

**Amendment of Planning Permit PA2001065-1
Delburn Terminal Station**

Panel Report

Planning and Environment Act 1987

27 March 2024

How will this report be used?

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

After considering the report, the Minister for Planning may amend the permit; or amend the permit subject to conditions; or refuse to amend the permit on any grounds he or she sees fit. [section 97J of the *Planning and Environment Act 1987* (the PE Act)]

The Minister for Planning must give notice of his or her decision. [section 97K of the PE Act]

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

Planning and Environment Act 1987

Panel Report pursuant to 153 and 97(E)(1)(a) of the PE Act

Amendment of Planning Permit PA2001065-1

Delburn Terminal Station

27 March 2024



Alison McFarlane, Chair



Dr Ken Joyner, Member

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Glossary and abbreviations

AH Act	<i>Aboriginal Heritage Act 2006</i>
Amendment application	Planning Permit Amendment Application PA2001065-1
Applicant	Delburn Wind Farm Pty Ltd
BAL	Bushfire Attack Level
CFA	Country Fire Authority
CHMP	Cultural Heritage Management Plan
DTP	Department of Transport and Planning
PE Act	<i>Planning and Environment Act 1987</i>
Planning Scheme	Latrobe Planning Scheme
Terminal station	Delburn Terminal Station

Overview

Amendment summary

The Application	Amendment of Planning Permit PA2001065-1
Common name	Delburn Terminal Station
Brief description	Application to amend Planning Permit PA2001065-1 to: <ul style="list-style-type: none"> - improve the readability and operation of permit conditions - change the bushfire risk and mitigation conditions.
Subject land	Land described as: <ul style="list-style-type: none"> - Crown Allotment 52B Parish of Narracan, Certificate of Title Volume 11761 Folio 52 (Strzelecki Highway, Delburn) - Crown Allotment 77 Parish of Narracan, Certificate of Title Volume 7720 Folio 94 (Strzelecki Highway, Delburn) Roads: <ul style="list-style-type: none"> - Deans Road - Varys Track
Planning Scheme	Latrobe Planning Scheme
The Applicant	Delburn Wind Farm Pty Ltd
Planning Authority	Minister for Planning
Public notice	Notice to Latrobe City Council under section 52(1)(b) of the PE Act
Submissions	Number of Submissions: 297 See Appendix A

Panel process

The Panel	Alison McFarlane (Chair) and Dr Ken Joyner
Supported by	Georgia Brodrick, Project Officer, Planning Panels Victoria
Directions Hearing	Video conference and in person at Planning Panels Victoria, 9 February 2024
Panel Hearing	Video conference and in person at Planning Panels Victoria, 14 March 2024
Site inspections	Accompanied, 6 March 2024
Parties to the Hearing	Appendix B
Citation	Delburn Terminal Station Permit Amendment [2024] PPV
Date of this report	27 March 2024

Executive summary

Planning permits allowing the development of the Delburn Wind Energy Facility and Terminal Station were granted by the Minister for Planning in 2022. In May 2023, Delburn Wind Farm Pty Ltd lodged applications to amend conditions of these permits. Public notice of the applications was given in August 2023 and over 290 submissions were received by the Department of Transport and Planning (DTP).

The Minister for Planning determined the applications to amend the wind energy facility permits in November 2023. A Panel process was not required to consider the submissions made on these applications.

In January 2024, the Minister for Planning referred the objections and submissions received on Application to Amend Planning Permit PA2001065-1 for Delburn Terminal Station to a Panel. Key issues raised in submissions related to:

- weakening of conditions and consequential impacts on the safety of surrounding communities and protection of the environment
- the adequacy of assessments supporting changes to bushfire management conditions
- the protection of cultural heritage.

The Panel conducted a public Hearing in March 2024. Extensive submissions were made by the Strzelecki Community Alliance and other community members that have had a long involvement in the planning processes for this development. Some submitters have been directly impacted by fire in the past and conveyed deep concerns about the risk the development poses to their personal safety, and to the safety of the broader community.

The Panel is tasked with assessing whether changes to the existing permit will deliver an acceptable outcome. It is outside the Panel's role to reinterrogate the merits of a development for which a permit has been granted. Many of the issues raised by the community were well beyond the remit of the Panel.

Having carefully considered the application, the Panel finds the proposed changes to conditions:

- do not weaken the bushfire standards set for the Delburn Terminal Station and are supported by the Country Fire Authority
- are beneficial and will avoid future confusion about what is intended to be achieved by the conditions.

It is unnecessary for the permit to contain conditions to manage potential impacts on cultural heritage. A Cultural Heritage Management Plan has already been approved under the *Aboriginal Heritage Act 2006* and will operate alongside any approval granted under the *Planning and Environment Act 1987*.

Recommendation

Based on the reasons set out in this Report, the Panel recommends:

- 1. The Minister for Planning amend Planning Permit PA2001065-1 for the Delburn Station, as shown in Appendix D of this report.**

1 Introduction

1.1 Overview

(i) The application

The Delburn Terminal Station (terminal station) was approved in 2022 by way of Planning Permit PA2001065. The permit allows buildings and works associated with a utility installation and the removal of native vegetation. The terminal station will connect the Delburn Wind Energy Facility into the existing Hazelwood to Rowville 220 kilovolt transmission line.

Delburn Wind Farm Pty Ltd (the Applicant) lodged Planning Permit Application PA2001065-1 (amendment application) under section 97(l) of the *Planning and Environment Act 1987* (PE Act) to make changes to the permit to ensure:

- terms used on the permit relate to the approved land use, for example ‘utility installation’ and not ‘Project’
- consistency of language between the permit and other permits granted for the Delburn Wind Energy Facility
- the requirements of the conditions are clear.

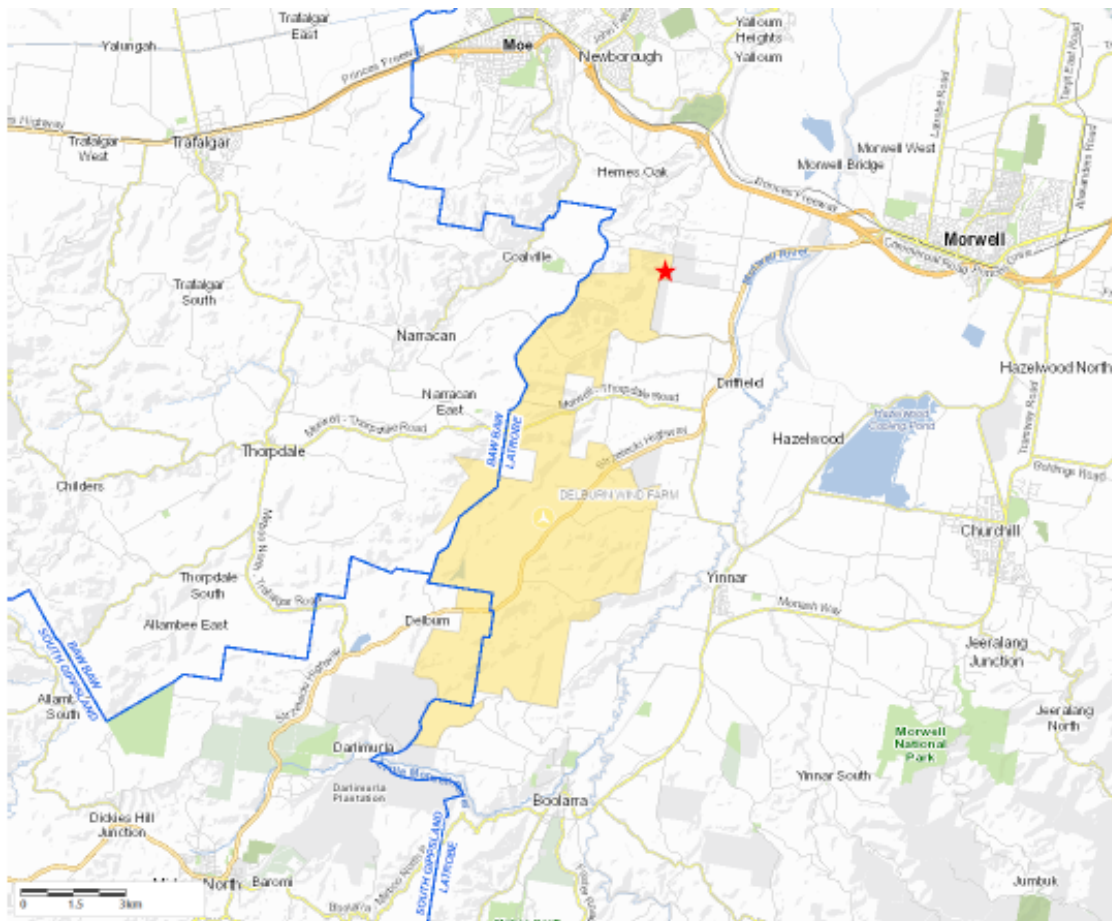
Additionally, the amendment application proposes to change wording and grammar of the bushfire conditions (conditions 24-26). Appendix D provides a track change various of all conditions proposed to be amended by the amendment application.

