

**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 / AUTHORITY** 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 / AUTHORITY** 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** No Hearing  
**DATE OF ORDER** 7 September 2011

## ORDER

- 1 My procedural order of 31 August 2011 is varied in accordance with this order.
- 2 In relation to the interlocutory application fixed for a hearing on **8 September 2011** before Vice President Judge Ginnane, the Tribunal for that hearing is reconstituted to also include Member Philip Martin.

**Mark Dwyer**  
**Deputy President**

## REASONS

- 1 Under clause 52 of Schedule 1 of the *Victorian Civil and Administrative Tribunal Act 1998*, the Tribunal must be constituted for the purpose of a proceeding under a ‘planning enactment’ with at least one member who has sound knowledge of, and experience in, planning or environmental practice in Victoria. The substantive proceedings are under the *Environment Protection Act 1970* (which is a ‘planning enactment’ under that Schedule), although the interlocutory application is made more generally under the *Victorian Civil and Administrative Tribunal Act 1998*.
- 2 It is not clear to what extent clause 52 of Schedule 1 applies to a preliminary or interlocutory hearing of this nature before a judicial member. Without deciding that issue, and to avoid doubt, I have reconstituted the Tribunal by adding a member who meets this criterion to sit with Vice President Judge Ginnane.

**Mark Dwyer**  
**Deputy President**