

Fingerboards Mineral Sands Project Inquiry and Advisory Committee Technical note

TN No: TN 027

Date: 26 May 2021

Subject: Fingerboards Environmental Review Committee

This technical note responds to the Committee's request of 18 May 2021 seeking more information from Kalbar about its intention to establish an environmental review committee (**ERC**) for the Fingerboards Project.

Most mines in Victoria have an ERC. Older mines were required to establish an ERC as a condition of the mining licence. While this is still possible for the Fingerboards Project if thought necessary, the Fingerboards ERC is proposed under the community engagement framework established under the *Mineral Resources (Sustainable Development) Act 1990 (Vic) (MRSD Act)*. Two key legal requirements lie at the heart of this framework:

- **Community engagement:** continuing obligations on miners to engage with the community by sharing information about the mine activities that could affect the community, and giving community members a reasonable opportunity to express their views about those activities;¹ and
- **Community engagement plan:** a requirement for the work plan to include a community engagement plan.²

The community engagement plan for Fingerboards is at Appendix D of the work plan exhibited as Attachment B of the EES. These plans require Kalbar to establish an ERC to participate in the review, publication and response to environmental monitoring and performance of the project, and communication with community members to identify any issues or concerns and recommend responses.³ The ERC will be given access to baseline data during project development,⁴ and meet quarterly.⁵

The ERC will include members drawn from a range of stakeholders including representatives from the local community (in particular local agricultural and horticultural representatives), community groups, local and state government agencies and authorities, Indigenous groups and small businesses.⁶ An independent stakeholder would chair the ERC. ERCs on other mines sometimes nominate a Ward Councilor as the preferred chair, or the Earth Resources Regulation delegate, and this approach may be suitable for Fingerboards.

The role of the ERC in the closure phase would be to provide feedback to Kalbar on the rehabilitation process.

¹ Section 39A of the MRSD Act

² Section 40(3)(d) of the MRSD Act. See also regulation 46 of the *Mineral Resources (Sustainable Development) (Mineral Industries) Regulations 2019*

³ Draft work plan Section 9.2

⁴ Draft work plan Section 12.1

⁵ Stakeholder Engagement Plan, Table 10

⁶ Stakeholder Engagement Plan, Table 5 AG03 and SE19

Kalbar has prepared draft terms of reference for the Fingerboards ERC, which are consistent with terms of reference for other mining projects in Victoria. The draft terms of reference are attached.

It should be noted that the ERC is different to the Community Reference Group, which the EES proposes as a forum for discussion of any broader community issues and to identify and recommend community development initiatives proposed as part of Kalbar's community programs. More information about the ERC and the Community Reference Group is set out in Kalbar's response to the Committee's RFI #124 in Tabled Document #108.

Experience with other mines indicates that there can be insufficient community interest to run two different community committees – if that was to be the experience with Fingerboards, it may be that Kalbar would seek to merge the ERC and Community Reference Group into a single Fingerboards Committee.

ATTACHMENT

Draft Terms of Reference – *Environmental Review Committee*

1. Project Background and Description

The Fingerboards Mineral Sands Project focuses on a high-grade area of the Glenaladale Resource about 20km northwest of Bairnsdale.

Kalbar proposes to extract 170Mt of ore to produce around 8Mt of heavy mineral concentrate (HMC) over 15-20 years. Heavy mineral concentrate is the valuable heavy mineral that has been extracted from the ore but has not yet been processed into final mineral products. The mineral products – zircon, ilmenite, rutile and rare earths – are in high global demand for use in communications, transport, medical technology and renewable energy.

Following completion of an Environment Effects Statement (EES) and its submission to the Victorian government, project approvals may occur in late 2021, enabling the project to commence construction in 2022.

Kalbar is committed to engaging with the East Gippsland community and all interested parties to ensure that they are informed about environmental issues associated with the Fingerboards Project, and that any concerns are acknowledged and addressed. We strive to be timely and transparent in the provision of information to the community. From the inception of the project exploration to the present day, we have consistently engaged with all stakeholders openly and honestly.

2. Purpose of the Environmental Review Committee

An Environmental Review Committee (ERC) is a group of stakeholders who review the environmental performance of a mine or quarry¹.

The purpose of the ERC is to provide a transparent, representative and open forum to address issues in relation to environmental performance and promote better understanding of the mining operation. Although Kalbar's ERC has no authority over mine operations, ERC members are committed to working in a constructive manner that influences and informs operations and facilitates a good flow of information the community, Kalbar and the regulators of mine

¹ Department of Jobs, Precincts and Regions, Victoria, Australia (2019) Earth Resources Regulation – Environment Review Committee guidance.

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operations. The ERC will be a requirement of the mining licence and reflects the Earth Resources Victoria's ERC guidelines.