The Minister for Planning referred objections and submissions received in respect of the amendment application to the Panel under section 97E(1)(a) and (b) of the PE Act.

(ii) The subject land

The subject land is in south-east Victoria within the Latrobe City municipal area, close to the regional settlements of Moe and Morwell (Figure 1). Nearby towns and rural communities include Trafalgar, Narracan, and Coalville to the north-west, Thorpdale to the west, Hazelwood to the northeast, Yinnar and Churchill to the east, and Boolarra and Mirboo North to the south.

Figure 1 **Locality plan**

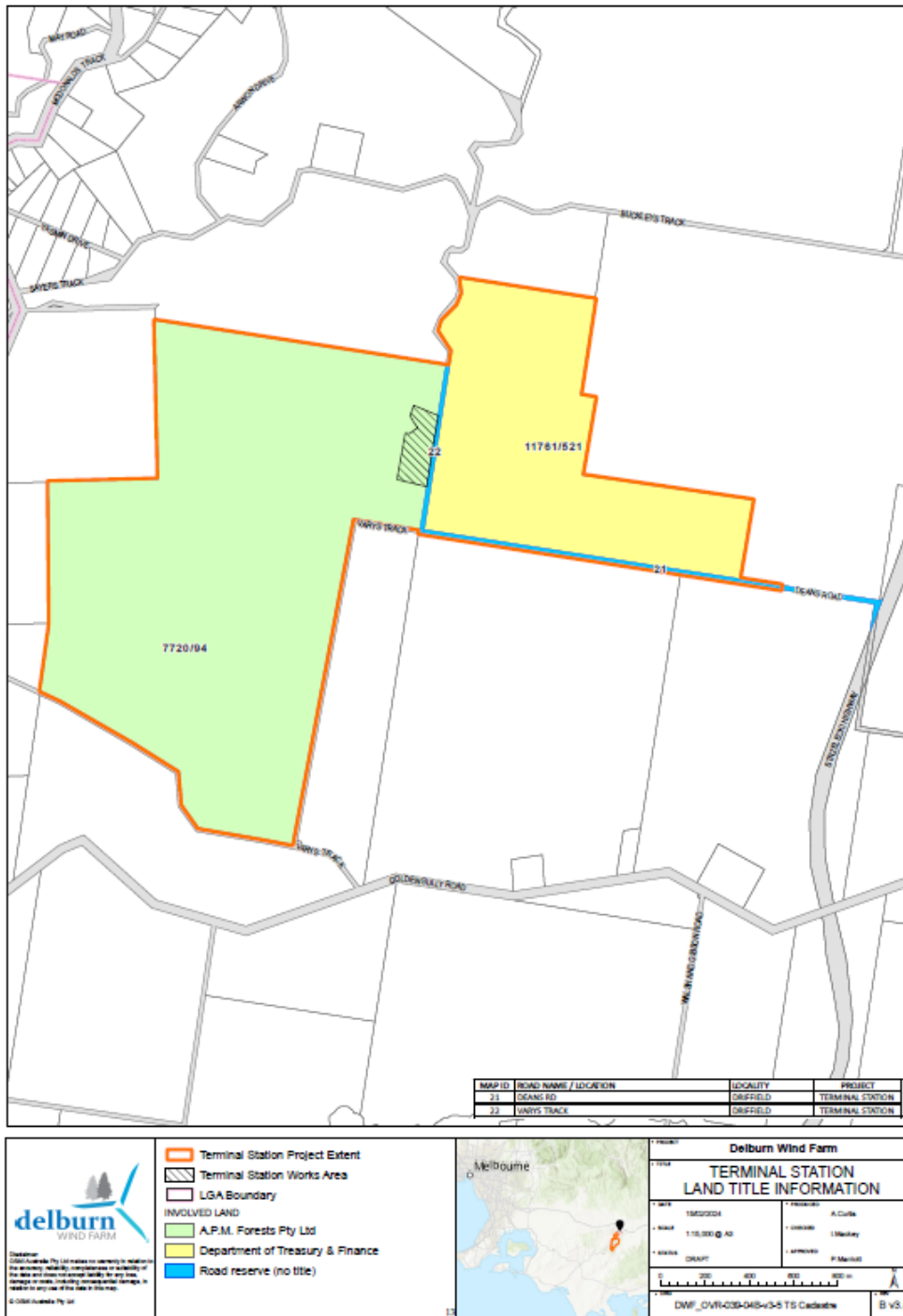


Source: Document 17

The subject land comprises two properties as shown in Figure 2:

- Crown Allotment 52B Parish of Narracan, held by the Department of Treasury and Finance
- Crown Allotment 77 Parish of Narracan, freehold land owned by Hancock Victorian Plantations Pty Limited.

Figure 2 Subject land



Source: Document 7

1.2 Permit history

A chronology of events is provided in Table 1.

Table 1 Permit history

Date	Event
27 March 2022	Following a planning panel process the following Planning Permits were granted by the Minister for Planning: <ul style="list-style-type: none"> - PA2001063 – Wind Energy Facility, Latrobe - PA2001064 – Wind Energy Facility, Baw Baw - PA2001066 – Wind Energy Facility, South Gippsland - PA2001065 – Terminal Station, Latrobe
May 2022 and May 2023	Applicant undertook at review of permit conditions and engaged with referral authorities.
31 May 2023	Applicant lodged applications to amend the four planning permits.
18 August 2023	Public notice of applications to amend the wind energy facility permits was given pursuant to 52(1)(a) of the PE Act. Notice of amendment application was given to Latrobe City Council pursuant to section 52 (1)(b) of the PE Act.
25 August 2023	Minister extended timeframe for consideration of submissions.
12 October 2023	The Delburn Wind Farm Community Consultative Committee was briefed on the Amendment Applications
22 November 2023	Minister approved PA2001063-1, PA2001064-1 and PA2001066-1 to amend the wind energy facility permits. A Panel process was not required for the applications under the provisions of section 97I of the PE Act Clause 52.32-8 of the Planning Scheme.
19 January 2024	Minister referred objections and submissions associated with the amendment application to the Panel.

1.3 Summary of submissions

A total of 297 submissions (including 272 proforma submissions) were received and referred to the Panel for consideration. Submissions were from community groups, individuals and state government agencies.

The key issues raised in submissions were:

- proposed changes to permit conditions unreasonably weakens the requirements of the permit and the protection on the surrounding communities
- alteration of key words in the conditions unacceptably shifts the responsibility of condition compliance onto other parties
- proposed amendments should not be approved before the terminal station is reassessed against *AS 3959-2018 Construction of Buildings in Bushfire-prone Areas* (Standards Australia, 2018), which is the updated standard referenced in Clauses 13.02-1S (Bushfire Planning), 44.06 (Bushfire Management Overlay) and 53.02 (Bushfire Planning)
- the replacement of the term ‘project’ with the term ‘utility installation’ is unacceptable because ‘project’ has been defined
- not all proposed changes have been tracked and therefore all proposed changes should be refused.

The following authorities made submissions:

- The Head, Transport for Victoria did not object (referral authority)
- Secretary to the Department of Energy, Environment and Climate Action did not object (recommending referral authority).

1.4 Procedural issues

At the Directions Hearing the DTP confirmed that Latrobe City Council had withdrawn its submission on the amendment application and this submission was not referred for the Panel's consideration.

A number of parties noted the Department of Treasury and Finance was not recorded as an owner of Crown Allotment 52B Parish of Narracan, on the 'Application to Amend a Planning Permit' form.

The DTP noted the title documents accompanying the application clearly identified the Department of Treasury and Finance as the Crown Land Administrator of this land. The Department of Treasury and Finance was also notified of the amendment application.

