

Terms of Reference

Crib Point Gas Import Jetty and Crib Point-Pakenham Gas Pipeline Inquiry and Advisory Committee

The Crib Point Gas Import Jetty and Crib Point-Pakenham Gas Pipeline Project Inquiry and Advisory Committee (the IAC) is appointed to inquire into, and report on, the proposed Crib Point Gas Import Jetty and Crib Point-Pakenham Gas Pipeline Project in accordance with these terms of reference.

The IAC is appointed pursuant to:

- section 9(1) of the *Environment Effects Act 1978* (EE Act) as an inquiry; and
- part 7, section 151 of the *Planning and Environment Act 1987* (P&E Act) as an advisory committee.

Name

1. The IAC is to be known as the 'Crib Point Gas Import Jetty and Crib Point-Pakenham Gas Pipeline Project Inquiry and Advisory Committee'.

Skills

2. The IAC members should have the following skills:
 - a. gas industry engineering and management, including safety;
 - b. marine and terrestrial ecological assessment;
 - c. statutory planning.
3. The IAC may seek additional specialist expert advice to assist it in undertaking its role, in particular with respect to:
 - a. air quality assessment
 - b. landscape and visual impacts;
 - c. social impact assessment
 - d. agriculture and rural land use; and
 - e. greenhouse gas emissions; and
 - f. noise assessment.
4. The IAC will comprise an appointed chair (IAC Chair), a deputy chair and other members.

Purpose of the IAC

5. The IAC is appointed by the Minister for Planning under section 9(1) of the EE Act to hold an inquiry into the environmental effects of the project. The IAC is to:
 - a. review and consider the environment effects statement (EES) and public submissions received in relation to the environmental effects of the project;
 - b. draw conclusions on the potential environmental effects of the project, their significance and acceptability, having regard to the draft evaluation objectives in the EES scoping requirements and relevant policy and legislation;
 - c. identify any measures it considers necessary and effective to avoid, mitigate or manage the environmental effects of the project within acceptable limits; and
 - d. report its findings and recommendations to the Minister for Planning so he can assess the project's environmental effects.
6. The IAC is appointed as an advisory committee under section 151 of the P&E Act to:
 - a. review draft planning scheme amendment (PSA) C272morn, which has been prepared to facilitate the project, along with any public submissions received in relation to the draft PSA;

- b. provide a report to the Minister for Planning as to whether the draft PSA contains provisions and controls that are appropriate for the project; and
 - c. recommend any changes to the draft PSA that it considers necessary.
7. The IAC will also provide advice that can be used to inform the Environment Protection Authority's consideration of the WAA prepared by the proponent for the project.
8. The IAC might also separately be appointed by the Minister for Energy, Environment and Climate Change as a panel under s. 40 of the Pipelines Act.

Background

Project outline

9. The project proposes the permanent mooring of a floating storage and regasification unit (FSRU) at Crib Point Jetty (The Esplanade, Crib Point), the installation of gas handling infrastructure on the jetty, construction of a gas receiving facility at Crib Point and construction of a gas pipeline from Crib Point to Pakenham, including a delivery facility at Pakenham East. The project comprises the following works elements:
 - a. mooring and operation of the FSRU, including transfer of liquified natural gas (LNG) cargoes from visiting tankers and storage and regasification of LNG to natural gas;
 - b. construction and operation of facilities for processing of gas at Crib Point and Pakenham East, including correction of gas to transmission system specifications, addition of odorant and adjustment of temperature and pressure;
 - c. construction and operation of a high-pressure gas pipeline from Crib Point to Pakenham East, including ancillary facilities such as main line valves and pipeline inspection equipment;
 - d. removal of native vegetation (and the provision of offsets) as required to enable the project to proceed; and
 - e. ancillary and temporary works to support construction and operation of the project.
10. The project's proponents are AGL Wholesale Gas Limited (AGL) for the FSRU, jetty works and Crib Point receiving facility and APA Transmission Pty. Limited (APA) for the pipeline and other components of the project.
11. AGL and APA, acting jointly as the proponent, are responsible for preparing technical studies, consulting with the public and stakeholders and preparing an EES.

EES assessment process

12. In response to a referral under the EE Act from the proponent, the Minister for Planning determined on 8 October 2018 that an EES is required for the project and issued his decision with procedures and requirements for the preparation of the EES as specified in **Attachment 1**.
13. In response to the coronavirus pandemic emergency, the Minister issued amended procedures and requirements on 1 June 2020, as specified in **Attachment 2**.
14. The EES has been prepared by the proponent in response to the EES scoping requirements issued by the Minister for Planning in January 2019.
15. The EES is to be placed on public exhibition for forty (40) business days, together with the WAA, draft PSA and pipeline licence application.

