



**MORNINGTON  
PENINSULA**  
*Shire*

# **ADDENDUM AGENDA**

**PLANNING SERVICES COMMITTEE MEETING**

**MONDAY, 12 SEPTEMBER 2022**

**5.30PM**

**MUNICIPAL OFFICES  
BESGROVE STREET, ROSEBUD**

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## 5 STATUTORY PLANNING REPORTS

### 5.3 Referral of Planning Permit Applications PA2201533 and PA2201534 to the Priority Projects Standing Advisory Committee

Prepared By	Amanda Sapolu, Executive Advisor to the Chief Executive Officer; David Simon, Manager - Development Services
Authorised By	Chief Executive Officer
Document ID	A11468841
Briefing Note Number	
Attachment(s)	<ol style="list-style-type: none"><li>1. Planning Panels Victoria - Referral Letter <a href="#">↓</a></li><li>2. PA2201534 - Council's objection letter to Minister for Planning Energy generation facility <a href="#">↓</a></li><li>3. PA2201533 - Council's objection letter to Minister for Planning for Powerlines application <a href="#">↓</a></li></ol>

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#### EXECUTIVE SUMMARY

On 30 August the Minister for Planning referred PA2201533 and PA2201534 to the Priority Projects Standing Advisory Committee (Committee) (Referral 24).

Planning Permit Application PA2201534 seeks approval for the use and development of a gas energy generation facility in Long Drive and Cemetery Road Hastings. Specifically, the proposal includes three ethane-fired gas turbines capable of generating up to 40MW of electricity, a 600 metre ethane gas supply pipeline and the removal of 0.857 hectares of native vegetation. The applicant is Esso Resources Australia Pty Ltd.

Planning Permit Application PA2201533 seeks approval for the use and development of a 3.8 kilometres long overhead powerline and removal of native vegetation. The applicant is United Distribution Pty Ltd.

The Committee will be holding a Hearing to consider submissions in relation to the applications. If Council wishes to be heard as part of the Hearing it must notify the Committee of its intention by 26 September 2022. If Council wishes to be heard, it must also determine whether it intends to engage expert witnesses.

#### RECOMMENDATION

That the Committee resolves:

1. Not to participate in the Priority Project Standing Advisory Committee Hearing on Referral 24 but request that the Committee take into consideration the community objections and Council objection letters of 1 July 2022 and 22 July 2022.

#### COUNCIL AND WELLBEING PLAN

Strategic Objective 1.3 – A sustainable built environment that respects the natural environment and protects the community from the impacts of the climate emergency.

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5.3 (Cont.)

Strategic Objective 1.4 – An accessible built environment that supports diverse, current and future community needs.

**RELEVANT COUNCIL DECISIONS AND POLICIES**

Planning Services Committee 20 June 2022, Item 5.4.

Unscheduled Meeting, 30 August 2022, Item 7.1 (Confidential).

Briefing Session 30 August 2022.

**DISCUSSION**

**Purpose**

To update Council on the recent developments in the decision-making process regarding Planning Permit Application PA2201533 and Planning Permit Application PA2201534 and to seek Council's resolution regarding next steps.

**Background**

On 20 June 2022, Council officers brought a report to Council regarding PA2201534. In that report, officers recommended that Council not object to the grant of a planning permit. Council resolved to lodge an objection to the Minister on the following grounds:

1. The Application Documentation is insufficient to assess the full impact of the Proposal on its surrounds.
2. The Proposal would yield increased climate change impacts through the burning of ethane. In this manner, the Proposal is contrary to the Mornington Peninsula Shire's (the Shire) adopted Climate Emergency Plan (Our Climate Emergency Response From 2020 to 2030) in that it would lead to an increase in the Mornington Peninsula's greenhouse gas emissions. The Proposal does not support the Shire's transition to a carbon neutral economy.
3. The Application does not adequately recognise the surrounding environmental context, with the surrounding coast and waters being a declared Ramsar wetland and does not articulate the potential environmental impacts on it surrounds.
4. The Proposal may result in health impacts to surrounding residents through increased noise (including low-frequency noise), and the release of pollutants and particulate matter into the atmosphere.
5. The Proposal may impact existing aircraft operations.
6. An Environmental Effects Statement (EES) should be undertaken under the Environmental Effects Act 1978, along with an independently developed Quantitative Risk Assessment (QRA), to determine the full extent of environmental, social, health and climate change impacts of the Proposal. 7.
7. The results of any EES and/or QRA should be reported back to Council and the broader community to ensure the impacts of the Proposal are transparently communicated and understood (**June Objections**).

As a result of this Resolution, Council staff sent a letter to the Minister 1 July 2022 (Objection Letter) articulating the June Objections and accordingly Council's objection to the permit application.

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5.3 (Cont.)