The Applicant submitted the error in the form has not caused unfairness to any party, as the correct landholder of Crown Allotment 52B was identifiable. It did not consider correction of the form to be necessary.

The Panel notes the error in the application form. It is a matter for the DTP and the Applicant to determine if steps need to be taken to correct the form before a decision is made on the amendment application.

1.5 The Panel's approach

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from the site visit, and submissions, evidence and other material presented to it during the Hearing. The Panel has been selective in referring to the more relevant or determinative material in the Report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:

- Planning context
- Issues raised in submissions
- The planning permit.

1.6 Limitations

Application before the Panel

Public notice of the application was given concurrently with three Planning Permit Applications for wind energy facilities:

- PA2001063-1 – Wind Energy Facility (Latrobe)
- PA2001064-1 – Wind Energy Facility (Baw Baw)
- PA2001066-1 – Wind Energy Facility (South Gippsland)

The applications for wind energy facilities have been determined by the Minister for Planning and are not before the Panel.

Public notice and community consultation

Many submissions raise the following issues:

- lack of community consultation and social license
- inadequate public notice.

The PE Act sets out the requirements for giving of notice of a permit application. Submissions did not substantiate how the public notice given the Minister for Planning did not comply with the Act. The Panel's role is to consider the objections and submissions referred to and report its findings to the Minister for Planning. The Panel has no jurisdiction to make rulings on the validity of the public notice process. There are provisions under the PE Act for pursuing the legal implications of procedural or technical defects that are separate to the Panel process.

Submissions on this issue are not discussed further in this Report.

Questions to the Minister for Planning

Some submissions contained a list of questions for the Minister for Planning. The Panel has no role in advising the Minister on responses to the questions asked.

These questions are not discussed further in this Report.

2 Planning context

2.1 Permit triggers and planning scheme provisions

Table 2 identifies permit triggers relevant to the amendment application. Table 3 (in addition to Appendix E) identifies the relevant Latrobe Planning Scheme (Planning Scheme) provisions relevant to the amendment application.

Table 2 Permit triggers

Planning scheme provision	Permit application requirement(s)
Clause 35.07 Farming Zone	The land to which the permit applies includes land within the Farming Zone, however the use and development are not located on land within the Farming Zone. No permit is required under Clause 35.07.
Clause 37.01 Special Use Zone Schedule 1 (Brown Coal)	A permit is not required to use the land for the purposes of a utility installation. A permit is required to construct a building or carry out works.
Clause 44.06 Bushfire Management Overlay	A permit is not required to construct or carry out works as the development is not a defined use.
Clause 44.08 Buffer Area Overlay Schedule 1 (Major Pipeline Infrastructure)	A permit is not required to use land for a utility installation or to construct or carry out works as the development is not a defined use.
Clause 52.05 Advertising signs	A permit is required for business identification signage within the Special Use Zone (Category 3 – High amenity areas).
Clause 52.17 Native Vegetation	A permit is required to remove, destroy or lop native vegetation

Table 3 Planning Scheme provisions

Planning scheme provisions	Relevant references
Municipal Planning Strategy	- Clause 2
Planning Policy Framework	- Clause 12 Environmental and landscape values - Clause 13 Environmental risks and amenity - Clause 19 Infrastructure
Zones	- Special Use Zone Schedule 1 (Brown Coal)
Overlays	- Bushfire Management Overlay - Buffer Area Overlay
Particular provisions	- Clause 65 Decision guidelines - Clause 66 Referral and notice provisions
Operational provisions	- Clause 71 Operation of this Planning Scheme
Other	- Bushfire Prone Area

2.2 Scope of the Panel's inquiry

(i) The issue

The issue is whether the Panel can consider matters outside the amendment application.

(ii) Submissions

The Applicant submitted the scope of this Panel's consideration and the submissions made by parties (and itself) is limited to the amendment application. Any submission made beyond this scope is irrelevant to this Panel's inquiry. Further, it is not open to this Panel to consider the merits of the terminal station or Delburn Wind Energy Facility generally, or to re-examine issues that are not relevant to the amendment application.

The Applicant referred to commentary of previous Panels in support of its submissions. Of note, the Panel for the Lal Lal Wind Farm Permit Amendment, stated:

In making its recommendations to the Minister on this permit amendment application, the Panel is required to confine its consideration of the impacts sought by the amendment, and not revisit the use and development already allowed by Planning Permit PL-SP/05/0461. The suitability of the land for the use and development for the purposes of the wind energy facility has been established through the granting of the current permit.

...

The application is an amendment to an existing permit, not a new application. The scope of submissions including the applicant is confined to the changes from the existing approved project rather than undertaking a 'first principles' review. [emphasis added]

Similar commentary was provided by the Panel for the Berrybank Wind Farm Planning Permits Amendments as follows:

The scope of submissions, including from the Proponent, is confined to the changes from the existing approved project rather than undertaking a 'first principles' review. [emphasis added]

Several community submitters stated:

- they relied on their objections to the entire Delburn Wind Energy Facility development dating to 2021
- the overall development is fundamentally unsuitable to the area
- part of the land was not required for the project, particularly land required for road widening.

(iii) Discussion

The Panel is tasked with assessing whether changes to the existing permit will deliver an acceptable outcome. It is outside the scope of the Panel's role to reinterrogate the merits of a development for which a permit has been granted, consistent with the findings of previous Panels referred to be the Applicant.

(iv) Conclusion

The Panel concludes it can only consider matters relevant to the amendment application.

3 Issues raised in submissions

3.1 Project definition

(i) The issue

The issue is whether it is appropriate to substitute the following terms in the permit conditions:

- 'project' with 'utility installation'
- 'substation' with 'terminal station'.

(ii) Background

The amendment application proposes to substitute the terms:

- 'project' with 'utility installation' in conditions 18, 19, 20 and 22 (vegetation and flora and fauna management)
- 'substation' with 'terminal station' in conditions 1a (Development Plans) and conditions 5a, 5b and 5c (Traffic Management Plan).

Clause 73.03 defines a utility installation as:

Land used:

- a) for telecommunications;
- b) to transmit or distribute gas or oil;
- c) to transmit, distribute or store power;
- d) to collect, treat, transmit, store, or distribute water; or
- e) to collect, treat, or dispose of storm or flood water, sewage, or sullage.

It includes any associated flow measurement device or a structure to gauge waterway flow.

Substation and terminal station are not defined in the Planning Scheme.

(iii) Submissions

The Applicant submitted:

- 'utility installation' is the appropriate Clause 73 term describing the approved development
- where the permit is referring to all the components of the development approved by the permit the term 'utility installation' has been used
- one component of the utility installation is the terminal station
- 'terminal station' is the accurate lay term for this infrastructure based upon the voltage that it can convert, however it is accepted that substations refer to infrastructure that generally deals with lower voltage than a terminal station
- the amendment application uses 'terminal station' to identify where certain conditions only relate to that component of the utility installation
- it is not sound planning practice for permits to include drafting that links to other permits, however the wind energy facility cannot commence operation until it has been connected to the grid, and so practically it will need the terminal station to have been built.

Several submitters opposed the proposed substitution of terms. They stated:

- the terminal station was never considered separately to the Delburn Wind Energy Facility

- project completion must consider the entire project infrastructure
- the term ‘the Project’ must be retained as intended by the Minister.

Strzelecki Community Alliance was concerned deleting ‘project’ changes obligations to do certain things at the completion of the entire project. It gave the example of the offsite landscape screening program which they said must be offered to landowners once the ‘project’ is completed.

Submitters 251 and 253 submitted ‘substation’ is the more appropriate and accurate description of the development. They explained the substation enables the wind generators to connect to the shared transmission network. The switching function of the substation is to enable the wind energy facility to electrically connect and disconnect from the shared transmission network without interrupting the transmission line. This does not meet the Australian Energy Market Operator’s definition of a ‘terminal station’.

(iv) Discussion

Planning Permit PA2001065 allows:

The construction of buildings and the carrying out of works associated with a utility installation (terminal station); the removal, destruction or lopping of native vegetation and the construction or putting up for the display of business identification signs.

There are no conditions that attach the development of the utility installation to the development of the broader wind farm. Rather, the permit operates as a self-contained and stand-alone permission.

Writing Planning Permits, May 2023 (Writing Planning Permits) states:

A planning permit must stand alone when interpreting its meaning and what it allows. A permit can only be interpreted by reference to its own terms and conditions and any approved plans or documents that form part of the permit.

