

# Terms of Reference

## Golden Beach Gas Project Inquiry

Version: October 2020

The Golden Beach Gas Project Inquiry is appointed to inquire into, and report on, the proposed Golden Beach Gas Project (the project) and its environmental effects in accordance with these Terms of Reference.

The inquiry is appointed pursuant to section 9(1) of the *Environment Effects Act 1978* (EE Act) as an inquiry.

The inquiry will provide advice that can be used to inform the Environment Protection Authority's (EPA) consideration of the works approval application (WAA) prepared by the proponent for the project.

The inquiry may separately be appointed by the Minister for Energy, Environment and Climate Change as a panel under section 40 of the *Pipelines Act 2005*.

### Name

1. The inquiry is to be known as the 'Golden Beach Gas Project Inquiry'.

### Skills

2. The inquiry members should have following expertise:
  - a. biodiversity (marine and terrestrial/freshwater);
  - b. Aboriginal cultural heritage;
  - c. surface water, groundwater and contaminated land; and
  - d. amenity and statutory planning.
3. The inquiry will comprise an appointed Chair (Inquiry Chair), a Deputy Chair and other members.

### Purpose of the inquiry

4. The inquiry 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 inquiry is to:
  - a. review and consider the environment effects statement (EES), submissions received in relation to the project, the predicted environmental effects, and the other exhibited documents;
  - b. consider and report on the potential environmental effects of the project, their significance and acceptability, and in doing so have 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, including any necessary project modifications;
  - d. advise on how this relates to relevant conditions, controls and requirements that could form part of the necessary approvals and consent for the project;
  - e. report its findings and recommendations to the Minister for Planning to inform his assessment under the EE Act.
5. The inquiry will provide advice to inform the EPA's consideration of the WAA prepared by the proponent for the project.
6. The inquiry may separately be appointed by the Minister for Energy, Environment and Climate Change as a panel under section 40 of the *Pipelines Act 2005*.

## Background

### *Project outline*

7. The project encompasses construction and operation of a pipeline and gas plant to produce gas from the Golden Beach gas field (in Victorian waters) for provision to the Victorian Transmission System. The gas pipeline would be designed to be bi-directional, allowing for the Golden Beach gas field, when depleted after 2 to 4 years, to be used as a gas reservoir or storage facility with a 40-year design life. The proposed project includes:
  - a. offshore drilling, testing and completion of two sub-sea wells;
  - b. laying of a sub-sea pipeline and sub-sea infrastructure;
  - c. a 1.5 kilometre shoreline crossing, approximately 3.8 kilometres south-west of the Golden Beach township, by horizontal directional drilling;
  - d. construction of an 18.5 kilometre buried pipeline in a 30 metres right of way; and
  - e. a gas plant with export metering and connection to the existing transmission pipelines.
8. The project's proponent is GB Energy (VIC) Pty. Ltd, who is responsible for preparing technical studies, consulting with the public and stakeholders and preparing an EES.

### *EES assessment process*

9. In response to a referral under the EE Act from the proponent, the Minister for Planning determined on 8 September 2019 that an EES was required for the project and issued his decision with procedures and requirements for the preparation of the EES as specified in **Attachment 1**.
10. In response to the coronavirus pandemic emergency, the Minister issued amended procedures and requirements on 13 September 2020, specified in **Attachment 2**.
11. The EES was prepared by the proponent in response to the EES scoping requirements (April 2020) issued by the Minister for Planning in May 2020.
12. The EES will be placed on public exhibition for thirty (30) business days, together with the WAA and pipeline licence application. DELWP will be responsible for giving notice.
13. The Department of Environment, Land, Water and Planning (DELWP) Impact Assessment Unit must liaise with the office of Planning Panels Victoria (PPV) to agree on the submitter conference dates.

### *Commonwealth assessment process*

14. 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 22 November 2019. The relevant controlling provisions under the EPBC Act relate to Ramsar wetlands (sections 16 and 17B); listed threatened species and communities (sections 18 and 18A); and listed migratory species (sections 20 and 20A).
15. 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 for Planning in making his assessment, the inquiry should specifically identify its advice relevant to matters of national environmental significance that may be affected respectively by the project.

### *Works approval process*

16. A WAA for the project was 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.

17. 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 EPA can no longer decide under section 19B(6) to hold a section 20B conference.
18. The inquiry is to provide advice that can be used to inform the EPA's consideration of the WAA prepared by the proponent. The advice should recommend avoidance, mitigation or management measures that the inquiry considers are necessary to ensure compliance with any relevant legislation and/or policy.

### **Pipeline licence application process**

19. The inquiry may separately be appointed by the Minister for Energy, Environment and Climate Change as a panel under section 40 of the *Pipelines Act 2005*. If so, it must act in accordance with the requirements of the Pipelines Act and any specifications in its instrument of appointment.