Commonwealth assessment process

16. Because of its potential impacts on matters of national environmental significance, the project was determined to be a controlled action for the purposes of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) on 28 November 2018. The relevant controlling provisions

under the EPBC Act relate to listed threatened species and communities (sections 18 and 18A) and listed migratory species (sections 20 and 20A). Separate controlled action decisions apply to AGL's and APA's respective components of the project.

17. Under the bilateral agreement between the Australian and Victorian Governments, the Victorian EES process is serving as the accredited process for the assessment purposes of the EPBC Act. The assessment of environmental effects to be made by the Victorian Minister for Planning will be provided to the Commonwealth Minister for the Environment to inform the approvals decision under the EPBC Act. To assist the Minister in making his assessment, the IAC should specifically identify its advice relevant to matters of national environmental significance that may be affected respectively by either the AGL or the APA elements of the project.

Planning approval process

18. The IAC is to consider and provide advice on draft PSA C272morn that proposes planning controls and provisions for the Crib Point mooring site, jetty and receiving facility. The PSA, in conjunction with other required approvals will regulate the use and development of the project in accordance with an incorporated document which is proposed to be included in the Mornington Peninsula Planning Scheme.

Works approval process

19. A WAA for the project has been prepared in accordance with the provisions of the *Environment Protection Act 1970* (EP Act). The works approval application will be jointly advertised with the EES, in accordance with section 20AA of the EP Act.
20. Section 19B(3)(b) of the EP Act provides that: *if an application for a works approval is to be jointly advertised under section 20AA with a notice relating to the same proposal under the Environment Effects Act 1978... comments by any person or body interested in the application must be made as a submission on the environment effects statement or be included in any submission on the environment effects statement.* In addition, the Environment Protection Authority can no longer decide under section 19B(6) to hold a section 20B conference.
21. The IAC is to provide advice that can be used to inform the Environment Protection Authority's consideration of the WAA prepared by the proponent. The IAC may request any further information from the proponent that it considers necessary to assist it to provide that advice. The advice should recommend avoidance, mitigation or management measures that the IAC considers are necessary to ensure compliance with any relevant legislation and/or policy.

Pipeline licence application process

22. The IAC might also separately be appointed by the Minister for Energy, Environment and Climate Change as a panel under s. 40 of the Pipelines Act. If so, it must act in accordance with the requirements of the Pipelines Act and any specifications in its instrument of appointment.

Other approvals

23. The Project may require several other statutory approvals and/or consents, as outlined in the EES, including:
 - a. approved cultural heritage management plans under the *Aboriginal Heritage Act 2006* to manage works in areas of cultural heritage sensitivity;
 - b. consent for the use of Crown land under the *Marine and Coastal Act 2018* for the mooring and operation of the FSRU and for other project elements located on coastal Crown land;
 - c. a permit to remove listed flora and fauna under the *Flora and Fauna Guarantee Act 1988*;
 - d. an authority to take or disturb wildlife under the *Wildlife Act 1975*; and
 - e. consents for works on, over or under waterways under the *Water Act 1989*.

Process

Stage 1 – Submissions

24. Submissions on the EES, draft PSA, WAA and pipeline licence application will be collected by Planning Panels Victoria (PPV) in accordance with the 'Guide to Privacy at PPV' through the Engage Victoria Website. All written submissions or other supporting documentation should be published on-line, unless submitters request that their submission not be publicly available, or where the IAC specifically directs that the submission or part of it is to remain confidential.
25. Electronic copies of submissions on the EES, draft PSA, pipeline licence application and WAA should be provided to the proponent, Mornington Peninsula Shire Council, Casey City Council, Cardinia Shire Council, the Department of Environment, Land, Water and Planning and the Environment Protection Authority.
26. Petitions will be treated as a single submission, and only the first name to appear on the first page of the submission should receive correspondence in relation to the IAC.
27. Any written material or evidence provided to the IAC during the public hearing should be published on-line, unless the IAC specifically directs that the material is to remain confidential.
28. Planning Panels Victoria will retain any written submissions and other documentation provided to the IAC for a period of five years after the time of the appointment of the IAC.