Anyone seeking to understand what a permit allows or the meaning of a condition should not need to refer to the permit application, the officer’s report or any other extrinsic document. A condition that is vague or uncertain may be invalid. For similar reasons, what the permit allows must also be clear having regard to the planning scheme requirements at the time the permit is issued.

In this context it is appropriate that ‘Project’ is substituted with ‘utility installation’ which is the permitted development. The term ‘Project’ is not defined in the permit condition and its use in the permit is contrary to good drafting practice.

The Panel accepts ‘terminal station’ is the lay term used for the development in the permit preamble and in the plans referenced in Condition 1. This should be the term used in the permit where conditions specifically apply to the terminal station site.

(v) Conclusion

The Panel concludes it is appropriate to substitute ‘Project’ with ‘utility installation’ and ‘substation’ with ‘terminal station’ in the permit conditions for consistency with the Planning Scheme term for what the permit allows and the plans referred to in the permit conditions respectively.

3.2 Bushfire risk management conditions

(i) The issue

The issue is whether changes to bushfire management conditions are appropriate.

(ii) Background

The application proposes to make various changes to the conditions related to bushfire management (Conditions 24, 25 and 26). The proposed changes to Condition 25 are:

Terminal station design

25 The terminal station design must include the following bush fire requirements:

- a. ~~an Asset Protection Zone that ensures~~ all ~~areas of the~~ critical infrastructure components will not be exposed to radiant heat in excess of 12.5 kW/m²;
- b. an Asset Protection Zone that is non-vegetated and covered with a non-combustible surface such as mineral earth or crushed rock;
- c. a 100,000 litre firefighting water supply to be provided in the Varys Track area; and
- d. security fencing around the terminal station to prevent public access.

(iii) Evidence and submissions

The Applicant provided the following explanation of the terms 'Critical infrastructure component' and 'Asset protection zone':

Critical infrastructure component means components of the Terminal Station that are critical for the transmission of electricity and include (but is not limited to) the transformer(s), control room, breakers and capacitor banks. Examples of non-critical infrastructure include security fences and water tanks which are not essential for the function of the terminal station.

Asset protection zone is effectively a fuel reduced managed area to achieve the required Bushfire Attack Level (BAL) at the infrastructure. It is the space between the infrastructure and the hazard (vegetation).

The Applicant explained that the effect of the changes to Condition 25a is that the radiant heat level of 12.5kW/m² will be measured from critical infrastructure components, rather than the boundary or fence of the terminal station. In effect, the amended condition provides more options to meet the 12.5kW/m² limit, which may include use of an Asset Protection Zone, non-combustible barrier or a mix of mitigation treatments. The requirement is simply to ensure that the 12.5kW/m² is achieved, and there is no uncertainty as to what assets must not be exposed to radiant heat of 12.5kW/m².

Mr Potter, called by the Applicant to give bushfire management evidence, explained the proposed changes to Conditions 24, 25 and 26 are consistent with the Clause 13.02 assessment that he completed in support of the Delburn Terminal Station Planning Permit application. That assessment identified the installation of radiant heat barriers as an option to manage the bushfire risk. This would be complimentary to the requirement to identify potential ember ignition points and to remove vegetation around the terminal station. Mr Potter stated:

The proposed changes to the Delburn Wind Farm Terminal Station Planning Permit are not seen as reducing the level of protection. They ensure clarity around the requirements to ensure appropriate measures are put into place to protect staff, contractors and visitors from the effects of a bushfire.

Mr Potter provided an image of the type of radiant heat barrier that might be used as part of the development (although he acknowledged the image is a flood barrier) (refer Figure 3).

Figure 3 Example of radiant heat barrier



Source: Document 19

The DTP provided a letter of advice from the Country Fire Authority (CFA). This advised the CFA had no objection to the amendment application.

The starting point for several community submitters was that bushfire risk for the terminal station had not been properly assessed under the original application. Submissions stated:

- the bushfire risk of the terminal station has never been thoroughly assessed
- the terminal station is an ignition risk in a high bushfire risk area and all infrastructure should be considered a potential fire hazard not just its individual parts
- the CFA previously submitted the location of the terminal station should be further assessed after a comprehensive assessment of alternative locations, including locations away from forested bushfire hazards
- assessments by Fire Risk Consultants are not based on *Australian Standard 3959-2018 Construction of Buildings in Bushfire-prone* (AS3959-2018) referenced at Clause 13.02 and cannot be relied upon
- new local policy provisions proposed by Latrobe City Council through Planning Scheme Amendment C127latr require buildings achieve a construction standard of not less than Bushfire Attack Level (BAL) 29
- limiting the exposure of only critical infrastructure to radiant heat in excess of 12.5kW/m² shows concern for assets rather than the area as a whole
- substituting 'ensure' with 'require' dilutes the effect of conditions.

In reply to the issues raised by community submitters, the Applicant submitted:

- BAL measures heat exposure in units of heat energy per area of surface
- at a basic level, the higher the BAL number the higher the exposure

- BAL measures can be used to set a design level for a building so that it is constructed to withstand a certain heat level
- a BAL can also be set as a target level requiring design measures around a building or infrastructure to achieve that target, which is the approach taken in the permit
- Mr Potter's evidence and the review carried out by the CFA is that the wording proposed in Condition 25 is appropriate
- the exposure level is not one of the proposed changes in the amendment application and is not relevant to the Panel's consideration.

(iv) Discussion

Consistent with its discussion at Chapter 2.2, the Panel's inquiry is confined to the amendment application. It is not open to the Panel to consider if a permit should have been granted for the terminal station.

The permit requires that all infrastructure is not exposed to radiant heat more than 12.5 kW/m² (the approved standard). The amendment application proposes to:

- confine the infrastructure not exposed to the approved standard to 'critical' infrastructure that has a function in the transmission of electricity
- deleting reference to 'Asset Protection Zone' as the sole method to achieve the approved standard.

There is no basis to apply a different standard to the development. The amendment application does not propose to change the substance of Condition 25, that is to ensure infrastructure is not exposed to radiant heat above the approved standard. The confined nature of the amendment application does not necessitate the preparation of a new assessment Clause 13.02 or yet to be approved local policy proposed by Latrobe City Council. Significantly, the CFA has provided written support for the amendment application.

The provisions of Condition 25 (as proposed) must be read together. Combined, they require:

- a) infrastructure is not exposed to radiant heat in excess of 12.5 kW/m²
- b) an Asset Protection Zone
- c) firefighting water supply
- d) security fencing.

The amendment application does not dilute the approved standard established in Condition 25. The Asset Protection Zone is still required to be provided so that infrastructure is not exposure to radiant heat more than 12.5 kW/m². However, the Asset Protection Zone may be used in conjunction with other interventions, such as installation of radiant heat barriers.

It is sensible that the Condition 25 only require that critical infrastructure is not exposed to radiant heat above the approved standard. This does not diminish the importance of fencing for security purposes but recognises that fencing is not part of the primary function of the terminal station (that is, to connect the wind energy facility to the electricity grid). The fencing will have no role in protecting staff, contractors and visitors from the effects of a bushfire, which is the outcome sought by the condition.

It is appropriate that 'ensure' is substituted with 'require' as proposed. These changes apply to conditions to prepare a Construction Phase Bushfire and Emergency Management Plan and Operational Bushfire and Emergency Management Plan. 'Require' properly expresses the items to be included in these plans.

(v) Conclusion

The Panel concludes the proposed changes to conditions relating to bushfire risk and emergency management are appropriate.

3.3 Cultural heritage**(i) The issue**

The issue is whether the permit should contain conditions addressing protection and management of cultural heritage.

(ii) Evidence and submissions

Various submitters queried why conditions to manage cultural heritage were not included on the permit.

The DTP and the Applicant confirmed the *Aboriginal Heritage Act 2006* (AH Act) is the primary legislation to manage and protect cultural heritage at the permit stage. The AH Act provides that where a Cultural Heritage Management Plan (CHMP) is required, a responsible authority cannot issue a planning permit until it receives a copy of the approved management plan from the applicant. Planning permits do not replicate management actions established in a CHMP.

In response to questions from the Panel, the Applicant advised a CHMP had been approved for the development. The CHMP relates to both titles referred to in the permit application.