The related application PA2201533 for Powerlines was also objected to on 22 July 2022 on the following basis:

1. The Application would indirectly yield increased climate change impacts through the associated generation of greenhouse gas emitting electricity. In this manner, the Proposal is contrary to the Shire's adopted Climate Emergency Plan (Our Climate Emergency Response From 2020 to 2030) in that it would lead to an indirect increase in the Mornington Peninsula's greenhouse gas emissions.
2. The Proposal may result in environmental impacts to surrounding ecosystems through the disturbance of acid sulphate soils, which are understood to be present within portions of the works area around Olivers Creek and Long Island Drive.
3. The Application is proposed concurrently to permit application PA2201534 and is intrinsically connected to this development. Council is of the view that, as part of the broader proposal to generate electricity that Long Island Point, that both applications should be subject to an EES process.
4. The combined environmental effects of both projects cannot be sufficiently ascertained through assessment under the Planning and Environment Act 1987 and splitting the component parts into separate applications conceals the full scope of the overall project and its potential environmental impact. The EES process would enable robust assessment of all aspects of the project – from the energy generation facility to the transmission upgrades **(July Objections)**.

It should be noted that Council did not object to PA2201533 on the basis of being a referral authority under Section 55 of the *Planning and Environment Act 1987* pursuant to Clause 45.01 – Public Acquisition Overlay – Schedule 2 (PAO2) at 5 Barclay Crescent, Hastings (Lot 1 TP4913C). Council's interest in the land identified under PAO2 for acquisition to widen a road reserve is not affected by the proposed application and therefore there would be no valid grounds on which to base a refusal.

With respect to the grounds of objection in the 22 July 2022 letter, this matter was not brought before Council at a Planning Services Committee meeting following the objection letter of 1 July 2022 to the related application. Given the minimal timeframes for providing a response, the grounds were formulated on the basis of the objection to PA2201533 and a discussion with the relevant Ward Councillor. As per objection ground no.3, the proposals are intrinsically linked such that the application for powerlines would be unlikely to be pursued if the energy generation facility is not pursued or ultimately refused by the Minister.

On 30 August 2022, Council considered a confidential item in relation to an appeal to the Victorian Civil and Administrative Tribunal regarding the issue of a Development Licence by the Environment Protection Authority. Council resolved, inter alia:

1. That Council determines not to file an objection to the issuing of Development Licence DL0003000015 to Esso Australia Pty Ltd by the Environment Protection Authority.
2. That the Chief Executive Officer (CEO) provides progress updates on the objection lodged to the Minister for Planning in relation to planning permit application PA2201534 as resolved by Council at its meeting on 20 June 2022.

### Recent Developments

On 30 August the Minister for Planning referred PA2201533 and PA2201534 to the Committee, with additional information to be provided by the Committee regarding the future details and conduct of the hearing. On 7 September 2022, the Committee wrote to Council to

**5.3 (Cont.)**

advise of the relevant dates and procedures regarding the hearing. The referral is known as Referral 24 (see attachment 1).

PA2201534 seeks approval for the use and development of a gas energy generation facility in Long Drive and Cemetery Road Hastings. Specifically, the proposal includes three ethane-fired gas turbines capable of generating up to 40MW of electricity, a 600 metre ethane gas supply pipeline and the removal of 0.857 hectares of native vegetation. The applicant is Esso Resources Australia Pty Ltd.

Planning Permit Application PA2201533 seeks approval for the use and development of a 3.8 kilometre long overhead powerline and removal of native vegetation. The applicant is United Distribution Pty Ltd.

The Committee was appointed by the Minister under section 151 of the *Planning and Environment Act 1987*. The purpose of the referral is so that the Committee can provide the Minister with timely and independent advice about the environmental impacts, amenity impacts including noise and air quality, aviation impacts, bushfire risks and emergency management of the planning applications.

**The Committee**

The Committee will hold a public Hearing in relation to the two planning applications and the referral by the Minister.

The process includes:

<b>Event</b>	<b>Date</b>	<b>Purpose</b>
Request to be Heard	12 noon, 26 September 2022	To identify those parties that wish to be heard at the Hearing.  Identify any experts the parties will call. Experts must prepare a report to be circulated before the Hearing.
Directions Hearing	29 September 2022	To give directions about exchanging information before the Hearing and the conduct of the Hearing.
Hearing	2 November 2022 – 18 November 2022	To hear from submitters, applicants and government agencies.

**Options for consideration**

Council is now in a position where it needs to consider its next steps. Broadly the options are:

1. Do not seek to be heard at the Hearing.
2. Seek to be heard at the Hearing and determine the extent of Council's objection/participation.

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5.3 (Cont.)

Option 1

If Council chooses not to speak to its Objection Letters, then it need not choose to be heard. Council's Objection Letters will still be considered by the Committee. Option 1 is recommended by Council officers.

The objections must be considered by the Committee of experts in formulating their advice to the Minister before the Minister makes a decision.

As per Council officer's initial recommendation, it is considered that on balance, the proposal for the energy generation facility is acceptable having consideration to all relevant matters the Minister must consider under the *Planning and Environment Act 1987* (which includes the Mornington Peninsula Planning Scheme). The related application for powerlines is also considered reasonable having regard to all relevant matters. However, as previously discussed, Council objected to the powerlines on the basis of the intrinsic link to the energy facility.

It is also considered relevant that irrespective of the Committee's recommendation, the decision of the Minister for Planning is able to be appealed to the Victorian Civil and Administrative Tribunal. Following the review by the Committee and its recommendation, should the Minister approve the application and Council oppose the decision, it could appeal to Victorian Civil Administrative Tribunal (VCAT).

