

Terms of Reference

Marinus Link Project Victorian Inquiry and Advisory Committee



VICTORIA
State
Government

Department
of Transport
and Planning

Version: May 2024

The Marinus Link Project Victorian Inquiry and Advisory Committee (IAC) is appointed to inquire into, and report on, the proposed Marinus Link Project (the project) and its environmental effects 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(1) of the *Planning and Environment Act 1987* (P&E Act) as an advisory committee.

Name

1. The IAC is to be known as the 'Marinus Link Victorian IAC'.

Skills

2. The IAC should consist of members with expertise in:
 - a. utility infrastructure planning and delivery, in particular relevant best practice environmental management;
 - b. marine ecology and coastal processes;
 - c. aboriginal cultural heritage;
 - d. terrestrial ecology;
 - e. regional land-use planning, agriculture and socioeconomics.
3. The IAC will comprise an appointed Chair (IAC Chair), a Deputy Chair and other appropriately qualified members.

Purpose of the IAC

4. The IAC is appointed by the Minister for Planning (the Minister) under section 9(1) of the EE Act to hold an inquiry into and report on the environmental effects of the project in Victoria. The IAC is to:
 - a. review and consider the Victorian related aspects of the environmental impact statement (EIS) and environment effects statement (EES) together with the associated technical appendices, other exhibited documents and submissions received in relation to the project;
 - b. consider and report on the significance and acceptability of likely environmental effects of the project, having regard to relevant policy and legislation and relevant evaluation objectives in the EES scoping requirements;
 - c. identify any project modifications or additional measures the IAC considers necessary and effective to avoid, mitigate or manage significant environmental effects of the project consistent with relevant policy and legislation; and
 - d. advise on how these modifications and measures should be implemented through the necessary approvals and consents for the project.
5. The IAC is also appointed as an advisory committee under section 151(1) of the P&E Act to:
 - a. review draft Amendment GC217 to the Latrobe and South Gippsland Planning Schemes (PSA), which is proposed to facilitate the project;
 - b. consider any relevant issues raised in public submissions received in relation to the draft PSA; and
 - c. recommend any changes to the draft PSA and incorporated document that it considers necessary.
6. The IAC is to assess the effects of the project components and works on the Victorian environment as set out in clause 11 of these terms of reference. It is not the role of the IAC to make findings on impacts to the Tasmanian environment, Commonwealth marine areas, or findings on impacts on other matters (whether located in Victoria or elsewhere) related to the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). However, the IAC is to consider and report on any interactions, overlaps or the combined effects of the works in Victoria and works outside of Victoria,



including environmental values that are protected and relevant to both Victoria and the Commonwealth, and where there is potential for cumulative effects as a result of the project.

7. The IAC is to produce a report of its findings and recommendations to the Minister for Planning to inform the Minister's assessment under the EE Act, which will be considered by statutory decision makers for the project.


Background

Project outline

8. The Marinus Link project proposes to construct and operate a 1500 megawatt (MW) high voltage direct current (HVDC) electricity interconnector between Tasmania and Victoria. The project is located between Heybridge in northwest Tasmania and the Latrobe Valley in Victoria.
9. In Victoria, the project would involve the construction and operation of subsea cables (from the three nautical mile limit in Victorian waters) to a shore crossing at Waratah Bay, a potential transition station and a communications building near Waratah Bay, underground cables continuing approximately 90km northwards to the Latrobe Valley and a converter station in the greater Hazelwood area.
10. Marinus Link will be constructed in two 750 MW stages. Each stage will have three cables bundled together in Bass Strait and laid in a single trench on land. For the land cables, the trench conduits and horizontal directional drilling (HDD) ducts for both 750 MW circuits will be installed as part of stage one to reduce disturbance to properties, land use and farming activities.
11. The key components of the project inside the Victorian jurisdiction include:
 - a. subsea cables in Victorian waters reaching land near Waratah Bay, approximately 3 km west of Sandy Point, in Victoria;
 - b. shore crossing at Waratah Bay;
 - c. land-sea cable joint or transition station where the subsea cables will connect to the land cables in Victoria;
 - d. a communications building (fibre optic cable inspection and test hut) adjacent to Waratah Bay (a transition station may also be required at Waratah Bay);
 - e. land cables in Victoria from the land-sea joint to the converter station site adjacent to Hazelwood terminal station; and
 - f. high voltage alternating current (HVAC) switching station and HVAC-HVDC converter stations at Hazelwood, and extension of Hazelwood terminal station, where the project will connect to the existing Victorian transmission network.
12. The project's proponent is Marinus Link Pty Ltd, who is responsible for preparing technical studies, consulting with the public and stakeholders and preparing the EES and draft PSA.

Statutory assessment process

13. In response to a referral under the EE Act from the proponent, the then Minister for Planning determined on 12 December 2021 that an EES was required for the project and issued his decision with procedures and requirements for the preparation of the EES (**Attachment 1**).
14. Because of its likely significant impacts on matters of national environmental significance, the project was determined to be a controlled action requiring assessment and approval under the EPBC Act on 4 November 2021. The relevant controlling provisions under the EPBC Act relate to listed threatened species and communities (sections 18 and 18A) listed migratory species (sections 20 & 20A); and Commonwealth marine areas (sections 23 & 24A).
15. As the project is not located wholly within Victoria, the Commonwealth cannot accredit the EES process as the sole means for assessing EPBC Act matters. As such, the Commonwealth Minister for the Environment's delegate determined the project will be assessed under the EPBC Act by an environmental impact statement (EIS).
16. The project also requires assessment under the Tasmanian *Environmental Management and Pollution Control Act 1994*.

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17. The Victorian Department of Transport and Planning (DTP), the Commonwealth Department of Climate Change, Energy, Environment and Water (DCCEEW) and the Tasmanian Environment Protection Authority agreed to coordinate the three assessment processes and align stages of the processes wherever possible.
 18. Further to this, the proponent has produced a single package of assessment documents, i.e. combined Commonwealth EIS and Victorian EES (EIS-EES), to address assessment requirements of Commonwealth and Victorian legislation.
 19. The proponent has also conducted technical studies that encompass matters in Tasmania. Where applicable, these studies also form part of the EIS-EES as well as the separate Tasmanian EIS documents required under Tasmanian legislation.
 20. The combined EIS-EES was prepared by the proponent in response to the EES scoping requirements issued by the Minister for Planning in February 2023 and the EIS guidelines issued by the Commonwealth in 2021.
 21. The combined EIS-EES, together with the draft PSA, will be placed on public exhibition for at least thirty (30) business days.
 22. This public comment process is in accordance with the procedures and requirements issued for this EES by the Minister for Planning. Marinus Link Pty Ltd is responsible for public notice of EIS-EES exhibition.

Planning approval process

23. The IAC is to consider and provide advice on draft PSA GC217 which proposes planning controls and provisions that will allow for, and facilitate, the use and development of the project.
24. The PSA is proposed to apply a Specific Controls Overlay to areas where the on-shore cable alignment and project infrastructure could be located, and to regulate the use and development of the project in accordance with an incorporated document to be included in the Latrobe and South Gippsland Planning Schemes. The incorporated document is also proposed to include a requirement for the development of a framework to manage environmental effects associated with the construction, operational and decommissioning phases of the project.

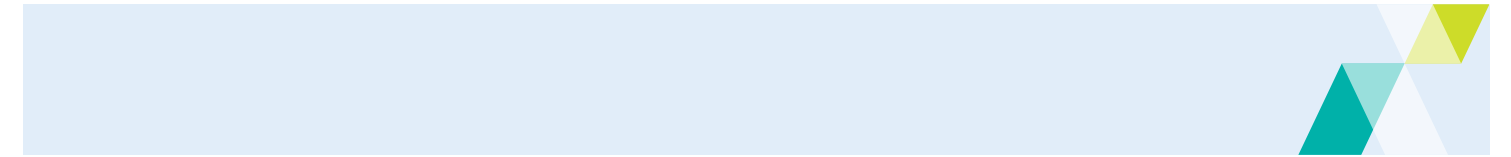
Other approvals

25. The project will require other statutory approvals and/or consents under Victorian legislation, as outlined in the EIS-EES, including:
 - a. approved cultural heritage management plans under the *Aboriginal Heritage Act 2006*;
 - b. consent for development and use of marine and coastal Crown land under the *Marine and Coastal Act 2018*;
 - 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*;
 - e. a licence for works on or over waterways under the *Water Act 1989*; and
 - f. permits for road opening, closure, or traffic diversion under the *Road Management Act 2004*.