(iii) Discussion

Planning Practice Note 45: Aboriginal Heritage Act 2006 and the planning permit process provides guidance on the management of cultural heritage. Consistent with the submission of DTP and the Applicant, it provides:

Clause 15.03-2 of the planning scheme sets out policies for the protection and conservation of places of Aboriginal cultural heritage significance through the planning system. This includes ensuring that permit approvals align with recommendations of any cultural heritage management plan approved under the AH Act.

A responsible authority must check whether a management plan is required prior to determining a planning permit application.

If a management plan is required, the responsible authority cannot issue a planning permit until it receives a copy of the approved management plan from the applicant.

Under the AH Act:

- a planning permit is referred to as a 'statutory authorisation'
- an applicant is referred to as a 'sponsor'

A planning permit cannot be granted for an activity that is inconsistent with an approved management plan – refer to section 52(3) of the AH Act.

It is unnecessary for the planning permit to cross reference the CHMP, which is approved under separate legislation.

(iv) Conclusions

The Panel concludes:

- Cultural heritage will be managed by a Cultural Heritage Management Plan approved under the *Aboriginal Heritage Act 2006*.

- It is unnecessary for the permit to contain conditions to cross reference the approved Cultural Heritage Management Plan.

3.4 Native vegetation

(i) The issue

The issue is whether changes to conditions relating to the management of native vegetation are appropriate.

(ii) Background

The application proposes to make the changes to Conditions 16 and 19 relating to native vegetation shown in Table 4.

Table 4 Proposed changes to conditions for management of native vegetation

Condition	Change
16	Before development starts, a native vegetation protection fence must be erected around all scattered trees to be retained within close proximity of the works. This fence will protect the tree by demarcating the tree protection zone and must be erected at a radius of 12 × the trunk diameter at a height of 1.3 metres to a maximum of 15 metres but no less than 2 metres from the base of the trunk of the tree. The fence must be constructed of f star pickets, f chain mesh, f or similar to the satisfaction of the responsible authority. The fence must remain in place until all works are completed to the satisfaction of the responsible authority.
19	Before any native vegetation is removed, the permit holder must secure the following native vegetation offsets in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (DELWP 2017) to offset the removal of native vegetation for the utility installation Project : <ol style="list-style-type: none"> a species offset of 0.683 general habitat units with a minimum strategic biodiversity score of 0.197. The offset must protect 4 large trees within the general habitat units protected. The offsets to be located within the West Gippsland Catchment Management Authority boundary area or Latrobe City municipal area.

(iii) Submissions

The Applicant submitted inclusion of 'close' brings the condition into alignment with conditions that apply under the wind energy facility permits. Fencing is only required for those trees that are in 'close' proximity to the works to ensure they are protected. It is not required for trees just 'in proximity to' works.

A submitter stated the addition of 'close' in Condition 19 is vague and removes responsibility for the protection of all trees to be retained. The submitter noted construction sites are typically busy places and physical identification is key to protecting sensitive areas.

Submitters 251 and 253 submitted the inclusion of 'area' after West Gippsland Catchment Management Authority boundary was a grammatical error, as the boundary defines the area.

(iv) Discussion

The intent of changes to Condition 16 is to limit protective fencing to vegetation that may be at risk of damage during construction. This condition will operate in conjunction with:

- Conditions 18 which specifies the amount of native vegetation permitted to be removed, destroyed or lopped under the permit
- Condition 19 which specifies the offsets required for vegetation removed, destroyed or lopped.

In combination, these conditions will ensure vegetation will be protected as intended. Impacts to vegetation not approved for removal, destruction of lopping, would be a breach of planning permit conditions.

The proposed inclusion of 'area' after 'West Gippsland Catchment Management Authority boundary' ensures drafting is consistent with 'Latrobe City municipal area'. This minor change is appropriate.

(v) Conclusion

The Panel concludes changes to conditions relating to native vegetation are appropriate.

3.5 Scope of the amendment application**(i) The issue**

The issue is whether all proposed changes to the permit are shown in the documents supporting the amendment application.

(ii) Submissions

Submitters stated the track change version of the permit conditions did not record all changes to the permit.

After comparing the permit and the amendment documents, the Applicant confirmed the following items are not shown as track changes in Document 1e:

- the footnote 'OFFICIAL' has been changed to 'FOR APPLICATION'
- in Condition 21 'Department of Environment, Land, Water and Planning' has been changed to 'DEECA'
- in Condition 22, 'DELWP' has been changed to 'DEECA' twice
- in Condition 24, 'CFA's Guidelines' has been changed to 'CFA Guideline' and '(2021)' has been added.

The Applicant advised these changes were largely approved through a permit corrections process under section 71 of the PE Act. These corrections have already been determined and do not form part of the amendment application.

The change of 'CFA's Guidelines' to 'CFA Guideline' was not subject to a previous approval, or part of the current application. The Applicant advised the change was immaterial and it did not require this change as part of the amendment application.

The Applicant confirmed the notes section which appears on the permit is not proposed to be removed, it is just not shown on Document 1e.

(iii) Discussion

The Panel accepts the Applicant's explanation of changes not tracked in Document 1e. Given the untracked changes are already approved or are no longer required by the Applicant, there is no matter of merit requiring the Panel's consideration.

(iv) Conclusion

The Panel concludes the amendment application accurately documents the changes sought by the Applicant.

3.6 Other issues

(i) The issue

The issue is whether the amendment application achieves consistency with permits granted for the wind energy facility.

(ii) Submissions

A submitter stated various changes to permit conditions were inconsistent with conditions applying to the wind energy facility, which is one of reasons for the application. For example, the amendment application proposes to change Condition 24l as:

24l. [require the establishment](#) of emergency assembly areas.

This differs from Condition 44m in Planning Permit PA2001063 and Conditions 41m in Planning Permits PA2001064 and PA2001066, which provide:

44m/41m. establish emergency assembly areas.

(iii) Discussion

As discussed in Chapter 3.1, the permit operates as a self-contained and stand-alone permission. While it may be convenient for there to be alignment between the conditions for the wind energy facility and terminal station, it is not fatal that they are not.

(iv) Conclusion

The Panel concludes the amendment application will operate as a self-contained and stand-alone permissions and is not required to be drafted consistently with planning permits for the Delburn Wind Energy Facility.

4 The planning permit

(i) Relevant considerations

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, as appropriate:

- the Planning Policy Framework
- the purpose of the zone, overlay or other provision
- the orderly planning of the area
- the effect on the amenity of the area.

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.

(ii) Discussion

The nature of the amendment application is largely confined to matters of grammar, correction and expression. The Panel is satisfied the changes are beneficial and will avoid future confusion about what is intended to be achieved by the conditions.

Changes to the permit conditions for bushfire management are more substantial. As discussed in Chapter 3.2, the Panel is satisfied these changes are acceptable, and to not diminish the effect of the original permit conditions.

(iii) Conclusion and recommendation

The Panel concludes the Application to Amendment Planning Permit PA2001065-1 will achieve an acceptable outcome.

The Panel recommends:

The Minister for Planning amend Planning Permit PA2001065-1 for the Delburn Terminal Station, as shown in Appendix D of this report.

Appendix A Submitters to the amendment application

No.	Submitter	No.	Submitter
1	Bruce Keen	33	Travis Mahoney
3	Voices of the Valley	34	Mark Phillips
4	Ken Murphy	35	Maree Jennifer Garratt
5	Dallas Murphy	36	Michael Richard Garratt
6	Heather Selkrig	37	Natasha Blake
7	Ronnie Douch	38	Paige Elliot
8	Anita O'Neil	39	Ron Armstrong
9	Julie Sansom	40	Annabel Thomas
10	Jillian R Simmonds	41	Heath Curnow
11	John Simmonds	42	Laura Curnow
12	Kayleen and Duane Hill	43	Willow Rogers
13	Klaas Kootstra	44	Wendy Jensen
14	Kaye Phillips	45	Teresa Cascianelli
15	Linda Minter	46	Seth Earle
16	Valerie James	47	Robert Wade
17	Sherese Smith	48	Andrew Taylor
18	Shaun McNamara	49	Caroline Jeffrey
19	Rick Kimm	50	David Ballek
20	Anthony Lawless	51	Dianne Cascianelli
21	Anthony J Minter	52	David Jeffrey
22	Brendan Tompsett	53	Deborah Stennings
23	Carolyn Ballek (Unsworth)	54	Lincoln Curnow
24	Christopher Blake	55	Thomas Greenwood
25	Campbell and Christine Philip	56	Tilly Curnow
26	Campbell and Christine Philip	57	Barry Earle
27	Darryle Gee	58	Ben Webster
28	Donna Lawless	59	Caitlin Tompsett
29	Douglas Sansom	60	Cadyne Earle
30	Erin Anfried	61	Celeste Earle
31	Gavin Van Eede	62	Dylan Wade
32	Elizabeth Pearce	63	Indie Earle