### **Other approvals**

20. The project may require other statutory approvals and/or consents, as outlined in the EES, including:
  - a. an approved Cultural Heritage Management Plans under the *Aboriginal Heritage Act 2006* to manage works in areas of cultural heritage sensitivity;
  - b. consent under the *Marine and Coastal Act 2018*;
  - c. approved plans under the *Offshore Petroleum and Greenhouse Gas Storage Act 2010*;
  - d. a permit to remove listed flora and fauna under the *Flora and Fauna Guarantee Act 1988*;
  - e. an authority to take or disturb wildlife under the *Wildlife Act 1975*; and
  - f. approvals under the *Water Act 1989* for works on, over or under waterways and potential extraction of groundwater.

## **Process**

### **Stage 1 – submissions**

21. Submissions, to be provided in writing on or before the close of submissions, on the EES, WAA and pipeline licence application will be collected by the office of Planning Panels Victoria in accordance with the 'Guide to Privacy at PPV' and collected through the Engage Victoria platform. All submissions must state the name and address of the person making the submission.
22. Petitions and Pro-forma responses 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 inquiry.
23. All written submissions and other supporting documentation received through the course of the inquiry must be published on-line, unless submitters request that their submission not be publicly available, or where the inquiry specifically directs that the submission or part of it is to remain confidential.
24. Electronic copies of submissions on the EES, WAA and pipeline licence application should be provided to the proponent, Wellington Shire Council, DELWP (Impact Assessment Unit and Pipelines Unit), EPA and Gunaikurnai Land and Waters Aboriginal Corporation.
25. Planning Panels Victoria will retain any written submissions and other documentation provided to the inquiry for a period of five years after the time of the appointment of the inquiry.

### **Stage 2 – submitter conference**

26. The inquiry will conduct its proceedings through a submitter conference and may make other such enquiries as are relevant to undertaking its role.

27. The inquiry may write to the Minister for Planning to request an alternative form of inquiry if it believes that a submitter conference is not practical after consideration of the submissions.
28. Prior to commencement of a submitter conference, the inquiry may hold a directions hearing and make any directions it considers necessary or appropriate as to the conduct, scope or scheduling of the submitter conference.
29. The inquiry may inform itself in any way it sees fit, but must review and consider:
  - a. the exhibited EES, pipeline licence application and WAA;
  - b. all submissions and any evidence provided to it by the proponent, state agencies, local council and submitters;
  - c. any information provided by the proponent and parties that responds to either submissions or directions of the inquiry; and
  - d. any other relevant information that is provided to, or obtained by, the inquiry.
30. The inquiry must conduct its submitter conference in accordance with the following principles:
  - a. the submitter conference 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 legal representation being necessary for parties to be effective participants; and
  - b. the inquiry process is to be exploratory and constructive with adversarial behaviour minimised and with cross-examination regulated by the Inquiry Chair.
31. The inquiry may limit the time of parties appearing before it.
32. The inquiry may conduct its processes when there is a quorum of at least two members, one of whom must be the Inquiry Chair or Deputy Chair.
33. Recording of the conference must be undertaken by the proponent as directed by the Inquiry Chair. If the conference is recorded, the proponent must post links to the recordings on its project website as soon as practicable after each day of the conference or otherwise as directed by the Inquiry Chair.
34. Any other audio or video recording of the conference by any other person or organisation may only occur with the prior consent of, and in accordance with, the directions of the Inquiry Chair.

### **Stage 3 – report**

35. The inquiry must produce a written report for the Minister for Planning containing the inquiry's:
  - a. analysis and conclusions with respect to the environmental effects of the project and its 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 to acceptable environmental outcomes, having regard to legislation, policy, best practice, and the principles and objectives of ecologically sustainable development;
  - d. recommendations to any feasible modifications to the project (e.g. design, alternative configurations, or environmental management) that would enable beneficial outcomes;
  - e. recommendations to the structure and content of the proposed environmental management framework, including with respect to monitoring of environmental effects, contingency plans and site rehabilitation;
  - f. recommendations with respect to the WAA, including recommendations about conditions that might appropriately be attached to a works approval if issued; and
  - g. specific findings and recommendations about the predicted impacts and residual risks for matters of national environmental significance and their acceptability, including appropriate controls and environmental management.

36. The report should include:
- a. information and analysis in support of the inquiry's findings and recommendations;
  - b. a list of all recommendations, including cross-references to relevant discussions in the report;
  - c. a description of the submitter conference conducted by the inquiry, and a list of those persons consulted with or heard by the inquiry;
  - d. a list of all submitters in response to the exhibited EES; and
  - e. a list of the documents tabled during the submitter conference.

