

SUMMARY OF OUR POINTS OF CLAIM

- 1 On 15 July we filed our “Points of Claim” in relation to the Concept Plan approvals for both the Bayswater B and Mount Piper projects. The points of claim outline our case.
- 2 We are challenging the validity of the approvals for each project granted by the Minister for Planning. There are 6 grounds of challenge which are the same for each approval.
- 3 The reasons we say the approvals are invalid are because:
 - I. the Minister granted the approvals on the erroneous basis that the projects were critical infrastructure projects;
 - II. when he granted the approvals, the Minister did not consider the principles of ecologically sustainable development (ESD) (such as the precautionary principle and the principle of intergenerational equity). He was required to do so as part of his duty to consider the public interest.
 - III. the Minister also failed to consider the impact of the projects (both alone and together) on climate change. He was also required to do this as part of his duty to consider the public interest.
 - IV. the Minister had a duty to make further inquiries into the principles of ESD and the impacts of the projects on climate change. He did not.
 - V. the Minister made a legal error when he relied on the advice of the Director General that it was not the role of the Department of Planning to regulate greenhouse gas emissions. The Minister therefore misconceived the extent of his powers.
 - VI. the Minister’s decision to approve the concept plan for each project was arbitrary and unreasonable. The Minister reached an illogical conclusion that no rational decision-maker could have done.
- 4 Before the final hearing, the parties have a chance to put on expert evidence and relevant documents to prove their arguments.
- 5 If the Court agrees with any one (or more) of our grounds at the hearing, the Court can declare that the approvals are invalid and set them aside.