Stage 2 – Public hearing

29. The IAC must hold a public hearing and may make other such enquiries as are relevant to undertaking its role.
30. When it conducts a public hearing, the IAC has all the powers of an advisory committee that are specified in section 152(2) of the P&E Act.
31. Prior to the commencement of the public hearing, the IAC must hold a directions hearing in order to make any directions it considers necessary or appropriate as to the conduct, scope or scheduling of the public hearing.
32. The IAC may inform itself in any way it sees fit, but must review and consider:
 - a. the exhibited EES, draft PSA and WAA;
 - b. all public submissions, and all submissions and evidence provided to the IAC by the proponent, state agencies, local councils and the public;
 - c. any information provided by the proponent that responds to submissions; and
 - d. any other relevant information that is provided to, or obtained by, the IAC.
33. The IAC must conduct its public hearing in accordance with the following principles:
 - a. the public hearing will be conducted in an open, orderly and equitable manner, in accordance with the principles of natural justice, with a minimum of formality and without the necessity for legal representation; and
 - b. the IAC process is to be exploratory and constructive with adversarial behaviour minimised and with cross-examination controlled by the IAC Chair.
34. The IAC may limit the time of parties appearing before it.
35. The IAC Chair may direct that a submission or evidence is confidential in nature and the hearing be closed to the public for the purposes of receiving that submission or evidence.
36. The IAC may only conduct a public hearing when there is a quorum of at least two of its members present or participating through electronic means in line with Attachment 2, one of whom must be the IAC Chair or Deputy Chair.

37. Recording of the hearing will be undertaken by the proponent, in accordance with any directions made by the IAC Chair. The audio recording of any hearing sessions should be provided to Planning Panels Victoria as a weblink. The link to the recording will be made publicly available as soon as practicable after the conclusion of each day of the hearing, or otherwise as directed by the IAC Chair.
38. Any other audio or video recording of the hearing by any other person or organisation may only occur with the prior consent of, and strictly in accordance with, the directions of the IAC Chair.

Stage 3 – Report

39. The IAC must produce a written report for the Minister for Planning containing the IAC's:
 - a. conclusions with respect to the environmental effects of the project and their significance and acceptability;
 - b. findings on whether acceptable environmental outcomes can be achieved, having regard to legislation, policy, best practice, and the principles and objectives of ecologically sustainable development;
 - c. recommendations and/or specific measures that it considers necessary and appropriate to prevent, mitigate or offset adverse environmental effects having regard to legislation, policy, best practice, and the principles and objectives of ecologically sustainable development;
 - d. recommendations as to any feasible modifications to the design or management of the project that would offer beneficial outcomes;
 - e. recommendations for any appropriate conditions that may be lawfully imposed on any approval for the project, or changes that should be made to the draft PSA in order to ensure that the environmental effects of the project are acceptable having regard to legislation, policy, best practice, and the principles and objectives of ecologically sustainable development;
 - f. recommendations as to the structure and content of the proposed environmental management framework, including with respect to monitoring of environmental effects, contingency plans and site rehabilitation;
 - g. recommendations with respect to the structure and content of the draft PSA;
 - h. recommendations with respect to the WAA, including recommendations about conditions that might appropriately be attached to a works approval if issued; and
 - i. specific findings and recommendations about the predicted impacts on matters of national environmental significance and their acceptability, including appropriate controls and environmental management.
40. The report should include:
 - a. information and analysis in support of the IAC's findings and recommendations;
 - b. a list of all recommendations, including cross-references to relevant discussions in the report;
 - c. a description of the public hearing conducted by the IAC, and a list of those persons consulted with or heard by the IAC;
 - d. a list of all submitters in response to the exhibited EES; and
 - e. a list of the documents tabled during the public hearing.

Timing

41. The IAC should begin its formal public hearing no later than 40 business days from the final date of the exhibition period, or as otherwise agreed by the Minister for Planning.
42. The IAC must submit its report in writing to the Minister for Planning within 30 business days from its last hearing date.

Minister's assessment

43. The Minister for Planning will make his assessment of the environmental effects of the project after considering the IAC's report as well as the EES, submissions and any other relevant matters.

44. Planning Panels Victoria will notify submitters of the release of the Minister for Planning's assessment and IAC report.

Fee

45. The fees for the members of the IAC will be set at the current rate for a panel appointed under part 8 of the P&E Act 1987.

46. All costs of the IAC, including the costs of obtaining any expert advice, technical administration and legal support, venue hire, accommodation, recording proceedings and other costs must be met by the proponent.