Option 2

1. To participate in the Priority Projects Standing Advisory Committee Hearing on Referral 24 as an Objector pursuant to Council's objection letters to the Minister for Planning dated 1 July 2022 and 22 July 2022.
2. To authorise the CEO, or delegate, to finalise submissions and engage any expert witnesses.

If Council wishes to be heard at the Hearing, then it will need to:

- Determine the grounds on which it is making its submission.
- Determine whether it intends to call expert witnesses and which experts it will call. Based on the June and July Objections, officers would expect Council would need to call experts in the following fields:
  - Noise/acoustics
  - Air quality
  - Water quality
  - Bushfire
  - Emergency management
  - Aviation safety

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5.3 (Cont.)

- Engage legal representation.
- Engage and brief witnesses.
- Give notice to the Committee by 26 September 2022 of Council's intention to participate and to what extent.

Please note, it is not recommended to engage experts in all fields noted above. This would need to be determined following engagement of legal representation and being briefed in relation to those specific matters.

Regardless of which option Council chooses, there still retains the ability to appeal the Minister's final decision in VCAT.

**ENGAGEMENT**

Not applicable.

**COMMUNICATIONS PLAN**

Not applicable.

**LEGAL AND REGULATORY FRAMEWORK**

The proceedings are regulated under the *Planning and Environment Act 1987*.

**SUSTAINABILITY CONSIDERATIONS**

Not applicable.

**FINANCIAL CONSIDERATIONS**

Option 1

There are no financial costs associated with Option 1 other than internal officer time to prepare correspondence.

Option 2

If Council proceeds with option 2, then it is likely to incur approximate costs including:

- Legal fees: \$10,000-100,000 depending on level of engagement/experience and number of days required to be present or number of experts relied upon.
- Expert 1 – Noise / Acoustic: \$10,000
- Expert 2 – Air quality: \$5,000-10,000
- Expert 3 – Water quality: \$5,000-10,000
- Expert 4 – Bushfire: \$5,000
- Expert 5 – Emergency Management: \$5,000
- Expert 6 – Aviation safety: \$5,000



**5.3 (Cont.)**

Total approx. range: \$45,000 – 145,000

It should be noted that the above estimate does not include potential representation at VCAT should the Minister approve the application and Council wish to challenge it.

**CONFLICTS OF INTEREST**

No person involved in the preparation of this report has a conflict of interest in the subject matter of this report.



## Planning Panels Victoria

Department of Environment, Land, Water and Planning

1 Spring Street  
Melbourne Victoria 3000  
GPO Box 2392  
Melbourne, Victoria 3001  
Telephone (03) 8624 5712

7 September 2022

Dear Party

### Priority Projects Standing Advisory Committee Referral 24 Planning Permit Applications PA2201533 and PA2201534

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The Minister for Planning referred Planning Permit Applications PA2201533 and PA2201534 to the Priority Projects Standing Advisory Committee (the Committee) on 30 August 2022. We are writing to you because you were an objector to the permit application(s). The Minister for Planning has instructed the Committee to consult with (among others) all objectors.

### The Proposal

Planning Permit Application PA2201534 seeks approval for the use and development of a gas energy generation facility on land in Long Drive and Cemetery Road, Hastings. Specifically, the proposal includes:

- three ethane-fired gas turbines capable of generating up to 40 MW of electricity
- an associated 600 metre ethane gas supply pipeline
- the removal of 0.857 hectares of native vegetation.

Planning Permit Application PA2201533 seeks approval for the use and development of a 3.8 kilometre long overhead powerline (utility installation) to connect the gas generation facility to the electricity grid, as well as the removal of native vegetation.

The Minister for Planning is the planning authority for the planning permit applications. The permit applicants are Esso Resources Australia Pty Ltd (PA2201534) and United Distribution Pty Ltd (PA2201533).

The Minister has referred all objections PA2201534 and PA2201533 (95 in total) to the Committee. You can review all referred submissions through the link in the Key Information attached to this letter.

### The Committee

The Minister appointed the Committee under section 151 of the *Planning and Environment Act 1987* (the Act). The Minister provided the Committee with Terms of Reference dated 14 June 2020. Committee Members Sarah Carlisle (Chair), Elizabeth McIntosh and Shannon Davies will consider this referral, which will be known as Referral 24.

In accordance with the Terms of Reference and the Letter of Referral for Referral 24, the purpose of the Committee is to:

- provide timely and independent advice to the Minister for Planning on projects referred by the Development Facilitation Program, and projects affected by COVID-19
- provide advice about the environmental impacts, amenity impacts including noise and air quality, aviation impacts, bushfire risks and emergency management of Planning Permit Applications PA2201533 and PA2201534.

Given the number of objectors and the level of consultation the Minister requires the Committee to undertake, the Committee will hold a Public Hearing in relation to Referral 24. This letter:

#### Privacy Statement

*Any personal information about you or a third party in your correspondence will be protected under the provisions of the Privacy and Data Protection Act 2014. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorised by law. Enquiries about access to information about you held by the Department should be directed to the Privacy Coordinator, Department of Environment, Land, Water and Planning, PO Box 500, East Melbourne, Victoria 8002*



OFFICIAL

- tells you about the hearing process
- tells you what you need to do if you want to participate in the Public Hearing
- explains how we will use information the Committee collects
- sets out draft directions for the Public Hearing.