Process

Stage 1 – Submissions

26. All submissions on the combined EIS-EES and draft PSA are to be provided in writing on or before the close of submissions. All submissions on the combined EIS-EES and draft PSA will be collected by the office of Planning Panels Victoria (PPV) through the Engage Victoria Platform. All submissions must state the name and address of the person making the submission. Submissions on the EIS-EES and draft PSA will be collected and managed in accordance with the *'Guide to Privacy at PPV'*.
27. Petition responses on the EIS-EES and draft PSA will be treated as a single submission and only the first name from a petition submission will be registered and contacted.
28. Pro-forma submitters on the EIS-EES and draft PSA will be registered and contacted individually if they provide their contact details. However, the IAC should encourage pro-forma submitters who want to be heard at the hearing to present as a group, given their submissions raise the same issues.

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29. All written submissions collected on the EIS-EES and draft PSA, and all further submissions and other supporting documentation or evidence received through the course of the IAC process will be published on the Engage Victoria website, unless the IAC specifically directs that the material is to remain confidential in whole or part. Requests for submissions or other material to be kept confidential must be clearly stated in writing to the IAC through PPV, consistent with the process outlined in the IAC's Privacy Collection Statement. The IAC will review these and base its decision to maintain confidentiality on whether it would be fair to the proponent and other parties to the hearing, including relevant agencies. It is common practice that confidential submissions must be shared with the proponent to ensure issues raised can be appropriately considered and dealt with. In these instances, confidential submissions will be allocated a submission number but will not be made publicly available or only published in part depending on the IAC's decision.
 30. PPV must provide electronic copies of each submission on the EIS-EES and draft PSA to the proponent, DTP, DCCEEW, Tasmania Environment Protection Authority, Gunaikurnai Land and Waters Aboriginal Corporation, First Peoples – State Relations as well as Latrobe City and South Gippsland Shire Councils.
 31. PPV must retain any written submissions and other documentation provided to the IAC for a period of five years after the time of its appointment.

Stage 2 – Public hearing

32. The IAC must hold a public hearing and may make other such enquiries as are relevant to undertaking its role. The hearing will consider effects of the project on Victorian matters only, consistent with these terms of reference.
33. 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.
34. Prior to the commencement of the public hearing, the IAC must hold a directions hearing to make directions it considers necessary or appropriate as to the conduct, scope or scheduling of the public hearing.
35. The IAC may inform itself in any way it sees fit, but must review and consider:
 - a. the exhibited EIS-EES and draft PSA;
 - b. all submissions and evidence provided to the IAC by the proponent, agencies, local councils and submitters;
 - c. the views of Traditional Owners and Registered Aboriginal Parties (if known);
 - d. any information provided by the proponent and parties that respond to submissions or directions of the IAC; and
 - e. any other relevant information that is provided to, or obtained by, the IAC.
36. The IAC must conduct its process 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;
 - b. the public hearing will be conducted with a minimum of formality and without legal representation being necessary for parties to be effective participants; and
 - c. the IAC process and hearing are to be exploratory and constructive, with adversarial behaviour discouraged and with cross-examination/questioning to be regulated by the IAC.
37. The IAC may limit the time of parties appearing before it.
38. The IAC 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.
39. The IAC may conduct a public hearing when there is a quorum of at least two of its members present or participating through electronic means, one of whom must be an IAC Chair or Deputy Chair.
40. If directed by the IAC, an audio recording of the hearing must be undertaken by the proponent. If recorded, the audio recording will be provided to PPV as a weblink and would be made publicly available as soon as practicable after the conclusion of each day of the hearing, or otherwise as directed by the IAC.
41. Any other 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.

Stage 3 – Report

42. The IAC must produce a written report for the Minister for Planning containing its:
- analysis and conclusions with respect to the environmental effects of the project on Victorian matters and their significance and acceptability;
 - 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;
 - recommendations and/or specific measures that it considers necessary and appropriate to prevent, mitigate or offset adverse significant environmental effects;
 - recommendations relating to any feasible modifications to the design or management of the project that would offer improved environmental outcomes, particularly in relation to reducing/ mitigating significant environmental effects;
 - recommendations for any appropriate conditions that may be lawfully imposed on any approval for the project;
 - recommendations about the structure and content of the proposed environmental management framework, including with respect to monitoring of environmental effects and contingency plans;
 - recommendations with respect to the merits, structure and content of the draft PSA; and
 - findings on the predicted impacts on matters of national environmental significance only to the extent that they overlap with Victorian matters.
43. The report should include:
- information and analysis in support of the IAC's findings and recommendations;
 - a list of all recommendations, including cross-references to relevant discussions in the report;
 - a description of the public hearing conducted by the IAC, and a list of those persons consulted with or heard;
 - a list of all submitters in response to the exhibited EIS-EES, noting those submissions that are relevant to Victorian matters; and
 - a list of the documents tabled during the proceedings.

Timing

44. The IAC should hold a directions hearing no later than 20 business days from the final date of the exhibition period.
45. The IAC should commence the hearing no later than 50 business days from the final date of the exhibition period.
46. The IAC must submit its report in writing to the Minister within 40 business days from its last day of its proceedings, unless the report writing period spans the Christmas-New Year period, in which case 50 business days will apply.
47. The DTP's Impact Assessment Unit needs to liaise with PPV to agree on the directions hearing and hearing dates, which are to be included on all public notices.

Minister's assessment

48. The Minister for Planning will make an assessment of the environmental effects of the project after considering the IAC's report as well as the EIS-EES, submissions and any other relevant matters.
49. PPV must notify submitters of the release of the Minister's assessment and IAC report.

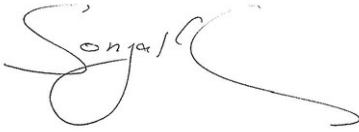
Fee

50. 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.
51. 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

52. 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. This includes to seek variation to the required reporting timeframe.

- 53. The IAC may retain specialist expert advice, additional technical support and/or legal counsel to assist if considered necessary.
- 54. PPV is to provide any necessary administrative support to the IAC. In addition, the proponent is to provide any necessary administrative or technical support to the IAC in relation to the conduct of the hearing (if required).



Sonya Kilkeny MP
Minister for Planning

Date: 03/06/2024



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

Project Management

1. For matters regarding the IAC process, please contact Planning Panels Victoria, by phone (03) 8624 5712 or email Planning.Panels@delwp.vic.gov.au.
2. For matters regarding the EES process, please contact the Impact Assessment Unit in DTP by phone (03) 8508 2276 or email environment.assessment@delwp.vic.gov.au.

Attachment 1

Procedures and requirements issued under section 8B(5) of the *Environment Effects Act 1978* for the Marinus Link EES.

The procedures and requirements applying to the EES process, in accordance with both section 8B(5) of the Act 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 investigate and document the potential environmental effects (direct and/or indirect) of the proposed project, including for any relevant alternatives, as well as associated environmental avoidance, mitigation and management measures. In particular, the EES needs to address:
 - a. effects on biodiversity and ecological values within and near the project area including native vegetation, listed threatened communities and species (flora and fauna) under the Flora and Fauna Guarantee Act 1988 and Environment Protection and Biodiversity Conservation Act 1999, such as through clearance, degradation or fragmentation of habitat;
 - b. effects on freshwater and marine environments and related environmental values, including any changes to stream flows, water quality or sedimentation due to waterway crossings or installation of subsea cables;
 - c. effects on Aboriginal cultural heritage values;
 - d. effects on the socioeconomic environment including land use, at local and regional scales; and
 - e. effects on existing landscape values.
- (ii) The matters to be investigated and documented in the EES will be set out more fully in scoping requirements prepared by the Department of Environment, Land, Water and Planning (DELWP). Draft scoping requirements will be exhibited for 15 business days for public comment, before final scoping requirements are issued by the Minister for Planning.
- (iii) The proponent is to prepare and submit to DELWP a draft EES study program adequate to inform the preparation of scoping requirements.
- (iv) The level of detail of investigation for the EES studies should be consistent with the scoping requirements and be adequate to inform an assessment of the significance and acceptability of environmental effects of the proposal and any relevant alternatives, in the context of the Ministerial Guidelines.
- (v) DELWP will convene an inter-agency technical reference group (TRG) to advise DELWP and the proponent, as appropriate, during the preparation of the EES on the scoping requirements, the design and adequacy of the EES studies, and coordination with statutory approval processes.
- (vi) The proponent is to prepare and submit to DELWP its proposed EES consultation plan for engaging with the public and stakeholders during the preparation of the EES. Once completed to the satisfaction of DELWP, the EES consultation plan is to be implemented by the proponent, having regard to advice from DELWP and the TRG.
- (vii) The proponent is also to prepare and submit to DELWP its proposed schedule for the completion of studies, preparation and exhibition of the EES, following confirmation of scoping requirements. This schedule is intended to facilitate the alignment of the proponent's and DELWP's timeframes, including for TRG review of EES technical studies and main report.
- (viii) The proponent is to apply appropriate peer review and quality management procedures to enable the completion of EES studies and documentation to a satisfactory standard.
- (ix) The EES is to be exhibited for a period of no less than 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.