No.	Submitter	No.	Submitter
64	Joanna Bainbridge	97	Leah Adams
65	Jed Earle	98	Douglas Black
66	Kathryn Wade	99	Darren Bush
67	Kane Earle	100	Dominic Caminiti
68	Kaylie Earle	101	Deborah Dobson
69	Mary Webster	102	Debbie Regester
70	Philip McNamara	103	Deborah Snelson
71	River Carroll	104	David Taylor
72	Rylea Earle	105	Ethan Armstrong
73	Alan Tyrer	106	Peter Austin
74	Samantha Cascianelli	107	Emily Kinghorn
75	Karen Zipkas	108	Faye Mitchell
76	Annette Alam	109	Graeme Peterson JP
77	Angela Crawford	110	Meila Cupples
78	Airtrea Cupples	111	Graeme Wilson
79	Alan Glover	112	Heather Barker
80	Anthony Hanning	113	Henk Harberts
81	Anton Hocking	114	Harrison Tompsett
82	Alison Palmer	115	Hamish Weatherly
83	Andrew Taylor	116	Ian Dobson
84	Annette Twite	117	Ian McDonald
85	AIR CTI	118	Isabelle Papa
86	Bart Harrold	119	James Cheshire
87	Bill Stinson	120	Judy Dight
88	Bella Tompsett	121	Jacob Forbes
89	Craig Barker	122	Jeff Glover
90	Clayton Cupples	123	John Gramlick
91	Ashley Kemsley	124	Joy Howley
92	Chris Maxwell	125	Julia Peterson
93	Colin Mitchell	126	Jackie Rovensky
94	Chris Twite	127	Jessica Taylor
95	Daryl and Sue Webster	128	John Visser
96	Dianne Michele Austin	129	Karin Hauser

No.	Submitter	No.	Submitter
130	Kristy Mills	163	Christopher Long
131	Luke Barry	164	Tim Watson
132	Lydia Cameron	165	Valerie Cinege
133	Lara Bennett Cheshire	166	Vern Garth
134	Luigi De Fanti	167	Viva-Lyn Lenehan
135	Maria Germano	168	Val Taylor
136	Elizabeth Hoffmann	169	Victorian Farmers Federation (VFF)
137	Louise Widdowson	170	Wayne and Wendy Skues
138	Maree Davey	171	Wendy Cline
139	Monique Hanley	172	Wayne Newton
140	Mary Orr	173	Audrey Crawford
141	Maurice Papa	174	Christine Walters
142	Mary Teece	175	Doug Robbins
143	Nicole Allen	176	Gary Sauppe
144	Nick Cameron	177	Sharyn Kerlake
145	Neil Griffin	178	Sylvia Kurhn-Sauppe
146	Peter Francis Burke	179	Simon Pickett
147	Paul McKay	180	Diana Billingsley
148	Pam Seainidis	181	Tania Brown
149	Richard Teece	182	Dean Kerr
150	Rosemary and Stephen Parker	183	Kelly Giersch
151	Robert Crawford	184	Steven Perry
152	Rose De Fanti	185	Trevor Maddicks
153	Rod Densley	186	Adalyn Brownscombe
154	Rex Kinghorn	187	Alicia Teska
155	Ric Nicholson	188	Adam Pickett
156	Simon Bennett	189	Anton Wray
157	Shane Brownscombe	190	Brendan Brownscombe
158	Sally Gee	191	Audrey Cooling
159	Stacey Hecher	192	Andrew Daly
160	Shanen Naumann	193	Brian Fullard
161	Tyson Cameron	194	Ben Gleeson
162	Trevor Hanley	195	Ben Smith

No.	Submitter	No.	Submitter
196	Christine Brown	229	Sarah Bridges
197	Willow Davy	230	Scott Chipperfield
198	Caroline Parker	231	Sharon Fisher
199	Chris Parker	232	Sally Kardash
200	Coralie Pickett	233	Susan Hocking
201	Charlie Smith	234	Susan Kemsley
202	Dawn Perry	235	Simone Kistler
203	Elizabeth Black	236	Sam Maddicks
204	Ella Brownscombe	237	Samantha Minerds
205	Ebony Ricardo McDonough	238	Strzelecki Community Alliance (SCA)
206	Gabrielle Armstrong	239	Sally Patterson
207	Gary Howell	240	Terry Bevan
208	Graeme James	241	Tyler Davy
209	Gregory Orr	242	Tania Seccombe
210	Hudson Smith	243	Max Bradbury
211	Imogen Brownscombe	244	Anne Garth
212	Judith and Frank Powell	245	Andrea Notting
213	Jennie Harris	246	Ashley Nunn
214	Jacob Hynson	247	Angus Sauppe
215	Julie Smith	248	Emré Cupples
216	Ken Brownscombe	249	Gaynor Perry
217	Kathleen Gray	250	Hermena Wood
218	Ken Gray	251	Mark Hyett
219	Liam Clarke	252	Janine Kelly
220	Neil Blain	253	Jacqueline Hyett
221	Pirate Sharrock	254	Jacinta Van Eede
222	Renate Clewits	255	Matthew Ryan
223	Ruth Denyer	256	Noel Dean
224	Richard Kilpin	257	Prue Nunn
225	Rita Sharrock	258	Philip Perry
226	Shirley Buckley	259	Peter Thomas Rennie
227	Sharon Chiotelis	260	Paul Wallin
228	Selena De Martin	261	Rachel Alexander

No.	Submitter	No.	Submitter
262	Russell Chester	280	Warwick Blines
263	Sarah Bridges	281	Christine Hall
264	Stephanie Duke	282	Denise McKenzie
265	Sandra Rennie	283	Glen Hillbrick
266	Tim Hillbrick	284	Gary Weston
267	Yorrick Nicholson	285	James Linn
268	Jesse Kistler	286	Katherin Aveling
269	James Orr	287	Leitha Peters
270	Greg Brown	288	Leisa Hillbrick
271	Jacques Roux	289	Riley Hillbrick
272	Jane Visser	290	Liam Hillbrick
273	Lynette LaBlack	291	Trevor McKenzie
274	Miriam Pickett	292	Bob King
275	Maurice Sharrock	293	Chris Chiotelis
276	Sarah Brown	294	P Allica
277	Sam Pisa	295	Secretary to Department of Energy Environment and Climate Action
278	Graham Maddicks	296	AusNet
279	Nina Burke	297	Head, Transport for Victoria

Appendix B Parties to the Panel Hearing

Submitter	Represented by
Department of Transport and Planning	Jeff Neville, Senior Planner, Department of Transport and Planning
Delburn Wind Farm Pty Ltd	Michelle Keen and Courtney White of White and Case Lawyers, who called Mark Potter of Fire Risk Consultants Pty Ltd to provide evidence on bushfire management
Strzelecki Community Alliance Inc.	Caroline Parker
Rosemary and Stephen Parker	
Gabrielle Armstrong	
Mark and Jacqueline Hyett	
Simon Pickett	
Caroline Parker	
Mary and Stuart Orr	

Appendix C Document list

No.	Date	Description	Provided by
1	19/1/24	Application documents: <ul style="list-style-type: none"> - Application form - Copy of title Crown Allotment 77 Parish of Narracan - Copy of title Crown Allotment 52B Section A Parish of Narracan - Covering letter from DB Consulting 18 July 2023 - Proposed amended conditions - Adjacent land map - CFA letter dated 21 April 2023 - Delburn Wind Farm Pty Ltd email to CFA dated 17 April 2023 - Delburn Wind Farm Pty Ltd letter to AusNet dated 25 May 2022 - AusNet letter dated 28 April 2023 - Notice Form 3 	DTP
2	19/1/24	Letter from Department of Transport and Planning to Chief Panel Member requesting the appointment of a Panel	DTP
3	24/1/24	Directions Hearing Notification Letter	Planning Panels Victoria (PPV)
4	31/1/24	Delburn Terminal Station Map book	DTP
5	9/2/24	Audio recording of Directions Hearing	PPV
6	12/2/24	Directions and Hearing Timetable	PPV
7	16/2/24	Background submission	Applicant
8	21/2/24	Site Inspection Directions	PPV
9	23/2/24	Correspondence from CFA	DTP
10	5/3/24	Latrobe C126 and C127 Interim Panel Report	Strzelecki Community Alliance
11	6/3/24	Expert witness statement - Mark Potter of Fire Consultants Pty Ltd	Applicant
12	13/3/24	Hearing Submission, enclosing: <ul style="list-style-type: none"> - Hearing presentation - AusNet - AMS 10-63 Infrastructure Security 	Strzelecki Community Alliance
13	13/3/24	Hearing Submission	Submitter 151
14	13/3/24	Hearing Submission, enclosing the following images: <ul style="list-style-type: none"> - Delburn fire map - Car fire - Water bomber - ACHRIS screenshot 	Submitter 179