Miscellaneous

47. The IAC may apply to the Minister for Planning to vary these terms of reference in writing, at any time prior to submission of its report.

48. Planning Panels Victoria is to provide any necessary administrative support to the IAC.

49. The IAC may engage additional technical and administrative support as required.



Richard Wynne MP

Minister for Planning

Date: 1 / 06 / 2020

The following information does not form part the Terms of Reference.

Project Management

1. For matters regarding the IAC process, please contact Amy Selvaraj of Planning Panels Victoria, by phone (03) 8392 5120 or email Planning.Panels@delwp.vic.gov.au.
2. For matters regarding the EES process please contact the Impact Assessment Unit in Department of Environment, Land, Water and Planning (DELWP) by phone (03) 8392 5503 or email environment.assessment@delwp.vic.gov.au.

Attachment 1

Procedures and requirements under section 8B(5) of the *Environment Effects Act 1978*

The procedures and requirements applying to the EES process, in accordance with both section 8B(5) and the *Ministerial guidelines for assessment of environmental effects under the Environment Effects Act 1978* (Ministerial Guidelines), are as follows.

- (i) The EES is to document the investigation, avoidance and minimisation of potential environmental effects of the proposal and relevant alternatives, as well as associated environmental mitigation and management measures. The EES should address:
 - a. effects on biodiversity and ecological values within and near the proposed pipeline and gas import facility at Crib Point, including potential impacts associated with the loss of native vegetation, indirect and direct impacts on the habitat for listed threatened species of flora and fauna, and risks to other ecological values and ecosystem services of conservation areas, nature parks, marine reserves and Ramsar sites in proximity to the proposal;
 - b. effects from seawater intake to and cold water/residual chlorine discharges from the gas import jetty facility, including potential medium and long-term effects on the ecology of the North Arm of Western Port associated with changes to seawater quality and entrainment of larvae of marine species (threatened and non-threatened);
 - c. effects from construction on surface water environments, including local waterways and the broader catchment, as well as groundwater (hydrology, quality, uses and dependent ecosystems), including risks associated with potential acid sulphate soils;
 - d. effects on the landscape values and land-uses of the sites and surrounding areas, including the implications for any directly affected agriculture and the proposed rehabilitation of the pipeline corridor;
 - e. effects on soil and land-uses from contamination during the construction and operation of the proposal;
 - f. effects on Aboriginal and historic cultural heritage values;
 - g. effects of project construction and operation on air quality and noise on nearby sensitive receptors (in particular residences);
 - h. effects on socio-economic values, at local and regional scales, potentially generated by the project, including increased traffic movement and indirect effects of the project construction workforce on the capacity of local community infrastructure; and
 - i. effects of waste (solid, liquid and gas) that might be generated by the project during construction and operation.
- (ii) The matters to be investigated and documented in the EES will be set out in detail in scoping requirements prepared by the Department of Environment, Land, Water and Planning (the department). Draft scoping requirements will be exhibited for 15 business days for public comment, before being finalised and then issued by the Minister for Planning.
- (iii) The level of detail of investigation for the EES studies should be consistent with the scoping requirements issued for this project and be adequate to inform an assessment of the potential environmental effects (and their acceptability) of the project and any relevant alternatives, in the context of the Ministerial Guidelines.
- (iv) The proponent is to prepare and submit to the department a draft EES study program to inform the preparation of scoping requirements.

- (v) The department is to convene an inter-agency technical reference group (TRG) to advise the proponent and the department, as appropriate, on scoping and adequacy of the EES studies during the preparation of the EES, as well as coordination with statutory approval processes.
- (vi) The proponent is to prepare and submit to the department its proposed EES consultation plan for engaging with the public and stakeholders during the preparation of the EES. Once completed to the satisfaction of the department, the consultation plan is to be implemented by the proponent, having regard to advice from the department and the TRG.
- (vii) The proponent is also to prepare and submit to the department its proposed schedule for the studies, preparation and exhibition of the EES, following confirmation of draft scoping requirements. This is to enable effective management of the EES process on the basis of an agreed alignment of the proponent's and department's schedules, including TRG review of technical investigations and the EES documentation.
- (viii) The proponent is to apply appropriate peer review and quality management procedures to enable the completion of EES studies and documentation to an acceptable standard.
- (ix) The EES is to be exhibited for a period of 30 business days for public comment, unless the exhibition period spans the Christmas–New Year period, in which case 40 business days will apply.
- (x) An inquiry will be appointed under the *Environment Effects Act 1978* to consider and report on the environmental effects of the proposal.

