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Our Reference 309457
 Your Reference PA2201533

27 April 2022

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**PA2201533
 Combined Response to Requests for Further Information**

1. INTRODUCTION

Spiire Australia continues to act on behalf of United Energy in relation to the planning permit application for the use and development of a utility installation and removal of vegetation (native and non-native). This letter intends to provide a consolidated response to the letter received from the Department of Environment, Land, Water and Planning (DELWP) on 9 March 2022 and the letter received from Mornington Peninsula Shire Council (Council) on 17 March 2022 which both requested additional information. For ease of reference, each request is reproduced in this letter and a response is provided below each point.

2. DEPARTMENT OF ENVIRONMENT, LAND WATER AND PLANNING REQUEST

DELWP's request for further information is reproduced **bold** below. A response is provided below each point.

1. Amended Planning Assessment to include:

a. Clarification about which exemption under Clause 52.17-7 is being relied upon for the pruning of native vegetation along the southern side of Bayview Road and Long Island Road.

Response: An amended Town Planning Report (Version 2) has been included with this response. It includes the below discussion regarding exemptions being utilised within Section 4.5.1. of the Report.

i. The Planning Assessment identified the 'lopping and pruning for maintenance' exemption is being relied upon. It is noted that this exemption does not apply to "native vegetation on a roadside or railway reservation".

Response: The 'Lopping and Pruning' exemption is being relied upon for clearing along the southern side of Bayview Road, as this vegetation is located within private property and overhangs onto the road reserve (and on the existing powerlines). Minor pruning is therefore required to ensure appropriate line clearance. This pruning can be undertaken from Bayview Road, without accessing private property. This is discussed further below.

No exemption is applicable for the removal of vegetation within the roadside of Long Island Drive, which is why this small area of native vegetation has been included as part of the permit requirements of the project.

ii. The Native Vegetation assessment identifies that the "Utility Installations" exemption is being relied upon based on a written agreement with the Secretary to DELWP.

Response: United Energy are not relying upon this exemption for the removal of roadside native vegetation in Long Island Drive. Rather, a permit is being sought for the removal of this vegetation. Please refer to the Town Planning Report for a discussion on the relevant planning controls. In addition, the Native Vegetation Removal Report included with the Biodiversity Assessment has been amended to reflect this.

b. Identification of any easements that intersect with the site and an assessment of potential impacts on the operation of these easements.

Response: There is only one easement which is relevant to this proposal. This is shown as 'Easement E-2' on page 1 of the Siting Plans (Version 1). Easement details are discussed further in the Town Planning Report (Version 2) and also contained in the copy of the Land Title provided with the permit application.

2. Amended Development Plans for the proposal to include:

a. A Siting Plan showing the layout and details of the proposed use and development including:

i. Dimensioned plans and elevations of the proposal. Elevations should show the height of proposed power poles and whether these vary depending on their location.

ii. Clear identification of which poles are being removed, relocated or newly constructed.

iii. Setbacks of power poles from the road carriageway and nearby dwellings.

iv. Existing native vegetation on the site, including vegetation proposed to be removed.

b. Plans showing lot boundaries and title details of the lots comprising the subject site, including existing easements that intersect with the site.

Response: The above details to address points 2a i – iv and 2b have been illustrated on the included Siting Plans (Version 1, dated 12/04/2022).

It is noted that there are no nearby dwellings and as such, distances from dwellings have not been included.

3. Amended Native Vegetation Assessment to include:

a. Evidence of the written agreement between the applicant and the Secretary to DELWP allowing the applicant to rely on the "Utility Installations' exemption under Clause 52.17-7.

Response: A copy of the agreement from the Secretary to DELWP is provided with this response letter, however it is noted above that United Energy are not relying on this exemption. Rather, the 'Lopping and Pruning' exemption is applicable for minor pruning of overhanging vegetation not located within the road reserve, whilst approval to remove the other native roadside grasses is being applied for as part of the application.

i. The submitted Native Vegetation Removal Report states "Powercor has a written agreement with the secretary to DELWP under the Utility Installations exemption-procedure for the removal, destruction or lopping of native vegetation." Clarification is also sought as to whether the author intended to refer to United Energy, instead of Powercor.

Response: The Native Vegetation Removal Report intended to refer to United Energy, not Powercor. This has been amended. As noted however, this exemption is not being relied upon, rather the 'Lopping and Pruning' exemption is applicable, and all other vegetation removal has been included as a permit requirement.

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b. An assessment discussing whether a planning permit is required for the pruning of native vegetation within road reserves, including the exemptions being relied upon.

Response: The 'Lopping and Pruning' exemption is being utilised for minor pruning to native vegetation within 22 Barclay Crescent (the substation site) and 35 Cemetery Road. There is native vegetation (trees) growing within these properties which overhang into the road reserve. It is acknowledged that the 'Lopping and Pruning' exemption does not apply to vegetation established within the road reserve, however given that the tree trunks and the majority of the tree limbs are located within private property, this exemption is applicable.