Objections, submissions and other information presented throughout the process, including the Hearing, will be **treated as public documents**. Please carefully read the attached *Privacy Collection Notice*.

#### Directions Hearing

The process includes a Directions Hearing and the Hearing.

At the Directions Hearing, the Committee will:

- give directions about exchanging information before the Hearing and the conduct of the Hearing
- consider Hearing times, format and venue (if held in person), and site inspections
- answer questions people have about the Committee process including the Hearing.

The Directions Hearing will be held:

**10am, Thursday, 29 September 2022**

**by video conference using MS Teams**

**Video link** [Click here to join the meeting](#)

#### Dial in audio link:

- Dial 1800 571 208
- Input phone ID 157 288 41#

You should attend the Directions Hearing if you:

- are new to the Committee process
- wish to participate in the Hearing
- have questions about the Committee process or wish to raise procedural issues.

The Committee proposes to issue directions after considering all requests to be heard and any additional matters raised at the Directions Hearing or in writing before the Directions Hearing.

#### Hearing

The purpose of the Hearing is for people to speak to their written submission and to hear from the permit applicants and government agencies who wish to be heard. At the Hearing, the Committee will:

- consider submitters in an independent forum
- be informal and not like a court
- give fair, unbiased advice to the Minister for Planning about the planning permit applications.

The Hearing will start on **Wednesday 2 November 2022** (the day after Melbourne Cup Day), and could run for two to three weeks depending on how many parties wish to be heard. The Hearing is open for anyone to attend.

The Committee will consider all referred objections when preparing its report, including those from objectors who do not attend the Hearing.

#### Key dates

The Key Information attached to this letter includes a list of key dates for the circulation of information in the leadup to the Hearing. These will be discussed at the Directions Hearing. If you wish to comment on the key dates but are unable to attend the Directions Hearing, you can provide comments in writing to [planning.panels@delwp.vic.gov.au](mailto:planning.panels@delwp.vic.gov.au) by **Monday, 26 September 2022**.

**If you wish to be involved in the Hearing**

Please complete the [online request to be heard form](#) by **12 noon on Monday 26 September 2022** if:

- you wish to be involved in the Hearing
- you do not wish to speak but would like a copy of the timetable and directions.

Notes on completing the online request to be heard form are attached.

**Further Information**

The attached *Privacy Collection Notice* explains how your objection and submission will be used by the Committee.

Further information including the *What is a Panel?* guide, *Guide to the Public Hearing* and *Frequently Asked Questions* are available at:

<https://www.planning.vic.gov.au/panels-and-committees/planning-panel-guides>

If you need a paper copy of these documents or if you have any other questions, please contact the Hayley Becker, Manager Major Projects, Planning Panels Victoria on (03) 8508 2775 or [planning.panels@delwp.vic.gov.au](mailto:planning.panels@delwp.vic.gov.au).

Yours sincerely



**SARAH CARLISLE**  
Committee Chair

## Completing the Request to be Heard Form

Priority Projects Standing Advisory Committee Referral 24  
Planning Permit Applications PA2201533 and PA2201534

When completing the online *request to be heard form*, please note the following details.

### When will the Hearing be held?

The expected hearing dates are between 2/11/2022 and 18/11/2022.

### What if I have availability issues during the expected hearing dates?

You can tell us when you are not available.

The Committee will accommodate your availability where possible.

### Time required to present your submission

You will be allocated 10 minutes for your submission if this field is left blank.

### Expert witness details

An expert witness gives evidence in a field of expertise and must prepare a report.

If you propose to call expert witnesses, you must:

- provide details of all expert witnesses on the request to be heard form – this includes their name, organisation, and field of expertise
- circulate expert witness reports at a specified time before the Hearing.

Participants in the Hearing can generally cross-examine expert witnesses.

### What happens after I complete the form?

If you complete this form, a letter with directions and a timetable for the Hearing will be emailed to you after the Directions Hearing. Your name and email address will also be added to the Distribution List for the circulation of information like reports and submissions for the Hearing unless you tell us otherwise.

### What if I do not have an email address?

Please contact Planning Panels Victoria on (03) 8508 2775 as soon as possible if you need a form mailed to you. A paper copy of documents such as the timetable will be mailed to submitters who provide a postal address.

### How will my contact information be used?

We will use your contact address to contact you. We will provide your email or postal address to participants in the Hearing so that they can share reports and submissions unless you tell us otherwise.

### Access requirements

Please contact PPV with any access requirements. Some Hearings are at PPV, some are at other locations and some are held online. PPV Hearing Rooms are equipped with a hearing loop, and a laptop and projector if required. If the Hearing is held at another location, we may need to ensure access requirements can be met.

## Key information

Priority Projects Standing Advisory Committee Referral 24  
Planning Permit Applications PA2201533 and PA2201534

### Documentation

Key documentation includes:

- the Committee's Terms of Reference date 14 June 2020
- Letter of Referral dated 30 August 2022
- PA2201533 application documents, referral authority responses and submissions.
- PA2201534 application documents, referral authority responses and submissions.

To view the documentation, please [click here](#).