No.	Date	Description	Provided by
		- CER Report screenshot	
15	13/3/24	Hearing Submission	Submitter 199
16	13/3/24	Hearing Submission	Submitters 251 and 253
17	13/3/24	Hearing Submission	DTP
18	13/3/24	Part B Submission	Applicant
19	13/3/24	Hearing Presentation – Mark Potter of Fire Consultants Pty Ltd	Applicant
20	13/3/24	Hearing Submission, enclosing: - Hearing presentation	Submitter 207
21	13/3/24	Hearing Timetable (version 2)	PPV
22	14/3/24	Hearing Timetable (version 3)	PPV
23	14/3/24	Hearing Submission	Submitter 141
24	14/3/24	Panel Hearing recordings	PPV
25	20/3/24	Closing Submissions, enclosing: - Clause 13.02 Assessment for the terminal station permit application dated September 2020 - Expert Witness Statement of Graeme Taylor and Mark Potter with attached Bushfire Risk Assessment and Mitigation Plan dated Feb 2020 - Delburn Wind Farm Panel Report dated 7 Feb 2022	Applicant

Appendix D Proposed permit conditions changes

No.	Proposed change	Applicant's rationale
1a	The final location of the proposed terminal station substation	Accurate description of the asset consistent with Victorian transmission planning.
3	The use and development may be completed in stages in accordance with the endorsed D development P plans. The corresponding obligations arising under this permit may be completed in stages.	Grammatical tidy up.
5	Before the development starts a traffic management plan must be prepared to the satisfaction of and endorsed by the Head, Transport for Victoria and Latrobe City Council, and endorsed by the responsible authority .	Consistency with the Wind Energy Facility Traffic Management Plan, there should only be one endorsing authority, with prior sign off from the relevant road management authority.
	The traffic management plan must be complied with, unless varied by the written consent of the Head, Transport for Victoria and Latrobe Council.	Duplicates Condition 6.
5a	- identify pre-construction, construction and transport vehicle routes to and from the substation terminal station site;	Accurate description of the asset consistent with Victorian transmission planning.
5b	- nominate the expected average daily vehicle movements on identified access routes to and from the substation terminal station site; and	
5c	- identify construction traffic management measures to be implemented on public roads during the construction of the substation terminal station .	
9	Unless with the agreement of the relevant road management authority, all temporary access and roadworks must be returned to an acceptable standard to the satisfaction of the relevant road management authority.	Consistency with other conditions (for example Condition 7).
12	The Construction Environmental Management Plan (CEMP) to be included within the Environmental Management Plan must include: <ul style="list-style-type: none"> a. procedures to manage dust and noise emissions, erosion, mud and stormwater run-off; and b. procedures to remove temporary works, plant, equipment, buildings and staging areas, and reinstate the affected parts of the land, when construction is complete. 	Grammatical tidy up.
13	Before the development starts, a sediment, erosion and water quality management plan must be prepared in consultation with the West Gippsland	Grammatical tidy up.

No.	Proposed change	Applicant's rationale
	<p>Catchment Management Authority to the satisfaction of, and to be endorsed by, the responsible authority. When endorsed the plan will form part of this permit. The plan must include:</p> <ol style="list-style-type: none"> procedures to manage overland flows during construction activities; and procedures to ensure stormwater drainage from the proposed buildings and impervious surfaces are retained and disposed of within the boundaries of the subject land to the satisfaction of the responsible authority. 	
16	<p>Before development starts, a native vegetation protection fence must be erected around all scattered trees to be retained within close proximity of the works. This fence will protect the tree by demarcating the tree protection zone and must be erected at a radius of 12 × the trunk diameter at a height of 1.3 metres to a maximum of 15 metres but no less than 2 metres from the base of the trunk of the tree. The fence must be constructed of star pickets, chain mesh, or similar to the satisfaction of the responsible authority. The fence must remain in place until all works are completed to the satisfaction of the responsible authority.</p>	<p>Consistency with the Wind Energy Facility permit wording regarding fencing of trees to be retained.</p>
17	<p>Except with the written consent of the responsible authority and the DELWP-DEECA, within the area of native vegetation to be retained and any tree or vegetation protection zone associated with the permitted use and/or development, the following is prohibited:</p> <ol style="list-style-type: none"> vehicular or pedestrian access; trenching or soil excavation; storage or dumping of any soils, materials, equipment, vehicles, machinery or waste products; entry and exit pits for the provision of underground services; and any other actions or activities that may result in adverse impacts to retained native vegetation. 	<p>Machinery of Government name change not picked up in previous permit corrections.</p>
18	<p>The native vegetation permitted to be removed, destroyed or lopped under this permit is 1.657 hectares of native vegetation. The reconciliation of removal and offsets can be undertaken without the need to amend existing permits within 12 months of the utility installation project completion.</p>	<p>'Project' not defined.</p>

No.	Proposed change	Applicant's rationale
19	<p>Before any native vegetation is removed, the permit holder must secure the following native vegetation offsets in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (DELWP 2017) to offset the removal of native vegetation for the utility installation Project:</p> <p>a. a species offset of 0.683 general habitat units with a minimum strategic biodiversity score of 0.197. The offset must protect 4 large trees within the general habitat units protected. The offsets to be located within the West Gippsland Catchment Management Authority boundary area or Latrobe City municipal area.</p>	<ul style="list-style-type: none"> - 'Project' not defined. - Grammatical tidy up.
20	<p>Before any native vegetation is removed, evidence that the required offset for that section of the utility installation project has been secured must be provided to the satisfaction of the responsible authority. This evidence must be either:</p> <p>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</p> <p>b. credit extract(s) allocated to the permit from the Native Vegetation Credit Register that identifies the relevant section of the utility installation project.</p>	<ul style="list-style-type: none"> - The terminal station does not have 'sections' unlike the wind energy facility which is split into three permits. - 'Project' not defined.
22	<p>Before development starts, a flora and fauna management plan must be prepared in consultation with DEECA and completed to the satisfaction of the Secretary of DEECA. The flora and fauna management plan needs to be informed by the assessments included within the final environment report (under sub-condition a) and must include specific measures to avoid, minimise and mitigate potential impacts on flora and fauna within the project utility installation site during construction and operation of the utility installation project including but not limited to:</p> <p>a. measures to further minimise and mitigate impacts to retained vegetation, in particular endangered ecological vegetation classes;</p> <p>b. measures to further minimise and mitigate the removal of large trees and large hollow bearing trees;</p> <p>c. measures to further minimise and mitigate</p>	<p>'Project' not defined.</p>

No.	Proposed change	Applicant's rationale
	<p>impacts on native fauna during construction and habitat clearance;</p> <p>d. measures to prevent and control pathogens, weeds (non-native species) and pest (non-native) animals;</p> <p>e. a program for on-going monitoring and adaptive management of listed communities and listed species of flora and fauna within the utility installation project site; and</p> <p>f. measures to avoid pollutants, contaminated run-off and sediment from entering waterways and waterbodies.</p>	
24	<p>Before development starts, a Construction Phase Bushfire and Emergency Management Plan (CBEMP) that addresses the CFA Guideline for Renewable Energy Installations (2021) and AS3745 – Planning for Emergencies in facilities must be submitted to and approved by the responsible authority. The CBEMP must outline the requirements for working on the site including addressing the fire danger period. The plan must outline the prevention, preparedness, response and recovery arrangements and as a minimum include:</p> <p>a. detail the requirements for an Emergency Information Container to be installed and detail the information that the container must contain;</p> <p>b. ensure require all access roads and tracks are identified and meet CFA Guidelines for emergency vehicle access;</p> <p>c. establish a primary contact person for the community to contact with bushfire related concerns, questions or issues;</p> <p>d. outlining require all permitted activities and the procedures for undertaking these activities during the Fire Danger Period and to ensure they are appropriate having regard to the requirements under the Country Fire Authority Act 1958, including:</p> <p>i. compliance with Total Fire Ban Day restrictions; and ii. obtaining permits for any “hot work” activities;</p> <p>e. ensuring require that all S staff, C contractors and site visitors are informed of fire response procedures that follow identified legislative requirements, policies and procedures;</p>	<ul style="list-style-type: none"> - Improve readability as consented to by CFA. - Delete 'turbine' from sub-condition (m) as no wind turbines are in close proximity to the terminal station.