The ERC will:

- Review the environmental performance of the operation against the requirements of the work plan, licence conditions and legislation which regulates the environmental effects of the Fingerboards Project;
- Provides an opportunity for exploring alternative strategies, establish relationships, and build on industry and community commonalities;
- Enhance Kalbar's understanding of community issues and concerns in relation to our environmental performance and allow for operational updates on aspects of the operations; and
- Review the function and operation of the ERC.

3. Membership

A total ERC core membership of approximately 15 members is desirable to achieve a diverse representation of stakeholders including:

- Regulators including:
 - Department of Jobs, Precincts and Regions, Earth Resources Regulation (ERR) - District Manager or delegate (i.e. Tenements or Environmental);
 - EPA Victoria- District Manager or delegate;
 - EGSC appointed representative;
 - Southern Rural Water appointed representative;
 - DELWP appointed representative; and
 - CMA appointed representative.
- Community representatives (approx. 3) that would be appointed through an expression of interest process and reflecting a breadth of interest and stakeholder groups.
- Other Special Interest groups or Partners may be invited by agreement of the committee on a short or long term basis for specific issues or where the local situation warrants.
- Kalbar representatives
 - Environment and Community, Senior Management.
- Chairperson
 - An independent chairperson who can facilitate the meetings in accordance with the agreed code of conduct.

3.1. Appointment

ERC community representatives will be appointed through an expression of interest process. Vacancies will be advertised locally and nominees will be required to complete an ERC Application Form to register their interest.. Applications will be

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assessed against key selection criteria and the applicants' ability to fulfil the ERC Member Role and Responsibilities

3.2. Terms of Membership

Terms of membership will be agreed at the inaugural ERC meeting

4. Roles and Responsibilities

It is important that all ERC members are well positioned to make a positive contribution to the committee and fulfil the responsibilities of the role.

Specifically, the ERC members will:

- represent community views on issues and provide the platform from which the broader community can address issues and concerns in relation to Kalbar's operation;
- receive briefings on the operational progress of the Fingerboards Project;
- review and critique the operations performance with regard to environmental and community issues;
- engage with their community to disseminate operational information;
- be a conduit for recommendations or suggestions from the community in relation to Kalbar's operations; and
- Be willing to participate in educational/knowledge building activities to improve ERC members understanding and knowledge of Kalbar's operations and enhance the effectiveness of the ERC.

The ERC plays an important role in ensuring the community is better informed about Kalbar's operations and that Kalbar is able to identify and respond to the interests and concerns of community members. It is expected that ERC community representatives will monitor and bring forward any community views and/or questions relating to Kalbar's operations or environmental performance. Community representatives are expected (as far as practicable) to represent the diversity of opinions relating to their community group or interest area, without bias, and avoid promoting individual agendas or opinions.

Kalbar will provide ERC members with ongoing operational and project updates relating to the mine's activities, including operations and rehabilitation of mine areas. Members are expected to treat this information sensitively and convey it accurately to their respective organisations, community groups or networks.

Kalbar aims to ensure that all ERC members are well equipped and prepared to fulfil the responsibilities of the role. Consequently, from time to time, ERC members may be required to participate in educational/knowledge building activities. These will endeavor to build the capacity of ERC members, and enable representatives to provide informed comment on matters relating to Kalbar's operations or environmental performance. Continued

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development of ERC member's knowledge and understanding will assist members with the Kalbar ERC Terms of Reference effective communication of factual information to community and accurate relay of questions/concerns on community representative's behalf.

5. Operating Procedures and Principals

5.1. Meeting Format

To be agreed at the inaugural meeting of the ERC

5.2. Chairperson

Meetings will be facilitated by an independent Chair who demonstrates:

- Impartiality regarding varying opinions about Kalbar's operations, including future and past proposals.
- An ability to ensure that all meeting participants act in accordance with the agreed code of conduct, particularly so that all members have the opportunity to contribute and be heard by others.
- The capacity to facilitate a functional and efficient meeting, by steering appropriate conversation in alignment with the agreed agenda and intervening, when required.
- A willingness to make a positive contribution to the ERC, and suggest/implement opportunities for continuous improvement of the ERC forum and engagement outcomes. The ERC chairperson will be appointed for a two year membership term. The Chairperson's performance will be reviewed annually by Kalbar and committee members to ensure the functions and objectives of the role are being achieved.

5.3. Code of Conduct:

To be agreed at the inaugural meeting of the ERC

6. Meeting Agenda, Report and Minutes

Agenda, minutes and reporting will be agreed at the inaugural meeting of the ERC. This will set out reporting prior to the meeting, how agendas will be formulated and the structure and timing of meetings and how reporting will take place.

7. Kalbar's Commitment to the ERC

Kalbars commitment to the ERC includes:

- to organise and facilitate ERC meetings;
- consideration of all matters raised by ERC members;

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- provision of regular operational project updates; and
- accommodate, within the bounds of practical and financial feasibility suggestions on how the project design and/or operation could be improved.

Signed:

Dated: