

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

ADMINISTRATIVE DIVISION

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NOS. P1816/2011, P1818/2011
P1820/2011, P1822/2011, P1829/2011 & P1846/2011

In P1829/2011 & P1846/2011:

APPLICANT Dual Gas Pty Ltd
RESPONDENT Environment Protection Authority

In P1816/2011, P1818/2011, P1820/2011 & P1822/2011:

APPLICANTS P1816/2011 Martin Shield
P1818/2011 Doctors for the Environment Australia Inc.
P1820/2011 Environment Victoria Inc.
P1822/2011 Locals into Victoria's Environment Inc.

RESPONDENT Environment Protection Authority

RESPONDENT Dual Gas Pty Ltd

SUBJECT LAND Commercial Road, MORWELL VIC 3840
(Lot 2 on PS 449983 A)

WHERE HELD 55 King Street, Melbourne

BEFORE Mark Dwyer, Deputy President

HEARING TYPE Practice Day Hearing

DATE OF HEARING 14 October 2011

DATE OF ORDER 14 October 2011

ORDERS

- 1 The hearing scheduled to commence on 24 October 2011 is confirmed.
- 2 By not later than 4 pm on 18 October 2011, each party must file with the Tribunal and serve on each other party any document or statement of evidence of a witness, whether expert or lay, in relation to the questions of standing, joinder or the obligation of Dual Gas to obtain a planning permit for the proposed works.
- 3 Parties must provide written submissions in relation to the preliminary questions of standing, joinder or the obligation of dual gas to obtain a planning permit for the proposed works, such written submissions to be handed to the Tribunal at the time those preliminary matters are dealt with at the commencement of the hearing on 24 October 2011.
- 4 Order 14 of the orders of 31 August 2011, as amended by the orders of 19 September 2011, is varied as follows:

“by not later than 4 pm on 20 October 2011, each of Environment Victoria Inc and Locals Into Victoria’s Environment Inc must file with the Tribunal and serve on each other party a copy of each document and statement of evidence and report of each witness, whether that witness be an expert or a lay witness, upon which that party intends to rely at the hearing.”
- 5 As a consequence of the preceding order, Dual Gas and the Environment Protection Authority have liberty to lead evidence in reply at the hearing.
- 6 The time for Doctors for the Environment Australia Inc., to file and serve its written submission on the substantive issues in the proceeding is extended until 12 noon on 24 October 2011. Doctors for the Environment Australia Inc. will be provided with time to speak to the submission on 5 November 2011 or such other date as may be scheduled by agreement between counsel.
- 7 The commencement of the hearing on 24 October 2011, it is intended that the Tribunal will deal first with the preliminary applications in respect of standing, joinder and the obligation of Dual Gas to obtain a planning permit for the proposed works (such matters to be heard on 24-26 October 2011 inclusive) followed by the opening submissions of the Environment Protection Authority (to commence on 26 October 2011).
- 8 The Tribunal will not sit on Friday 28 October 2011. Three additional “reserve” days have been added to the hearing on 23, 24 and 25 November 2011 (if required).
- 9 On the first day of the hearing on 24 October 2011 the Environment Protection Authority must provide the Tribunal with three copies of Tribunal books, prepared in consultation with the other parties, comprising

a revised copy of all of the documents relevant to the proceedings upon which the parties rely (other than expert witness statements).

- 10 The Tribunal requires that running transcript be provided to it during the course of the hearing, such transcript to be initially at the joint costs of Dual Gas and the Environment Protection Authority, with the costs of transcript being a cost in the proceeding.

Mark Dwyer
Deputy President

APPEARANCES:

For Martin Shield	Mr M. Shield in person
For Environment Protection Authority:	Mr D. Deller of Counsel instructed by Corrs Chambers Westgarth
Dual Gas Pty Ltd	Mr S. Morris QC and Mr B. Chessell of Counsel instructed by Maddocks.
Doctors for the Environment Inc.	Ms E. O'Shea, Solicitor
Environment Victoria and Locals Into Victoria's Environment Inc.	Mr R. Watters of Counsel, instructed by the Environment Defenders Office.