### Summary of dates

The following dates are proposed:

Time	Date	Action
12 noon	Monday, 10 October 2022	The Applicants must circulate a Part A submission setting out: <ul style="list-style-type: none"><li>- details of the proposed use and development</li><li>- relevant parts of the Planning Policy Framework</li><li>- the applicable planning controls</li></ul>
12 noon	Monday, 17 October 2022	DELWP must provide the Committee with a plan showing the location of objectors
12 noon	Monday, 17 October 2022	The Applicants must circulate Expert witness reports
12 noon	Monday, 24 October 2022	Other parties must circulate Expert witness reports
12 noon	Monday, 31 October 2022	If the Committee directs meetings between experts presenting evidence in the same fields, expert statements of agreed opinions and facts must be circulated
10 am	Wednesday, 2 November 2022	Hearing commences

## Planning Panels Victoria Privacy Notice

Your personal information will be collected during this Committee process for the purpose of documenting your views about the Amendment, advising the planning authority and the Minister for Planning about the Amendment, and communicating with you throughout the Committee process.

### While the Committee process is underway

Natural justice for all participants and transparency are important parts of the Committee process. The *Planning and Environment Act 1987* requires the Committee to conduct any Hearing it holds in public, and to keep a public record of the material provided to the Committee. Planning Panels Victoria (PPV) may:

- provide a copy of your material with all contact details to the Proponent, government agencies and other parties to the Hearing
- provide a copy of your material to any other person who requests it (your personal information will be removed first)
- provide a copy of your material to the Department of Environment, Land, Water and Planning (DELWP) if needed for preparing Ministerial briefings
- publicly display a copy of your material in the PPV Office or Hearing room
- direct that a copy of your material be publicly displayed in the relevant Local Council Office or DELWP Regional Office.

### Hearings

The Committee may conduct a Hearing, either in person or using video conferencing. Hearings by video conference have special privacy requirements. If you choose to participate in the Hearing, you should be aware:

- a link to the Hearing will be published on the internet, and third parties will be able to join the Hearing and observe
- the Committee may broadcast the Hearing live on the internet.

The Committee may make a recording of the Hearing, and may provide a copy of any recording to any person who request it. Where Hearings are recorded, generally audio only is recorded (not video).

The Committee can hear submissions or accept material on a confidential basis, provided this would be fair to the other parties to the Hearing. If you want to make your submissions or provide material to the Committee confidentially, you will need to ask permission from the Committee Chair and provide reasons why the Committee should treat your submissions or material confidentially.

### The Committee report

Under the *Planning and Environment Act 1987*, a Committee report is a public document. The Committee's report will include a list of the names of submitters and a list of the names of the parties to the Hearing. It may also include direct quotes from submitters. The report will be published on the internet.

### After the Committee has reported

When the Committee has reported to the Planning Authority, your material will be removed from public display.

### Requesting copies

If you would like a copy of any submissions or material collected by the Committee, or a copy of any recording the Committee makes of the Hearing, make a request to PPV by email at [planning.panels@delwp.vic.gov.au](mailto:planning.panels@delwp.vic.gov.au) before the Committee submits its report. If the Committee has reported, you should submit your request to the DELWP Freedom of Information and Privacy Unit at [foi.unit@delwp.vic.gov.au](mailto:foi.unit@delwp.vic.gov.au). If you have any concerns about how your submission will be used, please contact Planning Panels Victoria on (03) 8624 5719.

Council Ref: GE22/0183  
DELWP Ref: PA2201534



1 July 2022

M Juttner  
Department of Environment Land Water and Planning  
PO Box 500  
EAST MELBOURNE VIC 8002  
Email: [anthony.pollifrone@delwp.vic.gov.au](mailto:anthony.pollifrone@delwp.vic.gov.au);  
[development.approvals@delwp.vic.gov.au](mailto:development.approvals@delwp.vic.gov.au)

Dear Mr Juttner

**RE: Ministerial Planning Application PA2201534  
1 and 2 Long Island Drive and 35 Cemetery Road, Hastings**

Thank you for your notice in relation to the above planning permit application. The application seeks permission for use and development of land for an Energy generation facility and associated buildings and works, including a Utility installation (gas pipeline) and the removal of native vegetation.

At a Planning Services Committee meeting on 20 June 2022, the Committee resolved that Mornington Peninsula Shire Council **objects** to the grant of a permit in relation to the Proposal on the following summarised grounds:

1. The Application Documentation is insufficient to assess the full impact of the Proposal on its surrounds.
2. The Proposal would yield increased climate change impacts through the burning of ethane. In this manner, the Proposal is contrary to the Shire's adopted Climate Emergency Plan (*Our Climate Emergency Response From 2020 to 2030*) in that it would lead to an increase in the Mornington Peninsula's greenhouse gas emissions. The Proposal does not support the Shire's transition to a carbon-neutral economy.
3. The Application does not adequately recognise the surrounding environmental context, with the surrounding coast and waters being a declared Ramsar wetland, and does not articulate the potential environmental impacts on it surrounds.

