

**Supplementary Submission** in response to EPA Consultation on:

**Development License Application (APP1004200) made by Prospect Hill International Pty Ltd**

**Applicant:** Prospect Hill International Pty Ltd

**Activity site:** 164-200 McManus Road, Lara VIC 3212.

**Application number:** APP1004200

**Activity code:** A08 (Waste to energy), K01 (Power stations)

prepared by

**Environmental Justice Australia** on behalf of the **Anti-Toxic Waste Alliance**

20 July 2023

**Please note this is a Supplementary Submission, to be read with our original submission made on 13 July 2023.**

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1. We appreciate the opportunity to make a supplementary submission to the public consultation on the Development License Application APP1004200 by Prospect Hill International Pty Ltd ('the Application'). Please consider these comments in conjunction with those made in our original submission dated 13 July 2023.

## A. Climate Impacts

2. Further to our comments in section B.2 of our original submission we make the following points on the climate impacts of the proposal.
3. The proponent appears to assert in the Application that by displacing grid energy generation (the 'grid displacement' argument) and by diverting waste from landfill (the 'landfill diversion' argument) the facility will minimise risk of harm to the environment or human health through net reduction in greenhouse gas ('GHG') emissions.<sup>1</sup>
4. A review of relevant literature and science would suggest certain propositions on which the proponent's claims are based are problematic or questionable. In addition to our comments in paragraph 33 of the original submission, we make the following comment on the inappropriateness of PHI's 'grid displacement' argument.
5. We submit that the proposition that the energy generated by the facility will displace 'electricity which would have been generated by fossil fuels'<sup>2</sup> is unsupported. Specifically, we note the fundamental tension between the requirement to operate continuously to minimise toxic air emissions<sup>3</sup> and the detrimental impact that continuous operation has on the GHG emissions of the facility.
6. In order to minimise toxic air emissions, the facility must operate as close to continuously as possible.<sup>4</sup> It is during other than normal operating conditions ('OTNOC') that toxic air emissions from waste to energy facilities peak. Therefore, the 2019 EU Directive on Best Available Technologies and Techniques for waste to energy projects recommends that facilities should minimise OTNOC occasions by operating continuously and implementing specific practices and technology to deal with the emissions produced during OTNOC.<sup>5</sup> PHI's proposal states that it intends to operate approximately 90% of the time over the 25 year lifespan on the facility.<sup>6</sup>
7. However, it is increasingly the case that the National Energy Market actually requires highly flexible energy generators, capable of being turned on or off in response to the availability of genuinely renewable energy (predominantly wind and solar).<sup>7</sup> The need for flexible power generation over 'baseload' is evidenced by the increasing incidence of negative pricing events, during which the price of wholesale electricity goes below zero due to oversupply in the market.<sup>8</sup>

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<sup>1</sup> PHI's Memo providing Further Information to the EPA on Air Emissions, GHG Emissions and Odour Emissions, dated 25 October 2022, 5.

<sup>2</sup> PHI's Further Information above n 1, 5.

<sup>3</sup> Commission Implementing Decision (EU) 2019/2010 of 12 November 2019 establishing the best available techniques (BAT) conclusions, under Directive 2010/75/EU of the European Parliament and of the Council, for waste incineration (*notified under document C(2019) 7987*), BAT 16.

<sup>4</sup> EU 2019/2010, above n 3, BAT 16.

<sup>5</sup> EU 2019/2010, above n 3, BAT 5, 16 and 18.

<sup>6</sup> The PHI Application, Part 1, 36.

<sup>7</sup> Giles Parkinson, 'Negative pricing events hit record levels, and are worse in coal-fired grids' *Renew Economy* (5 July 2023) online: < <https://reneweconomy.com.au/negative-pricing-events-hit-record-levels-and-are-worse-in-coal-fired-grids/>> and Sophie Vorrath, 'Rooftop solar sends Victoria power prices to zero every day for two months' *Renew Economy* (22 October 2021) online: < <https://reneweconomy.com.au/rooftop-solar-sends-victorian-power-prices-to-zero-every-day-for-two-months/>>.

<sup>8</sup> Giles Parkinson, above n 7

During low or negative pricing events, the most flexible energy generators are most likely to withdraw from the market in order to avoid the costs associated with supplying electricity at negative prices. These will most frequently be solar and wind generators. By contrast, coal fired power stations and waste incinerators do not have the capability to rapidly turn off generation in response to the fluctuating availability of renewable electricity.

8. We suggest that PHI's claim that their facility will displace fossil fuel energy generation cannot be substantiated if the proposed facility operates continuously, as it is most likely that continuous generation will regularly displace renewable energy generation with a far lower carbon intensity.
9. Additionally, the 'grid displacement' argument is a version of the market substitution argument: that if the carbon is not produced by the proponent, then it will be produced by another, possibly more carbon intensive, facility and therefore those emissions should not be considered material to climate impacts of the proposed facility. PHI's version of this argument assumes that if the Lara waste to energy facility is not built, then the equivalent power will be generated by a more carbon intensive facility. This argument has been considered and rejected by the NSW Land and Environment Court.<sup>9</sup>
10. On this basis that we submit that PHI's 'grid displacement' figure is baseless and if removed from the calculations, the result is an estimated increase of 209,288 tCO<sub>2</sub>e annually or 5,230,700 tCO<sub>2</sub>e over the lifetime of the project.
11. We submit that this significantly alters the assessment of climate impacts of the proposed facility that the EPA is obliged to make under both the general environmental duty ('GED') in the *Environment Protection Act 2017* (Vic) and the *Climate Change Act 2017* (Vic), particularly the second limb of section 17(2): the potential contribution of the proposal to the State's GHG emissions.
12. Minimising pollution or waste risk 'so far as reasonably practicable' in compliance with the GED requires measuring acceptability of the proposal against leading scientific opinion concerning GHG generation and climate change. That opinion, in our view, is set by the IPCC's 6<sup>th</sup> Assessment Report as noted in our original submission, and requires 'deep and sustained emissions reductions'.<sup>10</sup> To the extent the proponent indicates 'reasonableness' relies merely on an asserted 'net climate benefit' that is an incorrect construction of the relevant state of knowledge and hence the GED. Unless the proposal can meet the IPCC standard, it does not adequately address the proponent's obligations under the GED. The EPA's assessment of PHI's compliance with the GED should assume that the state of knowledge on energy generation includes these points.

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<sup>9</sup> See the NSW Land and Environment Court decisions: *KEPCO Bylong Australia Pty Ltd v Bylong Valley Protection Alliance Inc* [2021] NSWCA 216 and *Gloucester Resources Limited v Minister for Planning* [2019] NSWLEC 7, [534]-[545].

<sup>10</sup> Intergovernmental Panel on Climate Change (IPCC) 6<sup>th</sup> Assessment Report, Summary for Policymakers, C.3.