complaints received must be recorded in the Complaints Register.
40. The complete copy of the Complaints Register must be provided, along with a reference map of complaint locations, to the responsible authority upon request.

## DECOMMISSIONING

41. Once the energy generation facility permanently ceases operation, the responsible authority must be notified within three months.
42. Within three months of the energy generation facility permanently ceasing operation, a Decommissioning Management Plan (DMP) prepared by a suitably qualified and experienced person must be submitted to, approved and endorsed by the responsible authority. Once endorsed, the DMP will form part of the permit.
43. The DMP must include, as a minimum:
- a. Identification of infrastructure, equipment, buildings and structures to be removed, and details of how these will be removed, including timing.
  - b. Details of any proposed site rehabilitation.
  - c. A requirement that a Decommissioning Traffic Management Plan (DTMP) be submitted to, approved and endorsed by the responsible authority, before decommissioning works start. The DTMP must be approved by ~~in consultation with~~ the relevant road management authority (or authorities), prior to submission to the responsible authority for endorsement. The DTMP must specify measures to manage traffic impacts associated with removing the infrastructure, equipment, buildings and structures from the site.



44. The endorsed DMP must be implemented to the satisfaction of the responsible authority.

#### EXPIRY

45. This permit will expire if one of the following applies:

- a. The development is not started within three years of the date of this permit.
- b. The development is not completed within six years of the date of this permit.

## F2: Permit PA2201533

#### ADDRESS OF THE LAND:

#### Private Land:

1 Long Island Drive, Hastings (Lot 40, PS003732)  
 22 Barclay Crescent, Hastings (Lot 1, TP902282V)  
 7 Barclay Crescent, Hastings (Lot 1, TP004193C)  
 28A Bayview Road, Hastings (Crown Allotment  
 58A, Parish of Tyabb).

#### Road Reserves:

Barclay Crescent, Hastings  
 Bayview Road, Hastings  
 Long Island Drive, Hastings.

#### THE PERMIT ALLOWS:

Use and development of land for a utility installation  
 and the removal of native vegetation.

#### THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT

#### USE AND DEVELOPMENT

1. The use and development must be undertaken in accordance with the endorsed plans, titled *Power Pole Siting Plan* prepared by Spiire and dated 12 April 2022.
2. Any plan or document endorsed in accordance with this permit must not be altered or modified without the written consent of the responsible authority.

#### NATIVE VEGETATION

3. Within the area of native vegetation to be retained and any tree protection zone associated with the permitted use and development, the following is prohibited:
  - a. Any vehicle or pedestrian access, trenching or soil excavation
  - b. Entry or exit pits for underground services
  - c. Storage or dumping of any soils, materials, equipment, vehicles, machinery or waste products.
  - d. Any other activities that may result in adverse impacts to retained native vegetation.
- 3A. Prior to the removal of native vegetation a Construction Management Plan (CMP) is to be submitted for the approval of the Responsible Authority. The CMP must include the following

measures to protect native vegetation to be retained during construction works, to the satisfaction of the Responsible Authority:

- a. Compliance with condition 3 of this permit.
  - b. Processes to ensure all persons undertaking the vegetation removal or works on site are advised by the permit holder of all relevant permit conditions and associated statutory requirements or approvals.
  - c. Rehabilitation of any disturbed areas resulting from construction activities within any areas of native vegetation to be retained.
  - d. Ensure any water flows from any excavation and newly created impervious areas are directed to the legal point of discharge and not into any area of native vegetation to be retained.
  - e. Control of erosion, sedimentation, and dust.
  - f. Ensure that any soil and equipment is free from noxious weed seeds and other vegetative material that can grow prior to transporting any soil and equipment to or from the site during construction.
  - g. Manage weed spread within the site due to construction activities.
- 3B. The construction of buildings and works and removal of native vegetation must be carried out in accordance with the approved CMP.
4. The total area of native vegetation permitted to be removed, destroyed or lopped under this permit totals 0.001 hectares of native vegetation, as described in Native Vegetation Removal Report ID 352-20211126-006.
5. To offset the removal of 0.001 hectares of native vegetation, the permit holder must secure a native vegetation offset in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation* (DELWP, 2017) as specified below:
- a. A general offset of 0.002 general habitat units:
    - i. Located within the Port Phillip and Westernport Catchment Management Authority or Mornington Peninsula Shire Council
    - ii. With a minimum strategic biodiversity value of at least 0.616.
6. Before any native vegetation is removed, evidence that the required offset for the project has been secured must be provided to the satisfaction of the responsible authority. This evidence must be one or both of the following:
- a. An established first party offset site including a security agreement signed by both parties, and a management plan detailing the 10-year management actions and ongoing management of the site; and / or
  - b. Credit extract(s) allocated to the permit from the Native Vegetation Credit Register.
7. A copy of the offset evidence will be endorsed by the responsible authority and form part of this permit.
8. Where the offset includes a first party offset(s), the permit holder must provide an annual offset site report to the responsible authority by the anniversary date of the execution of the offset security agreement, for a period of 10 consecutive years. After the tenth year, the landowner must provide a report at the reasonable request of a statutory authority.

#### EXPIRY

9. This permit will expire if one of the following applies:

- a. The development is not started within four years of the date of this permit.
- b. The development is not completed within eight years of the date of this permit.
- c.