Notification

The following parties (proponent and relevant decision-makers) are to be notified of this decision in accordance with sections 8A and 8B(4) of the *Environment Effects Act 1978*.

- AGL Wholesale Gas Limited and APA Transmission Pty Limited (proponent)
- Minister for Energy, Environment and Climate Change
- Secretary of the Department of Environment, Land Water and Planning
- CEO of the Environment Protection Authority
- Mayor of Mornington Peninsula Shire Council
- Mayor of City of Casey
- Mayor of Cardinia Shire
- Executive Director Aboriginal Victoria
- Executive Director Heritage Victoria

HON RICHARD WYNNE MP
Minister for Planning

Attachment 2

Amended procedures and requirements under section 8B(5) of the *Environment Effects Act 1978*.

Under the declared state of emergency in response to the coronavirus pandemic, conventional exhibition of environment effects statements (EES) is not possible. Physical display of printed copies of the EES in public places cannot occur. Similarly, arrangements with respect to formal hearings of inquiries under the Environment Effects Act will also differ, if Stage 3 or other restrictions are still in force at the time of an inquiry.

Accordingly, the procedures and requirements applying to the EES, issued on 8 October 2018 in accordance with section 8B(5) of the Act and the *Ministerial guidelines for assessment of environmental effects under the Environment Effects Act 1978*, are amended as follows.

- (a) The EES is to be exhibited for a period of 40 business days for public comment, or such other period as the Minister may subsequently direct in writing.
- (b) No less than two weeks before the first day of the public exhibition period, the proponent must place notices in newspapers and on-line, or otherwise communicate with known interested parties, to:
 - 1. foreshadow the intention to commence formal exhibition;
 - 2. note the impossibility of providing exhibition copies for physical inspection at public exhibition places;
 - 3. describe intended on-line availability of the EES and related documentation for exhibition purposes; and
 - 4. invite potential submitters to register to receive EES documents on USB media, and for those who may have accessibility issues or, where electronic options are impracticable, in hard copy.
- (c) Where hard copy documents are reasonably requested, the proponent must provide hard copies of:
 - 1. the EES summary document and mapbook free of charge, and the EES Main Report for a modest charge aligned with postage costs, unless instructed otherwise by the Department of Environment, Land, Water and Planning's (DELWP) Director Impact Assessment;
 - 2. other EES attachments or EES technical appendices, subject to payment of an appropriate fee, having regard to costs of printing and postage and the circumstances of the request, unless instructed otherwise by DELWP's Director Impact Assessment; and
 - 3. the *Pipelines Act 2005* licence application or the *Environment Protection Act 1970* works approval application, unless instructed otherwise by the Pipeline Regulator or the Environment Protection Authority respectively.
- (d) The proponent must dispatch requested USB media and hard copies to registered addresses within a week of receipt of each registration (and payment, where relevant) or in time for the commencement of the exhibition period, whichever is the later.
- (e) The inquiry that I will appoint under the Environment Effects Act, subject to the approval of the Governor in Council, to consider the environmental effects of the proposal is to be conducted by formal hearing in the most practicable manner available under the prevailing circumstances. That might, if necessary, include the use of video conferencing or other comparable technology.
- (f) The proponent must arrange for recordings to be made of formal hearings of the inquiry, whether held conventionally or remotely, subject to any directions from the inquiry chair, and must cause recordings to be posted on-line as quickly as practicable. The proponent must post links to the recordings on its project website as soon as practicable after each day of hearings. DELWP must post links to the recordings on its relevant web pages as soon as practicable after each day of hearings.

Notification

The following parties (proponent and relevant decision-makers) are to be notified of these amended procedures and requirements in accordance with section 8B(4)(a)(i) and 8B(5) of the Environment Effects Act:

- AGL Wholesale Gas Limited and APA Transmission Pty Limited (proponents);
- Minister for Energy, Environment and Climate Change;
- Secretary of the Department of Environment, Land Water and Planning;
- CEO of the Environment Protection Authority;
- Mayor of Mornington Peninsula Shire Council;
- Administrator of City of Casey;
- Mayor of Cardinia Shire;
- Executive Director Aboriginal Victoria; and
- Executive Director Heritage Victoria.

HON RICHARD WYNNE MP
Minister for Planning