It is noted that this exemption does not apply to the small patch of native grass located in the road reserve of Long Island Drive, as this vegetation is on the roadside. As such, this small section cannot rely on the exemption and approval is being sought to remove this small patch of native vegetation.

Notwithstanding the above pruning exemption, the "Utility Installations" exemption could also be relied upon to remove the small patch of roadside vegetation when undertaken in accordance with the agreement of the Secretary to DELWP. However, when undertaking vegetation removal using this approval pathway, an application to DELWP still must be submitted and assessed. This would mean for this project that there would be two concurrent applications lodged, being one for use and development of a utility installation and the other for native vegetation removal. However, rather than create multiple approvals for the same project, the permit requirements for vegetation removal have been combined with the other permit requirements for use and development. Submitting one application which combines all permit requirements, rather than one permit application and one 'Utilities Installation' exemption application is considered a more appropriate approval pathway which will avoid multiple permits being issued for the same project. It also allows for all impacts of the works to be assessed by the relevant authority. In this instance, combining approval for vegetation removal with the use and development of a utility installation allows for DELWP to make an informed assessment about the impacts of the new utility installation.

3. MORNINGTON PENINSULA SHIRE REQUEST

Mornington Peninsula Shire's request for further information is reproduced **bold** below. A response is provided below each point

Detail the offset of the power poles from the existing traffic lanes, for both traffic poles proposed and power poles to be replaced within the area affected by the PAO.

Response: All pole locations have been detailed on the Siting Plans (Version 1). In summary, two poles (LIS 4 and 5) are proposed within the PAO along Barclay Crescent, whilst Poles 3 and 6 are proposed near, but not within the PAO along Barclay Crescent. All other poles are located within the road reserve which is not affected by the PAO.

4. COMMENTS FROM MORNINGTON PENINSULA SHIRE

Along with the formal information request, Mornington Peninsula Shire provided general comments on the proposal. A discussion of the points raised is provided below.

4.1 Section 55 and General Comments

Mornington Peninsula Shire provided comments relating to suitable offsets of poles from the existing roadway in Barclay Crescent in order to facilitate future access treatments to 5 Barclay Crescent.

Response: It is acknowledged that there are a small number of poles proposed within the PAO. Prior to lodging the application, details from Council were sought to determine what the PAOs in the area relate to and if any development plans had been prepared which illustrated the future use of the land. There were no details available at the time of lodging and United Energy have proceeded with the

proposed pole locations as it provides the most efficient connection route, based on the current site conditions. Should the land in Barclay Crescent be developed, it is understood that all existing services, not just electricity poles in the road reserve will need to be considered and may have to be relocated, however it is not possible to plan for a future project if such details, like the final road layout are unknown. Once these details have been finalised, it is anticipated that the owners of all services affected will be notified and a solution can be dealt with at the appropriate time.

More generally, Council also commented on the provision of acceptable clear zones for poles and current non-conforming pole locations.

Response: United Energy undertake all works in accordance with the various Acts, Procedures, Australian Standards and requirements which are applicable to a utility service provider. The primary Act under which United Energy operate is the Electrical Safety Act 1998, which includes provisions around the installation of equipment in a safe and appropriate manner. United Energy have designed these works to ensure the safety and functionality of both the existing alignment and the new connection, whilst also considering the current land use conditions, including the road usage of Barclay Crescent, Bayview Road and Long Island Drive. United Energy cannot install infrastructure that would risk the safety of existing electrical equipment, nearby buildings or structures. As such, a pole cannot be installed in a location where it will be unsafe or cause a surrounding structure to become unsafe.

The current pole positions do not create a hazard for road users, and the proposal does not propose a significant variation to the alignment route. As such, there is no additional traffic hazard introduced as a result of the new poles.

Council noted that clear zones should be adopted for critical locations, in particular at the intersection of Barclay Crescent and Bayview Road. The poles to be installed at this intersection (being LIS 8, 9, 1106587 and 1106872) range between 3m to 6.5m from the edge of the road. United Energy have considered safe clear zones and are aware of VicRoads requirements. There are instances where these requirements can be varied, where sufficient space does not exist to provide new poles and clear zones.

Practical measures, such as high visibility reflectors will be installed on poles to increase visibility in accordance with the relevant Standards. These are considered suitable, particularly when space is a constraint.

It is noted that at the time of installation, all infrastructure is compliant with the relevant legislation of the day. Where a few poles are required to be installed to upgrade an existing alignment, it is a significant investment of resources to bring all infrastructure (which is still safe, functional and serves a purpose) up to modern day standards. In practicality, this would see all utility service providers constantly removing and replacing various pipes, poles, services pits and other associated infrastructure, which is still functional, which is a substantial misallocation of resources.

Notwithstanding the above, road reserves are the ideal location for the installation of utility services. Given that road reserves are commonly used to provide various utility services, the proposed alignment in this application has had to account for a number of existing services (including gas pipelines) already located within the road reserve. As such, there is limited space within the road reserve to re-position poles.

5. CONCLUSION

I trust the information included in this response addresses both requests. Should you have any questions about any of this information, please don't hesitate to contact me on [REDACTED] or at [REDACTED]

Yours sincerely

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