No.	Proposed change	Applicant's rationale
f.	ensuring require that all works during the declared F ire D anger P eriod have appropriate permits from Local Government Latrobe City Council and CFA;	
g.	ensuring require that all construction and operational works follow appropriate Work Health and Safety requirements;	
h.	ensure require that all contractors:	
i.	are appropriately briefed and understand their legal and policy obligations in relation to managing bushfire risks;	
ii.	have appropriate procedures, safe work practices, contingency plans, Material Safety Data Sheets (MSDSs) for operation of all equipment, chemicals, and flammable materials that may contribute to bushfire risk; and	
iii.	have appropriate 'initial' suppression equipment available on site.	
i.	require that implement a policy of 'no work' on declared C ode R ed F ire danger days (or the equivalent as outlined within the Australian Fire Danger Rating System) be implemented ;	
j.	sets-out require that no staff or contractors will be permitted at the site on a T otal F ire B an day unless for critical works and no staff or contractors are permitted at the site on C ode R ed days (or the equivalent as outlined within the Australian Fire Danger Rating System);	
k.	require that provide appropriate bushfire training be provided for contractors and staff;	
l.	require the establish ment of emergency assembly areas;	
m.	require the install ation of appropriate signs to assist emergency response crews determine to identify track names, locations and turbines and other infrastructure;	
n.	require the develop ment of policies and procedures that require the following:	
i.	vehicles are not to drive off the road surface, hardstand, or cleared mineral earth during the fire danger period;	
ii.	upon declaration of a C ode R ed day (or the equivalent as outlined within the Australian Fire Danger Rating System), ensure the site is made safe;	

No.	Proposed change	Applicant's rationale
	<ul style="list-style-type: none"> iii. at each construction site, provide an Eemergency Iinformation Ccontainer that contains copies of emergency procedures and site maps; o. set out processes to for engage with the fire agencies during bushfires to ensure their directions are being complied with; p. set out procedures to be followed when the fire protection systems are activated. 	
25	<p>The terminal station design must include the following bush fire requirements:</p> <ul style="list-style-type: none"> a. an Asset Protection Zone that ensures all areas of the critical infrastructure components will not be exposed to radiant heat in excess of 12.5 kW/m²; b. an Asset Protection Zone that is non-vegetated and covered with a non-combustible surface such as mineral earth or crushed rock; c. a 100,000 litre firefighting water supply to be provided in the Varys Track area; and d. security fencing around the terminal station to prevent public access. 	<ul style="list-style-type: none"> - Improve readability. - Fire Risk Consultant's recommendation for 12.5kW/m² related to infrastructure components critical to the operations of the station and the broader electricity network (i.e. not applicable to the security fence). - The 12.5kW/m² can be achieved by vegetation clearance and/or radiant heat barriers.
26	<p>Before the terminal station commences operation, an Operational Bushfire and Emergency Management Plan (OBEMP) must be submitted to and approved by the responsible authority. The OBEMP must be generally in accordance with the OBEMP but modified to outline the additional requirements for operating on the site that addresses the CFA's Guidelines for Renewable Energy Installations and AS3745. The plan must outline the prevention, preparedness, response and recovery arrangements and must include:</p> <ul style="list-style-type: none"> a. Ddetails of the requirements for familiarisation visits and explanation of emergency procedures to CFA and other emergency services; b. a requirement to develop relationships engage with the plantation manager HVP, CFA and FRV Fire Rescue Victoria to encourage them to undertake familiarisation visits; c. develop a requirement to undertake bushfire preparedness audits to record all "annual" fire danger season preparedness activities and prevention works; d. a requirement to prepare and maintain a 	<ul style="list-style-type: none"> - Improve readability. - Condition (e) appears to be a translation error from the Wind Energy Facility conditions where there are separate Bushfire Management Plans and Environmental Management Plan (response plans).

No.	Proposed change	Applicant's rationale
	<p>communications plan for internal and external stakeholders;</p> <p>e. outline the minimum firefighting equipment that is to be provided onsite or readily accessible (as per response plan);</p> <p>f. specify <u>details of</u> staff and contractor bushfire prevention and suppression training requirements that includes the use of firefighting equipment and appropriate personal protective clothing;</p> <p>g. a <u>requirements</u> to maintain all Asset Protection Zones during the fire danger period to ensure they are non-vegetated;</p> <p>h. <u>a requirement to</u> install E emergency i information C container at locations determined in conjunction with CFA that includes information relating to the terminal station and the emergency procedures;</p> <p>i. <u>details of</u> procedures to <u>for</u> undertaking pre fire danger period checks to ensure firefighting equipment is maintained and the water tanks are full;</p> <p>j. <u>a requirement to undertake</u> pre fire danger period checks to ensure the static water supplies are full and maintained; and</p> <p>k. ensure <u>require that</u> the maintenance of the safety systems imposed by AS3959 is included within the annual checks and maintenance regime.</p>	
	<p>PERMIT NOTES</p> <p>1. The use and development of land permitted by this permit forms part of the Delburn Wind Farm, which is covered by three planning permits for the wind energy facility and a related planning permit for a utility installation (terminal station):</p> <p>a. PA2001063 – Wind Energy Facility (Latrobe);</p> <p>b. PA2001064 – Wind Energy Facility (Baw Baw);</p> <p>c. PA2001066 – Wind Energy Facility (South Gippsland); and</p> <p>d. PA2001065 – Utility Installation (Latrobe).</p>	<p>Added for clarity around this permit forming part of a development covered by multiple permits.</p>

Appendix E Planning context

This Appendix provides a brief summary of the planning provisions relevant to the amendment application.

E:1 Planning policy framework

Clause 1 (Purposes of this Planning Scheme)

The purposes of the Planning Scheme are:

- To provide a clear and consistent framework within which decisions about the use and development of land can be made.
- To express state, regional, local and community expectations for areas and land uses.
- To provide for the implementation of State, regional and local policies affecting land use and development.
- To support responses to climate change.

Clause 2 (Municipal Planning Strategy)

The following strategic directions of the Municipal Planning Strategy have relevance to the amendment application:

- Environmental and landscape values
- Environmental risks and amenity
 - Climate change
 - Bushfire
- Economic development
 - Economic growth

Clause 12 (Environmental and landscape values)

The following policies have relevance to the amendment application:

- 12.01-1S Protection of biodiversity
- 12.01-1L Protection of biodiversity
- 12.01-2S Native vegetation management

Clause 13 (Environmental risks and amenity)

The following policies have relevance to the amendment application:

- 13.01-1S Bushfire planning

Clause 19 (Infrastructure)

- 19.01-1S Energy supply
- 19.01-2S Renewable energy

E:2 Planning scheme provisions

A common zone and overlay purpose is to implement the Municipal Planning Strategy and the Planning Policy Framework.

i) Zones

The amendment application applies to land in Special Use Zone. The purposes of the Zone are:

To recognise or provide for the use and development of land for specific purposes as identified in

The purposes of Special Use Zone Schedule 1 (Brown Coal) are:

To provide for brown coal mining and associated uses

To provide for electricity generation and associated uses

To provide for interim and non-urban uses which protect brown coal resources and to discourage the use or development of land incompatible with future brown coal mining and industry a schedule to this zone.

ii) Overlays

The purposes of the Bushfire Management Overlay 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 purposes of the Buffer Area Overlay are:

To identify buffer areas where there is potential for off-site impacts on human health or safety, or significant off-site impacts on amenity, from industry, warehouse, infrastructure or other uses. To ensure that use and development within buffer areas is compatible with potential off-site impacts.

E:3 Planning Practice Notes and guides

The following Planning Practice Notes and guides are relevant to the amendment application.

- *Planning Practice Note 45: Aboriginal Heritage Act 2006 and the planning permit process, May 2023*
- *Writing Planning Permits, May 2023.*