**Contact the Mornington Peninsula Shire**

📞 1300 850 600  
🌐 [mornpen.vic.gov.au](http://mornpen.vic.gov.au)  
✉ [customerservice@mornpen.vic.gov.au](mailto:customerservice@mornpen.vic.gov.au)

By post: Private Bag 1000,  
90 Besgrove Street, Rosebud VIC 3939  
ABN: 53 159 890 143



4. The Proposal may result in health impacts to surrounding residents through increased noise (including low-frequency noise), and the release of pollutants and particulate matter into the atmosphere.
5. The Proposal may impact existing aircraft operations.
6. An Environmental Effects Statement (EES) should be undertaken under the *Environmental Effects Act 1978*, along with an independently developed Quantitative Risk Assessment (QRA), to determine the full extent of environmental, social, health and climate change impacts of the Proposal.
7. The results of any EES and/or QRA should be reported back to Council and the broader community to ensure the impacts of the Proposal are transparently communicated and understood.

Grounds 2 to 6 are addressed in further detail below.

#### **Climate Change Impacts**

Council is concerned that the Proposal is contrary to adopted State legislation and policy and Local policy with respect to climate change.

In August 2019, Council unanimously declared a Climate Emergency, calling for immediate and urgent action to reverse global warming and the significant damage that climate change is causing to the environment and society.

Council has adopted a Climate Emergency Response Plan (*'Our Climate Emergency Response From 2020 to 2030'*). This document details the Shire's response to its August 2019 Climate Emergency declaration. The Plan commits the Shire 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, the Shire has adopted targets of a 65% reduction in greenhouse gas emissions by 2030 and net zero emissions by 2040.

Within the Planning Scheme, the Municipal Planning Strategy seeks to ensure that the Shire is a leader in climate change mitigation and adaptation. Clause 19.01-1S (Energy supply) seeks to support transition to a 'low-carbon' economy with renewable energy and greenhouse emission reductions. Recent amendments made under Scheme Amendment VC216 have strengthened considerations around energy policy by incorporating reference to the emissions reductions targets embedded in the *Climate Change Act 2017*.

Council opposes the further proliferation of greenhouse gas-emitting energy production, and questions how the Proposal conforms to the objectives of the

*Climate Change Act 2017* and the objective of Council's Climate Emergency Plan.

Whilst it is acknowledged that gas-fired electricity generates less emissions than coal-fired electricity, the increase in gas-fired electricity is ultimately a stop-gap measure. The Proposal would delay the transition of Victoria's energy production system of a low-carbon state where it is clear that more effective action is needed urgently.

On the Shire's estimates, the Proposed burning of ethane gas would result in a 6% increase in the Shire's annual greenhouse gas emissions (CO<sub>2</sub>-e). This significantly compromises the Shire's targets for emissions reductions. Despite the assertions that the Proposal is only temporary, it has not been made clear how the cessation of the use would be mandated.

The Proposal is considered to fail to adequately address policy around climate change and should be refused.

#### **Environmental Impacts**

The subject site is located approximately 400 metres to the west of the shoreline of Western Port. Western Port is designated as a wetland of international importance under the *Convention on Wetlands of International Importance* (Ramsar Convention).

The subject land is not affected by an Environmental Significance Overlay. However, broader considerations surrounding environmental impacts arise out of the decision guidelines to Schedule 1 to the Special Use Zone, the Municipal Planning Strategy and Clause 12.03 of the Planning Policy Framework.

There is potential for airborne pollutants and discharges of contaminants to water and the ground to impact on the local environment. In addition, noise and light emanating from the use and development may detrimentally impact wildlife in the surrounds, in particular waterbirds.

Furthermore, the western shore of Western Port has a known presence of acid sulphate soils. The Shire's mapping indicates the presence of acid sulphate soils within close proximity of the subject site. Exposure of these soils to the air presents a risk to aquatic ecosystems.

Given the significance of Western Port as a wetland, consideration should be given to the potential impacts of the use and development on the coast. The Application material does not adequately detail how environmental and coastal impacts will be avoided. On the information provided, the Application should be refused.

The Application seeks to remove 0.857 hectares of native vegetation within the subject site. Pursuant to the *Guidelines for the removal, destruction or lopping of native vegetation* (Guidelines), the Proposal triggers under the 'detailed' assessment pathway. The *Native Vegetation Assessment* by Nature Advisory is insufficient for the potential habitat impacts the proposed vegetation removal may yield on fauna within the area.

The advertised Application material notes the potential for Southern Brown Bandicoot to be present within the subject site. The Southern Brown Bandicoot is an endangered species listed under the *Environment Protection Biodiversity Conservation Act 1999* (Commonwealth) yet is not referenced in the *Native Vegetation Assessment*. It is questioned how the vegetation removal can be appropriately assessed without understanding the potential impact on an endangered species.

### **Health and Amenity Impacts**

Council is concerned that the Proposal may result in health and amenity impacts to surrounding residents.

The predicted night-time noise level emanating from the operation of the facility is expected to be 46.4 decibels (A-weighted) at the nearest dwelling and 34 decibels (A-weighted) in adjacent residential areas of Hastings. The submitted *Environmental Noise Impact* notes the existing presence of constant industrial noise in the area around Cemetery Road, with industrial noise present in adjacent residentially-zoned land. Council is concerned that the constant nature of the use would exacerbate existing noise issues within the surrounding area with impacts to residents.