### **Timing**

37. The inquiry should commence the submitter conference or hold a directions hearing within 20 business days from the final date of the exhibition period, or as otherwise agreed by the Minister for Planning.
38. The inquiry must submit its report in writing to the Minister for Planning within 30 business days from the last date of the submitter conference. This period can be extended by 10 business days if the write up period occurs over the Christmas/New Year period.

### **Minister's assessment**

39. The Minister for Planning will make his assessment of the environmental effects of the project after considering the inquiry's report as well as the EES, submissions and any other relevant matters.
40. Planning Panels Victoria will notify submitters of the release of the Minister for Planning's assessment and inquiry report.

### **Fee**

41. The fees for the members of the inquiry will be set at the current rate for a panel appointed under part 8 of the P&E Act.
42. All costs of the inquiry, 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**

43. The inquiry may apply to the Minister for Planning to vary these terms of reference in writing, at any time prior to submission of its report.
44. The inquiry may retain legal counsel to assist it in undertaking its role.
45. Where it considers it necessary, the inquiry may engage additional technical support as required to assist it in undertaking its role.
46. Planning Panels Victoria is to provide any necessary administrative support to the inquiry.



**Richard Wynne MP**  
**Minister for Planning**

**Date:** 18 / 10 / 2020

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

### **Project Management**

1. For matters regarding the inquiry process, please contact Amy Selvaraj, Senior Project Officer, of Planning Panels Victoria, by phone (03) 8624 5714 or email [Planning.Panels@delwp.vic.gov.au](mailto:Planning.Panels@delwp.vic.gov.au).
2. For matters regarding the EES process please contact the Impact Assessment Unit in DELWP by phone (03) 8392 5503 or email [environment.assessment@delwp.vic.gov.au](mailto:environment.assessment@delwp.vic.gov.au).

**DECISION ON PROJECT: Golden Beach Gas Project****Decision under section 8B(3)(a) of the *Environment Effects Act 1978***

Assessment through an Environment Effects Statement (EES) under the *Environment Effects Act 1978* **is required** for the reasons set out in the attached Reasons for Decision.

**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 and avoidance of potential environmental effects of the proposed project, including for any relevant alternatives, as well as associated environmental avoidance, mitigation and management measures. In particular the EES should address:
  - a. Effects on the offshore marine environment and ecology;
  - b. Effects on Aboriginal cultural heritage values;
  - c. Effects on biodiversity and ecological values within and close to the site footprint including: the Gippsland Lakes Ramsar site; native vegetation; listed threatened ecological communities and flora and fauna species; and other habitats values;
  - d. Effects on landscapes and soils;
  - e. Effects of project construction and operation on air quality (including greenhouse gas emissions), noise and visual amenity of nearby sensitive receptors (particularly residences);
  - f. Both positive and adverse socio-economic effects and land-use effects; and
  - g. Effects on surface water environments, including local waterways and the broader catchment, as well as groundwater (hydrology, quality, uses and dependent ecosystems).
- (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 consulting the public and engaging with stakeholders during the preparation of the EES. Once completed to the satisfaction of the department, the EES 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 for 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)(a) of the *Environment Effects Act 1978*:

- GB Energy (Vic) Pty Ltd (proponent)
- Minister for Resources
- Minister for Energy, Environment and Climate Change
- Minister for Planning
- Secretary of Department of Jobs, Precincts and Regions
- Secretary of Department of Environment, Land, Water and Planning
- Executive Director of Aboriginal Victoria
- Gunaikurnai Traditional Owner Land Management Board
- Executive Director of Heritage Victoria
- Wellington Shire Council
- Environment Protection Authority
- West Gippsland Catchment Management Authority



**RICHARD WYNNE MP**  
Minister for Planning

Date: 8/9/19

**PROJECT NAME: Golden Beach Gas Project**

**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 hearings of inquiries under the Environment Effects Act will also differ, if restrictions are still in force at the time of an inquiry.

Accordingly, the procedures and requirements applying to the EES, issued on 8 September 2019 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 30 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 (if applicable) 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; and
  - 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.
- (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 its approval by the Governor in Council, to consider the environmental effects of the proposal is to be conducted by 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 any 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:

- GB Energy (Vic) Pty Ltd (proponent);
- Minister for Resources;
- Minister for Energy, Environment and Climate Change;
- Minister for Planning;
- Secretary of Department of Environment, Land, Water and Planning;
- Executive Director and Aboriginal Victoria;
- Gunaikurnai Traditional Owner Land Management Board;
- Executive Director and Heritage Victoria;
- Wellington Shire Council;
- Environment Protection Authority; and
- West Gippsland Catchment Management Authority.



**HON RICHARD WYNNE MP**  
**Minister for Planning**

**Date:** 13 / 09 / 2020