The advertised Acoustic Report relies on the application of recommended attenuation measures, including the application on acoustic blankets to parts of the Solar Titan 130 generators. It is unclear if these attenuation measures are able to be applied to the relevant elements of the generators.

The Proposal would result in emissions to air of nitrogen dioxide, carbon monoxide, sulphur dioxide, particulate matter and volatile organic compounds. Council is concerned that the emission of these materials would result in odour and health impacts to surrounding residents.

Relevantly, the advertised Air Quality Assessment relies on base air quality data that is remote from the specific conditions of the subject site. The Assessment assumes that existing air quality in the region would be better than in Melbourne, however this is not quantified. The Hastings area features several existing intensive industrial land uses with the potential to impact on air quality, and it is questioned how the assumptions made with respect to existing air quality may have impacted the modelled air quality impacts of the Proposal. Additionally, Council queries the following statement on Page 17 of

the Report, which appears to reference Long Island Point as one of Melbourne's main air pollution sources:

*Air quality conditions in Western Port are expected to be better than in the metropolitan region given the distances between the majority of Melbourne's main air pollution sources, such as roadways and Long Island Point.*

### **Impact on Flight Operations**

The Shire is aware of concerns that the Proposal may impact on the existing operations of recreational and commercial aircraft from the nearby Tyabb Airfield. Impacts on land use on surrounding land uses and land outside the Special Use Zone is a decision guideline under the Zone, and the potential impacts on local aviation should be properly explained. Council opposes unreasonable restriction on local aircraft operators that may result from the Proposal.

### **Need for an Environmental Effects Statement**

The above concerns combine to a position that the Proposal should be subject to an Environment Effects Statement (EES) under the *Environment Effects Act 1978*. Council recognises that as both the Responsible Authority and relevant Minister, the decision on whether to require an EES rests with the Minister for Planning. Nevertheless, Council considers that the questions surrounding the Proposal's climate change and environmental impacts, and the sensitivity of the surrounding area necessitates an EES.

The *Ministerial guidelines for assessment of environmental effects under the Environmental Effects Act 1978* (Ministerial Guidelines) outlines that the potential for greenhouse gas emissions exceeding 200,000 tonnes of carbon dioxide equivalent per annum, directly attributable to the operation of a facility as a direct trigger for referral. The Application models emissions of 195,652 tonnes CO<sub>2</sub>-e in the year 2026.

Given the "need" for the Proposal arises out of an unplanned oversupply of ethane resulting from the reduction in downstream use, Council expects that emissions resulting from the Proposal may vary significantly from the modelling. If Esso's downstream customer further reduces its intake of ethane, there is a real chance that annual emissions may exceed 200,000 tonnes CO<sub>2</sub>-e.

These uncertainties, coupled with the environmental significance of the surrounding wetlands and the potential impacts on the surrounding environment render the concurrent assessments under the *Planning and Environment Act 1987* and *Environment Protection Act 2017* insufficient to adequately capture and consider the effects of the Proposal. An EES is warranted in this instance. The EES process would enable a robust assessment of the Proposal at a level that accords with its potential for environmental harm.

Furthermore, Council implores that Esso be required to undertake an independent quantitative risk assessment (QRA) to clearly articulate the impacts of the Proposal.

#### **Without Prejudice Conditions**

Should the Minister resolve to support the Application, the Shire recommends that the Department implement the following conditions on any Notice of Decision to Grant a Permit. The below conditions are provided on a **without prejudice basis** and are not indicative of Council's support for the Application.

-- Start of Conditions --

#### **Climate Change and Sustainability Conditions**

1. All proposed greenhouse has emission mitigation measures proposed by AECOM in Section 6 of *G. Greenhouse Gas Assessment* must be implemented to the satisfaction of the Responsible Authority. Prior to the commencement of the use, the permit holder must prepare and submit a Carbon Offset Plan to the Responsible Authority and Mornington Peninsula Shire Council. The Carbon Offset Plan must detail the type and location of any certified carbon offsets to be obtained in association with the use, to the satisfaction of the Responsible Authority and Mornington Peninsula Shire Council. Any certified carbon offsets must be derived from direct investment in projects located within the municipal boundaries of the Mornington Peninsula Shire to the satisfaction of the Responsible Authority.
2. Prior to the commencement of the use, an End of Useful Life and Economic Transition Plan to the satisfaction of the Responsible Authority must be submitted and approved by the Responsible Authority. The Plan must outline proposed measures to be undertaken at the end of facility's useful life to ensure any stranded or unused infrastructure and/or assets are reutilised.

#### **Engineering Conditions**

3. After the endorsement of plans associated with the permitted use and development, and before any works associated with the use and development starts, engineering plans to the satisfaction of Mornington Peninsula Shire Council must be submitted to and approved by the Mornington Peninsula Shire Council. The plans must be drawn to scale with dimensions and shall be emailed to [devengadmin@mornpen.vic.gov.au](mailto:devengadmin@mornpen.vic.gov.au) in pdf format.

The 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 being designed to ensure storm water 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 and parking areas within the site.
  - d. Driveways 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) impacted by the works, or as shown on any other development plans and documents.
  - g. Drainage works designed to avoid TPZs where possible.
  - h. Proposed methodologies for complying with AS4970-2009 (Protection of trees on development sites) for any works that are required within TPZs.
4. Before the approval of engineering plans, drainage computations and documentation are required for:
    - a. The proposed drainage system.
    - b. A MUSIC Report, if applicable.
  5. Prior to the commencement of any works for this development, a project-specific Major Construction Management Plan (CMP) must be submitted to and endorsed by Mornington Peninsula Shire Council. This CMP is to be based on the standard Major CMP template found on the Mornington Peninsula Shire's website. When approved, the CMP will be endorsed and form part of the Planning Permit. The endorsed CMP must be implemented to the satisfaction of the Responsible Authority and Mornington Peninsula Shire Council prior to, and during the works.

6. Prior to the commencement of works for this development, a project specific Construction Traffic Management Plan (CTMP) must be submitted to Mornington Peninsula Shire Council for approval. The CTMP must then be implemented to the satisfaction of the Responsible Authority and Mornington Peninsula Shire Council prior to and during construction of the works.
7. Before the initial operation of the generating facility, all drainage works associated with the development must be constructed in accordance with approved engineering plans, and to the satisfaction of the Responsible Authority and Mornington Peninsula Shire Council.
8. Before the initial operation of the generating facility, areas set aside for the parking of vehicles and driveways 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 must be kept available for these purposes at all times.

**-- End of Conditions --**

It is requested that the Department provide any decision on the Application to be directed to [planning@mornpen.vic.gov.au](mailto:planning@mornpen.vic.gov.au).

Should you require further assistance please do not hesitate to contact Lachlan Howard, Principal Planner on 03 5950 1687 or me on 0481 097 261.

Yours faithfully



**David Simon**  
**MANAGER DEVELOPMENT SERVICES**

DELWP ref: PA2201533  
Council ref: GE22/0217



22 July 2022

M Juttner  
Department of Environment, Land, Water and Planning  
PO Box 500  
EAST MELBOURNE VIC 8002  
Email: [anthony.pollifrone@delwp.vic.gov.au](mailto:anthony.pollifrone@delwp.vic.gov.au);  
[development.approvals@delwp.vic.gov.au](mailto:development.approvals@delwp.vic.gov.au)

Dear Mr Juttner

**PLANNING APPLICATION PA2201533  
HASTINGS GAS ENERGY GENERATION FACILITY – POWERLINE  
PORT OF HASTINGS**

Thank you for your re-referral dated 9 May 2022 referring the above application to Mornington Peninsula Shire Council (Council) pursuant to section 55 of the *Planning and Environment Act 1987* (the Act).

Council is a determining referral authority under section 55 of the Act with respect to the elements of the proposal located within Public Acquisition Overlay 2 (PAO2) at 5 Barclay Crescent, Hastings (Lot 1 TP4913C).

It is noted that pursuant to section 52(1)(b) of the Act, notice has also been served to Council as the application applies to land in Council's municipal district.

As Council serves a dual role in relation to this application, Council's response below separates Council's role as a referral authority and in response to the application generally.

**Section 55 Referral Response – No Objection**

Council, as a referral authority pursuant to Section 55 of the *Planning and Environment Act 1987* has reviewed the proposal and does not object to the grant of the permit.

*Further Comments*

Council's response above is limited to matters arising out of the requirement for a planning permit under Clause 45.01 (PAO) and is not limiting on Council's general position as a stakeholder in relation to the application.



**Response to Notice - Objection**

Council has reviewed the notice dated 26 May 2022 and the accompanying advertised material and advises that it **objects** to the grant of a planning permit on the following grounds:

1. The Application would indirectly yield increased climate change impacts through the associated generation of greenhouse gas emitting electricity. In this manner, the Proposal is contrary to the Shire's adopted Climate Emergency Plan (*Our Climate Emergency Response From 2020 to 2030*) in that it would lead to an indirect increase in the Mornington Peninsula's greenhouse gas emissions.
2. The Proposal may result in environmental impacts to surrounding ecosystems through the disturbance of acid sulphate soils, which are understood to be present within portions of the works area around Olivers Creek and Long Island Drive.
3. The Application is proposed concurrently to permit application PA2201554 and is intrinsically connected to this development. Council is of the view that, as part of the broader proposal to generate electricity that Long Island Point, that both applications should be subject to an Environmental Effect Statement (EES) process.

The combined environmental effects of both projects cannot be sufficiently ascertained through assessment under the *Planning and Environment Act 1987* and splitting the component parts into separate applications conceals the full scope of the overall project and its potential environmental impact. The EES process would enable robust assessment of all aspects of the project – from the energy generation facility to the transmission upgrades.

It is requested that the Department provide any decision on the Application to be directed to [planning@mornpen.vic.gov.au](mailto:planning@mornpen.vic.gov.au).

Should you require further assistance please do not hesitate to contact Lachlan Howard, Principal Planner on 03 5950 1687.

Yours faithfully



**DAVID SIMON**  
**MANAGER DEVELOPMENT SERVICES**

CC: United Energy Distribution Pty Ltd c/- Spiire Australia Pty Ltd  
[Keeley.martin@spiire.com.au](mailto:Keeley.martin@spiire.com.au)